



FINALIZATION AND DISTRIBUTION OF ORAL TRANSCRIPTION REQUEST

*[Submission of this Form to the Registry: Not to be
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PART III - The Court:

[To be completed by The Court only]

Adrienne G. Atherton, Staff Lawyer
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Contact Person: Rumelda Trudeau

Facsimile Transmittal

To: Adrienne Atherton **Fax:** 604-683-6244

From: The Law Courts **Date:** June 23, 2011

8 pages

Urgent **Will Follow by Regular Mail** **For Review**

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Message to the Ordering Party(ies):

Re: Carter v. Bains [NW S078068] Oral Jan. 19/10

With respect to the above-noted matter, please find attached a copy of the official oral transcription document you ordered through McEachern & Associates Ltd. (the "Transcription Company"), as requested.

This document was prepared and finalized using the information you provided in PART II of the attached request form. *[You should have received an electronic copy of this form from the Transcription Company when you initiated your oral transcription request, instructing you to complete PARTS I B and II, as required by the Court.]*



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If an amendment to the information set out in PART II (page 1 of the oral document) is required, please complete PART IV of this form electronically and resubmit it to the Transcription Company at their e-mail address noted in PART I. The Transcription Company will then forward your request to the Court and a Corrigendum will be prepared and issued in due course. *[Please contact the Transcription Company to obtain a copy of the original electronic request form for this purpose if for some reason you no longer have it.]*

We trust you find the attachments are in order.



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REQUEST FOR ISSUANCE OF CORRIGENDUM

*[Note: Previously completed Parts I and II of this form must be re-submitted with this request by
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Press F11 Key to navigate forward through this FormCopy contents of PART II and Paste them here
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Ordering Party Notations: *[For Ordering Party use only]*



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PART I - Transcription Company/Ordering Party:

[Note to Transcription Company: Once Parts I and II are complete, electronically submit this entire form to the applicable British Columbia Supreme Court Registry, along with the transcribed document for finalization and distribution.]

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June 1, 2011
McEachern & Associates Ltd.
#2390 Kensington Avenue
Burnaby, B.C. V5B 4E2
Phone Number: 604-299-3595
Fax Number: 604-299-3545
E-Mail Address: mceachern@shawcable.com;
melanie.mceachern@shawcable.com
Contact Person: Krystiana or Melanie

B. Ordering Party(ies)

[To be completed by the Ordering Party(ies) only]
Press F11 Key to navigate forward through this Form - Press DELETE to remove this prompt.

Adrienne G. Atherton, Staff Lawyer
Municipal Insurance Association of B.C.
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V6B 2W9
Phone Number: 604-683-6266
Fax Number: 604-683-6244
Contact Person: Rumelda Trudeau

Required for appeal or

imminent court purposes: Yes

[If yes, priority will be confirmed by the presiding Justice and your request will be processed accordingly.]

Transcriber Notations:

Ordering Party Notations:

File No. 2006-121

[Note: All information must be provided. The Ordering Party(ies), only, will receive a copy of the finalized document by regular mail, along with a "hard copy" of this completed form. When a request is confirmed as urgent, the document will be faxed to the Ordering Party(ies) first, and followed by regular mail. Registry pick up is not available.]

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PART II - Ordering Party: *[To be completed by the Ordering Party only]*

[Note to Ordering Party: The details provided in this Part will be used to prepare and finalize the oral transcription you requested for distribution and, in some cases, publication. Accordingly, these details should be taken from an originating document to ensure correctness. Justices do not have access to reliable data when finalizing oral requests. If an error in this Part is discovered after distribution, please complete PART IV of this form (Request for Issuance of Corrigendum) and submit it by e-mail to the Transcription Company noted in PART I.]

Date: 20100119

Docket: S078068

Registry: New Westminster

Between:

**Dawn Marie Cassandra Carter by her Guardian Ad Litem,
Jean Mary Agnes Carter**

Plaintiff

And:

**Sukhvir Singh Bains, Raminder Kaur Bains
and the Corporation of the City of New Westminster**

Defendants

Before: The Honourable Mr. Justice Williams

Oral Reasons for Judgment

In Chambers
January 19, 2010

Counsel for the Plaintiff:

No Appearance

Counsel for the Defendant City of New Westminster:

A. Atherton

Place of Hearing:

New Westminster, B.C.

Ordering Party Notations: *[For Ordering Party use only]*

COPY

IN THE SUPREME COURT OF BRITISH COLUMBIA

Date: 20100119
Docket: S078068
Registry: New Westminster

Between:

**Dawn Marie Cassandra Carter by her Guardian Ad Litem,
Jean Mary Agnes Carter**

Plaintiff

And

**Sukhvir Singh Bains, Raminder Kaur Bains and
The Corporation of the City of New Westminster**

Defendants

Before: The Honourable Mr. Justice Williams

Oral Reasons for Judgment

No appearance for the Plaintiff:

Counsel for the Defendant
City of New Westminster:

A.G. Atherton

Place and Date of Hearing:

New Westminster, B.C.
January 19, 2010

Place and Date of Judgment:

New Westminster, B.C.
January 19, 2010

[1] THE COURT: This is a matter that comes before me on a Rule 18A application. The defendant Corporation of the City of New Westminster seeks to have the action of the plaintiff, Ms. Carter, dismissed and, as well, seeks costs pursuant to Rule 57. Notice of the application was provided to the plaintiff. I am satisfied that the plaintiff was appropriately served and has notice of today's proceeding. The plaintiff has been paged; there has been no response to the page.

[2] I have heard the submissions of counsel for the defendant, City of New Westminster, and reviewed the evidence filed in support of those submissions. The action against the City alleges a number of propositions with respect to a dog being kept by a party named Bains on that party's own property which is adjacent to a green space owned and maintained by the defendant City.

[3] The incident giving rise to the claim is a complaint by the plaintiff that in 2002 she was in the green space adjacent to Bains property. The Bains dog, which was chained or otherwise tethered in the Bains backyard, was able to get under a fence separating the Bains property from the green space and get outside the fence, albeit continuing to be restrained by the chain or tether. The dog evidently bit Ms. Carter.

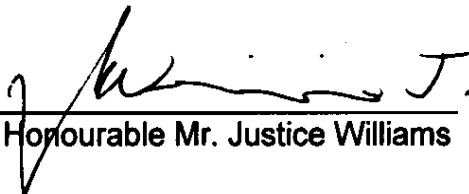
[4] She has alleged that the City had prior knowledge of the dog's vicious nature and allowed the dog to be retained, or alternatively that the City did not ensure that the dog was properly restrained, muzzled or kept in accordance with the bylaws. She alleges that the City permitted the dog to enter the green space and pose a hazard; she alleges that the City failed to ensure that the Bainses repaired their fence. She alleges that the City failed to require that the Bainses ensure the dog did not escape; finally there is an allegation by the plaintiff that the City failed to require the Bainses to post signs or notices warning of the dog's vicious nature.

[5] On the evidence before me, I am satisfied that the City's knowledge of this dog was scant in that there was only one prior incident. On that occasion, an animal control officer attended and dealt with a fight between two dogs. There was no reason on the evidence for the City's Bylaw Control Officer to conclude that this dog constituted a danger to the community or that the dog was likely to get off the

property. There is nothing here to support a conclusion that the City knew of deficiencies in the fence or the manner in which the dog was kept.

[6] Accordingly, on the evidence, it is my conclusion that the allegations of the plaintiff that the City was in breach of its duty as the occupier of the green space and negligent thereby causing her injury or loss have not been made out. In the circumstances, I find that the action should be dismissed and I so order.

[7] The applicant defendant, City of New Westminster, in these circumstances, is entitled to its costs and I order the City may recover its costs. I would, if I could, say something. I would recommend that this might be a situation where the City would give some serious consideration as to whether or not pursuit of those costs is something that could be discretionarily ignored, but obviously that is for the City's exercise of its own judgment.



The Honourable Mr. Justice Williams