IN THE MATTER OF the *Insurance Act*, R.S.O. 1990, c.I.8, as amended,
and Ontario Regulation 283/95

AND IN THE MATTER OF the *Arbitration Act*, S.O. 1991, c.17

AND IN THE MATTER OF AN ARBITRATION

BETWEEN:

THE GUARANTEE COMPANY OF NORTH AMERICA

Applicant

- and -

WAWANESA INSURANCE COMPANY and ZURICH INSURANCE COMPANY

Respondents

AWARD

Counsel Appearing

Maura Thompson and Jonathan de Vries for the Applicant.

Stephen Macaulay for the Respondent, Wawanesa Insurance Company.

Kevin Adams for the Respondent, Zurich Insurance Company.

Introduction

This matter comes before me as a priority dispute between several automobile insurers. Each of the parties is an insurer carrying on the business of automobile insurance in the Province of Ontario.

As a result of an accident which occurred on October 22, 2007, Edward D.[*] was injured in a motor vehicle accident. He was riding a bicycle when he was struck by a vehicle. The vehicle was insured by Wawanesa Insurance Company, one of the Respondent insurers.

The Guarantee Company of North America and Zurich Insurance Company are insurers of the York Region Children's Aid Society and the Province of Ontario, respectively.

This case raises a priority dispute as to which of these insurers is obliged to pay the statutory accident benefits to which Edward D. may be entitled in accordance with the *Insurance Act*.

Nature of the Dispute

Pursuant to section 268 of the *Insurance Act*, all policies of motor vehicle liability insurance have included, within the scope of coverage, a broad array of extensive benefits described as a "Statutory Accident Benefits Schedule" (SABS). The legislative scheme and regulations thereunder broadly describe the range of individuals entitled to claim such benefits. No doubt it is the legislative intent that an individual who is injured in a motor vehicle accident is likely to be able to acquire the status of being an "insured person" in relation to some policy of automobile insurance and therefore become entitled to the SABS. The result of defining the concept of "insured person" very broadly is that a single individual might be qualified as an insured person in respect of more than one policy of insurance. In these circumstances, subsection 2 of section 268 of the *Insurance Act* sets out some priority rules to sort out the obligations between the various insurers.

Ontario Regulation 283/95 governs the procedure and some of the substantive issues with respect to entitlement to benefits in these circumstances. It is pursuant to that regulation that this dispute is brought before me to be decided in accordance with the provisions of the *Arbitration Act*, 1991. The parties have put before me two issues for determination at this time:

1. Was the claimant principally dependent for financial support on the York Region Children's Aid Society and/or the Province of Ontario, at the time of the motor vehicle accident on October 22, 2007?

2. Can a person be dependent, within the meaning of the SABS, on anyone other than a natural person?

I noted that the parties in various places describe the issues slightly differently, but I do not recognize any material difference in the way the issues have been framed.

The proceeding in this matter included a number of pre-hearing conferences and the parties were successful in obtaining the relevant evidence with respect to the surrounding circumstances and relationships prior to our ultimate hearing date. The parties were able to formulate an Agreed Statement of Fact. For the purpose of the record of this proceeding, the Arbitration Agreement between the parties was marked as Exhibit #1 to the proceedings and the Agreed Statement of Fact was marked as Exhibit #2 to the proceedings.

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[*] In consideration of the privacy interests of non parties who were required to provide information about their personal affairs, I have deleted reference to surnames.

The Factual Background

This case involves the entitlement of Edward D.'s statutory accident benefits. At the time of the accident, he was a young man born on March 26, 1990. He lived with his biological father Barry D. until August of 2002. It is understood that Edward D. has had no connection with his mother since shortly after his birth.

Since August of 2002, Edward D. has been in and out of his father's home. According to the Agreed Statement of Fact, in August of 2002 he was removed from his father's home by the York Region Police and placed into the custody of York Region Children's Aid Society. He was made a ward of the Society on December 17, 2002. Nonetheless, close contact was maintained between Edward D. and his father, and in August of 2003 he returned home to live with his father. In September of 2003, the Society wardship was terminated and Edward D. was ordered into the custody of his father under the terms of a supervision agreement. Subsequently, in July of 2004, the file of the Children's Aid Society was closed. However, in March of 2005, Edward D. was again returned to the care of the York Region Children's Aid Society by a court order. He was again made a ward of the Society in June of 2005. He was placed in a foster home in Aurora where he remained for about a year. Following that he was put into another facility, The Cornerstone Group Home, until January of 2007. At that time he commenced living in a foster home in Keswick, Ontario, where he stayed until he was removed in July of 2007. The record discloses that between January of 2006 and July of 2007, Edward D. regularly returned to live with his father on weekends and had regular contact with his father during the week.

The parties have further agreed that during the periods that Edward D. was in the care of the York Region Children's Aid Society, the society paid for all of the financial expenses related to Edward D. During the time period when Edward D. visited his father, the father was responsible for the financial expenses. The father never received money from the Children's Aid Society.

In the Agreed Statement of Fact, the parties have created a documentary record which sets out the evidence with respect to financial support of Edward D. at various periods of time. It is clear that after being removed from the last foster home in July of 2007, Edward D. never returned to the active care of the Children's Aid Society. He continued to be subject to a wardship order but the steps were in place to terminate that status. The dates of these various transactions may be material. It is indicated that in mid-September 2007, the Children's Aid Society had made the decision that involvement with Edward D. would be ending. On September 20, 2007, the case worker notified Hanrahan Youth Services that Edward D. would not be returning to live there as previously expected. A court date of October 30, 2007 was scheduled for hearing to terminate the society wardship.

It is clear that from the latter part of July 2007 onward, Edward D. had no intention of returning to live in a foster home or other facilities under the auspices of the Children's Aid Society. He had gone on vacation with his father and when he came back, on August 8, 2007, he advised the Children's Aid Society of his change in intentions. He was placed, on August 9, 2007, at Hanrahan Youth Services against his wishes but despite this placement he lived with his father for 4 or 5 days a week and stayed at Hanrahan for 2 or 3 days a week. Then on August 24, 2007, he essentially left the facility with the intention of not returning at any time. He lived with his father and lived with his girlfriend.

There is ample evidence that Edward D., at this juncture in his life, had the intention of moving on. He became registered in an alternative education problem at King George School in Newmarket. He began attending this program in early September, 2007. He obtained employment with a painting company and intended to begin on October 23, 2007. He and his father formed the intention that they would reside with each other on a permanent basis.

Importantly, no further financial support was received from the Children's Aid Society after August 24, 2007 up until the accident.

The agreed record contains particulars of the father's income, the sources of income and household expenditures.

Analysis

Determination of a dependency case requires me to determine whether or not the claimant, at the time of the accident, was principally dependent for financial support upon a person who is an insured person under the policy of insurance. Counsel put before me a full brief of authorities and relevant statutory and regulation provisions which address the underlying issues.

All of the parties, their counsel and myself are familiar with these issues as we repeatedly confront problems in relation to various fact scenarios.

The first question, with respect to principal dependency for financial support, requires us to identify an appropriate timeframe during which we should examine the relationship to see whether or not that financial dependency exists. The case law has unambiguously determined that we should seek out a timeframe which fairly reflects the status of the claimant at the date of the accident.

This is a particularly challenging facet of this kind of dispute. It requires one to make some judgment about the nature of a relationship at the date of the accident, and then to identify a timeframe in the chronology of relationships which fairly reflects that status.

However, in the context of this case I do not find a great deal of difficulty in that respect. While it is true that Edward D. had been in and out of various Children's Aid Society orchestrated residences for a number of years, it is quite clear that it was the intention of the parties to abandon that mode of life as of August of 2007. The Children's Aid Society concurred in that abandonment a few weeks later in September of 2007. The claimant and his father had set on a new course and had agreed to live together. Steps had been taken to pursue education and employment. There was a girlfriend in the picture and there was some residency arrangements which involved her at various points in time.

Counsel for Wawanesa argued that the relevant time period for examination of a dependency relationship should be the longer time period encompassing the entire scope of the relationship between the Children's Aid Society and Edward D. It is argued that this more fairly represents the true status at the time of the accident as Edward D. was in and out of various residency arrangements, and had been back to live with his father for a period of time during that interval as well.

This is not an unreasonable position in the circumstances but, in my view, is not correct. The record before me discloses a cessation of the Children's Aid Society relationship prior to the

accident. This was not a momentary or transitional status. There was an intention to permanently sever involvement with the Society. Edward and his father took several significant steps to advance that plan. Education, employment and residency were all changed. They had moved on. While that might or might not have changed in the future, the relationship with the Society clearly did not factually exist on the date of the accident and therefore I am compelled to select a timeframe that most fairly reflects that reality.

From the totality of the evidence before me, it is abundantly clear that a timeframe to be selected which fairly reflects the status of the claimant on the date of the accident would have to be a timeframe after the cessation of the involvement of the Children's Aid Society. Having come to that conclusion, it does not really matter which timeframe I select but for the purposes of the record I would indicate that it appears to me that an appropriate timeframe would be the period between August 24, 2007 and the date of the accident, October 22, 2007. During this period of time there was no residency with any Children's Aid Society facilitated home or institution. During this period of time there was no income derived from the Children's Aid Society. The Children's Aid Society retained a legal nexus with the claimant by virtue of the subsisting wardship status, but even that was in the course of being terminated as of the latter part of September 2007.

The parties have included in the record an indication that the claimant became a Crown ward again in March of 2008, subsequent to the accident. I think we need to be careful not to read too much into post accident arrangements in a case like this. That post accident circumstance is not the manifestation of any pre-accident status or intention. It may well be the result of the accident and its outcome. Therefore, I do not consider the post accident circumstances relevant in determining the status of the claimant on the date of the accident.

Based on the record before me, it is my conclusion that Edward D., at the time of the accident, was not principally dependent for financial support on the Children's Aid Society or the Province of Ontario.

The parties have put before me a second issue which perhaps could be regarded as unnecessary for me to decide in view of my decision in the first issue. They raise the factual and legal question of whether or not the SABS contemplate a person being a dependent on a corporation or the Crown.

This is a legal issue which has caused some difficulty in other cases and circumstances. I have recently given a decision with respect to this issue in the case of *Geico Insurance Company* v. *Aviva Insurance Company of Canada and ACE INA Insurance* (April 19, 2010). In that case I considered the issues of interpretation of the SABS and the surrounding context of the legislation and offered the following views:

> "**Dependency As an Entitlement Concept**
>
> Throughout the long and varied history of first party injury benefits for automobile accident victims, there has been entitlement to benefits by reason of dependency in connection with a person who is the named insured under a policy of automobile insurance.
>
> In its simplest form the concept is easily understood. When a person purchases automobile insurance which includes indemnity for losses that the person may suffer, it is to be expected that the purchaser will wish to extend the umbrella of protection to family members, such as a spouse and dependents. Accordingly standard policy wordings have extended coverage to these categories. The net effect is to provide benefits in respect of these individuals even though they are not named as contracting parties in the policy of insurance.

It is not surprising that use of concepts such as "spouse" and "dependent" might give rise to some controversy in a limited number of cases. The opportunities for this kind of controversy have increased since the advent of a significant Statutory Accident Benefits program in 1990. At that time the legislature changed the priority scheme applicable to accessing these benefits. Along with other changes, the effect was to set the insurer of a person who has dependants as the highest priority insurer to deal with benefits in respect of the person's dependants.

In most accident circumstances an injured individual will be entitled to claim benefits from a number of insurers[3]. The priority rules set out in the *Insurance Act*, and the procedures set out in the regulations, will allow the injured individual to access benefits and will shift the obligation to sort out priority to the implicated insurers.

As a result, we commonly see "priority disputes" between insurers. Typically the applicant insurer is, or has been, paying benefits to an individual. That insurer asserts that some other insurer has a higher priority as defined by statute. The paying insurer commences a priority dispute in accordance with the regulations and in accordance with the *Arbitrations Act*. Very often, these disputes are determined by the status of the injured individual seen from a dependency viewpoint. Typically, if the injured individual is considered to be principally dependent for financial support or care on a person who is an "insured", or spouse of an "insured", then the benefits priority follows from that status.

Over the two decades that we have grappled with these priority rules we have seen a large number of disputes about dependency issues. The case law, consisting largely of decisions of arbitrators and appeals from those decisions, has helped focus those disputes. Nonetheless, the determination of dependency continues to have troublesome aspects which give rise to occasional dispute resolution processes.

A recurring issue in dependency cases is the question of how to treat support that emanates from, or might be traced back to, institutional sources such as government agencies.

Conceptually it is not difficult to understand dependency relationships between individuals. This is within the normal experience of all of us. But when this legislatively imposed concept is applied to such things as statutory entitlements, unexpected results may follow.

In the context of priority disputes between automobile insurers, the question of such dependency arises in two ways. Firstly, we see cases where it is asserted that the injured individual is principally dependent for financial support on an institution that is the source of funding. Secondly, we see cases where it is argued that the injured individual is not dependent on proximate individuals, because the injured individual has access to funding from institutional sources.

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[3] Under the SABS a broad range of people who might be eligible for benefits. The effect is that an injured person might have the status of being an insured person under more than one policy of insurance. The operative definition is:

> "insured person", in respect of a particular motor vehicle liability policy, means,
>
> (a) the named insured, any person specified in the policy as a driver of the insured automobile, the spouse of the named insured and any dependant of the named insured or spouse, if the named insured, specified driver, spouse or dependant,
>
> (i) is involved in an accident in or outside Ontario that involves the insured automobile or another automobile, or
>
> (ii) is not involved in an accident but suffers psychological or mental injury as a result of an accident in or outside Ontario that results in a physical injury to his or her spouse, child, grandchild, parent, grandparent, brother, sister, dependant or spouse's dependant,
>
> (b) in respect of accidents in Ontario, a person who is involved in an accident involving the insured automobile, and
>
> (c) in respect of accidents outside Ontario, a person who is an occupant of the insured automobile and who is a resident of Ontario or was a resident of Ontario at some point during the 60 days before the accident;

With respect to the first category there is a problem in the drafting of the SABS insofar as it refers to dependency in relation to "persons". It has been argued that the concept of "persons" includes individuals and other entities such as corporations and governmental bodies. Truly, the law has generally recognized the concept of "person" to include organizations as well as individuals. Therefore, there is logic to the suggestion that the accident benefits regime contemplates dependency on organizations.

Without doubt, an organization might be the provider of financial support or care for an individual. Even if removed from an immediate relationship with the individual, the organization might be the source of such support. Hence the argument that the regulation should be interpreted to include dependency relationships with non-individuals is not in any way hypothetical. It is a reality of many, many, cases that injured individuals can trace financial or other support back to a government source or some other organization.

The starting point for analysis of this issue is necessarily a reference to the language of the SABS. It is language which is mandated by regulation. As between the parties to a priority dispute there is no reason to interpret the language in favour of, or against, either party. Neither is more responsible than the other for the language, nor would I conclude that "reasonable expectation" theory has any role in this analysis. Recognizing that the SABS is a complex document which incorporates subtle concepts defined with occasional imprecision, I am mindful of the mandate that the language should be interpreted in a way which is sensitive to the context. We should consider the nature of the statutory scheme implemented and the role of the language under consideration with a view to giving effect to the legislative intent in a way which is just and reasonable.

Can a Person Be Principally Dependent on a Governmental Source for Financial Support?

Factually, it is unquestionable that an individual might be sustained by financial support from a governmental source. The determinative question is whether or not this relationship is such a relationship as to cause the person to be considered a "dependant" of the organization for the purposes of the SABS. If so, under a policy of automobile insurance issued to the organization, all such individuals would be persons entitled to insurance coverage under that single policy of insurance.

In my view, this is a rather surprising, indeed shocking, result. There might be one such policy and hundreds of thousands of “dependants”.

The Legislative Text

The legislative text is instructive. Section 2 of the SABS addresses a number of the interpretation issues that might arise with respect to these claims. The definitions grant coverage to the dependant of an insured person. With respect to the concept of SABS dependency, subsection (6) provides as follows:

(6) For the purpose of this Regulation, a person is a dependant of another person if the person is principally dependent for financial support or care on the other person or the other person’s spouse.

There is much in this provision which suggests that the legislature did not intend to include organizations as "persons". The first reference to "person" is a reference to the injured individual which necessarily could not be an organization or other legal entity. Hence the reference to "another person" suggests that the legislature intended to make reference to "person" as that term had already been used in the very same sentence. Furthermore, the definition contemplates an indirect dependency by virtue of dependency on the other person's spouse. This language is highly suggestive of a non-organizational concept of "person".

In my view, it is not impossible that the legislature might have intended the term "person" to include organizations, based on this language. Indeed s. 87 of the *Legislation Act* contemplates that “person” includes non natural persons - subject to the context. However given the immediate context and the other use of the term "person" in the section, I find it appropriate and necessary to

look to the broader context, to look for legislative intent and an outcome which is just and reasonable.

The uncertainty about the meaning of this provision is highlighted by the conflicting arbitral decisions that have considered similar cases. In *ING v Guarantee*[4] and *Allianz v Guarantee Company*[5] two experienced and respected arbitrators have come to opposite conclusions.

Context – The Movement Towards A Contractual Nexus

When the legislature reformulated compensation for motor vehicle accident victims in 1990, it required injured individuals to claim accident benefits from the insurance company with whom they had a contractual relationship. No longer was the insurer of the occupied automobile to be the highest-ranking coverage. Instead, victims were expected to deal with the insurer who engaged in the issuance of a policy to them. Therefore, for the overwhelming majority of cases, the legislature mandated that the predominant insurance relationship for the purpose of benefits is a relationship between the insured person and an insurer, a contractual relationship. Whereas, prior to 1990, a person would claim benefits from the insurer of the vehicle in which they were an occupant, a relationship of status irrespective of contractual nexus.

Subsection 268 (2) of the *Insurance Act* provides the direction:

Liability to pay

(2) The following rules apply for determining who is liable to pay statutory accident benefits:

1. In respect of an occupant of an automobile,

i. the occupant has recourse against the insurer of an automobile in respect of which the occupant is an insured,

ii. if recovery is unavailable under subparagraph i, the occupant has recourse against the insurer of the automobile in which he or she was an occupant,

iii. if recovery is unavailable under subparagraph i or ii, the occupant has recourse against the insurer of any other automobile involved in the incident from which the entitlement to statutory accident benefits arose,

iv. if recovery is unavailable under subparagraph i, ii or iii, the occupant has recourse against the Motor Vehicle Accident Claims Fund.

2. In respect of non-occupants,

i. the non-occupant has recourse against the insurer of an automobile in respect of which the non-occupant is an insured,

ii. if recovery is unavailable under subparagraph i, the non-occupant has recourse against the insurer of the automobile that struck the non-occupant,

iii. if recovery is unavailable under subparagraph i or ii, the non-occupant has recourse against the insurer of any automobile involved in the incident from which the entitlement to statutory accident benefits arose,

iv. if recovery is unavailable under subparagraph i, ii or iii, the non-occupant has recourse against the Motor Vehicle Accident Claims Fund. R.S.O. 1990, c. I.8, s. 268 (2); 1993, c. 10, s. 1; 1996, c. 21, s. 30 (3, 4).

This signals an important legislative intent: benefits should primarily be paid by the insurer of a person, to that person with whom they are in a contractual relationship. This was a shift from the earlier programs (pre 1990) where the highest priority of coverage was with the insurer of the vehicle occupied by the person, or that struck the person.

[4] Arbitrator Craig Brown January 21, 2009.
[5] Arbitrator Guy Jones November 2005.

I am also mindful of the fact that the benefits scheme contemplates optional increased coverages with respect to accident benefits. Notionally an insured person could, at the point-of-sale, choose to have a higher level of benefit coverage applicable in the event of an accident injury. Once again this demonstrates that the scheme contemplates a contractual relationship between the insurer and the insured person which defines entitlement by that relationship.

Context – The Public Interest In Rate Predictability And Stability

From 1990 forward, the government has played a role in rate setting for automobile insurance. The *Insurance Act* creates a regulatory framework that highlights concern about insurance costs and rate classification systems[6]. In my view, prudent regulatory supervision of insurance pricing evidences the government's intention that insurance prices should be predictable, stable and justifiable. The limitations on underwriting criteria serve to emphasize the public interest in this process.

It is my view that this aspect of legislative intent is inconsistent with an interpretation that would have all organizational "dependants" eligible for benefits from the organization's automobile insurer. It is mind-boggling to contemplate how such an insurance program could be underwritten, fairly priced, and paid for.

Not only would the effect be to make a multitude of injured victims claimants under government insurance policies, the corresponding effect would be to remove these people from the pool of individuals claiming benefits from policies issued in respect of vehicles that they occupied, were struck by, or were involved in the accident. This shift towards accessing the insurance coverage of the governmental source, is matched by a shift away from other sources that would otherwise respond. The problems of unpredictability and instability would ripple through insurance markets, well beyond the insurers of government.

Conclusion

The interpretive mandate is to pay heed to the text, the intent, and the outcome in order to interpret the regulation's provisions with appropriate sensitivity to context. Based on the previously discussed view of the automobile injury scheme, I conclude that:

- The meaning of the text is doubtful,
- the intention of the legislature evidenced by the context would be frustrated if we include dependants upon a governmental organization, and
- the outcome, to shift coverage for many people to a government's automobile insurer, is clearly an unreasonable result that would flow from reading the word "person" in section 2 of the SABS as inclusive of governmental organizations.

Therefore, within the meaning of the SABS definition of insured persons, it is my conclusion that a person cannot be principally dependent for financial support upon a governmental organization.

At this juncture it may be important to make a distinction about the circumstances in which this kind of problem might be encountered. Many dependency cases are analyzed in the context of looking at the status of an individual vis-à-vis another individual for determination of financial support. While the regulation would ask us to determine whether or not the injured person is principally dependent for financial support on that second individual, it is sometimes convenient for the problem to be approached from the other direction, asking whether the injured individual is principally dependent for financial support on some source of support, other than the second individual. By identifying such other support, principal dependency on a referenced individual is negated. Hence it may well be relevant to analyze whether a person is benefiting from support from an institutional source, but without necessarily considering whether the support creates a dependency in SABS terms.

This is quite a different issue. When there is financial support flowing from that other source we are not asking whether or not the other source is a "person" within the meaning of the SABS. It does

[6] Part XV of the Insurance Act R.S.O. 1990 c.18 and O. Reg. 664 are the key provisions.

not matter. When, at the time of the accident, the injured individual was receiving support, that support might well be measured in determining the level of dependency on other individuals, whether or not that collateral support came from an individual or some entity/organization.

Institutionally sourced support may be relevant to negate the existence of a SABS dependency, but does not create a SABS dependency.

In considering the possibility that the regulation mandates a SABS dependency in relation to organizational sources of support, I have been troubled by the observations made by Arbitrator Guy Jones when considering this question in *Allianz v Guarantee Company* in November of 2005. Mr. Jones has extensive experience in dealing with SABS claims and associated priority disputes. But in this instance I cannot follow his lead. In particular he points out that section 66 of the SABS engages the concept of "individual" to more precisely define the referenced persons/entities in a way which excludes corporate and governmental bodies. He points out that the legislature could have used the same language in section 2 to limit dependency to relationships between natural persons. The legislature did not employ the more precise wording, which it could have done "very easily".

When faced with a problem of interpretation of legislation we are too often presented with this "could have" argument. Indeed it is sometimes advanced as an argument by both sides of a single case. The adjudicator is asked to conclude that the absence of specific language forcing the outcome advocated by an opponent is a justification for discarding the opponent's position. In truth, almost all legislation could be more specific. Drafters of complex laws must craft rules that can be applied to a multitude of situations, not just the scenario that has found its way into a dispute resolution proceeding that day.

To say simply that the legislature could have used more direct language to achieve an end is a weak argument in most cases. When legislation is designed to have application to many cases, with many different characteristics, it is not realistic to put any weight on the drafter's failure to more specifically address only some of the affected fact scenarios. Such analysis, at best, is an indirect method of attempting to divine legislative intent. The argument is not compelling except in the rare case where the fact pattern is such that the legislature would have been expected to address primarily that fact pattern, and is not seen as prescribing a rule of broad application.

Accordingly it is my view that the legislative decision not to use the term "individual" is but one of many factors that might be considered when looking for intent, but in this case I find it to be overshadowed by the context of the scheme as described.

I do not find persuasive the argument that an organization can be a named insured, and therefore every use of the term "person" in the policy or regulation should be interpreted to include organizations. In this respect I agree with the comments of arbitrator Craig Brown in the *ING v Guarantee* case, January 21, 2009.

I am in agreement with the outcome in *R. L. v. Harkness*[7], where the Ontario Court of Appeal was looking at a provision similar to section 2 (6) of the SABS. In brief reasons the court adopted a similar view about the effect of the SABS provision at that time.

In my view, for purposes of determining priority and status as an insured person, dependency between an actual person and a corporate/governmental entity is not contemplated by section 2(6) of the SABS or the other sections of the SABS. Therefore, the fact that W derives financial support from one or more government entities does not entitle her to be treated as a dependant insured person for the purpose of access to statutory accident benefits under policies of insurance issued to the governmental entities."

Accordingly, in accordance with the analysis set out from the case of *Geico Insurance Company* v. *Aviva Insurance Company of Canada and ACE INA Insurance* (April 19, 2010), it is my conclusion that a person cannot be principally dependent for financial support upon a corporation, or governmental organization, within the meaning of the dependency provisions of the Statutory Accident Benefits Schedule.

[7] *Lebeau (Litigation Guardian of) v. Harkness*, 1998 Carswell Ont 2441 (OA).

Conclusion

In accordance with the submissions to me by the parties to this proceeding, I conclude that Edward D. was not principally dependent for financial support on the Children's Aid Society or the Province of Ontario at the time of the accident. I further conclude that principal dependency upon the Children's Aid Society or the Province of Ontario is not a dependency relationship as contemplated by the SABS.

If the parties which to make any submissions to me with respect to costs or any other issues, they should do so within 30 days of the date of this decision.

Dated at Toronto this 7th day of May, 2010.

LEE SAMIS
Arbitrator