## DCPI 968/2015

**IN THE DISTRICT COURT OF THE**

**HONG KONG SPECIAL ADMINISTRATIVE REGION**

PERSONAL INJURIES ACTION NO 968 OF 2015

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##### BETWEEN

HUI CHI YIN Plaintiff

and

YUK FUNG ENGINEERING LIMITED 1st Defendant

ALAN MARBLE ENGINEERING

COMPANY LIMITED 2nd Defendant

WING SUM CONSTRUCTION &

ENGINEERING COMPANY LIMITED 3rd Defendant

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Before: His Honour Judge Edmond Lee in Chambers

Date of Hearing: 19 June 2017

Date of Decision: 20 July 2017

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DECISION

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1. The plaintiff issued a summons on 27 March 2017 seeking leave for parties to obtain a supplemental joint expert report to the joint expert report dated 28 October 2014 (“Joint Report”) to clarify or elaborate on various areas or matters as set out in the 9 questions under the schedule attached to the said summons. After arguments in Court on 19 June 2017, the plaintiff was directed to reconsider the matter with the Court’s preliminary observations on the proposed questions. Now the plaintiff decided to withdraw the proposed Questions 3 to 9 and combine Questions 1 and 2 as follows:-

“Dr. Lam, please clarify whether or not the residual symptoms and permanent physical hindrance for Mr. Hui to resume his previous job as mentioned in paragraph 67 of the JMR are the residual symptoms and permanent physical hindrance as stated in paragraphs 46, 47 & 59 of the JMR. Whether Dr. Lam’s opinion stated in paragraph 67 of the JMR is based in the findings in paragraphs 46, 47 & 59 of the JMR.”

1. Parties had set out their respective arguments in full by way of letters sent to Court between 28 June 2017 and 11 July 2017. On 12 July 2017, a joint application was made by the parties, which was granted, for the oral hearing originally scheduled on 17 July 2017 be dispensed with and a written ruling be made.
2. After consideration, I agree with the submissions of the 1st, the 2nd and the 3rd defendants (“the defendants”) that it is sufficiently clear in Dr Lam’s opinion at paragraph 67 of the Joint Report that the “residual elbow symptoms” and the “permanent physical hindrance” mentioned therein should be those referred to at paragraphs 46 and 59 of the Joint Report (paragraph 47 is irrelevant as it disclosed no abnormalities of the plaintiff). The reason is that, only those two paragraphs, ie paragraphs 46 and 59, had mentioned, for example, the complaint of tenderness at lateral epicondyle, limitation in elbow motion, etc which could fit in Dr lam’s descriptions of the “residual elbow symptoms” and the “permanent physical hindrance” of the plaintiff in his opinion at paragraph 67 of the Joint Report. It is therefore unnecessary to seek any clarification or elaboration from Dr Lam by way of a supplemental report as proposed by the plaintiff.
3. Now all the proposed questions by the plaintiff are either withdrawn or refused and as a result, no leave is given to obtain a supplemental joint report. The plaintiff’s application under the summons dated 27 March 2017 is dismissed with costs to the defendants to be taxed if not agreed and the plaintiff’s own costs be taxed in accordance with the Legal Aid Regulations.

( Edmond Lee )

District Judge

Ms Liu Sin Kwan of KCL & Partners, assigned by the Director of Legal Aid, for the plaintiff

Ms Nora Yuen of William Lee & Associates, for the 1st, the 2nd and the 3rd defendants