## DCPI 292/2012

**IN THE DISTRICT COURT OF THE**

**HONG KONG SPECIAL ADMINISTRATIVE REGION**

PERSONAL INJURIES ACTION NO 292 OF 2012

--------------------

##### BETWEEN

|  |  |
| --- | --- |
| CHU MAN CHUN | Plaintiff |
|  |  |
| and |  |
| THE HONG KONG JOCKEY CLUB | 1st Defendant |
|  |  |
| CNT SECURITY COMPANY LIMITED | 2nd Defendant |
|  |  |
| CHU KWOK YUI | 3rd Defendant |

--------------------

Coram : His Honour Judge Ko in Chambers

Date of Hearing : 16 January 2014

Date of Decision : 16 January 2014

-----------------------------

D E C I S I O N

-----------------------------

1. This is the plaintiff’s application for leave to amend his amended statement of claim. The application is opposed by the 1st and 2nd defendants. The 3rd defendant has not taken any part in these proceedings and judgment has already been entered against him.
2. The general principles for the grant of leave are not disputed: All amendments for the purpose of determining the real question in controversy between the parties ought to be made.[[1]](#footnote-1)
3. The plaintiff’s solicitor has taken me through the proposed amendments and I am satisfied that they arose out of the evidence already filed by the parties. It is true that the exact allegations may be new, but they are based on the evidence already filed. In my view, what these amendments seek to achieve is to put the defendants on notice of these new grounds of negligence that the plaintiff is minded to advance at trial. In that regard, they are aimed at enabling the real question in controversy to be determined fully at trial.
4. The 1st and 2nd defendants oppose the application principally on the ground of delay. The 2nd defendant further cites the ruling dated 5 July 2013 in HCPI 153/2012 and complains that they will be prejudiced as their witness(es) may not recollect what happened 5 years ago.
5. This action has been set down for trial and the trial is scheduled to take place in early April. There are still 2 months to go. Having regard to the scope of the proposed amendments and the evidence already filed, I take the view that the amendments will not have the effect of affecting the trial dates. The defendants of course will have to deal with these new allegations by means of pleadings and evidence, but they are not starting from scratch. They are building on their case already pleaded and the evidence already filed. As the new allegations are quite well articulated in the pleadings and confined in scope, I am confident that the defendants still have sufficient time to prepare further if necessary to meet these new allegations.
6. I therefore make an order in terms of the summons as amended. Costs of this application be to the defendants in any event to be taxed if not agreed.

(Justin Ko)

Acting Chief District Judge

Ms C Lau of Wan and Leung, assigned by the Director of Legal Aid, for the plaintiff.

Ms Angela Leung of Deacons for the 1st defendant.

Mr Tim Ngai of Munros for the 2nd defendant.

The 3rd Defendant in person, absent.

1. See *Hong Kong Civil Procedure 2014*, §20/8/5. [↑](#footnote-ref-1)