

## Charged with Careless Driving ... Can You Still Sue for Your Damages?

### *The Issue*

If you rear-end another car and you are charged with careless driving, can you sue the other driver (the car you hit) for damages for the injuries and loss that you have suffered?

Normally, plaintiffs are the ones who are rear-ended and it is expected that they can claim their damages for injuries suffered (a notable exception: [here](#)).

But if you rear-end, can you still sue?

### *Why This Matters*

The recent Ontario Superior Court of Justice case of [Hatzitrifonos v. Marzan et al., 2012 ONSC 3566 \(CanLII\)](#) is interesting, in that it provides an illustration of an aggressive liability position taken by a plaintiff who was charged with careless driving for having caused the accident.

If you are hurt in a car accident, it can affect your life for a very long time – i.e. you can suffer for years afterwards. You will probably wonder whether you should sue the other driver(s) in your car accident, to recover some damages to compensate for your injuries and losses suffered.

It is at this point that a careful review of your liability situation by your lawyer is required.

In other words, you have to be careful and realistic when considering who caused the accident and who is responsible to pay for the damages that you have suffered.

Making the incorrect assessment can lead to an unfavourable result for you, as this case illustrates.

## ***The Details***

In [Hatzitrifonos v. Marzan et al., 2012 ONSC 3566 \(CanLII\)](#), the plaintiff rear-ended the car ahead (who was slowing down to allow another vehicle, further ahead, to pull over as having been caught / flagged by a police officer for speeding within an enforcement zone monitored by radar).

The speed enforcement officer was of the opinion that the plaintiff was travelling “at a high rate of speed” prior to rear-ending the car ahead.

Another officer attended at the scene to complete the investigation into this accident and the plaintiff was charged with careless driving. At the traffic court Trial for that ticket, the plaintiff’s charge was dismissed due to procedural problems concerning the foundation of information leading to the careless driving charge.

With the careless driving charge being dismissed, the plaintiff’s lawsuit proceeded against the other drivers. After Examinations for Discovery, the defendants brought a Summary Judgment motion against the plaintiff, to dismiss the lawsuit against them for failing to show any liability or negligence on their part.

Unfortunately for the plaintiff, the Court reviewed all of the liability information and dismissed the plaintiff’s lawsuit. The Court did not find that the plaintiff had a compelling enough case to proceed past the Summary Judgment motion.

This means that the plaintiff will recover nothing for his injuries or losses.

Further, because the plaintiff’s lawsuit was dismissed, the Court ordered him to pay the legal costs of the two defendants he sued in the lawsuit. The plaintiff is required to pay the defendants approximately \$44,000 in the next 60 days.



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For further information on summary judgment motion issues, see our previous blogs:

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