

CANADA / JUDGMENT

Dick v. Grover

2025 BCSC 2716

COURT

Supreme Court of British Columbia

DECIDED

16 June 2025

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2025 BCSC 2716 Dick v. Grover IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Dick v. Grover, 2025 BCSC 2716 Date: 20250616 Docket: M222466 Registry: Vancouver Between: Marlee Dick Plaintiff And Summit Grover and Sanjeev Kumar Grover Defendants Before: Associate Judge Harper Oral Reasons for Judgment In Chambers Counsel for the Plaintiff: M. Soria Articled Student Counsel for the Defendants: J. Moise Place and Date of Hearing: Vancouver, B.C. June 16, 2025 Place and Date of Judgment: Vancouver, B.C. June 16, 2025

- [1] THE COURT: This is a motor vehicle accident case. The defendants are seeking an order that the plaintiff attend a neurological independent medical examination ("IME") with Dr. Cory Toth on June 18, 2025. The 84-day deadline is June 27, 2025.
- [2] The plaintiff, as part of her array of injuries claimed, says that she has had headaches. The timing of those headaches in relation to the accident is in dispute. The plaintiff saw a physiatrist, Dr. Paul Chapman, at the request of the defence and that report has been served. The date of the assessment is February 28, 2025 and the date of the report is March 19, 2025.
- [3] Dr. Chapman opined on the plaintiff's headaches as follows. First of all, under current complaints at line 215 of the report: Headache - Intermittent. Query migraines, query component from greater occipital nerve in context of forward head posture. Ms. Dick says these headaches started about 1.5 years post collision. Headaches were documented in chiropractor notes on July 8, 2017, indicating that these started much sooner than 1.5 years post MVC. And the other current complaint was neck pain.
- [4] Under the section "The plaintiff's Present Symptoms and your diagnosis regarding her Injuries," at line 225, Dr. Chapman starts by saying:
- i. Headache query cervicogenic component (greater occipital nerve in context of forward head posture) / query migraine ii. Neck discomfort musculoligamentous in context of forward head posture (Ms. Dick reported typical headache-like sensations with palpation over the greater occipital nerve. This is in the context of a very forward head posture).

- [5] It is this diagnosis that leads the defendants to seek the IME with Dr. Toth. I am being asked to conclude that Dr. Chapman's use of the word "query" more than once in his report should justify the IME with Dr. Toth on the basis that Dr. Chapman is querying the diagnosis of headache, querying migraine, and is therefore not in a position to opine.
- [6] I am not able to interpret Dr. Chapman's statements in the way that the defendants would wish. I was not pointed to any case authorities in which the word "query" has been interpreted as being "an inability to opine". Although I am not sure, I would hazard a guess that Dr. Chapman is using the word "query" in this medical legal report in the way that he might use the word "query" in a consultation report that goes back to the patient's family physician. It is open to the defendants to seek clarification from Dr. Chapman as to what he meant by using the word "query" in the passages that I have quoted.
- [7] Under his recommendations regarding future treatment recommendations, Dr. Chapman gives his opinion that he would suggest a trial of a greater occipital nerve block. Then, secondly, with a steroid. He also suggests a trial of a prophylactic (such as amitriptyline) and abortive migraine medications. He says that "this could be done under the guidance of her family physician or a specialist who treats migraine headaches".
- [8] The fact that Dr. Chapman is able to opine with confidence on treatment recommendations indicates that even if he is querying the type of headache that the plaintiff has, that does not stand in the way of him opining on treatment. The threshold has not been met on this application to justify a second IME.
- [9] I say as an aside that the case relied on by the defendants, *Astels v. The Canada Life Assurance Co.*, 2006 BCCA 110, at paras. 19 and 20, is not applicable here. That was a case where the court was being asked to comment on the choice of a medical practitioner conducting the first IME. That is not the issue before the court today. The issue is the second IME.
- [10] So, with that, the application is dismissed with costs to the plaintiff. Thank you. "Harper A.J."

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