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Trial Lawyers responds to Chief Justice’s decision to uphold justice for British Columbians in court

Vancouver, BC - The Trial Lawyers Association of British Columbia (TLABC) applauds Chief Justice Hinkson’s verdict regarding the court challenge to Rule 11.8 wherein he states: “Considering the totality of the submission and evidence before me, I find that the...Rule compromises and dilutes the role of the court, and encroaches upon ...the court’s jurisdiction to control its process...because it restricts a core function of the court to decide a case fairly upon the evidence adduced by the parties...I declare that the Rule 11-8 orders are...contrary to s. 96 of the Constitution Act, 1867, and thus unconstitutional and of no force or effect.”

This action was filed on April 17, 2019 in response to the B.C. Attorney General’s rules of court change limiting the number of experts allowed. A hearing on this matter was held in late July and Chief Justice Hinkson has now rendered a decision against the changes made earlier this spring.

TLABC was concerned the proposed changes negatively impacted British Columbians and their access to a fair trial. In this case, those who have suffered the most severe injuries were at most risk of unfair process. This is because the more severe the injuries, the more experts then are generally required to understand and explain the extent of damages caused and the associated consequences.

Someone with multiple, serious injuries in a car accident – both physical and mental – cannot prove those injuries without experts who can comment on the nature of the injuries, the effect on the person injured, and the probable impact on the future. This includes the effect on their future ability to work, if any, and the need for different types of care required to maximize their recovery.

With his verdict, Chief Justice Hinkson has restored the rights of British Columbians to prove the harms and losses they have suffered, and to receive the compensation and help to which they are entitled under the law.

“We are relieved that the attempts to take away access to justice have been reversed by the Chief Justice’s commitment to fair court process”, said Ron Nairne, President of TLABC, “British Columbians need to know they have access to experts that can assist the court to fully understand the nature and impact of their harms and losses and thereby ensure full and thorough consideration is given to cases brought to trial.”

“The government’s attempt to limit expert evidence for British Columbians who find themselves in court follows its unfortunate choice to put ICBC first and leave British Columbians without means to prove their losses”, said Nairne.

Many British Columbians never need access to the courts, nor do they always require experts to support their case. For those who do, this ruling is of great significance and preserves their ability to obtain justice.

About TLABC

The mission of the Trial Lawyers’ Association of BC is to support and promote the rights of individuals in British Columbia.

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