

NO.
VICTORIA REGISTRY

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

CARL BERUBE

PLAINTIFF,

AND:

JASMIN HAWASS

DEFENDANT.

NOTICE OF CIVIL CLAIM

Name and Address of each Plaintiff

CARL BERUBE

#309 - 1031 Hillside Avenue
Victoria, BC V8T 2A4

Name and Address of each Defendant

JASMIN HAWASS

1279 St. Patrick St.
Victoria, BC V8S 4Y3

This action has been started by the plaintiff for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must:

- (a) file a Response to Civil Claim in Form 2 in the above-named Registry of this Court within the time for Response to Civil Claim described below; and
- (b) serve a copy of the filed Response to Civil Claim on the plaintiff.

If you intend to make a Counterclaim, you or your lawyer must:

- (a) file a Response to Civil Claim in Form 2 and a Counterclaim in Form 3 in the above-named Registry of this Court within the time for Response to Civil Claim described below; and
- (b) serve a copy of the filed Response to Civil Claim and Counterclaim on the plaintiff and on any new parties named in the Counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the Response to Civil Claim within the time for Response to Civil Claim described as follows:

Time for Response to Civil Claim

A Response to Civil Claim must be filed and served on the plaintiff:

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed Notice of Civil Claim was served on you;
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed Notice of Civil Claim was served on you;
- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed Notice of Civil Claim was served on you; or
- (d) if the time for Response to Civil Claim has been set by Order of the Court, within that time.

CLAIM OF THE PLAINTIFF

PART 1: STATEMENT OF FACTS

The Parties

- 1. The plaintiff CARL BERUBE ("the Plaintiff") whose occupation is Heavy Duty Mechanic, resides at #309 - 1031 Hillside Avenue, in the City of Victoria, in the Province of British Columbia V8T 2A4.
- 2. The defendant JASMIN HAWASS ("the Defendant"), whose occupation is Palliative Care Nurse, resides at 1279 St. Patrick Street, in the City of Victoria, in the Province of British Columbia V8S 4Y3.

The Incident

- 3. On the 3rd day of February, 20--, the Plaintiff was the driver of a 2007 Dodge Grand Caravan motor vehicle bearing British Columbia licence plate JBE 309, in the City of Victoria, in the Province of British Columbia, which motor vehicle was struck by a 2010 Chevrolet Silverado motor vehicle bearing British Columbia licence plate 853 VUT owned and operated by the Defendant JASMIN HAWASS.
- 4. The collision occurred when the vehicle owned by the Defendant JASMIN HAWASS, which was travelling in a easterly direction on Mt. Wells Drive at the intersection of Humpback Drive, in the City of Victoria, in the Province of British Columbia, was so negligently operated and controlled by the Defendant JASMIN HAWASS, that it collided in the driver's side of the Plaintiff's motor vehicle which had been travelling in a northerly direction on Humpback Drive, in the City of Victoria, in the Province of British Columbia.
- 5. The particulars of what the Defendant JASMIN HAWASS did in the circumstances described herein, to cause the collision to occur, are as follows:
 - a) failing to keep a proper or any lookout;
 - b) failing to stop at the stop sign;
 - c) driving without due care and attention;
 - d) failing to take reasonable and proper steps to avoid a collision in the circumstances;

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- e) failing to drive the motor vehicle in a careful and prudent manner having regard to all the circumstances, including the rate of speed, the weight and size of the vehicle, the nature, condition and use of the highway, the condition of visibility existing at the time, and traffic that was actually on the highway, or that might reasonably be expected to be thereon at the time, and so as not to endanger life or limb or the safety of property;
 - f) driving at an excessive or improper rate of speed;
 - g) operating a motor vehicle on the street without any or any effective brakes or, alternatively, in failing to apply the brakes in time to avoid a collision;
 - h) driving a motor vehicle on the highway when her ability to drive was impaired by alcohol, drugs, and fatigue, or any one or more of alcohol, drugs, and fatigue;
 - i) failing to keep her vehicle under proper control;
 - j) failing to reduce the speed of the motor vehicle reasonably or in time to avoid the collision or, in the alternative, failing to stop the motor vehicle reasonably or in time to avoid the collision;
 - k) operating her vehicle at an excessive rate of speed, contrary to s.146 and/or 148 of the *Motor Vehicle Act*, R.S.B.C. 1996, c.318 and amendments thereto or, in the alternative, at a rate of speed which was excessive under the circumstances;
 - l) operating her vehicle without due care and attention, contrary to s.144 of the *Motor Vehicle Act*, R.S.B.C. 1996, c.318 or, in the alternative, without due care and attention as the circumstances required;
 - m) failing to keep the vehicle under proper or any control;
 - n) failing to stop, or in the alternative, reasonably slow the vehicle when the Defendant knew or ought to have known that an accident was impending;
 - o) failing to operate the vehicle in a safe and prudent manner having regard for the safety of other persons and their property.
6. As a result of the said collision, the Plaintiff sustained personal injuries and suffered property damage.

The Plaintiff's Injuries

7. As a result of the negligence of the Defendant JASMIN HAWASS as aforesaid and the ensuing collision, the Plaintiff sustained the following injuries:
- a) Broken left wrist, arm, and shoulder;
 - b) Broken pelvis;
 - c) Injury to his lower back.

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8. Particulars of the ongoing disability suffered by the Plaintiff are that he continues to suffer pain and suffering and continues to suffer loss of mobility. His prognosis as to pain and loss of mobility in the future remains uncertain.

Causation and Damages

9. The injuries sustained by the Plaintiff have caused and continue to cause the Plaintiff pain, suffering, loss of enjoyment of life, and permanent physical disability.
10. As a result of his injuries, the Plaintiff has sustained and, alternatively, continues to sustain loss of earnings, the particulars of such income loss to be provided.
11. As a result of his injuries, the Plaintiff has sustained loss of earnings capacity in that he is, by virtue of his physical disability, precluded from working at his present employment to full capacity and is precluded from working in certain types of physically demanding jobs.
12. As a result of his injuries, the Plaintiff has incurred and continues to incur special damages and loss and expense for medical treatment. The Plaintiff continues to undergo such medical care and treatment and to sustain loss and expense thereby, particulars of which will be provided.
13. In summary, the Plaintiff has suffered the following loss and damages:
 - a) General Damages for:
 - i) Loss of the amenities of life;
 - ii) Loss of mobility; and
 - iii) Pain and discomfort.
 - b) Special damages for:
 - i) Cost of transportation to and from medical treatments;
 - ii) Cost of medication and rehabilitation expenses;
 - iii) Further particulars of special damages to be determined.

PART 2: RELIEF SOUGHT

1. The Plaintiff claims against the Defendants for:
 - a) General damages;
 - b) Special damages;
 - c) Interest pursuant to the *Court Order Interest Act*, R.S.B.C. 1996, c.79;
 - d) Costs of this action; and

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e) Such further and other relief as to this Honorable Court may deem just and meet.

PART 3: LEGAL BASES

Negligence

1. The collision herein described was caused as a result of the negligence of the Defendant JASMIN HAWASS, particulars of which are as follows;
 - a) failing to keep a proper or any lookout;

W o r d i n g n o t s h o w n

Damages

2. All of the aforesaid injuries have caused and continue to cause the Plaintiff pain and suffering, discomfort, inconvenience, loss of amenities, loss of abilities to perform housekeeping and maintenance duties, and interference with recreation and loss or impairment of capacity to enjoy life.
3. Further, as a result of the Plaintiff's motor vehicle collision, the Plaintiff has sustained special damages, loss, and expense and will continue to undergo medical and rehabilitative care and treatment and to sustain loss and damages thereby, particulars of which will be delivered as requested and available.
4. As a result of the negligence of the Defendant JASMIN HAWASS, the Plaintiff has suffered loss and damage as described in paragraphs 9 through 15 in Part 1 of this Notice of Civil Claim.
5. The Plaintiff is entitled to be restored to the condition of health and well-being that he enjoyed prior to the subject collision and is, therefore, entitled to damages commensurate with the losses he has suffered/suffers until such time as that event occurs, and, in the event it does not occur, for damages commensurate with permanent loss.