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**Court of Appeal for Saskatchewan**  
**Docket: CACV4483**

**Citation: *Fraser v Saskatchewan (Advanced Education)*, 2025 SKCA 63**

**Date: 2025-06-19**

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Between:

**Dr. Steve D. Fraser**

*Appellant*  
*(Plaintiff)*

And

**Government of Saskatchewan (Ministry of Advanced Education) and  
Colleen Young**

*Respondents*  
*(Defendants)*

And

**Gabriel Dumont Institute, Wendy Gervais, Ryan Nordmarken, Robbie Walliser  
and Brett Vandale**

*Non-parties*  
*(Defendants)*

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Before: Tholl, Kalmakoff and McCreary JJ.A.

Disposition: Appeal dismissed

Written reasons by: The Honourable Justice Meghan R. McCreary  
In concurrence: The Honourable Justice Jerome A. Tholl  
The Honourable Justice Jeffery D. Kalmakoff

On appeal from: KBG-SA-01150-2024, Saskatoon (Sask KB)  
Appeal heard: June 6, 2025

Counsel: Dr. Steve D. Fraser appearing on his own behalf  
Britannia Mohrbutter for the Government of Saskatchewan (Ministry of  
Advanced Education) and Colleen Young  
No one appearing for Gabriel Dumont Institute, Wendy Gervais,  
Ryan Nordmarken, Robbie Walliser and Brett Vandale

## McCreary J.A.

[1] Dr. Steve Fraser appeals from a December 30, 2024, decision of a King's Bench judge sitting in Chambers [Chambers judge] in which his statement of claim [Claim] was struck in its entirety for failing to disclose a reasonable cause of action as against the defendants Colleen Young and the Government of Saskatchewan (Ministry of Advanced Education) [Saskatchewan].

[2] The application to strike the Claim was brought pursuant to Rule 7-9(2)(a) of *The King's Bench Rules*, which provides that all or any part of a pleading may be struck out if the pleading discloses no reasonable claim. Further, Rule 7-9(3) provides that no evidence is admissible on an application to strike a claim for failing to disclose a reasonable cause of action.

[3] The Chambers judge determined that the Claim must be struck as against Ms. Young because it did not contain any allegations against her whatsoever. The Chambers judge concluded that the Claim against Saskatchewan must be struck out because it failed to establish any reasonable cause of action against Saskatchewan. While Dr. Fraser alleged negligence, he failed to plead that Saskatchewan owed him a duty of care, or even that any type of relationship existed between himself and Saskatchewan (be it an employment relationship or otherwise). The Chambers judge found that Dr. Fraser had not pleaded any of the essential elements of either a claim for breach of contract, or a claim in tort, including defamation. She also determined that no facts were pleaded that tied the claim of injurious falsehood or interference with economic interests to Saskatchewan.

[4] On appeal, Dr. Fraser alleges that the Chambers judge erred in striking his Claim against Ms. Young and Saskatchewan. He argues that by striking the Claim against these two defendants, his rights pursuant to s. 15 and s. 24 of the *Canadian Charter of Rights and Freedoms* have been violated. He also contends that, as an Indigenous person, striking the Claim violated his rights under s. 35(1) of Part II of the *Constitution Act, 1982*, Rights of the Aboriginal Peoples of Canada, being Schedule B to the *Canada Act 1982 (UK)*, 1982, c 11.

[5] Dr. Fraser also says that the Chambers judge erred by failing to consider the "preponderance of evidence" that supported the legitimacy of his Claim. Finally, he argues that if

his Claim was deficient in relation to Ms. Young and Saskatchewan, it was an error to deny him leave to amend the Claim to address these deficiencies.

[6] The question of whether a judge erred in striking a claim on the ground that it discloses no reasonable cause of action is a question of law, reviewable on a correctness standard: *Sawatzky v Prince Albert Golf and Curling Club Inc.*, 2025 SKCA 16 at para 23; *Merchant Law Group LLP v Slusar*, 2022 SKCA 75 at para 24; *Harpold v Saskatchewan (Corrections and Policing)*, 2020 SKCA 98 at para 21 [*Harpold*]; *Filson v Canada (Attorney General)*, 2015 SKCA 80 at para 22, 388 DLR (4th) 66; and *Aecon Mining Construction Services v K+S Potash Canada GP*, 2024 SKCA 48 at para 16.

[7] Having carefully reviewed Dr. Fraser's arguments, it is my view that the appeal must be dismissed; the Chambers judge did not err in any of the ways that Dr. Fraser has alleged.

[8] First, there is no merit to Dr. Fraser's contention that his *Charter* rights were violated when his Claim against Ms. Young and Saskatchewan was struck. Pleadings provide the framework for litigation and, as such, they must set out the essential facts that support a cause of action. Those essential facts exist to justify why and how the plaintiff is seeking a legal remedy against a defendant. Contrary to Dr. Fraser's argument, there is nothing in the *Charter* or Part II of the *Constitution Act, 1982* that relieves him from the requirement to set out the essential facts which establish a legal cause of action against a defendant. I agree with the Chambers judge's conclusion that the Claim failed to plead any facts that would demonstrate the necessary factual foundation to establish a reasonable cause of action against Ms. Young or Saskatchewan.

[9] Second, the Chambers judge correctly identified that she was not entitled to consider any evidence when determining whether Dr. Fraser's pleadings should be struck for failing to disclose a reasonable cause of action. Pursuant to Rule 7-9(3), the Chambers judge was required to consider the pleadings on their face and presume that all the allegations made in the Claim were true. Because the Chambers judge was correct in her decision not to consider any evidence outside of what was pleaded in the Claim, I cannot accept Dr. Fraser's argument that some new evidence should be considered by this Court on appeal, or that if such evidence was admitted it would be capable of demonstrating that the Claim should not have been struck. Simply put, for the Claim to establish a legal cause of action against Ms. Young and Saskatchewan, it needed to set out the

alleged facts that demonstrated the required elements of a claim in contract or in tort. It did not do this, and, indeed, it did not plead any facts capable of establishing that either Ms. Young or Saskatchewan could be liable to Dr. Fraser.

[10] Finally, the Chambers judge did not err when she concluded that the pleadings in relation to Saskatchewan and Ms. Young were so deficient that they could not be revived by making amendments to them.

[11] Respecting the action against Ms. Young, at the appeal hearing, Dr. Fraser explained that his claim was in negligence and that Ms. Young breached a duty of care owed to him because she failed to respond to enquiries he made of her in her capacity as Minister of Advanced Education. Even if Dr. Fraser was permitted to amend his pleadings to allege these facts, a minister of the Crown cannot be sued in their *representative* capacity: see *Conseil des ports Nationaux v Langelier*, [1969] SCR 60 at 71–72; and *Mackenzie-Kennedy v Air Council*, [1927] 2 KB 517 (CA) per Atkin L.J. Further, a minister of the Crown cannot be sued in their *personal* capacity unless the allegations against them relate to acts done in their personal capacity: see *Air India Flight 182 Disaster Claimants v Air India* (1987), 44 DLR (4th) 317 (Ont SC).

[12] Dr. Fraser’s pleadings are silent respecting anything Ms. Young allegedly did to him in her personal capacity. He has not alleged, even in argument, that Ms. Young engaged in acts or omissions in her personal capacity that affected him. To put it simply, this demonstrates that there is no amendment that Dr. Fraser could make to his pleadings to establish a cause of action against Ms. Young in these circumstances.

[13] Similarly, Dr. Fraser’s pleadings do not provide even a hint of any legal foundation that could support a cause of action against Saskatchewan. Again, even if I accept the facts Dr. Fraser alleged in his oral submissions respecting Saskatchewan, they do not establish a legal cause of action vis-à-vis Saskatchewan. In his oral submissions, Dr. Fraser admitted that he had no contract with Saskatchewan – it follows that there are no facts which are capable of establishing a claim in breach of contract against Saskatchewan. Further, while Dr. Fraser explained in his oral submissions that Saskatchewan provides funding to Gabriel Dumont Institute [GDI], which is then provided by GDI to certain students, Dr. Fraser did not suggest any facts that could establish that Saskatchewan could be liable for GDI’s decision to end/not renew his funding. While funding that

was once provided by GDI to Dr. Fraser might have been received by GDI from Saskatchewan, Dr. Fraser did not contend that Saskatchewan played any role in GDI's decision not to continue to fund Dr. Fraser. In summary, it does not appear, even from what Dr. Fraser explained in his oral submissions, that facts exist which could establish some legal relationship between Saskatchewan and Dr. Fraser capable of triggering Saskatchewan's liability to him in these circumstances.

[14] In the result, there is no error in the Chambers judge's conclusion that the Claim against Ms. Young and Saskatchewan must be struck for failing to disclose a reasonable cause of action. As such, I would dismiss the appeal.

[15] While Saskatchewan and Ms. Young are the successful parties in this appeal, they do not seek costs. Therefore, I would make no order for costs.

"McCreary J.A."  
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McCreary J.A.

I concur. "Tholl J.A."  
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Tholl J.A.

I concur. "Kalmakoff J.A."  
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Kalmakoff J.A.