

RED HILL VALLEY PARKWAY INQUIRY

AFFIDAVIT OF JOHN MCLENNAN (affirmed August 22, 2022)

I, **JOHN MCLENNAN**, of the Town of Grimsby, in the Province of Ontario,

AFFIRM:

1. I was an employee of the City of Hamilton (the "City") from 1998 to 2022. As such I have knowledge of the matters set out below, except where this knowledge is based on information and belief, in which case I state the source of that information and verily believe it to be true.

2. I have held the following roles within the City's Risk Management group:

- (a) Claims Representative from approximately January 1998 to March 2002;
- (b) Risk Management Analyst from approximately March 25, 2002 to April 3, 2006;
- (c) Senior Risk Management and Insurance Coordinator from approximately April 3, 2006 to June 4, 2012;
- (d) Manger in the Legal & Risk Management Services Department from approximately June 4, 2012, to February of 2022.

3. As of February 13, 2019, I had identified 12 claims made against the City arising from motor vehicle accidents on the Red Hill Valley Parkway (“RHVP”) since its construction. I categorized these claims, their status, and their nature, as follows:

1 claim (closed) – oil on road

3 claims (1 open) – winter maintenance

8 claims (4 open) – road design

4. Around this time, I exchanged email messages and prepared memos in relation to these claims that are protected by solicitor-client communication privilege. I sent these messages and memos to Nicole Auty, Ron Sabo, Dana Lezau, Daniell Bartley, Diana Swaby, and representatives from insurance companies that provided insurance to the City. I understand that the City does not intend to waive solicitor-client communication privilege over those communications.

5. I confirm that I expressed the following opinions in those messages and memos:

(a) Plaintiffs’ counsel will obviously seize upon the findings of the Tradewind Report;

(b) The Tradewind report could have significant impact on claims;

(c) Although drivers are primarily at fault, where a driver lost control of their vehicle any plaintiff will try and pawn that collision off on a roadway with insufficient friction qualities, as per the Tradewind Report;

(d) The Tradewind Report could change the focus of plaintiffs’ allegations;


- (e) Any plaintiff will try to pawn off the loss of control on a roadway with insufficient friction qualities, as per the Tradewind Report;
- (f) Plaintiffs' counsel will likely point to the Tradewind report to support negligence actions;
- (g) The Tradewind Report will possibly muddy the waters in cases where the City exposure is otherwise low;
- (h) Given my views of the proximate cause of certain accidents, the Tradewind Report would be nothing more than a red herring on that type of file; and
- (i) Media coverage could lead to the revival of certain claims.

6. As of February 13, 2019, I was aware of the following motor vehicle accidents on the RHVP since its construction, some of which resulted in claims against the City. Details of these accidents can be found in Appendix A.

7. I was also aware of the following claim against the City in relation to a motor vehicle accident on the LINC. Details of this accident can be found in Appendix B.

8. I make this affidavit for use in the Red Hill Valley Parkway Inquiry.

Affirmed remotely by John McLennan in the Town of Grimsby before me in the City of Toronto in the Province of Ontario, this 22nd day of August , 2022, in accordance with O. Reg. 431/20, Administering Oath or Declaration Remotely



John McLennan

A Commissioner for Taking Affidavits

John McLennan

Appendix A

Parties to Claim	Date of Loss	Date Action Commenced	Court File Number
Jima Ebrahim	17-Feb-08	N/A	N/A
Darrell MacLean	26-May-11	N/A	N/A
Muhammad Ghulam-Mustafa and Fatima Shaukat	23-Jun-11	5-Jun-2013	13-41550
Jodi Gawrylash, Michael Gawrylash, Kay Gawrylash and Chris Gawrylash	3-Dec-11	25-Nov-2013	6465/13
Jordyn Hastings	5-May-15	N/A	N/A
Shannon Hansen and Heather Hansen	24-Oct-15	26-May-2017	17-61728
Mark Bernat and Rachel Bernat	24-Oct-15	26-Jul- 2017	17-62352
Rachel Bernat	24-Oct-15	16-Oct-2017	17-63217
Rwaide Afram	27-Dec-15	N/A	N/A
Stevo Jurkovic	29-Dec-15	28-Dec-17	17-64013
Danielle Gillespie	10-Feb-16	N/A	N/A
Sami Imeri	25-Jan-17	N/A	N/A
Rasaratnam Kanagaratnaraja	22-Feb-17	2-May-17	17-61447

Amanda Salonen	23-Jun-17	N/A	N/A
Marsel Gapeev	19-Sep-12	N/A	N/A

Appendix B

Parties to Claim	Date of Loss	Date Action Commenced	Court File Number
Andrew Melo, Jose Melo, and Maria Melo	7-May-14	1-Sept-2015	15-54309
Maria Lee	7-May-14	18-Jul-2017 (amended)	15-52870
Chanel Barlow	7-May-14	6-May-2016	16-57357