



Module Code: LU2016
Module Name: Introduction to Mediation
Credit Value: 15

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Assignment Type: Summative Coursework (Moodle)

Word Limit: 2000

Instructions: Please provide a Position Statement of the Claimant in the case *Spyrou v Jones* in the following papers. The location of the accident is fictional, but the photographs are real.

Your Position Statement **MUST NOT** exceed the maximum word length. Footnotes and a bibliography are not part of this assessment, and **MUST NOT BE USED**.

Your Position Statement **MUST** conform to the CLS LLB House Style (on Moodle) and be submitted on Moodle **BEFORE** the submission box closes at ***12:59hrs (UK time) on Monday 9th January 2023.***

Please be sure that any authorities relied upon, any verbatim quotation or close paraphrasing of sources (including textbooks, the Highway Code and other sources) are properly identified and attributed (using the citation style set out in the Mediation Module Assessment Criteria document on Moodle). The work you submit must be entirely your own. You are permitted to make use of samples provided in the Module. For further information on plagiarism, see the Undergraduate Students' Handbook.

Internal Examiner: Professor Stuart Sime
External Examiner: Rachel Wood

IN AN INTENDED CLAIM

BETWEEN

GIORGOS SPYROU

Proposed Claimant

and

DEREK JONES

Proposed Defendant

INSTRUCTIONS TO COUNSEL
FOR THE PROPOSED CLAIMANT

1. Counsel is instructed on behalf of Mr Giorgos Spyrou, who was involved in a road traffic accident in north London on 30 September 2020. Mr Spyrou was driving his Lexus RX400 south along Kendal Road towards its junction with the A406 in London N27 on his way to work in the morning.
2. The collision happened at about 8.30 am, and involved three vehicles. The car in front of Mr Spyrou was a blue Ford Fiesta being driven by Mrs Ankita Das. Coming up from behind was a silver Toyota Prius being driven by Mr Derek Jones.
3. Kendal Road has a 30 mph speed limit, and is a residential road with houses on both sides. Closer to the A406 there were road works in the opposite lane of Kendal Road, with traffic regulated by temporary traffic lights.
4. Those instructing understand the police attended the scene shortly after the accident. Extracts from the police accident report are provided below. Also enclosed are a number of photographs of the accident scene taken the day after the accident by the client's brother. The other two cars had been removed when the photographs were taken, and the client's car, while still at the scene, has been parked up closer to the kerb. The final three photographs are of the defendant's car. These were taken in the street near Mr Jones' home by Mr Spyrou about a month after the accident, and show the damage to the silver Prius, which had not been repaired at that time.
5. As a result of the accident Mr Spyrou sustained a number of injuries, but in particular whiplash injuries to his neck and back. Further details are in the medical report provided with these instructions.
6. A letter of claim sent on behalf of Mrs Das and addressed to both Mr Spyrou and Mr Jones was received in January 2022 pursuant to the Personal Injury Pre-Action Protocol. Liability was admitted on behalf of the insurers for both drivers as Mrs Das was the driver of the car at front of the shunt. Subsequent negotiations resulted in agreement on 4 July 2022 by both insurers to pay damages of £14,600 to Mrs Das, with the apportionment of responsibility between Mr Spyrou and Mr Jones to be agreed or if not agreed to be determined by the court. Mrs Das was paid her compensation by the insurers on that basis in August 2022.
7. There has also been pre action correspondence over responsibility as between Mr Spyrou and Mr Jones. Both are seeking to recover the repair costs for their cars, and

Mr Spyrou is also claiming damages for his personal injuries. Mr Spyrou says the Fiesta stopped suddenly, that he braked, but was struck from behind by the silver Prius being driven by Mr Jones. There is some disagreement between the drivers over the precise sequence of events. Mr Jones has insisted that Mr Spyrou first collided into the back of Mrs Das' Fiesta, and it was that collision that caused most of Mrs Das' injuries and damage to her car, and most of the damage and the injury sustained by Mr Spyrou. Mr Spyrou says he would have stopped in time to avoid colliding with Mrs Das, but the collision caused by Mr Jones hitting his Lexus from the rear shunted him into Mrs Das' car.

8. Repairs to Mr Spyrou's Lexus cost £6,850 plus VAT at 20% of £1,370.
9. For his proposed counterclaim, the repairs to Mr Jones' Prius cost £3,200 plus VAT at 20% of £640. Mr Spyrou's insurers are prepared to agree this subject to liability. We understand Mr Jones was not injured in the accident.
10. As it is necessary to show that ADR has been seriously considered, and knowing that mediation can produce good results, both sides have agreed to try mediation before starting court proceedings. Miss Fiona Goddard has been appointed as the mediator. Miss Goddard has asked both sides to provide written Position Statements, with the mediation scheduled for 4 February 2023.
11. Further details can be seen from the documents enclosed. Counsel is asked to form their own view on the most likely sequence of events, and to draft a Position Statement for Mr Spyrou which will best promote his interests for the forthcoming mediation.

Searle & Simmons, Solicitors
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Draft Witness statement of Giorgos Spyrou

On 30 September 2020 I was driving to work along Kendal Road in London N27 when I was involved in a road traffic accident. I was driving at about 30 mph. Traffic was free flowing, and the conditions were dry and sunny. Kendal Road joins the North Circular Road, which is a major road, with traffic lights at the junction.

On this particular day there were road works in the opposite lane on Kendal Road a few hundred metres before the junction with the North Circular Road. These were green for vehicles in my direction, and the cars in front of me were going through which meant I would not need to stop. The lights then changed, and the car in front of me suddenly braked very sharply. This was a blue Ford Fiesta. I immediately braked, and would have stopped safely behind the Fiesta, but before I stopped I was hit from behind by a silver Toyota Prius, which forced me to bump into the Ford Fiesta.

I got out of my car, and was shaking quite badly, and had aches and pains just about all over. The driver of the Fiesta was bleeding from her head. The driver of the Prius seemed to be uninjured.

All three cars were damaged. I was stopped directly behind the Fiesta. The Prius was off-set at an angle from my car, with damage to the front left hand side, particularly around the left hand front headlight area. The most serious damage to my car was to the right hand rear, with less serious damage to the front of my car. It was the rear of the Fiesta that had accident damage. My car was towed to North London Car Repairs Ltd. Accident repairs to my car cost £8,220 including VAT.

I am a self-employed accountant. I did not take any time off work. I have had a number of doctor and hospital appointments. Prescriptions that I have paid total £224.40 (24 x £9.35). In addition, travel and other expenses for my medical treatment comes to £175.

Extracts from Police Report

Accident: Kendal Road, London N27
Date and time: 30 September 2020, 08:00
Speed Limit: 30 mph
Weather: Bright and sunny; excellent visibility

PC Hitesh Dodhia

Attended RTA on Kendal Road, London N27. 3-car shunt at temporary traffic lights regulating traffic at road works. Front vehicle blue Ford Fiesta driven by Mrs Ankita Das. Second vehicle silver/blue Lexus RX400 driven Mr Giorgos Spyrou. Third car silver Toyota Prius driven by Mr Derek Jones. Took statements from the drivers and an eye witness.

Mrs Ankita Das

I am the driver of the Ford Fiesta registration number EH13 DBR. I saw the temporary traffic lights were turning red, so pulled up to stop at the red sign that tells traffic to stop there when the lights are red. Before I had stopped I was hit hard from behind and jolted forward, banging my head against the steering wheel. I looked in my driver's side mirror and saw the silver car coming up fast and looking like it was trying to overtake both me and the silvery-blue car that had hit me. There was another mighty crashing noise, and I was thrown forward again.

Mr Giorgos Spyrou

I was driving the Lexus RX400 registration number JA15 LPM. The temporary lights were green for cars in our direction, but at the last moment they changed to orange. The Fiesta braked, and so did I. I would have stopped in time, but was hit from behind by the Silver Prius, which bumped me forward into the blue Fiesta.

Mr Derek Jones

I was driving the silver Toyota Prius MF15 PJK. Traffic was heavy and proceeding towards the North Circular Road at about 30 mph. Suddenly, and without warning, the silvery blue car in front of me did a sudden stop without warning. I did my best to avoid hitting him by steering to the right, but he stopped dead. Although I nearly avoided him, he stopped so fast I could not avoid touching the offside rear of his car with my nearside front.

Miss Jessica Isaacs

I was walking on Kendal Road towards the bus stop, so coming from the North Circular Road. I saw the blue car slow down in front of the road works. There was a massive squealing of brakes, but the silver-blue car behind her crashed into the back of the blue car. There was then another car that arrived, the silver Prius. The other cars were stopped when the Prius arrived, and it hit the middle car which lurched forward and hit the blue Fiesta for a second time.



Figure 1 Mr Spyrou's Lexus RX400 parked up on Kendal Road after the accident, showing damage to front and rear.



Figure 2 Rear damage to Mr Spyrou's Lexus.



Figure 3 Front damage to Mr Spyrou's Lexus.



Figure 4 Mr Spyrou's Lexus parked to the left on Kendal Road. The car has been moved back a short distance to avoid blocking the road near the road works. The junction with the North Circular Road is in the distance.



Figure 5 The Lexus parked at the side of Kendal Road. Looking in the direction from which the cars had come.



Figure 6 Mr Jones' silver Prius about a month after the accident. Parked near his home. Photograph shows damage to the front of the Prius.



Figure 7 Close up of the damage to the front of Mr Jones' Prius.



Figure 8 Damage to the Prius includes slightly displacing the whole of the front panel and the bonnet.

Extracts from Medical Report from Mrs Angela Hamilton, consultant orthopaedic surgeon, dated 21 October 2022

Patient: Mr Giorgos Spyrou
Date of Injury: 30 September 2020
Date of Examination: 19 August 2022
Date of Birth: 12 February 1996

Following a road traffic accident on 30 September 2020 Mr Spyrou was conveyed by ambulance to the North Middlesex Hospital. The hospital notes record that he sustained the following injuries:

- 1 Minor head injury
- 2 Neck strain
- 3 Soft tissue injury to right wrist
- 4 Soft tissue injury to lumbar spine

Management of Injuries

The triage note from the North Middlesex Hospital says: 'RTA 30.09.2020 various injuries', and refers to swelling on the right side of the face and also mentions back pain. The medical entry refers to slight tenderness around the parietal area of the head but no swelling or abrasion. This was treated with pain killers. A contusion was present with tenderness over the right triceps muscle, for which a sling was used to keep the arm in the right position. He was advised to use ice and prescribed Voltarol (an anti-inflammatory drug). He was allowed home after the examination.

History

Mr Spyrou mobilised without the use of aids, although he reports that he had difficulty with moving his head, and in twisting his back for about 9 months after the accident. He complained of pain whenever he moved his neck and for most back movements. His general practitioner has been prescribed pain killers and anti-inflammatories since the accident. Mr Spyrou used a soft neck collar for 2 months. He has found getting to sleep difficult due to being unable to find a comfortable position to sleep. He has had greater mobility in his neck and back since a follow up appointment with his general practitioner in June 2021, although he says he has to be careful in how he turns his head to avoid shooting pains and headaches originating from the cervical spine area.

Current Position

He is right-handed. He states he is still suffering from headaches, generally associated with neck pain. He says his neck is very stiff. He reports pins and needles radiating down both arms down to the fingers. He says he experiences pain to his lower back. He states he is anxious and has experienced nightmares since the accident.

Examination

Spontaneous movements of his neck and back were restricted to 80% of that expected. He experiences obvious pain at extremes of movement in his neck.

Examination of the lumbosacral spine revealed marked variable tenderness. Tone, power, co-ordination and reflexes of the upper limbs were full and equal bilaterally. Power and reflexes were full and equal bilaterally. There is no muscle wasting.

Opinion and Prognosis

Mr Spyrou was involved in a road traffic accident on 30 September 2020. The symptoms he describes are consistent with neck and back injuries sustained in a road traffic accident. His head and wrist injuries were minor and cleared up within about three weeks. His neck and lumbar spine injuries are more long lasting. His acute neck symptoms have gradually improved, and were sufficiently better after two months for him to dispense with the neck collar. However, his general practitioner has needed to continue prescribing pain relief and anti-inflammatories through to today.

I would expect Mr Spyrou's condition to continue to improve. It is now just under two years since the accident. I would expect Mr Spyrou to make a full recovery by about three years after the accident.

I understand that my duty in this report is to the Court, to help the Court on the matters within my expertise, and I have complied with that duty.

END OF ASSESSMENT