



RICHARDS
BUELL
SUTTON

Established in 1871

Posted on: April 6, 2009

RIDE FOR ACCESS TO JUSTICE

April 6, 2009

David Hay

Originally published in Momentum Magazine

One of the most important questions facing our society today is access to justice. Members of a civilized community need access to a justice system through which they can resolve their civil (non-criminal) disputes.

The most common complaint relating to our civil justice system is that it is expensive and out of reach for individuals of average means. Many people perceive this to relate to the high cost of lawyers' fees for services. It is true that many lawyers who render services on an hourly basis are simply unaffordable to the average litigant. While this may be perceived as the central problem, it is not. By analogy, the independent film industry does not suffer because Dustin Hoffman is too expensive. Moreover, many cases can be conducted on a contingent fee basis. Finally, consider the cases where, depending on the stakes, individuals may have no choice but to exhaust all of the resources they have. For example, if facing a criminal charge, and the prospect of prison, most individuals will often do anything they can to retain the best counsel they can retain. When their liberty is at stake, they are much more ready to exhaust any resources they have to force the Crown to prove its case against them.

But different considerations apply in a civil case. Civil cases involve claims for compensation arising from wrongful conduct. In these cases, the aggrieved Plaintiff chooses to pursue a remedy. But if the damages sustained as a result of the wrongful conduct are not significantly in excess of the cost of proceeding against the wrong doer, economic issues become paramount considerations. All too often, cases with merit are not pursued because the cost of doing so outweighs any benefit which might be gained. A large bulk of these costs relate to "filing fees, hearing fees and jury fees" levied by the government as the litigation proceeds. These fees render the "right to trial" something which is often available only to litigants with significant financial resources.

The fact is that most litigation concerns individuals fighting institutions. Those institutions are usually insurance companies, banks, governments or large resource-rich and lawyer-heavy private companies.





RICHARDS
BUELL
SUTTON

Established in 1871

Institutional litigants can afford the cost of litigation. Sadly, resource superiority is often the most effective weapon in the legal war against the individual. In a wide variety of circumstances, individual litigants simply cannot “pay to play”, or risk an onerous award of costs against them. The playing field is simply not level.

The good news is that the vast majority of civil disputes do not require litigation, but only the threat of litigation, for their resolution. But for the threat of litigation to be taken seriously, it must be informed, meaningful and purposeful. To bring this threat aggrieved individuals need proper legal assistance which is only available through the pro bono effort of BC lawyers who donate their time for the sake of advancing just causes. That’s where the Western Canada Society to Access Justice (“Access Justice”) comes in.

Access Justice, a non-profit society formed in 1990, is an organization which is dedicated to Justice for those who cannot afford it. For 20 years, Access Justice has advocated for people with modest means but determination to pursue justice. Its visionary was Dugald Christie, who died after being struck by a van on his bicycle during a ride across Canada to promote the idea that our justice system should not only be available to the rich and powerful. Since its incorporation in 1990, Access Justice has grown to the point where it now operates over 65 clinics across British Columbia using the services of some 320 BC lawyers who donate their time.

There are uncanny parallels between Access Justice and adocacy groups within the cycling community in BC. Both are committed to a better world in which one is not judged by the cost of one’s automobile. The cycling community needs proper representation and empowerment through legal education and the advancement of legal issues which affect cyclists. What better way to demonstrate the synergy than lawyers riding in robes to the steps of the courthouse in demonstration of the vital needs for access of marginalized groups to our Courts.

On May 12, 2009, we will perform this ritual for a second time in the second annual bike and walk for justice. The ride will be held in conjunction with Vancouver’s Bike-to-Work Week. Information about the ride can be obtained from the Access Justice Website.

This ride is a shining exercise in non-conformity and an important step towards greater awareness of Access Justice and its goals. I hope you will join us.

David Hay is a litigation lawyer and partner at Richards Buell Sutton, LLP. He has a special interest in bike injury and can be contacted directly at 604.661.9250 or by email.

