

## Automobile Accidents in Florida: A Quebec Motorist Can Be Sued By a Victim Who is Also From Quebec

By Louis Charette



It has long been established in private international law that a person's liability is normally determined by the law of the place where the accident occurs. However, if a resident of Quebec is the victim of an accident outside Quebec, the *Automobile Insurance Act*, R.S.Q. c. A-25, allows him not only to claim compensation from the SAAQ, but also to claim the excess of his damages from the person responsible for the accident.

If the third party responsible for the accident is a resident of the foreign state, this does not pose a problem. However, in a recent case decided in Florida, the court allowed the action of a victim from Quebec against her neighbour who was also from Quebec and was living in the same mobile home park.

The victim was injured when her neighbour inadvertently pressed on the gas rather than the brake and struck the picnic table where the victim was sitting.

The victim, who suffered serious injuries to her legs and pelvis, was awarded damages of US \$ 133,800 by the jury.

The defendant argued that since the victim had been indemnified by the SAAQ, she could not sue him for the excess, since he was also from Quebec.

The Florida court analyzed the rules of private international law to determine which law applied and which court had jurisdiction. The court considered the different legislative policies in Quebec and in Florida, namely, no-fault liability in Quebec and the right to sue in Florida. It noted that section 83.59 of the *Automobile Insurance Act* specifically allows a victim from Quebec to sue outside Quebec and that an automobile owner from Quebec must hold accident insurance for accidents

occurring elsewhere in Canada or in the United States for an amount at least equal to the minimum compulsory amount required in the place where such an accident occurs. Consequently, it ruled that nothing prevented the proceedings in Florida.

As for the argument based on the reasonable expectations of the parties, the court ruled that this did not apply to the parties involved: a victim from Quebec knows that if he suffers an accident outside Quebec, he can file a claim with the SAAQ and sue the third party for the excess, while a driver from Quebec knows that if he drives an automobile in the United States, he is liable to be sued if he causes an accident and he must hold insurance.

The court was of the opinion that these principles are easy to apply and provide a degree of certainty, uniformity and predictability as regards the outcome of an accident.

So, here is a word of advice: Don't leave home without your insurance!

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