

THE EASTERN CARIBBEAN SUPREME COURT
ANTIGUA AND BARBUDA

IN THE HIGH COURT OF JUSTICE
(CIVIL DIVISION)

CLAIM NO. ANUHCV2024/0084

BETWEEN:

[1] REBECCA ORMOND, A MINOR BY JONAH
ORMOND, HER FATHER AND NEXT FRIEND
[2] CYNTHIA JOSEPH-LAMAZON

Claimants

and

[1] GLENN PROSPER
[2] SHERMAIN PROSPER

Defendants

Appearances:

Ms. Mandi A. Thomas, Counsel for the Claimants
Mr. Wendel Alexander, Counsel for the Defendants

2025: May 27;
June 2.

DECISION ON ASSESSMENT OF DAMAGES

- [1] **MICHEL, M.:** On 5th December, 2022 the 1st Claimant, a minor child and the 2nd Claimant, the 1st Claimant's grandmother, were walking along a public road in the vicinity of the Defendants' residence when three dogs owned by the Defendants ran out of an open gate on the Defendants' premises and attacked the Claimants. The Claimants were bitten by the dogs resulting in them suffering personal injuries.
- [2] The Claimants subsequently commenced the present proceedings against the Defendants pursuant to section 5 of the **Law Reform (Miscellaneous Provisions) Act**.¹ They alleged that the Defendants, as owners of the three dogs were statutorily and strictly liable in damages for the injuries sustained by the Claimants. The Claimants alleged in the alternative, that the Defendants as owners of the three dogs owed a duty of care to persons walking along the public road to keep their dogs in safety and were in breach of the said duty when the dogs attacked them.

¹ Cap. 244, Laws of Antigua and Barbuda.

- [3] The Claimants alleged in their claim that as a result of the injuries sustained by them in the dog attack, they suffered pain, loss and damage.
- [4] The Defendants filed a defence to the Claimants' claim denying liability. The matter came on for case management including the hearing of an application by the Claimants to strike out the Defendants' defence and on that occasion, the parties consented to the entry of judgment on liability in favour of the Claimants with damages to be assessed by the Court.
- [5] The issue of the Defendants' liability having been concluded by the judgment on liability, the only issue for the Court to determine on this assessment is how much in compensatory damages is due to the Claimants based upon the evidence they have adduced in proof of the special and general damages they claim. All matters that go to quantification of damages were open to the Defendants to challenge, in so far as any such challenge was not inconsistent with the issue of liability concluded by the judgment on liability.
- [6] The Claimants filed the witness statement of Jonah Ormond, the 1st Claimant's father and next friend, the witness statement of Rebecca Ormond, the 1st Claimant, and the witness statement of Cynthia Joseph-Lamazon, the 2nd Claimant. Written submissions together with authorities were also filed on behalf of the Claimants for the assessment of damages.
- [7] The Defendants each filed a witness statement for the assessment of damages; however, no written submissions or authorities were filed on their behalf for the assessment of damages.
- [8] None of the Parties sought permission to appoint an expert witness and to file their expert report for the assessment of damages in accordance with rule 8.10(4) of the **Civil Procedure Rules (Revised Edition) 2023** ("CPR 2023") and Part 32 of CPR 2023.

Special Damages – 1st Claimant

- [9] Special damages, or past pecuniary loss, are financial losses to the date of trial that can be calculated fairly precisely, for example past loss of earnings, past travel expenses, past care and the like. It is well established that special damages must be strictly pleaded, and proved.²
- [10] In their statement of claim, the 1st Claimant claimed the sum of \$796.98 for medical expenses and the sum of \$1,200.00 for at home assistance at the rate of \$120.00 per day for 10 days.

² *Ilkiw v Samuel* [1963] 2 All ER 879.

- [11] The evidence of the 1st Claimant's father as stated in his witness statement is that the Defendants paid the full sum of \$796.98 for the 1st Claimant's medical expenses. Thus, the 1st Claimant's medical expenses having been paid in full by the Defendants, the 1st Claimant's remaining claim for special damages is for at home assistance.
- [12] Mr. Ormond stated in his witness statement that the 1st Claimant was not able to attend the last couple weeks of school following the dog attack. He further stated that the 1st Claimant was restricted from almost all activities due to her injuries for several weeks. Mr. Ormond further stated that he had to take time off from work for at least 10 days to care for the 1st Defendant following the dog attack.
- [13] Mr. Ormond stated that he is employed by the Government of Antigua and Barbuda as the Registrar of Pesticides and Toxic Chemicals in the Ministry of Foreign Affairs, Agriculture, Trade and Barbuda Affairs. He provided a letter from his employer stating his annual salary and allowances.
- [14] The learned authors of Halsbury's Laws of England³ under the rubric of "Gratuitous services" state the following:
- "Where the injured claimant is cared for, not by professional, paid carers, but by volunteers, whether members of the claimant's family or otherwise, the claimant may make claim (even though the loss is not directly the claimant's own) and the award of damages will reflect the value of the services provided. Awards for gratuitous care are not simply reserved for very serious cases. The care may also be that provided to a disabled member of the claimant's household who can no longer be looked after by the claimant. The value of such gratuitous services may be determined by applying the cost of buying such care on the open market or by assessing the loss of income suffered by a carer who has given up paid employment to care for the claimant. Where the cost of buying the care on the open market is used, the court may apply a discount to reflect the gratuitous nature of the provision."
- [15] In her written submissions, learned Counsel for the Claimants submitted that Mr. Ormond's witness statement discloses his annual salary, which when calculated, his daily rate of pay is to the tune of \$120.00 per day. Learned Counsel for the Claimants submitted that the sum of \$1,200.00 claimed under this head of damages is reasonable to compensate the voluntary carer for his services.

³ Damages (Vol 29 (2024)) at para. 451.

- [16] In **Housecroft v Burnett**,⁴ O'Connor LJ explained an award for gratuitous care as follows:-

“Once it is understood that this is an element in the award to the plaintiff to provide for the reasonable and proper care of the plaintiff and that a capital sum is to be available for that purpose, the court should look at it as a whole and consider whether, on the facts of the case, it is sufficient to enable the plaintiff, among other things, to make reasonable recompense to the relative. So, in cases where the relative has given up gainful employment to look after the plaintiff, I would regard it as natural that the plaintiff would not wish the relative to be the loser and the court would award sufficient to enable the plaintiff to achieve that result. The ceiling would be the commercial rate.

- [17] Having heard the evidence of Mr. Ormond, I accept that he took time off from work to help care for his daughter, however, given the indication under cross-examination that he took a leave of absence and that he believed he still received his regular salary and there being no evidence pointing to otherwise, I believe that Mr. Ormond was paid his regular salary during the period he cared for his daughter. Thus, it cannot be said that he gave up gainful employment to care for the 1st Claimant. However, as the authorities show, the Court may also make an award for home care based on the cost of buying the care on the open market.
- [18] The Court has not been provided with any evidence as to the commercial rate for home care of a child. However, whilst on the higher end, I do not consider the sum of \$120.00 per day to be unreasonable. I will however discount this sum to \$100.00 per day given the gratuitous nature of the care.
- [19] I accept that the 1st Claimant needed home care during the day following the dog attack and I accept the evidence that the care was provided by her father for a period of 10 days. Based on the daily rate of \$100.00 per day, I am therefore satisfied that the 1st Claimant should be awarded the sum of \$1,000.00 for at home care.

Special Damages – 2nd Claimant

- [20] In the statement of claim, the 2nd Claimant claimed the sum of \$889.80 for medical expenses and loss of earnings for the December 2022 Christmas season of approximately \$10,000.00 to \$15,000.00.

⁴ [1986] 1 All ER 332 at 343.

- [21] In her witness statement, the 2nd Claimant stated that she incurred medical expenses to the tune of \$889.80 when she visited the doctor's office on the day she and the 1st Claimant were attacked as well as after when she filled the prescriptions and requested a medical report. The 2nd Claimant provided copies of the receipts for these expenses in a bundle of documents for the assessment of damages.
- [22] The 2nd Claimant further stated that the sum of \$429.80 has been paid by the Defendants through their Attorney-at-law at the time, Mr. Sherfield Bowen, on or about 10th April, 2023.
- [23] I am satisfied that the 2nd Claimant has pleaded and proved her medical expenses in the sum of \$889.80. The 2nd Claimant has acknowledged receiving payment in the sum of \$429.80 towards those medical expenses and she is therefore entitled to recover the balance from the Defendants in the sum of \$460.00.

Loss of Income – 2nd Claimant

- [24] The 2nd Claimant stated in her witness statement that she lost income after the attack because for most of the month of December she could not go into St. John's as is her custom as a curb side vendor to ply her trade. She stated that she sustained the injuries around Christmas time. The 2nd Claimant explained in her witness statement that the Christmas Season is a busy shopping season and during that time she would make the most money for any one period throughout the year. She stated that she would sell at the Public Market Complex.
- [25] The 2nd Claimant stated that her earnings vary from day to day. She stated that on some days she would earn around \$350.00, on other days, around \$800.00 and sometimes, especially around Christmas, she has earned over \$2,000.00 or \$3,000.00 in one day. The 2nd Claimant stated that she sells various things, including shoes, bags, clothing, jewelry, hair accessories, and household items. She stated that she does not keep formal records of sales proceeds. She stated that she would write on sheets of paper what she sells each day. She stated that sometimes these records get lost or faded over time. She however disclosed a few sheets that she stated she was able to find for sales around the following Christmas season in December 2023.
- [26] The 2nd Claimant stated that she has estimated her loss of income for the period she was home recovering to be approximately \$15,000.00. She stated that her sales for the Christmas season, that is, in the week leading up to Christmas and

the week after in 2023 averaged \$1,000.00 per day. She stated that she believes that \$15,000.00 is a fair and reasonable estimate of the earnings that she lost.

[27] Under cross-examination, the 2nd Claimant admitted to Mr. Wendel Alexander, learned Counsel for the Defendants, that following the accident, she stayed away from work in relation to her injuries for only a total of seven. This contradicted her statement in her witness statement that because of the attack, for most of the month of December 2022 she could not go into St. John's to ply her trade as a curbside vendor.

[28] I do not accept the 2nd Claimant's evidence that she could not ply her trade for most of the month of December 2022. I am satisfied, based on the 2nd Claimant's testimony under cross-examination, that in fact, she did ply her trade as a vendor for most of the month of December except only for a period seven days after the dog attack on 5th December 2022. Based on the Claimant's admission under cross-examination, it would mean that she did not ply her trade as a vendor for seven days in December 2022, that is, for the period 6th to 12th December, 2022. This would mean that the 2nd Claimant would have been vending during what she states is the busy Christmas period leading up to and after Christmas 2022.

[29] The 2nd Claimant provided various estimates of her daily earnings in the month of December. She, however, was unable to provide any documentary evidence to show the sums she would have been earning in the period leading up to the attack in December 2022. She instead provided notes of her sales on select days in December 2023.

[30] There is authority from this jurisdiction that where a claimant is unable to produce receipts or other documentary evidence to support their claim, informed estimates may be accepted as proof in the absence of contrary evidence. This approach was adopted by Webster J [Ag.] in **Viola Samuel v Eyon Cato**⁵ relying on the decision of the Trinidad and Tobago Court of Appeal in **Grant v Motilal Moonan Ltd. and another**.⁶

[31] In **Grant v Motilal Moonan Ltd and another**, Bernard CJ stated the following:⁷

"I quite agree that special damage, if sought, must be pleaded and particularised - See *Ilkiw v Samuel* [1963] 2 All E.R. 879 - and that it must be "strictly" proved. In regard to the latter requirement the question which necessarily arises, in my views is what is the degree of this "Strictness" that is required. The nearest answer to this seems to be

⁵ Saint Vincent and the Grenadines Civil Suit No. 542 of 1999 (delivered 5th June 2001, unreported).

⁶ (1988) 43 WIR 372.

⁷ Ibid. at para. 377d to 378.

that which Bowen, L.J. gave in the leading case of *Ratcliffe v Evans* supra where at page 532 - 533 he said this:

“In all actions accordingly on the case where the damage actually done is the gist of the action, the character of the acts themselves which produce the damage, and the circumstances under which these acts are done, must regulate the degree of certainty and particularity with which the damage done ought to be stated and proved. As much certainty and particularity must be insisted on, both in pleading and proof of damage, as is reasonable, having regard to the circumstances and to the nature of the acts themselves by which the damage is done. To insist upon less would be to relax old and intelligible principles. To insist upon more would be the vainest pedantry.”

[32] In **Malcolm Joseph et al v Alison Charles**,⁸ Barrow J [Ag.], in referring to the case of **Grant v Motilal Moonan Ltd and another**, stated:-

“This decision is clear authority for the proposition that values do not have to be proved by documentation and the decision readily lends support to the view that reasonable and informed estimations may be accepted as proof, especially in the absence of contrary evidence.”

[33] Given the informal nature of the Claimant’s trade, I do not consider the lack of documentary evidence should defeat her claim for loss of earnings, and that in circumstances where the Court is satisfied that a loss has been suffered but the amount is uncertain, the Court can utilise reasonable estimations to determine the loss.

[34] I accept, based on the evidence before the Court that the 2nd Claimant would have lost earnings after the dog attack. This is because I accept that she was unable to operate as a vendor in the seven-day period after the attack due to the injuries she suffered in the attack.

[35] The 2nd Claimant has not provided documentary evidence to prove her loss of earnings over the seven-day period in December 2022 and has instead estimated her daily earnings to be anywhere from \$350.00 on some days, to \$800.00 on others and up to \$2,000.00 to \$3,000.00 around Christmas. The Court also has her hand-written statements of sales on select days in December 2023.

⁸ Grenada Claim no 2002/0077 (delivered 6th February 2003, unreported) at para. 8.

[36] Based on the evidence before the Court, and my finding that the Claimant would have been working in the period leading up to and after Christmas, I am prepared to conservatively assesses the 2nd Claimant's loss of earnings for the seven-day period in December 2022 at an average of \$400.00 per day to give a total of \$2,800.00.

General Damages

[37] The principles governing the assessment of general damages are well settled.⁹ The Court has to consider: (1) the nature and extent of injuries suffered; (2) the nature and gravity of the resulting physical disability; (3) the pain and suffering endured; (4) the loss of amenities suffered; and (5) the extent to which the claimant's pecuniary prospects have been affected.

[38] I should note at the outset that the Claimants had three medical reports appended to their statement of Claim pursuant to CPR 8.10, however, the Claimants did not call the makers of the reports as witnesses nor did they apply to put in expert evidence pursuant to Part 32 of CPR 2023 as obligated by CPR 8.10(3).

[39] The effect of the Claimants' failure to apply for permission to admit the expert reports attached to their statement of claim is that these reports cannot be deployed on the assessment of damages.¹⁰ It is noted, however, that in response to the Claimants' pleadings about their injuries and the medical reports they intended to rely on, the Defendants in their defence simply stated that paragraphs 10, 11, 12 and 13 of the statement of claim were neither admitted nor denied and that the Claimants were put to strict proof as to diagnosis and or particulars of injuries stated therein.

[40] This was a defective defence because it failed to comply with CPR 10.6.¹¹ Nevertheless, despite this defect, the Claimants are still under a duty to prove their case.

General Damages – 1st Claimant

The 1st Claimant's Evidence

[41] The 1st Claimant was six years old at the time of the dog attack and she described the attack in her witness statement. She stated that she and her grandmother, the 2nd Claimant, were walking from their home in Lightfoot West

⁹ See *Cornilliac v St Louis* (1965) 7 WIR 491.

¹⁰ See *Bergan v Evans* [2019] UKPC 33.

¹¹ *Ibid.*

to the main road to catch a bus. The 1st Claimant was wearing a t-shirt and jeans at the time. She stated that when she saw the dogs running towards them, barking loudly, she became afraid and scared and started screaming. She stated that her grandmother told her not to run and her grandmother tried to shield her. The 1st Claimant stated that one of the dogs attacked her first and it bit into her leg and started pulling her. She stated that she screamed and cried, but the dog kept on biting her and shaking its head. She stated that her grandmother was screaming and shouting for help and trying to get the dogs off her but that the dogs were also biting her grandmother.

- [42] The 1st Claimant stated that some people came running and helped chase the dogs away. She stated that she and her grandmother were on the ground, bleeding, scared and dirty. After trying unsuccessfully to get medical attention at the hospital, the 1st Claimant stated that her father took her and her grandmother to Urgent Care where the doctor put dressing on her cuts and bruises. The 1st Claimant stated that she was bleeding from her leg where the dog bit into her skin through her pants.
- [43] The 1st Claimant stated that she felt a lot of pain from the dog bites. She stated that the bites hurt a lot and that she could not walk or do anything. She stated that after the attack she had to go back to the doctor a few times to change the bandages and dressing that had been put on her to keep the cuts and bruises clean and for them to get better.
- [44] The 1st Claimant stated that she used to love dogs and would even play with them, but since the dogs attacked her and her grandmother, she has been very afraid of dogs. She stated that if she sees a dog, she would start to cry and try to escape and that sometimes she is afraid to go out to places if she had seen a dog there before.

Mr. Jonah Ormond's Evidence

- [45] In his witness statement, Mr. Ormond, the 1st Claimant's father, stated that when he got to the hospital after the attack, he saw that the 1st Claimant sustained injuries to her right thigh and bruises and scrapes all about her body. He stated that the 1st Claimant had deep bite marks on her right thighs where the dog attacked her. He stated that the 1st Claimant's injuries were documented in the medical report of Dr. Gardner-Vaswani dated 14th December, 2022.
- [46] Mr. Ormond stated that the 1st Claimant's wounds were cleaned and dressed at the doctor's office, and she was prescribed antibiotics and daily dressing. As noted earlier in this decision, Mr. Ormond stated in his witness statement that he had to stay home from work for at least 10 days to care for the 1st Claimant.

He stated that the 1st Claimant was not able to attend the last couple weeks of school, and was not able to participate in her Brownies Christmas program, her Christmas party and activities, and was not able to participate in her Shiva's Christmas dance program, all of which were already paid for and for which the 1st Claimant had practiced. Mr. Ormond further stated that the 1st Claimant was restricted from almost all activities for several weeks due to her injuries.

- [47] Mr. Ormond stated that he has seen where the 1st Claimant has developed an overwhelming fear of dogs. He stated that it was obvious on the day of the incident and days following that the 1st Claimant was severely traumatized by the attack. He stated that he observed that the 1st Claimant became markedly withdrawn and hypervigilant. She would freeze, tremble, and cry at even the slightest sound or sight reminiscent of dogs. Mr. Ormond stated that the 1st Claimant's playful nature was replaced by intense anxiety, and she consistently sought reassurance from her caregivers whenever a dog was near.
- [48] Mr. Ormond stated that the 1st Claimant was taken to Dr. Hadeed, her pediatrician for a checkup following the incident and Dr. Hadeed advised them and that the 1st Claimant is in urgent need of counseling and therapy to overcome the event. He stated that Dr. Hadeed provided them with a report dated 29th May, 2023 which was disclosed in the Claimants' bundle of documents.
- [49] Mr. Ormond stated that he has not been able to take the 1st Claimant to the recommended counseling/therapy sessions due to financial constraints. He stated that he was given a quotation by Dr. Alaina Gomes, from Guiding Lanes for the costs associated with the minimum counseling sessions required in the amount of \$2,180.00. The invoice was disclosed in the Claimants' bundle of documents. Mr. Ormond further stated that Dr. Alaina Gomes is willing to provide her services, however she indicated her unwillingness to attend Court to give evidence in the matter.
- [50] Under cross-examination, Mr. Ormond confirmed that in the period since the dog attack in December 2022 and when he gave his witness statement in March 2025, the 1st Claimant has not attended a single counseling or therapy session.
- [51] Based on the evidence before the Court, I am satisfied that the 1st Claimant suffered personal injuries in the form of dog bites and bruises as a result of the attack by the Defendants' dogs. I am also satisfied that her injuries were severe enough to keep her away from school for a period of time due to the pain and suffering she endured. Even without the benefit of expert medical evidence, I am prepared to accept based on the 1st Claimant's account that because of the attack the 1st Claimant has become fearful of dogs. However, without the requisite expert evidence diagnosing the psychological impact of the dog attack

on the 2nd Claimant, I am unable to account for any psychological injury in an award of damages to the 1st Claimant in a significant way.

- [52] The purpose of compensation in personal injury cases is to attempt to put the injured party back in the position he or she was in before the injuries occurred. The assessment of damages is not a precise calculation as the aim is to provide reasonable compensation for the pain and suffering and loss of amenities. In awarding general damages, the court must strive for consistency by using comparative cases tailored to the specific facts of the individual case. Lord Hope of Craighead in Wells v Wells¹² explained the approach in the following terms:-

“The amount of the award to be made for pain, suffering and loss of amenity cannot be precisely calculated. All that can be done is to award such sum within the broad criterion of what is reasonable and in line with similar awards in comparable cases as represents the Court’s basic estimate of the [claimant’s] damage”.

- [53] Learned Counsel for the Claimants submitted that the Court should award the 1st Claimant a sum of upwards of \$15,000.00 in general damages for pain and suffering and loss of amenities taking into account the psychological injury spanning over 2 years since the attack. Learned Counsel for the Claimants relied on the cases of Morian Hurst (b.n.f Carlton Hurst) v Webster Radway,¹³ and Samantha Anthony as Next Friend of Okarie Anthony v Gregory Edward¹⁴ for her submission on this award.

- [54] The case of Morian Hurst (b.n.f Carlton Hurst) v Webster Radway emanates from Jamaica. When seeking comparable awards of general damages the Court should strive to use cases from the States and Territories within the jurisdiction of the Eastern Caribbean Supreme Court which forms part of the Organisation of Eastern Caribbean States (OECS) as they share similar prevailing economic and social conditions. It is only where comparable cases from the jurisdiction of the Court are not available should the Court go on to consider cases from other Commonwealth Caribbean countries in the first instance, and thereafter other Commonwealth countries further afield, to make an award.

- [55] In Samantha Anthony, the Claimant’s son was 9 years old at the time when he was attacked by the defendant’s dog whilst on the beach. As a consequence of the attack, the minor suffered pain to the back and face and sustained a deep gash on the top of the left buttock, multiple gashes on both buttocks and back of the left thigh, puncture wounds to the right temporal region, puncture wounds

¹² [1998] 3 All ER 481.

¹³ [2012] JMSC Civ. 139.

¹⁴ SLUHCv2008/0656 (delivered 19th November 2010, unreported).

in the left lumbar region with puncture wounds extending to the right lumbar region, a 2 cm scratch on the left scapular area and anterior shoulder and several 2 cm tooth marks in the left pre-auricular area. The minor had also suffered hypertrophic (itchy) scars of his left flank. The minor was awarded \$10,000.00 in general damages for pain suffering and loss of amenities in 2010.

[56] The more recent case of **Hannah Peters v Marlon Lessey**¹⁵ found from the Court's own research is also comparable. The claim was brought by the mother and next friend of a minor child who was just under 4 years old when she was attacked by the defendant's dog. Her injuries as set out in an expert medical reports were:-

- (i) Several scatted superficial puncture wounds to the right upper thigh
- (ii) One superficial puncture wound to the right lower thigh just above the right knee
- (iii) Covered dressed wound noted to the left temporal area
- (iv) Few superficial scratches noted to the left side of face

[57] The minor continued to experience back pain after the incident and developed keloids where she was bitten. The expert medical report of a Clinical Psychologist was filed by the Claimant pursuant to Part 32 of CPR 2000. The Clinical Psychologist diagnosed the minor with post-traumatic stress disorder resulting from the dog attack. She recommended that the claimant be enrolled in a counselling programme where she could receive therapeutic help at least once monthly for 6 months to help deal with her fears and anxiety associated with the traumatic events of the dog bite.

[58] The Court awarded the Claimant the sum of \$14,000.00 in general damages for pain, suffering and loss of amenities. The Court refused to make a separate award for future medical care on the basis it had not been properly pleaded and sufficient evidence was not placed before the court to determine such an award. The Court, however, was satisfied that the award of general damages which took into account the minor's post-traumatic stress disorder diagnosis would adequately compensate the claimant.

[59] In the present case, I am of the view that the 1st Claimant's injuries are less severe than the minor in **Samantha Anthony**; however, the Court is mindful of the vintage of the case, judgment having been delivered almost 15 years ago. The physical injuries of the claimant in **Hannah Peters** appear to be less severe than the 1st Claimant's injuries in the present case, however, the resultant physical disability and impairment of the minor in **Hannah Peters** was greater as the minor developed chronic back pain and keloids. The Court also had the

¹⁵ GDAHCV2019/0196 (delivered 11th July 2023, unreported).

benefit of an expert medical report which diagnosed the minor with post-traumatic stress disorder.

- [60] Having carefully reviewed the evidence on behalf of the 1st Claimant, the nature and extent of her injuries, the pain and suffering she endured, the evidence as to the psychological impact of the attack, the evidence as to her inability to participate in school and other activities in the immediate period after the dog attack, and having reviewed comparable cases from the OECS, I am of the view that an award \$9,500.00 for pain suffering and loss of amenities is fair compensation to the 1st Claimant.

Future Medical Care – 1st Claimant

- [61] The Court has taken cognizance of the evidence led on behalf of the 1st Claimant as to the psychological impact of the dog attack. Further, Mr. Ormond's evidence is that due to financial constraints his family has been unable to pay for counseling/therapy sessions needed by the 1st Claimant.
- [62] Having considered the evidence of the Claimants as to the nature of the attack and the effect on the 1st Claimant, I have no doubt that the 1st Claimant has suffered some level of psychological impact from the attack. Even though the 1st Claimant has not, up to the date of the assessment, received counselling/therapy, I am of the view that the evidence on behalf of the 1st Claimant sufficiently disclosed a need for such counselling/therapy. I therefore consider that an award should be made to the 1st Claimant to reflect the need for counselling/therapy. I am of the view that the sum of \$2,180.00 being sought by the 1st Claimant is not unreasonable and I would therefore award the 1st Claimant this sum.

General Damages - The 2nd Claimant

- [63] The 2nd Claimant turned 71 on the day of the dog attack. She stated in her witness statement that the second she saw the dogs running towards her and the 1st Claimant, her granddaughter, she told the 1st Claimant not to run and she pushed the 1st Claimant behind her to shield her from the dogs but one of the dogs managed to bite the 1st Claimant on her right leg, held onto her and started pulling her. She stated that the 1st Claimant was screaming and crying. The 2nd Claimant stated that she held on to the 1st Claimant as tightly as she could whilst trying to pull the 1st Claimant away from the dog and screaming for help.
- [64] The 2nd Claimant stated that it was a very frightening experience for both she and the 1st Claimant as the other two dogs were attacking her as well. She stated that the dog eventually let go of the 1st Claimant, at which time the 2nd Claimant

stated that she fell to the ground and all three dogs attacked her. The 2nd Claimant stated that she screamed for help as hard as she could and she also tried telling the 1st Claimant to run because she did not want the dogs to attack her again.

[65] The 2nd Claimant stated that she was in so much pain and her skin was burning all over where she was bitten and bruised. The 2nd Claimant stated that she could see that the 1st Claimant was bleeding profusely from her right thigh. She stated that persons nearby eventually came to their assistance and got the dogs away from them and eventually all three dogs ran back into the yard.

[66] The 2nd Claimant stated in her witness statement that the injuries she sustained as a result of the dog attack included large teeth marks over her left scapula (shoulder blade) and her lower back, puncture wounds on her left buttock and left hip and her right thigh. She stated that there were also bruises on her right knee and right elbow. The 2nd Claimant stated that the doctor gave her a tetanus shot and prescribed antibiotics and advised her to dress the wounds daily. She stated that for approximately three months, she felt a lot of pain, discomfort, itchiness and stiffness until the bites and bruises finally healed. The 2nd Claimant stated that to date, she feels discomfort where she had wounds. She stated that during her recovery she was unable to work full- time, sit and lean back, sleep, wear certain clothing, walk for extended periods, walk comfortably, take showers or bathe and get out of bed without assistance.

[67] I am satisfied that based on the nature of the dog attack that the 2nd Claimant received the injuries and experienced pain and suffering as set out in her witness statements. The injuries sustained by the 2nd Claimant were more severe than the 1st Claimant as she took the brunt of the dog attack. The 2nd Claimant however, does not complain of any psychological impact from the attack.

[68] Learned Counsel for the Claimants submitted that based on the 2nd Claimant's evidence that an award of \$25,000.00 for pain, suffering and loss of amenities is reasonable and not out of scale to similar cases in the region.

[69] Learned Counsel for the Claimants referred the Court to the Belizean case of **Sosa v Bilal et al.**¹⁶ For reasons previously stated, the practice is for the Court to first consider comparable cases within the OECS which have similar prevailing economic and social conditions.

¹⁶ 405 of 2013.

- [70] Learned Counsel for the Claimants also referred the Court to the case of **Anyellina Mejia Villa v Elmo Conner**¹⁷ from the Virgin Islands. The claimant in that case was two months pregnant when she was attacked by four pit bull dogs. The injuries she received because of a dog attack were far more extensive and severe than the 2nd Claimant in the present case and she required on-going medical treatment. She also suffered extensive scarring. The Virgin Islands Court awarded the claimant US\$20,000.00 in general damages for pain, suffering and loss of amenities. It is to be noted that the Virgin Islands uses the US Dollar as their local currency and not the East Caribbean Dollar as is the case in Antigua and Barbuda and other OECS countries.
- [71] In **Peckhurst Chastanet v Kizy Sherlan Boudhoo et al**,¹⁸ a case found from the Court's own research, the claimant was bitten by the defendants' dogs. The lesions produced by the canines were multiple puncture wounds approximately three (3) millimeters each, in the form of rings and a few linear lacerations. The lesions on his left leg were worse measuring approximately four centimeters by zero point five centimeters (4 cm x 0.5 cm). The claimant was taken to hospital where the wounds were nursed and treated with antibiotics and analgesia. He was referred to an Orthopaedic surgeon for further treatment and evaluation.
- [72] Following the dog biting incident, the claimant could not engage in any weight bearing activity on his injured foot and was unable to engage in sports. He continued to experience swelling in the months following the incident. His injuries eventually healed but a full assessment of any resulting impairment he suffered was not provided. The claimant was awarded general damages of \$8,000.00 for pain, suffering and loss of amenities in 2024. The Court considered that the claimant's injuries were not as severe as the claimant in **Samantha Anthony**.
- [73] The 2nd Claimant's injuries in this case were more extensive and appeared to be more severe than the Claimant in **Peckhurst Chastanet**. However, evidence as to any loss of amenities and physical impairment suffered by the 2nd Claimant in the present case was more limited.
- [74] Having considered the nature and extent of the 2nd Claimant's injuries, the evidence presented on her behalf and the comparable cases referred to above, I consider that an award of general damages in the sum of \$12,000.00 to be adequate compensation to the 2nd Claimant.

¹⁷ BVIHCV2021/0328 (delivered 31st October 2022, unreported).

¹⁸ SLUHCV2019/0527 (delivered 22nd April 2024, reported).

Interest

[75] The Claimants are awarded interest on their awards of special damages and general damages. In making the awards of interest, the Court is guided by the judgments of the Court of Appeal in **Alphonso v Ramnath**¹⁹ and **Terrance Amedee v Marcus Modeste**.²⁰

Costs

[76] As it relates to the issue of costs, the cost budget in this matter was set at \$11,129.00 by order dated 23rd May, 2025. The Defendants shall therefore pay the Claimants costs in the budgeted sum of \$11,129.00.

Disposition

[77] In light of the forgoing, the Defendants shall pay the following:-

- (1) The sum of \$1,000.00 to the 1st Claimant for the domestic care provided by her father together with interest from 5th December, 2022 to the date of this Order at the rate of 2.5% per annum.
- (2) General damages for pain, suffering and loss of amenities to the 1st Claimant in the sum of \$9,500.00 together with interest from the date of service of the claim on the Defendants to the date of this Order at the rate of 5% per annum.
- (3) The sum of \$2,180.00 for future medical expenses to the 1st Claimant. No interest is awarded before judgment.
- (4) Special damages to the 2nd Claimant in the sum of \$460.00 together with interest from 14th December, 2022 to the date of this Order at the rate of 2.5% per annum.
- (5) The sum of \$2,800.00 to the 2nd Claimant for loss of income together with interest from 5th December, 2022 to the date of this Order at the rate of 2.5% per annum.
- (6) General damages for pain, suffering and loss of amenities to the 2nd Claimant in the sum of \$12,000.00 together with interest from the date of service of the claim on the Defendants to the date of this Order at the rate of 5% per annum.
- (7) Post judgment interest at the statutory rate of 5% per annum.

¹⁹ (1997) 56 WIR 183.

²⁰ SLUHCVAP2022/0001 (delivered 9th November 2023, unreported).

(8) Budgeted costs in the sum of \$11,129.00.

[78] I wish to thank learned Counsel on both sides for their assistance to the Court.

Carlos Cameron Michel
High Court Master

By the Court



Registrar