

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

THE TORONTO DOMINION BANK

Applicant

and

BRAD DUBY PROFESSIONAL CORPORATION

Respondent

APPLICATION UNDER SUBSECTION 243(1) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.C. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE
COURTS OF JUSTICE ACT, R.S.O. 1990 C. C43, AS AMENDED

MOTION RECORD OF NEW COUNSEL LEONE MURRAY LLP

October 5, 2022

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INDEX

Court File No. CV-21-00657656-00CCL

ONTARIO
SUPERIOR COURT OF JUSTICE

B E T W E E N:

THE TORONTO DOMINION BANK

Applicant

and

BRAD DUBY PROFESSIONAL CORPORATION

Respondent

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TAB 1

Court File No.: CV-21-00657656-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

BETWEEN:**THE TORONTO DOMINION BANK**

Applicant

- and -

BRAD DUBY PROFESSIONAL CORPORATION

Respondent

APPLICATION UNDER SUBSECTION 2430) OF THE BANKRUPTCY AND
INSOLVENCY ACT, R.S.O. 1985, C. B-3, AS AMENDED, AND SECTION 101 OF THE
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AFFIDAVIT OF DANIEL PIGNATARO

I, **DANIEL PIGNATARO**, of the City of Toronto, in the Province of Ontario, **MAKE
OATH AND SAY AS FOLLOWS:**

1. I am a law student with the law firm Leone Murray LLP, lawyers for former clients of the Respondent Brad Duby Professional Corporation, and as such have knowledge of the matters to which I hereinafter depose, unless such matters are stated to be based on information and belief, in which case I have indicated the source of my information and I verily believe such matters to be true.

BACKGROUND

2. Leone Murray LLP has been retained by a number of former clients of Brad Duby Professional Corporation (hereinafter "former clients"), both before and after Mr. Duby's death on January 28, 2021.

Zhi Cao

3. Mr. Cao was involved in a motor vehicle accident on February 25, 2016. Attached as **Exhibit "A"** to my Affidavit is a true copy of the Statement of Claim, dated June 28, 2016.
4. Mr. Cao retained Leone Murray LLP to assume carriage of his claim from the Respondent on February 6th, 2021.
5. On October 26th, 2021, Mr. Cao applied for a grant from the Compensation Fund of the Law Society of Ontario in respect of the loss of settlement funds caused by the Respondent. Attached as **Exhibit "B"** to my Affidavit is a true copy of the Application.

Hui Ping Chen

6. Ms. Chen was involved in a motor vehicle accident on July 24, 2018. Attached as **Exhibit "C"** to my Affidavit is a true copy of the Motor Vehicle Collision report.
7. Ms. Chen retained Leone Murray LLP to assume carriage of her claim from the Respondent on February 13th, 2021.
8. In or about February 2021, upon receipt of the Respondent's file from the Law Society of Ontario (hereinafter referred to as "LSO"), our firm discovered that the Statement of Claim

was issued on April 14, 2020. We further discovered that the Statement of Claim had not been served and the Respondent had not done anything further on the file. Attached as **Exhibit “D”** to my Affidavit is a true copy of the Statement of Claim.

Jian Rui Chen

9. Mr. Chen was involved in a motor vehicle accident on or about December 23rd 2017. Attached as **Exhibit “E”** to my Affidavit is a true copy of the Self Reporting Collision Report.
10. The Respondent issued a Statement of Claim on December 18, 2019.
11. Mr. Chen retained Leone Murray LLP to assume carriage of his claim from the Respondent on March 10th, 2021.
12. The Respondent did not undertake examinations for discovery.

Wei Cai Chen

13. Mr. Chen was involved in a motor vehicle accident on or about May 3rd, 2013. Attached as **Exhibit “F”** to my Affidavit is a true copy of the Statement of Claim, issued on February 20, 2015.
14. Mr. Chen retained Leone Murray LLP to assume carriage of his claim from the Respondent on February 25th, 2021, following mediation.
15. Mr. Chen was notified that the Respondent settled the Accident Benefits file without his knowledge prior to his passing in January 2021. Attached as **Exhibit “G”** to my Affidavit

is a true copy of Mr. Chen's letter to Allstate Insurance claiming he did not authorize the settlement, dated February 25th 2021.

16. On November 29th, 2021, our firm received an invoice for an outstanding account at ARCG for \$4,443.16. Attached as **Exhibit "H"** to my Affidavit is a true copy of the invoice, dated June 2nd, 2017. This disbursement was not paid from the settlement despite being an Accident Benefits report.

Kevin Deng

17. Mr. Deng was involved in a motor vehicle accident on or about October 10, 2015. Attached as **Exhibit "T"** to my Affidavit is a true copy of the Motor Vehicle Accident Report.
18. No steps were taken by Mr. DUBY to advance the tort claim. No Statement of Claim was issued.
19. Mr. Deng retained Leone Murray LLP to assume carriage of his claim from the respondent on February 19th, 2021.
20. Our firm has not received a transfer account with respect to fees with respect to Mr. Deng's file.

Shaoxia Deng

21. Ms. Deng was involved in a motor vehicle accident on or about January 15th 2015. Attached as “**Exhibit J**” to my Affidavit is a true copy of the Self Reporting Collision Report.
22. Ms. Deng retained Leone Murray LLP to assume carriage of her file from the Respondent on February 14th, 2021.
23. In February 2021, upon receipt of the Respondent’s file from the LSO, our firm discovered that despite the Statement of Claim being issued in December 2016, examinations for discovery were never completed. Our firm completed discoveries seven years after the accident.

Jin Teng Feng

24. Ms. Feng was involved in a motor vehicle accident on or about May 3rd, 2015.
25. Ms. Feng retained Leone Murray LLP to assume carriage of her file from the Respondent on February 25th, 2021.
26. Our firm received a disbursements account with respect to Ms. Feng’s accident in the amount of \$7,278.56. Attached as **Exhibit “K”** to my Affidavit is a true copy of the disbursement account, dated September 28th, 2018.
27. Our firm also received an invoice for an outstanding account at ARCG for \$3,880.80. Attached as **Exhibit “L”** to my Affidavit is a true copy of the invoice, dated April 8th, 2016.

28. Ms. Feng's accident benefits matter settled but the above noted disbursement, which was related to her accident benefits matter, was not paid by the Respondent.

Jing Kun Feng

29. Mr. Feng was involved in a motor vehicle accident that occurred on or about September 6, 2018. Attached as **Exhibit "M"** to my Affidavit is a true copy of the Self-Reporting Collision Report.
30. Mr. Feng retained Leone Murray LLP to assume carriage of his file from the Respondent on February 11th, 2021.
31. The Respondent did not issue a tort claim on behalf of Mr. Feng. Our firm issued a Statement of Claim after the presumptive limitation period expired. Attached as **Exhibit "N"** to my Affidavit is a true copy of the Statement of Claim, dated June 11th, 2021.
32. Our firm has not received a copy of the Respondent's Retainer Agreement.

Zhuonan He

33. Mr. He was involved in a motor vehicle accident on or about January 15th, 2015. Attached as **Exhibit "O"** to my affidavit is a copy of the Self Reporting Collision Report.
34. In February 2021, upon receipt of the Respondent's file from the LSO, our firm discovered that despite the Statement of Claim being issued in December 2016, examinations for discovery were never completed. Our firm completed discoveries seven years after the accident.

Aaron Huang

35. Mr. Huang was involved in a motor vehicle accident on October 10, 2015. Attached as **Exhibit “P”** to my Affidavit is a true copy of the Motor Vehicle Accident Report.
36. The Respondent did not commence a tort action on behalf of Mr. Huang.

Man Hui

37. Ms. Hui was involved in a motor vehicle accident on July 15, 2016. Attached as **Exhibit “Q”** to my Affidavit is a true copy of the Self Reporting Collision Report.
38. Ms. Hui retained Leone Murray LLP to assume carriage of her claim from the Respondent on February 22nd, 2021.
39. The Respondent issued a Statement of Claim on July 13, 2018 but took no further action on the file. Attached as **Exhibit “R”** to my Affidavit is a true copy of the Statement of Claim, dated July 13, 2018.

Ng Mooi Lai

40. Ms. Lai was involved in a medical malpractice incident on or about February 28, 2016. Attached as **Exhibit “S”** to my Affidavit is a true copy of the Statement of Claim, dated May 5, 2021.
41. During the course of the Plaintiff’s representation, the Respondent failed to initiate a claim on behalf of the Plaintiff against the Defendants, and did not complete examinations for discovery.

42. Ms. Lai retained Leone Murray LLP to assume carriage of her claim from the Respondent on February 7th, 2021. Our firm filed the Statement of Claim after the limitation period expired.
43. Our firm has not received a transfer account with respect to fees with respect to Ms. Lai's file.

Cathy Ly

44. Ms. Ly was involved in a motor vehicle accident on or about July 24, 2018. Attached as **Exhibit "T"** to my affidavit is a true copy of the Motor Vehicle Accident Report.
45. Mr. Duby issued a Statement of Claim but took no further steps beyond issuing and serving the claim.
46. Ms. Ly retained Leone Murray LLP to assume carriage of her claim from the Respondent on February 13th, 2021. Our firm plans to complete examinations for discovery in December 2022.
47. Our firm has not received a transfer account with respect to fees with respect to Ms. Ly's file.

Xin Ran Wang

48. Mr. Wang was involved in a motor vehicle accident on July 24, 2016.
49. Mr. Wang retained Leone Murray LLP to assume carriage of his claim from the Respondent on February 19th, 2021.

50. The file our firm received from the LSO was empty, and thus we are unaware of any steps taken by the Respondent as part of this claim.
51. Our firm has not received a transfer account with respect to fees with respect to Mr. Wang's file.

Wang Yan

52. Ms. Yan was involved in a motor vehicle accident on May 30th, 2017. Attached as **Exhibit "U"** to my Affidavit is a true copy of the Statement of Claim, dated May 30th, 2019.
53. Ms. Yan retained Leone Murray LLP to assume carriage of her claim from the Respondent on January 30th, 2021.
54. In or about January 2021, upon receipt of the Respondent's file from the LSO, our firm discovered that the Statement of Claim was issued in June 2019. The Respondent did not close pleadings, nor were examinations for discovery completed. Our firm conducted discoveries in 2022.

CONCLUSION

55. The Respondent has not provided any information regarding the amount of time Mr. Duby spent working on each of the above listed files. Given the limited amount of work completed by Mr. Duby, I believe the completion of an Assessment in accordance with the provisions of the *Solicitor's Act* is the best manner to determine the Respondent's fee interest.

RELIEF SOUGHT

56. An Order that the Respondent's interest in all the above noted matters be determined by Assessment in accordance with the *Solicitors Act*.
57. I made this Affidavit in opposition to the relief sought in the motion record of The Receiver, MNP Ltd.

SWORN by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on this 5th day of October 2022, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits
(or as may be)

DAVID G.L. EDWARDS



DANIEL PIGNATARO

RCP-E 4D (February 1, 2021)

THE TORONTO DOMINION BANK
Applicant

-and-
BRAD DUBY PROFESSIONAL CORPORATION
Respondent

Court File No. CV-21-00657656-00c1

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

AFFIDAVIT OF DANIEL PIGNATARO

LEONE MURRAY LLP
130 Queens Quay East
Suite 803 – East Tower
Toronto ON M5A 0P6

Michael Unea (624110)
aaron@leonemurray.com
Tel: 416-363-5151 ext. 203

Lawyers for the Defendants

This is Exhibit "A" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

ZHI CHAO CAO and XUAN ZHU

Plaintiffs

-and-

KA TANG and CHAON WANGPHANGKLANG

Defendants



STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiffs' lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: JUN 28 2016

Issued by: 

Registrar
Newmarket Court House
50 Eagle Street West
Newmarket, ON
L3Y 6B1

TO:

Ka Tang
622 – 62 Suncrest Boulevard
Markham, ON
L3T 7Y5

AND TO:

Chaon Wangphangklang
622 – 62 Suncrest Boulevard
Markham, ON
L3T 7Y5

CLAIM

1. The Plaintiff ZHI CHAO CAO claims:
 - (a) General damages in the amount of \$300,000.00;
 - (b) Special damages in the amount of \$700,000.00;
 - (c) Interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended;
 - (d) Costs of this action on a solicitor and client basis, plus HST; and
 - (e) Such further and other relief as this Honourable Court shall deem just and proper.

2. The Plaintiff XUAN ZHU claims:
 - (a) Damages pursuant to the *Family Law Act*, R.S.O. 1990, c. F.3, as amended, as a result of injuries suffered by ZHI CHAO CAO, her son, in the amount of \$100,000.00;
 - (a) Interest pursuant to the *Courts of Justice Act*, R.S.O. 1990, c. C.43 as amended;
 - (b) Costs of this action on a solicitor client basis, plus HST; and
 - (c) Such further and other relief as this Honourable Court shall deem just and proper.

3. The Plaintiff ZHI CHAO CAO (the "Plaintiff") is an adult person who resides in the City of Markham, in the Province of Ontario, and was at all material times operating a bicycle.

4. The Plaintiff XUAN ZHU (the "FLA Plaintiff") is an adult person who resides in the City of Markham, in the Province of Ontario, and is the mother of the Plaintiff ZHI CHAO CAO. She brings this action pursuant to the provisions of the *Family Law Act*.

5. The Defendant KA TANG (the "Defendant Driver") is an adult person who resides in the City of Markham, in the Province of Ontario, and was at all material times the operator of a 2007 Suzuki motor vehicle bearing Ontario licence plate number BEKE313 (the "Defendant Motor Vehicle").

6. The Defendant CHAON WANGPHANGKLANG (the "Defendant Owner") is an adult person who resides in the City of Markham, in the Province of Ontario, and was at all material times the owner of the Defendant Motor Vehicle.

7. On or about February 25, 2015, the Plaintiff was operating an bicycle in a careful and prudent manner traveling southbound on Suncrest Boulevard at or near its intersection with Times Avenue, in the City of Markham, in the Province of Ontario when suddenly and without warning the Defendant Motor Vehicle, traveling westbound on Times Avenue, proceeded into the intersection without due care and struck the plaintiff. As a result of the accident, the Plaintiff sustained serious and permanent injuries.
8. The Plaintiff and the FLA Plaintiff (“the Plaintiffs”) claim that the aforesaid collision arose solely as a result of the negligence of the Defendants, particulars of which are as follows:
 - A. AS TO THE DEFENDANT DRIVER:
 - (a) Travelling at an excessive rate of speed in the circumstances;
 - (b) Failure to apply brakes in a manner calculated to avoid a collision;
 - (c) Failure to ensure that the brakes/tires of the Defendant Motor Vehicle were free of defect;
 - (d) Failure to abide by the rules of the road, as stated in the *Highway Traffic Act*, R.S.O. 1990, c. H.8. as amended;
 - (e) Failure to keep the Defendant Motor Vehicle under proper control;
 - (f) Failure to avoid the accident when the Defendant could have done so by exercising reasonable care and skill, even after the danger thereof had arisen;
 - (g) Failure to keep the Defendant Motor Vehicle in a fit and proper condition suitable for its safe operation upon a roadway;
 - (h) Driving at a time when the Defendant’s ability to drive was impaired by alcohol, drugs, fatigue, talking on a cell-phone, using an electronic device, or a combination thereof;
 - (i) Creating an emergency and a situation of danger;
 - (j) Operating the Defendant Motor Vehicle when the Defendant knew or ought to have known that this motor vehicle was not in a fit and proper mechanical condition for safe operation;
 - (k) Failure to keep a proper look out;
 - (l) Failure to yield for other vehicles;
 - (m) Driving carelessly and without due care and attention or reasonable consideration for other persons using the roadway; and

- (n) Such other grounds as counsel may advise and this Honourable Court may deem just and proper.

B. AS TO THE DEFENDANT OWNER:

- (a) Failure to have the Defendant Motor Vehicle in fit and proper condition suitable for safe operation on the road;
- (b) Permitting the Defendant Driver to operate the Defendant Motor Vehicle when the Defendant Owner knew or ought to have known that, in the circumstances, the Defendant Driver was an incompetent driver lacking in reasonable skill and self-command, who ought not to have attempted to operate a motor vehicle;
- (c) Permitting the Defendant Driver to operate the Defendant Motor Vehicle when the Defendant Owner knew or ought to have known that the Defendant Driver was incapable of operating the Defendant Motor Vehicle with the caution and care necessary, having regard to the traffic and weather conditions there and then existing;
- (d) Entrusting the Defendant Motor Vehicle to the Defendant Driver when the Defendant Owner knew or ought to have known that the Defendant Driver has an extensive driving record and/or was a poor driver;
- (e) Permitting the Defendant Driver to operate the Defendant Motor Vehicle when the Defendant Owner knew or ought to have known that the Defendant Driver was disqualified from driving;
- (f) Failure to prevent the Defendant Driver from operating the Defendant Motor Vehicle, when the Defendant Owner knew or ought to have known that the Defendant Driver was disqualified from driving;
- (g) Failure to communicate to the Defendant Driver that he did not have consent either to possess or to operate the Defendant Motor Vehicle;
- (h) Failure to take sufficient care to prevent the Defendant Driver from gaining access to the Defendant Motor Vehicle;
- (i) Failure to keep the Defendant Motor Vehicle out of the Defendant Driver's possession; and
- (j) Such other grounds as counsel may advise and this Honourable Court may deem just and proper.

9. As a result of the aforesaid accident, the Plaintiff sustained serious and permanent injuries, including but not limited to injuries to his neck and back. The Plaintiff has also developed neuroses. He sustained serious shock to his system, together with general tearing and straining of muscles and ligaments throughout his body.
10. The aforesaid injuries have caused the Plaintiff severe pain and suffering including headaches, dizziness, chronic pain, tenderness, bruising, swelling, discomfort, reduced range of motion, anxiety, depression, decreased mood, decreased memory, loss of concentration, increased irritability, lower libido, and sleeping problem. His general quality of life has been permanently lessened, his ability to carry out his household duties has been greatly impaired and he has been forced to forego numerous social and other activities in which he formerly participated.
11. The Plaintiff has undergone medical, hospital, and other rehabilitative treatments. Moreover, he has undergone treatments with analgesics, acupuncture, acupressure, massage, physiotherapy, chiropractic care, muscle relaxants, sedatives and other medications. These procedures and treatments have given him great pain, suffering and severe and profound mental anguish.
12. As a result of the injuries sustained in the accident, the Plaintiff has lost time from his educational pursuits and remains and will continue to be unable to perform his pre-accident studies and activities of daily living to the same extent as he did before the accident. The Plaintiff has suffered a delay in entering the workforce, and will suffer in the future a loss of income, diminished earnings, loss of competitive advantage in the workplace, and a loss of household capacity as a result of the injuries he sustained from the accident.
13. As a direct result of the Defendant's negligence and the accident and her son's injuries, the FLA Plaintiff has suffered severe mental and emotional distress, loss of sleep, loss of enjoyment of life, and loss of care, guidance and companionship.
14. The FLA Plaintiff claims damages to compensate for her pain and suffering and the loss of

the guidance, care and companionship she might have expected to receive from her son had he not been seriously injured. In addition the FLA Plaintiff has provided housekeeping and other services to and for the Plaintiff and has incurred out of pocket expenses on his behalf in respect of which she is entitled to the value of the services performed, income lost, and expenses incurred.

15. As a result of the aforementioned accident, the Plaintiffs have been put to medical and other out-of-pocket expenses, full particulars of which will be provided prior to the trial of this action.
16. The Plaintiffs plead and rely on the provisions of the *Negligence Act*, R.S.O. 1990, the *Highway Traffic Act*, R.S.O. 1990, the *Family Law Act*, R.S.O. 1990, and the *Insurance Act*, R.S.O. 1990, each as amended.
17. The Plaintiff proposes that this action be tried in the Town of Newmarket, in the Province of Ontario.

Dated:

JUN 28 2016

**SUE CHEN PERSONAL INJURY
LAWYERS, P. C.**
350 Highway 7 East, Suite 307
Richmond Hill, ON
L4B 3N2

Tom S. Yen
L.S.U.C. 56677R
Tel.: 905.695.3888
Fax: 905.695.3399

Solicitors for the Plaintiffs

ZHI CHAO CAO and XUAN ZHU

-and-

KA TANG and CHAON WANGPHANGKLANG

Plaintiffs

Defendants

Court File No. *02-16-127164-0*

**ONTARIO
SUPERIOR COURT OF JUSTICE**
Proceeding Commenced at Newmarket

STATEMENT OF CLAIM

**SUE CHEN PERSONAL INJURY
LAWYERS, P.C.**
350 Highway 7 East, Suite 307
Richmond Hill, ON
LAB 3N2

Tom S. Yen
L.S.U.C. 56677R
Tel.: (905) 695-3888
Fax: (905) 695-3399

Solicitors for the Plaintiffs

This is Exhibit "B" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS



**APPLICATION FOR A GRANT FROM THE
COMPENSATION FUND**

1. Applicant's Details

Surname: Mr Mrs/Miss/Ms: CAO

First Name(s): ZHI CHAO (CHRIS)

Date of Birth: JUNE 11, 1998

Address(es): 506 - 9015 LESLIE ST, RICHMOND HILL, ON L4B 4J8

Daytime telephone number: 647.739.6628

E-mail: zccao2@gmail.com

2nd Applicant (if appropriate)

Surname: Mr/Mrs/Miss/Ms: ZHU

First Name(s): XUAN

Date of Birth: _____

Address(es): _____

Daytime telephone number: _____

E-mail: _____

2. Defaulting Lawyer/Paralegal Details

Name of Lawyer/Paralegal in respect of

Whom this application is made: BRAD DUBY

Name of defaulting Lawyer's/Paralegal's Firm:

BRAD DUBY PROFESSIONAL CORPORATION

Address : 2 CLINTON PLACE, TORONTO, ON M6G 1J9

3. Value of Application

Amount of grant applied for: \$ 500,000.00

In words PLEASE SEE SCHEDULE "B" (ATTACHED)

4. Discovery of Loss

Please supply date, or approximate date, upon which the loss, or the possibility of loss, first came to the applicant's knowledge: 16 / 02 / 2021
Day Month Year

Please provide details of the circumstances under which the loss was discovered:

PLEASE REFER TO THE FOLLOWING:

1. Letter, dated April 1, 2021 from Aaron Murray of Leone Murray LLP

2. Affidavit of Zhi Chao Cao, sworn March 11, 2021

3. Affidavit of Xuan Zhu, sworn March 11, 2021

5. First Written Notice to the Law Society of Ontario

Have you provided written notice of your loss to any other department of the Law Society of Ontario?

Yes - PLEASE SEE LETTER DATED APRIL 1, 2021

No

If yes, please enclose with your application a copy of that notice.

6. Other Avenue of Recovery

Please give evidence of any steps taken to recover the monies from any other source.

PLEASE SEE SCHEDULE "A" (ATTACHED)

attach separate sheet if necessary

7. Documentation in Support of Claim

The following documents should be provided in support of the claim;

- i. cheque, receipt or other document that proves the funds were advanced
- ii. reporting letters from the Lawyer/Paralegal pertaining to the matter
- iii. if applicable, a statement of all monies received on account of the mortgage as principal and interest indicating whether the applicant has reported the interest received and has paid tax thereon
- iv. if applicable, copy of the mortgage

Please list below any further documents submitted in support of the application:

PLEASE SEE ATTACHED:

Schedule "A" and enclosures

Schedule "B" and enclosures

8. Statement

Please provide a complete explanation of the circumstances surrounding your claim, including how and when the money or property you lost came into the possession of the Lawyer/Paralegal. Please give details of the transaction or investment you made through the Lawyer/Paralegal. Please refer to documentation where appropriate in the statement.

PLEASE SEE SCHEDULE "A" (ATTACHED)

CANADA) IN THE MATTER OF Law
 PROVINCE OF ONTARIO) Society of Ontario and
) of the Compensation Fund

I(We) ZHI CHAO CAO & XUAN ZHU of the (City, Town) of RICHMOND HILL in the (County, Regional Municipality) of YORK are the applicants for payment of a grant out of the Compensation Fund in respect of my/our loss of \$ _____ caused by the alleged dishonesty of BRAD DUBY (Name of Lawyer/Paralegal). I/We understand that if any grant is made to me/us out of the Compensation Fund, the Law Society will be entitled to take over my/our rights to recover the loss from the lawyer or others who may be responsible and I/we will co-operate with and assist the Society in that regard if requested to do so, until the Society is repaid, in accordance with subsections(7) and (8) of Section 51 of *The Law Society Act*, R.S.O. 1990.

I/WE DO SOLEMNLY DECLARE that the information set out within this application form, and any enclosures, is true to the best of my/our knowledge and belief and I/we acknowledge that I/we am/are under a duty to advise the Law Society of any information or documentation that comes to my/our attention, that might have relevance to this application, including changes to information already supplied, for example money recovered.

I/WE AUTHORIZE the Law Society of Ontario to release and disclose this application as and when required for the purpose of the Law Society’s investigation of the claim and the pursuit of any possible recovery.

AND I/WE MAKE THIS SOLEMN DECLARATION, conscientiously believing it to be true, and knowing that it is of the same force and effect as if made under oath, and by virtue of *The Canada Evidence Act*.

AFFIRMED before me by video conference)
 pursuant to O. Reg. 431/20, in the City of)
 _____, this _____)
 day of _____, 2021.)

_____))
 A Commissioner for Taking Affidavits, etc.)

_____))
 Signature of Applicant - ZHI CHAO CAO

_____))
 A Commissioner for Taking Affidavits, etc.)

_____))
 Signature of Applicant - XUAN ZHU

SCHEDULE A & B



SCHEDULE "A"

APPLICATION FOR GRANT FROM LAW SOCIETY COMPENSATION FUND

(i) Overview

Mr. Zhi Chao Cao was involved in a serious motor vehicle accident on February 25th, 2015. He initially retained Mr. Brad Duby (Law Society Number: 47127J) of Brad Duby Professional Corporation (also known as Duby & Associates) to assist with the handling of his tort claim. A Statement of Claim was issued on June 28, 2016 (**TAB 1**). Mr. Cao and his mother, Xuan Zhu, were named as plaintiffs.

Mr. Duby passed away on January 28, 2021.

Following the passing of Mr. Duby, Mr. Cao retained Aaron Murray of Leone Murray LLP on February 6, 2021 to assume carriage of the handling of the tort action.

As detailed in Mr. Murray's letter dated April 1, 2021 (**TAB 2**) to the Law Society Compensation Fund, his office learned on February 16, 2021 from the lawyer for the defendants in the tort action, Mr. Dean Melamed of AMR Law, that the tort action had settled and enclosed a copy of a Full and Final Release (**TAB 3**) and Dismissal Order (**TAB 4**) in relation to same. Mr. Murray's office informed Mr. Cao of this development shortly thereafter to inquire about the settlement. Mr. Cao and Ms. Zhu confirmed that they were not aware of any such settlement and that they had not provided any settlement instructions to Mr. Duby.

On February 23rd, 2021, Mr. Murray had a telephone call with Mr. Melamed to discuss this matter. Mr. Murray was advised by Mr. Melamed that Mr. Duby initiated the settlement negotiations on February 4th, 2020. Following a few back and forth emails, Mr. Duby emailed Mr. Melamed on February 5th, 2020 to advise that he had instructions to settle for the amount of \$75,000.00, all-inclusive. The Release was signed on February 7th, 2020 and the settlement funds were sent to Mr. Duby's office. Mr. Melamed provided Mr. Murray with a copy of the email exchange confirming the settlement negotiations (**TAB 5**).

Mr. Murray's office provided a copy of the executed Full and Final Release (dated February 7th, 2020) along with a copy of the email exchange between Mr. Duby and Mr. Melamed (dated from February 4th to February 5th, 2020) to Mr. Cao and Ms. Zhu. They both confirmed that they did not sign this Release and that they do not recognize the signatures on the Release. Further, they once again confirmed that they were not aware of any settlement negotiations nor did they provide any settlement authority.



The information received to-date confirm that Mr. Duby settled the subject tort claim without the consent or instructions of Mr. Cao and/or Ms. Zhu. Further, Mr. Duby received the settlement funds from Mr. Melamed's office. Mr. Melamed has confirmed that the cheque sent to Mr. Duby was cashed (**TAB 6**). Mr. Cao and Ms. Zhu have not received any settlement money from Mr. Duby or his office.

Mr. Cao and Ms. Zhu swore affidavits dated March 11, 2021 in relation to the above, which accompanied Mr. Murray's letter to the Law Society dated April 1, 2021. Please refer to **TAB 7 and TAB 8**, respectively.

(ii) Informing Police

Mr. Cao reported the fraud committed by Mr. Duby to the Toronto Police Service. Enclosed please find a copy of the intake form completed by Mr. Cao for the Toronto Police Service. Please see **TAB 9**.

(iii) Steps to Set Settlement Aside

On May 26, 2021, David Edwards of Leone Murray LLP wrote to Mr. Melamed and advised that Mr. Duby had agreed to the settlement of \$75,000.00 all-inclusive without Mr. Cao or Ms. Zhu's knowledge or instructions, and that the signatures on the Full and Final Release were not Mr. Cao or Ms. Zhu's. Mr. Edwards requested that Mr. Melamed's clients consent to set aside the dismissal order and purported settlement.

On May 27, 2021, Mr. Melamed advised Mr. Edwards that his client had instructed him to oppose any motion to set aside the settlement. A copy of the aforementioned correspondence between Mr. Edwards and Mr. Melamed are attached at **TAB 10**.

Ms. Shoshanna Levitt of the Law Society (Counsel, Compensation Fund Department) was informed by Mr. Edwards of this development and his concerns about bringing a motion to set aside the settlement considering the likelihood that such a motion would fail and the potential for an adverse cost award against Mr. Cao and Ms. Zhu, neither of whom are in a position to take on such a risk.



SCHEDULE "B"

VALUE OF APPLICATION

The value of what has been lost by Mr. Cao and Ms. Zhu is difficult to quantify. Mr. Duby settled their tort cases without their instructions for \$75,000.00 and they did not receive any proceeds from that settlement. However, it is Mr. Cao and Ms. Zhu's position that fraudulent settlement agreed to by Mr. Duby was considerably less than what they otherwise could have settled their cases for or obtained at trial via a judgement, as detailed below.

(a) Liability

On February 25, 2015, Mr. Cao was operating his bicycle southbound on Suncrest Boulevard near its intersection with Times Avenue, in the City of Markham. He was suddenly and without warning struck by the Defendant's motor vehicle, which was travelling westbound on Times Avenue. According to the police report (**TAB 11**), the Defendant driver proceeded without due care and was charged with careless driving pursuant to s. 130 of the *Highway Traffic Act*. It is our position that liability would likely rest 100% with the Defendant.

(b) Damages

At the time of the accident, Mr. Cao was 16 years old. He is currently 23 years of age. Given the nature of his injuries and voluminous medical records that have resulted, we do not intend to summarize all of Mr. Cao's medical records. However, we would be happy to produce them to the Law Society for its review and consideration upon request. What follows is a brief summary of the most important records for evaluating Mr. Cao's damages for the purpose of his tort claim.

Pre-Accident Health

A review of Mr. Cao's medical records confirms that he was in good health prior to the accident. He did not have any pre-existing musculoskeletal or psychological complaints.

Injuries & Treatment

According to the ambulance call report, Mr. Cao was riding his bicycle when he was struck on the right side and fell to the ground on his left side. There was no loss of consciousness reported. He was not wearing a helmet. His GCS was 15. No obvious injuries were noted other than small abrasions over his left knee. He was transported to Markham Stouffville



Hospital via ambulance, where he complained of left wrist pain and bilateral leg pain. X-rays of his left femur, knee and wrist were unremarkable.

We refer you to the summary of Mr. Cao's medical records outlined to by Dr. Getahun at page 8 through 13 of his orthopedic assessment report dated December 19, 2020, which can be found at **TAB 12** (discussed further below).

As can be seen from the medical records, Mr. Cao has suffered from neck and back pain since the accident, along with post-concussive symptoms and psychological issues that have impaired his ability to carry on a normal life. His academic studies were affected and accommodations have been needed. He has been followed and treated by multiple specialists, including neurologists, psychiatrists, physiatrists, otolaryngologists, occupational therapists.

In a report dated September 9, 2019, Dr. Rockman (psychologist) diagnosed Mr. Cao with the following accident-related injuries: (1) Major Depressive Disorder, Single episode, Moderate, (2) Specific Phobia related to vehicular travel, (3) Somatic Disorder with predominant pain, (4) Mild neurocognitive disorder due to traumatic brain injury, as diagnosed by others with features of Obsessive- Compulsive symptoms. Dr. Rockman concluded that objective psychological testing reflected severe psychological symptomatology in the form of depressive, anxious and somatic, psychotic, and obsessive symptoms.

As part of Mr. Cao's claim for statutory accident benefits, a number of reports were prepared to determine if his injuries met the definition of a catastrophic impairment under the SABS. The subject reports obtained on Mr. Cao's behalf are included at **TAB 12**.

Dr. Basile authored a neurological evaluation report dated December 25, 2020. Dr. Basile determined a 36% whole person impairment ("WPI") rating secondary to neurologic impairment. Mr. Cao reported the following symptoms at the time of his assessment: neck pain, lower back pain, posttraumatic headaches, vertigo and postconcussive syndrome. Dr. Basile confirmed that these symptoms were a direct result of the accident and he provided the following accident-related diagnoses:

1. Post-concussive syndrome consistent with a traumatic brain injury;
2. Post-traumatic headaches including greater and lesser occipital neuralgias, tension type headaches, chronic daily medication overuse headaches, and migrainous features;
3. Neurologically, on physical examination there was indication of a likely right-sided L5 lumbosacral radiculopathy on today's examination;



4. He does have ongoing vertigo consistent with benign paroxysmal positional vertigo versus post traumatic labyrinthitis versus changes secondary to the post concussive syndrome;
5. Musculoskeletal soft-tissue injuries as a source of his pain in the neck and back; and
6. He has likely converted to a chronic pain syndrome with central sensitization and this could form a barrier to recovery.

Dr. Basile noted that it was 5 years and 10 months since the accident and that Mr. Cao had reached maximum medical improvement. His prognosis for further recovery was extremely guarded. Dr. Basile provided a number of recommendations as outlined in his report.

Dr. Quinn prepared a psychiatric catastrophic determination report dated December 10, 2020. Dr. Quinn provided the following accident-related diagnoses:

1. Somatic Symptom Disorder, with predominant pain, persistent, severe
2. Major Depressive Disorder, moderate to severe
3. Generalized Anxiety Disorder
4. Situational Phobia (passenger in vehicles)
5. Obsessive-Compulsive Personality Traits
6. Agoraphobia (provisional diagnosis)

Dr. Quinn rated Mr. Cao according to the four domains of mental and behavioural impairments as follows:

- Activities of daily living class III impairment.
- Social functioning class IV impairment.
- Concentration, persistence and pace class III impairment.
- Decompensation at work or work-like settings class IV impairment.

Dr. Quinn opined that Mr. Cao meets catastrophic threshold requirement under Criteria-8. Dr. Quinn offers a 40% WPI rating secondary to mental and behavioural impairments. He also stated:

In my opinion Chris is impaired psychologically, socially and physically. His ability to manage day-to-day activities are impacted by worry, physical discomfort, depression, anxiety and pain. **He suffers from a complete psychological and physical inability to engage in employment and this may be permanent.** He does not have the capacity to endure short periods of time focusing and concentrating, multi-tasking, or to manage day-to-day stressors. He is not able to engage in meaningful social interactions or interpersonal relations. This is likely to improve with therapeutic interventions. His social interactions with friends is no



longer. His relationship with his mother which was central to his day to day functioning has been significantly affected. He is not able to carry on his life as a student. He suffers a complete psychological inability to engage in any employment or academic and without psychological intervention he is this may be permanent. He does not have the capacity to multitask, endure more than short periods of time focusing and concentrating, to adapt to new situations, to manage day to day stressors. [emphasis added]

Dr. Getahun prepared an orthopedic assessment report and concluded that Mr. Cao had a combined 18% WPI rating. He noted that Mr. Cao has ongoing pain radiating from his back into both legs and associated numbness. He also reported ongoing neck pain with radiation into both shoulders, along with ongoing issues with anxiety, depression, sleep disturbance and headaches. He diagnosed Mr. Cao with the following accident-related injuries:

1. Chronic myofascial strain of the cervical spine with non-verifiable radicular symptomatology.
2. Chronic myofascial strain of the thoracic spine.
3. Chronic myofascial strain of the lumbosacral spine with non-verifiable radicular symptomatology.

Dr. Getahun authored the Catastrophic Impairment Determination Analysis dated January 9, 2021. He confirmed that the combination of the above WPI ratings resulted in a combined 66% WPI rating. Therefore, Mr. Cao satisfied Criterion 7 of the SABS for catastrophic determination. Further, as Mr. Cao was found to have two class IV marked impairments by Dr. Quinn, he also satisfied Criterion 8 of the SABS for catastrophic determination.

Mr. Cao's Accident Benefits insurer (Allstate) obtained a number of reports as well in relation to whether or not Mr. Cao met the criteria to be deemed catastrophic. These reports are attached at **TAB 13**. Briefly, the insurer's assessors did not agree that Mr. Cao met the criteria to be deemed catastrophically impaired. This is the subject matter of a recently filed application before the License and Appeal Tribunal.

Employment / Economic Losses

At the time of the accident, Mr. Cao was not working. He was a full-time grade 11 student in high school.

Post-accident, Mr. Cao returned to school on a part-time basis, but due to his symptoms he did not finish the school year. He had to take summer school on a part-time basis to



complete his grade 11 year. He entered grade 12 on a part-time basis in the fall of 2016 and eventually completed his high school education in June 2018 (with accommodations and assistance). He subsequently was accepted into Seneca College's business program, which he completed in two years. He subsequently enrolled in an online course at the University of Ottawa. However, Mr. Cao had to drop out of college after a month due to increasing symptoms. Specifically, his cognitive symptoms including headaches and difficulty with focus and concentration. He also had difficulties with the required sitting due to his neck and back pain.

Housekeeping

Mr. Cao lives with his mother and relies on her to do the majority of the cooking, cleaning, laundry, shopping, and garbage removal. Since the accident, he has significant difficulties with household chores and ability to help maintain the home. He has tried to keep up with these functions but is dependent upon his mother to help in this regard.

Damages Assessment

Prior to the accident on February 25, 2015, Mr. Cao was fully independent with all activities of daily living. As such, he was independent in personal care activities and had sole responsibility for all household and housekeeping activities, including meal preparation, vacuuming, bathroom cleaning, lifting, garbage removal, laundry, dusting and mopping. He used to enjoy several recreational activities including fishing, going for long walks, playing basketball, attending robotic club, going out with his friends, and spending time with family and friends.

There has not been significant improvement in his function. Currently, he is not able to perform housekeeping activities independently. He can fight through the pain and struggles to complete the tasks he needs to complete. Additionally, he reported a change in his mood, in that he has increased agitation and frustration secondary to his pain and his inability to live life the way he used to. Furthermore, he has not returned to any of his pre-accident recreational activities that he used to enjoy prior to the accident.

Mr. Cao was a 16 year-old grade 11 student at the time of the accident. He had to stop school for a period of time and when he returned to complete his high school education he did so with accommodations and on a part-time basis due to his ongoing pain and cognitive symptoms. He eventually completed his high school education in 2018, approximately two years later than he otherwise would have completed it. While he has done his best to pursue a post-secondary education, his ongoing accident-related symptoms resulted in him dropping out of university. Not only has Mr. Cao suffered a delayed entry into the



workforce, multiple experts have commented on his inability to work/study, and that his inability to do so may be permanent.

It is our opinion that there is little doubt that Mr. Cao's injuries meet the "threshold" of a serious and permanent impairment and would attract a general damages award that is not subject to the statutory deductible. Given Mr. Cao's age and the nature of his injuries and ongoing issues more than five years post-accident, it is our opinion that his general damages would have likely been assessed in the \$150,000 to \$175,000 range.

With respect to his claim for delayed entry into the workforce, loss of future income and loss of competitive advantage, it is evident that even a modest finding in this regard would have exceeded the \$500,000.00 maximum available to him via the Law Society's Compensation Fund considering he has a life expectancy of 57.8 years from today's date. It is notable that since Mr. Cao was a student at the time of the accident and not working, he would not be entitled to any income replacement benefits from his SABS insurer that the tort defendant would be entitled to deduct, nor does he have access to any STD or LTD benefits. This resulted in significant exposure for the tort defendant. Even if it were determined that Mr. Cao only suffered a loss of ongoing income or reduced earning capacity of \$10,000.00 per year, the damages under this head of damages alone would well exceed the limits of the Compensation Fund. Given the facts of the claim, his damages under this head should arguably be much higher.

While Mr. Cao has extensive medical and attendant care needs that are likely to continue well into the future, we are prepared to concede that there is unlikely to be any exposure to the tort defendant under these heads of damages *if* Mr. Cao's SABS insurer accepts that he is catastrophically impaired (which is the subject matter of a recently filed application before the License and Appeal Tribunal). On the other hand, if the LAT does not accept that Mr. Cao is catastrophically impaired, the exposure for the tort defendant would be significant considering Mr. Cao was recently assessed as requiring \$498.90/month in attendant care services (approx. \$383,147.52 for the remainder of his life), as well as his ongoing treatment needs for his physical and psychological injuries.

With respect to his claim for loss of housekeeping capacity, Mr. Cao is almost completely reliant upon his mother to perform his housekeeping tasks. It is our opinion that a conservative assessment of this aspect of his claim would be in the \$25,000 to \$50,000 range.

Lastly, Ms. Zhu had a claim for her loss of care, guidance and companionship relating to Mr. Cao's accident-related injuries and impairments. It is our opinion that Ms. Zhu's claim



in this regard would likely have attracted an assessment in the \$50,000 to \$65,000 range, before application of the statutory deductible (currently approximately \$20,000).

In short, we believe the totality of the evidence shows that Mr. Duby settled Mr. Cao's claim without instructions for significantly less than it was worth, even once factors such as litigation risk and negative contingencies are taken into account. Simply put, \$75,000.00 all-inclusive is not reasonable considering Mr. Cao's injuries and the fact that he is only 23 years old and may never be able to work due to his accident related injuries. It is our opinion that Mr. Cao's tort claim (and Ms. Zhu's *Family Law Act* claim) should have been settled in excess of the \$500,000.00 maximum available under the Law Society's Compensation Fund.

We would be happy to discuss this further with the Law Society and its representatives and answer any questions that they may have once it has had a chance to review the above information. If there is any additional medical or other information that the Law Society would like to review please do not hesitate to contact the undersigned.

Kind regards,

Aaron S. Murray
Leone Murray LLP

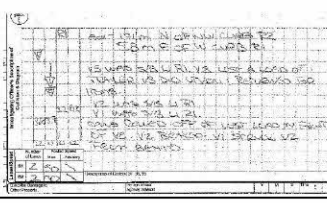
Lawyers for the Applicants,
Zhi Chao Cao and Xuan Zhu

This is Exhibit “C” referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

Report Type: <input checked="" type="checkbox"/> Original <input type="checkbox"/> Amended <input type="checkbox"/> Failed To Remain		Collision Number: GU18039787	Page: 1 Of 3	0 1 41
Time Officer Arrived or Police Service Reported to: 2018/07/24 16:50		Emergency Equipment in Attendance	Service Performed	Prod. Ident. No. (P.I.N.) Dangerous Goods Involvement
Name of Investigating Officer: KECSKEMETI, CST F		Badge No. 130	Div/Stat/Det.	Plat/Squad
Name of Submitting Police Service: GPS		Distance: 171.0	Unit: M	Dir: N
Location: R1 Trafficway VICTORIA RD S		M District: T O	Keypoint/Geocode	Offset
R2 Reference Point ELIZABETH ST		Municipality: GUELPH	County, District, Reg. Municipality	
Driver (Last Name First): KABIRI, FAYAZ		Code	Driver (Last Name First): CHEN, HUIPING	Code
Address		Telephone No.	Address	Telephone No.
Postal Code			Postal Code	
Driver's Licence No. Y3582811		Prov. CA	Class C	Cond
Driver's Licence No. C33443470736212		Prov. ON	Class G	Cond X/N
Gender: M, D.O.B: 1999/01/02		Proper Licence to Drive Class of Vehicle: <input checked="" type="checkbox"/> Y	Suspended Driver: <input checked="" type="checkbox"/> N	Breathalyzer Blood Test Admin.: <input type="checkbox"/> N
Gender: F, D.O.B: 1973/12/12		Proper Licence to Drive Class of Vehicle: <input type="checkbox"/> N	Suspended Driver: <input checked="" type="checkbox"/> N	Breathalyzer Blood Test Admin.: <input type="checkbox"/> N
Make: TOYT, Year: 2016, Model: MTL, Color: BLK, Body Style: 4D		Make: TOYT, Year: 2004, Model: SIE, Color: WHI, Body Style: VN		
Air Brake: <input checked="" type="checkbox"/> Y, Plate No. BZRY901, Prov. ON, Number of Occupants in Vehicle: 3		Air Brake: <input checked="" type="checkbox"/> Y, Plate No. BPST127, Prov. ON, Number of Occupants in Vehicle: 3		
Owner (Last Name First): SHEKIB, M RAFI		Owner (Last Name First): CHEN, YING		
Address		Address		
Telephone No.		Telephone No.		
Postal Code		Postal Code		
Insurance Company: INTACT INSURANCE		Insurance Company: CERTAS HOME & AUTO INS		
Policy No. 7M8724630		Policy No. X3056623		
Carrier Jurisdiction		Carrier Jurisdiction		
CVOR No., Lic. Class Required, G, <input checked="" type="checkbox"/> Loaded, <input checked="" type="checkbox"/> Unloaded, Approx. Speed 50 km/hr		CVOR No., Lic. Class Required, G, <input checked="" type="checkbox"/> Loaded, <input checked="" type="checkbox"/> Unloaded, Approx. Speed 0 km/hr		
Make, Plate No., Prov.		Make, Plate No., Prov.		
Owner (Last Name First): As vehicle above		Owner (Last Name First): As vehicle above		
Address		Address		
Telephone No.		Telephone No.		
Postal Code		Postal Code		
Insurance Company: As vehicle above		Insurance Company: As vehicle above		
Description or Collision & Diagram				
				
Lanes / Speed		Descriptions of Code(s) 97, 98, 99		
Number of Lanes: R1 2, R2		Posted Speed: Max. 50, Advisory		
Describe Damage to Other Property		Person and / or Agency Advised		Y M D Time
No. Involved Persons - Injured Taken To / By: 6 GGH/GWEMS		Independent Witnesses - Name		
Vehicle Taken To / By: V1 BOBS/BOB'S TOWING - -		Persons Charged - Section and Act & P.O.T No. Driver1-KABIRI, FAYAZ-H TA-111-2-0121495X		
V2		Driver3-D'ANGELO, NICOLA-H TA-111-2-0121496X		
Name of Coroner		Telephone No.		If School Age Child Involved Indicate School Name
Signature of Investigating Officer		Report Completed <input type="checkbox"/> on		Signature of Supervisor
		Y M D		Badge No. 28
Y M D		Y M D		
Involved Persons				
Veh. No.	1	Fed. No.	KABIRI, FAYAZ	
	19		M	01 00 03 01 01
	2		KABIRI, REYAZ	
	21		M	03 00 03 01 01
	3		CHEN, HUIPING	
	44		F	01 00 03 01 01
	4		LY, KEELY	
	15		F	03 00 03 01 01
	5		LY, CATHY	
	14		F	06 02 03 01 01
69	70	71	72	73 74 75 76 77 78

Report Type: <input checked="" type="checkbox"/> Original <input type="checkbox"/> Amended <input type="checkbox"/> Failed To Remain		Collision Number: GU18039787	Page: 2 Of 3	0 1	41
Time Officer Arrived or Police Service Reported to: 2018/07/24 16:50		Emergency Equipment in Attendance	Service Performed	Prod. Ident. No. (P.I.N.)	0 2
Name of Investigating Officer: KECSKEMETI, CST F		Badge No. 130	Div/Stat/Det.	Dangerous Goods Involvement	0 2
Name of Submitting Police Service: GPS		Distance: 171.0	Unit: M	Dir.: N	0 1
Location: R1 Trafficway VICTORIA RD S		M District: T O	Keypoint/Geocode	Offset	0 3
R2 Reference Point ELIZABETH ST		Municipality: GUELPH	County, District, Reg. Municipality		0 1
Driver (Last Name First): D'ANGELO, NICOLA		Code	Driver (Last Name First)		Code
Address		Telephone No.	Address		Telephone No.
Postal Code		Postal Code		0 1	46
Driver's Licence No. D04225910550716		Prov. ON	Class G	Cond *N	47
Gender: M, D.O.B. (Y/M/D) 1955/07/16		Proper Licence to Drive Class of Vehicle: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Suspended Driver: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	Breathalyzer Blood Test Admin.: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N	48
Make: TOYO, Year: 2001, Model: SIE, Color: BLU, Body Style: VN		Make, Year, Model, Color, Body Style		0 1	49
Air Brake: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N, Plate No. AKSS043, Prov. ON, Number of Occupants in Vehicle: 1		Air Brake: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N, Plate No., Prov., Number of Occupants in Vehicle		49	50
Owner (Last Name First): <input checked="" type="checkbox"/> As above		Owner (Last Name First): <input type="checkbox"/> As above		0 1	51
Address		Address		52	
Telephone No.		Telephone No.		53	
Postal Code		Postal Code		54	
Insurance Company: WAWANESA INSURANCE		Insurance Company: <input type="checkbox"/> None		55	
Policy No. 7758603		Policy No.		56	
Carrier Jurisdiction		Carrier Jurisdiction		57	
CVOR No., Lic. Class Required, <input type="checkbox"/> Loaded <input checked="" type="checkbox"/> Unloaded, Approx. Speed km/hr		CVOR No., Lic. Class Required, <input type="checkbox"/> Loaded <input checked="" type="checkbox"/> Unloaded, Approx. Speed km/hr		58	
Make, Plate No., Prov.		Make, Plate No., Prov.		59	
Owner (Last Name First): <input type="checkbox"/> As vehicle above		Owner (Last Name First): <input type="checkbox"/> As vehicle above		60	
Address		Address		61	
Telephone No.		Telephone No.		62	
Postal Code		Postal Code		63	
Insurance Company: <input type="checkbox"/> As vehicle above		Insurance Company: <input type="checkbox"/> As vehicle above		64	
Description or Collision & Diagram		Description or Collision & Diagram		65	
Lanes / Speed		Lanes / Speed		66	
Number of Lanes: R1 2, R2		Posted Speed: Max. 50, Advisory		67	
Describe Damage to Other Property		Person and / or Agency Advised		68	
No. Involved Persons - Injured Taken To / By		Independent Witnesses - Name		Error Entry	
Vehicle Taken To / By: V1		Persons Charged - Section and Act & P.O.T No.			
V2					
Name of Coroner		Telephone No.			
Signature of Investigating Officer		Report Completed <input type="checkbox"/> on Y M D			
Signature of Supervisor		Badge No. 28 Y M D			
Involved Persons: Veh. No. 6, Ped. No. 3, D'ANGELO, NICOLA		63 M 01 00 03 01 01			
69 70 71		72 73 74 75 76 77 78			

Ver 1

Use Template
Ver. 1 With
this report



Motor Vehicle Collision Report

Ver 62

Self Reported

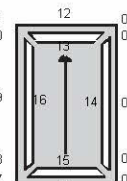
Collision Number	GU18039787			Page	3 Of 3
Collision Date	Y	M	D	Day of the Week	Time
	2018	07	24	Tue	16:50

Geographic Latitude	Geographic Longitude	Z Co-Ordinate
43.5554627	-80.2288156	

Personal information on this form is collected under the authority of s. 205 of the Ontario Highway Traffic Act and is used to maintain a record of motor vehicle accidents in Ontario. If you have any questions about the collection and use of your personal information collected on this form, please call the Supervisor, ServiceOntario at 416 235-2999 or 1 800 387-3445 or write to the Supervisor, Ministry of Transportation, Licensing Administration and Support Office, Main Floor, 87 Sir William Hearst Avenue, Toronto, Ontario, M3M 0B4. Direct general inquiries to ServiceOntario at 416 235-2999 or 1 800 387-3445 or visit www.serviceontario.ca.

Collision Location On Highway			Off Highway		
01-Non Intersection	05-At railway crossing	08-Trail	09-Frozen lake or river	10-Parking lot	99-Other
02-Intersection related	06-Underpass or tunnel	09-Frozen lake or river	10-Parking lot	99-Other	
03-At intersection	07-Overpass or bridge	10-Parking lot	99-Other		
04-At/near private drive	98-Other				
Impact Location					
01-Within intersection	07-Passing lane	11-Not on roadway-right side			
02-Thru lane	08-Left shoulder	12-Off highway			
03-Left turn lane	09-Right shoulder	99-Other			
04-Right turn lane	10-Not on roadway-left side				
05-Right turn channel					
06-Two-way left turn lane					
If 02 used above, enter Thru Lane No.					
Environment Condition Multiple Choices Allowed					
01-Clear	04-Freezing rain	07-Fog, mist, smoke, dust			
02-Rain	05-Drifting snow	99-Other			
03-Snow	06-Strong wind				
Light					
01-Daylight	04-Dawn, artificial	07-Dark			
02-Daylight, artificial	05-Dusk	08-Dark, artificial			
03-Dawn	06-Dusk, artificial	99-Other			
Traffic Control					
01-Traffic signal	05-Police control	09-Traffic controller			
02-Stop sign	06-School guard	10-No control			
03-Yield sign	07-School bus	99-Other			
04-Ped. crossover	08-Traffic gate				
Traffic Control Condition					
01-Functioning	03-Obscured				
02-Non-functioning	04-Missing/Damaged				
Road Character					
01-Undivided-one-way	04-Divided-no barrier	07-Express lane			
02-Undivided-two-way	05-Ramp	08-Transfer lane			
03-Divided with restraining barrier	06-Collector lane				
Road Surface					
01-Asphalt	04-Concrete	07-Steel			
02-Oil treated gravel	05-Earth	08-Brick/interlocking stone			
03-Gravel or crushed stone	06-Wood	99-Other			
Road Condition					
01-Good	02-Poor	03-Under repair or construction			
Road Surface Condition					
01-Dry	05-Packed snow	09-Spilled liquid			
02-Wet	06-Ice	99-Other			
03-Loose snow	07-Mud				
04-Slush	08-Loose sand or gravel				
Road Alignment					
01-Straight on level	03-Curve on level				
02-Straight on hill	04-Curve on hill				
Road Pavement Markings					
01-Exist	03-Obscured				
02-Non-existent	04-Faded				
Vehicle Type					
01-Automobile, station wagon	16-Bus (other)	29-Railway train			
02-Motorcycle	17-School bus	30-Street car			
03-Moped	18-School van	31-Snow plow			
04-Passenger van	19-Other school vehicle/bus	32-Ambulance			
05-Pick-up truck	20-Motor home	33-Fire vehicle			
06-Delivery van	21-Off-road 2 wheels vehicle	34-Police vehicle			
07-Tow truck	22-Off-road 3 wheels vehicle	35-Other emergency vehicle			
08-Truck - open	23-Off-road 4 wheels vehicle	36-Bicycle			
09-Truck - closed	24-Off-road-other	00-Unknown			
10-Truck - tank	25-Motorized snow vehicle	97-Other Motor Vehicle			
11-Truck - dump	26-Farm tractor	98-Other truck			
12-Truck - car carrier	27-Other farm vehicle	99-Other Non-motorized			
13-Truck - tractor	28-Construction equipment				
14-Municipal transit bus					
15-Intercity bus					
Enter code 01 here if code 32, 33, 34, or 35 used above, and vehicle light/siren activated					
Towed Vehicle					
01-Recreation trailer or semi-trailer - house, tent	07-Double (semi-trailer-semi-trailer)				
02-Boat trailer	08-Double (semi-trailer-trailer)				
03-Small utility trailer	09-Farm equipment				
04-Wheeled device or apparatus	10-Towed motor vehicle				
05-Large full trailer	99-Other				
06-Large semi-trailer					
Trailer Type-Single and Double Combination over 4600 kg. (codes 05, 06, 07, 08 above)					
01-Van	04-Tank	07-Livestock			
02-Flat bed/flat bed with racks	05-Dump	99-Other			
03-Low-bed/float	06-Car carrier				
Trailer Connection - Double Semi-Trailers Only					
01-Single drawbar dolly (A Train)	03-Double drawbar dolly (C Train)				
02-5th wheel connection only (B Train)	99-Other				
Vehicle Condition					
01-No apparent defect	99-Defect				
Apparent Driver Action					
01-Driving properly	07-Disobeyed traffic control				
02-Following too close	08-Failed to yield right-of-way				
03-Exceeding speed limit	09-Improper passing				
04-Speed too fast for condition	10-Lost control				
05-Speed too slow	11-Wrong way on one-way road				
06-Improper turn	12-Improper lane change				
	99-Other				
Driver/Pedestrian Condition					
01-Normal	05-Ability impaired, drugs				
02-Had been drinking	06-Fatigue				
03-Ability impaired, alcohol (over .08)	07-Medical or physical disability				
04-Ability impaired, alcohol	08-Inattentive				
	09-Unknown				
	99-Other				
Pedestrian Action					
01-Crossing with right-of-way	09-Playing or working on highway				
02-Crossing without right-of-way	10-Coming from behind parked vehicle or object				
03-Crossing - no traffic control	11-Running onto roadway				
04-Crossing ped. crossover	12-Person getting on/off school bus				
05-Crossing marked crosswalk without right-of-way	13-Person getting on/off vehicle				
06-Walking on roadway with traffic	14-Pushing/working on vehicle				
07-Walking on roadway against traffic	99-Other				
08-On sidewalk or shoulder					

Road Jurisdiction		
01-Municipal (excl. Twp. Rd.)	04-County or district	07-Federal
02-Provincial highway	05-Regional municipality	99-Other
03-Township	06-Private property	
Classification of Collision		
01-Fatal injury	03-P.D. only	99-Other
02-Non-fatal injury	04-Non-reportable	
Initial Direction of Travel		
01-North	03-East	
02-South	04-West	
Initial Impact Type		
01-Approaching	05-Turning movement	
02-Angle	06-SMV unattended vehicle	
03-Rear end	07-SMV other	
04-Sideswipe	99-Other	
Vehicle Manoeuvre		
01-Going ahead	09-Reversing	
02-Slowing or stopping	10-Stopped	
03-Overtaking	11-Parked	
04-Turning left	12-Disabled	
05-Turning right	13-Pulling away from shoulder or curb	
06-Making "U" turn	14-Pulling onto shoulder or toward curb	
07- Changing lanes	00-Unknown	
08-Merging	99-Other	
Sequence of Events Multiple Choices Allowed		
Movable Objects		
01-Other motor vehicle	06-Street car	
02-Unattended vehicle	07-Farm tractor	
03-Pedestrian	08-Animal - domestic	
04-Cyclist	09-Animal - wild	
05-Railway train	97-Other	
Other Events		
20-Ran off road	25-Submersion	
21-Skidding/sliding	26-Rollover	
22-Jackknifing	27-Debris on road	
23-Load spill	28-Debris falling off vehicle	
24-Fire/explosion	98-Other	
Fixed Objects		
50-Cable guide rail	60-Ditch	
51-Concrete guide rail	61-Curb	
52-Steel guide rail	62-Crash cushion/end treat.	
53-Pole (utility, tower)	63-Building or wall	
54-Pole (sign, parking meter)	64-Water course	
55-Fence/noise barrier	65-Construction marker	
56-Culvert	66-Tree, shrub, stump	
57-Bridge support	99-Other	
58-Rock face		
59-Snowbank/drift		
Fixed Object Offset		
Left of Roadway	Right of Roadway	
01- Less than 3.1 m	05- Less than 3.1 m	
02- 3.1 m to 6.0 m	06- 3.1 m to 6.0 m	
03- 6.1 m to 9.0 m	07- 6.1 m to 9.0 m	
04- Greater than 9.0 m	08- Greater than 9.0 m	
Vehicle Damage		
01-None	03-Moderate	05-Demolished
02-Light	04-Severe	
Location of Vehicle Damage or Area of Impact Multiple Choices Allowed		
01-Right front corner	14-Right side complete	
02-Right front	15-Back complete	
03-Right center	16-Left side complete	
04-Right rear	17-Top	
05-Right rear corner	18-Undercarriage	
06-Back center	19-No contact	
07-Left rear corner	00-Unknown	
08-Left rear		
09-Left center		
10-Left front		
11-Left front corner		
12-Front center		
13-Front complete		

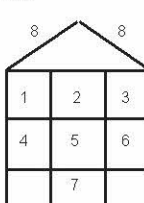


Initial Impact

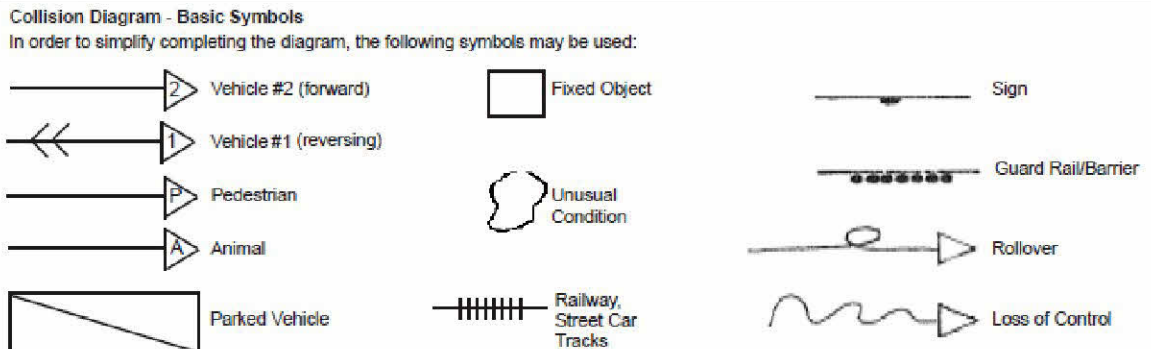
Secondary Impact

Initial Impact

Secondary Impact

Injury and Fatal Collision (Only) - All Involved Persons		Determination of Use	
		1. Involved driver/pass.	
		2. Investigating Officer	
		3. Witness	
Safety Equipment Used			
1. Lap and shoulder belt		8. Helmet	
2. Lap belt only		9. Equipment not used but available	
3. Lap belt only of combined assembly		10. No equipment available	
4. Child safety seat used incorrectly		00. Use unknown	
5. Child safety seat used correctly		99. Other safety equipment used	
6. Air bag deployed			
7. Booster Seat			
Position		Ejection	
		1. Yes	
		2. Partial	
		3. No	
Injuries			
0 None		2 Minor	
1 Minimal		3 Major	
		4 Fatal	
Position		Injuries	
8 Hanger-on		1. Yes	
9 Pedestrian		2. Partial	
L Sitting on lap.		3. No	
Ejection		Safety Equipment Used	
		Determination of Use	
Veh. No. Ped. No.		Telephone No.	
69 70 71		Age Sex	
Involved Person's Name (Surname first) and Address		72 73	
		74	
		75	
		76	
		77	
		78	

Permissible Abbreviations	
V - Vehicle	EB, WB, NB, SB - Directions
D - Driver	EBL, WBL, NBL, SBL - Lane Direction
P - Pedestrian	LT, RT - Left Turn, Right Turn
R - Road	



Apparent Vehicle Defects		Special Studies									
Service Brakes Defective	Engine Control Defective										
Steering Defective	Wheels or Suspension Defective										
Tire Puncture or Blowout	Wheels or Suspension Defective										
Tire Tread Insufficient	Vision Obscured										
Headlamps Defective	Trailer Hitch Defective (specify)										
Other Lamps or Reflectors defective	Other (specify) _____										
Initial Impact Type		Turning Movement		Single Motor Vehicle (SMV) Strikes Un-attended Vehicle		Single Motor Vehicle (SMV) Other		Other			
Approaching	Angle	Rear End	Sideswipe								
01	02	03	04	05	06	07	99				
Vehicle Damage											
01-None - No visible damage.		03-Moderate - Unsafe conditions result from damage. Vehicle must be repaired to make its condition meet requirements of law. Vehicle can be driven off road or limited distance but doing so would be unsafe.		04-Severe - Vehicle cannot be driven. Requires towing. Would normally be repaired.		05-Demolished - Vehicle damaged to the extent that repairs would not be feasible.					
02-Light - Slight or superficial damage. Includes scratches, small dents, minor cracks in glass that do not affect safety or performance of vehicle.											

This is Exhibit “D” referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Electronically issued : 14-Apr-2020
Délivré par voie électronique : 14-Apr-2020
Guelph

HUI PING CHEN

Plaintiff

-and-

M RAFI SHEKIB, FAYAZ KABIRI and NICOLA D'ANGELO

Defendants

STATEMENT OF CLAIM

TO: THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

IF YOU PAY THE PLAINTIFF'S CLAIM and \$75,000.00 for costs, within the time for serving and filing your Statement of Defence you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the Plaintiff's claim and \$400 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date _____ Issued by _____
Local Registrar

Address of Court office:
74 Woolwich Street
Guelph, Ontario
N1H 3T9

TO: FAYAZ KABIRI
377 Starwood Drive
Guelph, ON
N1E 7A2

AND TO: M. RAFI SHEKIB
377 Starwood Drive
Guelph, ON
N1E 7A2

AND TO: NICOLA D'ANGELO
2- 2270 Gordon Street
Guelph, ON
N1L 1G6

CLAIM

1. The Plaintiff claims:
 - i. Damages in the amount of \$1,000, 000.00.
 - ii. Prejudgment and post-judgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.48, as amended;
 - iii. The costs of this action, plus HST where applicable; and,
 - iv. Such further and other relief as this Honourable Court may deem just.

THE PARTIES

1. The Plaintiff, Hui Ping Chen, resides in the City of Guelph, in the Province of Ontario and at all material times was an operator in a 2004 Toyota motor vehicle bearing Ontario plate number BPST 127 (hereinafter referred to as the “Plaintiff vehicle”).
2. The Defendant, M. Rafi Shekib, resides in the City of Guelph, in the Province of Ontario, and at all material times was the owner of a 2016 Toyota motor vehicle bearing Ontario plate number BZRY 901 (hereinafter referred to as the “Shekib vehicle”).
3. The Defendant, Fayaz Kabiri, resides in Guelph, in the Province of Ontario, and at all material times was the operator of the Shekib vehicle.
4. The Defendant, Nicola D’Angelo, resides in Guelph, in the Province of Ontario, and at all material times was the owner and operator of a 2001 Toyota motor vehicle bearing Ontario plate number AKSS 043 (herein after referred to as the “D’Angelo vehicle”).

THE COLLISION

5. On or about July 24, 2018, the Plaintiff was travelling on Victoria Road South near its intersection with Elizabeth Street in the city of Guelph. As the Plaintiff vehicle proceeded, some paint cans fell from the D'Angelo vehicle, causing the Plaintiff vehicle to slow. Suddenly without warning, the Plaintiff vehicle was struck from behind by the Shekib vehicle, which was being operated by the Defendant, Fayaz Kabiri. As a result of this collision, the Plaintiff suffered injuries and damages.

6. The Plaintiff pleads that the collision was a result of the negligence of the Defendants. The particulars of negligence against Fayaz Kaabiri are as follows:

- (i) He failed to keep a proper lookout;
- (ii) He was travelling too close to the Plaintiff vehicle;
- (iii) He failed to slow down or stop so as to avoid a collision;
- (iv) He failed to keep the Shekib vehicle under proper control;
- (v) He failed to apply the brakes properly or at all, or in the alternative, he was operating a motor vehicle with defective brakes;
- (vi) He was travelling at an excessive rate of speed in the circumstances;
- (vii) He operated the Shekib vehicle in a careless manner;

- (viii) On the occasion in question, he was an incompetent driver, lacking in reasonable care, skill and ability and ought not to have been operating a motor vehicle;
- (ix) He failed to take reasonable care to avoid an accident which he saw or ought to have seen was likely to occur; and,
- (x) He had the last clear chance to avoid the collision by the exercise of reasonable care but failed to do so.
- (xi) He failed to observe the rules of the road as required by the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended.

7. The particulars of negligence as against M. Rafi Shekib are as follows:

- (i) He failed to keep the Shekib vehicle in a proper and fit working condition, suitable for its safe operation on the highway;
- (ii) He permitted the Shekib vehicle to be operated by when he knew or ought to have known the vehicle was not in a fit and proper mechanical condition; and,
- (iii) He permitted the Shekib vehicle to be operated by Fayaz Kabiri when he knew or ought to have known he was a person lacking in reasonable skill, ability and training at all material times.

8. The particulars of negligence against Nicola D'Angelo are as follows:

- (i) He failed to maintain the D' Angelo vehicle so as to not be a hazard to other vehicles;
- (ii) He failed to keep a proper lookout;
- (iii) He failed to keep the D' Angelo vehicle under proper control;
- (iv) He operated the D' Angelo vehicle in a careless manner;
- (v) He created a situation of danger;
- (vi) On the occasion in question, he was an incompetent driver, lacking in reasonable care, skill and ability and ought not to have been operating a motor vehicle;
- (vii) He failed to take reasonable care to avoid the loading to fall from the D' Angelo vehicle, which he saw or ought to have seen was likely to occur; and,
- (viii) He had the last clear chance to avoid the fall by the exercise of reasonable care in the circumstances but failed to do so.
- (ix) He failed to observe the rules of the road as required by the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended.

DAMAGES

9. As a result of this collision, the Plaintiff, Hui Ping Chen, has sustained a permanent serious impairment of important physical, mental and psychological

functions including, but not limited to, injuries to her head, neck, shoulders and back, together with a spraining, straining and tearing of the muscles, tendons, ligaments and nerves throughout her body. The injuries were accompanied by headaches, dizziness, shock, anxiety, depression, emotional trauma, chronic pain, insomnia, weakness, diminished energy and stiffness which continue to the present and will continue in the future.

10. The Plaintiff, Hui Ping Chen, has undergone and will be required to further undergo medical therapy, drug and other treatments. She has sustained and will continue to sustain pain and suffering, loss of enjoyment of life and loss of amenities. The Plaintiff is unable to participate in those recreational, social, personal care and household activities to the extent to which she participated in such activities prior to the collision. Her injuries continuously prevent her from engaging in substantially all of the activities in which she would normally engage.

11. The Plaintiff, Hui Ping Chen, has sustained past loss of income and will continue to suffer loss of income and/or a loss of competitive advantage in her employment, a loss of income earning potential, and a diminution of income earning capacity into the future as a result of the injuries suffered from the collision.

12. As a further result of the motor vehicle collision, the Plaintiff, Hui Ping Chen, has and will continue to suffer monetarily and therefore claims special damages, the full particulars of which the Plaintiff undertakes to provide to the Defendant prior to the trial of this action.

STATUTES

13. The Plaintiff pleads and relies upon the following statutes:
- (a) *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended;
 - (b) *Negligence Act*, R.S.O. 1990, c. N.1, as amended;
 - (c) *Courts of Justice Act*, R.S.O. 1990, c. C.43, as amended;
 - (d) *Insurance Act*, R.S.O. 1990, c. I.8, as amended; and

FORUM

14. The Plaintiff proposes that this action be tried at the City of Guelph.

Date: _____

DUBY & ASSOCIATES

2 Clinton Place
Toronto, Ontario
M6G 1J9

Brad Duby

LSUC No.: 47127J
Tel : 416-588-9100
Fax: 416-588-9102

Lawyers for the Plaintiff

CHEN
Plaintiff

- and -

Court File No.:

KABIRI ET AL
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at:

GUELPH

STATEMENT OF CLAIM

DUBY & ASSOCIATES


2 Clinton Place
Toronto, Ontario
M6G 1J9

Brad Duby

LSUC No.: 47127J
Tel : 416-588-9100
Fax: 416-588-9102

Lawyers for the Plaintiff

This is Exhibit "E" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

TONKA TOWING
416-828-0815

Report #



Ontario

Motor Vehicle Collision Report

Ontario Provincial Police

Self-Reported

Collision Number	OP17490770	Page	1 of 1
Collision Date/Time (YYYY/MM/DD HH:MM)	2017/12/23 01:11		

Date/Time Officer Arrived (YYYY/MM/DD HH:MM)	Inv. Officer Badge	Investigating Officer Name (Last, First)
2017/12/23 01:27	13506	BADIU, A. (Alin)
Div./Stat./Det.	Detachment Name	
5F00	HSD-TORONTO	
Collision Location		
Lat: 0, Long: 0		

Driver 1	Driver (Last Name First)			Gender	Driver 2	Driver (Last Name First)			Gender
	SUBRAMANIAM, SIVAKUMARAI			M		CHEN, JIAN			M
Vehicle 1	Driver's Licence No.	Prov.	Class	Cond.	Driver's Licence No.	Prov.	Class	Cond.	
	S90357170770903	ON		NON	C33444017770514	ON	G	*/N	
Vehicle 1	Make	Year	Colour		Vehicle 2	Make	Year	Colour	
	TOYT	2006	GRY			TOYT	2016	GRY	
Vehicle 1	Plate No.	Province	No. of Occupants		Vehicle 2	Plate No.	Province	No. of Occupants	
	CDLM299	ON	0			CBDB222	ON	0	
Owner (Last Name First)					Owner (Last Name First)				
<input type="checkbox"/> As above					<input type="checkbox"/> As above				
Insurance Company					Insurance Company				
<input type="checkbox"/> None WAWANESA					<input checked="" type="checkbox"/> None THE COOPERATORS				
Policy No.					Policy No.				
7908318					4000507340				

Driver	Driver (Last Name First)			Gender	Driver	Driver (Last Name First)			Gender
Vehicle	Driver's Licence No.	Prov.	Class	Cond.	Vehicle	Driver's Licence No.	Prov.	Class	Cond.
Vehicle	Make	Year	Colour		Vehicle	Make	Year	Colour	
Vehicle	Plate No.	Province	No. of Occupants		Vehicle	Plate No.	Province	No. of Occupants	
Owner (Last Name First)					Owner (Last Name First)				
<input type="checkbox"/> As above					<input type="checkbox"/> As above				
Insurance Company					Insurance Company				
<input type="checkbox"/> None					<input type="checkbox"/> None				
Policy No.					Policy No.				

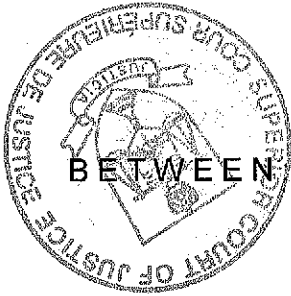
This is Exhibit "F" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

Court File No.:



**ONTARIO
SUPERIOR COURT OF JUSTICE**

WEI CAI CHEN and FENG JIN TENG

Plaintiffs

- and -

IAIN CHARLES STUART and BRAIDAN MOTOR CAR COMPANY INC.

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff(s). The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff(s) lawyer(s) or, where the Plaintiff(s) do(es) not have a lawyer, serve it on the Plaintiff(s), and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date:

February 20, 2015

Issued by: _____



Local Registrar

Address of Court Office:

10th Floor, 393 University Ave.
Toronto, ON
M5G 1E6

TO: IAIN CHARLES STUART
9418 Kennedy Road
Markham, Ontario
L6C 1N7

AND TO: BRAIDAN MOTOR CAR COMPANY INC.
9399 Highway 48
Markham, Ontario
L3P 3J5

CLAIM

1. The Plaintiffs claim:

(a) For the Plaintiff, Wei Cai Chen:

- i. Damages in the amount of \$500,000.00;
- ii. Prejudgment and post-judgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.48, as amended;
- iii. His costs of this action, plus HST where applicable; and,
- iv. Such further and other relief as this Honourable Court may deem just.

(b) For the Plaintiff, Feng Jin Teng:

- i. Damages in the amount of \$500,000.00;
- ii. Prejudgment and post-judgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.48, as amended;
- iii. Her costs of this action, plus HST where applicable; and,
- iv. Such further and other relief as this Honourable Court may deem just.

Identification of Parties

2. The Plaintiff, Wei Cai Chen, resides in the City of Markham, in the Regional Municipality of York. The Plaintiff, Feng Jin Teng, resides in the Town of Unionville, in the Regional Municipality of York. At all material times both Plaintiffs were passengers in a Toyota Sienna motor vehicle, bearing Ontario licence plate number BFPH 516 (hereinafter referred to as the "Plaintiff vehicle").

3. The Defendant, Iain Charles Stuart, resides in the City of Markham, in the Regional Municipality of York, and was at all material times the operator of a Ford F150 motor vehicle bearing Ontario licence plate number BRAIDAN1 (hereinafter referred to as the "Defendant vehicle").
4. The Defendant, Braidan Motor Car Company Inc., is an incorporated company with an office in the City of Markham, in the Regional Municipality of York, and was at all material times the owner of the Defendant vehicle.

Allegations of Negligence

5. On or about the 3rd of May 2013, at or about 12:34 pm, the Plaintiffs were travelling eastbound in the Plaintiff vehicle on Highway 7 at or near Birchmount Road in the City of Markham. At or about the same time, Iain Charles Stuart was operating the Defendant vehicle eastbound on Highway 7 behind the Plaintiff vehicle. As the operator of the Plaintiff vehicle slowed to make a turn into the parking lot of "Whole Foods", Iain Charles Stuart so negligently operated the Defendant vehicle as to strike the rear of the Plaintiff vehicle. As a result of this collision, the Plaintiffs suffered injuries more particularly described herein.
6. The Plaintiffs allege, and the fact is, that their damages, injuries and losses, were the result of the negligence of Iain Charles Stuart for whom Braidan Motor Car Company Inc. is liable. The particulars of negligence as against Iain Charles Stuart are as follows:

- (a) He failed to keep a proper lookout;
 - (b) He was travelling too close to the Plaintiff vehicle;
 - (c) He failed to slow down or stop so as to avoid a collision;
 - (d) He failed to keep the Defendant vehicle under proper control;
 - (e) He failed to apply the brakes properly or at all, or in the alternative, he was operating a motor vehicle with defective brakes;
 - (f) He was travelling at an excessive rate of speed in the circumstances;
 - (g) He operated the Defendant vehicle in a careless manner;
 - (h) On the occasion in question, he was an incompetent driver, lacking in reasonable care, skill and ability and ought not to have been operating a motor vehicle;
 - (i) He failed to take reasonable care to avoid an accident which he saw or ought to have seen was likely to occur; and,
 - (j) He had the last clear chance to avoid the collision by the exercise of reasonable care but failed to do so.
7. The particulars of negligence as against Braidan Motor Car Company Inc. are as follows:
- (a) It failed to keep the Defendant vehicle in a proper and fit working condition, suitable for its safe operation on the highway;
 - (b) It permitted the Defendant vehicle to be operated by Iain Charles Stuart when it knew or ought to have known the vehicle was not in a fit and proper mechanical condition; and,

(c) It permitted the Defendant vehicle to be operated by Iain Charles Stuart when it knew or ought to have known he was a person lacking in reasonable skill, ability and training at all material times.

8. The Plaintiffs plead that as a result of this collision, they sustained injuries resulting in serious and permanent impairments of important physical, mental and psychological functions.

Damages – Wei Cai Chen

9. The Plaintiff received severe injuries including, but not limited to, right rib fractures and a straining and spraining of the ligaments and muscles throughout his body. Further, the Plaintiff has and continues to suffer persistent pain and dysfunction of his cervical, thoracic and lumbar spine. The Plaintiff has and continues to suffer from headaches and myofascial pain syndrome.

10. The physical injuries of the Plaintiff have been accompanied by anxiety, depression, post-traumatic stress disorder, insomnia and memory loss.

11. The Plaintiff will continue to suffer pain, disability, limitation of movement, emotional difficulties and depression, which will permanently impair his enjoyment of life.

12. The Plaintiff will require ongoing psychological, medical and physiotherapy treatment as a result of the motor vehicle collision.
13. The Plaintiff is unable to perform housekeeping and home maintenance chores for himself to the extent that he was able to do prior to the collision. He will require assistance in the future to complete such chores. He is entitled to claim for these and other expenses that he will incur throughout his lifetime.
14. The Plaintiff has incurred medical and other out-of-pocket expenses as a result of the motor vehicle collision, which will continue for the rest of his life.

Damages – Feng Jin Teng

15. The Plaintiff received severe injuries including, but not limited to, a straining and spraining of the ligaments and muscles throughout her body. Further, the Plaintiff has and continues to suffer persistent pain and dysfunction of her cervical, thoracic and lumbar spine. The Plaintiff has and continues to suffer from headaches and myofascial pain syndrome.
16. The physical injuries of the Plaintiff have been accompanied by anxiety, depression, post-traumatic stress disorder, insomnia and memory loss.

17. As a result of the motor vehicle collision, the Plaintiff has been unable to return to full-time employment. She will suffer a loss of earning capacity and shortened working life expectancy.
18. The Plaintiff will continue to suffer pain, disability, limitation of movement, emotional difficulties and depression, which will permanently impair her enjoyment of life.
19. The Plaintiff will require ongoing psychological, medical and physiotherapy treatment as a result of the motor vehicle collision.
20. The Plaintiff is unable to perform housekeeping and home maintenance chores for herself to the extent that she was able to do prior to the collision. She will require assistance in the future to complete such chores. She is entitled to claim for these and other expenses that she will incur throughout her lifetime.
21. The Plaintiff has incurred medical and other out-of-pocket expenses as a result of the motor vehicle collision, which will continue for the rest of her life.

Statutes

22. The Plaintiffs plead and rely upon the provisions of the *Negligence Act*, R.S.O. 1990, c. N-1, and amendments thereto, the provisions of the *Highway Traffic Act* R.S.O. 1990, c. H-8, and amendments thereto, the provisions of the *Insurance*

Act, R.S.O. 1990, c. I.8, and amendments thereto, and the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, and amendments thereto.

23. The Plaintiffs propose that this action be tried at the City of Toronto.

Date: February 20, 2015

HANSON DUBY LAWYERS
Barristers and Solicitors
2 Clinton Place
Toronto, ON
M6G 1J9

Brad Duby
LSUC No.: 47127J
Tel: 416 588 9100
Fax: 416 588 9102

Lawyers for the Plaintiffs

CV-15-522387

Court File No.:

CHEN et al.
Plaintiffs

- and -

STUART et al.
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at:
Toronto

STATEMENT OF CLAIM

HANSON DUBY LAWYERS
2 Clinton Place
Toronto, ON
M6G 1J9

Brad Duby
LSUC No.: 47127J
Tel: 416 588-9100
Fax: 416 588-9102

Lawyers for the Plaintiff

Our File Nos: 13-369 & 13-370

This is Exhibit "G" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

CHEN, Wei Cai, 111 Buchanan Dr., Markham, ON, t: 647-219-8268, Email:
c.c.philip@hotmail.com

Feb 25, 2021

ALLSTATE CLAIM (Accident Benefits) Dept.,
27 Allstate Parkway Suite 100
Markham, ON L3R 5P8
Phone: 905-470-4773
Email Address: cchumney@assistplus.ca
Atten: Carla Chumney

Claim No: AMA530919
Policy No: 058839790
Incident Date: 2013/ 05/ 03

Dear Carla Chumney,

Pls be informed that the undersigned has retained HANSONDUBY, personal injury lawyers located at 2 Clinton Place, Toronto in May, 2013 to represent me in this claim.

I heard from Maxime Physio Rehab last week that Brad DUBY(Lawyer) passed away in Jan, 2021 and my file is already settled that I did not know it.

Kindly send the document (full & final release) that I signed to my attention to verify any fraud involved at your earliest convenience.

Your very truly,



CHEN, Wei Cai

This is Exhibit "H" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS



November 29, 2021

James Leone

Leone Murray LLP

130 Queens Quay East, #803

Toronto, ON M5H 0P6

Dear Mr. Leone,

RE: Wei Cai Chen

DOL: May 3, 2013

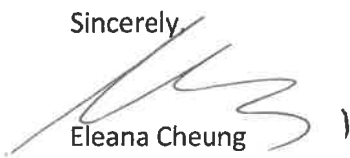
We understand that you have recently undertaken representation of Mr. Wei Cai Chen who was previously represented by the late Mr. Brad Duby.

As outlined in our letter to Mr. Chen, we continue to retain an outstanding account on this claim for services rendered as requested by Mr. Duby. We enclose herein a copy of the outstanding invoice for your consideration and protection upon settlement of this file.

Should you have any concerns, please feel free to contact Mr. Mark Allen on 905-597-1923 ext. 1000.

Best regards.

Sincerely,



Eleana Cheung

ARCG Inc.

Encl – Inv #6801

ARCG Inc.

9140 Leslie St Suite 202
 Richmond Hill ON L4B 0A9
 905-597-1923
 eleana@arcgrehab.com

HST (ON) Registration No.: 811291889

**INVOICE****BILL TO**

Wei Cai Chen
 c/o Leone Murray LLP
 130 Queens Quay East, #803
 Toronto, ON M5H 0P6

INVOICE # 6801

DATE 06/02/2017

DUE DATE 07/02/2017

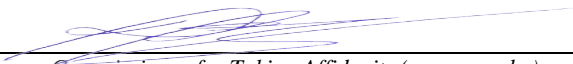
TERMS Net 30

DATE	DESCRIPTION	TAX	AMOUNT
06/02/2017	Ortho Ax- Theo Orthopaedic Assessment John Theodoropoulos	H	3,800.00
06/02/2017	Translation Services Translation Services	H	132.00

Please make payments to ARCG Inc.
 Thank you for your business.

SUBTOTAL	3,932.00
HST (ON) @ 13%	511.16
TOTAL	4,443.16
BALANCE DUE	\$4,443.16

This is Exhibit "I" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

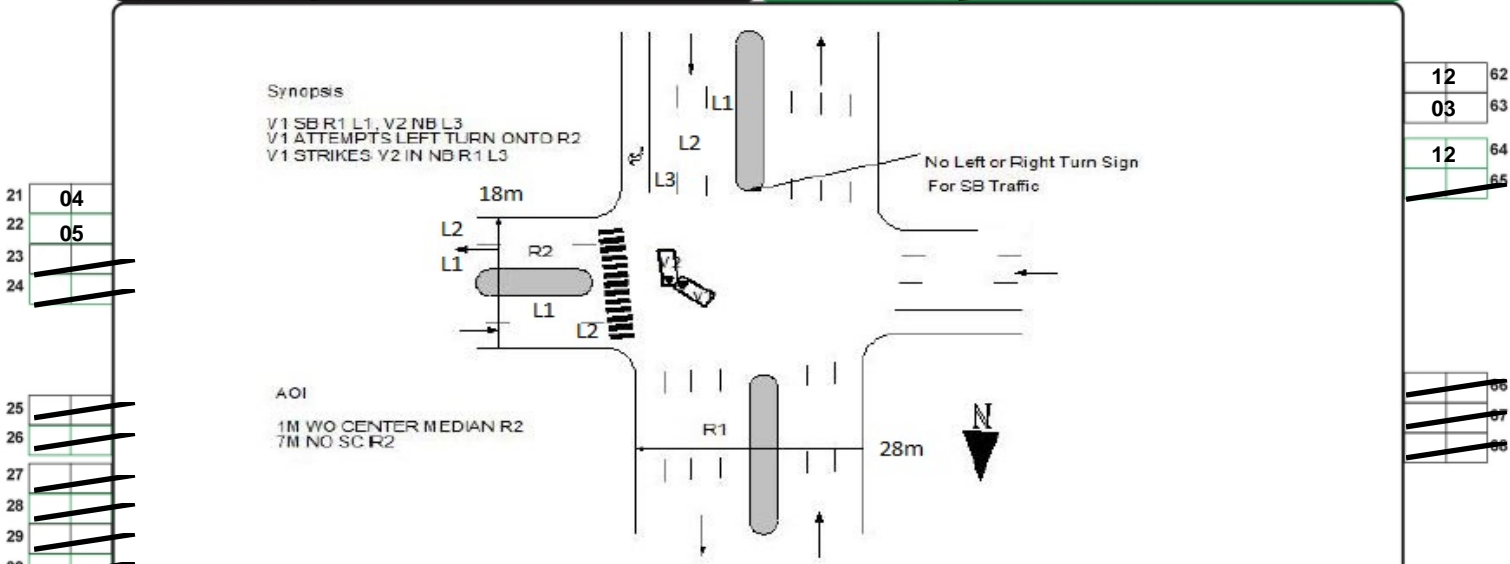
DAVID G.L. EDWARDS



Motor Vehicle Accident Report

1	03	Report Type	<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amended <input type="checkbox"/> Failed To Remain	Accident Number	GO TP 2015-1748221	Page	1 Of 1
2	01	Time Officer Arrived or Police Force Reported to:	2015 10 10 1038	Emergency Equipment in Attendance	TFS P245	Service Performed	Safety
3	01	Name of Investigating Officer	MCCONNELL, PAUL	Badge No.	10306	Div./Stat./Det.	TSVUC
4	01	Name of Submitting Police Force	TORONTO POLICE SERVICE	MTO Use Only		Highway	
5	01	Location	R1 Trafficway KENNEDY RD R2 Reference Point WILLIAM KITCHEN RD	Distance	AT	Check as applicable	<input type="checkbox"/> M. <input type="checkbox"/> Km. <input type="checkbox"/> N. <input type="checkbox"/> S. <input type="checkbox"/> E. <input type="checkbox"/> W.

6	01	Driver	1 DENG, ZHAO H. Address: 38-90 CROCKAMHILL DR Telephone No: (647) 388-8498 Postal Code: M1S2K9 Driver's Licence No: D25317964755822 Sex: F, D.O.B.: 1975 08 22 Proper Licence to Drive Class of Vehicle: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N Suspended Driver: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Breathalyzer, Blood Test, Admin: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Make: DODG, Year: 2014, Model: CAR, Colour: SIL, Body Style: PASSEN Air Brake: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N, Plate No: BTVB152, Prov: ON, Number of Occupants in Vehicle: 4 Owner: DENG, ZHAO H. Address: 38-90 CROCKAMHILL DR, Telephone No: (647) 388-8498, Postal Code: M1S2K9 Insurance Company and Policy No: ALL STATE INS CVOR No: _____, Lic. Class Required: G, Loaded: <input type="checkbox"/> Unloaded: <input type="checkbox"/> Approx. Speed: 50 Km/hr	2 HAJI MOHD DAD, BASHIR M. Address: 145 FITZGIBBON AV Telephone No: (416) 886-9750 Postal Code: M1K4A6 Driver's Licence No: H02065601730301 Sex: M, D.O.B.: 1973 03 01 Proper Licence to Drive Class of Vehicle: <input checked="" type="checkbox"/> Y <input type="checkbox"/> N Suspended Driver: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Breathalyzer, Blood Test, Admin: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N Make: FORD, Year: 2004, Model: SRW, Colour: BLU, Body Style: PICKUP Air Brake: <input type="checkbox"/> Y <input checked="" type="checkbox"/> N, Plate No: AF96802, Prov: ON, Number of Occupants in Vehicle: 1 Owner: HAJI MOHD DAD, BASHIR M. Address: 145 FITZGIBBON AV, Telephone No: (416) 886-9750, Postal Code: M1K4A6 Insurance Company and Policy No: INTACT INSURANCE COMPANY CVOR No: 6741219106, Lic. Class Required: G, Loaded: <input type="checkbox"/> Unloaded: <input type="checkbox"/> Approx. Speed: 50 Km/hr
7	01	Vehicle	1 DENG, ZHAO H. Address: 38-90 CROCKAMHILL DR, Telephone No: (647) 388-8498, Postal Code: M1S2K9 Insurance Company and Policy No: ALL STATE INS CVOR No: _____, Lic. Class Required: G, Loaded: <input type="checkbox"/> Unloaded: <input type="checkbox"/> Approx. Speed: 50 Km/hr	2 HAJI MOHD DAD, BASHIR M. Address: 145 FITZGIBBON AV, Telephone No: (416) 886-9750, Postal Code: M1K4A6 Insurance Company and Policy No: INTACT INSURANCE COMPANY CVOR No: 6741219106, Lic. Class Required: G, Loaded: <input type="checkbox"/> Unloaded: <input type="checkbox"/> Approx. Speed: 50 Km/hr
8	01	Trailer	None	None



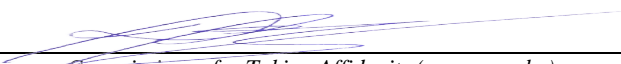
31	01	Lanes/Speed	Number of Lanes: R1 7, R2 4 Posted Speed Max: 50, 40 Advisory: _____ Descriptions of Code(s) 97, 98, 99
----	----	-------------	--

34	01	Describe Damage to Other Property	Person and/or Agency Advised	Y	M	D	Time
35	08	No. Involved Persons - Injured Taken To/By	1 SCARBOROUGH GRACE / DAS 958	Independent Witnesses - Name			
36	01	No. Involved Persons - Injured Taken To/By	5 SCARBOROUGH GRACE / DAS 959	Error Entry			
37	01	No. Involved Persons - Injured Taken To/By	3 SCARBOROUGH GRACE / DAS 958	Error Entry			
39	01	Vehicle Taken To/By	V1 2671 MARKHAM ROAD, LOW 5423 V2 2671 MARKHAM ROAD, MEARS 1533	Persons Charged - Section and Act & P.O.T. No. 2934003B D1 144(9)HTA			
40	01	Name of Coroner	Telephone No.	If School Age Child Involved, Indicate School Name			
40	01	Signature of Investigating Officer	MCCONNELL, PAUL	Report completed on	2015 10 15	Signature of Supervisor	LAKEY, WAYNE

41	01	Involved Persons	1 2 2 3 4 5	Name	Address	Telephone No.	Age	Sex	Class	Y	M	D	Time
42	01	Involved Persons	1	HAJI MOHD DAD, BASHIR M.	145 FITZGIBBON AV	(416) 886-9750	42	M	01	02	03	01	01
43	01	Involved Persons	2	DENG, ZHAO H.	38-90 CROCKAMHILL DR	(647) 388-8498	40	F	01	00	03	01	01
44	01	Involved Persons	1	DENG, KEVIN	38-90 CROCKAMHILL DRIVE	(416) 857-8889	8	M	07	02	03	01	01
45	01	Involved Persons	1	HUANG, WILSON	38-90 CROCKAMHILL DRIVE		6	M	04	02	03	01	01
46	01	Involved Persons	1	AARON, HUANG	38-90 CROCKAMHILL DRIVE		6	M	06	02	03	01	01

All boxes must be completed by officers submitting Report.
Specify all codes **97, 98, 99** on this Report

This is Exhibit “J” referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

16-297

Mark E

Self Reporting Collision Report

20158002053	ACC-501944158	Microfilm No.	Ontario
1. For MTO and Police Use Only		Reporting Location	TORONTO EAST
Collision Date	2015/01/15	Day	Thursday
Time	11:30	Page	1/2
Police Service of Jurisdiction		Toronto Police Service	2
<input checked="" type="checkbox"/> PD <input type="checkbox"/> NR <input type="checkbox"/> FTR <input checked="" type="checkbox"/> Original <input checked="" type="checkbox"/> Supplementary Form Attached <input type="checkbox"/> Amendment		01	
<input checked="" type="checkbox"/> MARKHAM RD STEELES AVE E TORONTO TORONTO		03	
<input checked="" type="checkbox"/> yes <input type="checkbox"/> no SCOTT ALLDREAD 532 2015/01/15 13:09 \$5000		Describe Damage to Vehicle or Additional Remarks for Investigator. drivers side, front corner bumper fender, headlight hood two air bags	
Describe Damaged Other Property:		Initial Impact 11 Secondary Impact	
PEPPERASEN 1201 150115 1300			
2. Your Information - Driver			
Last Name, First Name			MTO Code
HE, ZHUONAN			
Address - Street No. & Name, City, Town, Province, Postal Code			Telephone Nos.
3211-190 BOROUGH DR, SCARBOROUGH, ONTARIO, M1P0B6			Home Work
Driver's Licence No.	Prov.	Class	Cond.
H20017960480903	ON	G2	*N
Sex	Date of Birth (Y/M/D)	Age	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no <input type="checkbox"/> yes <input checked="" type="checkbox"/> no
M	1948/9/3	66	1284
3. Your Vehicle			
Vehicle	Prov.	Year	Make
BETY987	ON	2009	TOYT
Model	Colour	Body Style	Number of Occupants in Vehicle
CBL	RED	4D	2
Air Brake	Commercial Vehicle Op. No.	<input checked="" type="checkbox"/> Loaded <input type="checkbox"/> Unloaded	Insurance Company's Name & Policy No.
<input type="checkbox"/> yes <input checked="" type="checkbox"/> no			ALLSTATE INSURANCE 051021934
Vehicle Taken / Towed To		Vehicle Taken / Towed By	
ECRC		GHURUS TOWING - 213	
Owner <input type="checkbox"/> Same as Driver			
Last Name, First Name			
HE, JIANWEI			
Address - Street No. & Name, City, Town, Province, Postal Code			Telephone Nos.
140 MEMON PL, MARKHAM, ONTARIO, L6E0R9			Home Work
4. Your Trailer			
Owner <input type="checkbox"/> Same as Driver			
Last Name, First Name			Address - Street No. & Name, City, Town, Province, Postal Code
5. Other Driver			
Last Name, First Name		Date of Birth (Y/M/D)	Driver's Licence No.
PHILLIPS, JULIE		1985/02/07	P34624205655207
Address - Street No. & Name, City, Town, Province, Postal Code			Telephone Nos.
20 SHELLEY DR, LITTLE BRITAIN R1, ONTARIO, K0M2C0			Home (705) 341-9436 Work (416) 291-7727 x
6. Other Vehicle			
Other Vehicle	Commercial Vehicle Op. No.	Prov.	Year
AHEF611	ON	1997	PONT
Model	Colour	Body Style	Number of Occupants in Vehicle
SFS	BLU	4D	1
Other <input checked="" type="checkbox"/> Same as Driver		Insurance Company's Name & Policy No.	
Owner		FARMERS AUTOMOBILE INS. 008844A01	
7. Witness			
Last Name, First Name			Address - Street No. & Name, City, Town, Prov, Postal Code
			Telephone Nos.
			Home Work
8. Collision Details - See instructions sheet. Fill in the boxes below with the numbers that best describe the collision. If "other (specify)" is selected, please give details..			
01 Collision Location 03			
01 On Highway 01 non intersection 07 overpass / bridge 08 trail			
02 intersection related 02 thru lane 08 left shoulder			
03 at intersection 09 left shoulder			
04 at / near private drive 10 not on roadway - left side			
05 at railway crossing 11 not on roadway - right side			
06 underpass / tunnel 12 off highway			
02 Impact Location 01			
01 within intersection 07 passing lane 99 other (specify)			
03 Weather (multiple choice) 01			
01 clear 07 fog, mist, smoke, dust			
02 rain 05 snow 99 other (specify)			
04 freezing rain 05 drifting snow 06 strong wind			
04 Light 01			
01 daylight 07 dark			
02 daylight - artificial 08 dark - artificial 99 other (specify)			
03 dawn 04 dawn - artificial 05 dusk 06 dusk - artificial			
05 Traffic Control 01			
01 traffic signal 07 school bus			
02 stop sign 08 traffic gate			
03 yield sign 09 traffic controller 10 no control 99 other (specify)			
04 pedestrian crossover			
05 police control			
06 school guard			
06 Traffic Control Condition 01			
01 functioning 02 not functioning 03 obscured 04 missing / damaged			
07 Road Character R1 02 R2 02			
01 undivided - one way 07 express lane			
02 undivided - two way 08 transfer lane			
03 divided with barrier 04 divided - no barrier 05 ramp 06 collector lane			
08 Road Surface R1 01 R2 01			
01 asphalt 07 steel			
02 oil treated gravel 08 brick / interlocking stone			
03 gravel/crushed stone 09 other (specify)			
04 concrete 05 earth 06 wood			

09 Road Condition R1 01 R2 01
 01 good 02 poor 03 under construction

10 Road Surface Condition R1 01 R2 01
 01 dry 02 wet 03 loose snow 04 slush 05 packed snow 06 ice
 07 mud 08 loose sand / gravel 09 spilled liquid 99 other (specify)

11 Road Alignment R1 01 R2 01
 01 straight on level 02 straight on hill 03 curve on level 04 curve on hill

12 Road Pavement Marking R1 01 R2 01
 01 exist 02 nonexistent 03 obscured 04 faded

13 Your Vehicle Type 01
 01 automobile/stn wagon 02 motorcycle 03 moped 04 passenger van 05 pick up truck 06 delivery van
 07 tow truck 08 truck - open 09 truck - closed 10 truck - tank 11 truck - dump 12 truck - car carrier
 13 truck - tractor 14 municipal transit bus 15 intercity bus 16 bus (other) 17 school bus 18 school van
 19 school vehicle (other) 20 motor home 21 off road - 2 wheels 22 off road - 3 wheels 23 off road - 4 wheels 24 off road (other)
 25 motorized snow vehicle 26 farm tractor 27 farm vehicle (other) 28 construction equipment 29 railway train 30 streetcar
 31 snow plow 32 ambulance 33 fire vehicle 34 police vehicle 35 other emergency vehicle 36 bicycle
 00 unknown 98 truck (other) 99 other (specify)

14 If you were towing a vehicle, indicate type
 01 recreation trailer (house/tent) 02 boat trailer 03 small utility trailer 04 wheeled device/apparatus 05 large full trailer
 06 large semi-trailer 07 double (semi-trailer - semi-trailer) 08 double (semi-trailer - trailer) 09 farm equipment
 10 towed motor vehicle 99 other (specify)

15 If you were towing a commercial trailer, indicate type
 01 van 02 flat bed 03 low bed / float 04 tank 05 dump 06 car carrier
 07 livestock 99 other (specify)

16 Commercial Trailer Connection - Double Semi-Trailer Only
 01 single drawbar dolly (A Train) 02 5th wheel connection (B Train) 03 double drawbar dolly (C Train) 99 other (specify above)

17 Your Vehicle Condition 01
 01 no defect before collision 00 unknown 99 defect before collision (specify)

18 Your Driver Action 01
 01 driving properly 02 following too close 03 exceeding speed limit 04 speed too fast for condition 05 speed too slow 06 improper turn
 07 disobeyed traffic control 08 failed to yield right - of - way 09 improper passing 10 lost control
 11 wrong way on one - way road 12 improper lane change 00 unknown 99 other (specify)

19 Your Condition 01
 01 normal 02 had been drinking 03 ability impaired, alcohol (over .08) 04 ability impaired, alcohol 08 inattentive
 05 ability impaired, drugs 06 fatigue 07 medical or physical disability 99 other (specify)
 00 unknown

20 Your Initial Direction of Travel 01
 01 north 02 south 03 east 04 west

21 Initial Impact Type 05
 01 approaching 02 angle 03 rear end 04 sideswipe 05 turning movement 99 other (specify)
 06 single motor vehicle, unattended vehicle 07 single motor vehicle (other)

22 Your Vehicle Action 01
 01 going ahead 02 slowing / stopping 03 overtaking 04 turning left 05 turning right 06 making U - turn
 07 changing lanes 08 merging 09 reversing 10 stopped 11 parked 12 disabled 99 other (specify above)
 13 pulling away from shoulder / curb 14 pulling onto shoulder/toward curb 00 unknown

23/24/25 Sequence of Events - Your vehicle hit or was hit by: (multiple choice) 01
Moveable Objects
 01 other motor vehicle 02 unattended vehicle 03 pedestrian 04 cyclist 05 railway train 06 streetcar
 07 farm tractor 08 animal (domestic) 09 animal (wild) 97 other (specify)
Other Events
 20 ran off road 21 skidding / sliding 22 jackknifing 23 load spill 24 fire / explosion 25 submersion
 26 rollover 27 debris on road 28 debris falling off vehicle 98 other (specify)
Fixed Objects
 50 cable guide rail 51 concrete guide rail 52 steel guide rail 53 pole (utility / tower) 54 pole (sign / parking meter) 55 fence / noise barrier
 56 culvert 57 bridge support 58 rock face 59 snowbank / drift 60 ditch 61 curb
 62 crash cushion 63 building / wall 64 water course 65 construction marker 66 tree / shrub / stump 99 other (specify above)

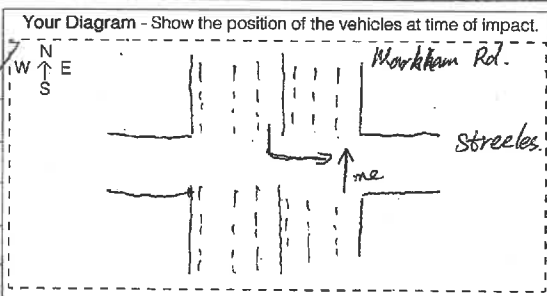
9. Your Statement and Diagram - Use one of these diagrams to help describe your collision by drawing it in the space below.

Rear End → →	Head On → ←	Side Swipe → →	Side Swipe → ←	Overtaking → →	Right Turn → ↓	Right Turn → ↓	Left Turn → ↑	Left Turn ← ↑	Left Turn → ↑	Intersection 90° ↓	Fixed Object →
-----------------	----------------	-------------------	-------------------	-------------------	-------------------	-------------------	------------------	------------------	------------------	-----------------------	-------------------

Your Statement - Describe the collision. Give details about your estimated speed, direction of travel, your actions and the other vehicle's actions.

Approximate Speed 60 km

I was driving North on Markham Rd. Passing Strocles Ave. I was in the right lane going straight pass into section when the light turn from green to yellow. Then a car is going South on Markham Rd. making a left turn towards Strocles Ave. E. hit my car on the front left side bumper. The impact of the collision brake bumper fender, headlight hood, 2 air bags came out.



Information in this form is collected under the authority of s.205 of the Ontario Highway Traffic Act and is used to maintain the record of motor vehicle accidents in Ontario. Direct inquiries to: Supervisor, Driver and Vehicle Licensing Call Centre, Licensing Administration Office, Ministry of Transportation, Building A, 2680 Keele Street, Downsview, Ont. (416) 235-2999 or 1-800-387-3445

It is an offence to provide false information.

Signature of Driver *[Signature]*

10. Police Use Only
 Name of Submitting Officer (print in full) Badge No. PRINCE, 4110
 Police Supervisor SGT 2884 ELDRIDGE Date (Y/M/D) WIS01-17

Classification
 NR PD
 FTR
 PI Transcribed (MVAR Amended)

This is Exhibit “K” referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

HANSON DUBY LAWYERS

2 Clinton Place
Toronto, ON M6G 1J9

Ph:416-588-9100

Fax: 416-588-9102

Feng TENG
111 Buchanan Dr
Unionville, ON L3R9N8 Canada

Sep 28, 2018

File #: 13-370

RE: MVA -- May 3, 2013

DISBURSEMENTS**Disbursements****Receipts**


Dec-18-13	YORK REGIONAL POLICE Re: MVA Report	30.00	
Feb-07-14	MIDLAND RADIOLOGY -- Medical Records	60.00	
	TOTAL HEALTH MANAGEMENT -- Medical Records of Dr. D. Ng	75.00	
Mar-26-14	H.C. NIM -- Cantonese Interpreter Services	100.00	
Apr-07-14	INSURANCE SEARCH BUREAU OF CANADA Re: Plate Search for Owner	16.22	
Nov-04-14	Investigation Liaise with York Regional Police, and to prepare and setup for Freedom of Information Release	112.87	
Dec-19-14	THE INTERPRETERS' GROUP -- Translation Services (Dec 17/14)	150.00	
Feb-17-15	Transaction Levy: Statement of Claim	25.00	
	MINISTRY FEE to Issue Statement of Claim *	90.50	
Feb-24-15	OMEGA PROCESS SERVERS -- Agent's Costs to Issue Statement of Claim at Toronto Court	15.00	
Apr-21-15	Process Servers Inc	386.65	
Sep-16-15	Process Servers Inc	72.75	
Sep-29-15	Medical records- Maxime Physio Rehab/ js*	225.62	
	Medical Records- Midland Radiology /js*	50.00	

Oct-01-15	MINISTRY FEE Re: OHIP Treatment Summary /js *	74.00	
	Medical Records- DR. DAVID NG /js*	50.00	
May-13-16	Medical Assessment Neuropsychological	3,860.00	
May-14-16	MINISTRY FEE to File Motion	15.00	
May-30-16	MINISTRY FEE Re: OHIP Treatment Summary (js)*	74.00	
Dec-15-16	Interpreters & Translators	250.00	
Mar-31-17	Parking Discovery Network North	17.70	
May-17-17	Interpreters & Translators	530.00	
May-29-17	MINISTRY FEE Re: OHIP Treatment Summary (KG)*	74.00	
Jul-19-17	Clinical Note from the Scarborough Hospital (KG)*	30.00	
Feb-12-18	MINISTRY FEE Re: OHIP Treatment Summary,/dk*	74.00	
Apr-03-18	Courier Services Process Servers Inc	6.32	
Apr-20-18	CNR from Health Point Pharmacy, /dk*	70.00	
	Totals	\$6,534.63	\$0.00
	HST on Disbursements	\$743.93	
	Total Disbursements & HST		\$7,278.56

Total Tax: \$743.93
HST #: BN840832968

* tax-exempt

This is Exhibit "L" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

ARCG Inc.

9140 Leslie St Suite 202

Richmond Hill ON L4B 0A9

905-597-1923

eleana@arcgrehab.com

GST/HST Registration No.: 811291889



INVOICE

BILL TO

Feng Jin Teng

c/o Leone Murray LLP

130 Queens Quay East, #803

Toronto, ON M5H 0P6


INVOICE # 4244BP**DATE** 04/08/2016**DUE DATE** 05/08/2016**TERMS** Net 30

DATE	DESCRIPTION	TAX	AMOUNT
04/11/2016	Neuro Psych Neuropsychological Assessment - amount not covered by insurer Dr Salmon	E	3,700.00
04/11/2016	Transportation Costs Transportation	H	160.00

Please make Cheque payable to ARCG Payment
due-30 Days

SUBTOTAL	3,860.00
HST (ON) @ 13%	20.80
TOTAL	3,880.80
BALANCE DUE	\$3,880.80

This is Exhibit "M" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS



Self Reporting Collision Report

Microfilm No

20188046055 ACC-502539104

1. TORONTO EAST 2018/09/06 Thursday 22:00

Police Service of Jurisdiction Toronto Police Service 2 PD NR FTR Original Amendment

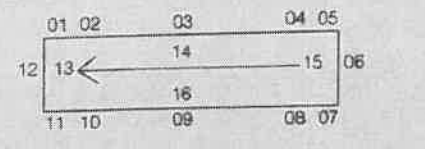
MCNICOLL AVE E/B 01 01 Munc 04 Cty/Dist 07 Fed 02 Prov Hwy 05 Reg Munc 99 Other 03 Twp 06 Priv Prop

CLEADON RD TORONTO TORONTO

01-none 03-moderate 02-light 04-severe 05-demolished 05

PC RAMPERSAD 8139 2018/09/06 23:44 25360

Describe Damage to Vehicle or Additional Remarks for Investigator AirBags - Replace, AirBag-2 - Replace, FrontBumper - Replace, FrontHood - Replace, LeftHeadlight - Replace, LeftFender - Replace, LeftFrontDoor - Repair, RightFender - Replace, RightHeadlight - Replace



Initial Impact 13 Secondary Impact

PC RAMPERSAD 8139 2018/09/06 23:46

2. Your Information - Driver Last Name, First Name MTO Code

FENG, JINGKUN Address - Street No. & Name, City, Town, Province, Postal Code Telephone Nos. Home (647) 780-1880 Work

16-3 REIDMOUNT AVE, SCARBOROUGH, ONTARIO, M1S1B3 Driver's Licence No. F25314020750803 Prov. ON Class G Cond. *N Sex M Date of Birth (Y/M/D) 1975/8/3 Age 43

3. Your Vehicle BFKY408 Prov. ON Year 2016 Make TOYT Model SIE Colour WHI Body Style VN Number of Occupants in Vehicle 1

Air Brake Commercial Vehicle Op. No. Insurance Company's Name & Policy No. WAWANESA INSURANCE 7520279 2019/07/04

Vehicle Taken / Towed To ECRC Vehicle Taken / Towed By G.L. TOWING - 5459

Owner Same as Driver Last Name, First Name

Address - Street No. & Name, City, Town, Province, Postal Code Telephone Nos. Home Work

4. Your Trailer Insurance Company's Name Policy No. Same as Vehicle

Owner Same as Driver Last Name, First Name Address - Street No. & Name, City, Town, Province, Postal Code

5. Other Driver LI, KEVIN Last Name, First Name Date of Birth (Y/M/D) 1998/09/11 Driver's Licence No. L40014335980911

Address - Street No. & Name, City, Town, Province, Postal Code Telephone Nos. Home (647) 770-3624 Work

6. Other Vehicle BSWN338 Commercial Vehicle Op. No. ON Year 2017 Make TOYT Model RV4 Colour GRY Body Style TY Number of Occupants in Vehicle 2

Owner LUO, SHU-YING Last Name, First Name Insurance Company's Name & Policy No. INTACT INSURANCE 742552289 2018/10/12


7. Witness Last Name, First Name Address - Street No. & Name, City, Town, Prov, Postal Code Telephone Nos. Home Work

8. Collision Details - See instructions sheet. Fill in the boxes below with the numbers that best describe the collision. If "other (specify)" is selected, please give details.

01 Collision Location 01 On Highway 01 non intersection 02 intersection related 03 at intersection 04 at / near private drive 05 at railway crossing 06 underpass / tunnel 07 overpass / bridge 08 left shoulder 09 frozen lake / river 10 parking lot 99 other (specify)

02 Impact Location 01 within intersection 02 thru lane 03 left turn lane 04 right turn lane 05 right turn channel 06 two-way left 07 passing lane 08 left shoulder 09 right shoulder 10 not on roadway - left side 11 not on roadway - right side 12 off highway

This is Exhibit "N" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS



Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Electronically issued : 11-Jun-2021
Délivré par voie électronique : 11-Jun-2021
Toronto

JING KUN FENG

Plaintiff

- and -

KEVIN JIAN HONG LI, SHU-YING LUO

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANT

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the *Rules of Civil Procedure*, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the *Rules of Civil Procedure*. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

IF YOU PAY THE PLAINTIFF'S CLAIM, and \$» for costs, within the time for serving and filing your statement of defence, you may move to have this proceeding dismissed by the court. If you believe the amount claimed for costs is excessive, you may pay the plaintiff's claim and \$400.00 for costs and have the costs assessed by the court.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: June 11, 2021

Issued by _____
Local registrar

Address of court office 393 University Avenue
Toronto, ON M5G 1E6

TO: Kevin Jian Hong Li
29 Pipers Green Avenue
Scarborough, ON M1S 3J9

TO: Shu-Ying Luo
29 Pipers Green Avenue
Scarborough, ON M1S 3J9

CLAIM

1. The plaintiff claims:
 - (a) General damages in the amount of \$300,000.00;
 - (b) Special damages in the amount of \$700,000.00;
 - (c) Pre-judgment interest pursuant to section 128 of the *Courts of Justice Act*, R.S.O. 1990, Chapter C.43, as amended;
 - (d) Post-judgment interest pursuant to section 129 of the *Courts of Justice Act*, R.S.O., 1990, Chapter C.43, as amended;
 - (e) Costs of this action on a substantial indemnity basis and HST as applicable pursuant to the *Excise Tax Act*, R.S.C. 1985 c. E15, as amended; and
 - (f) Such further and other relief as this Honourable Court deems just.

THE PARTIES

2. The Plaintiff, Jing Kun Feng, lives in the City of Toronto, in the Province of Ontario and at all material times was the operator and owner of a 2016 Toyota motor vehicle bearing Ontario licence plate number BFKY408 (the "Plaintiff vehicle").
3. The Defendant, Kevin Jian Hong Li, lives in the City of Toronto, in the Province of Ontario and at all material times was the operator of a 2017 Toyota motor vehicle bearing Ontario licence plate number BSWN338 (the "Defendant vehicle").
4. The Defendant, Shu-Ying Luo, lives in the City of Toronto, in the Province of Ontario and at all material times was the owner the Defendant vehicle

THE COLLISION

5. On or about September 6, 2018, the Plaintiff vehicle was being operated in a safe and prudent manner eastbound on McNicoll Avenue near its intersection with Cleadon Road in the City of Toronto. At the same time, the Defendant vehicle was travelling westbound on McNicoll Avenue, attempting to make a left turn onto Cleadon Road. As the Plaintiff vehicle proceeded eastbound with the right of way, the Defendant vehicle suddenly and without warning attempted an unsafe left turn in front of the Plaintiff vehicle, violently striking the Plaintiff vehicle.

6. As a result of the aforementioned motor vehicle accident, the Plaintiff sustained serious and permanent personal injuries and damages as hereinafter described.

NEGLIGENCE

7. The Plaintiff states that the motor vehicle accident was caused by the negligence of the Defendants, the particulars of which are as follows:

A. As to the negligence of the Defendant, Kevin Jian Hong Li, for whose negligence of the Defendant, Shu-Ying Luo, is in law responsible:

- (a) He attempted to make a left-hand turn without first ascertaining that he could do so in safety;
- (b) He failed to give the Plaintiff vehicle the right-of-way to which it was entitled to;
- (c) He drove the Defendant vehicle into the path of the Plaintiff vehicle without warning;
- (d) He made a left hand turn across the path of the Plaintiff vehicle without affording the plaintiff vehicle a reasonable opportunity to avoid the collision;

- (e) He failed to give a signal plainly visible to the Plaintiff vehicle of his intention to make a left hand turn;
- (f) He failed to bring the Defendant vehicle to a stop immediately before initiating his left-hand turn;
- (g) He failed to keep a proper lookout;
- (h) He failed to have or maintain the Defendant vehicle under proper control;
- (i) He was speeding and/or travelling at an excessive rate of speed in the circumstances;
- (j) He moved suddenly from a place of safety to a place of danger;
- (k) He created a situation of emergency and danger from which the Plaintiff, despite all reasonable precautions, could not extricate himself;
- (l) On the occasion in question, he was an incompetent driver, lacking in reasonable skill and self-command, and ought not to have attempted to operate a motor vehicle;
- (m) Even after the danger of the collision arose, he could, by the exercise of reasonable care, have avoided the same, but he failed to do so;
- (n) He had the last clear chance to avoid the accident and failed to do so;
- (o) At the time, his faculties of observation, perception, judgment and self-control were impaired due to alcohol and drugs and due to his physical and mental condition, he was incompetent to operate a motor vehicle with normal and reasonable care and attention;
- (p) He failed to give any warning of the approach of the Defendant vehicle, though such warning was reasonably necessary under the circumstances;

- (q) He failed to have the Defendant vehicle in a proper state of mechanical repair suitable for the safe use thereof on a highway;
- (r) He failed to observe the rules of the road as required by the *Highway Traffic Act*, R.S.O. 1990, c. H.8, as amended;
- (s) He failed to have the brakes on the Defendant vehicle in a proper working order or in the alternative, he failed to properly apply the same or at all;
- (t) He was texting, dialing, talking, or otherwise using a mobile or electronic device just before the collision and/or at the time of the collision and was thereby distracted; and
- (u) Such further and other particulars as may become evident or available.

B. As to the negligence of the Defendant, Shu-Ying Luo:

- (a) She failed to keep the Defendant vehicle in a fit and proper condition, suitable for its safe operation upon a roadway;
- (b) She failed to keep the brakes, steering mechanism and/or other equipment on the Defendant's vehicle in a proper working order;
- (c) She permitted the Defendant, Kevin Jian Hong Li, to operate the Defendant's vehicle when she knew, or ought to have known that under the circumstances, he was an incompetent driver lacking in reasonable skill and self-command who ought not to have attempted to operate the Defendant's vehicle;
- (d) She failed to properly train and supervise the Defendant, Kevin Jian Hong Li; and
- (e) Such further and other particulars as may become evident or available.

DAMAGES

8. As a result of the negligence of the Defendants, the Plaintiff sustained permanent serious disfigurements and permanent serious impairments of important physical, mental and psychological functions, the serious and permanent nature of which only became discoverable within two years preceding the issuance of this Statement of Claim. The Plaintiff sustained injuries to various parts of his body, including but not limited to injuries to his head, shoulders, arms, back and neck. As a result of the accident, the Plaintiff also sustained injuries, bruises and lacerations to various parts of his body, as well as a straining, spraining and a general tearing of the muscles, tendons, ligaments, nerves and vessels throughout his body. He suffered chronic pain to his neck, shoulders, wrists, hands, back and upper and lower extremities, including numbness, tingling, loss of mobility, restricted mobility, restricted range of motion, and severely reduced capacity with sitting, lifting, carrying, pushing, and pulling activities.

9. The Plaintiff's injuries have been accompanied by loss of cognitive ability, personality changes, psychological changes, behaviour changes, headaches, dizziness, shock, anxiety, depression, emotional trauma, chronic pain, insomnia, weakness, diminished energy and stiffness which continue to the present and will continue in the future.

10. The Plaintiff has sustained and will continue to sustain pain and suffering, a loss of enjoyment of life and a loss of amenities. The Plaintiff is unable to participate in those recreational, social, household, athletic, educational and employment activities to the extent to which he participated in such activities prior to the collision.

11. The Plaintiff states that he has sustained permanent serious impairments of important physical, mental or psychological functions and / or permanent serious disfigurements within the meaning of Section 267.5(5) of the *Insurance Act*, R.S.O, 1990, c. I.8, as amended, which became discoverable only within two years preceding the issuance of this Statement of Claim. The Plaintiff states that the Defendants are liable for all of the injuries and losses sustained by the Plaintiff as a result of the aforementioned motor vehicle accident.

12. As a further result of the negligence of the Defendants the Plaintiff has undergone and will continue to undergo in the future, hospitalization, surgery, therapy, rehabilitation, attendant care, the use of specialized equipment, specialized housing and other forms of medical treatment and health care. In addition, the Plaintiff has received and will continue to receive medication.

13. The Plaintiff has incurred and will continue to incur expenses, including expenses for hospitalization, surgery, medication, therapy, rehabilitation, attendant care, specialized equipment, specialized housing, medical treatment and other forms of care, the full particulars of which expenses are not within the Plaintiff's knowledge at this time.

14. The Plaintiff is unable to perform household and home maintenance chores for himself to the extent that he was able to do so before the collision and resultant injuries. The Plaintiff has suffered a loss of housekeeping and home maintenance capacity and he will require assistance in the future to complete such chores.

15. The Plaintiff has sustained a loss of income and will continue to sustain a loss of income, a loss of competitive advantage in the employment field, a loss of income earning potential and a diminution of income earning capacity.

16. As a consequence of the Plaintiff's inability to earn income, and as a result of the additional financial burden caused by the Plaintiff's medical condition, the Plaintiff has or will be required to borrow money to pay for medical care, as well as other home and living expenses. Consequently, the Plaintiff will be required to pay interest on any borrowed money to pay for these expenses, the full particulars of which are not known at this time.

17. As a result of the negligence of the Defendants, the Plaintiff has suffered other pecuniary damages up to the present and will continue to suffer pecuniary damages in the future, the full particulars of which are not known at this time but will be provided to the Defendants in advance of trial.

18. The Plaintiff pleads and relies upon the provisions of the following statutes:

- (a) *Highway Traffic Act*, R.S.O. 1990, Chapter H.8, as amended;

- (b) *Negligence Act*, R.S.O. 1990, Chapter N.1, as amended;
- (c) *Courts of Justice Act*, R.S.O. 1990, c. C.43; and
- (d) *Insurance Act*, R.S.O. 1990, Chapter 1.8, as amended.

19. The Plaintiff proposes that this action be tried at the City of Toronto, in the Province of Ontario.

June 11, 2021

LEONE MURRAY LLP
130 Queens Quay East
Suite 803 – East Tower
Toronto ON M5A 0P6

David G.L Edwards
LS#:708281A
david@leonemurray.com
Tel: 416.363.5151 / Fax: 416.363.5858

Lawyers for the Plaintiff

FENG v. LI et al

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding commenced at TORONTO

STATEMENT OF CLAIM


LEONE MURRAY LLP
130 Queens Quay East
Suite 803 – East Tower
Toronto ON M5A 0P6

David G.L. Edwards
LS#: 708281A

david@leonemurray.com
Tel: 416.363.5151 / Fax: 416.363.5858

Lawyers for the Plaintiff

This is Exhibit "O" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

117
16-297

Mark E

Self Reporting Collision Report

20158002053	ACC-501944158	Microfilm No.	Ontario
1. For MTO and Police Use Only		Reporting Location	TORONTO EAST
Collision Date	2015/01/15	Day	Thursday
Time	11:30	Page	1/2
Police Service of Jurisdiction		Toronto Police Service	2
<input checked="" type="checkbox"/> PD <input type="checkbox"/> NR <input type="checkbox"/> FTR <input checked="" type="checkbox"/> Original <input checked="" type="checkbox"/> Supplementary Form Attached <input type="checkbox"/> Amendment			
<input checked="" type="checkbox"/> Markham Rd <input type="checkbox"/> 01 <input type="checkbox"/> 02 <input type="checkbox"/> 03		<input type="checkbox"/> 04 <input type="checkbox"/> 05 <input type="checkbox"/> 06 <input type="checkbox"/> 07 <input type="checkbox"/> 08 <input type="checkbox"/> 09 <input type="checkbox"/> 10 <input type="checkbox"/> 11	
STEELES AVE E		TORONTO	
<input checked="" type="checkbox"/> yes <input type="checkbox"/> no		<input type="checkbox"/> 01 <input type="checkbox"/> 02 <input type="checkbox"/> 03 <input type="checkbox"/> 04 <input type="checkbox"/> 05 <input type="checkbox"/> 06 <input type="checkbox"/> 07 <input type="checkbox"/> 08 <input type="checkbox"/> 09 <input type="checkbox"/> 10 <input type="checkbox"/> 11	
SCOTT ALLDREAD 532		2015/01/15	13:09
Describe Damage to Vehicle or Additional Remarks for Investigator		drivers side, front corner bumper fender, headlight hood two air bags	
Describe Damaged Other Property		Initial Impact 11 Secondary Impact	
2. Your Information - Driver		Last Name, First Name	
HE, ZHUONAN		MTO Code	
Address - Street No. & Name, City, Town, Province, Postal Code		Telephone Nos.	
3211-190 BOROUGH DR, SCARBOROUGH, ONTARIO, M1P0B6		Home Work	
Driver's Licence No.	H20017960480903	Prov.	ON
Class	G2	Sex	M
Cond.	*N	Date of Birth (Y/M/D)	1948/9/3
Age	66	<input checked="" type="checkbox"/> yes <input type="checkbox"/> no	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no
3. Your Vehicle		Make	
BETY987		TOYT	
Year	2009	Model	CBL
Colour	RED	Body Style	4D
Number of Occupants in Vehicle	2	Insurance Company's Name & Policy No.	
<input type="checkbox"/> yes <input checked="" type="checkbox"/> no	<input type="checkbox"/> Loaded <input checked="" type="checkbox"/> Unloaded	ALLSTATE INSURANCE 051021934	
Vehicle Taken / Towed To		Vehicle Taken / Towed By	
ECRC		GHURUS TOWING - 213	
Owner <input type="checkbox"/> Same as Driver		Last Name, First Name	
HE, JIANWEI		Address - Street No. & Name, City, Town, Province, Postal Code	
140 MEMON PL, MARKHAM, ONTARIO, L6E0R9		Telephone Nos.	
Home Work			
4. Your Trailer		Insurance Company's Name	
<input type="checkbox"/> Same as Vehicle		Policy No.	
Owner <input type="checkbox"/> Same as Driver		Last Name, First Name	
Address - Street No. & Name, City, Town, Province, Postal Code			
5. Other Driver		Date of Birth (Y/M/D)	
PHILLIPS, JULIE		1985/02/07	
Address - Street No. & Name, City, Town, Province, Postal Code		Driver's Licence No.	
20 SHELLEY DR, LITTLE BRITAIN R1, ONTARIO, K0M2C0		P34624205655207	
Telephone Nos.		Home (705) 341-9436 Work (416) 291-7727 x	
6. Other Vehicle		Make	
AHEF611		PONT	
Year	1997	Model	SFS
Colour	BLU	Body Style	4D
Number of Occupants in Vehicle	1	Insurance Company's Name & Policy No.	
<input checked="" type="checkbox"/> Same as Driver	FARMERS AUTOMOBILE INS. 008844A01		<input type="checkbox"/> yes <input checked="" type="checkbox"/> no
7. Witness		Last Name, First Name	
Address - Street No. & Name, City, Town, Prov, Postal Code		Telephone Nos.	
Home Work			
8. Collision Details - See instructions sheet. Fill in the boxes below with the numbers that best describe the collision.			
If "other (specify)" is selected, please give details.			
01 Collision Location 03			
01 On Highway			
01 non intersection			
02 intersection related			
03 at intersection			
04 at / near private drive			
05 at railway crossing			
06 underpass / tunnel			
07 overpass / bridge			
08 off Highway			
09 frozen lake / river			
10 parking lot			
99 other (specify)			
02 Impact Location 01			
01 within intersection			
02 thru lane			
03 left turn lane			
04 right turn lane			
05 right turn channel			
06 two-way left turn lane			
07 passing lane			
08 left shoulder			
09 right shoulder			
10 not on roadway - left side			
11 not on roadway - right side			
12 off highway			
99 other (specify)			
03 Weather (multiple choice) 01			
01 clear			
02 rain			
03 snow			
04 freezing rain			
05 drifting snow			
06 strong wind			
07 fog, mist, smoke, dust			
99 other (specify)			
04 Light 01			
01 daylight			
02 daylight - artificial			
03 dawn			
04 dawn - artificial			
05 dusk			
06 dusk - artificial			
07 dark			
08 dark - artificial			
99 other (specify)			
05 Traffic Control 01			
01 traffic signal			
02 stop sign			
03 yield sign			
04 pedestrian crossover			
05 police control			
06 school guard			
07 school bus			
08 traffic gate			
09 traffic controller			
10 no control			
99 other (specify)			
06 Traffic Control Condition 01			
01 functioning			
02 not functioning			
03 obscured			
04 missing / damaged			
07 Road Character R1 02 R2 02			
01 undivided - one way			
02 undivided - two way			
03 divided with barrier			
04 divided - no barrier			
05 ramp			
06 collector lane			
07 express lane			
08 transfer lane			
08 Road Surface R1 01 R2 01			
01 asphalt			
02 oil treated gravel			
03 gravel/crushed stone			
04 concrete			
05 earth			
06 wood			
07 steel			
08 brick / interlocking stone			
99 other (specify)			

09 Road Condition		R1 01	R2 01		
01 good	02 poor	03 under construction			
10 Road Surface Condition		R1 01	R2 01		
01 dry	02 wet	03 loose snow	04 slush	05 packed snow	06 ice
07 mud	08 loose sand / gravel	09 spilled liquid	99 other (specify)		
11 Road Alignment		R1 01	R2 01		
01 straight on level	02 straight on hill	03 curve on level	04 curve on hill		
12 Road Pavement Marking		R1 01	R2 01		
01 exist	02 nonexistent	03 obscured	04 faded		
13 Your Vehicle Type		01			
01 automobile/stn wagon	02 motorcycle	03 moped	04 passenger van	05 pick up truck	06 delivery van
07 tow truck	08 truck - open	09 truck - closed	10 truck - tank	11 truck - dump	12 truck - car carrier
13 truck - tractor	14 municipal transit bus	15 intercity bus	16 bus (other)	17 school bus	18 school van
19 school vehicle (other)	20 motor home	21 off road - 2 wheels	22 off road - 3 wheels	23 off road - 4 wheels	24 off road (other)
25 motorized snow vehicle	26 farm tractor	27 farm vehicle (other)	28 construction equipment	29 railway train	30 streetcar
31 snow plow	32 ambulance	33 fire vehicle	34 police vehicle	35 other emergency vehicle	36 bicycle
00 unknown	98 truck (other)	99 other (specify)			
14 If you were towing a vehicle, indicate type					
01 recreation trailer (house/tent)	02 boat trailer	03 small utility trailer	04 wheeled device/apparatus	05 large full trailer	09 farm equipment
06 large semi-trailer	07 double (semi-trailer - semi-trailer)	08 double (semi-trailer - trailer)			
10 towed motor vehicle	99 other (specify)				
15 If you were towing a commercial trailer, indicate type					
01 van	02 flat bed	03 low bed / float	04 tank	05 dump	06 car carrier
07 livestock	99 other (specify)				
16 Commercial Trailer Connection - Double Semi-Trailer Only					
01 single drawbar dolly (A Train)	02 5th wheel connection (B Train)	03 double drawbar dolly (C Train)	99 other (specify above)		
17 Your Vehicle Condition		01			
01 no defect before collision	00 unknown	99 defect before collision (specify)			
18 Your Driver Action		01			
01 driving properly	02 following too close	03 exceeding speed limit	04 speed too fast for condition	05 speed too slow	06 improper turn
07 disobeyed traffic control	08 failed to yield right - of - way	09 improper passing	10 lost control		
11 wrong way on one - way road	12 improper lane change	00 unknown	99 other (specify)		
19 Your Condition		01			
01 normal	02 had been drinking	03 ability impaired, alcohol (over .08)	04 ability impaired, alcohol	08 inattentive	
05 ability impaired, drugs	06 fatigue	07 medical or physical disability	99 other (specify)		
00 unknown					
20 Your Initial Direction of Travel		01			
01 north	02 south	03 east	04 west		
21 Initial Impact Type		05			
01 approaching	02 angle	03 rear end	04 sideswipe	05 turning movement	99 other (specify)
06 single motor vehicle, unattended vehicle	07 single motor vehicle (other)				
22 Your Vehicle Action		01			
01 going ahead	02 slowing / stopping	03 overtaking	04 turning left	05 turning right	06 making U - turn
07 changing lanes	08 merging	09 reversing	10 stopped	11 parked	12 disabled
13 pulling away from shoulder / curb	14 pulling onto shoulder/toward curb	00 unknown	99 other (specify above)		
23/24/25 Sequence of Events - Your vehicle hit or was hit by: (multiple choice)		01			
Moveable Objects					
01 other motor vehicle	02 unattended vehicle	03 pedestrian	04 cyclist	05 railway train	06 streetcar
07 farm tractor	08 animal (domestic)	09 animal (wild)	97 other (specify)		
Other Events					
20 ran off road	21 skidding / sliding	22 jackknifing	23 load spill	24 fire / explosion	25 submersion
26 rollover	27 debris on road	28 debris falling off vehicle	98 other (specify)		
Fixed Objects					
50 cable guide rail	51 concrete guide rail	52 steel guide rail	53 pole (utility / tower)	54 pole (sign / parking meter)	55 fence / noise barrier
56 culvert	57 bridge support	58 rock face	59 snowbank / drift	60 ditch	61 curb
62 crash cushion	63 building / wall	64 water course	65 construction marker	66 tree / shrub / stump	99 other (specify above)

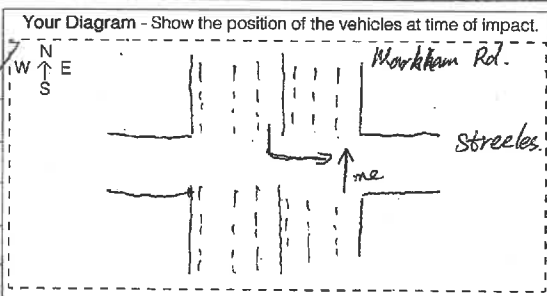
9. Your Statement and Diagram - Use one of these diagrams to help describe your collision by drawing it in the space below.

Rear End	Head On	Side Swipe	Side Swipe	Overtaking	Right Turn	Right Turn	Left Turn	Left Turn	Left Turn	Intersection 90°	Fixed Object
→ →	→ ←	→ →	→ ←	→ →	→ ↓	→ ↓	→ ↑	→ ↑	→ ↑	↓	→

Your Statement - Describe the collision. Give details about your estimated speed, direction of travel, your actions and the other vehicle's actions.

Approximate Speed **60 km**

I was driving North on Markham Rd. Passing Stroubles Ave. I was in the right lane going straight pass into section when the light turn from green to yellow. Then a car is going South on Markham Rd. making a left turn towards Stroubles Ave. E. hit my car on the front left side bumper. The impact of the collision brake bumper fender, headlight hood, 2 air bags came out.



Information in this form is collected under the authority of s.205 of the Ontario Highway Traffic Act and is used to maintain the record of motor vehicle accidents in Ontario. Direct inquiries to: Supervisor, Driver and Vehicle Licensing Call Centre, Licensing Administration Office, Ministry of Transportation, Building A, 2680 Keele Street, Downsview, Ont. (416) 235-2999 or 1-800-387-3445

10. **Police Use Only**

It is an offence to provide false information.

Signature of Driver: *[Signature]*


Name of Submitting Officer (print in full) Badge No. **PRINCE, 4110**

Police Supervisor: **SGT 2884 ELDRIDGE**

Date (Y/M/D) **WIS01-17**

Classification: NR PD FTR PI Transcribed (MVAR Amended)

This is Exhibit "P" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

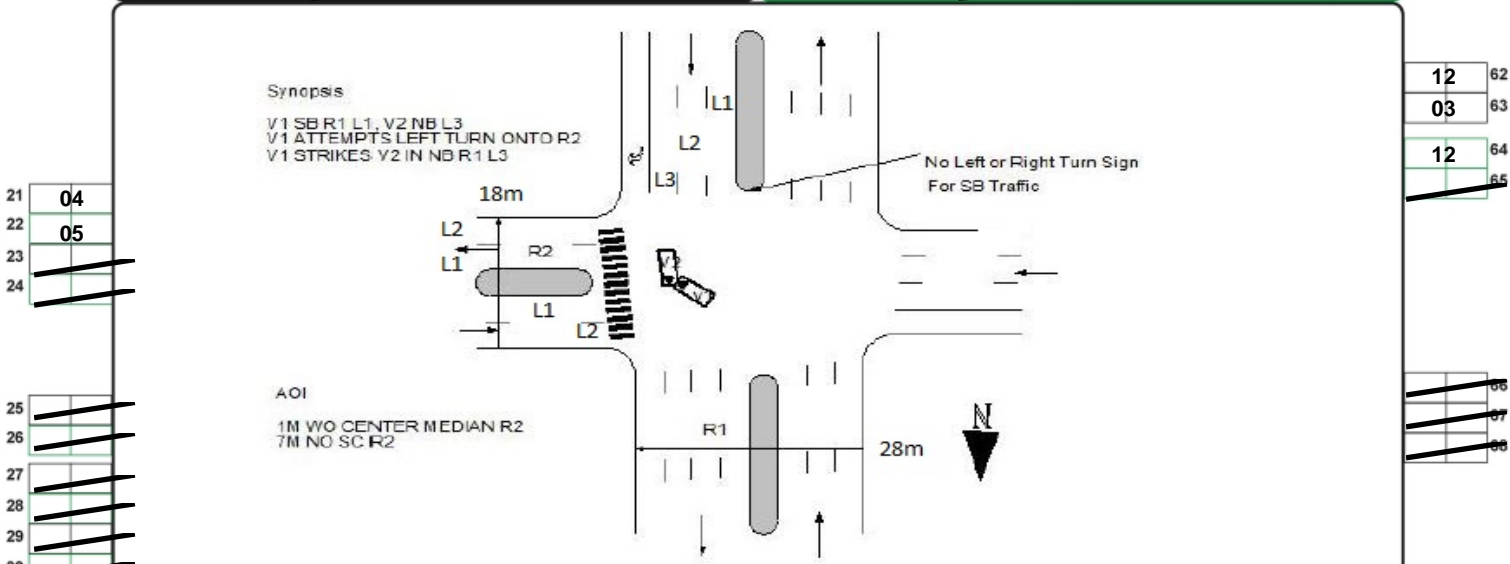
DAVID G.L. EDWARDS



Motor Vehicle Accident Report

1	03	Report Type	<input checked="" type="checkbox"/> Original <input type="checkbox"/> Amended <input type="checkbox"/> Failed To Remain	Accident Number	GO TP 2015-1748221	Page	1 Of 1
2	01	Time Officer Arrived or Police Force Reported to:	2015 10 10 1038	Emergency Equipment in Attendance	TFS P245	Service Performed	Safety
3	01	Name of Investigating Officer	MCCONNELL, PAUL	Badge No.	10306	Div./Stat./Det.	TSVUC
4	01	Name of Submitting Police Force	TORONTO POLICE SERVICE	MTO Use Only		Highway	
5	01	Location	R1 Trafficway KENNEDY RD AT R2 Reference Point WILLIAM KITCHEN RD	Distance		Check as applicable	
6	01	Driver	1 Driver (Last Name First) DENG, ZHAO H.	Code		2 Driver (Last Name First) HAJI MOHD DAD, BASHIR M.	Code

7	01	Driver	Address 38-90 CROCKAMHILL DR SCARBOROUGH, ON Driver's Licence No. D25317964755822	Telephone No. (647) 388-8498 Postal Code M1S2K9	Prov. ON	Class G	Cond. X
8	01	Vehicle	Make DODG Year 2014 Model CAR Colour SIL Body Style PASSEN	Air Brake <input checked="" type="checkbox"/> Y Plate No. BTVB152 Prov. ON Number of Occupants in Vehicle 4	Owner (Last Name First) As above DENG, ZHAO H.	Address 38-90 CROCKAMHILL DR SCARBOROUGH, ON Insurance Company and Policy No. None ALL STATE INS	Telephone No. (647) 388-8498 Postal Code M1S2K9
9	02	Trailer	CVOR No. Lic. Class Required G Loaded Unloaded Approx. Speed 50 Km/hr.	Make Owner (Last Name First) As vehicle above Address Telephone No. Postal Code Insurance Company and Policy No. As Vehicle Above	Make Year Model Colour Body Style Air Brake Plate No. Prov. Number of Occupants in Vehicle Owner (Last Name First) As vehicle above Address Telephone No. Postal Code Insurance Company and Policy No. As Vehicle Above	Make Year Model Colour Body Style Air Brake Plate No. Prov. Number of Occupants in Vehicle Owner (Last Name First) As vehicle above Address Telephone No. Postal Code Insurance Company and Policy No. As Vehicle Above	CVOR No. Lic. Class Required G Loaded Unloaded Approx. Speed 50 Km/hr.



Lanes/Speed	Number of Lanes	Posted Speed Max.	Posted Speed Advisory
R1	7	50	
R2	4	40	

Descriptions of Code(s) 97, 98, 99

34	01	Describe Damage to Other Property	Person and/or Agency Advised	Y	M	D	Time
35	08	No. Involved Persons - Injured Taken To/By	Independent Witnesses - Name				
36	01	1 SCARBOROUGH GRACE / DAS 958					
37	01	5 SCARBOROUGH GRACE / DAS 959					
38	01	3 SCARBOROUGH GRACE / DAS 958					
39	01	Vehicle Taken To/By	Persons Charged - Section and Act & P.O.T. No.				
40	01	v1 2671 MARKHAM ROAD, LOW 5423	D1 144(9)HTA				
40	01	v2 2671 MARKHAM ROAD, MEARS 1533					

Involved Persons	Veh No.	Ped. No.	Name	Address	Telephone No.	Age	Sex	Y	M	D	Time
1	2		HAJI MOHD DAD, BASHIR M.	145 FITZGIBBON AV	(416) 886-9750	42	M	01	02	03	01 01
2	1		DENG, ZHAO H.	38-90 CROCKAMHILL DR	(647) 388-8498	40	F	01	00	03	01 01
3	1		DENG, KEVIN	38-90 CROCKAMHILL DRIVE	(416) 857-8889	8	M	07	02	03	01 01
4	1		HUANG, WILSON	38-90 CROCKAMHILL DRIVE		6	M	04	02	03	01 01
5	1		AARON, HUANG	38-90 CROCKAMHILL DRIVE		6	M	06	02	03	01 01

All boxes must be completed by officers submitting Report.
Specify all codes **97, 98, 99** on this Report

This is Exhibit “Q” referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

Self Reporting Collision Report

122



Collision Report No.	Local Incident No.	Microfilm No.
20168029915	ACC-502187628	

1. For MTO and Police Use Only		Collision Date (YY/MM/DD)	Day	Time (Hrs)	Page of
Reporting Location		2016/07/15	Friday	15:30	1

Police Service of Jurisdiction	Number of Vehicles Involved	<input checked="" type="checkbox"/> PD <input type="checkbox"/> NR <input type="checkbox"/> FTR	<input checked="" type="checkbox"/> Original
Toronto Police Service	2	<input checked="" type="checkbox"/> Supplementary Form Attached	<input type="checkbox"/> Amendment

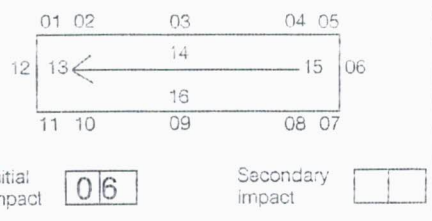
<input type="checkbox"/> Road	01 Munic	04 City/Dist	07 Fed
<input checked="" type="checkbox"/> Rear	02 Prov/Hwy	05 Reg Munic	09 Other
EGLINTON AVE E (E/B)	03 Twp	06 Priv Prop	01

R2 - Name of Shopping Mall, Plaza or Other Commercial or Institutional Property, etc.	Municipality	County, District or Reg. Municipality
HOLLY ST (E/O)	TORONTO	TORONTO

Vehicle Damage	01 - none	03 - moderate	05 - demolished
	02 - light	04 - severe	06

<input checked="" type="checkbox"/> yes	Viewed by Name & Badge No.	Date (Y/M/D)	Time (Hrs)	Damage \$
<input type="checkbox"/> no	SCOTT ALLDREAD 532	2016/07/15	18:09	1500

Describe Damage to Vehicle or Additional Remarks for Investigator
REAR BUMPER AND SENSORS



Describe Damage to Other Property

Initial Impact: 06 Secondary impact: []

Rep. Rec'd by Name, Badge No., Pol. Serv.	Date (Y/M/D)	Time (Hrs)	Person and/or Agency Addressed	Date (Y/M/D)	Time (Hrs)
---	--------------	------------	--------------------------------	--------------	------------

Officer Assigned	Date Assigned (Y/M/D)	Date Cleared (Y/M/D)	Charges Laid (Item No.)
------------------	-----------------------	----------------------	-------------------------

2. Your information - Driver

Last Name, First Name: HUI, MAN MTO Code

Address - Street No. & Name, City, Town, Province, Postal Code
126 KILBARRY ROAD, TORONTO, ONTARIO, M5P1L4

Telephone Nos.
Home (647) 349-2522 Work (647) 966-5762

Driver's Licence No.	Prov.	Class	Cond.	Sex	Date of Birth (Y/M/D)	Age	Probs. Licenses for Class Vehicle	<input type="checkbox"/> yes <input type="checkbox"/> no
H91585150605916	ON	G	*N	F	1960/9/16	55	Suspended driver	<input type="checkbox"/> yes <input checked="" type="checkbox"/> no

3. Your Vehicle	Plate No.	Prov.	Year	Make	Model	Colour	Body Style	Number of Occupants in Vehicle
BSFJ608	ON	2014	MERZ	ESM	SIL	4D	2	

Air <input type="checkbox"/> yes	Commercial Vehicle Op. No.	EC Class req'd	<input type="checkbox"/> Loaded	Insurance Company's Name & Policy No.	Expiry Date (Y/M/D)
Brake <input type="checkbox"/> no			<input type="checkbox"/> Unloaded	COOPERATORS CANADA 5095160760003	2017/02/11

Vehicle Taken / Towed To: _____ Vehicle Taken / Towed By: _____

Owner Same as Driver Last Name, First Name: MERCEDES-BENZ FINANCIAL SERVIC

Address - Street No. & Name, City, Town, Province, Postal Code
500-2680 MATHESON BLVD E, MISSISSAUGA, ONTARIO, L4W0A5

Telephone Nos.
Home: _____ Work: _____

4. Your Trailer	Plate No.	Prov.	Make	Insurance Company's Name	<input type="checkbox"/> Same as Vehicle	Policy No.	Expiry Date (Y/M/D)
---	---	---	---	---		---	---

Owner Same as Driver Last Name, First Name: --- Address - Street No. & Name, City, Town, Province, Postal Code: ---

5. Other Driver	Last Name, First Name	Date of Birth (Y/M/D)	Driver's Licence No.
LANG, MARK		1961/02/12	L04185210610212

Address - Street No. & Name, City, Town, Province, Postal Code
15 ORWELL CRES, BARRIE, ONTARIO, L4N6N3

Telephone Nos.
Home (705) 721-1334 Work (705) 795-5094

6. Other Vehicle	Plate No.	Commercial Vehicle Op. No.	Prov.	Year	Make	Model	Colour	Body Style	Number of Occupants in Vehicle
6765XP			ON	2010	FORD	VAN	GRN	FV	1

Other <input type="checkbox"/> Same as Driver	Last Name, First Name	Insurance Company's Name & Policy No.	Expiry Date (Y/M/D)
	TORONTO HYDRO-ELECTRIC SYSTEM	ACE INA INSURANCE CAC301649	2017/01/01

7. Witness	Last Name, First Name	Address - Street No. & Name, City, Town, Prov. Postal Code	Telephone Nos. Home: _____ Work: _____
------------	-----------------------	--	---

8. Collision Details - See instructions sheet. Fill in the boxes below with the numbers that best describe the collision. If "other (specify)" is selected, please give details.

01 Collision Location 03

01 Highway
01 non intersection 02 intersection related 03 at intersection 04 at / near private drive 05 at railway crossing 06 underpass / tunnel
07 overpass / bridge 08 other (specify)

Off Highway
08 trail 09 frozen lake / river 10 parking lot 99 other (specify)

02 Impact Location 01

01 within intersection 02 thru lane 03 left turn lane 04 right turn lane 05 right turn channel 06 two way left turn lane
07 passing lane 08 left shoulder 09 right shoulder 10 not on roadway - left side 11 not on roadway - right side 12 off highway
99 other (specify)

Section 1: Personal Information

1. Your Information - Driver
 Last Name, First Name: HUI, MAN
 MTO Code: _____
 Address - Street No. & Name, City, Town, Province, Postal Code: 126 KILBARRY ROAD, TORONTO, ONTARIO, M5P1L4
 Telephone Nos. Home: (647) 349-2522 Work: (647) 966-5762
 Driver's Licence No.: H91585150605916
 Prov.: ON Class: G Cond: *N Sex: F Date of Birth (Y/M/D): 1960/9/16 Age: 55
 yes no
 yes no

3. Your Vehicle

Plate No.: BSFJ608
 Prov.: ON Year: 2014 Make: MERZ Model: ESM Colour: SIL Body Style: 4D
 Number of Occupants in Vehicle: 2
 Insurance Company's Name & Policy No.: COOPERATORS CANADA 5095160760003
 Expiry Date (Y/M/D): 2017/02/11
 Air Brake yes no
 Loaded Unloaded

Owner: Same as Driver
 Last Name, First Name: MERCEDES-BENZ FINANCIAL SERVIC
 Address - Street No. & Name, City, Town, Province, Postal Code: 500-2680 MATHESON BLVD E, MISSISSAUGA, ONTARIO, L4W0A5
 Telephone Nos. Home: _____ Work: _____

4. Your Trailer

Plate No.: --- Prov.: --- Make: --- Insurance Company's Name: Same as Vehicle Policy No.: --- Expiry Date (Y/M/D): ---
 Owner: Same as Driver Last Name, First Name: --- Address - Street No. & Name, City, Town, Province, Postal Code: ---

5. Other Driver

Last Name, First Name: LANG, MARK Date of Birth (Y/M/D): 1961/02/12 Driver's Licence No.: L04185210610212
 Address - Street No. & Name, City, Town, Province, Postal Code: 15 ORWELL CRES, BARRIE, ONTARIO, L4N6N3
 Telephone Nos. Home: (705) 721-1334 Work: (705) 795-5094

6. Other Vehicle

Plate No.: 6765XP Commercial Vehicle Op. No.: _____ Prov.: ON Year: 2010 Make: FORD Model: VAN Colour: GRN Body Style: FV
 Number of Occupants in Vehicle: 1
 Other Same as Driver Last Name, First Name: TORONTO HYDRO-ELECTRIC SYSTEM
 Insurance Company's Name & Policy No.: ACE INA INSURANCE CAC301649 Expiry Date (Y/M/D): 2017/01/01

7. Witness

Last Name, First Name: _____ Address - Street No. & Name, City, Town, Prov. Postal Code: _____ Telephone Nos. Home: _____ Work: _____

8. Collision Details - See instructions sheet. Fill in the boxes below with the numbers that best describe the collision.
 If "other (specify)" is selected, please give details.

01 Collision Location 03

On Highway
 01 non intersection 02 intersection related 03 at intersection 04 at / near private drive 05 at railway crossing 06 underpass / tunnel
 07 overpass / bridge 98 other (specify) _____
 Off Highway
 08 trail 09 frozen lake / river 10 parking lot 99 other (specify) _____

02 Impact Location 01

01 within intersection 02 thru lane 03 left turn lane 04 right turn lane 05 right turn channel 06 two-way left turn lane
 07 passing lane 08 left shoulder 09 right shoulder 10 not on roadway - left side 11 not on roadway - right side 12 off highway
 99 other (specify) _____

03 Weather (multiple choice) 01

01 clear 02 rain 03 snow 04 freezing rain 05 drifting snow 06 strong wind
 07 fog, mist, smoke, dust 99 other (specify) _____

04 Light 01

01 daylight 02 daylight - artificial 03 dawn 04 dawn - artificial 05 dusk 06 dusk - artificial
 07 dark 08 dark - artificial 99 other (specify) _____

05 Traffic Control 01

01 traffic signal 02 stop sign 03 yield sign 04 pedestrian crossover 05 police control 06 school guard
 07 school bus 08 traffic gate 09 traffic controller 10 no control 99 other (specify) _____

06 Traffic Control Condition 01

01 functioning 02 not functioning 03 obscured 04 missing / damaged
 99 other (specify) _____

07 Road Character R1 02 R2 02

01 undivided - one way 02 undivided - two way 03 divided with barrier 04 divided - no barrier 05 ramp 06 collector lane
 07 express lane 08 transfer lane

08 Road Surface R1 01 R2 01

01 asphalt 02 oil treated gravel 03 gravel/crushed stone 04 concrete 05 earth 06 wood
 07 steel 08 brick / interlocking stone 99 other (specify) _____

This is Exhibit "R" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

Court File No.: *CV-18-00601579-0000*

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

MAN HUI

Plaintiff

- and -

MARK LANG and TORONTO HYDRO-ELECTRIC SYSTEM

Defendants



STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff(s). The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff(s) lawyer(s) or, where the Plaintiff(s) do(es) not have a lawyer, serve it on the Plaintiff(s), and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.


If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: July 13/2018

Issued by: 
Local Registrar

Address of Court Office:

10th Floor, 393 University Ave.
Toronto, ON
M5G 1E6

TO: MARK LANG
15 Orwell Crescent
Barrie, Ontario
L4N 6N3

AND TO: TORONTO HYDRO-ELECTRIC SYSTEM
14 Carlton Street
Toronto, Ontario
M5B 1K5

CLAIM

1. The Plaintiff claims:
 - (a) Damages in the amount of \$1,000,000.00;
 - (b) Prejudgment and post-judgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.48, as amended;
 - (c) Her costs of this action, plus HST where applicable; and,
 - (d) Such further and other relief as this Honourable Court may deem just.

Identification of Parties

2. The Plaintiff, Man Hui, resides in the City of Toronto, in the Province of Ontario, and was at all material times the operator of a 2014 Mercedes motor vehicle, bearing Ontario licence plate number BSFJ 608 (hereinafter referred to as the "Plaintiff vehicle").
3. The Defendant, Mark Lang, resides in the City of Barrie, in the Province of Ontario, and was at all material times the operator of a 2010 Ford motor vehicle bearing Ontario licence plate number 6765XP (hereinafter referred to as the "Defendant vehicle").
4. The Defendant, Toronto Hydro-Electric System., is an incorporated company with an office in the City of Toronto, in the Province of Ontario, and was at all material times the owner of the Defendant vehicle.

Allegations of Negligence

5. On or about the 15th of July 2016 the Plaintiff was operating her vehicle on Eglinton Avenue East at or near its intersection with Holly Street in the City of Toronto. At or about the same time, Mark Lang was operating the Defendant vehicle on Eglinton Avenue East behind the Plaintiff vehicle. As the Plaintiff vehicle slowed for traffic ahead, Mark Lang so negligently operated the Defendant vehicle as to strike the rear of the Plaintiff vehicle. As a result of this collision, the Plaintiffs suffered injuries more particularly described herein.

6. The Plaintiff alleges, and the fact is, that her damages, injuries and losses, were the result of the negligence of Mark Lang for whom the Toronto Hydro-Electric System is liable. The particulars of negligence as against Mark Lang are as follows:
 - (a) He failed to keep a proper lookout;
 - (b) He was travelling too close to the Plaintiff vehicle;
 - (c) He failed to slow down or stop so as to avoid a collision;
 - (d) He failed to keep the Defendant vehicle under proper control;
 - (e) He failed to apply the brakes properly or at all, or in the alternative, he was operating a motor vehicle with defective brakes;
 - (f) He was travelling at an excessive rate of speed in the circumstances;
 - (g) He operated the Defendant vehicle in a careless manner;
 - (h) On the occasion in question, he was an incompetent driver, lacking in reasonable care, skill and ability and ought not to have been operating a motor vehicle;

- (i) He failed to take reasonable care to avoid an accident which he saw or ought to have seen was likely to occur; and,
 - (j) He had the last clear chance to avoid the collision by the exercise of reasonable care but failed to do so.
7. The particulars of negligence as against the Toronto Hydro-Electric System are as follows:
- (a) It failed to keep the Defendant vehicle in a proper and fit working condition, suitable for its safe operation on the highway;
 - (b) It permitted the Defendant vehicle to be operated by Mark Lang when it knew or ought to have known the vehicle was not in a fit and proper mechanical condition; and,
 - (c) It permitted the Defendant vehicle to be operated by Mark Lang when it knew or ought to have known he was a person lacking in reasonable skill, ability and training at all material times.

Damages

8. The Plaintiffs plead that as a result of this collision, she sustained injuries resulting in serious and permanent impairments of important physical, mental and psychological functions.
9. The Plaintiff received severe injuries including, but not limited to, a straining and spraining of the ligaments and muscles throughout her body. Further, the Plaintiff

has and continues to suffer persistent pain and dysfunction of her cervical, thoracic and lumbar spine. The Plaintiff has and continues to suffer from headaches and myofascial pain syndrome.

10. The physical injuries of the Plaintiff have been accompanied by anxiety, depression, post-traumatic stress disorder, insomnia and memory loss.
11. As a result of the motor vehicle collision, the Plaintiff has been unable to return to full-time employment. She will suffer a loss of earning capacity and shortened working life expectancy.
12. The Plaintiff will continue to suffer pain, disability, limitation of movement, emotional difficulties and depression, which will permanently impair her enjoyment of life.
13. The Plaintiff will require ongoing psychological, medical and physiotherapy treatment as a result of the motor vehicle collision.
14. The Plaintiff is unable to perform housekeeping and home maintenance chores for herself to the extent that she was able to do prior to the collision. She will require assistance in the future to complete such chores. She is entitled to claim for these and other expenses that she will incur throughout her lifetime.

15. The Plaintiff has incurred medical and other out-of-pocket expenses as a result of the motor vehicle collision, which will continue for the rest of her life.

Statutes

16. The Plaintiff pleads and relies upon the provisions of the *Negligence Act*, R.S.O. 1990, c. N-1, and amendments thereto, the provisions of the *Highway Traffic Act* R.S.O. 1990, c. H-8, and amendments thereto, the provisions of the *Insurance Act*, R.S.O. 1990, c. I.8, and amendments thereto, and the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, and amendments thereto.
17. The Plaintiff proposes that this action be tried at the City of Toronto.

Date:

July 13/2018

HANSON DUBY LAWYERS

2 Clinton Place
Toronto, ON
M6G 1J9

Brad Duby
LSUC No.: 47127J
Tel: 416 588 9100
Fax: 416 588 9102

Lawyers for the Plaintiff

Court File No.:

R-18-00601579-0000

HUI
Plaintiff

- and -

LANG et al.
Defendants

**ONTARIO
SUPERIOR COURT OF JUSTICE**

Proceeding Commenced at:
Toronto

STATEMENT OF CLAIM

HANSON DUBY LAWYERS


2 Clinton Place
Toronto, ON
M6G 1J9

Brad Duby
LSUC No.: 47127J
Tel: 416 588-9100
Fax: 416 588-9102

Lawyers for the Plaintiff

Our File No.: 18-166

This is Exhibit "S" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

Court File No. CV-21-00661757-0000

**ONTARIO
SUPERIOR COURT OF JUSTICE**



BETWEEN:

NG MOOI LAI

Plaintiff

- and -

DR. HOWARD LIM,
H & E INVESTMENTS LTD.,
BRAD DUBY PROFESSIONAL CORPORATION operating as DUBY & ASSOCIATES
and THE ESTATE OF BRAD DUBY, DECEASED

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the plaintiff. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the plaintiff's lawyer or, where the plaintiff does not have a lawyer, serve it on the plaintiff, and file it, with proof of service, in this court office, WITHIN TWENTY DAYS after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

Date ^{May 5} April , 2021

Issued by 

Local Registrar
M. Wallace
Registrar

Address of ~~Toronto Courthouse~~
court office ~~393 University Ave. -10th Fl.~~
~~Toronto ON M5G 1E6~~

SUPERIOR COURT
OF JUSTICE
330 UNIVERSITY AVE.
8TH FLOOR
TORONTO, ONTARIO
M5G 1R7

COUR SUPÉRIEURE
DE JUSTICE
330 AVE. UNIVERSITY
8E ÉTAGE
TORONTO, ONTARIO
M5G 1R7

TO: Dr. Howard Lim
50 Heddington Avenue
Toronto, ON
M5N 2K5

AND TO: H & E Investments Ltd.
758 Dundas Street West
Toronto, ON
M7J 1T8

AND TO: Brad Duby Professional Corporation o/a Duby & Associates
2 Clinton Place
Toronto, ON
M6G 1J9

AND TO: The Estate of Brad Duby, deceased
2 Clinton Place
Toronto, ON
M6G 1J9

CLAIM

1. The Plaintiff, Ng Mooi Lai, claims:
 - (a) General damages including non-pecuniary damages in the amount of \$350,000.00;
 - (b) Special damages including out of pocket expenses and costs in the amount of \$500,000.00;
 - (c) Pre-judgment interest and post judgment interest on the aforesaid amounts pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c.C.43, as amended;
 - (d) Costs of this proceeding together with applicable taxes; and
 - (e) Such further and other relief as to this Honourable Court may deem just.

PARTIES TO THE ACTION

2. The Plaintiff, Ng Mooi Lai, (hereinafter referred to as “Ms. Lai”) resides in the City of Toronto, in the Province of Ontario. At all material times, Ms. Lai was a dental patient of Dr. Howard Lim and/or H & E Investments Ltd. previously operating as Dr. Howard Lim Dentistry Professional Corporation. Ms. Lai was also a client of the law firm DUBY & Associates and at all material times received legal services from Mr. Brad DUBY, now deceased.

3. The Defendant, Dr. Howard Lim (hereinafter referred to as “Dr. Lim”), is a dental practitioner who is duly licensed by the Royal College of Dental Surgeons of Ontario

who at all material times practiced in the City of Toronto, in the Province of Ontario. At all material times, Dr. Lim participated in the assessment, diagnosis, care and treatment of Ms. Lai.

4. The Defendant, H & E Investments Ltd. previously Dr. Howard Lim Dentistry Professional Corporation (hereinafter referred to as “Lim Dentistry PC”) is a corporation registered in the province of Ontario and assigned Ontario Corporation Number 1610628, with Dr. Howard Lim as one of its Officer and Director. At all material times Lim Dentistry PC participated in the assessment, diagnosis, care and treatment of the Plaintiff, Ms. Lai.

5. The Defendant, Brad DUBY Professional Corporation operating as DUBY & Associates (hereinafter referred to as “DUBY Law Firm”), is a corporation registered in the province of Ontario and assigned Ontario Corporation Number 2549469, with Brad DUBY as its only Office and Director. At all material times, the DUBY Law Firm was retained to provide legal services to Ms. Lai in relation to a dental malpractice action against Dr. Lim and Lim Dentistry PC (hereinafter referred to as the “Dental Malpractice Action”).

6. The Defendant, The Estate of Brad DUBY, deceased (hereinafter referred to as “Mr. DUBY”), is responsible for the administration of Brad DUBY’s estate. Prior to his death, Mr. DUBY was a lawyer duly licensed to practice law in the Province of Ontario and, at all material times, was retained by Ms. Lai to provide legal services in relation to the Dental Malpractice Action.

Facts

7. On or about February 28, 2016, Ms. Lai had a consultation with Dr. Lim and/or Lim Dentistry PC to discuss the replacement of her missing teeth. Dr. Lim and/or Lim Dentistry PC presented treatment options to Ms. Lai. Of the options presented, Ms. Lai chose to proceed with implants to replace her missing teeth, including teeth 46 and 47.

8. Prior to starting the implant procedure, Ms. Lai was screened to ensure that her jaw bones were in good health and that she was a suitable candidate for the procedure. Ms. Lai's family physician confirmed she did not have osteoporosis.

9. On or about March 8, 2016, Ms. Lai attended at Dr. Lim's dental office at which time Dr. Lim inserted the implants.

10. Between the date the implants were inserted and when Ms. Lai returned to Dr. Lim's dental office on or about September 13, 2016, Dr. Lim and/or Lim Dentistry Professional Corporation did not provide any care or treatment to Ms. Lai.

11. On or about September 13, 2016, Ms. Lai returned to Dr. Lim and/or Lim Dentistry PC uncovered the implants and took impressions of Ms. Lai's teeth.

12. At a further visit on September 20, 2016, Dr. Lim tried the abutments and metal copings on Ms. Lai and took another impression. During this visit Dr. Lim observed Ms. Lai's gums were extremely inflamed, especially around teeth number 46 and 47. Dr. Lim prescribed an antibiotic.

13. On or about September 29, 2016, Ms. Lai again returned to Dr. Lim and/or Lim Dentistry PC to be fitted with the finished crowns. Dr. Lim again observed Ms. Lai's gums to be inflamed at the same location. He provided Ms. Lai with a mouth rinse to use once daily before bed.

14. After the crowns were installed, Ms. Lai noticed gaps between her teeth and gums where the crown implants were installed and was having issues with food getting trapped in these gaps.

15. On or about January 23, 2017, Ms. Lai attended at Dr. Lim and/or Lim Dentistry PC's office for a cleaning. At that time, Dr. Lim reported Ms. Lai still had an infection in her gums in the same area previously identified. Dr. Lim recommended Ms. Lai continue to use a mouth wash, confirmed the crown implants were properly installed and advised Ms. Lai she could continue eating normally without further treatment.

16. Or about February 27, 2017, Ms. Lai returned to Dr. Lim's dental office and reported ongoing issues with the gums around the implants. Dr. Lim observed Ms. Lai's gums to have receded and the bone around the implants was exposed. Ms. Lai insisted she be referred to a specialist. Dr. Lim referred Ms. Lai to a periodontist.

17. On or about March 16, 2017, the periodontist, Dr. Lee, informed Ms. Lai that parts of her jaw bone were dead and would need to be removed.

18. On or about June 22, 2017, Ms. Lai attended at Dr. Lim's dental office and with the assistance of her son, informed Dr. Lim that she was unsatisfied with the treatment and care he provided.

19. In or about October, 2017, Ms. Lai's son, David, filed a complaint with the Royal College of Dental Surgeons of Ontario (hereinafter referred to as the "Royal College").

20. The Royal College released its decision on or about August 8, 2019. Upon release of this decision, Ms. Lai began looking for a lawyer to represent her interests.

21. On or about August 31, 2019 and as a result of the care received by Dr. Lim and/or Lim Dentistry PC, Ms. Lai consulted with and retained Mr. Duby and the Duby Law Firm to represent her interests in the Dental Malpractice Action.

22. Mr. Duby and/or the Duby Law Firm requested the clinical notes and records from Dr. Lim. The requested records were not provided.

23. As a result of the requested records not being provided to the Plaintiff, her ability and/or her lawyers ability to evaluate any and all claims against Dr. Lim and/or Lim Dentistry PC were impeded and/or compromised and continued to be impeded and/or compromised at this time

24. At no time did Mr. Duby and/or the Duby Law Firm initiate a claim against Dr. Lim and/or Lim Dentistry PC to recover damages on behalf of the Plaintiff stemming from the negligence of Dr. Lim and/or Lim Dentistry Professional Corporation, as described above.

25. As a result of the negligence of the Defendant Mr. Duby and/or the Duby Law Firm, the Plaintiff has lost the ability to recover damages for her pain and suffering, past and future medical costs and any other damages for which she is entitled to recovery.

The Defendants Owed a Duty of Care to the Plaintiff

26. The Defendants owed a duty of care to the Plaintiff and as a result of their negligence have caused general and special damages to the Plaintiff for which they are responsible in law.

Negligence of the Defendants

27. The Plaintiff pleads and the fact is that Ms. Lai's injuries were caused by and/or severely worsened by the negligence of Dr. Lim and/or Lim Dentistry PC, the particulars of which are as follows:

- (a) they failed to discuss the risks of the dental procedure and failed to obtain an informed consent from Ms. Lai;
- (b) they observed inflammation in Ms. Lai gums prior to placing the implants but proceeded to place the implants contrary to standard practice and procedures;
- (c) they failed to properly, or at all, examine the Plaintiff's dental presentation prior to commencing the dental implant procedure;
- (d) they recklessly and/or carelessly inserted dental implants into the Plaintiff's jaw;
- (e) they failed to make a timely referral to an appropriate specialist;
- (f) they failed to conduct a post-surgical follow-up after the implants were placed;

- (g) they failed to use due skill and care in the pre-operative, operative and post-operative periods when providing care and treatment to the Plaintiff;
- (h) there were incompetent medical professionals who should not have attempted to treat the Plaintiff;
- (i) they misrepresented to the Plaintiff their training, experience, competence and abilities, generally, and/or in regard to implants;
- (j) in their treatment of the Plaintiff they fell below the standard of care required of a competent dentist practicing surgical operations in the Province of Ontario;
- (k) they had deficient clinical ability in areas relevant to the treatment provided by them to the Plaintiff, and should not have engaged in the practice of dentistry;
- (l) they knew or ought to have known that they were incompetent, that their clinical and surgical skills were deficient and below the standard required of a competent dentist practicing in the Province of Ontario, and that to provide treatment to the Plaintiff in the circumstances was an act of professional misconduct;
- (m) they showed a total reckless, wanton and willful disregard for the health, safety and wellbeing of the Plaintiff;

- (n) they failed to implement and/or follow appropriate protocols, guidelines and policies regarding monitoring, documenting and reporting patient treatment;
- (o) they failed to abide by general recordkeeping principles;
- (p) they failed to maintain patient records and/or adequate patient records;
- (q) they failed to provide the Plaintiff with a copy of her patient chart and records in a timely manner, or at all, upon her request;
- (r) they contravened a standard of practice and/or failed to maintain the standards of practice of the profession;
- (s) they performed a dental procedure on the plaintiff while their ability to do so was impaired by alcohol, drugs or other substances;
- (t) they failed to recognize the treatment of the Plaintiff's, dental issues were outside and beyond his competence, training expertise and experience and as such they failed to consult with and/or refer the Plaintiff to an dental specialist with appropriate training, experience and expertise and in a timely manner;
- (u) they used improper or inappropriate methods, procedures or techniques, or, alternately, improper or inappropriate equipment, for the diagnosis, treatment and care of the Plaintiff;

- (v) they failed to dedicate sufficient attention to the treatment and care of the Plaintiff and failed to consult with and/or refer the Plaintiff to a dental practitioner with appropriate training, experience and expertise in a timely manner after the procedure;
- (w) they failed to properly treat and care for the Plaintiff after the dental implant procedure;
- (x) they failed to continuously instruct themselves on the literature and appropriate care and treatment of the injuries the Plaintiff suffered; and
- (y) in all the circumstances, they failed to meet the standard of care of a reasonably competent dentist of ordinary prudence, failed to follow customary practice and failed to employ his expertise and best judgment.

28. In the alternative, the Plaintiff pleads that Mr. Duby and/or the Duby Law Firm failed to commence a claim against Dr. Lim and/or Lim Dentistry PC within the limitation period, despite being retained and/or despite having sufficient information about the events leading up to the Dental Malpractice Action.

29. In The particulars of negligence as against the Defendants, Mr. Duby and the Duby Law Firm include, but are not limited to the following:

- (a) they were incompetent lawyers who failed to apply the relevant knowledge, skills and attributes in a manner appropriate to the matter undertaken on behalf of the Plaintiff expected of them;

- (b) they failed to maintain proper and ongoing communication with the Plaintiff with respect to her case;
- (c) they failed to obtain, or failed to review and properly evaluate and act upon, professional opinions for the purposes of evaluating the extent of the Plaintiff's injuries and the value of her claim;
- (d) they failed to issue a dental malpractice claim in a timely manner or at all;
- (e) they were careless in their representation of the Plaintiff and/or in the management of the Plaintiff's file;
- (f) they failed to ensure the timely and appropriate management of the Plaintiff's file;
- (g) they failed to create and/or maintain a reasonable tickler system on the Plaintiff's file;
- (h) they failed to meet the standards of professional competence;
- (i) they had deficiencies in knowledge, skill and/or judgment; attention to the interest of the Plaintiff and her rights; the records, systems or procedures of their professional business; or other aspect of their professional businesses;
- (j) they were, during the relevant times, incapacitated by reason of physical or mental illness, other infirmity or addiction to or excessive use of alcohol or drugs, and were incapable of meeting their obligations as

licensees, and failed to take the appropriate steps to protect the Plaintiff's rights; and

- (k) they failed to assume complete professional responsibility for their practice of law and failed to directly supervise non-lawyers to whom particular tasks and functions were assigned.

30. The Plaintiff pleads that the Defendants, Lim Dentistry PC and Duby Law Firm, are in law responsible and/or vicariously liable for the aforementioned negligent acts of persons holding privileges at their offices and/or servants and/or agents and/or employees of said office, the particulars of which are set out as above.

31. The Plaintiff further pleads that the Defendants, Lim Dentistry PC and Duby Law Firm, are in law responsible and/or vicariously liable for the aforementioned negligent acts of their officers and/or directors, the particulars of which are set out as above.

32. In the alternative, the Plaintiff states that the cause of the negligent acts and the surrounding circumstances were within the exclusive knowledge and control of the Defendants and the acts would not have occurred but for the negligence of the Defendants. The Plaintiff pleads and relies upon the doctrine of *res ipsa loquitur*.

33. As a result of this incident, Ms. Lai's injuries include, but are not limited to, the pain and suffering which ensued as a result of prolonged and severe inflammation of her gums, having to undergo additional dental procedures to restore her mouth health, the mental and emotional stress she now associates with all dental practitioners, the fear and anxiety she associates with the undergoing any further dental procedures; and

psychological injuries as a result of the aforementioned injuries. The Plaintiff, Ms. Lai also experiences difficulty with sleeping, experiences nightmares, depression and other psychological symptoms and related physical symptoms, including pain and suffering.

34. The Plaintiff, Ms. Lai, will continue to experience pain and suffering in the future. She has been unable to carry out her normal activities and has suffered from a loss of enjoyment of life and will continue to suffer from a loss of enjoyment of life in the future.

35. Additionally, as a result of these injuries the Plaintiff, Ms. Lai, has incurred medical, hospital and other health care expenses and will continue to incur these expenses in the future. The full particulars of these claims will be provided prior to the trial of this action.

36. The Plaintiff states that as a result of the negligence of the Defendants, Mr. Duby and/or Duby Law Firm, she has lost the ability to recover compensation for her injuries from Dr. Lim and/or Lim Dentistry PC.

37. The Plaintiff further states that as a result of the negligence of the Defendants, the Plaintiff has suffered aggravation and a loss of enjoyment of life.

38. The Plaintiff states that her loss of ability to recover compensation was caused solely as a result of the Defendants, and the breaches of duty owed by the Defendants Mr. Duby and Duby Law Firm.

39. The Plaintiff pleads and relies upon the following statutes:

- (a) *Negligence Act*, R.S.O. 1990, c. N.1, amendments and regulations;

- (b) *Regulated Health Professions Act, 1991*, S.O. 1991, c.18, amendments and regulations;
- (c) *Dentistry Act, 1991*, S.O. 1991, c.24, amendments and regulations;
- (d) *Courts of Justice Act*, R.S.O. 1990, c. C.43, amendments and regulations;
and
- (e) *Limitations Act*, S.O. 2002, c. 24, amendments and regulations.

40. The Plaintiff proposes this action be tried at the city of Toronto, in the province of Ontario.

May 5, 2021

LEONE MURRAY LLP
130 Queens Quay East, Suite 803
East Tower
Toronto, Ontario
M5A 0P6

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james@leonemurray.com
LSO#: 43976U
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Fax: (416) 593-7760

Lawyers for the Plaintiff

LAI
Plaintiff

and

DR.HOWARD LIM et al.
Defendants

Court File No:

ONTARIO
SUPERIOR COURT OF JUSTICE
Proceeding commenced at
TORONTO

STATEMENT OF CLAIM

LEONE MURRAY LLP
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Fax: (416) 363-5858

Lawyers for the Plaintiff

This is Exhibit "T" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS



**Motor Vehicle
Collision Report**

Report Type: Original Amended Failed To Remain

Emergency Equipment in Attendance: _____
Service Performed: _____
Collision Number: 18-39787
Date: 180424
Page 1 of 2

Province: ON
Collision Date: 180424
Time: 10:00
Frod Ident. No. (P.I.N.):
Dangerous Goods:
Plat./Squad:

151

The Officer Arrived or Police Services Reported to: **1666**

Name of Submitting Police Service: **YESKEMEET CST.**

Range No: **1300**
Dist. No: **4560**

Name of Investigating Officer: **YVES PACE**

City/Town/Village: **WILMINGTON**

Location: **1**
R1: **WATERLOO RD**
R2: **CLIZARDEN ST**

Driver 1: **ANTOINETTE FAHARZ**
Address: **36 CASKIBONE DR**
City/Town/Village: **WATERLOO**

Driver 2: **CHEN, HUIFANG**
Address: **46 CITYVIEW DR**
City/Town/Village: **WATERLOO**

Vehicle 1: **2016 KIA Niro**
Year: **16**
Model: **NIRO**
Colour: **BLK**
Body Style: **4D**
Lic. Class: **5**
Lic. No.: **7M8724630**

Vehicle 2: **2017 KIA Niro**
Year: **17**
Model: **NIRO**
Colour: **WHI**
Body Style: **4D**
Lic. Class: **5**
Lic. No.: **X3086623**

Trailer 1: **None**

Trailer 2: **None**

Insurance Company and Policy No.: **INS.**

Insurance Company and Policy No.: **CESTAS**

Owner (Last Name First): **ANTOINETTE FAHARZ**

Owner (Last Name First): **CHEN, HUIFANG**

Address: **36 CASKIBONE DR**

Address: **46 CITYVIEW DR**

Telephone No.: **94509**

Telephone No.: **94509**

Postal Code: **N2L 2A2**

Postal Code: **N2L 2A2**

Approx. Speed: **20** Km/hr

Approx. Speed: **20** Km/hr

Driver's Description of Diagram

Driver's Description of Diagram

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This is Exhibit "U" referred to in the Affidavit of Daniel Pignataro sworn by Daniel Pignataro at the City of Toronto, in the Province of Ontario, before me on October 5, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.



Commissioner for Taking Affidavits (or as may be)

DAVID G.L. EDWARDS

Court File No.:

**ONTARIO
SUPERIOR COURT OF JUSTICE**

BETWEEN:

YAN WANG

Plaintiff

-and-

JIN SUN

Defendant

STATEMENT OF CLAIM

TO THE DEFENDANT:

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiff(s). The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a statement of defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff(s) lawyer(s) or, where the Plaintiff(s) do(es) not have a lawyer, serve it on the Plaintiff(s), and file it, with proof of service, in this court office, **WITHIN TWENTY DAYS** after this statement of claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your statement of defence is forty days. If you are served outside Canada and the United States of America, the period is sixty days.

Instead of serving and filing a statement of defence, you may serve and file a notice of intent to defend in Form 18B prescribed by the Rules of Civil Procedure. This will entitle you to ten more days within which to serve and file your statement of defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. IF YOU WISH TO DEFEND THIS PROCEEDING BUT ARE UNABLE TO PAY LEGAL FEES, LEGAL AID MAY BE AVAILABLE TO YOU BY CONTACTING A LOCAL LEGAL AID OFFICE.

TAKE NOTICE: THIS ACTION WILL AUTOMATICALLY BE DISMISSED if it has not been set down for trial or terminated by any means within five years after the action was commenced unless otherwise ordered by the court.

Date: _____

Issued by: _____

Local Registrar

Address of Court Office:

10th Floor, 393 University Ave.
Toronto, ON
M5G 1E6

TO: **JIN SUN**
65 Palmdale
Toronto, ON
M1T 1P2

CLAIM

1. The Plaintiff claims:
 - (a) Damages in the amount of \$2,000,000.00;
 - (b) Prejudgment and post-judgment interest in accordance with the *Courts of Justice Act*, R.S.O. 1990, c. C.48, as amended;
 - (c) Her costs of this action, plus HST where applicable; and,
 - (d) Such further and other relief as this Honourable Court may deem just.

Identification of Parties

2. The Plaintiff, Yan Wang, resides in the City of Toronto, in the Province of Ontario, and at all material times was a passenger in a motor vehicle owned and operated by the Defendant.
3. The Defendant, Jin Sun, resides in the City of Toronto, in the Province of Ontario, and was at all material times the owner and operator of a grey motor vehicle bearing Ontario licence plate number BXVS 210 (hereinafter referred to as the "Defendant vehicle").

Allegations of Negligence

4. On or about the 30th of May 2017 the Plaintiff was in the Defendant vehicle on the Queen Elizabeth Way, in the City of Toronto. Suddenly and without warning, Jin Sun so negligently operated the Defendant vehicle as to strike the rear of the motor

vehicle in front of his vehicle. As a result of this collision, the Plaintiff suffered injuries more particularly described herein.

5. The Plaintiff pleads that the collision was a result of the negligence of the Defendant, the particulars of which are as follows:
- (a) He failed to keep a proper lookout;
 - (b) He was travelling too close to the motor vehicle in front of him;
 - (c) He failed to slow down or stop so as to avoid a collision;
 - (d) He failed to keep the Defendant vehicle under proper control;
 - (e) He failed to apply the brakes properly or at all, or in the alternative, he was operating a motor vehicle with defective brakes;
 - (f) He was travelling at an excessive rate of speed in the circumstances;
 - (g) He operated the Defendant vehicle in a careless manner;
 - (h) On the occasion in question, he was an incompetent operator, lacking in reasonable care, skill and ability and ought not to have been operating a motor vehicle;
 - (i) He failed to take reasonable care to avoid an accident which he saw or ought to have seen was likely to occur; and,
 - (j) He had the last clear chance to avoid the collision by the exercise of reasonable care but failed to do so.

Damages

6. The Plaintiff pleads that as a result of this collision, she sustained injury resulting in serious and permanent impairment of physical, mental and psychological functions.
7. The Plaintiff received severe injuries including, but not limited to, tears to the muscles and ligaments throughout her body. Further, the Plaintiff has and continues to sustain persistent pain and dysfunction of her cervical, thoracic and lumbar spine. The Plaintiff has and continues to suffer from headaches and myofascial pain syndrome.
8. The physical injuries of the Plaintiff have been accompanied by anxiety, depression, post-traumatic stress disorder, insomnia and memory loss.
9. As a result of the motor vehicle collision, the Plaintiff has been unable to return to full-time employment. She will suffer a loss of earning capacity and shortened working life expectancy.
10. The Plaintiff will continue to suffer pain, disability, limitation of movement, emotional difficulties and depression, which will permanently impair her enjoyment of life and earning capacity.

11. The Plaintiff will require ongoing psychological, medical and physiotherapy treatment as a result of the motor vehicle collision.
12. The Plaintiff is unable to perform housekeeping and home maintenance chores for herself to the extent that she was able to do prior to the collision. She will require assistance in the future to complete such chores. She is entitled to claim for these and other expenses that he will incur throughout her lifetime.
13. The Plaintiff has incurred medical expenses and other out-of-pocket expenses as a result of the motor vehicle collision, which will continue for the rest of her life.

Statutes

14. The Plaintiff pleads and relies upon the provisions of the *Negligence Act*, R.S.O. 1990, c. N-1, and amendments thereto, the provisions of the *Highway Traffic Act* R.S.O. 1990, c. H-8, and amendments thereto, the provisions of the *Insurance Act*, R.S.O. 1990, c. I.8, and amendments thereto, and the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C.43, and amendments thereto.
15. The Plaintiff proposes that this action be tried at the City of Toronto.

Date:

BRAD DUBY
PROFESSIONAL CORP.
2 Clinton Place
Toronto, ON
M6G 1J9

Brad Duby
LSUC No.: 47127J
Tel: 416 588 9100
Fax: 416 588 9102

Lawyers for the Plaintiff

THE TORONTO DOMINION BANK
Applicant

-and-
BRAD DUBY PROFESSIONAL CORPORATION
Respondent

Court File No. CV-21-00657656-00c1

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT
TORONTO

MOTION RECORD

LEONE MURRAY LLP
130 Queens Quay East
Suite 803 – East Tower
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Lawyers for the Defendants