

REPUBLIC OF TRINIDAD AND TOBAGO

IN THE HIGH COURT OF JUSTICE

CV. No. 2009-04755

BETWEEN

FRANKIE JAMAL BARTHOLOMEW

Claimant

CV No. 2010-00513

TERRELL TONEY

Claimant

CV No. 2009-004756

RANDY ST. ROSE

Claimant

CV No. 2009-04757

LEON KING

Claimant

AND

**THE ATTORNEY GENERAL OF
TRINIDAD AND TOBAGO**

Defendant

BEFORE THE HONOURABLE MADAM JUSTICE JUDITH JONES

Appearances:

Mr. G. Ramdeen instructed by Mr. M. Seepersad for the Claimants.

Mr. K. Douglas and Ms. T. Maharaj instructed by Ms. K. Olivierre for the Defendant.

JUDGMENT

1. On 17th December 2010 in the holding cell of the Port of Spain Magistrates' Court the claimants suffered injury at the hands of police officers employed by the State. These injuries resulted in the claimants being taken to the Port of Spain General Hospital where they were treated and discharged. While admitting causing injury to the claimants the defendant says that these injuries were incurred while the police officers were defending themselves and was the result of the use of reasonable force by the police officers on duty that day.

2. According to the case presented by the defendant the police officers used no more force than was necessary to protect themselves and control the situation. The claimants' case is completely different. According to the claimants they were simply taken advantage of by the police officers. Their case is that the need for self defense did not arise in the prevailing circumstances.

3. The first port of call is the medical certificates. These certificates represent an assessment by an independent expert as to the injuries suffered by the claimants. As an aside, it would assist the court if medical certificates tendered into evidence are typed. It seems to me that it is unfair to both the party relying on the medical certificate and to the court to have to decipher hand written medical reports. While I appreciate that a claimant has no control for the manner in which reports are presented to them Attorneys can control the manner in which these reports are presented to the court. Efforts must be made by Attorneys to have these reports are reduced into type writing.

4. Insofar as they are legible these medical reports reveal:
- (i) Frankie Bartholomew suffered a 1 cm laceration to his left eye that was swollen and tender; swollen right elbow; red? to lateral aspect of right elbow; tender, swollen, right forearm; tender swollen left forearm; puncture wound visualized to posterior aspect of left forearm: tender mildly swollen anterior aspect of left foot; 0.5 cm superficial abrasion to anterior aspect of left foot; tender mildly, swollen left ankle; tender, swollen anterior aspect of right foot; 0.5 cm laceration to anterior aspect of right foot.
 - (ii) Randy St Rose suffered a tender mildly swollen right knee; tender, swollen right forearm; tender, swollen left arm?; tender swollen left forearm.
 - (iii) Leon King suffered from a laceration to right side of forehead 1 cm x skin deep; bruise right calf; bruise right side of back; bruise over old retained bullet right side of upper sternum; soft tissue injury to lateral aspect of left hand.
 - (iv) Terrel Toney suffered from: soft issue injuries to both forearms and left thigh with a shallow laceration to his left third????? Cleft.

Also tendered into evidence were photographs of King taken on 24th December 2009 after he was released from prison. These photographs show scars and marks upon his body confirming the injuries described his medical certificate.

5. In addition also tendered were medical reports indicating injuries suffered by two of the police officers. According to these medical reports police officer Billiny suffered from a soft tissue injury to the left knee and police officer Lezama suffered from a soft tissue injury to the right leg. Unlike in the defence, there is no admission by the claimants that any of the police officers suffered injury at their hands, or at all. However the medical reports have been admitted into evidence by consent and the injuries suffered have not been challenged by the claimants in cross examination. There is no counterclaim by the defendant or any of the police officers. Nor, save perhaps with respect to St. Rose, is there any allegation that these injuries were inflicted by any of the claimants. These injuries however form a part of the background circumstances which I must take into consideration in determining whether the force used by the police officers was reasonable.

6. I accept that the injuries suffered by the claimants and the two police officers are as presented in the medical reports tendered by them. In dispute are the circumstances which led the police officers to inflict and suffer these injuries. It is therefore necessary to examine the facts presented by both the claimants and the defendant as to what occurred in the holding bay of the Port-of-Spain Magistrates' Court on that date.

7. All four claimants gave evidence in chief by way of witness statements and cross-examination. With respect to the evidence of St. Rose the defendant submits that his evidence ought to be discounted because under cross examination, he admitted that he could not read yet the witness statement does not indicate that the contents were read over to him prior to his signing it. While I accept that the witness statement is defective in this regard it seems to me that

I am entitled to consider his evidence on cross-examination and the documents tendered on his behalf. In addition, given the fact that there is evidence both in chief and by way of cross-examination from the other claimants as to what occurred on that day, it seems to me that as the case of St. Rose is concerned, despite the defective witness statement, there is evidence in support of his case.

8. While I accept that there are some discrepancies and inconsistencies in the evidence of the claimants. In my opinion these inconsistencies are minor. In any event in the absence of any dispute that the claimants were beaten by police officers on duty that day, it would seem to me that these inconsistencies are relevant only insofar as they may lend support to the case in self defense raised by the police officers.

9. All four claimants were at that time prisoners at the Port of Spain Prison. On that day they had all been brought to the Port of Spain Magistrates' Court to attend court. In preparation for attending court all four claimants were being held in the holding bay area of the Port-of-Spain Magistrates' Court in a holding cell with 17 other prisoners. The holding cell was about 15 feet in length and 5 feet in width. The cell had a solid door with a window 1 ft. square protected by thin iron bars. There were 4 other cells in the holding bay area. While there is no direct evidence of the size of the holding bay, given the general description of the area given in evidence, it is reasonable to assume that all five cells were in close proximity to each other. It is also reasonable to assume that, as with the holding cell occupied by the claimants, the other cells also contained a similar number of prisoners. Why else would that cell be so crowded.

10. It was not a normal day. The police officers were short staffed and, according to them, the prisoners were agitated. There were three separate incidents involving the prisoners that day. The first incident occurred in the morning period. There is some dispute as to what sparked the incident or what actually occurred. It is not, however, in dispute that one of the claimants was held against a wall and given some lashes with a baton by a police officer. According to the police officers no prisoners were brought to court on that day. This has not been denied. Indeed, it is admitted that one of the presiding magistrates came into the holding bay area and adjourned all the matters fixed the hearing in her court on that day.

11. The second incident occurred at lunchtime when, for reasons which are in dispute, some prisoners, including at least two of the claimants refused their meal. According to the police officers these prisoners threw their food on the ground. The third incident occurred in the afternoon when the prisoners were due to be returned to the prison. It is this incident that resulted in most, if not all, of the injuries.

12. Save that these form a part of the background circumstances relevant to the use of force, and except perhaps with respect to credibility, it is clear that nothing much turns on the morning or lunchtime incidents. On the undisputed facts however it is clear that things were not going well in the holding bay area of the Port of Spain Magistrates' Court on 17th December 2009. Despite the evidence of the claimants it is fair to say that the atmosphere was tense. It is against this background therefore that we need to examine what occurred that afternoon.

13. According to the prison officers the prisoners were unruly and behaving in an aggressive manner for the whole day. The claimants deny this. It is clear however that by the afternoon period the situation in the holding bay was far from calm. There had been one incident when a prisoner had received some blows from a police officer. Prisoners had not been brought into court to have their cases dealt with and some of them had refused the lunch provided. The existing situation could not have been assisted by the overcrowding of the holding cell.

14. It is not in dispute that the three claimants, Bartholomew, St. Rose and King, were not sent back to the prison with the other prisoners that afternoon. According to Bartholomew when the other prisoners were assembled to be returned to the prisons he, St. Rose and King were kept back in the holding cell. He says after the other prisoners had been loaded into the prison van the three of them were taken out of the cell dragged to the toilet area and beaten. He says the officers told them that they must learn to mind their own business. The written statement given by Bartholomew on his return to the prison on the 17th December basically confirms his evidence. In this statement he identifies two of the five officers whom he says beat him by number. One of these officers is police officer Lopez.

15. By and large his evidence is confirmed by St. Rose, in cross-examination, and King. Both of these claimants also gave written statements on their return to the prison. These statements, though brief, also basically confirm the incident as related by them in their evidence.

16. According to Tyrell Toney sometime in the afternoon, there was an incident with another inmate and a police officer over a plastic bag. He says both he and that inmate will taken

from the cell and beaten by police officers. After the beating he, together with other prisoners were transported back to the prison. On arriving at the prison he advised the prison officer receiving them that he had been beaten by police officers at the Port of Spain Magistrates' Court. The prisons officer refused to receive him and other prisoners who were in the same position into the prison unless they were in receipt of a medical report. He says that they were all returned to the Port-of-Spain Magistrates' Court and placed in the holding cell. According to him, the police officers then took those prisoners, including him, out of the cell one by one, carried them to the back of the holding cell to the bathroom area and beat them. His evidence is corroborated to a large extent by Bartholomew, King and St. Rose and his statement given on the 17th December on admission to the prison.

17. Given the admission of the battery in the defence the onus of proof is on the defendant to establish circumstances amounting to self defence. In this regard a defendant must establish that (i) his belief that he had to act in self defence was honest and reasonable, even if it was a mistaken belief; and (ii) having regard to all the circumstances of the case, including the fact that the action was taken in the heat of the moment, the action taken by him in self defence was reasonable in that no more force was used than was necessary: **Neil Budhoo v Alan Campbell HCA No. S-2355 of 2004; CV-2006-00054**. At the end of the day this is a question of fact for my determination.

18. According to the evidence of the police officers that afternoon at around 2:50 pm a batch of prisoners were sent from the Port-of-Spain Magistrates' Court back to the prison. Toney was one of those prisoners. St. Rose, Bartholomew and King were not sent back to the

prison because they complained that they had been beaten and had suffered injuries. It was therefore necessary for them to be medically examined before they could be accepted by the prison officials. According to police officers about half an hour afterwards 8 of the prisoners who had been sent to the prisons were returned to the Port-of-Spain Magistrate's Court because they had complained that they had suffered injuries and needed to be taken to the hospital. These prisoners, including Toney, were placed in the same cell with Bartholomew, St. Rose and King.

19. According to the police officers when they were ready to transport the prisoners to the Port-of-Spain Hospital the prisoners refused to come out of the cell. According to police officer Danclair he together with police officers Billiny and Lezama then went into the cell in an attempt to take the prisoners out of the cell. He says the prisoners were cursing, threatening and approaching them in an aggressive manner. He says in an attempt, to take them out of the cell he pulled out his baton and waved it from side to side. He says he did not hit any of the prisoners at this time.

20. According to him prisoners then surrounded them. At that time, some other officers who were outside the cell entered the cell to assist them. Two prisoners attacked Billiny and himself throwing punches at them. According to Danclair he defended himself by using his baton. This was to prevent the prisoners getting too close to him. He says he was swinging his baton from left to right, trying to fend them off as opposed to hitting the prisoners. He does not claim to have been injured.

21. Under cross-examination he admits that he could not recall any of the claimants attacking him. He confirms that it was he, Lezama and Billiny in the cell and about four police officers outside of the cell. He says that it took them about 10 to 15 minutes to get the incident under control. He says that he could not recall any officers calling for assistance. He says after they got the situation under control. One prisoner had a “burst head” and the other complained about his hand. According to him he could not say whether the force used was reasonable or justified because he cannot recall the claimants attacking anyone.

22. According to police officer Billiny, he together with two or three other police officers went into the cell and tried to get the prisoners out. He says he was not armed with a baton at the time. The prisoners refused to come out of the cell. He attempted to get them out by holding onto them one by one and pulling them out of the cell. While they were pulling some of the prisoners out, he says, other prisoners surrounded them and began attacking them by cuffing and kicking them. As a result he defended himself by hitting those prisoners who were attacking him and his colleagues. Thereafter, he says other police officers came into the cell with batons and quelled the situation. He suffered a soft tissue injury to his left knee.

23. Under cross-examination he also says that Lezama was one of the police officers who initially went into the cell. According to him, although he was not present at the time he knew, because he had been told, that there was an incident in the morning and that prisoners had to be taken to seek medical attention. He says he hit the prisoners with his hands and feet “in anyway he could to avoid them hitting him”. He says he saw other officers using batons. According to him he did not call for assistance because there was no time. He says that from the

time he went into the cell to the time situation was brought under control was about a minute. While he recalls St Rose attacking him by cuffing and kicking him but was unable to say whether St. Rose caused the injury he sustained. Neither could he say whether any of the other claimants attacked him. He says he saw the other police officers use force at the time of the incident. The police officers beat the prisoners with batons, both wooden and metal. The prisoners had no weapons. With respect to the allegation against St. Rose it must be noted that this was not stated by him in his examination in chief neither was any attempt made to put this allegation to St. Rose in cross-examination.

24. According to police officer Lezama he was not one of the police officers who initially went into the cell. According to him he remained outside with the other officers blanketing the area to prevent the prisoners running out of the cell. He says that the prisoners began fighting the police officers. Some of the prisoners were also coming out of the cell. According to him he together with other officers then tried to contain the prisoners in the toilet area where they would not escape. He says in an attempt to usher the prisoners into the secure area he “had cause to use reasonable force as necessary to control the situation since the number of prisoners exceeded the number of officers”. He was injured. His medical report indicated soft tissue injury to his right leg.

25. Under cross-examination, he says that he used moderate force against the prisoners. He admits under cross-examination, however that he entered the cell for brief moment. According to him there were about five or six officers outside of the cell at the time but he was the only one went to assist Danclair and Billiny in the cell. Despite his evidence in chief that he

together with other officers tried to contain the prisoners in the toilet area he claims that he was at the entrance of the cell for most of the time and could not see what was going on in the toilet area. According to him he used the baton with discretion. He says that one of two prisoners probably attacked him. While he cannot recall whether any of the claimants attacked him he admits using force against no more than one or two prisoners. According to him, he just stepped into the cell to see what was happening and stepped out.

26. According to police constable Lopez. He remained outside the cell. He says the prisoners became disorderly and surrounded the police officers in the cell and began to attack them. At that point in time he together with about four other officers entered the cell. He says, because of the behaviour of prisoners, he together with some of the other officers “had cause to use our batons and force as necessary in order to protect ourselves as well as control the situation”.

27. Under cross-examination he says that the prisoners were attacking the officers. He came in after a cuff or something was thrown at him he says he ducked out of the way but he thinks he got hit. According to could not say how many times he was attacked or hit. He too could not remember if any of the claimants attacked him. According to him, he made no record of the incident because it was not significant. According to him, this was something routine in the job. He says: “one or two of prisoners had injuries - some had bruises. That was about it.” According to him the incident lasted about 7 to 9 minutes.

28. Of relevance are the entries in the station diary for the 17th December 2009. When compared to the evidence of the police officers the entries contain some major inconsistencies which to my mind affect the credibility of the officers. There is no record of the initial claim of Bartholomew, St Rose and King that they had injuries and their request to have medical attention. Yet the police officers in their evidence admit that this was the reason these claimants were not returned to the prison initially. Indeed, while the 2.50 pm entry deals with some 32 prisoners, including Toney, being taken from the Magistrates' Court to the Port-of-Spain prisons no mention is made of these three claimants. Thereafter the first mention of these three claimants is in the entry to the station diary made at 4.25 pm.

29. According to the entry made at 4:25 pm two police officers, including police officer Danclair, opened the cells with the intention of loading the 11 prisoners in the police vehicle to be taken for medical attention as requested by them. The claimants, Bartholomew King and St Rose, are listed here as being three of the 11 prisoners. The prisoners refused to leave the cell. The entry then states that three police officers, including Lezama and Billiny, then, entered the cell with a view to taking the prisoners out. According to the entry it was St. Rose who attacked the officers inside the cell and a fracas ensued. The entry then states: "Other officers attached to the court cells responded and with a view of protecting their colleagues necessary force had to be used by the police officers with their police issued batons. The fracas was eventually brought under control which resulted in injuries being sustained by both police and prisoners." According to the entry prisoners were eventually secured in the cells "and shortly afterwards the mentioned prisoners began making threats to the police officers".

30. The entry made at 9:50 pm indicates that it was reported by Lopez that all 11 prisoners were taken to hospital, treated and medical certificates obtained in their favour. The entry also indicates Cpl. Lopez also reported that three police officers, including Lezama and Billiny, were medically examined, treated and medical certificates obtained on their behalf.

31. Of note is the fact that the station diary confirms that Lezama was one of the police officers who initially entered the cell. As we have seen this is denied by Lezama. Further between the period 12:15 pm and 4:25 pm no mention is made of Bartholomew St. Rose or King and in particular the fact that they were claiming to have been beaten and were not sent back to the prisoners with the other prisoners at 2:50 pm because of that claim. Despite the fact that the station diary indicates that it was St. Rose who started the fight this fact is not reflected in the evidence of any of the police officers. Indeed, the only specific reference to St. Rose is by Billiny in cross-examination who merely states that he recalls St Rose, kicking and cuffing him during the fracas. Finally the station diary says that three officers were examined and received medical certificates. There is no evidence of a third officer being in receipt of a medical certificate.

32. While I accept that the contents of the station diary would not necessarily be in exact terms as the evidence given by the officers it is to be expected is that insofar as the material facts are concerned the versions given would be consistent with each other. This is particularly so since the station diary was created by or as a result of information supposedly given by these very officers. In my opinion there are sufficient material differences between the evidence of the

police officers and the contents of the station diary to put the credibility of the police officers and the version of events given by them into question.

33. A further test of the credibility of the police officers is an examination of the evidence in chief of these officers on the incident that occurred in the afternoon and a comparison with their cross-examination. In this regard only two officers, Billingsy and Danclair, detail the actions they took to defend themselves in their witness statement. According to Billingsy he defended himself by hitting those prisoners who were attacking him and his colleagues. According to him however he was not armed with a baton. According to Danclair he was merely swinging his baton from left to right, trying to fend the prisoners off as opposed to hitting them. The other officers, merely state that they had cause to use reasonable force as necessary or words to that effect.

34. At the end of the day the question of whether reasonable force was used is a question for me to answer. I have to determine whether the force used by the police officers was reasonable. The mere statement that reasonable force was used does nothing to discharge the burden of proof placed on the defendant in this regard. While such a statement may have some place in a pleading it has no place in evidence. A defendant relying on such a defence must give evidence of what was done so that the judge can determine whether that action was reasonable given the circumstances.

35. As well the defendant's case is not assisted by the fact that the cross-examination establishes that none of the officers were totally forthright in their examination in chief. Many

questions arise on the evidence presented by the defence. An obvious one surrounds police officer Lezama. He was the only officer admittedly present who was identified by any of the claimants in the written statements given on the 17th December. Where exactly was Lezama during the incident? Was he one of the police officers who initially went into the cell, as is stated by the other police officers and the station diary. Or was he stationed outside and only went into the cell for brief moment to assist his colleagues, as he suggests his cross-examination. Or was he one of the officers responsible for moving prisoners to the toilet area to avoid them breaking free from the police officers, as he says in his witness statement. Did he resile from the position taken in his witness statement because it could be said that it is corroborated the evidence of the claimants that prisoners were taken to the toilet area and beaten.

36. Another of obvious question is why would the station diary state that it was St. Rose who first attacked the officers inside the cell when not only is there no evidence of this from the police officers, but this was never put to St. Rose in cross-examination. In this regard it seems to me that the only conclusion that I can come to respect to the failure to put this question to St Rose in cross-examination is that these facts never formed a part of the instructions is given to Attorneys. It certainly was not contained in the witness statements. There is also a big discrepancy with respect to the time taken to bring the situation under control, according to the police officers the time ranges from 1 minute to 10 to 15 minutes.

37. Of even greater importance with respect to the credibility of the defence witnesses, indeed of the utmost importance, is the comparison of the evidence of the officers as to the manner the injuries were inflicted with the nature of the injuries themselves as revealed by

the contents of the medical certificates. It is clear that insofar as the actions leading to the injuries have been described in the examination in chief of the police officers those actions are not consistent with the injuries suffered by the claimants. The injuries suffered by the claimants speak to deliberate and sustained blows to them with batons. This is particularly true of injuries suffered by Bartholomew and King. Both of whom it is clear received blows all over their bodies.

38. While the injuries of St Rose and Toney are in comparison relatively minor, given the nature of the defence raised by the police officers it is all or nothing. In other words, if the police officers are to be believed it was one incident. The force used was just enough to bring the situation under control and no more. No particular prisoner was singled out for attack. In this regard their admission that, save perhaps for St.Rose, no officer could recall if they were attacked by any of the claimants is telling. According to the police officers all the injuries occurred when they went into the cell to remove the prisoners. In those circumstances, it cannot be that the force is reasonable with respect some of the claimants and excessive with respect to others. In my opinion by no stretch of the imagination can it be said that the injuries suffered by Bartholomew and to some extent King, are consistent with the version of events, as proffered by the police officers. In addition although not in itself conclusive some regard must be had to the nature of the injuries suffered by the police officers as compared by the injuries suffered by the claimants. It is clear that the claimants' injuries were by far the more severe.

39. At the end of the day while I accept that the circumstances that obtained in the holding bay of the Port-of-Spain Magistrates' Court by the afternoon of the 17th December 2009

was tense and potentially volatile. And while I accept that this situation was exacerbated by existing physical conditions I am not satisfied that the situation was such that the officers were called upon to defend themselves. At the end of the day I do not accept the version of the events as provided by the police officers. The burden of proof is on them and there are too many unexplained inconsistencies.

40. In any event, even if I were to accept their evidence with respect to the events that occurred that afternoon, we are still left the question of whether the force used was reasonable in the circumstances. This is not the classic heat of the moment situation. In this is a case of police officers responsible for the custody of prisoners doing what they ought to have been trained to do. That is dealing with recalcitrant prisoners refusing to obey lawful commands. The fact that it was a tense situation was known to the police officers prior to the attempt to remove the prisoners. According to the station diary they knew that the prisoners were planning to give them trouble. There were 11 unarmed prisoners and at least seven police officers. If the circumstances were as related by the police officers why were all of these unruly prisoners placed in one cell when there were four other holding cells available.

41. It cannot be disputed that the police officers were faced with a difficult situation. Neither can it be disputed that the conditions under which they were forced to operate, the lack of sufficient staff and the severe overcrowding in the cells in particular, did not assist in the handling of disgruntled prisoners. It is clear that the physical conditions under which the officers were forced to operate and the prisoners were made to endure give rise to a time bomb that is waiting to happen.

42. Unfortunately from the number of cases arising from actions of police officers and prison officers alike in their conduct towards persons in their custody the same can be said for prison conditions. It would seem to me, as well, that the training provided for these officers by the State does not adequately allow them to properly discharge the responsibility placed on them for the custody of prisoners, particularly under the existing conditions. In this regard therefore some blame must be laid at the feet of the authorities. Any award of exemplary damages made in these cases must take these two factors into consideration.

43. That said, even if I accept the version of events given by the police officers, the use of excessive force to contain the situation is not the answer. Indeed the use of excessive force merely serves to aggravate a bad situation and set that time bomb ticking. At the end of the day even if I accept the evidence given on behalf of the defendant, I find that the force used on that day was excessive and more than was necessary for mere defence. The nature of the injuries suffered, particularly those of Barthlomew and King, and the fact that it is admitted that these blows were administered with batons suggest the use of extreme and deliberate force. This was not the mere swinging of a baton as claimed by Danclair.

44. In all the circumstances of the case therefore I find that the defendant has not discharged the burden upon it to establish self defense or to demonstrate that the action taken by the police officers, even if in self defense, was reasonable in all the circumstances. In those circumstances given the admission of the battery and the failure of the defendant to establish its defence the claimants' case succeeds.

Damages.

45. In arriving at the various awards in damages I have taken into consideration, as I am required to do, the factors as laid down in the case of **Cornilliac v St. Louis (1965) 7 WIR 491** as well as comparative and recent cases in our jurisdiction. This regard I have used the evidence as contained in the medical reports as the basis for the award. While I recognise that it is reasonable to expect some exaggeration from the claimants with respect to the manner in which the injuries were inflicted and their pain and suffering by and large I accept the evidence with respect of the pain and suffering endured and their residual physical injury.

46. In making my award and in particular when considering the head of pain and suffering, I bear in mind the manner in which the injuries were inflicted. It seems to me that fact that these injuries were inflicted by repeated lashes from a baton over an extended period has some relevance, and serves to heighten the pain and suffering experienced by these claimants. As well, exemplary damages apart, given the circumstances as described by the claimants my award includes an element of aggravated damages.

47. At the end of the day I make the following awards:

Bartholomew: general damages in the sum of \$60,000 this includes an uplift representing aggravated damages. I also award the sum of \$20,000 in exemplary damages.

King: general damages in the sum of \$35,000 this includes an uplift representing aggravated damages. I also award the sum of \$20,000 in exemplary damages.

St Rose: general damages in the sum of \$25,000 this includes an uplift representing aggravated damages. I also award the sum of \$20,000 in exemplary damages.

Toney: general damages in the sum of \$25,000 this includes an uplift representing aggravated damages. I also award the sum of \$20,000 in exemplary damages.

Dated this 13th day of January, 2011.

Judith Jones
Judge