

COURT FILE NUMBER QBG-SA-00766-2022

COURT OF KING'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

PLAINTIFFS CAITLIN ERICKSON, JENNIFER SOUCY (BEAUDRY)
and STEFANIE HUTCHINSON

DEFENDANTS KEITH JOHNSON, JOHN OLUBOBOKUN, KEN SCHULTZ,
NATHAN RYSAVY, DUFF FRIESEN, LYNETTE WEILER,
JOEL HALL, FRAN THEVENOT, LOU BRUNELLE, JAMES
RANDALL, TRACEY JOHNSON, SIMBO OLUBOBOKUN,
CATHERINE RANDALL, KEVIN MACMILLAN, ANNE
MACMILLAN, DAWN BEAUDRY, NATHAN SCHULTZ,
AARON BENNEWEIS, DEIDRE BENNEWEIS, DARCY
SCHUSTER, RANDY DONAUER, JOHN THURINGER, MILE
TWO CHURCH INC., THE GOVERNMENT OF
SASKATCHEWAN, JOHN DOES and JANE DOES

Brought under *The Class Actions Act*, SS 2001 c C-12.01

REPLY TO REQUEST FOR PARTICULARS

The Plaintiffs, Caitlin Erickson, Jennifer Soucy (Beaudry), and Stefanie Hutchinson, hereby reply as follows to the Defendant's, Kevin MacMillan's, Request for Particulars, dated October 31, 2023:

The Plaintiffs state generally that the nature of class action litigation is that not all instances of conduct captured by the conduct pleaded in the Second Amended Statement of Claim are, or can be, known to the Plaintiffs and that in this regard the Second Amended Statement of Claim affords Kevin MacMillan sufficient information to enable him to understand "at least in broad strokes what the plaintiff's case is about" with respect to all of the particulars requested (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).

The Plaintiffs state that particulars requiring the identification of perpetrator, victim, and date of each and every incident of abuse carried out by the Defendants against

members of the Plaintiff Classes, which occurred over a span of 1982 to present, is not reasonable, appropriate or consistent with either the general rules of pleadings or the rules of pleadings in a class action. Further, such requests for particulars are contrary to the purpose of class proceedings as a whole, and particularly respecting class proceedings prior to certification. Particularly pre-certification, the Class Plaintiffs do not, and can not, know of all conduct carried out against all of the Plaintiff Classes.

The Plaintiffs state that the Second Amended Statement of Claim speaks for itself with respect to the allegations.

The Plaintiffs state that the Second Amended Statement of Claim speaks for itself with respect to the individuals who were the victims of and suffered damages as a result of the allegations.

The Plaintiffs state that all of the conduct alleged in the Second Amended Statement of Claim occurred in the Province of Saskatchewan during the period from 1982 to present.

1. With respect to paragraphs 31(a) and 70 of the Amended Claim, particulars of any incident of alleged negligence, alleged gross negligence, alleged breach of any duty of care, and any alleged harm committed by Kevin, including the:
 - a. Names of the alleged victims;
 - b. Location of the incident(s); and
 - c. Time frames and dates on which the alleged conduct occurred.

Reply:

The Plaintiffs reply as follows:

- a. **The alleged victims of Kevin are the members of the Plaintiff Classes;**
- b. **The incident(s) alleged occurred in the Province of Saskatchewan; and**
- c. **The time frame and dates when the alleged conduct occurred is all times at which Kevin was an employee, representative or agent of Mile Two Church Inc. or its predecessors, the School and/or Church, and/or a member of the Church during the period from 1982 to present.**

The prayer for relief pled in paragraph 31(a) of the Second Amended Statement of Claim is relief for the conduct described throughout the Second Amended Statement of Claim.

The negligence pled in paragraph 70 of the Second Amended Statement of Claim is described throughout the Second Amended Statement of Claim, including but not limited to paragraph 66, 68 and 69.

In addition:

- 1. The particulars requested herein are matters of evidence not pleading and are discoverable through a Questioning in this matter (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110).**
 - 2. The Defendant has better knowledge of the particulars demanded by it (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110 and *Canadian Imperial Bank of Commerce v. Todd*, [1987] S.J. No. 703).**
 - 3. The particulars demanded are not reasonably required by the Defendant in order to plead intelligently (see: *Saskatchewan Provincial Court Judges Assn. v. Saskatchewan (Minister of Justice)*, [1994] 9 W.W.R. 293).**
 - 4. The Statement of Claim affords the Defendant sufficient information to enable it to understand “at least in broad strokes what the plaintiff’s case is about”, as is required in a pre-certification application for further particulars (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).**
2. With respect to paragraphs 31(a) and 73-74 of the Amended Claim, particulars of any incident of alleged breach of fiduciary duty committed by Kevin, including the:
- a. Names of the alleged victims;
 - b. Location of the incident(s); and

- c. Time frames and dates on which the alleged conduct occurred.

Reply:

The Plaintiffs reply as follows:

- a. **The alleged victims of Kevin are the members of the Plaintiff Classes;**
- b. **The incident(s) alleged occurred in the Province of Saskatchewan; and**
- c. **The time frame and dates when the alleged conduct occurred is all times at which Kevin was an employee, representative or agent of Mile Two Church Inc. or its predecessors, the School and/or Church, and/or a member of the Church during the period from 1982 to present.**

The prayer for relief pled in paragraph 31(a) of the Second Amended Statement of Claim is relief for the conduct described throughout the Second Amended Statement of Claim.

The negligence pled in paragraphs 73-74 of the Second Amended Statement of Claim is described throughout the Second Amended Statement of Claim, including but not limited to paragraph 71 and 72.

In addition:

1. **The particulars requested herein are matters of evidence not pleading and are discoverable through a Questioning in this matter (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110).**
2. **The Defendant has better knowledge of the particulars demanded by it (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110 and *Canadian Imperial Bank of Commerce v. Todd*, [1987] S.J. No. 703).**
3. **The particulars demanded are not reasonably required by the Defendant in order to plead intelligently (see: *Saskatchewan Provincial Court Judges Assn. v. Saskatchewan (Minister of Justice)*, [1994] 9 W.W.R. 293).**

4. **The Statement of Claim affords the Defendant sufficient information to enable it to understand “at least in broad strokes what the plaintiff’s case is about”, as is required in a pre-certification application for further particulars (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).**
3. With respect to paragraph 31(a) of the Amended Claim, particulars of any incident of alleged assault and/or battery committed by Kevin, including:
 - a. Names of the alleged victims;
 - b. Location of the incident(s); and
 - c. Time frames and dates on which the alleged conduct occurred.

Reply:

The Plaintiffs reply as follows:

The assault and battery pled in the Second Amended Statement of Claim is described throughout the Second Amended Statement of Claim, including without limitation paragraphs 47 and 50 thereof.

- a. **The alleged victims of Kevin are the members of the Plaintiff Classes, and particularly the Abused Student Class and the Church Minors Class. In any event Kevin has better knowledge of who she had assaulted and/or battered than the Plaintiffs;**
- b. **The incident(s) alleged occurred in the Province of Saskatchewan; and**
- c. **The time frame and dates when the alleged conduct occurred is all times at which Kevin was an employee, representative or agent of Mile Two Church Inc. or its predecessors, the School and/or Church, and/or a member of the Church during the period from 1982 to present.**

In addition:

1. **The particulars requested herein are matters of evidence not pleading and are discoverable through a Questioning in this matter (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110).**

2. **The Defendant has better knowledge of the particulars demanded by it** (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110 and *Canadian Imperial Bank of Commerce v. Todd*, [1987] S.J. No. 703).
 3. **The particulars demanded are not reasonably required by the Defendant in order to plead intelligently** (see: *Saskatchewan Provincial Court Judges Assn. v. Saskatchewan (Minister of Justice)*, [1994] 9 W.W.R. 293).
 4. **The Statement of Claim affords the Defendant sufficient information to enable it to understand “at least in broad strokes what the plaintiff’s case is about”, as is required in a pre-certification application for further particulars** (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).
4. With respect to paragraph 31(a) of the Amended Claim, particulars of any incident of alleged infliction of mental suffering committed by Kevin, including:
- a. Names of the alleged victims;
 - b. Location of the incident(s); and
 - c. Time frames and dates on which the alleged conduct occurred.

Reply:

The Plaintiffs reply as follows:

The infliction of mental suffering is described throughout the Second Amended Statement of Claim, including without limitation paragraphs 48, 49 and 58 thereof.

- a. **The alleged victims of Kevin are the members of the Plaintiff Classes, and particularly the Abused Student Class and the Church Minors Class. In any event Kevin has better knowledge of who she had inflicted mental injury than the Plaintiffs;**
- b. **The incident(s) alleged occurred in the Province of Saskatchewan; and**

- c. **The time frame and dates when the alleged conduct occurred is all times at which Kevin was an employee, representative or agent of Mile Two Church Inc. or its predecessors, the School and/or Church, and/or a member of the Church during the period from 1982 to present.**

In addition:

1. **The particulars requested herein are matters of evidence not pleading and are discoverable through a Questioning in this matter** (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110).
2. **The Defendant has better knowledge of the particulars demanded by it** (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110 and *Canadian Imperial Bank of Commerce v. Todd*, [1987] S.J. No. 703).
3. **The particulars demanded are not reasonably required by the Defendant in order to plead intelligently** (see: *Saskatchewan Provincial Court Judges Assn. v. Saskatchewan (Minister of Justice)*, [1994] 9 W.W.R. 293).
4. **The Statement of Claim affords the Defendant sufficient information to enable it to understand “at least in broad strokes what the plaintiff’s case is about”, as is required in a pre-certification application for further particulars** (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).
5. With respect to paragraph 31(a) of the Amended Claim, particulars of any incident of alleged conspiracy to injure students involving Kevin, including:
 - a. Names of the alleged victims;
 - b. Location of the incident(s); and
 - c. Time frames and dates on which the alleged conduct occurred.

Reply:

The Plaintiffs reply as follows:

The conspiracy to injury is described throughout the Second Amended Statement of Claim, including without limitation paragraphs 45 through 62 thereof.

- a. The alleged victims of Kevin are the members of the Plaintiff Classes, and particularly the Abused Student Class and the Church Minors Class. In any event Kevin has better knowledge of who she had conspired to injure than the Plaintiffs;**
- b. The incident(s) alleged occurred in the Province of Saskatchewan; and**
- c. The time frame and dates when the alleged conduct occurred is all times at which Kevin was an employee, representative or agent of Mile Two Church Inc. or its predecessors, the School and/or Church, and/or a member of the Church during the period from 1982 to present.**

In addition:

- 1. The particulars requested herein are matters of evidence not pleading and are discoverable through a Questioning in this matter (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110).**
- 2. The Defendant has better knowledge of the particulars demanded by it (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110 and *Canadian Imperial Bank of Commerce v. Todd*, [1987] S.J. No. 703).**
- 3. The particulars demanded are not reasonably required by the Defendant in order to plead intelligently (see: *Saskatchewan Provincial Court Judges Assn. v. Saskatchewan (Minister of Justice)*, [1994] 9 W.W.R. 293).**
- 4. The Statement of Claim affords the Defendant sufficient information to enable it to understand “at least in broad strokes what the plaintiff’s case is about”, as is required in a pre-certification application for further particulars (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).**

6. With respect to paragraphs 45 and 46 of the Amended Claim, particulars of the alleged incidents of corporal punishment allegedly observed by Kevin, including the:
 - a. Names of the alleged victims;
 - b. Location of the incident(s); and
 - c. Time frames and dates on which the alleged conduct occurred.

Reply:

The Plaintiffs reply as follows:

- a. The alleged victims who Kevin observed being corporally punished are the members of the Plaintiff Classes, and particularly the Abused Student Class and the Church Minors Class. In any event Kevin has better knowledge of who she had conspired to injure than the Plaintiffs;**
- b. The incident(s) alleged occurred in the Province of Saskatchewan; and**
- c. The time frame and dates when the alleged conduct occurred is all times at which Kevin was an employee, representative or agent of Mile Two Church Inc. or its predecessors, the School and/or Church, and/or a member of the Church during the period from 1982 to present.**

In addition:

- 1. The particulars requested herein are matters of evidence not pleading and are discoverable through a Questioning in this matter (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110).**
- 2. The Defendant has better knowledge of the particulars demanded by it (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110 and *Canadian Imperial Bank of Commerce v. Todd*, [1987] S.J. No. 703).**
- 3. The particulars demanded are not reasonably required by the Defendant in order to plead intelligently (see: *Saskatchewan Provincial Court Judges Assn. v. Saskatchewan (Minister of Justice)*, [1994] 9 W.W.R. 293).**

4. **The Statement of Claim affords the Defendant sufficient information to enable it to understand “at least in broad strokes what the plaintiff’s case is about”, as is required in a pre-certification application for further particulars** (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).

7. With respect to paragraphs 47 and 48 of the Amended Claim, particulars of Kevin's alleged abuse in regard to trespass to the person, intentional infliction of mental injury, physical or sexual assault and/or battery of students, minor adherents and congregants of the Church, including the:
 - a. Names of the alleged victims;
 - b. Location of the incident(s); and
 - c. Time frames and dates on which the alleged conduct occurred.

Reply:

The Plaintiffs reply as follows:

- a. **The alleged abuse in regard to trespass to the person, intentional infliction of mental injury, physical or sexual assault and/or batter of students, minor adherents and congregants of the Church Plaintiff Classes. In any event Kevin has better knowledge of who he committed the said torts against than the Plaintiffs;**
- b. **The incident(s) alleged occurred in the Province of Saskatchewan; and**
- c. **The time frame and dates when the alleged conduct occurred is all times at which Kevin was an employee, representative or agent of Mile Two Church Inc. or its predecessors, the School and/or Church, and/or a member of the Church during the period from 1982 to present.**

In addition:

1. **The particulars requested herein are matters of evidence not pleading and are discoverable through a Questioning in this matter** (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110).

2. **The Defendant has better knowledge of the particulars demanded by it** (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110 and *Canadian Imperial Bank of Commerce v. Todd*, [1987] S.J. No. 703).
 3. **The particulars demanded are not reasonably required by the Defendant in order to plead intelligently** (see: *Saskatchewan Provincial Court Judges Assn. v. Saskatchewan (Minister of Justice)*, [1994] 9 W.W.R. 293).
 4. **The Statement of Claim affords the Defendant sufficient information to enable it to understand “at least in broad strokes what the plaintiff’s case is about”, as is required in a pre-certification application for further particulars** (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).
8. With respect to paragraphs 49 and 60-62 of the Amended Claim, particulars of Kevin's alleged conspiracy and/or use of the threat of Physical Abuse and Non-Physical Abuse to intentionally inflict mental injury on, and intimidate and coerce students, minor adherents and congregants of the Church, including the:
- a. Names of the alleged victims;
 - b. Location of the incident(s);
 - c. Time frames and dates on which the alleged conduct occurred; and
 - d. The identity of any alleged co-conspirators.

Reply:

The Plaintiffs reply as follows:

- a. **The alleged abuse in regard to trespass to the person, intentional infliction of mental injury, physical or sexual assault and/or batter of students, minor adherents and congregants of the Church Plaintiff Classes. In any event Kevin has better knowledge of who he committed the said torts against than the Plaintiffs;**
- b. **The incident(s) alleged occurred in the Province of Saskatchewan;**

- c. **The time frame and dates when the alleged conduct occurred is all times at which Kevin was an employee, representative or agent of Mile Two Church Inc. or its predecessors, the School and/or Church, and/or a member of the Church during the period from 1982 to present; and**
- d. **The co-conspirators are the Defendants.**

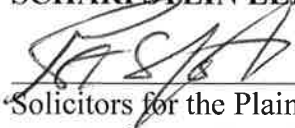
In addition:

- 1. **The particulars requested herein are matters of evidence not pleading and are discoverable through a Questioning in this matter** (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110).
- 2. **The Defendant has better knowledge of the particulars demanded by it** (see: *Prince Albert Co-Operative Assn. Ltd. v. Lyons*, [1984] S.J. No. 110 and *Canadian Imperial Bank of Commerce v. Todd*, [1987] S.J. No. 703).
- 3. **The particulars demanded are not reasonably required by the Defendant in order to plead intelligently** (see: *Saskatchewan Provincial Court Judges Assn. v. Saskatchewan (Minister of Justice)*, [1994] 9 W.W.R. 293).
- 4. **The Statement of Claim affords the Defendant sufficient information to enable it to understand “at least in broad strokes what the plaintiff’s case is about”, as is required in a pre-certification application for further particulars** (see: *Wasserman v Saskatchewan (Minister of Highways and Infrastructure)*, 2022 SKQB 17, [2022] SJ No 34).

DATED at the City of Saskatoon, in the Province of Saskatchewan, this 28th day of December, 2023.

SCHARESTEIN LLP

Per:


Solicitors for the Plaintiffs, Caitlin Erickson,
Jennifer Soucy (Beaudry), and Stefanie Hutchinson

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