

CC 09/18

Date: 20090310
Docket: 09/18
Citation: 2009 NLCA 20

**IN THE SUPREME COURT OF NEWFOUNDLAND AND LABRADOR
COURT OF APPEAL**

BETWEEN:

POH GIN SZETO

INTENDED APPELLANT
(FIRST PLAINTIFF)

AND:

CHRISTOPHER SZETO

INTENDED APPELLANT
(SECOND PLAINTIFF)

AND:

WINNIFRED FIELD

INTENDED RESPONDENT
(THIRD DEFENDANT)

Coram: Welsh, J.A.

Court Appealed From: Supreme Court of Newfoundland & Labrador,
Trial Division 200701T1603

Application Heard: March 10, 2009

Decision Rendered: March 10, 2009

Memorandum of Disposition Filed: March 13, 2009

Counsel for the Intended Appellants: Chesley F. Crosbie, Q.C.

Counsel for the Defendant: No appearance

FILED MAR 13 2009

Welsh, J.A.:

MEMORANDUM OF DISPOSITION

[1] Poh Gin and Christopher Szeto (the “Szetos”) applied for leave to appeal an interlocutory order of a Trial Division judge involving disclosure of confidential medical information. The respondent, Winnifred Field, was not present and was not represented by counsel. Neither was any response to the application filed by Ms. Field. Counsel for the Szetos advised that Ms. Field had been properly served with the application.

[2] At the hearing, I granted the application for leave to appeal. In reaching that conclusion, I relied on the following.

[3] Counsel for the Szetos provided comprehensive submissions in support of the application. The issue for which leave to appeal was sought relates to an order by the Trial Division judge requiring the Szetos to answer certain interrogatories. The information relates to pre-accident medical records. The Szetos are objecting to disclosure on the basis that it has not been demonstrated that the information is relevant in assessing their claim.

[4] The test to be applied in determining whether leave should be granted to appeal an interlocutory order is set out in rule 57.02(4) of the **Rules of the Supreme Court, 1986**. It is clear from the nature of the issue that an appeal of the issue following final judgment would be of no practical effect. As well, the issue of confidentiality and disclosure of medical records goes to the heart of privacy concerns, and, for that reason, engages aspects of the broader interests of justice. Further, the issue may well arise in other cases, and hearing the appeal may provide useful guidance as to the law to be applied in the future. These factors provided a sufficient basis on which leave to appeal was granted in the circumstances of this case.



B. G. Welsh, J.A.