McMaster University*: a decade-long history of systematic negligence, compromised freedom of information and perverted judicial system

Vladislav Bukshtynov v. McMaster University

McMaster's indoor track crash lawsuit: two sides of the story and pure facts on how the power of world-renowned university is used to hide the truth

The Incident

An official version of the incident according to the findings of Justice Alan Whitten [1] and comments of McMaster University's lawyer Robert Sutherland was published in Toronto Sun [29] on Sep. 6, 2018. A PhD student, Vladislav Bukshtynov, came to McMaster's 4-lane indoor track at the David Braley Athletic Centre in the morning of Dec. 10, 2011. He was asked to leave inner lane 2 as it was occupied by sprinters of running club Flying Angels supervised by its coach George Kerr. The PhD student refused and shortly he was struck from behind by the club runner Hwang Lee who crashed into his back "effectively sending him flying" as Justice Whitten wrote in his decision [1]. The PhD student, now math professor at Florida Tech in the US, suffered a serious shoulder injury and filed a lawsuit against the university and the running club. **The position of McMaster is that the university is not liable in any sense.** Mr. Bukshtynov was asked to move and to allow the club to perform sprinting in lane 2 per their request, so it is Mr. Bukshtynov's fault at 100%.

The Trial†: Controversy of Outcomes

The trial for this indoor track crash lawsuit took place before Justice Whitten from May 7 to May 25, 2018 at the Superior Court of Justice in Hamilton ON, Canada. Based solely on facts provided by Justice Whitten in his decision [1] and summarized in The Sun article [29], Prof. Bukshtynov should have been found 100% liable. However, the jury found the running club coach 60% liable and the former PhD student 40% contributorily negligent. Surprisingly, the university's liability was set to zero despite the array of known facts which support the **opposite**.

- The indoor track was never properly supervised and, as appeared later, was **never inspected** for safety reasons since the Athletic Centre was opened in 2007.
- The Athletic Centre personnel in general, and the track monitors in particular, were **never trained** for safety. Despite the existing **track of previous incidents**, the policies for safe running were **not established** at all.
- Well before the incident, from 2009 until the time the incident occurred, Mr. Bukshtynov informed on multiple occasions the Athletic Centre managers that the use of the indoor track was **not properly controlled**. Copies of saved emails [3, 5] were provided to the jury.
- The running club coach, George Kerr, on the day of the incident did not have any affiliation with McMaster and was on track with **no prior university's permission**. This fact is confirmed by the internal incident report provided by McMaster itself [4]. Therefore, this coach neither had any rights to reserve or block any lanes for his teens, nor could instruct any recreation members to follow his requests. Justice Whitten disallowed to admit the report [4] to the court, thus this **evidence was hidden** from the trial jury.
- At the time of the incident the track monitor was on duty and confirmed that lane 2 had not been booked and, as such, could be freely used by anyone.
- According to the track rules, inner lane 2 **could not be assigned for sprinting** at all.

*Here and throughout the entire text, except the cases when it is used to specify a physical location, McMaster University (also McMaster or MAC) means the McMaster University Administration.

†The Superior Court of Justice in Hamilton ON, Canada, court file No. 13-44580

- The hidden incident report [4] also revealed that all McMaster responsible parties (the Athletic Centre main desk, facility supervisor, track monitor) were **aware of the problem** before the incident happened.

The summary of these facts sets a reasonable question – **How did McMaster, the track owner, appear to be zero-liable?**

The victim of this incident, Mr. Vladislav Bukshtynov, clearly states his position as follows. The trial process and its outcomes are carefully framed in a form of **public spanking** to punish his **"irresponsible litigation behaviour"** as stated by Justice Whitten [1, 29]. Multiple indications are available to identify that his **rights for fair and unbiased judgement are violated** under the power and authority of the university supported, voluntarily or forcedly, by local authorities and judicial system of Hamilton.

Judicial System by Justice Whitten

From the standpoint of objectivity, the trial judge Justice Alan Whitten has clearly demonstrated his **prejudice** during the entire trial process. Being away from initiating a discussion on any reasons for that, the facts below speak for themselves.

- The language used by Justice Whitten is far from neutral, see, e.g., [1]: "effectively sending him flying" (par. 8), "stubborn refusal" (par. 16), "plaintiff V.B. [Vladislav Bukshtynov] was stubborn" (par. 21).
- In Ontario the jury panelists receive no payment for the first 2 weeks, and only then are paid $40/day [20]. However, Justice Whitten ruled to pay $100/day to every jury member starting from the first day of trial.
- Justice Whitten also insisted, two times, on additional "midtrial pre-trial" conferences. Although such meetings are not considered mandatory, rejection to follow this advice was called as "irresponsible litigation behaviour" [1]. Just to mention, a mandatory pre-trial meeting in March 2018 was governed by **Justice Jane Milanetti, a former partner of Agro Zaffiro LLP**, a law firm which is a counsel for the running club. There is no doubt that both additional negotiating opportunities might have been "helpful".
- The information selected for absorbing by the jury was carefully filtered. During the entire trial, sometimes several times per day at court, Justice Whitten asked the jury to step down. Several important issues, such as signing a liability waiver or paying subrogated claims (will be described below), were ordered to discuss **without presence of the jury.** Even in theory, as **the information passed to the jury was so vigilantly filtered**, could McMaster be found at any degree liable?
- To add more, Justice Whitten also ruled that certain **important documentary evidence was inadmissible** during the trial, e.g., McMaster's internal incident report [4], McMaster's accident report for the Occupational Health and Safety Branch of Ontario Ministry of Labour [18], materials on the previous accident happened a year before, in 2010, at the same track [25].
- "Inadmissibility" of [25], which is the Transcript of Discovery for McMaster's Facility Supervisor T.J. Kelly (case #12-38016, Rodney v. McMaster University), becomes clear after reading just a few pages: 44-45, 53, and 57. The responsible officer, namely the McMaster's Facility Supervisor, under oath stated that:
  (1) starting from November 2010, sprinting is prohibited in any lane rather than lane 4,
  (2) blocking any lanes by individuals/clubs for their own use is also prohibited, and
  (3) the track monitors are in charge to "police" unauthorized sprinting and blocking.
- In addition, Justice Whitten vetoed several regular questions to be included into the jury's questionnaire: amounts for loss of competitive advantage, future medical and rehabilitative expenses, future loss of housekeeping and handyman services.
- In his decision [1] Justice Whitten refers – eight! times – to Mr. Bukshtynov's failure to pay the premium to After-the-Event (ATE) costs insurance. In particular, this failure was one of the reasons to turn down the claim for a Sanderson/Bullock order (unsuccessful defendants pay the costs to successful defendants). This rejection was a subject of multiple discussions in the professional law media, see, e.g. [15, 23, 28]. As a matter of fact, this is not true, and Mr. Bukshtynov never refused to pay the ATE premium. As

his former counsel, Morris Law Group, commented on this fact, "Justice Whitten misapprehended the premium" and they are unaware "where he got the idea". What is this: **unprofessional attitude supported by the Judge's prejudice or his intentional perversion of the facts?**

McMaster: a Decade of Systematic Negligence

As stated previously, the trial revealed that since the Athletic Centre was opened in 2007 **no attempts were made to train the personnel for safety**. In addition to this, two key people related to the track maintenance and operations at McMaster were summoned to the court. Facility Supervisor, T.J. Kelly, and Manager of Athletics and Events, Mark Alfano, gave the evidence that at the time of the incident **the policies for safe running were not established at all**.

After the trial conclusion Mr. Bukshtynov initiated his own investigation in order to create a full picture for safety conditions of doing any sport activities on campus. He sent multiple Freedom of Information (FOI) requests under Freedom of Information and Protection of Privacy Act (FIPPA) [14] to McMaster University, the Ontario Ministry of Labour, the Ontario Ministry of Health and Long-Term Care, the Superior Court of Justice in Hamilton, the City of Hamilton, Hamilton Health Sciences and St. Joseph's Healthcare Hamilton. Needless to say, the majority of these requests were processed with understandable tension: several were returned with rejection, while some requests were simply **ignored**. Luckily, the FIPPA law is working, somehow, in Ontario and at the moment almost all these requests are finalized. The outcomes gave a disheartening response.

- The Ministry of Labour responded and confirmed that McMaster University has neither reported the Athletic Centre building nor the indoor track **safety inspections** since the facility was open in 2007 until Aug. 1, 2018 [10]. **No inspections reported for more than 10 years!**

- Two requests were also sent to McMaster University itself. They asked on "number of times the David Braley Athletic Centre's indoor track has been inspected since its opening in 2007" [8] and requested "full schedule of inspections for David Braley Athletic Centre since its opening in 2007" [9]. Both requests were returned with the same statement: "there are no records responsive to this portion of your Request" [8,9].

This is the place where a lie starts getting uncovered. Justice Whitten in his decision [1] mentioned that "because of the allegations made by the plaintiff with respect to the operation, signage, etcetera of the indoor track, it would be understandable that an engineer was hired. That expert did not testify is no doubt because of how the trial evidence emerged" (par. 57). In fact, an inspection, unreported to the Ministry and for two FOI requests, was ordered by the university in June 2014 at Giffin Koerth Smart Forensics. In particular, forensic engineers were asked to "complete a site attendance, inspect the indoor running track". Their independent track inspection in October of 2014 revealed [24] that the **track has constructional defects** related to safety issues which do not comply with the requirements and recommendations published by the International Association of Athletics Federation (IAAF) [16, 17].

Further – it is more. There is a reasonable question about the Justice Whitten's ban put on the materials and questions for the previous accidents happened at the same track.

- The Ministry of Labour also revealed [10] that **McMaster University did not report the track incident** happened in November of 2010 and resulted in a graduate student's trauma claimed to court in 2012 [25], court file #12-38016. Just to make perfectly clear, the Occupational Health and Safety Act (OHSA, 66(2)) [21] in Ontario subjects every not reported incident to up to **$1,500,000 fine**.

- As [10] refers to only **2 incidents** happened at the David Braley Complex for almost 12 years (2007–2018), one could ask a natural question. Incidents inevitably happen at any time, but how many of them are not reported, and thus, hidden from the statistics available to the public? The Ministry of Health and Long-Term Care responded to an additional request and provided data on "Hamilton Paramedic Services attendances at the David Braley Athletic Centre". Their report [2] shows that, among all calls for paramedics in 2007–2017, EMS attended this recreational facility for fracture/trauma/fall related incidents **65 times**.

- The request on "incidents that transpired at David Braley Athletic Centre since its opening in 2007" was also sent to McMaster University in early August of 2018. Three appeals have been initiated at the Information and Privacy Commissioner (IPC) of Ontario, but the requested data has not been provided yet.

How far is McMaster ready to go to make people believe it is safe? One more example is below.

- McMaster sent a mandatory accident report to the Occupational Health and Safety Branch of the Ministry of Labour on Dec. 15, 2011 [18]. Some information provided in this report is **falsified**, namely the running club coach George Kerr is mentioned as the "McMaster University Athletics and Recreation Member". But based on the available internal report [4], provided by the university itself, the coach had never been affiliated with this institution. Now, inadmissibility of both documents, [18] and [4], to the trial should be also perfectly clear.

While this lie gets out of hand, the university will continue to enforce signing **liability waivers** to oblige all MAC Athletic & Recreation members "to waive any and all claims ... and to release the releasees from any and **all liability for any loss, damage, expense or injury including death** ... due to any cause whatsoever, including **negligence, breach of contract, or breach of any statutory or other duty of care** ... " [19].

Track of Hidden Incidents

In July 2019 the Superior Court of Justice in Hamilton released an entire archived file containing documents related to case #12-38016, Rodney v. McMaster University. Some of these documents allow to shed more light on the mentioned above unreported incident happened in November 2010. In addition to the Transcript of Discovery for McMaster's Facility Supervisor [25], now the access is established also to the Transcripts of the incident victim Ruth Rodney [26] and a running club coach Tom Bereza [27].

Mr. Bereza was asked to provide his opinion on safety rules and polices established at the McMaster's indoor track. He stated [27] that he was not "aware of any rules or policies governing the use of the facilities" (p. 7) and that "no one from the University gave us any orientation" on "how to use the David Braley Athletic Centre" (p. 8). He also mentioned that "the problem that the clubs had were more with the general students of McMaster ... We'd often get groups running together, taking up all the lanes like as a pack, running as a pack, or they would jog in the outside lane." (p. 9).

There are also opinions of two more club coaches, Brian Grola and Luis Dauphin, provided by the Ruth Rodney's lawyer, Mr. Pheroze Jeejeebhoy in [26]: "I have the opinions from the coaches who feel that McMaster's enforcement of the rules and posting of the rules were substandard in that I've been advised that when you look at York University or U of T, they have clearly posted rules and clearly enforced rules which they feel McMaster doesn't have" (pp. 34-35). And also "the general opinion was that there was no structure to the track, so you would have untrained people and trained people running together, people in various lanes and them not enforcing the use of lanes, which created a hazard and I understand that prior to this incident, **there was at least one other incident**" (p. 35).

In addition to this, in [26] Mr. Jeejeebhoy also provided the statement of the Ruth Rodney's coach, George Kerr: "During his training students at McMaster from 1999 to 2005 he [George Kerr] had requested, complained and discussed the lack of rules and signage thereof. He made specific complaints to Mark Alfano, manager of facilities" (pp. 31-32). Also "the rules of the track have not been taken seriously or implemented by McMaster in his [Kerr's] opinion. He [Kerr] is aware of **several incidents of track collisions**" (p. 32).

Could we take these multiple statements seriously? Why not: they are fully consistent, substantially supported and explanatory in terms of **65 EMS attendances** at the David Braley Athletic Centre. Rhetorical questions are: "Should McMaster allow any release of such information?" and "Could Justice Whitten allow any questions related to this incident and any references to the available documents during the trial in 2018?"

The search for the rest hidden incidents is underway and the open call is announced for submitting any facts on that issue.

Investigation by Ministry of Labour

Besides finding and sharing the information on the university's negligence, what else could be done in order to prevent future accidents that may cause more injuries and even fatalities? On Sep. 12, 2019, the Ministry of Labour received a request to initiate an investigation related to the safety conditions on campus of McMaster University. In particular, this investigation should address all cases of injures happened at the recreational facilities and not reported to the Ministry as well as all safety inspections made in the past and required for future. It is obvious that failure or delay in ordering such investigation will allow the university administration to extend its negligent behaviour to abuse public safety with unpredicted future outcomes. We will see if the

Ministry will be willing to make any steps in doing what is assumed to be their own job. Any response as well as the investigation findings will be added here with future updates.

Freedom of Information Compromised

As mentioned above, the majority of the FOI requests were initially returned with rejection or simply ignored. Again, being away from initiating a new discussion on any reasons for that, the facts provided below show the scale at which the problem appears at the moment.

- Initial request was sent to the FOI Office of **the City of Hamilton** in August 2018 to obtain information on "all inspections conducted at the David Braley Athletic Centre" by the City. After waiting for almost **9 months** and submitting 2 appeals at the IPC Office, Dec. 2018 (no response) and Apr. 2019 (failure to disclose records), the City provided 257 pages of responsive records [13]. These records contain only notes on fire/plubmng/alteration inspections, and, as expected, **nothing about safety inspections** to insure the athletic facilities are safe for public use. The second FOI request to the City about ambulance call reports sent in January 2019 took only **3 months**. After submitting one IPC no-response appeal, the City agreed to issue a decision letter [12] with an advice how this data could be obtained from the Ministry of Health and the City's Paramedic Service Division.

- A request was sent to **Hamilton Health Sciences (HHS)** to release "all information on any medical treatment ... provided by all affiliated HHS hospitals and clinics as a result of any injuries and associated incidents that occurred at David Bradley Athletic Centre". First, access was denied [7] under Personal Health Information and Protection Act (PHIPA) [22]. After appealing this denial at IPC, the Privacy & FOI Office at HHS changed the formulation to the following: "HHS does not maintain a document or collection of information that would allow us to identify injuries and/or incidents associated with the particular location" [6]. Now, could the second formulation be trusted?

- The same request sent to **St. Joseph's Healthcare Hamilton** was timely returned with the statement that "specific data set not fully captured or retrievable in a manner which would allow us to satisfy your request" [11]. Does it look logical: the Ministry of Health has such statistics, but the direct health care providers do not?

- The request to **McMaster** on incidents happened at the Athletic Centre [8] mentioned in the previous section has been already appealed at IPC **three!** times. After first two appeals in Sep. 2018 (no response) and in Nov. 2018 (excessive fee estimate) an agreement was reached to provide the copies of the incident reports for 6 selected months: Nov'10, Dec'10, Jan'11, Dec'11, Jan'12, and Feb'12. After obtaining the requested records McMaster University was asked to confirm its completeness. Despite the obvious fact that some records are missing, e.g. records related to Mr. Bukshtynov's incident happened in Dec. 2011, the Hearing, Policy & Privacy Manager, Ms. Michelle Bennett, gave an affirmative answer. The university teaches the lessons to its employees and they appear to be good students, or these employees are forced to support the university even when they may hurt themselves - but does it really matter? This is just a fact, and the third IPC appeal was filed in Sep. 2019. McMaster University is very well-known by its "commitment" to freedom of expression and academic freedom. More than one year of waiting time and false statements from responsible managers add one more freedom, freedom of information, to this list.

The total statistics accumulated up to the moment speaks for itself. 10 FOI requests were followed by 9 IPC appeals for deemed refusals or data access denials – **the price freedom of information pays on behalf of McMaster University**.

Are Personal Injury Lawyers and Insurance Involved?

The Morris Law Group, a law firm in Hamilton specialized in personal injury cases, was hired in 2012 to represent Mr. Bukshtynov in suing both the university and the running club. Ms. Sumitra Lagoo, a lawyer assigned to this case, was sure that the case was strong. In 2017–2018, closer to the trial commencement, her rhetoric changed: for not failing at trial her client had to *let McMaster go*. This was predictable and almost inevitable: McMaster University is the major employer in Hamilton and a world-renowned institution. What was not predictable is the reaction of the company to the trial outcome: after the trial conclusion, Ms. Lagoo's

online profile was moved out from the company's web site. The Morris Law Group commented that she "is doing well ... spending time with her family".

The trial strategy of **Agro Zaffiro LLP**, lawyers for the running club insurance company **The Sovereign**, was also questionable. As a common practice for multi-parties defence, they submitted a cross-claim against McMaster University in case any judgement was against their clients. Despite 60% liability set for the running club and the coach, "the defendants did not attack each other" as summarized Justice Whitten in his decision [1] (par. 36). Provided the lawyers are on instructions, does it mean that **the insurance company sacrificed reputations of their clients, the club and the coach? Why? What forced the insurance to sacrifice its own reputation?**

US/Canada Subrogated Claims Precedented

The major part of the rehabilitation treatment was provided to Mr. Bukshtynov in the US. As a regular procedure both in Canada and in the US, this situation resulted in issuing subrogated claims. The major part of these claims is handled by The Rawlings Company (US) which is authorized to represent Blue Shield of California and Florida Blue in terms of subrogation recovery. An official representative of The Rawlings supported the claims by giving evidence on behalf of the company. The amounts for these claims were also included into the Rule 49 Offer to Settle by the defendant parties as seen in [1] (par. 14). However, discussing this issue before the trial jury was objected along with the suggestion to include the subrogating amounts into The Questions to the Jury, [1] (par. 4). As stated above, Justice Whitten used his own power to support all these objections. This step, in fact, will trigger serious negative consequences to affect people both in the US and Canada. As an example, many Canadians, who live and have medical treatment in the US, **will no longer be able to claim subrogation compensation from Canadian insurance companies**. A single attempt to pressurize one person during the trial will be paid out by many ordinary people and, as a natural consequence, will not support close relations between the US and Canada in the end.

The Appeal[‡]

Mr. Bukshtynov has appealed the trial decision. It is the position of the appellant that McMaster University is liable at least 50% for doing almost nothing to maintain safe conditions for all runners and to prevent any possible accidents. It is also his position that Justice Whitten made a number of errors of fact and law that brought about a substantial wrong or miscarriage of justice. During the trial, he incorrectly ruled that certain important documentary evidence was inadmissible. In addition, by making multiple errors, his charge to the jury significantly misdirected the jury, leading to an absurd verdict.

The appeal expectations go far beyond the personal interest of the track incident victim. The question is posed and it should be answered: **is the university above the law?** Does the end justify the means? The strategy set by decision makers at McMaster is perilous and their main motives are simple and obvious. Enormous efforts are invested not into solving real problems, but instead into hiding these problems carefully. The delayed effects of such strategy will be heavily amplified with the vast negative impact on the university's reputation in the future.

The appeal has been scheduled for hearing on Wednesday September 25, 2019. It is true to say that the appeal Judges will be given a very tough problem. There is a dilemma. To grant judgement in Mr. Bukshtynov's favour means to start making adjustments to a case law system and to give regular people hope to succeed with their future claims, not just to accept alms being threatened by high litigation costs and perverse verdicts returned by unprofessional in law jurors manipulated by wise judges and highly experienced lawyers. On the other hand, it is much simpler to support McMaster. But saying the university is 0% liable means to support obvious lie and to allow this lie to root deeply by further strengthening the position of big enterprizes to follow the same practices. It is in the air that at least some changes are needed to make a step forward: are we dare enough for this step?

Media Silent

In a private conversation, one of the Canada's correspondents of a major US newspaper concluded that this case does not have any unusual aspects that would interest global audience, people not affiliated with the

[‡]The Court of Appeal for Ontario in Toronto ON, Canada, court file No. C65552

university or even Canadian readers. Nor does it appear to have the potential to reshape the Canadian civil litigation system. How about **fair and affordable justice for all?** We appreciate everything large companies are doing for us, regular people. But when it comes to court a large enterprize will survive with any outcome, which is not the same for individuals. Threatened by enormously high litigation costs an ordinary person has nothing to do but to agree on a "generous offer" in many cases without any chances to negotiate or prove their rights for reasonable compensation. They give up and allow companies supported by local authorities and judicial system to proceed in exactly the same manner.

Obviously, the only thing that guarantees the fair and unbiased appeal process is transparency. The local media information sources received multiple requests to publicize the details of this story. But they, however, prefer to keep silence at least until the status quo is changed. Should we blame them for this, or the facts presented here are simply reflection of the modern Canadian life? And, if so, should we give up and let McMaster go?

Updated: September 20, 2019.

Source: Let McMaster Go?
`http://www.letmcmastergo.info/`

References

[1] *Bukshtynov v. McMaster University, 2018 ONSC 4819 (CanLII).* `https://www.canlii.org/en/on/onsc/doc/2018/2018onsc4819/2018onsc4819.html`.

[2] *Data re IPC Appeal PA19-00049 (related to FIPPA A-2018-00241/MS): Ministry of Health and Long-Term Care, Access, Privacy & Corporate Information Office, provided May 6, 2019.*

[3] *Email from J. Lichty to V. Bukshtynov, dated Nov. 28, 2009.*

[4] *Email from J. Murray to T.J. Kelly, Re: Track Incident, dated Dec. 10, 2011.*

[5] *Email from V. Bukshtynov to M. Alfano, Problem: Official Response Required, dated Mar. 27, 2010.*

[6] *FOI Decision Letter: Hamilton Health Sciences, Privacy & FOI Office, dated Dec. 5, 2018.*

[7] *FOI Decision Letter: Hamilton Health Sciences, Privacy & FOI Office, dated Sep. 5, 2018.*

[8] *FOI Decision Letter: McMaster University, FOI & Protection of Privacy Office, file #2018-GR-010, dated Oct. 24, 2018.*

[9] *FOI Decision Letter: McMaster University, FOI & Protection of Privacy Office, file #2018-GR-011, dated Dec. 5, 2018.*

[10] *FOI Decision Letter: Ministry of Labour, FIPPA Office, file #G-2018-00606/LP, dated Sep. 10, 2018.*

[11] *FOI Decision Letter: St. Joseph's Healthcare Hamilton, Privacy Office, dated Sep. 19, 2018.*

[12] *FOI Final Access Decision Letter: City of Hamilton, Office of the City Clerk – FOI Section, file #19-034, dated Apr. 24, 2019.*

[13] *FOI Responsive Records: City of Hamilton, Office of the City Clerk – FOI Section, file #18-158, dated May 8, 2019.*

[14] *Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c. F.31.* `https://www.ontario.ca/laws/statute/90f31`.

[15] *How do Costs Work in a Personal Injury Lawsuit Involving Multiple Defendants?*, Preszler Injury Lawyers. `https://www.preszlerlaw.com/blog/sanderson-order-case/`.

[16] *IAFF Track and Field Facilities Manual, 2003 Edition*, International Association of Athletics Federation.

[17] *IAFF Track and Field Facilities Manual, 2008 Edition*, International Association of Athletics Federation.

[18] *Letter from Dane DeMan, McMaster University, to Eric Arsenault, Ontario Ministry of Labour, dated Dec. 15, 2011.*

[19] *McMaster University "Athletic & Recreation" Waiver of Claims Form.*

[20] *Ministry of the Attorney General: General Information about Jury Duty.* https://www.attorneygeneral.jus.gov.on.ca/english/courts/jury/general_jury_duty_info.php.

[21] *Occupational Health and Safety Act, R.S.O. 1990, c. O.1.* https://www.ontario.ca/laws/statute/90o01.

[22] *Personal Health Information Protection Act, 2004, S.O. 2004, c. 3, Sched. A.* https://www.ontario.ca/laws/statute/04p03.

[23] *"Reckless and Pernicious" Refusal to Consider Settlement Results in Pyrrhic Victory*, Borden Ladner Gervais LLP. https://www.martindale.com/legal-news/article_borden-ladner-gervais-llp_2511165.htm.

[24] *Report of Findings, Giffin Koerth Smart Forensics, file #140942MTS, dated Jun. 19, 2015.*

[25] *Transcript of Discovery for Facility Supervisor, T.J. Kelly, case #12-38016, Rodney v. McMaster University (date of loss Nov. 2010).*

[26] *Transcript of Discovery for Ruth Rodney, case #12-38016, Rodney v. McMaster University (date of loss Nov. 2010).*

[27] *Transcript of Discovery for Tom Bereza, case #12-38016, Rodney v. McMaster University (date of loss Nov. 2010).*

[28] K. Kirkpatrick and J. Ablaza, *Pyrrhic Victory for Plaintiffs Who Refused Settlement*, The Lawyer's Daily, (Oct. 5, 2018). https://www.thelawyersdaily.ca/articles/7470/.

[29] S. Pazzano, *Math prof took a risk with jogging track crash lawsuit and failed*, Toronto SUN: Sam Pazzano Courts Bureau, (Sep. 6, 2018). https://torontosun.com/news/provincial/math-prof-scores-pyrrhic-victory-over-jogging-track-crash.