

HONG KONG / JUDGMENT

JACKSON IVAN O'NEIL AMROL v. MARISOL RIVERA

COURT

District Court

DECIDED

6 September 2007

CASE / FILE NUMBER

DCPI267/2007

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bjbj DCPI267/2007 IN THE DISTRICT COURT OF THE HONG KONG SPECIAL ADMINISTRATIVE
REGION PERSONAL INJURIES ACTION NO. 267 OF 2007

BETWEEN Jackson Ivan O Neil Amrol, a minor, claiming by his mother and next friend Melissa
Lippencott Amrol Plaintiff and Marisol Rivera Defendant

Coram: H.H. Judge Chow Date of Hearing: 30th August 2007 Date of Handing Down Decision: 6th
September 2007 DECISION This is the Plaintiff's application for further and better particulars of
the Defence. On 14 June 2007, Master C.P. Pang made an order that the Defendant is to file and
serve the further and better particulars of the Defence under the Plaintiff's letter of request dated
30 May 2007. Pursuant to this order, the Defendant filed and served answers to the Plaintiff's
request for further and better particulars. The Plaintiff opined that the answers provided are
elusive and not properly and adequately made. The Defendant did not agree to the Plaintiff's view
and refused to provide the answers again. Hence the Plaintiff made the present application. The
request for further and better particulars concern Paragraph 5 (e) and Paragraph 7 (b) of the
Defence. The requests and the answers provided to these two paragraphs are set out below:-
Paragraph 5 (e) Of It is admitted that CoCo got up and followed something, before coming back to
the Defendant Please state by the phrase got up and followed , whether it means that CoCo was
originally in a sitting position; if not, what was its original position; and whether it means that
CoCo rose from its original position and strolled; if not, what was its action after it rose. Answer
CoCo was laying on the ground. Please state by the phrase coming back to the Defendant ,
whether it means that CoCo was right out front in the Open Area and was turning back to the
Defendant; If so, what was the location of CoCo before she return back; If not, where was CoCo
before she turned back to the Defendant. Answer CoCo returned to where the Defendant was
sitting. Paragraph 7 (b) Of CoCo suffers from hip dysplasia since birth which restricts her
movements and requires constant vet care. Please state by the phrase which restricts her

movements , whether it means that the hip dysplasia allegedly suffered by CoCo has caused difficulty to her walking ability; if so, what is the difficulty; if not, whether it means that the hip dysplasia allegedly suffered by CoCo has caused difficulty to her running ability; if so, what is the difficulty; if not, exactly what are the restrictions in movements being referred to. Answer Dysplasia is abnormal tissue growth, and it restricts the movement of CoCo. The answer provided under 5 (e) The particulars sought are on the original position of the dog before it got up as well as the subsequent action taken by the dog after it had got up. The Defendant's answer provided in this respect is incomplete and she has failed to give any particulars on the subsequent action of the dog. The subsequent action of the dog after it got up (rose) is followed something . The Defendant did not particularize the manner the dog followed something. There are different ways of following something. So the Defendant has failed to give particulars on the subsequent action of the dog. The Defendant argues that the particulars are not material to this case. Whether they are material facts or not does not fall to be considered by this court. Master C.P. Pang made an order on 14 June 2007 to enjoin the Defendant to provide the particulars. The Defendant is bound to comply with the order. The second part of the request under Paragraph 5 (e) concerns the phrase coming back to the Defendant . The Defendant only provided the particular relating to the place the dog returned to. The Defendant did not provide the particular relating to the position of the dog before it went back to the Defendant. The Defendant argued that the particular requested for is irrelevant. But she was enjoined by the order imposed by Master C.P. Pang to provide the particulars. The issue of relevancy simply does not fall to be considered by this court. The answer provided under 7 (b) of the Defence The answer given by the Defendant under 7 (b) does not indicate in what way dysplasia restricts the movement of the dog. So the particular given is not an adequate answer to the request. The Defendant argues that the medical notes disclosed to the court confirms that the dog has this medical condition. But the request made is how dysplasia affects the dog's movement, and not whether the dog has that medical condition. The Defendant has failed to give this particular. For the reasons given above, I make an order that the Defendant do within 7 days from today serve on the Plaintiff the further and better particulars of the defence as per the request annexed to the summons. Costs I make an order nisi, to be made absolute 14 days time, that the Defendant do pay the Plaintiff costs of and incidental to this application in any event, to be taxed, if not agreed. (S. Chow) District Judge The Plaintiff: represented by Ms. R. Yeung, of Messrs. So, Lung & Associates. The Defendant: represented by Mr. Burke of Messrs. Burke, Fung & Li, Solicitors. - PAGE A B C D E F G H I J K L M N O P Q R S T U V 1udk 1udk H I J K L M N O P Q R S T U V (#p# >*6D :i#z *\mT zo/< xC&1 ({m8 =J+> z5g>b P0} URv q W~7gb W~7g xC&1 ({m8 =J+> z5g> n*\U & 6" Normal.dot setup Microsoft Word 9.0 Judiciary Title Microsoft Word Document MSWordDoc Word.Document.8

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