

# WESTSIDE

## ▼ LAW

# Be truthful about everything when applying for insurance

Is it important to be truthful when filling out an insurance application?

The quick answer to that is: "Well, of course. In fact, it's important to be truthful all the time."

As much as we would like everyone to think that way, the reality is that we learn very early that truthfulness is more important at some times than at others. It's about consequences, risk and return.

If there is no punishment for taking cookies from the cookie jar, cookies will disappear.

It's not until much later, if at all, that we might resolve to be truthful just for the sake of it.

Some people think that the consequence of



ACHIEVING JUSTICE

Paul Hergott

being untruthful when applying for insurance is that an insurance company might see through it and not issue the policy. Either that, or it will find out at some point and cancel the policy.

Those people think that being untruthful when applying for insurance is without consequences if you are given a policy and it is not cancelled.

That's a dangerous

way to think.

Getting the insurance policy is sort of like getting the lid to the cookie jar open.

The policy isn't the cookie. Heck, you have to pay a premium for the policy. What kind of cookie is that?

The company doesn't do any independent investigation to ensure you have been truthful in your application, at least not at that point.

It sits back and collects premiums month after month, year after year.

It's not until there is a loss that the company will investigate—and investigate it will.

If you were untruthful in your application,

even if it was 20 years ago as can be the case with a life or disability insurance policy, I can almost guarantee you (or the family you leave behind) will never see that cookie.

The law says that when you apply for insurance, you owe the insurance company a duty of good faith.

Obviously, that means you must be truthful with your application.

If you fail to do so, it won't matter how many years the insurance company collected your premiums. Your claim will be denied.

It won't matter that you were untruthful about something completely unrelated to the loss, i.e. you failed to disclose that you

are a smoker but you are disabled in a car crash, for example.

Perhaps that's justice. After all, you were the untruthful one.

A difficulty I have with that, though, is that it is not common knowledge how critical it is to be absolutely truthful with your insurance application.

Going back to the cookie jar analogy, it's like the cookie jar is left sitting out there, easily accessible, without the warning that there are very serious consequences if you attempt to take a cookie.

Then there's the fact that this results in insurance companies lining their pockets even more.

I expect an unfortunately large number of people are not entirely truthful when they apply for insurance.

The way insurance works is that a large number of people purchase policies to protect them from huge losses arising from unlikely events, like a house burning down.

The companies collect all those premiums, knowing there's a lack of complete honesty and knowing they won't have to pay out on those policies.

From the insurance company's perspective, the more people who are not perfectly honest in their applications, the better.

My hope is that by

sharing the critical importance of being totally up front and honest when applying for insurance, such injustice will be avoided, regardless of how you look at it.

It also goes back to the initial point though, which, the more time I spend on this earth the more it rings true—it's important to be truthful all the time.

*This column is intended to provide general information about injury claims. It is not a substitute for retaining a lawyer to provide legal advice specifically pertaining to your case. Paul Hergott is a lawyer at Hergott Law in West Kelowna.*

paul@hlaw.ca

## ▼ LETTER

# ICBC responds to columnist's concern about avoiding lawyers

### To the editor:

Re: Court Case Highlights Move To Keep Lawyer Away From Injured, *Capital News*, page C5, March 19

Our top concerns at ICBC are to treat every customer fairly and to respect their privacy. These are absolutes by which we run our business.

We will always try to stay away from com-

menting on any of our customers' claims publicly.

This is true for the simplest of claims involving one vehicle to multiple vehicle crashes involving injuries or worse.

Given this, we will not respond directly to the case highlighted by Mr. Hergott.

However, we can certainly lay out a few facts about ICBC for both your readers and Mr. Hergott:

- We have an excellent rapport with the vast majority of lawyers in B.C. In 2009, we settled approximately three per cent more represented claims than in 2008.
- The vast majority of injury claims are settled with us. Less than one per

cent reach trial. Further, to answer Mr. Hergott's question about our 2009 financial performance, this was reflective of a strong performance from our investment portfolio and a continued drop in claims frequency. For the latter, we

thank our customers for driving safely and helping us to control claims costs.

We are committed to making fair and reasonable settlement offers.

Our staff is experienced, well-trained, courteous and professional in dealing with thousands

of claims every year. We are proud of what they accomplish and the service they provide to our customers.

We certainly think our customers, based upon these facts, should be comfortable in giving our adjusters a chance to

first try and resolve their claims.

We do not discourage anyone from seeking further advice if they feel they need it.

**Craig Horton**  
senior vice-president, claims  
ICBC

## ▼ CORD

# Annual regional composter sale

The regional waste reduction office will hold its annual composter sale at a new location this year.

The sale, April 10 at Okanagan College on KLO Road in Kelowna, will feature 1,350 Earth Machine composters that will sell for \$40 each, including tax.

The regular price of the composters is \$100 each and the event normally results in a sell out.

The sale is scheduled to run from 9 a.m. until 3 p.m. and composters will be available on a first-come, first-served basis.

Cash or cheques will only be accepted for payment.

"We're expecting a quick sell-out based on community interest and

past sales," said waste reduction facilitator Rae Stewart. "One-third to one-half of household waste is compostable," says Stewart.



European Baking at it's Finest!

## APRIL Specials

<b>MONDAY</b> 10% OFF All Bread
<b>TUESDAY</b> Soup & 1/2 Sandwich \$4.99
<b>WEDNESDAY</b> Coffee & Pastry \$2.75
<b>THURSDAY</b> Bundt Cakes \$4.99
<b>FRIDAY</b> Honey Bran Muffins 6/\$4.99

3640 Gosset Road, Westbank  
250-768-3302

*Break a Nail...*  
We will replace it **FREE**  
with one of our **Solar Nails**  
(one replacement per customer to try)  
Our Solar Nails are long lasting, resistant to cracking, chipping, and non-yellowing.  
**ONLY** Solar Nail technician in Kelowna!  
Walk-ins Welcome  
**Plaza 97, 2483 Main St., Westbank** (behind JK Schmidt)  
**250-452-9656**  
Full Spa Pedicure \$40  
Elegant Nails & Spa



## Comfort and Care

VILLAGE AT SMITH CREEK'S RESIDENTIAL CARE will provide the comfort and care your loved one needs. Residents benefit from professional nursing assessments and a 24-hour nursing and health care team that provides for their every need. Put the care in our hands, so you have more time to hold theirs.

WESTSIDE | 250.768.0488  
www.baptisthousing.com

