

# Addressing the Power Imbalance in Legal Representation: A Dental Specialist Spouse's Plea for Regulatory Coverage Insurance in Dentistry

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## Introduction

Engaging in legal proceedings often represents an intimidating journey, even more so when navigating this complex terrain void of competent legal guidance. This colossal divide between those fortunate to have access to top-notch legal assistance and individuals choosing to represent themselves is a growing concern. From my perspective, as someone who was unjustly convicted in the past and has since transitioned into a regulatory consultant, corporate board advisor, and dental consolidator, I've witnessed this troubling trend in our justice system firsthand. In the world of corporate governance, engaging any board director without director and officer liability coverage is unheard of. Similarly, it should be imperative that no regulated professional is without adequate coverage. Embarking upon life's extraordinary paths has familiarized me with the glaring inequality present within our judicial framework. To address this, I suggest the implementation of regulatory coverage insurance.

Stepping into the late 2000s, if you were on the hunt for a luxury car, countless dentists and dental specialists practically had my number at their fingertips. Being married to an Endodontist certainly had its networking benefits. Once they indulged in acquiring an extravagant vehicle such as a Ferrari, Lamborghini, or Porsche and the thrill of the adventure intensified, a wave of patient complaints usually followed. It suddenly seemed that parking a flashy Ferrari in front of their downtown Oshawa practice had the unanticipated side effect of ruffling some feathers. Dissatisfied patients, upon feeling slighted or inconvenienced, do not hesitate to file complaints. Even a seemingly simple email implying the dentist's behavior was inappropriate could trigger this.

Interestingly, these dentists often turned to their Exotic Car dealer, me, to respond to these regulatory complaints. One may question the wisdom of this approach post facto, but in context, it was primarily driven by their reluctance to disclose such incidents to fellow professionals such as a lawyer who it may get back to their network. With me the dentists knew that I could keep quiet, if I couldn't, I wouldn't have went to prison in the first place. In my case, no loose lips sank any ships other than those who abused their power.

These dentist clients also underestimated the severity of the complaint and accordingly, hesitated to allocate upwards of \$30,000 for professional legal assistance. I had penned hundreds of regulatory responses over the last 15 years in the name of someone else, and the first time I used my name, the decision ended badly. I doubt very much anyone cared what I wrote, the fact that a dentist would turn to someone other than a select few likely infuriated the panelists, or perhaps the public member did a google search and wasn't invited to my last Bridle Path festival.

Section I: A Personal Account of systemic Imbalance: In 2002-2003, I was mistakenly judged due to police and solicitor misconduct, which landed me in the Millhaven Maximum Security Unit for a sentence of eight years.

Falsely accused in a weapon offence related to an incident that I could not possibly have been involved in, I was framed due to an insidious misuse of power, an incident that raised critical questions about adequate representation and the course of justice.

Through the arduous journey of civil litigation and gathering evidence, I managed to prove my innocence. During this process, I also realized that legal acumen, while imperative, isn't all - cultivating meaningful relationships within the justice system often plays an equally significant role. This realization further highlighted the vulnerability of self-represented parties who likely lack such networks.

Section II: Power Imbalance and its Consequences Ontario's justice system, although designed to protect all citizens equally, often fails to act impartially, particularly in cases involving self-represented individuals. A Canadian Forum on Civil Justice 2021 study revealed an alarming statistic: less than 15% of self-represented individuals achieve fair outcomes in their cases [1]. This discrepancy isn't surprising, given the myriad obstacles these individuals face, such as comprehending dense legal jargon, navigating confusing regulations, and effectively arguing their case in court [2].

An approximate understanding of the law, however, is only one facet of the problem. Discriminatory behavior from court officials or regulatory tribunals against self represented or parties to a proceeding without counsel exacerbates these hurdles, often portraying self-representing individuals as incompetent, leading to an unfair—and often prejudiced—evaluation of their case [3].

Section III: Regulatory Coverage Insurance – The Need of the Hour to counter this, I propose the solution of Regulatory Coverage Insurance such as CDPA. The Canadian Dental Protective Association or STERLON both provide ample extensive coverage for both a lawyer, consultants and objective experts to augment your complaint response. Cost for this coverage is usually the same as a starbucks coffee, about 3.00 per calendar day.

This insurance provides otherwise self-represented individuals with resources and professional help needed in complex judicial proceedings. It essentially democratizes legal proceedings by providing a level playing field, irrespective of the individual's ability to afford legal representation. Furthermore, by having a CDPA approved lawyer paints the dentist with the best possible brush allowing the trier of fact to draw a conclusion that by virtue of the representative the dentist is a responsible provider that can remediate or is not guilty of the offenses as described within the complaints. [4].

This insurance provides more than just financial aid; it also extends invaluable peace of mind. Individuals, instead of being burdened with learning legalities and worrying about affording a lawyer, can direct their focus to the heart of the matter [5].

**Section IV: Regulatory Imbalance Affecting Dentistry** The idea of Legal Expense Coverage Insurance isn't exclusive to civil or criminal cases. Dentistry, like most professions, isn't immune to regulatory challenges. Dental practitioners in a world of cell phones and social media often face increasing regulatory scrutiny [6]. Failure to efficiently respond to these challenges could lead to lawsuits, gargantuan fines, and even irreversible reputational damage through (SCERPS) – hindrances that can be avoided via regulatory coverage insurance.

The Royal College of Dental Surgeons of Ontario (RCDSO), while playing a crucial role in regulating dental practice, often contributes to this power imbalance during legal representation [7].

**Section V: Inadequacy of Self-representation in Dentistry** Dentists, like most self-represented individuals, often find themselves at odds trying to comprehend complex legal terminology or disclosure or response requirements. Without a fundamental understanding of regulations that their professional counterparts have, they often find their case fighting a losing battle [8]. In the following fact scenario almost all dentists blame the manager and are found guilty. A dentist is notified of a regulatory complaint about their social media advertising. Their online presence offers up whitening for life, free electric toothbrushes to new patients only, and waivers of copay for new patients. Which of these are the dentist's responsibility and which are the managers job? I hope the answer is obvious, and that the dentist would have reviewed the RCDSO guidelines and or consulted with practice advisory prior to the employment of any sort of "practice marketing company." Only certain practice marketing companies are astute enough to get their clients advertising approved.

Interestingly, the power imbalance within the dental regulatory setup isn't wholly due to a lack of understanding. Optically representation of an arms length dentist would be fine, whereas representing a spouse will cause an animus with the panelists. Relationships among the panel members, regulatory lawyers, and investigators can inadvertently place the self-represented at a severe disadvantage. This seemingly inconspicuous camaraderie within the professional fraternity sometimes undermines the fairness in the outcome of these cases [9].

**Section VI: Examination of Current Challenges** The financial drain from escalating legal costs further cements this imbalanced system. Over 53% of self-represented litigants exhausted their resources on paying legal fees, burdening them further [10]. Emotional risk, coupled with ignorance about unknown potential risks or rights, often results in missed opportunities and incredibly bitter experiences [11].

Sadly, such inequalities persist despite the central tenet of the Canadian Charter of Rights and Freedoms, which calls for the eradication of power imbalance and

discrimination [12]. Evidence of imbalances across varying demographics within society materialize shockingly within the justice system, often resulting in self-represented litigants being marginalized, mischaracterized, and treated unjustly.

**Conclusion: The Significance of Regulatory Coverage Insurance** Given these circumstances, Regulatory Coverage Insurance should not be considered a luxury but a necessity for Ontario's dental practitioners. By providing the necessary resources and professional aid needed for complex situations, you are not only protecting yourself, but providing protection for your family and profession as a whole. Always consult with a specialist in health care law to guide you through these complicated processes. As smart as your friend is objectivity trumps subjectivity.

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