

## **Soric, Rajka - Physiatrist**

**Mamado v Fridson**, 2016 ONSC 4080 (CanLII), <<http://canlii.ca/t/g6dt>>

[27] The vast changes identified by Drs. Chen and Chan were corroborated not only by Ms. Mamado but also by the people who knew her before and after the accident: her friend, Justin Heaton-Dewitt; her sister, Athor Mamado; her former manager, Nancy De Santis, and her family physician, Dr. Jonathan Peck. I found them, on balance, to be fair and credible witnesses who provided a detailed and compelling view of how dramatically Ms. Mamado's life has deteriorated since this accident.

[28] The Defendant called two expert witnesses to refute Ms. Mamado's claims: Dr. Rajka Soric, a physiatrist, and Dr. Lawrie Reznek, a psychiatrist. Aside from the fact that neither expert addressed the threshold in their testimony, the evidence from both witnesses contains serious flaws:

Dr. Rajka Soric:

- Dr. Soric misread Ms. Mamado's pre-accident medical history. She was convinced that in May 2010 Dr. Peck had noted that the plaintiff had "intractable" back pain before the accident, when in fact the note read "intermittent". Dr. Soric conceded this error most grudgingly, and then insisted the error was irrelevant to her conclusion despite having previously emphasized it in her testimony;
- She had no recollection of how much time she spent reviewing Ms. Mamado's brief and preparing her report;
- Several of the tests she claimed to have performed were not documented in her report;
- Dr. Soric appeared indignant when it was revealed that out of her income last year, which was in the range of \$450,000 - \$470,000, the majority came from assessments for defence lawyers and insurance companies. (She has never testified on behalf of a plaintiff, except on one occasion when the plaintiff also happened to be her patient). Incredibly, she is of the view that she can be seen as entirely neutral no matter to whom she owes much of her livelihood.

[29] Even with those flaws, the core evidence from Drs. Soric and Reznek in fact supports the plaintiff. Dr. Soric agreed that Ms. Mamado was suffering from chronic pain. Although she would describe it more as a chronic pain "sensation" than a disorder, she allowed that a chronic pain sensation can be disabling and can prevent a person from returning to work or going to school.

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**Giordano v Li**, 2014 ONSC 7516 (CanLII), <<http://canlii.ca/t/gg2d0>>

Further, in relation to the defence medical expert, Dr. Soric, I find that she did acknowledge and agree that the plaintiff suffered from a chronic pain syndrome. Accordingly, to that extent, she agreed with the opinions of Dr. Barrettara, Dr. Waisman, Dr. Zacharia, Dr. Ogilvie-Harris and the plaintiff's physiatrist, Dr. Chow.

However, the difference in opinion relates to Dr. Soric's view on the pathology of the chronic pain syndrome. She wrote several medical reports. In one of her reports, she opined that the motor vehicle accident of June 7, 2009 was the cause of the plaintiff's injuries. Then, in

testimony at this trial, Dr. Soric testified in-chief, adopting the defence strategy and becoming an advocate, that the defendant's chronic pain related to all three accidents or injuries; namely, the motor vehicle accident of October 2, 2007, the motor vehicle accident of June 7, 2009 and a fall down the stairs on December 27, 2009. She testified that the medical diagnosis in her reports was wrong and she should have stated that all three accidents contributed to the plaintiff's chronic pain syndrome.

Then Dr. Soric proceeded to testify that the plaintiff injured her back in falling down the stairs on December 27, 2009 and that she sustained bumps and bruises all over her body. When it was put to Dr. Soric in cross-examination that the hospital emergency record of December 27, 2009, Exhibit 25, and the family doctor's notes of January 8, 2010 do not include any back injury, bumps or bruises or increases in neck or back pain, Dr. Soric responded that she has a distinct memory of the plaintiff giving her this information on the interview of June 7, 2012. She maintains that she has a distinct recollection despite not putting it into her various medical reports and despite having conducted 100 other medico-legal assessments since June 7, 2012.

Dr. Soric also stated that the family doctor was in the best position, based on the numerous visits he had with the plaintiff, to judge what, if any, injury or ongoing complaint the plaintiff had.

I do not find Dr. Soric's testimony to be reliable. She has ignored completely her expert duty under Rule 53 to be fair, impartial and objective. I do not accept her evidence as it relates to causation and her opinion that the plaintiff does not have a serious impairment of an important physical or psychological function. I reject completely her testimony that the plaintiff is fit to return to her former employment as a sales manager at ISA.

While professing not to opine on psychological issues, which she acknowledged the plaintiff genuinely has, she, nevertheless, opines that if the plaintiff goes back to work, she will be happy. The opinion does not stand up to the test of reasoning or common sense. Dr. Soric stated that the plaintiff has a chronic pain syndrome involving psychological issues but she can proceed with physical exercises, enroll in a chronic pain management program and proceed to return to work.

I heard a great deal of testimony from Dr. Waisman, Dr. Ogilvie-Harris and Dr. Chow indicating that there are studies that after two years of chronic pain, the likelihood of recovery is extremely low to non-existent.

Therefore, I reject Dr. Soric's opinion. I find that the injuries and impairment sustained as a result of the June 7, 2009 accident have substantially interfered with the plaintiff's pre-accident employment and she is unable to return to work at ISA as a result. They have also interfered with most of her usual activities of daily living, including her social and recreational life and heavier housekeeping tasks. I find that there has been a substantial interference in her life as a result of the loss of function to her.

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**Anand v. Belanger**, 2010 ONSC 2619 (CanLII), <<http://canlii.ca/t/29k3k>

[53] Dr. Soric testified that she saw Mrs. Anand in April 2009, but had no record of using an interpreter in conversing with her. Mrs. Anand's major complaint was her worsening ability to walk, due to constant left knee pain. Cortisone injections and an arthroscopy had temporarily alleviated her knee pain. She also complained of low back pain, some neck pain, pain in her right arm and swelling in her right hand. Dr Soric said that Mrs. Anand did not indicate to her that she was depressed. She did note that Mrs. Anand walked with a significant limp and used a

cane. On her physical examination, Dr Soric found no positive trigger points suggestive of fibromyalgia. She was quite dismissive (in my view, needlessly) of Dr. Kos' approach in using an algometer to test for chronic pain

[54] Dr. Soric's opinion was that Mrs. Anand had degenerative arthritis in her knees for a number of years prior to the accident. In her evidence in chief, she opined that Mrs. Anand suffered some pain due to a blunt trauma in the car accident, but no additional damage. Under cross-examination, she agreed that trauma could affect the knee, by causing a torn ACL, which could lead to degenerative changes.

[55] I am compelled to observe that Dr. Soric did not impress me as an expert witness. Quite apart from her long-time (and remunerative) involvement with defence insurers, during the course of her testimony she frequently descended from the role of opinion witness to that of advocate, by either debating issues with counsel, or giving non-responsive answers, or providing information not sought by the questioner but (apparently) supportive of her theory. I am therefore not prepared to place much weight on Dr. Soric's evidence or opinion.

[56] Overall, I found the plaintiff's evidence regarding the mechanism of her injury and the explanation given by her expert witnesses more persuasive than the evidence adduced on behalf of the defendant. In particular, I prefer and accept the evidence and opinions of Drs. Karabatsos, Ko, Ogilvie-Harris and Lawson, over that of Drs. Soric and English, for the reasons referable to the credibility of each as recounted above. In particular, the defence evidence failed to explain in a credible fashion why such a high-functioning person could be transformed in short order, effectively, into an invalid, in the absence of a material injury such as one suffered in the car accident. The plaintiff's case did explain this, both by objective evidence (the MRI scan report) and the expert evidence of Drs. Karabatsos, Ko, Lawson and Ogilvie-Harris, which I found persuasive, and which I accept.

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**Bourgoin v. Leamington (Municipality)**, 2006 CanLII 11904 (ON SC), <<http://canlii.ca/t/1n1rs>

[65] Dr. R. Soric, a physiatrist and doctor of rehabilitative medicine, was called on behalf of the municipality. She had seen Ms. Bourgoin on one occasion in July 2005. While she had taken a history and observed the appearance of Ms. Bourgoin's feet and ankles, she was unable to physically examine Ms. Bourgoin because of the plaintiff's reaction to pain. Dr. Soric's report described Ms. Bourgoin as presenting "in a most dysfunctional manner." Unlike the other doctors who testified, Dr. Soric's evidence gave a distinct impression of advocacy as she spared with counsel on cross-examination. Her conclusions that Ms. Bourgoin exhibited an "extreme degree of pain focused behaviour," that she was "so exaggerating," as well as concluding that Ms. Bourgoin had no desire to become physically active, were not consistent with the evidence of other medical experts who had treated or examined her.

[66] A troublesome aspect of Dr. Soric's testimony was her acknowledgment that in her initial report of July 19, 2005 had said that Ms. Bourgoin used her left foot to push herself up on the examining table. When questioned about that observation in October 2005 by defence counsel, Dr. Soric then changed her report to read that Ms. Bourgoin had pushed herself with her right foot when getting up on the examining table, indicating that the word "left" was a typo. This change was made in spite of Dr. Soric's acknowledgment that she had destroyed her clinical notes right after she dictated her report and, therefore, was relying only on her memory several months later. Given the number of patients that Dr. Soric sees in the busy practice she described in her testimony, it calls into question the reliability of her testimony on that point. As well, the surveillance tapes introduced into evidence by the municipality showed Ms. Bourgoin

almost always using her left foot to bear her weight when stepping on and off curbs and going up and down stairs.

[67] Dr. Soric also said she had not reviewed the documentation she had received about Ms. Bourgoin prior to meeting with her. Her explanation was that she did not want to “come to the table with pre-conceived ideas.” When asked, however, by counsel for the municipality if, after seeing Ms. Bourgoin and forming an impression, “you look for information in the medical documentation as to the – your own diagnosis, you look for information in the medical documentation to support or refute your actual diagnosis”, her response was ambiguous, “I actually look at the documentation period. I’m not sure that – yeah, I guess it should be – it is a correct statement.” For all those reasons, where her evidence differs from that of Dr. Deathe, I prefer the evidence of Dr. Deathe whose evidence was more consistent with the evidence of other professionals who had examined Ms. Bourgoin.

[74] Dr. Yovanovich disagreed with Doctors Deathe and Merskey that Ms. Bourgoin has Reflex Sympathetic Dystrophy or Complex Regional Pain Syndrome although, unlike Dr. Soric, he did not doubt that her pain was real nor did he think that she was exaggerating her pain. In spite of disagreeing with the diagnosis made by Dr. Deathe, Dr. Yovanovich was unable to definitively diagnose the cause of Ms. Bourgoin’s pain. He presented a number of differential diagnoses, none of which were related to any chronic pain syndrome.

[83] In April, 2005, Dr. Merskey, a psychiatrist was of the view that Mr. Bourgoin had satisfied all the criteria for a diagnosis of Complex Regional Pain Syndrome as set out at paragraph 87 below. He also disagreed with the opinion of Dr. Soric that Ms. Bourgoin’s “pain focused behaviour” was the result of psychological factors. It was the view of Dr. Merskey that the depression and anxiety was the result of the pain.

[92] Except for Dr. Soric and possibly Dr. Yovanovich, no other doctor thought that she was magnifying her symptoms in order to gain sympathy or reward. There is no question that, prior to her fall, everyone described Ms. Bourgoin as being a strong person, physically and emotionally. Nothing in her past suggests that she was unable to manage significant challenges and tragedies in her life. Dr. Merskey and Dr. MacDonald are in agreement that her pain is not psychologically based nor does she have any psychopathology that would cause her to fabricate or exaggerate her pain.

[109] Dr. Merskey and Dr. Deathe thought that a center such as the Cleveland Clinic might assist with other possible diagnosis and also for treatment of Complex Regional Pain Syndrome. They both thought that Dr. Moulin might have some suggestions to treat neuropathic pain. Dr. Deathe did not think an implanted dorsal stimulator would be helpful. Dr. Soric did not think Ms. Bourgoin required any further treatment and said she had already had a “million dollar work-up.” Dr. MacDonald said that Ms. Bourgoin needed rehabilitative psychological treatment to help her cope with her pain, not psychological treatment to cure her pain, as her pain does not have a psychological source. Her anxiety and depression is a result of her pain. He recommended a minimum of 50 sessions. Ms. Bourgoin is planning to continue her treatment with Dr. MacDonald.

[124] Ms. Bourgoin, by all accounts, including her own, became a different person after the fall. As the pain from her ankle spread to her leg and then to her back, she could not be as active as she had been and she became irritable, short-tempered both at home and at work. This once respected and liked employee was described by a manager shortly before her employment was terminated on January 7, 2003 as “high maintenance.” It appears

from the medical evidence that even some of the doctors found her behavior to be difficult. Dr. Soric found her to be "pain-focused" and dysfunctional, unwilling to help herself, exaggerating her symptoms and pain and not wanting to work. Although not a psychiatrist, Dr. Soric was of the view that Ms. Bourgoin needed psychiatric or psychological assistance because she thought the pain was not as bad as Ms. Bourgoin said it was. Dr. Pepin, who was her initial treating orthopedic surgeon, saw her a few times and then basically discharged her as a patient saying, "I am really at my wits end in terms of what I can do to help this patient, unfortunately, in my hands I am just not able to help Ms. Bourgoin and I advised her of the same." Her never saw her again.

[152] It was the position of the municipality that unless Ms. Bourgoin undergoes an amputation at some time in the next five years, there is little, if any, future care required by her except for medication costs in the immediate future. The municipality argued that, in fact, according to Dr. Soric, any future care would be counter-productive as it would encourage Ms. Bourgoin to be less mobile and mobility is important. The municipality's position was that most doctors thought that Ms. Bourgoin had received all of the available treatment.

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**Olivares and ING Insurance** 2006-01-25, Arbitration, Final Decision, FSCO 2475  
<https://www5.fSCO.gov.on.ca/AD/2475>

In May 2004, Mrs. Olivares was examined by Dr. Rajka Soric at an "Insurer's Examination". Dr. Soric concluded that: Mrs. Olivares did not suffer a substantial inability to perform housekeeping and home maintenance services that she normally performed prior to the accident; there was no "contraindication" for her to drive; and, she had fully recovered from injuries that she may have sustained as a result of the July 29, 2003 accident (Ex. 1, Tab 7). Dr. Soric does not specifically address the issue of the Applicant's ability to perform caregiving activities. He does comment on her ability to perform the essential tasks of her employment even though she had not claimed income replacement benefits. He also stated (at p. 5 of the report) that Mrs. Olivares "currently does not have *any* impairments." [See note 4 below.] Because Dr. Soric does not specifically address the Applicant's ability to perform caregiving activities, his report is of limited value.

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In the letter Mr. Carranza sent to the Commission on December 2, 2005, he indicates that he considers the main issue for the arbitration to be the fact that the test of disability was not properly addressed. By this, I believe that Mr. Carranza is referring to ING's reliance upon the report of Dr. Soric in deciding to terminate (or not reinstate) the benefits in question and the fact that Dr. Soric's report may contain errors or omissions. In particular, Mr. Carranza asserts that the report is flawed because: (1) Dr. Soric fails to address the issue of the Applicant's ability to perform caregiving tasks (which was one of the two issues Dr. Soric was supposed to address); and, (2) Dr. Soric considered the Applicant's ability to perform the essential tasks of her pre-accident employment, which was not an issue at the time since there was no claim for income replacement benefits. Mr. Carranza seems to be taking the position that there was no valid basis for the insurer to terminate the benefits in question and that the Insurer must continue paying benefits to the Applicant until there is a termination based upon a "proper" insurer's medical examination.

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The errors and omissions contained in the report of Dr. Soric are certainly factors I have taken into account in deciding the weight to give this report. I do not find, however, that the Applicant has proven that she is entitled to the benefits claimed solely as a result of the reliance of the Insurer on the report of Dr. Soric.

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**Thangarasa and Gore Mutual – 2** 2005-04-01, Arbitration, Interim Order, FSCO 3427  
<https://www5.fSCO.gov.on.ca/AD/3427>

Notes from March through May record a reiteration of Mr. Thangarasa's injuries, reports of Dr. Scher's neuro-psychological report and his conclusions, as well as references to Dr. Soric's IE, [See note 31 below.] in which she (a physiatrist) observes "possible but not likely" mild head injury, and that he was "medically capable of returning to his activities of normal living with the exception of Teknion Furniture."

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Note 31: Dr. Rajka Soric, a physiatrist whose "interest and expertise is in the area of musculo-skeletal medicine", examined Mr. Thangarasa for an IME on March 23, 1999. Dr. Soric notes that she did not have the MRI results, or the neuropsychological results. She notes that the only documentation reviewed was "your (the Insurer's) referral letter." On this basis, she diagnosed "possible, but not likely mild head injury."

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**EI-Sayed and Zurich** 1999-07-26, Arbitration, Final Decision, FSCO 972  
<https://www5.fSCO.gov.on.ca/AD/972>

Mrs. EI-Sayed underwent a disability DAC in October of 1995. Dr. Rajka Soric, a physiatrist, noted the Applicant's reports of headaches, neck pain and pain in her low back, but found that she had a fully functional active range of movement as well as a full passive range of movement upon examination. She opined that Mrs. EI-Sayed had sustained a mild soft tissue trauma to the cervical and lumbar region as a result of the accident, but stated that she was not substantially disabled at that time from managing "all of the usual activities of daily living including her duties as a caregiver." The Applicant's benefits were terminated as a result of this assessment.

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Dr. Soric, the DAC doctor, was subsequently provided with the results of the CT scan and asked to reconsider her opinion. She stated that the scan revealed only a small disc herniation that she did not consider to be clinically significant, as there was no evidence of a compromised dural sac or nerve root. Dr. Soric reaffirmed her opinion that Mrs. EI-Sayed was not substantially disabled from performing caregiving activities at the time of the DAC assessment.

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Dr. Soric, the DAC assessor, concluded in October of 1995 that Mrs. EI-Sayed was not substantially disabled from managing "all of the usual activities of daily living including her duties as a caregiver." This is inconsistent with Dr. Kovacs' findings expressed above. It also does not address the "partial inability" branch of the pre-104 week test. In my view, Dr. Soric's general finding that the Applicant can manage the "usual activities of daily living" is of limited use in the context of the required comparison between the mobility activities and household activities that Mrs. EI-Sayed was capable of performing prior to and after the accident.

□

I have already referred to the very general manner in which Dr. Soric's opinion is expressed. Her report does not mention what Mrs. EI-Sayed's caregiving activities were at the time of the accident. That fact, coupled with the Applicant's statement that she only spent 15-20 minutes with Dr. Soric, suggests that the assessment performed was cursory and did not involve much detail. Given that this part of the test for entitlement to caregiver benefits also requires an in-depth comparison between an applicant's pre and post-accident activities, I do not find Dr. Soric's general opinion that Mrs. EI-Sayed was not substantially disabled from managing "all of



the usual activities of daily living including her duties as a caregiver” to be determinative of this issue.

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**Harrison and Wellington 1998-07-23**, Arbitration, Final Decision, FSCO 1312

<https://www5.fSCO.gov.on.ca/AD/1312>

The Insurer terminated the Applicant’s benefits on December 5, 1995, on the basis of Insurer Medical Examinations by Dr. R. Soric, a physical medicine and rehabilitation specialist, and Dr. D. Costa, a psychiatrist.

Dr. Soric examined the Applicant on July 26, 1995 and concluded that she could perform her essential tasks as an accountant (or as an accounting clerk or bookkeeper or similar occupation). Exhibit 19 I give this opinion little weight, for the following reasons. First, the Insurer did not challenge the Applicant’s report, which she reduced to writing the same day, that Dr. Soric saw her for about half an hour, only five minutes of which consisted of a physical examination. Exhibit 16 In contrast, Dr. Quartly testified that she examined the Applicant for about an hour and interviewed her for an hour and a half. I find that the very brief orthopaedic, neurological and range of movement examination conducted by Dr. Soric was not adequate to establish whether the Applicant was able to perform her essential tasks on a sustained and productive basis.

Secondly, Dr. Soric found that the Applicant had “dramatically reduced active range of movement in the cervical and lumbar region” and a “significant degree of muscle spasm throughout,” findings which would seem to indicate some degree of impairment. She diagnosed chronic pain syndrome and temporomandibular joint dysfunction. She concluded, though, that her findings reflected a “significant degree of pain behaviour” The phrase “pain behaviour” is often used to imply that the person being assessed reports pain or shows typical responses to pain (by grimacing, flinching, or restricting movement) though the examiner can find no orthopaedic or neurological injury which could explain the pain. Since pain is by nature subjective, and it is well known that soft tissue injuries may cause pain despite their being no apparent orthopaedic or neurological injury, a report of “pain behaviour”, without more, is unhelpful and reflects circular reasoning. and the Applicant’s being “extremely tense.” The report does not explain why Dr. Soric rejected the conclusion reached by the Applicant’s treating physicians that her symptoms were related to her soft tissue injuries. I do not accept Dr. Soric’s report that the Applicant presents with “whole body pain” because the Applicant’s treating physicians have all recorded her specific complaints related to specific activities.

Finally, Dr. Soric’s conclusion that the Applicant is able to return to her pre-accident work is based in part on her opinion that “[a]lthough Mrs. Harrison [sic] may complain of more pain, I do not feel that by increasing her level of function she would adversely affect her condition in any way.” As Director’s Delegate Draper stated in *Wiseman and Coachman, Wiseman and Coachman Insurance Company* (June 10, 1994), OIC A-005706 this is the wrong question. In determining whether pain is disabling, the right question is: “how much pain is too much?”

Dr. Soric recommended terminating the Applicant’s physiotherapy because prolonged treatment had produced only negligible improvement. However, following mediation, the Applicant’s rehabilitation benefits were extended to February 26, 1996 in order to allow her to complete her programme at the Healing Link Rehabilitation Clinic.

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