The Court of Appeal for Ontario considers strength of admissions on Requests to Admit

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The Court of Appeal for Ontario recently considered the law surrounding admissions made on a response to a Request to Admit in *Champoux v. Jefremova*, a recent medical malpractice appeal.

The case arose from the plaintiff's June 2012 visit to the emergency room seeking treatment for hyperglycemia and an abscess on her buttocks area. The defendant physician determined the abscess was not yet ready to break and discharged the patient home. The plaintiff returned three days later and was admitted for surgery, followed by an allegedly long healing process. One of the central issues at trial was the location of the abscess – whether it was on the buttocks or perianal area – as the standard of care differed depending on its location.

Challenge to the response to the Request to Admit

Prior to trial, the plaintiff served a Request to Admit that it was a perianal abscess. The defendant refused to make the admission, and in response clarified that it was a "buttock abscess/swollen nodule in the general perianal area."

At trial, there was a disagreement between counsel as to the meaning of this admission and, as such, the location of the abscess. The defendant physician brought a motion to clarify the admission (or, in the alternative, to withdraw it). The trial judge rejected the request to withdraw the admission and left the determination of the meaning of the admission to the end of the trial. At that time, the trial judge reviewed the evidence and determined that the abscess was located near the middle of the left buttock cheek.

On appeal, counsel for the respondent physician submitted that the response to the Request to Admit should not be considered a true admission, as it was proffered in the context of a refusal. The Court of Appeal rejected this submission, stating that Requests to Admit are meant to simplify matters. The Court also stated that one cannot refuse to admit a fact by providing an alternative explanation and not be held to that alternative explanation.

With respect to the trial judge's analysis, the Court of Appeal found he erred by not accepting the admission as true. The Court of Appeal characterized his analysis as

finding the admission to be untrue, rather than interpreting it to mean that the abscess was not a perianal abscess. In doing so, the Court of Appeal reaffirmed that a formal admission is conclusive of the matter admitted and the Court is bound to accept it, even if it contradicts other evidence. A court can only interpret the meaning of an admission, rather than question its truth.

Ultimately, the Court set aside the trial judge's decision, finding that this issue created non-compensable prejudice to the plaintiff, who based her trial strategy on the fact that she had an admission.

Insufficient trial reasons

The Court of Appeal also overturned the trial judge's decision for providing insufficient reasons. The Court found that a trial judge is obliged to go into some level of detail as to why they preferred the evidence of one expert over another and, in doing so, needs to specifically discuss the expert testimony on the central issues in dispute. One example in this case was the testimony on whether it was appropriate to send the plaintiff home despite her elevated heart rate and uncontrolled blood sugars.

Takeaways

This case is an important reminder to be cautious when responding to a Request to Admit. Once provided, responses are difficult to withdraw. They are binding, even if there is contradictory evidence proffered at the trial to their truth. Parties should carefully consider all possible interpretations of an admission prior to agreeing to it, as any information provided in a response, even if in the context of a refusal, may form an admission in itself.

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