

OUR PROFESSIONAL PHILOSOPHY

At MacDonald & Swan LLP, the partners, associate lawyers and law clerks are all committed to providing a level of expertise and service comparable with downtown Toronto law firms. In fact, all of the lawyers and law clerks have a significant amount of experience working in Toronto law offices. The MacDonald & Swan team draws on this experience to provide



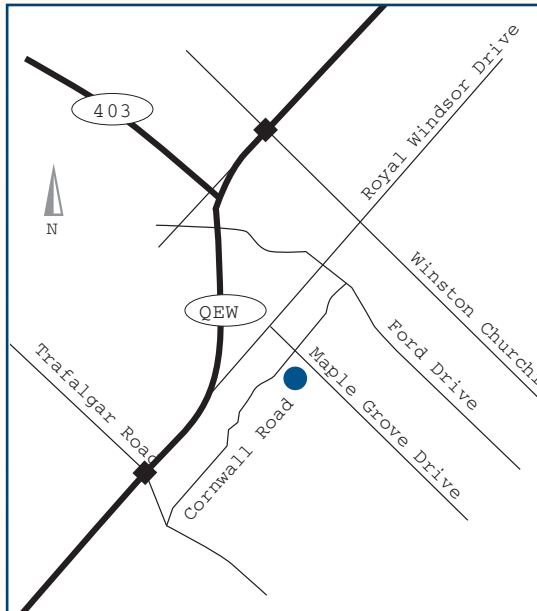
excellent results for our clients. Success in litigating disputes requires thorough preparation combined with professional excellence. At MacDonald & Swan, we have consistently achieved superior results for our clients before all levels of courts, tribunals and commissions. We represent both plaintiffs and Insurance Companies, giving us an objectivity and a level of experience that is difficult to match in any law firm. A key objective in every case is resolving disputes outside of the courtroom and arriving at a proper and just settlement for our client.

To accomplish this, we draw upon our thorough knowledge of the law, facts and evidence coupled with a clear and sensible case strategy. If a case cannot be settled on reasonable terms, we are prepared to take the case to trial.

Our litigation team is comprised of partners and associate lawyers, as well as law clerks and legal assistants, all of whom work to ensure that a case is handled professionally and efficiently.

OUR AREAS OF PRACTICE:

- Serious Personal Injury Claims
- Insurance Disputes
- Wrongful Death
- Medical Malpractice
- Long Term Disability Claims
- Expropriation Claims
- Product Liability
- Professional Negligence
- Commercial Litigation
- Alternative Dispute Resolution



MACDONALD & SWAN
Litigation Counsel LLP

Proven Expertise You Can Trust

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SERIOUS PERSONAL INJURY
AND
INSURANCE DISPUTES

STEPHEN J. MACDONALD B.A. LL.B.

Stephen is one of the senior partners of MacDonald & Swan LLP. He obtained his B.A. from Yale University in 1973 and his LL.B from Queen's University in 1977 and was admitted to the Law Society of Upper Canada in 1979. Formerly a partner with Thomson Rogers in Toronto, Stephen specializes in all aspects of serious personal injury claims, complex insurance disputes and commercial litigation. He is a member of the Advocates' Society, The Medico-Legal Society of Toronto and the Canadian Bar Association. Stephen has extensive experience in trial and appellate courts.



ERIC M. SWAN B.A. (HONS.) LL.B.

Eric is one of the senior partners of MacDonald & Swan LLP. Formerly of Thomson Rogers in Toronto, he was admitted to the Law Society of Upper Canada in 1996 after graduating from Queen's University with a B.A. (Hons) in 1988 and from the Faculty of Law, with an LL.B in 1994. He is a member of the Advocates' Society, the Ontario Trial Lawyers Association, the Hamilton Medical-Legal Society and the Canadian Bar Association. Eric is also a Director of the Halton County Law Association. Eric specializes in serious personal injury disputes and is a former member of the Board of Directors of Community Head Injury Resource Services in Toronto. Eric's practice includes insurance disputes including long term disability claims and accident benefit claims. He is also involved in commercial litigation, product liability claims and is trained in alternate dispute resolution. When not working as a lawyer, Eric is very involved in coaching hockey and lacrosse.



FREQUENTLY ASKED QUESTIONS

Q *What is no fault insurance? Can I still sue?*

A In Ontario, you can still sue an individual who is found to be at fault or negligent in a motor vehicle accident. Your injuries must pass a threshold provision within the Insurance Act, which requires that your injuries be both permanent and serious. No Fault Benefits are provided under your own motor vehicle insurance policy. These benefits will be available to you regardless of who was at fault for the accident.

Q *In a car accident, how long do I have to sue or make a claim?*

A The Highway Traffic Act states that a Statement of Claim must be filed with the court no later than two years from the date of the accident. In certain circumstances, this limitation period can be extended and will run from the date that you knew or ought to have known that you had a claim that would pass the threshold provisions in the Insurance Act.

Q *If I fall on an icy sidewalk, do I have a claim?*

A It depends on the condition of the sidewalk. If the condition is hazardous and there has been a failure to reasonably inspect and maintain the sidewalk, you may have a claim. If the fall happened on a city or town sidewalk, you must provide the municipality with written notice of your claim, within 7 days in an urban municipality and within 10 days in a rural municipality. A claim must be filed with the court within three months of the incident.

Q *How much can I expect to recover from my lawsuit?*

A This is a very subjective analysis and will depend entirely on the facts and evidence in your case. Rest assured that the lawyers at MacDonald & Swan LLP will leave no stone unturned and will pursue all potential damage claims.

Q *How much will my lawsuit cost me?*

A This is dependent in how you retain our firm. In some cases, you will be billed on an hourly basis. In other cases you will have a choice as to whether you wish to retain us in an hourly basis or on a contingency fee arrangement. In an hourly rated retainer agreement, a record will be kept of all the time and disbursements spent on your file. As the case proceeds, we will do our best to advise you of the anticipated litigation budget.

Q *What is a contingency fee?*

A A contingency fee arrangement is an agreement between the lawyer and client, wherein the lawyer will bill the client at the end of the case. The fee will be comprised of a contribution towards your legal costs generally paid by the other side in a plaintiff's case plus a percentage of the damages recovered. This arrangement is set out in a Legal Representation Agreement that is signed by the client at the commencement of the case.

Q *What are costs?*

A When you are successful in your case, the other side generally pays as part of your settlement or judgment a contribution towards your legal fees or "costs". This only represents a portion of your legal bill.

Q *Will my case go to trial?*

A This is difficult to predict. We prepare every case as if it will go to trial. But statistically, 95% of all civil cases settle without going to trial. We have found the best way to a good settlement is through excellent preparation for trial.

Q *What will be my involvement in the lawsuit?*

A We inform our clients regularly, usually once a month, about the status of their case. We do this by letter, telephone calls, or e-mail. When important decisions must be made in your case, we meet with you in the office. We give you our opinion and recommendations to assist you in making your decision. When you have made your decision, we take your instructions in writing, then act on them.

Q *What is a Mediator?*

A This is an alternative dispute resolution procedure. The parties choose an independent skilled mediator to assist in facilitating a settlement. The partners, lawyers and legal team at MacDonald & Swan LLP have a wealth of experience in mediation situations, having implemented the process in hundreds of cases, resulting in outstanding outcomes for our clients.