

CANADA / JUDGMENT

Purchas v. Ogunremi

2025 BCSC 1558

COURT

Supreme Court of British Columbia

DECIDED

4 February 2025

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2025 BCSC 1558 Purchas v. Ogunremi IN THE SUPREME COURT OF BRITISH COLUMBIA Citation: Purchas v. Ogunremi, 2025 BCSC 1558 Date: 20250204 Docket: S210196 Registry: Vancouver Between: Jenifer Purchas Plaintiff And Dr. Stephen Ayotunde Ogunremi Defendant Before: The Honourable Justice Stephens Oral Ruling re Dr. Zaitzow's evidence Counsel for Plaintiff: D. Shane F. Balandari Counsel for Defendant: A. Turner R. Wood Place and Date of Trial/Hearing: Vancouver, B.C. January 27-31, 2025 and February 3-7, 2025 Place and Date of Judgment: Vancouver, B.C. February 4, 2025

- [1] THE COURT: These are brief reasons relating to and supplementing my orders and directions made this morning with regard to Dr. Zaitzow's evidence.
- [2] In the course of the trial of this action, Dr. Zaitzow, a witness for the defendant, was called as a witness this morning, and qualified to provide opinion evidence, and then began to testify. During the course of his direct examination counsel for the defendant asked Dr. Zaitzow a question about his Independent Medical Examination interview of the plaintiff that elicited an objection from the plaintiff's counsel that it was impermissible direct examination and contrary to the authority of *Ford v. Lin*, 2022 BCCA 179 at para. 86.
- [3] In the course of submissions on a voir dire made for that purpose, it became apparent to me that counsel for the defendant is of the view that Dr. Zaitzow should be permitted to give the evidence which was objected to, as well as other evidence as to whether his opinion changed if given or making a different assumption about the plaintiff's gambling history prior to being prescribed Abilify.
- [4] I heard submissions from the parties, and plaintiff's counsel argued that Dr. Zaitzow should not be permitted to give evidence on the question objected to, nor give evidence about any changed opinion in his testimony relating to this topic. I raised with counsel whether a supplemental report could be delivered in this regard mid-trial. Counsel for the plaintiff submitted that they maintained their objection to this evidence. But, as I understood it, that in the alternative, if Dr. Zaitzow were to address this topic at all, he should provide a supplemental expert report to the plaintiff first.

- [5] I respectfully did not accept the plaintiff's primary position that Dr. Zaitzow should not be permitted to speak to this issue at all and the matter should end there.
- [6] However, having heard counsel's submissions on voir dire 5, I was of the view that this is an instance where the defendant should serve a supplemental report of Dr. Zaitzow under R. 11-6(6), which addresses the proposed different assumption and any changed opinion, so that the plaintiff has advance notice of that to relieve the prejudice to the plaintiff of this topic and a potentially differing opinion being addressed by Dr. Zaitzow in his viva voce evidence without any prior effective notice to the plaintiff. I did not consider the letter sent by defendant's counsel on January 21, 2025, which is voir dire 5 exhibit 2, to be sufficient for notice in this regard.
- [7] I therefore exercised my discretion as trial judge to stand down Dr. Zaitzow's evidence, directed that a supplemental report of Dr. Zaitzow be delivered by 12:30 p.m. tomorrow, on February 5, and that Dr. Zaitzow be recalled for 10:00 a.m. Thursday, February 6, subject to any further order of the court.
- [8] As I stated when making this direction this morning, this procedure regarding Dr. Zaitzow's evidence and a supplemental report is without prejudice to the plaintiff's position on any new supplemental report of Dr. Zaitzow and the timing of Dr. Zaitzow's evidence, among other things.
- [9] In the circumstances, I did not believe I was required to make any order dispensing with the Rules under R. 11-7(6) directing that a supplemental report be delivered by 12:30 p.m. tomorrow. However, if and to the extent such an order were required in the circumstances, I would have done so in the interests of justice in order to permit that to be done mid trial. "Stephens J."

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Prepared on 27 October 2026 · Esheria