

CANADA / JUDGMENT

Malhi v. Nissan

2025 BCSC 2624

COURT

Supreme Court of British Columbia

DECIDED

8 October 2025

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

2025 BCSC 2624 Malhi v. Nissan IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Malhi v. Nissan, 2025 BCSC 2624 Date: 20251008 Docket: M221834 Registry: Vancouver Between: Manpreet Katrina Kaur Malhi Plaintiff And Edger Cortez De Claro and Nissan Canada Inc. Defendants Before: The Honourable Justice Thomas Oral Ruling re admissibility of McNeil's report Counsel for the Plaintiff: B. Hambrook A. Maheem Counsel for the Defendants: J. Miller C. Morcom Place and Date of Trial/Hearing: Vancouver, B.C. October 8, 2025 Place and Date of Judgment: Vancouver, B.C. October 8, 2025

- [1] THE COURT: This is an application by the defendant to strike out paragraphs 49, 51, paragraphs 80, and paragraph 285 of Mr. McNeil's report.
- [2] Mr. McNeil had the plaintiff fill out a neuropsychological test battery consisting of 17 psychological tests contained in a CAB PRO program. The answers provided by the plaintiff are not available; the answers were compiled within the CAB PRO program which then generated an opinion on the nature and extent of the plaintiff's cognitive deficits. These results are reproduced at paragraphs 85 and were summarized at paragraph 50 of McNeil's report.
- [3] The CAB PRO program is typically used as a screening tool in clinical practice, similar to an MMA exam, but obviously provides much more detailed and specific results. The program makes it clear that the results are not to be used for diagnostic purposes.
- [4] In Mr. McNeil's report, he assumed that the functional limitations opined by the program to apply to the plaintiff were accurate and reflective of the plaintiff's cognitive functional limitations. He then utilized these limitations as a factual basis to provide an opinion on the plaintiff's vocational abilities and limitations.
- [5] I am troubled by the fact that the conclusions generated by the CAB PRO program form the factual basis for Mr. McNeil's opinion. Typically, such a factual basis would be provided by a neuropsychologist or psychologist after performing an extensive assessment which, of course, would be subject to some form of production and the practitioner who formulated the opinions would be made available for cross-examination. In this case, the court is left in the position of simply accepting that the functional limitations created by the CAB PRO

program accurately represent the functional limitations of the plaintiff.

- [6] In my review, the results of such a battery of psychological tests constitute, with respect to the functional abilities of the plaintiff, an opinion on the functional capacity of the plaintiff. As such, the entity that has provided the opinion must be available to be cross-examined on their conclusions and/or opinion in some form.
- [7] I accept that the CAB PRO program is a useful tool for screening patients; however, I am not satisfied that the output of the program is admissible as an accurate representation of the cognitive functional limitations of the plaintiff without providing a basis upon which the conclusions or results made and applied to the plaintiff can be scrutinized and subjected to cross-examination. Therefore, I am granting the defendant's application to strike paragraphs 49, 52, 80, and 285 from Mr. McNeil's report. "Thomas J."

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/25/26/2025BCSC2624.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/malhi-v-nissan-2025>

Prepared on 28 October 2026 · Esheria