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Hurt In Car Accident: Can Defendant Force You to Be Injected With Radioactive Liquid and Undergo a Bone Scan?

Fascinating case for personal injury lawyers practicing in Ontario - can a defendant force a bone scan on your client as part of their defence medical?

In the case of, [Young v. Comay, 2013 ONSC 7552 \(CanLII\)](#) brought before Judge Broad, the defendant's medical expert suggested both a bone scan and MRI to assist with the evaluation of the plaintiff's shoulder injury complaints, specifically to determine whether there were internal structural issues with the shoulder joint.

Although the plaintiff solicitor denied this relief, the only evidence offered in reply appears to be the family doctor indicating that a MRI of the shoulder would be a the best course and a bone scan was unnecessary.

A MRI was eventually performed, so that this motion was brought on the basis that the defence expert was 'waiting' for the bone scan in order to properly / comprehensively review the plaintiff's condition.

Despite a bone scan requiring some radioactive dye being injected into the plaintiff, in order to be picked up by the bone scan, no evidence was submitted by the plaintiff that she did not want or was concerned about the negative effects of the injection or scan. Further, the medical evidence apparently did not contest the 'wish list' of tests suggested by the defence expert, either to challenge the necessity or effectiveness of the proposed bone scan. Finally, the Judge noted that the plaintiff declined to cross-examine the defence expert in advance of this motion as to the validity of the requested bone scan.



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Page | 2

This is a good reminder to counsel. While the bone scan here is an unknown as to whether it will hinder or help the plaintiff's case, given the denial of the relief sought, it's important for counsel to step back when invasive treatment is being sought and fully counter the motion evidence presented.

Gregory Chang
Toronto Personal Injury and Insurance Lawyer