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### **Jury returns zero verdict in Evans, Philp Tort Defence Trial**

This 16-day Trial proceeded in Hamilton during the Long Trial Sittings which commenced on Monday, March 21, 2011. The Plaintiff was represented by Mackesy Smye, while the Defendants were represented by Kieran C. Dickson of Evans, Philp.

The lawsuit related to a June 23, 2005 car accident in the parking lot of the Bronte GO Station. The Plaintiff and the Defendant driver were both leaving the lot when they were involved in a collision at the intersection of two parking aisles. Neither driver faced a stop-sign or any sort of intersection marking and because the accident occurred in a private parking lot the *Highway Traffic Act* rules of the road did not apply. Each side took the position that the other driver was at fault.

In terms of damages, the Plaintiff claimed that she was left with chronic debilitating pain, a significant brain injury, and psychological/psychiatric problems including depression, anxiety, and post-traumatic stress disorder. It was the Plaintiff's position that these problems had continued essentially unabated in the years since the accident. While the Plaintiff did return to her pre-accident job for a number of months following the accident and then took on another job at a hair salon, by the time of Trial, the Plaintiff and her medical-legal opinion witnesses took the position that she was not competitively employable and that this would remain the case indefinitely.

The defense position was that the Plaintiff had sustained nothing more than minor soft-tissue injuries in the car accident, injuries which would have been expected to resolve within a matter of months. It was the defence theory that the Plaintiff's soft-tissue injuries had in fact, healed within a matter of two or three months and that any problems thereafter could not reasonably be attributed to the car accident.

After deliberations the jury returned a defence verdict on liability (i.e. finding the Plaintiff 100% at fault) and found that the Plaintiff and the FLA claimants were not entitled to any damages whatsoever.