

December 10, 2013

Attorney General Suzanne Anton QC
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Copy sent to:
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To: Attorney General Suzanne Anton QC,

This letter is sent for the dual purpose of acknowledging receipt of a letter sent to us by Deputy Attorney General Richard Fyfe QC (dated November 4, 2013) and to address the content of that letter.

The letter Mr. Fyfe sent on your behalf was very disappointing. It began by advising that, at this time, you are not in a position to meet with the Wrongful Death Law Reform Group (WDLRG). The letter then made several points that were surprising and puzzling to us, including references that seem to be in error. Before I address some of those points, I am compelled to reiterate our request to meet with you. You are precisely the right person for us to meet with, and the province is overdue for reform in this area. The time for change has existed for many years.

Mr. Fyfe advised that the Ministry of Justice “continues to work on a financial analysis of various options for reform” of the *Family Compensation Act (FCA)*. That piece of information was an unwelcomed surprise to us. It is our understanding that the financial analysis was undertaken by an actuary that was hired in early 2012, and that this work was completed quite some time ago.

Our request to meet was accompanied by a request for information, particularly with respect to the submission (paper) ICBC supplied to the BC Ministry of Attorney General in 2007. We not only attempted to obtain a copy of that document by way of the FOI process, but also took the Ministry’s advice by making a direct request to ICBC and the other stakeholders who took part in the 2007 consultation. Both the direct request and official request through FOI have been fruitless. The latter resulted in us receiving a heavily blacked out copy of that consultation paper, which then and now begs the question: Why the secrecy? ICBC is a public corporation, and legislation is intended for public good.



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Mr. Fyfe's letter characterized the WDLRG's recommendations for change as "a far-reaching approach" not found in any other Canadian jurisdiction. Though it is true that no jurisdiction in Canada provides a proper, effective and comprehensive legislative remedy, the BC-based families of the WDLRG are promoting a modern response to a very old problem. The origin of the *FCA* dates back to 1846, *Lord Campbell's Act* from Britain. It is beyond merely being outdated. It is archaic. Human life is not respected through that legislation. Yet, the *FCA* continues to govern in British Columbia. Conversely, the WDLRG continues to propose that a new piece of legislation is necessary and that it should reflect Canadian values by respecting the human rights of all citizens, rather than discriminating against some of society's most vulnerable, such as children, seniors and people with disabilities – all of whom are particularly disregarded by the *FCA*. As we've said time and time again, as it stands, these citizens are worthless in the eyes of the law. This is disgraceful, and it should not continue to be the reality people are faced with in our province.

With regard to jurisdictions that could be used as a model for BC to pattern legislation after, it is noteworthy to point out that former Attorney General Mike de Jong once requested specific information and assistance from the Trial Lawyers Association of BC. In turn, while he was still BC's Attorney General, Mike de Jong was supplied with a document which referenced, in detail, five US jurisdictions that BC could rely upon as a blueprint for change (Alaska, Connecticut, Washington, Oregon and Hawaii).

The letter from Mr. Fyfe indicated that many stakeholders participated in the BC Government's 2007 consultation on *FCA* reform. We are aware of only seven submissions, and at least four of which were decidedly in favour of meaningful reform. If our information is accurate, three submissions were from the insurance industry.

Once again, I urge you to please consider meeting with our group as soon as possible. I would accompany two or three family representatives to such a meeting. They are, after all, the experts on the failings of the *FCA*. They can bring dignity to this important subject. The absence of proper law is hurting too many citizens. With your help and leadership, British Columbia can provide a full measure of respect for the families involved and honour the lives of their loved ones, the lost souls who died under wrongful circumstances.

Sincerely,
Margaret Birrell
Liaison to the Families of the
Wrongful Death Law Reform Group



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