



August 12, 2020

The Honourable David Eby  
Attorney General of British Columbia  
Ministry of Justice  
1001 Douglas Street  
Victoria, BC V8W 2C5

via email: [AG.Minister@gov.bc.ca](mailto:AG.Minister@gov.bc.ca)

Dear Minister Eby,

**RE: Binding Arbitration for Motor Vehicle Actions**

Thank you for your letter dated July 7, 2020 and for the opportunity for the CBABC to provide input into your proposal to promote binding arbitration at the plaintiff's election for the resolution of motor vehicle actions in BC in order to reduce the COVID-19-generated backlog in the courts.

Our CBABC Automobile Insurance Working Group has considered your proposal and the views of our membership.

We note that arbitration has always been an available tool to litigants. We support the development of a model that is specific to motor vehicle actions that is available at the sole discretion of the plaintiff in a motor vehicle action.

However, the cost of arbitration is largely prohibitive to many litigants. We would support your proposal provided that:

- a) the arbitration costs incurred by the parties are similar to the hearing fees charged if the parties were to go to court;
- b) the province pays for the difference between the actual arbitration costs charged by the arbitrator and the amount of fees that would be similar to the hearing fees; and
- c) the arbitration costs to the parties are shared equally between the parties so that the general costs of the arbitration are neutral as between the parties.

To offload the expense of the taxpayer-funded justice system on to parties would be a step back in the progress to reaching equal justice for all British Columbians.

We note that the Trial Lawyers Association of BC recommended that if this proposal were to be implemented, that the British Columbia International Commercial Arbitration Centre (BCICAC) be used



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to administer this system. We agree that the BCICAC has an acceptable infrastructure to deliver arbitration services by qualified arbitrators, and that would assist litigants in achieving some certainty and predictability in the process.

Structured in this way, we hopeful that binding arbitration for motor vehicle actions will be voluntary, fair, and will provide access to a timely resolution option for British Columbians.

Thank you for the opportunity to consult with you about this important manner.

Sincerely,

Kenneth Armstrong  
CBABC President 2019-20

cc. The Honourable Chief Justice Christopher Hinkson, Supreme Court of British Columbia  
Richard Fyfe, QC, Deputy Attorney General  
Craig Ferris, QC, President of the Law Society of British Columbia  
John Rice, President of the Trial Lawyers' Association of BC