

0627521
No. 0525192
Prince George Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

JOAN CLEMENTS, BY HER LITIGATION GUARDIAN, DONNA JARDINE

PLAINTIFFS

AND:

JOSEPH CLEMENTS

DEFENDANT

STATEMENT OF CLAIM

1. The Plaintiff, Joan Clements, was formerly a Customer Service Representative, resides at [REDACTED] [REDACTED] in the Province of British Columbia.
2. The Defendant, whose occupation is unknown, resides at [REDACTED] [REDACTED] Province of British Columbia.
3. On or about the 4th day of August, 2004, on Highway 16 East, 7 Kilometres East of McBride, near the Village of McBride, in the Province of British Columbia, a motorcycle owned and operated by the Defendant, Joseph Clements, on which the Plaintiff, Joan Clements, was riding as a passenger, was involved in a single vehicle collision, which said collision was caused solely by the negligence of the Defendant.

4. Particulars of the negligence of the Defendant are as follows:
- (a) In operating a motor vehicle on the highway without exercising due care and attention, contrary to Section 144(1)(a) of the *Motor Vehicle Act*, R. S. B. C., 1996, Chapter 318;
 - (b) In operating a motorcycle on a highway at a speed that was excessive relative to the road, traffic visibility or weather conditions, contrary to Section 144 (1)(c) of the *Motor Vehicle Act*, R. S. B. C., 1996, Chapter 318;
 - (c) In failing to confine his motorcycle to the right hand side of the roadway, contrary to Section 150 of the *Motor Vehicle Act*, R. S. B. C. 1996, Chapter 318;
 - (d) In overtaking another vehicle when such a manoeuver could not be undertaken in a safe manner, contrary to Section 157 of the *Motor Vehicle Act*, R. S. B. C. 1996, Chapter 318;
 - (e) In operating his motorcycle with an overweight load when he knew or ought to have known that such operation could not be made safely;
 - (f) In operating his motorcycle in adverse weather conditions when he knew or ought to have know that such operation could not be made safely;
 - (g) In operating a motorcycle while his ability to do so was impaired by fatigue or stress or a combination thereof;

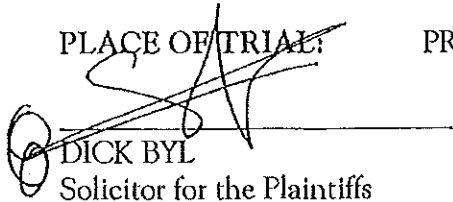
- (h) In failing to take all reasonable measures and precautions as required in the circumstances for the reasonable and safe operation of his motorcycle and to ensure the reasonable safety of his passenger; and
 - (i) In operating his motorcycle without proper equipment or maintenance as required in the circumstances.
5. As a result of the negligence of the Defendant, and as a result of the collision as set out, the Plaintiff has sustained personal injury, damage and loss, particulars of which are set out below.
 6. Particulars of the injuries sustained by the Plaintiff, Joan Clements, are as follows:
 - (a) Closed head injury resulting in severe traumatic brain injury;
 - (b) Miscellaneous bruises, contusions and abrasions.
 7. As a result of the injuries sustained by the Plaintiff in the collision, the Plaintiff has been and continues to be unable to work at her occupation as an office worker, and the Plaintiff claims against the Defendant for damages for both past and future wage loss, or in the alternative, for damages for her diminished capacity to earn income in future.
 8. As a further result of the injuries, the Plaintiff has endured, and will in the future endure, pain and suffering, nervous upset, disturbance of sleep and loss of enjoyment of life.
 9. As a result of the injuries sustained by the Plaintiff, the Plaintiff has been and continues to be unable to perform household services, and the Plaintiff claims against the Defendant for both past loss of household services and future loss of housekeeping capacity.

10. As a further result of his injuries, the Plaintiff claims against the defendant for the costs incurred by members of her family in assisting the Plaintiff with her activities of daily living and rehabilitation and without limiting the generality of the foregoing the Plaintiff claims against the Defendant for damages for an "in trust" claim.
11. As a result of the negligence of the Defendant and as a result of the injuries sustained by the Plaintiff, the Plaintiff has incurred and continues to incur special damages, including but not limited to the costs of drugs, hospitals, doctors, physiotherapists and other rehabilitation costs, particulars of which will be given by the solicitor for the Plaintiffs to the solicitor for the Defendant prior to the trial of the herein action.
12. WHEREFORE the Plaintiffs respectfully claims against the Defendant as follows:
- (a) General Damages;
 - (b) Special Damages;
 - (c) Costs;
 - (d) Court Order Interest pursuant to the *Court Order Interest Act*, R. S. B. C., 1996, Chapter 79;
 - (e) Such further and other relief as to this Honourable Court may deem just and meet.

Dated at the City of Prince George, in the Province of British Columbia on the 22nd day of June, 2006

PLACE OF TRIAL:

PRINCE GEORGE, BRITISH COLUMBIA


DICK BYL
Solicitor for the Plaintiffs

This STATEMENT OF CLAIM is filed and delivered by Dick Byl, Esq., of the law firm of Dick Byl Law Corporation, solicitors for the Plaintiffs, whose place of business and address for delivery is 900 - 550 Victoria Street, Prince George, . BC V2L 2K1 Telephone: (250) 564-3400; Fax: (250) 564-7873