

ONTARIO
SUPERIOR COURT OF JUSTICE

BETWEEN:

THE ESTATE OF HENRY LAO by its Litigation Guardian Wendy Lao, WENDY LAO
personally, SOPHIE LAO, a minor, by her Litigation Guardian, Wendy Lao and JENNY
LAO, a minor, by her Litigation Guardian Wendy Lao

Plaintiffs

- and -

SERGIO ROSSIE and ANJANI PERSAUD

Defendants

STATEMENT OF CLAIM

TO THE DEFENDANTS

A LEGAL PROCEEDING HAS BEEN COMMENCED AGAINST YOU by the Plaintiffs. The claim made against you is set out in the following pages.

IF YOU WISH TO DEFEND THIS PROCEEDING, you or an Ontario lawyer acting for you must prepare a Statement of Defence in Form 18A prescribed by the Rules of Civil Procedure, serve it on the Plaintiff's lawyer, or where the Plaintiff does not have a lawyer, serve it on the Plaintiff, and file it, with proof of service, in this Court office WITHIN TWENTY DAYS after this Statement of Claim is served on you, if you are served in Ontario.

If you are served in another province or territory of Canada or in the United States of America, the period for serving and filing your Statement of Defence is forty days. If you are served outside Canada or the United States of America the period is sixty days.

Instead of serving and filing a Statement of Defence, you may serve and file a Notice of Intent to Defend in Form 18B prescribed by the Rules of Civil Procedures. This will entitle you to ten more days within which to serve and file your Statement of Defence.

IF YOU FAIL TO DEFEND THIS PROCEEDING, JUDGMENT MAY BE GIVEN AGAINST YOU IN YOUR ABSENCE AND WITHOUT FURTHER NOTICE TO YOU. If you wish to defend this proceeding but are unable to pay legal fees, legal aid may be available to you by contacting a local Legal Aid office.

TO:

Sergio Rossie
15 Brunel Court,
Toronto, Ontario
M5V 3Y6

AND TO:

Anjani Persaud
75 Portland Street
Toronto, Ontario
M5V 2M9

CLAIM

1. The Plaintiffs claim against the Defendants for the following:
 - a. Special damages in the sum of \$1,000,000.00;
 - b. General damages in the sum of \$2,000,000.00;
 - c. Pre-Judgment interest pursuant to Section 128 of the Courts of Justice act, R.S.O. 1990, Chapter C. 43;
 - d. Post-judgment interest pursuant to Section 129 of the Courts of Justice Act, R.S.O. 1990, Chapter C.43;
 - e. Their costs of this action and applicable taxes on costs; and
 - f. Such further and other relief as this Honourable Court deems just.

THE PARTIES

2. Until his death, Henry Lao lived in the City of Toronto, in the Province of Ontario, and at all material times.
3. The Estate of Henry Lao brings a claim for general damages for pain and suffering between the time of injury and his eventual death.

4. The following Plaintiffs bring claims pursuant to section 61 of the *Family Law Act*, RSO 1990, Chapter F3. Particulars of their relationship to Henry Lao and their places of residence are as follows:

Name	Relationship	Place of Residence
Wendy Lao	Mother	Toronto
Sophie Lao	Daughter	Toronto
Jenny Lao	Daughter	Toronto

5. The Defendant, Sergio Rossie, resides in the city of Toronto, in the Province of Ontario and was at all material times the operator of a grey 2019 Mercedes G-Class bearing Licence Plate No. BKTT 274 (the “Defendant vehicle”).
6. The Defendant, Anjani Persaud, resides in the city of Toronto, in the Province of Ontario and was at all materials times the owner of the Defendant vehicle.

THE COLLISION

7. On Sunday, February 28, 2021 at approximately 11:20 p.m., in the City of Toronto, in the Province of Ontario, the Defendant vehicle was travelling eastbound on Front

Street at its intersection with Spadina Avenue, when it veered into westbound traffic and collided with the vehicle operated by Henry Lao and hit it head on. Henry was severely injured in this incident and died while being transported to the hospital.

ALLEGATIONS OF NEGLIGENCE

8. The Plaintiffs state that Henry Lao's injuries and death occurred as a direct result of the negligence of the Defendants. The particulars of the negligence are as follows:

A. AS TO THE NEGLIGENCE OF THE DEFENDANT, SERGIO ROSSIE:

- a. He drove the Defendant vehicle directly into Henry Lao;
- b. He failed to observe and yield to Henry Lao;
- c. He drove recklessly and without due caution
- d. He failed to keep a proper lookout
- e. He failed to have or maintain the Defendant vehicle under proper control;
- f. He was travelling at too high a rate of speed in the circumstances;
- g. On the occasion in question, he was an incompetent driver, lacking in reasonable skill and self-command, and ought not to have attempted to operate a motor vehicle;

- h. Even after the danger of a collision arose, he could, by the exercise of reasonable care, have avoided the same but failed to do so;
- i. He failed to give any warning of the approach of the Defendant vehicle, though such warning was reasonably necessary under the circumstances;
- j. He failed to properly apply or apply at all the horn, steering mechanism, signal indicators, lights, brakes and other mechanisms on the Defendant vehicle;
- k. He was dialing, talking or texting on a cellular telephone or other communication or media device just before the collision and at the time of the collision;
- l. He was distracted by his entertainment system just before and at the time of the collision;
- m. He was distracted by the global positioning system located in the Defendant vehicle just before and at the time of the collision;
- n. In the five years before the collision, he had attended on his family doctors, other physicians and optometrists for various ailments and was prescribed medications and the side effects to the medication impaired his ability to drive and his ability to maintain a driver's license and notwithstanding advice from various health professionals not to drive or drive only under limited circumstances, he drove in any event;

- o. At the time, his faculties of observations, perception, judgment and self control were impaired and due to his physical and mental condition, he was incompetent to operate a motor vehicle with normal and reasonable care and attention;
- p. He voluntarily permitted himself to arrive at such a condition resulting from the consumption of alcoholic beverages or absorption of drugs, that his normal faculties, perception, will and judgment were impaired to such an extent that when he was driving a motor vehicle, he was in a danger to himself and the public;
- q. He failed to observe the Rules of the Road as required by the Highway Traffic Act, R.S.O. 1990; and
- r. He created a situation of danger from which Henry Lao could not extricate himself, despite all reasonable efforts.

B. AS TO THE NEGLIGENCE OF THE DEFENDANT, ANJANI PERSUAD:

- a. She failed to have or maintain the Defendant vehicle in a proper state of mechanical repair suitable for the safe use thereof on a roadway;
- b. She failed to have the brakes, horn, headlights, signal lights, steering mechanism and other mechanism on the Defendant vehicle in proper working order;

- c. She permitted an inexperienced and incompetent driver or a driver whose faculties of observation, perception, judgment and self-control were impaired to operate the Defendant vehicle; and
- d. She created a situation of danger from which Henry Lao despite all reasonable efforts and precautions, was unable to extricate himself.

SPECIAL DAMAGES

- 9. As a result of the collision and the resultant death of Henry Lao, the Plaintiffs have suffered pecuniary losses including, but not limited to, funeral and burial expenses, a loss of income and other expenses, the full particulars of which will be provided prior to trial.

NON-PECUNIARY GENERAL DAMAGES

- 10. As a result of the collision, Henry Lao suffered fatal injuries.
- 11. As a result of the injuries he sustained, Henry Lao died on March 1, 2021. The Estate of Henry Lao is claiming damages for his pain and suffering from the time of this tragic accident until his untimely death.
- 12. As a result of the circumstances surrounding the incident, the incident itself, the immediate aftermath and the resultant death of Henry Lao, the Plaintiffs Wendy, Jenny and Sophie Lao have suffered mental distress and psychological trauma.

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COST OF CARE

14. The Plaintiffs may incur medical expenses, including expenses for psychological services, the full particulars of which are not within the Plaintiffs' knowledge at this time.

LOSS OF GUIDANCE, CARE AND COMPANIONSHIP

15. As a result of the collision and the resultant death of Henry Lao, the Plaintiffs have sustained a loss of guidance, care and companionship that they might reasonably have expected to receive from Henry Lao if he had not passed away.

LOSS OF SHARED FAMILY INCOME

16. As a result of the collision and the resultant death of Henry Lao, the Plaintiffs have suffered a loss of pecuniary benefits that they would have received from Henry Lao, including a percentage of his net earnings and other income that he would have generated and the contribution that he would have made to the household and home maintenance tasks.

CONVICTIONS

17. The Plaintiffs state that the Defendant, Sergio Rossie, was charged with and convicted of various offences under the provisions of the Highway Traffic Act, R.S.O. 1990, Chapter I.8., as amended, in relation to the collision.

APPLICABLE STATUTES

18. The Plaintiffs plead and rely upon the provisions of the:
- a. Insurance Act, R.S.O. 1990, Chapter I.8, as amended;
 - b. The Highway Traffic Act, R.S.O. 1990, as amended;
 - c. The Negligence Act, R.S.O. 1990, Chapter 0.2, as amended;
 - d. The Family Law Act, R.S.O. 1990, Chapter F3, as amended;
 - e. The Courts of Justice Act, R.S.O. 1990 c. 43, as amended.

PLACE OF TRIAL

19. The Plaintiffs propose that this action be tried in the City of Toronto, in the Province of Ontario.

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