

JBA/GLC/NMLS SEMINAR  
PERSONAL INJURY-LITIGATION -  
PREPARATION OF CASE & PRESENTATION

1. OFFICE SYSTEMS:

(1) File:

- (a) Separate colour tags for party/party correspondence solicitor/client.
- (b) Separate colour for each calendar year of accident.
- (c) Separate vol. for court documents.
- (d) External symbols to indicate stages of progress.

(2) Retainer:

- (a) Authority to act.
- (b) Consent to utilize services of another attorney as advocate/counsel or as instructing attorney.
- (c) Fee structure - deposit - estimates.

(3) Contingency Fee Agreement:

- (a) Specific agreement as to trial, appeals, cash advances.

(4) Diary: (Note dates and time periods)

- (a) End of limitation period.
- (b) End of period to serve writ.
- (c) Periods limited for pleadings.

(5) Initial Questionnaire/check list.  
See Appendix 1.

(6) Letters to Insurers. See Motor Vehicle Insurance (Third-Party Risks) Act, S.18 (2) (b) notice of intended action may be given. See Appendix 2.

2. INVESTIGATION OF CLAIMS:

- (1) Letters requesting Police Accident Report, or in case of factory accidents Factory Inspector's Report.  
See Appendix 3.
- (2) Letters to witnesses to arrange interview.
- (3) Visit to Locus in Quo.
- (4) Pre-action inspection of documents and location.
- (5) Request for medical reports.

PLEADINGS: contd.

- (4) Endeavour to obtain all relevant facts which must be pleaded in the Statement of Claim with full particulars when required. Plead medical complaints fully. See Appendix 4.
- (5) Use short numbered paragraphs and for figures use numbers not words.
- (6) Defence - denial and assertion of material facts

4. INTERLOCUTORY PROCEEDINGS:

- (1) Ensure a full and complete knowledge of the Civil Procedure Code in an effort to ascertain the relevant applications to be made.
- (2) Arrange for Consent Orders, if possible.
- (3) Decide on number of Experts you require.
- (4) Obtain Orders to inspect documents or visit locus. See Appendix 5
- (5) File the relevant Summons for Directions.

5. DISCOVERY AND ADMISSIONS:

- (1) Know the Client's case in order that you can discern what information is required from the Defendant which is in his knowledge, possession and custody.
- (2) Prepare Notice to administer structured interrogatories.
- (3) Prepare Notice for Production and Inspection of Documents.
- (4) Prepare Notice for Admission of Facts.

6. PREPARING FOR TRIAL:

- (1) Check whether Orders on Summons for Directions or other interlocutory orders complied with and ensure that you have.
- (2) If your opponent has not, issue warning and, if failure continues, take out Summons to strike out his pleadings or action as the case may be.
- (3) If Counsel's advice on evidence and procedure has been taken, ensure that advice has been followed.
- (4) File Certificate of Readiness.
- (5) Bring special damage claims, medical reports, etc. up to date.
- (6) Prepare and deliver brief to Counsel and advise of period in which case may come on.
- (7) Notify client, witnesses, expert of period in which case may come on and seek confirmation of availability.

PREPARING FOR TRIAL: contd.

- (11) Obtain agreement on medical reports, plans, photographs and prepare agreed bundle of documents.
- (12) File Judge's Bundle, preferably by the Wednesday before the week of trial.

7.

CONDUCTING THE TRIAL:

- (1) Ensure that the client and required witnesses are at Court early and give experts estimated time when they will be needed.
- (2) Warnings to witnesses, short answers, gratuitous comments, "Because", Courtesies, Mannerisms.
- (3) Adduce evidence with regard to witnesses' educational background and intelligence: appropriate language; understood references and terms, measurement, speeds and estimates.
- (4) Short Questions - Relevant - Sequential.
- (5) Avoid hasty settlements at door of Court. Remember costs already incurred and client's suspicions - Have full consultation. Be careful if Plaintiff is an infant.
- (6) Take full notes of Evidence and of Judgment.
- (7) Draw up Judgment.



APPENDIX 2

LETTER TO INSURERS

Messrs. All-Cover Insurance Co. Ltd.  
5 Queen Boulevard  
KINGSTON 5

Dear Sirs,

RE: YOUR INSURED - MINIBUS INTIMIDATORS LIMITED

APPENDIX I

ROAD ACCIDENT QUESTIONNAIRE

1. NAME:
2. ADDRESS:
3. MARITAL STATUS:
4. DATE OF BIRTH:
5. AGE: (NEXT FRIEND IF INFANT)
6. OCCUPATION:
7. GROSS EARNINGS PW:
8. NET EARNINGS PW:
9. EMPLOYER'S ADDRESS:
10. EMPLOYER'S ADDRESS:
11. DATE AND TIME OF ACCIDENT:
12. PLACE OF ACCIDENT:
13. INJURIES RECEIVED:
14. RETURNED TO WORK?
15. NAME AND ADDRESS OF GENERAL PRACTITIONER:
16. HOSPITAL WHERE TREATED (AND HOSPITAL RECORDS NO.):
17. PREVIOUS ACCIDENTS AND INJURIES:
18. NAMES AND ADDRESSES OF WITNESSES:

APPENDIX 3

LETTER TO POLICE DEPARTMENT

Superintendent of Police  
Area 1 Headquarters  
Orange Street  
Montego Bay  
ST. JAMES

Dear Sirs,

RE: ROAD ACCIDENT ON DECEMBER 26, 1992 AT BARNETT STREET

I act on behalf of Mr. James Anderson of Bramble, Saint Elizabeth in connexion with an accident which occurred between motor vehicle AB 9988 owned and driven by him, and motor truck CC 6655 owned and driven by Mr. George McFayden of Lucea, Hanover on the above-mentioned date and at the above-mentioned place.

I enclose a remittance of Six Hundred Dollars (\$600.00) and should be obliged if you would forward me a copy of the police accident report and statement. I understand that the officer who investigated the matter is Sgt. Godfrey Smith.

If proceedings are pending, kindly let me know the name of the accused, the charge and Court at which the matter will be heard.

Yours faithfully,

ALFRED ALERT  
ATTORNEY-AT-LAW

Encl.

APPENDIX 4

STATEMENT OF CLAIM

SUIT NO. C. L. S 380 of 1984

COPY RECEIVED  
 DIRECTOR OF CROWN PROCEEDINGS  
 PER M. Murphy  
 TIME 1:00 DATE 19/2/8

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA  
IN COMMON LAW

BETWEEN	ANDRE SHIRLEY (By His Next Friend ANDRAL SHIRLEY)	FIRST PLAINTIFF
A N D	PIERRE SHIRLEY (By His Next Friend ANDRAL SHIRLEY)	SECOND PLAINTIFF
A N D	THE ATTORNEY GENERAL OF JAMAICA	FIRST DEFENDANT
A N D	GILBERT McINTOSH	SECOND DEFENDANT

1. The First and Second Plaintiffs are minors aged six (6) years and four (4) years respectively and sue by their next friend and father, Mr. Andral Shirley.

2. At all material times the First and Second Plaintiffs were lawful passengers in Honda Accord motor vehicle bearing licence FU 1373 owned by Lesdon Leasing and Finance Company Limited which was being lawfully driven at the material time by the said Mr. Andral Shirley.

3. The First Defendant is the Attorney General of Jamaica and as such is the representative of the Crown and/or the Government of Jamaica and/or the Director of Survey by virtue of the provision of the Crown Proceedings Act.

4. At all material times, the Land Rover motor vehicle lettered and numbered ND 9503 was owned by the Crown and/or the Government of Jamaica and was under the care, control, supervision and responsibility of the Director of Survey and the

of the Ferry Police Station when the Second Defendant the servant and/or agent of the First Defendant so negligently drove, managed and/or controlled Land Rover motor vehicle licensed ND 9503 owned by the First Defendant that it collided with the said Honda Accord whereby the First and Second Plaintiffs have suffered severe injury, loss and damage and incurred expense.

PARTICULARS OF NEGLIGENCE OF THE  
SECOND DEFENDANT

- (a) Entering and crossing both east bound lanes of the Spanish Town highway using a break in the centre island between the east and west bound lanes, not deisgnated for changing directions from one side of the dual carriage-way to the other, at a time when it was manifestly unsafe to do so and without regard for east bound traffic properly travelling on the Spanish Town Highway.
- (b) Driving at a speed that was excessive in the circumstances.
- (c) Failing to give any or any proper warning of his approach or his intention to drive on the said eastbound highway.
- (d) Failing to keep any or any proper look out or to observe or heed the presence or approach of



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(g) Failing to apply his brakes in time or at all or so to steer or control his vehicle as to avoid the said collision with the Honda motor car travelling in the slower east bound lane of the Spanish Town highway.

5. The aforesaid collision was caused solely by the negligence of the Second Defendant as servant and/or agent of the First Defendant.

PARTICULARS OF INJURIES TO FIRST  
PLAINTIFF

1. The Plaintiff's left upper arm was swollen and tender to palpation. Active movement of the shoulder and elbow was not possible due to pain.
2. Fracture to left humerus at the level of the mid-shaft.
3. Total disablement in the use of the left arm from time of the accident on the 9th day of December, 1983 until the 6th January, 1984.

PARTICULARS OF INJURIES TO SECOND  
PLAINTIFF

Assesment December 10th, 1983

1. Forehead, central face and lip-chin area markedly swollen showing multiple superficial and deep lacerations mixed with abrasions.

Assesment March 4th, 1984

2. Forehead and Eyebrow:



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irregularly through the (L) eyebrow separating it into three segments and hiking the remnants of eyebrow hair.

3. Face and Nose :

- (i) 1.5 cm. transverse scar in the (L) infraorbital (below the (L) eye) region. There are multiple healed superficial hypopigmented abrasions on the (R) ala (wing of nose).
- (ii) 2 cm. oblique hypertrophic scar of the (R) upper lip coursing along the (R) philtral column; cleaving the rolled border of the lip; encroaching on the 'lipstick' area on the (R) and tethering the (R) oval angle - (especially marked on opening the mouth).
- (iii) Multiple punctate scars scattered over the (L) cheek.

4. Upper Limbs:

- (i) superficial scratches over the extensor aspect of the (L) forearm and the dorsum of the (L) hand.

5. Lower Limbs :

- (i) superficial abrasions over the (L) knee.
- (ii) the right knee shows a 5 cm. and a 2 cm.

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PARTICULARS OF SPECIAL DAMAGE OF FIRST PLAINTIFF

Office visits - Dr. G. S. Dundas Orthopaedic Associates- six (6) visits @ \$40.00 per visit	\$ 240.00
Medical Report - University Hospital of the West Indies	50.00
Anaesthetic Services	300.00
Drugs	95.00
Damage to clothing	<u>150.00</u>
	\$ 835.00

PARTICULARS OF SPECIAL DAMAGE TO SECOND PLAINTIFF

Private Nursing @ \$10.00 per hour for 74 hours	\$ 740.00
Medical Report - Plastic Surgery Centre	1,000.00
Costs for reconstructive surgery	19,000.00
Damage to clothing	150.00
	<u>\$ 20,890.00</u>

## AND THE PLAINTIFFS CLAIM

Special Damages of \$21,725.00 and continuing  
Damages  
Interest  
Costs

DATED the 19<sup>th</sup> day of February, 1985  
SETTLED BY : MILARY PHILLIPS