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The Snail that Transformed the Law



Keenan Sprague LLB
Keenan is a lawyer with Boland Howe LLP, Trial Lawyers for the Injured, and can be reached at 905.841.5717 www.bolandhowe.com

Canadian Lawyer Magazine has recognized BolandHowe as one of the Top 10 Personal Injury law firms in Canada.



One August evening in 1932, May Donoghue, a 30-year-old mother of four who lived just outside of Glasgow, went to a café with her friend.

May was treated to a “Scotsman ice cream float,” which is a mixture of ice cream and ginger beer. After May drank some of her float, she noticed a decomposed snail had poured out of the ginger beer bottle. She became ill and was later diagnosed with gastroenteritis, attributed to the snail. She sued the company that produced the beer and claimed £500 in damages. The law, as it stood, was against her.

The beer company’s

lawyers relied on a well-established legal defense: May had no right to sue the beer company because she did not buy the bottle of beer directly from the manufacturer and therefore had no contract. They even had a case with similar facts to support them. The court had recently held that the beer company was not responsible when a dead mouse was found in its beer bottle. To quote Mr. Bumble in Charles Dickens’ *Oliver Twist*, “If the law supposes that, then the law is an ass, an idiot!”

Undeterred, May’s lawyers took her case all the way to the highest court, the House of Lords, arguing what is now unquestioned: a company should be held legally responsible if, through its negligence, its product causes harm to any consumer, not just those with contracts.

After two days of argument, the House of Lords agreed that May had a right to sue the beer company for negligence, with or without a contract. The court stated “the rule that you are to love your neighbour becomes in law, you must not injure your neighbour”. Who is your neighbour? Anyone you reasonably expect that may be injured by your negligence.

As intuitive as this outcome seems in retrospect, at the time it was groundbreaking. Before Donoghue, a person’s ability to sue

for personal injuries was hampered by a rigid set of archaic legal rules that conspired to prevent injured people from receiving compensation. Donoghue created a new general right for injured people to seek justice, and the case continues to serve as a foundational precedent in the field of personal injury law.

Donoghue also demonstrates how lawyers who are prepared to take difficult cases to trial can make a positive difference for society as a whole. May was fortunate to have found a group of principled lawyers like that. After all, May could not afford to pay legal fees, and even swore an affidavit stating, “I am very poor. I am not worth five pounds in all the world.”

At Boland Howe, we are most proud of our trial decisions that have changed the law for the better, such as:

- making Ontario winter motorists safer, by causing winter road patrolling regulations to be improved (*Thornhill v. Shadid*);
- expanding access to compensation for good Samaritans (*Pelletier v. O.P.P.*);
- ensuring that landlords cannot contract out of their maintenance obligations with residential tenants (*Taylor v. Allen*);
- forcing municipalities to pay more attention to poorly designed roadways (*Roycroft v. Kyte*).