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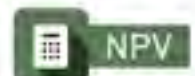
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PRESIDENT'S MESSAGE

OCTOBER 2018



Happy October!

Fall is officially here with the beautiful colors, falling leaves and cooler temperatures. But don't fret! The K-W OIAA still have lots of great things planned to close out 2018!

Thank you to everyone who came out to our annual tradeshow on September 27. We hope the change in venue was enjoyed. We want to hear your feedback about everything and anything tradeshow related. Good, bad, suggestions for next year? Please feel free to email me at ckeogh@goremutual.ca with your feedback. All of the work that is put into the tradeshow is for our members and industry partners, colleagues and friends and anything we can do to make it better, we want to hear about!

Jen Brown and myself had the opportunity to celebrate Relectronic-Remech Inc.'s 25+ years in the industry on October 4th at their Mississauga office. We love being able to celebrate companies and people that are a huge supporter of our chapter. Does your company or organization have a celebration coming up or a special event or maybe even a promotion or new hire you want to celebrate or have showcased? Let us know! We want to help you get the word out in our bulletin.

As always, your feedback is welcomed to anyone on our executive board. And we hope to see you out at our October 25th education dinner at Golf's Steakhouse.

**Thank you,
Carrie Keogh
President of K-W OIAA**

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If you have any questions,
concerns or comments, please do
not hesitate to contact any of the
above committee members.

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SOCIAL CHIT CHAT

October 2018



Well Autumn is truly upon us with it's cooler temperatures and vibrant colours! It's also a great time to get back into the routine of our monthly dinner meetings. This year's topics should be relevant to everyone regardless of your daytime roles. With workloads more manageable than earlier this year, there's no excuse not to bring a colleague out and enjoy the evening. If you have suggestions for how to improve our events or want to get involved, please let Ashleigh or I know!

See you soon.

Kindest regards,
Your Social Director,
Randy Henderson





PROVINCIAL DELEGATE REPORT



The September Kick-Off hosted by incoming President Michael McLeod took place at Ripleys Aquarium in Toronto on September 19th. It was a great event and overlooked the Aquarium. I highly recommend this venue as a unique experience.

I am also excited to report that Season 2 of WP Radio is on the air. You can access podcasts on WP Radio by going to iTunes and searching for WP radio under podcasts. The first podcast of Season 2 features an interview with OIAA president Michael McLeod..

Upcoming 2018 Provincial OIAA events:

December 12, 2018

OIAA Holiday Party*– Westin Harbour Castle, Toronto

***Sponsorship opportunities available**

January 23, 2019

Claims Conference *- Metro Toronto Convention Centre

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May 2-3, 2019

Provincial Conference- Ottawa

Provincial event details and sign up are available at oiaa.com.

You can sign up for Provincial events at oiaa.com.

Regards,

Jennifer Brown

K-W OIAA Chapter, Provincial Delegate



EVENTS SCHEDULE 2018-2019

October 25, 2018- **A Fire Burned- Now what happens?- Charlene Ferris & Randy Henderson**

Interactive Panel Discussion

November 29, 2018- **Autonomous Vehicles- Leeann Darke & Ashleigh Leon**

Interactive Panel Discussion

January 31, 2019- **Chili Cook-Off: Manish Patel & Lisa Dobson**

Challenge the winners from the 2017 Chili Cook-off by bringing your best chili, or your trivia knowledge.

February 28, 2019- **Deception: Jennifer Brown & David Bushell**

Trends, motives, and characteristics of human behaviours towards lying and other forms of deception

March 28, 2019- **The “Law & Order” of Medical Marijuana:
Ellie Celestine, Lisa Dobson & Jaime Renner**

April 25, 2019- **Election night & Battle of the Bands-**

Jennifer Brown, Randy Henderson & Charlene Ferris

Election for positions available on the board, Members wishing to join the board must be in good standing with the K-W OIAA.

Any Member of the OIAA with a Band is encouraged to sign up to play and see if you are the top band in K-W

May 30, 2019 – **Innovation - Kristin McCutcheon and Jeff Cronk**

June 20, 2019- **John McHugh Memorial Golf Tournament:**

Carrie Keogh & Jaime Renner

Ariss Valley Golf & Country Club

All events will be held at Golf’s Steak House and Seafood unless otherwise noted.

A Fire Burned – Now What Happens?

October 25, 2018 – Golf's Steakhouse

Join us for an interactive discussion to talk about burn patterns, how the investigation happens, challenges that can be faced and what the adjuster and contractor need to know.

Our interactive panel is made up of:

**Manny Garcia of the Ontario
Fire Marshal's Office**



Mazen Habash



Robert Dowhan



Matt Petch, Large Loss Adjuster



Paladin Security Group Acquires Ontario-Based Eagle Investigations

Security group expands specialized service offerings with growth of division

October 1, 2018 – TORONTO, ON – Effective today, Paladin Security announced that it has acquired the business assets of the Ontario-based investigations firm, Eagle Investigations. With over 15 years of proven expertise, and a robust team of top rated industry professionals, the transaction will support Paladin's market positioning for its full service business model.

Mike Lantz, Director of Investigations at Paladin Security shared, "Walter's team has made a real impact in the investigations industry. As a company they've stood out because each member of the team focuses on supporting the client, which has built long standing, trusted relationships. I am excited for Paladin to bring the resources to grow that reach further, while maintaining the same trust that has been built over decades."

Ashley Cooper, CEO of the Paladin Group of Companies, added, "Our mission is to provide our clients with the finest security services and products available in the marketplace. As we grow our brand across North America, our investigations and specialty services groups support us in adapting to the unique needs of our clients across all regions. When we looked to expand our investigations platform, Eagle Investigations was the right choice not only for the quality of work they produce, but because of the strong culture that is evident amongst the team. Culture is everything at Paladin and I'm looking forward to the enhanced team that this acquisition will bring."

Investigation services is a unique offering that Paladin provides to its clients for greater operational results. Eagle Investigations' experience in corporate investigations, insurance investigations, and fraudulent investigations will increase full service programs and offerings to clients from all divisions.

Walter Baker, President of Eagle Investigations shared, "My team has worked incredibly hard to build a reputation of excellence within our field. Paladin has done the same over decades and I know that with an increase in support and resources, our team and clients will be guaranteed new opportunities and even greater results. It was important to me that all of the Eagle Investigations team members joined Paladin Security in this transaction."

Paladin now employs over 13,000 people in offices across North America. The company remains dedicated to its people, reputation, and an unwavering belief in customer service for clients throughout all regions.

About Paladin Security

Paladin Security was established in 1976 as a provider of basic security guard services. Over its 40 years of operation, Paladin has grown into the largest privately-owned, full-service security company in Canada. With offices from coast to coast, Paladin integrates trained security professionals with state-of-the-art technology and specialty services. In doing so, this creates leading, award-winning programs that meet the needs of a diverse and sophisticated client base. Paladin is proudly one of Canada's Best Managed Companies, Gold Standard, and its unique, Most Admired Corporate Culture (Waterstone Human Capital) is unmatched within the security industry.

About Eagle Investigations

With over 15 years in operation, Eagle Investigations has continued to strive to bring expertise front and centre within its industry. Receiving the Consumer Choice Award for the latter four consecutive years, Eagle Investigations has built its reputation on a belief of excellent service. The experience attained by its team of investigators, surveillance members, and technical experts over the years is second to none in the field and clients can trust in quality work ethic for guaranteed results.



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Where a Plaintiff is Ordinarily Resident Outside of Ontario, Under What Circumstances will a Court Order Security for Costs?



Authored by:

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General Legal Principles

Rule 56.01 of the Rules of Civil Procedure, R.R.O. 1990, Reg. 194 provides that the Court, on motion by a defendant in a proceeding, may make an order for security for costs where it appears that the plaintiff is ordinarily resident outside Ontario.

Once a defendant has shown that it “appears” that the plaintiff is ordinarily resident outside of Ontario, the onus shifts to the plaintiff to show that an order for security for costs would be unjust.

The Plaintiff may resist a motion for security for costs by demonstrating that:

- (a) the plaintiff has appropriate or sufficient assets in Ontario or in a reciprocating jurisdiction to satisfy any order of costs made in the litigation;
- (b) the plaintiff is impecunious and that justice demands that the plaintiff be permitted to continue with the action, i.e. an impecunious plaintiff will generally avoid paying security for costs if the plaintiff can establish that the claim is not “*plainly devoid of merit*”, or
- (c) if the plaintiff cannot establish that it is impecunious, but the plaintiff does not have sufficient

assets to meet a costs order, the plaintiff must meet a high threshold to satisfy the court of its chances of success.

Appropriate or Sufficient Assets in Ontario or Reciprocal Jurisdiction

In demonstrating that they have appropriate or sufficient assets in Ontario or in a reciprocating jurisdiction to satisfy a costs order, the plaintiff must provide full particulars of those assets, and the court must examine the quality and sufficiency of same, their exigibility, and whether they are secured.

Impecunious

The evidentiary threshold for impecuniosity is high. The threshold can only be reached by tendering complete and accurate disclosure of the plaintiff’s income, assets, expenses, liability, borrowing ability, and details of any assets disposed of or encumbered since the cause of action arose, with full supporting documentation for each category where available, including tax returns, complete banking records, records attesting to income and expenses, etc., or an explanation where not available. As stated in *Hallum v. Canadian Memorial Chiropractic College*, 1989 CanLII 4354 (ON SC):

A litigant...who relies on his impecuniosity to avoid an order requiring that he post security, must do more than adduce some evidence of impecuniosity. The onus rests on him to satisfy the court that he is impecunious. ... The onus rests on the party relying on impecuniosity, not by virtue of the language of rule 56.01, but because his financial capabilities are within his knowledge and are not

known to his opponent; and because he asserts his impecuniosity as a shield against an order as to security for costs.

Not Impecunious

The case law establishes that where a plaintiff is not impecunious, the Court is entitled to assume that an order for security can be complied with. Still, consideration should be had as to whether the plaintiff's claim has a good chance of success. As stated in *Zeitoun v. Economical Insurance Group*, 2008 CanLII 20996 (ON SCDC):

*Where impecuniosity has not been shown however, a closer scrutiny of the merits of the case is warranted; in those cases there is no compelling argument that there is a danger that poverty of the plaintiff will cause an injustice by impeding pursuit of a claim that otherwise would have been permitted to be tried. Where impecuniosity has not been shown, a legitimate factor in deciding whether or not it would be just to require security for costs is whether the claim has a **good chance of success**.” [Emphasis added]*

With respect to determining whether a claim has a “good chance of success”, Master Short, in *Dynacorp Canada Inc. v. Levine, Sherkin, Boussidan*, 2017 ONSC 1462, significantly stated as follows: “I interpret “good” odds as being at the very least better than the 50-50”.

In addition, Justice McSweeney, in the case of *Boudreau v. TMS Lighting Ltd.*, 2017 ONSC 6188, made the following significant remarks:
Where a plaintiff has not established impecuniosity, he or she must meet a high threshold to show that the case has a “probability of success” such that there is a correspondingly low probability that the plaintiff will have to pay costs at the end of the day: Morton v. Canada (AG), [2005] O.J. No. 948 (ONSC) at para. 21. The threshold is not met here. While the plaintiff’s claim is not frivolous or vexatious, liability is strongly contested. ... In the circumstances of this case, the plaintiff’s materials do not establish a “probability of success”.

Discretion to Refuse Order to be Exercised in Special Circumstances Only

The Court’s discretion to refuse an order for security for costs should only be exercised in special circumstances and with caution and restraint. As stated in *Eddie ‘N’ Me Production Co. N.V. v. Toronto Star Newspaper Limited et al.*, 1981 CanLII 1863 (ONSC) (CanLII).

The usual rule for security for costs is that a non-resident plaintiff is to post security for the costs of the action of a resident Ontario defendant, that to grant such a plaintiff relief from such obligation is the exception and not the rule, and that any relief must be granted with great care and caution and only in cases where it is clearly justified.

Discretion as to Amount and Form of Security, and Time for Payment

Rule 56.04 of the Rules of Civil Procedure, supra, provides that the amount and form of security, and the time for making payment of same or otherwise giving the required security, shall be determined by the Court.

As stated by Justice Quinn in *Morton v. Canada (Attorney General)*, 2005 CanLII 6052 (ON SC):
Despite the generous discretion available, where the need for security for costs is made out, the court, absent exceptional circumstances, should order security in the amount of the actual anticipated costs and not become weak-kneed at that prospect. This is not to say, however, that the full anticipated costs of the entire action must be ordered.

Unless other factors apply, security for costs must be determined on the basis of the estimated party-and-party costs which a defendant might reasonably expect to assess.

Teneil MacNeil is a partner in the Waterloo office of Miller Thomson LLP. She is an experienced insurance lawyer whose practice includes the defence of personal injury claims, property damage claims, commercial general liability matters, and subrogated recovery matters.



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