

Fielden, Robert - Orthopaedic Surgery

Fielden v. Health Professions Appeal and Review Board, 2013 ONSC 4261 (CanLII) – 2013-06-19

Divisional Court — Ontario

caution — courteous in performing — finding of professional misconduct — unprofessionally — verbally

[...] The Committee decided not to refer the matter to the Discipline Committee but rather to verbally caution **Dr. Fielden** in person regarding being professional, objective and courteous in performing IME' [...] Given the absence of support for the finding that **Dr. Fielden** made factual errors in this case, there is no reasonable basis for cautioning him on this point. [...] conducted the IME. On August 24, 2010, the College received a complaint for Mr. Warren, Ms. Nancoo's lawyer regarding **Dr. Fielden's** behaviour during the course of the IME. [...]

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Paul and Allstate Insurance Arbitration, 2006-02-07

I agree that the medical evidence in this case is limited. No insurer's examinations were ever conducted in this case. Mr. Paul's family doctor, Dr. Lyne, who treated him pre- and post- accident, passed away several years ago. Dr. Fielden's and Dr. Kular's reports fail to persuade because neither of these practitioners examined Mr. Paul or treated him post-accident. Nevertheless, there is sufficient medical evidence to support Mr. Paul's claims

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Mougan and Allstate Insurance Arbitration, 2013-10-31

In the spring of 2006, at the request of the Insurer, Mr. Mougan underwent a number of assessments at Assessment Rehabilitation Services Inc. ("ARSI"). As part of that process, on April 19, 2006, Dr. Fielden, an orthopaedic surgeon, reported as follows:

There is no evidence of impairment at this time. Mr. Mougan does not suffer an impairment as a direct result of the injuries sustained in the accident. He has not been relieved of his tendency to tense his muscles and guard the motion that is a failure of the treatment program in combination with the patient's unwillingness to perform those activities and get him better moving quickly.

....I do not agree that Mr. Mougan's injuries fell into the PAF Guideline. On April 19, 2006, in response to whether treatment proposed for Mr. Mougan fell within the PAF Guideline, Dr. Fielden stated that he felt that "unless there is some specific diagnosis that requires specific treatment, that a few days of heat and gentle range of motion exercises is all that is reasonable and necessary and beyond that the patient should be well on his way to recovery from the muscle exertion strains of the accident." Dr. Fielden also stated that there were "no findings to demonstrate a cause" for Mr. Mougan's symptoms. On April 20, 2006, Dr. Moddel also found that Mr. Mougan's injuries fell within the PAF Guideline. However, these assessments took place before the CT scan on June 2, 2006, as well as the later MRIs, showing objective injuries to Mr. Mougan's spine, that were found to be attributable to the motor vehicle accident, and that resulted in significant, chronic pain. Mr. Mougan also suffered psycho-emotional problems as a result of the accident. I, therefore, find that Mr. Mougan's

injuries fell outside the PAF Guideline, and that he is not disentitled to attendant care benefits on this basis...

...On February 22, 2007, Dr. Fielden was asked to comment on the CT scan report, which as he stated, showed "some changes in the lower two discs." Dr. Fielden reported that "these disc problems, which undoubtedly were there before the accident, are the source of [Mr. Mougan's] ongoing complaints" and that "unless there develops some clinical evidence of disc herniation that is creating a clinical situation, then no further treatment or investigation of this claimant is necessary." As indicated earlier, I find that Mr. Mougan suffered significant objective back injuries as a result of the accident. I have further found that Mr. Mougan developed, in Dr. Fielden's words, a "clinical situation." I, therefore, find the proposed orthopaedic assessment to be reasonable and necessary, particularly in light of Dr. Swain's February 2008 view that Mr. Mougan needed to see an orthopaedic surgeon before undergoing a spinal decompression.