

KING'S BENCH FOR SASKATCHEWAN

QBG-SA-00766-2022

Caitlin Erickson and Coy Nolin v 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, Deidre Benneweis, Stephanie Case, Darcy Schuster, Randy Donauer, John Thuringer, Mile Two Church Inc., The Government of Saskatchewan, John Does and Jane Does

Michael R. Scharfstein	for the plaintiffs
Jeffrey G. Brick	for Government of Saskatchewan
Adam R. Touet	for Randy Donauer
Amanda M. Quayle, K.C. and Mackinley M. Sim	for Mile Two Church Inc.
Mark D. Baerg and Scott R. Spencer	for Aaron Benneweis and Deidre Benneweis
Jennifer D. Pereira, K.C.	for Dawn Beaudry
Mark R. Vanstone	for Duff Friesen, Ken Schultz, Elaine Schultz, James Randall and Catherine Randall
Jared D. Epp	for Kevin MacMillan and Anne MacMillan
James W. Langen	for Nathan Rysavy and Lou Brunelle
James S. Ehmann, K.C.	for John Thuringer
Todd G. Parlee	for Darcy Schuster

FIAT - December 6, 2024 - WEMPE J.

[1] I convened a conference call on this matter today. There are currently two groups of applications which must be heard by the court.

[2] There are 13 applications for further and better particulars which are currently scheduled for the week of January 6, 2025.

[3] The defendants also recently served and filed applications to stay the proceeding for an abuse of process. The defendants take the position that the abuse of process application must proceed prior to the application for further and better particulars because it may be determinative of the matter.

[4] The plaintiffs disagree and take the position that the application for further and better particulars should proceed as scheduled January 6, 2025.

[5] Because the parties cannot agree on the order which the applications should proceed, Ms. Quayle on behalf of the defendants argued on the conference call that a sequencing application must be heard by myself so I could decide the appropriate order of the applications.

[6] Mr. Scharfstein argued that the past management and sequencing orders of Justice Bardai (as he then was) and Chief Justice Popescul already ordered that the application for further and better particulars was to proceed the week of January 6, 2025, therefore that application should go ahead. He said there could be a sequencing application at the end of the week relating to the order of the abuse of process application and the certification application.

[7] Today's call was only a case management conference call and was not a sequencing application. Arguments about which application should proceed first are more properly made at a sequencing application.

[8] If I ordered that the application for further and better particulars must proceed on January 6, 2025 as scheduled, I would be rendering the sequencing application moot by forcing the defendants to proceed with the application for particulars first without actually hearing fulsome arguments on the order of the applications.

[9] I reviewed the past fiats of Justice Bardai and Chief Justice Popescul. Although they both direct the parties to select dates with the local registrar for the application for particulars, they do not consider sequencing in light of the abuse of process application. Justice Bardai's fiat of September 15, 2023 set out a timeline for dealing with the application for further and better particulars and the defendants appeared largely unopposed at that time.

[10] I do not read either Justice Bardai's nor Chief Justice Popescul's fiats as directing that the application for further particulars had to proceed prior to an abuse of process application or that it had to proceed on the January 6, 2025 date. The abuse of process application was not in existence when the fiats setting out timelines were made.

[11] The sequencing of interlocutory applications is at the discretion of the certification hearing judge. It is within my discretion to revisit the sequencing of applications in light of the new abuse of process application.

[12] Unfortunately, there is not sufficient time prior to January 6 to have a sequencing application, a decision on sequencing rendered by myself and for the parties to be ready to proceed with one or both of the applications on January 6, 2025.

[13] Therefore, I am directing that a sequencing application proceed on Thursday, January 9, 2025 at 10:00 a.m. to determine the order in which the applications will be heard.



J.
R.C. WEMPE