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 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. C.43, AS AMENDED

RESPONDING MOTION RECORD of GOSAI LAW PROFESSIONAL CORPORATION

(Returnable October 13 2022)

Dated: October 5, 2022

GOSAI LAW
PROFESSIONAL CORPORATION
8770 The Gore Road, Unit 2
Brampton, ON L6P 0B1

Nancy Sarmento Barkhordari
Tel: 905-595-5555
Fax: 905-595-2226
E-mail: nsarmento@gosailaw.com

TO: **THIS HONOURABLE COURT**

AND TO: **McLEISH ORLANDO LLP**
151 Yonge Street, Suite 1800
Toronto, Ontario M5C 2W7

Attention: Lindsay Charles
E-mail: lcharles@mollp.com
Tel.: 416-366-3311
Fax: 416-366-3330

New Counsel

AND TO: **HARRISON PENSA LLP**
Barristers & Solicitors
130 Dufferin Avenue, Suite 1101
London, ON N6A 5R2

Attention: Timothy C. Hogan & Robert Danter
Email: thogan@harrisonpensa.com & rdanter@harrisonpensa.com
Tel: 519-679-9660
Fax: 519-667-3362

Lawyers for the Receiver, MNP Ltd.

AND TO: **AIRD & BERLIS LLP**
Brookfield Place
181 Bay Street, Suite 1800
Toronto, ON M5J 2T9

Attention: Kyle Plunkett & Nathan Gates
Tel: (416) 863-1500
Email: kplunkett@airdberlis.com and ngates@airdberlis.com

Lawyers for the Applicant, Toronto-Dominion Bank

AND TO: **MNP LTD.**
111 Richmond Street West, Suite 300
Toronto, ON M5H 2G4

Attention: Matthew Lem
Tel: (416) 515-388
Email: matthew.lem@mnp.ca

Receiver

AND TO: **JAFFE PERITZ LLP**
100 Richmond Street West, Suite 424
Toronto, ON M5H 3K6

Attention: Brandon Jaffe & Elaine Peritz
Tel: (416) 368-2809 ext. 101
Email: bjaffe@jaffeperitz.com and eperitz@jaffeperitz.com

Lawyers for Bridgepoint Financial Services

AND TO: **LAW SOCIETY OF ONTARIO**
393 University Avenue, Suite 1100
Toronto, ON M5G 1E6

Attention: Adam Di Federico
Tel: (437) 9297285
Email: AFederic@lso.ca

Lawyers for the Law Society of Ontario

AND TO: **SOMOGYI LAW GROUP**
758 Sheppard Avenue West
North York, ON M3H 2S8

Attention: Adam A. Somogyi
Tel: (416) 941-2502
Email: adam@slcilegal.ca

New Counsel

AND TO: **PRESZLER INJURY LAWYERS**
151 Eglington Avenue West
Toronto, ON M4R 1A6

Attention: Jeffrey A. Preszler
Tel: (416) 364-2000 ext. 221
Email: jpreszler@preszlerlaw.com

New Counsel

AND TO: **AARON WAXMAN AND ASSOCIATES**
1120 Finch Avenue West, #500
Toronto, ON M3J 3H7

Attention: Michael Hazan & Aaron Waxman
Tel: (416) 661-4878
Email: mhazan@awaxmanlaw.ca and awaxman@awaxmanlaw.ca

New Counsel

AND TO: **NAIMARK LAW FIRM**
141 Adelaide Street West, Suite #330
Toronto, ON M5H 3L5

Attention: Ryan Naimark & Nergiz Sinjari
Tel: (416) 366-7246
Email: ryan@naimarklaw.com and nsinjari@naimarklaw.com

New Counsel

AND TO: **LEE & ASSOCIATES PROFESSIONAL CORPORATION**
4950 Yonge Street, #2000
North York, ON M2N 6K1

Attention: Raffi Akelian
Tel: (416) 782-8168
Email: rakelian@leeassociates.ca

New Counsel

AND TO: **D'ALESSIO ROMERO LAW FIRM**
204-3100 Rutherford Road
Vaughan, ON L4K 0G6

Attention: Elio D'Alessio
Tel: (905) 417-1777
Email: edalessio@dalessioromero.com

New Counsel

AND TO: **HOWIE, SACKS & HENRY LLP**
20 Queen Street West, Suite 3500
Toronto, ON M5H 3R3

Attention: James Howie & Brad Moscato
Tel: (416) 361-5990
Email: jrhowie@hshlawyers.com and bmoscato@hshlawyers.com

New Counsel

AND TO: **MK LEGAL SERVICES PROFESSION CORPORATION**
1110 Finch Ave. W., Suite 205
Toronto, ON M3J 2T2

Attention: Shahen A. Alexanian
Tel: (416) 650-0060
Email: shahen@mklegal.ca

New Counsel

AND TO: **BERGMANIS PREYRA LLP**
2926 Dundas Street West
Toronto, ON M6P 1Y8

Attention: Joel McCoy, Kurt Bergmanis and Frank Piazza
Tel: (416) 256-1700
Email: JMcCoy@bplawyers.ca, FPiazza@bplawyers.ca and KBergmanis@bplawyers.ca

New Counsel

AND TO: **GREAT OAK VFA INC.**
1280 Finch Avenue West, Suite #408
Toronto, ON M3J 3K6

Attention: Christine Connell
Tel: (416) 455-5600 ext. 107
Email: cconnell@greatoakvfa.ca

Creditor

AND TO: **Q MEDICAL**
1500 Don Mills Road, Unit 403
North York, ON M3B 3K4

Tel: (416) 901-0054
Email: info@q-medical.ca

Creditor

AND TO: **CHORNEY SIDHU INJURY LAWYERS**
2 Automatic Road, Unit 105
Brampton, ON L65 6K8

Attention: Melissa Sidhu & Savannah Chorney
Tel: (844) 487-8482
Email: melissachornevlawyers.com and savannahchorneylawyers.com

New Counsel

AND TO: **HIMELFARB PROSZNANSKI BARRISTERS & SOLICITORS**
480 University Avenue, #1401
Toronto, ON M5G 1V2

Attention: Katherine Lee and David Himelfarb

Tel: (416) 599-8080 Ext. 292
Email: klee@himprolaw.com and dhimelfarb@himprolaw.com

Lawyers for ARCG Inc.

AND TO: **DENTONS CANADA LLP**
77 King Street West, Suite 400
Toronto-Dominion Centre Toronto, ON M5K 0A1

Attention: Meredith Bacal
Tel: (416) 863 4395
Email: Meredith.bacal@dentons.com

Lawyers for Easy Legal Finance Inc.

AND TO: **ALLAN ROUBEN BARRISTER & SOLICITOR**
70 Bond Street, #200
Toronto, ON M5B 1X3

Attention: Allan Rouben
Tel: (416) 360-5444
Email: arouben@bellnet.ca

Lawyers for Lifeline Litigation Loans Inc.

AND TO: **MINISTRY OF FINANCE (ONTARIO)**
Insolvency Unit 33 King Street West, 6th Floor
Oshawa, ON L1H 8H5

Email: insolvencv.unitontario.ca

AND TO: **DEPARTMENT OF JUSTICE (CANADA)**
The Exchange Tower 3400-130 King Street West
P.O. Box 36 Toronto, ON M5X 1K6

Attention: Diane Winters
Tel: (416) 973-3172
Email: diane.winters@justice.gc.ca

Ontario Regional Office
Email: torbankruptcy@justice.gc.ca

AND TO: **ALAMGIR LAW PROFESSIONAL CORPORATION**
2401 Eglinton Ave. East, Suite 209
Scarborough, ON M1K 2N8

Attention: Alangir Hussain
Tel: (416) 755-4000
Email: law@alamgirlaw.com

New Counsel

AND TO: **ALLAN B. SHUSTERMAN**
Solicitor and Barrister
3320 Midland Ave., Suite 207
Toronto, ON M1V 5E6

Attention: Allan B. Shusterman
Tel: (416) 291-6176
Email: alshus@hotmail.com

New Counsel

AND TO: ANUSHIKA ANTHONY PROFESSIONAL CORPORATION
268 Queen Street West
Brampton, ON L6X 1B1

Attention: Anushika Anthony
Tel: (905) 874-7011
Email: info©aapclawyers.com

New Counsel

AND TO: BERGEL, MAGENCE LLP
1018 Finch Avenue West, 5th Floor
Toronto, ON M3J 3L5

Attention: Ilan Bergel & Nashmil Mamresuli
Tel: (416) 665-2000 ext. 214
Email: ibergel@bergellaw.com and nmamresuli@bergellaw.com

New Counsel

AND TO: CAMPISI LLP
7050 Weston Rd., Suite 101
Vaughan, ON L4L 8G7

Attention: Joseph Campisi
Tel: (416) 203-1115
Email: info@campisilaw.ca

New Counsel

AND TO: DAVID HOLLINGSWORTH PERSONAL INJURY LAWYERS
176 Bronson Avenue
Ottawa, ON K1R 6H4

Attention: David Hollingsworth
Tel: (613) 237-4922
Email: david@ottawainjury.ca

New Counsel

AND TO: **DAVID S. WILSON PROFESSIONAL CORPORATION**
2000-393 University Ave.
Toronto, ON M5G 1E6

Attention: David Wilson
Tel: (416) 943-1223
Email: dswilson@davidswilsonlaw.com

New Counsel

AND TO: **DESAI MARUSZKI LLP**
4789 Yonge St., Suite 520
Toronto, ON M2N 0G3

Attention: Ian Miller
Tel: (416) 848-4570
Email: ian@desaimaruszki.com

New Counsel

AND TO: **DIAMOND & DIAMOND LAWYERS**
255 Consumers Rd. Suite 5
Toronto, ON M2J 1R4

Attention: Jill Carrington
Tel: (416) 256-1600
Email: jcarrington@diamondlaw.ca

New Counsel

AND TO: **GERALD STERNBERG**
469 Lawrence Ave. West
North York, ON M5M 106

Attention: Gerald Sternberg
Tel: (416) 967-0077
Email: derald.sternberca@bellnet.ca

New Counsel

AND TO: **HIMELFARB PROSZANSKI LLP**
480 University Avenue, Suite 1401
Toronto, ON M5G 1V2

Attention: David Himelfarb
Tel: (877) 820-1210
Email: dhimelfarb@himprolaw.com

New Counsel

AND TO: **JEFFREY SHINEHOFT PROFESSIONAL CORPORATION**
80 Bloor St. West
Toronto, ON M5S 2V1

Attention: Jeffrey Shinehoft
Tel: (416) 551-9060
Email: jeffrey@jslawfirm.ca

New Counsel

AND TO: **JOSHUA GOLDBERG LAW**
500 King Street West, Suite 300
Toronto, ON M5V 1L9

Attention: Joshua Goldberg
Tel: (416) 943-6502
Email: joshua@jgoldberglaw.ca

New Counsel

AND TO: **JUZKIW LAW PROFESSIONAL CORPORATION**
4750 Yonge Street, Suite 346
North York, ON M2N 0J6

Attention: Stefan Roman Juzkiw
Tel: (416) 290-5055
Email: stefan@juzkiw.com

New Counsel

AND TO: **KRYLOV LAM & COMPANY LLP**
25 Sheppard Ave. West, Suite 15
North York, ON M2N 6S6

Attention: Joseph Lam

Tel: (416) 649-0000
Email: jlam@krylaw.ca

New Counsel

AND TO: **LAW OFFICES OF BARRY A. EDSON**
10018 Finch Ave. West, Unit 100
North York, ON M3J 3L5

Attention: Barry A. Edson
Tel: (855) 702-3119
Email: bedson@edsonlegal.com

New Counsel

AND TO: **LEONE MURRAY LLP**
130 Queens Quay East
Toronto, ON M5A 0P6

Attention: James Leone
Tel: (416) 363-5151
Email: james@leonemurray.com

New Counsel

AND TO: **LUBMAN & ASSOCIATES PROFESSIONAL CORPORATION**
920 Sheppard Ave. West
Toronto, ON M3H 0A2

Attention: Tina Lubman
Tel: (416) 633-5868
Email: tina@lubmanlaw.ca

New Counsel

AND TO: **MACISAAC GOW LLP**
1100 Central Parkway West, Suite 37-1
Mississauga, ON L5C 4E5

Attention: Fraser Gow
Tel: (365) 777-4878
Email: fgow@mglawyers.ca

New Counsel

AND TO: **MAZO CHOWBAY LLP**
4711 Yonge Street, Suite 902
Toronto, ON M2N 6K8

Attention: Alisa Mazo
Tel: (647) 430-0347
Email: alisa.mazo@mazochowbay.com

New Counsel

AND TO: **NEINSTEIN LLP**
700-1200 Bay St.
Toronto, ON M5R 2A5

Attention: Erik Joffe
Tel: (416) 920-4242
Email: erik@neinstein.com

New Counsel

AND TO: **OPALINSKI LAW**
500 King Street West, Suite 3
Toronto, ON M5V 1L9

Attention: Barbara Opalinski
Tel: (416) 825-9901
Email: barbara©opalinskilaw.ca

New Counsel

AND TO: **PA LAW FIRM PROFESSIONAL CORPORATION**
4022 Sheppard Ave. East
Scarborough, ON MIS 1S6

Tel: (416) 321-3338

AND TO: **PACE LAW FIRM**
191 The West Mall, Suite 1100
Toronto, ON M9C 5K8

Attention: Allan Chapnik
Tel: (877) 236-3060
Email: achapnik@pacelawfirm.com

New Counsel

AND TO: **PILIECI LEGAL SERVICES**
2450 Finch Ave. West
North York, ON M9M 2E9

Attention: Michael Pilieci
Tel: (416) 878-2838
Email: piliecilegalservices@outlook.com

New Counsel

AND TO: **POLLACK TSIMERMAN LLP**
2450 Victoria Park Ave., Suite 401
North York, ON M2J 4A2

Attention: Ziv Tsimerman
Tel: (416) 491-0111
Email: ztsimerman@ptlawyers.ca

New Counsel

AND TO: **RAYMOND LEE HATHAWAY, PARALEGAL**
42-656 Yonge St.
Toronto, ON M4Y 2A6

Attention: Raymond Lee Hathaway
Tel: (647) 620-4420
Fax: (416) 741-2806

New Counsel

AND TO: **SHARMA LAW**
205 Main Street South
Newmarket, ON L3Y 3Y9

Attention: Vishal Sharma
Tel: (647) 849-4818
Email: sharma@vsharmalaw.ca

New Counsel

AND TO: **SIGANPORIA LAW FIRM**
1370 Don Mills Rd.
Toronto, ON M3B 3N7

Attention: Faranaz Siganporia
Tel: (416) 900-3841
Email: faranaz@siglaw.ca

New Counsel

AND TO: **SOKOLOFF LAWYERS**
120 Scollard Street
Toronto, ON M5R 1G2

Attention: Wendy Sokoloff
Tel: (416) 966-4878
Email: wendy@sokoloff.ca

New Counsel

AND TO: **TSD LAW**
93 Skyway Ave., Suite 111
Etobicoke, ON M9W 6N6

Attention: Tanveer S. Dhillon
Tel: (647) 346-3340
Email: info@tsdlaw.ca

New Counsel

AND TO: **VATURI & CHO LLP**
1110 Finch Ave. W., Unit 310
Toronto, ON M3J 2T2

Attention: Jae Hyon Cho
Tel: (416) 661-4529
Email: jcho@vclawyers.ca

New Counsel

AND TO: **WAKELIN & ASSOCIATES LLP**
1-605 Brock Street South
Whitby, ON L1 N 4L1

Attention: John Wakelin
Tel: (416) 227-3444
Email: lindsays@wakelinlaw.com

New Counsel

AND TO: **AMURJUEV LAW PC**
Barrister and Solicitor
1 Yonge Street, Suite 1801
Toronto, ON M5E 1W7

Attention: Michael Amurjuev
Tel: (416) 357-0864
Email: amurjuevlaw@gmail.com

New Counsel, Counsel for Kerwin Deschamps

AND TO: **ZAFAR LAW FIRM PROFESSIONAL CORPORATION**
33 City Centre Drive, Suite 606
Mississauga, ON L5B 2N5

Attention: Muhammad Zafar
Tel: (905) 232-4545
Email: info@zafarlawfirm.com

New Counsel

AND TO: **ZWIEBEL & ASSOCIATES**
29 Bangor Road
North York, ON M2N 2J8

Attention: Thomas W. Zwiebel
Tel: (416) 221-9777
Email: dwilson@zwiebelandassociates.ca

New Counsel

AND TO: **VERKHOVETS LAW PROFESSIONAL CORPORATION**
3300 Hwy 7, Unit 403
Vaughan, ON L4K 4M3

Attention: Mariya Verkhovets
Tel: (905) 910-1440
Email: infoverkhovetslaw.com

New Counsel

AND TO: **GIRONES LAWYERS**
300-300 Terry Fox. Dr. Kanata,
ON K2K 0E3

Attention: Andrea Girones
Tel: (613) 599-3535
Email: agirones@girones.ca

New Counsel

AND TO: **GOODMAN ELBASSIOUNI LLP**
190 Attwell Drive, Suite 300
Toronto, ON M9W 6H8
Attention: Corey Goodman
Tel: (905) 265-1005
Email: corey@qoodmanlawgroup.ca

New Counsel

AND TO: **GREG MONFORTON AND PARTNERS**
1 Riverside Drive West, Suite 1 Windsor, ON
N9A 5K3
Attention: Jennifer Bezaire
Tel: (866) 320-4770
Email: ibezaireqreqmonforton.com

New Counsel

INDEX

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 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. C.43, AS AMENDED

INDEX

1. Affidavit of Nital Gosai

Exhibit A – motor vehicle accident report dated August 15, 2015

Exhibit B – OCF 1s dated October 9 and September 23, 2015

Exhibit C – Statement of Claim issued July 24, 2017

Exhibit D – Settlement release relating to Mr. Vimalathas' claim for Accident Benefits

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 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. C.43, AS AMENDED

AFFIDAVIT OF NITAL S. GOSAI

1. I am the principal lawyer at Gosai Law Professional Corporations, lawyers for Bradley Anton Vimalathas ("Mr. Vimalathas") and Ms. Antonette Mariamayagam ("Ms. Mariamayagam") and as such have knowledge of matters to which I hereafter depose. Where my knowledge is based upon information and belief, I identify the source of the information and verily believe the information to be true.

2. Mr. Vimalathas and Ms. Mariamayagam were involved in a motor vehicle accident on August 15, 2015. ***A copy of the motor vehicle accident report is marked Exhibit "A".***

3. On or around August 15, 2015, Mr. Vimalathas and Ms. Mariamayagam retained the offices of Mr. Duby to represent them in connection with their claims for injuries arising out of the August 15, 2015 accident.

4. On behalf of Mr. Vimalathas and Ms. Mariamayagam, the OCF 1 was submitted by Mr. Duby's offices to Mr. Vimalathas and Ms. Mariamayagam's insurer on October 9, 2015 and September 23, 2015 respectively. ***A copy of the OCF 1 documents on behalf of Mr. Vimalathas and Ms. Mariamayagam are marked Exhibit "B".***

5. In connection with the August 15, 2015 accident, on July 24, 2017, Mr. Duby issued a Statement of Claim on Mr. Vimalathas' and Ms. Mariamayagam's behalf. ***The Statement of Claim is marked Exhibit "C".***

6. On March 19, 2022, Mr. Vimalathas and Ms. Mariamayagam retained the offices of Gosai Law.

7. On May 9, 2022 date, the Law society of Ontario ("LSO") provided my offices with a copy of Mr. Duby's client-solicitor files relating to Mr. Vimalathas' and Ms. Mariamayagam's claims arising out of the August 15, 2015 accident.

8. On my review, the files produced by the LSO did not include within then a fee account on behalf of Mr. Duby. Nor did they include any dockets verifying the time expended by Mr. Duby in his representation of Mr. Vimalathas and Ms. Mariamayagam.

9. On my review of the files produced by LSO, the claim commenced June 24, 2017 had not yet proceeded to Examination for Discovery.

10. Contained within the file from Mr. Duby ***and marked Exhibit "D***", is a signed settlement release allegedly signed by Mr. Vimalathas.

11. I am advised by Mr. Vimalathas and verily believe that he had no knowledge of the signing of this release or the status of his accidents benefits claim as being resolved; he did not sign the settlement releases; he did not receive any settlement monies from Mr. Duby's offices in connection with his claims arising out of the August 15, 2015 accident, and he did not enrich himself out of any settlement proceeds connected to the said release.

12. As of the date of this affidavit, my offices has not received any information from the respondent very the amount of time expended by Mr. Duby in his representation of Mr. Vimalathas and Ms. Mariamayagam.

13. I make this affidavit in response to the receiver's motion to impose a sliding fee structure and for no improper purpose.

Sworn **or** ***Affirmed*** **before me:** *(select one):* ☐ in person OR X by video conference

Complete if deponent and commissioner are not in same city or town:
by Nital S. Gosai of the City of Mississauga, in the Province of Ontario, before me at the City of Toronto, in the Province of Ontario, on October 6, 2022 in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely.

Commissioner for Taking Affidavits

Commissioner, Nancy S. Barkhordari *Deponent, Nital S. Gosai*

TAB A

THIS IS EXHIBIT **"A"** OF THE AFFIDAVIT OF **NITAL S. GOSAI**, SWORN ON THE **6th DAY OF OCTOBER 2022.**

____

A Commissioner, Etc.

Ver 1
Use Template Ver. 1 with this report

Motor Vehicle Accident Report

Ver 1

Report Type: ☑ Original ☐ Amended ☐ Failed To Remain

Accident Number: GO TP 2015-1404290 | Page 1 Of 2

Accident Date: Y 2015 M 08 D 15 | Day of the Week: SAT | Time: 2040

Time Officer Arrived or Police Force Reported to: 2015 08 15 2040
Emergency Equipment in Attendance: DAS x3
Service Performed: Transport
Prod. Ident. No. (P.I.N.) Dangerous Goods Involvement

Name of Investigating Officer: HASIUK, MELISSA
Badge No.: 9424
Div./Stat./Det.: D42UC
Plat/Squad

Name of Submitting Police Force: TORONTO POLICE SERVICE
MTO Use Only | Highway | Distance | Unit | Dir.

Location

R1 Trafficway: PLUG HAT RD | Distance: 6 ☑M. ☐Km. | Check as applicable ☐N. ☐S. ☑E. ☐W. | MTO | District | Keypoint/Geocode | Offset | Ramp No.

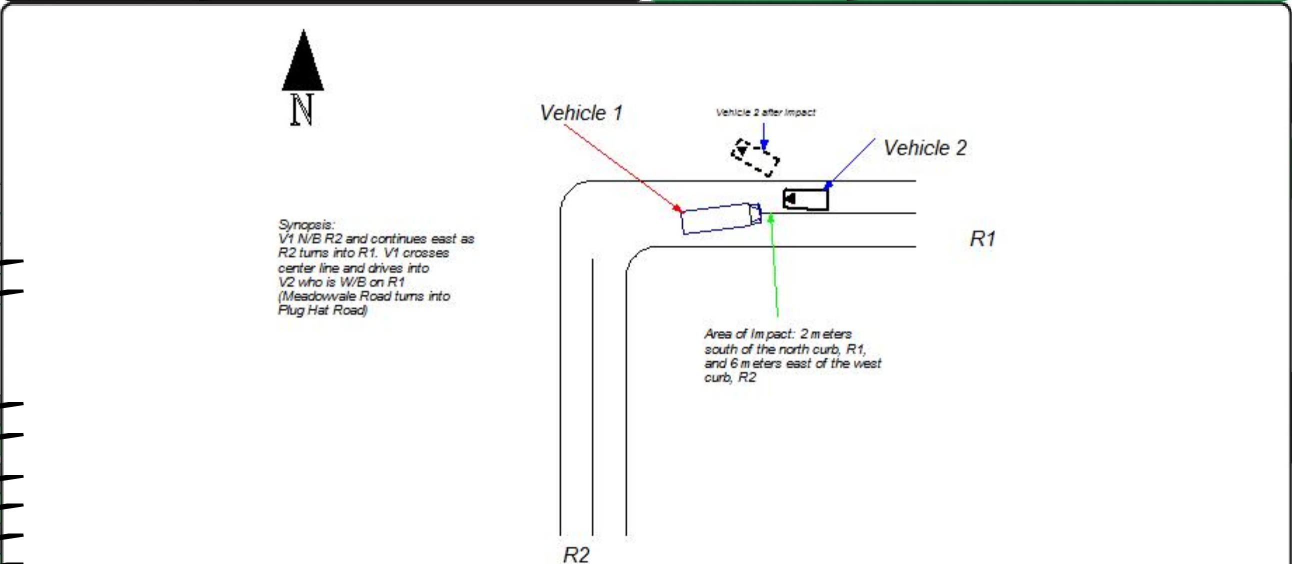
R2 Reference Point: MEADOWVALE RD | Municipality: SCARBOROUGH | County, District, Reg. Municipality: TORONTO

Left column codes	
1	01
2	02
3	01
4	01
5	
6	05
7	10
8	
9	02
10	02
11	01
12	01
13	01
14	01
15	01
16	01
17	04
18	04
19	01
20	01
21	06
22	01
23	
24	
25	
26	
27	
28	
29	
30	
31	01
32	01
33	10
34	01
35	00
36	01
37	
38	
39	
40	

Right column codes	
41	01
42	02
43	03
44	04
45	01
46	01
47	01
48	01
49	
50	
51	
52	
53	
54	01
55	
56	20
57	
58	
59	
60	03
61	05
62	12
63	
64	12
65	
66	
67	
68	

Driver / Vehicle / Trailer

Field	1	2
Driver (Last Name First)	BAHEERATHAN, SHUNINTHAN	SABARATNAM, ANTONIS
Address	22 WEEKES AV	920 MARLMEADOW RD
Telephone No.	(647) 824-6211	(647) 504-0305
City	RICHMOND HILL, ON	KITCHENER, ON
Postal Code	L4E0N3	N2R1L4
Driver's Licence No.		S00040540760625
Prov.		ON
Class	G2	G2
Cond.		
Sex	M	M
D.O.B. (Y/M/D)	1993 01 15	1976 06 25
Proper Licence to Drive Class of Vehicle	☑Y ☐N	☑Y ☐N
Suspended Driver	☑Y ☐N	☐Y ☑N
Breathalyzer, Blood Test, Admin.	☐Y ☑N	☐Y ☑N
Make	FORD	FORD
Year	2016	2008
Model		SPEC
Colour		GRY
Body Style	TRACT	5DR
Air Brake	☐Y ☐N	☐Y ☐N
Plate No.	AK66239	AWCB943
Prov.	ON	ON
Number of Occupants in Vehicle		
Owner (Last Name First)	WTH CAR RENTAL ULC	SABARATNAM, ANTONIS
Address	1 CORVINELLI DR	920 MARLMEADOW RD
Telephone No.	(416) 213-8400	(647) 504-0305
City	WHITBY, ON	KITCHENER, ON
Postal Code		N2R1L4
Insurance Company and Policy No.	CONTINENTIAL CASUALTY COMPANY CCP001700857	SCOTTISH AND YORK A40163974PLA
CVOR No.		
Lic. Class Required	G	G
Loaded / Unloaded	☑ Unloaded	☑ Unloaded
Approx. Speed Km/hr.	40	40
Trailer Make		
Trailer Plate No.		
Trailer Prov.		
Trailer Owner (Last Name First)		
Trailer Address		
Trailer Telephone No.		
Trailer Postal Code		
Trailer Insurance Company and Policy No.		



Lanes/Speed

	Number of Lanes	Posted Speed Max.	Advisory
R1	2	50	
R2	2	50	

Descriptions of Code(s) 97, 98, 99

Describe Damage to Other Property | Person and/or Agency Advised | Y | M | D | Time

No.	Involved Persons - Injured Taken To/By
1	TAKEN TO SCARBOROUGH CENTENARY HOSPITAL
2	TAKEN TO SCARBOROUGH CENTENARY HOSPITAL
3	TAKEN TO SCARBOROUGH CENTENARY HOSPITAL

Independent Witnesses - Name

Error Entry

Vehicle Taken To/By
V1 TOWED TO WILLIAM'S POUND
V2 TOWED TO WILLIAM'S POUND

Persons Charged - Section and Act & P.O.T. No.
D1 199(1)HTA ..., 200(1)(a)HTA, 53(1)HTA

Name of Coroner | Telephone No. | If School Age Child Involved, Indicate School Name

Signature of Investigating Officer: HASIUK, MELISSA | Report completed ☑ on Y 2016 M 08 D 19
Signature of Supervisor: ASHFIELD, HELENE | Badge No. 65633 | Y 2016 M 09 D 12

Involved Persons

	Veh. No.	Ped. No.	Name / Address / Telephone	72	73	74	75	76	77	78
1	2		SABARATNAM, ANTONIS 920 MARLMEADOW RD KITCHENER ON N2R1L4 (647) 504-0305	39	M	01	01	03	01	01
2	2		ALOYSIOUSS, KRISHAN 402-70 MORNELLE CT SCARBOROUGH ON	20	M	04	01	03	01	01
3	2		ANTON VIMALATHAS, BRADLEY 7 TIDEWATER RD BRAMPTON ON	21	M	03	01	03	01	01
4	2		MARIYANAYAGAM, ANTONETTE 7 TIDEWATER RD BRAMPTON ON	43	F	05	01	03	01	01
5	2		ALOYSIUS, ANNE 47 ROUGE RIVER DR SCARBOROUGH ON	49	M	06	01	03	01	01

69 70 71

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

SR-LD-401 09-09

Ver 1
Use Template Ver. 1 with this report

Ontario

Motor Vehicle Accident Report

Report Type: ☑ Original ☐ Amended ☐ Failed To Remain

Field	Value
Accident Number	GO TP 2015-1404290
Page	2 Of 2
Accident Date (Y/M/D)	2015 08 15
Day of the Week	SAT
Time	2040
Time Officer Arrived or Police Force Reported to	2015 08 15 2040
Emergency Equipment in Attendance	DAS x3
Service Performed	Transport
Name of Investigating Officer	HASIUK, MELISSA
Badge No.	9424
Div./Stat./Det.	D42UC
Name of Submitting Police Force	TORONTO POLICE SERVICE

Ver 1

Left margin codes: 1: 01; 2: 02; 3: 01; 4: 01; 6: 05; 7: 10; 9: 02; 10: 02; 11: 01; 12: 01; 13: 01; 14: 01; 15: 01; 16: 01; 17: 04; 18: 04; 19: 01; 20: 01

Right margin codes: 41: 01; 42: 02; 45: 01

Location

	Trafficway	Distance	Check as applicable	Municipality	County, District, Reg. Municipality
R1	PLUG HAT RD	6	☑ M. ☑ E.		
R2 (Reference Point)	MEADOWVALE RD			SCARBOROUGH	TORONTO

Driver (Last Name First) | Code | Address | Telephone No. | Postal Code | Driver's Licence No. | Prov. | Class | Cond. | Sex | D.O.B. (Y/M/D) | Proper Licence to Drive Class of Vehicle ☐Y ☐N | Suspended Driver ☐Y ☐N | Breathalyzer, Blood Test, Admin. ☐Y ☐N

Vehicle: Make | Year | Model | Colour | Body Style | Air Brake ☐Y ☐N | Plate No. | Prov. | Number of Occupants in Vehicle | Owner (Last Name First) ☐ As above | Address | Telephone No. | Postal Code | Insurance Company and Policy No. ☐ None | CVOR No. | Lic. Class Required | ☐ Loaded ☐ Unloaded | Approx. Speed Km/hr.

Trailer: Make | Plate No. | Prov. | Owner (Last Name First) ☐ As vehicle above | Address | Telephone No. | Postal Code | Insurance Company and Policy No. ☐ As Vehicle Above

Investigating Officer's Description of Accident & Diagram

Lanes/Speed

	Number of Lanes	Posted Speed Max.	Advisory
R1	2	50	—
R2	2	50	—

Descriptions of Code(s) 97, 98, 99

Describe Damage to Other Property | Person and/or Agency Advised | Y M D Time

No.	Involved Persons - Injured Taken To/By
4	TAKEN TO SCARBOROUGH CENTENARY HOSPITAL
5	TAKEN TO SCARBOROUGH CENTENARY HOSPITAL

Independent Witnesses - Name

Vehicle Taken To/By
V
V

Persons Charged - Section and Act & P.O.T. No.

Name of Coroner | Telephone No. | If School Age Child Involved, Indicate School Name

Error Entry

Signature of Investigating Officer	Report completed on (Y/M/D)	Signature of Supervisor	Badge No.	Y/M/D
HASIUK, MELISSA	☑ 2016 08 19	ASHFIELD, HELENE	65633	2016 09 12

Involved Persons

Veh. No. (69)	Ped. No. (70)	71	72	73	74	75	76	77	78
1	—	BAHEERATHAN, SHUNINTHAN 22 WEEKES AV RICHMOND HILL ON L4E0N3 (647) 824-6211	22	M	01	00	03	01	01
6									

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

15 08 15

2037 PD.

2 vehs

2058 Krishan
Aloysious
95 01 13
402-70 Monville Ct
Dr. Rear
Anton Vimalathas
Bradley
94 05 13
7 Tidewater Rd
Brompton
Front pass.

Antonette
Mariyanayagam

15 08 15
72 02 08
Midneo
Steeles S/B -
(47 Rouge River Dr)
Anne Aloysius
Ay, M Aug 8. 1969
47 Rouge River Dr

AK66239 - AMS
Truck
AWCB943 - Ford
CCP 001700857
Continental
Casualty Company
2016 Ford CTV

WTH Car Rental VLC
AMS.
Driver - Ford -
Antonis
Sabaratnam
76 0625
920 Martmeadow Rd
Kitchen
N2R1L4
Scottish & York
A4016397 4PLA
Driver who fled.
Shuninthan
Baheerathan
93 01 15
21 Weeks Ave. Rich. Hill

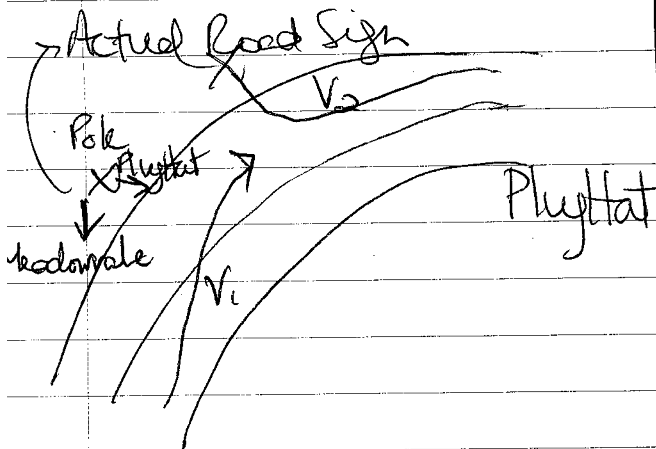
15 08 15

L4EON3

BD1b2 70909 30115

DL Suspended

- All 5 ppl in Ford to Canterbury - 3X DAS -



AIO →

2m S of N Curb

86M E of W. R2

Curb being Meadowvale

13 08 15

PC Sidhu - Tow card + 7 day VIP - Vehicles towed

PC Wulf, PC Rhodes have witness statements -

Vehicles towed

Road opened

Male was put in our vehicle @ 2145hrs -

Sheppard + Meadowvale w/ male

Complete 1045 -

Complete.

Accident report -

To summarize -

D1 - Driving rental van - N/B Meadowvale to Plug Hat -

Drove into D2 who was on Plug Hat S/W bound - On curve of hill - Head on collision - Impact knocked V2 into the ditch.

5 occs - All to Centenary - Minor injuries

D1 - Fled scene

15 08 15
on foot S/B -

Stopped & held by
witnesses -
2230 Male released on
10 4s
Contrary to
return 2nd D25 DL -
Report -
4/E: 2050 RIC 1404090 -
↓ PI

Have a male

- Possibly
to PI up the street
Holding male at
Meadowvale -
O/S - Male -

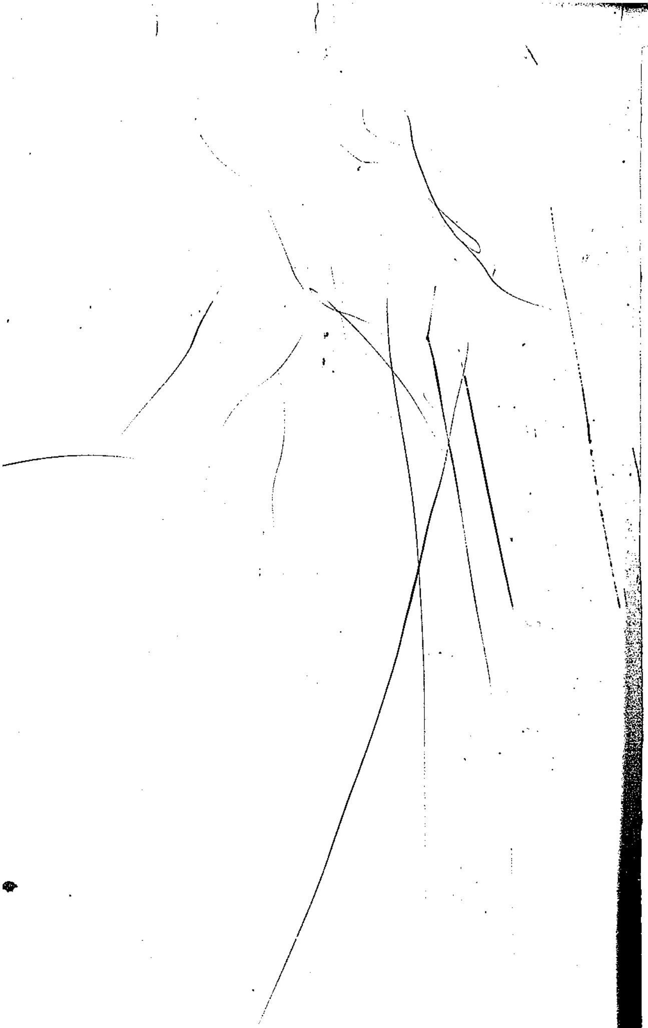
They say C he fled
accident scene -
2242 O/S - We attend
north → PI -
DAS O/S - 2 vehicles -
Ains Van & Demolished
Ford -
Witnesses place male
as driver
of Ains Van -

15 08 15

Report

End of L/E

2000 Accident report -
Ag 15-1404290
Avis Contacted - They
will send renter info
to me within 48hrs.
Complete report +
diagram -
Tow card + VIP



	4242.4 SCOUT 4241
2044	1404290P1
	UNKTR - ZONE 424
	2270 MEADOWVALE RD

2015.08.15 SAT

CONFRONTATION
M.

GUY CAME
OUT OF THE WOODS

CONFRONTATION STILL GOING ON
DOWN THE STREET.

2100 ONE MALE
UNDER ARREST
BAHEERATHAN, SHUNINTHAN
1993.01.15
21 WEEKES AVE. RICHMOND
REFUSED TO GIVE CELLPHONE
NUMBER. ADV BY PC BURNS. M.ARREST
ARRESTED FOR FAIL TO
REMAIN AT
SCENE OF AN ACCIDENT
2101 RTC
Q: DYU?
A: YES
Q: DYWTCALN?
A: YES
CAUTION

2015.08.15 SAT

	Q: DYU?
	A: YES
	Q: DYWTSAIATIC?
	A: NO
	TURNED ON IN CAR
	CAMERA. ADV THE MALE
	OF ABV
	-PLACED MALE IN THE
	BACK OF THE SCOUT
	CAR 4241.
	-STANDBY WITH THE MALE
	IN THE CAR
2145	TURNED CUSTODY OVER
	TO PC BURNS 10786
2150	HEADED TO 47 ROUGE
	RIVER DR.
2204	HEADED TO SC. CENTENARY
	HOSPITAL.
	ESCORT SPOKE WITH VICTIMS
	LEFT HOSPITAL
	ICS IN CAR

2015 08 15 SATURDAY

2100 (ric) 15-1404290
F.I.
2 Plvg Nat Road.

- unit o/s requesting road to be blocked

2112 o/s
On Plvg Nat just East of Meadowvale Rd. Blocking WB traffic on Plvg Nat. Rd.

- req to :
take a witness statement.

2025 08 15 SATURDAY.

225 Start of Statement

I heard a crash. I knew immediately what happened. I grabbed my shoes and shirt and we came down here. Probably 1 - 1½ minutes after

I heard it. Made sure everyone was okay. We got the ladies out. I started down Meadowvale to warn the northbound traffic because it was dusk. I saw a guy right under the railway tracks. I didn't pay

2025 08 15 SATURDAY
much attention
to him.
I returned to
the cars and
I learned the
other driver
left the scene.
I went back
down south
and hollered
at ~~th~~ him to
stop 3-4
times. He didn't
stop.

Q Description?

A. Male,

Q was he running?
A. Walking, picked
up the pace
a little bit
when I
yelled at
him.

2135 End of statement

- stand by as
road closure

2225 Road open.

TAB B

THIS IS EXHIBIT **“B”** OF THE AFFIDAVIT OF **NITAL S. GOSAI**, SWORN ON THE **6th DAY OF OCTOBER 2022.**

____

A Commissioner, Etc.

Return this form to:

Application for Accident Benefits (OCF-1)

Use this form for accidents that occur on or after November 1, 1996.

Claim Number:	3353304S
Policy Number:	A40163974PLA
Date of Accident: (YYYYMMDD)	2015-08-15

A separate form must be completed for each person who is applying for accident benefits. Completion of ALL sections is mandatory. Your application may be denied if information is incomplete or incorrect. Please print clearly.

Part 1 Applicant Information

Last Name: Vimalathas

Gender: ☒ Male ☐ Female

Marital Status: ☒ Single ☐ Married ☐ Common-law ☐ Separated ☐ Divorced ☐ Widow(er)

First Name and Initial: Bradley Nirojai Anton

Birth Date (Year Month Day): 1994-05-13

Address: 7 Tidewater Road

Is anyone dependant on you for financial support or care? ☐ Yes, how many persons? ☒ No

City: Brampton

Province: ON

Postal Code: L6P 2M6

Home Telephone: 905-913-1800

Work Telephone:

Fax Number:

You can be reached: ☐ by telephone ☐ at home ☐ by personal visit ☐ at work ☒ other legal rep

Language Spoken: Tamil

E-mail:

What is the best time to reach you: Day(s) of the week: Mon-Fri; Time of day: 9-5pm ☐ a.m. ☐ p.m.

Part 2 Applicant's Representative (if applicable)

Complete this section only if the applicant injured in the accident is deceased, is a minor, is unable to fill out the form on their own, or has retained you as their representative

Last Name: Hanson

Relationship with applicant: ☐ Parent ☐ Guardian ☒ Lawyer ☐ Other ☐ Other Paid Representative

First Name and Initial: Dana Bruce

Address: 2 Clinton Place

City: Toronto

Province: ON

Postal Code: M6G 1J9

Work Telephone: 416-588-9100

Fax Number: 416-588-9102

E-mail: dana@hansonduby.com

Part 3 Accident Details and Health Information

Date of Accident (Year Month Day): 2015-08-15

Time of Accident: 20:40 ☐ a.m. ☒ p.m.

You were a: ☐ Driver ☒ Passenger ☐ Pedestrian ☐ Other

Accident Location: Hwy. No./Street Name: 2 Plug Hat Rd

City: Scarborough

Province: ON

Did the accident occur while you were at work?	☐ Yes	☒ No
Did you file a claim with the Workplace Safety and Insurance Board?	☐ Yes	☒ No
Was the accident reported to the police?	☒ Yes (Give details below)	☐ No

Officer Name: Melissa Hasiuk

Badge No.: 9424

Date accident reported to the police (Year Month Day): 2015-08-15

Police Department/Collision Reporting Centre: Toronto Police Service

Were you charged? ☒ No ☐ Yes (Give details)

Give a brief description of the accident. If you suffered any injuries as a result of the accident, describe the cause and extent of the injuries.

Third party vehicle traveling in opposing direction crossed into our lane and struck our vehicle head on.

Were you able to return to your normal activities following the accident? ☐ Yes ☒ No

Did you go to the hospital? ☒ Yes (Give details) ☐ No

Rouge Valley Hospital

Did you go see a health professional? (for example: physician, chiropractor, physiotherapist?) ☒ Yes (Give details) ☐ No

Dr. A. Savin

☐ Additional sheets attached

Part 3 Accident Details and Health Information (cont'd)

Name of Health Professional	Name of Facility: Active Healthcare Management	
Address: 203 - 2260 Bovaird Dr.		
City: Brampton	Province: ON	Postal Code: L6R 3J5

Has this Health Professional begun any treatment? ☒ Yes (provide details) ☐ No

☐ Additional sheets attached

Part 4 Details of Automobile Insurance

In order to determine which automobile insurer is responsible for paying benefits, it is necessary to know whether you have your own policy or whether you are covered by somebody else's insurance policy. To help make that determination, please complete the following:

[A] Are you covered under any of the following automobile insurance policies?

Your own policy	☐ Yes	☐ No
Your spouse's policy	☐ Yes	☐ No
The policy of any person on whom you are dependent (e.g. a parent)	☐ Yes	☐ No
A policy that lists you as a driver (e.g. a friend)	☐ Yes	☐ No
Your employer's policy (e.g. company car) or spouse's employer's policy	☐ Yes	☐ No
A policy insuring long-term rental cars (for rentals exceeding 30 days)	☐ Yes	☐ No

If you answered **"No"** to all of the above, go to **[B]** If you answered **"Yes"** to any of the above, complete the following:

Name of Policyholder: ~~Anton~~	
Insurance Company	Policy Number
Automobile – Make, Model, Year	Licence Plate Number
Were you an occupant of this automobile at the time of the accident?	☐ Yes ☐ No

If you answered **"Yes"** to more than one box in this part, provide additional insurance details below.

Name of Policyholder	
Insurance Company	Policy Number
Automobile – Make, Model, Year	Licence Plate Number
Were you an occupant of this automobile at the time of the accident?	☐ Yes ☐ No

[B] If you checked "No" to all of the boxes in [A] you must send your application to the insurer of the automobile that you occupied at the time of the accident, or the vehicle that struck you if you were a pedestrian or bicyclist. If this automobile was not insured or was unidentified, describe any other vehicle involved in the accident. **Provide details below.**

The policy you are claiming under insures:
- ☒ The vehicle I was riding in at the time of the accident
- ☐ The vehicle that struck me as a pedestrian/bicyclist
- ☐ Another vehicle that was involved in the accident

Vehicle type covered by this policy:
- ☒ Passenger
- ☐ Motorcycle
- ☐ Taxi/Limousine
- ☐ Other ______
- ☐ Truck
- ☐ Bus
- ☐ Snowmobile

Owner of the Vehicle: Antonis Sabaratnam		Home Telephone
Address: 920 marlmeadow Rd		Work Telephone
City: Kitchener	Province: ON	Postal Code: N2R 1L4
Automobile – Make, Model, Year: 2008 Ford		
Insurance Company: Aviva	Policy Number: A4016397 4PLA	
Name of Policyholder: Antonis Sabaratnam	Licence Plate Number: AWCB943	
Did you report the accident to any other insurance company?	☐ Yes (provide details) ☒ No	
Insurance Company	Type of Insurance	

Part 5 Applicant Status

Which of the following describes your status at the time of the accident?

Employed	Not Employed	
☒ Employed and working ☐ Self-Employed	☐ Unemployed ☐ Unemployed and, ☐ have worked 26 weeks in the past 52 weeks ☐ receiving Employment Insurance Benefits ☐ Retired	☐ Student or recent graduate ☐ Caregiver

Part 6 Student Attending School

Were you attending school on a full-time basis at the time of accident or had you completed your education less than one year before the accident?

☐ Yes (Give details below) ☒ No (Continue to Part 7)

Name of School			Date Last Attended	Year Month Day
Address			Program and Level	
City	Province	Postal Code	Projected Date for Completion of Studies	Year Month Day

Are you now attending school? ☐ Yes (Enter date) Year Month Day ☐ No

Were you able to return to school after the accident? ☐ Yes (Enter date) Year Month Day ☐ No

Part 7 Caregiver

Were you the main caregiver to people living with you, at the time of the accident?

☐ Yes (Complete information below) ☒ No (Continue to part 8)

Were you paid to provide care to these people? ☐ Yes (Continue to part 8) ☐ No

List the people who you were caring for at the time of the accident

Name	Date of Birth Year Month Day	Disabled Yes	Disabled No
		☐	☐
		☐	☐
		☐	☐
		☐	☐
		☐	☐

☐ Additional sheets attached

Did your injuries prevent you from performing the caregiving activities you did prior to the accident?

☐ Yes (Explain below) From what date? Year Month Day ☐ No

Explanation:

☐ Additional sheets attached

At any period since the accident, were you able to return to caregiving?

☐ Yes (From what date?) Year Month Day ☐ No

Part 8 Income Replacement Determination

Give details of your employment for the past 52 weeks. Start with your current or most recent employer. If you held more than one position with the same employer, use a separate line for each position. Gross income is before taxes and deductions.

If you were self-employed during the 4 weeks prior to the accident, please consider yourself the employer for the purpose of completing this section.

Date Year/Month/Day	Name and Address of Most Recent Employer	Position/Essential Tasks	No. of Hours Per week	Gross Income for the period
From: To:	OCF-2 to	Follow		$
From: To:				$
From: To:				$
From: To:				$

☐ Additional sheets attached

Did your injuries prevent you from working?

☒ Yes (From what date?) Year Month Day 2015 - 08 - 15 ☐ No (Continue to Part 9)

At any period since the accident, were you able to return to work since the accident?

☐ Yes (From what date?) Year Month Day ☒ No

The amount of your benefit is based on your past income. During which of the following periods did you have the highest average weekly income?

☒ Last 4 weeks (not applicable for self-employed persons)

☒ Last 52 weeks

☐ Last fiscal year (self-employed only)

Part 9 Other Insurance or Collateral Payments

Do you, your spouse or anyone you are dependent on (eg. parents) have any other benefit plan that covers you (e.g., group or private, union, disability, medical or dental, etc.)?

☐ Yes (Give details below) ☒ No

Name of Benefit Payor	Type of Coverage	Policy or Certificate Number

During the past 52 weeks, did you receive any income from a disability plan? ☐ Yes (Enter dates) ☒ No

From: Year Month Day To: Year Month Day Total Amount Received $

Are you receiving Employment Insurance Benefits? ☐ Yes (Enter date) ☒ No

From: Year Month Day To: Year Month Day Total Amount Received $

☐ Additional sheets attached

Are you receiving Social Assistance Benefits (welfare)? ☐ Yes ☒ No

Part 10
Motor Vehicle Accident Claims fund

DO NOT FILL OUT UNLESS ITEMS (1) TO (5) ON PAGE 2 DO NOT APPLY AND YOU ARE APPLYING TO THE MOTOR VEHICLE ACCIDENT CLAIMS FUND

You and your representative acknowledge that you have the responsibility to investigate and apply to all potential insurers to which the applicant may have recourse BEFORE submitting an application to the Motor Vehicle Accident Claims Fund (MVACF).
You and your representative acknowledge that the application MUST INCLUDE a completed:

- ☐ NOTICE OF COLLECTION OF PERSONAL INFORMATION FORM, signed and attached*
- ☐ Form 3 – Section 6 MVACF Application for Statutory Accident Benefits, signed and attached*
- ☐ Motor Vehicle Accident (Police) Report, attached.

before the applicant can make an application for the payment of accident benefits from the MVACF.
(* These forms are available at www.fsco.gov.on.ca)
I certify that I have read this part and understand that this application for accident benefits is not complete until the required forms are completed, signed and provided to the MVAC Fund.

Name of Applicant or Substitute Decision Maker (please print)	Signature of Applicant or Substitute Decision Maker	Date (YYYMMDD)

Motor Vehicle Accident Claims Fund
PO Box 85
5160 Yonge Street
Toronto, ON M2N 6L9

Toronto calling area: (416) 250-1422
Toll Free: 1- (800) 268-7188

Part 11
Signature

TO THE INSURER TO WHOM THIS APPLICATION IS BEING SUBMITTED:

I UNDERSTAND that you, and persons acting for you, will collect and use personal information and personal health information about me that is related to my claims for accident benefits arising out of the accident described in this application, and that all such information will be collected directly from me, or from any other person with my consent.

I ALSO UNDERSTAND that this information will be collected and used only as reasonably necessary for the purposes of:

- Investigating my claims and processing my claims as required by law, including the Ontario Automobile Policy;
- Obtaining or verifying information relating to my claims in order to determine entitlement and the proper amount of payment;
- Recovering payment from insurers and others liable in law for amounts that you pay in connection with my claims;
- Identifying and analyzing the nature and costs of goods and services that are provided to automobile accident victims by health care providers;
- Preventing fraud, and detecting fraud where there are reasonable grounds to suspect fraud;
- Compiling anonymized statistics for government agencies; and
- Assessing underwriting risks and claims experience.

I ALSO UNDERSTAND that you, and persons acting for you, may disclose this information to the following persons, who may collect and use this information only as reasonably necessary to enable you to carry out the purposes described above:

Insurers; insurance adjusters, agents and brokers; employers; health care professionals; hospitals; accountants; financial advisors; solicitors; organizations that consolidate claims and underwriting information for the insurance industry; and my agents or representatives as designated by me from time to time.

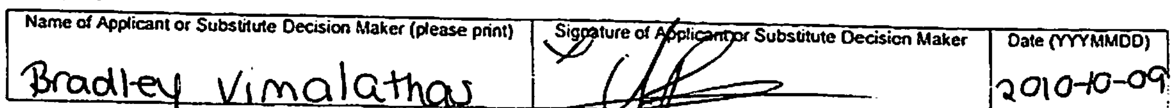
I CONSENT to you collecting, using and disclosing this information in the manner described above, but no more of such information than is reasonably necessary to meet the legitimate purpose of such collection, use or disclosure.

I UNDERSTAND that if I have any questions about this consent I am free to consult with my insurance company representative or legal advisor before signing this document.

I AM ALSO AWARE that you, and persons acting for you, may be required or permitted by law to disclose this information to others without my knowledge or consent.

I certify that the information provided is true and correct.

I understand that it is an offence under the Insurance Act to knowingly make a false or misleading statement or representation to an insurer under a contract of insurance. I further understand that it is an offence under the federal Criminal Code for anyone, by deceit, falsehood, or other dishonest act, to defraud or attempt to defraud an insurance company.

Name of Applicant or Substitute Decision Maker (please print)	Signature of Applicant or Substitute Decision Maker	Date (YYYMMDD)
Bradley Vimalathas		2010-10-09

Return this form to:

Application for Accident Benefits (OCF-1)

Use this form for accidents that occur on or after November 1, 1996.

Claim Number:	33533045
Policy Number:	A4016397 4PLA
Date of Accident: (YYYYMMDD)	2015-08-15

A separate form must be completed for each person who is applying for accident benefits. Completion of ALL sections is mandatory. **Your application may be denied if information is incomplete or incorrect. Please print clearly.**

Part 1 Applicant Information

Field	Entry
Last Name	mariyanayagam
Gender	☐ Male ☒ Female
First Name and Initial	Antonette
Birth Date (Year-Month-Day)	1972-02-08
Marital Status	☒ Single ☐ Married ☐ Common-law ☐ Separated ☐ Divorced ☐ Widow(er)
Address	7 Tide Water Rd.
City	Brampton
Province	ON
Postal Code	L6P2M6
Is anyone dependant on you for financial support or care?	☒ Yes, how many persons? 1 ☐ No
Home Telephone	905-913-1800
Work Telephone	
Fax Number	
You can be reached:	☐ by telephone ☐ at home ☐ by personal visit ☐ at work ☒ other legal rep
Language Spoken:	Tamil
E-mail:	
What is the best time to reach you: Day(s) of the week	mon-Fri
Time of day	9-5 ☐ a.m. ☐ p.m.

Part 2 Applicant's Representative (if applicable)

Complete this section only if the applicant injured in the accident is deceased, is a minor, is unable to fill out the form on their own, or has retained you as their representative

Field	Entry
Last Name	Hanson
First Name and Initial	Dana Bruce
Relationship with applicant	☐ Parent ☐ Guardian ☒ Lawyer ☐ Other ☐ Other Paid Representative
Address	2 Clinton Place
City	Toronto
Province	ON
Postal Code	M6G1J9
Work Telephone	416-588-9100
Fax Number	416-588-9100
E-mail:	dana@hansonduby.com

Part 3 Accident Details and Health Information

Field	Entry
Date of Accident (Year-Month-Day)	2015-08-15
Time of Accident	20:40 ☐ a.m. ☒ p.m.
You were a:	☐ Driver ☒ Passenger ☐ Pedestrian ☐ Other
Accident Location: Hwy. No./Street Name	2 Plug Hat Rd
City	Scarborough
Province	ON
Did the accident occur while you were at work?	☐ Yes ☒ No
Did you file a claim with the Workplace Safety and Insurance Board?	☐ Yes ☒ No
Was the accident reported to the police?	☒ Yes (Give details below) ☐ No
Officer Name	melissa Hasiuk
Badge No.	9424
Date accident reported to the police (Year-Month-Day)	2015-08-15
Police Department/Collision Reporting Centre	Toronto Police Service
Were you charged?	☒ No ☐ Yes (Give details)

Give a brief description of the accident. If you suffered any injuries as a result of the accident, describe the cause and extent of the injuries.

Third party vehicle traveling in opposing direction crossed into our lane and struck our vehicle head on.

Question	Answer
Were you able to return to your normal activities following the accident?	☐ Yes ☒ No
Did you go to the hospital?	☒ Yes (Give details) ☐ No
	Rouge Valley Centenary.
Did you go see a health professional? (for example: physician, chiropractor, physiotherapist?)	☒ Yes (Give details) ☐ No
	Dr. A. Savin

☒ Additional sheets attached

Part 3 Accident Details and Health Information (cont'd)

Name of Health Professional	Name of Facility: Active Healthcare Management	
Address: 203 - 2260 Bovaird Drive		
City: Brampton	Province: ON	Postal Code: L6R 3J5

Has this Health Professional begun any treatment? ☒ Yes (provide details) ☐ No

☐ Additional sheets attached

Part 4 Details of Automobile Insurance

In order to determine which automobile insurer is responsible for paying benefits, it is necessary to know whether you have your own policy or whether you are covered by somebody else's insurance policy. To help make that determination, please complete the following:

A Are you covered under any of the following automobile insurance policies?

	Yes	No
Your own policy	☐ Yes	☐ No
Your spouse's policy	☐ Yes	☐ No
The policy of any person on whom you are dependent (e.g. a parent)	☐ Yes	☐ No
A policy that lists you as a driver (e.g. a friend)	☐ Yes	☐ No
Your employer's policy (e.g. company car) or spouse's employer's policy	☐ Yes	☐ No
A policy insuring long-term rental cars (for rentals exceeding 30 days)	☐ Yes	☐ No

If you answered **"No"** to all of the above, go to **B** If you answered **"Yes"** to **any** of the above, complete the following:

Name of Policyholder	
Insurance Company	Policy Number
Automobile – Make, Model, Year	Licence Plate Number
Were you an occupant of this automobile at the time of the accident?	☐ Yes ☐ No

If you answered **"Yes"** to more than one box in this part, provide additional insurance details below.

Name of Policyholder	
Insurance Company	Policy Number
Automobile – Make, Model, Year	Licence Plate Number
Were you an occupant of this automobile at the time of the accident?	☐ Yes ☐ No

B If you checked "No" to all of the boxes in **A** **you must send** your application to the insurer of the automobile that you occupied at the time of the accident, or the vehicle that struck you if you were a pedestrian or bicyclist. If this automobile was not insured or was unidentified, describe any other vehicle involved in the accident. **Provide details below.**

The policy you are claiming under insures:
- ☒ The vehicle I was riding in at the time of the accident
- ☐ The vehicle that struck me as a pedestrian/bicyclist
- ☐ Another vehicle that was involved in the accident

Vehicle type covered by this policy:
- ☒ Passenger
- ☐ Motorcycle
- ☐ Taxi/Limousine
- ☐ Other
- ☐ Truck
- ☐ Bus
- ☐ Snowmobile

Owner of the Vehicle: Antonis Sabaratnam		Home Telephone
Address: 920 Marlmeadow Rd		Work Telephone
City: Kitchener	Province: ON	Postal Code: N2R 1L4
Automobile – Make, Model, Year: 2008 Ford		
Insurance Company: Aviva	Policy Number: A40163974 PLA	
Name of Policyholder: Antonis Sabaratnam	Licence Plate Number: AWCB943	

Did you report the accident to any other insurance company? ☐ Yes (provide details) ☒ No

Insurance Company	Type of Insurance

Part 5 Applicant Status

Which of the following describes your status at the time of the accident?

Employed	Not Employed	
[X] Employed and working [ ] Self-Employed	[ ] Unemployed [ ] Unemployed and, [ ] have worked 26 weeks in the past 52 weeks [ ] receiving Employment Insurance Benefits [ ] Retired	[ ] Student or recent graduate [ ] Caregiver

Part 6 Student Attending School

Were you attending school on a full-time basis at the time of accident or had you completed your education less than one year before the accident?

[ ] Yes (Give details below) [X] No (Continue to Part 7)

Name of School			Date Last Attended	Year Month Day
Address			Program and Level	
City	Province	Postal Code	Projected Date for Completion of Studies	Year Month Day

Are you now attending school? [ ] Yes (Enter date) Year Month Day [ ] No

Were you able to return to school after the accident? [ ] Yes (Enter date) Year Month Day [ ] No

Part 7 Caregiver

Were you the main caregiver to people living with you, at the time of the accident?

[X] Yes (Complete information below) [ ] No (Continue to part 8)

Were you paid to provide care to these people? [ ] Yes (Continue to part 8) [X] No

List the people who you were caring for at the time of the accident

Name	Date of Birth Year	Month	Day	Disabled Yes	No
9yr old daughter				[ ]	[ ]
				[ ]	[ ]
				[ ]	[ ]
				[ ]	[ ]
				[ ]	[ ]

[ ] Additional sheets attached

Did your injuries prevent you from performing the caregiving activities you did prior to the accident?

[X] Yes (Explain below) From what date? Year Month Day 2015-08-15 [ ] No

Explanation:

[ ] Additional sheets attached

At any period since the accident, were you able to return to caregiving?

[ ] Yes (From what date?) Year Month Day [X] No

Part 8 Income Replacement Determination

Give details of your employment for the past 52 weeks. Start with your current or most recent employer. If you held more than one position with the same employer, use a separate line for each position. Gross income is before taxes and deductions.

If you were self-employed during the 4 weeks prior to the accident, please consider yourself the employer for the purpose of completing this section.

Date Year/Month/Day	Name and Address of Most Recent Employer	Position/Essential Tasks	No. of Hours Per week	Gross Income for the period
From: To:	OCF-2 to	Follow		$
From: To:				$
From: To:				$
From: To:				$

☐ Additional sheets attached

Did your injuries prevent you from working?

☒ Yes (From what date?) Year Month Day 2015 - 08 - 15 ☐ No (Continue to Part 9)

At any period since the accident, were you able to return to work since the accident?

☐ Yes (From what date?) Year Month Day ☒ No

The amount of your benefit is based on your past income. During which of the following periods did you have the highest average weekly income?

☐ Last 4 weeks (not applicable for self-employed persons)

☐ Last 52 weeks

☐ Last fiscal year (self-employed only)

Part 9 Other Insurance or Collateral Payments

Do you, your spouse or anyone you are dependent on (eg. parents) have any other benefit plan that covers you (e.g., group or private, union, disability, medical or dental, etc.)?

☐ Yes (Give details below) ☒ No

Name of Benefit Payor	Type of Coverage	Policy or Certificate Number

During the past 52 weeks, did you receive any income from a disability plan? ☐ Yes (Enter dates) ☒ No

From: Year Month Day To: Year Month Day Total Amount Received $

Are you receiving Employment Insurance Benefits? ☐ Yes (Enter date) ☒ No

From: Year Month Day To: Year Month Day Total Amount Received $

☐ Additional sheets attached

Are you receiving Social Assistance Benefits (welfare)? ☐ Yes ☒ No

Part 10 Motor Vehicle Accident Claims fund

DO NOT FILL OUT UNLESS ITEMS (1) TO (5) ON PAGE 2 DO NOT APPLY AND YOU ARE APPLYING TO THE MOTOR VEHICLE ACCIDENT CLAIMS FUND

You and your representative acknowledge that you have the responsibility to investigate and apply to all potential insurers to which the applicant may have recourse BEFORE submitting an application to the Motor Vehicle Accident Claims Fund (MVACF).

You and your representative acknowledge that the application MUST INCLUDE a completed:

- ☐ NOTICE OF COLLECTION OF PERSONAL INFORMATION FORM, signed and attached*
- ☐ Form 3 – Section 6 MVACF Application for Statutory Accident Benefits, signed and attached*
- ☐ Motor Vehicle Accident (Police) Report, attached.

before the applicant can make an application for the payment of accident benefits from the MVACF.

(* These forms are available at www.fsco.gov.on.ca)

I certify that I have read this part and understand that this application for accident benefits is not complete until the required forms are completed, signed and provided to the MVAC Fund.

Name of Applicant or Substitute Decision Maker (please print)	Signature of Applicant or Substitute Decision Maker	Date (YYYMMDD)

Motor Vehicle Accident Claims Fund
PO Box 85
5160 Yonge Street
Toronto, ON M2N 6L9

Toronto calling area: (416) 250-1422
Toll Free: 1- (800) 268-7188

Part 11 Signature

TO THE INSURER TO WHOM THIS APPLICATION IS BEING SUBMITTED:

I UNDERSTAND that you, and persons acting for you, will collect and use personal information and personal health information about me that is related to my claims for accident benefits arising out of the accident described in this application, and that all such information will be collected directly from me, or from any other person with my consent.

I ALSO UNDERSTAND that this information will be collected and used only as reasonably necessary for the purposes of:

- Investigating my claims and processing my claims as required by law, including the Ontario Automobile Policy;
- Obtaining or verifying information relating to my claims in order to determine entitlement and the proper amount of payment;
- Recovering payment from insurers and others liable in law for amounts that you pay in connection with my claims;
- Identifying and analyzing the nature and costs of goods and services that are provided to automobile accident victims by health care providers;
- Preventing fraud, and detecting fraud where there are reasonable grounds to suspect fraud;
- Compiling anonymized statistics for government agencies; and
- Assessing underwriting risks and claims experience.

I ALSO UNDERSTAND that you, and persons acting for you, may disclose this information to the following persons, who may collect and use this information only as reasonably necessary to enable you to carry out the purposes described above:

Insurers; insurance adjusters, agents and brokers; employers; health care professionals; hospitals; accountants; financial advisors; solicitors; organizations that consolidate claims and underwriting information for the insurance industry; and my agents or representatives as designated by me from time to time.

I CONSENT to you collecting, using and disclosing this information in the manner described above, but no more of such information than is reasonably necessary to meet the legitimate purpose of such collection, use or disclosure.

I UNDERSTAND that if I have any questions about this consent I am free to consult with my insurance company representative or legal advisor before signing this document.

I AM ALSO AWARE that you, and persons acting for you, may be required or permitted by law to disclose this information to others without my knowledge or consent.

I certify that the information provided is true and correct.

I understand that it is an offence under the Insurance Act to knowingly make a false or misleading statement or representation to an insurer under a contract of insurance. I further understand that it is an offence under the federal Criminal Code for anyone, by deceit, falsehood, or other dishonest act, to defraud or attempt to defraud an insurance company.

Name of Applicant or Substitute Decision Maker (please print)	Signature of Applicant or Substitute Decision Maker	Date (YYYMMDD)
Antonette mariyanayagam	X A. P. [signature]	2015-09-23

TAB C

THIS IS EXHIBIT **“C”** OF THE AFFIDAVIT OF **NITAL S. GOSAI**, SWORN ON THE **6th DAY OF OCTOBER 2022.**

____

A Commissioner, Etc.

Court File No.: CV-17-579524

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

Bradly Anton Vimalathas, Antonette Marianayagam, Antonis Sabaratnam, Krishan Aloysiouss and Anne Aloysius

Plaintiff

- and -

Shuninthan Baheerathan and WTH Car Rental ULC

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(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: JUL 2 4 2017

Issued by: May Nikolaidis
May Nikolaidis Local Registrar

Address of Court Office:

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

TO: **Shuninthan Baheerathan**
22 Weekes Avenue
Richmond Hill, Ontario
L4E 0N3

AND TO: **WTH Car Rental ULC**
1 Convair Drive East
Toronto, Ontario

CLAIM

1. The Plaintiffs Claim:

(a) General Damages in the amount of $250,000.00 each;

(b) Special Damages, the full particulars of which are not available at the time of delivery of the Statement of Claim;

(c) Prejudgment interest pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, c. C. 43 as amended;

(d) The costs of this action on a solicitor and client scale;

(e) Harmonized Sales Tax (HST); and

(f) Such further and other relief as this Honourable Court may deem just.

IDENTIFICATION OF PARTIES

2. The Plaintiff, Antonis Sabarat Sabaratnam, resides in Kitchener, in the Province of Ontario, and at all material times was the owner and operator of a 2008 Ford motor vehicle bearing Ontario plate number AWCB 943 hereinafter referred to as the Plaintiff motor vehicle.

3. The Plaintiffs Bradly Anton Vimalathos, Antonette Marianayagam, Krishan Aloysiouss and Anne Aloysius reside in Kitchener, in the Province of Ontario, and at all material times were passengers in the Plaintiff motor vehicle.

4. The Defendant, Shuninthan Baheerathan, resides in Richmond Hill, in the Province of Ontario, and at all material times was the operator of a 2016 Ford

motor vehicle bearing Ontario plate number AK66239, hereinafter referred to as the Defendant motor vehicle.

5. The Defendant, WTH Car Rentals ULC is car rental company carrying on business in Toronto, Ontario and at all material times was the owner of the Defendant motor vehicle.

6. The Plaintiffs plead that on the 15th day of August 2015 the Plaintiff motor vehicle was being operated in a prudent and proper manner at or near 2 Plug Hat Road in Scarborough, Ontario, when the Defendant motor vehicle, which had been travelling in the opposite direction to the Plaintiff motor vehicle, crossed the centre line of the road and struck the Plaintiff motor vehicle, causing injuries and damages.

ALLEGATIONS OF NEGLIGENCE

7. The Plaintiff pleads that the aforesaid motor vehicle accident and resulting damages and injuries were caused solely by the negligence of the Defendant, Shuninthan Baheerathan, for whom in law the Defendant, WTH Car Rental ULC is responsible, the particulars of which are as follows:

A. AS AGAINST THE DEFENDANT, Shuninthan Baheerathan:

a. he failed to keep a proper or any lookout;

b. he failed to keep the Defendant motor vehicle under proper control;

c. he was travelling at an excessive rate of speed under the circumstances;

d. he was operating a motor vehicle which he knew or ought to have known was in a defective mechanical condition;

e. he failed to apply the brakes on the Defendant motor vehicle in time, or properly or at all, or in the alternative, was operating a motor vehicle with defective brakes and/or tires;

f. he failed to signal, sound his horn, or give any other warning of his approach;

g. he created an emergency and a situation of danger;

h. he had the last clear chance to avoid a collision, but failed to avail himself of said opportunity, although he could have done so by the exercise of reasonable care, skill and ability;

i. 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;

j. he operated a motor vehicle while his ability to do so was impaired by alcohol, drugs, fatigue, or stress or a combination thereof;

k. the Defendant crossed the centre line in the roadway and struck the Plaintiff motor vehicle with the Defendant motor vehicle.

A. AS AGAINST THE DEFENDANT, WTH Car Rental ULC:

a. this Defendant allowed the Defendant, Shuninthan Baheerathan, to operate its motor vehicle when it knew or ought to have known he was an incompetent driver and/or that the Defendant motor vehicle was not in a proper mechanical condition.

INJURIES AND IMPAIRMENTS

8. As a result of the negligence of the Defendant, Shuninthan Baheerathan, Bradly Anton Vimalathas, Antonette Marianayagam, Antonis Sabaratnam, Krishan Aloysiouss and Anne Aloysius have sustained serious and permanent impairment of important physical, mental and psychological functions, including spraining, straining and tearing of muscles, tendons, ligaments and nerves throughout their bodies. These injuries have been 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.

9. The Plaintiffs have undergone and will be required to undergo medical therapy, drug and other treatment. They have sustained and will continue to sustain pain and suffering, loss of enjoyment of life and loss of amenities.

10. The Plaintiffs are unable to perform household and handyman chores for themselves to the extent that they were able to before this incident and have

suffered a loss of housekeeping and handyman capacity and will require assistance in the future to complete such tasks.

11. The Plaintiffs have 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.

12. As a further result of the negligence of the Defendant, the Plaintiffs will continue to suffer monetarily and therefore claim special damages, the full particulars of which the Plaintiffs will undertake to provide to the Defendants prior to the trial of this action.

STATUTES

13. The Plaintiffs plead and rely upon the Highway Traffic Act, R.S.O. 1990 c.H8, the Negligence Act, R.S.O. 1990 c.N1, and the Insurance Act, R.S.O. 1990 c.I8.

14. The Plaintiffs propose that this action be tried in the City of Toronto.

JUL 24 2017

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

Dana B. Hanson
LSUC 29515O
Tel: (416) 588-9100
Fax: (416) 588-9102

Lawyers for the Plaintiffs

Court File No.: CV-17-579524

Vimalathas et al
Plaintiffs

- and -

Baheerathan et al
Defendants

ONTARIO
SUPERIOR COURT OF JUSTICE

Proceeding Commenced at:
Toronto

STATEMENT OF CLAIM

HANSON DUBY LAWYERS
2 Clinton Place
Toronto, ON
MM6G 1J9

Dana Bruce Hanson
LSUC No.: 29515O
Tel: 416 588-9100
Fax: 416 588-9102

Lawyers for the Plaintiffs

Our File Nos.: 15-287, 15-288,
15-289, 15-290, 15-291

TAB D

THIS IS EXHIBIT **“D”** OF THE AFFIDAVIT OF **NITAL S. GOSAI**, SWORN ON THE **6th DAY OF OCTOBER 2022.**

____

A Commissioner, Etc.

FULL AND FINAL RELEASE

IN CONSIDERATION of the payment, or promise of payment, by Aviva Canada Inc. (including Aviva Insurance Company of Canada, Pilot Insurance Company, Elite Insurance Company, Traders General Insurance Company & Scottish & York Insurance Co. Limited),
of the sum of SIXTEEN THOUSAND Dollars ($16, 000)

I, Bradley Vimalathas

HEREBY RELEASE AND FOREVER DISCHARGE

Aviva Canada Inc. (including Aviva Insurance Company of Canada, Pilot Insurance Company, Elite Insurance Company, Traders General Insurance Company & Scottish & York Insurance Co. Limited),

its administrators, officers, directors, assigns, successors, affiliated companies, employees, solicitors, agents and servants from any and all acts, actions, causes of action, suits, proceedings, mediations, arbitrations, claims and demands whatsoever, which I had, now have, or may hereafter have against Aviva Canada Inc. (including Aviva Insurance Company of Canada, Pilot Insurance Company, Elite Insurance Company, Traders General Insurance Company & Scottish & York Insurance Co. Limited) for all Statutory Accident Benefits including PAST PRESENT AND FUTURE CLAIMS AND BENEFITS under the *Statutory Accident Benefits Schedule* available under policy number A40163974PLA, claim number 33533045 arising out of the motor vehicle accident which occurred on or about AUGUST 15, 2015, including all claims which are the subject of **LAT Tribunal File Number** 20-015215/AABS and all outstanding costs and expenses and approved (whether incurred or not incurred) costs arising out of treatment plans and/or assessments or denied costs arising out of treatment plans and/or assessments, claims for special awards, aggravated, exemplary or punitive damages, and claims for damages for mental distress.

IT IS UNDERSTOOD and agreed that the payment of the said sum is not, and shall not be construed as, an admission by Aviva Canada Inc. (including Aviva Insurance Company of Canada, Pilot Insurance Company, Elite Insurance Company, Traders General Insurance Company & Scottish & York Insurance Co. Limited) of any liability for the payment of, or entitlement to, any *Statutory Accident Benefits* whatsoever.

AND FURTHER, in consideration of the payment of the said sum, I do hereby covenant and agree to indemnify and save harmless the said Aviva Canada Inc. (including Aviva Insurance Company of Canada, Pilot Insurance Company, Elite Insurance Company, Traders General Insurance Company & Scottish & York Insurance Co. Limited) its administrators, assigns, successors, affiliated companies, employees, solicitors, agents and servants from any and all acts, actions, causes of action, damages, claims and demands which may hereafter be brought against them with respect to any claims with respect to the above stated accident.

AND I DECLARE that the settlement is in accordance with Ont. Reg. 664 (section 9.1 and 9.2) attached and that the terms of the settlement are fully understood, and that the amounts stated in this Release are the sole consideration for this Release and such amounts are accepted voluntarily as full and final settlement of all possible claims and rights for statutory accident benefits payable pursuant to the SABS, which I may have as a consequence of the motor vehicle accident which occurred on or about **August 15, 2015**

THE UNDERSIGNED as a further consideration for this compromise in settlement agrees, represents and warrants:

1. That the above-mentioned sum is the entire and only consideration for this release and that the said amount includes all claims, interest, costs and H.S.T.

2. That all Licence Appeal Tribunal proceedings, actions, and arbitrations, pertaining to those benefits available under the *Statutory Accident Benefits Schedule* in all jurisdictions by or on behalf of the undersigned, against Aviva Canada Inc. (including Aviva Insurance Company of Canada, Pilot Insurance Company, Elite Insurance Company, Traders General Insurance Company & Scottish & York Insurance Co. Limited), its administrators, assigns, successors, affiliated companies, employees, solicitors, agents and servants be dismissed and all documents necessary to effect the dismissal with prejudice of those actions and arbitrations will be executed by the undersigned or her authorized agent(s).

3. That Aviva Canada Inc. (including Aviva Insurance Company of Canada, Pilot Insurance Company, Elite Insurance Company, Traders General Insurance Company & Scottish & York Insurance Co. Limited) has provided the Settlement Disclosure Notice with respect to the motor vehicle accident of (MVA date) as required by *Section 9.1 of Regulation 664, Revised Regulations of Ontario, 1990,* which has been read and fully understood. The Settlement Disclosure Notice has been signed and returned to the insurer as part of this release.

4. That the said consideration is directed by the undersigned to be paid as follows:

To: "Brad Duby Professional Corp. In Trust"

I HAVE READ OVER the above and confirm that the terms of this release are fully understood, that the amount stated above is accepted voluntarily in *FULL AND FINAL RELEASE* of all claims for benefits available to me under the *Statutory Accident Benefits Schedule.*

IN WITNESS WHEREOF I have hereto set my hand and seal this 11 day of JANUARY, 2021.

NAME **WITNESS**

SETTLEMENT DISCLOSURE NOTICE

Final Settlement of a Statutory Accident Benefits Claim

(For accidents on or after November 1, 1996)

Notice and Caution

Your insurer is required to give you this **Settlement Disclosure Notice** if you have both agreed on a cash settlement that will permanently end your entitlement to one or more accident benefits. This **Settlement Disclosure Notice** must be completed and signed by your insurer. Your insurer will probably also give you a Release to sign.

- You cannot enter into a cash settlement within a year from the date of the accident, with some exceptions.*
- You should consider seeking independent legal, financial, and medical advice before you enter into the settlement.
- For a settlement to be binding, you must sign **both** this settlement disclosure notice and a release. If you sign this settlement disclosure notice and a release, you will be giving up rights you may have now or in future, even if your condition changes.
- If you choose not to sign, your benefits will not be affected or reduced.
- If you do sign this settlement disclosure notice and a release, either on the same day or different days, **you have 2 business days from the day of the last document you signed** (either this settlement disclosure notice or a release) **to change your mind and rescind the settlement**. To do so you must deliver a written notice to the office of the insurer or its representative and return any money you received as consideration for the settlement.
- You have the right to seek any medical information relating to your claim in your insurer's file and to obtain a copy at the insurer's expense. If you want to see this information ask your insurer for a copy.

Read this entire document carefully

*For disputes commenced and not completed on or before March 31, 2016 you may enter into a cash settlement within a year from the date of the accident if within the same period you brought a lawsuit and commenced discovery; or you referred the dispute to an arbitrator at the Financial Services Commission of Ontario (FSCO) and completed a pre-hearing conference; or you and your insurer agreed to a private arbitration and entered into an arbitration agreement.

Effective April 1, 2016, an individual who wishes to dispute a denial by an insurance company for statutory accident benefits must proceed through the Ministry of the Attorney General's Licence Appeal Tribunal (LAT) and not the FSCO. You may enter into a cash settlement: 1) on or after the first anniversary date of the accident; or 2) if you have applied to the LAT, on or after the date a case conference was held.

Insurer's Offer to Settle Benefits

Offer to settle income replacement benefits

You have been offered $ 0.00 for all past and future income replacement benefits.

Offer to settle non-earner benefits

You have been offered $ 0.00 for all past and future non-earner benefits.

Offer to settle caregiver benefits

You have been offered $ 0.00 for all past and future caregiver benefits.

Offer to settle medical benefits

You have been offered $ 16,000.00 for all past and future medical benefits.

Offer to settle rehabilitation benefits

You have been offered $ 0.00 for all past and future rehabilitation benefits.

Offer to settle attendant care benefits

You have been offered $ 0.00 for all past and future attendant care benefits.

Offer to settle death and funeral benefits

You have been offered $ 0.00 for all past and future death benefits and funeral benefits.

Offer to settle benefits for payment of other expenses (specify)

____

You have been offered $ 0.00 for all past and future benefits for other expenses.

Offer to settle any other items (specify)

____

You have been offered $ 0.00 for other items.

Total Offer $ 16,000.00

Provide any other details:

full and final release of all past, present and future claims arising from MVA of August 15, 2015.

☑ **This offer includes all expenses incurred for goods and services as previously approved.**

☐ **This offer does not include all expenses incurred for goods and services as previously approved.**

Effective (2016-04-01) © Queen's Printer for Ontario, 2016
FSCO (1222E.3)

What does it mean if you settle your claim?

There are a number of consequences of this settlement if you sign this Settlement Disclosure Notice and a Release.

- You are finally and permanently settling your claim for the benefits specified. You are forever giving up the right to claim such benefits in the future, even if your medical problems get worse.
- You are permanently giving up your right under the Insurance Act to dispute, litigate, appeal, apply to vary, or to proceed to judicial review by a court, concerning the benefits which are the subject of the settlement.
- The tax implications of the settlement may be different than the tax implications of the benefits described. In general, any investment income earned on the cash amount of the settlement may be subject to tax.

Example

If you are entitled to receive weekly income benefits, and agree to settle your claim for $20,000.00 which you then invest, any interest income you receive will likely be taxable. If you choose to receive weekly income benefits instead of a settlement, your weekly benefits will probably not be taxable.

You are advised to consider seeking independent legal, financial and medical advice before entering into any settlement. It is especially important to seek advice if your impairment is "catastrophic".*

***What is a "catastrophic impairment"?**

The exact definition of "catastrophic impairment" depends on the date of your accident.

The definition of "catastrophic impairment" is one that results in but may not be limited to: paraplegia, quadriplegia or tetraplegia, certain amputation or other impairments causing total and permanent loss of use of one or more arm(s) or leg(s), loss of vision in both eyes, certain brain injuries, significant or extreme mental and behavioural disorders, or certain other combinations of impairments that result in 55% or more impairment of the whole person. A determination must be made by medical experts.

If you feel your injuries may be catastrophic, you should contact your medical and legal advisors. **If your impairment is catastrophic, the amount of benefits available to you changes significantly (see "Description of Benefits").**

Description of Benefits

☐ This policy includes optional benefits. For further details, please speak with your agent/broker.

The details of the benefits and your rights and responsibilities are in the Statutory Accident Benefits Schedule of the Insurance Act (Ontario).Your insurer is obligated to give you information about the benefits available. The benefit limits under your policy are those in effect at the time of the accident.

The benefits provided under the Statutory Accident Benefits Schedule are complex and extensive. A short description of these benefits is provided below.

Income Replacement Benefit
This benefit compensates for lost income if you are unable to perform the essential tasks of the job you did before the accident. For accidents that occur before September 1, 2010, the benefit is 80% of your net income before the accident. If you were self-employed, 80% of your weekly loss from self-employment that you incur as a result of the accident will also be added.

For accidents on or after September 1, 2010, the benefit is 70% of your gross income before the accident. If you were self-employed, 70% of your weekly loss from self-employment that you incur as a result of the accident may also be added.

The maximum benefit is $400 per week. If you have purchased optional income replacement benefits this amount will be increased.

Non-Earner Benefit
For policies issued on or after November 1, 1996 to May 31, 2016 and in effect at the time of the accident, this benefit compensates you if you suffered a complete inability to carry on a normal life, and do not qualify for an income replacement benefit or have not elected a caregiver benefit. The benefit is $185 per week, but may be $320 per week if you were a student or recent graduate, less the total of all other income replacement assistance, if any, for the same week. The benefit begins 26 weeks after you suffer a complete inability to carry on a normal life. This benefit is available if you are 16 years of age or older.

For policies issued on or after June 1, 2016, this benefit compensates you if you suffered a complete inability to carry on a normal life, and do not qualify for an income replacement benefit or have not elected a caregiver benefit. The benefit is not payable for the first four weeks after the onset of the disability and for more than 104 weeks following an accident. The benefit is $185 per week less the total of all other income replacement assistance, if any, for the same week. This benefit is not payable to you if you are under 18 years of age.

Caregiver Benefit,
This benefit compensates you for expenses incurred if you cannot continue as the main caregiver for a person in your household such as child under age 16 or other person who needs care. The benefit pays expenses up to $250 per week, but if you provide care for more than one person, the limit is increased by $50 for each additional person. The benefit is payable if as a result of and within 104 weeks after the accident, you suffer a substantial inability to engage in the caregiving activities in which you engaged in at the time of the accident even if the impairment sustained is not a catastrophic impairment. After 104 weeks of disability, to qualify for the caregiver benefit, you must suffer a complete inability to carry on a normal life. If your accident occurred on or after September 1, 2010, this benefit is available only if you have suffered catastrophic injuries as a result of your accident and cannot continue as the main caregiver for a member of the household who is in need of care or if you have purchased the optional caregiver benefit.

Description of Benefits (continued)

Medical, Rehabilitation and Attendant Care Benefit

For accidents that occur before September 1, 2010, the maximum amount paid for medical and rehabilitation expenses combined is $100,000, with a 10 year time limit, and $72,000 for attendant care expenses with a two year time limit. If your impairment is catastrophic, the maximum amount is $1,000,000 for medical and rehabilitation expenses, and $1,000,000 for attendant care expenses, with no time limits.

For policies issued on or after September 1, 2010 to May 31, 2016 and in effect at the time of the accident, the maximum amount paid for medical and rehabilitation expenses combined for non-catastrophic claims is $50,000, with a 10 year time limit, and $36,000 for attendant care expenses with a two year time limit. If your impairment is catastrophic, the maximum amount is $1,000,000 for medical, rehabilitation expenses and $1,000,000 for attendant care expenses, with no time limits. If you have purchased optional benefits these amounts may be increased.

For policies issued on or after June 1, 2016, the standard benefit pays up to $65,000 for medical, rehabilitation and attendant care expenses, combined with a five year time limit in most cases. If catastrophically impaired, the standard benefit pays up to $1,000,000 for medical, rehabilitation and attendant care expenses. Your medical, rehabilitation and attendant care limits are increased if you have purchased the optional coverage of $130,000 or $1,000,000, In addition, if the optional catastrophic impairment benefit is also purchased an additional $1 million is available.

These are expenses that are not covered by any other medical plan.

Case Manager Services

This benefit compensates for expenses for services provided by a case manager in catastrophic injury claims or, for accidents that occurred on or after October 1, 2003, if you have purchased the optional medical, rehabilitation and attendant care benefit.

Payment of Other Expenses

If you or other insured persons have been injured, this benefit may pay for some other expenses such as the cost of visiting an insured person during treatment or recovery, the repair or replacement of some items lost or damaged in the accident and some lost educational expenses. It may also pay for some housekeeping and home maintenance if the insured person sustains a catastrophic impairment.

Death Benefit

This benefit pays family members of a person killed in an automobile accident. $25,000 is paid to a surviving spouse, $10,000 to each surviving dependant, and a total of $10,000 to a person in respect of whom the deceased was a dependant. If you have purchased optional benefits this amount may be increased.

Funeral Benefit

This benefit pays up to $6,000 to cover funeral expenses. If you have purchased optional benefits this amount may be increased.

Description of Benefits (continued)

Optional Benefits

Optional benefits increase the amount of standard benefits or provide benefits that may not otherwise be payable. They must be purchased before the accident. For accidents that occur before September 1, 2010, the optional benefits are: increased income replacement; increased caregiver and dependant care benefits; increased medical, rehabilitation and attendant care benefit; increased death and funeral benefits, and an indexation benefit.

For policies issued on or after September 1, 2010 to May 31, 2016 and in effect at the time of the accident, the optional benefits are: increased income replacement; caregiver, housekeeping and home maintenance benefits for non-catastrophic claims; increased medical, rehabilitation and attendant care benefit; increased death and funeral benefits, a dependant care benefit and an indexation benefit.

For policies issued on or after June 1, 2016, the optional benefits are: increased income replacement; medical, rehabilitation and attendant care; optional catastrophic impairment; caregiver, housekeeping and home maintenance benefits for non-catastrophic claims; increased death and funeral benefits; a dependant care benefit and an indexation benefit.

For more information on your benefits or coverages call your insurance representative.

Insurer's Disclosure and Acknowledgment

Name of Insurer:
Scottish & York Insurance Co. Limited

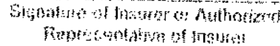
Policy Number:
A40163974PLA

Claim Number:
33533045

Date of Loss:
August 15, 2015

The insurer acknowledges that it has made available for review by the insured person or the insured person's representative all medical reports, medical records and other information of a medical nature in the insurer's file relating to the insured person.

I certify the information provided in this Settlement Disclosure Notice is complete and correct.



Signature of Insurer or Authorized Representative of Insurer — January 11, 2021 (Date)

Paul Belanger — Representative of Insurer (print name) — (416) 762-8238 (Telephone number)

Lori DeAcetis — Name of Insurer's Complaint Officer* — (416) 307-4891 (Telephone number)

* If you have a complaint about your claim, you may contact your insurer's Complaint officer who will review and attempt to resolve it with you.

If you change your mind and want to rescind this settlement

Read carefully

This agreement to settle is only binding if you have signed this settlement disclosure notice and a release either on the same day or different days. If, after both documents have been signed and you change your mind and want to rescind this settlement you must:

Deliver a notice in writing to the office of the insurer or its representative and return any money you received as consideration for the settlement within 2 business days from the day of the last document you signed (either this settlement disclosure notice or the release).

For Example:

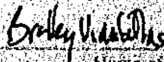
If you signed this settlement disclosure notice and a release at the same time or on the same day, you have 2 business days from that day to deliver a notice in writing to the office of the insurer or its representative and return any money you received as consideration for the settlement.

If you signed a release first and later signed this settlement disclosure notice, you have 2 business days from the day that you signed this settlement disclosure notice to deliver a notice in writing to the office of the insurer or its representative and return any money you received as consideration for the settlement.

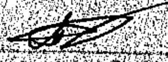
If you signed this settlement disclosure notice first and later signed a release, you have 2 business days from the day that you signed the release to deliver a notice in writing to the office of the insurer or its representative and return any money you received as consideration for the settlement.

Insured's Acknowledgment

I acknowledge that I have received and read the above Settlement Disclosure Notice provided to me by an insurer, and have considered whether or not to obtain independent legal, financial and medical advice.



Name of Insured (Print)



Signature of Insured

JAN 11/21 — Date

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

THE TORONTO DOMINION BANK et al -and- BRAD DUBY PROFESSIONAL CORPORATION et al
Applicant Respondent

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

AFFIDAVIT OF NITAL GOSAI

GOSAI LAW
PROFESSIONAL CORPORATION
8770 The Gore Road, Suite 2
Brampton, ON L6P 0B1

Nancy Sarmento Barkhordari, 77903B
Email: nsarmento@gosailaw.com
Tel: (905) 595-2225
Fax: (905) 595-2226

New Counsel

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

THE TORONTO DOMINION BANK et al -and- BRAD DUBY PROFESSIONAL CORPORATION et al
Applicant Respondent

SUPERIOR COURT OF JUSTICE

PROCEEDING COMMENCED AT TORONTO

RESPONDING MOTION RECORD OF GOSAI LAW PROFESSIONAL CORPORATION

GOSAI LAW PROFESSIONAL CORPORATION
8770 The Gore Road, Suite 2
Brampton, ON L6P 0B1

Nancy Sarmento Barkhordari, 77903B
Email: nsarmento@gosailaw.com
Tel: (905) 595-2225
Fax: (905) 595-2226

New Counsel