

BC Jury Discharged For Bringing Wikipedia Article To Court During ICBC Trial

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Everything that seemingly could go wrong in an ICBC Jury Trial went wrong when an injured Plaintiff brought her claim to court in early May 2009 (*Sharamandari v. Ahmadi*). ICBC, the insurer on the case, insisted on a jury trial. Certain concerns about the jurors behaviour came to the trial judge's attention which ultimately caused him to discharge the Jury.

One of the many interesting developments ([click here to read Vancouver Reporter Ian Mulgrew's recent story shedding light on some of the other notable developments](#)) in this trial was the jury's reference to outside legal research in the course of the trial.

During the case mention was made of the legal principle *volenti non fit injuria*. One of the jurors took it upon himself to [research this via wikipedia](#) and apparently brought this outside legal research back into the jury room. This of course was improper and contradicted the presiding judges instructions as it had not yet been determined whether this principle of law was to be considered by this jury (and if *volenti* was to go to the jury Wikipedia fails to explain how this principle of law has developed in British Columbia car crash cases).

Upon learning of this transgression the following exchange took place between the trial judge and the juror:

THE COURT *Its come to my attention that you may have brought outside legal research into the jury room what part of my instructions telling you not to do that did you think that you could do it*

JUROR *I didnt think this was this is a term that I I was looking for a definition of the term*

THE COURT *Yes And isnt that within the purview of outside or doesnt that come within the definition of doing outside research*

JUROR *I didnt think so at the time*

THE COURT *I see And what were your grounds for not thinking so*

JUROR *I dont have an answer for that question*

THE COURT *okay why did you think if it was research for your benefit that you thought it was appropriate to bring it into the jury room and start to discuss it*

JUROR *I thought that everybody would want to know because it was a definition*

THE COURT *A definition of a legal term*

JUROR *well yes yes and no It was it was from wikipedia It was just like its not a legal its not something that I go to for legal terms Its just something that was on the internet*

Ultimately the judge discharged the jury for this and other transgressions. In discharging the jury Mr. Justice Burnyeat made the following comments which give insight into just how much went wrong in this ICBC Jury Trial:

THE COURT I have been a judge for 13 years and what Im about to say I havent had to say before so I say it with considerable regret.

You were told by me not to do outside research and yet one of you has decided to ignore that and bring a wikipedia article which has absolutely no relevancy in Canada or in the jury deliberations and may well be based on us cases which are of no relevance in Canada and on an issue which may or may not go to you as jurors.

You were told not to consider the evidence until all evidence was before you and you have decided to start in anyway.

You were told to put the question of whether awards do or do not result in higher insurance premiums out of your minds and yet someone has decided to mention that it probably and speculate that it probably results in higher insurance premiums for all of us if in fact an award is made by you and the amount of award.

You were told to deal with the evidence alone and not views that you might have that would interfere with that And I am advised that comments were made about the heritage of the party and some of the witnesses.

You were told to weigh the evidence of all experts equally but assume that those who testify for one party are being paid for their opinions as hired guns and not for opinions that are professionally arrived. You were told to each consider all of the evidence but then divide up the evidence so that not everyone will necessarily look at everything thats before them. You were told that it may be necessary to sit this week and next but ignored that advice I have given in order that you can save time by adopting a procedure which is totally inappropriate.

You were told to spend Friday afternoon reviewing the evidence but decide that your own schedules are more important than my instructions.

You have failed collectively and in some cases individually to discharge your duties as jurors and I have no alternative but to discharge you as a jury . Your actions have resulted in considerable hardship to both the plaintiff and to ICBC and the defendant. As a result an answer will not be available to them. All parties must have a consideration of matters delayed for what may be a further six to 12 months.

The cost of having expert witnesses appear for the plaintiff will be thrown away The cost of having to cancel the appearances of expert witnesses who would be appearing for ICBC will be considerable All witnesses will have to go through the anxiety of appearing in court a second time And you have caused a blow to the system a blow to the parties from which there can be no particular recovery You are discharged as a jury and you can now leave and I will not thank you for your attendance