SUPERIOR COURT OF JUSTICE
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DATE SENT: 29 November 2007

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FROM: **Sue for Justice Rogin**

NUMBER OF PAGES: **27 pages including cover**

RE: **Rich et al. v. Lingard - Sarnia Court File No. S2972/2003**

MESSAGE: **Please find attached Justice Rogin's Reasons with respect to the above-noted matter.**

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COURT FILE NO.: S2972/2003 (Sarnia)
DATE: 20071129

ONTARIO

SUPERIOR COURT OF JUSTICE

B E T W E E N:	
WANDA MARIA RICH personally and administrator Ad Litem of the Estate of John William Rich Senior deceased, and JARVIS RICH, JUDY MARIA RICH and JOHN WILLIAM RICH JUNIOR	Catherine L. Wilde, for the Plaintiffs
Plaintiffs	
- and -	
RUSSELL LINGARD	Gregory J. Van Berkel, for the Defendant
Defendant	
	HEARD: October 11, 12, 13, 16, 17, 18, 19, 20, 23, 2006 and January 26, 2007

REASONS FOR JUDGMENT

Rogin J.:

The Accident and The Parties:

[1] On January 12, 2002 John William Rich Senior was driving his pickup truck on Longwoods Road in the Municipality of Chatham Kent. His son, Jarvis Rich was a passenger. They were both wearing seatbelts. At approximately 9:34 that morning their pickup truck was struck by a car, owned and operated by the defendant, Russel J. Lingard, who lost control of his vehicle because of the icy condition on the roadway. The Lingard vehicle crossed the centerline and struck the Rich vehicle, causing it to roll and end up on its roof. Both John Rich and Jarvis Rich were suspended in the cab upside down while seat belted. They eventually freed

themselves. Jarvis Rich was transported by ambulance to the hospital. John William Rich Senior attended the hospital later with his wife.

[2] The collision was violent and both Mr. Rich Sr. and Jarvis suffered injuries for which Jarvis seeks damages, as does the Estate of Mr. Rich Sr. Unfortunately Mr. Rich died on April 15, 2003, some 15 months after the accident. It is argued that Mr. Rich Sr. passed away as a result of a ruptured aortic abdominal aneurysm, caused by the accident.

[3] Liability for the accident is admitted by Mr. Lingard. Liability for the damages is in dispute. The plaintiffs' claim that the unfortunate death of John William Rich Sr. results from the accident.

[4] The defendant asserts that his death does not result from the accident but from natural causes. The resolution of this issue has an obvious effect on the quantum of damages to which Mrs. Rich is entitled, and the quantum of damages with respect to the other family members pursuant to the Family Law Act.

[5] Wanda Maria Rich is the wife of John William Rich Sr., and claims damages in her own right and under the Family Law Act and for his death. She also claims general damages as administratrix *ad litem* for Mr. Rich for his pain and suffering from the date of the accident until his death.

[6] Jarvis Rich is the son of John William Rich Sr. and Wanda, and claims general damages, special damages and damages under the Family Law Act.

[7] Judy Maria Rich and John William Rich Jr., are the other children of John William Rich Sr. and Wanda Maria Rich, and claim damages under the Family Law Act, with respect to their father and brother respectively.

<u>The Death of John William Rich Sr. ("Jack"):</u>

[8] Causation of the death of Jack is the main issue in this lawsuit. The law of causation has been recently summarized by the Ontario Court of Appeal in the case of *Aristorenas v. Canada Health Service* [2006] O.J. 4039.

[9] Rouleau J., writing for himself and Rosenberg J. reviewed the state of the law of causation as follows, at paragraph 49, saying that there are two approaches:

> "The first is the generally applicable 'but for' test whereby a plaintiff must 'show that the injury would not have occurred but for the negligence of the defendant.'
>
> The second approach, material contribution, is used where the 'but for' test is unworkable; that is in cases where, practically speaking it is impossible to determine the precise cause of the injury. In such a case

the plaintiff need only show that the defendant's conduct materially contributed to the occurrence of the injury.

See: 1) *Cottrelle v. Gerrard* (2003) 233 D.L.R. (4th) p. 45 at para. 24 (O.C.A.); leave to appeal refused [2003] S.C.C.A. No. 549 citing *Athey v. Leonati* (1996) 140 D.L.R. (4th) 235 (S.C.C.) at para. 14.

[10] The material contribution test is applied to cases that involve multiple inputs that have harmed the plaintiff. The test is invoked because of logistical or structural difficulties in establishing "but for" causation, not because of practical difficulties in establishing that the negligent act was a part of the causal chain. (See *Aristorenas* at para. 53)

[11] The robust and pragmatic approach is not a distinct test for causation. It is an approach to the analysis of the evidence which demonstrates the causal connection between the negligent conduct and the injuries; the robust and pragmatic approach must be applied to the evidence. However the evidence of causation must exist. The robust and pragmatic approach cannot be a substitute for lack of evidence to show that the defendant's negligence caused the injury complained of. It cannot displace the onus on the plaintiff to prove on a balance of probabilities that the injury (in this case the aneurysm) which caused the death of John William Rich Sr., was caused by the accident for which the defendant has admitted liability.

[12] For the following reasons I find that the plaintiffs have failed to meet their burden of proving, on a balance of probabilities, that the ruptured aortic aneurysm which was the cause of Jack's unfortunate death was caused by the negligence of Mr. Lingard.

[13] I find that it is more probable that Jack Rich Sr. was a plaintiff who would have suffered a ruptured aortic aneurysm in any event, rather than a plaintiff who was in a condition where the motor vehicle accident of January 2002 accelerated his aneurysm or materially contributed to his aneurysm in a way that was more than "de minimis."

[14] The evidence on the issue was given by the following people: for the plaintiff, Wanda Maria Rich, Judy Maria Rich, Dr. Bader Cassin, and Dr. Peter McEllan.

[15] For the defence, Dr. Ghinadi Patodia and Dr. F. Michael Ameli testified.

[16] All experts were qualified to give opinion evidence as to the cause of death. No one of the experts was more eminently qualified than any of the others. Each of the experts had impressive qualifications. All of the experts relied on the reports of Dr. Patodia who performed the autopsy on Mr. Rich Sr., and the subsequent coroner's report which resulted from that autopsy. Only Dr. Patodia actually saw Jack Rich Sr. The experts also relied on the medical records of Mr. Rich's family doctor, Dr. Payne.

[17] Dr. Bader Cassin testified for the plaintiff. He said that Mr. Rich died of a ruptured abdominal aortic aneurysm, which was infra renal. An aortic aneurysm is a weakening of the aorta that eventually ruptures because of either sudden trauma or by its natural progression. Absent sudden trauma it begins as a weakening of the artery, which deteriorates until it bursts.

[18] In chief, Dr. Cassin stated that the abdominal aneurysm could have been caused by the motor vehicle accident of January 12, 2002. If it had been caused by the accident it would have resulted from Mr. Rich's impacting the bottom part of the steering wheel with his abdomen. I accept that Mr. Rich impacted the steering wheel because he had fractured ribs on the left side and the steering wheel was bent in the collision. Dr. Cassin also theorized that Mr. Rich Sr. may have been injured when his vehicle rolled over if the lap part of his seatbelt caused deep pressure in his abdomen. In my view, this latter theory is speculative as there was no evidence to support it.

[19] Dr. Cassin theorized, in effect, that the same mechanisms could have accelerated a pre-existing aneurysm because the aorta was already in a weakened state because Mr. Rich Sr. suffered from arteriosclerosis.

[20] He appeared to base his opinion on what was absent from the report of Dr. Patodia who performed the autopsy. Those factors were:

i) lack of specificity as to the shape of the aneurysm;

ii) no mention of components of the aneurysm, for example, layering, whether it has muscle, fibrous, scar tissue, atherosclerosis, or blood clots partially or completely obstructing it;

iii) no description of location in the aorta or association with atherosclerotic plaque or scar tissue that is being associated with a particular disease or scar tissue;

iv) Dr. Patodia saw no evidence of trauma, which was not suspicious to Dr. Cassin.

[21] Dr. Cassin in chief indicated that whether or not the aneurysm existed prior to the motor vehicle accident or was caused or accelerated by it, it was not surprising that Mr. Rich experienced no symptoms other than back pain, which he considered could be equally consistent with the musculo-skeletal injuries suffered in the accident.

[22] At one point in examination in chief he indicated that "chest x-rays do not examine the abdominal aorta." (See p. 16, l. 31 – p. 17, l. 1)

[23] At another point Dr. Cassin stated that "in fact, very often aneurysms are discovered by routine x-rays of chest or abdomen taken for another reason."

[24] Ultimately Dr. Cassin opined that the accident either caused the aneurysm to begin and eventually rupture, or aggravated a pre-existing aneurysm causing it to grow much more rapidly and prematurely rupture.

[25] In answer to questions from the trial judge Dr. Cassin indicated the symptoms of an aneurysm to be:

i) back pain;

ii) the patient feeling a pulsating mass in the abdomen;

iii) blood clots causing legs to be numb or sometimes painful on exercise.

[26] In cross-examination Dr. Cassin conceded that traumatic aneurysms are rare and the most common occur in the thoracic area of the aorta rather than the abdominal area. He further conceded that there were roughly 10 or fewer cases of blunt trauma causing a ruptured abdominal aortic aneurysm in the literature which he had reviewed.

[27] He conceded that the only evidence of trauma to the abdominal aorta was the aneurysm itself.

[28] He further conceded that the treating physicians related Mr. Rich's post accident complaints of shoulder, chest and back pain to soft tissue injuries and his fractured ribs.

[29] He further conceded that Dr. Patodia who performed the post mortem found the following:

1) no evidence of trauma to the aorta;

2) arteriosclerosis in Mr. Rich's coronary arteries, mild in some cases, moderate in others and severe in some cases as well as atherosclerosis in the abdominal aorta.

[30] He identified certain risk factors of abdominal aortic aneurysms all of which applied to Mr. Rich:

1) he was male;

2) he had a family history of coronary artery disease (his mother);

3) he was a smoker which was one of the highest risk factors;

4) he had elevated cholesterol;

5) he was mildly obese.

[31] In addition, he said that traumatic aneurysms are often one sided or asymmetrical compared to natural aneurysms which are generally more symmetrical when caused by arteriosclerosis.

[32] Ultimately he conceded, his opinion was based on the accident itself in which Mr. Rich suffered abdominal trauma and the subsequent aneurysm.

[33] Dr. Peter McClellan also testified as an expert for the plaintiff with respect to the cause of death of Jack Rich Sr. He confirmed that Jack Rich had the following risk factors for naturally occurring aneurysms:

1) smoking, at times heavy, which is a risk for developing arteriosclerosis;
2) borderline cholesterol elevation;
3) family history of coronary disease;
4) arteriosclerosis in the coronary arteries.

[34] He was of the opinion that:

> "… Either he's got some atherosclerosis which then stiffens the aorta which would then sheer it during the actual procedure of the trauma, or he may have a normal artery that we don't know about and then get some tear in the artery and that could progress over time."

[35] Dr. McClellan found significant that on one occasion after the accident, Jack Rich reported a sudden onset of lightheadedness, a drop in blood pressure and a slowing pulse rate. He called it a sentinel bleed of the aneurysm that would then be "walled off and then stabilized." He felt this was a symptom of the aneurysm although he also felt that this could be a symptom of ordinary cardiac problems. He found no evidence of paralysis of the extremities in this episode.

[36] However Dr. Payne, the family doctor who had treated Jack Rich Sr. since approximately 1984, had recorded a similar complaint of feeling faint or weak before the accident which he attributed to either low blood pressure or Mr. Rich working when hot.

[37] When Mr. Rich complained of the event that Dr. McClellan described as a sentinel bleed, Dr. Payne investigated it with an electrocardiogram, and concluded that this was a transient arrhythmia, which equalled a temporary rhythm disturbance of the heart obviously unrelated to the accident.

[38] Although Dr. McClellan was aware that the pathologist Dr. Patodia found no evidence of trauma to the abdominal aorta, he felt that that evidence could be minimal or missed at pathology.

[39] He felt that Mr. Rich, having all the risk factors of aneurysm, was a perfect candidate for a rupture under traumatic conditions. He also conceded that the literature on the subject said that "trauma is an extremely rare cause of a ruptured aortic aneurysm" – fewer than 10 reported cases. The following is an excerpt from his testimony:

> MR. VANBERKEL: Q. And so, doctor, although traumatic origin or ruptured abdominal aortic aneurysm is a possibility based on the fact that it's happened in the literature?

A. Right.

Q. With these risk factors and the presence of atherosclerosis in the abdominal aorta at the point of rupture, it's more probable that the rupture is caused by atherosclerotic abdominal aortic aneurysm?

A. Except for his age, he's quite young.

Q. And so in your evidence, the fact that he was 50, he'll be 59 years of age at the time that he died is the distinguishing factor?

A. It's one – it certainly is to me a red flag.

Q. And isn't it the case, doctor, that the development of atherosclerotic aortic aneurysms is common in patients from generally is 40 up to 70, that's the general age range?

A. As I mentioned, the screening program starts at 65.

Q. In European countries?

A. Yes, in European countries.

Q. But the range....

THE COURT: But do you agree that the range of age is 40 to 70?

A. Like any atherosclerotic process, yes, it's just like coronary artery disease, it could be. There's a bell, there's a curve of predominance and you can take one case at 40 and say that's where it starts. So let's face it, the majority are going to be on a mean basis up towards the 65 age group. So he's on the young side of the curve.

MR. VANBERKEL: Q. But he's in the range?

A. He's in the range.

[40] In my view the combined testimony of Dr.'s Cassin and McClellan for the plaintiff, proves nothing more than it was possible that the accident caused the aneurysm.

[41] When their testimony is subjected to scrutiny it appears equally possible that the aneurysm resulted from the natural progression of the atherosclerosis Mr. Rich was in danger of suffering because of all the risk factors that were present. This danger was totally separate and apart from the accident.

[42] On the evidence of Dr.'s Cassin and McClellan, the plaintiff has failed to satisfy the burden on her to prove that the accident was the more probable cause of the fatal aneurysm, or was probably a contributor to it which was more than *de minimis*.

[43] The robust approach to the analysis of the evidence cannot be a substitute for evidence which falls short of establishing probability.

[44] Having made the above findings on the evidence of the plaintiffs' experts alone, I now review the evidence of Dr. Patodia and Dr. Ameli who testified for the defence. In my view, while the plaintiffs' evidence did not tip the scale in their favour, the evidence led by the defendant on causation tips the scales backwards so that it favours the defence position.

[45] Dr. Patodia was the pathologist who conducted the post mortem of Jack Rich. He is the only one who actually observed the tissues and organs of Mr. Rich. All other doctors based their opinions on the observations of Dr. Patodia. Dr. Patodia is an experienced pathologist.

[46] During his autopsy he found hemorrhaging in the lower part of the abdomen. This blood was fresh within the last few hours. He also found atherosclerosis in the coronary arteries, that upon further examination ranged from moderate to severe throughout the heart. He concluded that even without any other findings that this could have caused the death of Mr. Rich naturally.

[47] He also found the aneurysm which he considered large. He considered it a "typical sclerotic abdominal aortic aneurysm." He did not say in any way that it was asymmetrical.

[48] After his initial report, there were inquiries from the plaintiffs' experts. Defence counsel wrote to Dr. Patodia with regard to those inquiries and asked him to re-examine his slides. Dr. Patodia did so and found no evidence of trauma to or healing of the internal organs of Jack Rich Sr. These findings confirmed his original diagnosis.

[49] I accept Dr. Patodia's explanation for not mentioning this in his original report, that he was preparing his report for the coroner (and inferentially not for the purpose of a personal injury lawsuit). He felt that the coroner would understand his conclusions without the details of the moderate and severe atherosclerosis. His ultimate findings of moderate to severe coronary artery atherosclerosis were not disputed by the plaintiffs' experts, nor were they suspicious to them.

[50] It seems to me that the finding of only fresh blood in the abdomen of Jack Rich Sr. is more consistent with a natural aneurysm than with a constant seepage or bleeding (including a sentinel bleed). If there was seepage over the 15 month period it seems that some type of clotting or unfresh blood would have been found during the post mortem.

[51] In addition, the fresh blood seems more consistent with the evidence of Judy Maria Rich and Wanda Rich as to the evidence of the last day of the life of Jack Rich Sr. While they both said that Jack Rich was in constant back pain from the day of the accident to his death, the pain he described over the last day appeared to be different and much more intense than what he previously experienced.

[52] Judy's evidence on the point was that Jack Rich told her "This really hurts." He was a stoic man. I took that evidence to mean that this pain was different. His breathing was very laboured and "He didn't sound right." There was bile on the pillow and he was green. There was no evidence of similar symptoms from January 2002 to April 2003 from either Judy or Wanda Rich.

[53] Mrs. Rich describes Jack's back pain prior to the night as spasmodic and occurring after he had sat for more than two hours. He had upper back pain and upper chest and rib pain for the previous 15 months.

[54] On the night of his death, she said that he had to come home from the racetrack because his pain was too intense. He was in distress. He was cold, clammy and grey when he went into the bedroom His complaints of pain on that night were unlike any complaint he had made about his pain before the accident.

[55] While I acknowledge that this evidence could be equally consistent with a traumatic aneurysm, neither Wanda nor Judy Rich ever mentioned any complaint by Jack Rich of a pulsating abdomen, previously described as a symptom of an aneurysm. It seems that if this aneurysm was caused by the blunt trauma, and developing over the course of the 15 months prior to his death, that type of symptom would have been observed especially by Wanda Rich.

[56] Dr. Ameli testified for the defence. He distinguished between a true aneurysm and a pseudo aneurysm. A true aneurysm is more likely to develop without trauma. A pseudo aneurysm is possible in the abdomen from trauma but more probably in the thoracic area than in the abdomen.

[57] He saw nothing in the medical records of Mr. Rich to indicate that blunt trauma was the cause of Mr. Rich's aneurysm. This must be contrasted with the evidence of Dr. McClellan, who felt that the episode that Mr. Rich previously experienced could have been a sentinel bleed. It must be noted that Dr. McClellan said that the abdominal aortic aneurysm which was the cause of Mr. Rich's death could also have occurred without trauma. It seems to me that if Dr. Ameli saw nothing in Mr. Rich's medical history that points to traumatic pseudo aneurysm, that Dr. McClellan's theory of sentinel bleed is called into question. Dr. Ameli was not cross-examined on this point.

[58] He was cross-examined with respect to back pain of Mr. Rich. He said that back pain was only significant when it was a sudden onset and was only a symptom in a pre rupture situation but not on a long term basis. By inference he therefore is saying that Mr. Rich's continuous back pain from January 2002 to April 2003 was musculoskeletal, as was the opinion of the family doctor. Then in April 2003, the sudden onset of the excruciating back pain of the stoic Jack Rich, as described by Wanda and Judy Rich, came from the aneurysm which ruptured on that day. This can only be reconciled with the evidence of Dr. McClellan by accepting his ultimate proposition that Mr. Rich's back pain for that 15 month period was musculoskeletal.

[59] Dr. Ameli based his opinion of a naturally occurring aneurysm, on the risk factors accepted by all of the experts and the lack of any evidence of any healing or scarring as described by Dr. Patodia when he was asked to re-examine his slides from the autopsy.

[60] On all of the above evidence, I find that the evidence of the plaintiff did not tip the scales towards probability that the accident caused the aneurysm, and that combined with the evidence of the defence the scales were tipped towards my conclusion that the aneurysm was probably caused naturally as a result of the several risk factors suffered by Mr. Rich.

[61] Having made the above finding with respect to causation, I must now move to the assessment of damage. I propose, where applicable, to assess damages in two ways, in case I am incorrect about the cause of the fatal aneurysm. Where the aneurysm might affect the quantum of damages, I intend to assess them as if the death of Jack Rich Jr. was attributable to natural causes.

[62] In the alternative, I propose to assess the damages on the basis that the fatal aneurysm was caused by the blunt trauma suffered by Jack Rich Sr. in the motor vehicle accident.

Damages of Jack Rich Sr.:

[63] The defendant raises the issue that Jack Rich Sr. did not come within the third exception in section 266 of the Insurance Act, such that Mr. Lingard loses the immunity granted to him by that section for damages arising out of his negligence. The defendant appears to concede that Mr. Rich's injuries constituted an impairment which was serious, but argues that because of his premature death from natural causes, that there is simply not enough evidence to conclude that his injuries were permanent. I reject that argument.

[64] Although there was some evidence of minimal improvement in Mr. Rich's symptoms, it is clear from all of the evidence that Jack Rich Sr. was going to suffer from these injuries for the rest of his life.

[65] In a functional abilities examination in February 2002 he was found not to be fit to return to work.

[66] Disability assessments were carried out on September 19 and October 10, 2002. This was done by a physiotherapist who consulted with Dr. John C. Clifford at the request of Mr. Rich's insurance company. He was found not to be able to return to work as a road mechanic because of:

1) residual complaints of shoulder and chest pain;

2) left heel pain (not clearly related to the motor vehicle accident);

3) musculoskeletal/cardiovascular deconditioning.

[67] He was examined by Dr. Garth Annisette, an orthopedic surgeon in July of 2003. Dr. Annisette concluded that Jack Rich would be symptomatic for at least 18 months if not chronically.

[68] Mr. Rich's family described his constant pain, and the frustration he felt because of the pain and his dealings with his own insurance company.

[69] By all accounts Jack Rich was a stoic man who generally did not complain. He complained. His complaints were documented on a regular basis by Dr. Payne, his family physician.

[70] He could not do his ordinary household chores which he enjoyed, let alone his physically demanding job as a truck mechanic. He could not pursue his avocation of training horses. I conclude that his injuries were probably permanent allowing for the fact that his condition might have improved slightly before his death.

[71] I assess his general damages for pain and suffering for the period January 2, 2002 to April 5, 2003 at $80,000, less the statutory deductible of $15,000 in the Insurance Act. His net general damages are therefore $65,000.

[72] There is no income loss claimed, as his income replacement benefits were at least equal to the lost wages incurred.

Damages of Wanda Rich Under the Family Law Act:

[73] Jack Rich suffered the effects of the accident for approximately 15 months until his death. So did Wanda Rich, his wife. Theirs was a 35 year marriage. There were three grown children, John Jr., Judy and Jarvis. John Jr. was living in Alberta at the time of the accident, Mrs. Rich in effect had to be mother and father to the children after the accident, both before and after the death of her husband.

[74] She was the one who bore the frustration of her husband at what he perceived to be ill treatment by his own insurance company. She was the one who had to deal with her husband's emotional trauma over the fact that he had believed that he and his son had almost been killed in the accident. She had to access her health plan when his benefits would be used up.

[75] Although she worked outside the home in a sales job which involved traveling, she nevertheless had to prop him up emotionally. She and her daughter had to assume the household duties which he had previously done. This was not withstanding the fact that she often worked until 6:00 or 7:00 p.m. nightly. These chores included vacuuming, in spite of her own physical problems, preparing supper and doing outside work.

[76] He himself tried to assist her but he was extremely compromised. Although their daughter helped she had her own social life and school life and was not always available.

[77] His inability to assist at home, especially to service the family vehicles depressed him and frustrated him. This affected her. She persevered.

[78] I assess her claim under the Family Law Act at $40,000 less the statutory deductible of $7,500 for the period between the accident and his death. Her net award under the Family Law Act is therefore $32,500. In my view based on the evidence of Dr. Payne and Dr. Annisette, had Jack Rich Sr. not passed away in April 2003, this state of affairs would have continued for a long period of time.

[79] Over the objection of defence counsel I allowed Mrs. Rich to offer her opinion that the accident caused his death. While no doubt that opinion was honestly held, Mrs. Rich could not offer any facts to buttress her belief. Therefore I have not accepted that opinion. Nevertheless in view of the evidence of Dr.'s Payne and Annisette, had I found that the motor vehicle accident was responsible for the death of Mr. Rich Sr., I would have assessed her Family Law Act claim at $100,000 minus the deductible.

[80] For reasons that will appear later in this judgment I assess her claim under the Family Law Act for loss of companionship re Jarvis at $25,000.00.

Dependency Loss:

[81] It was conceded that Mr. Rich's Income Replacement Benefits which he was receiving from one week after the motor vehicle accident compensated him for lost income up to the date of death.

[82] In view of my finding that the motor vehicle accident probably did not cause the death of Mr. Rich Sr., I decline at this time to enter into [redacted] "sole" or "modified sole dependency approach" advocated by the plaintiff is more appropriate.

[83] At the time of the accident Mrs. Rich's income was slightly higher than that of Mr. Rich Sr.

[84] It is common ground that the modified sole dependency approach for two income families is more commonly used in Ontario courts. I therefore assess the dependency loss damages for Mrs. Rich on the evidence of Mr. Wallach and as calculated by exhibit #23 at:

a) $90,232 from January 3, 2002 to the start of trial on October 10, 2006; and

b) the present value of future dependency losses from October 10, 2006, including a 25% gross up as $181,800.

The total future dependency loss is therefore $272,032. This of course is an alternative calculation, and is not awarded to Mrs. Rich.

Mrs. Rich's Past Housekeeping and Home Maintenance Loss:

[85] Mrs. Rich testified that up until the death of Mr. Rich she had hired a cleaning lady to assist her with chores previously performed by him. After an arbitration she was reimbursed the sum of $6,035. This average is approximately $403.53 per month for the 15 month period between the accident and the death of Mr. Rich.

[86] Between 2003 and 2005, she hired Crystal Shepherd who did housekeeping services for her twice a month at a flat rate of $45 per visit. In 2006, she hired Annette Benjamin, three or four times a month at a flat rate of $40 per visit.

[87] Ms. Voorberg, who was an occupational therapist registered in Ontario testified and indicated that in Exhibit 3 Tab C the actual housekeeping and house maintenance expenses from April 2003 to September 2006 which were paid for by Mrs. Rich were reasonable. These totaled $15,875. for a 41 month period, or an average of $387 per month.

[88] However bearing in mind the finding that Mr. Rich's death was not caused by the accident they are not recoverable after April 15, 2003.

[89] There are no figures provided by Mrs. Rich as to what she paid between January of 2002 and April of 2003. She indicated that she paid cash for many of these services. If credit is given to her for 15 months at $387 per month, she would have incurred expenses of $5,807.93 for these services. After the mediation she was re paid $6,035 by her own insurer. Accordingly she has suffered no damage in that regard and nothing is awarded.

[90] With respect to the future housekeeping loss, were I to make that award I would discount it by 20% for the following reasons:

1) Mr. Rich was at risk for either heart problems or the aneurysm which caused his death. This is because he had the risk factors discussed earlier.

2) Ms. Voorberg based her remuneration rates on Statistics Canada figures. These figures were not specific to the area where Mrs. Rich lived. In addition Mrs. Rich paid much less than the Statistics Canada rates for the services of Mr. Rich which were performed by others.

[91] Accordingly, I assess her future dependency loss at 80% of $231,428, or $185,142 including gross up.

[92] Mrs. Rich also claims the following: (see Exhibit 3 Tab 3 C)

a) mileage to various medical appointments for John Rich from January of 2002 to April of 2003: $2,019.60;

b) mileage to various medical appointments for herself from November of 2002 to June of 2006: $736.

[93] In my view the mileage for both her and Mr. Rich to medical appointments should be paid under her own auto insurance policy and are not recoverable. See *Henderson v. Parker et al* (1998) 42 O.R. (3d) 462.

Family Law Act Claims of John Rich Jr., Judy Rich and Jarvis Rich:

[94] At the time of the trial John Jr. was 38 years old, living in Calgary and working as a firefighter. He had moved west in 2001 before the accident.

[95] Although he was out west he was nevertheless part of the close knit Rich family. He had seen how the accident affected his father and how it damaged his father's self esteem. His father prided himself on his work and self-sufficiency, as well his fondness for helping others. John Jr. in my view typified his father. He had the same values.

[96] After the motor vehicle accident John found his father to be bitter and frustrated. John Jr. came home approximately once per month. He spoke on the phone often with his father. In his words he did not equate the physical distance apart from emotional distance. After the accident he called home approximately once per week.

[97] His father was the person to whom he turned for support because of John Rich Sr.'s physical and moral strength and his humor. His father made him safe and was his safety net. All this comfort disappeared after the accident.

[98] John Rich Sr. became focused on his pain, his medical tests and his frustration with his own insurance company. John Rich Sr. no longer knew who he was according to John Jr. He was no longer a resource or support system for John Jr. John Jr. could no longer discuss his problems with his Dad. Their relationship suffered. "It was gone."

[99] I do not take into account the fact that John Jr. and John Sr. were physically separated. For the 15 month period between the accident and the death, I assess John Jr.'s Family Law Act claim at $15,000 minus the deductible of $7,500 for a net award of $7,500.

[100] If the death of John Rich Sr. had been caused by the accident, I would have assessed John Jr.'s Family Law Act claim at $40,000 less deductible of $7,500 for a net award of $32,500.

[101] John Jr. and Jarvis were also very close. John Jr. called Jarvis his closest friend prior to the accident. The accident according to John Jr. changed Jarvis' personality. He went from easy going to confrontational, rigid, frustrated and angry. John Jr. felt uncomfortable when Jarvis acted out against his wife Corrine. Jarvis became more and more isolated as time went on. The two brothers no longer have the bond they once had. If Jarvis' condition does not improve the bond they once had may become irretrievably lost.

[102] I assess John Jr.'s Family Law Act claim with respect to loss of companionship of Jarvis at $17,500. The deductible has already been used up, and is not applicable to this award.

[103] Judy Rich is the daughter of John Sr. and Wanda Rich. At the time of trial she was a law student. She had been away for the weekend and did not get her usual hug from her father after the accident when she came home. She found that the accident had changed his personality.

[104] He was no longer patient with her and constantly complained, even to the point of calling her names. She observed his frustration at not being able to do the things around the house that he had previously done. He was no longer social or happy.

[105] She relied on her father. He helped her buy her car. He was a resource for her. She felt guilty for being angry at him for the time between the accident and his death because he was no longer the fun person that he had been before the accident. She let him know that. For instance he was the first person to congratulate her when she graduated from university with her Bachelor of Arts and her Master of Arts. She felt guilty for being insensitive and not understanding about his pain.

[106] She misses her father and is sad that he will not see her graduate from law school, or marry, although these feelings are not compensable.

[107] I assess her loss of companionship claim with respect to her father at $25,000 less $7,500 deductible for a net award of $17,500.

[108] Had I found that the accident had caused the death of Mr. Rich Sr., I would have assessed her Family Law Act damages of $50,000 less the deductible.

[109] With respect to Jarvis, she is closer in age to him than to her brother John. Before the accident, they were very close. They spoke all the time, they played badminton together and shared mutual friends when they each lived in either Windsor or Guelph. She was the first person to whom he introduced his wife Corrine.

[110] Everything has changed between Judy and Jarvis since the accident. He is forgetful, agitated and critical. He fails to return phone calls. They don't talk as much and he has little time for her. She is gradually coming to the understanding that his behaviour stems from the accident and she is learning to deal with it. His tense relationship with his wife upsets her and he seems uncomfortable.

[111] I assess her Family Law Act damages with respect to the loss of companionship of Jarvis at $25,000. There is no deductible, as her deductible has been taken away from her award with respect to her father. With respect to the Family Law Act claim of Jarvis Rich in respect of his father, he had a very similar relationship to his father as did his sister Judy. His father was the same type of mentor to him as he was to Judy.

[112] However Jarvis and his father had a closer relationship than Mr. Rich Sr. had with either John Jr. or Judy. Jarvis and his father were "partners" in the horse training and racing business. They trained horses together, which was a hobby for both. There was no loss of income claimed for the horse business from either Mr. Rich or Jarvis because it was acknowledged that it

was a hobby. However, Jarvis and Jack Rich Sr. attended together to the training of their horses, and the racetrack. They had that companionship. Indeed on the day of the accident, they were together doing chores which were among other things in relation to their horse training avocation.

[113] I therefore assess Jarvis' claim under the Family Law Act for the loss of companionship of his father for the 15 months between the accident and his father's death at $30,000 less the statutory deduction of $7,500 for a net loss of $32,500.

Damages of Jarvis Rich:

[114] Jarvis' complaints were documented by Dr. Svecs and Dr. Payne to whom he reported the following:

1) back pain with associated left leg numbness. The back pain flares up with physical activity such as grass cutting or snow shoveling;

2) he has constant headaches which become severe every one or two weeks. He must lie down to alleviate his pain;

3) the headaches and neck pain radiate to his shoulders especially when he is active;

4) he has memory difficulties;

5) he has emotional issues of frustration and anger caused by the pain;

6) his sleep is disturbed 60 to 70 per cent of the time.

[115] He testified to this. I accept his evidence that he suffers from these complaints. On a general basis he was a credible witness who did not exaggerate when he testified. His anger and his frustration showed through in his testimony.

[116] In my opinion he was like all of the members in his family who testified: honest and reliable with no exaggeration. This overall credibility assessment extends to his wife Corrine as well.

[117] In July of 2002 he was seen by Dr. Garth Annisette an orthopedic surgeon. Dr. Annisette diagnosed him as having soft tissue injury to the low back and possible left sided facet joints as well as a contusion to his left heel. Even at that early juncture Dr. Annisette predicted that if his symptoms continued past 12 to 18 months they might become permanent. His injuries have interfered with his ability to teach and engage in sporting events.

[118] Jarvis was assessed and treated by Dr. Svecs, a clinical psychologist. Dr. Svecs said that he suffered a concussion and associated adjustment disorder with depressed mood. Although he has experienced slight improvement with respect to anxiety and stress levels he still

suffers from fairly elevated symptoms of depression and chronic pain which affect his quality of life. He requires ongoing treatment.

[119] Consistent with the diagnosis of Dr. Svecs is the neuropsychological assessment of Dr. Herbert Kaye a clinical psychologist. Dr. Kaye reports that Jarvis considers himself as 90 per cent disabled with respect to his friends and family; 80 per cent disabled with respect to his partner Corrine; 70 per cent disabled with respect to his sexual activity, daily household activities, learning and studying; and 60 per cent disabled with respect to social activities. Although these findings are based on self reporting, Dr. Kaye's clinical testing seems to bear them out. As I have previously stated I accept Jarvis' self assessment as credible and reliable. Jarvis overall rates himself as 70 per cent disabled with an 80 per cent disability in physical and emotional condition.

[120] To a lesser degree, the psychological trauma is confirmed by Dr. Kate Partridge a clinical psychologist who examined Jarvis for the defence. In my view her evidence confirms that of Dr. Kaye and Dr. Svecs. She only differs with them with respect to the degree of disability. She only saw Jarvis on one occasion. Having listened to Jarvis testify, I accept the evidence of Dr.'s Svecs and Kaye where it differs from that of Dr. Partridge.

[121] Jarvis no longer participates in sporting activities such as golf, recreational hockey and jogging, all of which he enjoyed on a regular basis with Corrine before the accident. He is unable to play with his child for any extended period or to lift him. His relationship with his immediate family suffers.

[122] His mother testified that he has undergone a personality change. He is tense and angry often. He is defensive. He acts inappropriately towards her. His short term memory is deficient. This has all occurred since the motor vehicle accident. Prior to the accident he was talkative, shared his feelings and got along well with his family and others.

[123] Whereas before the accident Jarvis and his sister Judy were close, they have now drifted apart. They used to speak all the time. They socialized together and she was good friends with his friends. They no longer play badminton together because he is unable to. He either refuses to return his mother's phone calls or forgets to return them. When he does call her he forgets what he was going to say. He and Corrine argue in front of the family. None of this occurred before the motor vehicle accident. Judy has observed that he cannot hold or play with his son for long and those chores fall to Corrine.

[124] Corrine Rich is the wife of Jarvis. They were not married at the time of the accident, but married afterwards. This is unfortunate as there can be no Family Law Act claim for her. She bears the brunt of Jarvis' injury just as much as Jarvis. They met in approximately 1998 when they were both students. They have been a couple for close to eight years. Their son Jack was approximately five months old at the time of the trial. Besides his mother, Corrine probably knows Jarvis better than anyone.

[125] Before the accident she described him as easy going, relaxed, social, kind-hearted and patient. He was passionate with respect to family, hockey, school and houses. They were a

physically active couple who worked out, jogged, played golf and baseball together. He played recreational hockey after playing hockey for his university team. She played volleyball.

[126] Since the accident, in addition to the pain from which he suffers, Jarvis is quiet and withdrawn. He is reluctant to talk and socialize. He is forgetful. He is unable to do most of the physical things he did before the accident. She has noticed little improvement in his physical abilities despite his attempts to re-habilitate himself. His cognitive abilities are compromised in that he misplaces his keys and wallet constantly and blames her. Prior to the accident, their arguments were discussions. Now they degenerate into yelling and shouting matches.

[127] Although they teach at the same school he stays away from the staff room. Whereas before he was organized, now his marking piles up and he is disorganized. He is now anxious and irritable. He no longer wants to socialize with other teachers at school or after school.

[128] He is not as active in coaching, union activities and extra curricular activities at the school. He spends less time with his students. Corrine and Jarvis no longer take weekend trips together because of his pain and his inability to sit or stand for any period of time. He no longer drives a truck part time.

[129] He only coaches one sport at school instead of three. He cancels practices. He is not interested or motivated to coach. He was unable to complete his Masters of Education, which would have put him on the administrative track with the school system.

[130] Before the accident they did housework together. Now she does 90 per cent of it. He has tried to assist her but is unable to.

[131] I accept her evidence that their marriage is in jeopardy if things do not improve. She says it is not his fault. He is trying to make it work but it is difficult.

[132] I find that her evidence shows that clearly his enjoyment of life is lessened.

[133] I have no hesitation based on her evidence and his evidence, in accepting the figures of $14,379.48 in replacement Exhibit 16 as evidence of the extra housekeeping and maintenance tasks completed by Corrine Rich, which Jarvis was unable to do because of his injuries. Jarvis will be awarded this sum.

[134] Jarvis testified. Like all of the other members of his family I found him to be credible. Even when asked leading questions in chief he did not necessarily automatically agree with the suggestions contained in the questions. He gave his own evidence.

[135] I accept that after the accident he was unable to work in his friend's hockey school in the summer as a counsellor/teacher. I also accept that he could not continue his summer job as a crew chief for corn detasseling.

[136] With respect to his social activities such as athletics, hockey, golf and jogging, his evidence was consistent with Corrine's. He is either unable to do these activities as before, or he is forced to do them on a much restricted or reduced basis. Prior to the accident he had played hockey two or three times a week in tournaments and house leagues. He and Corrine golfed once per week in season. They jogged together three or four times per week.

[137] After the accident he tried to play hockey but aggravated the pain in his back and he quit. He was no longer able to play golf as before. He now had to drive a golf cart instead of walking. He had to play alternate shots and often quit after nine holes. He couldn't keep up to his wife when jogging and would quit and return home discouraged.

[138] These activities were very important to him and Corrine. If there is a threshold issue I find that his inability to continue in them as well as his inability to coach his students' teams at the same level as before constitutes a "serious impairment of an important bodily function caused by continuing injuries which are physical in nature."

[139] He therefore comes within the third exception to section 266 of the Insurance Act, and the immunity created by that section for Mr. Lingard does not apply.

[140] Jarvis concurs with Corrine that the future of their marriage is in jeopardy even though they love each other and want to be together. They want to have more children, but they do not know what will happen. He wants to make the marriage work. In his words "Corrine did not sign up for this trouble."

[141] Jarvis cannot play with or care for his son if bending or twisting is required.

[142] Jarvis confirms that his relationship with his mother has become strained. He feels she does not understand what he is going through, but then he feels badly for offending her and blaming her.

[143] He himself is frustrated. Before the accident he could multi-task. Now every chore he does requires his individual attention to complete. He is on an emotional roller coaster where every little thing sets him off.

[144] He confirmed that his relationships with his brother John and sister Judy have deteriorated.

[145] After graduating from the University of Guelph with a Bachelor of Arts Degree in 1998, Jarvis applied to Teacher's College but was not accepted. He therefore obtained his truck driving licence and drove a truck while saving money for Teacher's College. He went to Teacher's College in Buffalo and continued to drive truck on vacations and weekends.

[146] He obtained full time employment as a teacher with the Lambton Kent School Board in February in 2001 where he taught until the accident. He took a couple of days off after the accident but returned to work until he took an unpaid leave of absence in 2003 to pursue his

Master of Education Degree in Buffalo. He could not finish the program because of his injuries and cognitive difficulties.

[147] He eventually returned to teaching at Chatham Kent Secondary School in February of 2004 and has been employed there since. It is interesting to note that Jarvis had to refresh his memory with respect to dates and times from documents in order to provide this evidence to the court.

[148] Having said all this it is clear he is a teacher well respected by his peers and his students. His peers testified however that his cognition was not what it was before the accident.

[149] With respect to the damages of Jarvis Rich I find that he suffers from chronic pain syndrome that is serious and permanent. While his neck, back and heel are improving, he will never be able to regain the active lifestyle he led before the accident.

[150] As his physical conditions gradually improve, his function and mental stress levels will also improve. However I do not believe that he will ever regain completely either the physical or mental health that he enjoyed before the accident. His stress levels and anxiety levels may improve but I do not believe that his cognitive levels will improve along with them. He will not be able to multi-task the way he previously could. It will take strenuous efforts by him to save his marriage and eventually enjoy the children that he and Corrine had planned.

[151] I therefore assess his general damages for pain, suffering and loss of amenities of life at $115,000. This is net of any deductible under the Insurance Act. However it includes his loss of competitive advantage. There was some evidence that he wanted to be a vice principal. However no evidence was led as to whether or not he would be on that track, or what the difference in salary would be and accordingly I am not in a position to assign any figure to this claim.

[152] I have already alluded to Jarvis' and his family's credibility. I have also said that that credibility assessment extends to his wife Corrine. With respect to the loss of future capacity, housekeeping and home maintenance, unlike his mother, Jarvis did not hire anybody to do the work other than as earlier noted. The only evidence of the replacement value for those services are the Statistics Canada figures in Exhibit 26.

[153] In my view he is not entitled to compensation for costs of transportation to counseling (the present value of $1,012 as claimed) as those costs should be covered by his own insurer. (See the Statutory Accident and Benefits Schedule s. 14(2)(9), and the law already cited.)

[154] The past homemaking expenses have already been assessed at $14,379.48.

[155] With respect to the future homemaking loss suffered by Jarvis, unfortunately his counsel did not provide any present value figures to justify the same. Instead counsel relied on the argument that Jarvis was permanently disabled, and the work he had previously done around

the house was now being performed by Corrine. He is entitled to compensation for this loss. (See *Fobel v. Dean* (1991), 83 D.L.R. (4th) 885 Sask. C.A.)

[156] The method of calculation suggested by plaintiffs' counsel is to base the future loss on the average amount of work per year performed by Corrine at the Statistics Canada rate of $13.54 per hour. I accept this method. In the year before the trial Corrine did an extra 374 hours of housekeeping work, which would ordinarily have been done by Jarvis.

[157] While I have accepted Corinne's evidence on the point, I am not simply prepared to calculate the present value of the future homemaking loss on those figures alone. The figures do not take into account any contingencies.

[158] Jarvis' health will improve over time. He had a history in his family of heart disease. He will eventually retire from teaching freeing up more hours to do the work on a graduated basis. He has a son who will be expected to assume some of his chores as he grows up. I feel a reasonable discount for contingencies is 20%, with the result that I assess the future homemaking loss at 300 hours per year at $13.54 per hour for a total of $4,062 per year.

[159] Jarvis at the time of the trial was 32.5 years old. (Date of Birth: April 15, 1974). I use the same discount rates as in the loss of income report of Rich Rothstein, Chartered Accountants (Exhibit 3 Tab B 3) of 1.5% for the first 15 years and 2.5% per year thereafter (as in Rule 53.09(1).)

[160] I accept that his disability will last until he is 75 years old at which time he would likely hire someone to do these chores by reason of his age.

[161] His future housekeeping and maintenance losses therefore are as follows:

a) the present value of $1 per year at 1.5% for the first

15 years until age 47.5 equals 13.4347.

x $4,062 = $ 54,571.75

to age 47.5

b) the present value of $1 per year at 2.5% for the next

27.5 yrs. (until age 75) is 19.939.

x $4,062 = $ 80,992.21

the total is $135,563.96

[162] If there has been some loss of housekeeping expenses paid to Jarvis by his own insurance company, those amounts will be deducted from this part of the award. This deduction

will be made either by agreement of counsel, or by written submissions after the judgment is released.

[163] Jarvis also claims future loss of income by reason of the fact that he is, as a result of the accident, disabled from doing his part time job as a truck driver. Jarvis had obtained his A-Z licence after graduation from university, and drove truck full time until he entered Teacher's College. He then drove part time during and after Teacher's College but quit when he began to teach while he was on probation.

[164] He then drove part time to supplement his income, pay off his student loans, and to earn money for discretionary spending, which often meant spending that money on Corrine. He and Corrine had discussed the possibility of his resuming truck driving as a profession after his retirement from teaching. In 1999 he worked for Watson's Trucking for 5.5 months. In 2000 he worked for Watson's for two days according to their records. He did not work for Watson's in 2001.

[165] Ms. Robert who was the President of Watson's Trucking described their operation. She had hired Jarvis as a driver in 1999 and 2000. She described a current shortage of good truck drivers who were allowed to cross the border because they needed a clean criminal record and driving abstract. Jarvis qualified on both counts.

[166] Because of the harvest in the farming community, the demand for drivers rose after approximately July 10th each summer. As a teacher Jarvis would have been hired in July and August, as well as the Christmas holidays if there was a truck available. There was also a shortage of drivers in the industry.

[167] Although Ms. Robert preferred full time drivers, she would hire part time drivers if they were qualified and were reliable, as Jarvis was. She would have hired him on a full time basis if he had been available. Although Jarvis was part time he was on her regular rotation, and had insurance clearance. Her only problem with him was that at times he was hard to contact. On cross-examination she did express some concern that he had assumed his cousin's driving assignment for which he was paid cash by his cousin. Although this might possibly affect insurance coverage of Watson's Trucking, I do not find that it detracts from his opportunity to drive. This is especially so when Ms. Robert reiterated that even with this knowledge she would hire Jarvis.

[168] Jarvis testified that he was supposed to renew his truck driver's licence in April of 2003 but was unable to do so because the licence renewal required a physical examination and eye test. He was undergoing therapy treatment for his back and neck at the time, and could not take the test. In any event, he said he would not have been physically able to drive because he could not get comfortable and there was no way he could adjust the seat to accommodate long distances. He is not able to sit for any more than one hour. His inability to pass the driving test was confirmed by Dr. Payne.

[169] I accept that Jarvis is not able to pursue truck driving as a part time job to supplement his income. I also accept that he would continue to be so employed during his teaching career in the summers and for a reasonable time after retirement subject again to certain contingencies.

[170] Mr. Wallach calculated Jarvis' past and future wage loss from trucking in Exhibit 28. He based his estimates on reports from Jarvis that he would drive approximately 300 hours per year. He then applied the average truck driving rate of $16.60 per hour from Statistics Canada to that sum to calculate the past wage loss as well as the future wage loss. This 300 hours was based on 25 hours per week for 14 weeks or three months during the summer.

[171] I do not accept that Jarvis would have worked three months during the summer. He was already a teacher at the time of the accident. The Education Act requires a teacher to teach from September to the end of June. Assuming that Jarvis' marriage survives, he and Corrine intend to have more children. He of necessity will have to spend more time with his family either to maintain his marriage or preferably to simply spend family time with them as his father did with him, and to assist her with young children. As his health improves he may resume more extra curricular activities at school, either coaching or taking student teachers, both of which activities have been restricted since the accident. Mr. Wallach did not take any of these contingencies into his calculations. I therefore assess Jarvis' truck driving loss at 200 hours per year. I do not believe that he would have driven past the age of 65. By that time be would have been retired from teaching. His Canada Pension plans will be in pay. I therefore assess the present value of his future lost trucking income at 200 hours per year at $16.60 per hour from the start of the trial on October 11, 2006 to October 11, 2021 at 1.5%. This is $3,320 per year for the first 15 years and the present value of same is $44,603.20.

[172] In October 2021 Jarvis will be 47.5 years old. The present value of that same sum at 2.5% for the next 17.5 years is $3,320 x 14.1928 until his 65th birthday on April 15, 2039. This sum is $47,120.00.

[173] I therefore assess the present value of his future lost wages at $47,120 plus $44,603 for a total of $91,723.30.

[174] I accept the figures of Mr. Wallach for his past wage loss to the date of trial as $20,877.00.

[175] From these amounts will be deducted the statutory deductions under the Insurance Act.

[176] If counsel cannot agree on them, and provide the actual figures to me by letter, there will be written submissions on the point by each counsel.

[177] There will be judgment therefore in the following sums for the plaintiffs:

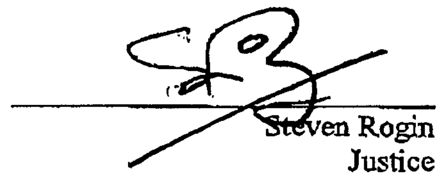
1)	Wanda Maria Rich as administratrix *ad litem* for John William Rich Sr. General Damages			
			$80,000 - $15,000	$65,000.00
2)	Wanda Maria Rich :			
	F.L.A. claims	Jack	$40,000 - $7,500	$32,500.00
		Jarvis		$25,000.00
3)	F.L.A. claims of John Rich Jr.			
	a)	Re Jack Rich	$15,000 - $7,500	$ 7,500.00
	b)	Jarvis	$17,500	$17,500.00
4)	F.L.A. claims of Judy Maria Rich			
	a)	Jack Rich	$25,000 - $7,500	$17,500.00
	b)	Jarvis		$25,000.00
5)	Damages of Jarvis			
	a)	general damages	$130,000 - $15,000	$115,000.00
	b)	past housekeeping		$ 14,379.48
	c)	future housekeeping loss		$135,563.96
	d)	future loss of truck driving income		$ 91,723.20
	e)	past wage loss to trial		$ 20,877.00
	f)	F.L.A. claim re. Jack Rich $30,000 - $7,500 net		$ 22,500.00
			Total	$590,043.64

[178] Costs will be addressed by Ms. Wilde within 30 days of the release of these reasons.

[179] Mr. Vanberkel will respond 15 days after receipt of Miss Wilde's submissions.

[180] Miss Wilde will then have seven days to reply.

[181] Judgment accordingly.



Steven Rogin
Justice

Released: November 29, 2007

COURT FILE NO.: S2972/2003 (Sarnia)
DATE: 20071129

ONTARIO

SUPERIOR COURT OF JUSTICE

BETWEEN:

Rich et al

Plaintiffs

- **and** –

Lingard

Defendant

REASONS FOR JUDGMENT

Rogin J.

Released: November 29, 2007