

KING'S BENCH FOR SASKATCHEWAN

Citation: 2026 SKKB 81

Date: 2026 04 17
File No.: KBG-RG-02383-2024
Judicial Centre: Regina

BETWEEN:

FARM CREDIT CANADA

PLAINTIFF

- and -

RYLAN CHANCE JASPER

DEFENDANT

Counsel:

Dustin Gillanders
Clayton Barry

for the plaintiff
for the defendant

FIAT
April 17, 2026

ROBERTSON J.

INTRODUCTION

[1] On March 18, 2026, the plaintiff, Farm Credit Canada, [FCC] filed an application seeking an order under Rules 7-2 and 7-5 of *The King's Bench Rules* for summary judgment. The application was scheduled for hearing on April 16, 2026.

[2] On April 14, 2026, FCC's lawyer filed a Consent Order. Under the terms of the Consent Order, the Local Registrar would be directed to schedule a hearing date for the summary judgment application and deadlines would be set, backdated from the hearing date for filing of affidavits and briefs of law and for cross-examination on

affidavits.

[3] I declined to authorize issuance of the Consent Order because it would evade requirements of General Application Practice Directive #9: Scheduling of Summary Judgment, Set Aside and Judicial Review Applications.

[4] Since the proposed order is not uncommon, this fiat provides the Court with an opportunity to review the proper procedure on application for summary judgment and the reasons for that process.

BACKGROUND

[5] The court file records the following events in this litigation.

2024

October 11 Statement of Claim issued claiming default in failure to repay loan and seeking judgment for \$302,863.33 together with interest of 19.5618% a year from September 9, 2024 to date of judgment.

2025

January 21 Mandatory mediation completed

January 29 Statement of Defence filed denying debt and asserting defence that claim statute barred by limitation period

2026

March 18 Notice of Application filed by FCC seeking summary judgment with supporting affidavit

April 14 FCC filed Consent Order

April 16 Chambers hearing before Robertson J.

ANALYSIS

Summary Judgment

[6] *The King's Bench Rules* in Rules 7-2 to 7-5 allow for summary judgment. Rule 1-3, which states the purpose and intention of the Rules, is also relevant.

[7] In *A.M. v Hagen*, 2023 SKKB 176 at paras 55–56, Chief Justice Popescul summarized the summary judgment roadmap:

[55] Rule 7-5(1)(a) provides that the Court may grant summary judgment if it is satisfied that there is no genuine issue requiring a trial with respect to a claim or defence. Rule 7-5(2) sets out the factors that the Court must and may consider when determining whether there is a genuine issue requiring trial:

7-5 (2) In determining pursuant to clause (1)(a) whether there is a genuine issue requiring a trial, the Court:

(a) shall consider the evidence submitted by the parties; and

(b) may exercise any of the following powers for the purpose, unless it is in the interest of justice for those powers to be exercised only at a trial:

(i) weighing the evidence;

(ii) evaluating the credibility of a deponent;

(iii) drawing any reasonable inference from the evidence.

[56] The leading authority on summary judgment applications is *Hryniak v Mauldin*, 2014 SCC 7, [2014] 1 SCR 87. Therein, the Court noted at paragraph 47 that “[s]ummary judgment motions must be granted whenever there is no genuine issue requiring a trial”. There will be no genuine issue requiring a trial when the judge is able to reach a fair and just

determination on the merits. At paragraph 49, the Court noted that a fair and just determination can be made when the process:

- (1) allows the judge to make the necessary findings of fact;
- (2) allows the judge to apply the law to the facts; and
- (3) is a proportionate, more expeditious and less expensive means to achieve a just result.

General Application Practice Directive #9

[8] General Application Practice Directive #9: Scheduling of Summary Judgment, Set Aside and Judicial Review Applications [GAPD9] applies to summary judgment applications. GAPD9 became effective November 1, 2019.

[9] GAPD9 responded to the Court's experience with hearing summary judgment applications that were either not ready for hearing or not suitable for summary judgment. Those failed hearings wasted both Court time and counsel time, with attendant cost to the public purse and to litigants. When that occurred, it frustrated the very intent of the summary judgment procedure.

[10] The Court of Appeal, in *Loraas v Loraas Disposal North Ltd.*, 2023 SKCA 131 at para 64 [*Loraas*], accepted the authority of the Court of King's Bench to make such procedural rules:

[64] ... The Court of King's Bench (as it is now called) is the master of its own processes and procedures. If that court wishes to modify its rules with respect to summary judgment to give effect to the idea that, once filed, all subsequent applications and procedures must be filtered through the summary judgment adjudicative apparatus, that is a choice for that court to make

[11] In *Loraas* at para 63, the Court of Appeal held that the filing of a summary judgment application does not displace or suspend the normal discovery process. Whether questioning should proceed when a summary judgment application is pending

is a discretionary decision when managing the litigation under GAPD9.

[12] GAPD9 provides a two-stage process for summary judgment proceedings. This process is intended to expedite the resolution of disputes and reduce the cost of litigation.

[13] The first stage involves a review of the application to ensure it is ready for hearing. The first stage may also involve judicial direction and management, although not to the extent of a case management judge.

[14] The first stage is intended to screen out those applications which are obviously unsuitable for summary judgment and to ensure those applications which proceed to hearing are ready for hearing. This review process, if done properly, promotes successful summary judgment hearings. The second stage is a hearing on the merits, including whether the case is suitable for summary judgment.

[15] GAPD9 has been applied to require filing of all materials, including briefs of law, at the first stage. This ensures the chambers judge conducting the first stage review is able to certify it as ready to proceed to hearing. See: *Karmazyn v Gall*, 2025 SKKB 196 at para 10; *Soldan v Law Society of Saskatchewan*, 2025 SKKB 191 at paras 75–79, appeal quashed 2026 SKCA 46; *Alliance Crane Inc. v Sapergia*, 2025 SKKB 94 at paras 26-31; *McLean v Stewart*, 2025 SKKB 81 at paras 37–38; *KP Group Ventures Ltd. v 101223484 Saskatchewan Ltd.*, 2024 SKKB 219 at paras 27–31; *Richardson Pioneer v Lamb*, 2024 SKKB 214 at paras 21-28; *Standing Buffalo Dakota First Nation v Ron S. Maurice Professional Corporation (Maurice Law Barristers and Solicitors)*, 2023 SKKB 42 at para 41; *Kuffner v Jacques*, 2023 SKKB 14 at para 67; *Yildir v Athol Murray College of Notre Dame*, 2021 SKQB 278 at paras 15-16; *Input Capital Corp. v TKN Company Farm Ltd.*, 2021 SKQB 90 at paras 22–24; *Atrium Mortgage Investment Corporation v Koh*, 2020 SKQB 179 at paras 35-38 [*Atrium*]; *Chernick v Chernick*, 2020 SKQB 168 at para 18; and *Churko v Merchant*, 2019 SKQB

307 at paras 10-11 [*Churko*].

[16] In *Churko*, Tochor J. (as he then was) adjourned the plaintiff's application for summary judgment *sine die*, finding that the application was premature. In doing so, he pointed out at paras. 10–12 that all necessary steps must be completed before a hearing date may be scheduled.

[10] As set out in General Application Practice Directive #9, applications for summary judgment are brought before a judge in chambers who is then tasked with managing the application until it is ready to be set down for a hearing. The chambers judge is to ascertain the parties' readiness to proceed and determine any necessary preliminary issues. Once all necessary steps are completed and it is determined the parties are ready to proceed, an order may be made requesting the Local Registrar to set a hearing date for the application.

[11] In these circumstances, it is clear the parties are not ready to proceed to a hearing. For example, the parties' respective affidavits of documents have yet to be exchanged, and document production has not been completed. As well, there may be other steps deemed necessary by the parties which need to be completed before a hearing date may be scheduled.

[12] Therefore, the plaintiff's application for summary judgment shall be adjourned *sine die*, to be brought back to the chambers list on seven days' notice, so any management issues may be addressed by a judge in chambers.

[17] In *Atrium* at para 35, I mentioned the problem which GAPD9 was intended to address in explaining the requirement for filing of all materials at the first stage hearing before scheduling of the second stage hearing.

[35] Practice Directive #9 was intended to address problems experienced by the court hearing summary judgment and judicial review applications. It provides a two-stage hearing process. At the first stage, the chambers judge provides both a case management function, where necessary to move the action forward, and a review function, ensuring the application is ready to be heard before it proceeds to the second stage. Only if the judge, at the first stage, is satisfied the case is ready to be heard

should it proceed to the second stage and be scheduled for hearing on the merits. This necessarily requires a review by the chambers judge at the first stage of the complete materials intended to support the second stage hearing.

[Emphasis in original]

[18] Since the first stage review is both as to content and format, it is preferable for the parties to agree to relevant facts and records. The applicant should file a binder, with an index and tabbing of contents, containing all materials from both parties which are intended to be relied upon at the hearing. This helps the justice doing the first stage review to be satisfied that the application is ready for hearing. It also promotes a better hearing at the second stage where both the lawyers and hearing judge can easily locate any materials referred to at the hearing.

[19] The justice at second stage must decide whether the application is suitable for hearing: *Jastek Master Builder 2004 Inc. v Holmes*, 2021 SKCA 57 at para 21. Any evidentiary issues are resolved at the second stage before the justice hearing the application on the merits.

[20] In deciding whether an application is suitable for summary judgment, the hearing judge may consider, amongst other things, whether:

- (a) both parties agree the dispute is capable of summary determination;
- (b) there is an agreed statement of facts and documents;
- (c) there are additional affidavits filed;
- (d) the volume of material filed;
- (e) any disputed facts are identified; and
- (f) the disputed facts require findings of credibility best left for trial.

CONCLUSION

[21] In this case, the proposed Consent Order would have the Court skip over the first stage review and simply schedule the second stage hearing, even though the parties have not filed affidavits and contemplate questioning on those affidavits. While the Court has discretion to grant the proposed Consent Order, it is inconsistent with the purpose and requirements of GAPD9. That purpose and those requirements have been repeatedly stated in decisions of this Court, as set out above.

[22] On the application as filed, there is no way for the first stage judge to determine that the application is ready for hearing, since it clearly is not. I therefore declined to authorize the proposed Consent Order.

ORDER

[23] The parties, after discussion at the Chambers hearing, proposed a different order for filing deadlines after which the application may be returned to Chambers for first stage review of readiness for hearing. I therefore order that:

- (a) The defendant, Rylan Chance Jasper, shall serve and file any affidavits by July 31, 2026 at 4:00 p.m.
- (b) The plaintiff, Farm Credit Canada, may serve and file a reply affidavit by August 31, 2026 at 4:00 p.m.
- (c) Any questioning on affidavits will be conducted within 60 days after filing of the final affidavit.
- (d) Briefs of law shall be exchanged and filed within 60 days after the questioning is completed.
- (e) The application for summary judgment is returnable with 14 days'

notice for completion of the first stage review under General Application Practice Directive #9.

[24] I thank both counsel for their cooperation in agreeing upon this alternate order which will allow the application to progress.

J.
D.N. ROBERTSON