

250-360-0440

ANDRE

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Proceedings

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Victoria, B.C.
February 10, 2009

(EXCERPT FROM PROCEEDINGS)

(JURY IN)

THE CLERK: Members of the jury, have you reached a verdict on which all of you agree?

THE JURY FOREPERSON: We have reached a verdict on which at least 75 percent or six jurors agree.

THE CLERK: Thank you. Mr. Foreman, what is your answer to question number one?

THE JURY FOREPERSON: Our answer is yes.

THE CLERK: Mr. Foreman, what is your answer to question number 2 under the following category, 2(a) sub (a)? The award for pain, injury, suffering and loss of enjoyment of life from September the 7th, 2005 until the plaintiff's estimated time of recovery either before or after today?

THE JURY FOREPERSON: One hundred and fifty thousand.

THE CLERK: 2(a) sub (b). If you find the plaintiff suffered aggravated damages, what amount do you assess for this loss?

THE JURY FOREPERSON: One hundred thousand.

THE CLERK: What are [sic] your total non-pecuniary loss?

THE JURY FOREPERSON: Two hundred and fifty thousand.

THE CLERK: 2(b) sub (a). Award for past loss of income from September the 7th, 2005 until today, if any?

THE JURY FOREPERSON: Fifty thousand.

THE CLERK: 2(b) sub (b). Award for loss of future earnings capacity, if any?

THE JURY FOREPERSON: Zero.

THE CLERK: And your total for pecuniary loss?

THE JURY FOREPERSON: Fifty thousand.

THE CLERK: 2(c)?

THE JURY FOREPERSON: Zero.

THE CLERK: Mr. Foreman, what is your answer to question 3?

THE JURY FOREPERSON: Zero.

THE CLERK: Total damages?

THE JURY FOREPERSON: Three hundred thousand.

THE CLERK: Mr. Foreman, what is your answer to question 4?

2

Proceedings

1 THE JURY FOREPERSON: Yes.
2 THE CLERK: Mr. Foreman, what is your answer to
3 question 5?
4 THE JURY FOREPERSON: An apology from the Minister of
5 Revenue to Mr. Neumann for the breach of his
6 **Charter** right to be secure against unreasonable
7 search or seizure.
8 THE JURY FOREPERSON: Mr. Foreman, what is your answer
9 to question 6?
10 THE JURY FOREPERSON: One million.
11 THE CLERK: And the grand total award?
12 THE JURY FOREPERSON: One million three hundred
13 thousand.
14 THE CLERK: Do you agree that this is the verdict of at
15 least six of you? Please stand to confirm this is
16 so.
17 THE COURT: Thank you, members of the jury.
18 Mr. Foreman, would you please deliver your
19 answers to the registrar.
20 I'll mark that as the next exhibit, please.
21 THE CLERK: Thank you.
22 THE COURT: Please be seated for a moment.
23 THE CLERK: That becomes Exhibit 15, My Lord.
24 THE COURT: Exhibit 15.
25
26 **EXHIBIT 15: Answers of the jury**
27
28 THE COURT: Counsel, I just need a yes or no answer at
29 this point to the question. Do Counsel have any
30 submissions they wish to make before the jury is
31 discharged?
32 Mr. Kelliher?
33 MR. KELLIHER: No, My Lord, other than the record
34 should show that all jurors stood in the
35 affirmative to the verdict.
36 THE COURT: Thank you.
37 Ms. Lord?
38 MS. LORD: My Lord, my only --
39 THE COURT: No. Yes, you have?
40 MS. LORD: Yes, My Lord.
41 THE COURT: Ladies and gentleman, please excuse me
42 while I deal with this before I -- before you're
43 discharged.
44
45 (JURY OUT)
46
47 THE COURT: Yes, Ms. Lord?

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Proceedings

1 MS. LORD: The jury has awarded an apology of the
2 Minister of National Revenue. The Minister of
3 National Revenue is not a party.
4 MR. KELLIHER: That's a matter for appeal, My Lord.
5 THE COURT: Is it the Minister of National Revenue or
6 the Minister of Finance?
7 MR. KELLIHER: My friend can assist in the details
8 there. Which is it, may we know, My Lord?
9 MS. LORD: My -- I'm sorry, the verdict from the jury,
10 I believe, was that there be an apology from the
11 Minister of National Revenue, but the Minister of
12 National Revenue is not a defendant to this
13 action, is my concern, My Lord.
14 THE COURT: Who's in charge of the agency being sued?
15 MS. LORD: Well, you're correct; the Canada Revenue
16 Agency is an agency of the Crown. The Minister of
17 National Revenue would be the minister ultimately
18 responsible for the Canada Revenue Agency, yes.
19 MR. KELLIHER: Well, that's the end of it then, My
20 Lord, thank you.
21 THE COURT: Anything else, Ms. Lord?
22 MS. LORD: No, My Lord.
23 THE COURT: I think the jury's verdict is clear. It's
24 the person in charge of the agency being sued.
25 MS. LORD: Thank you, My Lord.

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27 (EXCERPT FROM PROCEEDINGS CONCLUDED)
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Exhibit 15

Docket No. 06-4256
Victoria Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA

Between:

Hal Neumann

Plaintiff

And:

**The Attorney General for Canada and
The Canada Revenue Agency**

Defendant

JURY QUESTIONS

- 1. Was there negligence on the part of the employees of the defendant Canada Revenue Agency which caused or contributed to damage suffered by the plaintiff?

Answer: Yes No

(If the answer to Question 1 is "No", you do not need to answer Questions 2 and 3. Go to Question 4.)

(If the answer to Question 1 is "Yes", proceed to answer the following questions.)

- 2. At what amount do you assess the damages sustained by the plaintiff in the following categories?

A. Non-pecuniary Loss:

- (a) Pain, injury, suffering and loss of enjoyment of life from

7 September 2005 until the plaintiff's estimated time of recovery, either before or after today

\$ 150,000

(b) If you find the plaintiff suffered aggravated damages what amount do you assess for this loss

\$ 100,000

\$ 250,000

TOTAL NON-PECUNIARY LOSS:

B. Pecuniary Loss:

(a) Past loss of income from 7 September ~~2007~~ until today, if any 2005a

\$ 50,000

(b) Loss of future earning capacity, if any

\$ 0

TOTAL PECUNIARY LOSS:

\$ 50,000

C. Punitive Damages:

If you find the plaintiff suffered punitive damages, what amount of damages do you award?

TOTAL PUNITIVE DAMAGES:

\$ 0

3. If you find the plaintiff failed to mitigate his damages what amount, if any, do you deduct from the awards you gave in your answers to Questions 2.A, B and C?

\$ 0

TOTAL DAMAGES (2.A + 2.B + 2.C - 3)

\$ 300,000

4. Did the conduct of the employees of the defendant Canada Revenue Agency infringe or deny the plaintiff his constitutional right to be secure against unreasonable search or seizure?

Answer: Yes X No

(If the answer to Question 4 is "No", you do not need to answer Question 5.)

5. If you answer to Question 4 is "Yes" then what remedy do you consider appropriate and just in the circumstances of this case?

An apology from the minister of revenue to Mr. Neumann for the breach of his charter right to ^{be free from} unreasonable search ~~and~~ seizure. ^{be secure against} a ^{or a}

6. If it is your judgment that a financial award is an appropriate and just remedy then in what amount?

\$ 1,000,000

GRAND TOTAL AWARD
(2.A + 2.B + 2.C - 3 + 6)

\$ 1,300,000

Dated at Victoria, B.C.
this 10th day of February 2009


Foreman