

**IN THE MATTER OF THE *INSURANCE ACT*, R.S.O. 1990,
c. I. 8, SECTION 268 and REGULATION 283/95**

**AND IN THE MATTER OF THE *ARBITRATION ACT*,
S.O. 1991, c. 17;**

AND IN THE MATTER OF AN ARBITRATION

BETWEEN:

INTACT INSURANCE

Applicant

- and -

ECONOMICAL MUTUAL INURANCE COMPANY

Respondent

DECISION

COUNSEL:

Douglas A. Wallace for the Applicant

Helen D. K. Friedman for the Respondent

A hearing was convened on May 25, 2011 in Waterloo, Ontario, pursuant to the *Arbitration Act, 1991* and *Ontario Regulation 283/95* of the *Insurance Act*. Both parties accepted my jurisdiction to act as arbitrator

The individuals involved will be referred to by their initials, in the interests of privacy.

ISSUES IN DISPUTE:

The following issues were put before me for determination:

1. Was R.M. Jr. principally dependent for financial support or care upon his parents, R.M. Sr. and T.M. (Economical's insureds) at the time of the accident?
2. If not, was he principally dependent for financial support or care upon D.S., Intact's named insured and the owner of the car he was driving at the time of the accident?

The parties agree that if the answer to question #1 is yes, Economical is liable to reimburse Intact for any reasonable accident benefits it has paid, and to take over the adjusting of the claim. If the answer to question #2 is yes, Intact will continue adjusting the claim.

RESULT:

1. The Claimant was principally dependent for financial support upon D.S., Intact's insured, at the relevant time.

BACKGROUND:

In the fall of 2008 R.M. Jr. was a 17 year-old high school student who lived with his parents, played hockey and socialised with his friends. On November 3, 2008 he left his parent's home, after having an argument with his mother. He moved in with his friend T.S. and his parents, D.S. and L.S., and spent the next five months living with that family.

On April 11, 2009 R.M. Jr. drove D.S.'s vehicle without his consent, and collided with a telephone pole. He suffered serious injuries in the accident, including a brain injury, and has been determined to be catastrophically impaired, as defined in the *SABS*. That vehicle was insured by Intact Insurance ("Intact").

R.M. Jr. applied to Intact for payment of accident benefits under the *Statutory Accident Benefits Schedule* ("the *Schedule*"). Intact accepted the application and put Economical Mutual Insurance Company ("Economical") on notice of its intention to dispute its obligation to pay benefits to the Claimant. R.M. Jr.'s parents, R.M. Sr. and T.M., drive vehicles that are insured by Economical. Intact alleges that R.M. Jr. was financially dependent upon his parents at the relevant time, that he would accordingly be an "insured person" under the Economical policy, and that Economical is therefore the 'priority insurer'. Economical counters by saying that the Claimant was financially dependent upon D.S., Intact's insured, at the time of the accident, and that Intact is consequently in higher priority to pay the claim.

Counsel filed an Agreed Statement of Facts prior to the hearing, which I have appended to this decision. The information in that document was gleaned from examinations under oath conducted by counsel of the Claimant's parents, as well as D.S. At the time of the examinations, counsel were advised that the Claimant was unable to testify, due to the injuries he had sustained.

In early August 2011, a *few months after* the hearing was completed, counsel for Intact attended a FSCO pre-hearing with counsel for the Claimant, and was advised that the Claimant would be called to testify as a witness at the upcoming FSCO arbitration. When Mr. Wallace asked why he had been told earlier that the Claimant was unable to testify, counsel for the Claimant advised that his client's health had improved, and that he would be able to testify in the priority dispute arbitration, if served with a summons. Mr. Wallace wrote to me and opposing counsel to advise of this development, and requested that the hearing be re-opened to permit R.M. Jr. to testify.

A further pre-hearing call was convened with both counsel a few weeks later. After a fulsome discussion on the issue, counsel agreed to seek instructions from their respective clients regarding their positions on whether the hearing should be re-opened, in order to permit the Claimant to testify. I was subsequently advised by counsel in mid-September that due to the many potential procedural problems that re-opening the hearing could create, that the parties had agreed to drop the issue. I have accordingly based my decision solely on the evidence contained in the Agreed Statement of Facts, appended below.

RELEVANT PROVISIONS:

The following provisions are relevant to this analysis:

Insurance Act:

Section 268

(2) The following rules apply for determining who is liable to pay statutory accident benefits:

1. In respect of an occupant of an automobile,

i. the occupant has recourse against the insurer of an automobile in respect of which the occupant is an insured,

ii. if recovery is unavailable under subparagraph i, the occupant has recourse against the insurer of the automobile in which he or she was an occupant...

Statutory Accident Benefits Schedule:

Section 2(1):

“insured person”, in respect of a particular motor vehicle liability policy, means,

*(a) the named insured, any person specified in the policy as a driver of the insured automobile, the spouse of the named insured and **any dependant of the named insured** or spouse, if the named insured, specified driver, spouse or dependant,*

Section 2(6):

For the purpose of this Regulation, a person is a dependant of another person if the person is principally dependent for financial support or care on the other person or the other person’s spouse.

EVIDENCE & ARGUMENTS:

The Agreed Statement of Facts filed by the parties (and appended at the end of the decision) sets out the Claimant’s circumstances before the accident, in detail. I will not repeat all of the facts set out here, but note the following points: R.M. Jr. left his parents’ home in early November 2008, after having a disagreement with his mother about “the rules”. He was seventeen years old and attending grade 12 at the time. He would have required at least one more year of high school to accumulate enough credits to graduate.

R.M. Jr. did not contribute financially toward his room and board while living with his parents. They paid for all of his living expenses, and provided him with a cell phone. He had worked part-time over the previous two summers, and spent all of the income that he had earned on his own entertainment. It is clear that while living with his parents up to November 2008, R.M. Jr. was financially dependent upon them.

When R.M. Jr. left home, he did not initially tell his parents where he was going. He returned a few days later, to collect his personal belongings. He took all of his clothes, his hockey equipment, and the television from his bedroom. He also took his video game

collection, the pictures hanging on his bedroom wall, and some shelves. He gave back his house keys, and returned the cell phone that his parents had provided to him and paid for. R.M. Jr.'s parents believed that the move was permanent. His older brother had apparently moved out under similar circumstances at the same age, and had never returned to live at the family home.

R.M. Jr. then moved into the home of D.S. and L.S., whose son T.S. was a close friend of his. He continued to have contact with both of his parents after he moved out, speaking with his mother regularly on the telephone, and seeing his father weekly. He spent Christmas and Easter with his parents at the family home, but did not sleep over. His parents bought him some toiletries and a shirt as Christmas gifts, but otherwise did not give him any money or provide financial support of any kind after he left home.

His parents took him to one or two orthodontic appointments after he moved out. At one point he contracted pneumonia and asked a friend to take him to the hospital. His father then went to the hospital and brought him home to sleep for the night, as the Ss were not at home. He drove him back to the S's home the next day.

The Ss told R.M. Jr. that he was welcome to stay at their home as long as he remained in school. He was provided with his own bedroom, and ate most of his meals at their home. He did not pay anything for room and board, nor did he contribute to the household expenses. He was responsible to keep his room clean and do his own laundry, but had no other responsibilities around the house. He was driven to school by T.S. The Ss did not give R.M. Jr. any money, but T.S. advised that he had loaned R.M. Jr. some cash when he was short of money, as had some other friends.

After sustaining serious injuries in the accident on April 9th, R.M. Jr. spent one month in the hospital, and was then discharged to an in-patient treatment program for an additional four months. After that, in September 2009, he moved back into his parents' home.

Unlike most cases of this type, the dispute between the parties in this case does not revolve around whether the Claimant has achieved financial independence, or remained dependent upon the adults in his life. Counsel agree that R.M. Jr. was financially dependent upon the Ss while he lived at their home for the five months prior to the accident, and that the same was true while he had been living at his parents' home. Rather, the real issue separating the parties is the appropriate time frame to use when considering upon whom he was financially dependent at the time of the accident.

Intact contends that a 'one- year' time frame should be applied, as it best reflects the reality of R.M. Jr.'s life prior to the accident. If the relevant circumstances are considered one year prior to the accident (from April 2008 to April 2009), counsel submits that Economical would be in priority to pay his accident benefits claim, as he was principally financially dependent upon his parents (Economical's insureds) for the majority of that time. Conversely, counsel for Economical contends that the five-month period preceding the accident is the appropriate time frame to consider, which would result in R.M. Jr. being found to be financially dependent upon the Ss (Intact's insured).

Counsel for Intact argues that unlike the many other cases in which young claimants are injured in an accident while in transition between attending school and finding gainful employment, R.M. Jr.'s life continued in the same manner after he moved out of his parents' home as it had before the move. He continued to attend school (albeit with several absences), play competitive hockey and socialise with his friends. Counsel contended that the only difference was that instead of sleeping at his parents' home, he slept at the Ss.

Counsel noted the Ontario Court of Appeal's comments in *Oxford Mutual Insurance Co. v. Co-operators General Insurance Co.* [2006] 83 O.R. (3d) 591 to the effect that the issue of determining financial dependency should not be based on a "snapshot" view of a claimant's circumstances at the time of the accident, in the manner required by the other sections of the *Schedule*. He cited the court's endorsement of Arbitrator Samis'

comments in the case of *Liberty Mutual Insurance Co. v. Federation Insurance Co. of Canada* (unreported, May 7, 1999) in which he states –

Relationships change from time to time, perhaps suddenly. Transient changes may alter matters for a short period, but not change the general nature of the relationship. A momentary snapshot would not yield any useful information about these time-dependent relationships...The evaluation should be made by examining a period of time which fairly reflects the status of the parties at the time of the accident.

Counsel for Intact submitted that the five-month period during which R.M. Jr. slept at the Ss' home was a temporary aberration, and that it did not “change the general nature of the relationship” with his parents, being one of financial dependence. He also relied on the decision in *Saskatchewan Government Insurance v. Lombard Canada Inc.* (unreported decision of Arbitrator Robinson, January 23, 2004), the court’s endorsement of Arbitrator Robinson’s decision in *Co-operators’ General Insurance Company v. Guarantee Company of North America and Unifund Assurance Company* (Ont. Superior Court of Justice, unreported decision dated December 22, 2008) and the OIC decision in *J.B. v. Liberty Mutual Insurance Co.* (Blackman, July 30, 1996), O.I.C.D. No. 135.

Counsel for Economical disputed that the five-month period that R.M. Jr. spent at the Ss’ home was a temporary aberration. She contended that it reflected the changed reality of his life, and was the appropriate time frame to consider for the purpose of determining financial dependency. She submitted that there was no indication that this was only a temporary arrangement, noting that R.M. Jr. had taken all of his belongings with him, had returned his keys and the cell phone that his parents had given him, and that his parents did not provide him with any financial support after he left.

Counsel also noted that the Ss’ invitation for R.M. Jr. to stay at their home was open-ended, and that there had not been any discussions about R.M. Jr. returning to his parents’ place. She also pointed out that R.M. Jr.’s brother had left a few years earlier under similar circumstances, and that the Ms had not expected R.M. Jr. to return home.

Counsel for Economical contended that the above facts supported her view that R.M. Jr.'s relationship with his parents had changed from one of financial dependence to one of continued contact without dependence. She acknowledged that while it often makes sense to adopt a broad time frame in these types of cases, it would not be appropriate to do so in a case in which a change in the claimant's circumstances prior to the accident reflected a 'new reality' in their lives. She relied on three of Arbitrator Samis' decisions in this regard - *Dominion of Canada v. Wawanesa Mutual Insurance Company* (unreported decision dated September 17, 2004), *Co-operators v. Zurich Insurance Company and ING Insurance* (unreported decision dated May 11, 2005), and *Insurance Company of British Columbia v. Federated Insurance Co. of Canada* (unreported decision dated July 3, 2009, as well as the decision in *Fisher v. Pilot Insurance Company; Fisher v. State Farm Mutual Automobile Insurance Co.* (FSCO, July 17, 1995, appeal dismissed July 16, 1996).

ANALYSIS & FINDINGS:

I begin by noting that as strange as it may be to do so, I must ignore the fact that R.M. Jr. did actually move back into his parents' home after he was discharged from the hospital and rehabilitation facility, where he spent time recovering from his injuries. As tempting as it is to consider this matter with the benefit of the hindsight we now all have, it would be incorrect to do so. The jurisprudence on this issue dictates that my analysis must be based on the circumstances that were known at the time of the accident, when R.M. Jr.'s future path was not known.

The *Schedule* is silent on the question of what time frame to consider when analysing upon whom a claimant is financially dependent. While some general principles have been established in the case law, each case must be decided on its own facts. Arbitrators and reviewing judges have stated that unlike other parts of the *Schedule* that mandate a "snapshot" view of a claimant's circumstances, the dependency analysis should be based on a time frame that fairly reflects the reality of the parties at the time. The Court of Appeal has instructed that an arbitrator must look at the relationship in question "as a

whole, over a reasonable period of time” in order to determine the nature of the relationship at the time of the accident. (*Oxford Mutual Insurance, supra*, at para. 28)

In many cases, a broader time frame will provide a more accurate picture of a claimant’s financial circumstances. This is often true with young adults, whose lives may change suddenly at different points in time, and often enough, change again shortly afterwards. I do not find that to be true, however, in this case. While there are strong arguments on both sides, I am ultimately persuaded that the five- month period during which R.M. Jr. lived at the Ss’ home prior to the accident most fairly reflects the reality of his life at the time of the accident. Following the guidance provided by the Court of Appeal in *Oxford Mutual, supra*, I find that when the Claimant’s relationship with his parents is looked at as a whole, over a reasonable period of time, it cannot be said that he remained financially dependent upon them at the time of the accident.

In reviewing the evidence before me, it does not appear that R.M. Jr.’s decision to leave his parents’ home was an impulsive act, taken in the ‘heat of the moment’. While it may have been triggered by a disagreement with his mother over the rules, I note that he left initially, and then returned a few days later to take all of his belongings with him. He returned his keys and the cell phone that his parents had provided him with. By then, he had received an invitation from the Ss to live at their home, as long as he remained in school. These facts point to a decision that was executed after some thought and planning.

While R.M. Jr. continued to maintain contact with his parents, and spent time with them at both Christmas and Easter, he did not otherwise return to the house except for one occasion when he was ill and he believed that the Ss were not at home. His parents testified under oath that they did not expect him to return home once he had left, and that the same thing had happened with his older brother at his age. Most importantly, they did not give R.M. Jr. any money or provide him with financial support of any kind during the five months that he spent at the Ss. The fact that R.M. Jr. maintained contact with his parents throughout this period, but was able to manage without their financial assistance

suggests to me that he had decided to shift the relationship he had with them from one of financial dependence to a different step in his 'life plan' - one of continued contact but financial independence.

The evidence indicates that R.M. Jr. had his own bedroom at the Ss' home, and ate many of his meals there. Presumably, he set up his television and the shelves that he brought from his parents' home in his room there. These circumstances are different than a friend showing up and "crashing on a friend's couch" or spending time at another teenager's home while his parents are away; in fact the Ss had told him that he could remain there as long as he was in school. The arrangement lasted for five months, until the accident intervened. While it is not known how long R.M. Jr. would have stayed there if the accident had not occurred, it was clearly a tenable arrangement that had the potential to last for awhile. There were no discussions about R.M. Jr. returning to his parents' home during this time, and while five months is not that long a period, I am not persuaded that it represented a "temporary aberration" in the scheme of his life.

Counsel for Intact cited a few cases in which arbitrators (and courts) have determined that claimants remained financially dependent upon a parent, despite having left home for relatively brief periods prior to an accident occurring. I note that in *SGI v. Lombard Canada, supra*, the Claimant had lived at the farm at which he had summer employment for five weeks, and clearly intended to return to his mother's home in September when school resumed. In *Co-operators' and Guarantee & Unifund, supra*, the fifteen year-old claimant had been in the foster care of another family for six and one-half weeks, which was acknowledged to be a temporary arrangement. The FSCO decision in *J.B. v. Liberty Mutual, supra*, addressed a death benefits claim under the *Schedule*, in which the arbitrator found that the fourteen year-old claimant's stay at her grandparents' home was a temporary aberration and that she remained financially dependent upon her mother throughout that time.

I find that the facts of this case are distinguishable from those in the cases above. While R.M. Jr. was still a teenager when he left his parents' home, there is a significant

difference in the maturity level and decision making between most fourteen and fifteen year olds and a seventeen year-old. And, while the five months that he spent at the Ss may not objectively seem to be a long time, it is clearly in a different category than the few weeks of absence in the above cases. Finally and most importantly, there is clear evidence in this case that R.M. Jr.'s parents did not expect him to return to their home, which was clearly not the case in the situations cited in the above decisions.

For all of the reasons cited above, I find that R.M. Jr. was not financially dependent upon his parents at the time of the accident, but rather, was dependent upon D.S., Intact's insured. Consequently, he is deemed to be an insured under the Intact policy, with the result that Intact is in higher priority pursuant to section 268(2) of the *Insurance Act* to pay his accident benefits claim.

COSTS:

If the parties cannot agree on the quantum of costs payable by Intact to Economical, I invite them to contact me in writing and a further pre-hearing call will be convened to discuss the issue.

DATED at TORONTO, ONTARIO this _____ DAY OF DECEMBER, 2011.

Shari L. Novick
Arbitrator

Appendix ‘A’

IN THE MATTER of the *Insurance Act*, R.S.O. 1990, c. I.8, as amended, s. 268, and Regulation 283/95 made under the *Insurance Act*;

AND IN THE MATTER of the *Arbitration Act*, S.O. 1991, c. 17;

AND IN THE MATTER of a claim by R. M. Jr. for Statutory Accident Benefits pursuant to the Statutory Accident Benefits Schedule – Accidents on or after November 1, 1996, O.Reg. 403/96, as amended;

AND IN THE MATTER of an Arbitration between:

INTACT INSURANCE

Applicant

- and -

ECONOMICAL MUTUAL INSURANCE COMPANY

Respondent

AGREED STATEMENT OF FACTS

Background

1. On April 11, 2009 at approximately 1:00 a.m., R.M. Jr. (“R.M. Jr.”) was the driver and sole occupant of a 1998 Lincoln Mark VIII that collided with a telephone pole on Ottawa St. in Kitchener (the “Accident”).
2. As a result of the Accident, R.M. Jr. sustained injuries and submitted an Application for Accident Benefits (OCF-1) dated May 15, 2009 to Intact Insurance (“Intact”).
3. The 1998 Lincoln Mark VIII was owned by D.S. and insured by Intact.
4. Economical Mutual Insurance Company (“Economical”) issued a policy of automobile insurance to R.M. Jr.’s parents, R.M. and T.M.
5. On May 15, 2009 a Notice to the Applicant of Dispute Between Insurers was sent by Intact to Economical.

R.M. Jr.

6. R.M. Jr. was born on September 27, 1991 and was 17 years old at the time of the Accident.

7. R.M. Jr. did not have any physical or mental impairment prior to the Accident. As a result of his injuries, he is unable to testify.
8. In the fall of 2008, R.M. Jr. was a Grade 12 student at Forest Heights Collegiate in Kitchener. He was enrolled in school at the time of the Accident. R.M. Jr. would have required at least another year of high school to get enough credits to graduate.
9. R.M. Jr. lived with his parents most recently at 204 Westheights Drive, Kitchener until November 3, 2008 when he left home.
10. After leaving home, he moved in with his friend, T. S., and T.S.'s parents, D.S. and L. S.
11. After the Accident, following a period of in-patient rehabilitation, R.M. Jr. returned to his parents' home.

While Living with the Parents

12. R.M. Jr. did not pay for room and board or any other type of compensation to his parents.
13. In the summer of 2007, R.M. Jr. had seasonal part time employment with Red Lobster. In the summer of 2008, R.M. Jr. had seasonal part time (15 hours per week at minimum wage) employment at Marble Slab Creamery. He earned approximately \$100 per week. The job ended in September 2008.
14. R.M. Jr.'s parents paid for all of his living expenses. The money R.M. Jr. earned at his part-time summer job he spent on his own personal entertainment.
15. R.M. Jr. participated in two hockey leagues; a high school league and a minor development league. His parents paid for his hockey equipment, tournaments and league fees. The high school league fee was \$250.00 and his parents gave him this as his Christmas present in 2008. The MD league fee was \$420 paid in June 2008 plus \$80 per month. No hockey equipment was purchased in the year prior to the Accident.
16. R.M. Jr.'s father would drive him to hockey once or twice a week. Other times he would get rides with friends.
17. R.M. Jr. held at Class G1 licence at the time of the accident. R.M. Jr. was permitted to drive his father's 2003 Toyota Matrix. He drove it twice per week on average, accompanied by his father.
18. R.M. Jr. was provided with a cell phone that was paid for by his parents.
19. R.M. Jr. would receive birthday and Christmas presents from his parents.
20. R.M. Jr. did not receive an allowance from his parents.
21. R.M. Jr. was responsible for cleaning his own room and pitching in with household chores when requested.

22. R.M. Jr. did not contribute any money earned from his summer employment to the household.
23. R.M. Jr. was insured under his parents collateral benefits policies through their employment. He had no ongoing medical expenses.

The Move

24. On or about November 2, 2008, R.M. Jr. left his parents' home. According to his mother, this was due to a disagreement about the rules.
25. When R.M. Jr. left, he had no firm plans on where to live. He hoped to live with friends. He did not tell his parents where he was going.
26. R.M. Jr. and T. S. were good friends and attended the same school. T.S. offered to ask his parents if R.M. Jr. could stay at his house while he figured things out.
27. T.S.'s parents, D.S. and L.S., agreed and R.M. Jr. moved into the S.'s home on Burkle Toman Court in Mannheim a few days later. The S.'s home was a 6 minute drive (3 or 4 kilometres) from R.M. Jr.'s parents' home.
28. The S.'s told T.S. that R.M. Jr. could stay as long as he wanted and as long as he was in school.
29. Initially, R.M. Jr. did not tell his parents he was going to live with the S.'s.
30. A few days after leaving home, R.M. Jr. returned to collect his personal belongings.
31. R.M. Jr. took all of his personal belongings including clothes, pictures from the wall, his hockey equipment, totes with his personal memorabilia, shelves, TV and video games to the S.'s. He left the bed and dresser.
32. When R.M. Jr. left he gave his house keys and cell phone to his mother.
33. R.M. Jr.'s parents believed the move was permanent. They did not have any discussions with R.M. Jr. about him moving back home prior to the Accident.
34. R.M. Jr.'s brother had moved out under similar circumstances at a similar age and never returned to live at home.
35. To date, R.M. Jr.'s parents and the S.'s have never met or had any type of contact.

After Moving Out

36. R.M. Jr.'s parents gave him some toiletries and possibly a shirt for him as a Christmas gift in 2008.
37. After he moved out, R.M. Jr. spoke with his mother regularly on the telephone. He did not provide her with a number to call him. He spoke with his father once

- or twice per week and saw him approximately once per week, shift work permitting.
38. After R.M. Jr. moved out, his parents took him to one or two orthodontic appointments.
 39. R.M. Jr. saw his parents at extended family functions. He visited on Christmas Day in December 2008 and had Good Friday dinner with the extended family at Easter in April 2009, but did not sleep over.
 40. Approximately three weeks before the Accident, R.M. Jr. came down with pneumonia. He was driven by a friend to the St. Mary's hospital. His father picked him up and brought him home for the night because he believed the S.'s were not home. The next day, he drove R.M. Jr. to the S.'s. This was the only time R.M. Jr. spent the night with his parents after moving out.
 41. There were school attendance issues before and after R.M. Jr. left home. After he left, his parents directed attendance calls from the school to the S.'s.
 42. In December 2008, R.M. Jr. dropped down from minor development hockey to house league without telling his parents. His parents received a \$150.00 refund for the hockey fees. No hockey fees were paid after December 2008 by his parents.
 43. D.S. testified that R.M. Jr.'s father continued to drive him to hockey games after he moved out. Both R.M. Jr.'s father and mother deny this.
 44. R.M. Jr.'s spare time at each residence was usually spent in hockey or hanging out with friends. He had a girlfriend and they would hang out together 2 or 3 times per week, they broke up about a month or two before the Accident.
 45. R.M. Jr. appears not to have earned any income from employment between September 2008 and the date of the Accident. He had some savings from his summer job that he took with him when he left. He told T. S. that he had obtained a part-time job at Sobey's although T.S. did not believe him. There was also some discussion about him applying for student welfare.
 46. Aside from the Christmas gifts referred to above, R.M. Jr. did not receive any financial contribution from his parents after moving out and before the Accident.

Living with the S.'s

47. While living with the S.'s, R.M. Jr. did not pay any room or board, or any other type of compensation to the S.'s.
48. R.M. Jr. had his own room and shared the rest of the house with D.S., L.S. and T. S. with full access to TVs, ping pong, games, etc.
49. R.M. Jr. was responsible for his own laundry and for keeping his room clean at the S.'s. He had no other household responsibilities.
50. R.M. Jr. would attend occasional family functions with the S.'s.

51. R.M. Jr. consumed groceries, personal care items and laundry products purchased by the S.'s.
52. According to D.S., R.M. Jr. ate the majority of his meals at the S.'s' home. T.S. believes that he ate dinner at the S.'s home three times per week. Otherwise, he was at a friend's house or out.
53. R.M. Jr. would make lunch at the S.'s home or borrowed food from a friend at school. Occasionally, he would attend at a friend's house for lunch.
54. R.M. Jr. was driven to school by T. S. He arranged the rest of his transportation through friends.
55. R.M. Jr. borrowed money from T. S. and some of his other friends.
56. D.S. did not permit R.M. Jr. to drive any of his vehicles.
57. The S.'s did not give R.M. Jr. any allowance or financial compensation when he lived with them.
58. The monthly household expenses of the S.'s' home were estimated by D.S. as follows:

Expense	Household Expenses - Monthly
Mortgage	\$1,200.00
Property Taxes (\$5000/year)	\$400.00
Home Insurance	?
Telephone, Cable and Internet	?
Hydro	\$200.00
Gas	\$250.00
Grocery and all other household supplies	?

All of which is respectfully submitted this day of May, 2011.

DATE: May , 2011
counsel,

Economical Mutual Insurance Company by its

Miller Thomson LLP
Per:

Helen D.K. Friedman
Lawyers for the Respondent

DATE: May 15, 2011

Intact Insurance Company by its counsel,
Wallace, Evoy-Smith LLP

Per:

A handwritten signature in black ink, appearing to be 'DW', written over a horizontal line.

Doug Wallace
Lawyers for the Applicant

IN THE MATTER of the *Insurance Act*, R.S.O. 1990, c. I.8, as amended, s. 268, and Regulation 283/95 made under the *Insurance Act*;

AND IN THE MATTER of the *Arbitration Act*, S.O. 1991, c. 17;

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Respondent

ADDENDUM AGREED STATEMENT OF FACTS

- 11.1 Post-Accident, R.M. Jr. was hospitalized at Hamilton Health Sciences for approximately a month. He was then discharged to their acquired brain injury program and an in-patient treatment program for four months. He was discharged on September 10, 2009 to his parent's home.
- 11.2 While hospitalized, R.M. Jr.'s parents visited him daily and reportedly provided him with extensive personal care.

All of which is respectfully submitted this day of June, 2011.

DATE: June 2, 2011

Economical Mutual Insurance Company by its counsel,
Miller Thomson LLP
Per:

Helen D.K. Friedman
Lawyers for the Respondent

DATE: June 1, 2011

Intact Insurance Company by its counsel,
Wallace, Evoy-Smith LLP
Per:

A handwritten signature in black ink, appearing to be 'DW', written in a cursive style.

Doug Wallace
Lawyers for the Applicant