

ONTARIO  
SUPERIOR COURT OF JUSTICE

BETWEEN:

DR. LAURA CARPENTER

Plaintiff

- and -

SIBLEY & ASSOCIATES INC., GRANITE GLOBAL SOLUTIONS  
CORP./CORPORATION GRANITE SOLUTIONS GLOBALES,  
FINANCIAL HORIZONS INCORPORATED,  
SLR ASSESSMENTS & DIAGNOSTICS, GRANITE HEALTH SOLUTIONS LP,  
SCM HEALTH SOLUTIONS LP carrying on business as SIBLEY & ASSOCIATES,  
ABC CORPORATION,  
JUDITH FARRIMOND, JOHN DOE, JANE DOE,  
DR. HOWARD PLATNICK, PLATNICK MEDICINE PROFESSIONAL CORPORATION,  
DR. DAVID KING, DR. DAVID KING INCORPORATED,  
DR. EDWIN HANADA, HANADA REHABILITATION INC.,  
MAYA FALLOWS,  
THOMAS STANLEY and STANLEY CONSULTING SERVICES,  
DR. MYLES GENEST, GENEST PSYCHOLOGICAL SERVICES INCORPORATED,  
DR. MARK RUBENS and DR. MARK RUBENS PROFESSIONAL CORPORATION LIMITED

Defendants

**STATEMENT OF CLAIM**

**NOTICE OF ACTION Issued August 5, 2015**

**THE CLAIM**

1. The Plaintiff, Laura Carpenter, claims against the Defendants for the following:
  - a) General Damages in the amount of \$750,000.00;
  - b) Aggravated Damages in the amount of \$2,000,000.00;
  - c) Punitive Damages in the amount of \$5,000,000.00;
  - d) Pre-judgement interest pursuant to the provisions of the *Courts of Justice Act*, R.S.O. 1990, chapter C.43;

- e) Costs together with HST pursuant to the *Courts of Justice Act*; and,
- f) Such further and other relief as this Honourable Court may deem just.

### **THE PARTIES**

2. The Plaintiff, Laura Carpenter, resides in the City of Halifax, in the Province of Nova Scotia. The Plaintiff was involved in a motor vehicle accident in the Province of Ontario on April 12, 2007 and sustained serious injuries. The Plaintiff made an application for statutory accident benefits through her insurer, TD Insurance, pursuant to policy number 75667758.
3. The Defendant, Sibley & Associates Inc., is a corporation that was duly incorporated pursuant to the laws of Ontario. Through a series of amalgamations, this Defendant amalgamated with the Defendant, Granite Global Solutions Corp./Corporation Granite Solutions Globales. Through a further series of amalgamations, the Defendant, Granite Global Solutions Corp./Corporation Granite Solutions Globales, amalgamated with the Defendant, Financial Horizons Incorporated, which is duly incorporated pursuant to the laws of Ontario.
4. The Defendant, SLR Assessments & Diagnostics, is a partnership business name registered in the Province of Ontario which is owned by the Defendant, Granite Health Solutions LP. The Defendant, Granite Health Solutions LP is owned by the Defendant, SCM Health Solutions LP which carries on business as Sibley & Associates. At all material times, the Defendant, SLR Assessments & Diagnostics operated as an assessment division of Sibley & Associates Inc.
5. The Defendant, ABC Corporation, is a business entity whose identity is currently unknown to the Plaintiff.
6. The Defendants, Sibley & Associates Inc., Granite Global Solutions Corp./Corporation Granite Solutions Globales, Financial Horizons Incorporated, SLR Assessments & Diagnostics, Granite Health Solutions LP, SCM Health Solutions LP and ABC Corporation, will hereinafter be referred to collectively as the Defendant "Sibley." At all material times, the Defendant, Sibley, carried on business in Ontario as a company which provided medical insurance evaluation services to insurance companies.
7. The Defendant, Judith Farrimond, resides in the Town of Madoc in the Province of Ontario. At all material times, this Defendant was an employee of the Defendant, Sibley.
8. The Defendants, John Doe and Jane Doe, are employees of the Defendant, Sibley, whose identities are not yet known to the Plaintiff.
9. The Defendant, Dr. Howard Platnick, resides in the City of Toronto in the Province of Ontario. This Defendant is a physician who is licenced to practise medicine in the Province of Ontario.
10. The Defendant, Platnick Medicine Professional Corporation, is a corporation licenced to carry on business in the Province of Ontario. The Defendant, Dr. Howard Platnick, is a director of the Defendant, Platnick Medicine Professional Corporation. The Defendants, Dr. Howard Platnick

and Platnick Medicine Professional Corporation, will hereinafter be referred to as the Defendant, Dr. Howard Platnick.

11. The Plaintiff states that, at all material times, the Defendant, Dr. Howard Platnick, contracted services to the Defendant, Sibley. These services included, but were not limited to, the review of assessment reports prepared in relation to the Plaintiff by other medical assessors, and the writing of an executive summary and consensus opinion.
12. The Defendant, Dr. David King, resides in the City of Halifax in the Province of Nova Scotia. This Defendant is a physician who is licenced to practise medicine in the Province of Nova Scotia.
13. The Defendant, Dr. David King Incorporated, is a corporation licenced to carry on business in the Province of Nova Scotia. The Defendant, Dr. David King, is a director of the Defendant, Dr. David King Incorporated. The Defendants, Dr. David King and Dr. David King Incorporated, will hereinafter be referred to as the Defendant, Dr. David King.
14. The Plaintiff states that, at all material times, the Defendant, Dr. David King, contracted services to the Defendant, Sibley for the purpose of an insurance assessment of the Plaintiff.
15. The Defendant, Dr. Edwin Hanada, resides in the City of Halifax in the Province of Nova Scotia. This Defendant is a physician who is licenced to practise medicine in the Province of Nova Scotia.
16. The Defendant, Hanada Rehabilitation Inc. is a corporation licenced to carry on business in the Province of Nova Scotia. The Defendant, Dr. Edwin Hanada, is a director of the Defendant, Hanada Rehabilitation Inc. The Defendants, Dr. Edwin Hanada and Hanada Rehabilitation Inc., will hereinafter be referred to as the Defendant, Dr. Edwin Hanada.
17. The Plaintiff states that, at all material times, the Defendant, Dr. Edwin Hanada, contracted services to the Defendant, Sibley for the purpose of an insurance assessment of the Plaintiff.
18. The Defendant, Maya Fallows, resides in the City of Halifax in the Province of Nova Scotia. This Defendant is an occupational therapist registered in the Province of Nova Scotia. The Plaintiff states that this Defendant contracted her services to the Defendant, Sibley for the purpose of an insurance assessment of the Plaintiff.
19. The Defendant, Thomas Stanley, resides in the City of Halifax in the Province of Nova Scotia. This Defendant is a physiotherapist registered in the Province of Nova Scotia.
20. The Defendant, Stanley Consulting Services, is a business partnership registered in the Province of Nova Scotia. The Defendants, Thomas Stanley and Stanley Consulting Services, will hereinafter be referred to as the Defendant, Thomas Stanley.
21. The Plaintiff states that, at all material times, the Defendant, Thomas Stanley, contracted services to the Defendant, Sibley for the purpose of an insurance assessment of the Plaintiff. The Defendants,

22. The Defendant, Dr. Myles Genest resides in the City of Halifax in the Province of Nova Scotia. This Defendant is a psychologist licenced to practise psychology in the Province of Nova Scotia.
23. The Defendant, Genest Psychological Services Incorporated, is a corporation licenced to carry on business in the Province of Nova Scotia. The Defendant, Dr. Myles Genest, is a director of the Defendant, Genest Psychological Services Incorporated. The Defendants, Dr. Myles Genest and Genest Psychological Services Incorporated, will hereinafter be referred to as the Defendant, Dr. Myles Genest.
24. The Plaintiff states that, at all material times, the Defendant, Dr. Myles Genest, contracted services to the Defendant, Sibley for the purpose of an insurance assessment of the Plaintiff.
25. The Defendant, Dr. Mark Rubens resides in the City of Halifax in the Province of Nova Scotia. This Defendant is a physician licenced to practise medicine in the Province of Nova Scotia.
26. The Defendant, Dr. Mark Rubens Professional Corporation Limited, is a corporation licenced to carry on business in the Province of Nova Scotia. The Defendant, Dr. Mark Rubens, is a director of the Defendant, Dr. Mark Rubens Professional Corporation Limited. The Defendants, Dr. Mark Rubens and Dr. Mark Rubens Professional Corporation Limited, will hereinafter be referred to as the Defendant, Dr. Mark Rubens.
27. The Plaintiff states that, at all material times, the Defendant, Dr. Mark Rubens, contracted services to the Defendant, Sibley for the purpose of an insurance assessment of the Plaintiff.

## **THE FACTS**

28. On or about April 12, 2007, the Plaintiff, Laura Carpenter, was involved in a motor vehicle accident. She sustained injuries and impairments and, pursuant to her policy of automobile insurance with TD Insurance made an application for benefits pursuant to the *Statutory Accident Benefits Schedule*, O.Reg 403/96 as amended, (hereinafter referred to as the "*Statutory Accident Benefit Schedule*").
29. The Plaintiff states that her automobile insurance policy with TD Insurance was a contract which, in addition to providing her with coverage for financial and rehabilitation benefits, also provided her with peace of mind and security in the event of an automobile accident.
30. In April 2009, the Plaintiff, Laura Carpenter, signed an Application for Determination of Catastrophic Impairment (OCF-19). Her injuries and impairments arising from the accident were severe and, with the support of her treating psychologist and family physician, she sought additional benefits from TD Insurance pursuant to the *Statutory Accident Benefit Schedule*. It was the opinion of the Plaintiff's psychologist and family physician that she met the criteria to be designated catastrophically impaired and was eligible for the enhanced and increased benefits available to those claimants who are catastrophically impaired.
31. The Plaintiff's insurer, TD Insurance, retained the Defendant, Sibley, to assist TD Insurance in its adjudication of the Plaintiff's claim by arranging a series of medical examinations to

determine whether the Plaintiff had sustained a catastrophic impairment. The Plaintiff was required to attend these assessments pursuant to the *Statutory Accident Benefit Schedule*.

32. The Plaintiff states that the Defendant, Sibley's, role was, *inter alia*, to schedule the assessments, provide the assessors with relevant documentation, and coordinate a team consensus-building process via a case conference. If a consensus was reached, the Defendant, Dr. Howard Platnick, as the Lead Physician retained by the Defendant, Sibley, would write a final Consensus Opinion report which would then be signed by each of the assessors.
33. The Plaintiff states that the Defendant, Sibley, was specifically asked by TD Insurance to ensure a Consensus Opinion was provided with respect to the issue of catastrophic designation, as opposed to an Executive Summary.
34. The Plaintiff, Laura Carpenter, participated in a series of assessments as requested by the Defendant, Sibley. These assessments were carried out by the following Defendants, who will hereinafter be referred to collectively as the "Defendant Assessors":
  - a) The Defendant, Dr. David King, who carried out a neurology assessment and prepared a report dated August 19, 2009 which report was later amended following receipt of further medical information;
  - b) The Defendant, Dr. Edwin Hanada, who carried out a physiatry assessment and prepared a report dated May 27, 2009 as well as subsequent amended reports;
  - c) The Defendant, Maya Fallows, who carried out an occupational therapy in-home assessment on June 3, 2009 and submitted a report to the Defendant, Sibley, shortly thereafter;
  - d) The Defendant, Thomas Stanley, who carried out a Functional Assessment Examination on May 26, 2009 and submitted a report to the Defendant, Sibley, shortly thereafter as well as amended reports;
  - e) The Defendant, Dr. Myles Genest, who carried out a psychological assessment and prepared reports dated July 31, 2009 as well as an addendum report dated September 25, 2009; and
  - f) The Defendant, Dr. Mark Rubens, who carried out a psychiatric assessment and prepared a report dated August 30, 2009 and an amended report on September 23, 2009.
35. The Plaintiff, Laura Carpenter, states that she never personally met or spoke with the Defendant, Dr. Howard Platnick. The Plaintiff states that this Defendant was the Lead Physician on the catastrophic assessment and was tasked with, *inter alia*, engaging in a team consensus-building process and, if a consensus was reached, writing a Consensus Opinion report.

36. The Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, reviewed the reports submitted by the Defendant Assessors, and, in a number of instances, directed them to make alterations to their reports.
37. The Plaintiff states that the said alterations changed the opinions, character and tone of the reports and deleted or minimized information relevant to and supportive of the Plaintiff's impairments.
38. On August 7, 2009 the Defendant, Dr. Myles Genest, objected to the request made by the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, to make changes to his report.
39. Despite this objection, the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, continued to request alterations to the Defendant Assessors' reports.
40. The Plaintiff further states and the fact is that between May 2009 and October 2009, the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, changed sections of the Defendant Assessors' reports, without the Defendant Assessors' knowledge and consent.
41. As the Defendant Assessors' reports were delivered to the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, it was apparent that there was little or no consensus amongst the Assessors with respect to the Plaintiff's injuries, the impairments, the causal link to the motor vehicle collision and whether she met the criteria to be designated catastrophically impaired.
42. The Plaintiff states that as early as June 19, 2009, the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, were well aware of the fact that there would be no consensus amongst the Defendant Assessors.
43. Despite the obvious lack of consensus amongst the Defendant Assessors' reports, the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, pressed on with the process and took steps to arrange a purported consensus case conference with some, but not all, of the Defendant Assessors.
44. The Plaintiff states that the Defendants, Dr. David King, Dr. Edwin Hanada, and Dr. Myles Genest, participated in a consensus case conference on September 24, 2009. The Defendants, Dr. Mark Rubens, Thomas Stanley and Maya Fallows, did not participate in the consensus case conference.
45. Following the consensus case conference, the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, continued to request that the Defendant Assessors, make changes and alterations to their reports.
46. In particular, the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, asked the Defendant, Dr. Mark Rubens, to prepare an addendum to his report of August 30, 2009, wherein he had concluded that the Plaintiff was catastrophically impaired.

47. The Plaintiff states that the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, sent the Defendant, Dr. Mark Rubens, two samples to use as a template for the requested addendum. The Plaintiff states that both samples contained wording for claimants who were not deemed catastrophically impaired, despite Dr. Rubens' earlier conclusion that the Plaintiff was catastrophically impaired.
48. On or about October 7, 2009, the Defendant, Dr. Howard Platnick, prepared an Executive Summary which concluded that the Plaintiff did not meet the criteria to be designated catastrophically impaired. Dr. Howard Platnick stated in the said Executive Summary that his calculations "...incorporate and consider the findings of all assessors" and further that "It is the consensus conclusion of this assessment that [the Plaintiff] does not achieve the catastrophic impairment rating as outlined in the SABS..."
49. The Plaintiff states that the Executive Summary was sent to all of the Defendant Assessors. The Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, requested that the Defendant Assessors sign the Executive Summary, as confirmation of a consensus having been reached.
50. On October 8, 2009, the Defendant, Dr. Mark Rubens wrote to the Defendant, Judith Farrimond in response to having received the Executive Summary and being asked to sign a consensus statement. The Plaintiff states that the Defendant, Dr. Mark Rubens, refused to sign and advised that a "consensus' is quite clearly and explicitly contraindicated".
51. The Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, proceeded to issue the Executive Summary to TD Insurance, despite the knowledge that there was no consensus of opinion amongst the Defendant Assessors, with respect to whether the Plaintiff met the criteria to be designated catastrophically impaired.
52. The Plaintiff states that the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, then continued in their efforts to get the Defendant Assessors to sign a consensus statement, stating that the Defendant Assessors' signatures were required.
53. On October 27, 2009, the Defendant, Dr. Myles Genest, wrote to the Defendant, Judith Farrimond, advising that he would not sign the consensus statement and that he did not agree with the conclusion stated in the Executive Summary.
54. The Plaintiff states that she was not advised of Dr. Rubens and Dr. Genest's refusals to sign the consensus statement. Rather, the Executive Summary provided by the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, misrepresented to the Plaintiff and her insurer, TD Insurance, there was a consensus amongst the Defendant Assessors, that she did not meet the criteria to be designated catastrophically impaired.
55. On or about November 6, 2009, TD Insurance denied the Plaintiff's application to be deemed catastrophically impaired. The Plaintiff states that TD Insurance denied her application relying on, and because of, the purported consensus reached by the Defendants in their assessment of the Plaintiff.

56. The Plaintiff followed the lengthy dispute resolution process overseen by the Financial Services Commission of Ontario ("FSCO") in relation to TD Insurance's denial of her claim.
57. Following a FSCO mediation, the Plaintiff filed for arbitration on August 23, 2010.
58. As part of the arbitration process, legal counsel for TD Insurance wrote to the Defendants in January 2013, requesting that they produce their complete files in relation to the Plaintiff.
59. The Plaintiff further obtained an Order on July 31, 2013 compelling TD Insurance to obtain the Defendants' records pertaining to their medical assessments of the Plaintiff. The Plaintiff states that the Order required the Defendants to produce their complete files including clinical notes and records, email communications, rough notes, draft reports and minutes and notes in relation to the consensus case conference.
60. The Plaintiff states that the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, interfered with the Defendant Assessors producing documents pursuant to the request of TD Insurance's legal counsel from January 2013 as well as the Order of July 31, 2013.
61. Specifically, the Defendant, Judith Farrimond, advised the Defendant Assessors that they did not need to produce communications received from the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick.
62. The Plaintiff's case proceeded to FSCO arbitration in November 2014 and before the completion of the hearing, TD Insurance accepted that the Plaintiff was catastrophically impaired and agreed that she should have been designated as such.

## **THE ALLEGATIONS**

63. The Plaintiff states that the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, failed in their obligation to provide a fair, unbiased and accurate assessment of the Plaintiff. The Plaintiff further states that these Defendants:
  - a) Breached their duties of impartiality and neutrality to the Plaintiff;
  - b) Intentionally interfered in the Plaintiff's economic and contractual relationship with her accident benefit insurer, TD Insurance;
  - c) Induced a breach of contract between TD Insurance and the Plaintiff;
  - d) Committed professional malpractice and were negligent and careless in their handling and administration of the Plaintiff's assessment;
  - e) Induced a breach of the duty of neutrality by the Defendant Assessors;
  - f) Misrepresented the findings, opinions and conclusions of the Defendant Assessors;



- g) Conspired against the Plaintiff; and
- h) Such further and other allegations as Plaintiff's counsel may advise.

64. The Plaintiff makes further specific allegations against the Defendants, Sibley, Judith Farrimond, John Doe, and Jane Doe, including but not limited to:

- a) They failed to properly inform and educate the Defendant Assessors on the law applicable to catastrophic impairment assessments in Ontario;
- b) They hid the true opinions, findings and conclusions of the Defendant Assessors from TD Insurance and the Plaintiff;
- c) They told the Defendant Assessors that they were required to sign the consensus statement when they knew or ought to have known there was no consensus amongst the Defendant Assessors and Dr. Howard Platnick;
- d) They used financial incentives to encourage the Defendant Assessors to comply with their requests;
- e) They edited and changed the Defendant Assessors' reports without the Defendant Assessors' knowledge or consent;
- f) They removed sections of the Defendant, Dr. David King's report including a section regarding the Modified London Handicap Scale, without his knowledge or consent;
- g) They encouraged the Defendant Assessors to alter their reports in such a way that the alterations changed the opinions, character and tone of the reports and deleted or minimized information relevant to and supportive of the Plaintiff's impairments;
- h) They interfered with the FSCO arbitration process and the Plaintiff's right to obtain the Defendants' complete files by inserting themselves in the production process and advising the Defendant Assessors that certain parts of their files involving communications with the Defendants, Sibley, Judith Farrimond, John Doe, and Jane Doe, and Dr. Howard Platnick did not need to be disclosed;
- i) They forwarded report samples to the Defendant Assessors, including Dr. Mark Rubens, containing wording favourable to the insurer which stated that the claimant was not catastrophically impaired, when they knew that the Defendant Assessors had already concluded the Plaintiff was catastrophically impaired;
- j) They failed to conduct the medical assessment in accordance with the applicable standard of care and the FSCO guidelines;
- k) They failed to comply with TD Insurance's specific request for a Consensus Opinion and instead provided an Executive Summary; and

- l) Such further and other allegations as counsel may advise.

65. The Plaintiff makes further specific allegations against the Defendant, Dr. Howard Platnick, including but not limited to:

- a) He wrote an Executive Summary which concluded that the Plaintiff was not catastrophically impaired when he knew or ought to have known that this was an erroneous conclusion based on the findings, opinions and conclusions of the Defendant Assessors;
- b) He stated in the Executive Summary that there was consensus of opinion amongst the Defendant Assessors when there was none whatsoever;
- c) He interfered with the independence of the findings, opinions and conclusions of the Defendant Assessors with respect to the Plaintiff's catastrophic impairment determination;
- d) He included in the Executive Summary selective findings of the Defendant Assessors which suggested that the Plaintiff did not meet the criteria to be designated catastrophically impaired;
- e) He excluded and omitted from the Executive Summary findings of the Defendant Assessors which were favourable to the Plaintiff's application to be designated catastrophically impaired;
- f) He did not provide TD Insurance with a Consensus Opinion despite TD Insurance's specific request for same and, instead, provided an Executive Summary;
- g) He knew or ought to have known that his statement that there was a consensus, when there was none, would be relied upon by TD Insurance and the Plaintiff;
- h) He failed to take steps as Lead Physician to inform and educate the Defendant Assessors properly on the law applicable to catastrophic impairment assessments in Ontario;
- i) He took steps to hide the true opinions, findings and conclusions of the Defendant Assessors from TD Insurance and the Plaintiff;
- j) He told the Defendant Assessors that they were required to sign the consensus statement when he knew or ought to have known there was no consensus amongst them;
- k) He edited and changed the Defendant Assessors' reports without the Assessors' knowledge or consent;

- l) He removed sections of the Defendant, Dr. David King's report including a section regarding the Modified London Handicap Scale, without Dr. David King's knowledge or consent;
  - m) He encouraged the Defendant Assessors to alter their reports in such a way that the alterations changed the opinions, character and tone of the reports and deleted or minimized information relevant to and supportive of the Plaintiff's impairments;
  - n) He forwarded report samples to the Defendant Assessors, including Dr. Mark Rubens, containing wording favourable to the insurer which stated that the claimant was not catastrophically impaired, when he knew that the Assessors had already concluded the Plaintiff was catastrophically impaired;
  - o) He failed to perform his role as Lead Physician in the Plaintiff's catastrophic assessment in accordance with the applicable standard of care and the FSCO guidelines; and
  - p) Such further and other allegations as counsel may advise.
66. The Plaintiff pleads that the conduct of the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick as described herein is reprehensible and entitles the Plaintiff to the award of aggravated and punitive damages. The Plaintiff pleads that these Defendants conducted the Plaintiff's assessment in bad faith and acted in a highhanded and malicious manner and that their conduct is worthy of aggravated and punitive damages.
67. The Plaintiff states that the Defendants, Dr. David King, Dr. Edwin Hanada, Maya Fallows, Thomas Stanley, Dr. Myles Genest and Dr. Mark Rubens, failed in their obligation to provide a fair, unbiased and accurate assessment of the Plaintiff. The Plaintiff further states that these Defendants:
- a) Breached their duties of impartiality and neutrality to the Plaintiff;
  - b) Intentionally interfered in the Plaintiff's economic and contractual relationship with her accident benefit insurer, TD Insurance;
  - c) Improperly altered their findings, opinions, conclusions and assessment reports upon request by the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick;
  - d) Improperly agreed that there was a consensus amongst the Defendants that the Plaintiff did not meet the criteria to be designated catastrophic;
  - e) Improperly allowed the Defendants, Sibley, Judith Farrimond, John Doe, Jane Doe and Dr. Howard Platnick, to alter and change their findings, opinions, conclusions and assessment reports;
  - f) Induced a breach of contract between TD Insurance and the Plaintiff;

- g) Committed professional malpractice and were negligent and careless in their assessments of the Plaintiff;
- h) Conspired against the Plaintiff; and
- i) Such further and other allegations as counsel may advise.

68. The Plaintiff pleads that the conduct of the Defendants, Dr. David King, Dr. Edwin Hanada, Maya Fallows, Thomas Stanley, Dr. Myles Genest and Dr. Mark Rubens as described herein is reprehensible and entitles the Plaintiff to aggravated and punitive damages. The Plaintiff pleads that these Defendants conducted the Plaintiff's assessment in bad faith and acted in a highhanded and malicious manner and that their conduct is worthy of aggravated and punitive damages.

### **DAMAGES**

69. As a result of the Defendants' conduct, the Plaintiff was denied access to economic benefits to which she would otherwise have been entitled which would have allowed her to access medical and rehabilitative care, pay for necessary housekeeping and home maintenance and be provided with attendant care.
70. In the absence of these funds and benefits, the Plaintiff states and the fact is that her condition deteriorated and she suffered immense physical pain and mental distress as well as financial losses.
71. In the absence of these funds and benefits the Plaintiff has suffered damage to her health as she was unable to afford or access complete medical care for her condition. By the time TD Insurance accepted she was catastrophically impaired (and thus entitling the Plaintiff to enhanced funds and benefits) she had been delayed in obtaining full medical care for a number of years. This delay in obtaining complete medical care has irreparably damaged the Plaintiff's health.
72. The Plaintiff, furthermore, incurred legal fees and expenses to dispute the improper denial of her catastrophic impairment application which was caused by the Defendants' conduct.
73. The Plaintiff suffered psychological distress and upset by having been forced to dispute TD Insurance's denial of her catastrophic impairment application. The Plaintiff's psychological distress was heightened by the belief that the Defendant Assessors had discounted or minimized her injuries and impairment.
74. The Plaintiff pleads and relies upon:
- a) *Insurance Act*, R.S.O. 1990, c. 18, as amended;
  - b) *Statutory Accident Benefits Schedule*, O.Reg 403/96 as amended;

- c) FSCO Guidelines;
- d) Dispute Resolution Code, 4<sup>th</sup> edition updated October 2003; and
- e) Rule 17 and Rule 17.02 (g) and (p) of the *Rules of Civil Procedure*, R.R.O. 1990, Regulation 194, with respect to the service of this Statement of Claim outside of the Province of Ontario.

September 4, 2015

**MARTIN & HILLYER ASSOCIATES**

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**CARPENTER**  
Plaintiff

and

**SIBLEY & ASSOCIATES INC., et al**  
Defendants

Court File No. 2224/15

**ONTARIO SUPERIOR COURT OF JUSTICE**  
Proceedings commenced at

**MILTON**

**STATEMENT OF CLAIM**

**MARTIN & HILLYER ASSOCIATES**  
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SUPERIOR COURT OF JUSTICE  
MILTON