

SUPREME COURT OF NOVA SCOTIA

Citation: *Bruce v. Munroe*, 2016 NSSC 341

Date: 20161220

Docket: Hfx No. 410402

Registry: Halifax

Between:

Patricia Darlene Bruce

Plaintiff

v.

Andrew Douglas Munroe

Respondent

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Judge: The Honourable Justice Peter Rosinski

Heard: December 9, 2016, in Halifax, Nova Scotia

Written Decision: December 20, 2016

Subject: Admissibility of CPR 55.14 and 55.04 – Treating Physician Narratives, and Rebuttal Expert Report

Summary: With trial pending, the defendant seeks to have ruled as inadmissible numerous treating physician narratives (TPNs) and an expert rebuttal report.

Issues:

- (1) The TPNs include informal chart notations, reports and referrals to specialists – what are the limits of acceptable informality in such circumstances/are they compliant with CPR 55.14?
- (2) The expert rebuttal report is not written according to the formal obligations in CPR 55.04 – is it nevertheless admissible?

Result: Many TPNs are party inadmissible insofar as they contain: either hearsay-based factual statements; insufficient clarity as to “opinions” being put forward therein, or go beyond the opinion evidence permitted as TPNs - (e.g. opinions about

prognosis, or about (causation) MVA impacts as explaining plaintiff's injuries) and thus circumventing the CPR 55.04 formal expert report requirements. TPNs can be admissible solely to establish facts, or both facts and permitted opinions. The rebuttal report was ruled admissible, if rewritten so as to be substantially compliant with CPR 55.05.

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