

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 / CAITLIN ERICKSON, JENNIFER SOUCY
RESPONDENTS (BEAUDRY) and STEFANIE HUTCHINSON

DEFENDANTS / JOHN OLUBOBOKUN, KEN SCHULTZ, NATHAN
APPLICANTS RYSAVY, DUFF FRIESEN, JOEL HALL, LOU
 BRUNELLE, JAMES RANDALL, KEVIN
 MACMILLAN, DAWN BEAUDRY, NATHAN
 SCHULTZ, AARON BENNEWEIS, RANDY
 DONAUER and JOHN THURINGER

DEFENDANTS / KEITH JOHNSON, LYNETTE WEILER, DARCY
RESPONDENTS SCHUSTER, MILE TWO CHURCH INC., 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 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 Applicants (Defendants), John Olubobokun, Ken Schultz, Nathan Rysavy, Duff Friesen, Joel Hall, Lou Brunelle, James Randall, Kevin MacMillan, Dawn Beaudry, Nathan Schultz, Aaron Benneweis, Randy Donauer, and John Thuringer (together, the “**Applicants**”), apply 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 the Applicants as an abuse of process;
 - b. An Order granting the Applicants the costs of this application and the action as against the Respondents (Plaintiffs), Caitlin Erickson, Jennifer Soucy (Beaudry), and Stefanie Hutchinson (together, the “**Plaintiffs**”); and
 - c. 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 after being requested by the Defendant (Respondent), Mile Two Church Inc. ("**Mile Two**").
7. The Discontinuance against Ms. Case is dated November 6, 2023 and was filed on November 7, 2023. The Applicants did not receive 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. The Applicants did not receive 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. The Applicants did not receive 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 the 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**"). The Applicants did not receive a copy of the Case Settlement Agreement until April 8, 2024, when their counsel were copied on correspondence from Plaintiff's 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**"). The Applicants did not receive a copy of the Thevenot Settlement Agreement until April 8, 2024, when their counsel were copied on correspondence from Plaintiff's 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**"). The Applicants did not receive a copy of the Johnson Settlement Agreement until April 8, 2024, when their counsel were copied on correspondence from Plaintiff's 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 the Applicants. The Settlement Agreements were only disclosed to the Applicants 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 the Applicants 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.

Costs

19. Rule 11-1 of the *Rules* grants this Honourable Court broad discretion with respect to awards of costs.

Material or evidence to be relied on:

20. The Applicants rely on the following material and evidence in support of their 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 John Olubobokun sworn November 25, 2024;
- d. Affidavit of Duff Friesen sworn November 28, 2024;
- e. Affidavit of Ken Schultz sworn November 29, 2024;
- f. Affidavit of James Randall sworn November 29, 2024;
- g. Affidavit of Joel Hall sworn November 21, 2024;
- h. Affidavit of Nathan Schultz sworn November 26, 2024;
- i. Affidavit of Dawn Beaudry sworn November 27, 2024;
- j. Affidavit of Randy Donauer sworn November 22, 2024;
- k. Affidavit of Terry Clarkson sworn November 22, 2024;

- I. Draft Order
- m. Brief of Law (to be filed);
- n. The pleadings and proceedings had and taken herein; and
- o. Such further and other material as counsel may advise and this Honourable Court may allow.

Applicable rules:


21. Rules 1-3, 1-4, 1-5, 7-9, and 11-1 of the *Rules*.

Applicable Acts and regulations:

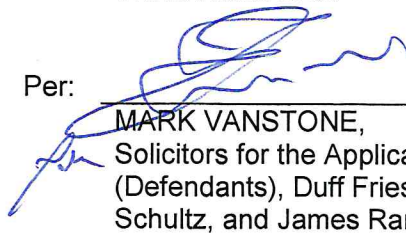
22. N/A.

DATED at Regina, Saskatchewan, this 29th day of November, 2024.

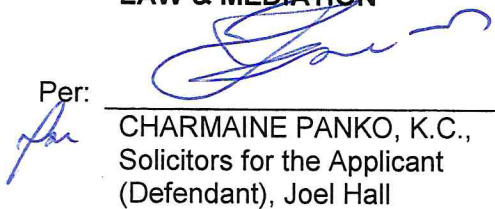
CJC & CO. LLP

Per: 
 DANIEL TANGJERD,
 Solicitors for the Applicant
 (Defendant), John Olubobokun

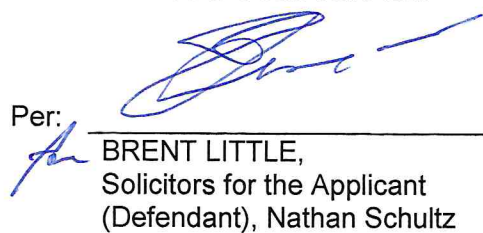
VANSTONE LAW

Per: 
 MARK VANSTONE,
 Solicitors for the Applicants
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 Schultz, and James Randall

**PANKO COLLABORATIVE
 LAW & MEDIATION**

Per: 
 CHARMAINE PANKO, K.C.,
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 (Defendant), Joel Hall

LITTLE & COMPANY LLP

Per: 
 BRENT LITTLE,
 Solicitors for the Applicant
 (Defendant), Nathan Schultz


MILLER THOMSON LLP

Per: 
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ROBERTSON STROMBERG LLP

Per: 
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(Defendant), Randy Donauer


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Per: 
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(Defendant), John Thuringer

CUELENAERE LLP

Per: 
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(Defendants), Nathan Rysavy
and Lou Brunelle

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Per: 
JARED EPP,
Solicitors for the Applicant
(Defendant), Kevin MacMillan

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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