

MINDSENSE CASE HIGHLIGHT

Mitchell v Mitchell: When Does an IPV Claim Need Expert Evidence?

Mitchell v Mitchell, 2026 ONSC 4259 | Ontario

One of the questions we're asked most often since the *Ahluwalia* decision is a practical one: **when does an IPV claim actually need expert psychiatric evidence, and when can it succeed without it?**

The Ontario decision in *Mitchell v Mitchell*, 2026 ONSC 4259 offers a useful lens on that question.

— The Case

Mitchell involved a lengthy marriage in which the plaintiff had been subjected to decades of physical and psychological abuse. The court accepted a substantial body of evidence and awarded significant damages under the new IPV tort – notably, without formal expert psychiatric or psychological evidence being introduced.

Several features of the case made expert evidence less necessary than it might otherwise have been:

- **Extensive contemporaneous documentation** – hospital records, GP visits, and police reports spanning decades corroborated the physical injuries.
- **Consistent lay witness testimony** – four adult children of the marriage testified, and their accounts were internally consistent and aligned with the plaintiff's evidence.
- **Participant expert testimony** – two of the plaintiff's treating practitioners gave evidence as expert participant witnesses, which provided clinical context without requiring a separate independent assessment.
- **A prior criminal conviction** – the defendant had recently been convicted of assaulting the plaintiff, which gave the court a firm evidentiary foundation.
- **Overlap with existing torts** – the conduct also grounded claims in assault, battery, and intentional infliction of emotional distress, providing alternative pathways to damages.
- **Scope of the claim** – the plaintiff did not advance claims for future treatment costs or loss of earning capacity, which typically require more detailed expert support.

The plaintiff's psychological harm claim did not advance a specific diagnosis, but her symptoms – ongoing fear of the defendant, low self-esteem, social isolation, and depression (diagnosed by a treating practitioner) – were corroborated in the record.

— When Does Expert Evidence Actually Add Value?

The lesson from *Mitchell* is not that expert evidence is unnecessary in IPV cases. It's that in cases with a strong existing record, expert evidence may not materially change the outcome. In other cases, the picture is very different.

From our experience, expert psychiatric or psychological evidence tends to add real value in IPV claims where:

- **The documentary record is limited** – for example, where the survivor did not seek medical attention at the time of the abuse, or where records have been lost, destroyed, or were never created.
- **There are few or no lay witnesses** – perhaps because there are no children of the marriage, the survivor's family lives overseas, or coercive control isolated them from their broader support network.
- **The form of abuse is less "obvious"** – where the coercive control took the form of financial restriction, surveillance, or the manipulation of everyday autonomy, rather than acts that map neatly onto assault or battery.
- **The claim includes loss of earning capacity or future care costs** – these heads of damages almost always require detailed expert support, particularly where the earning capacity impact flows from psychological injury.
- **A joint family action involves allegations of underemployment** – where a spouse's limited work history is being characterized as intentional in the family proceeding, expert evidence can demonstrate that the pattern was a product of coercive control rather than choice.
- **Psychological injury is central to quantum** – where the claimed damages depend heavily on demonstrating diagnoses such as PTSD, complex trauma, or major depression.

— A Note on the Tort Itself

It's worth remembering that the *Ahluwalia* framework does **not** require proof of psychological injury to establish that the tort has occurred. Coercive control alone is enough to ground liability. But expert evidence still plays an important role in the **quantification** of damages – providing the court with a fuller understanding of how the abuse has affected the survivor's functioning, autonomy, and life trajectory, beyond the loss of dignity that is inherent to the tort itself.

— A Trauma-Informed Approach Matters

Where expert evidence is being sought in an IPV claim, we would strongly encourage counsel to instruct experts who work in a genuinely trauma-informed way. As the Supreme Court noted in *Ahluwalia*, IPV can persist after the formal end of a partnership – and litigation itself can sometimes become a vehicle for continued coercive control. An assessment that prioritizes the survivor's psychological safety and minimizes the risk of retraumatization is not just good clinical practice. It also produces more reliable evidence.

THE TAKEAWAY

Mitchell v Mitchell tells us that IPV claims can succeed without experts in the right circumstances. It doesn't tell us that experts should be avoided. The strategic question – as always – is whether expert evidence adds something the record cannot otherwise provide.

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