

IN THE COMMONWEALTH OF THE BAHAMAS

IN THE SUPREME COURT

Common Law and Equity Division

Claim No. 2024/CLE/gen/00837

BETWEEN

ENOS MILLER

Claimant

AND

LARRY GIBSON

1st Defendant

AND

LOVANT GIBSON

2nd Defendant

Before: The Honourable Justice Darron D. Ellis

Appearances: The Claimant pro se
Asha Lewis for the 1st and 2nd Defendants

Dates: 28th June 2025; 31st July 2025.

Interim Payment Practice and Procedure-Negligence-Personal injuries-Whether Claimant met threshold to be granted an interim payment-Whether payment to be ordered-Court's Discretion-Contributory Negligence-Evidential burden-Admission of Liability-Pro Se

The Claimant initiated this claim against the Defendants by way of a fixed-date claim, seeking general and special damages for negligence. The Claimant alleges that he sustained injuries while driving east along Meeting Street as a result of his vehicle being struck by another vehicle driven negligently by the 2nd Defendant. The Defendants deny liability and argue that the accident was caused wholly or partly by the Claimant's own negligence, specifically that he drove too fast and without due care and attention. The Claimant applied for an interim payment and case management directions on multiple grounds, including that the Defendants have admitted liability. The Defendants countered that there is no admission of liability and that the Claimant has not demonstrated that he would succeed if the matter proceeded to trial.

1. On an application for interim payment under the Civil Procedure Rules 2022 (CPR), one of the following conditions must be satisfied before the Court grants an interim payment order: i) the Defendant against whom the order is sought has admitted liability; ii) the Claimant has obtained an order for an accounting; iii) the Claimant has obtained judgment against the Defendant; iv) if the claim went to trial, the Claimant would obtain judgment against the Defendant from whom an order for interim payment is sought for a substantial amount of money or for costs. **Stringman (A Minor) v McArdle** [1994] 1 WLR 1653; **Cobham Hire Services Ltd. v Eeles (by his mother and litigation friend Eeles)** [2009] EWCA 204; **Yvonne Rahming v Super Value Foodstores Ltd. and Francisco Francois** 2016/CLE/gen/01424; **Ben, Barret & Son (Brickwork) Limited v Henry Boot Management Limited**, unreported QB; **Andrews v Schooling** (1991) 3 All ER 723; CPR 17 referred to.

2. On an application for interim payment involving personal injury, there is an evidential burden on the Claimant to put before the Court evidence and material proving his claim and his injuries. In this case, the Claimant has not discharged that burden. The Claimant has not convinced the Court that, if the matter went to trial, he would obtain judgment against the Defendants for a substantial sum. **Stringman (A Minor) v McArdle** [1994] 1 WLR 1653; **Cobham Hire Services Ltd v Eeles (by his mother and litigation friend Eeles)** [2009] EWCA 204; **Yvonne Rahming v Super Value Foodstores Ltd. and Francisco Francois** 2016/CLE/gen/01424; CPR 17; **GKN Group v Revenue and Customs Commissioner** [2012] EWCA Civ 57 relied upon.

HELD: The application for an interim payment order is refused, and directions for case management are given.

JUDGMENT

Ellis J

The Background

[1.] The Claimant initiated this action through a fixed date claim filed on September 18, 2024. The Claimant alleges that, as a result of a traffic accident caused by the negligence of the 2nd Defendant, he, the Claimant, suffered a severe brain injury, damage, and loss, and seeks damages for the injury and losses suffered.

[2.] The Claimant claims that the accident occurred on February 9, 2023. According to the evidence before the Court, in respect of the accident, the 2nd Defendant is charged before the Magistrate's Court with being at fault for the accident, and the Claimant is charged with driving whilst not covered by third-party risk of insurance.

- [3.] On October 29, 2024, the Defendants filed a Defence contesting liability.
- [4.] At the hearing on June 23, 2025, the Court ordered that the Claimant's fixed date claim continue as if filed as a standard claim form.
- [5.] On June 27, 2025, the Claimant filed a Notice of Application for an interim payment of \$25,000 pursuant to Part 17 of the CPR and for Case Management Directions.
- [6.] On July 31, 2025, the Court heard the interim payment application of the Claimant and delivered an oral ruling denying the application. The Court now provides written reasons for its decision below.

Issue

- [7.] The issue that the Court shall consider is:
- a. Whether the Claimant satisfied the conditions to be granted an interim payment?

The Evidence

- [8.] The Claimant relies upon the Affidavits of the Claimant filed December 5, 2024; January 21, 2025; May 20, 2025 and July 17, 2025.

Claimant's Submissions

- [9.] The Claimant, by its Notice of Application, applies for an interim payment on 15 grounds. The grounds could be described as not elegantly drafted, prolix, and repetitive. Once these grounds are distilled, it appears to the Court that the Claimant is contending that an interim payment should be made to the Claimant because the Defendants have admitted liability and that, if the claim went to trial, the Claimant would obtain judgment against the Defendants from whom an order for interim payment is sought for a substantial amount of money or for costs.
- [10.] The Claimant submitted, inter alia, that he is entitled to an interim payment because the accident occurred due to the negligence of the 2nd Defendant without any contributory negligence on the part of the Claimant. The Claimant contended that the 1st and 2nd Defendants are liable for the injuries sustained by the Claimant due to the negligent driving of the 2nd Defendant. The Claimant cited **Schott Kem Ltd. v Bently** [1990] 3 ALL ER 850 and **Colina Insurance Limited v Enos Gardiner** SCCiv No. 117 of 2015 in support of its position.

- [11.] The Claimant also contends that the Defence of the Defendants is not in conformity with the mandatory requirements of Part 3.8 of the CPR as it is filed without a statement of truth, and that, as a result, the Defence should be struck out. The Court did not make any decision on this submission, as no formal application was before it in this regard.

Defendants' Submissions

- [12.] Counsel for the Defendants stated that the Court's jurisdiction under Part 17 of the CPR is discretionary. To award an interim payment, the Court must be satisfied that the Defendant admitted liability or judgment has been entered or that the Claimant would succeed in the action on the question of liability for a substantial sum. Counsel argues that none of those grounds has been met, and therefore, no interim payment should be granted. Counsel then cited the case of **Ben, Barret & Son (Brickwork) Limited v Henry Boot Management Limited**, unreported QB, and **Andrews v Schooling** (1991) 3 All ER 723.
- [13.] Counsel for the Defendants emphasised that the Court should only order an interim payment if it is *satisfied* that, on the evidence and material before the Court, the Claimant would succeed at trial for a substantial sum. In this regard, the Defendants cited the case of **Yvonne Rahming v Super Value Food Stores Limited and another** [2017] 2 BHS J. No. 114, where Charles J (as she then was) addressed the issue of an interim payment. The Learned Judge stated at paragraph 13 that:
- “13. The word “*satisfied*” in this context means that the Court, on the evidence currently before it, has formed the view that, on a balance of probabilities, the Plaintiff will succeed at trial...”
- [14.] Counsel for the Defendants submits that the evidence and material before the Court are insufficient to satisfy the Court. Furthermore, Counsel for the Defendants argued that the Claimant's application for interim payment should be refused because it is not properly formulated. The CPR and common law stipulate that an application for interim payment must be supported by an affidavit that exhibits all documentary evidence and substantiates all claimed special damages. The Claimant's affidavits failed to do so. The affidavits neither provide nor verify the special damages claimed by the Claimant for expenditures up to the date of the application, nor do they include hospital and medical reports verifying the brain injury alleged by the Claimant. The application should therefore be dismissed for non-compliance with the procedural requirements set out in Part 17 of the CPR.
- [15.] Counsel for the Defendants further asserted that the Claimant's application should be rejected because there is serious doubt that the Claimant will recover “substantial” damages from the Defendants. The Claimant has not provided any proper medical evidence to prove that he sustained any injuries from the accident.

The Law

- [16.] **Part 17.14** outlines the general procedure for applying for an interim payment. It provides that:

"17.14 (1) The claimant may not apply for an order for an interim payment before the end of the period for entering an acknowledgement of service applicable to the defendant against whom the application is made.

(2) The claimant may make more than one application for an order for an interim payment even though an earlier application has been refused.

(3) Notice of an application for an order must be — (a) served at least fourteen days before the hearing of the application; and (b) supported by evidence on affidavit.

(4) The affidavit must — (a) exhibit any documentary evidence relied on by the claimant to support of the application; (b) state the claimant's assessment of the amount of damages or other monetary judgment that are likely to be awarded; and (c) if the claim is made under any relevant enactment in respect of injury resulting in death, contain full particulars of the — (i) nature of the claim in respect of which the damages are sought to be recovered; and (ii) person or persons for whom and on whose behalf the claim is brought.

(5) If the respondent to an application for an interim payment wishes to rely on evidence or the claimant wishes to rely on evidence in reply, that party must — (a) file the evidence on affidavit; and (b) serve copies on every other party to the application, at least seven days before the hearing of the application.

(6) The Court may order an interim payment to be made in one sum or by instalments."
[emphasis added]

- [17.] **Part 17.15** outlines the conditions to be satisfied and the matters to be taken into account when applying for an interim payment. It provides that:

"(1) The Court may make an order for an interim payment only if — (a) the defendant against whom the order is sought has admitted liability to pay damages or some other sum of money to the claimant; (b) the claimant has obtained an order for an account to be taken as between the claimant and the defendant and for judgment for any amount certified due on taking the account; (c) the claimant has obtained judgment against that defendant for damages to be assessed or for a sum of money, including costs, to be assessed; (d) except where paragraph (3) applies, it is satisfied that, if the claim went to trial, the claimant would obtain judgment against the defendant from whom an order for interim payment is sought for a substantial amount of money or for costs; or (e) the following conditions are satisfied — (i) the claimant is seeking an order for possession of land, whether or not any other order is also being sought; and (ii) the Court is satisfied that, if the case went to trial, the defendant would be held liable, even if the claim for possession fails, to pay the claimant a sum of money for rent or for the defendant's use and occupation of the land while the claim for possession was pending.

(2) *In a claim for personal injuries the Court may make an order for the interim payment of damages only if the defendant is — (a) a person whose means and resources are such as to enable that person to make the interim payment; (b) insured in respect of the claim; or (c) a public authority.*

(3) *In a claim for damages for personal injuries where there are two or more defendants, the Court may make an order for the interim payment of damages against any defendant if — (a) it is satisfied that, if the claim went to trial, the claimant would obtain judgment for substantial damages against at least one of the defendants, even if the Court has not yet determined which of them is liable; and (b) paragraph (2) is satisfied in relation to each defendant.*

(4) *The Court must not order an interim payment of more than a reasonable proportion of the likely amount of the final judgment.*

(5) *The Court must take into account — (a) contributory negligence, where applicable; and (b) any relevant set-off or counterclaim*

[18.] In terms of when the Court may grant an interim payment application, the cases **GKN Group v Revenue and Customs Commissioners** [2012] EWCA Civ 57 and **Yvonne Rahming v Super Value Food Stores Limited and another** [2017] 2 BHS J. No. 114 are instructive. In **Yvonne Rahming**, *Charles J* stated at paragraphs 13 and 14:

“The word “satisfied” in this context means that the Court, on the evidence currently before it, has formed the view that, on a balance of probabilities, the plaintiff will succeed at trial. The rule allows an order to be made against the particular defendant in relation to whom the Court is “satisfied”. It also applies both to claims in which there is one defendant and in which there is more than one defendant. The Court must not order interim payment of more than a reasonable proportion of the likely amount of the final judgment. The Court must take into account any contributory negligence.

O 29 r 12(c) is discretionary. The Court “may” make an order. The Court can take into consideration the defendant’s means when deciding whether or not to exercise the discretion: *Jones v Tower Hamlets* (May 1996, unreported, CA and *British and Commonwealth Holdings Plc v Quadrex Holdings Inc* [1989] 3 All ER 492).”

Discussion/Analysis

[19.] An interim payment is a form of interim relief in which a party to a proceeding may be ordered by the Court to pay a sum of money to the other party or into Court pending the outcome of the proceedings. It is not limited to a payment for a Claimant’s proved special damages at the date of such an application. In fact, an interim payment can and should be made to cover a reasonable proportion of the general damages for pain, suffering, and loss of amenities that the Claimant is expected to recover. It follows that the Court should be satisfied that the damages claimed are proven to a certain extent before awarding an interim payment.

[20.] The CPR states that an application for interim payment can be made at any time after the deadline for submitting an acknowledgement of service has passed. The application must be submitted by notice, outlining the grounds for the application. It must also be supported by an affidavit that verifies the special damages, if any, claimed by the Claimant up to that date, including the hospital and medical reports, if any, relied upon by the Claimant.

[21.] Once the Court is satisfied that an application for an interim payment complies with the procedural requirements prescribed by the CPR, it considers whether to exercise its discretion to grant an interim payment.

[22.] The Court's power to make an **interim payment** order is discretionary, but certain conditions or grounds must be satisfied before the Court's discretion is engaged. In determining whether to exercise its discretion to grant an interim payment, the Court must consider the relevant provisions of Part 17 of the CPR. The Court may make an order for an interim payment only if — (a) the defendant against whom the order is sought has admitted liability to pay damages or some other sum of money to the claimant; (b) the claimant has obtained an order for an account to be taken as between the claimant and the defendant and for judgment for any amount certified due on taking the account; (c) the claimant has obtained judgment against that defendant for damages to be assessed or for a sum of money, including costs, to be assessed; (d) if it is satisfied that, if the claim went to trial, the claimant would obtain judgment against the defendant from whom an order for interim payment is sought for a substantial amount of money or for costs.

[23.] Part 17.15 (4) is also instructive in the context of this application; it reads:

(4) The Court must not order an interim payment of more than a reasonable proportion of the likely amount of the final judgment.

It follows that the parties must put the Court in a position where it is able, at the time of the application, to determine the likely final judgment amount of the Claimant.

Grounds/ Conditions of Application

[24.] In determining whether to grant the relief to the Claimant, the Court must consider the ground (s) or condition (s) that the Claimant is relying upon. The Claimant, in its Notice and Affidavit, has a prolix listing of grounds that can be distilled down to two main applicable grounds: i) that the Defendants have admitted liability, ii) if the claim went to trial, the Claimant would obtain judgment against the Defendants from whom an order for interim payment is sought for a substantial amount of money or for costs.

i) Admission of Liability

[25.] The Claimant argues that the Defendants admitted liability. The Defendants deny having admitted liability. The Claimant further contradicts this ground by acknowledging in his Notice of Application at page 5 no. 1 that the Defendants deny the claim. The Defendants, by their Defence, deny the claim of the Claimant and further contend at paragraph 36 that:

“The Defendants contend that any accident and any resulting loss was wholly caused by or was contributed to by the negligence of the Claimant”

[26.] The principles surrounding admissions from case law, such as **Ellis v Allen** [1914] 1 Ch 904, **Precious Thompson-Curry v The Attorney General of The Commonwealth of The Bahamas et al** 2022/CLE/gen/868 and **Rankine v Garton**(1979) 2 All ER 1185, can be generalised in these terms: *Has the Defendant made a clear, unambiguous, and unequivocal admission of fact which, taken alone or together with other admitted facts, would entitle the Claimant to the judgment sought?* If that question is answered in the affirmative, the Court may properly enter judgment on the admission. From the case law, it is gleaned that:

- a) the admission must be unequivocal and clearly establish liability on the point in question;
- b) where the admission is only partial, the Court has discretion: it may grant judgment for the part admitted and allow the dispute on the remainder to continue;
- c) The Court will not construe a disputed or arguable statement as an admission—doubt is resolved in favour of trial.

[27.] In **Rankine v Garton**, the Court made clear that a judgment on admission in negligence cannot be entered unless two elements are established: first, an acknowledgement of negligence; and second, proof that the claimant has suffered damage as a result. Both components are indispensable, as together they constitute the complete cause of action in negligence. The judge, quoting *Payne J* in **Blundell v Rimmer** [1971] W.L.R. 123, wrote at page 1184:

In an action for negligence, the cause of action has two elements: (1) the breach of duty to the plaintiff, ie in this case the negligence, and, (2) damage suffered by the plaintiff. The plaintiff does not establish any right to judgment without evidence and proof of those elements. The letter from the defendant's solicitors of 26th October 1970 was an admission only of negligence and it was a denial of damage, and until, therefore, damage was proved by evidence, the plaintiff in my view was not entitled to judgment on the admission, because no claim against the defendant had been established; no admissions of fact had been made on which he became entitled to a judgment or order in pursuance of RSC Ord 27, r 3. “...

[28.] In **Perrin v Short** [1997] Lexis Citation 1905, Hirst LJ endorsed **Rankine v Garton**, accentuating that a claimant may only succeed in obtaining judgment on admission where there is a clear and unequivocal admission. It was stated at the “held paragraph” :

“nothing short of a clear admission of liability, both of negligence causing the accident and of damage resulting from the accident caused by the negligence was enough to entitle the plaintiff to judgment.”

[29.] The Claimant appears to argue that the Defendants, in their Defence at paragraphs 10 and 38, have admitted liability. Paragraph 10 of the Defence states:

“Paragraphs 16 and 17 of the Claim are admitted saved that it is denied that the insured promised to indemnify the Claimant as alleged at all”

[30.] Paragraphs 16 and 17 of the claim state:

“The Claimant avers that his damages claim was never settled in totality and that the 1st and 2nd Defendants wrongfully refused to pay the Claimant in full his aggregated loss and medical expense, and/ or an interim payment

At all times the Defendants and their insurer refused to pay medical aggregated expenses and damages to the Claimant on lawful request. Notwithstanding, damages are categorized as the insured promise to indemnify the Claimant”

[31.] Paragraph 38 of the Defence states:

“The Defendants avers that the injuries sustained by the Claimant were not life threatening and were likely made severe occasioned by his pre-existing injuries and his failure to mitigate his losses by seeking and maintaining proper and regular medical care and attention”

[32.] Paragraphs 10 and 38 do not appear to this Court to be unequivocal admissions of liability of negligence and of damages on the part of the Defendants. There is no acknowledgement by the Defendants that they were negligent and, as a result of this negligence, the Claimant suffered damages.

[33.] To the Court’s mind, the Claimant has failed to identify any unequivocal admission in respect to liability and damages by the Defendants. This ground, therefore, fails, as it is not applicable. The Claimant claims that there is an admission, but the pleadings demonstrate otherwise. The Court finds that the Defendants have not admitted liability and, accordingly, an interim payment cannot be granted on this ground.

ii) *If the claim went to trial, the Claimant would obtain judgment against the Defendant for a substantial amount of money or for costs.*

[34.] There being no admission of liability, the Court will consider the next ground. In this regard, the Claimant asserts that the 2nd Defendant is at fault for the accident and refers to the police charge sheet, which charges the 2nd Defendant with being at fault. To the Court’s knowledge, the 2nd Defendant has not been convicted.

[35.] The case of **GKN Group v Revenue and Customs Commissioners** [2012] EWCA Civ 57 guides this ground at paragraph 33:

[33] On the first point, it is evident that the Claimant seeking the Interim Payment has the burden of satisfying the court that the necessary conditions have been fulfilled for it to consider exercising the power to grant an Interim Payment order. An Interim Payment order is one that is obtained in civil proceedings. Whatever conditions have to be satisfied must be to the usual *standard* of proof in civil proceedings unless there is an express indication in a statute or rule of court to the contrary. Here there is none. (Compare an application for contempt of court in civil proceedings where the contempt has to be proved to the criminal standard, viz beyond reasonable doubt.) Therefore, the Claimant has to satisfy the court that the requisite conditions have been fulfilled to the civil standard, which is upon the balance of probabilities. Since the House of Lords' decision in *Re H* ([1996] AC 563, [1996] 1 All ER 1, [1996] 1 FCR 509; see particularly the speech of Lord Nicholls of Birkenhead at 586-7. See also *In re B* [2008] UKHL 35, [2009] AC 11, [2008] 4 All ER 1 in particular the speeches of Lord Hoffmann (passim) and Baroness Hale of Richmond particularly at 70. In the latter case Lords Rodger of Earlsferry and Walker of Gestingthorpe agreed with the speeches of both Lord Hoffmann and Baroness Hale. Lord Scott of Foscote agreed with Baroness Hale.) it is well established that there is only one civil standard of proof on a balance of probabilities. In the case of an application for an Interim Payment order under CPR Pt 25.7(1)(c), of course, the Claimant has to satisfy the court on a balance of probabilities about an event that has not, in fact, occurred; that is, that if the claim went to trial, he would obtain judgment (and for a substantial amount of money).

[36.] The judge continues at para 36 to 39:

[36] That leads on to the next and more important question: of what does the Claimant have to satisfy the court? To which the answer is: that if the claim went to trial, the Claimant would obtain judgment for a substantial amount of money from this Defendant. Considering the wording without reference to any authority, it seems to me that the first thing the judge considering the Interim Payment application under para (c) has to do is to put himself in the hypothetical position of being the trial judge and then pose the question: **would I be satisfied (to the civil standard) on the material before me that this Claimant would obtain judgment for a substantial amount of money from this Defendant?.....**

[38] The second point is what precisely is meant by the court being satisfied that, if the claim went to trial, the Claimant "*would obtain judgment for a substantial amount of money*"? **In my view this means that the court must be satisfied that if the claim were to go to trial, then, on the material before the judge at the time of the application for an Interim Payment, the Claimant would actually succeed in his claim and furthermore that, as a result, he would actually obtain a substantial amount of money.** The court has to be so satisfied on a balance of probabilities. The only difference between the exercise on the application for an Interim Payment and the actual trial is that the judge considering the application is looking at what would happen if there were to be a trial on the material he has before him, whereas a trial judge will have heard all the evidence that has been led at the trial, then will have decided what facts have been proved and so whether the Claimant has, in fact, succeeded. In the latter case, as Lord Hoffmann makes plain in *Re*

B ([2008] AC 561 at 2), if a judge has to decide whether a fact happened, either it did or it did not: the law operates a “binary system” and there is no room for a finding that it might have happened. In my view, the same is true in the case of an application under CPR Pt 25.7(1)(c). The court must be satisfied (to the standard of a balance of probabilities) that the Claimant *would* in fact succeed on his claim and that he *would* in fact obtain a substantial amount of money. It is not enough if the court were to be satisfied (to the standard of a balance of probabilities) that it was “likely” that the Claimant would obtain judgment or that it was “likely” that he would obtain a substantial amount of money.

[39] Next, there is the question of what is meant by “*a substantial amount of money*”. In my view, that phrase means a substantial, as opposed to a negligible, amount of money. However, that judgment has to be made in the context of the total claim made. What is a substantial amount of money in a case where there is a comparatively small claim may not be a substantial amount when the claim is for a much larger claim. It may be that in very small claims an Applicant could never satisfy the court that, even if it obtained judgment, the amount of money it would obtain would be “*substantial*”. But that is not this case and each must be decided on its facts.

[37.] Practice in this area of the law is well established. We can summarise the position by saying that if the Court is satisfied that the Claimant would win at trial a substantial sum, the Judge would usually make a conservative preliminary estimate of the likely final award and then make an interim payment out of that final award. For that, the Judge would need both sides’ schedules of loss, materials, including affidavit evidence and submissions on potential damages award, so far as they could be provided at that stage. He would have to make a broad assessment of the merits of each side’s contention and would err on the side of caution in making his award.

[38.] For the Court to do so, it would need sufficient evidence and submissions from both parties, especially the Claimant. The Judge would order an interim payment, which should provide a comfortable margin in case his preliminary estimate of the final judgment proved too generous.

[39.] In this present case, the Court is handicapped. The Claimant has not provided the Court with precise details of how the accident occurred. There is no evidence before the Court in this respect—no recordings, no measurements, no photographs, no police reports. There is no description of the accident that would allow the Court to satisfy itself that, if this claim went to trial, the Claimant would win a substantial sum. Simply put, the Court does not know how the accident happened. In this respect, the Court is unable to determine whether the Claimant would succeed at trial.

[40.] Furthermore, even if the Court was satisfied that the Claimant would win at trial, the Claimant has not satisfied the Court that he would recover a substantial sum. In fact, the Claimant has not provided any medical evidence to support the alleged brain injury. The Claimant claims to have suffered cerebellar brain injury, dizziness, and headaches. However, there are no medical reports to prove these injuries.

[41.] Since this is a personal injury claim, the Court requires at least a medical report to support the Claimant's case so it can determine an appropriate range of damages for pain, suffering, and loss of amenities. Additionally, the Claimant has failed to present any cases demonstrating the amount of damages recoverable if the injury is established.

[42.] The authorities treating with personal injuries, such as *Croke v Wiseman* [1982] 1 WLR 71, establish a consistent principle: a Claimant must place medical and financial evidence before the Court. Bare assertions of injury are insufficient. This ground also fails.

Conclusion

[43.] The Claimant has provided no medical evidence whatsoever to support its claim or this interim payment application. There are:

- no medical report;
- no clinical notes;
- no diagnostic imaging;
- no physiotherapy or rehabilitation records;
- no prescriptions;
- no accident report.

[44.] Additionally, the Claimant has not put before the Court any documentation or submission, or authorities with respect to the amount of damages he is entitled to outside of a few receipts attached to the affidavits. Further, the Court does not know how the accident happened and therefore cannot determine who is ultimately responsible.

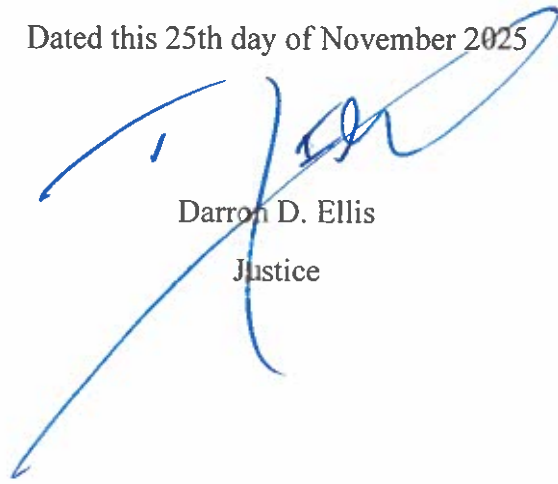
[45.] Without the necessary evidence and material before it, the Court cannot conclude who is at fault for the accident and that the Claimant suffered any compensable injury. It follows then that the Court is unable to make an interim payment order whereby the Defendants are to make a payment to the Claimant.

[46.] The Claimant has not met the requirements under the CPR for an award of an interim payment. The Defendants have not admitted liability, nor is there a Judgment and an accounting or damages assessment pending, and finally, the Court is not convinced that the Claimant would likely succeed and recover a substantial judgment for damages or costs if the case went to trial.

[47.] Relying on the cases of **GKN Group v Revenue and Customs Commissioners** and **Yvonne Rahming v Super Value Food Stores Limited and another** and the other aforementioned cases, the Court declines to exercise its discretion to grant interim relief in the form of an interim payment order. The Claimant's evidential failure is fatal to its application.

[48.] The application for an interim payment is therefore dismissed with costs to the Defendants to be assessed summarily if not agreed.

Dated this 25th day of November 2025

A handwritten signature in blue ink, appearing to be 'D. Ellis', is written over the typed name and title.

Darron D. Ellis

Justice