

SUPREME COURT OF NOVA SCOTIA

Citation: Anderson v. Cyr, 2013 NSSC 80

Date: 20130306

Docket: Amh. No. 321812

Registry: Amherst

Between:

Heath Anderson

-and-

Mary Cyr and Enterprise Rent a Car

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Judge: The Honourable Justice Robert W. Wright

Heard: February 15, 2013 at Halifax, Nova Scotia

Written

Decision: March 6, 2013

Subject: Motion by plaintiff to strike defendants' jury notice - Civil Procedure Rule 52.02(5) and s.34 of the *Judicature Act*.

Summary: On January 19, 2007 the plaintiff was involved in a head-on collision with the vehicle of the defendants on North Barrington Street in Halifax. The defendants admitted fault for the accident but denied that the serious and lasting injuries and medical effects on the plaintiff were caused by their negligence. Also at issue is the quantum of damages, including sizeable claims for future losses. The defendants sought to have the case tried by jury while the plaintiff sought to have the case tried by judge alone.

The medical reports and records filed in support of the motion to strike the defendants' jury notice were voluminous, consisting of more than 50 reports from 26 different experts, including medical specialists from various fields and other health care providers. A conflicting independent medical report was also filed on behalf of

the defendants by an expert in psychology. All of these reports and records demonstrated a high degree of complexity of the medical and psychiatric evidence pertaining to the diagnosis and prognosis for the plaintiff's injuries, the complicated causation issues in respect of physical and psychiatric conditions and the possible interaction between them, and pre-existing conditions if found to exist. Complex damage assessment issues can be anticipated as well.

Issue: Whether justice requires trial by a judge rather than by a jury?

Result: The onus is on the moving party to establish that there are cogent reasons for denying the opposing party its *prima facie* right to a jury trial. Here, the layering of legal and medical issues upon such a complex and technical medical situation would require lengthy review and analysis to grasp and resolve those complexities. The court concluded that the matters in issue in this case were of such a highly complex and technical nature that the case would be better heard by a judge sitting alone, who would then be free to reserve decision and take whatever time was necessary to analyse the detailed and complicated medical record. The motion to strike the jury notice was therefore granted.

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DECISION. QUOTES MUST BE FROM THE DECISION, NOT THE COVER
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