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It's OK When Insurers Fight Over Our Case: Markham Slip and Fall on Icy Sidewalk > Broken Ankle

One of our cases recently came to a hard fought motion wherein the two insurance companies defending our client's lawsuit were arguing over whether there was a duty to defend under the policy of insurance as between the two insurers. This case involved our client who unfortunately was badly hurt after a [slip and fall on a Markham city sidewalk](#), suffering a nasty fractured ankle requiring surgery and extensive hardware: [*Zhou v. Town of Markham: Zhou v. Town of Markham, 2014 ONSC 435 \(CanLII\)*](#).

As plaintiff personal injury lawyers, we do not object when insurers fight each other over one of our cases (smile). It's best to stand back and wait for the dust to settle.

In this case, our client sued both the Town of Markham and the Town's contractor who was hired for the winter contract to shovel and salt the Town's roadways and pedestrian sidewalks. Despite the extensive contract for work signed between Markham and its contractor, a difference in opinion arose as to whether the contractor's insurance policy was responsible to defend the interests of Markham in this lawsuit. A motion was brought by Markham against the contractor for a determination of this issue.

Madam Justice Brown found that the contractor's insurance policy was responsible for defending Markham in this action. Given the nature of the action and position taken in the litigation by the contractor, it was also held that Markham was entitled to choose its own defence counsel to represent it in the litigation, to be paid for by the insurer for the contractor.

Fortunately for our client, this lawsuit is now resolved, to the satisfaction of all parties involved.

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