

## **THE DEVIL IS IN THE DETAILS: NEGLIGENT HIGHWAY DESIGN AND CONSTRUCTION TRIGGERS LIABILITY FOR PROVINCE OF NEW BRUNSWICK**

Reported Case:	Firth v. Bossé
Citation:	2007 NBQB 349
At Issue:	Whether the Province was responsible for the Plaintiffs' claim arising from alleged negligent design of a highway.
The Court:	New Brunswick Court of Queen's Bench
Judgment Rendered:	October 22, 2007
Factual Summary:	In 2000, the plaintiffs were injured in a motor vehicle accident. The accident occurred at an intersection where 21 accidents had occurred since its construction in 1992-1993. The defendants joined the Province of New Brunswick as a third party alleging negligent design and failure to correct a dangerous situation.
Disposition By Lower Court:	The Province shared responsibility for the accident. Although there is no statute in New Brunswick requiring the Province to keep highways in repair, the Province may be found liable if it can be shown it was negligent in the original construction. The Province owes the users of its highways a duty of care to ensure their safety. This duty was breached when the Province failed to construct properly the highway surrounding the intersection. This duty was further breached when the Province failed to correct the situation despite the hazard having been brought to its attention on numerous occasions.
Appellate Decision:	N/A