

5 IN THE HIGH COURT OF AUSTRALIA  
SYDNEY OFFICE OF THE REGISTRY

No. S321 of 2011

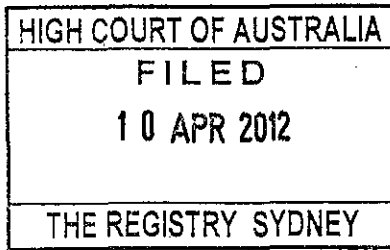
BETWEEN:

MADELEINE LOUISE SWEENEY BHNF  
NORMA BELL

Appellant

and  
ANDREW JOHN THORTON<sup>N</sup>

Respondent



APPELLANT'S CHRONOLOGY

Part I: [certification that the chronology is in a form suitable for publication on the internet]

20 1. The Appellant certifies that this document is in a form suitable for publication on the internet.

Part II: [list of principal events leading to the litigation]

25 21 Feb 89 Appellant's date of birth.

Feb 2005 Appellant obtains '*learner licence*' (CA [12]);

30 June 2005 Appellant's drives under the supervision of Ms Cassar;

35 Ms Cassar had taken the appellant for a '*lesson*' in the last week of May or first week of June 2005 for about 90 minutes at a partially complete housing estate with minimal residents and described her driving '*to be of a low standard*'; she was '*constantly driving slowly, she would rarely get over 40kph and she would often look at the gear stick when changing gears rather than looking at the road*' (Exhibit O);

40 End of  
May 2005  
to early  
Aug 2005

Appellant drives under the supervision of her father, most recently 2 or 3 weeks prior to the accident (CA [12]; TJ [24]). Up to 16 lessons, 40 minutes to 1 hour in length (T66.33-37);

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5 The appellant's father gave evidence that she was *'looking down at the speedometer a lot'* (T68.10), *'had problems regulating her speed'* (T68.16), *'was never at the point where she could drive more than 60 km/h'* (T68.50 and 71.2), *'misjudged corners'* (T69.22), *'had problems judging stopping and stopping for corners'* (T69.45), *'tended to brake at the last minute'* (T70.2),  
10 *'needed instructions to slow and stop'* (T71.6) and *'needed cues to stay in her lane'* (T71.12 and 76.45). He had experience recent to the accident of driving on the Wallanbah Road and was firm in his view that his daughter did not have the skills and experience necessary to drive on it in dry or wet conditions (T72.40-76.40);

15 In the 12 hours before the accident Appellant had driven under the supervision of the respondent for about 2-3 hours (included in the 28 hours (CA [12]);

20 As at Aug 2005 Appellant had driven under the supervision of a licensed driver for about 28 hours (CA [12]);

25 27 Aug 05 2am, appellant drives under supervision of respondent, 35½ kms in about 1 hour from Tuncurry to Firefly and the return journey from Firefly to Tuncurry (CA [13]);

30 Ms Taylor's statement (Exhibit F) said that the respondent on the return journey in the early hours of Saturday morning *'would instruct her what to do'* and *'occasionally he'd say to her to watch her speed'* and *'say when to pull up the car for stopping at intersections'*;

35 11.30am, appellant drives under supervision of respondent from Tuncurry to Firefly (CA [13]);

40 The respondent's statement (Exhibit E) said that when on the highway he *'recall[ed] she braked a bit hard at one point and I just told her to be a bit lighter on the pedal'*;

27 Aug 05 1pm to 1.15pm, accident, (CA [4]), on the return journey from Firefly to Tuncurry (CA [17]);

45 Road was damp or wet, but it was not raining (CA [4]);

Appellant driving east approaching and through a bend (CA [4]);

Events:

50 0-35m: Entry into the bend to the apex of the bend (CA [20]);

35m: Apex of bend;

5 Ms Fancourt first sees the vehicle and '*it was fishtailing*' (T109.2) and '*as soon as I saw it I realised that it was out of control*' (T110.18);

10 Ms Fancourt says it is '*travelling to fast to take the bend*' (Exhibit F);

Ms Fancourt says it the fishtailing is at a '*fairly constant speed*' (T113.30-114.14);

15 Ms Fancourt says it is travelling at '*roughly*' 80km/h (T110.8) '*not endeavouring to be precise*' (T114.15-23);

35m-48m: Apex of the bend to irregularity (CA [20]);

20 'Some distance back' from irregularity: Slip of vehicle commenced (CA [91]; TJ [68]-[69]);

25 Respondent's statement says appellant attempted to correct that slip and '*turned the steering wheel too much to the right*' (Exhibit E);

30 Ms Fancourt observes steering movement '*steering madly*' (T109.35) indicating pulling the steering wheel up and down (T109.40);

35 Respondent's statement says '*the car started to overcorrect*' (Exhibit E);

Respondent's statement says the appellant '*started to turn the steering wheel to the left again*' (Exhibit E);

40 48m: Irregularity;

Irregularity not a cause of slip of vehicle, and not cause of accident (TJ [68]-[69]; CA [91]);

45 48m-70m: Irregularity to end of bend (CA [20], [19]);

70m-126m: End of bend to commencement of yaw mark (yaw mark is 78m from irregularity) (CA [22]), and 91m from the apex of the bend where Ms Fancourt saw the vehicle out of control.

50 Prior to 126m: Respondent's vehicle passes Ms Fancourt's vehicle (Exhibit E);

5 Ms Fancourt said she was 30m from the respondent's vehicle when she saw it at the apex of the bend (Exhibit D);

126m: Respondent's statement identifies single episode of acceleration (Exhibit E) (the only direct evidence of acceleration) and Mr Keramidas agrees this is 'virtually' at the commencement of the yaw (T398.30-49);

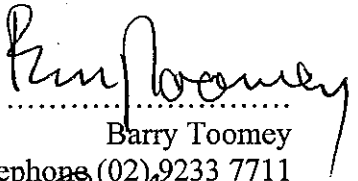
126m to leaving roadway: Experts say speed through the yaw is 70km/h, may have been a few km/h faster at start of yaw (Exhibit C, Blue 289.M). Mr Johnston's calculation was that '*likely speed was probably around 75km/h at the commencement of the yaw*' (Exhibit M, Blue 76.D-E);

20 Dated: 5 April 2011

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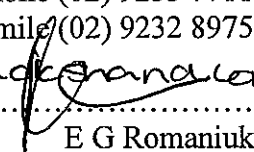
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