

**Canadian Human
Rights Tribunal**



**Tribunal canadien
des droits de la personne**

Citation: 2018 CHRT 29

Date: October 17, 2018

File No.: T1509/5510

Between:

Pamela Egan

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Canada Revenue Agency

Respondent

Ruling

Member: Edward P. Lustig

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I. Context

[1] This is a ruling with respect to two requests made by the Pamela Egan (Complainant) in separate correspondences dated August 24, 2018. The first request is for a six-month suspension of the proceedings. The second request is for the directions issued by the Tribunal on April 7 and 25, 2018, for subpoenas with respect to the Complainant's medical records to be amended to provide for the redaction of sensitive information that is personal to persons other than the Complainant (third parties), to ensure that irrelevant information concerning the Complainant is redacted, and to allow the Complainant's health care providers further time to make such redactions. The Complainant alleges that failing to redact such information will cause her significant negative health implications. The Complainant further asks that "...the Tribunal make a ruling on the request for a suspension of these proceedings first as, if that request is sustained, then the issue of the redaction of documentation will be postponed".

II. Background

[2] On May 21, 2003, the Complainant filed a human rights complaint against the Canada Revenue Agency (Respondent) who was her employer. Her complaint alleges that it discriminated against her by failing to accommodate her visual impairment and chronic pain contrary to sections 7 and 14 of the *Canadian Human Rights Act*, R.S.C., 1985, C. h-6 (*Act*). A brief summary of the facts in this matter can be found in *Egan v Canada (Revenue Agency)*, 2017 CHRT 33 at paragraphs 5 to 13.

[3] The hearing in this case commenced on November 6, 2017, however, to date there has only been four hearing days involving one witness called by the Complainant. The first two hearing days took place on November 6 and 7, 2017, and the last two hearing days took place on April 9 and 10, 2018. The Complainant and her spouse attended the first two hearing days but did not attend the second two hearing days.

III. Positions of the Parties and Analysis

A. Request for a 6-month suspension of the proceedings

[4] Prior to the commencement of the hearing on November 6, 2017, there were significant delays in starting the hearing due, in part, to requests by the Complainant for lengthy adjournments and extensions that were granted by me, on consent of the Respondent, based on the medical condition of the Complainant. These adjournments or extensions to adjournments included two 6-month and one nine-month terms in 2014, 2015 and 2016. In each of the adjournment requests including the current one, the Complainant has filed supporting letters from medical practitioners who have examined and treated her attesting to the negative impact on her health of participating in a hearing.

[5] In the current request, the Complainant's psychiatrist Dr. Bigelow has written a letter dated July 22, 2018, in support of a 6-month adjournment from that date, on the basis of her medical condition and further negative impacts and risks to her health of participating in a hearing at this time. Dr. Leggett, her family physician, has also written a brief letter concurring with the opinion of Dr. Bigelow respecting an adjournment.

[6] The Complainant's position is summarized in the following quotes from her August 24, 2018, correspondence:

- a) the Complainant is not medically able to participate and provide instructions in this process at least until before January 31, 2019; and
 - b) proceeding with this process in any way will adversely affect the health of the Complainant including, but not limited to potential suicide, cancer, stroke, and perhaps other illnesses. To support this request, we rely upon the medical evidence of the Complainant's psychiatrist, Dr. Gayle Bigelow, and the concurring opinion of Ms. Egan's family physician, Dr. Peter Leggett.
- [...]

A suspension of proceedings is both reasonable and necessary in light of the advice of Ms. Egan's treating physicians. In accordance with the Board's broad discretionary powers, it is consistent with the interest of justice for the Tribunal to order a stay of proceedings until at least January 31, 2019, for the following reasons:

- i. Continuing the proceedings at this time would cause irreparable harm to Ms. Egan's health and safety;
- ii. Ms. Egan is entitled to a process that is procedurally fair, which includes an accommodation of her disabilities, and;
- iii. the prejudice to the Respondent would be minimal and, consequently, the balance of convenience favours granting the suspension.

[...]

Accordingly, we request the following:

- a) That these proceedings before the Tribunal be stayed/suspended for six months;
- b) That the hearing weeks of October 1-15, October 15-19 and November 19-23, 2018 be adjourned accordingly;
- c) That no other procedural or substantive matters concerning the case be addressed during the period of the stay/suspension unless they are purely administrative in nature; and
- d) That the Tribunal proceedings resume at the six-month period assuming Ms. Egan's physicians' medical advice supports this (it is entirely possible, as has already occurred in these proceedings, that resumption might include further accommodation measures, which can be addressed at that time).

[...]

It is our respectful submission that it would be unconscionable to effectively compel Ms. Egan to participate in a proceeding where her capacity to understand the proceeding and instruct counsel is impaired and where there is an increased likelihood that she will be harmed.

[7] The Complainant also submits that while a request for a suspension is not exactly the same as a stay, as the Complainant intends to proceed with the matter at some time in the future; the principles respecting stays of proceedings are also applicable to this request. In support of this proposition the Complainant argues that the Tribunal is the master of its own procedure and has broad discretionary power to grant a stay or

suspension of proceedings pursuant to the Tribunal's mandate under subsection 48.9 of the *Act* to conduct proceedings informally and expeditiously subject to the principles of natural justice and the rules of procedure. The Complainant cites the case of *Marshall v. Cerescorp Company*, 2011 CHRT 5 that I decided. That case involved a request for an adjournment (not a stay), which I denied, pending the outcome of an application for judicial review of the decision of the Canadian Human Rights Commission (Commission) to refer the inquiry to the Tribunal.

[8] The Complainant also cites the case of *Laurent Duverger v 2553-4330 Québec Inc. (Aéropro)*, 2018 CHRT 5 [*Duverger*] which involved a motion for a stay that was not granted pending a judicial review of the referral of that case by the Commission to this Tribunal for an inquiry. In *Duverger* the Tribunal endorsed the "interest of justice" approach in considering whether to grant a stay based upon a broad, case by case, reasonable and flexible assessment of factors relevant to stay requests including but not limited to natural justice and principles of procedural fairness, irreparable harm, the balance of convenience between the parties and the public's interest in dealing with human rights complaints expeditiously.

[9] The Complainant submits that her medical circumstances and the danger to her health and safety of having to appear at the inquiry, present evidence and make representations or even consult with her counsel and provide him with instructions if she does not appear, fits within the "interest of justice" factors and approach discussed in *Duverger* so as to favour the granting of a stay (or suspension) of proceedings in this case. As noted above, the Complainant's request for a suspension includes the request that, other than purely administrative matters, no other procedural or substantive matters concerning the case can be addressed during the period of the stay/suspension. This would not be the case if an adjournment was granted for the same period of time.

[10] The Respondent consents to the current request based upon the medical evidence but in doing so repeats the same concerns that it has placed on the record in previous adjournments it has consented to, namely that the delay is prejudicial to it as witnesses and evidence, possibly relevant to its case, may become unavailable through the passage of time. As well, the Respondent takes the position that the Tribunal ought to deal with the

second request of the Respondent concerning the redaction of medical records now in order to prevent further delay. In essence, the Respondent consents to an adjournment of the matter for the medical reasons advanced by the Complainant for the term requested but not to stay or suspend the proceedings since doing so would prevent matters like the second request from being dealt with during the term of the suspension.

[11] In her Reply of September 21, 2018, to the Respondent's submissions, the Complainant states as follows:

The medical evidence indicates that any activity on this file will have a negative impact on Ms. Egan's personal wellbeing and arguably on the wellbeing of the third parties concerned. This negative impact will only be exacerbated if the Tribunal makes a decision establishing a process where persons such as the Tribunal, counsel for the complainant, counsel for the Respondent and otherwise, might review medical files with third-party information including information from the Complainant which relates to those third parties. Both the fact of that happening and the possibility of that happening would have severe negative health implications for Ms. Egan. In short, the nature of the medical evidence is that these proceedings must stop, in their entirety, in order to ensure she is not harmed further. To put this another way, rendering a decision on this issue and thereby establishing a process for dealing with the subpoenas will have a negative impact on Ms. Egan's health and wellbeing.

B. Analysis

[12] As there is agreement by both parties, based upon the medical evidence, I will allow the request for an adjournment of the case for 6 months until January 31, 2019. However, for the reasons that follow I will not suspend the proceedings.

[13] I am not convinced that it is necessary or desirable to essentially freeze all but administrative matters from occurring in this case during the term of the adjournment as requested by the Complainant. The need to expedite matters and avoid delay is an important consideration to be weighed together with the medical evidence and other relevant factors in determining the request as the jurisprudence cited above indicates. It is of utmost importance to ensure the effective use of time by both parties, as well as by the Tribunal, in a case that has only had 4 days of hearing since being referred to the Tribunal in 2012.

[14] The thrust of the evidence demonstrates that the Complainant is unable to meaningfully participate during the inquiry or instruct counsel at this time. I do not believe that the medical evidence suggests that determining the request of the Complainant for the redaction of third party information during the term of the adjournment would impact the health of the Complainant, in as much as the issues to be considered in that determination involve the privacy of the third parties and the relevance of the information that might be disclosed about the third parties. These are legal matters that can be determined without the Complainant's participation and without further delay. The Complainant would not be involved in the process for the production of the medical records either as these are in the possession of her physicians.

C. Request for the amendment of directions issued by the Tribunal on April 7 and 25, 2018, for subpoenas with respect to the Complainant's medical records to provide for the redaction of sensitive information that is personal to third parties

[15] On April 7 and 25, 2018, the Tribunal issued directions respecting the issuance of subpoenas requested by the Respondent for medical records of various medical practitioners who had examined and treated the Complainant during periods that are relevant to this case. The direction letters are attached as Appendices 1 and 2 to this Ruling and are self-explanatory.

[16] The Complainant seeks to have the said directions amended to place further limits on the production and disclosure of the medical records in dispute. She argues that many of the medical records contain personal information as between herself, and her family or friends which is not in any way relevant to the human rights complaint. The Complainant's position is summarized in the following quotes from her August 24, 2018, correspondence as follows:

- a) The personal and health-related information of third parties is speculative and not arguably relevant to the proceedings;
- b) The disclosure of the personal and health-related information of third parties would needlessly infringe upon the confidentiality and privacy interests of those third parties;
- c) The redaction of personal and health-related information related to third parties is consistent with the directions of the Tribunal issued on April 7 and 25, 2018, limiting the scope of the subpoenas for the Complainant's medical records. Indeed, the redaction of personal and health-related information related to third parties is specifically consistent with the subpoena issued by the Tribunal in respect of Dr. Walters, which entitled her to redact irrelevant personal or health-related information; and
- d) The failure to redact as requested has significant health implications for Ms. Egan.

[17] With respect to point a), the Complainant submits that the Respondent has failed to discharge its onus of demonstrating that the personal and health-related information of third parties is arguably relevant and necessary to the proceeding. Instead, the Complainant argues that the request for the information is merely a speculative, fishing expedition by the Respondent without the establishment of a nexus between the information being sought and the issues in dispute.

[18] With respect to point b), the Complainant submits that the Tribunal must weigh the privacy and confidentiality interests of third parties whose own health-related information is not in issue in this proceeding against the Respondent's right to obtain information

arguably relevant to the Complainant's health that is in issue in this proceeding. In this regard the Complainant states that, "[a]s the privacy and confidentiality of third party information has primacy over any remote link that can be drawn between this information and the principles of natural justice, it is most appropriate for such information to be redacted, at source, by the medical professionals who control the records" who also "... have ethical and legal obligations to protect patient privacy and confidentiality" and not to "...cause further harm to her (Ms. Egan's) health".

[19] With respect to point c), the Complainant submits that the personal and health-related information of third parties does not fall within the scope of the Tribunal's directions of April 7 and 25, 2018, since the directions already placed some limits on the production and disclosure of the Complainant's medical records. To be clear and consistent with the directions, including the April 25, 2018, direction to Dr. Walters, the Complainant argues that "...the Tribunal should provide additional directions to all of the Complainant's treatment providers that the sensitive personal and the health-related information of third parties should be withheld".

[20] With respect to point d), the Complainant submits that her position is not a tactical attempt to limit disclosure of evidence or complicate the process. Rather it is a legitimate attempt to avoid dire personal, physical, mental and other negative effects on the Complainant and several other third parties that would result from the production and disclosure of third party health-related information irrelevant to the proceedings.

[21] The Respondent opposes the Complainant's request and its position is set out in its correspondence of August 24, 2018, which can be summarized as follows:

1. The disclosure process in place as per the Tribunal's directions of April 7, 2018, and April 25, 2018, addresses the Complainant's concerns. The process through which access to unredacted copies of medical records will be restricted to counsel for the Complainant and the Tribunal itself strikes the appropriate balance between privacy concerns and procedural fairness;
2. Further redactions may encroach on arguably relevant information. A critical issue before the Tribunal in this case will be whether the Respondent's actions caused or aggravated several psychotraumatic conditions being claimed by the Complainant, including post-traumatic stress disorder, depression and chronic pain syndrome or whether these conditions

are attributable in whole, or in part to other sources, including from third parties. Causation is thus a highly important factor in determining liability in this case. Third party information that is arguably relevant to the claims advanced by the Complainant should be disclosed.

3. There is no legal basis for the redaction of potentially relevant third party information.

4. In the alternative the Respondent requests any amendment permitting the redaction of third party information be limited to third party names or identifiers.

[22] In addition, the Respondent's position is further elaborated on in its correspondence of September 14, 2018. The Respondent argues that the standard for disclosure of arguable relevance is not particularly high and is not whether the information is "likely" to be relevant as suggested by the Complainant. The medical evidence submitted by the Complainant in support of the suspension of the proceeding in this case confirms the arguable relevance of third party information. The Complainant cannot maintain her position that she is entitled to compensation from the Respondent for causing the psychotraumatic conditions being claimed, and yet refuse to provide appropriate medical disclosure covering possible other causes.

[23] The Respondent also contends that the process put into place by the Tribunal is fair and balanced and follows the decision of the Tribunal in the case cited by the Complainant, *Guay v Royal Canadian Mounted Police*, 2004 CHRT 34 [*Guay*]. In that case, there was a dispute concerning the scope of proposed redactions and the Respondent and the Tribunal were given access to medical records in question prior to any redactions. The Tribunal maintained a supervisory role to settle any dispute regarding confidential information.

[24] Finally, the Respondent argues that the redactions by Dr. Walters allowed by the Tribunal in its April 25, 2018, direction protected the Respondent's right to access arguably relevant documents that may shed light on causation by specifically providing that the redactions are not to include "portions of clinical notes, documents and reports that indicate what caused the need for marriage counselling". Should the Complainant's

current request be granted such protection would not be provided for the Respondent for third party information that may shed light on causation.

[25] In Replies dated September 14 and 21, 2018, the Complainant argues that :

1. The process put into place by the Tribunal does not address the privacy concerns of the third parties who have not consented to have their information disclosed to counsel for the Complainant and the Tribunal.
2. There is no reason why the Tribunal should not follow the same approach as it did in its directions for Dr. Walters. Language similar to that used in those directions could be used here.
3. The privacy concerns identified are not limited to the medical records of Dr. Bigelow and Dr. Walters even though the other medical practitioners whose records have been subpoenaed have not raised privacy concerns.
4. Dr. Bigelow's letter supporting the request for an adjournment is not evidence that third party information is arguable relevant as that letter is written in relation to the Complainant's medical status in the present or recent past. Dr. Bigelow's comments are not with respect to events in the workplace that took place years ago.

D. Analysis

[26] I am satisfied that procedural fairness requires that the Respondent be able to properly respond to the Complainant's allegations that it caused or aggravated the Complainant's psychotraumatic conditions, including post-traumatic stress disorder, depression and chronic pain syndrome and as a result is liable for damages. To the extent that there is third party information in any of the clinical notes, documents and reports concerning the Complainant that are being subpoenaed in accordance with the Tribunal's existing directions, I find that the third party information is more likely than not connected to the Complainant's health conditions, since there would not seem to be any other reason for including them in notes, documents and reports about the Complainant. Such information, which is not known to the Respondent, may attribute the causes of the psychotraumatic conditions alleged by the Complainant to parties other than the Respondent, which clearly would be arguably relevant to these proceedings.

[27] Whether the third party information is actually relevant to these proceedings is another question that the Tribunal will decide according to the procedure adopted by the Tribunal in its directions, which follows the procedure adopted in the *Guay* decision cited by both parties. In my opinion, the procedure provides the parties with proper, reasonable and fair protection for privacy concerns on the one hand and the need to be able to fairly respond to allegations on the other hand. That procedure will allow only counsel for the Complainant and the Tribunal to initially examine the unredacted documents to determine whether to propose redactions of information that is not relevant. Only then will the Respondent be given an opportunity to challenge the proposed redactions, based upon a general description of the redactions provided by the Tribunal but without actually examining the information. Ultimately, if the issue is unresolved between the parties, the Tribunal will make a ruling on whether the proposed redactions are appropriate or not based upon the relevance of the information to the proceedings. That being said, the Tribunal is agreeable to redacting the names and addresses of third parties by those medical practitioners subpoenaed who have not yet produced the notes, documents and reports subpoenaed to the Complainant's counsel and the Tribunal.

[28] Additionally, to further protect privacy interests in appropriate circumstances it is also open to the parties to seek confidentiality orders from the Tribunal of information produced and disclosed in this case.

IV. Orders

[29] For the foregoing reasons, the following orders are issued:

- a) This case is adjourned until January 31, 2019, after which a case management conference call will be held on a mutually acceptable date in February of 2019, to determine whether and when the hearing of this case can resume.
- b) No changes will be made to the current directions of the Tribunal attached hereto as Appendices 1 and 2, except that the Respondent is directed to inform Dr. Bigelow, Dr. Leggett, Dr. Walters and Sharmila Kulkarni that they are to redact from the notes, documents and reports that have been subpoenaed the names and

addresses of third parties and that the Tribunal has also ordered them to forward the notes, documents and reports subpoenaed to counsel for the Complainant and the Tribunal forthwith and not later than November 16, 2018.

Signed by

Edward P. Lustig
Tribunal Member

Ottawa, Ontario
October 17, 2018

Appendix 1



April 7, 2018

By E-Mail

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Dear Counsel:

Re: Pamela Egan v. Canada Revenue Agency
Tribunal File: T1509/5510

Member Lustig has reviewed and considered the Respondent's request of January 29, 2018, to issue subpoenas compelling the production of the following documents:

1. A subpoena requiring that Dr. Gayle Bigelow, psychiatrist, produce any and all clinical notes, documents and reports pertaining to her treatment of Pamela Egan from the date of first treatment (1992);
2. A subpoena requiring that Dr. Jeffrey Ennis, psychiatrist, produce any and all clinical notes, documents and reports pertaining to his treatment of Pamela Egan from the date of first treatment (2001);
3. A subpoena requiring that Dr. Peter Leggett, physician, produce any and all clinical notes, documents and reports pertaining to his treatment of Pamela Egan from the date of first treatment (2002);

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4. A subpoena requiring that Dr. Marianne Walters, registered psychologist, produce any and all clinical notes, documents and reports pertaining to her treatment of Pamela Egan from the date of first treatment (2011);
5. A subpoena requiring that Sharmila Kulkarni, physiotherapist, produce any and all clinical notes, documents and reports pertaining to her treatment of Pamela Egan from the date of first treatment (2009);
6. A subpoena compelling the attendance of Dr. Jeffrey Chernin and requiring that Dr. Chernin produce any and all clinical notes, documents and reports relating to Pamela Egan from the date of his first involvement in her case (2001).

Member Lustig has also reviewed and considered the subsequent correspondence from counsel for the Complainant dated February 20, 2018, and March 9, 2018, and from counsel for the Respondent dated February 28, 2018, and March 16, 2018, wherein counsel have provided their written submissions respecting the request. Member Lustig has also considered the oral submissions that were made by counsel during the Case Management Conference Call on March 20, 2018, when this matter was also discussed.

Member Lustig has determined that while granting a request of this nature is discretionary, there is no requirement in the *Canadian Human Rights Act* or in the Tribunal's Rules that a motion be brought. Moreover, it would be expeditious and efficacious to decide the matter by relying on the parties' submissions, particularly in the circumstances of this case where the parties have been afforded a fair opportunity to make submissions both orally and in writing. In this respect, Member Lustig thanks the parties for their full and ample submissions.

Further, Member Lustig is satisfied that the Respondent has satisfactorily established and particularized its need for some of the documents requested in order to fairly respond to allegations made by the Complainant in the course of the inquiry. Specifically, Member Lustig is satisfied that the following documents in the possession of the above-mentioned medical professionals are arguably relevant for the inquiry and should be produced:

Documents containing information about medical conditions that the Complainant has raised in the course of the present inquiry. Namely:

- (i) medical conditions the Complainant alleges were required to be accommodated by the Respondent, and/or,
- (ii) medical conditions that were caused or negatively impacted by the Respondent's alleged failure to adequately provide the required accommodation (collectively, the "Medical Records").

That said, Member Lustig has determined that restrictions must be made to the request to ensure that only those Medical Records that are arguably relevant are produced. Appropriate safeguards will also be applied to protect the Complainant's health and privacy.

In accordance with the foregoing, Member Lustig will allow the Respondent's request for subpoenas on the following terms:

1. A subpoena requiring that Dr. Gayle Bigelow, psychiatrist, produce any and all clinical notes, documents and reports pertaining to her treatment of Pamela Egan for **post-traumatic stress disorder, depression, and chronic pain syndrome from December 31st, 2000**. (Member Lustig has determined that December 31st, 2000, is more appropriate than the date of first treatment as it is consistent with his ruling in *Egan v Canada (Revenue Agency)*, 2017 CHRT 33 at para. 3);
2. A subpoena requiring that Dr. Jeffrey Ennis, psychiatrist, produce any and all clinical notes, documents and reports pertaining to his treatment of Pamela Egan for **post-traumatic stress disorder, depression, and chronic pain syndrome from the date of first treatment (2001)**;
3. A subpoena requiring that Dr. Peter Leggett, physician, produce any and all clinical notes, documents and reports pertaining to his treatment of Pamela Egan for **post-traumatic stress disorder, depression, and chronic pain syndrome from the date of first treatment (2002)**;
4. A subpoena requiring that Dr. Marianne Walters, registered psychologist, produce any and all clinical notes, documents and reports pertaining to her treatment of Pamela Egan for **post-traumatic stress disorder, depression, and chronic pain syndrome from the date of first treatment (2011)**;
5. A subpoena requiring that Sharmila Kulkarni, physiotherapist, produce any and all clinical notes, documents and reports pertaining to her treatment of Pamela Egan for **neck, shoulder, and elbow pain from the date of first treatment (2009)**;
6. A subpoena compelling the attendance of Dr. Jeffrey Chemin and requiring that Dr. Chemin produce any and all clinical notes, documents and reports relating to Pamela Egan from the date of his first involvement in her case (2001);
7. The Respondent will fill out the subpoena form for each medical professional using the same language used in points 1 to 6 above respectively. The subpoena forms will direct the medical professionals to forward an unredacted copy of the Medical Records to the Complainant and to Member Lustig simultaneously and to no one else.

Member Lustig believes that these restrictions also address the Complainant's concerns regarding speculation, allegations that the request amounts to a fishing expedition, and/or that the request is oppressive.

Given that the parties are in agreement that production of the Medical Records ought to occur prior to the hearing, and in light of the need to protect the Complainant's physical and mental

well-being in the production process, Member Lustig directs that the procedure for the production of the Medical Records shall be as follows:

- 1 The Complainant will be provided with an opportunity to review the Medical Records and, within 30 days of receipt of the Medical Records, will raise any objections she may have regarding the production of the Medical Records and will propose redactions if need be. The Complainant will set out in writing, to the Tribunal and the Respondent, her reasons for the objections and proposed redactions, if any. The proposed redactions will be sufficiently described to allow the Respondent to provide a meaningful response;
- 2 All Medical Records that are not the subject of any objections or proposed redactions shall be forwarded by the Tribunal to the Respondent following receipt of the Complainant's submissions;
- 3 The Respondent will have an opportunity to respond, in writing, to the Complainant's objections and/or proposed redactions, if any, within 30 days of receipt thereof;
- 4 The Complainant will have an opportunity to reply, in writing, to the Respondent's response within 7 days following receipt thereof; and
- 5 Member Lustig will inspect the Medical Records in dispute and will render a decision following the Complainant's Reply.

Should you have any questions, please do not hesitate to contact me at (613) 947-1161; by fax at (613) 995-3484 or by email at registry.office@chrt-tdp.gc.ca.
Sincerely,

Nicole Bacon
Registry Officer

Appendix 2

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Ottawa, Canada K1A 1J4

April 25, 2018

By E-Mail

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Dear Counsel:

Re: Pamela Egan v. Canada Revenue Agency
Tribunal File: T1509/5510

Member Lustig has reviewed the parties' correspondence of yesterday's date respecting the issuance of subpoenas and directs as follows:

In order to protect Ms. Egan's privacy concerning personal marital matters, Dr. Walter's subpoena shall include a direction that any document produced by her shall redact such portions that deal with what was said by Ms. Egan, her spouse or Dr. Walters during marriage counselling, except portions of clinical notes, documents and reports that indicate what caused the need for marriage counselling.

In view of the fact that the Tribunal's previous direction of April 7, 2018 was intended to insure that witnesses subpoenaed receive the Tribunal's directions with respect to the scope of the documents to be produced, Ms. Patterson shall provide the Tribunal with the draft subpoenas that she intends to issue for the Tribunal's review and approval before they are issued.

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Should you have any questions, please do not hesitate to contact me at (613) 947-1161; by fax at (613) 995-3484 or by email at registry.office@chrt-tcdp.gc.ca.

Sincerely,

Nicole Bacon
Registry Officer

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1509/5510

Style of Cause: Pamela Egan v. Canada Revenue Agency

Ruling of the Tribunal Dated: October 17, 2018

Motion dealt with in writing without appearance of parties

Written representations by:

David Yazbeck, for the Complainant

Gillian Patterson and Laura Tausky, for the Respondent