

**ONTARIO
SUPERIOR COURT OF JUSTICE**

B E T W E E N:

FRANK PLANTER

Plaintiff

-and-

GARETT DENISON and THE CITY OF LONDON

Defendant

PRE-TRIAL MEMORANDUM OF THE PLAINTIFF

PART I – SETTLEMENT BRIEF

1. The Plaintiff, Frank Planter (hereinafter “Mr. Planter”), states that both liability and damages are in dispute.

THE PARTIES

2. This claim arises from a motor vehicle collision that took place on or about March 18, 2016 (the “Accident”).
3. The Plaintiff was a twenty-one year old Ivey Business School student at Western University. At the time of the Accident, the Plaintiff was a pedestrian walking across an unlit cross-walk on Richmond Avenue near the intersection of Oxford Street.

4. The Defendant, Mr. Denison (hereinafter “Mr. Planter”) was a forty-two year old factory worker, employed in St. Thomas, Ontario.
5. The other Defendant, The City of London (hereinafter “City of London”), was at all times responsible for the maintenance of the lights above the crosswalk.

LIABILITY

6. The Plaintiff takes the position that the defendant, Mr. Denison, is liable for the accident.
7. The Plaintiff takes the position that the defendant, the City of London, is also liable for the accident as they were informed of the fact that the cross-walk was broken and failed to repair that cross-walk in accordance with the minimum maintenance standards for municipal highways.
8. The Plaintiff crossed Richmond Avenue between the lines of a cross-walk designed specifically for the purpose of allowing pedestrians to cross the street at that location. He had the right of way.
9. Mr. Denison exceeded the speed limit as he was in a rush to get to work.
10. Mr. Denison was sufficiently far away at the time Mr. Planter began crossing the street to allow Mr. Denison the opportunity to stop at the cross-walk and avoid a collision.
11. Furthermore, the facts are clear in that Mr. Denison turned his attention to the floor of his truck in order to pick up his dropped wallet immediately prior to the accident.
12. Mr. Denison failed to keep in working order the front headlamps on his truck. Therefore, his truck did not properly illuminate the roadway in front of him.
13. Despite the fact that Mr. Denison negligently drove a vehicle without proper working front headlamps, the half-moon along with the single working front headlamp on his truck provided enough illumination of the roadway that he ought to have seen the Plaintiff. Furthermore, Mr.

Planter was wearing fluorescent green clothing which would have made him exceptionally visible.

14. On the day prior to the accident, Mr. Denison was tired from attending at the zoo with his family. He woke up to go to work in the early hours of March 18, 2015. Therefore, he was not well rested and fully alert at the time of the accident.
15. The Plaintiff relies on the engineering expert report of Jonathan Irons of Wrench Engineers, a foremost expert in accident reconstruction, to support his position. The Irons report indicates that any reasonable person in the position of Mr. Denison ought to have seen Mr. Planter and further, would have had more than enough time to brake and avoid the collision, even when travelling 5 km/h over the speed limit.

DAMAGES

16. As a result of the subject motor vehicle accident, the Plaintiff has sustained permanent and serious physical injuries. These injuries include but are not limited to a grade 3 severe concussion, two rib fractures and a broken left shoulder.
17. The Plaintiff has sustained permanent and serious mental impairment as a result of the concussion. The Plaintiff relies on the report of neurological expert, Dr. Jennifer Bryant, a highly-respected expert with 30 years' experience as a neurologist and extensive experience working for both plaintiffs and defendants in lawsuits. Her report concludes that Mr. Planter will be left with a permanent neurological impairment.
18. The Plaintiff has sustained psychological damages stemming from his physical and mental injuries as well as the resulting impact on his functionality. The Plaintiff relies on the report

of psychology expert, Dr. Madelaine Sandwich, PhD. Her report concludes that Mr. Planter experienced PTSD and severe depression as a result of the subject accident.

19. Mr. Planter was a high-level student with a superior track record of academic success. He attended a prestigious Canadian business school and succeeded in securing a coveted investment banking internship at Goldman Sachs in New York. As a result of the subject motor vehicle accident, Mr. Planter is precluded from pursuing this internship. Furthermore, the accident has so greatly impacted his mental ability that he will never be able to pursue as lucrative a career as he would have pursued had the accident not occurred.
20. Mr. Planter required significant past care and will require significant future care as a result of the subject motor vehicle accident. Due to the severe concussion that he experienced, Mr. Planter had to spend several months in a dark room which required part-time care from his parents as well as other care providers. While he is no longer required to spend all of his time in a dark room, his lack of ability to function at full capacity means that he will require part-time care from a trained PSW for the rest of his life.