

## Statement from Dr. Alborz Oshidari

I am a physiatrist, meaning that I specialize in pain management and rehabilitation. I also act as an expert witness and provide my opinions and testimony to courts and tribunals having acted in that role approximately more than fifty times in my 25 year career. In that role, I acknowledge and respect my obligation to provide an opinion that is unbiased and objective.

The excerpts you sent me from eight separate tribunal decisions focus on instances in which my testimony or report was not preferred by the adjudicator. This is a normal part of the adversarial system. It is the adjudicator's function to weigh and consider all of the expert evidence and to prefer some evidence over other evidence. You have chosen to exclude decisions in which my opinion and testimony has been preferred and relied upon by adjudicators and the courts.

In 2024 alone, I have received favourable treatment in several LAT decisions. In *Yousif v. Economical Insurance Company*, the LAT was persuaded by my report and accepted my conclusion that the objective findings in the case did not support the applicant's complaints of pain and limitation of function. Further, in *Yanovysh v. Aviva Insurance Company*, the LAT found my report to be more persuasive, and that it was consistent with the "CNRs" of the applicant's treating physician. Likewise, in *Singh v. Aviva Insurance Company*, the LAT found my report to be persuasive, and the balance of the medical evidence led the panel to believe that additional facility-based treatment was unreasonable.

Earlier this year, in *Ferraro v. Aviva Insurance Canada* the LAT accepted by expert evidence and refused to consider an article alleging that I was biased and refused to allow it to be included in evidentiary record. The LAT wrote:

Dr. Oshidari is a member in good standing with the College of Physicians and Surgeons of Ontario. Dr. Oshidari's opinions have been accepted without prejudice by the LAT on previous occasions. The article referenced by the applicant offered an opinion by an author who was not available for cross-examination. Additionally, the opinion expressed in the article has not been peer reviewed and no investigation of any biases has taken place. This article cannot be taken at face value as I have no way of knowing whether or not this is a fair representation of Dr. Oshidari or of his report.

Similarly, in *Al Kafri v. Aviva Insurance Company of Canada*, the LAT rejected the applicant's argument that my report was "ghost-written" and their submission of the same article suggesting that my opinion had been discredited. The LAT wrote:

I am not persuaded by the applicant's evidence on this point. Dr. Oshidari is a member in good standing with the College of Physicians and Surgeons of Ontario. The article referenced by the applicant offered an opinion by an author who was not available for cross-examination, without any indication of the type of investigation that was undertaken.

In prior years, the LAT has accepted my evidence in numerous decisions. In *Nano v. Coachman Insurance Company*, my report was deemed “reliable and persuasive evidence” in finding that chronic pain assessment was neither reasonable nor necessary. Earlier, in *Lin v. Allstate Canada*, the LAT also preferred my opinion because of my healthcare specialist qualifications and because my report was based on “detailed physical and psychological testing of the applicant in addition to physical examination”.

In *N.C. v. TD Insurance Meloche Monnex*, the LAT also made remarks about my opinion:

...I did not find that Dr. Oshidari was advocating on behalf of the respondent or usurping my role in assessing credibility. He explained how his findings from his assessment related to his diagnosis and provided no opinion on the applicant’s credibility. [...] For these reasons, I am unable to accept the applicant’s submission that Dr. Oshidari’s evidence should be given little weight.

In 2019, the LAT in *18-001294 v. Aviva Insurance Canada* also accepted my report “with its greater detailed analysis on the use of assistive devices” and ruled that further facility-based treatment was not reasonable and necessary based on my report, and that of Dr. Khaled.

In regard to any negative findings from the CPSO regarding myself and my practice, I reconfirm that none exist.

I hold the justice system in high esteem and take my responsibilities seriously. I disagree with any suggestion that I lack objectivity. Experts are crucial for the proper administration of justice, and I honour that by remaining objective, unbiased, and diligent in providing accurate reports of the highest quality.