

DECISION OF THE DISCIPLINARY COMMITTEE

In the matters of Complaints #179/97 and 174/97, LINDELL COHALL and ADASSA LAWRENCE, V. JOHN SINCLAIR, an Attorney-at-Law

A N D

In the matter of the Legal Profession Act, 1971

Before: P. Benka-Coker, Q.C.
Gloria Langrin
David Batts

These matters have a long and unsatisfactory history. Although a single judgment is being delivered, the matters consists of two (2) separate complaints. One by Lindel Cohall and the other by Adassa Lawrence.

Adassa Lawrence's complaint was filed on the 5th June, 1998 and Lindell Cohall's on the 22nd September, 1998. The hearing of both matters commenced on the 22nd September, 2002 at which date the attorney was absent. The notes of evidence were prepared and sent to the attorney with a note that he be present on the next date.

On that occasion the attorney asked for time as he expected a settlement to be negotiated in the legal action which he had brought on the complainants behalf. This settlement has not materialized in spite of several intervening adjournments. On the 15th January, 2005 we completed the hearing of the complaints against the attorney.

Each complainant gave evidence which was similar save as to certain specifics relating to their respective injuries.

The complainants uncontradicted evidence was that they were passengers in a truck on the 18th September, 1995. The truck was involved in an accident and the complainants were injured. They attended before Mr. John Sinclair, Attorney-at-Law in 1996 and provided to him copy medical reports and information about the motor vehicles.

That since that date up to the date of their report they had received no compensation or redress and were not informed about the progress of the matter.

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The attorney by way of cross examination and in his oral evidence established that legal action was filed in ~~1997~~²⁰⁰¹ being suits No. C.L. C-191/2001 and C.L. L-067 of 2001. He stated that the said suits were duly served on the Defendants. Nothing further has to date been done in the matters as he has been in dialogue with the Defendants attorney, Mr. J. Vernon Ricketts. This dialogue has not borne fruit.

In the period since the filing of legal action, the attorney has from his own means paid to the complainants the following sums:-

Adassa Lawrence	-	\$165,000.00
Lindell Cohall	-	\$200,000.00

The injuries suffered by the complainants were:

Adassa Lawrence

Suffered a broken arm. (No medical report was tendered to Committee on her behalf).

Lindell Cohall

Suffered a fracture mid one third of left humerus with no apparent permanent disability. (A medical report dated 13/8/88 tendered).

This is the evidence. This tribunal is aware of the burden of proof on the complainant. Our duty is to consider the evidence and if we are satisfied so that we feel sure that the attorney has acted in breach of the Canons only then do we make a finding adverse to the attorney.

The evidence in this matter is overwhelming. It is apparent that the attorney has acted negligently and indeed no adequate explanation has been offered for the delay in pursuing the action. Negotiations are not a valid reason especially when not evidenced by written communication. There is no evidence that an offer was ever made by the attorney on the other side. The attorney has not entered Judgment in Default of Defence against the Defendant and has done nothing to pursue the claim since an appearance was entered by the Defendant's attorney. He did however file Notice of Intention to Proceed in July 2002.

We therefore find the attorney guilty of inexcusable and deplorable negligence in the performance of his duties.

In this matter and in considering the punishment to be imposed we bear in mind the wide discretion provided by Section 12 of the Legal Profession Act. We bear in mind also that the Claimants can still pursue the action in court and may still apply for Judgment in Default and seek to have damages assessed. We also bear in mind the attorney has made advances to the Defendants.

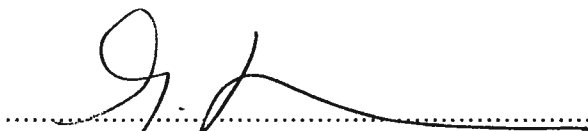
In the circumstances therefore it is our decision that the attorney pays a fine of \$100,000.00 in respect of each complainant. We direct that \$90,000.00 of each fine paid be delivered to the complainants in part compensation for their loss and damage caused by the delays of the attorney.

We order costs of \$5,000.00 to each complainant.

Dated the 5 day of May 2005



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Pamela Benka-Coker, Q.C.



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Gloria Langrin



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David Batts