IN THE DISTRICT COURT OF THE

HONG KONG SPECIAL ADMINISTRATIVE REGION

PERSONAL INJURIES ACTION NO. 29 OF 2002

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| BETWEEN | Yung Cheong | Plaintiff |
|  | and |  |
|  | Wong Kin-chit  Progrand Pharmaceutical Corporation Ltd | 1st Defendant  2nd Defendant |

Coram: H H Judge Carlson in Chambers

Date of Hearing: 24 May 2002

Date of Ruling: 24 May 2002

Present: Mr Kevin Ng of Kevin Ng & Co., assigned by the Legal Aid Department, for the Plaintiff

D1 in person, absent

Mr Law Sai-man of C P Tsang & Co., for D2

R U L I N G

1. The issue that calls for decision by me today on this checklist review hearing is a request for further and better particulars of the 2nd defendant’s defence which is made by the plaintiff.
2. The case itself is a simple one. The allegation is that the plaintiff, who is a 75 year old lady, was walking outside a restaurant at Sha Tin when the 1st defendant, who is an employee of the 2nd defendant, was pushing a trolley which was carrying a load and that he collided with the plaintiff and knocked her to the ground. As a result she suffered a fractured hip and so she is claiming damages for personal injury, pain and suffering and so forth.
3. The 1st defendant has not entered a defence. He had applied for Legal Aid. Legal Aid was refused on two occasions. The last refusal was in March. He should have filed a defence and so I have earlier today entered judgment against him in default of defence with damages to be assessed.
4. The 2nd defendant has filed a defence to the statement of claim denying liability. There is an admission in paragraph 3 of the defence that the plaintiff fell to the ground after she came into contact with the trolley that was being pushed by the 1st defendant.
5. Paragraph 5 has the usual alternative case advanced to the effect that the accident was wholly caused or contributed to by the negligence of the plaintiff herself, and a number of particulars of negligence are pleaded.
6. Now as a result of that pleading, I have before me a request for further and better particulars. May I say that it is not a request which one can greatly recommend. I am going to refuse it. It is a request for evidence at best. Much of it, such as the requirement that colour photographs and sketches be provided, are all matters that can be dealt with by the parties by way of discovery and in the general preparation of the case. Most of the other matters are at best dealt with by interrogatories but I am not suggesting or encouraging such an application to be made. And, in any event, these are matters that are all going to be dealt with in the witness statements which the parties are going to have to exchange.
7. So there is nothing in this request which should be ordered. The matter, in my judgment, has been sufficiently pleaded and, accordingly, the request will be dismissed.
8. I will then make orders as they appear in the plaintiff’s checklist review with the following amendments: Subparagraph 2 of paragraph 11 will be 21 days. Paragraph 3 will be struck out because I have refused to order further and better particulars. Paragraph 4, 21 days. Paragraph 7, 91 days, that is 13 weeks precisely. And so far as the costs of today, Mr Law has suggested costs in the cause and I think that is a proper order to make.

(Discussion re costs)

1. I take the view that on the issue of the request for further and better particulars, I am so clearly of the view that the request, with great respect to Mr Ng, was misconceived, should not have been dealt with in this way at all, that the 2nd defendant must have his costs of and occasioned by this request in any event.
2. Paragraph 1, judgment against the 1st defendant, obviously costs of the action up to and including today will be to the plaintiff, in any event. The costs of the checklist review, save for the issue as to the request for further and better particulars, will be costs in the cause with Legal Aid taxation of the plaintiff’s costs.

Ian Carlson

District Court Judge