



[2019] JMSC Civ. 105

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIVIL DIVISION

CLAIM NO. 2006HCV01122

BETWEEN	ANNISSIA MARSHALL	CLAIMANT
AND	NORTH EAST REGIONAL HEALTH AUTHORITY ST. ANN'S BAY HOSPITAL	1ST DEFENDANT
AND	THE ATTORNEY GENERAL	2ND DEFENDANT

IN CHAMBERS

Mr. Raymond Samuels instructed by Samuels and Samuels for the Claimant.

Miss Tamara Dickens instructed by the Director of State Proceedings for the Defendants.

Heard: January 10 & April 29, 2019

**Civil Procedure Rule Part 20 – Application for amendment to Particulars of Claim
– Amendment after limitation period- Constitutional relief – Aggravated Damages
– Exemplary Damages –Vindictory Damages-CPR 8.7 (2).**

HENRY-MCKENZIE, J (Ag)

BACKGROUND

[1] By way of a Claim Form, Miss Annessia Marshall (the claimant) sought damages against the 1st defendant (North East Regional Health Authority St. Ann's Bay Hospital) and the 2nd defendant (The Attorney General) for negligence, in that,

they the 1st defendant, by themselves or by their servants or agents, performed surgery on her without her consent. The 2nd defendant is sued by virtue of the Crown Proceedings Act, on the basis that the 1st defendant is an Agency of the Ministry of Health which is a department of Government.

[2] At trial, the learned judge upheld a submission of no case to answer and found that on the evidence, the claimant had not established her case on a balance of probabilities. Accordingly, judgment was entered for the defendants with costs to be agreed or taxed. The claimants appealed the decision of the learned judge. The Court of Appeal heard the matter, allowed the appeal and made the following orders:

“1. The appeal is allowed.

2. The order made by Fraser J on 7 March 2012 upholding the no case submission and entering judgment for the respondents is hereby set aside.

3. Judgment is hereby entered on liability for the appellant. The matter is remitted to the Supreme Court for damages to be assessed before a different judge.

4. Costs of the appeal and in the court below to the appellant to be taxed if not agreed.”

[3] The Court of Appeal also indicated that it disagreed with the judge’s decision to refuse the amendment of the Particulars of Claim to add a cause of action for assault and ordered the claimant’s claim to proceed to assessment of damages on the basis of negligence and assault.

THE APPLICATION

[4] In the wake of the Court of Appeal decision, the claimant on June 14, 2017, filed a notice of application for court orders seeking to make numerous amendments to the Particulars of Claim. The claimant argued that the amendments seek only to particularize the assault, consequent upon the decision of the Court of Appeal.

Notably, however, the amendments sought also include a claim for constitutional relief, aggravated, exemplary and vindictory damages, interest and further sums for special damages.

[5] The claimant also indicated that in making this application, she wishes to rely on the medical reports of Dr. Franklin Ottey, Dr. Denton Barnes and Mr. Leighton Logan F.R.C.S, as well as other documentary evidence.

[6] The application for the amendment is supported by an affidavit of the claimant.

THE ARGUMENTS

[7] Counsel for the claimant, Mr. Raymond Samuels, submitted that the amendments sought are in keeping with the Court of Appeal's decision, which allowed for the amendment of the claim form to reflect the assault on the claimant. The claimant therefore is now only seeking to particularize the assault.

[8] He further submitted that the amendments relate to injuries already pleaded and that when one looks to the Particulars of Claim, it will be seen that the amendments are just further clarification of injuries already set out.

[9] In his response to the arguments advanced by counsel for the defendants, Miss Tamara Dickens, Mr. Samuels countered that in the case of **Salmon (Peter) v Master Blend feeds Limited** (unreported), Supreme Court, Jamaica, Claim No. C. L. 1991/S 163, Judgement delivered 26 October 2017, the amendments were allowed as they provided more details of the injuries pleaded.

[10] He also made reference to the fact that in the case of **George Hutchinson v Everett O'Sullivan** [2017] JMSC Civ. 91, amendments for injuries already pleaded were allowed. Further, he pointed to the fact that in that case, the Court said that when amendments are fair, they should be granted.

- [11] He also argued, that the amendments are necessary to decide the issue of quantum. In any event, he posited, the pleadings will have to be proved before the Assessment Court.
- [12] In relation to the constitutional relief sought, Mr. Samuels argued that the court has the inherent jurisdiction to deal with constitutional matters and that there is no limitation period, with respect to constitutional proceedings. Were the court to grant the application for amendments to include constitutional relief he contended, no prejudice would be caused to the defendants, as they would have sufficient time to deal with the matter. Finally, he argued that the amendment is sought so as to allow the court to deal with the claim for constitutional relief at the same time as the other claims.
- [13] On the other hand. Miss Dickens for the defendants indicated that she is objecting to all the proposed amendments.
- [14] She argued that quite a number of amendments sought are new and not previously pleaded. Further, that in keeping with the principles laid down in **Salmon** (supra) and **Hutchinson** (supra) an injury should be pleaded within the limitation period and where a new injury is pleaded outside the limitation period, it will not be allowed.
- [15] Counsel drew reference to the draft "Particulars of Injuries" at items listed at (iv) – (x) and indicated that they are all new injuries being introduced for the first time after the limitation period, and should not be allowed.
- [16] She also contended that the injuries indicated under the heading "Psychological Trauma" are effectively new and should be disallowed.
- [17] In relation to the constitutional relief sought, counsel argued that this is a new claim arising for the first time after fourteen years. This is after the Court has made a ruling, judgment has been entered and the matter is now at the stage of

assessment of damages. It would therefore be improper for the claimant to include a constitutional claim at this stage.

[18] Miss Dickens pointed out further, that a claim for constitutional relief is commenced by way of a Fixed Date Claim Form with affidavit in support, to which the defendant has a right to enter a defence and have the court adjudicate on it. Therefore, it would be unjust for the court to allow this amendment.

[19] Lastly, on this point, she submitted that section 25 of the Constitution which would have applied when the tort was committed, indicated at sub-section 2, that where there is adequate means of redress for the contravention alleged under any other law, the court should not exercise its powers to grant constitutional redress. In this case she submitted, what the claimant seeks to put forward as a constitutional claim, would have already been covered by the claim for negligence and assault.

[20] Finally, in relation to the claim for Aggravated Damages, Exemplary Damages and Vindictory Damages, she argued that these are not to be allowed as they should be pleaded in keeping with the Civil Procedure Rules (CPR). Further, that they introduce a new claim for relief. Also, that the affidavit does not give an explanation for these heads of damages only now being introduced for the first time, after the limitation period has passed.

[21] The defendant she stated, has a right to enter a defence against these claims and after fourteen (14) years they would be disadvantaged, particularly since it may pose a challenge for them to locate witnesses at this time. The amendments therefore, also should not be allowed.

THE ISSUES

[22] Having regard to the application and the arguments presented, the main issues are as follow:

- Whether the amendments sought should be granted outside of the limitation period.
- Whether the proposed amendments seek only to particularize the assault, as averred by the claimant, or whether they amount to an entirely new claim.
- Whether the claim for aggravated, exemplary and vindictory damages should be allowed after the limitation period. Are they justified and do they constitute a new claim for damages.
- Whether the claim for constitutional relief amounts to a new claim and whether it should be allowed at this stage of the proceedings.
- Whether the amendments for further sums for special damages should be allowed.

THE LAW

- [23]** Amendments to statements of case are governed by Part 20 of the CPR. This allows for statements of case to be amended prior to, at and after a Case Management Conference (CMC).
- [24]** The main issues to be considered in this matter however, concern amendments after the end of a relevant limitation period. Rule 19.4 vests in the court the power to make amendments after the end of the relevant limitation period. However this rule applies only to a change of parties, that is, the adding or substituting of parties, which is not applicable to the issues under consideration in this matter.
- [25]** Rule 20.6 allows parties to amend their statements of case with the permission of the court, after the end of a relevant limitation period, but this is limited to circumstances where the amendment is to correct a mistake as to the name of a party, where the mistake was genuine, and not which would in all the circumstances cause reasonable doubt as to the identity of the party in question.

[26] It is evident that rules 19.4 and 20.6 are of limited application. These rules do not address the issue of amendment of statements of case in other circumstances. However, rule 20.4 seems to give the court a discretion to amend statements of case after the limitation period, notwithstanding rules 19.4 and 20.6. Rule 20.4 (2) of the CPR states:

a. *“Statements of case may only be amended after a case management conference with the permission of the court”*

[27] In the case of **Peter Salmon v Master Blend feed Limited** (supra), Sykes J. (as he then was) upon considering the question of amendment after the limitation period, examined rule 20.4 of the CPR and commented as follows at paragraph 21:

“The submission that the only amendments permitted after the end of the limitation period are those specifically mentioned in rules 19.4 and 20.6 ignores rule 20.4 in its current form. The submissions do not take account of the distinction made earlier between giving greater details of a claim made during the limitation period and claiming for an entirely new injury after the limitation period.”

[28] Sykes J went on at paragraph 22 to compare what obtained under the original rule 20.4 with what now obtains in relation to the amended rule 20.4 and thereafter concluded:

“The amended rule 20.4 has removed this restriction. The amended rule has not laid down any precondition or stated any criterion for the exercise of the discretion. This means that the application of the rule is governed exclusively by the overriding objective.”

[29] He further concluded that in applying the overriding objective, a multidimensional approach should be taken by the court, as this is what is required when considering rule 1.1(2) of the CPR.

[30] This approach was accepted by Harris J in **George Hutchinson v Everett O' Sullivan** (supra). In **Hutchinson** Harris J after examining the cases of **Judith Godmar v Ciboney Group Limited** SCCA 144 of 2001, a decision of the Court of Appeal which was delivered on July 03, 2003 and **Salmon**, also highlighted other circumstances where amendments could be made to a statement of case after the limitation period. She stated at paragraph 27:

“iv) Dealing with cases justly in an application of this nature, also incorporates the principles that an amendment may be allowed where it is necessary to decide the real issues in controversy; it will not create any prejudice to the other party (such as presenting a new case) and is fair in the circumstances.

v) There is a distinction between amendments to disclose greater details or particulars about an injury pleaded during the limitation period and making a claim for an injury that was not pleaded during the said period. The former may be allowed while the latter will not be.

vi) The limitation period does not apply to a claim for additional special damages where they relate to the cost of ongoing or further treatment for any injury or injuries pleaded during the limitation period and where they represent expenses incurred and paid during the limitation period.”

[31] In **Salmon** and **Hutchinson** (supra), a distinction was made between giving better particulars of injuries already pleaded and pleading a new injury after the limitation period. In **Salmon**, the claimant had sought to include proposed amendments in relation to injuries to the lower back, an injury that was already pleaded. He had also sought to include in that proposed amendment ‘*anterior body osteophytes at the L5 vertebral body*’. Sykes J ruled that save for the injury to the ‘*anterior body osteophytes at the L5 vertebral body*’, all other amendments had merely given more details of the injuries Mr. Salmon received. The amendments were allowed except for that particular injury.

[32] In **Hutchinson**, the claimant averred that the injury was a fractured phalanx to the little finger. He sought to amend the particulars of claim to include injuries such as sub-concussive blunt head injury, comminuted fracture of the proximal

phalanx of the right 5th finger, lower back pain, whiplash type injury, lacerations and abrasions and sprain to left ankle. Harris J ruled that the claimant was permitted to amend his particulars of claim to include the injury described as '*comminuted fracture of the proximal phalanx of the right 5th finger*, but as it relates to the other injuries, the amendments were not permitted as these amounted to a claim for entirely new injuries after the limitation period.

ANALYSIS AND APPLICATION OF THE LAW

[33] I will now examine the proposed amendments, bearing in mind the principles of law enunciated.

(a) Assault

The Court of Appeal in its ruling, found that amendment to the Particulars of Claim to include the cause of assault should be allowed as the addition of assault rested on the same facts as the cause of action for negligence. It is flowing from this that the claimant has sought to amend the Particulars of Claim to include the lengthy proposed particulars of assault.

[34] Counsel for the claimant, Mr. Samuels, submitted that the amendments should be allowed as they are only seeking to particularize the assault which is in keeping with the Court of Appeal's decision, allowing for the amendments to the Particulars of Claim to reflect the assault on the claimant. On the other hand, counsel for the defendant Miss Dickens, has argued that a number of the amendments are new and would be pleaded outside the limitation period.

[35] Having regard to the law and the arguments posited, I conclude that the amendments proposed at items (i) to (xiv) fall within the category of assault. They do not introduce new allegations so as to amount to new claims, but rather seek to better particularize the nature of the assault on the claimant, which amendment was allowed to be included. They mention the use of external

objects such as surgical knives, scalpels, surgical needles, the Hartman procedure, colostomy bag and other surgical appliances in the unconsented surgery on the claimant, which constituted acts of assault on the claimant. As such, the amendments in relation to items (i) to (xiv) are allowed.

[36] These amendments are allowed bearing in mind that at the assessment of damages, the claimant must prove each averment made to the satisfaction of the court.

(b) Particulars of Injuries

[37] Mr. Samuels submitted that the injuries listed under the 'Particulars of Injuries' from (iv) to (x) serve only to clarify the injuries already pleaded and should be allowed. In this regard, he referenced the principles laid down in **Salmon**. In that case, the amendments were allowed as the court found that they were simply more details of injuries already pleaded. Counsel further submitted that the defendants would have had notice of the injuries the claimant suffered, as paragraph 19 of the original Particulars of Claim is similar to paragraph 19 of the proposed Amended Particulars of Claim.

[38] On the other hand, counsel for the defendants Ms. Dickens, in objecting to the amendments, argued that the proposed amendments do not particularize the injuries already pleaded, but are new injuries that are being introduced for the first time after the limitation period. In particular, counsel made reference to item *(ix) of the proposed amendment which speaks to, "evidence of colonic and rectal disease seen"* and argued that this is different from the injury pleaded at *(ii) of the original Particulars of Claim, which mentions, "damage to the colon and in particular the sigmoid end"*. She contended that this is an entirely new claim.

[39] The claimant sought the following amendments under the heading "Particulars of Injuries"

(iv) In her abdomen there was asymmetry of the abdominal wall of the abdominal wall; the right side was larger than the left and the contour of the rights side was convex while the left was concave.

(v) Vertical Abdominal midline scar extending in both supra and infra umbilical regions with associated ventral hernia. This is thirty-two centimeters (32 cm) in length.

(vi) Left transverse abdominal incision ten centimeters (10cm) in length.

(vii)Scar to the supra pubic region eight centimetres (8cm) in length

(viii) Anterior abdominal wall asymmetry-the right side was larger than the left and the contour on the right side was convex while that on the left was concave- due to surgical intervention.

(ix) Evidence of colonic and rectal disease seen

(x) The left middle and lower quadrant of the abdomen were flat to concave-due to the surgical interventions”

[40] In examining the proposed amendments, I agree with counsel for the claimant that these injuries only seek to give more details and clarification of the injuries already pleaded and are not new claims. At paragraph 19 the claimant stated that she had suffered from “*a surgical opening on her lower left abdomen...*”. In listing these injuries, the claimant is seeking to particularize the injuries she suffered as a result of the surgical opening to the abdomen. As for the evidence of colonic and rectal disease, this too seeks to give more details of the damage that the claimant avers to her colon.

[41] All amendments listed under “Particulars of Injuries” are therefore allowed.

a) *Psychological Trauma*

[42] The claimant has sought amendments under this heading which the defendants strenuously oppose as being effectively new injuries. The amendments are as follows:

(a) *“upset and preoccupied with the surgeries that had been done, the fact that it seemed she would never become pregnant and the deterioration of her marital relationship*

(b) *chronic adjustment disorder with anxiety and depressed mood impairment*

(c) *mental impairment 35%”.*

From my examination of these injuries, it is my view that the claimant is providing better particulars of the psychological trauma that she has suffered and which was pleaded from the outset. These amendments also do not amount to new claims as was contended.

[43] These amendments therefore are also allowed.

(d) *Special Damages*

[44] The claimant has also sought to make numerous additions to the special damages. The Defendants are opposed and have contended that quite a number of the amendments are new and not previously pleaded. These additional special damages include:

- i) Loss of earnings – 44 weeks and continuing
- ii) Expenses incurred by reason of use of the colostomy bag
- iii) Expenses incurred while in New York for the reversal of the Hartman’s procedure
- iv) Cost of plane fare to New York,
- v) Special Diet,

vi) Medical expenses as it relates to Dr. Franklin Ottey, Dr. Denton Barnes and Mr. Leighton Logan

vii) Sums lost by husband coming home to be with the claimant which includes loss of earnings and transportation.

[45] As it relates to the amendment sought to include the husband's loss of earnings and transportation expenses, the defendants argued that this is an item introduced for the first time and not a special damage of the claimant and thus ought not to be allowed.

[46] In deciding whether to permit the amendments for Special Damages, I will refer to the **Hutchinson** Case. In that case, the court also had to determine whether permission should be given to add further sums for special damages. The proposed amendments were for visits made to the doctor and the cost of the medical report and for loss of income. The court having relied on **Godmar** ruled that the limitation period does not apply to the claim for additional special damages where they relate to the cost of ongoing treatment or further treatment for any injury pleaded during the limitation period and where they represent expenses incurred and paid during the limitation period.

[47] Applying this principle to the instant case, the proposed amendments for special damages are allowed save and except the amendment listed at (g) having to do with the claimant's husband's expenses associated with his travel to Jamaica during the claimant's illness and the loss of income pertaining thereto. This amendment is refused on the basis that it presents a new claim which would be pleaded after the limitation period and after approximately 14 years would have elapsed. The claimant would have been aware of this expense at the time of pleading, yet failed to include it. There is no explanation before the court for this failure. As far as I am concerned, it did not take the inclusion of the cause of action for assault by the Court of Appeal, for the claimant to become aware of this loss. It would be unfair and unreasonable therefore to include this claim at this juncture.

[48] The other items listed under the amendments for special damages are allowed as they represent the cost of ongoing treatment for the non-consensual surgery to the claimant's person, which in all the circumstances is a direct consequence of the 1st defendant's actions. Also, these amendments are permitted, as they are necessary to determine the issue of quantum.

(e) Constitutional Relief: Vindictory Damages

[49] It is more convenient for me to deal with the amendments proposed for constitutional relief and vindictory damages at the same time. According to Mr. Samuels, the claim for constitutional relief arises out of that which was done to the claimant. He submitted that there was a breach of the claimant's right to religious freedom and privacy which the court has an inherent jurisdiction to adjudicate on. He further submitted that were the court to grant these amendments, this would not be prejudicial to the defendants as they would have time to deal with the matter and that nevertheless, there is no limitation period for constitutional proceedings.

[50] Ms. Dickens fiercely opposed these amendments. I will highlight some aspects of her submission on this point. Her position is that the claim for constitutional relief is a new claim, as it raises new issues which the claimant is seeking to have addressed after over 14 years has passed. Furthermore, the Court of Appeal has already made a ruling, judgment has been entered and the matter has been sent for assessment of damages. She argued that if the court were to allow these amendments, it would be unjust and improper. Further, the defendants have a right to enter a defence to the constitutional claim and have the court adjudicate on it.

[51] Ms. Dickens also opposed this amendment on procedural grounds. It was her contention that the claim for constitutional relief was not properly brought as a

constitutional motion can only be heard by way of a Fixed Date Claim Form supported by affidavit.

- [52] I agree with the submissions of counsel for the defendants. The claim for constitutional relief is a new claim which the defendants were not prepared to answer. The claimant would have been aware of these breaches of her constitutional rights as alleged at the time the action was brought, yet they were not pleaded. No explanation has been proffered by the claimant for this omission. This claimant had ample time to make such a constitutional claim and choosing to do this now at the stage of assessment of damages, will be prejudicial to the defendants. This claim did not depend on the Court of Appeal's decision, neither did the Court of Appeal's judgment contemplate constitutional relief.
- [53] A claim for constitutional relief is a fundamental one and a special remedy and therefore must be specifically pleaded. By virtue of rule 56.9. of the CPR, an application for constitutional relief must be made by a Fixed Date Claim Form and supported by affidavit and not by a Claim Form and Particulars of Claim as was done in the instant case. Rule 56.9 also requires the supporting affidavit to be very specific and detailed in its allegations, with specific reference being made to the provisions of the Constitution, the facts on which the claim is based, the nature of the relief and the grounds on which relief is being sought.
- [54] Even if the court were minded to allow the amendments based on the overriding objective of the CPR and allow the use of the Claim Form to save time and expenses, the claimant would not have provided the court with detailed pleadings of her constitutional claim and as such, the defendants would still be at a disadvantage in not knowing the case they have to answer. I am of the view that any amendment allowed should not take into account these constitutional claims nor the constitutional redress of vindicatory damages.
- [55] In the case of **Greenwood-Henry (Sharon) v The Attorney General of Jamaica** (unreported), Supreme Court, Jamaica, Claim No. C.L. G 116/1999,

Judgment delivered 26 October 2005, paragraph 19, Sykes J had this to say in relation to the nature of constitutional relief/vindictory damages and the extent of its pleadings:

*“It is with reluctance that I disagree with Mr. Heywood on this point. Constitutional or vindictory damages are a unique and special kind of award. It is not every case of abuse that attracts this kind of award. That constitutional redress is a special remedy was reinforced by the Privy Council in the **Ramanoop** case (see para. 24 and 25). Consistent with this philosophy it seems to be that if that kind of remedy is to retain its status as being special and unique then the claimant would need to plead it specially and set out the facts which he says entitles him to such an award. This would enable the offending party to know that this claim is being made and how to respond to it.... If a claim for exemplary damages is required to be explicitly pleaded why not a claim for vindictory damages?”*

[56] In applying the legal principles to the instant case, the claimant has not made out a good case for the inclusion of the constitutional relief/ vindictory damages at this stage of the proceedings. An application for constitutional relief can be made without any prejudice to any other action, so if the claimant wished to make such a claim, it should be done in accordance with the rules of court.

[57] The application for the amendment to include constitutional relief/vindictory damages is therefore denied.

(f) Aggravated, Exemplary Damages

[58] Counsel for the defendants also objected to the proposed amendments to include Aggravated and Exemplary Damages. She argued that these amendments would introduce a new claim for relief after the limitation period,

with no explanation being advanced for the late pleadings. The CPR, she stated, requires the particulars of these damages to be pleaded and the fact that this was not sought to be done until at this late stage, this would cause great prejudice to the defendants. The defendants have indicated that they would be at a disadvantage, as they would be denied the right to enter a defence in response and to find witnesses which would be necessary to meet this claim.

[59] Rule 8.7(2) of the CPR states, “*a claimant who seeks aggravated damages and/or exemplary damages must say so in the claim form.*” From the wording of the CPR, this is a mandatory requirement which ensures that a defendant is made aware of the claim he has to meet so as to be able to properly defend it, if needs be. Were I to allow these claims for these damages at this late stage, the defendants would not be afforded this opportunity and this would occasion grave unfairness and prejudice to them.

[60] In **Dane Pryce v The Attorney General** [2017] JMCA Civ 36, while the claimant had properly pleaded aggravated damages, he had failed to make any specific claim for that remedy, but had provided sufficient evidence to justify the granting of exemplary damages. The court in deciding whether to grant exemplary damages despite the failure to specially plead it, said this at para 120:

“[120] The issue is whether the failure to have pleaded exemplary damages in the claim form disentitles the appellant from pursuing such an award. In light of the clear language of the CPR, in my view, it appears so.”

[61] With this in mind, even if the claimant has provided sufficient evidence of aggravated and exemplary damages but has failed to plead it, it would not be fair that the claimant, after the limitation period, and at the stage of assessment, should be allowed to bring a claim for aggravated and exemplary damages, with no explanation being provided for its proposed late inclusion. These damages must not only be pleaded, but also be adequately pleaded, which I cannot say

was clearly done in the instant case. Pleadings are required to lay out the parameters of the case being advanced. A bare minimum reference to these damages is not sufficient. There must be more. Furthermore, this is also a whole new claim. The defendants were not prepared to answer to this claim.

[62] In addition, the claims under these heads of damages did not arise as a consequence of the Court of Appeal's decision in relation to the addition for the cause of action for assault. An action was brought for negligence prior to the ruling of the court, so even if there is sufficient evidence to justify these claims, this would have arisen at the time of the cause of action for negligence. The cause of action for assault which was added, was not founded on any new facts and so these amendments now sought cannot be justified.

[63] The amendments to include Aggravated and Exemplary damages, therefore are not allowed.

[64] Having examined the amendments sought, I will make the following orders:

ORDERS

1. Orders granted in terms of paragraphs 1, 4, 5, as amended to exclude item at (g), 6, 7, and 8 as amended to remove item (c) (e) (f) (g) of the Notice of Application for Court Orders filed on June 14, 2017.
2. Paragraphs 2 and 3 of Notice of Application for Court Orders are refused.
3. The claimant is to file and serve the Amended Particulars of Claim on or before June 18, 2019.
4. The matter is set for Case Management Conference on June 18, 2019 at 12 noon for ½ hour.
5. Leave to Appeal is granted.
6. No order as to costs.
7. Claimant's attorney at law is to prepare, file and serve the orders made herein.