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Serious Sport Injuries in Canada – Dying for the Love of the Game

Serious sporting injuries and death, while infrequent, do occur within amateur sports in Canada. See our blog for further details - <http://www.bcbarristers.com/en-US/blog.aspx>.

Rugby death in 2007. As widely reported (see yesterday's [Toronto Star article here](#)), the 2007 sporting death of 15 year old Toronto high school rugby player Manny Castillo led to the criminal sentencing yesterday of the assailant (then 16 years old). The 16 year old who tangled with Mr. Castillo was initially charged criminally with aggravated assault and then later charged with manslaughter. He received a probationary sentence and other conditions but will not face jail time.

Though the facts are disputed, Castillo was apparently driven into the ground by the larger assailant, possibly head first. The assailant claimed that his actions were in self-defence. It happened at the end of the game. There was rough play and after the whistle jostling and the assailant was apparently retaliating against Castillo for rough play. Castillo slowly died of spinal cord injuries.

Hockey Death in 2009. 21 year old Don Sanderson passed away on January 2, 2009 as a result of a hockey fight during a game three weeks earlier. A member of the first place Whitby Dunlops, within the six team Major League Hockey Ontario Senior AAA, he was a rookie defenceman when he got into his fight.

His helmet fell off during the fight and during the fight, his head hit the ice. He lost consciousness and fell into a coma, regaining consciousness only briefly during the next three weeks. Extensive reporting was done on his death, including a [CBC article here](#).

Professional Hockey (NHL) Examples of Assault. In the NHL, the 2004 on-ice altercation between players Todd Bertuzzi and Steve Moore led to criminal charges of assault, to which Bertuzzi plead guilty and received a conditional sentence. Moore commenced a civil lawsuit for damages against Bertuzzi and others, which is ongoing.

You may also recall the 2000 attack by Marty McSorley upon Donald Brashear, being an infamous stick-swinging incident which knocked out Brashear and led to criminal charges against McSorley of assault. At Trial in 2000, McSorley was convicted and sentenced to probation.

In 1988, Dino Ciccarelli was charged and convicted for a 1988 incident on Luke Richardson, then playing for the Leafs. Ciccarelli hit Richardson in the head three times with his stick, which led to a one day stay in jail and a minor fine.

But how about in amateur sport? What are the consequences when you engage in rough play while playing recreationally? While there are not many reported cases, a couple of examples are below.

Punching Someone's Mouth can be Expensive - [Leonard v. Dunn](#) (2004 Ontario Superior Court of Justice). – The plaintiff was 35 years old and married with 4 children. He was the manager of a billiard hall, just under 6 feet tall and weighing 285 pounds. He played defence and was described as neither a very fast skater nor an aggressive player.

The defendant was a 26 year old landscaper, living with his parents. He was 5 feet 10 inches tall, weighed 155 pounds, played forward and was a good player and a top scorer.

After stoppage of play in this non-contact league, the defendant punched plaintiff in the mouth, breaking two of his teeth.

Madam Justice Low of the Ontario Superior Court awarded the plaintiff \$20,000 in damages/interest, plus legal costs at Trial in 2006. The \$20,000 award was divided between \$7,500 in dental work for the plaintiff, plus \$12,500 for general and aggravated damages.

The defendant appealed to the Ontario Divisional Court on the \$7,500 award for dental work and his 2008 appeal was denied.

Kicked to Death in 1977 - [Smithers v. R.](#) [1978 Supreme Court of Canada]. A simple fight after a acrimonious midget game led to the death of a 16 year old hockey player. During the game, tensions were high. After the game, the 16 year old accused, Doug Smithers, challenged 16 year old Barrie Cobby to a fight. It appears that Mr. Smithers may have been insulted by racial slurs by Cobby and others on Cobby's team. Both Mr. Smithers and Mr. Cobby were the better players on their team, but they were both kicked out of the game due to repeated hostility. Mr. Smithers stated that he would 'get' Mr. Cobby after the game.

Mr. Smithers waited for Mr. Cobby after the game and Mr. Cobby did not want to fight.

Instead, Mr. Cobby waited for 45 minutes after the game before trying to leave the rink – and he did so with the protection of 8 to 10 other people around him, but this did not deter Mr. Smithers, who chased after Mr. Cobby (who was heading towards his car). Mr. Smithers punched Mr. Cobby in the head twice, then as he was being pulled off by others, kicked Mr. Cobby in the stomach once. The kick may not have been extremely strong, but Mr. Cobby doubled over immediately and died before reaching the hospital. Medically, Mr. Cobby may have had a predisposed medical condition which led him to choke on his own vomit after being kicked in the stomach.

As a result, Mr. Smithers was convicted of manslaughter.

Frequently, it is only the criminal aspects of any particular sporting accident/injury which is reported in the media. The civil lawsuit which usually follows is not reported on and often the resolution of the lawsuit is by way of settlement where the details are kept private.

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