

IN THE SUPREME COURT OF JUDICATURE OF JAMAICA

IN THE CIVIL DIVISION

CLAIM NO. C.L. 2001/N-146

BETWEEN	PATRICK NICHOLSON	CLAIMANT
AND	DALTON CHEN	1 <sup>ST</sup> DEFENDANT
AND	ROHAN KEEN	2 <sup>ND</sup> DEFENDANT

Mr. John Graham instructed by John G. Graham & Co. for the Claimant  
Mr. Leonard Green instructed by Chen, Green & Co. for the 1<sup>st</sup> Defendant.  
The 2<sup>nd</sup> Defendant was not represented.

Heard June 26, 2006 and April 3, 2009

**ANDERSON J.**

This is a matter in which the Claimant, Mr. Patrick Nicholson was seeking damages from the Defendants in relation to a accident which occurred on the 9<sup>th</sup> May 2000 in which he was involved. Mr. Nicholson gave evidence in the witness statement and was allowed to amplify that witness statement pursuant to an application made to the Court on the morning of the trial.

Mr. Nicholson neither in his witness statement nor amplification identifies either the 1<sup>st</sup> or 2<sup>nd</sup> Defendant as being the person involved with the accident nor is there any evidence as to the ownership of the vehicle which purportedly caused the accident. There is in addition, no averment in the Statement of Claim or any evidence from the Claimant that the 2<sup>nd</sup> Defendant was the servant or agent of the 1<sup>st</sup> Defendant.

At the end of the Claimant's Evidence in Chief and re-examination, Mr. Green, on behalf of the 1<sup>st</sup> Defendant submitted that there is no evidence that the 1<sup>st</sup> Defendant was the owner of

the truck in question. I agree with that submission and accordingly award judgment to the Defendants with costs to be agreed or taxed.

Finally, I would only restate that given the submissions which had been made at the end of the Claimant's case by Mr. Green for the 1<sup>st</sup> Defendant with which I agreed, it is clear that no liability can attach to either of the defendants.

ROY K. ANDERSON  
APRIL 3, 2009