

LEGAL INSIGHTS & PRACTICE TRENDS

L'ÉCLAIRAGE NOVATEUR ET PRATIQUE

NATIONAL



The
Canadian Bar
Association

L'Association
du Barreau
canadien

May 2003 Mai
Volume 12, No. 3

Salary slide 13 · Vacations 52 · High-tech hardware 53 · Defending lawyers 58



Les risques du métier

When clients sue

Louise-Marie Lemieux,
notaire, Cranby, Québec



*Advocates
for the
devastated*

**TECHNOLOGY
ROUNDTABLE**

**MAKING
WILLS AND
ESTATES PAY**

**PUBLICATION
BANS UPDATE**

PUBLICATIONS MAIL AGREEMENT NUMBER 46070230
CANADA POST, PUBLICATIONS UNDELIVERABLE ADDRESS BLOCKS TO
BOARDS AND AGENTS PLEASANT ROAD, TORONTO, ON, M5Y 2Y5

Laptop guide 15 · Marge de crédit 17 · Partner leverage 51 · Member benefits 54

Advocates for the

DEVASTATED

Three personal injury lawyers took on the most difficult of cases — the catastrophically injured plaintiff — and came away victorious. Here are the stories of lawyers who were advocates in every sense of the word.

By Janice Mucalov



Art Vertlieb

Firm members took care of the plaintiff's finances, handled her apartment, and even visited her in hospital.

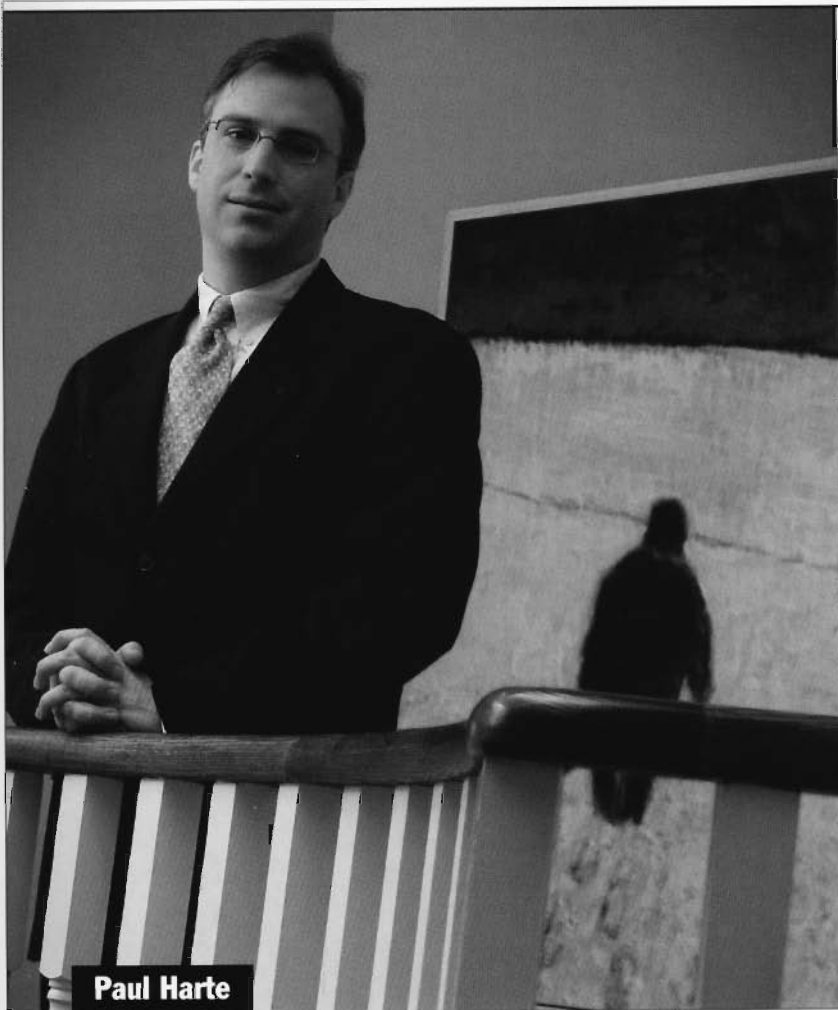
Les membres du cabinet se sont occupés des finances et de l'appartenance de la plaignante, et l'ont même visitée à l'hôpital.

M

ost lawyers are probably all too familiar with catastrophic injury cases. We've taken Torts at law school and read the weekly summaries of victims who suffered crushed limbs or brain damage or quadriplegia. Thanks to our training, we know how

to frame the legal issues — causation and foreseeability, insurance and statutory recovery — and to coolly assess the quantum of damages.

But behind each one of these cases lies a real human being, someone whose life has been shattered and whose dreams have come crashing down. Few people can understand how a terrible physical injury can wreck a human life, few apart from the victim, his or her family — and the victim's personal injury lawyer.



Paul Harte

“There were times when my credit card was maxed to the limit. You couldn’t get much closer to the edge than I did.”

« Parfois, ma carte de crédit était à la limite. J’étais vraiment au bord du précipice. »

Here are the stories of three such lawyers and how they helped three severely injured clients. For these advocates, taking on the case wasn’t just about seeking compensation for their client’s loss and doing their part to see that justice was done. It was also about helping to rebuild devastated lives — going far beyond what anyone might expect.

Lawyer: Art Vertlieb, Vancouver

Client: Kathi Williams

“On Dec. 11, 1995, at 7:30 a.m., life changed for Kathleen Williams, tragically and forever. She was struck by an automobile driven by the defendant in a crosswalk while going to her job as a bank teller.... Severe permanent brain injury has left her a quadriplegic who is incontinent and must be fed by gastrostomy tube, with only an elementary ability to communicate.”

Those words, taken from the trial judgment on the amount of Kathi Williams’ damages, tell a terrible story. But while money could never make up for what Williams suffered, she and her two sisters who now care for her were fortunate to have Vancouver’s Art Vertlieb helping them from the beginning.

Williams, 48 at the time, lay comatose in hospital for several months and wasn’t even expected to live at first. Her sisters, who lived hours away, relied heavily on Vertlieb and his staff to handle many of the immediate details.

“They did so much for us,” recalls Linda Nickerson, one of the sisters. “They looked into getting her finances straight; they handled giving up her apartment; they kept an eye on her in the hospital.... Rod, his paralegal, and Rod’s wife (Art’s secretary) would visit the hospital all the time.”

Later, when Williams was moved to an extended care facility, Vertlieb arranged for independent rehabilitation therapists to work with her at the facility, three to four times a week for four years, until two separate trials on damages and liability were completed.

At the trial on damages, much of the testimony focused on Williams’ level of awareness and whether she would benefit from home care (costlier than institutional care).

“The defence suggested she was one notch up from a vegetative state,” says Vertlieb. “But to her sisters, she was very much alive.” The judge too agreed that Williams — who brightened up visibly when taken out in the sunshine and who cried when reaching out to touch her visiting niece’s baby — was not an “unaware plaintiff.”

The sisters proposed that Williams live with Nickerson and her retired husband on their 10-acre hobby farm — alive with horses, dogs, numerous cats, ducks and chickens,

and frequently visited by their three children, 10 grandchildren and many friends.

“I went up to the farm, took pictures of it and showed it to the judge,” says Vertlieb. “It was very pastoral. You could see how your soul could be nourished in that environment.”

After two weeks of courtroom skirmishing, Vertlieb won \$3.1 million for his clients. “Linda and her sister did everything they said they’d do,” notes Vertlieb — contrary to the skepticism of the defence, which had implied that their home-care fight might be motivated by financial greed rather than a desire to help Williams.

A new suite has been added to the side of the Nickerson home, with a room for the 24-hour nurse, a living room/kitchen, a bedroom for Williams, a large wheel-in shower and a sundeck. The award also paid for a new heated garage to shelter a specially adapted van for taking Williams on outings to the local seniors’ centre for music and entertainment.

“She’s doing great,” says Nickerson of her sister. “She loves to go for walks in her wheelchair and down the road to the mailbox. She’s learned to play Solitaire and knows all the cards. She can read now, but very slowly — I write her letters and put them in an envelope for her. She’s made special friends with Tilly the cat, who likes to be petted on the tray on her wheelchair. And she’s fascinated by the youngest grandchild who gets her drinks.”

It’s been two years now since Williams was transferred from the care facility to the Nickerson home. It’s a busy, happy place — and a world away from where she’d have languished, if not for the efforts of her lawyer.