

THE QUEEN'S BENCH

WINNIPEG CENTRE

BETWEEN:

TIM McLEAN,

plaintiff,

- and -

VINCE WEIGUANG LI, GREYHOUND CANADA  
TRANSPORTATION CORP. and THE ATTORNEY  
GENERAL OF CANADA,

defendants.

STATEMENT OF DEFENCE AND CROSSCLAIM OF THE DEFENDANT  
GREYHOUND CANADA TRANSPORTATION CORP.

1. This defendant admits the allegations contained in paragraph 4 of the Statement of Claim.
  
2. This defendant denies the allegations contained in paragraphs 5, 11, 12, 16, 19 and 25 of the Statement of Claim and further denies this defendant is liable to the plaintiff and other members of the plaintiff's family for the relief claimed in paragraphs 1, 25, 27 and 28 of the Statement of Claim.

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3. This defendant has no knowledge in respect of the allegations contained in paragraphs 2, 3, 6 to 10, 13, 14, 15, 17, 18, 20 to 24 and 26 of the Statement of Claim and, therefore denies same and puts the plaintiff to the strict proof thereof.

4. In further reply to paragraph 5 of the Statement of Claim, this defendant says that its proper name is "Greyhound Canada Transportation Corp."

5. In further reply to the allegations contained in paragraphs 11, 16 and 19 and to the whole of the Statement of Claim, this defendant denies that it breached any duty it may have owed to the plaintiff under the circumstances. The defendant says that, at all material times, it maintained a reasonable system for the security of passengers on its buses. In particular, this defendant says that:

- (a) it took such care as, in all circumstances of the case, was reasonable to see that its passengers were reasonably safe;
- (b) it complied with all applicable security regulations and laws;
- (c) it has provided its employees with security training designed to ensure that its passengers would be as safe as reasonably possible aboard its vehicles;

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- (d) at all material times, this defendant's employees acted in a reasonable manner to ensure that all passengers aboard its vehicles were as safe as reasonably possible;
- (e) the injuries suffered by Tim McLean were caused solely by the sudden and unforeseeable actions of the Defendant VINCE WEIGUANG LI ("LI"); and
- (f) the injuries suffered by Tim McLean were not caused by any breach of duty by this defendant or anything done or omitted to be done which was reasonably required of this defendant.

6. In further reply to paragraphs 25 and 27 of the Statement of Claim, this defendant denies that any loss and/or damage has been suffered by the plaintiff or the plaintiff's family members as a result of any act or omission of this defendant.

7. In answer to the whole of the Statement of Claim, this defendant says that the loss and damage claimed by the plaintiff or on behalf of the plaintiff's family members was caused solely as a result of the criminal acts and conduct of the defendant, LI, for whose acts this defendant is not liable.

8. Further, and in the alternative, this defendant states that this action is barred by section 72 of *The Manitoba Public Insurance Act*, C.C.S.M. c.P215.

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9. This defendant pleads and relies on the *The Tortfeasors and Contributory Negligence Act*, C.C.S.M. c.T90

10. This defendant submits therefore that the plaintiff's claim against it be dismissed with costs.

**CROSSCLAIM**

11. This defendant claims against the co-defendant, LI:

(a) contribution and/or indemnification for any judgment found against this defendant and in favour of the plaintiff, including any judgment for costs; and

(b) costs of this crossclaim.

12. This defendant repeats and relies upon the allegations contained in its Statement of Defence.

13. If the plaintiff and his family have suffered the loss and damage alleged in the Statement of Claim, which is not admitted but denied, then this defendant says that the co-defendant, LI, is liable for any such loss and damage by reason of his wrongful and criminal acts and conduct as alleged in the Statement of Claim.

14. This defendant therefore claims against the co-defendant, LI, that if it is liable to the plaintiff, as alleged or at all, then this defendant is entitled to contribution

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and/or indemnity from the co-defendant, LI, to the full extent of any such liability, including costs.

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