

Date: 20260519
Docket: CI 22-01-37978
(Winnipeg Centre)
Indexed as: L.G. v. R.K.
Cited as: 2026 MBKB 66

COURT OF KING'S BENCH OF MANITOBA

B E T W E E N:

L.G.,)	<u>Jamie A. Kagan</u>
)	for the plaintiff
)	
plaintiff,)	
)	
- and -)	<u>Amanda Verhaeghe</u>
)	for the defendant
)	
R.K.,)	
)	
defendant.)	
)	<u>Judgment Delivered:</u>
)	May 19, 2026

TOEWS J.

INTRODUCTION

[1] The plaintiff commenced an action against her natural father, the defendant, alleging that he mentally, verbally, physically and sexually abused her. The particulars of the abuse include sexual touching, oral sex, anal rape, and vaginal rape during a period of approximately 33 years, and are alleged to have occurred in varying frequencies. The injuries the plaintiff claims to have suffered, including physical, psychological and social injuries, are set out in the statement of claim and referred to in the course of my reasons reported at ***L.G. v. R.K.***, 2026 MBKB 33 (CanLII).

[2] Following a contested trial of the matter I dismissed the plaintiff's action concluding that:

[134] In the result, I find that the plaintiff has not proven on a balance of probabilities that she was sexually assaulted, sexually abused, or abused by the defendant as alleged in the statement of claim as originally filed or as amended at trial. Accordingly, the statement of claim of the plaintiff against the defendant is dismissed with costs.

[135] Although the defendant requested an opportunity to address the issue of costs at a later date, I see no reason in the circumstances of this case, admittedly without the benefit of submissions from counsel on this point, to depart from the awarding of costs as fixed by tariff. If costs cannot be agreed upon or if the defendant wishes to seek costs at a higher or enhanced level, including solicitor/client costs, costs may be spoken to. Otherwise, I am prepared to order costs on the basis of tariff.

[3] The defendant prepared and provided the plaintiff with a form of judgment and a bill of costs based on tariff for a Class IV proceeding. The plaintiff disagrees with the defendant's assessment and says that Class II is the correct tariff in the circumstances as the value of the claim does not exceed \$150,000. The defendant now brings this matter forward to have the form of judgment and the quantum of costs approved by the court. Both parties have filed affidavits in support of their respective positions.

THE LEGAL FRAMEWORK

[4] Pursuant to s. 96(1) of *The Court of King's Bench Act*, C.C.S.M. c. C280, the court has broad discretion over costs. Section 96(1) provides:

Costs 96(1) Subject to the provisions of an Act or the rules, the costs of or incidental to, a proceeding, or a step in a proceeding, are in the discretion of the court and the court shall determine liability for costs and the amount of the costs or the manner in which the costs shall be assessed.

[5] Costs are also addressed in Rules 57 and 58 of the King's Bench Rules and in particular, Rule 57.01(1) sets out factors relevant to the determination of costs as follows:

57.01(1) In exercising its discretion under section 96 of *The Court of King's Bench Act*, to award costs, the court may consider, in addition to the result in the proceeding and any offer to settle made in writing,

- (a) the amount claimed and the amount recovered in the proceeding;
- (b) the complexity of the proceeding;
- (c) the importance of the issues;
- (d) the conduct of any party which tended to shorten or lengthen unnecessarily the duration of the proceeding;
- (d.1) the conduct of any party which unnecessarily complicated the proceeding;
- (d.2) the failure of a party to meet a filing deadline;
- (e) whether any step in the proceeding was improper, vexatious or unnecessary;
- (f) a party's denial or refusal to admit anything which should have been admitted;
- (f.1) the relative success of a party on one or more issues in a proceeding in relation to all matters put in issue by that party;
- (g) whether it is appropriate to award any costs or more than one set of costs where there are several parties with identical interests who are unnecessarily represented by more than one counsel; and
- (h) any other matter relevant to the question of costs.

POSITION OF THE DEFENDANT

[6] The defendant submits that as the successful party he is entitled to costs and that the other factors to consider in determining the quantum of costs include:

- a) From the onset the plaintiff's assessment of damages exceeded \$500,000;
- b) The plaintiff's case was dismissed in its entirety;
- c) The matters at issue were extremely important and the allegations made were the most egregious allegations a daughter could make against a father;
- d) The plaintiff refused to disclose documents from her treating councillors and psychologists even though they were highly relevant and not subject to privilege (as argued by the plaintiff) and highly probative of the defendant's case;
- e) The plaintiff refused to disclose materials used or generated by her expert in the preparation of his report and then only agreed to disclose these materials when

the plaintiff determined she wanted certain disclosures from the defendant's expert;

- f) The plaintiff initially refused to provide contact information for certain witnesses;
- g) In the weeks prior to the trial, the plaintiff took various steps which distracted from trial preparation;
- h) The plaintiff took unreasonable positions during the course of the trial;
- i) The plaintiff refused a number of opportunities to walk away from the action without any cost implications;
- j) The unproven or unfounded allegations made by the plaintiff impugned the integrity and reputation of the defendant and warrant elevated costs; and
- k) As set out in the court order filed as No. 28 in the court pocket, costs previously awarded in this action were based on a Class IV proceeding.

[7] On the basis of the forgoing, the defendant submits that as a starting point he is entitled to costs in the amount of \$71,389.87 based on a tariff for a Class IV proceeding, but that in light of the damage done to his reputation and relationships, the fact that he had to finance his defence and the other factors set out above, the court should consider awarding elevated costs.

POSITION OF THE PLAINTIFF

[8] The plaintiff submits that although the plaintiff initially advanced a claim exceeding \$500,000 by way of a pre-action settlement proposal, the plaintiff states that this is **not** the correct measure of the value of the action. She states that the court must assess the realistic and/or practical value of the proceeding, not the highest figure ever advanced.

[9] The plaintiff states that her primary issue in this proceeding was the validation of the claim. She notes that any cost award would be enforced against her home where she resides with her husband and her children. A Class IV award in respect of costs would devastate her financially.

[10] The plaintiff submits that the settlement positions are instructive on the issue, noting that in December 2025, she offered to settle this matter for \$100,000 and in February 2026, just prior to the trial, the offer to settle was \$40,000 together with non-monetary items. The plaintiff says these later offers provide a more reliable basis for assessing value.

[11] With respect to the other factors which the court should consider in the assessment of costs, the plaintiff's submissions include:

- a) Although the issues at trial were serious, that alone does not determine tariff classification;
- b) The proceeding was not of such complexity and magnitude to justify the highest tariff as the issues were mainly fact driven and turned on credibility. Although experts were retained and their reports relied upon, the proceeding was limited in scope and the expert reports did not materially expand the complexity of the case beyond the central fact dispute;
- c) She did not engage in improper conduct in the course of the litigation, and denies the allegation by the defendant that she conducted herself with a view to distracting the defendant from preparing for trial or attempting to bully the defendant into a settlement;

- d) The plaintiff did not conduct herself in a manner that was reprehensible, scandalous or outrageous, but rather her conduct was premised on her belief in the allegations which arose from substance induced psychosis or paranoia;
- e) The defendant was provided with offers in the range of \$40,000 to \$100,000 which reflected a genuine effort to resolve the matter and they provide a reasonable basis for evaluating the realistic value of the claim;
- f) In respect of reputational harm to the defendant, the plaintiff was experiencing psychosis and genuinely believed her allegations, and her sincerely held belief negated any inference that she intended to impugn the defendant's reputation.

ANALYSIS AND DECISION

[12] There is no question that the court has broad discretion to fix costs pursuant to ***The Court of King's Bench Act*** and the King's Bench Rules. I have referenced the relevant provisions earlier in these reasons.

[13] As the successful party, the defendant is entitled to costs. The facts are set out in my decision delivered March 4, 2026 and need not be repeated here. However, in considering those facts, I am satisfied that the plaintiff did not act in a manner that was deliberately improper, vexatious or unnecessary. Furthermore, the conduct of the plaintiff was not a malicious attempt to impugn the integrity and reputation of the defendant. Her belief in the allegations were genuine although mistakenly based on a psychosis.

[14] Nevertheless, those allegations carried the very real threat that they would significantly impugn the integrity and reputation of the defendant. I agree with the defendant's position that the matters at issue were extremely important and the allegations made were the most egregious allegations a daughter could make against a father. I can understand why the defendant would rather choose the risk of going to trial than accept an offer from the plaintiff that would undoubtedly suggest to some that he in fact had committed the acts alleged by the plaintiff.

[15] The fact that a non-disclosure provision may have prevented the terms of the settlement, including any denial of liability, from being disseminated by the plaintiff, given the nature of the allegations made and the family members who already were familiar with those allegations, a non-disclosure provision would offer little if any comfort to the defendant. In the circumstances of this case, it is reasonable on the part of the defendant to seek a complete dismissal of the action, by consent or after a trial. A dismissal of the action is the only real reassurance the defendant could obtain to convince anyone who was already familiar with the allegations that there was no merit to the case being advanced by the plaintiff.

[16] In my opinion, the offer advanced by the defendant set out in an email dated February 6, 2026 to the plaintiff's counsel was in my opinion a very reasonable attempt by the defendant to settle this matter. (See Tab E of the affidavit of Veronica Adams, affirmed April 24, 2026) The defendant in the circumstances of this case cannot be faulted for rejecting the offer of the plaintiff which included the payment of the sum of

\$40,000 by the defendant, even though this amount is significantly less than the initial request for a payment from the defendant in excess of \$500,000.

[17] The settlement positions of the plaintiff continued to reflect a decline in the amount of the monetary award requested as the trial date came closer. However, despite those offers, there would have been nothing preventing the plaintiff from claiming a much more significant award of damages, including the initial amount in excess of \$500,000, had she been successful at trial. In my opinion, had the plaintiff been successful in advancing her action on the basis of the allegations made, an award in the amount of the claim initially advanced by the plaintiff would not have been out of the question.

[18] In advancing his defence, the defendant was put to considerable effort to determine the truth and to produce evidence in court to establish what had actually occurred. The fact that the plaintiff amended her claim at the onset of the trial to discontinue any claim for any assaults that she alleged occurred from the age of 18 until the end of 2023, did not relieve the defendant of any significant effort or expenses necessary to mount a defence.

CONCLUSION

[19] For the reasons set out in this decision, I am satisfied that costs on a Class IV basis are justified. This conclusion takes into account not only the plaintiff's initial request in respect of the quantum of damages, but also bearing in mind the nature of the claim and the steps that the defendant was required to take in order to absolve himself of any liability. On that basis the defendant is entitled to costs in the amount of \$71,389.87 based on tariff for a Class IV proceeding.

[20] I note that the defendant has argued that in light of the damage done to the defendant's reputation and relationships he had with family and friends, the court should consider awarding elevated costs. I am not prepared to award elevated costs for the reasons provided, especially in view of the fact that the plaintiff's allegations were based on a genuine belief although based on a psychosis. Had I found that the plaintiff's allegations were based on malice or otherwise motivated by an improper purpose, I would consider awarding elevated costs, including an award of solicitor-client costs.

[21] In addition, I would also fix costs for this hearing at a Class II tariff level in favour of the defendant.

_____ J.