

## 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**.

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