

**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 COY NOLIN

DEFENDANT/  
APPLICANT THE GOVERNMENT OF SASKATCHEWAN

DEFENDANTS/  
RESPONDENTS MILE TWO CHURCH INC., 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, 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 East, Saskatoon, SK S7K 3G7

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, the Government of Saskatchewan, ("**Saskatchewan**") applies for the following relief:
  - a. An Order pursuant to Rule 7-9 of *The King's Bench Rules* [Rules] and the inherent jurisdiction of this Honourable Court staying the within action as against Saskatchewan as an abuse of process; and
  - b. 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. 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.

**The Discontinuances**

4. The Plaintiffs have entered into settlement agreements with the former Defendants, Stephanie Case, Fran Thevenot, and Tracey Johnson (together, the "**Settling Defendants**"). The Plaintiffs have entered Discontinuances of Claim as against the Settling Defendants, as well as the former Defendants, Anne MacMillan, Catherine Randall, Deirdre Benneweis, and Simbo Olubobokun (the "**Discontinuances**").
5. The Plaintiffs did not immediately disclose, serve, or produce the existence of the settlement agreements themselves, or the Discontinuances against the Settling Defendants, to the non-settling Defendants.
6. The Discontinuances were only produced to Mile Two Church Inc. ("**Mile Two**") after being requested by Mile Two.

7. The Discontinuance against Ms. Case is dated November 6, 2023 and was filed on November 7, 2023. Saskatchewan has never received a copy of this Discontinuance from the Plaintiffs.
8. The Discontinuance against Ms. Thevenot is dated February 5, 2024 and was filed on February 6, 2024. Saskatchewan has never received a copy of this Discontinuance from the Plaintiffs.
9. The Discontinuance against Ms. Johnson is dated February 21, 2024 and was filed on February 21, 2024. Saskatchewan has never received a copy of this Discontinuance from the Plaintiffs.

#### **The Settlement Agreements**

10. The Discontinuances against the Settling Defendants are a result of those former Defendants entering settlement agreements with the Plaintiffs (the "**Settlement Agreements**"). The Plaintiffs did not immediately disclose the fact of the Settlement Agreements, or serve, or produce the Settlement Agreements, to Saskatchewan or other non-settling Defendants.
11. The Settlement Agreements were only produced after being repeatedly requested by Mile Two.
12. The Settlement Agreement between the Plaintiffs and Ms. Case is dated November 2, 2023 (the "**Case Settlement Agreement**"). Saskatchewan did not receive a copy of the Case Settlement Agreement until April 8, 2024, when its counsel was copied on correspondence from Plaintiffs' counsel to Mile Two's counsel.
13. The Settlement Agreement between the Plaintiffs and Ms. Thevenot is dated February 24, 2024 (the "**Thevenot Settlement Agreement**"). Saskatchewan did not receive a copy of the Thevenot Settlement Agreement until April 8, 2024, when its counsel was copied on correspondence from Plaintiffs' counsel to Mile Two's counsel.

14. The Settlement Agreement between the Plaintiffs and Ms. Johnson is dated February 20, 2024 (the “**Johnson Settlement Agreement**”). Saskatchewan did not receive a copy of the Johnson Settlement Agreement until April 8, 2024, when its counsel was copied on correspondence from Plaintiffs’ counsel to Mile Two’s counsel.

**The Plaintiffs’ failure to immediately disclose the Settlement Agreements warrant a stay of proceedings**

15. Any partial settlement of an action – a settlement between a Plaintiff and some, but not all, Defendants – must be immediately disclosed if the settlement changes the landscape of the litigation in a way that significantly alters the dynamics of the litigation. The failure to immediately disclose such a settlement agreement is an abuse of process. The remedy for that abuse of process is a stay of the action against the non-settling Defendants.
16. The Settlement Agreements between the Plaintiffs and the Settling Defendants changes entirely the landscape of the litigation. The effect of the Settlement Agreements is to change the adversarial position of the Settling Defendants and the Plaintiffs into a cooperative one. The Settlement Agreements, and the consequent Discontinuances as against the Settling Defendants, significantly alters the dynamics of the litigation.
17. The Plaintiffs failed to immediately disclose the Settlement Agreements to Saskatchewan. The Settlement Agreements were only disclosed to Saskatchewan by the Plaintiffs after Mile Two made repeated efforts to probe the circumstances of the Discontinuances. The Plaintiffs’ failure to immediately disclose the Settlement Agreements to the non-settling Defendants constitutes an abuse of process.
18. A stay of proceedings as against Saskatchewan is the only remedy available to redress the abuse of process in these circumstances. A stay is necessary in order to ensure that justice is done between the parties and to ensure that this Honourable Court is able to enforce and control its own processes.

**Material or evidence to be relied on:**

19. Saskatchewan relies on the following material and evidence in support of its application:
- a. This Notice of Application with proof of service;
  - b. Affidavit of Bryan Reynolds sworn November 1, 2024 and filed in support of the application of Mile Two to stay the within action as against Mile Two;
  - c. Affidavit of Vicki Strickland sworn on November 27, 2024;
  - d. Draft Order;
  - e. Brief of Law (to be filed);
  - f. The pleadings and proceedings had and taken herein; and
  - g. Such further and other material as counsel may advise and this Honourable Court may allow.

**Applicable rules:**

20. Rules 1-3, 1-4, 1-5, and 7-9 of the *Rules*.


**Applicable Acts and regulations:**

21. N/A.

DATED at Regina, Saskatchewan, this 28<sup>th</sup> day of November, 2024.

Ministry of Justice and Attorney General

Per: \_\_\_\_\_

  
Justin Stevenson, Counsel for the  
Government of Saskatchewan

### **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: Justin Stevenson  
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