Case Name:

Kalkinis (Litigation guardian of) v. Allstate Insurance Co. of Canada

Stella Kalkinis, by her Litigation Guardian Patty Stephan, Nitsa Kalkinis, Joanna Kalkinis and the said Patty Stephan personally
v.
Allstate Insurance Company of Canada

[1999] S.C.C.A. No. 253

File No.: 27309

Supreme Court of Canada

Record created: May 20, 1999.

Appeal From:

ON APPEAL FROM THE COURT OF APPEAL FOR ONTARIO

Status:

Application for leave to appeal dismissed with costs (without reasons) April 13, 2000.

Catchwords:

Procedural law -- Insurance -- Civil procedure -- Pleadings -- Whether the Court of Appeal erred in finding that the trial judge was not entitled to find liability on part of the Respondent on a basis not pleaded by the Applicants, i.e. negligence of agent -- Whether the Court of Appeal erred in not permitting the Applicants to amend pleadings to allege that basis of liability -- Whether the Court of Appeal erred in not ordering a new trial on issue of negligence of agent as insured did not rely on expertise of agent and agent knew that insured did not rely upon his skill and judgment -- Whether the Court of Appeal erred in its interpretation and application of Fletcher et al v. Manitoba Public Insurance Co. [1990] 3 S.C.R. 191.

Counsel:

Steven Bellissimo, for the motion.
Sheldon Gilbert (Gilbert, Wright & Kirby), contra.

Chronology:

1. Application for leave to appeal:

FILED: May 20, 1999. S.C.C. Bulletin, 1999, p. 935.

2. Motion to extend the time in which to serve and file the leave application referred June 11, 1999. Before: Binnie J. S.C.C. Bulletin, 1999, p. 999.
3. Application for leave to appeal:

SUBMITTED TO THE COURT: February 28, 2000. S.C.C. Bulletin, 2000, p. 388.
DISMISSED WITH COSTS: April 13, 2000 (without reasons). S.C.C. Bulletin, 2000, p. 670.
Before: Gonthier, Binnie and Arbour JJ.

The application for extension of time is granted and the application for leave to appeal is dismissed with costs.

Procedural History:

Judgment at first instance: Applicants' action allowed; Respondent ordered to pay the sum of $500,000.00 to Applicants.
Ontario Court (General Division), Lederman J., March 20, 1996.
28 O.R. (3d) 237; [1996] O.J. No. 921.

Judgment on appeal: Appeal allowed.
Ontario Court of Appeal, Finlayson, Catzman and Abella JJ.A., October 30, 1998.
41 O.R. (3d) 528; [1998] O.J. No. 4466.

ver/rpl

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Time Of Request: Monday, June 13, 2016 12:23:12