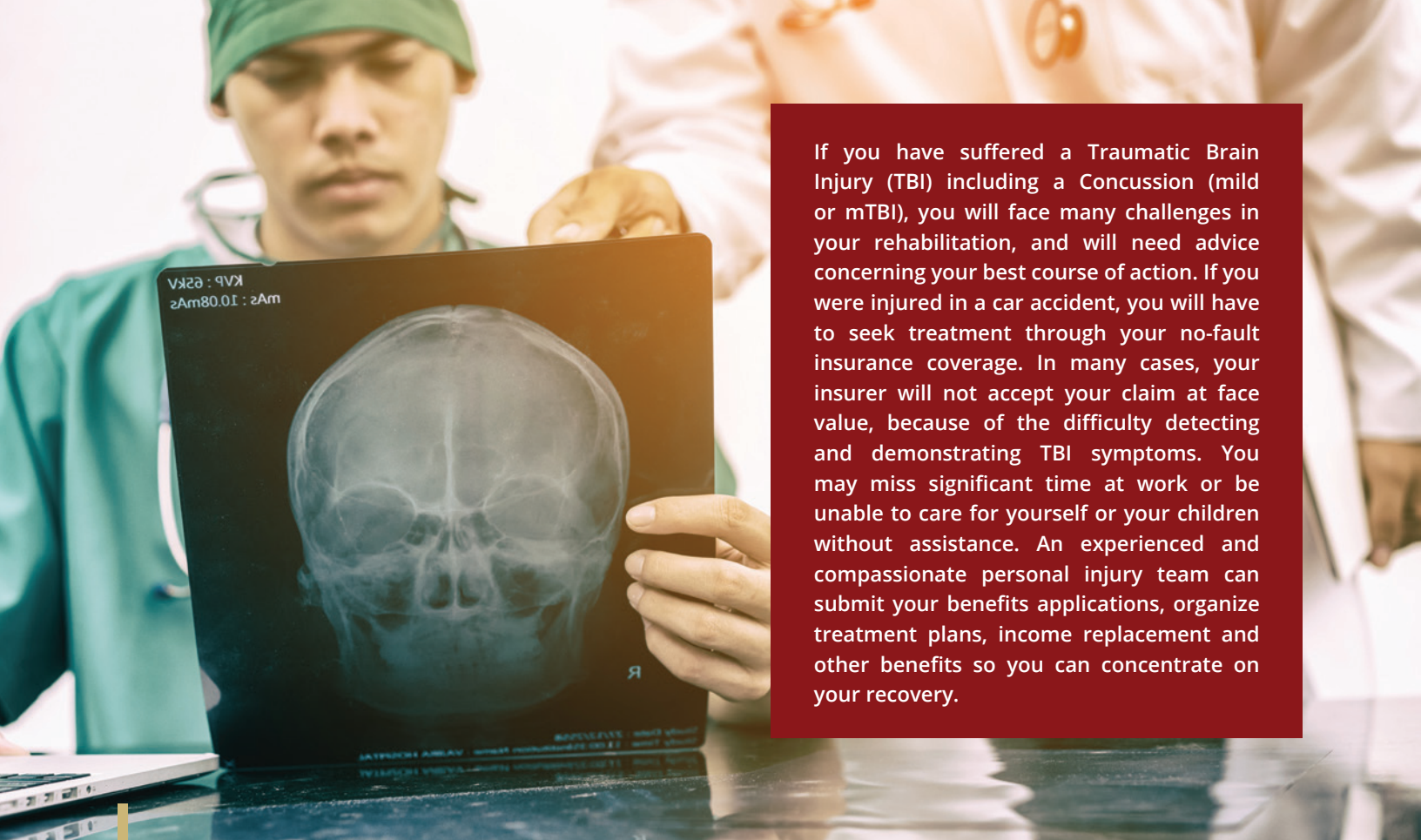


TRAUMATIC BRAIN INJURIES

WHAT **YOU** NEED TO KNOW



CAMPISI LLP
PERSONAL INJURY LAWYERS



If you have suffered a Traumatic Brain Injury (TBI) including a Concussion (mild or mTBI), you will face many challenges in your rehabilitation, and will need advice concerning your best course of action. If you were injured in a car accident, you will have to seek treatment through your no-fault insurance coverage. In many cases, your insurer will not accept your claim at face value, because of the difficulty detecting and demonstrating TBI symptoms. You may miss significant time at work or be unable to care for yourself or your children without assistance. An experienced and compassionate personal injury team can submit your benefits applications, organize treatment plans, income replacement and other benefits so you can concentrate on your recovery.

TRAUMATIC BRAIN INJURY

An Overview ■■■

As the name implies, these injuries are suffered after a direct or indirect trauma to the head or brain from a car accident, slip and fall or other accident. In these situations, you may have the opportunity to claim compensation for your injuries through a lawsuit against an at-fault driver, property owner or other negligent party. If the trauma happened in a car accident, you will also have access to “no-fault” accident benefits through your insurance company, or the other driver’s if you are not insured. The amount of medical rehabilitation benefits that a no-fault insurer will pay depends on the severity of the injury.

TBIs are classified according to the severity of the initial trauma, ranging from Mild (Concussion) to Severe. This does not refer to the severity of your symptoms, impairment or recovery. Under Ontario’s current Accident Benefits law (called the SABS), certain types of TBI will be designated as Catastrophically Impaired (CAT) and have up to \$1,000,000 available for medical rehabilitation and attendant care. A CAT designation provides access to greatly increased funding for treatment, home care and other benefits you may require. If you have received a Computed Tomography (CT) Scan for a head injury that identified intracranial trauma, you should consult a lawyer concerning a potential application for determination of Catastrophic Impairment.



CAMPISI LLP
PERSONAL INJURY LAWYERS

DIAGNOSING A TBI

A mild TBI can be difficult to identify.

Ordinarily, paramedics will apply a short test known as the Glasgow Coma Scale (GCS) to people that may have sustained a TBI. It tests the response of victim's eyes, his response to verbal commands, and his motor ability. It is scored out of 15, with a 3 indicating no response. More severe brain injuries can result in scores as low as 3, while a score between 13 and 15 can indicate a mild TBI. However, a GCS score of 15 does NOT mean that you have not suffered a brain injury. Often the effects of an mTBI are subtle and manifest over several days. It is important to pay close attention to your symptoms following a car accident or other trauma. Symptoms can include: headaches, dizziness, lethargy, sensitivity to light and sound, irritability or other mood changes and disorientation. **If you are experiencing any of these symptoms, speak to your doctor.**

Unfortunately, there is no definitive imaging evidence that can identify a mild TBI, which can occur in a low speed collision, without loss of consciousness or even direct head trauma. For example, in many "whiplash" type injuries, the head snaps back and forth, causing the brain to strike the ridged inner surface of the skull.

However, several diagnostic tools are available including: Computed Tomography (CT), Magnetic Image Resonance (MRI), Single-Proton Emission Computed Tomography (SPECT) and a Blood Marker scan. Because each has risks associated with it, these technologies are usually only recommended where there is evidence of Intracranial Injury (ICI). If there is low risk of ICI, the attending physician will usually use Clinical Decision Rules to arrive at a diagnosis. A decision rule is defined as a decision-making tool that incorporates 3 or more variables from the history, physical examination or simple tests of the patient. Essentially, the physician examines the available evidence and exercises professional judgement based on experience and training.

.....
Remember that you are your own best advocate, and often the best or only witness of the injury. If you believe there is a risk of ICI, do not be afraid to challenge the doctor's decision regarding a CT Scan or other test.
.....

The Ontario Neurotrauma Foundation publishes an online resource – **Guideline For Concussion / Mild Traumatic Brain Injury & Persistent Symptoms** (at <http://braininjuryguidelines.org/concussion/index.php?id=154>). This Guideline are an excellent reference for mTBI victims and their caregivers. It offers valuable information concerning diagnosis and management of post-concussion symptoms.

.....

Thankfully, most mTBIs resolve within the first three months. However, during this time, you may experience a variety of disabling physical, cognitive and psychological or emotional symptoms. Occupational therapy is often recommended for the physical symptoms. Traditional treatments for these persistent post-concussion symptoms include education and training on self-management strategies, such as energy conservation, relaxation and sleep hygiene. All of these are important to your return to health.

Cognitive problems following a TBI can be difficult to detect. **You must pay close attention to your thinking as you attempt to engage in normal activities.** You must also ask your family and caregivers to monitor your cognitive level. If your reactions appear slow or confused, or you are unable to perform a previously learned task, this can be a sign of cognitive dysfunction. Speech and comprehension difficulties are also warning signs. **If you suspect that you are suffering from impaired cognition, consult with your doctor.** They can refer you to a neuropsychologist or other professional for testing.

If you feel anxious, depressed, or irritable, demonstrate unusual behavior, or experience nightmares or flashbacks, you should seek a psychological consultation. Counselling or medication may be recommended. Therapists and social workers can help you learn to cope with your challenges.

In cases where traditional treatment fails to relieve your ongoing symptoms, innovative new technologies are available that use electromagnetic current or pulses, or low-level laser treatment to stimulate healing.

Despite recent advances in treatment, however, many mTBI victims will develop long-term or chronic Post-Concussion Syndrome. **Generally, if you have been in a car accident or other event that leads to injury, you have 2 years to start a lawsuit against the at-fault party.**

.....



CAMPISI LLP
PERSONAL INJURY LAWYERS



OUR ROLE



At Campisi LLP, our guiding principle is **"Clients First, Excellence Always"**. We are committed to our clients as individuals and families.

WE WILL ASSIST YOU IN EVERY ASPECT OF YOUR REHABILITATION, INCLUDING:

- § setting up the accident benefits claims
- § ensuring that treatment providers are paid
- § arranging appointments, and
- § booking necessary assessments.

Often, your insurance company will deny treatment plans, or will seek second opinions regarding proposed treatment or assessments. We will work with the insurer, or challenge them if necessary, to ensure that your needs continue to be met.

If there is a potential lawsuit concerning your injuries, we will discuss it with you at the initial consultation and ongoing. We will begin to develop the case immediately, although several years may be required to understand the extent of the damages claimed.

WE WILL:

- § order medical records
- § collect information regarding negligence
- § develop a theory of the case, and
- § establish a long-term strategy for winning the lawsuit.

We will continue to keep you advised of the progress of the case and will always consult with you before making any major decisions. We want you to understand the process so that you can make informed choices.

AVAILABLE CLAIMS / COMPENSATION

THERE ARE SEVERAL POTENTIAL SOURCES OF COMPENSATION:



Claims against these insurers can be settled. If you choose to settle, you will exchange your right to make further claims in exchange for a lump sum of money. The size of the settlement will generally be proportionate to the risk that the insurance company will have to continue making payments on the claim. *For example, if you are expected to need \$50,000 in future medical benefits, the settlement should take this amount into account.*

It is important to remember that a settlement is always a compromise between two parties who disagree about the value of the claim.



.....
WE WILL ADVISE YOU ABOUT
THE POTENTIAL VALUE OF
YOUR CLAIMS AND NEGOTIATE
A FAVOURABLE SETTLEMENT IF
THAT IS YOUR PREFERENCE.

COMPENSATION

IN A LAWSUIT, DEPENDING ON THE SEVERITY OF IMPAIRMENT, YOU CAN CLAIM DAMAGES INCLUDING AMOUNTS FOR:

- ✓ loss of future income or earning potential
- ✓ cost of future medical rehabilitation
- ✓ cost of future housekeeping
- ✓ loss of future shared family income (if you are unlikely to marry)
- ✓ out of pocket expenses
- ✓ cost of future attendant care
- ✓ pain and suffering
- ✓ loss of care, guidance and companionship suffered by your immediate family
- ✓ economic losses incurred by family members

In very serious cases, you may never work again, and may require ongoing supervision and care. We will work with leading experts to quantify these losses, which can be substantial over the course of your life. Pain and suffering damages do not have a direct monetary value, and in Canada are subject to an arbitrary limit imposed by our Supreme Court. As a result, these damages are comparatively small but still significant.

Usually, the defendants in a lawsuit will want to settle rather than go to trial. We will advise you on the best course of action as the claim develops.

The impact of any traumatic brain injury, whether it is classified as Mild, Moderate or Severe, can be devastating and permanent for you. At Campisi LLP, our expert Personal Injury and Accident Benefits team will help you get through this difficult time. We will fight to ensure you get the compensation and care you deserve.



CAMPISI LLP
PERSONAL INJURY LAWYERS

CONTACT US



At Campisi LLP, we represent clients the way we would want our families to be represented – with true caring and support. We make ourselves available 24/7, even on evenings and weekends, to answer questions, provide advice and help clients and their families at a difficult time.

Our team has more than 50 years of combined experience helping clients through the complicated processes involved in personal injury and accident insurance claims. Our founding partner Joseph Campisi teaches insurance law at Canada's largest law school and we all benefit from his cutting-edge knowledge and understanding.



CAMPISI LLP
PERSONAL INJURY LAWYERS

7050 Weston Road, Suite 101
Vaughan, ON, L4L 8G7
416 800 1680
1 855 525 5502 (toll-free)
info@campisilaw.ca

www.campisilaw.ca