

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation: ***Roper v. City of Nanaimo*,**
2006 BCSC 1771

Date: 20061130
Docket: S42759
Registry: Nanaimo

Between:

Carmela Roper

Plaintiff

And

City of Nanaimo

Defendant

Before: The Honourable Mr. Justice Shabbits

Reasons for Judgment

Counsel for the plaintiff:

A. de Turberville

Counsel for the defendant:

J.D. Martin

Date and Place of Trial:

November 6, 7, 8, & 9, 2006
Nanaimo, B.C.

[1] Carmela Amerato (formerly known as Roper) fell while roller skating at the Beban Park Area in Nanaimo. She was seriously injured in the fall. She claims damages from the City of Nanaimo.

[2] Beban Park Area is owned and maintained by the City of Nanaimo. On June 4, 2004, the City was in physical possession of the area and it had responsibility for, and control over, the condition of the arena, the activities conducted within it and the persons allowed to enter it. The City was an occupier of the arena within the meaning of the *Occupier's Liability Act* R.S.B.C. 1996 c.337.

[3] On January 4, 2004, the City sponsored a disco roller skate at the arena. It lasted from 7:00 p.m. to 10:00 p.m. The first hour of the skate was a family skate. The second two hours were open to the general public. This was a special event. The City had sponsored an earlier disco roller skate on May 7, 2004, and it had sponsored one disco roller skate in 2003.

[4] The June 4, 2004, event featured special lighting and music. The defendant's staff at the event included Jessica McGarrigle, who was the event organizer; Phyllis Ritchie and Jordan Braid, who were the patrollers; Gary Paterson and Adam Mitchell, who were the skate-shop personnel; Robert Pakulak, the maintenance worker and a cashier.

[5] On June 4, 2004, Mr. Pakulak was responsible for the maintenance of this building and an adjoining building owned by the defendant. He was back and forth between the two buildings during the course of the evening.

[6] Ms. Amerato was a resident of Nanaimo. She and her daughter, Maria Elliott and her daughter's husband, Jeremy Elliot, and her son, Adam and a number of persons from Ms. Amerato's church, including Marina Hasselwander, attended the disco roller skate special event. They paid the defendant the fee for entry. They rented roller skates from the defendant.

[7] The City of Nanaimo owed the plaintiff the duty of care set out in s.3(1) of the *Occupier's Liability Act*. Subsection 2 provides that that duty of care applied in relation to the condition of the arena, the activities within it, and the conduct of third parties within it.

[8] The plaintiff alleges that she fell because of candies on the surface of the roller skating rink and that the City and its employees were negligent in not clearing the rink surface of the debris that caused the plaintiff's fall. The City denies that its employees were negligent.

[9] The defendant's evidence is that there was no debris on the surface of the rink. Alternatively, the defendant submits that the plaintiff has not shown on a balance of probabilities that any of its employees were negligent.

[10] There were nine witnesses that testified at this trial in respect of that issue. The plaintiff and three witnesses testified that there was candy on the surface of the rink near where the plaintiff fell. The plaintiff said that the manner in which she fell is consistent only with the inference that she fell over the candy.

[11] Five employees of the defendant testified. Their evidence is consistent only with the conclusion that there was no candy on the floor of the arena, or, alternatively, that there was no negligence on the part of the defendant or its employees.

[12] Because of that conflict, I will refer to the evidence in some detail.

[13] Ms. Amerato testified that she was a proficient roller skater. She said that she arrived at Beban Park Arena with her daughter and her son and with her son-in-law, not long after the start of the family skate.

[14] The plaintiff said that she went out on the rink before the disco flashing lights and strobe lights came on, and at a time when there were just a handful of people on the rink. She said that she saw no debris on the rink when she first went out.

[15] The surface of the rink is 200 feet in length and 85 feet in width. The entrance for the skaters was at the end of the rink nearest the cashier and skate rental area. During the trial, that end of the rink was referred to as being in the six o'clock position.

[16] Ms. Amerato said that not long after she went out alone, she saw a young bag who was with his father and who was spilling candy out of a grocery plastic type of bag. She said the boy was then at the seven or eight o'clock position of the rink, and that the candy trailed behind him as the boy and his father walked to the entrance. They left the rink. Ms. Amerato said that there was a fair amount of candy spilled, and that it was very noticeable.

[17] Ms. Amerato said that the candy was very visible. Ms. Amerato said that the candy was scattered all around the rink as the evening wore on.

[18] Ms. Amerato said that she saw the candy being spilled about 15 minutes after she first got on the rink, and that she fell about 45 minutes after that. When she fell, Ms. Amerato was skating with the other patrons in a counter-clockwise direction. She said that she skated through the candy throughout the night until she fell.

[19] Ms. Amerato said that she was with her daughter and her son in law when it felt like her right foot was being grabbed. She said her left foot went ahead, she spun and fell. Ms. Amerato said that she fell at about the four o'clock position on the surface of the ice, and that there was candy around that whole area.

[20] If Ms. Amerato's evidence is accepted, there can be little doubt but that spilled candy caused her to fall.

[21] Ms. Amerato testified that she had no complaints with the lighting, even though it was altered to accommodate the disco theme, and that although the skates she had rented were not the best, they fit and they worked.

[22] Ms. Amerato said that she could not tell who was staff and who was not staff on the ice surface. In cross examination, Ms. Amerato adopted a statement she made at discovery, that being, "we knew it was not safe to have things on the ground."

[23] Ms. Amerato did not report the spilled candy to any of the defendant's staff. She said the candy was obvious, and that she assumed that they would have

noticed it and cleared it up. Ms. Amerato was badly injured in the fall, and suffered much pain. Ms. Amerato said that the first indication she gave to the defendant that she had tripped on candy was some weeks after the accident had occurred.

[24] Jeremy Elliot is the plaintiff's son in law. He said that he went to the arena with the plaintiff, and with his wife Maria and with Adam, who is Maria's brother. He said they arrived at about 6:30, although he was not sure of the time. Mr. Elliot had no previous experience roller skating, although he was an ice skater.

[25] Mr. Elliot said he did not see the plaintiff fall. He did see Skittles on the skating surface on the rink before the fall. He said he was alone when he saw a group of little kids who were sharing candies out of their pockets. He said they were Skittles. He said he saw one of them drop about a full regular size package of Skittles on the surface of the arena. That was at about the 11 o'clock position or the rink. He said they were quite visible, and as he later skated around the rink, he saw that they were being spread out. He said that people were skating around the candy, and that he did not see anybody clear the candies off the rink. He said he thought the candies would be cleaned up by the defendant's staff. He said he did see staff on the rink, although the staff did not spend much time on the rink. He said they skated around a few times, but for the most part they were in the players' bench and not on the skating surface.

[26] He said the plaintiff was behind him when he heard her scream as a result of her fall. He said there were Skittles all around the area where she fell. He said the plaintiff said that her skate had gotten caught.

[27] In cross examination, Mr. Elliot agreed that he knew that no food or beverages were allowed on the skating surface. He said there was one female employee of the defendant on the players' bench and two male employees patrolling on skates. He said that he saw three staff members on the bench before the fall. He said that after his mother in law fell, two male staff members came from the players' bench to attend to her. He said the group that spilled the candy included four or five boys of about 7 to 11 years of age. He said that after the spill, the boys got off of the rink "pretty quickly."

[28] Mr. Elliot testified that the candy wasn't his responsibility, and that he thought it would be cleared up. He said he did not report the spill to any of the defendant's staff.

[29] The plaintiff's daughter, Maria Elliot, testified that she saw Skittles on the surface of the rink. She said that she noticed them "pretty much immediately as soon as we got out there." She said that the Skittles she saw were at about the six o'clock position of the rink, at the entrance of the skating surface. She said there were quite a few of them and they were "pretty noticeable." She did not see any staff take any steps to clean up the Skittles. She said that the staff that she saw was in the players' bench, or going from the entrance to the players' bench. She said that that was the only skating that she saw them do.

[30] Ms. Elliot did not report the spill to any of the defendant's staff. She said she thought that they would clean it up. Ms. Elliot had no complaints or concerns about

the lighting before the accident. Ms. Elliot said that she did not see anybody spill candies on to the surface of the ice.

[31] Ms. Elliot said that just before the accident, she noticed as they were going around the rink that the Skittles were getting kicked around and being moved about. She said that it was then that she warned the others with her about the Skittles. Ms. Elliot said she really didn't need to tell the defendant's staff about the Skittles, because the Skittles were obvious.

[32] She said that after the accident, her mother told her that something had gotten caught under her skates or her skate.

[33] Ms. Elliot said that she saw the defendant's staff in the players' bench a number of times as she went around the rink. She said they were just talking and laughing and looking like they were having a good time.

[34] Marion Hasselwander testified that she saw Skittles near where the plaintiff fell. She said that after the plaintiff fell, she saw candy on the floor near where she had fallen. She said that the candy that she saw was within several feet of the plaintiff.

[35] Ms. Hasselwander said that she had been at the rink about 25 minutes before the fall. She said the candy she saw was between where she was standing and the plaintiff as the plaintiff lay on the surface of the rink. That was a distance of several feet. She said she did not pick up any of the candy, nor did she tell any of the defendant's staff about there being candy on the floor.

[36] After the plaintiff was taken to the hospital, Ms. Hasselwander stayed at the rink and continued to skate. She agreed that she continued to do so even though she had seen candy on the surface of the rink, although she said that made her nervous.

[37] Jessie McGarrigle is 24 years of age. She was employed and trained as a skate patroller. On June 4, 2004, she was the organizer or person in charge of the disco roller skate. She said the event started at 7:00 a.m. and her shift started at 5:30 p.m. She wore a staff uniform, which included a black shirt with writing on it that identified her as a City employee. She did not wear skates. She was in shoes. Her preparation work included helping to set up the special lighting for the event and checking the surface of the rink to ensure it was clear.

[38] She said that there is no food or drink allowed on the skating surface, not even gum or jaw breakers. That rule is enforced. It applies to ice skate and roller skate events. She identified prominent signage that was displayed that evening that included that rule.

[39] She said that what she did during the evening included attending to the sale of strobe lights, as well as going out onto the surface of the rink every ten to thirty minutes and standing in the penalty box to survey the skaters. She said that she was looking for anybody with food, and for debris on the rink surface, and water spills on the surface, and for people causing trouble. She said that she did not recall anybody bringing food onto the surface of the rink during the event. She said that before the accident, she had gone out onto the surface of the rink about a half a

dozen times. She thought the accident happened near the halfway point of the event. After the accident, she went out with others and took a clipboard out on which she made immediate notes about the incident. The main lights of the arena were turned on as the plaintiff lay injured on the skating surface. Cones were brought out and placed around the area. She said that the plaintiff looked like she was in a lot of pain.

[40] She said that nobody said anything to her about debris or candy being involved in the accident. She testified that nothing was said to her about the plaintiff having caught her foot on something.

[41] She said that she personally looked for water spills and wrappers or debris in the area, to see if she could see a cause for the fall, but she saw nothing. She said she searched the area alongside the visitor's bench and players' bench and out from the boards a distance of about four meters, but saw nothing on the floor. Nothing was pointed out to her. She saw no candy. She said the patrollers went back to patrolling.

[42] She said that she participated in a check of the skating surface after the event, and that there was nothing on the surface. The surface was not swept by the defendant's staff at that time. Ms. McGarrigle said that was not part of their duties, although they were required to check the surface to ensure that nothing was left there.

[43] In cross examination, Ms. McGarrigle agreed that the defendants were required to clean up spills or candy should there have been spills or candy.

[44] She testified that patrollers do not go in or out of the players' bench or penalty bench during the skate.

[45] The two patrollers testified. The first patroller was Phyllis Ritchie. Ms. Ritchie is 20 years of age. She is now a third-year human genetics student at UBC, and continues to work as a skate patroller, although now with the Vancouver Parks Board. She had been employed by the City of Nanaimo as a skate patroller and instructor on a part-time basis from about January, 2003. Her duties were varied. She had earlier been a volunteer. She testified about the training that patrollers received. She said that patrolling included skating around and ensuring that there was no horseplay, and no people eating. She said the patrollers are required to scan the skating surface to see that there is nothing on it.

[46] Ms. Ritchie said that she arrived about an hour before the event began and was involved in the setting up of the lights. She said that she wore black pants and a black T-shirt with the white logo identifying her as a City of Nanaimo employee. She also had a name tag. She said that Ms. McGarrigle was the coordinator and was not on roller skates. She said that her fellow patroller was Jordy Braid.

[47] She said that before the event began she made sure the surface was smooth without bumps and that it was clear of debris. She said there was absolutely nothing on the surface before the event began.

[48] She said that even with the special lighting, you could see the skating surface very clearly.

[49] She said it was her job to enforce the rules and to skate around and that she was looking for people chewing or reaching in their garments for food. She said the practice she followed was to periodically stand and watch as the skaters went by her. While employed as a patroller, if she saw somebody with food, she would go up to them and ask them to get off the surface and finish what they were eating. She said she did not see anybody that night with food. She said that she was especially looking for food because it was a special event.

[50] Nobody came up to her before the accident and reported that there was debris or anything on the surface of the skating area.

[51] She said that if she did see a spill, the procedure was to bring out cones to shield the area from skaters and then to clean up the spill.

[52] She said that of the three hours of the event, she was actually skating on the surface of the rink for about two hours and forty-five minutes. She took three small breaks during the event. She said that for most of the time, she was actively skating with the patrons.

[53] She said that the players' box was used only for lighting. She said that she herself never entered the players' box during the event. She said she never saw Jordy Braid in the box.

[54] She said that she did not see the plaintiff fall, and was off the rink surface at the time of the fall. She said that she had been away for a maximum of three minutes, and when she came back she went over to where the plaintiff had fallen.

Mr. Braid was there. Ms. Ritchie was the second employee on the scene. Ms. McGarrigle followed.

[55] Ms. Ritchie said that she got on her hands and knees near the plaintiff and after asking her about her injuries, looked down and around to see if there was something that had made her trip. Ms. Ritchie said that she did not see anything about. She said that what she was looking for was food, or anything else. She said she saw nothing. She said that she looked toward the boards from the plaintiff, behind the plaintiff, and ahead of her. She did that when she was on her hands and knees. She helped to set up the cones. She said she saw nothing on the surface, and she felt nothing.

[56] Her evidence was that before, after and during the event, in all of the areas of the rink, she saw no bumps or defects.

[57] She said she saw no Skittles that evening either on the rink surface or in anybody's hands.

[58] Ms. Ritchie was adamant that she patrolled right from the beginning of the event, and that she did not have to clean anything from the surface of the rink during the event and that she checked the surface after the event and saw nothing. Ms. Ritchie agreed that debris on the surface is very significant. She made a report about one month after the event. She made no mention of checking the floor for debris.

[59] The other patroller was Mr. Jordan Braid. He is 18 years of age. He was about 16 at the time of the plaintiff's fall. On June 4, 2004, he was employed by the defendant as a volunteer skate leader. As a volunteer, he was trained as a patroller. He received a training manual. He was later hired by the defendant as a paid employee.

[60] Mr. Braid said the event of June 4, 2004, was a roller skating disco glow-in-the-dark disco. He wore a shirt that stated he was a volunteer. He assisted in setting up the lighting. He later patrolled the surface with Ms. Ritchie. He said part of his job was to look at the condition of the rink surface before the roller skate, and he did that. He said it was not bumpy or anything and that he did inspect the surface.

[61] He testified about the rules at the event being posted in two prominent places. He said that he was responsible for enforcing the rules, and he did that by focusing on people's hands and mouths and looking whether they were chewing and he did that as he skated around. He looked at pockets to see if there were bulges in them. He said he saw no skaters bring any food or beverage onto the rink that night.

[62] He said he saw no spills or debris or defects on the rink's surface before the plaintiff had her accident. He said he was definitely looking for that. He said he did that by skating around and he said it was easy to notice things because of the way the light hits the surface of the arena. He said he did not skate fast like any of the patrons, but at a slow pace so he could keep an eye on things.

[63] He testified of the procedure for responding to spills.

[64] He said that during the event, he spent “the whole evening, almost, on the rink, other than going off for a drink now and again.” He said skaters were not permitted to go into the players’ or penalty boxes. He said he did not go into those boxes during the actual skate session, and only went into them before and after the event for the set up of the lights and clean up. He said he saw nothing unusual on the rink after the plaintiff’s fall. He said that when the area was coned off, he looked around where the cones were but saw no debris or anything unusual. He said he did that because it could have endangered somebody else and he wanted to make sure there was nothing there.

[65] Nobody reported to him, either before or after the accident, that there was candy spilled on the rink’s surface. After the event, he said he went around and made sure that there was nothing on the surface, so that the arena keeper didn’t have to do too much, and that “we didn’t find anything.”

[66] When asked whether he would have seen a couple of dozen Skittles candies spilled on the rink surface that night, Mr. Braid said he definitely would have seen them.

[67] Mr. Gary Paterson is an employee of the defendant. He was employed in the shop. He said that he wasn’t particularly looking at the surface of the arena during the event, although he said that had he noticed anything on the surface, he would have ensured it was cleaned up. Mr Paterson did not see the plaintiff fall. He took the first aid kit and followed Mr. Braid out to the plaintiff after Mr. Braid reported the incident to him. He said that he got on his hands and knees to look at the plaintiff’s

injuries. He asked that the lights be turned up and that the cones be brought out. He said the plaintiff was in obvious pain. He said that he was not told why the fall had occurred. He said nobody said anything to him about how the accident had happened, and nobody pointed out any debris or candy on the surface of the rink to him.

[68] Mr. Paterson said that at the conclusion of the event, he helped in the clean up and he saw nothing on the rink surface. Like all the other witnesses at the trial, he saw nobody clean anything up off the surface. Nothing was reported to Mr. Paterson.

[69] Mr. Chet Lines, who is an employee of the defendant, was at the event with his family as a patron. He arrived at about 7:30 in the evening, and stayed the entire evening. He rented skates. He said that he took one break during the event, but otherwise was on the floor during the whole of the evening. He said the surface of the rink was clear. He said he had no difficulty seeing the skating surface. He said he saw nobody bring food or drink out on the skating surface, and that he would have notified the patrol if he had seen any food. He said food is dangerous.

[70] He said he recalled one of the patrollers requiring people who entered the players' or penalty box to leave the box. Neither of the patrollers gave evidence about that. He said he saw the orange cones put up when the lady had fallen but saw nothing in the area.

[71] Mr. Robert Pakulak testified that his position for the City is that of ice maker, and his duties include maintenance at the Beban Park Arena. He said he checked

the floor area before the special event, and dry mopped it. He said he helped a bit with the light set up, but was otherwise between Beban Park Arena and another building during the event.

[72] He said he entered Beban Park Arena after the plaintiff had fallen. He said the main lights were on, and there were cones on the floor. He said he walked the area and saw nothing on the floor and nothing wrong with the floor. He said he was on the floor about ten minutes to look around the area where the plaintiff had fallen looking for debris or something amiss. He saw nothing and cleaned nothing up.

[73] He said after the event, he walked the floor and there was nothing on it.

[74] He did not sweep the floor after the event and he did not make a record of his observations about there being no debris on the floor.

[75] It is not in dispute that the defendant is liable and negligent if there were Skittles on the skating surface of the rink for any appreciable period of time. The presence of any food or liquid on the skating surface is a known and unacceptable danger to skaters.

[76] The submissions on behalf of the plaintiff are that liability must be found, as it should have been obvious to the defendants' employees that there were Skittles on the skating surface.

[77] Counsel for the plaintiff submitted that the claim has been established, because the plaintiff's witnesses testified positively about seeing Skittles, while the defendant's witnesses testified about not seeing anything in circumstances where

they were not looking for Skittles. He submitted that to dismiss the plaintiff's claim would be to find that all four of the plaintiff's witnesses fabricated their evidence. Ms. Hasselwander was only a casual acquaintance of the plaintiff and she was there only because she was in the same church group as was the plaintiff.

[78] Counsel for the plaintiff asked rhetorically if four witnesses were not enough to make out the plaintiff's case, then, how many would be required?

[79] Counsel for the plaintiff said it was in the personal interests of some of the witnesses for the defendant to give evidence denying their own negligence, and that all of the witnesses for the defendant were employed by the defendant. He said they gave evidence favouring their employer.

[80] The two patrollers no longer work for the defendant.

[81] There are a number of considerations that are of note:

1. There were a large number of people at the event. The paid attendance for the evening was 97. That includes the two events extending from 7 p.m. to 10 p.m. The plaintiff's evidence is that the Skittles were on the rink surface for about 45 minutes before she fell. Nobody made any report to the defendant's staff about the Skittles. It is, in my opinion, not credible that a large number of people would continue to skate by and even scatter an obvious hazard without reporting it to the staff. The hazard was a danger to all who were there. Reporting it would have been prudent for the safety of others

but also for the safety of whoever reported it. Each patron who saw this danger would have known that they were at risk of falling by continuing to skate through candies;

2. There was evidence that the two patrollers were not doing their job, by largely remaining off the skating surface in the players' box or penalty box and socializing. In my opinion, that evidence is not credible. The very purpose of the patrollers being there was to be on the surface of the skating area. Both of them were adamant that neither of them were in the boxes at all during the event. Ms. Ritchie and Mr. Braid testified in a forthright and thoughtful manner. Each was definite and firm in their evidence. In my opinion, it is not credible that both patrollers would have reneged on their duties and that Miss McGarrigle, who was acting as coordinator or organizer would have tolerated that during the occasions that she went out to check on the event.

I reject the evidence that the patrollers were in the penalty box or players' boxes during the event.

3. If the patrollers were patrolling, and I find that they were, they must have seen the Skittles if the Skittles were there. I do not accept that the patrollers skated by an obvious hazard time and again while doing nothing to remove it.

4. Miss McGarrigle, Ms. Ritchie, Mr. Pakulak and Mr. Paterson all went to the area near where the plaintiff fell, and did not see Skittles or debris. Mr. Pakulak was in charge of maintenance. He inspected the area to ensure there was no danger.
5. Not one of the four witnesses who said at trial that they saw Skittles said anything to the staff about Skittles or candy at the time. If the plaintiff had fallen over candy, it seems to me that the plaintiff would have said something to the staff.
5. The evidence of Mr. Lines is that he was at the skate as a patron with his family. He testified that he was on the rink surface for virtually the whole of the evening. He said he went around and around, and saw nothing. Either Mr. Lines has fabricated his evidence about being there, or he continued to skate in the face of an obvious hazard, or there was no hazard. Mr. Lines testified that food on the rink is dangerous. He said he would have notified the patrol if there had been anything on the surface. I see no reason to think that Mr. Lines was not there, or that he ignored a hazard endangering his family.
6. The evidence of the plaintiff and of Mr. Elliott about seeing candy being spilled differed as to who was there and how it occurred and where it occurred. They seemed to be describing different events.
7. There is no evidence that anybody did any clean up during the event. All of the employees of the defendant who would likely have been

involved in a cleanup testified. The surface was checked after the event by the patrollers and by the maintenance employee. There was no debris on the surface. The explanation as to where Skittles might have ended up is unanswered.

[82] Of most significance, is that both Miss Ritchie and Mr. Braid were adamant that they were patrolling and keeping a lookout and that they saw no hazards. In my opinion, both of them gave persuasive and convincing evidence. I believe them.

[83] I am of the opinion that the weight of the evidence is against the plaintiff. The plaintiff has not established negligence on the part of the defendant or its employees. Her claim must be dismissed.

[84] Although the issue of contributory negligence does not arise, in my opinion had negligence on the part of the defendant been established, there would necessarily have been contributory negligence on the part of the plaintiff.

[85] The plaintiff submitted that there was no contributory negligence on her part. The plaintiff relied on **Potozny v. The City of Burnaby**, [2001] B.C.S.C. 837. In that case, the defendant municipality was found negligent for not attending to an accumulation of water and debris on an ice surface that the defendant should have reasonably foreseen might cause skaters to trip. However, Burnyeat J., when addressing the issue of the acceptance of “inherent risk,” said he took into account the question of whether patrons would appreciate and assume the risks that were present. He said that it was not reasonable to assume that Miss Potozny or any other patron that day in Burnaby would appreciate that the area would not be

cleaned in accordance with the area's own standard or industry standards or that debris would be allowed to fall and remain on the ice surface, or that staff would not be diligent in keeping children away from a Christmas display thereby causing debris to go to the surface or that inadequate separation of the display from the ice surface would be allowed.

[86] The facts here are different. Miss Amerato testified that she knew that there were Skittles on the ice. She said she had seen the Skittles. She said the Skittles were an obvious hazard. She said she continued to skate through them.

[87] I am of the opinion that if the plaintiff's own evidence was to be accepted then it must be found that the plaintiff herself was negligent in exposing herself to that danger.

[88] Unless costs are spoken to, I order that the defendant recover its costs on Scale 3.

“S.J. Shabbits, J.”
The Honourable Mr. Justice S.J. Shabbits

December 6, 2006 – ***Revised Judgment***

The style of cause on the front page of the Reasons for Judgment should read:

**Carmela Amerato
(formerly known as Carmela Roper)**

and the annotated style of cause on the top portion of each page should read:

Amerato (formerly known as Roper) v. City of Nanaimo

December 20, 2006 – ***Revised Judgment***

On page two, paragraph one should read:

“Carmela Amerato (***formerly known as Roper***) fell ...”

and the annotated style of cause on the top portion of each page should read:

Roper v. City of Nanaimo