



Quiz

Medicolegal Examinations in personal injury cases

1. What Supreme Court Rule was relied upon in the *Kelly* decision?
 - a. Supreme Court Rule 34.04
 - b. Supreme Court Rule 33.04
 - c. Supreme Court Rule 49.04
 - d. Supreme Court Rule 133.04

2. What was the decision of the Court in *Kelly*?
 - a. That the defendant's request for further medicolegal assessment was unreasonable and the plaintiff's refusal to undergo same was reasonable
 - b. That the defendant's request for further medicolegal assessment was reasonable and the plaintiff's refusal to undergo same was unreasonable
 - c. That both the defendant's request for, and the plaintiff's refusal of further medicolegal assessment were both reasonable.
 - d. That both the defendant's request for, and the plaintiff's refusal of further medicolegal assessment were both unreasonable.

3. Which of the following reasons did the defendant give for why its request for further medicolegal assessment was reasonable in the circumstances?
 - a. Since the previous reports had been obtained there had been a number of significant changes to the plaintiff's life, which included the plaintiff being

able to return to some form of work as well as having a positive response to medical treatment in the form of therapy sessions;

- b. The reports of both the plaintiff and the defendant's current experts did not explore the question of causation or provide a clear breakdown of the abuse by the three separate perpetrators;
- c. There was an irreconcilable divide between the two experts on the questions of the plaintiff's work capacity which goes to the question of the plaintiff's economic loss claim;
- d. All of the above

4. Why was the Court critical of the defendant's application?

- a. There was a delay in issuing the request to the plaintiff and there was no real explanation for the delay provided by the first defendant
- b. There was insufficient evidence to demonstrate that there was the need for a new expert as opposed to getting a further supplementary report from the First Defendant's existing expert.
- c. A difference in opinion, on the question of work capacity between the experts is a typical situation in litigation and it is typical for the court to have to assess competing medical opinions without the need for a third expert to act as tie breaker
- d. All of the above

5. Which of the following preceding authorities did the Court follow in *Kelly*?

- a. *Pyman v Whitefriars College Inc* [2019] VSC 361
- b. *Stace v Commonwealth* (1989) 51 SASR 391
- c. *Boyle v The Salesian Society (Vic) Inc* (2021) VSC 47
- d. All of the above

Answers:

1. B 2. A 3. D 4. D 5. D