



[2015] JMSC Civ. 189

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIVIL DIVISION

CLAIM NO. 2011HCV06589

BETWEEN	JONATHON MORRISON	CLAIMANT
AND	ORAL WYNTER	1st DEFENDANT
AND	J.CHEN CORPORATION LIMITED	2nd DEFENDANT
AND	J.CHEN CORPORATION LIMITED	ANCILLARY CLAIMANT
AND	LOCKSLEY McDONALD	ANCILLARY DEFENDANT

CONSOLIDATED WITH

CLAIM NO. 2011HCV07228

BETWEEN	DWAYNE PATTERSON	CLAIMANT
AND	ORAL WYNTER	1st DEFENDANT
AND	J.CHEN CORPORATION LIMITED	2nd DEFENDANT
AND	J.CHEN CORPORATION LIMITED	ANCILLARY CLAIMANT
AND	LOCKSLEY McDONALD	ANCILLARY DEFENDANT

CLAIM NO. 2013 HCV 04635

BETWEEN HUGHROY KITSON

CLAIMANT

AND ORAL WYNTER

1st DEFENDANT

AND J.CHEN CORPORATION LIMITED

2nd DEFENDANT

Mrs A Leith-Palmer instructed by Kinghorn and Kinghorn for the Claimants.

Mrs. K. Sewell and Ms. K. Morris instructed by Ms S. Mayhew for Defendants/First

HEARD: February 16, 17 and September 25, 2015.

Ancillary Claimant.

**Motor vehicle accident – negligence – contributory negligence –
blameworthiness – credibility – damages – quantum.**

CORAM: MORRISON, J.

“Find out the cause of this effect –

Or rather say, the cause of this defect,

For this effective defective comes by cause” – Hamlet, Act II, Scene 2.

[1] The Road Traffic Act, Section 51, contains provisions for all road users as to the rules of the road. These are the rules of engagement for the use of a road as is defined therein. Generally, a driver of a motor car is enjoined to observe certain rules: S51(i)(a)-(l).

[2] In addition to the above rules, Section 51(2) says, “... it shall be the duty of a driver of a motor vehicle to take such action as may be necessary to avoid an accident,

and the breach by a driver of any motor vehicle of any of the provisions of this section shall not exonerate the driver of any other motor vehicle from the duty imposed on him by this subsection.”

[3] On March 8, 2011, the Claimants and Ancillary Defendant were all passengers in a motor vehicle registered 3684 BL owned and being driven by the latter when, after exiting Passage Fort Drive in Saint Catherine, and, after driving onto the main Dyke Road, it was involved in an accident with a motor truck registered CH3539, owned by the second Defendant and being driven by the First Defendant. Both drivers blame each other as being responsible for the cause of the accident. The individual Claimant's version of the accident as well as that of Locksley McDonald all coalesce around unremarkable variations on the common theme of negligent driving by the First Defendant while that of the First Defendant, which stands by itself, comprise the facts on which the Defendants' case rest.

[4] The legal and factual issues are sharply delineated in the pleadings as filed. I now turn to them.

THE CLAIM

[5] Individually, the Claimants, Jonathon Morrison, Dwayne Patterson and Hughroy Kitson bring their respective claims against the First Defendant and the Second Defendant/Ancillary Claimant alleging therein that due to the negligent driving of the First Defendant, servant and/or agent of the Second Defendant they suffered damages.

[6] From the Ancillary Claim Form filed on January 4, 2012 the Second Defendant/Ancillary Claimant has asked the court to say that the Ancillary Defendant, Locksley McDonald caused or materially contributed to the collision that occurred on March 8, 2011 at the intersection of the Dyke Road and Passage Fort Drive, in the parish of St. Catherine”.

The Ancillary Defendant defence and counterclaim was filed on May 7, 2012 which mirrors that of the Claimant's claim. In the Ancillary Defendant's counterclaim he claims damages for personal loss and injury.

PARTICULARS OF NEGLIGENCE

[7] The collective particulars of negligence of the Claimants reveal that the First Defendant –

- a. drove at too fast a rate of speed in all the circumstances.
- b. failed to maintain control over the Tractor Head.
- c. failed to apply his brake within sufficient time or at all.
- d. failed to see the motor car within sufficient time or at all
drove along the Dyke Road in a careless manner
- e. failed to stop, slow down, swerve, or otherwise conduct the operation of the Tractor Head so as to avoid the said accident.

[8] As to the Defendants particulars of negligence, they allege that Locksley McDonald failed to keep any or any proper look out; failed to wait until the way was clear before entering the main road; failed to have sufficient regard for other road users; “turning right into the path of the Ancillary Claimant’s vehicle”; and, failed to stop, swerve, manage or control his vehicle so as to avoid the collision.

[9] Here I will pause to observe that pursuant to Section 95(3) of the Road Traffic Act, “The failure on the part of any person to observe any provision of the Road Code shall not of itself render that person liable to criminal proceedings of any kind”. However, the subsection continues, “any such failure may in proceedings (whether civil or criminal and including proceedings for an offence under this Act) be relied upon by any party to the proceedings as tending to establish or to negative any liability which is in question in those proceedings”.

[10] I particularly observe here that the Island Traffic Authority, a body set up under Section 3 of the Principal Act, is empowered to prepare a code known as the “Road Code” for the guidance of persons using the roads: See Section 95(1).

THE SUBMISSIONS

[11] The Claimants have set forth, partly what they are content to describe as the undisputed facts, together with facts which they have urged this court to find. They have also made submissions in law.

They rely on the following authorities –

- a) Section 51(1) and (2) of the Road Traffic Act (RTA);
- b) Pamela Thompson et al v Devon Barrows et al, Claim No. CL 2001/T143;
- c) Hay (or Bourhill) v Young [1943] AC 92;
- d) Seymour Almon v Reginald Jones (1924)12 JLR 1474;
- e) Admiralty Commissioners v Owners of SS Volute [1922] AC 129;
- f) Nance v British Columbia Electric Railway Company Ltd. [1961] AC 601;
- g) Horace Williams v Knoeckley Buckley and Nestle JMP Jamaica Ltd, Claim No. 2009 HVC 00247;
- h) Samarah Reno v Neil Smith and Kenneth Renton, Claim No. 2007 HCV 01935;
- i) Ronald Bowen v Mark Wallace and Industrial Chemicals Ltd, Claim No. 2010 HCV 01073;
- j) Darron Pinnock v Granville Taylor, Claim No. 2011 HCV 00436;
- k) Claston Campbell v Omar Lawrence and others, Claim No. 2002 HCV 0135 and
- l) Mario Landell v Judah Campbell, Claim No. 2006 HCV 01324.

[12] As for the Defendants they submit that Mr Locksley McDonald was the negligent party or that he was contributorily negligent for the reasons advanced in their particulars of negligence. They too have placed reliance on –

1. The Road Traffic Act;
2. Pamella Thompson, Muret Forrester & others v Devon Barrows & others, CLAIM No. CL 2001/T143 (22/12/2006); and
3. Peter Marshall v Carlton Cole & Alvin Thorpe, Khan's Personal Injury Awards made in the Supreme Court of Judicature of Jamaica, Volume 6.

THE EVIDENCE

[13] As is noted elsewhere, on the thematic version of the Claimants and Locksley McDonald, the first Defendant is to blame for the accident whereas the Defendants ascribe blame to the negligent driving of Locksley McDonald, the Ancillary Defendant.

JONATHON MORRISON

[14] According to this witness, he was the front seat passenger in motor vehicle registered 3684 BL that was being driven along the Dyke Road heading in the direction of Half-Way-Tree. He continues, "Upon reaching in the vicinity of the bridge going towards the Portmore toll, I heard the horn of a trailer and within seconds of hearing it, I felt an impact to the rear side of the car". The car spun out of control and ended up in a ditch.

DWAYNE PATTERSON

[15] From paragraph 3 of his witness statement, which is a virtual carbon copy of that of Jonathon Morrison, he was travelling in the back seat of the said motor vehicle and while on the Dyke Road and heading in the direction of Half-Way-Tree, in the vicinity of the bridge going towards the Portmore Toll, " I heard the horn of a trailer and within seconds and within seconds of hearing the horn I felt an impact to the rear right side of the car. The car spun out of control and ended up in the ditch".

HUGHROY KITSON

[16] Again, paragraph 3 of this witness's evidence-in-chief is a replica of his companion witnesses: "I was travelling as a passenger in the right back seat of motor vehicle with registration number 3684 BL along the Dyke Road heading in the direction of Half-Way-Tree. Upon reaching in the vicinity of the bridge going toward the Portmore Toll I heard the horn of a trailer and within seconds of hearing the horn I felt an impact to the rear right side of the car. The car spun out of control and ended up in the ditch".

LOCKSLEY McDONALD

[17] This witness repeats the evidence of his brethren Morrison, Patterson and Kitson: "I was driving motor vehicle with registration number 3684 BL along the Dyke Road heading in the direction of Half Way Tree. Upon reaching in the vicinity of the bridge going towards the Portmore Toll I heard the horn of a trailer and within seconds of hearing the horn I felt an impact to the rear right side of the car. The car spun out of control and ended up in the ditch".

ORAL WYNTER

[18] From this witness's evidence-in-chief, he was assigned to drive a 1998 Tractor Head with registration number CH 3539. On the 8th March 2011 he was driving the said Tractor Head going in an easterly direction along the Dyke Road on the left hand side at the rate of speed of 70 kilometers per hour, when, "Upon reaching near to the intersection at which Dyke Road meets with Waterford, which is on the right side of the road and which is in the nature of a T-Junction, I observed a blue motor car suddenly make a right turn from the intersection, driving onto Dyke Road and onto the path of my vehicle".

[19] According to this witness, he immediately pulled his horn and did so for some time. He then attempted to go to the left in order to avoid the car. However, says he, "simultaneously, the car went left. It appeared that the truck was about to collide into the rear of the motor car and so I swerved to the right. The driver of the blue car then turned the car to the right across the path of the truck horizontally".

Continuing, he dilates, "The truck then impacted the right side of the motor car. The car then spun following which it came to a stop at the left side of the road".

ANAYLIS OF EVIDENCE

[20] I am at once to remark that, where there are conflicts on the evidence, I prefer the evidence of the Claimants and the Ancillary Defendant to that of the Defendants' witness, Mr Oral Wynter. While it is true that there are minor divergences on the part of the witnesses for the Claimants, by and large, the convergence of their testimonies lead

to a cogent coherence as opposed to that of the witness for the Defendants. I say so despite fact that their individual evidence-in-chief is coincidental in their aspects of wording and sentence structure. Though it is curious it is not critical so as to be rendered untrustworthy. In addition, regard having been paid to the witnesses' demeanour, I find the testimony of Mr Oral Wynter to be lacking in reliability if only for the shuffling way and the hesitancy in which he deposed himself.

[21] It is accepted on both sides that Mr Locksley McDonald, driver of the motor car in which all claimants were being driven, had entered the Dyke Road from its juncture with the Passage Fort Drive Road. It was while travelling along the Dyke Road, after a relative lapse of time and distance from the entry point of Passage Fort Drive, that Mr McDonald felt an impact to the rear right side of the car, he having heard the horn of a trailer earlier. I accept the evidence of Mr Jonathon Morrison that the car in which he was travelling had already fully entered its correct left lane and had travelled about 60 feet before the collision occurred. He gauged the time which had passed to be in the order of minutes. Also, I accepted the evidence of Mr Dwayne Patterson where he says that their vehicle having entered the Dyke Road that from that point it had travelled a distance of about 160-200 feet before the accident occurred. Obviously, these are estimates as to the elapsed time and distance travelled from Passage Fort Drive to the point of impact. Further, I accept the evidence of Mr McDonald where he says that "the car didn't turn right, I was trying to give him way and him lick me off the road". I am to say that absolutely no store was placed by the evidence of Mr Hughroy Kitson for the fact that he had been rendered unconscious immediately after the accident. Any account of the accident which he purports to give is peremptorily rejected.

In any calculation involving the rate of speed of 70KPH, as given in Mr Oral Wynter's witness statement, and confirmed in cross-examination, and of his reducing the rate of speed to 45KPH at a time when the Ancillary defendants car was on the Dyke Road, would have, of necessity, to factor in the incidents of time and distance relative to the point of egress of the car to the point of impact. Such an approach would be static and sterile as other pertinent factors would have to be taken into account, such as, the braking distance of the truck and the condition of its tyres.

On the above observation, I did not attempt any calculus of probability as to what would have been the likely outcome, based on those factors.

[22] Assuming, as maintained by Mr Wynter, that he first saw Mr McDonald's car when he was about 50-70 feet away from the intersection at the time when it was exiting Passage Fort Drive to go onto the Dyke Road; that Mr McDonald's car was half in the left lane and half on the soft shoulder; that no vehicles were travelling from the opposite direction in the right lane; that the 9 feet wide trailer could have fit nicely in each of the two lanes, then the question which forcefully begs to be answered is, not how the accident happen, but why?

[23] Mr Wynter's explanation for the accident is at best convenient, and at worst, disingenuous. To borrow the colloquial expression, "he was caught in a cleft stick", and having been so caught he tried to extricate himself by a resort to the ruse that he had applied his brakes, a contention, ominously absent from his witness statement despite his deeming it to be of importance and of his mentioning that fact to his lawyer. I find that the issue of the non-inclusion of his braking in his witness statement rather speaks to its factitiousness than of his actually doing so. After all, when the police came onto the scene, there is no indication of his pointing them to such brake marks, if there were any, confirmatory of his trying to avoid the accident. There were other inconsistencies which I need to mention here as to do so would only serve to worsen an already hopeless case.

[24] In accepting the evidence of Mr Locksley McDonald in particular, and, taking it in tandem with that of his corroborators, I am to say that he did everything that he could have done by manoeuvring his vehicle to the near-side of the road onto the soft shoulder to avoid the accident and thus no blame can be ascribed to the manner of his driving. I accept the Particulars of Negligence as is set out by the Claimants and I find the first defendant was in breach of them singly and collectively. In other words he had breached the Road Code. Accordingly, the effective defective cause of the accident was solely that of First Defendant.

THE LAW

[25] I shall here refer to Section 51, subsection (1) and (2) of the Road Traffic Act. Beginning with the subsection 2: "Notwithstanding anything contained in this section it shall be duty of a driver of a motor vehicle to take such action as may be necessary to avoid an accident, and the breach of a driver of any motor vehicle of any of the provisions of this section shall not exonerate the driver of any other motor vehicle from the duty imposed on him by this subsection".

[26] Now, what is this duty about which subsection (2) speaks? It is this. According to Section 51(1): "The driver of a motor vehicle shall observe the following rules – a motor vehicle

- a) Meeting or being overtaken by other traffic shall be kept to the near – side of the road. When overtaking other traffic, the vehicle shall be kept on the right or off side of such other traffic.
- b) ...
- c) ...
- d) ...
- e) ...
- f) ...
- g) ...
- h) ..."

[27] The use of the word "duty" in section 51 implies a duty of care on the part of each road user to another, which if breached can result in such a person being deemed to have been negligent.

[28] Now negligence is the omission to do something which a reasonable man, guided upon those considerations which ordinarily regulate the conduct of human affairs, would do, or doing something which a prudent or reasonable man would not do: **Blyth v Birmingham Waterworks Co., (1856), 4 W.R. 204.**

[29] In running down cases, where two drivers are so moving in relation to one another as to involve a risk of their coming together, each driver owes to the other, a duty to move with care: See Nance v British Columbia Electrical Railway Co., Ltd., supra.

[30] On my findings of fact it was the First Defendant who was in error. He owed a duty of care to the Claimants and Mr Locksley McDonald. This he breached resulting in personal injuries and expense to each Claimant as well as to Mr McDonald.

[31] As to the Defendant's claim of contributory negligence all I need to do is to set out its legal definition and then see how it stands in relation to my finding of fact.

[32] Contributory negligence is made out if it can be shown that owing to a person's carelessness for his own safety or interest it contributed materially to damage suffered by him as a result partly of his own fault and partly of the fault of another person. The effect of such a finding of contributory negligence by a court is to reduce the Claimant's damages by an amount that the court thinks just and equitable.

[33] In Admiralty Commissioners v SS Volute, supra, Viscount Birkenhead said the test is whether the Claimant in the ordinary plain common sense of his business contributed to the accident: (marks of ellipsis not included).

[34] As already adverted to, and to repeat, Mr McDonald by the manner of his driving did not do anything which could be remotely considered as a breach of the rules of the Road Traffic Act including the Road Code. The manner of his egress from Passage Fort Drive onto the Dyke Road was conducted in an unimpeachable manner having regard to other road users. The time and distance which elapsed after his emerging from the Passage Fort Drive junction confutes any contention to the contrary.

QUANTUM OF DAMAGES

RE: JONATHON MORRISON

General Damages

[35] The evidence of this Claimant is that he sustained serious personal injuries and suffered monetary loss as a result of the collision. He was assessed by Dr. Sangappa as having a right shoulder and upper back strain which were not considered to be permanent.

[36] It is to be noted that as to an award for general damages, the parties are antipodal with the Claimant asking for \$1,300,000.00 while the Defendant says he is deserving of \$550,000.00.

[37] It is trite law that the awards made in previous cases are the bases on which current awards are made provided that the respective injuries are fairly analogous. Of the cases presented by the parties being Horace Williams v Knoeculey Buckley and Nestle JMP Jamaica Limited, supra and Samarah Reno v Neil Smith and Kenneth Renton, supra, on behalf of the Claimant and Peter Marshall v Carlton Cole and Alvin Thorpe, supra and Pamela Thompson et al v Devon Barrows, supra, on behalf of the Defendants, I prefer the Pamela Thompson case, it being fairly analogous to the injuries suffered by Mr Morrison. In the referenced case, Pamela Thompson was awarded \$250,000.00 in December of 2006 which translates today into approximately \$600,000.00 using the accepted approved formula and taking into account the quality of health enjoyed by Mr Morrison post injury: several sessions of physiotherapy and prolonged discomfort.

[38] As to special damages the only item which stands between the parties is a sum of \$5,000.00 claimed for transportation costs.

[39] While it is true that Claimants are required to strictly prove their out-of-pocket expenses, instead of throwing them at the head of the court, the fact is, based on certain local case law authorities, I would have to take account of the social realities which exist in this jurisdiction. Persons such as Mr Morrison, or rather, persons who

rely on the formal and informal transportation service to go about their business which, save in one or two exceptions, are not favoured with the issue to them of receipts for accessing those services. Still I find it too facile for a Claimant simply to say, as here, "Transportation expenses - \$5,000.00", without at least saying how many trips were made and at what cost per trip. Though the sum appears to be small and trifling, I think it must on principle be shown how it was arrived at. Accordingly, the claim for transportation costs is refused.

[40] I am to award the following for special damages -

- a) Medical expenses \$7,800.00
- b) Medical report \$10,000.00 = \$17,000.00

For general damages the sum of \$600,000.00 is awarded.

Re: DWAYNE PATTERSON

General Damages

[41] Mr Patterson was diagnosed as having suffered –

- i. Whiplash injury to the neck and
- ii. Lower back strain

[42] In respect of his injuries the medical reports of Dr Satish Chandra and Dr Prakash Sangappa were tendered into evidence. It was the latter who assessed him as having the above mentioned injuries. Mr Patterson was subsequently referred to physiotherapy. No permanent impairment was assessed after his follow-up visits to the doctor.

[43] Again, the parties are poles apart with the Claimant asking for \$1,300,000.00 and the Defendant suggesting a sum of \$500,000.00.

Yet again, the Defendants rely on the Pamela Thompson case, supra, while the Claimant relies on Ronald Bowen v Mark Wallace and Industrial Chemicals Limited, supra, and Darron Pinnock v Granville Taylor, supra.

[44] I have to say here that I fail to see the qualitative difference between the injuries to Mr Morrison and that to Mr Patterson for the Claimant to be offering different cases for the Court's consideration in justification of quantum. Having said that, I am of the view that the Pamela Thompson case ought to be the point of analogy and would grant the sum of \$600,000.00 for general damages.

Re: Special Damages

[46] Here the Claimant's items of expenditure are as follows –

Medical report	\$12,000.00		
Doctor's visit	\$ 6,300.00		
Transportation cost	\$5,000.00	=	\$36,900.00

[47] As has been observed by the Defendants, the evidence of Mr Patterson is that his medical report cost \$15,000.00 yet in his Particulars of Claim it says \$12,000.00 was paid for the medical report. Based on this discrepancy and as no application was made to amend the Particulars of Claim, then any claim of \$15,000.00 for a medical report should be disallowed. With that I entirely agree.

Accordingly, the sum claimed for special damages should be reduced by a factor of \$3,000.00 yielding a total of \$20,300.00.

Re: Hughroy Kitson

Re: General Damages

[48] Here the Claimant was assessed by Dr Prakash Sangappa one year post-accident as having a resolved cerebral concussion, healed laceration to the forehead, chronic whiplash injury to the neck, and chronic lower back strain. He too was referred for physiotherapy.

[49] The cases of **Claston Campbell v Omar Lawrence and others**, supra, and **Marlon Landell v Judah Campbell**, supra, were offered by the Claimant in support of quantum. Again, the parties are far apart as to what an award for general damages should be, that is, \$1,800,000.00 for the Claimant and \$500,000.00 for the Defendant.

[50] The slight offered by the Defendants to the figure of \$1,800,000.00 seems to be based on a conflict between Dr Sangappa's report and that of the physiotherapist Ms Gogineni.

[51] With due deference to counsel for the Defendants, I am at a loss to see how the report of Dr Sangappa can be rejected on the score of its supposed conflict with that of Ms Gogineni. If anything I abide by the fact that the former was the first to see Mr Kitson and for his professional integrity to be assailed is adequately provided for under the Civil Procedure Rules. I am to say, therefore, that I accept the evidence of Dr Sangappa to the extent where it differs from that of the physiotherapist.

[52] Of the two cases relied on by the Claimant I prefer that of Marion Landell it being fairly analogous to the Claimant's injuries. However, the Marion Landell case did not involve cerebral concussion and a laceration to the forehead. Hence, it must be said that Mr Kitson suffered far more serious injuries than those suffered by Mr Landell.

[53] The updated award in the Landell case of \$1,400,000.00 will have to be further upgraded to reflect that observation.

Accordingly, I award a sum of \$1,600,000.00 for general damages.

Re: Special Damages

[54] Here the Particulars of Special Damages show expenditure for –

- | | | |
|------|---|-------------|
| i. | Medical reports | \$20,000.00 |
| ii. | Office visit | \$5,600.00 |
| iii. | Physiotherapy | \$6,300.00 |
| iv. | Transportation | \$5,000.00 |
| v. | No figure was presented for medical expenses but was marked in the Particulars of Claim as "continued". However, the receipts tendered in evidence were for – | |
| a) | Doctor's visit of | \$5,600.00 |
| b) | Physiotherapy | \$6,300.00 |

c) Medical Report	\$15,000.00
d) Transportation	\$5,000.00

[55] The Defendants have challenged the transportation costs as there are no receipts to confirm that expenditure. Further, that as Mr Kitson only attended three (3) physiotherapy sessions at \$1,500.00 per session, then the figure of \$6,300.00 should be disallowed. With this I agree. I accordingly award the sum of \$25,100.00 having disallowed the claim for transportation costs and having altered the physiotherapy costs to \$4,500.00.

Re: Quantum of Damages – Locksley McDonald
General Damages

[56] Here this Claimant has asked that he be compensated by a sum of \$500,000.00, based, he submits, on the Devon Barrows et al case, supra.

[57] The Defendants have opposed the suggested sum for general damages and have instead proposed a figure of \$400,000.00 based on the self-same authority of Pamela Thompson.

[58] From the medical reports tendered in evidence it appears that this Claimant suffered blunt trauma injury to the chest as well as soft tissue injury to the chest wall.

[59] The Claimant says that after he was examined by Dr Prakash Sangappa he was given medication and that he started physiotherapy immediately. There is no proof of any expenditure for physiotherapy expenses.

In addition, there is no indication from Dr Sangappa that physiotherapy was required. Furthermore, whereas the Claimant says he was unable to work for almost two (2) months Dr Sangappa's report says Mr McDonald was unable to work for a few days.

[60] From the Claimant's own calculation of the updated figure based on the Pamela Thompson case, that is, \$379,100.00, I fail to see any justification for that sum inflating

up to \$500,000.00 especially where it has been shown, and I accept, that Mr McDonald appears to have affected to exaggerate the nature and gravity of his resulting physical disability. I am of the view that he should be awarded the sum of \$400,000.00.

Re: Special Damages

[61] Whereas Mr McDonald provided proof of Special Damages in the sum of \$30,000.00, no proof was provided as to this Claimant's loss of income and transportation costs. With this the Claimant has no offered no demur and as such the sum of \$30,800.00 is awarded for special damages.

In the upshot I endorse the award of judgment as follows –

- A. Jonathon Morrison judgment is entered in the sum of \$600,000.00 for general damages with interest thereon at 3% from the date of service the Claim Form to the date of judgment. Special damages in the sum of \$12,000.00 with interest thereon at 3% from the 8.3.2011 to the date of judgment. Costs to the Claimant are to be agreed as taxed pursuant to Rule 65 of the Civil Procedure Rules (CPR).
- B. For Dwayne Patterson judgment is entered in the sum of \$600,000.00 for general damages with interest thereon at 3% from the date of service of the Claim Form to the date of judgment. Special damages in the sum \$20,300.00 with interest thereon at 3% from 8.3.2011 to the date of judgement. Costs to the Claimant are to be agreed or taxed pursuant to Rule 65 of the C.P.R.
- C. For Hughroy Kitson judgment is entered in the sum of \$1,600,000.00 with interest thereon at 3% from the date of service of the Claim Form to the date of judgement. Special damages in the sum of \$25,100.00 with interest thereon-at 3% from 8.3.2011 to the date of judgment. Costs to the Claimant are to be agreed or taxed.
- D. Judgment for the Ancillary Defendant on the Ancillary claim and counterclaim in the sum of \$400,000.00 with interest thereon at 3% from the date of service of

the Claim Form to the date of judgment. Special damages in the sum of \$30,800.00 with interest thereon at 3% from 8.3.2011 to the date of judgment. Costs to the Claimant are to be agreed or taxed.