$8 million awarded to a quadriplegic hockey player: the Court of Appeal confirms the Superior Court's decision

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Last May 2, the Court of Appeal granted a motion to dismiss an appeal against a significant decision in the area of civil liability in the context of the practice of a sport.[1]

Decision at trial[2]

The facts in the case date back to October 3, 2010. A few seconds after the start of a hockey game between two junior teams, the plaintiff, Andrew Zaccardo, was violently body checked from behind by the defendant Ludovic Gauvreau-Beaupré, a player on the opposing team. Zaccardo, who became quadriplegic as a result of the incident, brought an action in damages against Gauvreau-Beaupré and his insurer, Chartis, claiming $8 million in damages. We commented this decision in a previous publication.[3]

At trial, Justice Daniel W. Payette noted that a hockey rink is not [translation] "a law-free zone".[4] The Court found that by body checking Zaccardo from behind, Gauvreau-Beaupré had breached the basic rules of care, thereby committing a fault within the meaning of the civil law. In addition, the Superior Court pointed out that while it is true that hockey involves certain inherent risks, Zaccardo could not reasonably have expected to become quadriplegic as a result of an illegal body check. Gauvreau-Beaupré and Chartis, his insurer, were therefore ordered to indemnify Zaccardo for $8 million, which amount had been the subject of an agreement between the parties.

Court of Appeal's decision

In a short decision, the Court of Appeal dismissed the appeal by Chartis and Gauvreau-Beaupré against the decision at trial, noting that it had no reasonable chance of success, since the trial judge had carefully assessed the evidence in reaching his decision.

Moreover, the Court dismissed the argument by Chartis that Gauvreau-Beaupré had committed an

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intentional fault when he made the body check from behind, stating that [translation] "where the insured is accused of committing an intentional fault, the intention must relate not only to the act committed, but also to the results of that act".[5] At trial, Chartis had, moreover, waived the right to invoke this exclusion.

Ultimately, the Court of Appeal upheld the award against the insurer to pay the total amount of $8 million in compensation for the injuries suffered by Zaccardo. This amount is certainly one of the highest ever granted by a Canadian court in such a context.

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1. *Chartis Insurance Company of Canada* c. *Zaccardo*, 2016 QCCA 787 ["decision of the Court of Appeal"].
2. *Zaccardo* c. *Chartis Insurance Company of Canada*, 2016 QCCS 398.
3. *Need to Kwow* publication, march 2016.
4. *Supra* note 2, at paragraph 10.
5. Paragraph 5 of the decision of the Court of Appeal.

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