

**RULING OF THE DISCIPLINARY COMMITTEE OF THE GENERAL LEGAL  
COUNCIL**

**COMPLAINT NO. 92/2005**

**BETWEEN HEADLEY WELLINGTON COMPLAINANT**

**AND DAVID MORALES RESPONDENT**

**PANEL MR. ALLAN WOOD  
MRS. MARGARETTE MACAULAY  
MISS BERYL ENNIS**

**PRESENT: MR. HEADLEY CUNNINGHAM**

**DECISION DELIVERED 16 SEPTEMBER, 2006**

Panel: This complaint has been brought by Mr. Headley Wellington against attorney-at-law Mr. David Morales . The genesis of the matter arises from a motor vehicle accident which took place on the 28<sup>th</sup> November, 2000 which resulted in damage to Mr. Wellington's vehicle. On the 27<sup>th</sup> March, 2001 Mr. Wellington retained Mr. Morales to pursue the action on his behalf and paid him a retainer of \$3,000.00. Thereafter two further payments of \$1,500.00 each were made to Mr. Morales. Mr. Morales proceeded to file action in the Resident Magistrate's court. That action was not pursued and subsequently on the 30<sup>th</sup> August, 2004 an action was brought in the Supreme Court.

In addition to suing the owner and driver of the other vehicle, action was also brought against the insurer NEM Insurance Company. The Particulars of Claim was also filed with the Claim Form. The Panel noticed that no special damage was pleaded although in his evidence Mr. Wellington quantified the estimate of damage to his vehicle as \$27,000.00. To date after a lapse of almost six years Mr. Wellington's vehicle has not been repaired.

Having regard to the quantum of the damage to Mr. Wellington's vehicle and his loss of use claim, the Panel is perplexed at the Attorney's failure to pursue the action in the Resident Magistrate's Court and thereafter taking what appears to be the wholly unnecessary and expensive step of re-filing the action in the Supreme Court. To complete the facts it appears that NEM Insurance Co applied for an order to strike out action against them, which order was granted on the 28<sup>th</sup> April, 2005 and the order recites that Mr. Morales did not appear on that date and further that costs were awarded against Mr. Wellington.

Having regard to the foregoing the Panel is satisfied beyond reasonable doubt that in breach of Canon IV (s) the attorney Mr. David Morales has acted with inexcusable and deplorable negligence or neglect in discharging his duties to his client. He also failed to act in discharging his client's business with due expedition in breach of Canon IV (r). It is plain from the foregoing that Mr. Morales ought to wholly indemnify Mr. Wellington for any costs which are payable pursuant to the order of the Supreme court aforementioned. Those costs have not however been quantified to enable the Panel to make an order for payment of same by way of restitution.

In the circumstances the Panel finds that it is appropriate to make an order that Mr. David Morales pay a fine in the sum of \$50,000.00 to the General Legal Council such fine to be paid on or before 30<sup>th</sup> September 2006. Pursuant to section 12 (5) of the Legal Profession Act, the Panel further orders that of the fine imposed, the sum of \$40,000.00 is to be paid to Mr. Wellington when collected. The Complainant Mr. Headley Wellington is also to be paid costs by Mr. David Morales in the sum of \$10,000.00. This sum is also to be paid by the 30<sup>th</sup> September, 2006.

*Allen Wood*

MR. ALLAN WOOD

*Margarette Macaulay*

MRS. MARGARETTE MACAULAY

*Beryl Ennis*

MISS BERYL ENNIS

Dated *16* September, 2006