

APIL DAMAGES SPECIAL INTEREST GROUP

TUESDAY 23 OCTOBER 2012

Presentation and content of Claimant schedules

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1 CROWN OFFICE ROW

- 1. Layout – narrative/schedules/appendices**
- 2. General damages**
- 3. Past losses**
- 4. Discount rate**
- 5. Care claims**
- 6. Accommodation options**
- 7. Loss of earnings**
- 8. Education**

THE HIGH COURT OF JUSTICE QUEEN'S BENCH DIVISION	CLAIM NO
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B E T W E E N:

JOHN ARCHER
(A protected party acting by his mother
and Litigation Friend Ms PATRICIA ARCHER)

Claimant

and

BORCHESTER DISTRICT HOSPITAL NHS FOUNDATION TRUST

Defendant

SCHEDULE OF LOSS & DAMAGE

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1. The Introduction

- 1.1 The Claimant was born on 28 August 1992 with very severe brain damage due to the negligent mismanagement of his mother's labour and his delivery.
- 1.2 The Claimant has suffered from birth from very severe disabilities in the form of quadriplegic, athetoid cerebral palsy. He has complete insight into his condition due to largely retained cognitive function. However he has severe vulnerability and delayed social development and immaturity. The combination of brain damage, social immaturity and vulnerability to exploitation mean that the Claimant does not have capacity for the purposes of CPR 21.1 and the *Mental Capacity Act 2005* in respect of management of the final stages of the litigation or management of the funds he will recover in this litigation.. It is the opinion of Dr Ruth Kent, consultant in neuro-rehabilitation that by the age of 28 years the Claimant is likely on the balance of probabilities to have the capacity to manage his financial affairs. The Claimant's physical disabilities are very severe. He has a very serious communication disorder. He is essentially wheelchair dependent. He has a long life expectation.
- 1.3 It is alleged that the Claimant's injuries were caused by the mismanagement of his mother's labour and his delivery in the midwifery unit at Borchester District Hospital. The care of the Claimant's mother was under the management of a general practitioner, Dr. Smith.
- 1.4 It is alleged that the Claimant's suffered severe injury caused by a period of acute fetal hypoxic ischaemia during the delivery performed by Dr. Smith at 14.45 hours on 29 August 1992 and continuing until his resuscitation after birth. This period of acute fetal hypoxic ischaemia was sustained by the Claimant due to the negligent mismanagement of his mother's labour and the negligent delay in his delivery.

- 1.5 Judgment was entered against the Defendant on 3 October 2011 on the basis that the Defendant will be liable for 97.5% of the Claimant's damages when assessed on a 100% basis. There was an issue between the parties as to whether all of the Claimant's injury would have been avoided with competent care. A reduction of 2.5% of full damages was agreed on this basis.
- 1.6 This schedule values the damages and losses consequent upon the brain damage suffered by the Claimant at around the time of his birth. The schedule is calculated to and from 28 April 2012 when the Claimant will be 19 years and 8 months of age.
- 1.7 The key dates arising in the proceedings and in the Claimant's care are as follows:

Date	Event
03.07.64	The date of birth of the Claimant's mother
28.08.92	The Claimant's date of birth
10.08.10	Issue of proceedings
12.08.10	Service of proceedings
07.10.10	Service of the Defence
17.12.10	Exchange of liability factual statements
00.05.11	Exchange of liability expert evidence
03.10.11	Judgment entered
00.11.11	Date of this schedule
28.04.11	Date to and from which this schedule is calculated

- 1.8 The multipliers adopted below assume a discount rate of 2.5%. The Claimant reserves the right to contend at the assessment hearing for a discount rate which is lower than the discount rate of 2.5%, which cannot currently be earned on Index Linked Government Stock, whether or not the discount rate has been altered by the Lord Chancellor by the date of the hearing.

2. The Claimant & His Family

2.1 The Claimant was born on 28 August 1992.

2.2 At the date of the Claimant's birth his mother, Ms. Patricia Archer, who was born on 3 July 1964, was aged 27. The Claimant is the only child of Mr and Mrs Archer. He has lived with his parents since birth and continues to date to do so when not at university. He is likely in the foreseeable future to seek to purchase his own home but will wish to continue to spend significant periods of time at the family home. In circumstances where the assessment of the experts instructed in this case is that the Claimant is socially immature and is likely to lack capacity until the age of 28 years it is reasonable that he should expect to spend significant periods of time in the family home whilst at the same time building his confidence and independence from his family through living on his own with a care team.

2.3 The damage to the Claimant's brain has resulted in considerable disabilities. These include a severe communication disability, and very significant motor difficulties. He is essentially wheelchair dependent. He will always need assistance at all times. He will not be capable of independent living and will always require 24 hour care to meet his high level of physical needs.

2.4 The family home is at Bridge Farm, Ambridge, Borchester. This is a three-bedroom property on two floors. The Claimant's parents have carried out such adaptations as they were able to afford or could obtain a grant for to allow the Claimant to live there. The adaptations included a stair ramp and a Clos-o-Mat toilet. The property is unsuitable for the Claimant's long-term needs even if he is only spending a few weeks at a time at his parents home in the future. He will need his own adapted accommodation when he leaves university where he can live with support workers.

- 2.5 The Claimant attended mainstream school from primary school onwards. At first the Claimant attended Loxley Barratt School where he took his GCSE examinations, and then the Borchester Grammar School where he undertook A-level courses. Despite his disabilities, the Claimant's determination and retained intelligence have resulted in him achieving good educational qualifications. He achieved 10 GCSEs at grades A-C, and a credit in OCR level 1 Certificate in Enterprise. Following his GCSEs, the Claimant achieved A-levels at grade A in both psychology and Business Studies, and grade C in ICT.
- 2.6 The Claimant is now a student at the University of the West of England in Bristol studying Enterprise, an undergraduate course which he hopes will result in his achieving a BA honours degree. At the end of his first year, the Claimant was assessed as having achieved at an extremely high level, averaging over 80% in all six modules. The Claimant's future earnings potential has however been significantly prejudiced by his communication difficulty, physical disabilities and the high levels of fatigue he experiences.
- 2.7 Prior to the Claimant's birth the Claimant's mother worked as a clerical officer for the Inland Revenue and as a Personal Taxation Assistant with various firms of accountants. Since the Claimant's birth the Claimant's mother has been unable to work. She has devoted her time to caring for the Claimant and providing for his very high level of physical needs with very little assistance.
- 2.8 The Claimant's father is a Higher Executive Officer with the Civil Service in the Ministry of Defence. He was previously an aircraft technician and a Chief Petty Officer in the Fleet Air Arm.

3. The Claimant's Injury, Condition, Prognosis & Life Expectancy

3.1 As a result of the events surrounding his birth the Claimant suffered a very severe injury to his brain.

3.2 Dr Kent describes the Claimant's condition as follows:

"John suffered a severe brain injury as a result of birth asphyxia. This resulted in an ischaemic encephalopathy with dyskinetic (athetoid type) cerebral palsy, and bilateral upper motor neurone tract damage resulting in bilateral hemiplegias."

3.3 Dr Kent describes the overall consequences of the Claimant's brain injury as follows:

"He has profound physical problems and this has a marked impact on his activities of daily living, essentially requiring somebody with him at all time in order to facilitate his physical needs. He is likely to need two sorts of personal assistant, a professional PA to assist him in work based tasks, note taking, communication, driving, who is intelligent enough to act as his "secretary" and subsequently he requires a personal assistant who can take care of his care needs and therapy needs eg stretches ..."

and

"The present system of having a PA who stays with him during leisure hours and then a separate PA who works with him during working hours is absolutely ideal."

3.4 Dr Kent confirms that the Claimant is socially vulnerable and at risk of exploitation. Dr Kent states in a letter written in November 2011:

“Although John has a level of cognitive ability within the normal range, as a result of his cerebral palsy he does have a degree of social and psychological immaturity which leads me to believe that he does not yet have full capacity in manage(ing) either his finances or the litigation. I do however believe that with the right degree of case management support, psychological support and indeed a degree of emotional and psychological maturity, it can be anticipated between the ages of 25 and 30 (on the balance of probabilities around the age of 28) he will have reached an ability to manage his own financial and social affairs.”

3.5 Further, he will have a very significantly reduced earning capacity because of his communication difficulty, physical disabilities and fatigue. The Claimant has communication difficulties. His speech is comprehensible to those who know him very well, but he has problems communicating with others. He will need assistance both with speech and language therapy and with communication aids.

3.6 Dr Kent has calculated that the Claimant has a somewhat reduced life expectation and is likely to live to approximately 65 years, that is a further 46 years. For a man aged 19 years normal life expectation would be a further 68.2 years, that is to the age of 87.2 years.

4. **The Form of Award**

4.1 The position of those representing the Claimant is currently that in principle:

- (a) that a periodical payments order in relation to his care and case management would, with suitable indexation, be the appropriate order; and
- (b) that for all other items of future loss a capital lump sum would be the most appropriate form of award, subject to suitable provision to await the

outcome of the Lord Chancellor's review and any Judicial Review proceedings in respect of the discount rate.

4.2 The appropriate indexation to be applied in the periodical payments order should be the relevant centile of ASHE SOC 6115 closest to the weighted average hourly care rate agreed by the parties or ordered by the Court.

5. **The Quantum Background Facts & Matters**

5.1 **The Claimant's Age & Life Expectancy**

Period	Years
Age in April 2012	19.66 years
Life expectancy – to age	65 years
Life expectancy – further years	45.33 years

5.2 **The Periods of Loss**

Period	Years
Service to April 2012	1.66 years
Cause of action to April 2012	19.66 years
April 2012 to life expectancy	45.33 years

5.3 **The Multipliers**

Working & Whole Life	Multiplier
Injured Working Live	
Uninjured Working Life	$26.97 \times 0.89 = 24$
Whole Life	27.28

Replacement	Multiplier
Two yearly	13.09
Three yearly	8.72
Four yearly	6.38
Five yearly	5.10
Six yearly	4.04
Seven yearly	3.42
Eight yearly	2.87
Ten yearly	2.24
Twelve yearly	1.71
Fifteen yearly	1.5
Twenty yearly	0.98

5.4 The Interest Rates

Item of Loss	Rate
General Damages	3.33 %
Past Losses	119.13 or 59.56%

6. The Claim for General Damages for Pain, Suffering & Loss of Amenity

- 6.1 The tenth edition of the Judicial Studies Board's *Guidelines for the Assessment of General Damages in Personal Injury Cases* re-valued general damages awards to June 2010. The Claimant reserves the right to adjust the recommendation of contained within the *Guidelines* in line with the increase in the Retail Prices Index between 2010 and the date of the assessment of damages hearing. The Court of

Appeal in the case of *Simmons v Castle*¹ have indicated that awards of general damages made after April 2013 should be increased by 10% from the current level.

- 6.2 The relevant bracket in the Judicial Studies Board's *Guidelines for the Assessment of General Damages in Personal Injury Cases* (tenth edition) is that for very severe brain damage:

"In cases at the top of this bracket the injured person will have a degree of insight. There may be ability to follow basic commands, recovery of eye opening and return of sleep and waking patterns and postural reflex movement. There will be little, if any, evidence of meaningful response to environment, little or no language function, double incontinence and the need for full-time nursing care."

The bracket, assessed in June 2010, is for an award of between £185,000 and £265,000.

- 6.3 The level of the award within the bracket will be affected by:

- (a) the degree of insight;
- (b) life expectancy;
- (c) the extent of physical limitations;
- (d) the degree of dependence on others;
- (e) ability to communicate;
- (f) behavioural abnormality; and
- (g) epilepsy or a significant risk of epilepsy.

The Claimant has complete insight into his condition. He has a very severe communication disorder. He is essentially wheelchair dependent. He is in reality

¹ [2012] EWCA civ 1039

entirely reliant on others. He has a very long life expectation. He will suffer the effects of his injury for an estimated 65 years.

6.4 In these circumstances the appropriate award is:

Item	Amount
Award	£210,000
Interest	£6,999
Total	£216,999

7. The Claim for Past Losses

7.1 Past Family Care & Losses

7.1.1 On account of his disabilities, the Claimant has required and continues to require a very high level of care and assistance from his family. This is significantly in excess of what would normally have been required of a child of the Claimant's age at every stage in his childhood.

7.1.2 The Claimant relies on the report of Ms. Maggie Sargent who has assessed the past additional care provided by the family as follows:

From	To	Hrs/pw	Rate	Total
01.11.92	31.01.93	21	£5.01	£1,382.76
01.02.93	30.06.93	28	£5.01	£3,006.00
01.07.93	31.12.93	28	£5.01	£3,841.92
01.01.94	31.08.94	35	£5.22	£1,268.46
01.09.94	31.05.95	35	£5.82	£7,944.30
01.06.95	31.08.95	35	£5.98	£2,750.80
01.09.95	31.03.96	Term-time 32 Holidays 42	£5.98	£6,159.40
01.04.96	31.08.96	Term-time 32 Holidays 42	£6.15	£4,821.60
01.09.96	31.03.97	Term-time 34 Holidays 49	£6.15	£6,918.75
01.04.97	31.03.98	Term-time 34 Holidays 49	£6.35	£12,655.55
01.04.98	31.08.98	Term-time 34 Holidays 49	£6.53	£5,688.04
01.09.98	31.03.99	Term-time 36 Holidays 56	£6.53	£7,966.60
01.04.99	31.03.00	Term-time 36 Holidays 56	£6.72	£14,595.84
01.04.00	31.03.01	Term-time 36 Holidays 56	£6.93	£15,051.96
01.04.01	31.03.02	Term-time 36 Holidays 56	£7.19	£15,616.68
01.04.02	30.09.02	Term-time 36 Holidays 56	£7.41	£8,121.36
01.10.02	31.03.03	Term-time 36 Holidays 56	£7.49	£8,059.24

01.04.03	31.08.03	Term-time 36 Holidays 56	£7.73	£7,358.96
01.09.03	31.03.04	Term-time 50 Holidays 70	£7.73	£12,677.20
01.04.04	31.03.05	Term-time 50 Holidays 70	£7.94	£23,026.00
01.04.05	31.03.06	Term-time 50 Holidays 70	£8.18	£23,722.00
01.04.06	31.03.07	Term-time 50 Holidays 70	£8.43	£24,447.00
01.04.07	31.03.08	Term-time 50 Holidays 70	£8.64	£25,056.00
01.04.08	31.03.09	Term-time 50 Holidays 70	£8.85	£25,665.00
01.04.09	31.03.10	Term-time 50 Holidays 70	£8.98	£26,042.00
01.04.10	31.08.10	Term-time 50 Holidays 70	£9.24	£11,642.40
01.09.10	28.04.12	Term-time 70 Holidays 30	£9.24	£20,706.84
Total				£326,192

No reduction is made from the total given that the Claimant's mother and father have provided a very high and devoted level of care, including care during the night, virtually alone over a period of more than 19 years.

7.2 Past Aids & Equipment, Travel & Other Expenses

Item	Claim
Household/clothing/bed linen/general wear & tear from age 4 - £275 per annum	£4,125
Additional heating costs @ 500 p.a. from 4 years of age	£7,500
Additional cost of rugs @ £60 p.a. from 4 years	£900
Extra washing machine wear and tear @ £25 p.a. from age 4	£375
Extra wear and tear on tumble dryer @ £25 p.a. from age 4	£375
More frequent washing and drying costs @ £27 p.a. from age 4	£405
Additional clothing and bed linen @ £150 p.a. from age 4	£2,250
Extra pre-recorded videos & story tapes @ £20 p.a. from 2 to 8	£120
Travelling expenses to hospital & clinics: 2925 miles @ 17p a mile	£500
Additional cost of wet-wipes @ £20 p.a. from age 4	£300
Additional wear and tear on furnishings & fabric @ £250 p.a. from 4	£3,750
Miscellaneous & £50 p.a. from 4 years	£900
Cost of Vehicle (Motability Rental Deposit)	£12,723
Additional cost of running & insuring larger vehicle @ £500 p.a. for the past 5 years	£2,500
Contribution to the cost of the Claimant's NHS powered wheelchair	£2,768
Contribution to the cost of the Claimant's NHS Manual wheelchair	£724
Travel time and costs:	
(a) 1992-2001 a total of 1,418 miles x 25p per mile	£355
(b) 2002-2011 (71 appointments) a total of 2618 miles at 25p per mile	£655
Roller Plus Switch Box, Joystick with 2 switches inc. postage & packing	£812
Lever Switch	£50
Service Contract (Clos -O-Mat Automatic W.C) @£125 p.a.	£500
Removal of Clos-o-Mat and fitting of conventional WC, delivery and installation of Clos-o-Mat at new property	£890

Hewlett Packard desk top	£900
Orion TUC Cobra	£40
Microsoft Windows	£60
Stair life Maintenance @ £234.97 p.a. x 3	£940
Stairlift Servicing costs	£595
Total	£46,012

7.3 Interest

7.3.1 The Claimant claims interest from 28 August 1992 to 28 April 2012 at half of the full special account rate of 119.12% of which the half rate is 59.56%. Credit will be given for any interim payments received.

7.3.2 The calculation is as follows:

Loss	Claim
Family Care	£326,192
Aids & Equipment etc	£46,012
Sub - Total	£372,204
Interest @ 59.56%	£221,685
Total	£593,889

8. Future Losses

8.1 Future Care & Case Management

The Claimant relies upon the recommendations of Ms. Maggie Sargent, nursing care expert. The Claimant is entirely dependent upon others to help him meet his daily needs. He requires 24-hour supervision. This will remain the case for the entirety of his life. Further, the Claimant requires night care. The Claimant's needs have been assessed by Ms. Maggie Sargent as follows:

Item	Calculation	Cost
28 hrs/ day daycare	£13 ph weekdays £15 ph weekends $28 \times 5 \times £13 = £1,820$ $28 \times 2 \times £15 = £840$ £2,660 pw x 60 weeks	£159,600
Sleep-in night care	£78 pn weekdays £90 pn weekends $£78 \times 5 \times 60 = £23,400$ $£90 \times 2 \times 60 = £10,800$	£34,200
Team leader supplement	40 hrs a week @ £5 per hour x 52 weeks	£10,400
ERNIC at 13.8% for a team of 8	£204,200 – (10 x £7072) £70,720 = £133,480 x 13.8%	£18,420
Carer expenses	£80 pw for 52 weeks	£4,160
Recruit/advertise	£1,800	£1,800
Insurance	£135	£135
Training	£1,000	£1,000
Payroll	£800	£800
Case management after year 1	140 hrs at £95/hr + travel	£14,300
Annual Total		£244,815
Sub- Total	27.28	£6,678,560
Additional 1 st year case management		£4,100
Total care and case management		£6,682,660

8.2 Future Accommodation

8.2.1 The Claimant relies upon the report of Mr. Michael Valentine, expert architect.

8.2.2 The Claimant will live independently with carers once he leaves university, and absent injury would have lived independently of his family in all probability with a partner.

8.2.3 The cost of the accommodation which the Claimant will seek to purchase is the mid-point of the bracket of £649,995-£949,995 given by Mr. Valentine, that is £799,995. The Claimant is likely to purchase a home in London where he is unlikely to find a bungalow and the cost of a lift is included. Mr. Valentine suggests that uninjured the Claimant would have purchased a home at a cost in the region of £180,000. It is assumed this would have been shared with a partner. A deduction is therefore made on the basis of the Claimant being responsible for £90,000 of the cost of purchase of his uninjured home.

8.2.4 The current family home in which the Claimant stays during university holidays, and will continue to stay during family holidays and for Christmas and other family occasions is unsuitable for his needs. It needs to be adapted to allow the Claimant to spend time with his family without being reliant on them for personal care and assistance. The cost of adaptations to the family home has been assessed by Mr Valentine as £172,375.

8.2.5 The claim is as follows:

Item	Multiplier	M/cand	Total
Claimant's Home			
Purchase ²	27.28	£17,749	£484,217
Adaption including a lift	-		£81,993
Relocation	-		£46,880
Plus loss of value			£5,000
Total			£618,090
Parental Home			
Adapt			£172,375
Total			£172,375
Additional Costs			
Heating	27.28	£1,265	
Electricity (Claimant)	27.28	£318	
Electricity (carers)	27.28	£171	
Water (Claimant)		£140	
Water (carers)		£101	
Water waste (Claimant)	27.28	£133	
Water waste (carers)	27.28	£95	
Maintenance	27.28	£1,878	
Insurance	27.28	£297	
Council Tax	27.28	£1,262	
Sub-total		£5,660	
Total			£154,405
Total			£944,870

² £799,995 - £90,000 = £709,995 x 2.5%.

The equipment set out in the report of Mr. Valentine is included in the equipment claim below.

8.3 Future Aids & Equipment

8.3.1 The Claimant relies upon the report of Ms. Patricia Kennedy, expert occupational therapist and the report of Mr Valentine.

8.3.2 The costs of the items of equipment are set out in the following table. The multiplier is calculated by reference to the replacement interval multipliers to which an additional multiplier point has been added to cater for the initial capital cost.

8.3.3 The costings are as follows:

Item	M/cand	Replace	M/er	Total
Invacare Dragon w/chair	£15,000	6 years	5.04	£75,600
W/chair running costs /maintenance	£550	Annual	27.28	£15,004
W/chair insurance	£104	Annual	27.28	£2,837
Quickie RXS	£2,160	6 years	5.04	£10,922
W/chair maintenance	£140	Annual	27.28	£3,819
W/chair insurance	£25	Annual	27.28	£682
Riser recliner chair	£1,600	10 years	3.24	£5,184
Clos-o-mat toilet	£5,173	10 years	3.24	£16,761
Closs-o-mat maintenance	£168	Annual	27.28	£4,583
Combi tilt in space showerchair	£1200	10 years	3.24	£3,888
Parker bath	£10,802	10 years	3.24	£34,998
Bath service agreement	£157	Annual	27.28	£4,283

Adjustable height basin	£3489	10 years	3.24	£11,304
Hand basin maintenance	£195	Annual	27.28	£5,320
Apres shower body drier	£505	10 years	3.24	£1,636
Arjo maxi hoist	£4,789	10 years	3.24	£15,516
Hoist maintenance	£305	Annual	27.28	£8,320
Slings for track hoist	£302			£302
Replacement slings	£31	Annual	27.28	£846
Stow away mobile hoist	£1,849	10 years	3.24	£5,991
Carer recreational activity	£2,400	Annual	27.28	£65,472
Theraposture Rotoflex bed	£7,500	8 years	3.87	£29,025
Bed warranty/service	£750	Annual	27.28	£20,460
Clothing/bed linen	£210	Annual	27.28	£5,729
Additional laundry	£77	Annual	27.28	£2,101
Floor coverings, etc.	£275	Annual	27.28	£7,502
Miscellaneous	£60	Annual	27.28	£1,637
Shower tray & screen	£1,544	12 years	2.71	£4,184
Through-floor lift	£10,780	10 years	3.24	£34,927
Lift maintenance	£445	Annual	27.28	£12,140
Total				£410,973

8.4 Future Transport & Travel

8.4.1 The Claimant relies upon the report of Ms. Kennedy.

8.4.2 The costings are as follows:

Vehicle	Capital	Replace	Multiplier	Total
Purchase	£31,650	-	-	£31,650
Depreciation	£6,000	Yearly	27.28	£163,680
Insurance	£2,508	Yearly	27.28	£68,418
Running costs	£4,890	Yearly	27.28	£133,399
Total				£397,147

8.5 Future Medical Care & Therapies

8.5.1 The Claimant requires the following therapeutic input:

Therapy	Expert
Occupational therapy	Ms. Patricia Kennedy
Physiotherapy	Ms. Susan Edwards (joint instruction)
Speech & Language therapy	Ms. Gillian Rumble
Counselling	Mr. Albert Reid
Medical expenses	Dr. Ruth Kent

8.5.2 The Claimant's occupational therapy requirements assessed by Ms. Patricia Kennedy are as follows:

Item	Multiplicand	Multiplier	Total
OT first three years	£1,600	2.89	£4,624
Travel first three years	£1,000	2.89	£2,890
One-off on moving house	£3,150		£3,150
Annual costs thereafter	£930	24.39	£22,683
Total			£33,347

8.5.3 The Claimant's physiotherapy requirements assessed by Ms. Susan Edwards in a report on a joint instruction basis are as follows:

Item	M/cand	M/er	Total
Initial assessment	£1200		£1200
Assessment to age 40	£1600	16.39	£26,224
Assessment from age 40	£2,600	10.89	£28,314
Allowance after botox	£1,600	27.28	£43,648

Arjo transferring aid	£850	2.39	£2,031
Treatment plinth	£955	2.5	£2,388
Piedro boots	£110	27.28	£3,001
Wedge	£120	9.72	£1,166
Total			£107,972

8.5.4 The Claimant's speech and language therapy requirements have been assessed by Ms Gillian Rumble as follows:

Item	M/cand	Replace	M/er	Total
Tobii C12	£11,330	5 years	6.1	£69,113
C-eyegaze	£6,025	5 years	6.1	£36,752
Initial SLT support	£2,160			£2,160
SLT replacement of E-gaze	£960	5 years	5.1	£4,896
Contingency	£2,400			£2,400
Total				£115,321

8.5.5 The Claimant's counselling costs have been assessed by Mr. Albert Reid:

Item	M/cand	M/er	Total
Counselling sessions available flexibly at a cost of £150-2000 and a total of 40	£175	40	£7,000
Total			£7,000

8.5.6 **Medical Expenses**

Item	M/cand	M/er	Total
Annual botulinum treatment	£2,400	27.28	£
Annual vision test		27.28	£

Annual ultrasound bladder scan		27.28	£
Annual blood tests		27.28	£
Annual orthopaedic review		27.28	£
Total			£TBA

8.5.7 The total therapy costs

Therapy	Total
Occupational therapy	£33,347
Physiotherapy	£107,972
Speech & Language therapy	£115,321
Counselling	£7,000
Medical expenses	TBA
Total	£263,640 + TBA

8.6 Future Deputyship & Court of Protection

8.6.1 The Claimant relies upon the evidence of in support of the fact that due to his brain injury he has a social vulnerability and communication problems such that he should be assessed as a protected beneficiary from the date of trial or settlement until the age of 25 years by which time he is likely to have Capacity to manage his financial affairs without a deputy.

8.6.2 *Application to Appoint Professional Deputy*

Application Fee	£ 400.00
Professional Costs for Appointment of Deputy	£ 2750.00
VAT	£ 550.00
Appointment of Deputy Fee	£ 100.00
Medical Report Fee (estimated)	£ 150.00
Assessment Fee	£ 220.00
Costs Draftsman's Fees (at 6%)	£ 165.00

VAT	£ 33.00
Total	£ 4368.00

8.6.3 *Costs of Further Applications to Court*
(Allow for 2)

Estimated Management Costs	£ 5000.00
VAT	£ 1000.00
Assessment Fee(x2)	£ 440.00
Application Fee (x2)	£ 800.00
Medical Report (x2)	£ 300.00
Plus Costs Draftmans fees @ 6%	£ 300.00
VAT (x2)	£ 60.00
Total	£ 7900.00

8.6.4 *General Management Costs In First Year Following Award*

Estimated Management Costs	£ 9000.00
VAT	£ 1800.00
Cost Draftsman's Fee (at 6%)	£ 540.00
VAT	£ 108.00
Assessment Fee	£ 220.00
Annual Supervision Fee (say Type 2A)	£ 350.00
Master Bond Premium (E)	£ 400.00
Annual Account to OPG	£ 235.00
VAT	£ 47.00
Preparing annual Tax return	£ 235.00
VAT	£ 47.00
Total	£12982.00

8.6.5 *Annual Management Costs In Second And Subsequent Years*
To age 25

Annual Management Costs	£ 7000.00
VAT	£ 1400.00
Costs Draftsman's Fee	£ 420.00
VAT	£ 84.00
Assessment Fee	£ 220.00
Annual Supervision Fee	£ 350.00
Master Bond Premium	£ 400.00
Annual Account to OPG	£ 235.00
Vat	£ 47.00

	Preparing Annual Tax Return	£ 235.00
	Vat	£ 47.00
	Total	£10438.00
	Multiplier 5.58	£58244.04
8.6.6	<i>Crisis Costs</i>	
	Contingency for period up to age 25 Say £7500 plus VAT	£ 9000.00
	Total	£ 9000.00
8.6.7	<i>Costs of Application for a Statutory Will</i>	
	Estimated Management Costs (uncontested)	£ 3500.00
	VAT	£ 700.00
	Costs Draftsman's fee (at 6%)	£ 210.00
	Vat	£ 42.00
	Application Fee	£ 400.00
	Official Solicitors Fee	£ 1500.00
	Vat	£ 300.00
	Medical Report	£ 150.00
	Assessment Fee	£ 220.00
	Total	£ 7022.00
	Hearing Fee (If Necessary)	£ 500.00
	Total	£ 7522.00
8.6.8	<i>Costs of Winding Up The Deputyship Account</i>	
	Estimated Management Costs	£ 2500.00
	Vat	£ 500.00
	Supervision Fee E	£ 200.00
	Total	£ 3200.00
	Plus Assessment Fee (If Required)	£ 110.00
	Total	£ 3420.00

Summary of Court of Protection and Deputy Costs

8.6.2	Application To Appoint Professional Deputy	£ 4368
8.6.3	Costs of Further Applications to Court (x2)	£ 7900
8.6.4	General Management Costs In First Year Following Award	£12982
8.6.5	Annual Management Costs in Second and subsequent Years to age 25	£58244.04
8.6.6	Crisis costs	£ 9000
8.6.7	Costs of Application for a Statutory Will	£ 7522
8.6.8	Costs of Winding Up The Deputyship Account	£ 3310
	Total	£103,326

8.7 Future Holiday Costs

The Claimant relies on the report of Ms. Kennedy. The additional cost of holidays is assessed as an average annual additional cost of £15,711 per annum to cover the additional cost of two weeks holiday abroad and one week in the UK.

Claim	Multiplicand	Multiplier	Total
Additional cost	£15,711	27.28	£428,596

8.8 Assistive Technology

The following items have been recommended by Mr. Steve Martin, assistive technology expert. The claim is as follows:

Item	M/cand	Replace	M/er	Total
Initial Consultancy/Advice	£3,000			£3,000

Advice after 3 years	£300	Annual	24.39	£7,317
Genie joystick	£3,000	5 years	6.1	£18,300
AT maintenance and repair	£500	Annual	27.28	£13,634
Voice output facility	£500	5 years	6.1	£3,050
Environmental controls	£40,000	10 years	3.24	£129,600
Remote transmitters	£6,000	5 years	6.1	£36,600
Environmental controls ³	£10,000	10 years	3.24	£32,400
Remote transmitters ⁴	£2,000	6 years	5.04	£10,080
High capacity digital storage	£1,000	5 years	6.1	£6,100
Kindle e-reader	£600	4 years	7.38	£4,428
Reading material for kindle	£100	Annual	27.28	£2,728
Equipment maintenance & repair	£2,000	Annual	27.28	£27,280
Computer equipment	£3,500	5 years	6.1	£21,350
Portable computer system	£1,000	3 years	9.72	£9,720
Adjustable computer desk	£750	10 years	3.24	£2,430
Consumable items	£400	Annual	27.28	£10,912
Maintenance & repair	£400	Annual	27.28	£10,912
Training and support	£500	Annual	27.28	£13,640
Total				£363,481

8.9 Future Loss of Earnings

8.9.1 But for his injuries and due to his intellectual ability and his character and determination, the Claimant is likely to have progressed to the upper range of graduate professional occupations. Mr Albert Reid assesses the Claimant would have been earning at the 60th to 70th percentile of graduate earnings. The Claimant relies on the report of Dr Victoria Wass for the calculations of the Claimant's

³ Parental home.

⁴ Parental home.

loss of earnings which are based on an average gross earnings of £47,500 over working life ie a net annual earnings of £34,685.

Claim	Multiplicand	Multiplier	Total
Earnings	£34,685	26.97 x 0.89	£832,554

8.9.2 As a result of his injuries the Claimant at best will be restricted to part-time work. It is highly likely to the point of virtual certainty that the Claimant will be unable to work beyond the age of 50 to 55. Residual loss of earnings are based on an earning capacity of £12,000 gross ie £10,598 net. And the average multiplier for the 5 alternative senarios suggested by Dr Wass

Claim	Multiplicand	Multiplier	Total
Earnings	£10,598	10.77	£114,167

8.9.3 The claim is as follows:

Claim	Amount
Uninjured Earnings	£832,554
Injured Earnings	£114,167
Total	£718,387

9. **Statement of Truth**

I am the Claimant's litigation friend and I believe that the facts stated above are true.

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Served this day of 2012

APPENDIX I
THE EXPERT EVIDENCE

Name	Field	Report
Dr Ruth Kent	Rehabilitation medicine	November 2011
Ms Maggie Sargent	Care	November 2011
Ms Patricia Kennedy	Occupational therapy	November 2011
Ms Susan Edwards	Physiotherapy	November 2011
Ms Gillian Rumble	Speech and Language therapy	November 2011
Mr Mike Valentine	Accommodation	November 2011
Mr Albert Reid	Educational Psychology	November 2011
Mr Steve Martin	Assistive technology	November 2011
Dr Victoria Wass	Employment	November 2011

APPENDIX II

SUMMARY & COMPARATIVE TABLE

No.	Item	Claimant	Defendant
6	The General Damages Claim		
6.1	Award	£210,000	
6.2	Interest	£6,999	
	Total	£216,999	
7	The Past Losses Claim		
7.1	Family Care	£326,192	
7.2	Aids & Equipment etc	£46,012	
7.3	Sub - Total	£372,204	
	Interest @ 59.56%	£221,685	
7.4	Total	£593,889	
8	The Future Losses Claim		
8.1	Care & Case Management	£6,682,660	
8.2	Accommodation	£944,870	
8.3	Aids & Equipment	£410,973	
8.4	Transport & Travel	£397,147	
8.5	Therapies	£263,640 + botulinum injections	
8.6	Deputyship & Court of Protection	£103,326	
8.7	Additional Holiday Costs	£428,596	
8.8	Assistive technology	£363,481	
8.9	Loss of Earnings	£718,387	
	Total	£10,313,080	

	Summary		
6	General Damages	£216,999	
7	Past Losses	£593,889	
8	Future Losses	£10,313,080	
	Total 100%	£11,123,968	
	Total 97.5%	£10,845,868	