

Should a Mistrial be Declared?

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| Reported Case: | <i>Ciolti v. Galley</i> |
| Citation: | 2010 BCSC 115 |
| The Court: | In the Supreme Court of British Columbia |
| Judgment Rendered: | January 28, 2010 |
| Issue: | Was there any evidence to support the jury award of approximately \$12.5 million? Should a mistrial be declared? |
| Factual Summary: | The plaintiff was involved in four accidents, three of which were motor vehicle accidents before the jury. Liability for the motor vehicle accidents was not at issue, leaving only quantum to be decided. The jury awarded the plaintiff \$12,451,000.00 for non-pecuniary loss, loss of future income earning capacity, cost of future care, and special damages. Five percent of the award was attributed to the first accident, 55 percent to the second accident, and 40 percent to the third accident. |
| Decision: | The judge began by pointing out that it was only in limited circumstances that a trial judge could refuse a jury's verdict. Specifically, a mistrial can only be entered if there is no evidence to support the findings of the jury; or if the jury gives an answer to a question which cannot be supported in law. The judge found that it could not be said that there was no evidence to support the jury's award, but rather, the defendants were actually complaining that the jury's award was inordinately high or wholly out of proportion to the evidence. Thus, the real issue was whether or not the evidence reasonably supported the award. The judge found that it was not in his authority to reject the jury's award or to order a retrial. |