The Application of Section 24(2) of the Charter of Rights and Freedoms in a Civil Action

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Abstract:
Since its enactment in **1982**, the **Charter** of Rights and Freedoms has been the subject of intense judicial and academic examination, and ***few sections of the Charter have received greater scrutiny than s.24(2) - the clause that permits the judiciary to exclude evidence where to admit it would "bring the administration of justice into disrepute".*** Owing in part to its ***formidable power***, s.**24**(**2**) has been approached with great care by the courts. In the criminal forum, a large body of case law quickly evolved addressing the **section's** scope, applicability and impact. A number of controversial decisions set out guidelines to assist in the exercise of the discretion. However, in the civil context, the situation could not be more dissimilar. In this realm, very little consideration has been given towards how the **section** should operate and, indeed, to what extent it should operate at all. To date, instances in which this has been attempted remain relatively rare, but motions of this nature do appear to be becoming more frequent. Unfortunately, they have been met with a host of rather bewildering decisions as judges and litigants struggle to determine how s.**24**(**2**) should apply. This article will explore this issue and suggest how the **Charter's** evidentiary rule might be utilized in civil proceedings.

"...the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it would bring the administration of justice into disrepute."

Really!

EXCERPT FROM JUSTICE LANCE FINCH'S DECISION

74. Mr. Justice Finch discounted allegations of bias by stating in his Reasons for Judgment (February 15, 1995 in Case #CA014518 Kuntz v The College of Physicians: -

47. ***In my view, such allegations, even if framed with adequate specificity, do not belong in an appeal under the Medical Practioner's Act. To attempt their resolution within the statutory appeal would be embarrassing and inconvenient. Such an attack shifts the focus from the correctness of the Council's decision, to considerations of natural justice, which, if substantiated would undermine the Council's statutory authority, or jurisdiction."***

DR. KUNTZ'S COMMENTS

It would have been inconvenient and embarrassing to Justice Lance Finch to disclose the College files because it would have exposed that he and the rest of his CMPA-retained cronies at Guild Yule instructed the College in 1981, 1982 and 1983 to impose a wrongful moratorium ultra vires the Medical Practitioners' Act in support of a scientific fraud claiming usage of methyl methacrylate for disc replacement was "experimental". It would have been embarrassing because it would have exposed Justice Finch had come with prior knowledge and was sitting in conflict of interest after being a CMPA advisor to the College in the same cause and matter before his appointment in 1983 as a judge of the B.C. Supreme Court. Once Lance Finch committed the initial crime, he was committed to covering it up. Accordingly, in 1990, Finch appeared in conflict to dismiss the Class Action that the CMPA, Finch and Guild Yule law firm created and that explains why Finch left no written Reasons for Judgment so as to continue covering up for the College conflict and criminal abuse of authority to extinguish me as a witness against the College in advance of the Class Action trial. The failure to leave written Reasons for Judgment served to perpetuate the myth that there was an outstanding liability exposure against the CMPA for 1900 cases of "experimental surgery" which was not experimental and did not exist, especially when they couldn't identify the 1900 injured. In short, Justice Lance Finch was helping the CMPA steal taxpayer funded medical malpractice premiums which the CMPA would have had to return if he had published written reasons for judgment showing that the threat was extinguished. That is why it would have been personally "inconvenient and embarrassing" to Justice Finch - he would have been exposed as having come with prior knowledge in violation of the Judge's Code of Ethics and S.28 (1) of the federal Supreme Court Act.

JDK (Dr. John David Kuntz)