ONTARIO COURT (GENERAL DIVISION)

HEATHER VILLENEUVE

Plaintiff

and

DEBORAH CARSON and PHELPSTON TAVERN

Defendants

BEFORE THE HONOURABLE MR. JUSTICE J.R. MacKINNON

on SEPTEMBER 3, 1996 at BARRIE, Ontario.

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APPEARANCES:

R. Oatley Esq.,	Counsel for the Plaintiff
J.McNeil Esq., and	Counsel for D. Carson
D. Cormack Esq.	
W. Dutton Esq.,	Counsel for Phelpston Tavern

R U L I N G :

THE COURT: The six pieces of demonstrative evidence to which the Plaintiff's counsel wishes to refer in his opening involve four photographs, none of which describe any bodies or injuries to the Plaintiff or any of the witnesses and all of which describe either the scene, portions of the scene, or items at the scene either on the evening in question, or in the surrounding area during daylight the next day.

There is, in my view, no reason why those and the sketch of the area, that is the map of the Elmvale/Phelpston area, should not be used by the Plaintiff if Plaintiff's counsel so wishes as demonstrative evidence in the Plaintiff's opening. The Jury is going to be told in this case, as in any case, that really if the evidence doesn't accord with the submissions of counsel that they are to rely solely on the evidence in any event, not listen to what the lawyers had to say about that issue. There is an undertaking to prove the items, and in my view, they will be helpful to the Jury.

With respect to the ring, that is Exhibit 'B' at this point for identification purposes, it is said that Exhibit 'B' may be a significant part of this trial, not only the item itself but just as important, if not more important, the location in which it was found, going, so it is said, to the issue of whether or not there is a spousal arrangement proved before the Jury. In my view, there is no reason demonstrated before me why Exhibit 'B' and 'E', that is the photograph of the ring location at the scene, and the ring itself cannot be put to the Jury in the Plaintiff's opening. It will be helpful to the Jury; it will, in my view not result in any prejudice in that there is an undertaking by the Plaintiff to prove the admissibility of the items.

THIS IS TO CERTIFY that the foregoing
is a true and accurate transcription
of my recordings to the best of my
skill and ability.

Elaine Husband

Elaine Husband
Certified Court Reporter