

SUPREME COURT OF NOVA SCOTIA
Citation: Gillis v. MacKeigan, 2010 NSSC 109

Date: 20100406
Docket: Syd No. 262862
Registry: Sydney

Between:

John Lloyd Gillis

Plaintiff

v.

David MacKeigan Jr.

Defendant

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Judge: The Honourable Justice Frank Edwards

Heard: January 12, 2010

**Final Written
Submissions:** February 22, 2010

Subject: Addendum to January 18, 2010 decision - Applicability of \$2,500.00 cap to non-monetary losses - *Insurance Act* and Regulations.

Facts: At an assessment of damages following default judgment, Plaintiff awarded \$75,000.00 plus prejudgment interest for general damages. Before Order signed, Court raised issue of applicability of cap. Plaintiff's Counsel submitted post-hearing brief.

Issue: Whether Plaintiff has proven that his injury (chronic pain) is not a minor injury.

Result: Cap applies. General damage award regarding chronic pain reduced to \$2,500.00. "Minor injury" means a personal injury [Section 113B(1a)]. "Personal injury" does not include chronic

pain as defined in the regulations [Reg. 2(1)(d)]. Plaintiff failed to prove his chronic pain not caught by the exclusion.

***THIS INFORMATION SHEET DOES NOT FORM PART OF THE COURT'S DECISION.
QUOTES MUST BE FROM THE DECISION, NOT THIS LIBRARY SHEET.***