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Make mediation optional: FAIR

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Ontario's dispute resolution system has inflexible rules and a structure that leads to unfair treatment of accident victims, says a victims' group.

FAIR, the Association of Victims for Accident Insurance Reform, made the criticisms in its submission to a review of the DRS. Stakeholders' submissions to the review were made public last week as an interim report went to Ontario Finance Minister Charles Sousa last week (*Thompson's daily email service, Nov. 11*).

FAIR said there is nothing barring two litigating parties from simply picking up the telephone and making an offer to settle.

"Yet this isn't a common approach taken by adjusters as there is no incentive to do so," it said. "If mediation were to become voluntary and the process of mediation evolved to motivate the parties to willingly come to the table then the purpose of achieving timely access to accident benefits would be far more successful."

The group said this would allow accident victims to initiate arbitration immediately, speeding up the process while leaving mediation as an option open right up to the date of a final decision.

Instead, compulsory mediation has become "an unintended roadblock," forcing participants to take part in hearings "where there is no real intent to negotiate."

"Mediation, as an open door for discussion, should always be part of the system but not necessarily mandatory. FSCO may want to consider imposing harsh penalties or consequences on the parties who fail to attempt mediation and who are unwilling to negotiate."

The structural issue has to do with medical examiners.

"Ontario's auto insurers send injured claimants to their 'independent' medico-legal expert assessors for a second opinion . . . in order to decide whether or not that accident victim is entitled to benefits," FAIR said.

"It is worth mentioning that once one of these bogus IME reports is in someone's medical file, it takes on a life of its own, whether that injured person is successful at obtaining benefits or not."



Is there a solution to the auto dilemma?

THE WORLD of auto insurance in Canada was a relatively calm one when Thompson's World Insurance News first appeared on the scene in October, 1988.

As Thompson's officially celebrates 25 years of continuous independent publishing for Canadian p&c professionals, we're looking to delve into the issue in more depth than ever before. We're opening up, looking for feedback from anyone with an opinion — a sort of 'Have Your Say' feature series approach.

We want to hear from you. What are your solutions to the challenges to auto insurance? Contact us at thompsons25th@gmail.com with your plans to rid auto of today's problems.

