

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: *Bahinipaty v. Vancouver Coastal Health Authority (Vancouver General Hospital)*,
2025 BCSC 1589

Date: 20250818
Docket: S175536
Registry: Vancouver

Between:

Lingaraj Bahinipaty

Plaintiff

And

Vancouver Coastal Health Authority operating as Vancouver General Hospital
Thomas J. Zwimpfer, MD, A.B. Morrison, MD,
Faisal Khosa, MD, Ismail Ali, MD, A.A. Sharma, MD,
Alex Sheppard, Charlotte Dandurand, MD, Andrew Meikel, MD
Defendants

Before: The Honourable Justice Ormiston

Reasons for Judgment on Application for Dismissal

In Chambers

The Plaintiff, appearing in person:	L. Bahinipaty
Counsel for the Defendants:	J.R. Woznesensky A.B. Catalano
Place and Dates of Hearing:	Vancouver, B.C. February 11–12, 2025
Place and Date of Judgment:	Vancouver, B.C. August 18, 2025

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Application

[1] Multiple related files were scheduled for hearing February 11 and 12, 2025, however these reasons relate solely to the application brought by the defendants on Vancouver Registry File No. S175536, seeking summary dismissal of the action against them. The plaintiff also filed an application in May 2024, seeking an order to prevent his claim proceeding as a summary trial. The plaintiff's application was adjourned with leave to be brought at the same time as the defence application for a summary trial.

[2] The notice of civil claim was filed in June 2017, and all defendants have duly responded. In September 2019, the plaintiff applied to amend the notice of claim. He clarified that his claim was not in negligence, but rather 'fraudulent malpractice.' This application to amend was dismissed. In December 2019, the plaintiff filed an amended notice of claim without consent or court order.

[3] The essence of the plaintiff's allegation is that he was deliberately, intentionally, and fraudulently misdiagnosed with terminal brain cancer by the defendant physicians during his attendance at Vancouver General Hospital ("VGH") from January 23 to February 12, 2016. The plaintiff asserts that he was subject to a craniotomy when he should have been treated for a stroke, and that a series of professionals including the defendants, conspired and colluded to allow the unnecessary surgery to occur for the sole financial benefit of the operating neurosurgeon, Dr. Zwimpfer. The plaintiff also alleges negligence, false imprisonment, battery, intentional infliction of nervous shock, elder and ethnic discrimination and harassment. The plaintiff originally sought damages as well as an order terminating Dr. Zwimpfer from his employment. However, this was revised in a further notice of claim filed in October 2023, wherein he has limited the relief sought to damages, totalling \$1 million from each defendant.

[4] The claim against the defendant hospital has been dismissed: See *Bahinipaty v. Vancouver Coastal Health Authority (Vancouver General Hospital)*, 2019 BCSC 2112. A trial for the remaining defendants is scheduled for 25 days in January 2026.

Factual Basis

[5] The plaintiff, Mr. Bahinipaty, is self-represented in this action; however, he is not a typical lay-litigant. Mr. Bahinipaty is a former doctor and lawyer. His antecedents include practicing medical malpractice law in the United States for a time, and he submits that he was also an educator for medical students. He has made passionate detailed submissions to this Court to explain the medical basis for his claim, the full extent of which develops from the core assertion that the proper course of treatment for the plaintiff's stroke should never have included a craniotomy, and that the plaintiff's condition could not have been mistaken for a brain tumour by diligent professionals.

[6] The plaintiff was 74 years old when he attended at VGH for care in 2016. It is not in dispute that Dr. Zwimpfer performed the surgery in question. All of the defendant doctors attended in various ways to the plaintiff's care, including radiologists Dr. Khosa and Dr. Ali, who were involved in assessing diagnostic tests performed before the surgery, as well as Dr. Meikel, the anesthesiologist for the surgery.

Issues

[7] The issues include the following:

1. Is this an application that can be decided on summary trial?
2. If so, has the plaintiff established civil fraud?
3. Even if this standard has not been met, did the defendants breach their standard of care to the plaintiff in other ways?

Analysis

Can the matter be decided on a summary trial?

[8] Rule 9-7(15) of the *Supreme Court Civil Rules* B.C. Reg. 168/2009 [*Rules*], allows this Court to grant judgment on a summary trial application unless the issues are not suitable for disposition, or the application will not assist the efficient

resolution of the proceedings. The onus lies on the plaintiff to establish the case should not be decided summarily.

[9] Mr. Bahinipaty submits there are several reasons why this matter is unsuitable for a summary trial, and they centre around the factual complexity of his claim. He is accurate in saying that this action involves multiple parties. The subject matter relates to medical decision making in a hospital setting, which the plaintiff submits will require significant exhibits and witnesses in order to explain. There is already voluminous material before the court, much of which relates to the plaintiff describing alleged flaws in the defendants' professional conduct. Stemming from this factual complexity, the plaintiff ultimately maintains this Court will be unable to find the facts necessary to resolve the issues engaged by the claim based on affidavits alone.

[10] Moreover, the plaintiff has alleged civil fraud in his amended claim, asserting that the defendants have deliberately spun a web of deceit that allowed the plaintiff to be subject to a craniotomy when all professionals involved knew that such an intervention was not medically required. Complex conspiracy claims have been recognized as unsuitable for disposition under R. 9-7, particularly where issues of concealed conduct depend on assessments of credibility and reliability (*Tsai v. Li*, 2018 BCSC 582 at para. 15). As such, the plaintiff relies on *Castellan v. Muncey (Estate)*, 2004 BCCA 128, in submitting that a full assessment of credibility and reliability for each party will be crucial to the Court's analysis and will require probing through cross examination.

[11] The law relied on by the plaintiff is sound, however its application to the specific circumstances of this litigation is uneasy. First, when it comes to the claims of conspiracy and deliberate fraudulent misconduct by the defendants, I must find that the evidence presented is limited to bare assertions and unfounded conclusions drawn by the plaintiff. For reasons that will be detailed below, I find there is a troubling irrationality to the assertions themselves that makes the lack of any supportive evidence even more fatal to the claim. Most of the parties involved

depose that they have no memory of treating the plaintiff, and rely entirely on their clinical notes. While often times claims of conspiracy and fraud do necessitate the kind of credibility assessment that render a summary trial unsuitable, this is not one of those cases.

[12] The second aspect of this case that might otherwise necessitate a full trial relates to the way the claim impugns the medical decisions made by the defendants, whether it relates to informed consent, negligence or civil fraud. The dispute in the evidence about the plaintiff's initial diagnosis and subsequent treatment at the hospital has generated most of the voluminous material advanced by the plaintiff. This is the foundation on which the claims of conspiracy and fraud are built. In other words, the plaintiff asserts that it is so obvious and rudimentary that the defendants' medical decision making was wrong, that conspiracy and fraud are the only ways to make sense of the conduct of the parties.

[13] A 'battle of the experts' may not favour a summary trial, particularly if there is a 'head on conflict' in the factual underpinnings for those opinions. However, in the case at bar, there are threshold issues of admissibility related to all of the medical evidence relied upon by the plaintiff. These issues are more suitable to a proceeding under R. 9-7. In *Bell v. Levy*, 2011 BCCA 417 at paras. 86–87, the Court recognizes that where one party asserts an absence of evidence on a key ingredient of the claim and the judge on summary trial agrees, the issue may well be amenable to adjudication in this manner, despite the opposing party voicing its disagreement as to the meaning or significance of the presence or absence of such evidence. In such instances, it may not properly be said that there is clear conflict in the evidence going to a core issue.

[14] In this case, Mr. Bahinipaty asserts negligence and 'fraudulent malpractice' on the basis of his own prolific evidence about his initial diagnosis and the decision to perform the craniotomy. He draws conclusions and seeks to present opinions to the court based on his own experience as a physician. He has also furnished the

court with a variety of resource material intended to either corroborate or explain the basis for his opinion.

[15] Suffice it to say that the medical opinions offered by Mr. Bahinipaty would only be admissible as expert evidence. These concepts and conclusions lie outside of the realm of this Court's experience, and would require opinions to be given by qualified professionals. The defendants object to this evidence on the basis that Mr. Bahinipaty's research is hearsay and cannot stand alone for the truth of its contents. With respect to Mr. Bahinipaty's explanations of this material, the defence says its admission would violate R. 11-2(1), which states:

In giving an opinion to the court, an expert appointed under this Part by one or more parties or by the court has a duty to assist the court and is not to be an advocate for any party.

[16] This is the kind of issue that can be decided on a summary trial.

[17] Finally, Mr. Bahinipaty suggests that the requirement to obtain his informed consent for the craniotomy was not satisfied by the defendants, in particular Dr. Zwimpfer. Any such assertion is contradicted by evidence that both the plaintiff and his son (also a medical doctor) executed a consent form in relation to the operation. I am satisfied that this is not the kind of direct conflict in the evidence on a material issue that would make a summary trial unsuitable.

[18] There is reliable evidence that Mr. Bahinipaty signed a formal consent. The plaintiff does not deny this fact. At times in his materials, Mr. Bahinipaty agrees that Dr. Zwimpfer convinced him to agree to the surgery. The plaintiff's complaint about consent stems from his assertion that Dr. Zwimpfer was deliberately misleading him about the diagnosis and the necessity of a craniotomy. The assessment of the evidence required by this Court is once again more in the nature of deciding whether there is an absence of evidence about fraud and deceit by the defendants, as opposed to resolving a true contest of credibility on a key issue that is best resolved in a full trial. In this case, having considered both the nature of the issue to be

decided and the role it plays in the overall claim, I am satisfied that this is an issue capable of being resolved on a summary basis.

[19] Mr. Bahinipaty makes additional arguments relevant to whether allowing a summary trial would frustrate an efficient resolution of the claim. Specifically, he points to the volume of material and extent of the issues which he submits will take considerable time to litigate. However, for the reasons I have explained above, the apparent complexity in this is a case is such that a summary proceeding would be a far more suitable approach to the litigation. I have also considered that the scheduled trial dates are coming up early next year, however the balance of interest weighs heavily in favour of these issues being resolved in the context of a summary trial, which is a proportionate way to resolve these claims as opposed to the 25 days of trial time that have been scheduled.

[20] In conclusion, the decision whether to proceed with a summary trial is discretionary. Having reviewed the extensive evidence Mr. Bahinipaty has marshalled and having considered the submissions made, I am satisfied that it is appropriate and just to proceed in this fashion. There are compelling reasons to sever the issue of liability from damages, including the time and expense saved by a summary trial. Liability can be determined summarily if there is sufficient evidence for the judge to make the required determinations, and where doing so accords with the fundamental principle that claims are to be resolved in a proportionate, fair and just manner: *Kemp v. Vancouver Coastal Health Authority Ltd.*, 2017 BCCA 229 at paras. 23–28.

[21] In my view, this objective will be best achieved by a summary trial. To the extent that the court will be called upon to assess the credibility and reliability of the evidence relevant to factual disputes, it is important to consider that such issues can be determined not based on the evidence that has been presented, but rather the absence of evidence capable of advancing the plaintiff's case. The plaintiff has not obtained or sought out any independent expert evidence to support his claim about the negligent or fraudulent conduct of the defendants. This kind of alleged deficiency

in the evidence in medical malpractice claims has been held to be suitable for summary trial. See *Mikhail v. Northern Health Authority (Prince George Regional Hospital)*, 2010 BCSC 1817 [*Mikhail*] at paras. 98–101.

[22] Mr. Bahinipaty has notified opposing counsel that he does not intend to obtain such evidence. He has a degree of expertise in both medicine and the law, and so is uniquely positioned as a self-represented litigant in this action. This claim has been extant since 2017. This action has stressed court resources, the defendants, and expert witnesses. There have been lengthy delays in pursuing the action, although at times this was apparently due to the plaintiff's ill health. Nevertheless, the plaintiff was first served with notice of the present application to dismiss and the defendants' expert reports in 2019. At this point in the proceedings, it is entirely fair to say that the plaintiff must come prepared to prove his case, and the gaps in the evidence are critical to the viability of the claim: *Gichuru v. Pallai*, 2013 BCCA 60 at paras. 30, 32 and 35.

Merits of the claim

[23] At the heart of the plaintiff's case is Mr. Bahinipaty's earnestly held belief that he has been the victim of fraud and deceit. In order to establish civil fraud, the plaintiff must prove the defendants made false representations or acted with wicked indifference, knowing their actions to be false, and thereby causing injury to the plaintiff: *Bruno Appliance and Furniture, Inc. v. Hryniak*, 2014 SCC 8 at paras. 18–21.

[24] If Mr. Bahinipaty's allegations were accepted as true, this standard may well be met. The plaintiff says he was specifically targeted to be a victim because of his race and age and general vulnerability. In the plaintiff's words, Dr. Zwimpfer is the 'conspirator in chief' who was assisted by all complicit parties in ensuring that the plaintiff was brought to his hospital for an unnecessary surgery that would financially benefit Dr. Zwimpfer. The extent of the conspiracy alleged begins with the plaintiff's first contact with a medical professional when he called 911. Mr. Bahinipaty submits that the attending paramedic essentially hand-picked him for the unnecessary

craniotomy because he appeared vulnerable. Once at the hospital, Mr. Bahinipaty says that the attending physicians, including the Emergency Room doctor and radiologists, intentionally ignored the obvious diagnosis of a stroke and ensured that the proper diagnostic tests were not performed. Mr. Bahinipaty says such tests would have revealed that surgical interventions were not required, because they would show his compromised condition was caused by a stroke and not a tumour. This culminated in Dr. Zwimpfer conducting the craniotomy in order to collect \$15,000. The plaintiff at times also suggests that the fraud was irrationally perpetrated since Dr. Zwimpfer is 'a schizophrenic, a lunatic and a psychopath.'

[25] There is no basis in the evidence for such serious and scandalous allegations. This is a claim that ought to be dismissed summarily for lack of evidence. As the Court in *Cotter v. Point Grey Golf and Country Club*, 2016 BCCA 260 finds, allegations of fraud may be suitable for summary dismissal where the allegations are not supported by the evidence (at para. 56). The voluminous evidence that has been tendered by the plaintiff is for the most part intended to show that the medical decision making was not just negligent, but rather wrong and malicious. I will address the negligence aspect of the claim in due course, however, even if negligence were established, there is nothing in the evidence presented that is capable of moving the claim into the realm of deceit and fraud. In other words, even if the medical opinions espoused by the plaintiff were accepted, there is no basis for the court to infer that these facts rationally support a finding that a team of medical professionals conspired together to subject a man to unnecessary surgery for financial gain.

[26] For example, the starting point for the 'collusion, conspiracy and concoction' between the defendants is alleged to be the fact that the paramedics transported the plaintiff to a hospital that was not the closest one to his home. This is not a reasonable basis on which to find that Mr. Bahinipaty must have been selected as a candidate for a fraudulent surgery. Similarly, the failure to conduct an MRI before the craniotomy does not support the inference that multiple professionals conspired in a misdiagnosis. The plaintiff's theory is held together by his assertion that such deceit

and fraud is the only way to make sense of the obviously wrong medical decisions that were made. However, the independent expert reports tendered by the defendants describe the medical decision making in issue to have been reasonable and acceptable.

[27] Moreover, any conspiratorial inference the plaintiff invites the court to make crumbles under the weight of the uncontradicted evidence that Dr. Zwimpfer does not get paid 'per surgery.' Rather, he was provided the same lump sum income every two weeks regardless of what operations or consultations he performed. There is no reason for this Court to reject Dr. Zwimpfer's evidence that he would not have benefitted in any way from performing surgery on the plaintiff. While Mr. Bahinipaty also suggests that this conspiracy may have been a vector of the neurosurgeon's own mental illness, the plaintiff's assessment of how the defendants' conduct meets the criteria under the DSM-5 Manual is itself premised on unsubstantiated fact and conjecture.

[28] On the basis of the evidence presented here, the plaintiff cannot discharge the burden to prove fraud or deceit. Several of the other unmeritorious claims are dependent on the court finding that the defendants acted with the wicked intentions alleged, such as the claims of false imprisonment or intentional infliction of mental suffering. These must also fail.

Has a Breach in a Standard of Care been Established?

[29] Although the plaintiff has identified his primary claim as 'fraudulent malpractice,' he has also pled negligence. As I have intimated, the claim regarding negligence is tightly tied to the allegations of fraud and deceit. In submissions, the plaintiff emphasized that the conduct of the defendants went beyond negligence; rather, they were so plainly wrong that Mr. Bahinipaty submits the only logical conclusion is that the defendants must have acted with intention and malice when they misdiagnosed him. Not only does the evidence marshalled by the plaintiff fail to approach the high standard required to establish such a fraud, it is incapable of meeting the lower threshold of negligence.

[30] The only evidence supporting claims of negligence comes from the plaintiff's extensive research into why his stroke should have been identified before the craniotomy. This body of evidence is not an independent expert report, and would be inadmissible at trial pursuant to R. 11-2(1). The onus in this claim rests on the plaintiff to prove the defendants failed to meet a standard of care, and this can only be achieved with admissible and unbiased expert evidence. This is because when a medical professional acts in accordance with recognized and acceptable practices of their profession, they will not be found to be negligent. In the case of a specialist, the doctor's behaviour must be assessed in light of the conduct of other ordinary specialists, who possess a reasonable level of knowledge, competence and skill expected of professionals in Canada in that field. In the absence of such evidence, the plaintiff cannot establish negligence: *Mikhail* at paras. 94–96.

[31] I have considered that R. 9-7(5)(e) allows a party to tender evidence that includes the opinion of an expert if the report conforms with R. 11-6(1), or the court orders that the report is admissible even if it is non-compliant with this section. This accords with the discretionary power of the court to hear a summary trial. I am mindful that R. 11-2 is not expressly referenced in R. 9-7, and that R. 11-1 says that the rules regarding experts do not apply to summary trials, "except as provided in that rule." However, R. 11-6 is invoked by R. 9-7. 11-6(1) requires an expert's report to 'include the certification required under R. 11-2(2).' This certification in turn requires an expert to make their report in conformity with their duty under R. 11-2(1) not to advocate for any party. The materials provided by Mr. Bahinipaty are entirely intended to advocate for his claim, and cannot comply with this rule.

[32] Mr. Bahinipaty has been aware of this deficiency in his evidence since at least October 2023, when he was notified by defendants' counsel of the issue. I can find no reason to exercise my discretion to allow the evidence to be admitted on a summary trial, when it would inevitably be found inadmissible by operation of R. 11-2 at trial. I am mindful that Mr. Bahinipaty's evidence mixes his own personal observations with opinions. Where the plaintiff does seek to rely on his own medical opinions, it is important to recognize the court's gate-keeping function

when it comes to expert evidence. There is no obligation to admit opinion evidence if it cannot be demonstrated to be impartial: *White Burgess Langille Inman v. Abbott and Haliburton Co.*, 2015 SCC 23 at paras. 10, 34. I cannot find the proposed opinion evidence presented by Mr. Bahinipaty to be impartial. There are additional threshold issues to consider as well, including the fact that Mr. Bahinipaty seeks to opine on a range of medical decisions including neurosurgery, radiology and anesthesiology. Despite his own medical training and experience, there is no basis to find the plaintiff would be qualified to give opinions about the standards of care in these specialized practices.

[33] I have listened to the plaintiff's submissions about the foundation for his beliefs around the care he received at the hands of the defendants. Much of what he questions is answered by Dr. Zwimpfer's evidence and the independent expert reports produced by the defendants. While these reports are immaterial to the fact that the plaintiff has not produced admissible evidence regarding the alleged negligence, they provide the court with a strong basis not to exercise its discretion to admit Mr. Bahinipaty's expert evidence, even if it is non-compliant with the rules.

[34] In some very limited instances a plaintiff may not need to lead expert evidence to be successful in a negligence claim, in this case the expert reports relied on by the defendants specifically address the central concerns raised by the plaintiff and make proper expert evidence essential to prove his case. The admissible evidence before me supports the finding that the diagnostic tests Mr. Bahinipaty says should have been done would not have offered a definitive diagnosis in time to mitigate the kind of risks that arise when a brain tumour is a reasonable concern.

[35] Moreover, Mr. Bahinipaty's evidence fails to address the evidence of Dr. Zwimpfer who explained in his letter to the plaintiff that "Even if the Neuropathologist had concluded, intraoperatively, that this was a cerebellar stroke, it would have been appropriate and necessary to remove all obvious hemorrhagic and necrotic tissue to relieve the mass effect and decrease the risk of secondary post-operative swelling, especially given this lesion with causing increased pressure on

the adjacent important brain structures.” Dr. Zwimpfer provided the plaintiff with responsive explanations for the treatment he delivered. The independent expert report by Dr. Goplen is in agreement with the plaintiff’s clinical and radiological presentation being consistent with a tumour rather than a stroke. While the defendants’ position now is that Mr. Bahinipaty did indeed suffer a stroke and not a cancerous brain tumour, courts do not judge the decision making of medical professionals with the benefit of hindsight. The legal inquiry relates to whether the decision making was reasonable given what was known at the relevant time: *Mikhail* at paras. 94–96.

[36] The independent expert reports that have been produced by the defendants remove any foundation Mr. Bahinipaty seeks to rely on in alleging collusion, negligence or fraud. First, the plaintiff founds his case against several of the defendants on the assertion that they had a duty to intervene to correct the decision making of Dr. Zwimpfer. The defendants’ expert reports clarify the extent to which various medical professionals must defer to the operating physician. For example, residents and students, the ER doctor, radiologists and anesthesiologists were not qualified to make decisions about whether or not the surgery should proceed. Secondly, the plaintiff argues that it would have been obvious to any and all of the defendants that the surgery was unnecessary. This allegation is also undermined by the strength of evidence describing the medical decision making in this case as consistent with the standard of care required of each of these professionals.

Other Claims

[37] In the absence of a viable claim for civil fraud, or negligence, the remaining causes of action must also fail. This includes the claim in battery. In order to succeed, the plaintiff must prove that the material risks of the surgery were not disclosed to him; that a reasonable person in his position would not have proceeded with the surgery if he had been advised of those risks; and that the risk that was not disclosed materialized and caused the injuries from which he currently suffers: *Arndt v. Smith*, [1997] 2 S.C.R. 539 (S.C.C.) at paras. 6–7, 18.

[38] Dr. Zwimpfer deposes that Mr. Bahinipaty and his son, who is a medical doctor, were both involved in the consent discussion and that the plaintiff executed a consent form before surgery. Mr. Bahinipaty does not dispute that he signed the form, but rather says that he was misled by Dr. Zwimpfer's lies, which caused him to fear for his life and essentially coerced him to agree that the surgery was necessary to address a brain tumour. In approaching this evidence, it is important to note that Mr. Bahinipaty's concerns around the issue of consent are grounded in his firm belief that Dr. Zwimpfer was intentionally misleading him about the surgery being required. This contributes to a pattern in Mr. Bahinipaty's evidence, wherein he attributes malicious motivations to the defendants without reason. The plaintiff's assertion that he was improperly informed about the surgery depend him establishing the deceit and fraud that have been advanced without foundation. The independent expert evidence of Dr. Goplen provides a basis to find there were sound reasons for the surgery, which detracts significantly from the plaintiff's allegations about why his formal consent would have been coerced.

[39] The plaintiff's allegations about the deficiencies in securing his informed consent are contradicted by reliable evidence that he executed a written consent form. Given his experience as a doctor and a lawyer, I find Mr. Bahinipaty would be especially attuned to the significance of this kind of consent. He agrees that he consented based on Dr. Zwimpfer's representations about risk, even though Mr. Bahinipaty describes seeing the images of his brain himself, and drawing the unequivocal conclusion that it represented the result of a stroke, not a brain tumour. There is inexplicably no evidence provided from Mr. Bahinipaty's son, who could contradict Dr. Zwimpfer's evidence that consent was discussed and confirmed with both the plaintiff and his son. Furthermore, Dr. Zwimpfer's affidavit satisfies me that a reasonable patient in Mr. Bahinipaty's situation would have consented to surgery given the serious risk of death or significant deterioration associated with failing to act urgently. Accordingly, claims related to battery must also be dismissed.

[40] With respect to all of the claims advanced by the plaintiff, it is also relevant that he has tendered no admissible evidence capable of establishing causation.

Finally, there is no factual basis to find that the plaintiff was harassed, or that he was subject to discrimination based on age or race. Such actions fall outside the jurisdiction of this Court in any event.

Conclusion

[41] The plaintiff has not and cannot prove the allegations made in the notice of civil claim. Proceeding to a lengthy trial is neither a just or proportionate means of resolving these legal issues. The plaintiff's application to prevent the summary trial is dismissed. The application to dismiss the claim against the defendants is granted. The plaintiff's signature on the order is dispensed with. Costs are ordinarily awarded to the successful party, which are the defendants. They have abandoned their application for lumpsum costs. If the issue of costs is contentious it can be addressed before this Court.

"Ormiston J."