

**Financial Services
Commission
of Ontario**

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**Commission des
services financiers
de l'Ontario**

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Date: March 14, 2012

PLEASE DELIVER THIS DOCUMENT TO:
S.V.P. FAIRE PARVENIR CE DOCUMENT A:

NAME/Nom:	Mr. Jason Frost Barrister & Solicitor
FAX/Télécopieur:	(416) 367-8821
REFERENCE/Objet:	Mrs. Vasugi Thevarajah and/et Unifund Assurance Company 409169

SENT BY/Expédié par:

NAME/Nom:	Josh Grant
TELEPHONE/Téléphone:	(416) 226-7773
FAX/Télécopieur:	(416) 590-8462
REFERENCE/Objet:	A10-001866

NUMBER OF PAGES TO FOLLOW/Nombre de pages B suivre:

5

Message: Please find following the Arbitrator's Production Motion Decision and Order.

Please confirm receipt

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**Financial Services
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FSCO A10-001866

BETWEEN:

VASUGI THEVARAJAH

Applicant

and

UNIFUND ASSURANCE COMPANY

Insurer

DECISION ON A MOTION FOR PRODUCTIONS

Before: Judith Killoran

Heard: Written submissions received by March 12, 2012 and a telephone conference call on March 9, 2012.

Appearances: Marko Djukic for Mrs. Thevarajah
Jason R. Frost for Unifund Assurance Company

Issues:

The Applicant, Vasugi Thevarajah, was involved in a motor vehicle accident on February 28, 2008. A prehearing was conducted by me on June 13, 2011 and a hearing was scheduled for April 16, 17, 18 and 19, 2012 at the Financial Services Commission of Ontario.

I heard a motion for productions brought by Unifund at 2:00 p.m. on March 9, 2012 by teleconference. Mr. Djukic represented Mrs. Thevarajah. Mr. Frost represented Unifund.

The issue in this motion involves production requests from Unifund which remain outstanding. More specifically, the requests were agreed to by the parties at the prehearing on June 13, 2011 and reflected in correspondence from Unifund to Ms. Thevarajah's law firm.

**THEVARAJAH and UNIFUND
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I ordered Mrs. Thevarajah's representative to produce the following documents and information by 5:00 p.m. on March 12, 2012 or provide evidence of his best efforts to produce the following:

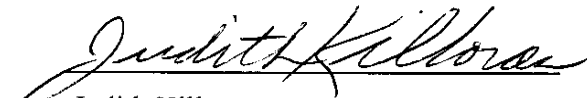
1. The contact details of Ms. Thevarajah's pre-accident psychiatrist, Dr. T. Sooriabalan, together with a complete copy of his file from one year pre-accident to date.
2. Confirmation of the identities and contact information of the caregiving and attendant care service providers together with the dates and duration of their services.
3. Particulars with respect to the treatment claimed at the Spine Care Clinic, including the dates of the treatment plans in dispute, the nature and duration of the treatment, any clinical notes and records, and a copy of the outstanding account. Mrs. Thevarajah's representative will also confirm whether Ms. Thevarajah is claiming entitlement to \$1,439.06 for acupuncture and exercises under Treatment Plan No. 7 dated November 11, 2008 and \$1,285.88 for isometric exercises under Treatment Plan No. 8 dated December 12, 2008.
4. Particulars with respect to the treatment claimed at The Rehab Centre, including the treatment plans in dispute, the nature and duration of the treatment, any clinical notes and records, and a copy of the outstanding account.
5. Particulars of the claim for interpretation services involving Mosaic Translation Services, including the date of the treatment plan in dispute, the nature and duration of the services and a copy of the outstanding account.
6. Detailed particulars of the special award claim.
7. Written confirmation that Ms. Thevarajah is not covered under her husband's collateral benefits policy.
8. Production of the CPP file from one-year pre-accident to date, subject to claims of relevance and privilege.

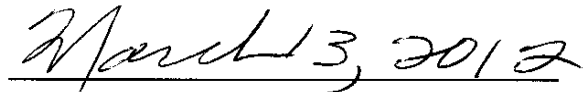
**THEVARAJAH and UNIFUND
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9. Production of updated clinical notes and records from Dr. Henis from July 16, 2009 to February 28, 2010.
10. Production of the clinical notes and records of Dr. A. Kachooie, Dr. T.N. Siller and Dr. Eric M. Fonberg.
11. Production of the Toronto Police Services investigation file.

EXPENSES:

Unifund sought \$250 for its expenses of the motion. Counsel for Unifund produced an extensive chart documenting his repeated requests for the productions in issue. I was persuaded by counsel's submissions that Unifund requires the productions requested in order to prepare for the hearing scheduled slightly more than 30 days from today's date. Consequently, I find that Unifund is entitled to payment of \$250 for its expenses of the motion.


Judith Killoran
Arbitrator


Date

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FSCO A10-001866

BETWEEN:

VASUGI THEVARAJAH

Applicant

and

UNIFUND ASSURANCE COMPANY

Insurer

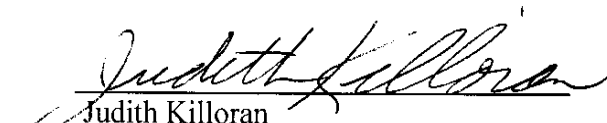
ARBITRATION ORDER

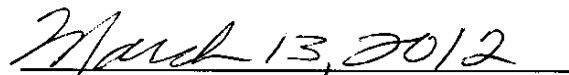
Under section 282 of the *Insurance Act*, R.S.O. 1990, c.I.8, as amended, it is ordered that:

1. Mrs. Thevarajah's representative shall produce the following documents and information by 5:00 p.m. on March 12, 2012 or provide evidence of his best efforts to produce the following:

1. The contact details of Ms. Thevarajah's pre-accident psychiatrist, Dr. Sooriabalan, together with a complete copy of the file from one year pre-accident to date.
2. Confirmation of the identities and contact information of the caregiving and attendant care service providers together with the dates and duration of their services.
3. Particulars with respect to the treatment claimed at the Spine Care Clinic, including the dates of the treatment plans in dispute, the nature and duration of the treatment, any clinical notes and records, and a copy of the outstanding account. Mr. Djukic will also confirm whether Ms. Thevarajah is claiming entitlement to \$1,439.06 for acupuncture and exercises under Treatment Plan No. 7 dated November 11, 2008 and \$1,285.88 for isometric exercises under Treatment Plan No. 8 dated December 12, 2008.

4. Particulars with respect to the treatment claimed at The Rehab Centre, including the treatment plans in dispute, the nature and duration of the treatment, any clinical notes and records, and a copy of the outstanding account.
 5. Particulars of the claim for interpretation services involving Mosaic Translation Services, including the date of the treatment plan in dispute, the nature and duration of the services and a copy of the outstanding account.
 6. Detailed particulars of the special award claim.
 7. Written confirmation that Ms. Thevarajah is not covered under her husband's collateral benefits policy.
 8. Production of the CPP file from one-year pre-accident to date, subject to claims of relevance and privilege.
 9. Production of updated clinical notes and records from Dr. Henis from July 16, 2009 to February 28, 2010.
 10. Production of the clinical notes and records of Dr. A. Kachooie, Dr. T.N. Siller and Dr. Eric M. Fonberg with respect to the injury sustained on August 5, 2007.
 11. Production of the Toronto Police Services investigation file.
2. Mrs. Thevarajah shall pay to Unifund the sum of \$250 for its expenses of the motion.


Judith Killoran
Arbitrator


Date