

SCC Denies Leave in Chronic Pain Case

June 28, 2019

In *Petz v. Duguay*, 2017 ABQB 90, the Court of Queen's Bench of Alberta awarded a total of \$76,028 to the Plaintiff following injuries sustained in a motor vehicle accident on September 12, 2004 (the Accident). The matter took four weeks to try and involved **testimony from a number of experts – the Plaintiff called nine experts while the Defendant called five**. As a result of her injuries, the Plaintiff claimed damages in excess of \$1 million.

The trial decision highlighted the centrality of a plaintiff's credibility, particularly where the evidence hinged on that plaintiff's self-reporting

The award was upheld on appeal with a 2-1 split decision by the Court of Appeal: *Petz v. Duguay*, 2018 ABCA 402.

Very recently, the Plaintiff was denied leave to the Supreme Court: *Shelly Ann Petz v. Patrick Duguay*, 2019 CanLII 53417 (SCC).

These decisions continue to remind us of the importance of obtaining Independent Medical Evaluations early on in the litigation process and highlight the importance of **using Formal Offers as a strategic tool in personal injury litigation to offset a defendant's legal costs**.

By

[Justine Blanchet](#), [Bradon Willms](#)

Expertise

[Insurance Claim Defence](#), [Insurance](#)

BLG | Canada's Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

blg.com

BLG Offices

Calgary

Centennial Place, East Tower
520 3rd Avenue S.W.
Calgary, AB, Canada
T2P 0R3

T 403.232.9500
F 403.266.1395

Ottawa

World Exchange Plaza
100 Queen Street
Ottawa, ON, Canada
K1P 1J9

T 613.237.5160
F 613.230.8842

Vancouver

1200 Waterfront Centre
200 Burrard Street
Vancouver, BC, Canada
V7X 1T2

T 604.687.5744
F 604.687.1415

Montréal

1000 De La Gauchetière Street West
Suite 900
Montréal, QC, Canada
H3B 5H4

T 514.954.2555
F 514.879.9015

Toronto

Bay Adelaide Centre, East Tower
22 Adelaide Street West
Toronto, ON, Canada
M5H 4E3

T 416.367.6000
F 416.367.6749

The information contained herein is of a general nature and is not intended to constitute legal advice, a complete statement of the law, or an opinion on any subject. No one should act upon it or refrain from acting without a thorough examination of the law after the facts of a specific situation are considered. You are urged to consult your legal adviser in cases of specific questions or concerns. BLG does not warrant or guarantee the accuracy, currency or completeness of this publication. No part of this publication may be reproduced without prior written permission of Borden Ladner Gervais LLP. If this publication was sent to you by BLG and you do not wish to receive further publications from BLG, you may ask to remove your contact information from our mailing lists by emailing unsubscribe@blg.com or manage your subscription preferences at blg.com/MyPreferences. If you feel you have received this message in error please contact communications@blg.com. BLG's privacy policy for publications may be found at blg.com/en/privacy.

© 2024 Borden Ladner Gervais LLP. Borden Ladner Gervais LLP is an Ontario Limited Liability Partnership.