

CANADA / JUDGMENT

# Chisholm v. Abbott

2020 BCSC 1905

## COURT

Supreme Court of British Columbia

## DECIDED

16 October 2020

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2020 BCSC 1905 Chisholm v. Abbott IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Chisholm v. Abbott, 2020 BCSC 1905 Date: 20201016 Docket: M171599 Registry: Vancouver Between: Brittney Chisholm Plaintiff And Jeremy Abbott Defendant Before: The Honourable Mr. Justice Myers Oral Ruling Re Application for Unredacted Medical Records In Chambers Counsel for the Plaintiff: M. Thomas Counsel for the Defendant: C. Arrieta Place and Date of Hearing: Vancouver, B.C. October 16, 2020 Place and Date of Ruling: Vancouver, B.C. October 16, 2020

- [1] THE COURT: This is a personal injury claim. The defendant applies for un-redacted versions of medical records, which the plaintiff has supplied with redactions. The records include those of two psychiatrists, one of whom is currently treating the plaintiff.
- [2] Both parties agree that the main component of the plaintiff's claim is for chronic pain.
- [3] There is no disagreement that the plaintiff's mental state and ability to deal with stress both before and after the accident is relevant.
- [4] The version of the records produced by the plaintiff include the conditions for which she was treated and the diagnoses, if any, of the medical professionals. They refer to difficulties in her personal life, including family relationships. What they exclude are some of the specific details.
- [5] The defendant says that the redactions should not be allowed. He should be able to see anything that may impinge on how the plaintiff dealt with "life stressors". Further, her clinical records may show what was causing her stress in the past. For example, the defendant argues he is entitled to see the full records of the plaintiff's difficult pregnancy.
- [6] I do not agree. As noted in *Hyvarinen v. Burdett*, 2012 BCSC 1034 at paras. 8 and 19 and *Kaladijan v. Jose*, 2012 BCSC 357 at para. 75, when ordering the production of medical records, the court must be careful not to infringe the plaintiff's privacy interests.
- [7] This is not a case where the plaintiff has attempted to bury her prior relevant or potentially relevant medical condition or has misrepresented it. Rather full disclosure has been made with some personal details redacted.

- [8] In my view, the defendant's application is a gross overreach. On reviewing the redacted records, there has been ample disclosure. My conclusion is enforced by the fact that at the behest of the defendant, the plaintiff has attended several independent medical examinations, one of which was by a psychiatrist but there is no affidavit from them that stating that they require the further requested details.
- [9] My ruling does not apply to the one record of Dr. Kovacs which was withheld on the basis that it contained errors. That is not a reason for non-production. It is to be produced with the appropriate redactions, if necessary.
- [10] The ordinary rule as to costs is to govern. "E.M. Myers J."
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