

No. 23823
Prince George Registry

IN THE SUPREME COURT OF BRITISH COLUMBIA
(IN CHAMBERS)

Prince George, B.C.
29 March 1993

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| BETWEEN: |) | |
| |) | |
| JEAN KATHLEEN MANTIE |) | REASONS FOR JUDGMENT |
| |) | |
| (PLAINTIFF) |) | |
| |) | |
| AND: |) | OF THE HONOURABLE |
| |) | |
| INSURANCE CORPORATION OF |) | |
| BRITISH COLUMBIA |) | MR. JUSTICE PARRETT |
| |) | |
| (DEFENDANT) |) | |

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|---------------|-------------------|
| D. BYL, Esq., | for the Plaintiff |
| O. HUI, Esq., | for the Defendant |

THE COURT: (Oral) The position that I find myself in is that I have two applications under Rule 18 with respect to what is often characterized as the Part 7 action for benefits against the Insurance Corporation of British Columbia. This is a companion action commenced, I gather, at the same time as the tort action with respect to the motor vehicle accident.

That pattern of pleading is not unusual, in my experience, either in practice or on this Bench. What is perhaps a little unusual is that the Part 7 action in this case has proceeded through the close of pleadings and has

been set down for trial at the same as the tort action on May 3rd and 4th of this year. The Affidavit material filed sets forth a series of medical claims that have been presented and paid and some, which the Plaintiff suggests, are still outstanding.

Absent some compelling reason to determine this issue by means of an 18A application or a Rule 18 application prior to the trial of the matter and absent some considered authority with respect to that, my inclination is that these actions, and I am speaking now of the Part 7 actions, ordinarily await the tort action and are either resolved at that time or subsequently.

The fairest situation, in my view, for all concerned with respect to this type of action is to allow any medical claims that arise in such a Part 7 action to accrue at least until the date of the tort action trial or a decision, so that the actual situation between the Plaintiff and the Defendant can be determined at that time.

The appropriate disposition of both of these applications, in my view, is that they be adjourned at the present time to May 3rd or 4th, at the time of trial, or such later date, if that trial is for any reason adjourned. In my view, it is inappropriate, at least, on the circumstance that have been related to me with respect to this application to determine a Part 7 action by means of Rule 18 in advance of the tort action being determined. I do not say that there may not be suitable circumstances

when that can be done, but I see nothing in this case that makes it one where that exception should be created.

Both applications are adjourned to the trial date indicated.

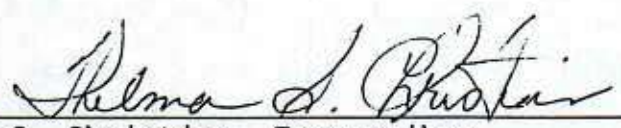
MR. BYL: Thank you, My Lord.

THE COURT: Thank you.

16 April 1993/tsc - (Revised 27 April 1993/tsc)

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I hereby certify the foregoing to be a true and accurate transcript of the evidence recorded on a sound recording apparatus, transcribed to the best of my skill and ability.



T.S. Christian, Transcriber
for Scott Personnel Ltd.