

IN THE SUPERIOR COURT OF JUSTICE

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B E T W E E N:

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KAREN GARDINER and DANIEL GARDINER

(Plaintiffs)

-and-

DONNA FAGAN

(Defendant)

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RULING

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DELIVERED BY THE HONOURABLE MR. JUSTICE N. BORKOVICH

on Thursday, February 2, 2006

at Hamilton, Ontario

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APPEARANCES:

R. Hooper

Counsel on behalf of the Plaintiffs

R. Horak

Counsel on behalf of the Defendant

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Ruling
Borkovich J.

Thursday, February 2, 2006

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THE COURT: Well, I agree with you, Mr. Horak that is the way I should do it. And I am going to shoot from the hip, so to speak, but I am going to, if necessary, I will expand the reasons if counsel wish me to do so.

RULING

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BORKOVICH J.:

I am satisfied that the plaintiff meets the threshold on the following basis: in the motor vehicle collision she received injuries to her left shoulder and hip. As a result of those injuries she has developed chronic pain.

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She is a person, I think, who has chosen to pour her energies into her work at the expense of the other things that are important to her in life. She is unable to do her job and to do the other things that she normally would do, and which she did prior to the accident.

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The fact that she is unable to do all of those other things, but is able to keep up her work record and her work should not be in any way detrimental to her.

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The fact that she is required to give so much energy to her job so that she has none left over, constitutes a serious impairment and meets the threshold that is set out in the section.

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Ruling
Borkovich J.

If you would like me to expand you can let me know, and I will go through a lot more detail in writing that decision.



Form 2
Certificate of Transcript
Evidence Act, Subsection 5(2)

I, Linda Abbott certify that this document is a true and accurate transcript of the recording of Gardiner et al v. Fagan in the Superior Court of Justice held at 45 Main Street East, Hamilton, Ontario, taken from Recording(s) No. 708-19/2006, as certified in Form 1.

Feb 16/06

(Date)

Signature of Authorized Person

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