

**ONTARIO  
LICENCE APPEAL TRIBUNAL**

B E T W E E N:

**JESSICA LOVEJOY**

Applicant

- and -

**THE DUFF GENERAL INSURANCE COMPANY**

Respondent

---

**MEDIATION MEMORANDUM OF THE RESPONDENT,  
THE DUFF GENERAL INSURANCE COMPANY**

---

Date and Time: **March 28, 2019 - 12:00 p.m.**

Location: **Toronto Exchange Tower**  
130 King Street West, Suite 2700  
Toronto, Ontario  
M5X 1C7

Mediator: **Van Krkachovski**

Counsel for the Applicant: **Jessica Grant**

Counsel for the Respondent: **Bogdan Miscevic**  
McCague Borlack LLP

## **BACKGROUND**

1. This application arises as a result of a motor vehicle accident on July 1, 2016 (the “accident”). The applicant, Jessica Lovejoy, alleges that on the date of loss she was riding her bicycle near the intersection of Maple Avenue and Elm Street when she was struck by a vehicle owned by Shelbyville Shipping and operated by Otto Mann.
2. As a result of the accident, the applicant alleges that she suffered a broken leg and a traumatic brain injury.
3. The applicant’s mother was insured with the respondent, the Duff General Insurance Company, at the time of the accident.
4. The applicant submitted a claim to the respondent for Accident Benefits. An Examination Under Oath was conducted by the respondent and it was determined that the applicant was dependent on her mother at the time of the subject accident and in the one year leading up to the accident.
5. Shortly after the claim was submitted, the respondent informed the applicant that some of her claims would be denied.
6. The applicant filed an application with the Licence Appeal Tribunal (“LAT”) regarding the denial of Accident Benefits by the respondent.
7. The respondent was invited as a guest to this global mediation. It has been confirmed that the respondent will not be contributing towards the cost of the global mediation unless the accident benefits file settles on full and final all-inclusive basis.

## **RESPONDENT’S POSITION**

8. The current paid-to-date on this accident benefits file is \$30,000.00 for medical and rehabilitation benefits; \$15,000.00 for lost education expenses and \$4,440.00 in non-earner benefits. There have been no other claims made against the respondent.
9. The respondent denies that the applicant would qualify under the CAT regime and confirms that no OCF-19 has been filed, to date.

## **CONCLUSION**

10. Having said all of that, the respondent comes to this global mediation in good faith hoping to be able to resolve this matter but that will require compromise from both sides.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED this 28<sup>th</sup> day of March, 2019.**

**Bogdan Miscevic, B.A. (Hons), J.D.**  
*Litigation Lawyer*  
**McCAGUE BORLACK LLP**  
Barristers & Solicitors

Tel: (416) 860-8090  
Fax: (416) 860-0003

Lawyers for the Respondent,  
The Duff General Insurance Company