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Form 9. Petition for Review  
[Rule 13.4(d)]

96870-5

Court of Appeal Cause No. 776070

**IN THE SUPREME COURT OF THE STATE OF  
WASHINGTON**

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**NORTHGATE MALL PARTNERSHIP, a Delaware Corp.**

**Respondent**

**v.**

**KELLIE SLATER, an Individual**

**Petitioner**

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**PETITION FOR REVIEW**

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Petitioner  
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Amy v. Kmart of Wash., LLC, 153 Wn. App. 846,868,223 P. 3d 1247 (2009)

Bitzan v. Parisi, 88 Wn. 3d 116, 558 P 2d tt5 (1977).

Cox v. Charles Wright Academy, 70 Wn.2d 173, 422 P.2d 515 (1967)

Evans v. Miller, 8 Wn. App. 364 2d 887 (1973).

Fahndrich v. Williams, 147 Wn. App. 302, 305, 194 P.3d 1005 (2008).

Green v. Floe, 28 Wn. 2d620, 183 P.2d 771 (1947).

Hartnell v. Alaska Marine Lines, Inc., Superior Court of Washington (2016)

Jones v. City of Seattle, 179 Wn. 2d 322, 360, 314 P. 3d 380 (2013).

Magana v. Hyundai Motor Am., 167 Wn. 2d 570, 220 P. 3d 191 (2009).

Meinhart v. Anaya, 1 Wn. App. 2d, 403 P.3d 973, 2017 Wash. App.

Morgan v. Burks, 17 Wn. App. 193, 198, 563 P. 2d 1260 (1970).

Nelson v. Erickson, 190 Wn. App. 1003, Court of Appeals of Washington, Division One No. 71709-0-I. Filed: September 14, 2015

Palmer v. Jensen, 132 Wn.2d 193, 197, 937 P.2d 597 (1997).

Panitz v. Orengo, 10 Wn. App. 317 P. 2d 726 (1973)

Robinson v. Safeway Stores, 113 Wn.2d 154, 161-62, 776 P.2d 676 (1989).

Sean Dillon v. Jane Doe, Superior Court of Washington, King County.  
November 12, 2003

State v. Sisouvanh, 175 Wn. 2d 607, 619, 290 P.3d 942 (2012)

Stevens County v. Loon Lake Prop. Owners Ass'n, 146 Wn. App 124, 131, P.3d 846 (2008).

TMT Bear Creek Shopping Center, Inc. v. Petco Animal Supplies, Inc., 140 Wn. App. 191, 200, 165 P. 3d 1271 (2007).

### **Statutes**

RCW 4.76.030. When a party moves for a new trial, the trial court is authorized to reduce or increase the verdict in lieu of a new trial if it obtains the consent of the adversely affected party.

RCW 4.76.030. This court begins with the presumption that the jury's verdict was correct.

RCW 4.76.030. A trial court may grant additur where the jury's verdict on its face is so inadequate as to indicate it must have resulted from passion or prejudice.

RCW 4.56.250(1) defines economic and noneconomic damages in actions for personal injury or death.

RCW 4.56.250(1)(a) Economic damages are “objectively verifiable monetary losses, including medical expenses, loss of earnings, burial costs, loss of use of property, cost of replacement or repair, cost of obtaining substitute domestic services, loss of employment, and loss of business or employment opportunities.”



RCW 4.56.250(1)(b). Noneconomic damages are “subjective, nonmonetary losses, including, but not limited to pain, suffering, inconvenience, mental anguish, disability or disfigurement incurred by the injured party, emotional distress, loss of society and companionship, loss of consortium, injury to reputation and humiliation, and destruction of the parent-child relationship.”

### **Regulations and Rules**

CR 59

#### **NEW TRIAL, RECONSIDERATION, AND AMENDMENT OF JUDGMENTS**

(a) Grounds for New Trial or Reconsideration. On the motion of the party aggrieved, a verdict may be vacated and a new trial granted to all or any of the parties, and on all issues, or on some of the issues when such issues are clearly and fairly separable and distinct, or any other decision or order may be vacated and reconsideration granted. Such motion may be granted for any one of the following causes materially affecting the substantial rights of such parties:

(1) Irregularity in the proceedings of the court, jury or adverse party, or any order of the court, or abuse of discretion, by which such party was prevented from having a fair trial.

(5) Damages so excessive or inadequate as unmistakably to indicate that the verdict must have been the result of passion or prejudice;

- (7) That there is no evidence or reasonable inference from the evidence to justify the verdict or the decision, or that it is contrary to law;
- (9) That substantial justice has not been done.

#### RAP 9.2

#### VERBATIM REPORT OF PROCEEDINGS

(b) Content. A party should arrange for the transcription of all those portions of the verbatim report of proceedings necessary to present the issues raised on review.

#### LEGAL TEXTS

McCormick on Damages, Charles T. McCormick, *West Publishing Company, St. Paul, Minn.*, 1935.

1 **A. Identity of Petitioner**

2 Kellie Slater, Petitioner, asks this court to accept review of the Court of Appeals  
3 decision designated in Part B of this petition.

4 **B. Court of Appeals Decision**

5 Upon review of the Court of Appeals decision filed the 22<sup>nd</sup> day of January 2019 I  
6 make the following comments. Aside from his opening comments in which  
7 Verellen, J. states ...*she fell and injured herself*” I agree he summarized the facts  
8 accurately. The Court of Appeals seemed to agree with me in principle but stated  
9 at page 4 of their decision that “...the party presenting an issue for review has the  
10 burden of providing an adequate record to establish the asserted error.” The court  
11 relies on RAP 9.2(b); State v. Sisouvanh, and Stevens County v. Loon Lake Prop.  
12 Owners Ass’n. With all due respect the Court of Appeals, I did. I concede that I  
13 did not provide the entire record. I have minimal income. I received quotes to  
14 provide the entire record and simply could not afford it. This injury has been  
15 devastating financially. I sought legal opinion concerning this issue and was told I  
16 needed to provide what was necessary to establish my position. This appears to  
17 be in keeping with the RAP 9.2(b) and cases cited by the Court of Appeals. The  
18 cases cited by the Court of Appeals do not require the party to provide the entire  
19 record; only what was adequate to assert the position. The bulk of the trial  
20 concerned the issue of liability of the Respondent. I am not appealing the issue of

1 liability, as I prevailed there. I am only appealing the decision of the trial judge on  
2 additur concerning the matter of non-economic damages. So, I provided enough of  
3 the verbatim report as was necessary to establish my injury and medical  
4 prognosis. This was all testified to by my surgeon, Dr. Taranow. And I provided his  
5 testimony in full. Since the respondent provided no medical testimony at trial to  
6 rebut nor refute my surgeon's testimony it is my position that I provided adequate  
7 record to establish the asserted error, as both Sisouvanh and Loon Lake Prop.  
8 Owners require, and indeed, RAP 9.2(b). It is my position that having established  
9 the negligence of the Respondent, the severity of my injury and my inability to  
10 work that I met this burden. In footnote 9 at the bottom of page 4 of their decision  
11 Verellen, J. acknowledges that I "provided a transcription of the testimony of an  
12 orthopedic surgeon who treated her." The Justice is, in fact, referring to my  
13 surgeon, Dr. Taranow. His evidence is the most relevant testimony and evidence I  
14 presented at trial to establish general damages. The remainder of the evidence I  
15 presented at trial concerned liability. And as I stated, I am not contesting the trial  
16 court's findings on liability. Further, the Respondent only called one main witness,  
17 the mall manager (an employee of the Defendant) at trial, and his testimony  
18 concerned only the matter of liability. Having met the burden of liability at trial, it is  
19 my position that I provided enough of the record to the Court of Appeals to rule on  
20 the matter of non-pecuniary damages. With respect to the matter of error of jury  
21 instruction, I included the instructions in error verbatim as RAP 9.2(b) requires

1 (Appendix 6). Finally, concerning the matter of prejudice, I was advised from the  
2 outset that, based on case law, my case was "...worth well into the six figures," to  
3 quote my lawyer. Counsel's demand at mediation was \$900,000. Her bill of costs  
4 at Appendix 14 reflects this.

5 **C. Issues Presented for Review**

6 The sole issue I am presenting to this court for review is the adequacy of non-  
7 economic damages. As Verellen, J. stated, the jury found the Respondent  
8 negligent and ordered they cover my medical costs only. The verdict was silent as  
9 to non-economic damages, loss of future employment, pain and suffering or future  
10 medical costs.

11 I am appealing the decision of the trial court's ruling on additur, not the jury verdict  
12 after trial. The jury awarded me damages for past medical expenses only. The  
13 jury awarded me nothing for future earnings, future medical costs, general  
14 damages or pain and suffering. My lawyer and the lawyer for the defendant  
15 agreed not to appeal the jury verdict, and further agreed to remit the matter of  
16 damages to the trial judge on a motion for additur, pursuant to RCW 4.76.030.  
17 The trial judge was asked, without an oral hearing, to remit the matter of damages  
18 for a new trial or adjust the jury verdict by a reasonable sum. The trial judge ruled  
19 against a new trial on the matter of damages alone and awarded \$10,000 for  
20 general damages only. It is that decision that I am appealing. I am asking this

1 court to find that the trial judge erred in awarding this amount, overturn the trial  
2 judge's ruling, and

3 1. remit the determination of damages back to the trial court for:

- 4 i) a new trial on the issue of damages only; or
- 5 ii) re-hear the motion for additur, allowing for oral argument.

6 or in the alternative:

7 2. adjudicate an appropriate award for damages in place of the trial judge's.

8 A copy of the Court of Appeals decision is attached at Appendix 13.

9 **D. Statement of the Case**

10 On August 25, 2012 I was injured in the Respondent's parking lot while attempting  
11 to navigate a drainage ditch referred to as a bioswale. I stepped into the swale  
12 expecting to contact solid ground. Instead, my foot dropped into the swale and I  
13 went over on my ankle, injuring it badly, and ultimately, permanently. In particular,  
14 my peroneous brevis tendon snapped, requiring two surgeries; and my calcaneo-  
15 cuboid joint was damaged, requiring stabilization during the second surgery by the  
16 insertion of a long screw and staples. I have undergone two surgeries, spent  
17 months in physiotherapy and attended an in-house pain management clinic. In  
18 spite of all this, I continue to suffer excruciating nerve pain requiring multiple  
19 medications. My surgeon, Dr. Taranow, testified this nerve pain will likely continue

1 indefinitely and side effects of my medications include forgetfulness, inability to  
2 concentrate, drowsiness and the feeling of being loopy. (RP, Taranow, p. 61, 62).  
3 As a result, I have been unable to work, notwithstanding my attempts to return to  
4 the workforce. I am unable to care for my home, yard and pets. Day to day tasks  
5 are difficult, including shopping, driving, laundry etc. My home of twenty-seven  
6 years is on a steep lot which is no longer accessible to me on via my 100' of steep  
7 steps up to the main road. At trial the jury found for the me (Plaintiff) but awarded  
8 only an amount reflective of my medical costs at that time. No damage award was  
9 made for general damages or special damages. I sought additur which resulted in  
10 an award of \$10,000 for general damages. Immediately after the verdict was  
11 announced, the Respondent paid the judgment amount. The judgement amount  
12 exactly corresponded to my medical expenses to the date of trial. Since I appealed  
13 the additur decision, the judgement amount has been paid into court.  
14 Simultaneously, my legal counsel presented her bill of costs. (Appendices A-14 &  
15 A-15). It is higher than the entire judgment amount. This leaves me, the injured  
16 party, with nothing. And, ironically, none of the amount the jury awarded me  
17 thinking it would cover my medical expenses went to medical expenses at all, it all  
18 is being claimed by my lawyer.

19 **E. Summary of Argument**

20 1. The trial judge's decision on the motion for additur was unreasonable  
21 because it did not logically flow from the evidence (CR 59(7)) because:

- 1 i. I, the Appellant, presented uncontradicted medical evidence at trial as to the  
2 extent of my injuries and the resultant pain and suffering.
- 3 ii. The defense called no medical evidence whatsoever and did not contradict  
4 my (Petitioner's) medical evidence. (Order, Appendix 9).
- 5 iii. The evidence supports a finding of significant general damages.
- 6 iv. The award for general damages (\$10,000) is not in keeping with legal  
7 precedents.
- 8 2. The decision of the trial judge on additur was on its face so inadequate as to  
9 indicate it must have resulted from passion or prejudice. (CR 59(5)).
- 10 3. I was prevented from having a fair trial because of the trial judge's granting  
11 various orders before and during the trial, and instructions to the jury. (CR 59(1)).
- 12 4. As a result of the forgoing, substantial justice has not been done. (CR 59(9)).

13 **F. Argument**

14 **1. STANDARD OF REVIEW**

15 The Court of Appeals will review a trial court's order vacating a judgment for abuse  
16 of discretion. Jones v. City of Seattle. The Court of Appeals will reverse the trial  
17 court's decision only when no reasonable person would take the position adopted  
18 by the trial court. Morgan v. Burks, The Court of Appeals may affirm the trial court



1 on any basis supported by the record. Amy v. Kmart of Wash., LLC. The Court of  
2 Appeals' primary concern is that the trial court's decision is just and equitable.  
3 TMT Bear Creek Shopping Center, Inc. v. Petco Animal Supplies, Inc.

4 **2. ADDITUR**

5 Under RCW 4.76.030, when a party moves for a new trial, the trial court is  
6 authorized to reduce or increase the verdict in lieu of a new trial if it obtains the  
7 consent of the adversely affected party. Here, the trial court denied my (the  
8 Appellant's) motion for a new trial but granted additur in the amount of \$10,000 for  
9 pain and suffering. I contend that I have produced sufficient evidence at trial to  
10 justify an award for general damages, past and future, and that the amount  
11 granted by the trial court falls far short of any amount granted by Washington State  
12 courts for plaintiffs suffering similar injuries.

13 The Washington Court of Appeals discussed the issue of jury awards in personal  
14 injury claims and under what circumstances they may be overturned or altered. In  
15 Nelson v. Erickson, the plaintiff brought a negligence claim against a driver who  
16 rear-ended him. The case was initially transferred to mandatory arbitration  
17 pursuant to Chapter 7.06 RCW. The arbitrator awarded the plaintiff medical  
18 damages, out-of-pocket expenses, general damages for pain and suffering, and  
19 attorney's fees and costs. The defendant then requested a Mandatory Arbitration  
20 Rule trial de novo, and a jury trial was held. Before the trial, the defendant

1 admitted liability for the car accident, and the parties stipulated that the plaintiff  
2 incurred \$9,361 in medical expenses. During the three-day trial, the plaintiff put  
3 forth evidence of the medical treatments and expenses he had incurred and would  
4 continue to require as a result of the chronic pain suffered from the accident. The  
5 jury returned a verdict awarding the stipulated medical expenses, past medical  
6 expenses, and past non-economic damages, as well as future medical expenses  
7 to treat his chronic pain, but it failed to award the plaintiff any future damages for  
8 pain and suffering. The plaintiff moved for a new trial, contending that it was  
9 inconsistent for the jury to award future medical expenses without future non-  
10 economic damages. Under Washington law, when a party moves for a new trial,  
11 the trial court may reduce or increase the verdict in lieu of a new trial, with the  
12 consent of the adversely affected party. A judge may grant additur if the jury's  
13 verdict on its face is so inadequate it must have resulted from passion or  
14 prejudice. In Nelson, the judge agreed with the plaintiff, finding that a jury award  
15 that provides damages for future medical treatment of pain, while failing to  
16 acknowledge that pain, is inconsistent. The judge thus granted an award of additur  
17 in the amount of \$3,000 to the plaintiff. On appeal, the court stated that,  
18  
19 *"while there is no statute that requires general damages to be awarded to a*  
20 *plaintiff who sustains an injury, case law provides that a plaintiff who substantiates*  
21 *his pain and suffering with evidence is entitled to general damages for it. If the*  
22 *record shows an award for special damages, such as medical expenses, but not*

1 | *for proved general damages, such as pain and suffering, additur and a new trial*  
2 | *may be appropriate.”*

3 | In Nelson, the plaintiff presented uncontested evidence that he continued to suffer  
4 | chronic pain in the three years following the accident, including the testimony of  
5 | doctors as to the required medical procedures and therapy needed to treat his  
6 | pain. The Court of Appeals thus held that that the jury’s verdict went directly  
7 | against that evidence, for its award of future medical treatment expenses to treat  
8 | the plaintiff’s ongoing, chronic pain necessarily established the plaintiff’s damages  
9 | for future pain and suffering as well. As a result, the court concluded that the jury’s  
10 | verdict omitting future general pain and suffering contradicted the evidence, and it  
11 | affirmed the trial judge’s grant of additur. My case is similar to the Nelson case but  
12 | goes a step further in that once the trial judge decided to grant additur she did not  
13 | grant an appropriate amount, that is, not in keeping with Washington state legal  
14 | precedent. Further, the court in my case, as opposed to the court in Nelson, failed  
15 | to allow a new trial as may be appropriate on the matter of damages.

16 | A review of Washington state case law reveals that the determination of the  
17 | amount of damages is within the jury’s province, and courts are reluctant to  
18 | overturn a verdict when fairly made. Palmer v. Jensen. Further, a court begins  
19 | with the presumption that the jury’s verdict was correct. RCW 4.76.030; Herriman  
20 | v. May. And a decision to increase a jury’s award is reviewed de novo. Robinson  
21 | v. Safeway Stores. A trial court may grant additur where the jury’s verdict on its

1 face is so inadequate as to indicate it must have resulted from passion or  
2 prejudice. RCW 4.76.030; Robinson. The question of whether a plaintiff is entitled  
3 to general damages turns on the evidence. Palmer. "Although there is no per se  
4 rule that general damages must be awarded to every plaintiff who sustains an  
5 injury, a plaintiff who substantiates her pain and suffering with evidence is entitled  
6 to general damages." Palmer. Where the record shows "categorically" an award  
7 for special damages but not for proved general damages, additur and a new trial  
8 may lie. Cox v. Charles Wright Academy, Inc.

9 Appellate courts look to the record in determining whether sufficient evidence  
10 supports a verdict. Palmer, at 197-98. If the verdict is within the range of credible  
11 evidence, the trial court lacks discretion to find passion or prejudice affected the  
12 verdict for the purpose of awarding additur. Robinson, at 161-62. In this case, the  
13 verdict is not within the range of credible evidence.

14 Nelson analogizes to Palmer v. Jensen. There, the plaintiff presented uncontested  
15 medical evidence that she experienced pain after she was rear-ended by the  
16 defendant. The jury returned a verdict for \$8,414.89 in special damages claimed at  
17 trial. Palmer, at 201. The jury declined to award general damages for pain and  
18 suffering. Palmer, at 198-99. The trial court denied the plaintiff's motion for a new  
19 trial. The Supreme Court reversed, concluding that the jury's failure to award  
20 general damages was contrary to the evidence because she presented

1 uncontroverted evidence of ongoing, serious pain. The court reasoned, "a plaintiff  
2 who substantiates her pain and suffering with evidence is entitled to general  
3 damages." Palmer, at 201. The court concluded that the jury's failure to provide for  
4 such an award was contrary to the evidence. Palmer, at 203. The court applied the  
5 decision in Palmer. The court believed the plaintiff (Nelson) presented undisputed  
6 evidence that three years post-accident, he continued to suffer chronic pain from  
7 the accident. This is similar to my case where I continue to suffer six years post -  
8 injury and with a non-curable, progressive (as my surgeon termed it) "disastrous  
9 disease."

10 As in Nelson "...there was no evidence of preexisting neck-back pain,  
11 exaggeration, malingering, emotional component or lack of credibility. As Erickson  
12 candidly acknowledged, Nelson is 'an honest guy.'"

13 The evidence in Nelson is similar to mine where my Dr. Taranow stated I, too, was  
14 honest and forthright. (RP, Taranow, p. 66).

15 The court in Nelson stated: "*In sum, the medical and lay witness evidence*  
16 *substantiates Nelson's claim that he experienced past and future special and*  
17 *general damages. We conclude the jury's verdict providing no damages for future*  
18 *general pain and suffering contradicts the evidence.*"

19 Following this reasoning, I, too, am entitled to past and future special and general  
20 damages. In fact, the trial judge in her ruling on my application for additur seems  
21 to apply all of the above reasoning. (Appendix 9). Had she followed through with a  
22 reasonable amount for general damages this appeal would not be necessary.

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**3. Prejudice**

The trial judge's orders leading up to and during the trial limiting the number of witnesses I could call to four (4) and not allowing my witnesses to testify as to the extent of their injuries (contrary to Washington case law, ie: Panitz v. Orange and Evans v. Miller), and then instructing the jury to disregard my ongoing nerve damage (contrary to the Supreme Court in Bitzan v. Parisi), all contributed to the jury failing to consider an award for any general damages what-so-ever.

The trial judge limited the number of witnesses (Appendix 5), under the guise of "controlling her docket", thereby making it impossible for me to convey to the jury just how significant people's lives were irrevocably damaged by the defendant's actions and flagrant disregard for people's safety, by doing nothing to effectively remedy the hazardous conditions. There was no signage at all warning of the hazard, even after the defendant was aware of the serious injuries happening.

Further, the trial judge disallowed incident reports (Appendix 3). The Washington Supreme Court has held that a company's failure to (a) disclose the existence of other incident reports/claims, and (b) produce such reports *warrants the most severe* sanctions. Magana v. Hyundai Motor Am., (defendant's failure to disclose or produce records of other similar incidents justified entry of default judgment against it). In Magana, the defendant asserted virtually identical objections to my request for documents regarding other similar incidents as the defendant has here:

1 "overbroad" and "not reasonably calculated to lead to the discovery of admissible  
2 evidence." 167 Wn 2d at 577. The Supreme Court affirmed the trial court's entry  
3 of judgement against Hyundai based on findings that the *discovery violations were*  
4 "*willful*" and that they had substantially prejudiced plaintiff's ability to prepare for  
5 trial. Id at 593-94. Clearly, the trial judge in this case allowed a discovery violation.  
6 In fact, Defense supports this position by stating in their owns words (Aug. 18,  
7 2017, Defendant's Second Set of Motions in Limine, pg.4., Appendix 5), "The  
8 discovery sanction should be proportional to the discovery violation and the  
9 circumstances of the case. The Sanction should also ensure that the wrongdoer  
10 does not profit from the wrong."

11 The trial judge allowed the defendant to conceal the fact that there had been  
12 multiple injuries in the same parking lot and bioswale as I was injured in, resulting  
13 in prejudice against me, and wanton disregard for the Supreme Court's ruling in  
14 Magana. The trial judge prevented me from being able to obtain crucial information  
15 necessary to prepare my case. The defendant failed to exercise a standard of  
16 care in direct proportion to the severity of injuries which could occur, and did  
17 occur, as a result of its allowing the known hazardous condition to remain, yet no  
18 testimony was allowed that would have established these facts for the jury to  
19 consider and no doubt influenced their ability to make a proper finding. The trial  
20 judge overruled the highest court in our State by disallowing me, the Plaintiff,  
21 access to the details of other parties' "incidents" and injuries and additionally, the

1 opportunity to inform the jury just how serious many of these injuries were. And,  
2 this is only the ones that were recorded, or we came to know about.

3 Justice Verellen further stated that I did not seek recusal of the trial judge. Prior to  
4 trial, I did express my concern about what looked to me to be a potential conflict of  
5 interest with the trial judge to my attorney and I did in fact want her to be recused.  
6 This was before the trial and of course, prior to any rulings. I was concerned  
7 because she had represented Nordstrom (the defendant Mall's anchor tenant) as  
8 counsel, having a career defending Nordstrom against liability claims, such as  
9 mine. I think the point can be made that it certainly could "give the appearance" of  
10 bias. I was not made aware at the time that the one opportunity of recusing a  
11 judge had already been used by my counsel against a judge (Samuel Chung).  
12 (Appendices 16 and 17). Apparently, Ms. Yackulic had a personal issue with him.  
13 I certainly did not.

#### 14 **4. NEW TRIAL**

15 In the recent decision of Meinhart v. Anaya the court considered the issue of when  
16 a new trial ought to be ordered after a jury awarded medical expenses only, and  
17 no general damages. The headnote reads:

18 *Nature of Action: In an action for personal injury in which the jury returned a*  
19 *verdict in favor of the plaintiffs for medical expenses but did not award any*



1 *noneconomic damages, the plaintiffs moved for a new trial, arguing that the jury*  
2 *improperly omitted an award for their pain and suffering.*

3 *Superior Court: The Superior Court for Pierce County, No. 15-2-11050-6, Jack F.*  
4 *Nevin, J., on September 1, 2016, denied the plaintiffs' motion for a new trial and*  
5 *entered a judgment on the verdict.*

6 *Court of Appeals: Holding that the jury's omission of noneconomic damages was*  
7 *contrary to the evidence, the court reverses the trial court's denial order*  
8 *and remands the case for further proceedings.”*

9 In Meinhart the plaintiffs argued that the trial court abused its discretion in denying  
10 their motion for a new trial under CR 59(a)(7) because the jury's omission of  
11 noneconomic damages was not supported by the evidence. The Court of Appeals  
12 agreed and reversed the trial court's denial of the Meinharts' motion for a new trial  
13 and remanded for a new trial. Having reviewed the relevant case law, the court  
14 concluded that Palmer and Fahndrich establish that it is an abuse of discretion for  
15 a trial court in a personal injury case to deny a motion for a new trial when a jury  
16 awards economic damages but fails to award noneconomic damages if (1) the  
17 plaintiff presents substantial evidence that an accident caused injury and pain, and  
18 (2) the defendant presents no contrary evidence or inference.

19 Applying this reasoning to my case, there is no evidence from which the jury could  
20 have concluded that I suffered no pain and suffering as a result of the August 25,  
21 2012 accident. Therefore, under CR 59(a)(7) there is “no evidence or reasonable  
22 inference from the evidence” to justify the jury's failure to award noneconomic

1 damages to me. I submit that the trial court abused its discretion in denying my  
2 motion for a new trial on the issue of damages.

3 **5. DAMAGES**

4 I have suffered the entire panoply of damages permitted under Washington law in  
5 personal injury matters. *RCW 4.56.250(1)* defines economic and noneconomic  
6 damages in actions for personal injury or death. Economic damages are  
7 “objectively verifiable monetary losses, including medical expenses, loss of  
8 earnings, burial costs, loss of use of property, cost of replacement or repair, cost  
9 of obtaining substitute domestic services, loss of employment, and loss of  
10 business or employment opportunities.” *RCW 4.56.250(1)(a)*.

11 Noneconomic damages are “subjective, nonmonetary losses, including, but not  
12 limited to pain, suffering, inconvenience, mental anguish, disability or  
13 disfigurement incurred by the injured party, emotional distress, loss of society and  
14 companionship, loss of consortium, injury to reputation and humiliation, and  
15 destruction of the parent-child relationship.” *RCW 4.56.250(1)(b)*.

16 As to special (medical) damages, the Court was provided with plaintiff's  
17 spreadsheet that the parties stipulated was a recitation of the bills that were  
18 produced by the medical treatment to date in this case. Medical damages have  
19 continued to accumulate since trial and will continue on into the future.

1 As to general damages, I ask this Court to consider, *inter alia*, my pain and  
2 suffering, past and future, the nature and extent of my injuries, loss of enjoyment  
3 of life, and permanent disability. My injuries resulting from the accident have been  
4 a very painful experience for me. It has forced the discontinuation of a job that I  
5 was satisfied with. It has also affected my ability to drive and navigate access to  
6 my home of many years, which I maintain is significant, particularly for somebody  
7 who regularly drove long distances, and has a significant effect on my lifestyle.  
8 The injuries sustained have also affected my relationship with my daughter and my  
9 ability care for my pets, and to enjoy outdoor activities, like daily walking of my  
10 dogs. The impact of this injury on my life has been devastating. I have endured  
11 two operations, months of physical therapy, a month-long in-house pain clinic, six  
12 years of unemployment and lost six years (still ongoing) the ability to live the life I  
13 once had. I now have no choice in what activities I partake in; either ones I have  
14 enjoyed in the past or ones I might want to try. These choices have been taken  
15 from me.

16 In *Bitzan v. Parisi* the Supreme Court laid out in detail what general damages are  
17 allowable, including future damages, and that an instruction to the jury was  
18 warranted. *Green v. Foe* is authority that  
19 “the general rule is that in an action for physical injury the recoverable damages  
20 may include compensation for mental anguish and suffering...”  
21  
22 and is further attested to by *McCormick* where at p. 315 he states:

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*“Mental pain and suffering in connection with a wrong which apart from such pain and suffering constitutes a cause of action is a proper element of damages where it is a natural proximate consequence of the wrong.”*

In assessing general damages, I ask the court to consider the following two Washington state decisions:

**Hartnell v. Alaska Marine Lines, Inc.**

The *Hartnell* case was a decision of our state’s Superior Court and I submit is very similar to my case. The court awarded \$250,000 in general damages.

The severity of the injuries suffered by the plaintiff in *Hartnell* are similar those suffered by me. We both suffered severe ankle injuries and were left with continuing nerve pain. Approximately the same amount was spent on medical damages. As in *Hartnell*, I continue to suffer excruciating, searing, burning physical pain in my damaged ankle as a result of my accident and subsequent surgeries. My primary surgeon, Warren Taranow, M.D., testified that I have developed neurogenic pain in response to my acute injuries. (RP, Taranow, p. 26, 60 – 66). Whether the condition is called neurogenic pain, or Complex Regional Pain Syndrome, or Reflex Sympathetic Dystrophy as in years past, the label is not important . It is termed the “suicide disease” due to the unrelenting pain and its progressive nature. On the date of injury, I was fifty-three (53) years of age. I am now 61. The WPI standard mortality table provides a life expectancy of between

1 25 and 26 years from date of my injury. Continuing pain, disability, and  
2 dysfunction are an inevitable part of my future.

3 **Sean Dillon v. Jane Doe**

4 *"INJURIES: FRACTURED FOOT; KNEE INJURY*

5 *Displaced open depression on right calcaneal fracture with open reduction and*  
6 *internal fixation (ORIF); moderate subluxation right cubitocalcaneal joint; displaced*  
7 *right cuboid fracture. Patellofemoral left knee injury not requiring surgery. Plff*  
8 *suffered serious, permanent and disabling injuries, 35% lower extremity PPD. Plff*  
9 *has undergone two surgeries to his right ankle and foot.*  
10 **SUMMARY:**

11 *Insurance Co.: Allied Pacific*  
12 *Specials: Med. \$89,875; Lost Wages \$66,404; Days Work Lost - 6/21/01 to*  
13 *10/15/03 (Plff will not be physically able to return to his profession as a painter due*  
14 *to his injuries); Days in Hosp. – 14 days.*  
15 *Settlement: Demand: \$990,000; Offer: \$290,000.*  
16 *Mediator Charles Burdell recommended \$550,000.*  
17 *Result: Plaintiff Settlement for \$400,000."*

18 I contend that my damage claim is similar to that suffered by the plaintiff in the  
19 Dillon case in that we both required two surgeries and spent a similar amount on  
20 medical expenses. I last saw my surgeon, Dr. Taranow, on January 18, 2018. Dr.  
21 Taranow has now referred me to Dr. Smith in Bellingham, Washington, a specialist  
22 in Complex Regional Pain Syndrome (Appendix 12).

23

1 **G. Conclusion**

2 A review of recent Washington State case law reveals that a proper award for  
3 general damages in a case for plaintiffs suffering similar injuries to mine ranges  
4 from \$400,000 and up. The jury was prevented from properly assessing general  
5 damages because of the trial judge's exhibiting passion and prejudice in her  
6 various rulings leading up to and throughout the trial. The trial judge's decision on  
7 the motion for additur was not fair and equitable nor was it based on the evidence  
8 presented at trial. As was stated in the Palmer case and applied in Meinhart, a  
9 plaintiff who substantiates her pain and suffering with evidence is entitled to  
10 general damages; and further, it is an abuse of discretion for a trial court in a  
11 personal injury case to deny a motion for a new trial when a jury awards economic  
12 damages but fails to award noneconomic damages.

13 I ask this Court to send the matter of damages back to the trial court for either a  
14 new trial on the sole issue of damages, or a re-hearing of the matter on additur,  
15 with oral argument. Alternatively, I ask this Court to substitute its own damage  
16 award for that of the trial court.

17 Dated: February 19, 2018

18 Respectfully submitted,

19 *Kellie Slater*

20 Kellie Slater, Petitioner

**FILED**  
KING COUNTY, WASHINGTON

FEB 08 2016

SUPERIOR COURT CLERK  
BY Jennifer Few  
DEPUTY

The Honorable Barbara Mack

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KELLIE SLATER, MELINDA SIMON,  
KATHRYN CARBAJAL,

Plaintiffs,

v.

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership,

Defendant.

NO. 15-2-15490-7 SEA

STIPULATION ON NEW TRIAL DATE  
AND AMENDED CASE SCHEDULING  
ORDER

CLERK'S ACTION REQUIRED

The undersigned attorneys and parties herein hereby STIPULATE and AGREE that trial in this matter may be continued from June 20, 2016 to December 12, 2016, or as soon thereafter as possible, first priority, in order to allow the parties more time to conduct discovery with the addition of the two additional plaintiffs added. The parties agree that the above reason constitutes good cause.

The parties stipulate and request that an Amended Case Scheduling Order be generated by the Clerk of the Court.

Each of the below listed attorneys have conferred with their respective clients, and by way of their signature declares that their respective client endorses the change of the trial date to December 12, 2016, or as soon thereafter as possible, first priority.

STIPULATION ON NEW TRIAL DATE AND AMENDED CASE  
SCHEDULING ORDER - I

MERRICK, HOFSTEDT & LINDSEY, P.S.,  
ATTORNEYS AT LAW  
3103 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 682-0010

L:\047066 - SLATER V. NORTHGATE MALL\LEADINGS\STIP ON NEW TRIAL DATE & AMENDED CASE SCHEDULING

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DATED this 4th day of February, 2016.

MERRICK, HOFSTEDT & LINDSEY, P.S.

By R. Maddalena  
Rossi F. Maddalena, WSBA #39351  
Attorneys for Defendant Northgate Mail Partnership  
CORRIE YACKULIC LAW FIRM PLLC

By R. Maddalena WSBA #39351 for  
Corrie J. Yackulic, WSBA #16063 *per email authority*  
Attorneys for Plaintiffs

**ORDER**

THIS MATTER, coming on to be heard before the undersigned Judge of the above-entitled court, based upon the stipulation of the parties for a continuance of the trial until May 16, 2016, and the Court being fully advised in the premises, it is ORDERED, ADJUDGED AND DECREED that trial in the above-entitled matter is continued until December 12, 2016, or as soon thereafter as possible, first priority.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the ~~Clerk issue an Amended Case Scheduling Order in this matter.~~ *amended is attached*

DATED: 2-5-16, 2016.

Barbara Mack  
Honorable Barbara Mack

STIPULATION ON NEW TRIAL DATE AND AMENDED CASE SCHEDULING ORDER - 2

MERRICK, HOFSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3101 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 882-0810

L:\62006 - SLATER V. NORTHGATE MALL\PLADINGS\STIP ON NEW TRIAL DATE & AMENDED CASE SCHEDULING



FILED

15 DEC 08 PM 1:57

KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE NUMBER: 15-2-15490-7 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

SLATER  
Plaintiff/Petitioner,  
vs.

NORTHGATE MALL PARTNERSHIP  
Defendant/Respondent.

NO. 15-2-15490-7 SEA

ORDER ON TRANSFER OF  
INDIVIDUAL JUDGE ASSIGNMENT  
(ORCJ)

Effective January 11, 2016, this case is transferred from Judge Douglass North,  
Dept. 30, to Judge Barbara Mack, Dept. 37

Parties should not contact the newly-assigned judge prior to January 11, 2016, except for purposes of scheduling matters that will be heard after January 11, 2016.

Motions already scheduled to be heard on or after January 11, 2016 shall be heard by the newly assigned judge. For motions with oral argument, you should confirm with the newly assigned court that the previously scheduled date and time is available to that court.

The trial date and all other dates in the case schedule shall remain the same, unless revised by the assigned judge.

If final documents for this case have been entered, please disregard this notice.

It is so ordered this December 7, 2015

  
Presiding Judge

MADDALENA, ROSSI F  
3101 WESTERN AVE STE 200  
SEATTLE, WA 98121-3017

YACKULIC, CORRIE JOHNSON  
315 5TH AVE S STE 1000  
SEATTLE, WA 98104-2682

Rpt ICTransferNotice

15-2-15490-7 SEA

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The Honorable Barbara Mack

**FILED**  
KING COUNTY, WASHINGTON  
FEB 24 2017  
SUPERIOR COURT CLERK  
DEBRA BAILEY TRAIL  
DEPUTY

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KELLIE SLATER, MELINDA SIMON,  
KATHRYN CARBAJAL,  
  
Plaintiffs,  
  
v.  
  
NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership,  
  
Defendant.

NO. 15-2-15490-7 SEA  
~~PROPOSED~~ ORDER GRANTING  
STIPULATED MOTION TO CONTINUE  
TRIAL DATE

THIS MATTER has come for consideration on the parties Stipulated Motion to Continue Trial Date, and the court has reviewed the materials submitted in support of and in opposition to said motion, including the following:

- 1. Stipulated Motion to Continue Trial Date; and
- 2. The papers and pleadings previously on file in this matter.

Therefore, based on the foregoing, it is hereby ORDERED that the Stipulated Motion to Continue Trial Date is GRANTED, and the trial date in this matter is continued to June 5, 2017.

DATED this 24 day of February, 2017.

  
The Honorable Barbara Mack

ORDER GRANTING STIPULATED MOTION TO CONTINUE TRIAL DATE - 1

MERRICK, HOFSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3101 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 582-0618

**FILED**  
KING COUNTY SUPERIOR COURT

DEC 21 2016

SUPERIOR COURT  
BY Jennifer Lew  
DEPUTY  
Santiago Viola Villanueva

The Honorable Barbara Mack  
Hearing Date: December 16, 2016  
Without Oral Argument

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER, MELINDA SIMON and  
KATHRYN CARBAJAL

Plaintiffs,

v.

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership;

Defendant.

No. 15-2-15490-7 SEA

Proposed

ORDER GRANTING  
STIPULATED MOTION TO  
CONTINUE THE TRIAL DATE OF  
PLAINTIFF KELLIE SLATER  
ONLY

(Clerk's Action Required)

THIS MATTER has come on for consideration on the parties' Stipulated Motion to Continue Trial Date of Plaintiff Kellie Slater Only. The Court has reviewed the materials submitted said motion, including the following:

1. Stipulated Motion to Continue Trial Date; and
2. The papers and pleadings previously on file in this matter.

Therefore, based on the foregoing, it is hereby ORDERED that the Stipulated Motion to Continue Trial Date is GRANTED:

1. Trial in the matter of *Kellie Slater v. Northgate Mall Partnership* is hereby set for March 20, 2017.

ORDER GRANTING STIPULATED MOTION TO  
CONTINUE THE TRIAL DATE OF PLAINTIFF  
KELLIE SLATER ONLY  
15-2-15490-7 SEA  
PAGE - 1

CORRIE YACKULIC LAW FIRM, PLLC  
215 FIFTH AVENUE SOUTH, SUITE 1000  
SEATTLE, WASHINGTON 98101  
TELEPHONE: (206) 787-1915 • FACSIMILE: (206) 299-9725

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- 2. The claims of plaintiffs Melinda Simon and Kathryn Carbajal shall remain on the trial calendar for the previously scheduled trial date of February 13, 2017.
- 3. The Clerk of the Court shall issue a new Order Setting Case Schedule for Kellie Slater Only for the trial date of March 20, 2017

DATED THIS 20 day of December, 2016. Barbara Mack  
 The Honorable Barbara Mack

PRESENTED BY:

CORRIE YACKULIC LAW FIRM, PLLC

MERRICK HOFSTEDT LINDSEY, P.S.

By: /s/ Corrie Yackulic  
 Corrie Yackulic, WSBA #16063  
 315 Fifth Avenue S., Suite 1000  
 Seattle, WA 98104  
 Tel. 206-787-1915  
 Attorney for Plaintiffs

By: /s/ Rossi F. Maddalena  
 Rossi R. Maddalena, WSBA No. 39351  
 Peter C. Nicrman, WSBA No. 44636  
 3101 Western Ave. Ste. 200  
 Seattle, WA 98121  
 Tel. 206-682-0610  
 Attorney for Defendant

ORDER GRANTING STIPULATED MOTION TO CONTINUE THE TRIAL DATE OF PLAINTIFF KELLIE SLATER ONLY  
 15-2-15490-7 SEA  
 PAGE - 2

CORRIE YACKULIC LAW FIRM, PLLC  
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**FILED**  
KING COUNTY WASHINGTON  
JUN 02 2017  
SUPERIOR COURT CLERK  
BY Jennifer Few  
DEPUTY

The Honorable Barbara Mack

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER,  
  
Plaintiff,  
  
v.  
  
NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership;  
  
Defendant.

No. 15-2-15490-7 SEA  
STIPULATION AND ORDER TO  
AMEND TRIAL DATE  
  
(CLERK'S ACTION REQUIRED)

**STIPULATION**

COME NOW the parties, plaintiff Kellie Slater and defendant Northgate Mall Partnership, and pursuant to the Court's request, hereby STIPULATE and AGREE that trial in this matter be continued from Monday, June 5, 2017 to Monday August 28, 2017. This is the earliest date that all counsel and all parties are available. The trial is expected to last five court days. The parties further request that they be given a "priority" setting or "hard-set" trial date because of a number of witness scheduling challenges. Finally, the parties ask that the Motions in Limine be heard two Fridays before trial so that the parties can incorporate the rulings in their trial planning.

STIPULATION AND ORDER TO AMEND TRIAL DATE  
15-2-15490-7 SEA  
PAGE - 1

CORRIE YACKULIC LAW FIRM, PLLC  
315 FIFTH AVENUE SOUTH, SUITE 1000  
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**ORDER**

THIS MATTER, having been heard by the undersigned Judge of the above-entitled court, based upon the foregoing stipulation of the parties, and the Court being fully apprised, it is ORDERED, ADJUDGED AND DECREED that trial in the above-entitled matter is

continued to Aug. 28, 2017. This case shall be accorded a priority setting. The motions *court recognizes that the parties have* in limine shall be heard two Fridays before the trial date, or on \_\_\_\_\_, 2017.

*requested motions in limine to be heard by*  
DATED this 2 day of June, 2017. *The assigned trial court*  
*2 weeks before trial.*

*B. Mack*  
JUDGE BARBARA MACK

Presented by:  
CORRIE YACKULIC LAW FIRM, PLLC  
*/s/ Corrie J. Yackulic*  
Corrie Yackulic, WSBA #16063  
315 Fifth Avenue S., Suite 1000  
Seattle, WA 98104  
Tel. 206-787-1915  
*Attorney for Plaintiffs*  
LAW OFFICES OF KATHLEEN GARVIN  
*/s/ Kathleen Garvin*  
Kathleen Garvin, WSBA No. 10588  
315 Fifth Avenue S., Suite 1000  
Seattle, WA 98104  
Tel. 206-340-0600  
*Attorney for Plaintiff*

//  
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//

STIPULATION AND ORDER TO AMEND TRIAL DATE  
15-2-15490-7 SEA  
PAGE - 3

CORRIE YACKULIC LAW FIRM, PLLC  
315 FIFTH AVENUE SOUTH, SUITE 1000  
SEATTLE, WASHINGTON 98101  
TELEPHONE: (206) 787-1915 • FACSIMILE: (206) 299-9725

**FILED**  
KING COUNTY, WASHINGTON

JUN 20 2017

SUPERIOR COURT CLERK  
BY Regina Saucier  
DEPUTY

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER,

Plaintiff,

v.

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership;

Defendant.

No. 15-2-15490-7 SEA

STIPULATION AND ORDER TO  
AMEND TRIAL DATE

CLERK'S ACTION REQUIRED

**STIPULATION**

COME NOW the parties, plaintiff Kellie Slater and defendant Northgate Mall Partnership, and pursuant to the Court's request, hereby STIPULATE and AGREE that trial in this matter be continued from Monday, August 28, 2017, to Tuesday September 5, 2017. The parties previously filed a stipulation requesting a trial date of August 28, 2017. However, they have since learned that August 28 presents insurmountable conflict for several key witnesses. The proposed date is the earliest date that all counsel and all parties are available. The trial is expected to last five court days.

STIPULATION AND ORDER TO AMEND TRIAL DATE  
15-2-15490-7 SEA  
PAGE - 1

MERRICK, HOFSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3101 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 682-0510

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The parties further request that they be given a "priority" setting or "hard-set" trial date because of a number of witness scheduling challenges.

Finally, the parties ask that the Motions in Limine be heard two Fridays before trial so that the parties can incorporate the rulings in their trial planning.

The below listed attorneys have conferred with their respective clients, and by way of their signatures declare that their respective clients endorse the change of the trial date.

DATED this 15<sup>th</sup> day of June, 2017.

CORRIE YACKULIC LAW FIRM, PLLC

/s/ Corrie J. Yackulic  
Corrie Yackulic, WSBA No. 16063  
315 Fifth Avenue S., Suite 1000  
Seattle, WA 98104  
Tel. 206-787-1915  
*Attorney for Plaintiffs*

LAW OFFICES OF KATHLEEN GARVIN

/s/ Kathleen Garvin  
Kathleen Garvin, WSBA No. 10588  
315 Fifth Avenue S., Suite 1000  
Seattle, WA 98104  
Tel. 206-340-0600  
*Attorney for Plaintiff*

MERRICK HOFSTEDT LINDSEY, P.S.

R. F. Maddalena  
Rossi F. Maddalena, WSBA No. 39351  
Peter Nierman, WSBA No. 44636  
3101 Western Ave. Ste. 200  
Seattle, WA 98121  
Tel. 206-682-0610  
*Attorney for Defendant*

STIPULATION AND ORDER TO AMEND TRIAL DATE  
15-2-15490-7 SEA  
PAGE - 2

MERRICK, HOPSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
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SEATTLE, WASHINGTON 98121  
(206) 682-0610



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**ORDER**

THIS MATTER, having been heard by the undersigned Judge of the above-entitled court, based upon the foregoing stipulation of the parties, and the Court being fully apprised, it is ORDERED, ADJUDGED AND DECREED that trial in the above-entitled matter is continued to September 5, 2017, 2017. This case shall be accorded a priority setting. The court recognizes that the parties have requested motions in limine to be heard by the assigned trial court two(2) weeks before trial.

DATED this 20<sup>th</sup> day of June, 2017.



JUDGE

K

Presented by:

Suzanne Parisien

CORRIE YACKULIC LAW FIRM, PLLC

/s/ Corrie J. Yackulic  
Corrie Yackulic, WSBA #16063  
315 Fifth Avenue S., Suite 1000  
Seattle, WA 98104  
Tel. 206-787-1915  
*Attorney for Plaintiffs*

LAW OFFICES OF KATHLEEN GARVIN

/s/ Kathleen Garvin  
Kathleen Garvin, WSBA No. 10588  
315 Fifth Avenue S., Suite 1000  
Seattle, WA 98104  
Tel. 206-340-0600  
*Attorney for Plaintiff*

STIPULATION AND ORDER TO AMEND TRIAL DATE  
15-2-15490-7 SEA  
PAGE - 3

MERRICK, HOFSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3101 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 682-0610

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The Honorable Suzanne R. Parisien  
Hearing Date: August 28, 2017

**FILED**  
KING COUNTY

AUG 28 2017

SUPERIOR COURT CLERK  
BY Kara Matis DEPUTY

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KELLIE SLATER,	)	
	)	
Plaintiff,	)	NO. 15-2-15490-7 SEA
	)	
v.	)	<del>PROPOSED</del> ORDER DENYING
NORTHGATE MALL PARTNERSHIP, a	)	PLAINTIFF'S MOTION FOR SHORT
Delaware General Partnership,	)	TRIAL CONTINUANCE
	)	
Defendant.	)	

THIS MATTER has come for consideration on Plaintiff's Motion for Short Trial Continuance, and the court has reviewed the materials submitted in support of and in opposition to said motion, including the following:

1. Plaintiff's Motion for Short Trial Continuance;
2. Declaration of Kellie Slater;
3. Defendant's Opposition to Plaintiff's Motion for Short Trial Continuance;
- 4.
- 5.
- 6.
7. The papers and pleadings previously on file in this matter.

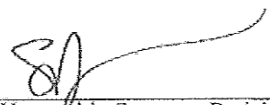
~~PROPOSED~~ ORDER DENYING PLAINTIFF'S MOTION FOR SHORT TRIAL CONTINUANCE - 1

MERRICK, HOFSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3101 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 882-0619

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Therefore, based on the foregoing, it is hereby ORDERED that Plaintiff's Motion for Short Trial Continuance is DENIED,

DATED this 28<sup>th</sup> day of August, 2017.



\_\_\_\_\_  
The Honorable Suzanne Parisien

Presented by:  
MERRICK, HOFSTEDT & LINDSEY, P.S.

By \_\_\_\_\_  
Rossi F. Maddalena, WSBA #39351  
Peter C. Nicrman, WSBA #44636  
Attorneys for Northgate Mall Partnership  
CORRIE YACKULIC LAW FIRM PLLC

By \_\_\_\_\_  
Corrie Yackulic, WSBA #16063  
Attorney for plaintiffs

**FILED**  
KING COUNTY WASHINGTON

JUL 17 2017

SUPERIOR COURT CLERK  
BY Traci Williams  
DEPUTY

The Honorable Suzanne Parisien

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KELLIE SLATER,

Plaintiff,

NO. 15-2-15490-7 SEA

v.

ORDER DENYING PLAINTIFF'S  
MOTION TO COMPEL PRODUCTION  
OF INCIDENT REPORTS

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership,

Defendant.

~~APPROPRIATE~~  
SRP

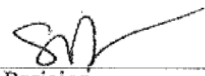
THIS MATTER having come on for hearing before the Honorable Suzanne Parisien in King County Superior Court upon plaintiff's Motion to Compel, and the Court having reviewed this motion along with the records and files herein, including:


1. Plaintiff's Motion to Compel Production of Incident Reports;
2. Declaration of Corrie J. Yackulic in Support of Plaintiff's Motion to Compel Production of Incident Reports;
3. Defendant's Opposition to Plaintiff's Motion to Compel;
4. Declaration of Rossi F. Maddalena in Support of Defendant's Response to Plaintiff's Motion to Compel;
5. Plaintiff's Reply ~~(to 4)~~; and,
6. The papers & pleadings previously  
on file in this matter. - SRP

ORDER DENYING PLAINTIFF'S MOTION TO COMPEL  
PRODUCTION OF INCIDENT REPORTS - 1

MERRICK, HOFSTEDY & LINDREY, P.S.  
ATTORNEYS AT LAW  
1101 WESTER AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98101  
(206) 467-0010

1 and the Court having reviewed the files and records herein, and being fully advised, IT IS  
2 HEREBY ORDERED, ADJUDGED AND DECREED that Defendant's Motion to <sup>Compel</sup> ~~Compel~~  
3 Production of Incident Reports is hereby DENIED.  
4 DATED this 17<sup>th</sup> day of July, 2017.

5  
6  
7   
8 \_\_\_\_\_  
9 Judge Suzanne Parisien

9 Presented by:  
10 MERRICK, HOFSTEDT & LINDSEY, P.S.  
11 By   
12 Rossi F. Maddalena, WSBA #39351  
13 Peter C. Nierman, WSBA #44636  
14 Attorneys for Defendant Northgate Mall  
Partiship

14 Approved as to form, notice of presentation waived:  
15 CORRIE YACKULIC LAW FIRM PLLC

17 By \_\_\_\_\_  
18 Corrie J. Yackulic, WSBA #16063  
Attorneys for Plaintiff

The Honorable Suzanne Parisien

FILED  
KING COUNTY, WASHINGTON  
JUL 17 2017  
SUPERIOR COURT CLERK  
BY Traci Williams  
DEPUTY

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KELLIE SLATER, MELINDA SIMON,  
KATHRYN CARBAJAL,

Plaintiffs,

v.

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership,

Defendant.

NO. 15-2-15490-7 SEA

ORDER GRANTING DEFENDANT'S  
MOTION FOR PROTECTIVE ORDER

~~MERRICK, HOPSTEDT & LINDSEY~~  
SP-1

THIS MATTER has come for consideration on Defendant's Motion for Protective Order and the Court has reviewed the materials submitted in support of and in opposition to said motion, including the following:

1. Defendant's Motion for Protective Order;
2. The Declaration of Rossi F. Maddalena along with exhibits thereto;
3. The Declaration of Steven L. Heim;
4. Plaintiff's Opposition to Defendant's Motion for Protective Order;
5. Declaration of Corrie J. Yackulic in Opposition to Defendant's Motion for Protective Order and exhibits thereto;
6. Plaintiff's Statement of Non-Washington Authorities in Support of Opposition to Motion for Protective Order;

ORDER GRANTING DEFENDANT'S MOTION FOR PROTECTIVE ORDER - I

MERRICK, HOPSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3101 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 882-8810

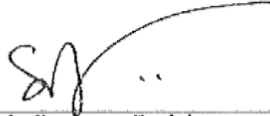
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7. Defendant's Reply in Support of Motion for Protective Order;

8. The papers and pleadings previously on file in this matter.


Therefore, based on the foregoing, it is hereby ORDERED that Defendant's Motion for Protective Order is GRANTED.

DATED this 17<sup>th</sup> day of July, 2017.



The Honorable Suzanne Parisien

Presented by:  
MERRICK, HOFSTEDT & LINDSEY, P.S.

By   
Rossi F. Maddalena, WSBA #39351  
Peter C. Nierman, WSBA #44636  
Attorneys for Northgate Mall Partnership

Approved as to form;  
Notice of Presentation Waived:  
CORRIE YACKULIC LAW FIRM PLLC

By \_\_\_\_\_  
Corrie Yackulic, WSBA #16063  
Attorney for plaintiffs

ORDER GRANTING DEFENDANT'S MOTION FOR PROTECTIVE ORDER - 2

MERRICK, HOFSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3101 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 682-0610

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The Honorable Suzanne Parisien  
Trial Date: September 5, 2017

**FILED**  
KING COUNTY, WASHINGTON

SEP 05 2017

SUPERIOR COURT CLERK  
BY Regina Saucier  
DEPUTY

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KELLIE SLATER,	}	
	}	
Plaintiff,	}	NO. 15-2-15490-7 SEA
	}	
v.	}	SUPPLEMENTAL ORDER ON
	}	DEFENDANT'S MOTIONS IN LIMINE
NORTHGATE MALL PARTNERSHIP, a	}	
Delaware General Partnership,	}	
	}	
Defendant.	}	

This matter came before the Court on Defendant's Motions in Limine. The Court having reviewed the record and pleadings in this matter, including the documents submitted by the parties in support and opposition to Defendant's Motions in Limine # 8, #10, #11, #25, #26, #28, #29, and #30, and having heard oral argument, HEREBY ORDERS that:

**Defendant's Motions in Limine 8, 11 and 28:** The only evidence or testimony regarding so-called "other incident" witnesses shall be limited to four (4) witnesses. These witnesses must be persons who actually claim, themselves, to have stepped into a bioswale at Northgate Mall prior to Ms. Slater's accident on August 25, 2012. Their testimony must be live unless specifically allowed by the Court upon a showing of necessity by plaintiff. Length of testimony for each shall be limited to a maximum of 25 minutes per witness (10 minutes direct,

ORDER ON DEFENDANT'S MOTIONS IN LIMINE - 1

MERRICK, HOPSTEADT & LINDSEY, P.S.,  
ATTORNEYS AT LAW  
3181 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 862-0610



1 10 minutes cross, 5 minutes redirect), with subject matter limited to the facts surrounding their  
2 observations and conduct leading up to their alleged incidents.

3 These witnesses shall be allowed to testify only as to facts of their incidents and not  
4 concerning their opinions, speculation or conjecture. These witnesses will not be permitted to  
5 testify that they were injured or regarding the nature of their injuries. They cannot testify and  
6 offer opinion concerning whether their actions or plaintiff's actions were reasonable. No  
7 testimony regarding ~~making of a report or the fact they brought a~~ *the fact that they brought a* claim against NMP, the *or entered into*  
8 ~~fact they entered into~~ a confidentiality agreement with NMP, or any subject matter that will *- SRP*  
9 result in "mini trials" will be allowed.  
10

11 Aside from these four witnesses, no physical evidence, document, or other testimony (of  
12 experts, lay witness and/or plaintiff) may be offered regarding so-called other incident, except  
13 that Steve Heim may be questioned concerning NMP's knowledge that prior falls occurred and  
14 NMP was on notice of people stepping in the bioswales. Plaintiff will also be permitted to  
15 impeach Mr. Heim to the extent his direct testimony does not address the issue of notice.  
16 Plaintiff is also prohibited from questioning any witness, including Steve Heim, regarding  
17 subsequent incidents at Northgate Mall. Plaintiff will be permitted to make an offer of proof  
18 with regard to such incidents at her discretion.  
19

20 Plaintiff is permitted to have Ms. Gill testify, and cross examine Mr. Heim,  
21 regarding the fact that a certain number of subsequent falls occurred in the years following  
22 Ms. Slater's fall. *It may include a break-down by year.* *- SRP*  
23 The same restrictions imposed on the prior fall evidence will apply.  
24 Further, no names, specific dates or specifics detail of those subsequent reported incidents  
25 will be allowed, only that NMP received reports of their occurrence.  
26

1 Plaintiff shall make a pre-trial disclosure to defendant as to the identity of the four lay  
2 witnesses who will testify regarding their prior incidents. Further, plaintiff shall provide  
3 defendant all discovery regarding the body of factual information in plaintiff's possession  
4 concerning other incidents.

5 **Defendant's Motions in Limine 26 and 27:** The Court finds that plaintiff's untimely  
6 disclosure of Dr. Spanier has resulted in prejudice to the defendant. NMP's motion to exclude  
7 the testimony of Dr. David Spanier is denied at this time as a lesser appropriate monetary  
8 sanction is attempted. Defendant can re-assert this motion. However, as sanctions for Dr.  
9 Spanier's untimely disclosure, plaintiff is ordered to make Dr. Spanier available immediately for  
10 a two hour deposition at plaintiff's expense. Plaintiff is ordered to pay for all costs related to the  
11 deposition, including the court reporter and two hours of one defense attorney's time in  
12 preparing for and taking Dr. Spanier's deposition. Plaintiff is also ordered to pay for one hour of  
13 Dr. Toomey's time in reviewing Dr. Spanier's opinions.

14 Dr. Spanier's testimony shall be limited consistent with plaintiff counsel's assertions that  
15 he is only being offered to address "other aspects of the care (not already opined to by plaintiff's  
16 treating providers, who have been deposed) that cost money ... (for example,) radiologist,  
17 anesthesiologist, physical therapist, hospital administrator (testimony)."

18 Dr. Spanier shall be prohibited from rendering causation opinions concerning plaintiff's  
19 second surgery (*i.e.*, whether it is related to the incident at Northgate Mall), which conflict with  
20 or duplicate the testimony of her treating doctors.

21 **Defendant's Motions in Limine 10, 25, 29, and 30:** Plaintiff's expert, Joellen Gill is  
22 prohibited from commenting on "the selection, or the placement, or the design" of the bioswales.  
23 She is further prohibited from testifying regarding her observations and conversation with  
24

25  
26  
ORDER ON DEFENDANT'S MOTIONS IN LIMINE - 3


MERRICK, HOFSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3181 WESTERN AVENUE, SUITE 208  
SEATTLE, WASHINGTON 98121  
(206) 462-0610

1 someone in the parking lot of Northgate Mall during her inspection of the property. As part of  
2 this restriction, Ms. Gill is prohibited from commenting on the appropriateness of the bioswale as  
3 a drain, or any technical, scientific, or design element—including the elevation change—in the  
4 bioswale. By her own admission, Ms. Gill is not qualified to testify regarding issues of design,  
5 selection or placement.

6  
7 As set forth previously regarding “other incidents,” Gill is further restricted from  
8 testifying concerning other alleged incidents at Northgate Mall. She may not testify concerning  
9 other cases where she was or is retained as an expert. Such testimony would not only be  
10 irrelevant and lack the required foundation, it would constitute inadmissible hearsay.

11 Gill’s testimony will be limited to human behavior – e.g., an individual’s expectations in  
12 walking across a surface, based on her expertise and training. She may also testify regarding her  
13 opinion of the subject signage as it relates to human factors. Ms. Gill can also testify that she has  
14 seen the bioswales on “several occasions.” She cannot, however, testify to the reason for her  
15 prior visits to Northgate Mall (*i.e.*, other incidents), or to specific dates.

16  
17 DATED this 5<sup>th</sup> day of September, 2017.

18  
19   
20 \_\_\_\_\_  
The Honorable Suzanne Parisien

21 Presented by:

22 MERRICK, HOFSTEDT & LINDSEY, P.S.

23  
24 By \_\_\_\_\_  
25 Rossi F. Maddalena, WSBA #39351  
Peter C. Nicrnan, WSBA #44636  
26 Attorneys for Northgate Mall Partnership

ORDER ON DEFENDANT’S MOTIONS IN LIMINE - 4

MERRICK, HOFSTEDT & LINDSEY, P.S.  
ATTORNEYS AT LAW  
3101 WESTERN AVENUE, SUITE 200  
SEATTLE, WASHINGTON 98121  
(206) 509-8610

INSTRUCTION NO. 4

The Court has admitted evidence about other bioswale incidents at the Northgate Mall parking lot. The Court has ruled that you may not hear the details about other people's injuries only the fact that other "falls" or "incidents" were reported. You are not to speculate about injuries sustained or reported to the mall owner by persons other than Kellie Slater. You are to consider witness testimony solely for the purpose of determining whether Northgate Mall was on notice prior to the time that Ms. Slater fell.

INSTRUCTION NO. 25

Plaintiff is not making a claim for CRPS ("Chronic Sympathetic Nerve Disorder"). Any testimony regarding CRPS should be disregarded.

INSTRUCTION NO. 224

It is the duty of the court to instruct you as to the measure of damages. By instructing you on damages the court does not mean to suggest for which party your verdict should be rendered.

If your verdict is for the plaintiff, then you must determine the amount of money that will reasonably and fairly compensate the plaintiff for such damages as you find were proximately caused by the negligence of the defendant.

If you find for the plaintiff you should consider the following past economic damages elements:

The reasonable value of necessary medical care, treatment, and services received to the present time;

In addition you should consider the following noneconomic damages elements:

The nature and extent of injury;

The disability and loss of enjoyment of life experienced and with reasonable probability to be experienced in the future;

The pain and suffering, both mental and physical, inconvenience, and mental anguish, experienced and with reasonable probability to be experienced in the future.

The burden of proving damages rests upon the plaintiff. It is for you to determine, based upon the evidence, whether any particular element has been proved by a preponderance of the evidence.

Your award must be based upon evidence and not upon speculation, guess, or conjecture.

The law has not furnished us with any fixed standards by which to measure noneconomic damages. With reference to these matters you must be governed by your own judgment, by the evidence in the case, and by these instructions.

Appendix 7

FILED  
KING COUNTY, WASHINGTON

SEP 14 2017

SUPERIOR COURT CLERK  
BY Regina Saucier  
The Honorable Suzanna E. Brown

SUPERIOR COURT OF WASHINGTON IN AND FOR KING COUNTY

KELLIE SLATER,	)	
	)	
Plaintiffs,	)	NO. 15-2-15490-7 SEA
	)	
v.	)	<b>VERDICT FORM</b>
	)	
NORTHGATE MALL PARTNERSHIP, a	)	
Delaware General Partnership,	)	
	)	
Defendant.	)	

We, the jury, answer the questions submitted by the court as follows:

QUESTION 1: Was the defendant negligent?

ANSWER: Yes (Write "yes" or "no")

(DIRECTION: If you answered "no" to Question 1, sign this verdict form. If you answered "yes" to Question 1, answer Question 2.)

QUESTION 2: Was the defendant's negligence a proximate cause of damage to the plaintiff?

ANSWER: Yes (Write "yes" or "no")

(DIRECTION: If you answered "no" to Question 2, sign this verdict form. If you answered "yes" to Question 2, answer Question 3.)

QUESTION 3: What do you find to be the plaintiff's amount of damages due to the defendant's negligence? Do not consider the issue of contributory negligence, if any, in your answer.

ANSWER: \$ 97,436.<sup>28</sup>

(DIRECTION: If you answered Question 3 with any amount of money, answer Question 4. If you found no damages in Question 3, sign this verdict form.)

QUESTION 4: Was the plaintiff also negligent?

ANSWER: Yes (Write "yes" or "no")

(DIRECTION: If you answered "no" to Question 4, sign this verdict form. If you answered "yes" to Question 4, answer Question 5.)

QUESTION 5: Was the plaintiff's negligence a proximate cause of damages to the plaintiff?

ANSWER: Yes (Write "yes" or "no")

(DIRECTION: If you answered "no" to Question 5, sign this verdict form. If you answered "yes" to Question 5, answer Question 6.)

FILED

17 OCT 13 PM 4:04

The Honorable Judge Suzanne Parisien  
KING COUNTY  
Hearing Date: October 23, 2017  
SUPERIOR COURT CLERK  
Without Oral Argument  
CASE NUMBER: 15-2-15490-7 SEA

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER, et al.

Plaintiffs,

v.

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership;

Defendant.

CASE NO. 15-2-15490-7 SEA  
NOTE OF COURT DATE (Judges)  
(NOTICE FOR HEARING)  
SEATTLE COURTHOUSE ONLY  
(Clerk's Action Required) (NTHG)

TO: THE CLERK OF THE COURT and to all other parties per list on Page 2:  
PLEASE TAKE NOTICE that an issue of law in this case will be heard on the date below  
and the Clerk is directed to note this issue on the calendar checked below.

Calendar Date: October 23, 2017 Day of Week: Monday

Nature of Motion: Entry of Judgment

<b>CASES ASSIGNED TO INDIVIDUAL JUDGES – SEATTLE</b>	
If oral argument on the motion is allowed (LCR 7(b)(2)), contact staff of assigned judge to schedule date and time before filing this notice. <b>Working Papers:</b> The judge's name, date and time of hearing must be noted in the upper right corner of the Judge's copy. <b>Deliver Judge's copies to Judges' Mailroom at C203</b>	
<input checked="" type="checkbox"/> Without oral argument (Mon - Fri)	<input type="checkbox"/> With oral argument Hearing
Date/Time: <u>Monday, October 23, 2017</u>	
Judge's Name: <u>Suzanne Parisien</u> Trial Date: <u>September 5, 2017</u>	

You may list an address that is not your residential address where you agree to accept legal documents.

Sign: /s/ Corrie J. Yackulic Print/Type Name: Corrie Yackulic



WSBA # 16063 (if attorney) Attorney for: Plaintiff

Address: 705 Second Avenue, Suite 1300, Seattle, WA 98104

Telephone: 206-787-1915 Email Address: corrie@cjylaw.com

Date: October 13, 2017

**DO NOT USE THIS FORM FOR FAMILY LAW OR EX PARTE MOTIONS.**

<p>LIST NAMES AND SERVICE ADDRESSES FOR ALL NECESSARY PARTIES REQUIRING NOTICE</p>
--

Rossi F. Maddalena, WSBA No. 39351  
Merrick, Hofstedt & Lindsey, P.S.  
3101 Western Avenue, Suite 200  
Seattle, WA 98121  
Telephone (206) 682-0610  
Facsimile (206) 467-2689  
[rmaddalena@mhlseattle.com](mailto:rmaddalena@mhlseattle.com)

**IMPORTANT NOTICE REGARDING CASES**

Party requesting hearing must file motion & affidavits separately along with this notice. List the names, addresses and telephone numbers of all parties requiring notice (including GAL) on this page. Serve a copy of this notice, with motion documents, on all parties.

The original must be filed at the Clerk's Office not less than six court days prior to requested hearing date, except for Summary Judgment Motions (to be filed with Clerk 28 days in advance).

**THIS IS ONLY A PARTIAL SUMMARY OF THE LOCAL RULES AND ALL PARTIES ARE ADVISED TO CONSULT WITH AN ATTORNEY.**

The SEATTLE COURTHOUSE is in Seattle, Washington at 516 Third Avenue. The Clerk's Office is on the sixth floor, room E609. The Judges' Mailroom is Room C203.

**FILED**  
KING COUNTY, WASHINGTON  
OCT 11 2017  
SUPERIOR COURT CLERK  
BY Regina Saucier  
DEPUTY

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER, MELINDA SIMON and  
KATHRYN CARBAJAL,

No. 15-2-15490-7 SEA

Plaintiffs,

**ORDER GRANTING  
PLAINTIFF'S MOTION FOR  
ADDITUR**

v.

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership;

Defendant.

THIS MATTER having come before the Court on Plaintiffs' Motion for New Trial or  
in the Alternative for Additur and THE COURT having considered and reviewed:

1. Plaintiffs' Motion for New Trial or in the Alternative, for Additur;
2. Declaration of Corrie Yackulic in Support of Plaintiffs' Motion for New Trial or  
in the Alternative, for Additur;
3. Defendant's Response in Opposition to Plaintiffs' Motion for New Trial or in the  
Alternative, For Additur;
4. Declaration of Peter Nieman in Support of NMP's Opposition to Plaintiff's  
Motion for New Trial or in the Alternative, for Additur;

ORDER GRANTING PLAINTIFF'S MOTION  
FOR ADDITUR  
PAGE - 1

SUZANNE PARISEIN, JUDGE  
KING COUNTY SUPERIOR COURT  
516 Third Avenue  
Seattle, WA 98104  
(206) 477-1579

**FILED**  
KING COUNTY, WASHINGTON

OCT 24 2017

SUPERIOR COURT CLERK  
BY Regina Saucier  
DEPUTY

The Honorable Judge Suzanne Parisien

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER, MELINDA SIMON and  
KATHRYN CARBAJAL,

No. 15-2-15490-7 SEA

Plaintiffs,

~~PROPOSED~~ SRP  
JUDGMENT

v.

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership;

Defendant.

JUDGMENT SUMMARY

- |                                       |   |
|---------------------------------------|---|
| 1. Judgment Creditor:                 | KELLIE SLATER   |
| 2. Judgment Creditor's Attorney:      | Corrie Yackulic Law Firm, PLLC<br>705 Second Avenue, Suite 1300<br>Seattle, WA 98104<br>Tel. 206-787-1915 |
| 3. Judgment Debtor:                   | Northgate Mall Partnership  |
| 4. Total Principal Judgment           | \$58,718.14   |
| 5. Taxable Costs and Attorney's Fees: | \$ 3,993.77   |

JUDGMENT  
PAGE - 1

CORRIE YACKULIC LAW FIRM, PLLC  
705 SECOND AVENUE, SUITE 1300  
SEATTLE, WASHINGTON 98104  
TELEPHONE: (206) 787-1915 • FACSIMILE: (206) 299-9775

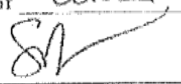
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JUDGMENT

The Court ENTERS JUDGMENT as follows:

Plaintiff Kellie Slater is awarded judgment, against Defendant Northgate Mall Partnership in the amount of \$62,711.91, which is the sum of the principal amount of \$58,718.14, plus allowable attorneys' fees and costs of \$3,993.77.

DONE AND ORDERED this 24<sup>th</sup> day of October, 2017.



\_\_\_\_\_  
The Honorable Suzanne Parisien

Presented by:

CORRIE YACKULIC LAW FIRM, PLLC

*/s/ Corrie J. Yackulic*

\_\_\_\_\_  
CORRIE J. YACKULIC, WSBA #16063  
*Attorney for Plaintiff*

LAW OFFICES OF KATHLEEN GARVIN

*/s/ Kathleen Garvin*

\_\_\_\_\_  
Kathleen Garvin, WSBA No. 10588  
*Attorney for Plaintiff*

JUDGMENT  
PAGE - 2

CORRIE YACKULIC LAW FIRM, PLLC  
705 SECOND AVENUE, SUITE 1300  
SEATTLE, WASHINGTON 98104  
TELEPHONE: (206) 787-1915 • FACSIMILE: (206) 299-9225

## **Judge Suzanne R. Parisien**

Judge Parisien spent over twenty-two years practicing in Federal and State Courts as a civil defense litigator with a particular emphasis on employment, civil rights, and negligence cases. She spent twelve years in the public sector as an Assistant Attorney General in the Torts Division of the Washington State Attorney General's Office. Her private sector experience includes working for law firms, insurance carriers, and as the Director of General Liability and Employment Litigation for Nordstrom Inc. Judge Parisien is admitted to practice in Pennsylvania, New Jersey, and Washington.

Judge Parisien earned her bachelor's degree *cum laude* in Psychology at Seattle University, and her law degree from Villanova University School of Law. She is a long-time volunteer cook for TeenFeed and the past recipient of the Craig Perry Community Service Award for her advocacy work on behalf of children. When not working, Judge Parisien enjoys spending time with her two teenage daughters and hiking with her dog.

<http://www.kingcounty.gov/~media/courts/superior-court/docs/judges/parisien-bio.ashx?la=en>

---

## Appointment Details



Visit Summary

Notes

**Kellie R Slater** Department: **ORTHOPEDIC SURGERY - BELLINGHAM, WA**  
**1/18/2018 9:10 AM** **ST JOSEPH MED CTR**  
**Office Visit** **Dr. Warren Taranow**  
Dept Phone: **360-733-2092**

### Issues Addressed

Complex regional pain syndrome type 2 of left lower extremity

You have no upcoming procedures.

### Instructions

CRPD type 2

Dr. Smith

---

FILED  
COURT OF APPEALS DIV I  
STATE OF WASHINGTON  
2019 JAN 22 AM 10:13

IN THE COURT OF APPEALS OF THE STATE OF WASHINGTON  
DIVISION ONE

KELLIE SLATER,	)	No. 77607-0-1
	)	
Appellant,	)	
	)	
v.	)	
	)	
NORTHGATE MALL PARTNERSHIP,	)	UNPUBLISHED OPINION
a Delaware general partnership,	)	
	)	FILED: January 22, 2019
Respondent.	)	

VERELLEN, J. — Kellie Slater filed a lawsuit seeking damages for personal injuries she suffered after she fell and injured herself in a shopping mall parking lot. A jury awarded damages to Slater equivalent to the amount of medical expenses she claimed at trial. Slater filed a motion for a new trial on the issue of noneconomic damages, or in the alternative, for additur. The court granted Slater’s motion for additur and increased the jury’s verdict by \$20,000. Slater appeals, arguing that the trial court’s award of noneconomic damages is inadequate in light of the evidence. We affirm.

FACTS

On August 25, 2012, Kellie Slater fell while attempting to cross what she believed to be a median strip in the Northgate Mall parking lot in Seattle. Slater sustained injuries to her foot and the ligaments in her right ankle.

No. 77607-0-1/2

In June 2015, Slater sued the Northgate Mall Partnership, the owner and operator of the shopping mall, for negligence based on premises liability.<sup>1</sup>

In September 2017, following a trial, the jury found that Northgate was negligent and that its negligence was the proximate cause of Slater's injuries. The jury determined Slater was entitled to damages of \$97,436, an amount that was exactly equivalent to the amount of medical expenses she claimed. The jury was instructed it should consider both economic and noneconomic damages in determining the total damage amount, but the verdict form did not segregate special damages and general damages. The jury also found Slater was contributorily negligent and that 50 percent of the damages were attributable to her negligence.

Slater filed a motion for a new trial, or in alternative, for additur, pursuant to RCW 4.76.030. Slater argued that the jury failed to award general damages despite "undisputed" evidence of pain and suffering and disability resulting from her injury. Northgate opposed the motion, arguing that the jury's verdict was within the range of credible evidence and therefore should not be disturbed.

The court granted Slater's motion for additur and increased the jury's verdict by \$20,000 to represent an award of general damages. The court's order states:

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<sup>1</sup> Slater's initial complaint included the claims of two other individuals who had similar accidents at the same location. The court dismissed the claim asserted by one of those plaintiffs. The record does not indicate whether the other plaintiff's claim proceeded separately.



Although this court is reluctant to disturb a jury verdict, justice is not served by the verdict and an award that does not even acknowledge any pain and suffering based on the uncontroverted evidence at trial is inconsistent with the damages which were awarded in the amount of \$97,436.28 (prior to contributory negligence reduction). The court specifically finds that the jury awarded damages exactly equal to the special damages claimed at trial. Although there is no way to know with absolute certainty whether the jury failed to award general damages given that the verdict form did not itemize the damage award, such a result can be reasonably inferred given that the verdict was exactly the same as the plaintiff's unconverted medical expenses for her foot/ankle injury. The court notes in this regard that the Defendant did not offer any medical testimony to rebut the medical testimony on causation and reasonableness of medical expenses offered by plaintiff.<sup>[2]</sup>

Slater appeals.

#### ANALYSIS

Representing herself on appeal, Slater challenges the court's order granting additur and awarding her \$20,000 for general damages before the contributory negligence deduction.

An award of additur is made pursuant to RCW 4.76.030. That statute provides:

If the trial court shall, upon a motion for new trial, find the damages awarded by a jury to be so excessive or inadequate as unmistakably to indicate that the amount thereof must have been the result of passion or prejudice, the trial court may order a new trial or may enter an order providing for a new trial unless the party adversely affected shall consent to a reduction or increase of such verdict.

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<sup>2</sup> Clerk's Papers (CP) at 336.

No. 77607-0-1/4

The question of whether a plaintiff is entitled to general damages turns on the evidence.<sup>3</sup> "Although there is no per se rule that general damages must be awarded to every plaintiff who sustains an injury, a plaintiff who substantiates her pain and suffering with evidence is entitled to general damages."<sup>4</sup>

Slater claims that the court's award upon granting additur is inadequate to compensate her for pain and suffering and other noneconomic damages in view of the uncontroverted medical evidence she presented at trial.

But Slater failed to designate on appeal any of the evidence presented at trial. The party presenting an issue for review has the burden of providing an adequate record to establish the asserted error.<sup>5</sup> The failure to provide such a record precludes appellate review.<sup>6</sup> Pro se litigants are held to the same standards as attorneys and are bound by the same rules of procedure and substantive law.<sup>7</sup>

Slater has not provided any part of the verbatim report of proceedings of the trial, or any of the numerous admitted trial exhibits.<sup>8</sup> Therefore, it is impossible to

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<sup>3</sup> Palmer v. Jensen, 132 Wn.2d 193, 201, 937 P.2d 597 (1997).

<sup>4</sup> Id.

<sup>5</sup> RAP 9.2(b); State v. Sisouvanh, 175 Wn.2d 607, 619, 290 P.3d 942 (2012); Stevens County v. Loon Lake Prop. Owners Ass'n, 146 Wn. App. 124, 131, P.3d 846 (2008).

<sup>6</sup> Stiles v. Kearney, 168 Wn. App. 250, 259, 277 P.3d 9 (2012).

<sup>7</sup> In re Marriage of Olson, 69 Wn. App. 621, 626, 850 P.2d 527 (1993); Westberg v. All-Purpose Structures, Inc., 86 Wn. App. 405, 411, 936 P.2d 1175 (1997).

<sup>8</sup> Slater has provided only a transcription of the deposition testimony of an orthopedic surgeon who treated her.

No. 77607-0-1/5

evaluate her claim that the general damages awarded by the court are inconsistent with the evidence.

Slater relies primarily on this court's unpublished opinion in Nelson v. Erickson.<sup>9</sup> Nelson is neither precedential nor persuasive as to the issue she raises.<sup>10</sup> In Nelson, after the jury awarded \$10,000 for future medical expenses but expressly declined to award future noneconomic damages, the trial court granted additur and awarded \$3,000 for future noneconomic damages. The defendant appealed. Upon a review of the evidence presented at trial, this court upheld the trial court's decision to grant the plaintiff's motion for additur. The court's analysis focused on whether the jury's omission of noneconomic damages was contrary to the evidence, therefore allowing the court to interfere with the verdict. The decision does not address the sufficiency of the amount of damages awarded by the trial court. Here, of course, Slater was the party who requested additur. And as explained, without reviewing all of the evidence, we are unable to assess her claim that the trial court failed to award an "appropriate amount" of damages.<sup>11</sup>

Despite having requested additur as an alternative to a new trial, Slater now asserts that the trial court was required to order a new trial on damages. She cites Meinhart v. Anya.<sup>12</sup> In that case, after the jury awarded the Meinharts almost all of

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<sup>9</sup> No. 71709-0-1 (Wash. App. Ct. Sept. 14, 2015) (unpublished).

<sup>10</sup> See GR 14.1.

<sup>11</sup> App Br. at 16.

<sup>12</sup> 1 Wn. App. 2d 59, 403 P.3d 973 (2017).

No. 77607-0-1/6

their claimed medical expenses but omitted an award of noneconomic damages, the trial court denied the Meinharts' motion for a new trial. Division Two of this court reversed, concluding there was no evidence that contradicted or called into question the plaintiffs' evidence of pain and suffering.<sup>13</sup> Unlike Slater, it does not appear that the Meinharts requested or consented to additur. And again, the conclusion that the trial court abused its discretion in denying the motion for a new trial was based on the appellate court's review of the entirety of the evidence.<sup>14</sup>

Slater also appears to challenge the trial court's pretrial ruling denying her motion to compel Northgate to produce incident reports and its ruling limiting the number of witnesses who were permitted to testify about similar accidents that occurred in the Northgate parking lot before Slater's August 2012 fall. In the absence of the underlying motions and arguments made to the trial court, we cannot conclude that the trial court abused its discretion. In any event, the jury found that Northgate was negligent and liable for Slater's injuries. Accordingly,

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<sup>13</sup> Id. at 71.

<sup>14</sup> Slater also refers to cases resolved by trial court order or by settlement to support her position that the injury she sustained warranted damages beyond the amount awarded by the trial court. Reference to these matters is unhelpful for several reasons but chiefly because the damages awarded in other cases were based on the specific evidence presented in those cases and are not relevant to the amount of damages supported by the evidence in Slater's case. Furthermore, we do not consider any material in Slater's appendices that is not included in the record on appeal. See RAP 10.3(a)(8).

No. 77607-0-1/7

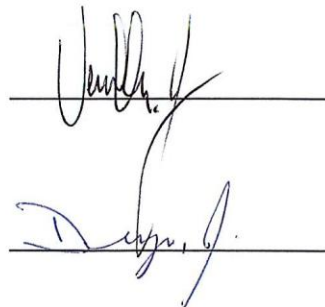
even if Slater could establish error, the rulings were not prejudicial and provide no basis for reversal.<sup>15</sup>

Finally, to the extent that Slater alleges judicial bias, there is nothing in the record to support her claim. It does not appear that Slater sought recusal. She does not point to any specific evidence of bias and merely suggests that some of the court's legal rulings reflect bias. But judicial rulings alone almost never constitute a valid showing of bias.<sup>16</sup> Slater's "[c]asual and unspecific allegations of judicial bias provide no basis for appellate review."<sup>17</sup>

Slater fails to establish that the award of damages was outside the range of the evidence.

Affirmed.

WE CONCUR:



<sup>15</sup> See Mut. of Enumclaw Ins. Co. v. Gregg Roofing, Inc., 178 Wn. App. 702, 728-29, 315 P.3d 1143 (2013) ("When a trial court makes an erroneous evidentiary ruling, the question on appeal becomes 'whether the error was prejudicial, for error without prejudice is not grounds for reversal.'" (quoting Brown v. Spokane County Fire Prot. Dist. No. 1, 100 Wn.2d 188, 196, 668 P.2d 571 (1983))).

<sup>16</sup> In re Pers. Restraint of Davis, 152 Wn.2d 647, 692, 101 P.3d 1 (2004).

<sup>17</sup> Rich v. Starczewski, 29 Wn. App. 244, 246, 628 P.2d 831 (1981).



## Kellie Slater Cost Report

### Costs Paid by Corrie Yackulic

<b>Medical and Employment Records</b>	\$ 1,783.31
<b>Filing Fees</b>	\$ 733.86
<b>Legal Messenger Fees</b>	\$ 337.00
<b>Mediation Fees</b>	\$ 1,150.00
<b>Focus Group Fees</b>	\$ 4,045.00
<b>Travel and Meals</b>	\$ 461.73
<b>Printing Fees</b>	\$ 459.93
<b>Trial Graphics</b>	\$ 9,171.85
<b>Audio Trial Recordings</b>	\$ 100.00
<b>Hotel for Kellie During Trial</b>	\$ 857.96
<b>Transcription Services</b>	\$ 1,007.50
<b>Conference Room Rental Fees</b>	\$ 1,510.00
<b>Deposition Fees</b>	
Kellie Slater	\$ 519.50
Steven Heim	\$ 713.50
Mark Lawless	\$ 1,845.00
Cloie Johnson	\$ 377.30
Warren Taranow, M.D.	\$ 1,479.20
Joellen Gill	\$ 3,914.35
Thodore Becker, M.D.	\$ 218.85
Eugene Toomey, M.D.	\$ 2,354.00
Strategic Consulting	\$ 800.00
Dr. Thomas Chi	\$ 8,347.75
Merill Cohen	\$ 422.00
Katya & CR 30(b)(6) of Two Terriers	\$ 257.25
Martin Mankey, M.D.	\$ 962.68
J. Loch Trimmingham	\$ 1,066.50
David Spanier, M.D.	\$ 377.50
<b>Expert Witnesses</b>	
Dr. Spanier	\$ 11,549.00
Medical Legal Nurse	\$ 675.00

OSC Vocational	\$ 7,352.24
Shelly Smith Jones	\$ 1,540.00
Dr. Becker	\$ 4,900.00
Joellen Gill	\$ 9,160.65
Dr. Thomas Chi	\$ 1,700.00
Warren Taranow, M.D.	\$ 2,792.00

**TOTAL** **\$ 84,942.41**

Costs Paid by Kathleen Garvin

<b>Witness Fees</b>	\$ 315.00
<b>Travel</b>	\$ 1,074.64
<b>FedEx</b>	\$ 111.07

**TOTAL** **\$ 1,500.71**

**TOTAL COSTS** **\$ 86,443.12**

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17 DEC 14 AM 11:39

The Honorable Suzanne C. Patisien  
KING COUNTY  
SUPERIOR COURT CLERK  
E-FILED  
CASE NUMBER: 15-2-15490-7 SEA

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER,

Plaintiff,

v.

NORTHGATE MALL PARTNERSHIP, a  
Delaware General Partnership;

Defendant.

No. 15-2-15490-7 SEA

NOTICE OF ATTORNEY LIEN

(clerk's action required)

TO: CLERK OF THE COURT  
AND TO: ALL COUNSEL OF RECORD  
AND TO: KELLIE SLATER

PLEASE TAKE NOTICE that Corrie Yackulic of the Corrie Yackulic Law Firm, PLLC and Kathleen Garvin of the Law Office of Kathleen Garvin ("Attorneys"), counsel of record for Plaintiff Kellie Slater from the inception of the case through trial and post-trial motions, claim a lien for legal services rendered to Plaintiff and expenses advanced in connection with the above-entitled action, together with any applicable interest. Said lien includes all categories of property listed in RCW 60.40.010 including (1) funds in the possession of any party and/or attorney of record in this action; (2) proceeds from this action;

NOTICE OF ATTORNEY LIEN  
15-2-15490-7 SEA  
PAGE - 1

CORRIE YACKULIC LAW FIRM, PLLC  
705 SECOND AVENUE, SUITE 1300  
SEATTLE, WASHINGTON 98101  
TELEPHONE: (206) 787-1915 • FACSIMILE: (206) 299-9725



1 and (3) judgment in this action, entered on October 24, 2017, in the amount of \$62,711.91.  
2 The amount of expenses incurred by Attorneys exceeds the judgment amount of \$62,711.91.  
3 The amount of attorneys' fees claimed by the Attorneys is determined on the basis of the  
4 total amount recovered, the terms of the client fee agreement (contingent fee of 33-1/3%), as  
5 well as the relative proportion of (a) hours worked by Attorneys multiplied by the standard  
6 hourly billing rates, plus the costs incurred by Attorneys and not reimbursed by the Plaintiff  
7 as compared to (b) the hours and unreimbursed costs incurred by Ms. Slater on a *pro se* basis  
8 in connection with the above-entitled action after Ms. Slater filed the Notice of Appeal on  
9 November 11, 2017.  
10

11 DATED this 14<sup>th</sup> day of December, 2017.

12 CORRIE YACKULIC LAW FIRM, PLLC

13 /s/ Corrie J. Yackulic  
14 Corrie Yackulic, WSBA #16063  
15 315 Fifth Avenue S., Suite 1000  
16 Seattle, WA 98104  
17 [corrie@cjylaw.com](mailto:corrie@cjylaw.com)  
18 *Former attorney for Plaintiff*

19 LAW OFFICES OF KATHLEEN GARVIN

20 /s/ Kathleen Garvin  
21 Kathleen Garvin, WSBA No. 10588  
22 315 5<sup>th</sup> Ave. S., Ste. 1000  
23 Seattle, WA 98104  
24 206-340-0600  
25 [katygarvin@comcast.net](mailto:katygarvin@comcast.net)  
26 *Former attorney for Plaintiff*

NOTICE OF ATTORNEY LIEN  
15-2-15490-7 SEA  
PAGE - 2

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Appendix 16

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THE HONORABLE SAMUEL CHUNG  
KING COUNTY  
SUPERIOR COURT CLERK

E-FILED

CASE NUMBER: 15-2-15490-7 SEA

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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER, individually,  
  
Plaintiff,  
  
v.  
  
NORTHGATE MALL LIMITED  
PARTNERSHIP, a Delaware General  
Partnership,  
  
Defendant.

No. 15-2-15490-7 SEA

**AFFIDAVIT OF PREJUDICE OF  
JUDGE AND CERTIFICATE OF  
ATTORNEY AS TO GOOD  
FAITH**

**[CLERK'S ACTION REQUIRED]**

TO: Clerk of Court, King County Superior Court

AND TO: Rossi F. Maddalena, Attorney for Defendant

COMES NOW the Plaintiff, Kellie Slater, by and through her attorney of record,  
Corrie J. Yackulic, and moves that Judge Samuel Chung be disqualified from sitting as Judge  
in this matter.

This motion is made under the authority of RCW 4.12.050 and is supported by the  
subjoined affidavit.

///

///

AFFIDAVIT OF PREJUDICE OF JUDGE AND  
CERTIFICATE OF ATTORNEY AS TO GOOD  
FAITH - 1

CORRIE YACKULIC LAW FIRM, PLLC  
315 FIFTH AVENUE SOUTH, SUITE 1000  
SEATTLE, WASHINGTON 98104  
TELEPHONE: (206) 787-1915 • FACSIMILE: (206) 299-9725

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DATED this 18<sup>th</sup> day of August, 2015, in Seattle, WA.

CORRIE YACKULIC LAW FIRM, PLLC

*Corrie J. Yackulic*  
Corrie J. Yackulic, WSBA # 16063  
Corrie Yackulic Law Firm, PLLC  
Counsel for Plaintiff

THE STATE OF WASHINGTON )  
COUNTY OF KING ) ss.

Corrie J. Yackulic, being first duly sworn, on oath, deposes and states:

1. I am one of the attorneys for the plaintiff in the above-entitled action. I make the following statement in that capacity and on the basis of personal knowledge.

2. I believe that neither I nor my client can have a fair and impartial trial before the Honorable Samuel Chung, Judge of the King County Superior Court, before whom this action is now pending, by reason of the fact that said Judge is prejudiced against me and/or my client.

*Corrie J. Yackulic*  
CORRIE J. YACKULIC

SUBSCRIBED AND SWORN TO before me this 18<sup>th</sup> day of August, 2015  
by



*Marcia A. Ripley*  
NOTARY PUBLIC in and for the  
State of Washington, residing at  
Seattle  
My commission expires: 11/11/15

AFFIDAVIT OF PREJUDICE OF JUDGE AND  
CERTIFICATE OF ATTORNEY AS TO GOOD  
FAITH - 2

CORRIE YACKULIC LAW FIRM, PLLC  
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SEATTLE, WASHINGTON 98104  
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THE HONORABLE SAMUEL CHUNG

**FILED**  
KING COUNTY, WASHINGTON

OCT 12 2015

SUPERIOR COURT CLERK  
BY Andrew Havlis  
DEPUTY

IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF KING

KELLIE SLATER, individually,  
  
Plaintiff,  
  
v.  
  
NORTHGATE MALL LIMITED  
PARTNERSHIP, a Delaware General  
Partnership,  
  
Defendant.

No. 15-2-15490-7 SEA

~~[PROPOSED]~~

**ORDER FOR CHANGE OF  
JUDGE**

**[CLERK'S ACTION REQUIRED]**

Having come before this court on the Affidavit of Prejudice of Judge and Certificate of Attorney as to Good Faith dated August 18, 2015.

IT IS HEREBY ORDERED that pursuant to RCS 4.12.050, and supported by the affidavit of Corrie J. Yackulic that Judge Samuel Chung be disqualified from sitting as Judge in this matter.

THE CLERK SHALL REASSIGN THIS MATTER.

DATED this 12 day of October, 2015.

  
JUDGE SAMUEL CHUNG

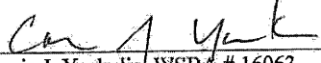
ORDER FOR CHANGE OF JUDGE  
15-2-15490-7 SEA  
PAGE-1

CORRIE YACKULIC LAW FIRM, PLLC  
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Presented By:

CORRIE YACKULIC LAW FIRM, PLLC

  
Corrie J. Yackulic, WSBA # 16063  
Counsel for Plaintiff

ORDER FOR CHANGE OF JUDGE  
15-2-15490-7 SEA  
PAGE-2

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SEATTLE, WASHINGTON 98104  
TELEPHONE: (206) 787-1915 • FACSIMILE: (206) 299-9725

MS.

March 15, 2019 - 10:27 AM

**Filing Petition for Review**

**Transmittal Information**

**Filed with Court:** Supreme Court  
**Appellate Court Case Number:** Case Initiation  
**Appellate Court Case Title:** Kellie Slater, Appellant v. Northgate Mall Partnership, Respondent (776070)

**The following documents have been uploaded:**

- PRV\_Petition\_for\_Review\_20190315102355SC522515\_0513.pdf  
This File Contains:  
Petition for Review  
*The Original File Name was FinalSupremeCourt.pdf*

**A copy of the uploaded files will be sent to:**

- rmaddalena@mhlseattle.com

**Comments:**

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Sender Name: Kellie Slater - Email: kellierslater@gmail.com  
Address:  
96 Morey Avenue  
Bellingham, WA, 98225  
Phone: (360) 685-6318

**Note: The Filing Id is 20190315102355SC522515**