

defendants to strike out so much of the statement of claim and prayer for relief as dealt with the claim against the defendants the Maryland Casualty Co. The statement of claim set out that the plaintiff on or about the 28th November, 1909, was seriously injured while in the service of the defendants the Crown Reserve Mining Co., and that, upon his making a claim for damages against those defendants, the defendants the Maryland Casualty Co. began negotiations with the plaintiff on behalf of themselves and the mining company, looking to a settlement, and that finally, on the 14th May, 1910, an agreement was made between the plaintiff and defendants, under which the defendants were to pay \$3,500 in full settlement to the plaintiff; but that on the 28th May the defendants refused to carry this out. The plaintiff claimed from both defendants payment of this \$3,500, with interest from the 14th May, 1910, or, in the alternative, \$15,000 damages from the mining company. *Held*, that the plaintiff was seeking to join two entirely separate and distinct causes of action—first, an action of tort against the mining company, and, second, an action for breach of an alleged agreement of settlement—and these could not be joined, being inconsistent and mutually destructive, and not both against the same defendants. Reference to *Stitt v. Arts and Crafts Limited*, 11 O.W.R. 645, 647; *Andrews v. Forsyth*, 7 O.L.R. 188; *Quigley v. Waterloo Manufacturing Co.*, 1 O.L.R. 606; *Evans v. Jaffray*, ib. 614, 621. However numerous the defendants, there must be only one claim for relief, based on one *injuria* in which all are alleged to be implicated. Motion granted with costs to the defendants in any event. The plaintiff to elect in a week on which cause of action he will proceed, and time for defence to run therefrom. G. M. Clark, for the defendants. J. A. Macintosh, for the plaintiff.

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CLARKSON v. LINDEN—FALCONBRIDGE, C.J.K.B.—DEC. 12.

*Pleading—Statement of Claim—Motion to Strike out—Action by Liquidator—Leave of Master—Irregularities—Amendment—Parties—Company.*]—Motion by the defendants to strike out the statement of claim and to dismiss the action, on the grounds that the provisional liquidator has no right to bring the action in his own name, that two alleged causes of action are improperly joined, that no reasonable cause of action is shewn, and on other grounds. FALCONBRIDGE, C.J.:—I do not conceive that I have jurisdiction, on this application, to set aside