

CANADA / JUDGMENT

Chaplin v. Sun Life Assurance

2000 BCSC 90

COURT

Supreme Court of British Columbia

DECIDED

18 January 2000

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2000 BCSC 90

Citation:

Chaplin v. Sun Life et al
2000 BCSC 90
Date: 20000118

Docket No:

C961849
Registry: Vancouver
IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

DAWN CHAPLIN
PLAINTIFF

AND:

SUN LIFE ASSURANCE COMPANY OF CANADA
DOING BUSINESS AS SUN LIFE ASSURANCE
COMPANY AND ROYAL BANK OF CANADA
DEFENDANTS

REASONS FOR JUDGMENT

OF THE

HONOURABLE MR. JUSTICE HOLMES

Counsel for the Plaintiff:

Lawrence E. Pierce

Counsel for the Defendant, Sun Life Assurance Company:

Vincent R.K. Orchard

Date and Place of Hearing/Trial:

January 6, 2000

Vancouver, B.C.

- [1] The plaintiff seeks to set aside, vary or amend the order made in this matter July 15, 1999 giving leave to amend the Statement of Claim to raise an issue of proposed similar fact relative to a claim for punitive damages.
- [2] It is alleged "... counsel for the plaintiff has wrongfully caused the Order to be entered in breach of his agreement with counsel for Sun Life Assurance that the Order would not be entered pending the outcome of this application."
- [3] The alleged agreement is not one involving the court and I advised counsel I did not intend to become involved in trying allegations of breach of undertaking, misconduct, or sharp practice.
- [4] I am advised by counsel the Order in issue is the subject of appeal with a hearing date imminent. An appeal is the appropriate method for the review the defendant seeks.
- [5] Following the ruling of the court in this matter allowing the plaintiff to amend, counsel for the plaintiff amended the Statements of Claim in two other actions against Sun Life Assurance in which he represents claimants and applied for leave to amend the Statement of Claim in a third action. All amendments are essentially identical to the similar fact issue raised here.
- [6] Counsel with a view to avoiding inconsistent decisions of the court brought on applications in respect of the amendment in these other three actions before me. Those applications were heard concurrent with this application and now stand adjourned. [See separate explanatory reasons dated January 18, 2000 in Thompson (Vancouver Action C983979), Bongalis (Vancouver Action C991436) and Kriegel (Vancouver Action C974574).
- [7] Those adjournments were made pending determination of issues regarding the admissibility of the impugned similar fact evidence (as opposed to raising the issue by pleading) in this action which is to commence March 13, 2000.
- [8] I find no basis on the present application to set aside or vary the order of July 15, 1999 in this matter either on the suggested ground of Rule 2(2) or Rule 41(24).
- [9] Any issue as to the plaintiff's ability to further amend the Statement of Claim must be dealt with on further application. There was no "overlooked intention" that it was to be an included term of the Order of July 15, 1999.
- [10] Counsel in the course of this application discussed their apparent agreement in respect of waiver of confidentiality between counsel in the Chaplin, Thompson, Bongalis and Kreiger actions regarding the "similar fact" evidence, and in regard to the production of documents by the plaintiff relating to the "similar fact" evidence.

[11] There is no application before the Court in respect of those matters and I make no order in respect of them. Counsel should either agree to these matters between themselves, and confirm it in conventional fashion, or if necessary, make a formal application.

[12] The plaintiff's application to set aside or vary is dismissed.

[13] The costs of this application will be in the cause.

"R.R. HOLMES J."

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Prepared on 29 October 2026 · Esheria