

Re: Keays v. Honda

In a letter to the National ME/FM Action Network Hugh Scher states:

I am pleased to advise that the Ontario Superior Court of Justice last week released its reasons for judgment in the above matter. This judgment represents the largest ever punitive damages award in Canadian employment law history, and may also represent the largest punitive damages award ever received in Canada by a person with Chronic Fatigue Syndrome.

The case arose as a result of the wrongful termination of an employee with Chronic Fatigue Syndrome for reason of alleged insubordination related to the employee's refusal to participate in a company requested medical assessment without first being provided with sufficient information to enable the employee to give an informed consent to the assessment.

Our office became involved in this matter initially to attempt to facilitate the accommodation of the employee's Chronic Fatigue Syndrome in the workplace and after his termination, to prosecute the action against the employer. The case raises significant issues about the requirement of an employer to accommodate an employee with Chronic Fatigue Syndrome, about discrimination and harassment, about bad faith in the manner of dismissal of an employee, and about punitive damages in circumstances where the employer's conduct is so egregious as to warrant significant punishment and denunciation by the Court.

It remains our pleasure and privilege to work with your association and the community of people with Chronic Fatigue Syndrome, Fibromyalgia, and related conditions, in an effort to secure justice and equality for this community.

We continue to await the decision of the Ontario Court of Appeal in *Lowe v. Guaranty Insurance*, another case in which we had the privilege to represent the community at the Ontario Court of Appeal to address the issue of the proper conduct of DAC assessors under the *Insurance Act*, and whether or not people who are treated in bad faith by assessors should have the right to sue those assessors for treatments and benefits deprived and for injuries sustained as a result of the assessor's bad faith conduct.

I look forward to the opportunity to continue to work with you and the community on these and other matters. Should you have questions regarding any of the above, please do not hesitate to contact me.

Yours very truly,

Hugh
SCHER & DE ANGELIS

Scher

