



October 31, 2022

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Dear Parties,

**Re: Glynnis Kirchmeier and Glynnis Kirchmeier obo others v. University of British Columbia (Case Number: CS-001093 / 14965);
DECISIONS ON APPLICATIONS ADDRESSED AT CASE CONFERENCE**

Thanks for speaking with me on October 28 by conference call. Clea Parfitt and Eileen Myrdahl attended the call for the Complainants; and Jennifer Devins attended for the Respondent. The purpose of the call was to address: the Respondent's application to adjourn the hearing; the Complainants' applications for a time extension to file an expert summary; and the Complainants' application for further disclosure. I will address each of these applications in turn. Any new deadlines are underlined.

Respondent's Application to Adjourn the Hearing

For reasons that follow, I am denying the Respondent's application to adjourn the hearing.

The Respondent seeks to adjourn the hearing based primarily on the Complainants' lack of disclosure related to remedy. In particular, the Complainants have not yet filed a Form 9.5, set out a quantum of the monetary damages they are seeking, or provided related disclosure. The Respondent says that this lack of disclosure has precluded it from making a reasonable settlement offer and filing an application to dismiss the complaint in the event that a reasonable settlement offer was rejected.

The Complainants oppose the adjournment application. They say that the substance of the case is about UBC's policies rather than monetary remedies, and that it is highly unlikely that UBC would ever make a reasonable settlement offer on the substance of the complaint.

Ms. Parfitt indicated that she is working on providing Ms. Devins with further "injury to dignity particulars" this week. She also says that particularizing the monetary damages is

challenging in the context of a class complaint and given the nature of the complaint. The Complainants further understand that it will be their burden to prove any of the remedies they seek at the hearing, and to promptly provide related disclosure as it arises.

I would add that the Respondent is entitled to some notice of the remedies sought and related disclosure so that it can properly prepare for cross-examination and its responsive evidence. The deadlines set out in the Rules or by the Tribunal are not simply technical requirements. They exist to facilitate a just and timely process. That said, I am not persuaded that, at this stage, that any lack of particulars or disclosure related to monetary remedies warrants an adjournment of the hearing for two reasons.

First, I am not confident that further particulars and disclosure related to monetary remedies has precluded the Respondent from making a reasonable settlement offer to the Complainants. While such information may have been helpful to the Respondent, I am not persuaded that the Respondent has been / is prevented from making a reasonable settlement offer in the absence of that information.

Second, I am persuaded that adjourning the hearing will result in undue prejudice to the Complainants. Ms. Parfitt says that the Representative Complainant, Glynnis Kirchmeier, now lives in another country, and has had to make arrangements to be off work and to travel for the hearing. Ms. Parfitt's calendar will also make it difficult to change the hearing dates.

On balance, the just and timely resolution of the complaint is facilitated by the complaint proceeding on the hearing dates scheduled. As a result, we will proceed to a pre-hearing conference [PHC] call on Thursday, November 10 at 11am.

Complainants' Application to Extend Time-Limit for Expert Summary

The Complainants seek a time extension to file an expert summary for Dr. Laura Brown. The expert summary (or any expert report) was due on October 18, 2022, and the Complainants seek to file the expert summary by November 1, 2022.

The time-extension sought is short, and I can grant it without it creating undue prejudice to the Respondent. Therefore, I grant the time-extension. Accordingly, the Respondent's deadline to file a responsive expert report or summary is extended to December 1, 2022.

Complainants' Application for Disclosure

The Complainants made an application for disclosure on October 19, 2022. The Respondent notes that the Tribunal set down a deadline of October 14, 2022, for requests for making further disclosure: Member Cousineau's June 23, 2022, letter. The

Complainants say that they are not seeking new disclosure but repeating their request for disclosure sought since 2020. The Respondent could not confirm whether the disclosure sought is new or not.

I am satisfied that, based on the Complainants' application materials, the Complainants request for disclosure is not new, but a follow-up to requests made October 15, 2020, onwards. I am prepared to consider the Complainants' application for disclosure.

The Respondent should be prepared at the PHC to address the disclosure application, including any submissions about the application of Rule 20.2 and *Kirchmeier and others v. University of British Columbia* (No. 3), 2020 BCHRT 102 (CanLII), <https://canlii.ca/t/j7t7s> to the disclosure sought. I will make a decision on the application for disclosure promptly after the PHC.

Sincerely,

Amber Prince
Tribunal Member