

# Duties Of Motorists Involved In Single Vehicle Accidents Discussed

February 8th, 2010



Reasons for judgement were released today by the BC Supreme Court discussing whether a motorist has to stay at the scene of a single vehicle accident in British Columbia.

In today's case ([ICBC v. Pariah Productions Inc.](#)) the Defendant vehicle was involved in a single vehicle collision when its driver struck the wall of a Wendy's restaurant. The motorist drove home after the collision without notifying anyone of what happened.

ICBC paid out the property damage claim and then sued the Defendant for their money back claiming that the motorist was in breach of an obligation to remain at the scene of the accident. The trial judge disagreed and dismissed ICBC's claim. ICBC appealed and today's case dealt with this.

Section 68(1)(a) of the BC Motor Vehicle Act in part requires "*the driver or operator or any other person in charge of a vehicle that is, directly or indirectly, involved in an accident on a highway to remain at or immediately return to the scene of the accident*".

ICBC argued that the Defendant was in breach of this obligation. The trial judge disagreed. On Appeal, Mr. Justice Silverman found that "*the trial judge did correctly decide this issue...I endorse the correctness of his analysis in paragraphs 16-19 of this Reasons for Judgement.*"

The Trial Judge's reasons which were upheld were as follows:

[16] *It is to be questioned whether or not s. 68(1) and then 68(3) are sections that deal with the same type of accident or whether they are distinctly two different types of accidents. Section 68(3) provides the duty of a driver in an accident is as follows:...*

[17] *It is my view that 68(1) and 68(3) of the Motor Vehicle Act involve two different situations: ... Sixty-eight (1) involves the situation where there is a car accident involving another vehicle and there is injury or loss to another person, be it the other driver or someone else. Section 68(3) however, involves a situation where there is only a single-vehicle accident, no persons are injured but there is damage to property only. So, the two sections are quite distinct from one another and the obligations on the driver involved in a 68(1) situation or a 68(3) situation are quite different.*

[18] *For 68(1) of the Motor Vehicle Act to apply in this case, it is my view that there had to be a situation where not only was there damage to or loss or injury to some other person, but there also had to be another driver involved. The reason I say that is that 68(1)(c) says that the driver involved in the accident must: produce in writing to any other driver involved in the accident and to anyone sustaining loss or injury, and, on request [to a peace officer or] to a witness ... the information. In my view, that section presupposes that he, the driver, has obeyed his obligation to remain at or immediately return to the scene of the accident. So 68(1), in my view,*

*involves two cars and a situation additionally of someone sustaining loss or injury, be it that other driver or some third party,*

*whereas s. 68(3) in my view, only applies to a situation where*

*one driver is involved and he/she has caused damages to property on or adjacent to the highway, other than another vehicle. He then must take reasonable steps to locate and notify in writing the owner or person in charge of the property and send them the facts of the accident and provide other details.*

*[19] In s. 68(1), there is a mandatory requirement that the driver involved in the accident remain at the scene or immediately return to the scene and he must produce in writing to the other driver and anyone sustaining loss, various pieces of information, whereas under s. 68(3), there is no provision that he must remain or that he must immediately return to the accident. Rather, it says that he must take reasonable steps to locate and notify in writing the owner or person in charge, of the fact that an accident has taken place. The fact that he is required under 68(3) to take reasonable steps to locate and notify in writing the owner or person in charge of the property, in my mind, means that it is not something that he is required necessarily to do "immediately", whereas under 68(1), when he has an accident with another car and the other driver or the other driver's property or even somebody else's property, is damaged or lost, in that two-car accident, he has to stay there and "immediately" give the information.*