

SUPREME COURT OF NOVA SCOTIA

Citation: *Grue v. McLellan*, 2018 NSSC 69

Date: 2018-03-23

Docket: Tru. No. 412326

Registry: Truro

Between:

Holly Elizabeth Grue

Plaintiff

v.

**Ryan McLellan, Gregory McLaughlin and
The Personal Insurance Company**

Defendants

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Judge: The Honourable Justice Jeffrey R. Hunt

Heard: June 21, 22, 26, 27, 30, July 4, 27, 2017, in Truro, Nova Scotia

Final Submissions: August 13, 2017 and September 8, 2017

Counsel: Peggy Power, Solicitor for the Plaintiff
Stephen Johnston/Joshua Martin, Solicitors for the Defendant,
Gregory McLaughlin
Christopher Madill/Tipper McEwan, Solicitors for The
Personal Insurance Company
Myer Rabin, Solicitor for Ryan McLellan

Written Decision: March 23, 2018

Subject: Consent to drive; Reverse onus provisions of the *Motor Vehicle Act*; Consideration and apportionment of negligence.

Summary: By Consent Order, issues of consent to drive and liability were severed from the quantification of the Plaintiff's damages. This proceeding determined issues of consent to drive and negligence by the Defendant driver and owner.

Issues:

1. Was the Defendant, McLaughlin, able to disprove consent under the reverse onus provisions of s.248 of the *Motor Vehicle Act*?
2. Was the Defendant, McLaughlin, negligent in all the circumstances?
3. Apportionment of liability.

Result:

1. Consent to drive was established.
2. Negligence was found on the part of the owner, McLaughlin.
3. Liability in negligence was apportioned 85% against the driver and 15% against the owner.

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