

IN THE COURT OF APPEAL OF MANITOBA

Coram: Madam Justice Diana M. Cameron
Mr. Justice William J. Burnett
Madam Justice Janice L. leMaistre

BETWEEN:

<i>JAMES ROBERT NASH</i>	)	<i>J. R. Nash</i>
	)	<i>on his own behalf</i>
)	
	)	<i>T. M. Brown</i>
(Plaintiff) Appellant	)	<i>for the Respondent</i>
	)	<i>Manitoba Public</i>
- and -	)	<i>Insurance Corporation</i>
)	
<i>MANITOBA PUBLIC INSURANCE</i>	)	<i>D. A. Johnston</i>
<i>CORPORATION, GOVERNMENT OF</i>	)	<i>for the Respondents</i>
<i>MANITOBA, ATTORNEY GENERAL OF</i>	)	<i>Government of Manitoba,</i>
<i>MANITOBA, GOVERNMENT OF</i>	)	<i>Attorney General of</i>
<i>MANITOBA CROWN SERVICES</i>	)	<i>Manitoba and Government</i>
<i>MINISTRY</i>	)	<i>of Manitoba Crown</i>
	)	<i>Services Ministry</i>
)	
(Defendants) Respondents	)	<i>Appeal heard and</i>
	)	<i>Decision pronounced:</i>
	)	<i>March 27, 2019</i>

BURNETT JA (for the Court):

[1] The plaintiff appeals an order striking his statement of claim and awarding costs to the defendants.

[2] On August 4, 2016, the plaintiff was struck by an automobile while crossing the street in the City of Winnipeg. In the statement of claim, the plaintiff seeks damages in excess of one billion dollars.

[3] The statement of claim was struck by the motion judge on the basis that:

1. the Court of Queen's Bench had no jurisdiction over certain portions of the claim;
2. it did not disclose a reasonable cause of action; and
3. it was scandalous, frivolous and vexatious.

[4] In the notice of appeal, the plaintiff lists nine grounds of appeal and in his factum he lists 15 issues.

[5] We are all of the view that there is no merit to any of the grounds or issues raised by the plaintiff.

[6] The motion judge correctly determined that the Court of Queen's Bench has no jurisdiction over certain portions of the claim, in particular, those aspects of the claim that involve bodily injuries sustained by the plaintiff in the automobile accident, his entitlement to personal injury protection plan benefits and the administration of his personal injury protection plan claim. As the defendant Manitoba Public Insurance Corporation (MPIC) acknowledges in its factum, the plaintiff is not left without a remedy because the review and appeal provisions established in *The Manitoba Public Insurance Corporation Act*, CCSM c P215 provide a forum for the plaintiff to resolve any disputes regarding his entitlement to personal injury protection plan benefits.

[7] The motion judge's decision to strike the statement of claim was a discretionary decision and, as such, is entitled to deference absent reversible

error of fact or law, or an indication that the decision is so clearly wrong as to amount to an injustice.

[8] Having carefully considered the plaintiff's submissions, we are not persuaded that the motion judge erred or misdirected himself, or that his decisions were so clearly wrong as to amount to an injustice.

[9] The appeal is therefore dismissed with one set of costs in the sum of \$2,000 payable to MPIC and another set of costs in the same amount payable to the Manitoba Minister of Finance.

Burnett JA

Cameron JA

leMaistre JA
