

Form 6-5
(Subrule 6-5(1))

COURT FILE NUMBER QBG-SA-00766-2022

COURT OF KING'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE SASKATOON

PLAINTIFFS /
RESPONDENTS CAITLIN ERICKSON, JENNIFER SOUCY
(BEAUDRY) and STEFANIE HUTCHINSON and ~~GOY~~
~~NOLIN~~

DEFENDANT/
APPLICANT MILE TWO CHURCH INC.

DEFENDANTS KEITH JOHNSON, JOHN OLUBOBOKUN, KEN
SHULTZ, NATHAN RYSAVY, DUFF FRIESEN,
LYNETTE WEILER, JOEL HALL, ~~FRAN THEVENOT~~,
LOU BRUNELLE, JAMES RANDALL, ~~TRACEY~~
~~JOHNSON~~, SIMBO OLUBOBOKUN, ELAINE
SCHULTZ, ~~CATHERINE RANDALL~~, KEVIN
MACMILLIAN, ~~ANNE MACMILLIAN~~, DAWN
BEAUDRY, NATHAN SCHULTZ, AARON
BENNEWEIS, ~~DEIDRE BENNEWEIS~~, STEPHANIE
CASE, DARCY SCHUSTER, RANDY DONAUER,
JOHN THURINGER, THE GOVERNMENT OF
SASKATCHEWAN, JOHN DOES and JANE DOES

Brought under *The Class Actions Act*

NOTICE OF APPLICATION

NOTICE TO RESPONDENTS

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: 520 Spadina Crescent E, Saskatoon, Saskatchewan

Date: On a date and time to be set in consultation with the Local Registrar

(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. The Applicant (Defendant), Mile Two Church Inc. ("**Mile Two**"), applies for the following relief:

a. An Order pursuant to Rule 5-12(2)(a) of *The King's Bench Rules* (the "**Rules**") and the inherent jurisdiction of this Honourable Court, compelling the Plaintiffs to disclose and produce all documents connected to the arrangements that led to the settlement and discontinuances of the claim against the following defendants:

- i. Stephanie Case;
- ii. Fran Thevenot;
- iii. Tracey Johnson;
- iv. Anne MacMillan;
- v. Catherine Randall;
- vi. Deidre Benneweis; and
- vii. Simbo Olubobokun

(the "**Settling Defendants**")

including, but not limited to, correspondence between the plaintiffs and the Settling Defendants, or their counsel, transcripts or written and/or audio recordings of any questionings conducted of the Settling Defendants, written questions and replies to written questions provided to or by any of the Settling Defendants, and copies of any statements and/or Affidavits sworn by the Settling Defendants (the "**Cooperation Documents**");

b. In the alternative, an Order pursuant to Rule 5-12(2)(c) of the *Rules* that the Plaintiffs produce the Cooperation Documents for the purposes of inspection;

c. In the further alternative, an Order pursuant to Rule 5-12(2)(d) of the *Rules* that the Plaintiffs produce the requested documents to this Honourable Court, for the purpose of determining whether any of the documents over which privilege is claimed are privileged;

- d. An Order that if the Plaintiffs settle and discontinue the claim against any other Defendant that they are required to immediately disclose and produce all Cooperation Documents relating to those settlements and discontinuances;
- e. An Order granting Mile Two the costs of this application; and
- f. Such further and other relief as counsel may request and this Honourable Court may allow.

Grounds for making this application:

- 2. Any partial settlement with any defendant must be immediately disclosed to the non-settling defendants, and approved by the Court.
- 3. The Plaintiffs have discontinued the within action against and/or have entered into settlement agreements with the Settling Defendants. The discontinuances of claim against Ms. Case, Ms. Thevenot and Ms. Johnson were not immediately disclosed, served or produced to Mile Two or other non-settling defendants, and were only disclosed and served/produced after being repeatedly requested by Mile Two. The settlement agreements for these Settling Defendants were also not immediately disclosed or produced until after being repeatedly demanded by Mile Two.
- 4. Some or all of the discontinuances and/or settlements are based on the Settling Defendants' cooperation and support of the Plaintiffs' action. The evidence is that some or all of the Settling Defendants swore affidavits responding to specific questions posed by the Plaintiffs regarding the underlying claims outlined in the Amended Statement of Claim, agreements to make themselves available to experts in the investigation of the matters which are the subject of the action against the non-settling defendants, agreements to attend as witness' at trial, and agreements not to take an adversarial position against the Plaintiffs in the action.
- 5. The content of Cooperation Documents obtained by the Plaintiffs in the course of their settlements with the Settling Defendants is unknown to Mile Two and the other non-settling Defendants.

6. Mile Two has demanded that the Cooperation Documents be disclosed and produced. The Plaintiffs have refused.
7. Failure to immediately disclose and produce information about an agreement amongst parties to an action that has the effect of changing the adversarial landscape of the litigation is an abuse of process requiring a stay of proceedings.
8. The Cooperation Agreements are relevant to determining if the agreements reached with the Settling Defendants have changed the adversarial landscape of the litigation.
9. Rule 5-12(2) of the *Rules* provides this Court with the jurisdiction to make an order requiring any party to produce documents, to make an order for the inspection of documents, and to make an order determining whether documents with respect to which privilege is claimed are privileged.
10. Rule 11-1 of the *Rules* grants this Court broad discretion with respect to awards of costs.

Material or evidence to be relied on:

11. This Notice of Application with proof of service;
12. Affidavit of Bryan Reynolds sworn June 18, 2024;
13. Brief of Law (to be filed);
14. Draft Order;
15. The pleadings and proceedings had and taken herein; and
16. Such further and other material as counsel may advise.

Applicable rules:

17. Rules 5-12(2)(a),(c), and (d), and 11-1 of *The King's Bench Rules*.

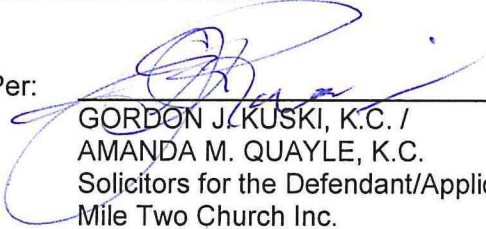
Applicable Acts and regulations:

18. N/A

DATED at Regina, Saskatchewan, this 18th day of June, 2024.

McDOUGALL GAULEY LLP

Per:



GORDON J. KUSKI, K.C. /
AMANDA M. QUAYLE, K.C.
Solicitors for the Defendant/Applicant,
Mile Two Church Inc.

NOTICE

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant.

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party:

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Name of lawyer in charge of file: Gordon J. Kuski, K.C. / Amanda M. Quayle, K.C.
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