

THE REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

Claim No. CV2014-01949

Between

THERESE HO

Claimant

AND

LENDL SIMMONS

Defendant

Decision

Before The Honourable Mr. Justice Frank Seepersad

Appearances:

1. Mr. L. Murphy instructed by Mr. N. Maraj and Mr. C. Chandler for the Claimant
2. Mr. K. Wright instructed by Ms. P. Beckles for the Defendant

Date of Delivery: 26th October, 2015

1. In this claim the parties were engaged in a sexual relationship and during the course of same several photographs were taken by them, some of these photographs depicted the Claimant nude and two of the photographs depicted her engaged in fellatio with the Defendant (the photos). After their relationship ended some of the photos were allegedly shown to other persons and as a result the Claimant instituted the instant action and sought the following reliefs:
 - a. An Injunction restraining and/or prohibiting the Defendant whether by himself, his servants and/or agents or otherwise howsoever from disseminating and/or disclosing and/or using those confidential nude photographs of the Claimant which the Defendant has in his possession.
 - b. An Injunction restraining and/or prohibiting the Defendant whether by himself, his servants and/or agents from disseminating/disclosing/posting/uploading/publishing and/or causing to be further published/posted/uploaded/disseminated/disclosed the said confidential nude photographs and/or any further material and/or any other photographs and/or videos of the Claimant whether by the internet/telephone/social media or howsoever otherwise which impeded with the Claimant's private information and/or breach of her confidence.
 - c. An order that the Defendant do deliver up and/or destroy/discard all the photographs and other materials he possesses of the Claimant.
 - d. Damages for breach of confidence.
 - e. Aggravated Damages
 - f. An order that the attached nude photographs of the Claimant be destroyed by the Registrar.
 - g. Costs
 - h. Interest
 - i. Such further or other relief as the Honourable Court may think just in the circumstances.

2. At the trial, the parties were the only witnesses and their evidence is summarised as follows:

The Claimant's case

3. The Claimant is a 24 year old mother of two and she stated that she had a dating relationship with the Defendant which commenced in March, 2013. At paragraph 8 of her witness statement she testified that she took nude photos of herself and sent same via WhatsApp to the Defendant's phone for his private use when he was out of the country. She testified that she was aware that the Defendant was living with 'Kabrina' who was the mother of his daughter but she said the Defendant told her that it was just an arrangement of convenience. During the course of her involvement with the Defendant, the Claimant said that she took pictures of her engaged in fellatio with him. Eventually, she stated that she had concerns over the future of their relationship and ended it. Her evidence was that after the relationship ended she felt obligated on a moral level to inform Kabrina of her relations with the Defendant. This disclosure, she said, was met by a violent reaction from the Defendant and she asserted that the Defendant then distributed the photos to several persons close to her including the father of her youngest daughter (Kasi), her friends, as well as to some of his own friends. The purpose of this disclosure she says was to embarrass and shame her.
4. Annexed to her witness statement were a series of screen shots of messaged conversations that she says she had with the Defendant via their respective cell phones over WhatsApp and Viber as well as screen shots of messaged conversations between the Defendant and two of her friends, Danielle and Amanda (collectively called 'the messages'). The messages formed part of her unagreed bundle of documents and they were incorporated into her witness statement. The Claimant's evidence was that notwithstanding attempts by her and her friends to plead with the Defendant for him not to distribute the photos, the Defendant was intent on destroying her and did so by distributing them. As a consequence she was subjected to public ridicule and

embarrassment and she suffered from suicidal thoughts and became frustrated as she had to live in shame.

5. The Claimant also testified that as a further consequence of the distribution of the photos she was also reassigned duties at work. During the course of her cross examination the authenticity of the messages which formed part of her evidence was not challenged. The Claimant was also not challenged in relation to the effect, which she said, the distribution of the photos had on her.
6. The Court found that she was an impressive witness. Her responses in cross examination were consistent with her evidence in chief and were very direct. The Claimant therefore engendered in the Court, an unshakable feeling that she was a witness of truth.

The Defendant's case

7. The Defendant did not dispute that he had sexual relations with the Claimant but he denied that they were "in a relationship". He said that at all times they were both involved with other persons, he with Kabrina and she with Kasi. He stated that he sent some of the photos to Kasi but that this was done only after the Claimant had shown some of the photos to Kabrina.
8. At paragraph 4 of his witness statement the Defendant said that two of the photos which depicted the act of fellatio were taken at the Claimant's request. The thrust of his defence was that it was the Claimant who breached any confidentiality that existed in relation to the photos when she showed them to Kabrina and he said she did this as she wanted to disrupt his family life because he had ended the sexual relations that they enjoyed.
9. In cross examination, the Defendant said that he took the photos depicting the act of fellatio because he did not trust the Claimant and wanted to hold it over her head. This response was in direct contradiction to what he stated at paragraph 4 of his witness statement. He accepted that messages were in fact sent and exchanged between himself, the Claimant and her friends Danielle and Amanda and that the screen shots that were

exhibited were accurately reflected. The Court noted that in the various messages, the Defendant never asserted that the Claimant had shown the photos to Kabrina, in fact he accused her of having spoken to Kabrina.

10. The Court was not impressed with this witness, his responses were not direct and there were substantial contradictions between his evidence in chief and his responses in cross examination.
11. The pleaded case before the Court was founded upon the common law concept of breach of confidence and the Court had to consider whether this concept could be applied to the instant facts.

The Law

Breach of confidence

12. According to **Gurry on Breach of Confidence: ‘The Protection of Confidential Information’ 2nd Edition** (p. 107-108), the court exercises an equitable jurisdiction in restraining a breach of confidence independent of any right at law. This independent equitable jurisdiction, enables the court to grant relief in three scenarios with respect to confidential information where no remedy would normally be available at law.
 - a. Firstly, where the parties to a confidential disclosure are not in a contractual relationship, equity provides the only basis for the court’s intervention.
 - b. Secondly, where a third party receives confidential information from a confidant in breach of the confidant’s obligation of confidence, equity will restrain the third party from misusing that information.
 - c. Thirdly, equity may restrain persons who have acquired confidential information in the absence of a confidential relationship. This applies to strangers who

surreptitiously acquire information or who have actual or constructive knowledge that the information which has come into their possession is confidential.

13. For a claim of breach of confidence to succeed, the traditional requirements, as outlined by Lord Greene MR in *Saltman Engineering Co. Ltd .v. Campbell Engineering Co Ltd (1948) 65 RPC 203* and Megarry J in *Coco .v. AN Clarke (Engineers) Ltd [1969] RPC41*, are as follows:

- i. The information must have had the necessary quality of confidence, that is, it must not be something which is public property and public knowledge.**
- ii. There must have been an obligation of confidence in the circumstances under which the information was imparted.**
- iii. There must have been an unauthorised use of that information by the party communicating it to the detriment of the confider.**

14. In **Morison .v. Moat 68 ER 492**, the Court stated that if a Defendant is proved to have used confidential information, directly or indirectly obtained from a plaintiff, without the consent, express or implied of the plaintiff, he will be guilty of an infringement of the plaintiff's rights.

15. In the case of **Campbell .v. MGN [2004] 2AC457**, Lord Nicholls described breach of confidence, in so far as it protects confidential (as opposed to private) information, as an equitable principle and Lord Walker in his dissenting speech observed that, '*where there is no contractual tie the cause of action is the equitable jurisdiction to restrain...breach of confidence*'.

16. Traditionally a duty of confidence will be imposed where confidential information is imparted in circumstances where the confidant either has notice (actual knowledge not being essential) that the information is confidential, or has agreed that such information is

confidential, such as where there is either an expressed or implied term in a contract. In such a situation, the duty of confidence arises out of the nature of the relationship between the confidant and the person to whom the information relates and the confidant should not take an unfair advantage of such information, either through use by himself or through disclosure of third party.

17. Where however there is no obvious relationship between the parties, an independent duty of confidence will arise in equity, where the confidential information is divulged to a third party by the person confided in, or a confidant, or even where a third party has come across the information either by surreptitious means or innocently.

18. The circumstances are subjected to the reasonable man test, i.e whether a reasonable man standing in the shoes of the recipient of the information would have realised that upon reasonable grounds the information was being given to him in confidence.

19. Lord Hoffman commented obiter in the case of **Campbell .v. Mirror Group Newspapers Limited [2004] 2 AC 457 (HL) at paragraph 51**

“Instead of the cause of action being based upon the duty of good faith applicable to confidential personal information and trade secrets alike, it focuses upon the protection of human autonomy and dignity—the right to control the dissemination of information about one's private life and the right to the esteem and respect of other people”.

20. The Courts have recognized that information, disseminated between individuals who fall within the following categories of personal relations, may attract the cover of confidentiality.

- a. Husband and wife: In **Duchess of Argyll v. Duke of Argyll (1967) 1 Ch 302** it was established that although not all information communicated within a marital relationship attracts equity's protection, equity will be concerned with information relating to the private life, personal affairs or private conduct communicated

between spouses in confidence and in a circumstance the said information is not already in the public domain.

- b. As between unmarried sexual partners: Established in **Stephens v. Avery (1988) Ch 449 at paragraph 454.**
21. It appears that the common law concept of breach of confidence has never been applied in this jurisdiction to deal with a circumstance where intimate photographs taken in private have been distributed without the consent of the other party.
 22. The Australian case of **Giller .v. Procopets [2004] VSC 113** bears some factual similarity with the case before this Court. In that matter the Defendant who had previously been in a defacto relationship with the Claimant, surreptitiously took video recordings of their sexual activities together and showed these videotapes to relatives and close friends of the Claimant. The Claimant sought damages for, inter alia, breach of confidence and or invasion of privacy. With regard to the claim for invasion of privacy, Gillard J at first instance held that the law in Australia had not developed to a point where a right of privacy existed. With regards to the claim of breach of confidence, his honour found that there was a confidential relationship between the parties, which had been breached by the Defendant's behaviour in showing the video tapes to third parties. However he held that the claimant could not recover damages for mental distress. On appeal, the Court of Appeal also refused to recognise the tort of privacy, but awarded damages for mental distress caused by the breach of confidence.
 23. Similarly in the case of **Wilson v. Ferguson (2015) WASC 15** the Supreme Court of Western Australia held that pictures taken and sent using mobile phones were of the necessary quality of confidence that there was a breach when the Defendant posted the images on his facebook page. According to Mitchell J. at paragraph 66

“intimate photographs and videos taken in private and shared between two lovers would ordinarily bear a confidential character and be implicitly provided on condition that they not be shown to any third party”

24. In **Stephens v Avery (supra)**, Sir Nicholas Browne-Wilkinson V.-C. was dealing with an application to strike out a statement of claim based upon a claim for breach of confidence. The information related to sexual conduct of a lesbian nature between the plaintiff and another and she revealed the details to a person who in turn disclosed them to the press. It was submitted that sexual conduct, whether it be heterosexual or homosexual, lacks the quality of confidentiality because by taking part in the sexual activity both sexual parties know what has happened and accordingly neither can claim the information is confidential. In dealing with the argument His Lordship said -

"In my judgment this submission is wholly misconceived. It is based on the premise that as between unmarried sexual partners there is no duty of confidentiality. Therefore, both parties are free to discuss the matter with the whole world. I will assume that submission to be correct but without expressing any view on its correctness in law. Even on that assumption, the fact that the other partner to a sexual relationship may disclose what has happened does not mean that he or she has done so. To both people the details of their sexual lives are high on their list of those matters which they regard as confidential. *The mere fact that two people know a secret does not mean that it is not confidential. If in fact information is secret, then in my judgment is capable of being kept secret by the imposition of the duty of confidence on any person to whom it is communicated. Information only ceases to be capable of protection as confidential when it is in fact known to a substantial number of people.*"

His Lordship concluded -

"In principle, therefore, I can see no reason why information relating to that most private sector of everybody's life, namely sexual conduct cannot be the subject matter of a legally enforceable duty of confidentiality."

25. While it may appear that an individual's sexual exploits should be afforded some protection on account of privacy, the law in this jurisdiction has however not developed so as to recognize any such right.

Right to Privacy

26. In **Wainwright .v. Home Office [2004] 2 AC406** the House of Lords held that there was no English domestic law tort of invasion of privacy and the English court has not recognised a cause of action based upon personal privacy.

27. **Gilbert Kodilinye in: Commonwealth Caribbean Tort Law 5th Edition** at chapter 16 entitled: "*The Developing Tort of Misuse of Private Information*" at p.453-454 noted, that "the traditional elements of the law of confidence have been used as a springboard for the development of what is now termed the tort of misuse of private information, which may cover circumstances or situations not covered by the law of confidence, since it is more closely aligned with the right to private life found under Article 8 of the ECHR and under constitutional fundamental law principles. In satisfying the test for a successful claim in the tort of misuse of private information, the question is whether a claimant has a reasonable expectation of privacy concerning the information disclosed or about to be disclosed."

28. According to **Kodilinye**, there is no developed jurisdiction of the tort of misuse of private information in the Caribbean. He noted that while the fundamental provisions of some constitutions allow for some measure of constitutional protection of privacy, this remedy is only available in actions against the state and are not available against private citizens.

29. **In this jurisdiction therefore no action can be founded based on the failure to respect the privacy of a person. Given the rapid pace with which the face and fabric of the society has changed and cognizant of the infinite reach of social media, it**

cannot be denied that the privacy of the person is under attack and there is dire need for the enactment of statute to afford protection for citizen's personal privacy.

30. It must also be recognized that while the Courts in the United Kingdom are now obligated to apply the law in relation to breach of confidence in a manner that is consistent with that Nation's obligations under the Human Rights Act 1988 and its obligations under the European Convention for the Protection of Human Rights and Fundamental Freedoms, no such obligation exists in this jurisdiction.
31. The instant case reinforces this Court's belief that it cannot confine itself to a myopic view of the law and in the absence of legislative protection, the common law concept of Breach of Confidence has to be moulded so as to address modern societal demands. The law has to be dynamic and has to develop in such a way to ensure that it remains relevant and it must be recognised that there is an obligation of conscience which requires that videos, photographs and/or recordings that capture private intimate relations, should be clothed with a quality of confidentiality.
32. There can be no circumstance that is more private and confidential than where parties are engaged in consensual sexual activity in private. In such a scenario it is unlikely to expect that there would be an express agreement by the parties that their liaisons would be confidential but in such a circumstance an obligation of confidentiality can and must be implied. Consequently, all photographs and recordings which capture sexual practices conducted in private should only be disseminated where the express consent of all the parties involved has been obtained. This Court is of the view that the position adopted in Giller v. Procopets (supra) should be followed in this jurisdiction and this Court finds that the photos in this case are covered with a cloak of confidentiality and that a confidential relationship existed between the parties. The distribution of sexually explicit images including the uploading of such material unto the internet, without the consent of the depicted subject cannot be condoned in civilised society. The possession and dissemination of such sexually explicit material can be used as a tool of blackmail,

intimidation and/or revenge and this can result in the infliction of hurt, pain and damage to the depicted subject. On the facts before the Court there was a breach of confidentiality when the photos were distributed, but the issue to be determined is ‘who was first responsible for the breach of confidentiality by their unauthorised distribution of the photos?’

33. The Defendant’s evidence that the Claimant was the one who first distributed the photos is rejected by this Court for the following reasons:

- a. Firstly the messages do not support this assertion. In the course of the various conversations, the Defendant never accused the Claimant of the distribution of any of the photos. In fact, the messages reveal that pleas were advanced by the Claimant and her friends beseeching the Defendant not to distribute any of the photos.
- b. Secondly, the Defendant is now married to Kabrina but she was not called as a witness, though she is resident in this jurisdiction and she is not ill. Kabrina’s evidence could have assisted the Court in its resolution of this issue as the Defendant contended, that the Claimant showed the photos to her before he showed them to Kasi.
- c. Thirdly, the Court found the Claimant’s version of events was more plausible and probable than the position postured by the Defendant.

34. **The Defendant admitted that he sent photos to Kasi and it is clear on the evidence that that he had no authorization from the Claimant to do so. The messages in evidence strongly suggest that the Defendant may have also shown or sent the photographs to other persons in addition to Kasi. The Court found as a fact that it was the Defendant who first breached the confidentiality by distributing/sending the photographs to Kasi without obtaining the Claimant’s consent. The Court also found as a fact that the Defendant’s actions were motivated by a desire to cause the**

Claimant upset, embarrassment and distress. In the circumstances therefore the Claimant is entitled to relief.

- 35. It is unfortunate that as a society we have not been proactive and that we are burdened with so many archaic laws that predate our independence. The impact of social media and its consequent effect on our individual and collective privacy has to be acknowledged and addressed. There is a tendency for persons to hide behind the perceived anonymity that comes from using a ‘username’ and/or a user profile while sitting behind a computer screen or when using a hand held device to engage in offensive, hurtful, divisive and destructive discourse. These persons may feel that they are empowered but their actions can infringe upon the rights of others with the aggrieved persons having no recourse.**
- 36. Online conversations and the dissemination of information over the internet initiate an open ended forum. The internet is a comprehensive and cohesive data base and there is really no anonymity in relation to the use of same. Photographs uploaded unto the internet can be retrieved forever. The impact upon an individual’s privacy is tremendous and the absence of clear and cohesive legislation to protect our citizens’ privacy and to punish those who violate the rights of others, can cause us to descend into a bottomless pit of anarchy. The use of obscene language in a public place is an offence, yet, online comments to newspaper articles and messages posted on social media are very often foul, racist and despicable but no criminal charges are preferred since evidential challenges arise in relation to the authorship of the offending material. A similar challenge exists in relation to the posting of online defamatory statements. Deeming legislative provisions that create a rebuttable presumption of ownership and responsibility for material posted on one’s social media page, facebook account or from an individual’s email address should therefore be considered. The time for legislative intervention is long overdue.**

37. Having found that there was a breach of confidentiality and that the Claimant is entitled to relief the Court must now address its mind as to the nature of the relief that should be afforded to the Claimant

Reliefs available to the Claimant

38. The Court in its inherent jurisdiction can grant relief and award equitable compensation in addition to injunctive relief. The courts in New Zealand and Australia have with regularity treated equitable compensation as the basis of any award for breach of confidence. In this case there is no evidence of actual financial loss or of physical injury, however in her evidence the Claimant said that she suffered emotional and mental distress and that she was subjected to public ridicule. Her evidence, on these matters was not challenged.

39. In **Cornelius v. De Taranto (2001) EMLR 12 at pages 66-67 and 69**, Morland J said: ...[I]t would be a hollow protection of [the right to protection of confidential information] if in a particular case in breach of confidence without consent details of the confider's private and family life were disclosed by the confidant to others and the only remedy that the law of England allowed was nominal damages. In this case an injunction or order for delivery up of all copies of the medico-legal report against the defendant will be of little use to the claimant. The damage has been done. ... In cases of commercial or business breach of confidence the powers of the court are not barren. Such remedies as injunction, delivery-up, account of profits and damages may be available... similarly in the case of personal confidences exploited for profit or peddled to the media. ... In the present case in my judgment recovery of damages for mental distress caused by breach of confidence, when no other substantial remedy is available, would not be inimical to considerations of policy but indeed to refuse such recovery would illustrate that something was wrong with the law.

40. **This Court endorses and adopts the aforementioned view by Morland J. as well as the position adopted by the Appeal Court in Giller v. Procopets (supra). Equitable**

jurisprudence must be characterised by a measure of remedial flexibility. In Giller v. Procopets (supra), the appellate court found that monetary compensation for emotional distress could be awarded both in the exercise of the Court's equitable jurisdiction and under the Victorian version of Lord Cairns' Act which was cast in materially similar terms to s25(10) of the Supreme Court Act 1935 (WA). While there is no equivalent of the Lord Cairns' Act in this jurisdiction, the reasoning which was based on the inherent equitable jurisdiction to award compensation for breach of an equitable obligation can be followed.

41. The position postulated in Giller v. Procopets is consistent with the way in which the law has developed in the United Kingdom, albeit under the influence of the Human Rights Act 1998 (UK) and jurisprudence of the European Court of Human Rights.
42. Even as at late 1996 when Giller v. Procopets was decided, it would have been difficult to predict the dramatic effect that the internet and social media now has on the global community. This pervasiveness is reflected in the way the Claimant and Defendant herein communicated with each other, often by electronic communication. While it may be difficult for some to comprehend, it appears that it is not uncommon for couples in a sexual relationship to share intimate images with each other using their mobile phones during their relationship. This practice has introduced a relatively new verb- 'sexting' – to the English language and the dissemination of graphic sexual material after relations end has been coined as 'Revenge Porn'.
43. Technological advances have dramatically increased the ease and speed with which such communication and/or sexually graphic images can be disseminated to the world and the process of capturing and disseminating an image to a broad audience can now take place over a matter of seconds by a few finger swipes.

44. **The prudence of this contemporary practice of sharing intimate material which often involves sexual images, by electronic means should be weighed against the damage, distress and embarrassment which the broader dissemination of such material can cause. This reality must therefore inform the way in which equity responds to a breach of the obligation of confidence and has to be considered when determining the relief that should be awarded in response to a breach of that obligation.**
45. **There is a disturbing trend to immortalise almost every facet of daily life by taking photographs and uploading them onto social media sites. Such activity should also be cautiously reviewed, since the material that is posted may cause a serious compromise to the subject's personal security as profilers and deviants can predict movements and patterns of behaviour.**
46. **The behaviour of the Defendant cannot be condoned and demonstrated a flagrant disregard for the feelings, emotion and dignity of the Claimant with whom he shared sexual relations. The Court was alarmed by the manner in which the Defendant viewed the Claimant as an object and his statement as contained in the messages that "she was just a 'f--k' " is unacceptable. The treatment of women as mere objects of pleasure is offensive, derogatory, antiquated, has no place in a civilised society and is indicative of the general lack of respect.**
47. **In this society women are often treated as second class citizens and as being inferior to their male counterparts but the reality is that they are excelling in all facets of national life and they are achieving greater academic success than many of their male counterparts. It is rather unfortunate that a young and talented cricketer like the Defendant behaved in such a manner. Upon the shoulders of those who hold positions of power, prestige and publicity there rests an onerous responsibility to adhere to the highest standards of moral and civilised conduct especially since the nation's children look towards them to set the standard of acceptable conduct. As a society we have to undertake a critical review, reprioritise and refocus. The**

objectification of women continues to be viewed as being culturally acceptable as is evident in our soca and chutney music. We must ask ourselves the question, “how are we to build a developed nation when we encourage and celebrate disrespect?” Respect for individuals regardless of gender, ethnicity, sexual orientation, for the law and for authority, must define the way we live and interact with each other.

48. On the evidence, the Court is convinced that the Defendant wanted to inflict mental and emotional harm to the Claimant. He felt that she had jeopardised his relationship with Kabrina and the familiar say ‘Hell hath no fury as a woman’s scorn’ has to be adjusted in this case, as the evidence suggests that “Hell hath no fury as the Defendant’s scorn.” The Claimant chose to engage in an unconventional relationship with the Defendant. The same moral obligation that she said caused her to inform Kabrina of her relations with the Defendant when their relationship ended, should have caused her to avoid the relationship with the Defendant in the first place. Individuals must take responsibility for their actions and they are charged with the primary responsibility of safe guarding themselves.

49. Under the common law, aggravated damages can also be awarded to compensate a litigant when the harm occasioned by the wrongful act has been aggravated by the manner in which the act was done. There is on the facts of this case a distinct element of aggravation and the Defendant demonstrated a clear and unshakable determination to make the Claimant pay and to expose her in the literal sense of the word. The Defendant’s conduct was unacceptable and the Court found as a fact that significant distress and embarrassment was inflicted upon the Claimant. This Court is of the view that the breach of confidence was occasioned with the deliberate intent of causing embarrassment, distress and humiliation to the Claimant and it is therefore necessary to include in the award of compensation an appropriate quantum for aggravation.

50. In **Giller** (supra) the Court of Appeal awarded the sum of \$40,000.00 including the sum of \$10,000.00 in aggravated damages. This Court is of the opinion that the sum of

\$150,000.00 should be awarded as compensation to the Claimant and this said sum is inclusive of the sum of \$60,000.00 which is awarded on account of aggravated damages.

51. In the circumstances the order of the Court is as follows:

- i. The Defendant is to pay to the Claimant the sum of \$150,000.00 inclusive of an award for aggravated damages.
- ii. A perpetual injunction is hereby issued so as to restrain and/or prohibit the Defendant his servants and/or agents from disseminating, uploading, posting and/or publishing nude and/or sexually explicit photographs of the Claimant and/or photographs that depict her performing the act of fellatio whether by way of the internet, cellular phone or any other form of social media or by any other means whatsoever.
- iii. It is hereby ordered that all the photographs exhibited in this matter should be placed in a sealed envelope until the time limited for the filing of an appeal, upon expiration of same, if no appeal has been filed, the photographs are to be destroyed by the Registrar. If an appeal is filed the photographs shall remain sealed until any further order is issued by the appellate court.
- iv. The Defendant is to pay to the Claimant costs calculated on a prescribed cost basis.
- v. There shall be a stay of execution of the payment of the awarded sum of \$150,000.00 and the costs awarded of 14 days.

.....
FRANK SEEPERSAD
JUDGE