

**Automobile Injury Appeal Commission
Province of Saskatchewan**

Citation: *A.S. v. Saskatchewan Government Insurance,*
2007 SKAIA 101
Date: 20071122
File: 010 of 2007

BETWEEN

A.S., Applicant

and

Saskatchewan Government Insurance, Respondent

Appearances:
A.S., Applicant
Reg Watson, for the Respondent

Before: **Beverly Cleveland, Chair**
Ann Phillips, Q.C., Commission Member
Conrad Hnatiuk, Commission Member

**THIS DECISION HAS BEEN EDITED TO PROTECT THE PERSONAL AND HEALTH
INFORMATION OF INDIVIDUALS BY REMOVING PERSONAL IDENTIFIERS AND
OTHER IDENTIFYING INFORMATION.**

Heard at Regina, Saskatchewan
November 20, 2007

DECISION

[1] A pre-hearing conference was held to hear arguments by the parties concerning disclosure of witnesses before the hearing. The hearing is scheduled for November 26, 2007.

[2] Mr. Watson, counsel for SGI, submitted that as the Commission has no published rules respecting hearings that the Queen's Bench Rules of Court are a reasonable guide and under those Rules, the Appellant is not entitled to that information before the (trial) hearing. He confirmed that full documentary disclosure had been made but that until he hears the claimant's oral testimony, he will not know the case he has to meet and suggested the Appellant has at least some onus to prove his case.

[3] Further he complained that the claimant has been abusive including a few weeks earlier having threatened to report him to the Law Society for Saskatchewan and had in fact reported Drs. Matthews and Maree to the College of Physicians & Surgeons. Mr. Watson argued that he does not want to subject his witnesses to a week of abuse and/or being reported to their professional regulatory bodies.

[4] The Appellant submitted that Mr. Watson had previously undertaken to provide Drs. Matthews and Alport for cross-examination and had subpoenaed his former family doctor. As a result of a complaint by the Appellant to the College of Physicians & Surgeons and what he alleges was misinformation from the Registrar of the College concerning Dr. Maree's responsibility to provide documents to SGI and the issuing of a subpoena respecting the Appellant's appeal hearing, Dr. Maree has "kicked out" the Appellant's entire family from his medical practice.

[5] The Appellant stated that he did not threaten to report Mr. Watson to the Law Society of Saskatchewan but acknowledged that he had used inappropriate language. He apologized for his comment to Mr. Watson.

[6] The Appellant expressly stated that he will not file any complaint against any witness to any governing or professional regulatory body prior to the hearing.

[7] A brief discussion respecting the nature of the Appellant's appeal concerning the income replacement benefit was also had with Mr. Watson stating he will be asking for a R. 173 order dismissing or striking the Appellant's appeal. After being reminded that the claimant is unrepresented, Mr. Watson submitted he will be making an application for a non-suit.

[8] Although the Commission has not drawn up formal rules which it has published in the *Saskatchewan Gazette*, it has a published brochure that is provided to both parties, and has, for the past five years, required parties to provide a list of their witnesses prior to the hearing. Mr. Watson has appeared before the Commission before, both as agent and counsel for SGI and also as claimants' counsel and he is well aware of the Commission's practice in this regard.

[9] As there has now been generic disclosure of the six witnesses who may be called to testify on behalf of SGI - the three doctors, an accountant, adjuster (PIR) and pharmacist, and as the Appellant expressed no concerns with the adequacy of this information (we are reasonably sure from his comments that he believes he knows who they are to the extent necessary to prepare himself for the hearing), we are satisfied it is not necessary to order the names of the witnesses be disclosed prior to the hearing. We do, however, regret SGI's departure from its normal practice, despite its concerns which have been obviated by the Appellant's unequivocal agreement not to report or complain about any of the witnesses to any respective governing body prior to the hearing.

[10] The issue respecting the Appellant's appeal of the income replacement benefit is a question of the Commission's jurisdiction, and will be addressed at the hearing of the substantive appeal.

Dated at Regina, Saskatchewan, on November 22, 2007.

Beverly Cleveland, Chair

Ann Phillips, Q.C., Commission Member

Conrad Hnatiuk, Commission Member