

ORIGINAL

IN THE SUPREME COURT OF BRITISH COLUMBIA

Date: 20150508
Docket: M137586
Registry: Vancouver

Between:

Ashley Ann Harder

Plaintiff

And

Freda Jean Halpen

Defendant

Before: The Honourable Mr. Justice Leask

Oral Reasons for Judgment

In Chambers

Counsel for Plaintiff:

R. Dasanjh

Counsel for Defendant:

J.V. Marshall

Place and Date of Trial/Hearing:

Vancouver, B.C.
May 8, 2015

Place and Date of Judgment:

Vancouver, B.C.
May 8, 2015

[1] **THE COURT:** This case involves an application by the defence for two further IMEs of the plaintiff: one by a neurologist to deal with the symptom of headaches; one by an oral surgeon to deal with something I am going to refer to as TMJ, because I have as much difficulty pronouncing it as counsel.

[2] The plaintiff's counsel has consented to the IME by the oral surgeon, but is resisting the IME by the neurologist essentially for one reason, that reason being that the plaintiff has already had an IME from a neurosurgeon whose report and supplementary material has been supplied to the court.

[3] I am satisfied by reviewing the neurosurgeon's report and his supplementary material that although he may technically be able to provide opinions about headaches, and he does supply certain limited opinions, that he does not, in the normal sense of the term, have a great deal of expertise with regard to headaches. At several points in his report, he recommends for treatment and assessment of the seriousness of the situation that the plaintiff be sent to a neurologist.

[4] I understand from both counsel that at the examination for discovery of this particular plaintiff, a serious component of her complaints relates to her headaches. In the circumstances, I am satisfied that this is the kind of unusual and extraordinary situation where a second somewhat related IME is appropriate, and I am ordering that the plaintiff submit not only to the consented to IME with the oral surgeon, but also to the opposed IME with the neurologist.

[5] I found the submissions of both counsel helpful. I do not think this is a time-wasting exercise. I think the proper way to deal with costs is costs in the cause. Thank you very much.

Peter Leask, J.

Leask J.