

SHARE PERSPECTIVES

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

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Denied for Reasons
Unknown

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*'Benefits Denied -
What To Do When
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DAVID SHARE
ASSOCIATES • LAWYERS

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

IN PERSON:

Deepak Hayer, Civil Engineer



Deepak Hayer and his wife Sunita came to Canada from India when he was 29 years old. Already a civil engineer specializing in water supply management, Mr. Hayer had to fulfil Canadian requirements before he could work as an engineer in Canada. In the time it took to gain Canadian credentials, he drove a taxi.

insurance for family security

Another measure the Hayers took to prepare for life in Canada was to insure him, the breadwinner. They bought life and critical illness policies. He never took his eyes off the goal of security for his family.

security elusive

At the age of 46, Mr Hayer was practising as an engineer, involved in the Greater Toronto Area water supply. He and Sunita had a teenage son and daughter and the future looked bright. Yet, when a disabling heart attack occurred, his family discovered that the security of the critical illness insurance would require legal advocacy.

investigators unsympathetic

The heart attack followed an afternoon of playing soccer with the kids in a neighbourhood park. It left Mr. Hayer physically disabled and unable to speak clearly. When Sunita filed a critical illness claim, she found that she would not deal with the nice neighbour man who had sold the policy, but with investigators who treated her with skepticism and made no allowances for her challenges communicating about such matters in English. She had always relied on her husband to handle such things.

claim denied on doctor's note to self

After a few weeks, Sunita received a letter

from the insurer denying the claim. Her children helped her to interpret it. The insurance company's investigation had found a note in Mr Hayer's medical files. This note indicated that a blood test had shown his cholesterol levels at the high end of the normal range. In a note to herself, the doctor had written, "Watch cholesterol levels." The insurance company found this an important indicator of heart attack risk. Its omission from the insurance application was their reason to deny the claim.

application was bona fide

The Hayers' daughter had an ambition to attend law school and believed that a good lawyer specializing in insurance disputes could fight the denial of benefits. After all, Sunita and Deepak had been careful to complete their insurance applications accurately. They could not have known that the family doctor had made a note to herself to watch Mr Hayer's cholesterol levels. Besides, a cholesterol level at the high end of normal is not itself an indicator that a heart attack is likely.

legal case accepted

On referral from a friend of the daughter's, Sunita went to David Share Associates (DSA). When she explained the reason given for the claim being denied and insisted that Mr Hayer had not been informed that his cholesterol level warranted any particular

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TEAM PROFILE



Janice Grevler

Janice Grevler, Lawyer

Janice came to Canada 23 years ago from South Africa. She earned a Bachelor’s degree in Psychology at the University of Western Ontario in London. She then went on to Osgoode Hall Law School at York University in Toronto, where she earned her Bachelor of Laws degree in 2001.

Janice entered the legal profession practising personal injury litigation in Toronto. This led her to David Share Associates. She has been with DSA since January, 2008.

Her role with DSA is varied. Involved in preparing cases for mediation and court appearances, she meets with clients, takes

part in legal research, drafting materials, and developing strategies. She also has a hand in negotiating settlements and attends examinations for discovery, mediations, and motions in court.

Janice says, “I chose to practice law in the area of plaintiff-side personal injury litigation because I wanted to advance the rights of the vulnerable and disenfranchised. In serving clients of David Share Associates, I have achieved this. It is rewarding for me to see that the legal system can provide a voice to deserving claimants and can award much-needed compensation to those who have been wronged.”

Did You Know...

Chronic Fatigue Syndrome



Government Data show that Canadians with Chronic Fatigue Syndrome (CFS) are disadvantaged.

The following information was extracted by the National Myalgic Encephalomyelitis Fibromyalgia Action Network from the Statistics Canada data

file from the latest Canadian Community Health Survey.

An estimated 334,000 Canadians have been diagnosed with CFS. Roughly one half were between the ages of 45 and 64, 30% were younger than 45, and 20% were 65 years or older. Two thirds were female.

Canadians with CFS showed a high degree of activity limitation.

% of group reporting	Canadians with CFS	Canadians in General
Need help preparing meals	17%	3%
Need help getting to appointments and running errands	32%	5%
Need help doing housework	35%	5%
Need help with heavy household chores (spring cleaning, yard work)	56%	12%
Need help with personal care	9%	2%
Need help moving about inside the house	8%	1%

Canadians with CFS also experienced socio-economic disadvantage.

% of group reporting	Canadians with CFS	Canadians in General
Permanently unable to work (ages 15-74)	18%	2%
Annual personal income less than \$15,000 (ages 15+)	44%	29%
Food not secure	17%	5%
Very weak sense of belonging to local community	19%	10%

Source: The National ME/FM Action Network is a registered charity working on behalf of Canadians with Myalgic Encephalomyelitis/Chronic Fatigue Syndrome and Fibromyalgia. www.mefmaction.net.

Ask A Lawyer

Q: What if my critical illness is not on the list of illnesses covered by my policy?

A: If your particular critical illness is not on the list, nor contained within the specifically defined medical conditions noted in your policy, then it is probably not covered for a lump-sum payment under the policy. If you are unsure, you should read the policy carefully or have it reviewed by your doctor or a lawyer to be sure. The wording in critical illness policies is often confusing – not as simple as sales agents make it sound when the policies are sold.

Q: What if I have a diagnosis of cancer and the insurance company says it's not the right type of cancer?

A: The wording of the policy must be reviewed carefully to determine whether the type of cancer that has been diagnosed meets the criteria for a critical illness payout. The law states that, if the policy wording is unclear, the proper interpretation would be to decide in favour of the claimant rather than the insurance company, as they drafted the wording. 📞

Share Perspectives readers are invited to write in with questions for *Ask A Lawyer*. Watch future issues for questions from your fellow readers. One question per person. Send your question to AskALawyer@sharelawyers.com.



DSA Community Donation Program **NEW!**

The new David Share Associates Community Donation Program honours clients who refer friends or family to DSA for a case that we accept.

Starting with this issue of *Share Perspectives*, for each issue of the newsletter a donation will be made to a charity on behalf of those providing new referrals. The donation announced in each issue will go to a different charity.

With written consent secured in advance,

the names of clients making such referrals will appear in the newsletter. For this issue, a donation has been made to the Canadian Cancer Society in honour of:

- **Annette Stoudt**
- **Sandra Johnson**
- **Ron Cowley**

This is one more way for DSA to thank those who refer friends or family. The opportunity to serve you is an honour. 📞

“Keep your fears to yourself, but share your courage with others.”
– Robert Louis Stevenson

...from Page 1 **IN PERSON: Deepak Hayer**

attention, DSA accepted the case.

insurer sued successfully

DSA sued the insurance company. The Hayer family won the full payout on the basis that Mr Hayer was not aware of any concerns about his cholesterol when he applied for the policy, and therefore could not have omitted information that the doctor had simply written in a note to herself. The Hayers' daughter has since applied to law school; their son

to medical school. Sunita and Deepak are delighted.

Note: While in this case DSA recovered the total Critical Illness benefit, the outcome of any case depends on the relative strengths and weaknesses of the evidence. Total recovery is not always possible. 📞

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

“He who loses wealth loses much; he who loses a friend loses more; he who loses his courage loses all.”
– Cervantes

Family News

David Share participated in a panel discussion on Alternative Dispute Resolution hosted by the Ontario Bar Association on May 18th.

- Shirley Blanco will marry Dave Clarke on June 26th.
- Grace Soares' daughter Melissa will graduate from High School on June 28th.
- Shira Bernholtz's daughter Toby won 2nd prize in the junior division of the Pierre Burton Writing Contest.
- Christine Chang's niece Brianna recently celebrated her first communion.
- David Share's eldest daughter will be married on August 15th. 📧

You Said It!

"David Share and his associates were consistently polite and helpful. Then, getting my insurer to pay made the whole experience a delight." – *Cassie White, long-term disability claim*

"The people at David Share Associates were kind, understanding, and professional. Most importantly, they won my case." – *Murray Dhaliwal, critical illness claim*

"My insurance company must have put up quite a fight, but David Share Associates worked diligently on my case and got a fantastic settlement. Now I can support my family again."

– *Vladimir Popov, long-term disability claim*

Laugh

Did you ever notice that when you blow in a dog's face, he gets irritated with you, but when you take him on a car ride, he can't wait to stick his head out the window into the wind?

Thanks!

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

We care enough to stand by you through your claim and after your settlement. *Share Perspectives* is one way we keep in touch.

We also respect your confidentiality. If you want us to add or remove your name and address from the *Share Perspectives* mailing list, send e-mail to newsletter@sharelawyers.com.

When you recommend DSA, that is our best advertising. 📧



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