

# Court of King's Bench of Alberta

**Citation: McKay v CUPE Lethbridge, 2026 ABKB 88**

**Date:** 20260210  
**Docket:** 2508 00419  
**Registry:** Medicine Hat

Between:

**Jillian McKay**

Plaintiff

- and -

**CUPE Lethbridge, Sandra Walker, Susan Kircher, CUPE Local 4791**

Defendants

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**Apparent Vexatious Application or Proceeding (AVAP) Notice  
of the  
Honourable Associate Chief Justice D.B. Nixon**

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[1] On October 7, 2025, the Plaintiff filed a Statement of Claim in Action No. 2508 00419. On October 27, 2025, the Defendants filed a Statement of Defence. On November 3, 2025, the Plaintiff filed an Affidavit of Records and a Reply to Statement of Defence. On January 2, 2026, the Defendants filed their Affidavit of Records. On January 8, 2026, the Plaintiff filed an Application and Supporting Affidavit returnable February 3, 2026 seeking penalties, costs, dismissal of the Defendants' Statement of Defence, and default judgment, amongst other things.

[2] On January 26, 2026, counsel for the Defendants asked the Court to review the Plaintiff's Statement of Claim under Civil Practice Note 7 ("CPN7").

[3] CPN7 sets out summary procedures, using rule 3.68 of the *Alberta Rules of Court*, Alta Reg 124/2010, for an assessment of a "claim, defence, action, application, or proceeding that appears on its face to be frivolous, vexatious, or otherwise an abuse of process".

[4] I reviewed the Statement of Claim. Based on my review of the facts and analysis of the law, I find the Statement of Claim appears on its face to be frivolous, vexatious, or an abuse of process. Specifically, the Plaintiff has not particularized the circumstances supporting the claim, meaning that the Statement of Claim may have no merit or prospect of success and the Defendants may be unable to comprehend the case against them. For example, the Statement of Claim states that there has been “legal misrepresentation/advice”, “fabrication of illegal documents (NDA)”, “distribution of illegal documents for signing (NDA)”, “breach of contract”, “destruction/alteration of evidence”, “retaliation/deformation [sic] causing harm to reputation and livelihood”, and “costs related to Court filing/serving instead of use of Arbitration”, but not the *who, what, when, where, and why* surrounding these allegations. In addition, the Plaintiff appears to seek impossible or excessive monetary damages and restitution which may not be proportionate to the harm alleged.

[5] The claim also appears to be substantially duplicative of the Statements of Claim filed by the Plaintiff in each of Action Nos. 2508 00414 and 2508 00418, both of which the Court is also reviewing under the CPN7 process: *McKay v Southern Alberta Community Living Association*, 2025 ABKB 660; and *McKay v Lethbridge Family Services*, 2025 ABKB 741.

[6] Another similar claim was also filed by the Plaintiff in Action No. 2508 00420, and counsel for the Defendants in that Action requested the Court review the Statement of Claim under the CPN7 process. However, before the Court could consider the request for CPN7 review, the Statement of Claim was struck on February 3, 2026 following a hearing before Justice Kuntz.

[7] Given the context, I direct the following as the next steps.

- a. The Clerk will file and serve this Apparent Vexatious Application or Proceeding Notice (“**AVAP Notice**”) on the Plaintiff and the Defendants.
- b. If the Plaintiff wishes to respond to this AVAP Notice, she must prepare a Written Submission of no more than 10 pages. In her submissions, the Plaintiff may wish to address the following questions:
  - i. What are the facts the Plaintiff pleads regarding the nature or origin of the alleged harm(s) leading to the claim?
  - ii. What are the details of the “contract after leaving employment” and the purported breach? This may be a reference to the “NDA” referred to in the Statement of Claim or the Settlement and Release Agreement referred to in the Defendants’ Statement of Defence, but it is unclear to the Court.
  - iii. What are the particulars concerning the alleged “legal misrepresentation/advice”, defamation, and harassment? The Plaintiff may find rule 13.7 of the *Alberta Rules of Court* and section 3 of the *Defamation Act*, RSA 2000, c D-7 helpful in this regard, as they provide requirements and guidance for pleading certain matters.
  - iv. What are the details regarding the alleged “fabrication of illegal documents”, and “distribution of illegal documents for signing”? The Plaintiff refers to an “NDA”, perhaps in reference to the Settlement and Release Agreement. However, it is unclear to the Court what the Plaintiff alleges is illegal. The Court requests that the Plaintiff provide clarification.

- v. The Court understands the Plaintiff's employment was covered by the terms of a collective agreement, meaning that employment-related claims against the Defendants must typically be pursued before the Alberta Labour Relations Board, pursuant to section 153 of the *Labour Relations Code*, RSA 2000, c L-1. The Plaintiff may wish to clarify how she contends the Court is the appropriate forum for this dispute.
- vi. On what basis is the amount of monetary damages and restitution sought fair, reasonable, and appropriate?
- vii. How is the Statement of Claim not duplicative of the Statements of Claim filed in Action Nos. 2508 00414, 2508 00418, and 2508 00420?
- viii. How is the Statement of Claim not statute-barred by the operation of the time limits set out in the Alberta *Limitations Act*, RSA 2000, c L-12?
- ix. Alternatively, or in connection with her response, the Plaintiff may also wish to refer to her previously submitted response emails sent to the Court in connection with Action Nos. 2508 00414 and 2508 00418, and/or her Affidavit filed in Action No. 2508 00414.

The Plaintiff must file and serve her Written Submission within 14 days after receiving this AVAP Notice. The Written Submission must be emailed or delivered to the address of Associate Chief Justice D.B. Nixon, located at the Calgary Court Centre, 601 – 5<sup>th</sup> Street SW, Calgary, Alberta T2P 5P7, and must be marked “To the Attention of Associate Chief Justice D.B. Nixon”. It must also be served on the Defendants.

- c. If the Plaintiff does not file and serve a Written Submission by the deadline, the Court will make a final decision on whether the Statement of Claim should be struck out in whole or in part under rule 3.68 of the *Alberta Rules of Court*.
- d. If the Plaintiff does file and serve a Written Submission, the Defendants have seven days to provide a Written Reply of up to 10 pages. The Written Reply must be addressed “To the Attention of Associate Chief Justice D.B. Nixon” and should be sent to the address set out in paragraph “b” above. It must also be served on the Plaintiff.
- e. Once the Court receives the Plaintiff's Written Submission (if any) and the Defendants' Written Reply (if any), the Court will make a final decision on whether the Statement of Claim should be struck out in whole or in part under rule 3.68 of the *Alberta Rules of Court*.

[8] The *Alberta Rules of Court* and the cases cited above can be accessed for free on <https://www.canlii.org/>.

[9] The Defendants may prepare and serve an Interim Order staying this Action until the CPN7 process is complete. The Plaintiff's approval of that Order is not required, pursuant to rule 9.4(2)(c) of the *Alberta Rules of Court*.

**Dated** at Medicine Hat, Alberta this 10<sup>th</sup> day of February 2026.

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**D.B. Nixon**  
**A.C.J.C.K.B.A.**

**Appearances:**

Jillian McKay – None  
Plaintiff

Sachia Longo – Written Submission  
Canadian Union of Public Employees, Alberta Regional Office  
for the Defendants