

# SHARE PERSPECTIVES

a quarterly newsletter for clients and friends of David Share Associates, Lawyers

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next issue's theme:  
Serious Injuries and  
Motor Vehicle Accidents

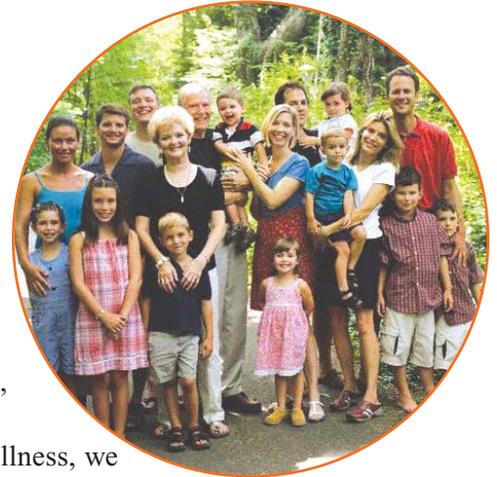


DAVID SHARE  
ASSOCIATES • LAWYERS

We make a personal injury and disability claim as painless as possible.

## Welcome to Share Perspectives Issue Two

David Share Associates is a leading Toronto disability claim and personal injury law firm concentrating on serious injuries, death claims, insurance disputes, and disability coverage disputes in Ontario. Following an accident or illness, we help people to get the support they need and deserve.



We respect your confidentiality. The *Share Perspectives* mailing list is confidential. If you want us to add or remove your name and address from the *Share Perspectives* mailing list, you can e-mail us at [newsletter@sharelawyers.com](mailto:newsletter@sharelawyers.com). Your word-of-mouth recommendation is our best advertising. 

## Q&A Corner

**Q:** The insurance company says that I am not seeking treatment, so they do not have to pay me. My doctor told me he has done all he can. Where does this leave me?

**A:** If conventional medicine suggests that no further active treatment will help you to overcome your disability, then you do not have to do more than what your own physicians can offer you in that regard. If your doctors feel that there is some medication that you ought to take, and you do not take it, then that could be construed as failure to be in active treatment. Legally, if the only treatment your health-care providers suggest is taking medication, and you are doing so, that should be enough to establish compliance with conventional medical treatment.

If you cannot follow the recommendations of your doctors because, for instance, the drugs make you feel worse, then you must explore this with them so that they support your decision not to take the customary medications. In those circumstances, you should explore alternative therapies so that no insurer can say that you are doing nothing to overcome your disability. 



## TEAM PROFILE: Christine Ferreira, Law Clerk

Christine Ferreira joined David Share Associates in October 2003. While employed with DSA, she completed and graduated from the rigorous Law Clerk program at Seneca College.

### supports lawyers work

Her current duties include scheduling mediations and discoveries and following up with insurers and law firms on settled cases. She enjoys applying the skills gained in the Law Clerk program to her work with DSA. "DSA doesn't just care about the welfare of its

clients, but its employees as well," says Christine. "It's a privilege and a pleasure working with DSA. They really make everyone feel a part of the family."

### wedding plans

Christine is engaged to be married on June 25, 2005. She eagerly looks forward to starting a new life and family with her husband-to-be. 🌀

"Most of the important things in the world have been accomplished by people who have kept on trying when there seemed to be no hope at all."

– Dale Carnegie

## Survey Says...

### mental-health claims on the rise

Mercer Human Resources Consulting and Marsh Inc. insurance broker released a study finding that 70% of 723 US employers polled said stress or depression had increased in cost or frequency as a disability condition in 2001. That figure was higher than for any other health problem, including cancer, lower back pain or repetitive trauma such as carpal tunnel syndrome.

(Financial Post April 23, 2003)

### stress and depression-related absences cost time and money

One in eight Canadians have a disability for a total of 3.6 million people. Disabilities are commonly thought of as physical, but disabilities due to stress and depression are very real. 20% of Canadian workers experience a stress-related illness each year. An unhealthy workplace costs employers, employees and society.

(Toronto Star February 26, 2005) 🌀

## Breakthrough!

### using body over mind

New medical discoveries are changing the face of treatment for mental health. Biofeedback involves the use of electronic instruments to monitor unconscious or involuntary physiological reactions and train individuals to influence or control the normally involuntary process. With biofeedback, an individual learns to control body functions such as heart rate ([www.lifematters.com](http://www.lifematters.com)). People who suffer from panic disorders have benefited from this treatment.

### the benefits of balance

Most medical practitioners use prescription drugs and psychotherapy to combat mental

illness. Yet, some therapists employ a more holistic approach to treatment. Traditional Chinese and Indian therapies are well-known for their emphasis on balance and the mind-body connection. Acupuncture practitioners insert needles at strategic points in the body to balance energy flow. Tai Chi is a gentle exercise that uses movement to balance the flow of energy. Aryurveda and Yoga are Indian practices that use dietary principles, breathing exercises and postures to balance the body's energy centres. It is best to use alternative therapies or new discoveries as an adjunct to traditional treatment with the knowledge and supervision of a treating psychologist and/or psychiatrist. 🌀

# In Person

## even salesmen get the blues

For years, Anton Magyar had been a top-performing salesperson for a large national manufacturer. He knew the challenges of the job, which included long periods on the road, good times mixed with bad ones, and occasionally bouts of the blues – from the loneliness and stress. Usually, these episodes did not last. Anton carried on with a full, productive life.

Into his 50s, Anton's stable home life provided the support to carry on his work, once his children had grown and moved out, Anton's wife left, too. Anton plunged into a deep depression.

## change as good as a rest

He started seeing a psychiatrist, who suggested that a career change would help. In a new job with less travel, managing sales for another company, Anton began to feel better. He thanked the psychiatrist and was discharged from treatment.

## a different decline

Within a year of starting his new job, Anton started to feel something different, unlike the previous bouts of the blues. He returned to his psychiatrist, who diagnosed a Bi-Polar Disorder. The psychiatrist prescribed medication, and told Anton he had to stop working.

## claim denied

Anton had group benefits with Manulife, and submitted a claim. Manulife paid the short-term benefits for three months, and then told him to apply for Long Term Disability. He applied, and they denied his claim, saying they were not obligated to cover a pre-existing condition. Anton and his doctor appealed this decision, asserting

that the diagnosis of Bi-Polar Disorder was not a pre-existing condition.

## bottoming out

Without any income, and with bills piling up, Anton tried to return to work. He lasted only three days before admitting himself to hospital. Anton's brother found David Share Associates on the internet and booked an appointment to see how Anton could get his benefits. For the first time since his diagnosis, Anton felt hope. He decided to go ahead with legal action, knowing that he did not have to put money up front for DSA to pursue his case.

## making the difference

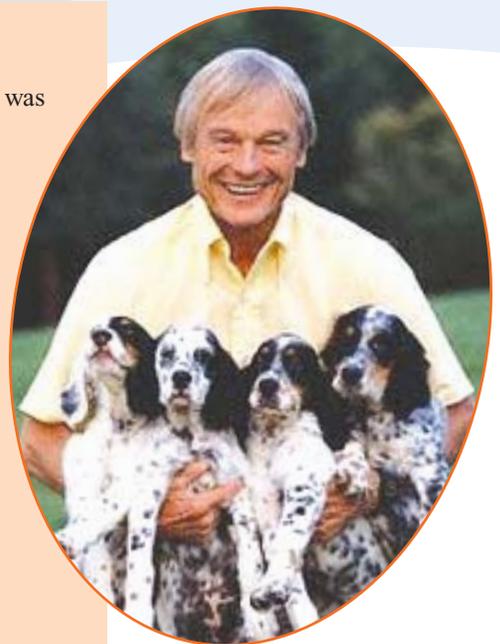
David Share Associates began to gather information after filing the lawsuit. In response, Manulife's lawyers agreed to mediation to see if a settlement could be reached.

At mediation, Manulife continued to argue strongly that they did not have to pay because of a pre-existing condition. They argued that depression and Bi-Polar Disorder was the same thing. DSA argued that the Bi-Polar disorder was very different from the depression Anton had previously suffered, as documented by all of Anton's doctors.

## lump sum payment

Eventually, Manulife agreed to pay Anton a lump sum of \$113,500.00. With his settlement, Anton could see a way out of his debt, concentrate on getting the treatment he needed, and start thinking about the future. 🌀

*All names have been changed to protect the privacy of the individuals mentioned.*



## Did You Know...

- The Supreme Court of Canada recently decided that a portion of a lump sum settlement in a long-term disability case can be treated as non-taxable. (Tsiaprailis v. R.)
- DSA recently installed flat screen monitors for all team members so that they can be less stressed and fatigued when helping our clients.
- The Ontario Court of Appeal recently ruled that it violates the Charter of Rights to deny severance payments to people who were unable to continue to work due to a disability or injury. *Ontario Nurses Assoc. v. Mount Sinai Hospital.*

## Laugh

**Patient:** Doctor, I have a serious memory problem. I can't remember anything!

**Doctor:** So, since when did you have this problem?

**Patient:** What problem?



- A genetic revolution sweeping the medical field could increase the average lifespan to 150 years in the next half century. In 1900 the average lifespan was 36 years, by 2000 it had more than doubled to 80.



Dylan Bear and Celina Grist

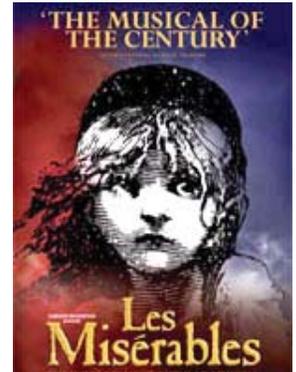
## Interaction

### We Have A Winner!

The winner of the *Share Perspectives* issue 1 contest is Celina Grist, age 2. Celina's name was entered by her great-aunt, Rena Kutnowski, who wrote, "It will make a nice present for her birthday. Winning the bear has brought me some sunshine, and Celena a new friend." Rena also added that "I asked David Share Associates to handle an employment/disability issue for me. Mr. Share and his staff have been very sympathetic, kind, and prompt in getting back to me with answers to any questions that I have had. I am confident that they will do their utmost to end the nightmare that faces me every day. Thanks a million."

### \* NEW \* Issue 2 Contest: Free Tickets to see Les Misérables

The award-winning theatre classic, *Les Misérables*, returns to The Princess of Wales Theatre in Toronto this fall. Win two tickets to see this stirring musical, based on the novel about revolutionary France by Victor Hugo. Just email your name, and contact information to [tickets@sharelawyers.com](mailto:tickets@sharelawyers.com) before July 30, 2005. You may have a chance to win. The winner will be announced in the next issue of *Share Perspectives*. 🌀



"What lies behind us and what lies before us are tiny matters compared to what lies within us."

– Ralph Waldo Emerson

## You Said it!

"David, as I am finally obtaining closure on these financial issues with your help, I recall the first time I phoned your office. It was a godsend to find your advertisement in the Star that day. I have recommended you to people who have crossed my path and I wish you all the best in obtaining just settlements for all your clients such that they can continue with their lives. Thank you again for helping me to get on with my life."

– M.S. (disability claim)

"From the very first meeting to the conclusion of the case, everyone was very professional, courteous, and considerate. I could not even begin to imagine tackling the claim against Canada Life on my own. Knowing it was being looked after allowed me to focus on recovering my health.

The staff were professional and helpful in providing information, and prompt in mailing information. I was extremely happy with the results. It was a very important morale booster needed to fight my illness. I would definitely recommend your firm to anyone experiencing the trauma of fighting for their rights when faced with a personal injury or disability.

Thank you for peace of mind. The year started out negative and ends on a positive note."

– Y.W. (long-term disability claim)

This newsletter is intended to supply general information only. We take care to ensure the accuracy of this information. However, as laws change, the reader should always check to ensure the accuracy and applicability of any information with regard to their own situation. The information in this newsletter cannot replace a thorough, complete review of your situation by competent legal counsel.



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