

Date: 19970905
Docket: C966020
Registry: Vancouver

IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

INSURANCE CORPORATION OF BRITISH COLUMBIA

PLAINTIFF

AND:

TEO LE, HOA THIEN PHAM, NO DAO PHAM, ANH THRONG HUYNH, LAN DUY PHAM, BINH VAN NGUYEN, TIEN BANG NGUYEN, HOANG OANH VU, PHI PHU PHAM, TRAI THI VO, MINH HUNG PHAM, LAN THI LE, DUC VAN TRAN, THUY THU NGUYEN, TUNG HO NGUYEN, VAN HUNG DUONG, THANH VAN PHAN, THANH VAN NGUYEN, DUC THANH NGUYEN, SON NGOC HO, THUY DUY PHAM, VAN THI DUONG, SON HOANG NGUYEN, MANH VAN DOAN, SUU THI NGUYEN, NHUAN DINH DUONG, DINH TUAN TRAN, THANH TUNG VU, VAN LIET DINH, VAN VINH NGUYEN, ANH HOAI CAO, VAN KHANG NGUYEN, SAM NGUYEN, VAN HANH PHAM, DINH TAN NGUYEN, NGHI "PHILLIP" TRAN, HAI LE, KIM CUONG LUU, DUNG VAN NGUYEN, VAN DUYEN NGUYEN, HUNG NEN DO, VAN LANG NGUYEN, HUNG THANH NGUYEN, HUNG HUY NGUYEN, XAO VAN DO, DUC CHANH NGUYEN, CUONG MANH NGUYEN, BAC VAN TRAN, HUNG VAN NGUYEN, THI THUC NGUYEN, and LIN NGUYEN

DEFENDANTS

ORAL REASONS FOR JUDGMENT

OF THE

HONOURABLE MR. JUSTICE ARKELL

Counsel for the Plaintiff:

F.G. Potts

No other appearances

Place and Date of Hearing:

Vancouver, B.C., B.C.
September 5, 1997

[1] THE COURT: (Oral Judgment) The Plaintiff, the Insurance Corporation of British Columbia, claims fraud and conspiracy against 58 individuals who were involved in 12 motor vehicle accidents which were deliberately staged to fraudulently obtain insurance moneys.

[2] The majority of the Defendants, who will be named, allowed interlocutory judgment to go against them, either by reason of default of Appearance or default in filing a Statement of Defence.

[3] In this application, the Plaintiff seeks an order for quantification of damages on a summary basis against the named Defendants against whom judgment has already been obtained. There will be a trial for the Defendants who dispute liability. The Plaintiff seeks judgment at this time for all of the moneys paid to or for the benefit of the other named Defendants, plus all related Third Party payments and adjusting investigation costs, plus punitive damages and special costs amounting to full indemnification of legal fees.

[4] No claim for overhead cost is made in this application. Such claim will be dealt with at trial.

[5] In four of the twelve alleged accidents, all parties involved in both cars have allowed judgment to be taken. In those accidents, which will be numbered 4, 5, 7 and 8, the

Plaintiff, ICBC, seeks judgment jointly and severally as against each participant for the whole of the loss suffered.

[6] In respect of the remaining accidents, there is at least one participant in each of those accidents who denies liability. In those cases, the Plaintiff at this time seeks judgment only against the individuals against whom judgment has been taken and for the losses directly associated with that particular individual.

[7] The Plaintiff seeks to have the total loss occasioned in respect of a particular accident and the issue of joint and several liability dealt with at trial where necessary.

[8] All Defendants who have disputed liability have been served with the material. Those Defendants who filed an Appearance but who allowed judgment to go in default of defence have had materials delivered to their address of service, and the Defendants who did not file an Appearance were delivered with the original writ.

[9] The named Defendants who have failed to file an Appearance for defence against whom judgment has been taken are deemed, pursuant to Rule 19(19), to have admitted the claims that are set forth in the pleadings of the Plaintiff. The Defendants, therefore, have admitted that they wrongfully and maliciously conspired to defraud and injure ICBC. They assisted and

encouraged each other in making fraudulent insurance claims against ICBC in respect of non-existent or exaggerated personal injury claims or in respect of non-existent or exaggerated claims for the loss of property.

[10] The named Defendants and each of them fraudulently and deceitfully conspired and agreed together to cheat and defraud ICBC, the Plaintiff. They also were attempting to deceive ICBC in order to obtain payments and benefits from ICBC which were not properly owing to the Defendants or any of them.

[11] The named Defendants are deemed to have admitted the allegations based on their failure to file either an Appearance or a Statement of Defence pursuant to Rule 19(19) of the Rules of Court, and as also indicated by the Court in **Sandes v. Brown** (1979), 16 B.C.L.R. 341 and the **Laurentide Financial Corporation v. Stephenson** (1977), 4 B.C.L.R. 341.

[12] All of the accidents or incidents, as they perhaps should be referred to, were staged by the participants as arranged by the Defendant Lin Nguyen for the purpose of defrauding the Plaintiff. The Plaintiff now seeks to recover from each of the named Defendants the sums that are supported for the amounts as set out in the affidavits of ICBC's employees.

[13] A summary assessment of the damages may be made at this time under Rules 17 and 25. A summary assessment of evidence

is appropriate in this case, where the calculation of damages is largely a matter of arithmetic.

[14] The pleadings include claims for the return of all moneys paid to the defendants, including all moneys paid out to Third Parties, plus indemnification for the cost in administering, adjusting and investigating these fraudulent accidents, including the cost of ICBC defending these claims brought by the Defendants.

[15] In respect of the ongoing proceedings between the Plaintiff and the minority of other Defendants who dispute liability, it is a matter of law that the Court's assessment of damages in this application will be without prejudice to either the Plaintiff or Defendants in the action.

[16] It is open to the Court to assess damages summarily while reserving to the Trial Court the assessment of the other heads of damages. The type of damages to be awarded to the insurer where the insurer in this case has established that a fraudulent claim was attempted or succeeded are straightforward and as set forth by the Court in *ICBC v. Sanghera*, a decision of the Court in 1991, 55 B.C.L.R. (2d) 125. Also in the decision of *ICBC v. Sam*, a decision of this Court that was unreported but dated March the 7th, 1997.

[17] Where several individuals conspire to or engage in a common scheme to defraud, each participant is jointly and severally liable for the whole of the loss. This was indicated by the Privy Council in *Wah Tat Bank Ltd. v. Chan*, (1975) 2 All ER at 257.

[18] The question of punitive damages will be appropriately awarded where fraud is alleged and no statement has been filed. As Madam Justice Southin stated in *ICBC v. Sanghera* at page 139, and I quote:

"The Corporation is by statute the insurer of all British Columbian motorists. Fraud on the Corporation is, in reality, fraud on all the motorists of British Columbia and deserves such punishment as the civil courts can properly administer."

[19] Here I am satisfied that this is an appropriate case for punitive damages. As indicated in *ICBC v. Sam*, which I referred to previously, there is no particular test with respect to the scale of punitive damages to be awarded as compared to the scale of the fraud that was committed.

[20] The Court of Appeal in *Huff v. Price*, (1990) 51 B.C.L.R. (2d) 282, set out a series of steps that should be followed to determine first, pecuniary losses; thereafter, nonpecuniary losses which may be amended by an award of aggravated damages

based on high-handedness or wilful or reckless endeavours to the Plaintiff's rights; and finally punitive damages.

[21] Here the Court must consider the multiplied effect of fraudulent claims on ICBC and, just as importantly, on the taxpayers of this province. It is appropriate for the Court to consider the public interest in making a sizeable award for punitive damages against each defendant.

[22] Some of the factors that may be considered in assessing and awarding punitive damages are the question of legislation. Recently the **Traffic Safety Statutes Amendment Act of 1997** was passed by the Provincial Government. A reading of that statute indicates that the punishment in criminal cases that is recommended to be imposed by the Courts sets out a range of fines from 25,000 to \$50,000, plus an order for restitution.

[23] Fraud is a criminal act that should be punished. Here an order for damages should be made that will serve as a deterrent, not only to these people involved, but also to other people who may be inclined to commit similar acts of fraud.

[24] The type of fraud committed must be considered. Here it was planned, organized and deliberate, using specialized knowledge with people who were recruited for profit. The participants here were neither innocent nor ignorant of the deliberate and deceitful acts that were being committed to

perpetrate this fraud. Some of the participants even used their children in these staged accidents and made claims on behalf of the children. Some of the participants also started actions in court to try and pursue these fraudulent claims, which was an abuse of the court process. And some of the participants, as already indicated, were involved in more than one accident.

[25] The Defendant Lin Nguyen was the mastermind and the person that used his knowledge, training and experience as a paralegal in the law firm of Michael Golden and also as a court interpreter to recruit the other Defendants and to plan the majority of these fraudulent accidents.

[26] This is an appropriate case in which to award punitive damages based upon the factors that I have just outlined and against each of the named Defendants in addition to the compensatory judgment amounts that will be awarded.

[27] As stated by the Court of Appeal in *Huff v. Price*, 51 B.C.L.R. (2d) 282, at page 299 the Court said this:

"Punitive damages, by contrast, are a separate award against the defendant designed to impose a punishment on the defendant and to set an example to others who might seek to act in a similar way. Punitive damages are measured by the degree of moral culpability of the defendant. They are not designed to compensate the plaintiff and they are not measured by an assessment of the plaintiff's suffering. An element of wilfulness or recklessness such as would underlie

a finding of guilt in a criminal act is likely to be present before punitive damages will be awarded. But the defendant's conduct need not be criminal. Mr. Justice McIntyre used such words to describe the conduct that would give rise to a claim for punitive damages as "harsh, vindictive, reprehensible and malicious," but Mr. Justice McIntyre acknowledged that he had not exhausted the available adjectives. The anomaly, of course, about punitive damages is that they are paid to the plaintiff and not to the state, even though the plaintiff should have been fully compensated by his award of compensatory damages of pecuniary, non-pecuniary and aggravated."

[28] At page 300 the court went on and said this:

"The award of punitive damages should not try to do again what has been done by the compensatory damages, including the aggravated damages. But if some measure of further punishment is still required then the amount assessed should be consistent with the concept that it is punishment that is being imposed and not restitution that is being exacted. The award should not be inconsistent with the principles that underlie the imposition of criminal penalties. And, of course, if a criminal penalty has been imposed then that should be taken into account."

[29] Here no criminal penalty has been imposed.

[30] The following is a review of the incidents or accidents and the named participants and the amounts that will be due for judgments and compensation in the award of damages.

[31] The first accident, the accidents or incidents have been numbered for convenience, involved the following Defendants: Teo Le, who was the owner of the car which we'll call Car A,

for the accident that occurred on May the 17th, 1991. He was a passenger in that motor vehicle. The driver of the vehicle, Hoa Thien Pham has filed a defence and will not be dealt with at this time. The other passenger was No Dao Pham. In the other car in this staged accident was the registered owner Anh Throng Huynh. The driver of that vehicle was the same person, and the passenger was Lan Duy Pham. The amounts that were paid out in accident number 1 was the sum of \$2,684.09 to Teo Le, \$215.82 to No Dao Pham, \$2,142.51 to Anh Throng Huynh, \$4,942.10 to Lan Duy Pham, and \$102.13 to Lin Nguyen, for a total paid out for that alleged accident in the amount of \$10,086.65.

[32] Accident number 2 or incident number 2 that occurred on May the 4th, 1992 at approximately 2:00 a.m. involved the registered owner Phi Phu Pham. He has filed a defence and will not be dealt with at this time. The other passenger in that vehicle, being Car A, was Minh Hung Pham, the other passenger was Trai Thi Vo, and the third passenger was Lan Thi Le. In Car number B that was involved in that accident was the owner Binh Van Nguyen, the driver was Tien Bang Nguyen, and the passenger was Hoang Oanh Vu. The amounts that were paid out in accident number 2 was the sum of \$12,033.40 to Trai Thi Vo, \$7,304.88 to Minh Hung Pham, \$1,192.92 to Lan Thi Le, \$4,498.64 to Binh Van Nguyen, \$3,087.12 to Hoang Oanh Vu, and \$304.87 to Tien Bang Nguyen. The total paid out for that accident was \$28,421.83.

[33] Accident number 3 involved two cars again. All of them were being staged accidents. In Car A, all of the Defendants have filed defences, that is the registered owner Duc Van Tran, the passenger was Thuy Thu Nguyen, and Tung Ho Nguyen was the other passenger. In Car B which was involved in that accident was the registered owner and driver, No Dao Pham. The passengers in that vehicle were Anh Throng Huynh and Van Hung Duong. The other passenger, Hoa Thien Pham also filed a defence and will not be dealt with at this time. The monies that were paid out were \$1,141.25 cents to No Dao Pham, \$3,330.42 to Anh Throng Huynh, and \$1,840.38 to Van Hung Duong, for a total amount claimed for that accident in the sum of \$6,312.05.

[34] In accident number 4, an accident that allegedly occurred on July the 9th, 1992, again two cars were involved. In the first car, or Car A, the registered owner and driver was Thanh Van Phan and the passenger was Thanh Van Nguyen. In Car B was the registered owner, Chuc Dinh Nguyen, the driver was Duc Thanh Nguyen and the passenger was the registered owner who I've just named. The amounts that were paid out for Accident number 4 was \$5,755.91 for Thanh Van Phan, \$3,876.88 for Thanh Van Nguyen, \$315.10 to Duc Thanh Nguyen, and there was \$16,531.40 paid out to Chuc Dinh Nguyen, who is no longer a Defendant because he was deceased, but there is a claim against that amount of money for joint and several liability against

the other named Defendants. I will deal with the question of joint and several liability later. There was also the sum of \$90.06 paid out to Lin Nguyen as a result of an investigation. The total on that accident, number 4, was \$26,569.35.

[35] In accident number 5, which allegedly occurred on October the 30th, 1993 at 9:30 p.m., in the first car, or Car A, was the registered owner and driver, Son Ngoc Ho, the passenger was Thuy Duy Pham, and the other passenger was Duc Thanh Nguyen. In the second car, or Car B, was Van Thi Duong and the other passenger was Son Hoang Nguyen. The moneys that were paid out on Accident number 5 was \$8,175.75 to Son Ngoc Ho, \$16,144.79 to Thuy Duy Pham. That's what was paid out on Accident number 5.

[36] Accident number 6, which allegedly occurred on January the 15th, 1994 at 7:10 p.m., involved in Car A the owner and driver, Manh Van Doan. The passenger in that car was Suu Thi Nguyen. The other passengers were two infants who are not defendants, but they were apparently in the vehicle. One was Hai Doan and the other was Hung Doan, both being infants and for whom claims were made. In Car B was the registered owner Van Thi Duong, the driver was Chuc Dinh Nguyen, the passenger was Nhuan Dinh Duong, the other passenger was Dinh Tuan Tran, who has filed a defence and is not being dealt with at this time, and the other passenger was Van Thi Duong. The monies that were paid out for Accident number 6 was \$6,258.03 for Manh

Van Doan, \$731.83 for Suu Thi Nguyen, \$9,652.97 for Van Thi Duong, \$464.78 for Nhuan Dinh Duong, and \$157.96 for investigation costs regarding Lin Nguyen. The total for that accident claim was \$17,265.57.

[37] Accident number 7, which allegedly occurred on April the 23rd, 1994, at 11:30 p.m., involved in Car A the registered owner, Minh Hung Pham, the passenger was Thanh Tung Vu, and the other passenger was Trai Thi Vo. In Car B was the registered owner Van Liet Dinh, the driver was Lan Duy Pham, the passenger was Van Vinh Nguyen, and the other passenger was the registered owner, who I've already named. The monies that were paid out for Accident number 7 was \$17,300.75 paid to Minh Hung Pham, there was \$4,450.41 paid to Thanh Tung Vu, \$7,344.89 was paid to Trai Thi Vo, and \$14,323.68 was paid out to Van Liet Dinh. There was also the sum of \$12,083.79 that was paid out to Van Vinh Nguyen and \$150.84 paid out to Lan Duy Pham for a total of \$55,654.36.

[38] I note that in Accident number 5 I failed to indicate the other monies that were paid out. There was \$15,554.75 paid to Duc Thanh Nguyen, \$1,594.59 was paid to Van Thi Duong, \$4,501.33 was paid to Son Hoang Nguyen, and \$90.06 for investigation costs charged against Lin Nguyen. That was for a total claim in Accident number 5 of \$46,061.26.

[39] Accident number 8, which allegedly occurred on October the 21st, 1994 at 8:00 p.m., again involved staged accidents for two cars. Car A, the registered owner Anh Hoai Cao, the driver of the vehicle was Van Khang Nguyen, another passenger was Sam Nguyen, and the other passenger was the registered owner, who I have just mentioned, Anh Hoai Cao. In the second car was only one person, the registered owner and driver, who was Van Hanh Pham. The moneys that were paid out for Accident number 8 was \$39,290.90 to Anh Hoai Cao, \$931.25 to Van Khang Nguyen, \$10,051.80 to Sam Nguyen, and \$1,801.89 to Van Hanh Pham for a total paid out for Accident number 8 of \$52,075.84.

[40] Accident number 9 involved the following people: In Car A was the owner-driver, Dinh Tan Nguyen, who has filed an Appearance in defence and is not being dealt with at this particular time. The other passenger in that car was Nghi Phillip Tran, and the other passenger was Hai Le, who has also filed a defence. Judgment was granted, but it was set aside, and therefore there will be no order at this time with regard to Hai Le. In Car B was the registered owner, Kim Cuong Luu, the driver was Dung Van Nguyen, the other passenger was Van Duyen Nguyen, and the other passenger was the registered owner who I've already named, Kim Cuong Luu. For accident number 9, the amounts that were paid out was the sum of \$3,758.12 to Nghi Phillip Tran, \$755.77 to Kim Cuong Luu, there was \$2,369.67 paid out to Dung Van Nguyen, and \$1,999.14 paid out to Van Duyen Nguyen for a total of \$8,882.70 on Accident number 9.

[41] Accident number 10, which allegedly occurred on August the 31st, 1995 at 5:45 p.m. involved again two cars in this staged accident or incident. The registered owner and driver of Car A was Hung Nen Do. He has filed an Appearance and will not be dealt with at this time. Judgment against him was set aside. The passengers in that vehicle were Van Lang Nguyen, Hung Thanh Nguyen and Hung Huy Nguyen. In Car B was the owner and driver, Xao Van Do, passengers were Son Ngoc Ho and Duc Chanh Nguyen. The moneys that were paid out for Accident number 9 was \$589.86 to Van Lang Nguyen, \$682.02 to Hung Thanh Nguyen, \$271.73 to Hung Huy Nguyen, \$5,661.58 to Xao Van Do, \$289.68 to Son Ngoc Ho, and \$289.85 to Duc Chanh Nguyen, and also \$139.84 was paid to Lin Nguyen, again the investigation costs charged to him, for a total of \$7,924.56.

[42] Accident number 11, again two cars involved in this staged accident, which allegedly occurred on August the 4th of 1991. In Car A was the registered owner Cuong Manh Nguyen, the driver was Binh Van Nguyen, and there was a passenger, Anh Van To, who is not a Defendant in this action. And Car B was the registered owner, Quynh Huu Nguyen, also not a defendant in the action. The driver was Vac Van Tran, there was another passenger, Hung Van Nguyen, who has filed a defence and will not be dealt with at this time, the other passenger was Van Khang Nguyen, and the final passenger was Thi Thuc Nguyen. The moneys that were paid out for Accident number 11 was \$16,258.10

to Cuong Manh Nguyen, \$8,888.46 to Binh Van Nguyen, \$265.18 to Bac Van Tran, \$8,809.62 to Thi Thuc Nguyen, and \$4,189.59 to Van Khang Nguyen, for a total of \$38,410.95.

[43] The final accident, or Accident number 12, as it has been referred to, allegedly occurred on April the 10th, 1992, again involved two cars for a staged accident or incident. The registered owner in Car A was Van Tuyen Do, the driver was the same person just named, Van Tuyen Do, the passenger was Phi Long Nguyen, and there was another passenger, Phieu Van Tran, but no writ was served against Phieu Van Tran and will not be dealt with at this time. Car B was the registered owner, Van Nghia Nguyen. The writ has not been served and will not be dealt with at this time. The driver was Thanh Hung Ly. The writ has not been served against that defendant. The other passenger was Hang Li, and the third passenger was Tan Bay Nguyen. For accident number 12, \$5,493.52 was paid out to Van Tuyen Do, \$5,781.70 was paid out to Phi Long Nguyen, \$3,048.58 was paid out to Hang Le, and \$3,848.55 was paid out to Tan Bay Nguyen, and there was \$322.27 that has been charged against Lin Nguyen, again for investigation costs, for a total of \$18,494.62.

[44] As I already indicated earlier, there is a claim for joint and several liability against some of the named defendants. And the summary of the total amounts for the joint and several liability and for which judgment is granted on that basis

involving Accident number 4 is the sum of \$26,569.35. It is a judgment against the four participants: Thanh Van Phan, Than Van Nguyen, Duc Thanh Nguyen and Lin Nguyen.

[45] For Accident number 5, again joint and several liability in the total amount of \$46,061.26 against the participants Son Ngoc Ho, Duc Thanh Nguyen, Thuy Duy Pham, Van Thi Duong, Son Hoang Nguyen and Lin Nguyen.

[46] Accident number 7, again joint and several liability, with a total amount of \$55,654.36, this is Accident number 7 against Minh Hung Pham, Trai Thi Vo, Thanh Tung Vu, Van Liet Dinh, Van Vinh Nguyen and Lan Duy Pham.

[47] Also, there will be joint and several liability with regard to Accident number 8. The total amount is \$52,075.84 against Anh Hoai Cao, Van Khang Nguyen, Sam Nguyen and Van Hanh Pham.

[48] There were a number of multiple players involving different incidents or accidents. The people that were involved as multiple players in incident or Accidents 1 and 3 was No Dao Pham, for a total amount of \$1,357.07; Anh Throng Huynh, incidents 1 and 3, total of \$5,472.93; Lan Duy Pham, incidents or accidents numbered 1 and 7, and the total is \$60,596.46; Binh Nguyen, Accidents 1 and 11, total of \$13,387.10; and against Trai Thi Vo, involving incidents 2 and

7, total against him was \$67,687.76; Minh Pham, incident number 2 and number 7, total of \$62,959.24; Duc Thanh Nguyen, incident or Accidents 4 and 5 for a total of \$72,630.61; Son Ngoc Ho, Accidents 5 and 10, for a total of \$46,350.94; Van Thi Duong, Accidents 5 and 6, total of \$55,714.23; and Van Khang Nguyen, Accidents 8 and 11, total of \$56,265.43.

[49] The individual amounts that make up those totals I've already dealt with in the various accidents, but I wanted to set out the total amounts for these multiple players, for whom I will have something to say about them when dealing with the award for punitive damages.

[50] The other multiple player, as it would be, was the leader or kingpin, Lin Nguyen, who was directly involved in Accidents 1, 4, 5, 6, 10 and 12. Most of those were investigation costs, except for Accidents 4 and 5. The total against him, the total amount for his direct involvement was \$86,867.23.

[51] The Court is prepared to award punitive damages in the sum of \$10,000.00 against all of the named Defendants who I have just granted compensatory judgments against for the amounts as stated. Plus, in this case, the following amounts will be awarded against Thanh Tung Vu for the sum of an additional amount of \$10,000, being a total of \$20,000, for what I consider to be an abuse of process involving litigation in relation to this fraudulent scheme.

[52] There will also be an additional award for punitive damages against the following participants, who were all involved in multiple accidents and schemes to defraud, and it will be an additional award for punitive damages in the sum of \$15,000, for a total of \$25,000 against each of the following: No Dao Pham, Anh Throng Huynh, Lan Duy Pham, Binh Van Nguyen, Trai Thi Vo, Minh Hung Pham, Son Ngoc Ho, and Van Thi Duong. I will give the numbers of those participants to try and be of some assistance. They're named in a chart that I will provide, because number 3 was No Dao Pham, number 4 was Anh Throng Huynh, number 5 was Lan Duy Pham, number 7 was Binh Van Nguyen, number 11 was Trai Thi Vo, number 12 was Minh Hung Pham, number 22 was Son Ngoc Ho, and number 24 was Van Thi Duong.

[53] There will be an additional award for punitive damages against two of the named Defendants. The award in this case is increased for two reasons: 1, there was an abuse of the court process involving litigation, and the other was that they were involved in multiple claims for fraud against the Plaintiff. The award against Van Khang Nguyen, who is listed as number 36 on the chart, is for abuse of process and the multiple claims that he has made. The other award is against number 21, Duc Thanh Nguyen. He acted as a recruiter for participants in this fraudulent scheme. He was also involved in multiple claims. He was acting for and on behalf of Lin Nguyen. And there will be an additional award against both Van Khang Nguyen and Duc

Thanh Nguyen, who I have just named, for an additional sum of \$20,000 in addition to the \$10,000 that I awarded initially, for a total of \$30,000.

[54] With regard to number 62, Lin Nguyen, he was, as I have indicated, the mastermind for this entire scheme. He was certainly directly involved in six of the staged accidents and he was indirectly involved in the other six accidents, since he was the one that set up the scheme initially. His actions resulted in a total loss for the six direct or directed accidents in the sum of \$126,402.01. And for all twelve accidents which he was indirectly or directly involved as the mastermind of the scheme there was a total loss of \$316,159.74. And the plaintiff is entitled to the amount of that sum for compensatory damages against Mr. Lin Nguyen. In addition, there will be an award of punitive damages against him in the sum of \$100,000.

[55] The Plaintiff is also entitled to the overhead costs, which will be dealt with later as assessed, plus special costs in this case for a full indemnification of all legal fees. There will be also an order for court ordered interest on the compensatory damages, which will be as set by the Registrar's rates, and the rates for the punitive damages will be the minimum of five percent per annum. Those amounts will be calculated from the dates of the relevant accidents.

[56] Anything else that I missed?

[57] MR. POTTS: Two things, my lord. Three of the defendants appeared in person, and I would ask for a term that their signature -- their approval as to the form of the order be dispensed with. And I would just like to take a moment, my lord, if I may, and verify the amounts of the punitive damages. In addition to the compensatory damages, as I understand it, on the single-incident defendants it's \$10,000 each?

[58] THE COURT: Yes.

[59] MR. POTTS: And in respect of the persons involved in multiple accidents, and I'm referring to page 2, starting with number 3, it's \$25,000 each for all of the individuals on that page, numbers 3, 4, 5, 7 and 11?

[60] THE COURT: There was a \$10,000 amount added against Thanh Tung Vu, number 32, for a total of 20,000, and that was for abuse of the court process. Then for the others that I named: Number 3, number 4, number 5, number 7, number 11, number 12, number 22 and number 24, all of those participants were involved in multiple accidents, and because of that, I've awarded the sum of 15,000 in addition to the original 10,000, for a total of \$25,000 against those named people.

[61] MR. POTTS: Yes.

[62] THE COURT: And then we have two people who I awarded an additional \$20,000 over and above the 10 that was awarded against all of the participants, for a total of 30,000. That's number 36 and 21. And then of course I dealt with Mr. Lin Nguyen and awarded the sum of \$100,000.

[63] MR. POTTS: Yes. That's all I have. Thank you, my lord.

[64] THE COURT: Thank you.



K.F. ARKELL, J.