

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 and COY NOLIN

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, ELAINE SCHULTZ,
CATHERINE RANDALL, KEVIN MACMILLAN, ANNE
MACMILLAN, DAWN BEAUDRY, NATHAN SCHULTZ,
AARON BENNEWEIS, DEIRDRE BENNEWEIS,
STEPHANIE CASE, 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*

NOTICE OF APPLICATION

NOTICE TO RESPONDENT

This application is made against you. You are a respondent. You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

Where	Court of King's Bench 520 Spadina Crescent East Saskatoon SK S7K 3G7
Date	At a date and time to be set by the Case Management Judge, the Honourable Justice Bardai

(Read the Notice at the end of this document to see what else you can do and when you must do it.)

Remedy claimed or sought:

1. An order pursuant to Rule 3-71(2) requiring the Plaintiffs to deliver the Defendant, Randy Donauer (“**Donauer**”), further and better particulars in response to Donauer’s Request for Particulars, dated October 30, 2023, with respect to:
 - a. paragraph 28 of the Second Amended Statement of Claim, regarding:
 - i. the policies and procedures the Plaintiffs allege Donauer was instrumental in developing and implementing; and
 - ii. the role the Plaintiffs allege Donauer played in the development and implementation of the policies and procedures.
 - b. paragraph 43 of the Second Amended Statement of Claim, regarding:
 - i. the abusive policies that the Plaintiffs allege Donauer carried out;
 - ii. the abusive policies that the Plaintiffs allege Donauer developed;
 - iii. the manner in which the Plaintiffs allege Donauer developed these abusive policies; and
 - iv. the manner in which the Plaintiffs allege that Donauer caused other employees, agents, and representatives of Mile Two Church Inc. including all of the Individually Named Defendants, to carry out said abusive policies.
 - c. paragraphs 45 and 46 of the Second Amended Statement of Claim, regarding the corporal punishment allegedly observed by Donauer, including the:
 - i. specific conduct that was allegedly observed by Donauer;
 - ii. dates or approximate dates on which such alleged conduct was observed;
 - iii. location of the conduct that was allegedly observed by Donauer; and
 - iv. the names of the alleged victims.
 - d. paragraphs 46.2 of the Second Amended Statement of Claim, regarding the physical, psychological, emotional and religious abuse allegedly suffered and the hands of Donauer allegedly amounting to torture under the *United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, including the:
 - i. specific conduct that was allegedly suffered at the hands of Donauer;

- ii. dates or approximate dates on which such alleged conduct occurred;
 - iii. location of the alleged conduct; and
 - iv. the names of the alleged victims.
- e. paragraph 47 of the Second Amended Statement of Claim, regarding Donauer's alleged abuse in the nature of trespass to the person, physical assault and/or battery of students at the School and minor adherents and congregants of the Church, including the:
 - i. specific conduct that was allegedly carried out by Donauer;
 - ii. dates or approximate dates on which such alleged conduct occurred;
 - iii. location of the alleged conduct; and
 - iv. the names of the alleged victims.
- f. paragraph 48 of the Second Amended Statement of Claim, regarding the intentional infliction of mental injury and conduct in the nature of trespass to the person, including psychological, mental, emotional and spiritual harm to the students at the School and minor adherents and congregants of the Church allegedly engaged in by Donauer, including the
 - i. specific conduct that was allegedly engaged in by Donauer;
 - ii. dates or approximate dates on which such alleged conduct occurred;
 - iii. location of the alleged conduct; and
 - iv. the names of the alleged victims.
- g. paragraph 49 of the Second Amended Statement of Claim, regarding alleged incidences of Donauer using 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:
 - i. specific threats that were allegedly made by Donauer;
 - ii. dates or approximate dates on which such alleged threats were made;
 - iii. location where the alleged threats were made; and
 - iv. the names of the recipients of the alleged threats.

2. An order for costs of this application against the Plaintiffs, payable forthwith to Donauer and in any event of the cause.
3. An order that Rule 10-4 is waived.
4. Such further and other relief as counsel may advise and that this Honourable Court may allow.

Grounds for making this application:

5. This Court has discretion to order further and better particulars under Rule 3-71 of the *King's Bench Rules*.
6. This claim is a proposed class action regarding alleged abuse that occurred in relation to the Legacy Christian Academy (the "**School**") and Mile Two Church (the "**Church**"). In addition to the School, the Church, and the Government of Saskatchewan, the Plaintiffs have brought the action against 24 individual defendants, including Donauer.
7. As a defendant in this proposed class action, Donauer is entitled to know what the Plaintiffs are alleging against him and to receive fair notice of the case he has to meet in order to plead intelligently.¹ Prior to certification, Donauer is also entitled to have a clear and reasonably precise understanding of the Plaintiff's assertion of the claim's suitability as a class action.²
8. However, the Claim is drafted in a manner such that all of the 24 individual defendants are lumped together into groups, with the allegations against these 24 individual defendants directed at these defendant groups, rather than any particular individual defendant. As such, the great majority of the allegations against Donauer are drafted broadly with minimal to no particulars as to the specific perpetrator, victim, or date of the alleged misconduct.
9. This manner of drafting has left Donauer in a position where he does not know what the Plaintiffs are alleging against him or the case he has to meet. Additionally, lumping the individual defendants together for each allegation makes it impossible for Donauer to assess the suitability of the claim a class action, specifically with regard to whether the

¹ *Wildeman v Bell Mobility Inc.*, 2015 SKQB 125 at paras 12, 14-15, 473 Sask R 259 [*Wildeman*].

² *Ibid*, at para 21.

allegations raise common issues, as required for certification of the claim as a class action under section 6(1)(c) of the *Class Actions Act*.³

10. In an attempt to alleviate these concerns, on October 30, 2023, Donauer served the Plaintiffs with a Request for Particulars, requesting the particulars set out above in paragraph 1 of this Notice of Application.⁴
11. On December 28, 2023, the Plaintiffs delivered a Reply to Donauer's Request for Particulars that fails to provide the particulars requested. As such, Donauer remains unable to intelligently respond to allegations against him or prepare for the anticipated certification application.
12. Donauer, therefore requests an order requiring the Plaintiffs to furnish him with the further and better particulars that he has requested, as set out above.

Material or evidence to be relied on:

13. This Notice of Application;
14. Affidavit of Randy Donauer, sworn February 27, 2024;
15. Draft Order;
16. Brief of Law; and
17. The pleadings and proceedings had and taken herein.

Applicable rules:

18. Rule 3-71 of the *King's Bench Rules*.

³ SS 2001 c C-12.01.

⁴ Donauer is satisfied with the Plaintiffs' replies to requests #2 and #9 and does not seek further and better particulars in regards to same.

Applicable Acts and Regulations:

19. The *Class Actions Act*, SS 2001 c C-12.01.

DATED at Saskatoon, Saskatchewan, this 28th day of February, 2024

W LAW LLP



Per: _____
ABBY HOLTSLANDER
Solicitor for the Applicant,
Randy Donauer

CONTACT INFORMATION AND ADDRESS FOR SERVICE

Name of firm: W Law LLP
Lawyers in charge of file: Adam Touet / Abby Holtlander
Address of legal firm: 1100, 122 1st Ave. S., Saskatoon
SK S7K 7E5
Telephone number: (306) 244-2242
Fax number: (306) 652-0332
Email address: atouet@wlaw.com / aholtlander@wlaw.com