



Court of Appeal File No: CA46728

COURT OF APPEAL

ON APPEAL FROM: The Order of the Honourable Madam Justice Winteringham of the Supreme Court of British Columbia and Jury, pronounced February 4, 2020

BETWEEN:

PATRICIA DAWN ELLIOTT

RESPONDENT
(PLAINTIFF)

And:

RYAN McCLIGGOT AND
SLEGG CONSTRUCTION MATERIALS LTD

APPELLANTS
(DEFENDANTS)

RESPONDENT'S APPEAL BOOK

**Ryan McCliggot and
Slegg Construction Materials Ltd**

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Patricia Dawn Elliott

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No. 14 4097
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PATRICIA DAWN ELLIOTT

PLAINTIFF

AND:

**RYAN MCCLIGGOT and
SLEGG CONSTRUCTION MATERIALS LTD.**

DEFENDANTS

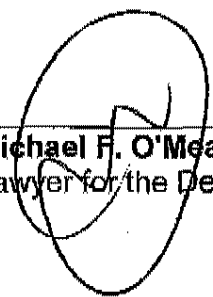
NOTICE REQUIRING TRIAL BY JURY

Filed by: The Defendants, (the "filing party")

TAKE NOTICE that the filing party requires the trial of this proceeding to be by a judge with a jury.

Scheduled trial date: January 27, 2020 (7 days)

Dated: July 17, 2018



Michael F. O'Meara
 Lawyer for the Defendant



**No. 14 4097
Victoria Registry**

In the Supreme Court of British Columbia

Between

Patricia Dawn Elliott

Plaintiff

and

**Ryan McCliggot and
Slegg Construction Materials Ltd.**

Defendants

NOTICE REQUIRING TRIAL BY JURY

[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]

Filed by: The Plaintiff (the "filing party")

TAKE NOTICE that the filing party requires the trial of this proceeding to be by a judge with a jury.

Scheduled trial date: January 27, 2020 (7 days)

Date:23/July/2018.....


Karl J. Hauer

Signature of
 filing party lawyer for filing party



No. 144097
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

Patricia Dawn Elliot

PLAINTIFF

AND:

Ryan McCliggot and Slegg Construction Materials Ltd.

DEFENDANTS

(Rule 12-2 (3) and (3.1)) Trial Brief

Name of party: Patricia Dawn Elliot

Name of counsel if applicable: Karl J. Hauer

Address for delivery: 1-1007 Johnson Street, Victoria, BC, V8V 3N6

Telephone: 250-900-1159

Fax: 1-250-900-0368

DATE, TIME, PLACE OF TRIAL: January 27, 2020 at 9:00AM in Victoria, BC

Time estimate: 30 minutes

Application Record provided by: Olivia Marty, Legal Assistant to Karl J. Hauer

Form 41 (Rule 12-2 (3) and (3.1))

Court File No. VIC-S-M 144097
Victoria Registry

Between

Patricia Dawn Elliott

Plaintiff

and

Ryan McCliggot and Slegg Construction Materials Ltd

Defendants

TRIAL BRIEF*[Rule 22-3 of the Supreme Court Civil Rules applies to all forms.]***Filed by:** Patricia Dawn Elliott, the Plaintiff (the "filing party")

The trial of this action is scheduled for **7 days** and is scheduled to begin on **07/01/2020**. The total time needed respecting items 2, 4, 5, 9 and 11, as applicable, is **8.25 hours**.

The filing party expects the trial to complete within the scheduled time.

The filing party expects the trial to require[number]..... days, and the filing party and counsel are available to continue for[number]..... consecutive days following the currently scheduled completion date.

1 Summary of Issues and Positions

The following are the issues in dispute and the filing party's position on each:

Issue in dispute	Filing party's position
1. Liability	1. The defendants Ryan McCliggot and/or Slegg Construction Materials Ltd. are wholly liable for the motor vehicle collision of November 8, 2012.
2. Quantum of Damages	2. The plaintiff is entitled to non-pecuniary damages, past and future loss of income, future costs of care, special damages, and costs and disbursements.

2 Witnesses to be Called

The following are the names and addresses of the witnesses the filing party intends to call at trial, the issue(s) each will address, an estimate of the time each will need for giving direct evidence, and the filing party's opinion on whether, if the court so orders or the parties all consent, the witness's direct evidence could conveniently be given by affidavit:

Name	Address	Issue	Time in hours needed	Direct evidence by affidavit (Y/N)
Patricia Elliott	1702 Quadra Street, Kamloops, B.C., V8W 2L8	Liability and Damages	4	N
Dr. Zeeshan Waseem	IMA Solutions 500-1199 West Hastings Vancouver, B.C. V6E 3T5	Damages	15 minutes	N
Tristan Clark	2630 Victor Street, Victoria, BC, V8R 4E2	Damages	15 minutes	N
Nadine Dalzell	591 Melba Place, Victoria, BC, V8Z 6C6	Damages	15 minutes	N
Hannah Wall	1600 Howroyd Avenue, Victoria, BC, V8P 3C1	Damages	15 minutes	N
Laura Tighe	1547 Quizer Place, Victoria, BC, V8N 5E8	Damages	15 minutes	N

3 Expert Reports

The following are the expert reports that will be offered as evidence at trial:

Name of expert	Area of expertise	Date of report
Dr. Zeeshan Waseem	Physiatry	2018/09/12

4 Witnesses to be Cross-Examined

The following are the names of the witnesses the filing party anticipates cross-examining at trial, and an estimate of the time the filing party will need for each:

Name	Time in hours needed
Dr. Bas Masri	1
Ryan McCliggot	1

5 Objection to Admissibility

The filing party intends to object to the admissibility of all or a part of the following expert reports:

Name of expert	Area of expertise	Date of report	Basis of objection	Time in hours needed
Dr. Bas Masri	Physiatry	TBD	TBD	1

6 Documents and Exhibits

1 The parties have agreed on have not agreed on have not yet discussed a common book of documents.

2 The parties have reached have not reached have not yet discussed an agreement governing the use and admissibility of documents.

7 Admissions

The filing party will admit the following facts at trial:

1. N/A.

8 Authorities

The filing party expects does not expect that there will be a joint brief of authorities.

9 Time Required for Submissions

The filing party estimates that 30 minutes will be needed for the filing party's opening statement and 2 hours. will be needed for that party's final submissions.

10 Orders That May Affect the Conduct of the Trial

The following orders may affect the conduct of the trial:

Date of order	Nature of order
Nil	

11 Orders or Directions to be Applied for at the Trial Management Conference

The following orders or directions will be applied for at the trial management conference:

Nature of order or direction	Time in hours needed for application
Nil	

12 Settlement

1 Settlement discussions or mediation sessions have have not taken place.

2 A mediation is is not scheduled before the date set for trial.

3 The court at the trial management conference will will not be asked to assist the parties' efforts to settle.

13 Trial to be Heard With or Without Jury


[Check the correct box.]

The trial of this action is to be heard by the court

without a jury.

with a jury.

Date:29/10/2019.....



Signature of filing party lawyer for filing party
KARL J. HAUER.....



No. 14 4097
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PATRICIA DAWN ELLIOTT

PLAINTIFF

AND:

**RYAN MCCLIGGOT and
SLEGG CONSTRUCTION MATERIALS LTD.**

DEFENDANTS

**TRIAL BRIEF
OF THE DEFENDANTS**

COUNSEL FOR THE PLAINTIFF:

**KARL J. HAUER
VANCOUVER ISLAND LAW
1-1007 JOHNSON STREET
VICTORIA, BC V8V 3N6
Tel: 250-900-1159
Fax: 250-900-0368**

COUNSEL FOR THE DEFENDANTS:

**MICHAEL F. O'MEARA
MICHAEL O'MEARA & COMPANY
109B - 645 FORT STREET
VICTORIA, BC V8W 1G2
Tel: (250) 475-6529
Fax: (250)475-6528**

**TMC Date: December 4, 2019 @ 3:00 p.m.
Trial Date: January 27, 2020
Place of Trial: Victoria, BC
Trial Brief prepared by: Lawyer for the Defendants**

No. 14 4097
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PATRICIA DAWN ELLIOTT

PLAINTIFF

AND:

**RYAN MCCLIGGOT and
SLEGG CONSTRUCTION MATERIALS LTD.**

DEFENDANTS

TRIAL BRIEF

Filed by: The Defendants (the "filing parties")

The Trial of this action is scheduled for 7 days and is scheduled to begin on January 27, 2020. The total time needed respecting items 2, 4, 5, 9 and 11 as applicable, is 10 hours.

1 Summary of Issues and Positions

The following are the issues in dispute and the filing party's position on each:

Issue in dispute	Filing party's position
1. Liability	Liability is in issue.
2. Causation and Damages	The Defendants deny that the Plaintiff sustained injury loss or damage causally connected to any act or omission on the part of the Defendants.

2 Witnesses to be Called

The following are the names and addresses of the witnesses the filing party intends to call at trial, the issue(s) each will address, an estimate of the time each will need for giving direct evidence, and the filing party's opinion on whether, if the court so orders or the parties all consent, the witness's direct evidence could conveniently be given by affidavit:

Name	Address	Issue	Time in hours needed	Direct evidence by affidavit (Y/N)
Ryan McCliggot	c/o 109B-645 Fort Street Victoria, BC	Party	0.5	N
Dr. Bassam Masri	3rd Floor-2775 Laurel St Vancouver BC V5Z 1M9	Orthopaedic Surgeon	1.0	N

***The Defendants reserves the right to identify further witnesses providing factual evidence before Trial and may amend their Trial Brief accordingly.**

3 Expert Reports

The following are the expert reports that will be offered as evidence at trial:

Name of expert	Area of expertise	Date of report
Dr. Bassam Masri	Orthopaedic Surgeon	October 22, 2019

4 Witnesses to be Cross-Examined

The following are the names of the witnesses the filing party anticipates cross-examining at trial, and an estimate of the time the filing party will need for each:

Name	Time in hours needed
Patricia Elliot	4.0
Dr. Waseem	1.0
Tristan Clark	0.5
Nadine Dalzell	0.5
Hannah Wall	0.5
Laura Tighe	0.5

5 Objection to Admissibility

Nil.

6 Documents and Exhibits

1. The parties have not yet discussed a common book of documents.
2. The parties have not yet discussed an agreement governing the use and admissibility of documents.
3. The Defendants may rely on excerpts from the following documents:
 - a) Excerpts from the Plaintiff's examination for discovery transcript.
 - b) Excerpts of clinical notes and records of the Plaintiff's treating physicians and therapists to be utilized in cross-examination.
 - c) Excerpts from the Plaintiff's employment and income tax returns to be utilized in cross-examination.

7 Admissions

The filing party will admit the following facts at trial:

Nil.

8 Authorities

The filing party does not expect that there will be a joint brief of authorities.

9 Time Required for Submissions

The filing party estimates that 0.5 hours will be needed for the filing party's opening statement and 1.0 hours will be needed for that party's final submissions.

10 Orders That May Affect the Conduct of the Trial:

Nil.

11 Orders or Directions to be Applied for at the Trial Management Conference

The following orders or directions will be applied for at the trial management conference:

1. The parties exchange “may say” statements for any lay witnesses before Trial.

12 Settlement


1. Settlement discussions or mediation sessions will not be taking place.
2. The court at the trial management conference will not be asked to assist the parties' efforts to settle.

13 Trial to be Heard With or Without Jury


The trial of this action is to be heard by the court

With a Jury.

Date: November 12, 2019



MICHAEL F. O'MEARA
Lawyer for the Defendants



No. 14 4097
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

PATRICIA DAWN ELLIOTT

PLAINTIFF

AND:

RYAN MCCLIGGOT and SLEGG CONSTRUCTION MATERIALS LTD.

DEFENDANTS

AMENDED LIST OF DOCUMENTS OF THE DEFENDANTS

Prepared by: The Defendants, (the "listing parties")

**Part 1: DOCUMENTS THAT ARE OR HAVE BEEN IN THE LISTING PARTY'S
POSSESSION OR CONTROL AND THAT COULD BE USED BY ANY
PARTY AT TRIAL TO PROVE OR DISPROVE A MATERIAL FACT**

No.	Date of document	Description of document	Indicate by a check mark if the document is no longer in the listing party's possession or control	Indicate, for each document listed in this Part by way of an amendment to this List of Documents under Rule 7-1(9), (12) or (14), the date on which the document was listed
1.	Oct 20/14	Email from ICBC to Plaintiff with attachments		June 15, 2015
2.	Nov 16/12	28 photographs of the Plaintiff's vehicle on disk		June 15, 2015
3.	Mar 3/12	Letter from Colin Brown to ICBC re rental dispute		June 15, 2015
4.	Nov 16/12 – Nov 29/12	ICBC Estimate – Plaintiff's vehicle		June 15, 2015
5.	Nov 8/12	ICBC Temporary Operation Permit and Owner's Certificate of Insurance		June 15, 2015

6.	Nov 21/12	Unsigned Statement of Plaintiff		June 15, 2015
7.	Nov 15/12	CL 22 Insurance Claim Application signed by Plaintiff		June 15, 2015
8.	Nov 9/12	Dr. Nielsen – Prescription note re massage		June 15, 2015
9.	Nov 13/12	Dr. Nielsen Prescription note re off work until Dec 312		June 15, 2015
10.	Nov 21/12	Dr. Nielsen Prescription note re off work for 1 week		June 15, 2015
11.	Jun 21/12	Daycare Registration – Alexis Short		June 15, 2015
12.	Jun 21/12	Daycare Registration – Marlee Short		June 15, 2015
13.	Jan 20/12	Daycare Registration – Charlie James		June 15, 2015
14.	Jul 23/12	Daycare Registration – Grayson Dalzell		June 15, 2015
15.	Oct/22/19	Report of Dr. Bassam Masri		January 3, 2020

Part 2: OTHER DOCUMENTS TO WHICH THE LISTING PARTY INTENDS TO REFER AT TRIAL

No.	Date of document	Description of document	Indicate by a check mark if the document is no longer in the listing party's possession or control	Indicate, for each document listed in this Part by way of an amendment to this List of Documents under Rule 7-1(9), (12) or (14), the date on which the document was listed
Nil.				

Part 3: DOCUMENTS THAT RELATE TO A MATTER IN QUESTIONS IN THE ACTION

No.	Date of document	Description of document	Indicate by a check mark if the document is no longer in the listing party's possession or control	Indicate, for each document listed in this Part by way of an amendment to this List of Documents under Rule 7-1(9), (12) or (14), the date on which the document was listed
Nil.				

Part 4: DOCUMENTS FOR WHICH PRIVILEGE FROM PRODUCTION IS CLAIMED

No.	Date of document	Description of document	Grounds on which privilege is claimed	Indicate, for each document listed in this Part by way of an amendment to this List of Documents under Rule 7-1(9), (12) or (14), the date on which the document was listed
P.1	Jan 20/10	Transcripts- <i>R v. Elliott</i>	B & C	January 3, 2020
P.2	Nov 6/19	Certificate of Conviction - <i>R v. Elliott</i>	B & C	January 3, 2020

A – Correspondence written on a "without prejudice" basis.

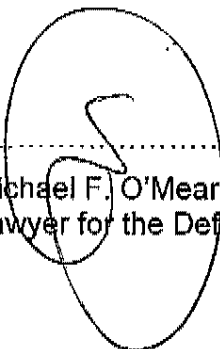
B – Documents produced or brought into existence with a dominant purpose of obtaining legal advice or to aid in the conduct of litigation.

C – Documents produced or brought into existence for the purpose of conducting or assisting in the conduct of litigation and further that such documents form part of the Defendant's solicitor's brief. This includes documents created by the Defendant, the Defendant's experts, consultants, advisors and/or agents, including notes taken of conversations between these individuals.

D – Documents which represent confidential trade and/or business information.

TAKE NOTICE that the documents listed in Parts 1, 2 or 3 of this List of Documents that are not shown as no longer being in the listing party's possession or control may be inspected and copied, during normal business hours, at 109B-645 Fort Street, Victoria, B.C. V8W 1G2

Date: January 3, 2020



Michael F. O'Meara
Lawyer for the Defendants