

**ONTARIO
SUPERIOR COURT OF JUSTICE**

The Honourable Mr. Justice Charney the day of June 2016

B E T W E E N:

GLORIA DERRY, MICHAEL PAUL DERRY
and JULIE BROWN

Plaintiffs

- and -

CF/ REALTY HOLDINGS INC. (ONTARIO CORP. NO. 1138519),
ONTREA INC. (ONTARIO CORP. NO. 945328), HUDSON'S BAY COMPANY,
THE CADILLAC FAIRVIEW CORPORATION LIMITED, GEORGIAN LEASEHOLDS INC.
operating as GEORGIAN MALL, SEARS CANADA INC. and BEN WALKER LIMITED

Defendants

Judgment

THIS ACTION was heard on May 17, 20, 24, 25, 26, 27, 30, 31 and June 1 and 2, 2016 with a jury at the Newmarket Courthouse, in the presence of the lawyers for all parties.

ON READING the jury verdict,

1. THIS COURT ORDERS the defendants to pay the plaintiff's damages in the sum of \$227,876.00.
2. THIS COURT ORDERS the defendants to pay pre-judgment interest on the general damages in the amount of \$46,187.54.
3. THIS COURT ORDERS the defendants to pay the Ministry of Health and Long Term Care's subrogated claim in the amount of \$4,975.02, plus prejudgment interest in the amount of \$2,068.61, for a total of \$7,043.63.

4. THIS COURT ORDERS the defendants to pay the plaintiff's costs of the action, to be agreed upon or fixed by the trial judge.
5. THIS COURT ORDERS the defendants to pay post-judgment interest at the rate of 2%, commencing from June 2, 2016.

JURY QUESTIONS

Liability

1. Did the defendant, Cadillac Fairview, fail to take such care as in all the circumstances of the case was reasonable to see that the plaintiff was reasonably safe while on the premises?

Answer: Yes or No Answer: Yes

2. If your answer to Question 1 is Yes, then state fully and clearly the particulars of Cadillac Fairview's lack of care in the circumstances: - CF failed to push all snow from sidewalk to roadway. Evidence that snow piles still present one day and five days after initial accident (Ex 16+17)
- the CF operations person from 4:30 onwards was not required to perform exterior checks (Ex 24)
- security personnel failed to demonstrate any further inspections or routine patrols

3. Did Ms. Derry's actions on March 8, 2007, fall below the standard of a reasonably prudent pedestrian and contribute to her fall?

Answer: Yes or No Answer: No

4. If your answer to Question 3 is Yes, then state fully and clearly the particulars of Ms. Derry's contributory negligence: N/A

5. If your answer to Question 3 is yes and both the plaintiff and the defendant were at fault, state in percentages the degree of fault or negligence of each:

N/A Cadillac Fairview _____ %
Ms. Derry _____ %
Total: 100%

Damages – regardless of how you answer the previous questions please answer the following questions:

Past Loss of Income

6. What amount do you assess Ms. Derry's claim for past loss of income, arising from the slip and fall of March 8, 2007, to the date of the trial?

\$ 56,472.⁰⁰ which includes
prejudgement
interest +

Future Loss of Income

7. What amount do you assess Ms. Derry's claim for future loss of income, arising from the slip and fall of March 8, 2007, from the date of the trial?

~~0~~

Future Care

8. What amount do you assess Ms. Derry's claim for future services and devices from the date of the trial?

\$ 71,404.⁰⁰

General Damages

9. What amount do you assess Ms. Derry's physical and mental pain and suffering and loss of enjoyment of life arising from the slip and fall of March 8, 2007?

\$ 100,000.⁰⁰

Total Damages \$ 227,876.⁰⁰

Derry et al vs CF/ Realty Holdings et al

File Number: CV-09-93546

Exhibit/Piece No. 28

Produced by Court

Date **JUN 02 2016**

Registration # 1111