
HIGHER RIGHTS OF AUDIENCE ASSESSMENT

IN RESPECT OF CIVIL PROCEEDINGS

THE PRACTICAL ASSESSMENT

TRIAL BUNDLE FOR MINI-TRIAL

The evidential material to be used in the mini-trial consists of the following witness statements:

1. The witness statement of Adam Smith for the Plaintiff;
2. The witness statement of Alexandra Chow for the Plaintiff;
3. The witness statement of George Wong for the Defendants; and
4. The witness statement of Edith Siu for the Defendants.

Witness Statement of Adam Smith

I, ADAM SMITH, of [Hong Kong address], say as follows:

1. I am the Plaintiff. I am 33 years of age and employed as an accountant.
2. Unless otherwise stated, all the facts and matters contained in this witness statement are within my personal knowledge and are true. Where they are not within my personal knowledge, they are based on the sources identified and are true to the best of my information and belief.

Introduction

3. I am suing the 1st Defendant Mr George Wong (“**Mr Wong**”) and the 2nd Defendant Adventure World Limited (“**AWL**”), for damages arising out of a skydiving accident.

The Skydiving Course and Tutorial

4. On 5 January 2015, I signed up for a tandem skydiving trip (the “**Course**”) with AWL. I had never skydived before, but since I turned 30, I wanted to treat myself to an adventure. My friend Alexandra Chow (“**Alexandra**”) told me about the Course run by AWL. She also said that tandem skydiving was suitable for beginners because I could rely on the instructor without worrying about doing anything myself.
5. The instructor at AWL who signed us up informed us that the Course consisted of 2 parts. The first part was a tutorial (the “**Tutorial**”) held indoors where the necessary techniques would be verbally explained to the students and some practical exercises would be performed. The second part was the skydiving jump (the “**Jump**”).
6. Alexandra and I signed up to do the Jump on 12 January 2015. However, due to scheduling issues I had to attend the Tutorial on a different day than Alexandra.
7. The Tutorial I signed up for was held on 10 January 2015 at 6 pm. I was the only student in attendance. I found this surprising at the time, but in hindsight I recall that the AWL centre was also rather empty when Alexandra and I first signed up.
8. The Tutorial was conducted by Mr Wong. Mr Wong told me that he would normally have presented the Tutorial using slides prepared in Chinese, but since I did not understand Chinese, he would forgo the slides and explain the instructions to me in English.
9. Since Mr Wong was unable to use his slides, I paid extra attention to Mr Wong’s presentation. I would have taken notes but I forgot to bring a notepad that day. Mr Wong also took me through some practical exercises.

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10. The presentation and tutorial was rather brief. At the time I believed that there must not have been much for me to learn since the Course was for tandem skydiving, and the instructor would be the one to do all the work during the Jump.
 11. After the presentation was concluded, Mr Wong gave me a pamphlet to sign. He told me that the centre had run out of English copies, but he said that the information in the pamphlet was the same as what he had explained to me during the Tutorial.
 12. I had no reason not to trust Mr Wong, so I signed the pamphlet. Mr Wong took a photocopy of the pamphlet and gave me the original to take home. Since the pamphlet was in Chinese and I could not understand it, I decided to throw it away on the way home.

The Jump

13. On 12 January 2015, I met Alexandra and we went to AWL's centre together for the Jump.
14. On the way to the centre, I told Alexandra what happened at the Tutorial. Alexandra told me Mr Wong had conducted her tutorial too. Alexandra, who is a Chinese native speaker, said that it was unfortunate I had not seen the slides because there was a lot of information on them that Mr Wong had not told her verbally. He mainly showed her the slides and relied on them to explain what was going on.
15. Alexandra's comments started to worry me. Nevertheless, I expected that Mr Wong would take care of the Jump, so even if I had missed out on some instructions, I was not too concerned.
16. At the centre, Alexandra was assigned one instructor, Ms Edith Siu, whilst Mr Wong was assigned to me.
17. We went up in the aeroplane and then did the Jump.
18. The Jump started smoothly and, as expected, I did not have anything to do except enjoy the scenery.
19. As we approached the ground, I suddenly realised that I did not know how to land. I expected that since I was in front, my feet would hit the ground first, so I tried to get myself ready for the landing.
20. Unfortunately, since I had no idea how to land properly, my feet hit the ground at an awkward angle and I broke my legs.

The Defendants' Negligence

21. I now understand that, when we were supposed to land, I should have kept my legs up so that Mr Wong would take care of the landing and not me.
22. At no point in time during the Tutorial or the Jump had Mr Wong told me that I was supposed to keep my legs up when landing.
23. When I discussed the accident with Alexandra, she also told me that Mr Wong never told her to land properly, and she only knew that she had to keep her legs up from the slides and pamphlet.
24. I believe that Mr Wong was negligent in failing to tell me to keep my legs up. AWL was also vicariously liable for Mr Wong's negligence.

[Please assume that the statement has been dated and signed with a statement of truth.]

Witness Statement of Alexandra Chow

I, ALEXANDRA CHOW, of [Hong Kong address] say as follows:

1. I am 33 years of age and employed as an accountant.
2. Unless otherwise stated, all the facts and matters contained in this witness statement are within my personal knowledge and are true. Where they are not within my personal knowledge, they are based on the sources identified and are true to the best of my information and belief.

Introduction

3. I make this witness statement in support of the Plaintiff's ("**Adam**") claim against the 1st Defendant Mr George Wong ("**Mr Wong**") and the 2nd Defendant Adventure World Limited ("**AWL**").

The Skydiving Course and Tutorial

4. On 5 January 2015, Adam and I signed up for a tandem skydiving trip (the "**Course**") with AWL. I had learned about AWL and its course after searching online. There were not many reviews for AWL, but its course was the cheapest amongst the ones I could find.
5. Since Adam and I had recently turned 30, we thought that the Course would be a fun thing to do. I had always believed that tandem skydiving is supposed to be safe and does not require any skill on the part of the students since the instructor would take care of everything during the jump.
6. The instructor at the AWL centre who signed us up informed us that the Course consisted of 2 parts. The first part was a tutorial (the "**Tutorial**") held indoors where the necessary techniques would be verbally explained to the students and some practical exercises would be performed. The second part was the actual skydiving jump (the "**Jump**").
7. Adam and I registered to do the Jump on 12 January 2015. I attended the Tutorial on 8 January 2015, whilst Adam went on 10 January 2015.
8. During the Tutorial, I was the only student in attendance. The Tutorial was conducted by Mr Wong in Chinese.
9. My impression of Mr Wong was that he was very lazy and unprofessional. He relied mainly on Chinese slides to make his presentation and told me to read the slides for myself, without explaining them to me. Fortunately the slides were quite detailed so I was able to understand what to do.

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10. I remember that Mr Wong had never told me to keep my legs up before landing. In fact, at the end of the Tutorial, Mr Wong jokingly told me that I did not have to do anything and could just rely on him, so the Tutorial was a waste of time.
 11. At the end of the Tutorial, Mr Wong gave me a Chinese pamphlet to sign. The pamphlet reproduced the key points contained on the slides. I signed the pamphlet and Mr Wong made a photocopy of it. He gave me the original which I took home.

The Jump

12. On 12 January 2015, I met Adam and we travelled to AWL's centre for the Jump.
13. On the way, Adam told me that Mr Wong conducted the presentation in English without using any slides. I was surprised, and told Adam that the slides contained most of the important information about the Jump.
14. When we got to the centre, I was assigned one instructor Ms Edith Siu whilst Mr Wong was assigned to Adam. I remember that, at the time, I felt quite relieved that I was not assigned Mr Wong because I was not too comfortable with Mr Wong's low degree of professionalism. In hindsight I regret not warning Adam.
15. We went up in the aeroplane and then did the Jump.
16. The Jump went smoothly. I remember that before we landed, my instructor Ms Siu reminded me to pull my legs up.
17. After I landed, I saw Adam landing. He did not keep his legs up, and when he landed I heard him shout out in pain. I knew at once that Mr Wong had failed to tell Adam to keep his legs up.

[Please assume that the statement has been dated and signed with a statement of truth.]

Witness Statement of George Wong

I, GEORGE WONG, of [Hong Kong address], say as follows:

1. I am the 1st Defendant. I am 50 years of age and a professional skydiving instructor.
2. Unless otherwise stated, all the facts and matters contained in this witness statement are within my personal knowledge and are true. Where they are not within my personal knowledge, they are based on the sources identified and are true to the best of my information and belief.

Introduction

3. This is my witness statement in defence to the Plaintiff Mr Adam Smith's ("**Mr Smith**") claim against me and the 2nd Defendant Adventure World Limited ("**AWL**").

The Skydiving Course and Tutorial

4. I am a professional skydiving instructor with 20 years of experience. I have been teaching at AWL for the past 5 years.
5. It has always been part of my standard practice to inform students who have enrolled in a tandem skydiving course (the "**Course**") that they should keep their legs up before landing so they do not injure themselves.
6. For the tutorial portion of the Course, AWL provides us with slides for us to use when giving instructions to the students. The slideshow presentation is in Chinese only because we have very few non-Chinese speaking students.
7. AWL also has pamphlets for us to give to students for them to sign. The purpose of these pamphlets is partly so that the students have the necessary information on a piece of paper that they can take home with them, and partly to serve as written proof that the students have been duly instructed.
8. In January 2015 I gave a number of tutorials a week so would normally not specifically recall tutorials I gave to students. However, I recall specifically the tutorial I gave Ms Alexandra Chow ("**Ms Chow**") and the one I gave Mr Smith two days later.
9. The tutorials I gave Ms Chow and Mr Smith were memorable because they were very poorly behaved. I remember that Ms Chow and Mr Smith spent most of the tutorial playing with their mobile phones and taking selfie pictures, without focussing on the tutorial or what I was saying to them.
10. Ms Chow and Mr Smith also had a bad attitude. They both commented on the fact that they were the only students in attendance, and said that AWL must have been having poor business.

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11. I also remember that Mr Smith could not understand Chinese, so I made the presentation without the slides. I told him what he needed to do in English. During the tutorial I also jogged my memory by referring to a copy of the pamphlet to make sure I covered everything.
 12. I definitely informed both Ms Chow and Mr Smith that they needed to keep their legs up before they landed, as I always did.
 13. At the end of the tutorial, I asked both Ms Chow and Mr Smith to sign a copy of the pamphlet. We had run out of English pamphlets so I gave a Chinese one to Mr Smith to sign. I remember making sure that I translated all the points that were written on the pamphlet to Mr Smith, so that he could not be in any doubt about what he had signed.

Mr Smith's Accident on 12 January 2015

14. On 12 January 2015, Ms Chow and Mr Smith came to AWL's centre for their jump.
15. Ms Edith Siu accompanied Ms Chow whilst I accompanied Mr Smith.
16. I remember that when we were about to land, Mr Smith took out his mobile phone from a pocket in his pants and attempted to take a selfie picture. I tried to tell Mr Smith to put back his phone, and also reminded him to keep his legs up. Unfortunately, Mr Smith did not pay any attention to me and refused to put back his phone.
17. Mr Smith failed to keep his feet up and he broke his legs when we landed.

I Was Not Negligent

18. For the reasons I have explained, I was not negligent. I had repeatedly told Mr Smith that he had to keep his legs up when landing.
19. I believe that Mr Smith failed to heed my instructions because he was too busy playing with his mobile phone and became distracted. He must have also forgotten when I told him during the tutorial because he was not paying attention.

[Please assume that the statement has been dated and signed with a statement of truth.]

Witness Statement of Edith Siu

I, EDITH SIU, of [Hong Kong address], say as follows:

1. I am the owner and operator of the 2nd Defendant Adventure World Limited (“**AWL**”). I am 45 years of age.
2. Unless otherwise stated, all the facts and matters contained in this witness statement are within my personal knowledge and are true. Where they are not within my personal knowledge, they are based on the sources identified and are true to the best of my information and belief.

Introduction

3. This is my witness statement in support of AWL’s defence to the Plaintiff Mr Adam Smith’s (“**Mr Smith**”) claim against Mr George Wong (“**Mr Wong**”) and AWL.

AWL’s Skydiving Course and its Internal Practices

4. AWL has been in business for over 5 years. I run the business with the assistance of 3 other instructors, including Mr Wong. I hired Mr Wong around 5 years ago when we first started the business.
5. AWL operates a tandem skydiving course (the “**Course**”), and both Mr Wong and I are certified skydiving instructors.
6. For the purpose of standardizing the instructions given to students taking the Course, AWL has an internal practice manual which we keep at the centre for instructors to review.
7. The internal practice manual specifically tells instructors that:
 - (1) During the tutorial, the instructors must inform their students that they should keep their legs up before landing so that the students do not injure their legs.
 - (2) During the jump, the instructors must remind their students before landing that they should keep their legs up.
8. AWL gives instructors slides to use when giving the tutorial. I made the slides myself. It is in Chinese only because we have very few non-Chinese speaking students.
9. We also have a pamphlet in both English and Chinese to give to our students. The pamphlet serves as a convenient reference sheet that students can take home, so they can remind themselves of what they learned during the tutorial. It also helps us keep a written record to prove that the student was provided with proper instruction.

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10. I have gone through AWL's records and we do indeed have a photocopy of pamphlets signed by Mr Smith and Ms Chow.
 11. For these reasons, I am sure that Mr Wong must have informed Ms Chow and Mr Smith to keep their legs up before landing.

Mr Smith's Accident on 12 January 2015

12. On 12 January 2015, Ms Alexandra Chow and Mr Smith came to AWL's centre for their jumps.
13. I accompanied Ms Chow and Mr Wong accompanied Mr Smith.
14. My jump with Ms Chow went smoothly. As we were coming down to land, Ms Chow knew that she needed to keep her legs up before I even told her. Nevertheless, I followed AWL's standard practice and I still reminded her to keep her legs up.
15. After we landed, we saw Mr Smith and Mr Wong landing after us. I noticed that Mr Smith did not keep his legs up. I realised that he must have been distracted and forgotten to do so. When they landed, I heard Mr Smith shout out in pain.
16. This was the first time that an accident occurred on a jump with Mr Wong. I believe this shows that Mr Wong had a standard practice of informing his students to keep their legs up when landing. If he did not, then surely an accident would have happened earlier.
17. After the accident, I recall talking with Mr Wong. Mr Wong complained that Mr Smith failed to land properly because he was too busy playing with his mobile phone and was trying to take a selfie picture when landing. This must have been the reason why Mr Smith suffered the accident.

[Please assume that the statement has been dated and signed with a statement of truth.]