

# KING'S BENCH FOR SASKATCHEWAN

Citation: 2026 SKKB 6

Date: 2026 01 12  
Docket: KBG-BF-00063-2025  
Judicial Centre: Battleford

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BETWEEN:

DUANE WESTGARD

Plaintiff

- and -

JESSICA LYNN RAYCRAFT

Defendant

**Appearances:**

Duane Westgard on his own behalf  
Daniel S. Katzman and Julia M. Conlon for the defendant, Jessica Lynn Raycraft

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JUDGMENT  
January 12, 2026

KEENE J.

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## I. Introduction

[1] This controversy initially started with the plaintiff, Duane Westgard, filing on April 22, 2025, an originating application in which he claimed relief for defamation, etc., and damages against the defendant, Jessica Lynn Raycraft. Mr. Westgard filed in support his affidavit sworn April 22, 2025. King's Bench Registry File No. KBG-BF-00063-2025 was assigned to that action. Ms. Pamela Michaels filed

on April 22, 2025, a letter with the Registry Office which stated:

Dear Court of King's Bench:

May it please the Court, the Applicant – Duane Westgard – respectfully requests permission to be assisted during the court proceedings by his personal assistant, Ms. Pamela Michaels.

Although the Applicant has chosen to self-represent and is fully cognizant of the matter at hand, he faces significant challenges due to his functional illiteracy skills, which are consistent with an early elementary level (lower than Grade 4). These limitations affect his ability to read legal documents, interpret court materials, and effectively communicate in writing. The presence of his personal assistant is therefore essential to ensure he can meaningfully participate in the proceedings, understand the issues before the Court, and properly exercise his legal rights. This request is made in the interest of procedural fairness, accessibility, and the principles of natural justice.

The Applicant respectfully thanks the Court for its time and consideration of this request, and for its commitment to ensuring a fair and accessible proceeding for all individuals, regardless of literacy or educational background.

Respectfully,

Pamela Michaels  
As per Duane Westgard  
/pm

[2] It appears Mr. Westgard had appointed Ms. Michaels to assist him and appears to have confidence in her abilities to do so. It further appears that Ms. Michaels drafted all of Mr. Westgard's court documents. Mr. Westgard served these pleadings on Ms. Raycraft on April 23, 2025. I will add here that, in my opinion, based on what the pleadings reveal and Ms. Michael's presentation in court, her role went beyond a mere personal assistant, and she has assumed the higher role of advisor on these matters.

[3] A reading of these pleadings reveals that they were reasonably well drafted and show a good level of understanding of the legal process. However, procedurally, the lawsuit should have been commenced by a statement of claim. It

appears Ms. Michaels (acting on behalf of Mr. Westgard) recognized this, and on May 5, 2025, the application was withdrawn and then replaced with a statement of claim filed with the Battleford Registry Office on May 5, 2025. This claim received the existing King's Bench number that the originating application had and was issued on May 5, 2025. In his claim, Mr. Westgard sued Ms. Raycraft for damages arising from alleged defamation, emotional distress, aggravated damages and costs. Ms. Michaels again filed on May 5, 2025, a duplicate of her letter about helping Mr. Westgard that I have reproduced above. I will state here that the only purpose in writing about the originating application is to highlight the high level of confidence that Mr. Westgard has in Ms. Michaels. Again, as with the originating application, Mr. Westgard seems to have placed confidence in Ms. Michaels' abilities, and she, in turn, accepted his confidence and agreed to take on the role of his advisor in regard to the advancement of his claim. I will state that the statement of claim appears reasonably well drafted and exhibits a level of sophistication.

[4] Ms. Raycraft was served with the claim and retained legal counsel, and a statement of defence dated June 11, 2025, was served on Mr. Westgard on June 13, 2025, denying liability and putting his lawsuit into contest.

[5] The parties then attended a mandatory mediation session on September 10, 2025, as required under s. 7-1(2) of *The King's Bench Act*, SS 2023, c 28. It is to be noted that Ms. Michaels had also sued Ms. Raycraft for similar complaints asking for similar relief in KBG-BF-00064-2025. The parties quite sensibly agreed that there would be a joint mediation session. Accordingly, Ms. Michaels attended at the September 10, 2025 session in her dual capacity as Mr. Westgard's advisor and on her own behalf as a litigant in her lawsuit against Ms. Raycraft.

[6] The persons present at the session were the mediator Mr. Robin Fremont, Mr. Westgard, Ms. Michaels, Ms. Raycraft and her lawyers Mr. Daniel Katzman and

Ms. Julia Conlon. Unfortunately, Mr. Westgard and Ms. Michaels recorded the entire mediation (including the time Ms. Raycraft was in private caucus with her lawyers and the mediator) by surreptitiously placing Mr. Westgard's cell phone set to record in Ms. Michael's purse that was left in the meeting room. This is set out in Ms. Michaels' affidavit sworn November 13, 2025 (paragraph 3), and was further elaborated upon by Ms. Michaels during her oral submissions in court on November 27, 2025. At the conclusion of the session on September 10, 2025, the parties signed a handwritten document entitled "Minutes of Settlement" that resolved all matters arising from Mr. Westgard's lawsuit. Mr. Westgard agreed to "withdraw" his statement of claim in the Court of King's Bench.

[7] The Minutes of Settlement interweave Mr. Westgard's claim with Ms. Michaels' claim and resulted in settlement of Ms. Michaels' claim as well. She agreed to "withdraw" her claim. I have written about this in a separate decision in Ms. Michaels' lawsuit (see *Michaels v Raycraft*, 2026 SKKB 7).

[8] However, matters did not end there. On September 12, 2025, Mr. Westgard filed with the Battleford Registry Office a notice of application returnable October 20, 2025, claiming the following relief:

1. An Order setting aside the Minutes of Settlement signed on September 10, 2025, between the parties.
2. An Order reinstating the Plaintiff's action as though the Minutes of Settlement had never been executed.
3. Costs of this application, if opposed.

...

[9] His grounds for this relief are reproduced:

- (a) The Plaintiff has limited literacy skills and repeatedly advised the mediator of his need for extra time to think before making decisions. Despite this, he was pressured to

sign the Minutes of Settlement without sufficient time or opportunity to reflect.

- (b) The Plaintiff was physically prevented from leaving the mediation room after a hostile outburst by the Defendant. The mediator and Defendant's counsel stood between him and the exit, pressuring him to remain and sign the agreement.
- (c) The mediator demonstrated a personal familiarity with the Defendant's counsel, undermining the neutrality of the mediation.
- (d) The settlement terms were one-sided and unconscionable, requiring the Plaintiff to abandon his claim in exchange for a vague apology that failed to repair the reputational harm suffered.
- (e) The Plaintiff did not provide free and informed consent. His will was overborne by duress, undue influence, and procedural unfairness.

[10] In support of his application, he filed his affidavit sworn September 12, 2025, and Ms. Michaels' affidavit sworn September 12, 2025.

[11] Ms. Raycraft responded to this by filing, on October 1, 2025, her notice of application claiming the following relief:

1. An Order pursuant to section 6-4 of *The King's Bench Act*, SS 2023, c 28 and Rule 1-5 of *The King's Bench Rules* that the Minutes of Settlement dated September 10, 2025, be enforced, and the respondent is bound by the contents of the same;
2. Declaratory relief, pursuant to section 3-3 of *The King's Bench Act*, SS 2023, c 28 that any costs award determined by the Honourable Court will be set off against the settlement amount provided for in the Minutes of Settlement, dated September 10, 2025, at paragraph 9;
3. The Application of Duane Westgard, dated September 12, 2025, be dismissed.
4. Waiver of Rule 10-4.

5. Costs to be awarded to the Applicant, against the Respondent, in relation to both this Application and the response to the Application of Duane Westgard dated September 12, 2025, on a solicitor and client basis; and

...

[12] Ms. Raycraft's grounds for this application are reproduced as follows:

7. Section 5-4 of *The King's Bench Act*, permits the Court to grant the parties to an action all remedies which the parties appear to be entitled to with respect to any legal or equitable claim.
8. Rule 1-5 of *The King's Bench Rules*, permits the Court to make any order with respect to practice, procedure, or both. This Rule allows the court to craft remedies that are appropriate to specific circumstances.
9. The parties to this action entered into binding written Minutes of Settlement on September 10, 2025, at the mandatory mediation held that day.
10. All parties subject to the Minutes of Settlement had an opportunity to read and review the same. All parties indicated that they were satisfied with the contents of the Minutes of Settlement, had no concerns with them, and were prepared to be bound by the terms of the same.
11. At no time was a request made by Mr. Westgard for more time to review the Minutes of Settlement, had no concerns with them, and were prepared to be bound by terms of the same.
12. There is no reasonable apprehension of bias on the part of the mediator, as he remained impartial throughout the process, and had no decision making authority on any matter.
13. Mr. Westgard indicated he had been read the Minutes of Settlement, understood and appreciated their nature and affect [*sic*], and was prepared to voluntarily enter into them, as stated at paragraph one of the same.
14. Section 3-3 of *The King's Bench Act*, permits the Court to

make any binding declaration regarding whether or not any consequential relief is or can be claimed.

15. The parties agreed that Pamela Michaels (“**Pamela**”) would be paid \$2,000.00 by Ms. Raycraft pursuant to paragraph nine of the Minutes of Settlement.
16. Ms. Raycraft, Pamela and Mr. Westgard agreed between themselves to resolve both of Pamela’s and Mr. Westgard’s claims together. As part of this global settlement, a one-time payment to Pamela from Ms. Raycraft of \$2,000.00 would be made.
17. Due to the conduct of the [*sic*] Mr. Westgard, supported by Pamela, Ms. Raycraft is now forced to bring the within application. Ms. Raycraft therefore requests that costs be awarded, on a solicitor and client basis, against Mr. Westgard, and for declaratory relief that the payment agreed to at paragraph nine of the Minutes of Settlement be set off against any costs award ordered by this Honourable Court.

[Emphasis in original]

[13] A series of further affidavits were filed by Mr. Westgard:

- (a) affidavit of Duane Westgard sworn September 30, 2025;
- (b) affidavit of Pamela Michaels sworn November 13, 2025; and
- (c) affidavit of Duane Westgard sworn November 24, 2025.

[14] Ms. Raycraft then filed two notices of objection to affidavit evidence. The first in time is the notice of objection regarding portions of the affidavit of Duane Westgard sworn September 30, 2025. The second is a notice of objection regarding portions of the affidavit of Pamela Michaels sworn November 13, 2025.

[15] The applications were heard together on November 27, 2025, along with the two notices of objection. It is to be noted, similar applications were also heard on the same day pertaining to Ms. Michaels’ lawsuit against Ms. Raycraft under

KBG-BF-00064-2025.

[16] I will firstly consider Ms. Raycraft's two notices of objection and then proceed to determine Mr. Westgard's substantive application and then Ms. Raycraft's substantive application.

**II. Ms. Raycraft's notice of objection to portions of Mr. Westgard's affidavit of September 30, 2025.**

[17] I will start by commenting that unfortunately, while the notice of objection was served on Mr. Westgard, and while the notice spoke to reasons for striking certain impugned sections, counsel neglected to attach a copy of the affidavit with the usual highlighting on the copy to delineate what portions were of concern. However, rather than delay matters any further with an adjournment, I decided to have Ms. Raycraft's lawyer read out loud the impugned portions. This proved to be satisfactory for oral argument. As it turns out, the objections referred to the entirety of paragraphs 12 and 13 of the affidavit. For convenience, I will reproduce these two impugned paragraphs *sans* exhibits with my comments:

**12. Attached as Exhibit "A" is a Contradiction Chart summarizing certain statements in Ms. Raycraft's affidavit alongside corresponding passages from the transcript.**

[18] This is struck along with Exhibit "A" because Exhibit "A" is argument and opinion which is not allowed under *The King's Bench Rules* (Rule 13-30). See *Cowessess First Nation No. 73 v Phillips Legal Professional Corporation*, 2018 SKQB 156 at paras 17-18 [*Cowessess First Nation*], *aff'd* 2020 SKCA 16.

**13. Attached as Exhibit "B" are transcript excerpts from the mediation on September 10, 2025, including passages relating to the 'both-or-nothing' condition, apology wording, timing, confidentiality, the reading of**

**minutes aloud, and my repeated statements that I needed time to think.**

[19] Exhibit “B” is argument or opinion which, as I have pointed out above, is inadmissible in an affidavit. Therefore, paragraph 13 and Exhibit “B” are struck. I will discuss below my concerns about the making and use of surreptitious recordings from a mediation.

**III. Ms. Raycraft’s notice of objection to portions of Ms. Michaels’ affidavit sworn November 13, 2025**

[20] For brevity, I will not reproduce the highlighted portions of the impugned paragraphs.

- **Paragraph 1:** This is not objectionable. Facts within the knowledge of the deponent.
- **Paragraph 3:** This is not objectionable. It is permissible hearsay (Rule 13-30(2)).
- **Paragraph 4:** This is argument and not permissible. (See *Cowessess First Nation*.)
- **Paragraph 5:** This is not objectionable. Facts within the knowledge of the deponent.
- **Paragraph 6:** This is not objectionable. Facts within the knowledge of the deponent.
- **Paragraph 7:** This is not objectionable. Facts within the knowledge of the deponent.
- **Paragraph 8:** This is not objectionable. Facts within the knowledge of the deponent.

- **Paragraph 9:** This is not objectionable. Facts within the knowledge of the deponent.
- **Paragraph 10:** This is not objectionable. Facts within the knowledge of the deponent.
- **Paragraph 11:** This is not objectionable. Facts within the knowledge of the deponent.
- **Paragraph 13:** This is not objectionable. Facts within the knowledge of the deponent.

[21] I wish to comment about the making and use of a surreptitious recording made during the confidential mandatory mediation session that was prescribed by *The King's Bench Act*. This should not have been done and should never be done. The Court has gone through the above exercise to answer the notices of objection. However, my findings should not be construed by either Mr. Westgard or Ms. Michaels to be court approval of the surreptitious recording. Accordingly, while the recording and subsequent transcription may be "real evidence" as argued by Ms. Michaels on behalf of Mr. Westgard, nevertheless I find that the "evidence" was obtained in a manner which offends the legislated confidentiality of the mediation process, and for public policy reasons and to maintain the integrity of the mediation process, I will strike from any affidavit offered by Mr. Westgard or Ms. Michaels any references to the recording or transcript of the unauthorized recording made by Mr. Westgard or Ms. Michaels. For clarity, this means that while some of these impugned portions of the affidavits may have survived the above exercise, nevertheless, I will not consider such "evidence". However, I am prepared to consider any proper averment made by a deponent as to his or her recollection of what happened during the mediation session for the reasons set out below.

#### IV. Mr. Westgard's substantive application

[22] Generally, what is said at a mandatory mediation session convened under s. 7-1(2) of *The King's Bench Act* is confidential. Section 7-2 of *The King's Bench Act* states:

**7-2** Except with the written consent of the mediator and all parties to the proceeding in which the mediator acted, the following types of evidence are not admissible in any civil, administrative, regulatory or summary conviction proceeding:

- (a) evidence directly arising from anything said in the course of mediation;
- (b) evidence of anything said in the course of mediation;
- (c) evidence of an admission or communication made in the course of mediation.

[23] However, while this Court is guided by the obvious need for confidentiality in a mediation session, nevertheless when a party wishes to set aside the written minutes of settlement reached at the mandatory mediation session based on alleged concerns about undue pressure, intimidation, bias of the mediator or unconscionability, then the event itself has to be unfortunately opened up for scrutiny. However, before I get into that, I wish to discuss the written Minutes of Settlement and what that document represents.

[24] Minutes of settlement arising out of a mediation are a form of contract. If there is an agreement between the parties (*consensus ad idem*) and settlement is reached, then it is common (and advisable) for the parties to put their agreement into writing and sign the document. The document must be clear enough to understand. There should also be some bargain, a *quid pro quo* or, in legal terminology, consideration, for agreeing. Obviously, if one party is unable to comprehend what he or she is agreeing to, then there is no enforceable bargain despite signing the minutes

of settlement. Equally, each party must sign under their own volition, free from duress and undue influence or threat. In a mediation, a mediator must remain impartial. However, that does not mean a mediator must remain on the sidelines and not interact with the parties. That is the whole purpose of having a mediator at a mediation: to help the parties come to a resolution. The party wanting out of the written contract or agreement bears the onus of proving the contract should not be enforceable. This means that Mr. Westgard must prove on the balance of probabilities that the contract is unenforceable.

[25] Further along these lines, in *Stubbings v Holizki*, 2024 SKKB 117 [*Stubbings*], Justice Layh had occasion to consider the issue of the effect of minutes of settlement arising from a mandatory mediation session under s. 7-1(2) of *The King's Bench Act*, when he wrote:

[20] In *Neigum v Van Seggelen*, 2022 SKCA 108, 474 DLR (4th) 673 [*Neigum*], Justice Kalmakoff described the court's approach to enforcing minutes of settlement. He wrote (at para. 54) that "minutes of settlement arising from a legal proceeding are to be interpreted in the same manner as contracts." In *Neigum* the court found that no settlement had been reached because the parties had not reached a meeting of the minds, a *consensus ad idem*.

[21] Justice Kalmakoff referred to *Kreway v Kreway*, 2016 SKQB 115 where Justice Tholl (as he then was) offered an explanation of the court's approach to rendering a judgment based on a settlement agreement. He wrote:

[22] As a general proposition, Minutes of Settlement that arise out of a settlement at the conclusion of a pre-trial conference are enforceable contracts. Public policy and the effective operation of the court demands that parties be held to the bargain they negotiate in good faith at a pre-trial conference. ....

[23] In this matter, there are no circumstances in the conduct of the pre-trial conference or any deficiencies found on the face of the Minutes that would result in the

Minutes not being enforceable unless Mr. Kreway establishes that one of the three issues he has raised, an implied term of financing, frustration or mutual mistake, is found by the court to raise a valid bar to the enforcement of the Minutes.

[22] Applying Justice Tholl's comments to the circumstances of the Minutes between Dorothy and Debora, I must ask these three questions:

1. Were there circumstances in the conduct of the mediation meeting that would result in the Minutes being unenforceable?
2. Was there anything on the face of the Minutes that would result in the Minutes being unenforceable?
3. Has Debora raised a valid bar to the enforcement of the Minutes?

[26] The parties seem to be at odds as to what happened during the three-hours or so that the session lasted. Each side has filed their own affidavit evidence setting out what they think happened. However, in reviewing all the evidence, I have come to the conclusion that even though the parties have different thoughts as to what transpired, nevertheless, I am not satisfied Mr. Westgard has persuaded the Court that the Minutes of Settlement should be set aside and he should be allowed to continue with his lawsuit against Ms. Raycraft. The following are my reasons.

[27] I will start with Mr. Westgard's initial affidavit sworn September 12, 2025. (The previous affidavit filed April 22, 2025, in support of his withdrawn originating application is not part of this.) Mr. Westgard makes reference to his "limited literacy skills" but deposes, "I rely heavily on Pamela to read, explain, and help me understand legal proceedings" (paragraph 2). He went on to relate what he perceived happened at the mediation session, but in the end, I am not satisfied that either the mediator or Mr. Katzman acted as depicted. This is based on a reading of Ms. Raycraft's affidavit, and I will sacrifice brevity to reproduce from her affidavit, the following:

4. The mediation that took place on September 10, 2025, was in relation to both matters, KBG-BF-00063-2025 and KBG-BF-00064-2025. This was done with the consent of all parties. I am advised by my counsel and verily believe to be true that his office coordinated between the Dispute Resolution Office (“**DRO**”), Pamela and Duane to have the mediations dealt with together. Attached hereto and marked as **Exhibit “A”** is a copy of the correspondence coordinating the mediation sessions, and a confirmation letter from the DRO.
5. The mediation taking place on September 10, 2025, resulted in Minutes of Settlement being entered into and signed by all the parties (the “**Minutes of Settlement**”). Attached hereto and marked as **Exhibit “B”** is a copy of those executed Minutes of Settlement.
6. I have read and reviewed the affidavits of Duane, sworn September 12, 2025, (“**Duane’s Affidavit**”), and Pamela, sworn September 12, 2025 (“**Pamela’s Affidavit**”).
7. In reply to paragraphs 2 and 3, Duane mentioned that he relied on Pamela to assist him, and during times when review of written documents was needed, Pamela read the document to Duane aloud. When the Minutes of Settlement were reviewed, Pamela read them out loud to Duane, who appeared to understand and agree to their content.
8. There were multiple occasions when Duane or Pamela requested clarifications regarding the terms of the Minutes of Settlement. These clarifications surrounded the details of:
  - (a) Paragraph 2, regarding the exact content and intent behind the post. Both Pamela and Duane asked why the proposed wording of the apology was worded as it was. My counsel explained that the intent behind the exact wording was to preclude further questions or concerns regarding exactly who the post was in relation to, so issues surrounding the Facebook post of March 22, 2025, would not continue;
  - (b) Paragraph 4, both Pamela and Duane discussed with my counsel how we would provide proof of my Facebook post being taken down. During this

discussion it was agreed that I would send proof of the post being taken down to my counsel, and he would forward it to Pamela, as she was the person with whom my counsel had contact;

- (c) Paragraph 5, Pamela and Duane discussed with my counsel that the apology would not be posted publicly, unless I failed to live up to my obligations pursuant to the Minutes of Settlement;
  - (d) Paragraphs 6 and 7, my counsel confirmed with Duane and Pamela that each of them would need to withdraw both of their claims before my obligations pursuant to paragraphs 2, 3, 4, and 9 of the Minutes of Settlement would be triggered. My counsel explained that the intent behind this paragraph was to ensure that both claims were withdrawn before my apology and payment were due, and to ensure that the obligations of the parties flowed logically;
  - (e) Paragraph 8, Pamela and Duane discussed with my counsel how this paragraph would be triggered. It was discussed in detail that I had to post my apology, and take down my post of March 22, 2025, as agreed to, my counsel explained that Pamela could then post in her publication, the RedfordGate Gazette, the apology I agreed to, and attribute the quote to me;
  - (f) Paragraph 9, initially it was agreed that I would have 60 days to pay Pamela \$2,000.00, however when writing the Minutes of Settlement, it was agreed to that I would be given 90 days; and
  - (g) Paragraph 10, both Pamela and Duane discussed with my counsel the nature and effect of the confidentiality clause. It was discussed that none of the parties could post or talk about any part of the proceedings, and that it was binding upon me, Duane and Pamela equally.
9. After the Minutes of Settlement were signed, and because everyone had indicated they knew and understood the nature and effect of the Minutes of Settlement, I removed my post March 22, 2025, at the end of mediation on September 10, 2025. Attached hereto and marked as **Exhibit "C"** is a copy of my Facebook profile, that shows

the post of March 22, 2025, has been removed.

...

15. Upon returning to the room, Pamela and Duane provided a counter proposal, which was substantially similar to the original offer I made, but requesting a payment of \$6,000.00. The payment of the \$6,000.00 would be divided, such that \$3,000.00 would be paid to Duane, and \$3,000 would be paid to Pamela.

...

23. Once we understood that the terms of the Minutes of Settlement were agreed to, my counsel immediately started writing them down. It was at this time that talk between the mediator, Pamela, Duane, and myself started. This conversation was lighthearted, and not in relation to the matters that brought us to mediation.

...

25. As my counsel wrote out the Minutes of Settlement, he provided the draft pages to Pamela and Duane to review while he completed writing them. When he provided Pamela and Duane the partially completed Minutes of Settlement, he stated that they should start reviewing the same while he wrote them. Pamela read the Minutes of Settlement to Duane and talked to him regarding the same as they were reviewed.

...

36. In response to paragraph 3, Duane was not blocked or inhibited by anyone when he attempted to leave. Everyone in the room remained seated, and Pamela asked Duane to return to his seat, which he did voluntarily.
37. Duane only had one outburst, near the end of the mediation.

[Emphasis in original]

[28] In my view, Ms. Raycraft's affidavit provides the most accurate and dependable version of what happened at the mediation session. I am not satisfied that

there were circumstances in the conducting of the mediation session that should result in the Minutes of Settlement being unenforceable (see *Stubbings*, para 22). I will add that the consideration offered by Ms. Raycraft and accepted by Mr. Westgard (apology and retraction) appear in line with similar claims for defamation and therefore not unconscionable (see *McLean v Stewart*, 2025 SKKB 81). Finally, I do not find Mr. Westgard has proven that he acted under duress (*Tarasoff v Tarasoff*, 2023 SKKB 102 at paras 86-91).

[29]           However, most telling in all of this is that Mr. Westgard's trusted advisor remained present throughout. He has deposed to a high level of confidence he has in Ms. Michael's ability to assist him. Having heard from Ms. Michaels in court and having read the various documents she has filed on Mr. Westgard's behalf, I conclude she would have been capable and able to assist Mr. Westgard at the mediation session to safeguard his interests. Importantly, she was instrumental in helping him understand the Minutes of Settlement that Mr. Westgard signed.

[30]           Therefore, I do not see how his complaints about possible concerns arising from the discussions or the understandable desire by the mediator to help the parties finalize their matters have any merit. Nor do I find he has proven any bias on behalf of the mediator.

[31]           I am not persuaded that because there was a joint session, Mr. Westgard was put to a disadvantage. The two lawsuits are very similar. The plaintiffs seem interrelated, and the defendant the same. It was practical and made sense to have a joint session.

[32]           I am not persuaded by Ms. Michael's affidavit sworn September 12, 2025. She took on the role to be his advisor. That was a considerable responsibility. She cannot now blow both hot and cold and say she was his advisor and capable of helping him and then subsequently state that she was not up to this role. If that is the case, then

that would be an issue between Mr. Westgard and herself.

[33] In reading Mr. Westgard’s next affidavit (sworn September 30, 2025), he now adds that he was “confused about whether our matters had been merged because the Defendant’s counsel repeatedly insisted that both Ms. Michaels and I must withdraw our actions together or there would be no settlement” (paragraph 5). I have already touched upon this above. Again, Mr. Westgard had his trusted advisor with him, and there was no evidence that she was prevented from assisting him. I do not take much from his statement in paragraph 7 that he did not understand things. Again, Ms. Michaels was there for that very purpose.

[34] Ms. Raycraft’s affidavit sets out in detail the careful process of clarification (paragraphs 7 and 8) which shows Ms. Michaels’ intimate involvement in the settlement discussions. I find this to be the more likely version of what happened during the give-and-take of the mediation session. However, the proof is in the pudding, so to speak. I will now reproduce parts of the Minutes of Settlement document that I find speaks to Mr. Westgard’s full understanding and voluntary execution of the document:

Minutes of Settlement  
September 10, 2025

KBG-BF-00064-2025 – Michaels v Raycraft

KBG-BF-00063-2025 – Westgard v Raycraft

Further to the above noted matters, the parties thereto have agreed to resolve all matters between them in relation to KBG BF 00064 of 2025 and KBG BF 00063 of 2025 (the “Matters”) in full and final satisfaction.

1. These Minutes of Settlement are entered into voluntarily and with full understanding of their nature and affect [*sic*].

...

6. Both Pamela and Duane will each withdraw their respective

matters at King's Bench, and will do so on a without costs basis. Both Pamela and Duane will provide proof by way of filed Notices of Withdrawals filed at king's bench [*sic*].

...

10. The contents of these minutes of settlement shall be confidential, and not made public at any time and all information in relation to the Matters will remain confidential.
11. The settlement of the Matters is made with the understanding that the same is made without an acknowledgement of harm, damages or liability, but to globally resolve all outstanding matters in relation to the Matters.

[35] The body of the Minutes of Settlement (which, to protect the agreed-upon confidentiality of the agreement, I need not reproduce here) indicates the concessions each party made that resulted in settlement. I will say there appears to have been considerable concessions made by the defendant (i.e., an apology and retraction). Finally, in my opinion, the Minutes of Settlement were drafted in an easy-to-understand fashion that when read to Mr. Westgard by Ms. Michaels, he should have readily understood.

[36] To reiterate, Ms. Michaels was there in part to read the Minutes of Settlement to Mr. Westgard and to explain the document to Mr. Westgard. He agreed that he was signing the document "voluntarily and with full understanding of their nature and affect [*sic*]." The document is a powerful expression of Mr. Westgard's state of mind at the time he was signing and is accepted by the Court as the final answer to whether or not the Minutes of Settlement are binding and enforceable.

## **V. Conclusion on Mr. Westgard's application**

[37] Mr. Westgard bears the onus of proving his allegations. For the above reasons, I find that Mr. Westgard signed a binding and enforceable contract and he has not proven that he fell victim to any of the complaints set out in his application.

Therefore, I dismiss his application to set the Minutes of Settlement aside. I will address the matter of costs below.

## **VI. Ms. Raycraft's substantive application**

[38] I will not repeat the above. Having found that Mr. Westgard's application should be dismissed, it stands that the Minutes of Settlement is an enforceable contract, and I make a declaration to that effect. The Minutes of Settlement can be enforced by Ms. Raycraft, and the parties are bound by the contents. The Court expects that the parties will now complete what they agreed to in the Minutes of Settlement. This should include Mr. Westgard's filing of a notice of discontinuance.

## **VII. Conclusion**

[39] For clarity, I order:

1. The Minutes of Settlement dated September 10, 2025, is a binding and enforceable contract between the parties, and the Minutes of Settlement may be entered as a judgment of the within action.
2. The terms of the Minutes of Settlement shall be completed by the parties within 10 days of the service of the issued order upon Mr. Westgard, including the filing and serving by Mr. Westgard of his notice of discontinuance.
3. Costs as set out below.

## **VIII. Costs**

[40] Mr. Westgard has been unsuccessful in his application. Ms. Raycraft has been successful in her application. The Court has expressed its displeasure with the making of the surreptitious recording. I note Ms. Raycraft has requested solicitor-client

costs. I have reviewed the authorities (including *Siemens v Bawolin*, 2002 SKCA 84) and while such conduct cannot be condoned, I have decided that the request for significant costs can be adequately addressed by the following. I will fix costs in a global way and order that Mr. Westgard pay to Ms. Raycraft costs fixed at \$1,500.00.

**IX. Issuing the order**

[41] Ms. Raycraft shall issue the order arising from this judgment. Rule 10-4 of *The King's Bench Rules* is waived. I direct that Ms. Raycraft's lawyers shall file a draft with the Local Registrar in Battleford for my review before issuing.

\_\_\_\_\_  
"T.J. Keene"

J.  
T.J. KEENE