

CANADA / JUDGMENT

Brown v. Ryan

2000 BCSC 680

COURT

Supreme Court of British Columbia

DECIDED

27 April 2000

Source: bccourts.ca · Research copy typeset by Esheria. Not court-issued or certified.

Source record

2000 BCSC 680

Citation: Brown v Ryan2000 BCSC 680

Date: 20000427

Docket No.:

S15922

Registry: Nanaimo

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CHERYL ANNE BROWN
PLAINTIFF

AND:

TERANCE WILLIAM RYAN
DEFENDANT

REASONS FOR JUDGMENT

OF THE

HONOURABLE MADAM JUSTICE QUIJANO

Counsel for the Plaintiff: Krishan Klear

Counsel for the Defendant: Douglas A.K. Nuyts

Date and Place of Hearing/Trial: November 23-26 and 29, 1999

Nanaimo, BC

INTRODUCTION

- [1] Ms. Brown suffered injuries in a motor vehicle accident when her vehicle was struck from behind by a truck driven by the defendant Ryan. She seeks general damages, special damages, past income loss and loss of capacity to earn income or future income loss.

ISSUES

- [2] Liability is admitted. The major evidentiary issues are causation and future income loss or loss of capacity.

NARRATIVE AND FINDINGS OF FACT

- [3] Ms. Brown was injured when the car she was driving was struck from behind by a truck driven by the defendant Ryan. At the time of the collision Ms. Brown was stopped behind another vehicle which had stopped to make a left turn. The impact of the collision forced Ms. Brown's car into the car in front of her and in the result her car, a 1987 Volkswagen Fox was written off by the insurer. The plaintiff, Ms. Brown, described the impact as a violent jolt being in two parts, forward and backward, due to the initial impact with the truck and the secondary impact with the vehicle in front of her.
- [4] At the time of the accident Ms. Brown experienced some minor discomfort and was disoriented. She was unable to remove herself from her vehicle without assistance. An ambulance was called and when it arrived one of the attendants examined her for injuries while she remained in her vehicle. Because Ms. Brown did not appear to have suffered any broken bones the ambulance left and a RCMP officer assisted Ms. Brown into the police cruiser where they completed the necessary paperwork. While Ms. Brown was in the RCMP cruiser she began to feel pain in her back, neck, left wrist and left knee and she developed a severe headache. She realized that her injuries were more serious than she had thought and that she required medical attention. The RCMP constable took her to a nearby clinic where he believed she would be seen more quickly than if she was taken to the emergency department of Nanaimo Regional General Hospital. She was seen at the clinic and advised to go home and rest, take analgesics, and ice the bruised and tender spots. Her initial injuries were to her left wrist and left knee and soft tissue injury to her neck and back.
- [5] Ms. Brown was 38 years old at the time of the accident and employed full-time by the John Howard Society as a program manager.
- [6] Ms. Brown has two Bachelors degrees from the University of Saskatchewan. She obtained her first degree in Sociology in 1980. After she obtained that degree she worked for over a year on projects funded by the Saskatchewan Solicitor General until, in 1982, she obtained a position with the Department of Corrections in Saskatchewan where she worked full time as a counselor, case manager and security officer with inmates in a prison setting. Although Ms. Brown is only 4 feet 10 inches tall, she said that she had always been interested in the Justice system and felt fortunate to be able to find a job, which would allow her to use her undergraduate training in a justice system context. In 1987 Ms. Brown was involved in an incident with an inmate and as a result of which she suffered a serious injury to her right shoulder. She is left-handed.

- [7] From the time of her shoulder injury she became a regular and frequent user of physiotherapy and massage therapy. Because of the injury to her shoulder she ultimately had to go on disability through Workers Compensation. She underwent two surgical procedures to her shoulder, the first was in 1989, it was not particularly successful.
- [8] After her first surgery Ms. Brown continued to receive Workers' Compensation benefits. However, when it became clear that the surgery had not resulted in significant improvement Ms. Brown had to accept that she would not be returning to her job as a corrections officer. It was then arranged that she would return to university to obtain a degree in criminology, at the expense of the Board. She enrolled at the University of Saskatchewan in 1989, but the Workers' Compensation Board refused to pay her costs. In spite of this Ms. Brown continued her studies with financial assistance from her parents. In 1992 Ms. Brown obtained her Bachelor's Degree in Criminology and Human Justice and moved to Nanaimo.
- [9] Ms. Brown had a second surgery on her shoulder in July of 1993. That surgery was quite successful and, although Ms. Brown continued to experience considerable pain and discomfort in her shoulder and upper back area after participating in exercise and recreational activities, she was still able to play golf, go boating and fishing, hiking and engage in other similar activities and her involvement in music and social activities was relatively unrestricted. She did, however, suffer continuous pain at one level or another as a result of the shoulder injury right up to the time of motor vehicle accident in February of 1997.
- [10] Ms. Brown was initially hired by the John Howard Society in November of 1993 on a temporary basis to replace an employee who was unable to work due to injuries suffered in a motor vehicle accident. When that employee returned to work approximately a year later Ms. Brown was hired on a permanent full-time basis and given responsibility for two new half-time programs. She remained in that position at the time of the accident on February 6, 1997. At the time of the accident she was earning between \$33,000 and \$34,000 plus benefits. Ms. Brown was highly thought of by her superiors at the John Howard Society and she was considered by them to be a very valuable employee.
- [11] Prior to the accident Ms. Brown took analgesics and anti-inflammatory medications for her shoulder and upper back pain, she received regular and frequent physiotherapy treatments and she used a TENS machine frequently while at work. The shoulder pain did not cause her to miss any time from work. Ms. Brown did not suffer from chronic low back or middle low back pain prior to the motor vehicle accident. The injuries to Ms. Brown's wrist and knee cleared up within a few weeks after the motor vehicle accident. The pain and muscle spasms she experienced in her middle and low back, radiating up to her neck, have never abated.

- [12] Since the accident Ms. Brown has sought every manner of conventional medical treatment, has undergone numerous tests, including two MRIs and a CAT scan as well as X-rays, has undertaken vigorous and rigorous exercise and stretching programs, all as recommended by her various therapists. None of these regimens has provided her, as yet, with the relief that her various caregivers had hoped.
- [13] The MRI results disclosed a bulging disk at L4-5 but it is the opinion of all of her physicians that that problem is not the source of her symptomatology.
- [14] In an effort to obtain relief from the pain Ms. Brown had four epidural blocks. The last of the epidural blocks was administered shortly before this trial. These blocks provide some temporary relief but are extremely painful to undergo. In addition to the epidural blocks, Ms. Brown also completed a program called "Vax-D" therapy, at a cost of approximately \$2,400. "Vax-D" is a type of traction therapy. The "Vax-D" therapy was extraordinarily painful, and was not successful in that it did not provide any long-term relief.
- [15] During the trial it was clear that Ms. Brown was in considerable discomfort. She was described by the witnesses who knew her, including co-workers, friends and family, as having been a very vivacious, bubbly, outgoing, happy, optimistic person interested in many different things and full of energy prior to the accident. These same people described her now as being lethargic, totally focussed on her pain and her efforts to find an explanation for it so that it might be resolved, unable to sit, unable to stay in any single position for more than a few minutes at a time and unable to participate in any of the activities that she had enjoyed prior to the motor vehicle accident.
- [16] Ms. Brown attempted to return to work near the end of April 1997 but was only able to complete three half days and two full days of work, during the course of which she continued to have severe pain and muscle spasms in her mid and lower back. At the end of April of 1997, because her back pain was increasing, her family doctor, Dr. Davies, advised her to stop her exercise program and undertake bedrest for the next four to five months. She did as she was advised and obtained some minimal relief but at considerable expense to her level of fitness.
- [17] In August 1997 Ms. Brown experienced "drop foot" and was admitted to Victoria General Hospital for evaluation. She was in Victoria General Hospital for a week. She underwent a MRI scan while there, and that is the scan that revealed a bulging disc at L4-5. As a result, Ms. Brown was placed in a rehabilitation program at a physiotherapy clinic in Nanaimo. Ms. Brown attended the program faithfully. She continued with this program until February 1998, when she was sent to Summit Rehabilitation Centre. She attended Summit five days a week for four hours per day, working on building her strength and conditioning. Ms. Brown continued to experience back pain after completing the Summit program, but in May 1998, under the supervision of her physician, she attempted a gradual return to work program. In this program her duties were completely sedentary, she was just to "get up to speed" on the new Young Offender legislation. She attempted to return to work for two weeks but was

unable, during that time, to complete even one full day of work. Her doctor put her back on bedrest for a period.

- [18] In the Fall of 1998 Ms. Brown started further rehabilitation and continued with physiotherapy and a fitness program until March 1999.
- [19] In the middle of March 1999, because of a recurrence of tingling in her left leg, Ms. Brown was again prescribed bedrest. When the tingling abated Ms. Brown returned to her fitness program, but the tingling returned in May along with pain in her buttocks and lower extremities, and her doctor again prescribed bedrest.
- [20] It is apparent that all of Ms. Brown's physicians are of the view that as there is no organic basis for her present complaints, and that what is necessary is for her to embark again on structured exercise and stretching regime and "work through" the pain.
- [21] Ms. Brown has done everything that her caregivers have told her to do in an effort to try to overcome the pain. She is frustrated with the fact that there does not seem to be an organic answer to her complaints. She has great difficulty accepting that such a painful and, apparently, threatening exercise regimen as that now suggested by Dr. Cameron could be undertaken without causing her further injury. This fear plays a large part in her reluctance to involve herself again in the kind of vigorous exercise program that she had tried in the past.
- [22] It is suggested by Dr. Cameron, who is one of her physicians, that she attend a pain management clinic, either a residential program or outpatient program, so that she can learn to manage her pain. It is Dr. Cameron's opinion that if she attends a pain management program and learns the skills to help her cope with and manage her pain she may be able to work towards improving her physical condition to the point where she can begin to return to the work force and perhaps begin to return to some of her recreational and social activities within a year or two.
- [23] In September 1998 ICBC stopped providing funds to Ms. Brown and she was forced to apply for Social Assistance. She found the situation humiliating, particularly so when her application for social assistance was refused. Ms. Brown has also found it humiliating to now be nearly totally dependent on others to look after her daily needs.
- [24] I have no doubt that it is Ms. Brown's earnest desire to return to the work force and to be able to participate in at least some of the activities that she had enjoyed before the motor vehicle accident, in particular her golf and music.

- [25] The defendant says that Ms. Brown's pain is a psychological and emotional problem and is of her own making and therefore not compensable. Alternatively, the defendant argues that the evidence shows that Ms. Brown has historically exaggerated her pain and, therefore, if I find that she exaggerated her experience of pain related to her shoulder injury, I should infer that she also exaggerates her pain related to the injuries that she suffered in the motor vehicle accident.
- [26] The defendant points to the evidence with respect to Ms. Brown's pre-accident condition. Pre-accident Ms. Brown was described by her lay witnesses as being bubbly, vivacious, energetic, enthusiastic, active, interested in many different things. However, the clinical charts of her physiotherapist and family doctor disclose that during the period prior to the motor vehicle accident Ms. Brown made numerous complaints to her family doctor about the shoulder pain she was experiencing and she saw a specialist with respect to the pain and her restricted use and range of motion in her shoulder area. The defendant argues that the only reasonable resolution of this apparent conflict in the evidence is that Ms. Brown exaggerated her complaints to her physicians and that her condition was more accurately described by the lay witnesses with whom she interacted.
- [27] The medical evidence suggests that the objective findings might support some experience of pain but not to the degree that Ms. Brown describes.
- [28] There is no evidence from Ms. Brown's physicians to suggest that she may be malingering, and I have no hesitation in finding that Ms. Brown's experience of pain is genuine and that she is not a malingerer. The pain Ms. Brown continues to experience is real to her.
- [29] There is no question that prior to the accident the plaintiff suffered from pain in her shoulder area which radiated to her neck. Although there is evidence that the plaintiff had complained of low back pain in 1992, there is no evidence that she suffered from any recurring or chronic low back pain until she was injured in this accident. I am satisfied that, in addition to the minor injuries described previously, the plaintiff's complaints of low back pain are the result of the injuries suffered by her in the motor vehicle accident.

ANALYSIS

General Damages

- [30] In *Maslen v. Rubenstein* (1993), 83 B.C.L.R. (2d) 131 (C.A.) the British Columbia Court of Appeal considered the question of compensation for claims of fibromyalgia or chronic pain syndrome. From para. 8 to para. 11 Taylor, J.A., for the Court, set out the basic principles to be applied in these types of difficult cases, as follows:

8. To meet the onus which lies on a plaintiff in a case of this sort, and thereby avoid the 'ultimate risk of non-persuasion', the plaintiff must, in my view, establish that his or her psychological problems have their cause in the defendant's unlawful act, rather than in any desire on the plaintiff's part for things such as care, sympathy, relaxation or compensation, and also that the plaintiff could not be expected to overcome them by his or her own inherent resources, or 'will-power'.
9. If psychological problems exist, or continue, because the plaintiff for some reason wishes to have them, or does not wish them to end, their existence or continuation must, in my view, be said to have a subjective, or internal, cause. To show that the cause lies in an unlawful act of the defendant, rather than the plaintiff's own choice, the plaintiff must negative that alternative. The resolution of this issue will not involve considerations of mitigation or lack of mitigation.... If a court could not say whether the plaintiff really desired to be free of the psychological problem, the plaintiff would not, in my view, have established his or her case on the critical issue of causation.
10. Any question of mitigation, or failure to mitigate, arises only after causation has thus been established.
11. Where the court finds that psychological injury has been suffered as a result of unlawful conduct of the defendant which the plaintiff has not the ability to overcome by his or her own inherent resources, the court must then, if mitigation issues are raised, decide whether the defendant has established that by following advice which the plaintiff received or ought to have obtained, the plaintiff could have overcome the problem, or could in future overcome it.... Where appropriate remedial measures would resolve the problem, damages can, of course, be awarded only in respect of the period up to the date when, in the estimation of the fact-finder, the problem ought to have been resolved, or ought to be resolved.

And at para. 15 the court approves the test as articulated by the trial judge, as follows:

Mr. Justice Spencer in my view puts the over-all test quite correctly, in the course of his discussion of the "chronic benign pain syndrome", when he says:

From [the] cases I gather, and Mr. O'Grady frankly conceded, that there may be cases where a chronic benign pain syndrome will attract damages. That will happen where the plaintiff's condition is caused by the defendant and is not something within her control to prevent. If it is true of a chronic benign pain syndrome, then it will be true also of other psychologically-caused suffering where the psychological mechanism, whatever it is, is beyond the plaintiff's power to control and was set in motion by the defendant's fault.

- [31] I am satisfied that Ms. Brown's experience of pain is genuine and, not only is there no evidence whatsoever that she is malingering or that her continued experience of pain is related to her desire for care, sympathy or financial gain, the evidence of her pre-accident management of pain and the evidence of her efforts to deal with the pain after the accident lead me to conclude that Ms. Brown has met the test set out in *Maslen v. Rubenstein*, supra.
- [32] I am satisfied that the plaintiff's psychological problems did not pre-date the motor vehicle accident but were caused by the defendant's wrongful act.
- [33] Relevant to this issue I have considered, amongst the other evidence, Ms. Brown's pre-motor vehicle accident stoicism and resolve with respect to overcoming her shoulder injury and returning to work and, when that was not possible, upgrading and retraining so that she could continue to be independent and independently employed at a level that she found satisfying. I have also considered the importance to Ms. Brown's self-esteem of her independence, her employment and her employment relationships.
- [34] Ms. Brown is seeking non-pecuniary damages in the range of between and \$80,000 and \$100,000. The defendant says the appropriate range should be between \$35,000 and \$50,000. I was referred by the plaintiff and the defendant to several authorities in which at least one component of the claim related to chronic benign pain syndrome or some other psychological element.
- [35] While there is little objective medical evidence to explain the plaintiff's pain, the impact of the injuries on her life have been profound. She has experienced debilitating pain since February of 1997 and will continue to experience that pain for the rest of her life. She may be able to manage the pain by techniques she might learn through participation in a pain management program and the pain may be reduced somewhat over the next number of years by participation in further exercise programs.
- [36] Ms. Brown's personality has changed dramatically, she no longer is able to involve herself in any of the social or recreational activities that had been such an important part of her enjoyment of life. She has lost her job, a job that she was very well suited to and which was an important part of her life. It is unlikely that she will ever be able to resume full-time employment, and very unlikely that she will be able to return to the job she lost or one similar to it. At present she suffers daily debilitating pain. Although there is some possibility of improvement over time, I find that possibility is remote given the results of the heroic efforts she has made to date in an attempt to reduce the pain, at least to the point where she could return to her employment.
- [37] Of the authorities to which reference was made, the plaintiff's condition appears most similar to that of the plaintiffs in *Thatcher v. Chang* (July 7, 1997), Vancouver Registry, B952037 (B.C.S.C.) and *Denning v. Diment* (July 20, 1999), Victoria Registry, 241393 (B.C.S.C.). Compared with those cases, and adjusting for time and the possibility of some improvement, I assess the plaintiff's non-pecuniary damages at \$80,000.

SPECIAL DAMAGES

[38] The plaintiff claims special damages in the amount of \$19,977.89. The only two items claimed by the plaintiff that are in dispute are the purchase of a new bed for \$1,788.64, and reimbursement of \$4,999 to Ms. Brown's mother and step-father for the cost of a cruise which they had paid for but could not take due to Ms. Brown's hospitalization in August of 1997.

[39] There is nothing in the medical evidence to indicate that the bed was purchased on the advice or recommendation of any of the plaintiff's caregivers. I have only the evidence of Ms. Brown that she purchased the bed because she thought it would allow her to be more comfortable and enable her to sleep. She also says that the new bed has improved her comfort and her ability to sleep. I am satisfied that it was reasonable

for the plaintiff to purchase a new bed to help her to better cope with her pain.

[40] As to the cost of the cruise, no authority was provided to me to support the inclusion of such a claim and no trust claim was made. I have concluded that it is not an appropriate item to be included in this claim as a special cost incurred or at all. If Ms. Brown feels an obligation to reimburse her mother and stepfather for the loss of the fare paid for the voyage they did not take that is her decision and ought not to be borne by the defendant. This part of the claim is dismissed on that basis and also because it was not reasonably foreseeable that that kind of loss would be, or might be, experienced by someone other than the person injured.

PAST INCOME LOSS

[41] Past income loss has been agreed at \$94,464 plus court order interest.

FUTURE INCOME LOSS/LOSS OF CAPACITY TO EARN INCOME

[42] The defendant says that any determination of the appropriate compensation for future income loss must take into account the evidence of Dr. Cameron, the plaintiff's orthopaedic surgeon, who said that it is possible that the plaintiff could start back to work in something equivalent to her pre-accident capacity within two years after the successful completion of a pain management program through a pain management clinic.

[43] Dr. Cameron suggested that Ms. Brown attend the Victoria Pain Clinic and that program is acceptable to the plaintiff. That is a ten-day program and Dr. Cameron expects that Ms. Brown will have to take the program twice. The defendant is prepared to accept that it could take several months to complete the program twice and therefore projects that Ms. Brown could be in a position to begin to return to the workforce in approximately two and one-half years. On that basis it is the defendant's position that the future income loss ought to be calculated solely on the basis of Ms. Brown's loss for the two and one-half years period and thereafter she should be expected to be back in the workforce full-time earning a full salary.

- [44] The defendant calculates that the appropriate amount of compensation for future income loss is \$75,000, calculated on the basis of the two and one-half year period between the time of trial and the time when Dr. Cameron opined that Ms. Brown might be expected to return to full-time employment.
- [45] The problem with the defendant's analysis, assuming that Ms. Brown is able to return to the workforce at all in two and one-half years, is that the evidence is that when she returns it will have to be on a part-time basis and then work up to full-time employment. As well, there is no evidence before me to indicate what kind of difficulties she might encounter in finding a job which would allow her to do that, nor is the evidence before me persuasive that, even if Ms. Brown successfully completes the pain management course, she would be able to return to work other than on a casual part-time basis.
- [46] All of the physicians who have been involved in Ms. Brown's care, other than Dr. Cameron, and whose medical reports were put into evidence, were of the opinion that it was unlikely that Ms. Brown would ever be able to return to work. This is reflected in the report of John Lawless of the Vocational Consulting Group, Inc.
- [47] In his report dated September 17, 1999, John Lawless of the Vocational Consulting Group, Inc. said that he could not identify any occupation that was open to Ms. Brown with her present training or with retraining, and that in his opinion Ms. Brown was unemployable until her condition improves. He was not cross-examined.
- [48] I have concluded that Ms. Brown is presently unemployable. The only issue is whether she is likely to be able to work eventually, full-time or part-time, in her pre-accident capacity, or some similar type of employment. On the evidence before me I have concluded that it is unlikely that Ms. Brown could, in the future, be employed in any capacity on a full-time basis. She may, at some point in the future, be capable of very limited part-time employment.
- [49] The plaintiff provided actuarial evidence for future income loss in a report prepared by PETA consultants Ltd. The written report was accepted into evidence and was not the subject of cross-examination. In that report the author, Mr. G.F. Taunton, calculated the present value of the plaintiff's future employment loss on the basis of five different employment possibilities. The first of those possibilities is described as community and social service worker, the type of employment Ms. Brown had with the John Howard Society at the time of the accident. Other possible employment scenarios included in the report are probation and parole officers, manager of social services, lawyer and social policy research consultant.
- [50] With her background and training it is conceivable that Ms. Brown could have found employment as a probation or parole officer but there is no evidence before me from which I could conclude that Ms. Brown might have sought such employment.

- [51] There is no evidence from which I can conclude that there was any reasonable prospect that Ms. Brown would have chosen to be employed as other than a community and social service worker. On that basis Mr. Taunton, of PETA Consultants Ltd., calculated the present value of Ms. Brown's future income loss from the date of commencement of the trial, November 22, 1999, to retirement at age 65 at \$453,167. That figure has been adjusted for mortality, unemployment and other contingencies.
- [52] Mr. Taunton, in his report, also provided a future income residual income multiplier. On the basis of the evidence before me, in particular the opinion of Dr. Cameron that Ms. Brown will be able to manage her pain to a certain extent once she has successfully completed a pain management program, I find that it is likely that Ms. Brown will be able to earn a small residual income at some point in the future and, given her attitude to work and its relationship to her self-esteem, that is likely she will do whatever she can to make herself productive. However, the reality of her situation is such that I have concluded that her residual income earning capacity ought to be calculated on the basis of an income of approximately \$5,000 per year, commencing five years from the date of trial. The calculation of that residual income figure is left to Mr. Taunton.
- [53] I have therefore concluded that the future earning loss suffered by Mr. Brown is to be \$453,167 less the value of residual earnings of \$5,000 annually commencing December 1, 2004.

COST OF FUTURE CARE

- [54] In support of her claim for compensation for cost of future care Ms. Brown put into evidence a report from PETA Consultants Ltd., authored by Mr. G.F. Taunton. Mr. Taunton calculated the cost of future care on the basis of his assumption that each of the items included in his report would be proved in evidence. Mr. Taunton was not cross-examined on his report.
- [55] There are a number of items set out in the report which have not been proved in evidence to be necessary and one which has been established not to be necessary. There are also some items which are properly included but which are not wholly required due to the injuries suffered by Ms. Brown in the accident.
- [56] I am satisfied that the future care items contained in the PETA Consultants' report are all required as described with the following exceptions:
1. Ms. Brown will not be undertaking further "VAX-D" therapy and that item should be deleted.
 2. I am not persuaded that it is reasonable to expect that Ms. Brown would have, but for the accident, acquired the single-family dwelling with a yard. Therefore, home and yard maintenance costs have not been established to be reasonably expected.

3. The medication costs are also attributable to Ms. Brown's pre-accident condition. Therefore I find that the cost of medications is to be apportioned 50% to the injuries suffered by Ms. Brown in the subject accident.
 4. The cost of attendance at the Pain Clinic program is based on one session. The evidence is that Ms. Brown will require two sessions. Therefore the cost should be based on two sessions, the second to take place one year after the first.
 5. I find the physiotherapy expenses are attributable 25% to Ms. Brown's pre-accident condition, 75% to the injuries suffered in the accident.
 6. The cost of TENS machine pads is wholly attributable to her pre-accident condition.
 7. The calculation is to assume use of the current housekeeper or similar private provider.
- [57] With adjustment based on these findings the calculation of cost of future care is to be completed by Mr. Taunton using the same multipliers as contained in his report.

INCOME TAX GROSS UP/INVESTMENT MANAGEMENT FEES

- [58] The calculation of the income tax gross up on future care costs and the investment management fees will have to be reviewed by Mr. Taunton of PETA Consultants Ltd. on the basis of the damages awarded. Those matters are adjourned generally.

COSTS

- [59] The parties have not had an opportunity to speak to the issue of costs. However, in the event that there is no formal offer to settle which would affect a determination of costs, I would award costs in favour of the plaintiff at Scale 3. If, however, there is an outstanding offer to settle which may affect the determination of costs, either party may bring that issue back before me for final determination.

"G.M. Quijano, J."

The Honourable Madam Justice G.M. Quijano

Source & reproduction note

Judgment wording, source notices and original paragraph numbers are retained. Esheria supplies the layout and this PDF's page numbers; these are not the source pagination. This is a research copy, not an official or certified court document. Check quotations, citations and publication restrictions against the original source before relying on it.

ORIGINAL SOURCE <https://www.bccourts.ca/jdb-txt/sc/00/06/s00-0680.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/brown-v-ryan-2000>

Prepared on 29 October 2026 · Esheria