

TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Cv. 2007/04619

BETWEEN

KALISTRA BAPTISTE

CLAIMANT

AND

BERTTON GRAY

DEFENDANT

MARITIME GENERAL INSURANCE COMPANY LIMITED

CO-DEFENDANT

BEFORE THE HONOURABLE MADAM JUSTICE DEAN-ARMORER

APPEARANCES

Ms. C. Moore for the Claimant.

Mr. S. Bedassie for the Defendant.

REASONS

Introduction

1. On the 31st March, 2009, I gave effect to an express sanction and ordered that the defendants be precluded from adducing evidence in this action. I also entered judgment for the claimant and directed that damages be assessed by a Master in Chambers. My reasons for so doing are set out below.
2. The action was instituted by a claim form filed herein on 6th December, 2007. The claimant sought damages for negligence and consequential loss arising out of a motor

vehicular accident which occurred on the 25th December, 2003. The claimant alleged that the accident was caused by the negligent management and control of motor vehicle PBC 4951 by the defendant.

3. A defence having been filed, I gave directions in preparation for trial on 3rd July, 2008. This direction included a direction that witness statements be filed and exchanged on or before 19th January, 2009. A pre-trial review was fixed for 15th January, 2009. On this occasion the Court granted extensions of time for filing the agreed bundle and witness statements. The matter was adjourned to 12th March, 2009.
4. On the 12 March, 2009 the defendants had once again failed to comply with the direction for filing witness statements. I extended time but made an unless order to the effect that failure to comply by the extended deadline would result in the imposition of an express sanction. The effect of the unless order was that failure on the part of the defendant to comply with the extended deadline would result in the defendant being precluded from adducing evidence in this matter. Part 26.6 *Civil Proceedings Rules* requires the Court to give effect to express sanctions, unless there is an application for relief from sanctions.
5. At the subsequent hearing, the defendants had not yet complied with the direction for witness statements. Accordingly I gave effect to the unless order as required by Part 26.6 of the *Civil Proceedings Rules*.
6. There was no application for relief from sanctions. One witness statement had been filed on behalf of the claimant, that is the statement of Kalistra Baptiste and there was no

evidence to contradict that of the claimant. On the basis of the witness statement of the claimant, it was my view that the claimant was entitled to judgment.

7. I therefore ordered that there be judgment for the claimant.

Dated this 5th day of April, 2012.

M. Dean-Armorer
Judge