

CURIE AGM LEGAL TRENDS

SEPTEMBER 22, 2018

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RESEARCHER OVERSIGHT

“Do You Know What Your
Researches Are Up to?”

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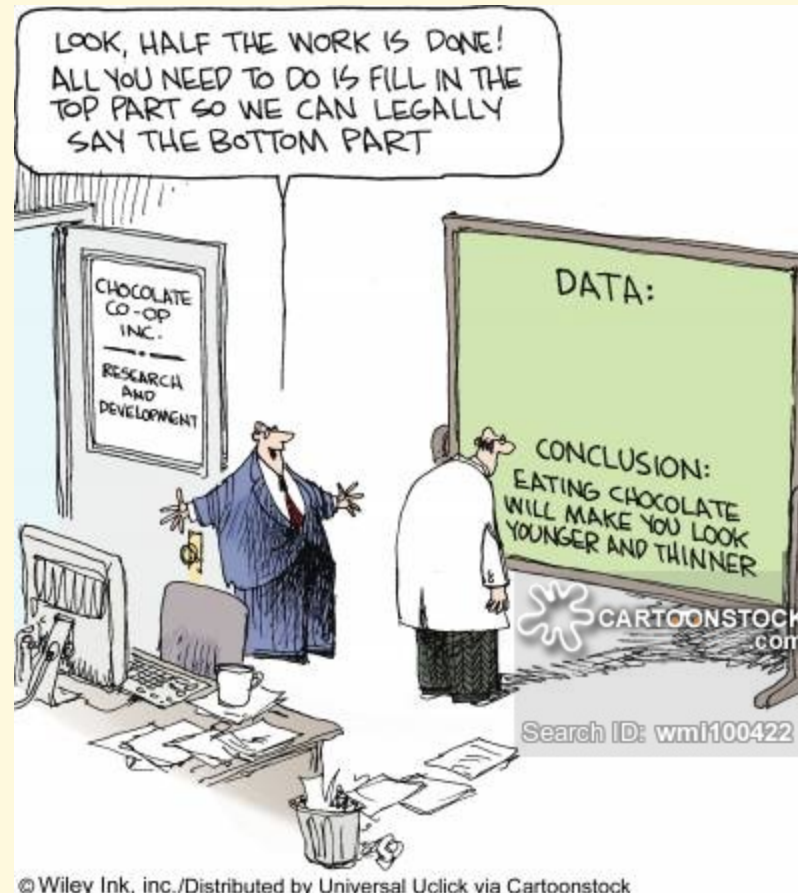
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RESEARCHER OVERSIGHT

- Exposure
- Consequences
- Risk Mitigation
- Questionnaire



Exposure

- **Research**
- **Commercial research**
- **Analytics**
- **Example cases:**
 - **Mining**
 - **Self-cooling cans**
 - **Subway sandwiches**

Consequences

- **Civil suits**
- **Criminal charges**
- **CURIE coverage limitations**
- **Reputational damage**

Risk Mitigation

- **Policies**
- **Supervision and contract approvals**
 - **Research centers**
- **ISO certification**

Questions for Consideration

- Does your institution differentiate between analytic work and research?
- If so, do they include risk assessment, approval and quality control requirements?
- If so, what approvals are required in advance to conduct work for third parties?
- To whom do individual researchers report for these sorts of activities?
- What sanctions do you have in place for unapproved activities and are they implemented?



Legalization of Cannabis

What is the Impact on Canadian Universities?

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Current Status

- Cannabis remains a Schedule II drug under *The Controlled Drug and Substances Act*, SC 1996 c 19 (CDSA)
- BUT Cannabis will be a legal drug on October 17, 2018
- Medical Marijuana remains a separate regime

Medical Marijuana

- Regulation under the CDSA - *Access to Cannabis for Medical Purposes Regulation (ACMPR)*
- Will still be in place once the new federal Act comes into force but will be assessed in five-years
- Currently sets out the guidelines for licensed production, distribution/sale, and consumption



Medical Pot – Personal Possession

- Regulations allow possession of a 30-day supply
- Maximum amount is the lower amount of health care practitioner recommendation, or 150 grams:
 - 2 grams of dried marijuana a day, you can possess up to 60 grams of dried marijuana at one time
 - $2 \text{ grams} \times 30 \text{ days} = 60 \text{ grams}$
 - 6 grams of dried marijuana a day, you can possess only 150 grams of dried marijuana
 - $6 \text{ grams} \times 30 \text{ days} = 180 \text{ grams}$

The Cannabis Act

- Federal Act will be in force October 17, 2018
- Purpose of the Act is to control the production, distribution, sale and possession of cannabis across Canada
- Federal Responsibility
- Provincial Responsibility



Federal Responsibility

- Possess/Share up to 30 grams of legal dried cannabis or equivalent in non-dried form (18+)
- Purchase dried or fresh cannabis and cannabis oil from provincially-licensed retailer
- Grow up to 4 cannabis plants per residence for personal use from licensed seed or seedlings
- Make cannabis products (food/drinks) at home
- Purchase cannabis edible products (within 12 months of enactment)



Drug Impaired Driving

- Federal Act will impose new offences:
 - legal limits for drug impaired driving
 - new criminal offenses (providing cannabis to minors; illegal possession/production)
- For THC, the proposed levels would be:
 - 2 nanograms (ng) but less than 5 ng per 1 millilitre (ml) of blood for the summary conviction offence
 - 5 ng or more per 1 ml of blood for the drug-only hybrid offence
 - 2.5 ng or more per 1 ml of blood combined with 50 mg or more of alcohol per 100 ml of blood for the drugs-with-alcohol hybrid offence



Provincial Responsibility

- License and oversee the distribution and sale of cannabis, subject to federal conditions
- Can also:
 - increase the minimum age in their province or territory (but not lower it)
 - lower the possession limit in their jurisdiction
 - create additional rules for growing cannabis at home, such as lowering the number of plants per residence
 - restrict where adults can consume cannabis, such as in public or in vehicles

Ontario's Legislation

- *Cannabis Act, 2017*, SO 2017 c 26
- Possession/consumption by persons 19+
- Province will oversee on-line sale and distribution of recreational cannabis
- Private businesses can apply for licences to sell (“roll-out” April 2019)



BC's Legislation

- Possession and consumption of legal cannabis set at age 19+
- Government-run and private retail operations to sell cannabis
- Cannabis use permitted where tobacco consumption permitted (but restrictions where children frequent)

Challenges for Universities

- Sale and/or consumption of Marijuana by Minors
- Commercial Host Liability

Property Risks

- Increased fire hazards (drying cannabis in ovens; production of cannabis concentrates using solvents/chemicals)
- Mold caused by humidity to grow cannabis
- Can you ban growing plants altogether (for students living on campus > 19)?



SEXUAL ABUSE

- Two Recent Cases You Should Be Aware Of

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Vicarious Liability? *Ivic v. Lakovic*, 2016 ONSC 5750, aff'd 2007 ONCA 446

Factual Background

- The female plaintiff was at a party, where she became intoxicated.
- Her friend called a taxi company (United Taxi), which dispatched a taxi to pick up the plaintiff.
- The taxi itself was operated under the United Taxi name, it had a United Taxi logo, and it was dispatched by United Taxi employees.
- The plaintiff was sexually assaulted by the taxi driver after he picked her up.
- The plaintiff commenced an action against both the driver and United Taxi.

Ivic v. Lakovic, Superior Court Decision

- The defendant United Taxi successfully moved for summary judgment, on the basis that it should not be held vicariously liable for the intentionally tortious acts of the defendant driver. Justice Broad stated that:
 - *“The wrongful acts alleged by the plaintiff against [the defendant driver] were only coincidentally linked to United Taxi’s activities as the operator of a taxi dispatching business, in the sense that they are alleged to have taken place in a cab bearing its name and operating within its system. To impose liability upon United Taxi in these circumstances...does not respond to common sense notions of fairness”*

Ivic v. Lakovic, Court of Appeal

- The Court of Appeal upheld the motion decision, and found that United Taxi was not vicariously liable.
- The Court of appeal agreed with Justice Broad that the assault was only “coincidentally linked” to the activities of the taxi company, noting that:
 - ***“...[the plaintiff] is prey not only to taxi drivers. The power the driver allegedly wrongfully exercised was not predicated on his employment”.***

Ivic v. Lakovic, Court of Appeal, Continued

- The Court of Appeal also stated that the appellant had not demonstrated that the imposition of vicarious liability would further any broader policy rationales of fair compensation or deterrence:
 - *“While the lack of an effective remedy for survivors of sexual assault is a matter of public concern, fair compensation is not about ability to pay – it is not a “deep pockets” rule.”*

Rising Damage Awards in Sexual Abuse Cases: *K.M. v. Marson*, 2018 ONSC 3493

Factual Background

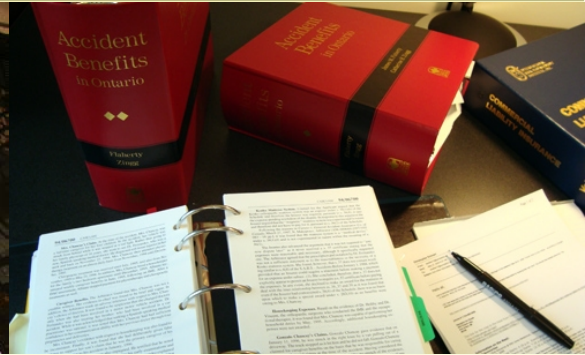
- In this case of historic sexual abuse, the male plaintiff (“K.M.”) was sexually assaulted from 1978 to 1980 by his elementary school teacher. At the time of the trial, the plaintiff was 51 years old.
- At the trial, medical evidence led by the plaintiff indicated that he suffered from serious mental health problems as a result of the sexual abuse, including depression, PTSD, and anti-social behaviour.
- The plaintiff had been unable to sustain an interdependent personal relationship, and had difficulty maintaining employment. At the time of the trial, he had been receiving O.D.S.P. benefits for 15 years, as a result of his mental health issues.

K.M. v. Marson – Damages Assessment

- **Damages Award:**

▪ General and aggravated damages	\$250,000.00
▪ Damages for past loss of income	\$1,192,550.00
▪ Damages for future loss of income	\$762,450.00
▪ Damages for future loss of relationship	\$135,587.00
▪ O.H.I.P. subrogated claim	\$27,953.11
▪ Management fee	\$44,902.00
▪ Total damages awarded	\$2,413,442.11 plus PJI

Questions?



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