# Jim Vigmond

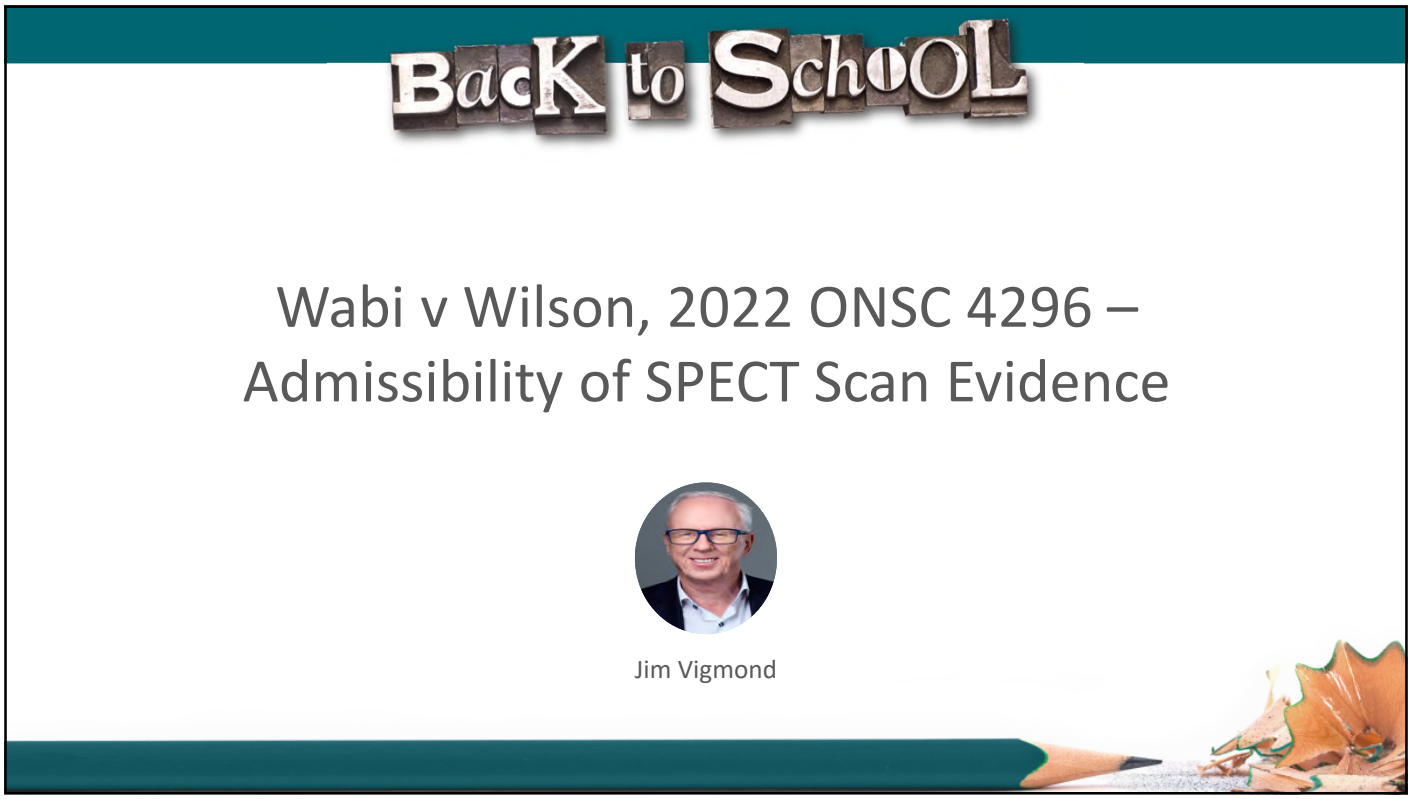
Oatley Vigmond
151 Ferris Lane
Suite 200
Barrie, ON
L4M 6C1

T: 1-888-662-2481
E: jvigmond@oatleyvigmond.com

Introduced to the subject of law in high school, Jim decided from an early age that he wanted to be a lawyer because he saw that it was a way to touch people's lives and help them when they were in need. Jim attended Queen's University Faculty of Law. While there, he focused his interest on personal injury litigation because he was moved to advocate for those rebuilding their lives. Called to the bar in 1983, Jim partnered with Roger Oatley more than twenty years ago to found Oatley Vigmond.

Today, Jim specializes in spinal cord injury, brain injury and serious orthopaedic cases. His advocacy set a precedent for the highest-ever damages award for a spinal-cord injury in the case of Morrison v. Greig, in which Jim's client was awarded damages of $12.5 million.

Jim has experience as counsel at all levels of court, has published numerous articles and works (most notably contributing to The Oatley-McLeish Guide to Personal Injury Practice in Motor Vehicle Cases) and regularly presents on such topics as personal injury litigation and trial advocacy at conferences hosted by the Canadian Bar Association, the Ontario Trial Lawyers Association and the Advocates' Society. In an achievement that saw his career brought full circle, Jim returned to Queen's Law school as an adjunct professor to create and teach Canada's first Personal Injury Advocacy course.




# Wabi v Wilson, 2022 ONSC 4296 – Admissibility of SPECT Scan Evidence



Jim Vigmond

**Wabie v Wilson, 2022 ONSC 4296 – Admissibility of SPECT Scan Evidence**

Overview

In this recent decision, the Court was asked to determine whether the results of a SPECT scan can be considered admissible evidence when attempting to prove a traumatic brain injury at trial.

Facts

On August 20, 2014, the plaintiff, Elaine Wabie was involved in a rear-end motor vehicle collision. As a result of the collision, Elaine struck her head on the headrest.

Elaine was diagnosed with a concussion. She began exhibiting the classic symptoms of post-concussive symptoms, such as headaches, light/noise sensitivity and cognitive deficits. Elaine's family physician ordered an MRI, which came back normal.

In 2018, Elaine attempted a return to work but was unsuccessful. At that time, her family physician ordered a SPECT scan, which measures blood flow in the brain. The results of Elaine's SPECT scan indicated that blood was flowing abnormally in certain parts of her brain, which indicated the presence of a traumatic brain injury.

Arguments at Trial

At trial, the defendant argued that the SPECT scan evidence should be disregarded. The defendant relied on the decision of *Meade v Hussein*, 2021 ONSC 7850.

In that decision, the Court held that the use of SPECT scans was a "novel" science. It found that there were issues with SPECT scan findings when attempting to differentiate between the existence of a traumatic brain injury and diagnoses of anxiety or depression. As a result, the Court found that SPECT scans were not reliable and disregarded the SPECT scan evidence in its entirety.

The defendant argued that the same finding should be made with respect to Elaine's SPECT scan findings.

The plaintiff argued that this case was distinguishable from *Meade v Hussien* in that the SPECT scan evidence was not being used to diagnose the plaintiff with a traumatic brain injury but rather, as a secondary tool to support the family physician's diagnosis of a concussion.

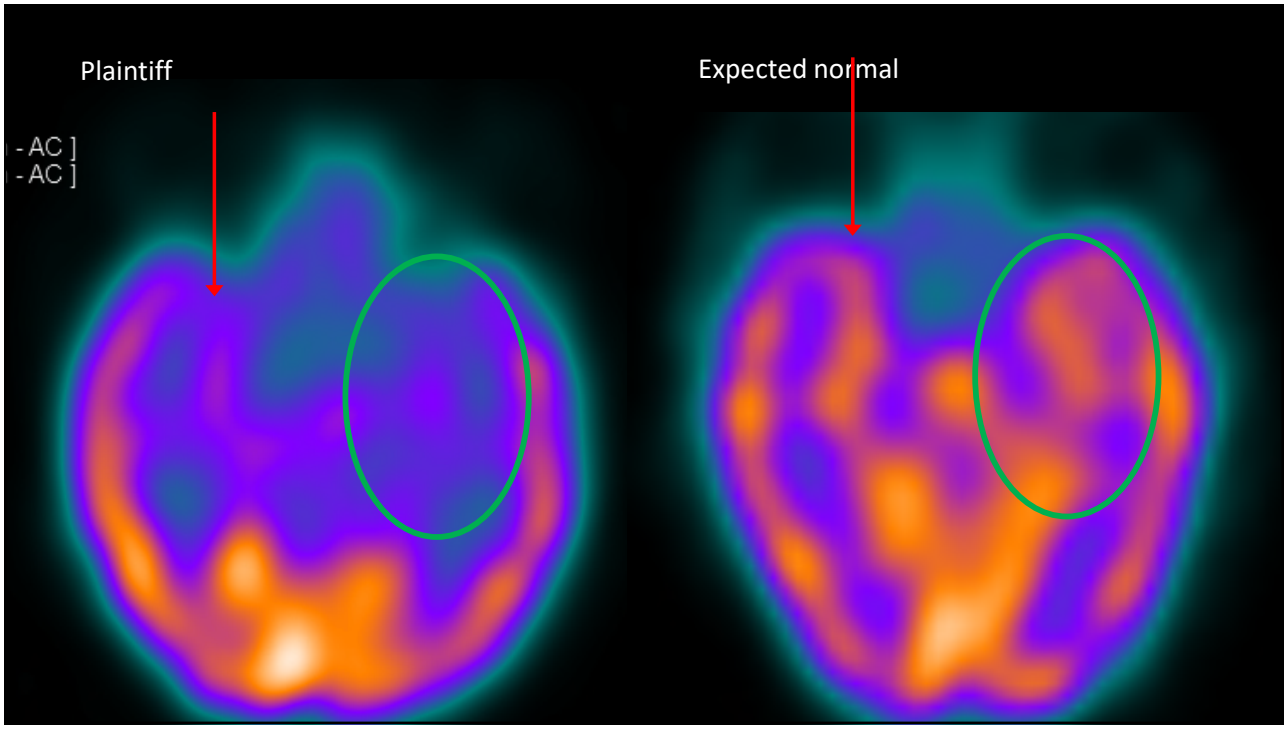
The Court's Ruling

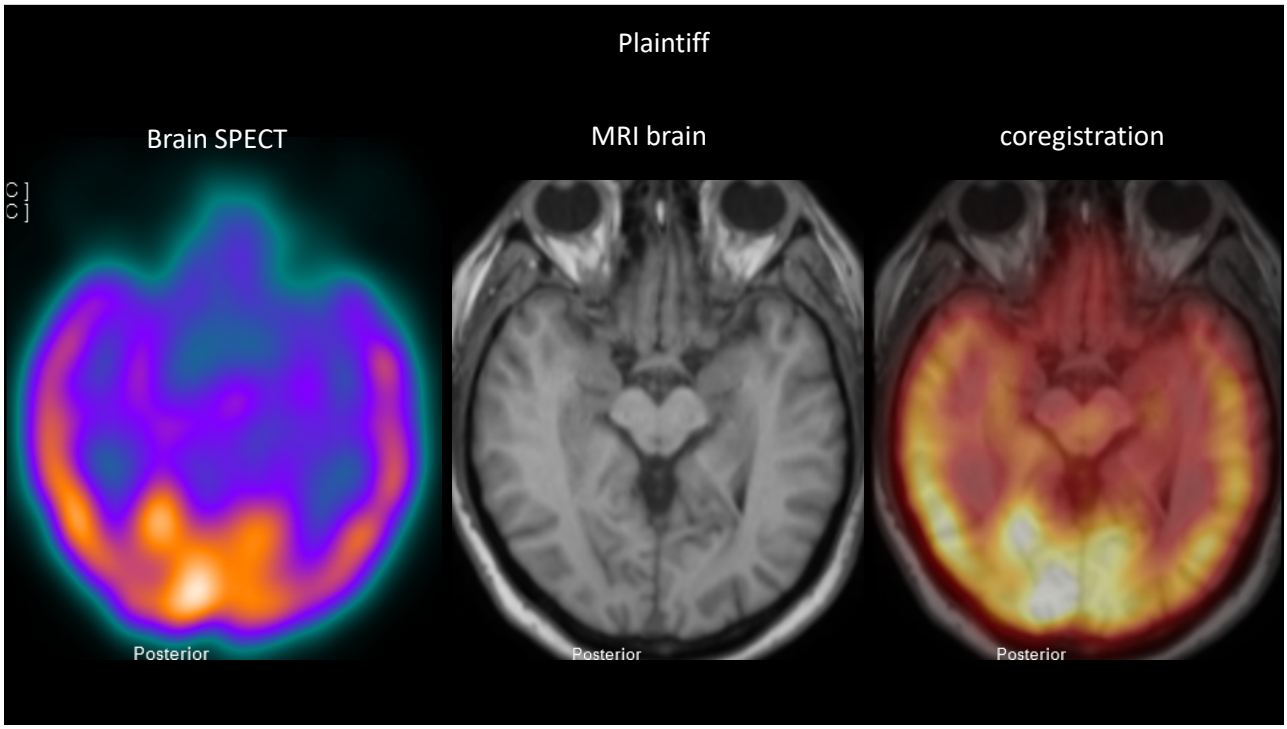
While the Court followed *Hussein v Meade* in concluding that SPECT scans cannot be used as a primary diagnostic tool, it went on to conclude that SPECT scans can be used as a secondary diagnosis tool to support a traumatic brain injury diagnosis.

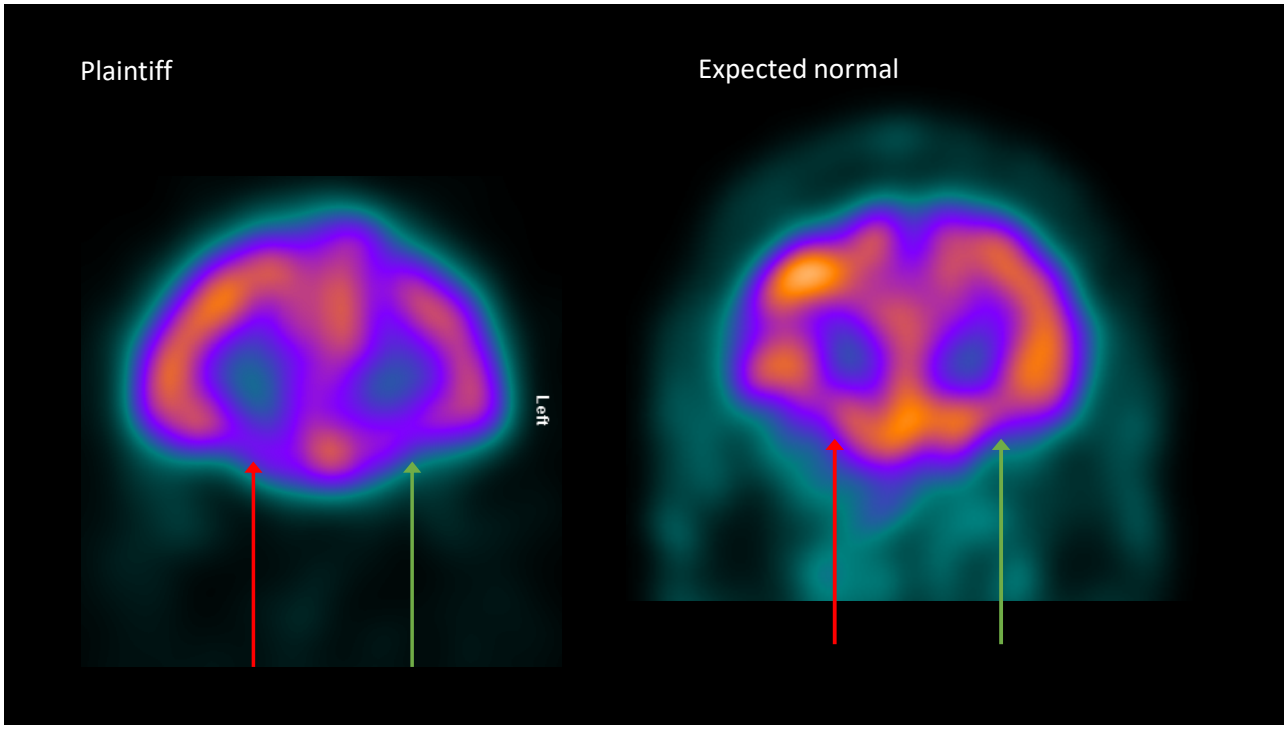
Interestingly, the Court made particular note that the SPECT scan was not being used to distinguish the existence of a traumatic brain injury from anxiety or depression in this particular case.

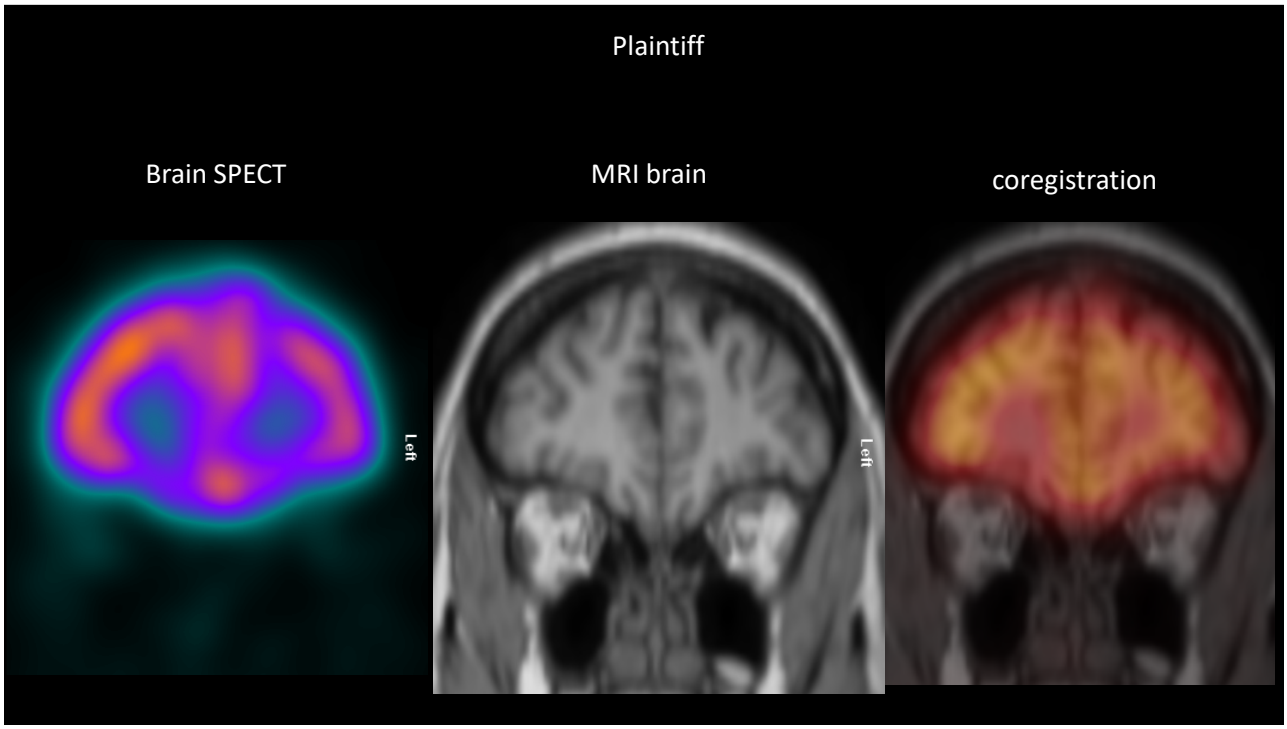
## Conclusion

This case is important because it clarifies that SPECT scan evidence has its role in proving the existence of traumatic brain injuries at trial. While it cannot be used as a primary diagnostic tool, it can be used in support of treating physicians' diagnoses.


Plaintiff
Expected normal
- AC ]
- AC ]


Plaintiff
Brain SPECT
MRI brain
coregistration
Posterior
Posterior
Posterior


Plaintiff
Expected normal
Left


Plaintiff
Brain SPECT
MRI brain
coregistration
Left
Left