

the inclination of my opinion is the other way, and that the case is not within *Grimsby Park Co. v. Irving*, 41 S. C. R. 35.

As, therefore, the plaintiff will not be substantially delayed nor prejudiced by allowing an appeal to the Court of Appeal directly, passing over the Divisional Court, I make that order. Costs in the cause.

Plans are not to be printed nor more exhibits than may be absolutely necessary.

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CARTWRIGHT, MASTER.

FEBRUARY 25TH, 1909.

CHAMBERS.

WILLIAMS v. BRANTFORD GAS CO.

*Particulars—Statement of Claim—Negligence—Explosion of Gas—Injury to Person—Discovery.*

Motion by defendants, before delivery of statement of defence, for particulars of paragraph 2 of statement of claim, charging defendants with negligence and want of care.

W. S. Brewster, K.C., for defendants.

A. A. Miller, for plaintiff.

THE MASTER:—The allegation is that the plaintiff's place of business with the furniture and stock in trade was destroyed "by an explosion of natural gas caused by the defendants' negligence in not properly caring for their gas pipes running in front and in the near vicinity of the plaintiff's place of business, whereby gas escaped from said pipes into the plaintiff's said premises and became ignited."

The affidavit of the manager of the defendants states that, after carefully investigating the matter, he has not been able to discover any negligence on the part of the defendants, or their servants, in the matter, and that it will be impossible to plead until plaintiff gives particulars, i.e., the material facts on which he intends to rely, as directed by Con. Rule 268. Negligence is not such a fact, but only a conclusion of law from acts of omission or commission on the part of a person charged with a duty to others.

The present is not a case like *Smith v. Reid*, 17 O. L. R. 265, 12 O. W. R. 659. Here it is not possible for the plain-