



 IACOBELLI LAW



# A Florida Lawyer's Guide to Representing Injured Canadians *in* Florida Motor Vehicle Crashes



From Intake to Resolution

# About Andrew A. Iacobelli



Licensed Attorney in Florida and Ontario



Focused practice on cross-border personal injury litigation



Author: "Are You a Canadian Injured in the United States?"



Regularly Co-Counsel on claims involving Canadians injured in Florida



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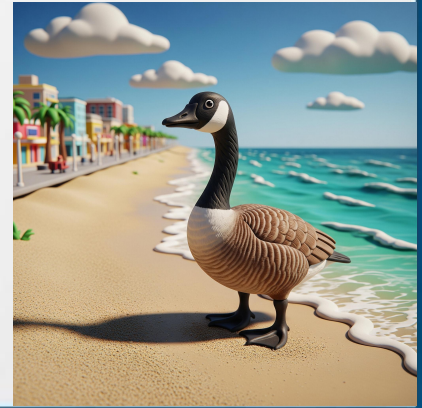
# The "Snowbird" Scenario



Key Statistic: An estimated 3.4 million Canadians visited Florida in 2024.



The Problem: When Canadians get hurt in Florida, they face the intersection of two different legal, insurance, and healthcare systems.



# The Single Most Important Takeaway

"A Canadian client is NOT just another out-of-state client."



# Meet "The Smiths from Toronto"



## The Story:



Retired couple from Toronto



Wintering on Singer Island



Rear-ended on I-95 by FL driver with **\$10,000 BI limits**



Smiths have an **Ontario Health Card**, an **Ontario Auto Policy**, and **Travel Health Insurance**



## The Question:



Who pays for what?



# The Intake Process: Important First Steps



# Intake: 3 Key Documents You Need NOW



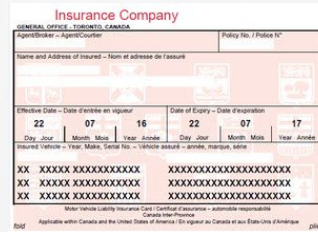
Provincial Health Card (e.g., OHIP Card)



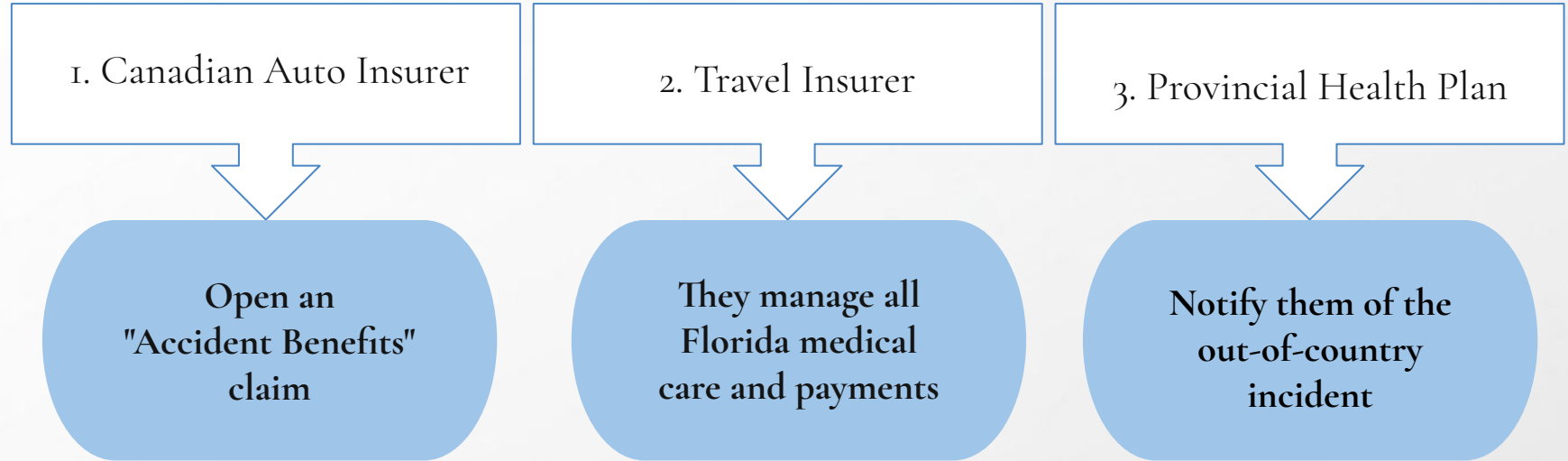
Canadian Auto Policy ("Pink Slip")



Travel Insurance Policy - The "First Payer" for emergency Florida medical bills



# Your Coordinator Role: 3 Immediate Calls





# Repatriation: Getting Your Client Home



What is it?

The process of safely  
getting the client back  
to Canada

Who is Responsible?

The Travel Insurer

Your Role

Facilitate and  
Stay Informed

# The Point of No Return: The No-Fault Election

# The Choice: A Tale of Two Systems

Florida PIP	Ontario Accident Benefits
Standard \$10,000 Benefit	Standard \$65,000 CDN (Non-Cat)
Subject to 14-day rule & EMC	\$1,000,000 CDN (Catastrophic Injury)
	Includes Income Replacement, Caregiver Benefits, Housekeeping, etc.

# The Law: SABs Section 57 - The Two Doors

## Elect Florida PIP

Get \$10,000 in PIP

(Almost always the wrong door.)



## Elect Ontario AB

Get up to \$1 Million in Med Rehab; plus IRB, etc.

(The door you usually want to choose.)

# The Traps



## Trap 1: The Choice is Final.



Once you elect one, you are **forever barred** from the other.



## Trap 2: Accidental Election.



Accepting aPIP payment can trigger a **default election** for Florida benefits.



## Trap 3: The Jurisdiction.



For disputes with no-fault insurer; the LAT process

The Main Event:  
The Canadian UM Claim

# The Real Source of Recovery



**The Problem:** At-fault driver has low BI limits.



**The Solution:** Your client's own Canadian Underinsured Motorist (UM) policy.



**The Value:** Most standard policies carry \$1 Million in UM coverage.



# Pitfall #1: The Jurisdiction Trap



Canadian UM Insurers will challenge jurisdiction in Florida.



UM Lawsuit MUST be filed in Ontario



Statute of Limitations commences on notice or demand to UM Carrier (be careful)



Canadian Law on Damages applies to UM Claim (ie. Pain and Suffering CAPS)



# Pitfall #2: The Release Trap



**The Rule:** When settling the BI claim, you MUST use a LIMITED RELEASE to preserve UM claim.



**The Consequence:** A standard general release may EXTINGUISH the UM claim.



**Notice to UM Carrier of Intention to Settle for BI Limits:** necessary or effective?



# Pitfall #3: The Adjuster's Myth



**The Myth:** The Canadian adjuster will claim an Ontario injury "threshold" and a ~\$50,000 deductible apply to your client's case.



**The Reality:** This is FALSE.



**The Law:** Florida law governs liability.

Ontario Courts have ruled that Ontario's *Injury Threshold* and *Deductible* are liability provisions. Therefore, NO THRESHOLD & NO DEDUCTIBLE apply to the UM claim. (Florida *threshold* still applies).



Canadian law on damages applies.

# Mastering the Damages Claim

# Debunking the "Free Healthcare" Myth



**The Myth:** Future medical care is **free** in Canada.



**The Reality:**

- ◆ Long wait times for specialists & surgery.
- ◆ Gaps in coverage (physio, prescriptions, counseling).
- ◆ Need for private care is common.



**The Solution:** Retain a **Canadian** Life Care Planner.

- ◆ Leverage the no-fault claim to establish non-OHIP care costs.
- ◆ Even “free” medical care has right of repayment against the BI policy

# Two Client Profiles, Two Damages Strategies

## The "Returning Home" Client

Damages primarily based on  
Canadian care costs.



## The "Snowbird" Client

Damages can be based on  
U.S. medical costs.

# The "Snowbird" Advantage: OHIP Subrogation



## The Result

All high-value Florida medical bills are part of the UM claim, creating significant exposure for the insurer and driving up the value of case.



# The Collaborative Model & Ethical Duties

# The Golden Rule: Collaborate & Avoid UPL



Advise your client, **in writing**, about importance of co-counseling with Canadian lawyer for all Canadian-based claims (No-Fault and UM).



**COLLABORATION** will maximize value of your client's claims.



# Summary: Key Takeaways



**Triage First:** Get the 3 documents, make the 3 calls.



**Elect Wisely:** Get informed - No Fault Benefits in Florida vs. Ontario.



**Release Smart:** Use a limited release.



**Sue Right:** File the UM lawsuit in Ontario.



**Build Right:** Use Canadian and Florida care, and leverage US Medical.



**Partner Up:** Collaborate with Canadian Counsel.

# Questions?

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