

Action No.: 0701-08523
E-File No.: CVQ14IVANOVICD
Appeal No.: _____

IN THE COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE OF CALGARY

BETWEEN:

DARKO IVANOVIC

Plaintiff

and

DESI TYLER CAYENNE, TERRA CRANE,
JUSTINE CROWCHILD, JOHN DOE and 123 CORP.

Defendants

P R O C E E D I N G S

Calgary, Alberta
April 4, 2014

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TABLE OF CONTENTS

| Description | Page |
|---------------------------------|------|
| April 4, 2014 Afternoon Session | 1 |
| Reasons for Judgment | 1 |
| Certificate of Record | 13 |
| Certificate of Transcript | 14 |

1 Proceedings taken in the Court of Queen's Bench of Alberta, Calgary Courts Centre, Calgary,
2 Alberta

3 _____
4 April 4, 2014 Afternoon Session

5
6 The Honourable Madam Justice Nixon Court of Queen's Bench of Alberta

7
8 D. G. Yanko For the Plaintiff

9 (No Appearance) For the Defendants

10 J. Rema Court Clerk

11 _____

12

13 **Reasons for Judgment**

14

15 THE COURT CLERK: Okay, thank you. These are my oral reasons
16 for decision in the case of Darko Ivanovic and Desi Tyler Cayenne and Terra Crane.
17 Mr. Darko Ivanovic was assaulted by the defendants, Mr. Desi Tyler -- sorry, Tyler
18 Cayenne and Ms. Terra Crane, the defendants. These defendants were noted in default.
19 This is an assessment of damages. Having been noted in default, the defendants are
20 deemed to admit the facts in the statement of claim and the statement of claim reveals the
21 cause of action for assault and liability is established.

22

23 It was 11:00 PM on September 4th, 2005, when Mr. Ivanovic, the plaintiff, a 24-year-old
24 engineering technology student at SAIT, who was delivering a pizza in -- in his part-time
25 job, was assaulted by these defendants. The assault took place on land occupied by the
26 Tsuu T'ina Nation. While waiting for payment, Mr. Cayenne struck Mr. Ivanovic from
27 behind and hit him in the side of the head with a wooden weapon. Mr. Cayenne
28 continued to punch Mr. Ivanovic in the head and kicked him in the head, face and neck
29 after Mr. Ivanovic fell to the ground. During the attack, Mr. Cayenne repeatedly
30 threatened that he would kill -- he would be killed if Mr. Ivanovic didn't give him money.
31 The threats of Mr. Cayenne were overheard by Mr. Ivanovic's brother over Mr. Ivanovic's
32 cell phone and during the attack, Mr. Ivanovic told the defendants to take his money as he
33 did not want to die.

34

35 Mr. Ivanovic, at first, thought he had been shot and he did also think he was going to die.
36 Mr. Ivanovic managed to escape running to his car only to be followed by Ms. Crane who
37 also demanded money and punched Mr. Ivanovic in the head several times, continuing
38 even as Mr. Ivanovic got into his car. Mr. Cayenne was charged with and found guilty of
39 aggravated assault and sentenced to 14 months incarceration. Ms. Crane was found guilty
40 of robbery and sentenced to six months deferred custody and supervision.

41

1 Following the attack by Cayenne and Crane, Mr. Ivanovic drove back to his place of
2 employment. His face was swollen and covered in blood. He began to lose
3 consciousness and was taken by ambulance to the Foothills Medical Centre where he
4 spent nearly two weeks. Assessments were conducted by neurosurgeons and a CT scan of
5 his head revealed significantly depressed skull fracture involving primarily the right
6 parietal bone. There was associated parenchymal -- parenchymal contusion in the
7 adjacent right frontal and parietal lobes. The CT also revealed epidural hematoma and a
8 subdural hematoma. It was determined that Mr. Ivanovic sustained a depressed skull
9 fracture to his right parietal bone, a small subdural hematoma, contusions to his scalp with
10 underlying brain contusions, swelling of the brain, lacerations, soft tissue injuries, swelling
11 and bruising to his right eye.

12
13 Mr. Ivanovic had some amnesia and there was some suggestion that he may have had a
14 period of loss of consciousness although this was not clear. Mr. Danchenko (phonetic) --
15 sorry, excuse me, Dr. Danchenko, who saw Mr. Ivanovic on October 25, 2005, noted
16 there was some marked numbness to the left side of Mr. Ivanovic's face and neck region
17 and some hypersensitivity. He described -- sorry, Mr. Ivanovic described no memory
18 deficit at that time and said that he was able to do his school work. Mr. Ivanovic
19 reported to Dr. Danchenko that he had stress and he -- a fear of people walking behind
20 him and he also noted that his headaches were improving. The plaintiff also reported
21 fatigue at the end of the day and numbness to the left side of his face.

22
23 Mr. Danchenko stated that the plaintiff would have some work restrictions related to
24 driving for a period of time. There are no medical reports or records provided for the
25 period after November 22, 2005, reported Dr. Chew, a medical consultant for the WCB,
26 aside from the April 2010 records from a sinus surgery and the next records up to that are
27 the April 18th, 2011, records related to some medical assistance, some mental health and
28 addictions services mobile response team in March 2011.

29
30 However, Dr. MacLean, a neuropsychologist who conducted an assessment in December
31 2013, referred to treatment notes of Dr. Lombard from October 12, 2005, at which time
32 the plaintiff was complaining of mild, occasional headaches but no problems with balance.
33 Mr. Ivanovic stated in his affidavit that he noticed balance problems after he returned to
34 school.

35
36 Dr. MacLean also referred to a report from Dr. Lombard in November 30th, 2005, who
37 stated that the plaintiff's initial brain injury seemed to have resolved without significant
38 residual damages but it was difficult to assess the psychological impact of the assault and
39 injury. Dr. MacLean also referred to a letter of Dr. Hamilton on November 7, 2005,
40 wherein he noted that the plaintiff reported feeling back to normal with regard to function
41 and back in school. His brain contusions had completely resolved and Dr. MacLean also

1 referred to November 30th, 2005 treatment notes of Dr. Lombard wherein he reported that
2 the plaintiff indicated he had no problems with memory, concentration or headaches.

3
4 In January, 2014, Dr. Atkinson, a vocational psychologist, completed an assessment on
5 Mr. Ivanovic, based on self-reported history along with (INDISCERNIBLE) from the
6 medical reports that he was provided. Mr. Ivanovic stated in his February 2014 affidavit,
7 that for a short period following the assault, he was weak on his feet and slow to walk.
8 He had difficulty moving his head and had slow and slurred speech. He described a
9 permanent indentation in his skull caused by the depressed skull fracture. He also
10 experienced tingling and numbness in his face and neck, right index finger and at times,
11 throughout his whole body and tightness in his quadriceps and glutes on both sides. The
12 numbness to the left side of his face and neck but not numbness throughout his whole
13 body was noted by Dr. Danchenko.

14
15 Mr. Ivanovic described personality and behavioural changes not present prior to the
16 assault including stubbornness, bouts of aggression and anger, temper tantrums, an ability
17 to empathize with others and a tendency to be more self-centred. These created
18 difficulties not only for himself, but also for his family. He described being unable to
19 control his emotions and experiences bouts of road rage.

20
21 Ms. Ivanovic, the plaintiff's wife, who has known him since 2003, and who was living
22 with the plaintiff at the time of the assault, also swore an affidavit in October 2013. She
23 describes a changed man since the attack. She confirms the anger -- anger issues that
24 arose after the assault and enumerates numerous problems experienced by her husband
25 following the assault, memory loss, depression, sleep problems, fatigue, breathing
26 problems, loss of sense of smell, anger and anxiety problems. She described these as
27 marked changes that coincided with the assault.

28
29 With regard to memory, Ms. Ivanovic described her husband as frequently forgetting
30 invitations to events or dinners, forgetting to do things she asked him to do and that
31 denying that she had ever made the request of him. She also noted losing personal
32 belongings have become a problem. She described an incident in 2009 when her husband
33 had felt weak, numb and had balance issues and loss of sense of self and that he could
34 not walk, talk, and did not feel a part of his physical body. She reports that he saw his
35 family physicians who diagnosed anxiety. This physician's records were not provided but
36 references made by Dr. Yacoub (phonetic) in March 2011, which is referred to in
37 Dr. MacLean's report, that the plaintiff had been experiencing lack of motivation and
38 concentration in 2009. Dr. Yacoub noted that Mr. Ivanovic denied any previous
39 psychiatric history and in his report, Dr. MacLean notes that Mr. Ivanovic described low
40 level depression dating to 2007 or 2008 with no particular precipitants but that he had
41 been able to continue to manage.

1
2 Mr. Ivanovic also describes continued headaches, poor concentration and diminished
3 thought process skills. He confirms his wife's description of losing personal items and
4 forgetting conversations. Both Mr. and Mrs. Ivanovic state that their relationship is
5 affected by this.
6

7 In March 2011, Mr. Ivanovic underwent a crisis assessment upon referral from his general
8 practitioner who reported poor concentration, insomnia and inability to concentrate at
9 work. He had been off work since January 2011. The Ivanovic's young son had been
10 diagnosed with cancer. There was also stress at work as he was working 13 hour days
11 and he was on-call. He had been seeing a psychologist since January 2011 and
12 arrangements were made for him to see a psychiatrist, this was Dr. Jacoub. It is not
13 known how long Mr. Ivanovic continued to see the psychologist and psychiatrist. The
14 GP, a Dr. Pandya's (phonetic) records, which are referenced in Dr. MacLean's report,
15 described ongoing emotional and concentration problems and a major depressive episode
16 was diagnosed by Dr. Pandya in February 27, 2012.
17

18 The plaintiff was attending counselling in April 2012 and had an appointment in August
19 2012 with a psychologist. Dr. Pandya noted in November of 2012 that the plaintiff had
20 completed anger management and had a lack of energy and concentration. At the time of
21 the March 2011 assessment, Mr. Ivanovic described: (as read)
22

23 Stuff has not been going right for me for the last one to two years.
24
25

26 But were much worse since his son was diagnosed with cancer in January 2011. He
27 described not being happy with himself and having sleep problems for the past one and
28 half years and suffering anxiety attacks. Further, he had been having problems with
29 concentration in this past one to two years and these problems had worsened since his
30 son's diagnosis.
31

32 He, being the plaintiff, Mr. Ivanovic describes having concentration and short memory
33 problems since the 2005 attack. The plaintiff states that prior to the assault, he was very
34 active and participated in basketball and weightlifting but since has lost weight and
35 muscle mass. While he refrains from contact sports because of the risk of -- of further
36 head injury, it is not evidence -- in evidence as to why he cannot continue with other
37 recreational pursuits or with weightlifting. His fear of people walking behind him
38 continues.
39

40 Both Mr. Ivanovic and his wife describe breathing problems and a loss of sense of smell
41 since the assault. Mr. Ivanovic acknowledges that he had some sinus issues and allergies

1 prior to the assault but says they were increased afterwards, which ultimately caused him
2 to undergo surgery in April 2010. There's no indication in the medical records the
3 worsening of Mr. Ivanovic's breathing problems was caused by the result. Testing in
4 2013 showed a normal sense of smell. I'm unable to relate either the breathing problems
5 or any alteration in the sense of smell to the assault.

6
7 The reports of Dr. Atkinson and Dr. MacLean also contain a -- a recent self-reported
8 history including reference to a period of depression in 2007 or 2008 and again, there are
9 no medical records related to this period. The plaintiff's also described ongoing neck and
10 low back pain and headaches. While headaches following the assault are noted in the
11 records, there was no medical records with respect to linking neck and back pain to the
12 assault and I am unable to conclude that they are related.

13
14 Dr. MacLean administered a battery of tests to Mr. Ivanovic. His IQ was in the 63rd
15 percentile for verbal, 42nd percentile for non-verbal scores with a full scale IQ as 53rd
16 percentile. His ability to identify smells was average. There was some below normal
17 memory scores. Dr. MacLean stated that Mr. Ivanovic's head injury is best understood as
18 a: (as read)

19
20 complicated mild traumatic brain injury

21
22 And he noted that this is associated with a variable outcome. Dr. MacLean noted that
23 Mr. Ivanovic's early developmental environment including his father's alcoholism and
24 suicide and growing up in the middle of military conflict may have left him more
25 vulnerable to pre-emotional difficulties but there's no indication of pre-existing
26 psychopathology. He referred to the onset of a 2007, 2008 depression without any
27 precipitating factors aside from what Dr. MacLean referred to as persisting problems
28 directly attributable to the index assault, and in this regard, Dr. MacLean referred to
29 chronic pain, poor concentration, derailment of his academic and vocational goals as
30 matters that were (INDISCERNIBLE) in 2007 and 2008.

31
32 With regard to pain, references made to the moderate intermittent neck pain and constant
33 low back pain with exacerbation of low back pain with prolonged sitting and standing.
34 As stated in the medical records that describe neck or low back pain or link those
35 particular problems to the assault. Dr. MacLean agrees with the plaintiff that his ability to
36 cope with life stressors since the assault left him vulnerable to exacerbation of depression
37 as a result of his son's serious illness noting that he had considerable resiliency prior to
38 the assault. Dr. MacLean felt the assault had left him considerably less able to manage
39 life stressors which lead to onset of depression and the exacerbation of depression to any
40 persisting or additional life stressors. He considered Mr. Ivanovic's depression to be of
41 moderate severity. He also considered the persisting general (INDISCERNIBLE) anxiety

1 to be partially attributable to the assault.

2
3 Dr. MacLean specifically noted that previous documentation that stating no persisting
4 cognitive problems was based on self-report within a few months of the injury and not
5 based on formal testing and thus he could not comment on the initial severity of the
6 cognitive deficits or the degree of recovery. He estimated the plaintiff's premorbid
7 intelligence is above average. There was, according to Dr. MacLean, no global cognitive
8 decline. His learning (INDISCERNIBLE) was above average. There were no executive
9 function problems aside from below average verbal fluency because English was not -- is
10 not Mr. Ivanovic's first language.

11
12 In conclusion, Mr. -- sorry, Dr. MacLean concluded that I am (INDISCERNIBLE) to the
13 view his mild persisting cognitive problems to be occurring secondary to anxiety and
14 depression. He thought Mr. Ivanovic could benefit from psychotherapy for depression and
15 he also made some recommendations with respect to anxiety and techniques to aid
16 concentration and memory. Dr. MacLean (INDISCERNIBLE) the plaintiff would have
17 been able to manage his work schedule prior to the assault as he had been able to work
18 full-time hours within -- while maintaining a high GPA at SAIT. It's not clear what
19 Dr. MacLean meant by full-time hours as the plaintiff was working -- I think it was three
20 days a week, in any event, he had a -- a significant part-time job at the time of the
21 assault.

22
23 With efficacious treatment for anxiety and depression, Mr. -- sorry, Dr. MacLean was
24 hopeful that Mr. Ivanovic would experience significant improvement but full remission
25 from depression was guarded: (as read)

26
27 especially given the possibility of moods (INDISCERNIBLE)
28 having occurred as a result of brain injury.

29
30 Dr. MacLean concludes that: (as read)

31
32 There's no reason why he would not have been successful in
33 completing further studies in engineering in Thunder Bay.

34
35 I'm going to address the issue of general damages. Mr. Ivanovic, a young man at the
36 time of the assault, suffered a significant injury arising from a fractured skull and brain
37 injury that has had lasting effects primarily with respect to mood and emotional problems,
38 fatigue, anxiety and depression and some cognitive problems including inability to
39 concentrate and to process information. The loss of smell, breathing problems, neck and
40 back pain have not been established as being related to the attack. While he suffered a
41 major depressive episode in 2011 through 2012, following the diagnosis of his son's

1 cancer, the evidence establishes that the effects of the assault compromised his ability to
2 cope with this -- these other stressors in his life. He has, however, been able to continue
3 to work although he required to take some time off with depression following his son's
4 cancer diagnosis.

5
6 I award the plaintiff \$120,000 in general damages. The cases cited to me *Crackel v.*
7 *Miller*, 2003 ABQB 781, where \$180,000 was awarded and in current dollars, that's
8 \$215,000. The case of *Wilson v. Bobbie*, 2006 ABQB 75, \$125,000 would -- was
9 awarded with the -- and that in current dollars is 140,000 and *Calahasen and Northland*
10 *School District Number 61*, at 2012 Carswell, Alta, 1752, decision \$135,000 were
11 awarded. All of these cases had more serious injuries than the present case.

12
13 With regards to punitive damages, punitive damages are awarded to express the court's:
14 (as read)

15
16 Condemnation and outrage at the defendant's egregious conduct
17 and excessive force

18
19 This is from *Wilson and Bobbie*, 2006 ABQB 75: (as read)

20
21 Punitive damages are not compensatory but they are intended to
22 punish and deter reprehensible conduct.

23
24 In *Wilson v. Bobbie*, the plaintiff is assaulted without warning or provocation suffering a
25 significant head injury and brain damage and was in a coma for 26 days. He had
26 permanent partial hearing loss, memory impairment and personality change. The
27 defendant had been sentenced prison but served only six months and in that case, \$50,000
28 in punitive damages were awarded. In the case of *Reese and Philkowski (phonetic)*, it's a
29 decision of the Saskatchewan court, 1996 145 Saskatchewan report 66, the court declined
30 to award punitive damages against the defendant who was convicted of criminal assault
31 and in that case, the court felt that the criminal punishment was sufficient.

32
33 I consider this case, involving Mr. Ivanovic, to be an appropriate case for punitive
34 damages. The defendants viciously attacked a defenceless young man without any
35 provocation. The defendant Cayenne, struck Mr. Ivanovic from behind and continued to
36 punch and kick him in the head, face and neck after he fell to the ground. The defendant
37 Crane attacked the plaintiff as he ran towards his car trying to escape. Both defendants
38 demanded money. Cayenne was charged with and found guilty of aggravated assault and
39 sentenced to 14 months incarceration. Ms. Crane was found guilty of robbery and
40 sentenced to six months deferred custody and supervision. Taking into account the
41 punishment already given to Cayenne and Crane in regards to their criminal matters, I

1 award the plaintiff punitive damages in the amount of \$35,000. As special damages,
2 special damages in the amount of \$15,314.26 are awarded. These comprised WCB
3 medical costs, rehabilitation costs as well as transportation drugs and miscellaneous costs
4 incurred by WCB.

5
6 I'll turn now to the issue of income loss. Mr. Ivanovic was born in Bosnia but moved to
7 Serbia when he was young. In grade nine, he entered the technical training track rather
8 than a pre-baccalaureate studies. He had completed an electrical technician program in
9 Mitrovika in 1999. Then he entered but did not complete a business diploma program in
10 1999 but to 2001 as he founds the demands of the field did not match his interests.
11 Before leaving Serbia for Canada in 2002, he completed two semesters of a diploma
12 program in law enforcement management. He attended high school for can -- for a year
13 in Canada to get credits for university admission. At that time, he was 21. He earned
14 high marks in -- in an international baccalaureate program in 2002 to 2003. He then
15 involved in the SAIT program in 2004 and ultimately graduated in 2006 after the assault.

16
17 He met his wife in 2003 and they moved to Calgary in 2004 and married in 2006. As
18 I've indicated, at the time of the assault, Mr. Ivanovic was a full-time student at SAIT
19 taking electrical engineering technology. It ended then his plan to Lakehead University or
20 the University of Victoria to pursue a degree in electrical engineering after getting his
21 diploma. He had planned to work for a few years after his diploma to augment his
22 competitiveness before undertaking engineering students.

23
24 At the time of the assault, he had been working part-time, delivering pizza while at SAIT.
25 He earned three dollars a delivery plus tips and was working eight hours a day, three days
26 a week so he earned \$200 a week. While he was cleared to return to work after the
27 assault, he did not do so. His income loss for the three months, between the assault and
28 when he was able to re -- or cleared to return to work was \$2,100. Mr. Ivanovic did
29 return to complete his studies at SAIT after the assault, but he had difficulties doing so.
30 In the fall of 2004, 2005 term, he had earned all 'A's, 'A' minuses, 'A' pluses and 'A's'.
31 He was clearly an excellent student. In the winter term, his grades were also 'A's, 'A'
32 minuses and he had one 'B'. In the fall 2005 term, he had four 'A's, four 'A' minuses,
33 four 'B's and a 'C' minus and in the final term, his grades were two 'A's, a 'B' plus, a
34 'B', a 'C' minus and a 'C' plus. He stated that he had difficulties concentrating and
35 keeping up with the mental demands of school.

36
37 Ultimately, he did not pursue an engineering degree and continues to work as an
38 engineering technologist. So, it's clear on the evidence that following the assault,
39 Mr. Ivanovic's academic abilities were significantly compromised. On self-report,
40 Mr. Ivanovic described reduced work productivity since he's been working as an
41 engineering technologist, a decreased ability to understand abstract concepts and problems

1 with memory and concentration as well as with language. He described a reduced ability
2 to learn and understand and believes this -- this decreases his ability to advance in his
3 career.

4
5 Dr. Atkinson, a vocational expert, has also conducted a battery of tests with a view to an
6 employability assessment. He noted that a limitation of the assessment as a result of
7 Mr. Ivanovic's language and cultural backgrounds and his functional limitations with
8 English and he noted caution should be used in interpreting the results of the testing.
9 Now, during the course of testing, Dr. Atkinson noted that Mr. Ivanovic's energy level did
10 not decline. With regard to aptitude, testing showed Mr. Ivanovic low average abilities to
11 catch on to new tasks and instructions and underlying principles. He noted that
12 individuals of this level can expect to successfully complete courses of study less than two
13 years in duration at the community college level.

14
15 With regards to aptitude, Dr. Atkinson's summary was in Mr. Ivanovic's vocational
16 aptitudes were weaker than anticipated given the expectations normally attending his level
17 of work responsibilities and a -- as an electrical engineering technologist and even lower
18 than those expected of practising professional engineers.

19
20 Dr. Atkinson also noted that anxiety and depression in self-report were in the high range.
21 Mr. Ivanovic felt that anxiety, depression, memory or learning problems, problem solving,
22 planning and decision making as well as problems with pain were the most significant
23 factors preventing him from returning to his previous lifestyle.

24
25 Dr. Atkinson referred to the Lakehead University Engineering Program and this program
26 specifically allows engineering technology graduates to earn an engineering degree within
27 two years. Dr. Atkinson expressed the opinion that there was no reason to assume that
28 had Mr. Ivanovic not suffered his injuries from the assault he wouldn't -- he would not
29 have continued to pursue electrical engineering.

30
31 Dr. Atkinson did identify ongoing concerns with Mr. Ivanovic's ability to remain
32 competitive in his engineering technology position. He observes that from an employment
33 standpoint it is common to see reductions in adaptive functioning for survivors of major
34 physical trauma when they reach their early to mid 30's and at the time of the assessment,
35 Mr. Ivanovic was 33. Dr. Atkinson opined that he expected that Mr. Ivanovic would have
36 lead him to -- he would have expected that Mr. Ivanovic would have successfully gained
37 certification as a professional engineer. He noted his proclivities for hard work and
38 adherence to personal discipline and high academic marks. Even if Mr. Ivanovic did not
39 become an engineer, Dr. Atkinson noted that he would progress more slowly than his
40 peers as a result of cognitive limitations and fatigue issues.

1 He is at risk of being required to leave his current position given the work demands that
2 he is struggling to cope with. Dr. Atkinson notes that without: (as read)

3
4 very substantial improvements in problem areas noted by
5 Dr. MacLean, Mr. Ivanovic's capability for more than periodically
6 interrupted employment and occupations equivalent to or less
7 skilled than his current field would be considered questionable.

8
9 He goes on to state that individuals with such difficulties are more likely to work for
10 transient periods and find themselves outside the labour force at other times. Despite
11 these limitations, I note that Mr. Ivanovic's work habits as -- or as Dr. Atkinson referred
12 to, as his proclivities for hard work and adherence to personal discipline have allowed him
13 to remain largely in -- or sorry, continuously employed since he secured employment after
14 obtaining his diploma from SAIT.

15
16 So based on the opinions of Dr. MacLean and Dr. Atkinson, that Mr. Ivanovic would
17 likely have attained an engineering degree absent the injuries from the assault and the
18 significant, ongoing difficulties Mr. Ivanovic has been experiencing since the assault,
19 which put him at a greater risk of employment interruptions in the future. I award loss of
20 income in the amount of \$743,551 as calculated by (INDISCERNIBLE) and this is based
21 on the conclusion that he would, in fact, have become an engineer and also with his
22 current position as an engineering technologist, he is at greater risk of the interruption of
23 his employment because of his past income -- sorry, because of his ongoing issues. And
24 Mr. Ivanovic is also entitled to his past loss of income from his part-time pizza delivery
25 job in the amount of \$210,000 -- sorry, in the amount of \$2,100.

26
27 I'll turn now to the loss of housekeeping capacity. Mr. Ivanovic's evidence establishes
28 that she has had to carry a heavier load in respect of household responsibilities given her
29 husband's fatigue and other difficulties. I accept that there is a loss of housekeeping
30 capacity although the extent is difficult to quantify and I award \$10,000.

31
32 With regards to the cost of future care, Dr. MacLean recommends psychotherapy and
33 occupational therapy. The plaintiff has previously seen a psychologist and a psychiatrist.
34 There was no evidence before me about the cost of such treatment nor about the cost of
35 medications he has been prescribed and I would be expected the psychiatrist at least,
36 would be covered by Alberta Health. While Dr. MacLean made these recommendations, I
37 do not have any evidence about the plaintiff's plans with respect to pursuing such services
38 but I do know that in the past he has sought out counselling from a psychologist and also
39 mental health assistance. I therefore award \$7,500 as a contingency for future treatment
40 that might not be covered by Alberta Health care.

41

1 The plaintiff is also entitled to his pre-judgment interest and with regards to costs, a direct
2 bill of costs in the amount of \$21,834.41 for schedule 'C' fees and disbursements was
3 provided and costs in that amount will be awarded to the plaintiff as well. Did you need
4 me to -- did you catch your numbers?
5

6 MR. YANKO: I believe so, My Lady. I just want to make
7 sure the last number was costs which was 7,500?
8

9 THE COURT: Costs, 7,500, correct.
10

11 MR. YANKO: I think I did get the rest of the numbers, yes,
12 My Lady.
13

14 THE COURT: Okay, okay, thank you very much. Thank you
15 for coming today and thank you for your very well prepared materials.
16

17 MR. YANKO: Yes.
18

19 THE COURT: It was most appreciated.
20

21 MR. YANKO: Okay, thank you, My Lady.
22

23 THE COURT: Okay, thank you and I'll (INDISCERNIBLE)
24 get an order and send it to me and --
25

26 MR. YANKO: Well, I don't have an order prepared but we'll
27 send an order (INDISCERNIBLE).
28

29 THE COURT: -- in due course.
30

31 MR. YANKO: Yes.
32

33 THE COURT: Okay, thank you very much.
34

35 MR. YANKO: Thank you.
36

37 THE COURT: Enjoy the rest of your day.
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40
41

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PROCEEDINGS CONCLUDED

1 Certificate of Record

2

3 I, Jimmy Rema, certify this recording is the recording made of the evidence in the
4 proceedings in Queen's Bench, held in courtroom 1002 at Calgary, Alberta, on the 4th
5 day of April, 2014, and that I was the court official in charge of the sound recording
6 machine during the proceedings.

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1 **Certificate of Transcript**

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3 I, Robin Gemer, certify that

4

5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the
6 best of my skill and ability, and the foregoing pages are a complete and accurate
7 transcript of the contents of the record, and

8

9 (b) the Certificate of Record for these proceedings was included orally on the record
10 and is transcribed in this transcript.

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Robin Gemer, Transcriber
Order No. 4469-14-1

35 Pages: 16
36 Lines: 627
37 Characters: 26053

38

39 File Locator: 880d6540d17c11e39a680017a4770810
40 Digital Fingerprint: d85d8822b33fcbec91270c57859fcd58037561f5cdb6a4e2f5d609085ba7ee8d

41

Thu May 1 16:04:55 2014

| Detailed Transcript Statistics | |
|--|-------|
| Order No. 4469-14-1 | |
| Page Statistics | |
| Title Pages: | 1 |
| ToC Pages: | 1 |
| Transcript Pages: | 14 |
| Total Pages: | 16 |
| Line Statistics | |
| Title Page Lines: | 52 |
| ToC Lines: | 4 |
| Transcript Lines: | 571 |
| Total Lines: | 627 |
| Visible Character Count Statistics | |
| Title Page Characters: | 548 |
| ToC Characters: | 87 |
| Transcript Characters: | 25418 |
| Total Billable Characters: | 26053 |
| Multi-Take Adjustment: (-) Duplicated Title Page Characters | 25505 |