

November 21, 2022

Law Society of Ontario
Osgoode Hall, 130 Queen Street West
Toronto, Ont. M5H 2N6
Complaints and Compliance - comail@lso.ca

RE: Mr. Brian Goldfinger
Goldfinger Injury Law
167 Sheppard Ave W
Toronto, ON M2N 1M9

To the Office of the Complaints and Compliance

On behalf of members of the Ontario Society of Occupational Therapists (OSOT) who work in the automobile insurance sector, we issue this complaint.

On September 29, 2022, Mr. Brian Goldfinger of Goldfinger Injury Law produced a blog¹ on his website entitled, “*When Occupational Therapists and Insurance Companies Try to Fool You.*” In the offending blog, Mr. Goldfinger opined that occupational therapists always side with the insurance company and negate the needs of those individuals injured in car accidents. According to Mr. Goldfinger, occupational therapists (OTs) are acting as “*agents or contractors*” of the insurance company, retained to conduct in-home or in-hospital assessments.

Mr. Goldfinger goes on to say that “*The injured accident victim has NOT requested that s/he be assessed; nor has the injured party authorized for the insurer to retain a third part Occupational Therapist to come to their home or hospital bed to see them. Sounds like a gross invasion of privacy.*” He continues, “*The reality is that agreeing to the assessment in the vast majority of cases hurts the case more than helps it.*” “*The accident victim signs forms which completely legitimizes the entire assessment process.*”

On October 11, 2022, OSOT’s Executive Director, Marnie Lofsky wrote to Mr. Goldfinger to ask him to retract his statements as they undermine and disrespect the profession of occupational therapy and our obligations under our regulatory College requiring unbiased and client-centred reports and goals to best serve our clients.²

¹ <https://www.torontoinjurylawyerblog.com/when-occupational-therapists-and-insurance-companies-try-to-fool-you/>

² https://www.coto.org/docs/default-source/pdfs/code-of-ethics-2020.pdf?sfvrsn=ec605359_16

To date, the blog is still up with no retraction or correction.

Consequently, we are escalating this complaint to The Law Society regarding “conduct unbecoming a barrister or solicitor” and “professional misconduct.”

According to the Law Society’s website,

“Public confidence in the administration of justice and in the legal profession may be eroded by a lawyer’s irresponsible conduct. Accordingly, a lawyer’s conduct should reflect favourably on the legal profession, inspire the confidence, respect and trust of clients and of the community, and avoid even the appearance of impropriety.... Dishonourable or questionable conduct on the part of a lawyer in either private life or professional practice will reflect adversely upon the integrity of the profession.”³

We feel Mr. Goldfinger’s comments do the legal profession harm by publicly attacking another regulated profession and clearly impacts the respect and trust of clients and the community. An entire profession has been inaccurately overgeneralized and slandered in his statements. In addition, it demonstrates a lack of understanding of the Statutory Accident Benefits Schedule which is the legislation that outlines the process by which occupational therapists function within the auto insurance sector.

Occupational therapists work in many areas of rehabilitation, as do lawyers in many aspects of the law. Members of the public reading his blog could easily conclude that all occupational therapists are unjust, untrustworthy, and unlawful, no matter where they work or for whom. These accusations are damaging and libellous.

Importantly, Mr. Goldfinger should understand that occupational therapists are regulated in the province of Ontario. The *Regulated Health Professions Act (1991)* and the College of Occupational Therapists of Ontario (COTO), sets both the educational and practice standards for the profession to ensure the public is protected. Clients have the right to report unscrupulous or unprofessional behaviour to COTO where there is a structured complaints process similar to that of the Law Society of Ontario in the legal space. It is not Mr. Goldfinger’s place to be the judge and jury over another profession.

Should Mr. Goldfinger have issues with the Statutory Accident Benefits Schedule, then he should address those with the Ministry of Finance and submit his complaints to the Financial Services Regulatory Authority of Ontario (FSRAO).

³ <https://www.iso.ca/about-iso/legislation-rules/rules-of-professional-conduct/complete-rules-of-professional-conduct>

OSOT is seeking the Law Society's assistance to address appropriate actions with respect to Mr. Goldfinger's unprofessional and irresponsible conduct including a retraction of his blog and making a formal correction statement.

We look forward to your response.

Yours truly,

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