

# LEGAL PAPER

## Lights and Siren

By Van Krkachovski



*Put yourself in the driver's seat for a moment. You're on patrol and you get a call that a fellow officer is down, the one call that every police officer dreads. Heart pounding, hands sweating, you flip on your lights and siren and step on the accelerator. Every second counts. All you want to do is get to the scene as fast as you can and the*

*light at the intersection ahead is red. The decision you make in the next few seconds could be a matter of life and death – life and death for the officer you are going to help and life and death for innocent bystanders that are on the road.*

Whether it is a police officer responding to a call, an ambulance rushing to help a critically ill patient, or a fire truck speeding to a fire, intersection crashes are the most common and almost always the most serious collisions involving emergency vehicles.

Fire fighters, ambulance drivers and police officers are under enormous pressure to respond to emergencies as quickly and expeditiously as possible. When it comes to saving lives, the rewards are high but so too are the risks. A Report by the Commission for Public Complaints Against the RCMP in 1999



took a look at the statistics for hazardous pursuits. In Ontario from 1991 to 1997, Ontario police took part in 10,421 pursuits. There were 4,481 collisions, 2,415 injuries and 33 fatalities. Emergency providers in doing their job can kill or injure innocent people in the process and their employers, typically municipalities, can be held liable.

The Highway Traffic Act recognizes that emergency providers responding to a call must take some risks but it does not give them carte blanche. The act says that an emergency vehicle (a fire truck, ambulance, police car with a siren and flashing red lights) can go through an intersection without a green light but only after stopping and making sure that it is safe. The act also says that other vehicles using the intersection must give way.

So what happens if an emergency vehicle does not come to a complete stop at a red light and as a result ends up

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colliding with another vehicle? While the Highway Traffic Act seems to be relatively definitive, case law suggests otherwise. When a person injured in a collision with an emergency vehicle sues for damages, the judge will consider a number of extenuating factors in order to determine blame and apportion liability. What was the nature of the emergency? Did it warrant an extraordinary response and how did that affect the driver of the emergency vehicle? What were conditions like at the time of the accident – the time of day, the weather conditions, the lighting, the size of the intersection, the traffic

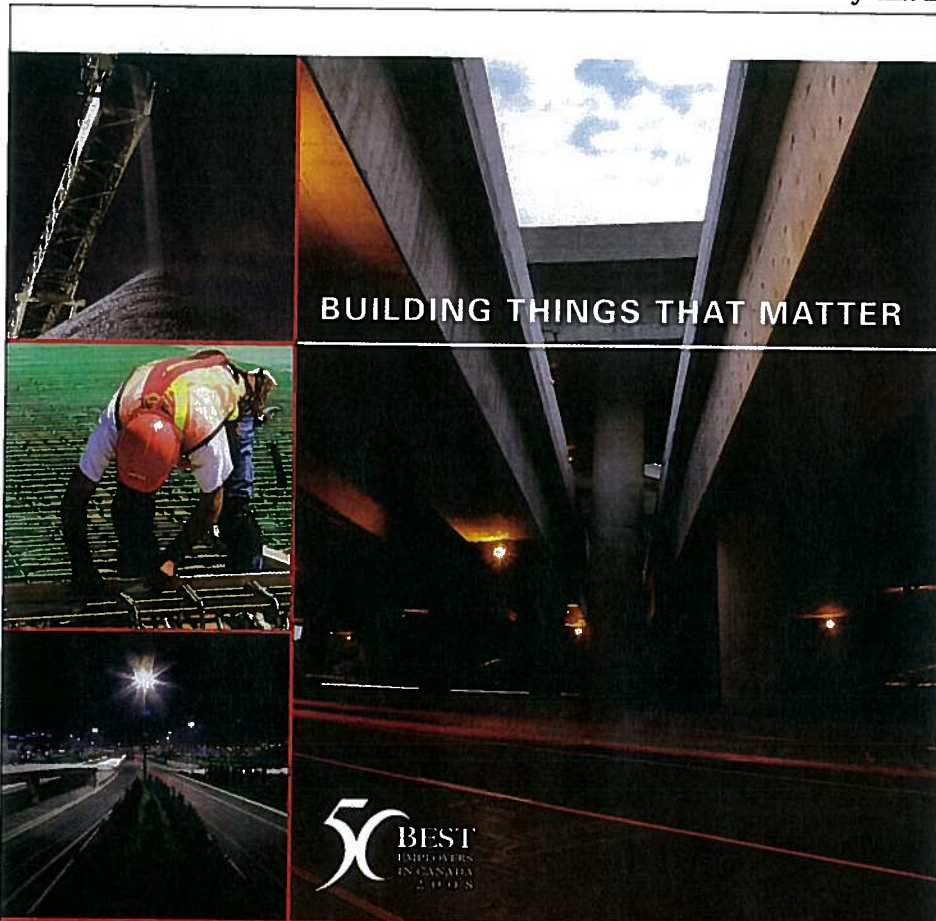
conditions? Did the emergency vehicle “go lights and siren” and if so, how long were the emergency signals active? Was the driver of the other car aware of the emergency vehicle and did he or she give way as required?

Collisions involving emergency vehicles responding to a call are not the easiest of cases to argue and judges will often bend over backwards to find in favour of the emergency personnel provided that it can be shown that they were acting reasonably and responsibly. (Interestingly, don't expect to make any emotional appeals to a jury. By legislation an action against a municipality must be before a judge alone, which derives from the old notion that juries being taxpayers, they may be unduly frugal in their damage awards.)

While the driver of the emergency vehicle involved in a collision during an emergency response can be sued for damages so too can the municipality for which he or she works. Municipalities are not only the employer of record but also typically the owner of record of the emergency vehicle and according to the Highway Traffic Act the owner is liable for the driver's negligence if the vehicle is being operated with consent. Municipalities, therefore, need to have policies and procedures in place to ensure that emergency providers do in fact act reasonably and responsibly.

There are some basic principles that every emergency provider should keep in mind when responding to a call. It must be a true emergency. Lights and sirens should be used simultaneously. The emergency vehicle must be operated with due regard for the safety of others, on and off the road. And since most accidents happen at intersections, be safe and come to a full stop. It may take a few more seconds to get where you are going but better to be a few seconds late than not to get there at all. **M**

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