
CANADA / JUDGMENT

Marchant-Larson v. Bahrami

2017 BCSC 2337

COURT

Supreme Court of British Columbia

DECIDED

11 May 2017

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

2017 BCSC 2337 Marchant-Larson v. Bahrami

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Marchant-Larson v. Bahrami,

2017 BCSC 2337

Date: 20170511

Docket: M156531

Registry: Vancouver

Between:

Alison Carole Wilson Marchant-Larson

Plaintiff

And

Mehdi Bahrami and Future Auto Sales Ltd.

Defendants

Before: Master Muir

Oral Ruling

In Chambers

Counsel for the Plaintiff:

P.R. Bisbicis

Counsel for the Defendants:

G.A. Krueger

Place and Date of Hearing:

Vancouver, B.C.

May 11, 2017

Place and Date of Ruling:

Vancouver, B.C.

May 11, 2017

- [1] THE COURT: This is an application for production of documents. The application is made by the defendants to the plaintiff and to various third-party document holders.
- [2] The issue revolves around the plaintiff's acknowledged pre-existing conditions, which include depression and a lower back problem. These have apparently been experienced by the plaintiff for many years.
- [3] The defendant seeks production of records from various doctors and clinics that the plaintiff has seen with respect to these matters from January 1, 2011 to date. This is in the context of a motor vehicle accident that occurred on June 15, 2014, which was the first accident. There was another accident in July of that year as well.
- [4] The plaintiff objects to the extent of production sought. I note that both of these actions are subject to the Fast Track Rule, 15-1, and the plaintiff argues that it is simply out of proportion to the size and nature of the claim to be seeking such extensive document production as to her pre-existing conditions.
- [5] I should add there is a companion application with respect to, if I can put it simply, her economic loss records, including work records going back as well to January 1, 2011.
- [6] Now the law is not in issue, and for the purposes of these Reasons I do not intend to refer to it any detail. The plaintiff objects first of all that she has not been given proper notice of the documents being sought because the defendants have not complied with the Rule which requires a setting out of the rationale for the need for the document production. I am satisfied that the existence of the pre-existing conditions is sufficient.
- [7] The defendants bring no specific evidence in support of their application that more than two years of records are required. They simply point to the pre-existing conditions, the evidence that these pre-existing conditions are of some considerable length and history prior to the accident, and certainly well prior to two years before the accident. There is no evidence from any expert that more than two years of disclosure are required in order to properly analyze her propensity for having the problems she is currently experiencing or to establish a baseline for an analysis of her present condition.

- [8] There is nothing before me that takes this outside of the sort of general concept that two years prior to a motor vehicle accident is a sufficient investigation, barring other evidence, to allow the defendants to properly investigate the facts surrounding pre-existing conditions.
- [9] Thus with respect to the notice of application, first of all paragraph 1 of the notice of application was not proceeded with. Paragraph 2 seeks authorizations from the plaintiff with respect to release of records. I am of the view that will be adequately dealt with later on in these Reasons. So paragraph 2 is dismissed.
- [10] Paragraph 3 is with respect to fitness records. The plaintiff says these have been produced. If they have not been produced I will order them produced, and in any event, if they have been listed, a copy should be provided to counsel for the defendants, as they appear to either have not received them or have misplaced them.
- [11] With respect to paragraph 4, this is an application for a Medical Services Plan claim history with diagnostic codes from June 15, 2011, to the present. Given the extensive medical documentation that has already been disclosed in this case, I see absolutely no need for this kind of production, and paragraph 4 is dismissed.
- [12] With respect to paragraph 5, these are records from various treaters and clinics. With respect to these, I understand the plaintiff does not object to such documents being produced if they are produced in Halliday form and if they are produced only for two years prior to the accident. I agree with that, and the order will therefore go that the documents sought in paragraph 5 of the notice of application will be produced from June 15, 2012 to present. They will be produced in Halliday form. That is, they will go to counsel for the plaintiff. He will have ten days within which to review the records and make any redactions for irrelevance or otherwise that are necessary.
- [13] Now, with respect to the records already produced, the defendants object to the redactions made by the plaintiff and it is to the records of Dr. Rodriguez. Is that correct? Dr. Rodriguez?
- [14] UNIDENTIFIED MALE SPEAKER: In addition also Dr. Connolly appears to have some mention of them. Frankly I couldn't say whether other redactions have them.
- [15] THE COURT: Right.
- [16] UNIDENTIFIED MALE SPEAKER: Or are relevant to it.
- [17] THE COURT: With respect to issues that the plaintiff has or had with her husband, I am advised by counsel for the plaintiff that these have been redacted such that documents dealing with the relationship with the husband or portions of documents dealing with the relationship with the husband are disclosed, but matters that are personal to him such as drug use, with the exception of one error in failing to redact, have not been produced.

- [18] In my view that is a sensible distinction. I do not see that it is necessary to establishing a baseline for this woman's prior condition to have intimate details with respect to her husband's personal problems. Obviously the important point how those may have impacted on her, and those are the matters that must be disclosed.
- [19] The orders sought in paragraph 6 through 9 are allowed, as those are ancillary to the production of the third-party records.
- [20] Now, dealing with the economic loss application. Paragraph 1 I gather is for production of CUPE records from August 1, 2014, to date. I gather prior records have been disclosed, and the order will go for production of those documents.
- [21] With respect to paragraph 2, this is for an authorization directed to the plaintiff's health insurer to have Blue Cross release its complete records with respect to the plaintiff. In my view there has been no proper basis established for that order.
- [22] With respect to paragraph 3, this is the plaintiff's employment with Blue Cross. It is seeking her employment records from January 1, 2011, to the present. Again, it is my view that two years is sufficient. So the order will go for production, but it will be as before in Halliday form and it will be from June 15, 2012 to the present.
- [23] Paragraph 4 of the application deals with Pacific Blue Cross again delivering unedited unredacted copies of its complete records from January 1, 2011, to the present, including applications for disability, medical records and so forth. I am of the view in this case that is simply overreaching, and that is dismissed.
- [24] Paragraph 5 I gather with respect to BCIT records has been agreed to. So that order will go.
- [25] Paragraph 6 is with respect to a further examination for discovery. The evidence is that the plaintiff attended for an examination for discovery. I gather it was perhaps two hours in duration and under the Rules, four hours are permitted, is that correct?
- [26] UNIDENTIFIED MALE SPEAKER: It is two hours, Your Honour. But given that there are two -- two --
- [27] THE COURT: Two actions.
- [28] UNIDENTIFIED MALE SPEAKER: -- matters I -- I believe there is case law that another two hours would be allowed if this is allowed.
- [29] THE COURT: All right. That clarifies matters.
- [30] The examination for discovery was two hours. The Rules for Fast Track cases allow two hours for examinations for discovery. The Rule with respect to an obligation to respond to questions left on the record is R. 7-2(22) - (24), which entitles a party to examine on responses to outstanding questions from an examination for discovery.

- [31] The plaintiff submits that the documents that the defendants intend to question on and indeed the questions themselves should be disclosed in advance. In my view, that is not necessary. It is totally contrary to the concept of cross-examination. If the defendants attempt to examine on matters that are outside of the bounds of the matters that have been disclosed in response to the outstanding requests from the discovery, then the plaintiff, of course, is entitled to take a position with respect to that, but I am not prepared to make the order sought in advance.
- [32] So there will be an order that the defendants are entitled to a further examination for discovery, but it is to be no more than two hours and it is, of course, limited to the outstanding requests from her previous examination for discovery.
- [33] Seven, 8 and 9 are ancillary so the orders I have already made, so those are granted.
- [34] Did I miss anything?
- [35] UNIDENTIFIED MALE SPEAKER: No, Your Honour, that was very thorough.
- [36] UNIDENTIFIED MALE SPEAKER: Costs, Your Honour.
- [37] THE COURT: All right. Costs. Given the mixed success, I am going to order costs in the cause.

"Master Muir"

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/17/23/2017BCSC2337.htm>

CASE PAGE <https://chat.esheria.ai/case-law/canada/marchant-larson-v-bahrami-2017>

Prepared on 29 October 2026 · Esheria