

1 IN THE SUPREME COURT OF BRITISH COLUMBIA

2 (IN CHAMBERS)

3 FILE NO. SO-9359  
4 NEW WESTMINSTER REGISTRY

NEW WESTMINSTER, B.C.  
1995 MARCH 07

5 BETWEEN:

6 TOM KATINIC

7 PLAINTIFF

8 AND:

9 FRANCO BRUNO, ALFREDO  
10 GIOVANNI BRUNO, ALEXANDER G.  
11 MILLER and INSURANCE  
12 CORPORATION OF BRITISH  
13 COLUMBIA

14 DEFENDANTS

)  
) REASONS FOR JUDGMENT  
) OF  
) MASTER BOLTON  
)  
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14 R. WOODLAND

APPEARING FOR THE PLAINTIFF

15 MR. POTTS

APPEARING FOR THE DEFENDANTS

16 D. GREIG

APPEARING FOR MR. SANTO

18 FILE NO. SO-9855  
19 NEW WESTMINSTER REGISTRY

NEW WESTMINSTER, B.C.  
1995 MARCH 07

20 BETWEEN:

21 TOM KATINIC

22 PLAINTIFF

23 AND:

24 INSURANCE CORPORATION OF  
25 BRITISH COLUMBIA

26 DEFENDANT

)  
) REASONS FOR JUDGMENT  
) OF  
) MASTER BOLTON  
)  
)  
)  
)

1 FILE NO. SO-13636  
2 NEW WESTMINSTER REGISTRY

NEW WESTMINSTER, B.C.  
1995 MARCH 07

3 BETWEEN: )

4 TOM KATINIC )

5 PLAINTIFF )

6 AND: )

7 ALEXANDER THOMAS MACKENZIE )  
and IRENE CATHERINE REMEDIOS )

8 DEFENDANTS )

REASONS FOR JUDGMENT

OF

MASTER BOLTON

9  
10 FILE NO. SO-13689  
11 NEW WESTMINSTER REGISTRY

NEW WESTMINSTER, B.C.  
1995 MARCH 07

12 BETWEEN: )

13 TOM KATINIC )

14 PLAINTIFF )

15 AND: )

16 CRAIG ROSS RETTIE, BARBARA )  
JEAN RETTIE and ROGERIO )  
17 JESUS SILVEIRA )

18 DEFENDANTS )

REASONS FOR JUDGMENT

OF

MASTER BOLTON

19 FILE NO. SO-5993  
20 NEW WESTMINSTER REGISTRY

NEW WESTMINSTER, B.C.  
1995 MARCH 07

21 BETWEEN: )

22 TOM KATINIC )

23 PLAINTIFF )

24 AND: )

25 SHERY LEAH CASTLE )

26 DEFENDANTS )

REASONS FOR JUDGMENT

OF

MASTER BOLTON

1 THE COURT: (ORAL) This is an incredibly convoluted  
2 application because of the multiplicity of actions  
3 involved. I think that I have a general understanding  
4 of the nature of the problems, although I am probably  
5 going to get a few of the specifics wrong as I go  
6 through these reasons. The reasons themselves, I hope  
7 will be fairly brief.

8 The application is, first of all, for leave to  
9 withdraw an admission that was made by an adjuster not  
10 familiar with all of the underlying facts of the case.  
11 The lawyer who is acting for Mr. Katinic as a defendant  
12 is not his solicitor in this action, and I refused to  
13 allow him to speak to this matter since he is not on  
14 the record for Mr. Katinic in the action where Mr.  
15 Katinic is plaintiff.

16 The application, as I have said is therefore  
17 unopposed on the merits. It is clearly appropriate to  
18 make the order. The adjuster made an admission of  
19 liability at a time when he was not aware of the  
20 background of multiple claims which has led to the  
21 allegations of conspiracy that I will deal with in a  
22 moment.

23 I have no idea whether the conspiracy is likely to  
24 be provable or not, but as it stands, it is an  
25 allegation which would clearly affect the issue of  
26 liability and that order should be made. In whichever  
27 action it was, the Castle action, I believe, that's

1           Katinic against Castle, the defendant should have leave  
2           to withdraw the admission of liability and to file an  
3           amended statement of defence within seven days from the  
4           date of this order.

5           The other applications all centre around these  
6           allegations of conspiracy, and basically are  
7           applications for an order that all the actions be heard  
8           at the same time, and that five out of the eight of  
9           them be transferred for hearing from New Westminster to  
10          Vancouver, where the other three are already domiciled.

11          The background, as briefly as I can keep it, is  
12          that there are seven actions before the courts claiming  
13          personal injuries arising out of motor vehicle  
14          accidents. Mr. Katinic is the plaintiff in five of  
15          them, and in two others there are other sets of  
16          plaintiffs. I.C.B.C. now alleges that all of these  
17          accidents were staged and were fraudulent and part of a  
18          general conspiracy to defraud that Corporation.

19          So far as the actions involving Mr. Katinic are  
20          concerned, it seems to me that there cannot be the  
21          slightest doubt that it is imperative that these  
22          actions be heard together. Counsel for Mr. Katinic  
23          suggested that there would be no savings in time if no  
24          joinder were granted, but I respectfully disagree.

25          It seems to me that there would be a savings of  
26          approximately half of the time that would be taken if  
27          they were to be dealt with separately, because exactly

1 the same issues are going to be covered in just about  
2 exactly the same amount of detail in both contexts; the  
3 personal injury claims on the one hand and I.C.B.C.'s  
4 claim for conspiracy on the other.

5 The only possible saving would be that in the  
6 conspiracy action, there is probably not as much need  
7 to deal with damages as in the personal injury claims.  
8 Even so, the alleged damages are going to have to be  
9 dealt with to a fairly considerable degree, in the  
10 conspiracy action. So there is not the slightest  
11 doubt, as I have said, that first of all the issues are  
12 almost exactly the same, and secondly that the  
13 duplication, if they were heard separately, would be  
14 almost double the work that will be required if they  
15 are heard together. I do not have the slightest doubt  
16 on that aspect of the case, subject to what I will say  
17 later about Mr. Santo's position, who is involved in  
18 one of these actions.

19 The other applications are somewhat different, in  
20 that there the plaintiffs are not Mr. Katinic. In one  
21 of them, the plaintiffs are claiming damages in respect  
22 of the same accident in which Mr. Katinic also claims  
23 damages and which is claimed by I.C.B.C. to be part of  
24 the fraudulent conspiracy. I.C.B.C. alleges that these  
25 plaintiffs too are part of that conspiracy, which is  
26 why they are defendants in the main conspiracy action,  
27 if I can call it that.

1           On that one, it seems inevitable that the actions  
2 of these other plaintiffs must be tried at the same  
3 time as all these matters directly involving Mr.  
4 Katinic, because it would be intolerable to have  
5 different findings relating to liability for that  
6 accident. Clearly, given the circumstances, those  
7 actions must be tried at the same time because they all  
8 revolve around the same incident.

9           The other action where Mr. O'Neill is counsel for  
10 one of the plaintiffs, however, is somewhat different.  
11 This is the accident of November 8th, 1992, where the  
12 plaintiff is a Mr. Brunei (phonetic). In that one, Mr.  
13 Katinic is not alleged to have been a participant or an  
14 actor at all, but it is tied up with these other cases  
15 because Mr. Brunei is one of the plaintiffs in the  
16 other action that I have just been dealing with and  
17 that I have already said has to be consolidated. But  
18 in this one here, Mr. Brunei alone is plaintiff.

19           There is therefore no immediate connection  
20 apparent between the other actions or the other  
21 allegations and this one; the only common feature  
22 being Mr. Brunei's position as plaintiff in this case  
23 and also in one of the multiplicity of claims involving  
24 Mr. Katinic. It seems to me, therefore, that before  
25 Mr. Brunei is put to the expense of proving his claims  
26 for damages in this non-Katinic action; of being  
27 dragged through what is likely to be a very convoluted

1 and expensive trial, it will be necessary that some  
2 evidence be given by the applicant, in addition to the  
3 mere pleading of the conspiracy, before it would be  
4 appropriate to have Mr. Brunei's separate claim mixed  
5 up with the conspiracy litigation. Some facts should  
6 be before the Court, from which the Court could  
7 conclude that if the facts are accepted, there would  
8 indeed be evidence of a conspiracy relating to this  
9 November 8th accident as well.

10 So far as Mr. Santo is concerned, he is, I  
11 believe, represented by counsel on the record, but I am  
12 told that his solicitor will be getting off the record.  
13 He has not spoken to this matter directly himself, but  
14 his solicitor, whom he had spoken to briefly this  
15 morning in Chambers, very properly and professionally  
16 spoke on his behalf as a friend of the court, and I am  
17 satisfied that Mr. Santo should be given the  
18 opportunity of getting advice from a new solicitor or  
19 dealing with whatever problems relate to the  
20 relationship between himself and his present solicitor.  
21 Counsel for I.C.B.C. quite properly conceded that.

22 In the result -- now this is where it gets  
23 complicated and I am likely to get something mixed up,  
24 but the order should be that all of the New Westminster  
25 actions are to be transferred to Vancouver. That  
26 should include the action involving Mr. Santo, if that  
27 is one of them. I think it is best to have everything

1 dealt with in Vancouver together now, so all of them  
2 are going to be transferred to Vancouver.

3 There will be an order for consolidation of all  
4 eight actions except for action B936294, which is the  
5 Brunei application, and that application is adjourned  
6 pending the further application by the defendant with  
7 further evidence as I have suggested. And then the  
8 action involving Mr. Santo, that is B -- it's the same  
9 one, is it not?

10 A VOICE: He's a defendant in that action.

11 MR. GREIG: If I can assist?

12 THE COURT: Yes, please.

13 MR. GREIG: Mr. Santo is a defendant in action B936294, and  
14 he is also a defendant in the other Vancouver action,  
15 the C94 action. I think the long and short of it is  
16 that it is the same matter that needs to be adjourned.

17 THE COURT: Yes, that is right. Well, Mr. Santo is a party  
18 to the main conspiracy action already, so that is the  
19 main action or the central action into which everything  
20 else is being consolidated. The one where Mr. Santo  
21 is involved as plaintiff turns out to be the same one  
22 that I have already dealt with by considering Mr.  
23 Brunei's separate claim. That is the case of I have  
24 not ordered be consolidated yet, so I do not really  
25 think I need to say anything further.

26 That application is being adjourned for the  
27 provision of further evidence. If it is renewed,



1 notice will have to be given to Mr. Santo at the  
2 current address for delivery, and in the meantime, Mr.  
3 Santo can consider his position and whether or not he  
4 should or can get new counsel.

5 A VOICE: In the circumstances, Your Honour, I am assuming  
6 costs as against Mr. Katinic in the Vancouver action.  
7 The opposition, with great respect, my learned friend  
8 was ill advised.

9 THE COURT: No, this is too complicated to be ordering costs  
10 now. This is almost like a matrimonial matter. It is  
11 too complicated to be making interlocutory orders for  
12 costs right now. The costs of this application will be  
13 costs in the cause. Whoever wins at the end of the day  
14 should have the costs of this interlocutory thrashing  
15 around. Nothing further, counsel?

16 A VOICE: No, thank you.

17 THE COURT: Thank you.  
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