

KING'S BENCH FOR SASKATCHEWAN

Citation: 2026 SKKB 14

Date: 2026 01 16
File No.: KBG-RG-01630-2024
Judicial Centre: Regina

BETWEEN:

6517633 CANADA LTD. and STAN SHEPPARD

PLAINTIFFS

- and -

ADAM AILSBY, KMP LAW, ELWOOD WHITE, JOY WHITE,
BARRY DUANE SAMPLE, R.M. OF NORTON No. 69, MATT
MAZER, DARREN SCOTT, SHAUNA MADIGAN, SEAN KESSLER,
PAUL METKE, CRAIG SORENSON, and PATTI GURSKEY

DEFENDANTS

Counsel:

Sterling McLean	for the plaintiffs
Virgil Thomson and Kofi Kwame Nkrumah-Young	for the defendant, R.M. of Norton No. 69
Adam Ailsby	for the defendants, Elwood White and Joy White

DECISION
January 16, 2026

WILDEMAN J.

I. OVERVIEW

[1] The defendants brought two applications to strike portions of the Amended Statement of Claim [Amended Claim] of the plaintiffs, 6517633 Canada Ltd. and Stan Sheppard, pursuant to Rule 7-9 of *The King's Bench Rules*. The defendants say the Amended Claim has a number of deficiencies, including: it does not disclose a

reasonable claim against certain defendants; it raises a claim that has already been the subject of another action; and it is scandalous, vexatious, and an abuse of the Court's process.

[2] The Amended Claim is difficult to understand and follow. It does not contain a concise summary of the material facts upon which the plaintiffs rely to establish their claims. Rather, it is a meandering recitation of facts, argument, and allegations that are, at times, incoherent. It includes bare assertions of unlawfulness, warnings that other litigation may be commenced, and unnecessary – and highly improper – metaphors and similes to, among other things, “Dr. Jack Kevorkian” and “legal suicide”.

[3] Pleadings have a specific purpose. They serve to define the issues to be determined in an action and the bounds of the litigation. A statement of claim provides notice to the defendant of what the claim is about and the case the defendant has to meet. A statement of claim also frames the action for the court throughout the litigation process when the parties seek interim and final relief.

[4] As such, pleadings are technical legal documents that must be concise, precise, and confined to their purpose. Through the pleadings, the parties must be able to identify the real issues in dispute. Effective pleadings allow the parties and the court to focus on what is important. They promote litigation efficiency, judicial economy, and contribute to better justice between the parties.

[5] Here, the Amended Claim fails to satisfy the function of a proper pleading. The pleading is confusing and does not provide the defendants with sufficient notice of what the claim is about. Some allegations do not raise reasonable claims. Parts of the Amended Claim are intended to harass and intimidate the defendants, are vexatious, and constitute an abuse of the Court's process. Consequently, for the reasons outlined in more detail below, I have struck portions of the Amended Claim.

[6] For clarity, I attach Schedule “A”, which is a copy of the Amended Claim with the portions I have struck identified.

II. SUMMARY OF PLEADINGS AND PROCEDURAL HISTORY

[7] From the outset, I note I have not relied upon the summary of facts provided by the plaintiffs in their brief of law. While the brief provides a much more understandable and concise summary of allegations against the defendants, there are numerous instances where the summary in the brief is not reflective of the plaintiffs’ pleadings. In particular, the summary of facts in the brief contains allegations that are not pleaded or not pleaded with clarity. For the summary of allegations provided below, I rely upon the initial Statement of Claim filed by the plaintiffs [Original Claim] and the Amended Claim.

[8] The claim was commenced by 6517633 Canada Ltd. [651 Canada] and Stan Sheppard against numerous individuals, a law firm, and a rural municipality. The claim relates to two quarters of real property located in the Rural Municipality of Norton No. 69 [R.M.]. The plaintiffs plead in August 2022, 651 Canada purchased NE-29-7-20-W2 [Plaintiffs’ Property]. Immediately to the east of the Plaintiffs’ Property is another quarter, namely NW-28-7-20 W2 [Sample Property], which the plaintiffs plead is owned by the defendant, Barry Duane Sample, and leased to the defendants, Elwood White and Joy White [the Whites].

[9] While often lacking in detail, the plaintiffs’ allegations in the Original Claim are easier to follow than the Amended Claim. As such, I start with a summary of the claims based on the allegations in the Original Claim as follows:

- (a) The plaintiffs claim that on several occasions in May 2023 and June 2023, the defendants, the Whites, allowed their cattle to carry on forced free grazing of the grass on the Plaintiffs’ Property. The

plaintiffs claim \$150,000 in compensatory damages against the Whites and the R.M. The plaintiffs also claim the defendant, Mr. Sample, was delinquent in renting the lands to the Whites without the lands having legal fences installed, and he is therefore jointly and severally liable with the Whites and the R.M.;

- (b) The plaintiffs plead the defendants, the Whites, claim false entitlement to the fence between the Plaintiffs' Property and a road allowance. The plaintiffs plead the fence is owned by 651 Canada;
- (c) The plaintiffs claim in the spring of 2024, Elwood White unlawfully entered onto property owned by the plaintiffs and made modifications to the fence and added a solar panel and electric fencer to the fence. The plaintiffs plead this constituted trespass. It appears this allegation also relates to the Plaintiffs' Property, although this is not expressly pleaded;
- (d) The plaintiffs claim the defendants, Adam Ailsby, KMP Law, and the Whites, are responsible for issuing a letter dated July 11, 2023, and "willy-nilly" spreading the letter around the community, which defamed the plaintiffs and damaged their ability to carry on business in the community. There is no indication in the Original Claim what was contained in the July 11, 2023 letter, or if it relates to the other land-related claims, although as indicated below, some further details are provided in the Amended Claim;
- (e) The plaintiffs claim the R.M. allowed Joy White to abuse her role as councillor and condoned the installation of cameras on the road allowance between the Plaintiffs' Property and the Sample Property. The plaintiffs seek a court order removing the cameras; and

- (f) The plaintiffs also claim the R.M. has unlawfully denied the plaintiffs access to the road allowance between the Northeast corner of the Plaintiffs' Property and the Southeast corner of NE-32-7-20-W2. The plaintiffs seek a court order that the plaintiffs can use the road allowance, unrestricted by gates.

[10] In addition to the compensatory damages claimed with respect to the cattle grazing claim, the plaintiffs also claim \$1,000,000 in punitive damages and \$500,000 in aggravated damages against all of the defendants except Mr. Sample.

[11] Shortly after the Original Claim was issued, the defendants, Adam Ailsby, KMP Law, and the Whites [Ailsby/White Defendants], served the plaintiffs with a demand for particulars. Pursuant to an Appearance Day Notice, the plaintiffs were ordered to reply to the Request for Particulars on or before October 4, 2024.

[12] On October 4, 2024, the plaintiffs did not file and serve a reply to the Request for Particulars. Rather, the plaintiffs filed the Amended Claim. The Amended Claim adds the councillors of the R.M. and the R.M. Administrator, Patti Gurskey, as defendants to the action and raises new allegations not previously pleaded. Like the Original Claim, the claims in the Amended Claim appear to be centered around alleged actions the various defendants took, or failed to take, in relation to the Plaintiffs' Property and the plaintiffs' access to the Plaintiffs' Property.

[13] On October 16, 2024, the Ailsby/White Defendants filed an Amended Request for Particulars to account for the Amended Claim. The plaintiffs filed a reply to the Amended Request for Particulars on October 23, 2024. With a few exceptions, the plaintiffs respond by indicating the particulars requested are in the Amended Claim.

[14] The R.M. filed an application to strike the Original Claim, which has been amended twice to reflect developments in the litigation. Its last amendment seeks to

strike the Amended Claim against the R.M., the R.M. Administrator, and the individual R.M. councillors (together, the [R.M. Defendants]) without leave to amend.

[15] The Ailsby/White Defendants also filed an application seeking to strike all claims against Adam Ailsby and KMP Law and the conspiracy and defamation claims against the Whites. They also seek an order postponing the mandatory mediation requirement under *The King's Bench Act*, SS 2023, c 28, until the two applications to strike are heard and determined.

[16] The plaintiffs have not filed proof of service of either the Original Claim or the Amended Claim. Because the Ailsby/White Defendants and the R.M. Defendants apply to strike the Amended Claim, I conclude they have had notice of the pleading and validate service of the Amended Claim on these parties pursuant to Rule 12-1 of *The King's Bench Rules*. However, I have no indication the Amended Claim was served on Mr. Sample.

[17] Despite this service issue, I find it is appropriate for me to proceed with determining the two applications brought by the remainder of the defendants to strike the Amended Claim. However, I expressly make no findings with respect to the claims against Mr. Sample given that it does not appear he was served with the pleadings, and he is not before the Court.

III. ANALYSIS

A. The Mandatory Mediation Requirement

[18] In both amended applications, the defendants seek an order postponing the mediation requirement until after the hearing of the applications to strike the Amended Claim. In contrast, the plaintiffs' position is that both applications to strike the Amended Claim must be adjourned *sine die* to a date and time after statements of defence have been filed and mediation is complete.

[19] Subsection 7-1(2) of *The King's Bench Act* requires the parties to non-family civil proceedings to attend a mediation session after the close of pleadings. It reads:

Mediation re non-family law proceedings

7-1(2) Subject to subsections (3), (4), (5) and (13), after the close of pleadings in a contested action or matter that is not a family law proceeding, the local registrar shall arrange for a mediation session, and the parties shall attend the mediation session before taking any further step in the action or matter.

[20] Pursuant to ss. 2-1(2) of *The King's Bench Regulations*, Sask Reg 100/2023, for an action commenced by statement of claim, the pleadings are closed when a statement of defence is filed.

[21] While the defendants seek an order postponing the mediation requirement, I find this is unnecessary. This is because the pleadings have not yet closed in this action, namely the defendants have not yet filed statements of defence. Subsection 7-1(2) of *The King's Bench Act* does not operate to prohibit the parties from taking steps in the action or matter before the close of pleadings: *Corey v Friesen*, 2025 SKCA 124 at paras 22 and 33.

[22] Rule 3-13 of *The King's Bench Rules* permits the defendants to apply to the Court for an order pursuant to Rule 7-9 in advance of filing a statement of defence. Consequently, the defendants have taken a step in the litigation that is permitted before the close of pleadings. Accordingly, there is no obligation on the parties to attend mediation before their applications to strike the Amended Claim are heard and determined, and the pleadings are subsequently closed.

[23] The plaintiffs rely on Rule 7-2 of *The King's Bench Rules* to support their position that the parties must proceed to mediation in advance of the Court hearing the defendants' applications to strike the Amended Claim. However, Rule 7-2 addresses

summary judgment applications, not applications to strike a pleading under Rule 7-9. Rule 7-2 is inapplicable to the applications before me.

[24] In summary, it is unnecessary for me to order the postponement of mediation, as the mediation requirement has not yet been triggered in this action.

B. Legal Framework for an Application to Strike Pleadings under Rule 7-9

[25] Rule 7-9 of *The King's Bench Rules* provides authority for the Court to strike pleadings in a summary fashion when certain conditions are met. It reads:

Striking out a pleading or other document, etc. in certain circumstances

7-9(1) If the circumstances warrant and one or more conditions pursuant to subrule (2) apply, the Court may order one or more of the following:

- (a) that all or any part of a pleading or other document be struck out;
- (b) that a pleading or other document be amended or set aside;
- (c) that a judgment or an order be entered;
- (d) that the proceeding be stayed or dismissed.

(2) The conditions for an order pursuant to subrule (1) are that the pleading or other document:

- (a) discloses no reasonable claim or defence, as the case may be;
- (b) is scandalous, frivolous or vexatious;
- (c) is immaterial, redundant or unnecessarily lengthy;
- (d) may prejudice or delay the fair trial or hearing of the proceeding; or
- (e) is otherwise an abuse of process of the Court.

(3) No evidence is admissible on an application pursuant to clause (2)(a).

[26] Rule 7-9(2)(a) allows the Court to strike out claims that have no reasonable prospect of success as a “valuable housekeeping measure essential to effective and fair litigation”: *R v Imperial Tobacco Canada Ltd.*, 2011 SCC 42 at para 19 [*Imperial Tobacco*]. However, this tool must be used with care. There is a balance to be struck between avoiding unnecessary burdens on litigants and the court with a claim that has no reasonable prospect of success and maintaining the fundamental right of litigants to access the court to attempt to make out his or her case and, where appropriate, test the limits of the law: *Venture Construction Inc. v Saskatchewan (Highways and Infrastructure)*, 2015 SKQB 70 at para 10.

[27] Pursuant to Rule 7-9(2)(a), a plaintiff’s statement of claim should only be struck where, assuming the plaintiff proves everything alleged in the claim, there is no reasonable chance of success: *Saskatchewan Power Corporation v Swift Current (City)*, 2007 SKCA 27 at para 18 [*SaskPower*]. The authority to strike a claim should only be exercised in plain and obvious cases where the matter is beyond doubt. Further, courts must regard the substance of the pleading over the form.

[28] However, while there is a high threshold that must be met for a pleading to be struck under Rule 7-9, it is important to underscore the importance of pleadings in the litigation process. As I previously indicated, pleadings define the issues between the parties for both the litigants and the court and give fair notice to the opposing party of the case which has to be met: *Ducharme and Holben v Davies and Rogoschewsky*, 1983 CanLII 2310, [1984] 1 WWR 699 (SKCA); *Reisinger v J.C. Akin Architect Ltd.*, 2017 SKCA 11 at paras 13-14 [*Reisinger*]. Throughout the litigation process, pleadings serve as a record of both the issues in dispute and the relief sought, defining the scope of document production, questioning, and the admissible evidence at trial. As such, one must not be left to guess or speculate what a claim is about.

[29] Sufficient material facts are the foundation of a proper pleading. The material facts are those that are necessary for a plaintiff to establish the requisite legal elements of a cause of action: *Wilson v Saskatchewan Water Security Agency*, 2023 SKCA 16 at para 17 [*Wilson*]. Material facts are not only required to ground the validity of the plaintiff's claim, but also to tell the defendant who, when, where, how, and what is alleged to give rise to its liability. As indicated by the Federal Court of Appeal in *Mancuso v Canada (National Health and Welfare)*, 2015 FCA 227 at para 17 [*Mancuso*], material facts play an important role in ensuring a fair and efficient litigation process:

[17] The latter part of this requirement – sufficient material facts – is the foundation of a proper pleading. If a court allowed parties to plead bald allegations of fact, or mere conclusory statements of law, the pleadings would fail to perform their role in identifying the issues. The proper pleading of a statement of claim is necessary for a defendant to prepare a statement of defence. Material facts frame the discovery process and allow counsel to advise their clients, to prepare their case and to map a trial strategy. Importantly, the pleadings establish the parameters of relevancy of evidence at discovery and trial.

[30] On deciding an application to strike on the basis of Rule 7-9(2)(a), I am limited to considering the pleading itself, any particulars furnished pursuant to a request for particulars, and any document referred to in the pleading upon which the plaintiff must rely to establish his or her case: *SaskPower* at para 18.

[31] Where feasible, a plaintiff should be given an opportunity to amend their pleadings to correct deficiencies before the pleadings are struck: *Yashcheshen v Teva Canada Ltd.*, 2022 SKCA 49 at para 43. The court may permit amendments to cure a defective pleading even if the plaintiff has not applied to amend: see, for example, *Taheri v Buhr*, 2021 SKCA 9 at para 80.

[32] With respect to an application to strike a pleading pursuant to Rule 7-9(2)(b) as scandalous, frivolous, or vexatious, Mitchell J. outlined in *Siemens v Baker*,

2019 SKQB 99 at paras 23-25, what is meant by the terms “scandalous”, “vexatious”, and “frivolous”, as follows:

[23] Although these terms are often used interchangeably, it is helpful to differentiate among them. A pleading will qualify as “scandalous” if it levels degrading charges or baseless allegations of misconduct or bad faith against an opposite party. See: *Paulsen v Saskatchewan (Ministry of Environment)*, 2013 SKQB 119 at para 45, 418 Sask R 96 [*Paulsen*] and the authorities cited there. Courts in British Columbia, for example, have described a scandalous pleading as “one that is so irrelevant that it will involve the parties in useless expense and prejudice the [pursuit] of the action by involving them in a dispute apart from the issues”. See: *Turpel-Lafond v British Columbia*, 2019 BCSC 51 at para 23, 429 DLR (4th) 131 [*Turpel-Lafond*] quoting from *Woolsey v Dawson Creek (City)*, 2011 BCSC 751 at para 28.

[24] A pleading will qualify as “vexatious” if it was commenced for an ulterior motive (other than to enforce a true legal claim) or maliciously for the purposes of delay or simply to annoy the defendants. See: *Paulsen*, at para 46. Put another way, it is vexatious if it does not assist in establishing a plaintiff’s cause of action or fails to advance a claim known in law. See: *Turpel-Lafond*, at para 23.

[25] A pleading will qualify as “frivolous” if it is plain or obvious or beyond reasonable doubt the claim it advances is groundless and cannot succeed. See: *Hunt v Carey Canada Inc.*, [1990] 2 SCR 959 at 980; *Paulsen* at para 47; and *Wayneroy Holdings Ltd. v Sideen*, 2002 BCSC 1510 at para 17.

[33] Pursuant to Rule 7-9(2)(e), a pleading may also be struck as an abuse of process. The doctrine of abuse of process engages the court’s inherent jurisdiction to prevent the misuse of court proceedings and focuses on the integrity of the adjudicative process: *Toronto (City) v C.U.P.E., Local 79*, 2003 SCC 63 at para 43. The question for the court is whether the circumstances giving rise to the actions bring the administration of justice into disrepute or result in an unacceptable unfairness to one of the parties. In *Onion Lake Cree Nation v Stick*, 2018 SKCA 20 at para 52, the Saskatchewan Court of Appeal described the doctrine as follows:

[52] The doctrine of abuse of process is also a flexible one. There is no set test or rules for determining what amounts to an abuse of process. Rather, the doctrine engages a court's inherent power to prevent the misuse of its judicial proceedings. As Arbour J. stated in *Toronto (City) v CUPE, Local 79*, 2003 SCC 63, [2003] 3 SCR 77, the doctrine of abuse of process focusses on the integrity of the adjudicative process:

[43] ... In all of its applications, the primary focus of the doctrine of abuse of process is the integrity of the adjudicative functions of courts. Whether it serves to disentitle the Crown from proceeding because of undue delays ... or whether it prevents a civil party from using the courts for an improper purpose ... the focus is less on the interest of parties and more on the integrity of judicial decision making as a branch of the administration of justice. ...

See also *Insurance Company of the State of Pennsylvania v Cameco Corporation*, 2010 SKCA 95 at paras 47–51, [2010] 10 WWR 385.

[34] Striking a claim as an abuse of process is not a remedy to be granted lightly. Rather, it should only be struck where it is plain and obvious that allowing an action to proceed would amount to an abuse of process, or it is devoid of all merit, or it cannot possibly succeed: *GHC Swift Current Realty Inc. v BACZ Engineering (2004) Ltd.*, 2022 SKCA 38 at para 25 [*GHC Swift Current*]. To determine whether a claim is an abuse of process, the court is permitted to consider affidavit evidence to assess the merits of the claim or defence: *GHC Swift Current* at para 26. However, it is not permissible to weigh the evidence or determine legitimate triable issues.

C. Categories for the Allegations in the Amended Claim and Potential Causes of Action Raised

[35] For the most part, the allegations against the defendants are interconnected. As such, rather than addressing the two applications to strike the Amended Claim separately, I have categorized the allegations in the pleadings and address both applications using the following categories:

- (1) Unlawful alteration of legal title (Amended Claim at para. 8);
- (2) Ownership of the fence (Amended Claim at paras. 9 and 12);
- (3) Installation of solar panels and electric fence (Amended Claim at para. 14);
- (4) Access to an undeveloped road allowance and installation of gates and cameras on the road allowance (Amended Claim at paras. 10, 17, and 18);
- (5) July 11, 2023 letter (Amended Claim at paras. 9, 11, and 16);
- (6) Grazing cattle (Amended Claim at paras. 14-15);
- (7) Status of the R.M council (Amended Claim at para. 7); and
- (8) The R.M. Poundkeeper (Amended Claim at para. 10).

[36] Given the manner in which the Amended Claim is drafted, it is often difficult to clearly understand the nature of the allegations and determine whether a reasonable claim arises from the pleading. The Amended Claim is disjointed. Some paragraphs jump between three or more subject matters with little to no explanation of how the issues relate, or what allegations relate to which subject-matter. Furthermore, the plaintiffs often do not plead the material facts to allow me to adequately understand the nature of the allegations.

[37] The plaintiffs specifically refer to the causes of action of conspiracy, defamation, and negligence in the Amended Claim. The plaintiffs also allege Joy White, as an R.M. councillor, and Patti Gurskey, as the R.M. Administrator, manipulated the R.M. council dishonestly and unlawfully. While these allegations may relate to the

claim of conspiracy, I have also addressed whether the plaintiffs have pleaded the requisite facts to establish the elements of the tort of misfeasance of public office.

[38] I turn to analyzing each category of claim below.

D. Analysis of the Plaintiffs' Amended Claim

1. Unlawful Alteration of Legal Title (Amended Claim at para. 8)

[39] In para. 8 of the Amended Claim, the plaintiffs plead that in February 2022, 651 Canada purchased SE-2-8-20-W2 from Lorraine Eckhard, and the new land title had no encumbrances except for a caveat registered in 1980 for the R.M.'s interest in the water well. The plaintiffs plead the R.M. acted unlawfully by assisting Kenneth Kaufmann and Joyce Kaufmann to register a registration on what otherwise was a clear title within two weeks of 651 Canada committing to purchase the land and prior to the title changing hands. The plaintiffs further plead this alleged unlawful act was the subject of a lawsuit in 2022 against Kenneth Kaufmann, Joyce Kaufmann, Patti Gurskey, and the R.M. for the purpose of having the Court of King's Bench remove the registration and bring the conspirators involved in this unlawful activity to justice. Neither Kenneth Kaufmann nor Joyce Kaufmann have been named as defendants in this action.

[40] The pleading then goes on to warn against further registrations against 651 Canada's title and makes a number of allegations against Patti Gurskey in relation to "Dr. Jack Kevorkian" and "legal suicide".

[41] I find para. 8 of the Amended Claim is scandalous, vexatious, and an abuse of process for a number of reasons.

[42] The pleading itself indicates that the complained conduct is the subject of other litigation against, among others, the R.M. and Patti Gurskey. The commencement

of a multiplicity of actions by the plaintiffs against the same defendants involving the same dispute in the same jurisdiction is, on its face, an abuse of process: *CE Design Ltd. v Saskatchewan Mutual Insurance Company*, 2021 SKCA 14 at para 89. The plaintiffs provide no explanation or justification for why these allegations should be permitted to be the subject of this action when they are already the subject of another action.

[43] However, it is not clear on the face of the pleading whether the plaintiffs intend to pursue the alleged improper land title registration in this action as well. Rather, it appears the plaintiffs intend for this paragraph to simply serve as a warning that any future registrations against 651 Canada's land titles will result in the commencement of further litigation. In particular, after identifying the other litigation with respect to the alleged improper registration against title, the plaintiffs plead:

8. ... As long as 6517633 Canada Ltd. is under the watch of Stan Sheppard no person or entity will ever be permitted to register an interest in any of the land titles owned by 6517633 Canada Ltd. and if a person or entity does register an interest a lawsuit will be launched and that person or entity will be dealt with by the Court of King's Bench for Saskatchewan. Any registration of any kind will amount to legal suicide by the person or entity registering the interest. ... [sic]

[44] The pleading also compares the R.M. Administrator, Patti Gurskey, to "Dr. Jack Kevorkian", insinuating she is arrogant and defiant. The pleading reads:

8. ... Patti Gurskey as R.M. Administrator is the Dr. Jack Kevorkian of the R.M. administration occupation. Patti Gurskey, just like Dr. Jack Kevorkian, assisted Kenneth and Joyce Kaufmann to commit legal suicide by registering an interest in the SE-2-8-20-W2. ... Dr. Jack Kevorkian was arrogant and defiant and declared after he assisted a person with assisted suicide that he would keep on doing it in the future even if it was illegal. Patti Gurskey is cut from the same cloth as Dr. Jack Kevorkian. In her written materials she denies providing the assistance and is arrogant about it. Instead the R.M. reprimanding her for this activity, the R.M. Council is her

biggest cheerleader making the R.M. a co-conspirator and complicit in carrying out this unlawful act. [sic]

[45] I find this pleading is highly improper. The purpose of a pleading is not to warn or threaten any “person or entity” that if certain conduct occurs, further litigation will be commenced. In addition, pleadings must not contain personal character attacks or insults. I find it is plain and obvious para. 8 of the Amended Claim is meant to intimidate and harass the R.M. and Ms. Gurskey. It is scandalous, vexatious, and an abuse of the Court’s process. As such, I conclude para. 8 of the Amended Claim must be struck in its entirety.

2. Ownership of the Fence (Amended Claim at paras. 9 and 12)

[46] In para. 9 of the Amended Claim, the plaintiffs plead there is a barbed wire fence on the Eastern boundary of the Plaintiffs’ Property. In para. 12 of the Amended Claim, the plaintiffs plead that, “this lawsuit is partly about Elwood White and Joy White claiming ownership of the fence which belongs to 6517633 Canada Ltd. or at the very minimum claiming that it was owned by a person or entity other than 6517633 Canada Ltd.” While it is not clearly plead, it appears from the context of paras. 9 and 12 that the core issue with respect to the fence is whether it is on the Plaintiffs’ Property or whether it is located on the Sample Property, which the Whites lease. I reach this conclusion because at para. 9 the plaintiffs pleaded, “There is no possibility that Barry Duane Sample owns the fence”.

[47] In their brief, the Ailsby/White Defendants indicate that the Whites dispute the basic fence claim, but these particular claims will need to work their way through the court process. I find the plaintiffs have raised a reasonable claim against the Whites with respect to the ownership of the fence.

[48] I make no finding with respect to the claim against Mr. Sample given I have no indication he has been served, and he is not before the Court.

[49] However, the allegations with respect to the fence go beyond the issue of ownership. In particular, it appears the plaintiffs assert a claim for conspiracy and negligence in relation to the fence with the following pleadings in para. 9:

9. ... Adam Ailsby, KMP Law, Elwood White, Joy White, and the R.M. of Norton #69 are co-conspirators and complicit in carrying out the unlawful act of suggesting in a letter that the fence was not owned by 6517633 Canada Ltd. Elwood White and Joy White took no steps to prove that they owned the fence. ... The unlawful influence by Joy White over the R.M. implicated the R.M. in these unlawful acts. ... By the R.M. council allowing the R.M. to be dishonestly and unlawfully manipulated by Joy White amounts to the R.M. being a co-conspirator and complicit.

[50] The plaintiffs further plead that due to Joy White and the R.M. being intertwined by Joy White's excessive influence over the R.M., the R.M. is negligent and culpable for not making it clear to the Whites that the R.M. does not own the fence. Further, the plaintiffs say it is not possible for Mr. Sample to be the owner of the fence and therefore, the only other possible owner would be 651 Canada, and the owner should have the total care, custody, and control of the fence.

[51] There are four elements of the cause of action of conspiracy, as follows:

- (1) An agreement between two or more parties;
- (2) made with the predominant purpose of injuring the plaintiff or aimed at the plaintiff in the circumstances where injury to the plaintiff may result;
- (3) through the commission of unlawful acts or the use of unlawful means; and
- (4) results in the plaintiff actually suffering harm.

See *Aecon Mining Construction Services v K+S Potash Canada GP*, 2024 SKCA 48 at para 19; and *Reisinger* at para 22.

[52] There are two types of civil conspiracy in Canada: predominant purpose conspiracy and unlawful means conspiracy. The Supreme Court of Canada identified the elements of each of the two types of conspiracy in *Pro-Sys Consultants Ltd. v Microsoft Corporation*, 2013 SCC 57 at paras 74 and 80, as follows:

[74] Predominant purpose conspiracy is made out where the predominant purpose of the defendant's conduct is to cause injury to the plaintiff using either lawful or unlawful means, and the plaintiff does in fact suffer loss caused by the defendant's conduct. Where lawful means are used, if their object is to injure the plaintiff, the lawful acts become unlawful (*Canada Cement LaFarge Ltd. v. British Columbia Lightweight Aggregate Ltd.*, [1983] 1 S.C.R. 452, at pp. 471-72).

...

[80] The second type of conspiracy, called "unlawful means conspiracy", requires no predominant purpose but requires that the unlawful conduct in question be directed toward the plaintiff, that the defendant should know that injury to the plaintiff is likely to result, and that the injury to the plaintiff does in fact occur (*Cement LaFarge*, at pp. 471-72).

[53] In the chambers hearing, the plaintiffs made no argument on the type of conspiracy they pleaded. However, the plaintiffs have not pleaded the predominant purpose of the defendants' conduct was to cause injury to the plaintiffs. Rather, they allege the defendants committed a number of unlawful acts. As such, the plaintiffs appear to assert the cause of action of unlawful act conspiracy. Therefore, the plaintiffs must plead:

- (a) An agreement exists among the defendants;
- (b) The agreement was to engage in an unlawful act or use unlawful means directed towards the plaintiffs;

- (c) The defendants knew that these actions would – or could be clearly expected to – cause injury to the plaintiffs; and
- (d) The plaintiffs suffered actual damage through the participation of the defendants in the unlawful conduct.

[54] I find the plaintiffs' claim of conspiracy against the defendants in relation to the ownership of the fence does not raise a reasonable claim. The plaintiffs have not pleaded an agreement among the defendants or a common purpose. Further, the plaintiffs have not pleaded the material facts necessary to establish an unlawful act or unlawful means. I am not aware of any authority that makes it unlawful to assert ownership of a fence or to suggest who owns a fence, nor am I aware of any authority that would make the R.M.'s alleged actions or inactions with respect to ownership of the fence unlawful. The plaintiffs did not provide me with any authority to support this aspect of their claim.

[55] As such, I find that the plaintiffs' allegations of conspiracy with respect to ownership of the fence must be struck against all the defendants in their entirety.

[56] As I previously mentioned, given the nature of the allegations against Joy White in her capacity as a councillor, it is possible the plaintiffs intend to raise the tort of misfeasance of public office against her. As indicated in *Harpold v Saskatchewan (Corrections and Policing)*, 2020 SKCA 98 at para 44-47, the tort of misfeasance of a public office is concerned with the deliberate abuse of powers of public officers. This intentional tort can arise where the conduct is intended to injure a person, or class of persons, or where a public officer acts with knowledge that they have no power to do the act complained of and that the act is likely to injure a person. In either case, the requisite elements of the cause of action are: (i) deliberate unlawful conduct in the exercise of public functions; (ii) awareness that the conduct is unlawful and likely to

injure the plaintiff; (iii) the tortious conduct was the legal cause of the claimed injuries; and (iv) the injuries suffered are compensable in tort law.

[57] I find the plaintiffs have not pleaded the material facts to ground a claim in the tort of misfeasance of public office in relation to the fence. The pleading that Joy White influenced, or even manipulated, the R.M. or its council in relation to who owned the fence does not constitute an unlawful act.

[58] The plaintiffs also refer to the R.M.'s negligence with respect to ownership of the fence. Liability in negligence is predicated on the defendant's duty to take reasonable care to guard the interests of the plaintiff: *Taylor v Canada (Attorney General)*, 2012 ONCA 479 at para 65. The viability of the negligence claim is determined by reference to the two-stage test established in *Anns v Merton London Borough Council*, [1978] AC 728 (UKHL), and refined in *Cooper v Hobart*, 2001 SCC 79. Under this framework, the Court must consider whether a *prima facie* duty of care exists between the parties, and, if so, are there residual policy considerations that negate or limit the scope of that duty. A *prima facie* duty of care requires two elements: reasonable foreseeability of harm, and a sufficiently proximate relationship between the parties such that it would be just and fair having regard to the relationship to impose a duty of care on the defendant.

[59] Here, the plaintiffs' claim of negligence is deficient. The plaintiffs have not pleaded what duty of care is owed by the R.M. to the plaintiffs in relation to the ownership of the fence. The plaintiffs have provided me with no authority to suggest there is an analogous category of cases in which sufficient proximity was established to give rise to a duty of care in these circumstances. Nor have the plaintiffs argued a new category of duty of care should be recognized in the circumstances. As such, the plaintiffs' claim of negligence against the R.M. with respect to the ownership of the fence must be struck.

[60] Paragraph 12 of the Amended Claim also contains a warning that, "... if any person or entity attempts to steal or claim ownership of any asset in addition to farm land owned by 6517633 Canada Ltd. a lawsuit will be launched in the Court of King's Bench for Saskatchewan to recover the asset in question." For the reasons noted above, it is scandalous, vexatious, and an abuse of the court's process to use pleadings to warn of or threaten future litigation. As such, I strike this sentence of para. 12 of the Amended Claim.

[61] Further, the pleading in para. 12 of the Amended Claim refers to "Dr. Jack Kevorkian" and "legal suicide" as follows:

12. ... Dr. Jack Kevorkian couldn't resist the temptation of one assisted suicide after another. Patti Gurskey, like Dr. Jack Kevorkian, has the same weakness and is now assisting Elwood White, Joy White and the R.M. of Norton #69 in committing legal suicide and Adam Ailsby and KMP Law are the ringleaders and cheerleaders of the unlawful act. ... [sic]

[62] For the reasons noted above, comparisons of the defendants to "Dr. Jack Kevorkian" and references to "legal suicide" are highly improper and have no place in a pleading. I find this aspect of the plaintiffs' Amended Claim is intended to harass and intimidate the defendants. As such, I strike it as scandalous, vexatious, and an abuse of the Court's process.

3. Installation of Solar Panels and Electric Fence (Amended Claim at para. 14)

[63] In para. 14 of the Amended Claim, the plaintiffs allege that in the spring of 2024, Elwood White unlawfully entered onto property owned by the plaintiffs and started to make modifications to the fence, adding a solar panel and electric fender to the fence. The plaintiffs allege that this constituted trespass.

[64] The defendants do not seek to strike this claim. As such, it remains in the Amended Claim.

4. Access to an Undeveloped Road Allowance and Installation of Gates and Cameras on the Road Allowance (Amended Claim at paras. 10, 17, and 18)

[65] In para. 9 of the Amended Claim, the plaintiffs plead that one-half mile of unimproved road allowance lies to the East of the Plaintiffs' Property and is between the Plaintiffs' Property and the Sample Property. In para. 10 of the Amended Claim, the plaintiffs plead that there is a one-half mile undeveloped road allowance between SE-32-7-20-W2 and SW-33-7-20-W2. It appears there are two different road allowances at issue based on the different land locations.

[66] The plaintiffs address the road allowance in paras. 10, 17, and 18 of the Amended Claim. I summarize the allegations as follows:

- (a) The R.M. has permitted the Whites to use the road allowance and has not permitted the plaintiffs to use the road allowance;
- (b) The R.M. has "entered into the unlawful business of dictating who can use the road allowance and who can not [sic]";
- (c) The R.M. is complicit in carrying out the unlawful act of letting Joy White influence the council that the Whites' reasons for having access and use of the road allowance are more lawful than the reasons for the plaintiffs;
- (d) The R.M. has unlawfully allowed the Whites to install two sets of gates across the road allowance and "condones" the gates being closed;

- (e) The plaintiffs seek a court order that the plaintiffs can use the road allowance unrestricted by gates;
- (f) The R.M. has condoned the installation of cameras on the road allowance between the Plaintiffs' Property and the Sample Property. The cameras have no other purpose but to harass the plaintiffs; and
- (g) The plaintiffs seek a court order that the cameras are removed and prohibited in the future.

[67] These pleadings lack clarity. I am left with more questions than answers. For example, do the plaintiffs take issue with a particular R.M. decision or exercise of authority in relation to the road allowance? If so, what is the nature of that decision or impugned action? On what basis do the plaintiffs say that their lack of access to the undeveloped road allowance is unlawful or that it is impermissible for the R.M. to allow a gate or cameras to be installed on the road allowance? Are the plaintiffs seeking to enforce a statutory right or to remedy a statutory breach?

[68] It appears the plaintiffs allege the R.M. made an incorrect decision with respect to the road allowance and raise an issue of fairness with respect to why the Whites have access to the road allowance and the plaintiffs do not. Given the type of relief the plaintiffs are seeking, including a finding that the R.M. has unlawfully denied them access to the road allowance and a declaration allowing them to use the road allowance, the plaintiffs may be seeking a public law remedy in the context of a private law action. In this regard, it is important to distinguish between public and private law remedies for alleged wrongdoing by public authorities. One must be careful not to confuse the review of the legality of a public body's decisions with the rules that determine that public body's civil liability: see, for example, *Finney v Barreau du Québec*, 2004 SCC 36 at para 31, and *Enterprises Sibeca Inc. v Frelighsburg (Municipality)*, 2004 SCC 61 at paras 15-16.

[69] While the actions of a public authority, such as a municipality, may give rise to civil causes of action such as the intentional torts or negligence, it is not enough to show the public action was unlawful. Rather, the elements of a cause of action must exist.

[70] The plaintiffs did not identify a specific cause of action in either the Amended Claim or in their brief other than to indicate the R.M.'s actions were unlawful. The plaintiffs' bare and conclusory assertion that the impugned conduct is unlawful is not sufficient to ground a legal cause of action. The plaintiffs have not pleaded sufficient facts to allow me to determine what was allegedly unlawful about the R.M.'s actions or inactions with respect to access to the road allowance. Further, the plaintiffs have not pointed to any authority that would make it unlawful for the R.M. to "condone" the installation of cameras or gates on a road allowance. While the plaintiffs say the purpose of the cameras was to harass them, the plaintiffs did not plead the R.M. installed the cameras. In any event, harassment itself is not a legal cause of action: *McLean v McLean*, 2019 SKCA 15 at paras 105-108.

[71] Similarly, the allegation that the R.M. was complicit in letting Joy White influence the council with respect to the road allowance does not provide sufficient material facts to ground a legal cause of action.

[72] In short, it is plain and obvious the plaintiffs have not pleaded a reasonable claim based on scant facts on the undeveloped road allowance and the bald assertion that the R.M.'s conduct was unlawful. In reaching this conclusion, I find the Federal Court of Appeal's guidance in *Mancuso* at paras 18-19 helpful on what is required to provide sufficient facts to ground a cause of action:

[18] There is no bright line between material facts and bald allegations, nor between pleadings of material facts and the prohibition on pleading of evidence. They are points on a continuum, and it is the responsibility of

a motions judge, looking at the pleadings as a whole, to ensure that the pleadings define the issues with sufficient precision to make the pre-trial and trial proceedings both manageable and fair.

[19] What constitutes a material fact is determined in light of the cause of action and the damages sought to be recovered. The plaintiff must plead, in summary form but with sufficient detail, the constituent elements of each cause of action or legal ground raised. The pleading must tell the defendant who, when, where, how and what gave rise to its liability.

[73] Here, when I look at the allegations related to the undeveloped road allowance, the Amended Claim is far from pleading sufficient material facts to define what the issue is and the case the defendants have to meet. While I identified numerous questions above with respect to the plaintiffs' claim, I conclude that I must not draw factual inferences from the plaintiffs' bare assertions to fill the gaps in deficient pleadings. As indicated by McDonald J. in *Owimar v Stewart*, 2019 BCSC 1198 at para 19, "Care must be taken to avoid undermining the role of pleadings in identifying the issues by allowing a party to plead bald assertions or mere conclusory statements of law."

[74] I have considered whether the plaintiffs should be given leave to amend this aspect of their pleading. I determine they should not.

[75] The law is clear that an application to strike is a tool that must be used only when it is plain and obvious the claim has no chance of success. As indicated by the Supreme Court of Canada in *Imperial Tobacco* at paras 19 and 21, striking claims that have no chance of success unclutters the proceedings, weeding out the hopeless claims and ensuring that those which have some chance of success go on to trial. Furthermore, the law is not static, and actions that may have been deemed hopeless yesterday may succeed tomorrow.

[76] However, as indicated by the Court of Appeal in *Reisinger*, the plaintiffs must take some responsibility for their pleading. It is not for the Court to try to determine, based on a sparse pleading, what type of legal cause of action could possibly arise against the R.M. and then direct the plaintiffs to fix their pleadings accordingly. While the Court may give the benefit of the doubt to a party, particularly when self-represented (which is not the case here), there is simply not enough on the face of the pleading for me to conclude that the deficiency in the pleading can be fixed through an amendment.

[77] In addition, the plaintiffs have made serious bald allegations of dishonesty and unlawful conduct against the R.M. and Joy White, in her position as councillor, which are far from properly pleaded. In this regard, I note the caution provided by the British Columbia Court of Appeal in *Rain Coast Water Corp. v British Columbia*, 2019 BCCA 201 at para 3, wherein Dickson J.A. stated:

[3] The appeal raises issues of procedural fairness, limitations and the requirements of proof of serious allegations of wrongdoing against public officers in the discharge of their duties. Primarily fact-driven, it serves to remind all concerned that claims for damages for the misuse of public power by dissatisfied citizens must be advanced, scrutinized and resolved with caution and restraint. As Justice Newbury explained in *Powder Mountain Resorts Ltd. v. British Columbia*, 2001 BCCA 619, the tort of misfeasance in public office provides redress for egregious intentional misconduct, not for what may be, at worst, maladministration, official incompetence or bad judgment in the execution of public duties. For this reason, when addressing claims of misfeasance in public office, the courts strike a careful balance between curbing unlawful behaviour by governmental officials, on the one hand, and, on the other, protecting those charged with making decisions for the public good from unmeritorious claims by those adversely affected by their decisions.

[78] This approach of caution and restraint has also been applied to the careful scrutiny of alleged claims of misfeasance of public office at the pleadings stage: *Muldoe v Derzak*, 2021 BCCA 199 at para 50.

[79] In my view, the plaintiffs, with the benefit of legal counsel, had an opportunity to provide the material facts to support its claim in the Original Claim and the Amended Claim and did not do so. The plaintiffs should not now be given an opportunity to try to remedy their unmeritorious claim.

5. July 11, 2023 Letter (Amended Claim at paras. 9, 11, and 16)

[80] The plaintiffs say the Ailsby/White Defendants are liable for defamation in relation to a letter written by Mr. Ailsby dated July 11, 2023. The plaintiffs provide very little factual foundation for the defamation allegations, which can be summarized as follows:

- (a) In the Original Claim at para. 9 (para. 16 of the Amended Claim), the plaintiffs plead the Ailsby/White Defendants are responsible for issuing a July 11, 2023 letter and “willy-nilly [*sic*]” spreading the letter around the community, and by so doing, defamed the plaintiffs and damaged their ability to carry on business in the community;
- (b) In the Amended Claim at para. 9, as part of the allegations related to ownership of the fence, the plaintiffs allege that KMP Law and Mr. Ailsby failed to show restraint when a letter to the plaintiffs was issued on July 11, 2023. They further plead that in the letter, Mr. Ailsby threatened criminal charges if the fence was removed, “... as if he somehow wielded the criminal justice system himself.”;
- (c) The letter is addressed further in para. 11 of the Amended Claim, wherein the plaintiffs plead that, “[t]he defamatory letter issued by

Adam Ailsby on July 11, 2023 was like the death of the Plaintiffs' reputations." The plaintiffs repeat the allegation that Adam Ailsby and KMP Law showed a lack of restraint and legal discipline in issuing and distributing this letter; and

- (d) The plaintiffs plead that as a result of the "death of the reputation" of the plaintiffs, they cannot rent farm land or sell cattle oilers in the trading area, resulting in substantial lost revenue to 651 Canada.

[81] The Ailsby/White Defendants sought particulars in relation to the defamation allegation pled in the Original Claim. The plaintiffs were ordered by the Court to respond to the Request for Particulars by October 4, 2024, but failed to do so. The Ailsby/White Defendants filed and served an Amended Request for Particulars following receipt of the Amended Claim. The plaintiffs responded to the Amended Request for Particulars as follows:

- (a) In response to the Request for Particulars of what aspects of the July 11, 2023 letter is alleged to be defamatory, the plaintiffs indicated the details are set out in para. 11 of the Amended Claim. Paragraph 11 of the Amended Claim does not address what words in the letter are alleged to be defamatory; and
- (b) In response to the Request for Particulars asking to whom the July 11, 2023 letter is alleged to have been spread and who is alleged to have spread the letter, the plaintiffs indicated "all members of the entire community and trading area". The plaintiffs do not indicate how the contents of the letter were "spread" in the community and trade area, nor do they identify the community and trading area to which they refer.

[82] The essential elements of an action in defamation were summarized by McLachlin C.J.C. in *Grant v Torstar Corp.*, 2009 SCC 61 at para 28 [*Grant*]:

[28] A plaintiff in a defamation action is required to prove three things to obtain judgment and an award of damages: (1) that the impugned words were defamatory, in the sense that they would tend to lower the plaintiff's reputation in the eyes of a reasonable person; (2) that the words in fact referred to the plaintiff; and (3) that the words were published, meaning that they were communicated to at least one person other than the plaintiff. If these elements are established on a balance of probabilities, falsity and damage are presumed, though this rule has been subject to strong criticism: see, e.g., R. A. Smolla, "Balancing Freedom of Expression and Protection of Reputation Under Canada's *Charter of Rights and Freedoms*", in D. Schneiderman, ed., *Freedom of Expression and the Charter* (1991), 272, at p. 282. (The only exception is that slander requires proof of special damages, unless the impugned words were slanderous *per se*: R. E. Brown, *The Law of Defamation in Canada* (2nd ed. (loose-leaf)), vol. 3, at pp. 25-2 and 25-3.) The plaintiff is not required to show that the defendant intended to do harm, or even that the defendant was careless. The tort is thus one of strict liability.

[83] The Ailsby/White Defendants argue the plaintiffs' pleading is vague and defective in providing the basic details to substantiate a claim of defamation. They further argue the plaintiffs have been given numerous opportunities to provide the factual allegations necessary to substantiate their claim of defamation but have, through their counsel, repeatedly refused to rectify their vague claim and breached an existing Court Order in doing so. The defendants ask me to strike the defamation claim without providing the plaintiffs leave to correct the deficiency.

[84] I find the defamation claim must be struck in its entirety. I reach this conclusion on two bases:

- (1) The plaintiffs have failed to provide a sufficient factual foundation for their claim, despite being given numerous opportunities to do so.

I find the defamation claim, as pleaded, fails to raise a reasonable claim; and

- (2) I find the defamation claim is vexatious and an abuse of the Court's process. Similar to other allegations in the Amended Claim, it is brought for an improper purpose to harass and intimidate the Ailsby/White Defendants.

[85] I will address each basis in turn.

[86] First, the plaintiffs' claim does not contain a sufficient factual foundation to support the legal cause of action of defamation. In *Hope v Gourlay*, 2015 SKCA 27 at para 25 [*Hope*], the Saskatchewan Court of Appeal indicated that a plaintiff must identify the exact words at the root of a claim for defamation if that is possible. When it is not possible, a claim may still be allowed to stand if the pleading identifies the offending communication with sufficient precision and particularly that the defendant knows the case it has to meet.

[87] Here, while the plaintiffs have identified the letter that they say is defamatory, they have pleaded very little to explain the exact words that are defamatory and why those words are defamatory. The only indication in the pleading is that in the letter Mr. Ailsby threatened criminal charges if the fence was removed.

[88] This is not a circumstance in which alleged defamatory words were spoken and the plaintiffs do not have the words verbatim to include in the pleading. Nor is this a situation where the plaintiffs are not in possession of the written document they say is defamatory. The allegation of defamation arises from a letter Mr. Ailsby wrote to the plaintiffs. The plaintiffs have not provided any explanation for why the alleged defamatory words could not be specifically identified, including in response to the defendants' specific request in two Requests for Particulars.

[89] Further, the Amended Claim provides no details as to how the July 11, 2023 letter was allegedly spread throughout the community and trade area. The allegations do not provide specific or approximate dates, places, or names of the persons to whom the letter or its contents was published or communicated, or what aspects of the letter was communicated.

[90] As was indicated in *Wilson* at para 26, a plaintiff may not know or be reasonably capable of determining exactly what was communicated, when, by whom, and to whom, other than through the course of the litigation. Nonetheless, for the pleading to survive, there must be sufficient particulars to enable the defendant to identify the allegedly defamatory language and its publication to the extent necessary to enable the defendants to plead and prepare their defence.

[91] Here, I find that the allegation that the July 11, 2023 letter was “willy-nilly [*sic*]” spread throughout the community is insufficient to allow the defendants to properly plead to the allegation and prepare their defence. As indicated in *Hope* at para 25, the defendants “should not be required to shoot at a fuzzy or moving target”.

[92] I find the plaintiffs have failed to plead the requisite particulars of their claim for defamation. While the type of deficiencies identified above may be corrected by providing the plaintiffs leave to amend their pleading, I find it is not appropriate to do so in this case. The plaintiffs have been given two opportunities to provide the requisite particulars of their claim and have failed to do so. This includes failing to provide a response to particulars by the deadline ordered by the Court. The plaintiffs have provided no explanation for why the particulars were not provided. Further, as I address next, I find the claim to be vexatious and an abuse of process in any event.

[93] Second, I find the defamation claim is an abuse of the Court’s process. The subject-matter of the plaintiffs’ claim is a letter written by the Whites’ legal counsel, Mr. Ailsby, to the plaintiffs. While not entirely clear on the face of the

pleading, it appears the law firm KMP Law is a named defendant as that is where Mr. Ailsby carried on his legal practice at the time. Mr. Ailsby has represented the Whites in previous matters involving the plaintiffs and continued to represent the Whites leading up to and in the course of this action.

[94] In an application to strike a claim for being an abuse of the Court's process, I am permitted to consider affidavit evidence. As a result, I am permitted to consider the affidavit evidence filed by the defendants. It is noteworthy the plaintiffs have not filed any evidence. During the chambers hearing, plaintiffs' counsel indicated he did not file affidavit evidence because he understood the issue of whether the parties had to attend mediation was to be determined in advance of the defendants' application to strike. However, there was nothing on the record to indicate the defendants' applications were bifurcated. Furthermore, at a previous chambers appearance on this matter before me, I set a deadline for the plaintiffs to file their response materials to the defendants' applications. In my view, the plaintiffs had an opportunity to file affidavit evidence in accordance with the deadlines set and chose not to do so.

[95] In Elwood White's affidavit sworn November 12, 2024, he indicates on June 26, 2023, he received a text message from Stan Sheppard with a picture of a handwritten complaint dated June 25, 2023 that was addressed to himself, Joy White, the R.M., and Barry Sample and Isobel Sample [Samples]. A copy of the handwritten complaint is attached to Mr. White's affidavit. While it is difficult to read, the claim appears to raise issues with cattle grazing on the Plaintiffs' Property and the fence, both of which are the subject of the plaintiffs' Amended Claim in this action. The handwritten complaint indicates that the defendants to be named in "upcoming Court of King's Bench Lawsuit" are the Whites, the Samples, and the R.M. The handwritten complaint appears to be signed by Stan Sheppard on behalf of 651 Canada.

[96] Elwood White indicates that, as a result of the handwritten claim threatening legal action against the R.M. and the Samples, he reached out to them the following day to see if they were aware of the complaint. Both the R.M. and the Samples said they were aware of the handwritten complaint. Elwood White avers that in his view, neither the R.M. nor the Samples had anything to do with the fence issues raised in the handwritten complaint. As a result, the Whites told the R.M. and the Samples they would arrange for their legal counsel to reply to Stan Sheppard, and they would provide the R.M. and the Samples with the reply so they knew the matter was addressed.

[97] Elwood White indicates the Whites contacted their counsel, Mr. Ailsby, and instructed him to respond to Stan Sheppard. They further requested that Mr. Ailsby copy the R.M. and the Samples on the reply.

[98] Elwood White also indicates that Stan Sheppard had made a number of “false and outrageous complaints” to the Royal Canadian Mounted Police [RCMP] about the Whites and members of their family. They raised this with Mr. Ailsby and instructed Mr. Ailsby to raise the ongoing false criminal allegations in his reply letter and to copy the local RCMP Sergeant. He indicates the purpose of providing the RCMP with a copy of the reply letter was so the RCMP were aware of it and would have it on their file in case they were forced to deal with more criminal allegations in the future.

[99] By letter dated July 11, 2023, Mr. Ailsby wrote a letter to Stan Sheppard and 651 Canada, written on KMP Law letterhead, and addressed the handwritten claim received from the plaintiffs. While I will not detail the substance of the letter here, it is noteworthy that it indicates that if a claim is commenced by the plaintiffs, Mr. Ailsby has instructions to receive service of same.

[100] In their affidavits, the Whites and Mr. Ailsby all indicate the letter was provided to Stan Sheppard, the R.M., the Samples, and the RCMP detachment.

[101] In their application to strike, the Ailsby/White Defendants argue the plaintiffs' claim against Mr. Ailsby and KMP Law are an inappropriate abuse of process designed to prevent the Whites from using their choice of legal counsel for the defence of the claims brought. They also argue the defamation claim is scandalous, frivolous, and vexatious.

[102] In the Amended Claim, the plaintiffs raise issue with Mr. Ailsby and KMP Law's advocacy approach on behalf of their clients. In particular, they plead KMP Law and Mr. Ailsby "failed to show restraint" and showed a lack of "legal discipline" in issuing and distributing the letter. In their reply to Request for Particulars, the plaintiffs also suggest the defendants have lost solicitor-client privilege when the plaintiffs added the defendants' counsel as parties to the action. In particular, the Reply to particulars reads:

Elwood White and Joy White could admit all of their illegal activity and open the door for a judgment to be issued against them. The R.M. of Norton No. 69 could admit all of its illegal activity and open the door for a judgment to be issued against it. Instead of doing this they are conspiring with Adam Ailsby and KMP LAW and trying to hide behind solicitor-client privilege but Adam Ailsby and KMP Law lose their solicitor-client privilege because they are parties the action as defendants. [sic]

[103] I find the plaintiffs' defamation claim is an attempt to use the Court's process for an improper purpose: to harass and intimidate the Ailsby/White Defendants. The July 11, 2023 letter was a response to communication from the plaintiffs' warning a legal action was forthcoming against the Whites, the R.M., and the Samples with respect to cattle grazing and a fence. The July 11, 2023 letter was written by legal counsel on the instructions of his clients and provided a response to the plaintiffs' claims, including how any claim commenced by the plaintiffs could be served on the Whites. While the plaintiffs may object to the content of the letter and the advocacy approach of Mr. Ailsby, this is not the proper subject matter of legal claim. In fact, such a claim is not actionable because it was published on an occasion of absolute privilege.

[104] Statements made in the course of judicial proceedings are protected by an absolute privilege: *Grant* at para 30. It is for the public benefit to grant lawyers absolute privilege when they act in the course of their duties to their clients: *Hamouth v Edwards & Angell*, 2005 BCCA 172 at paras 3 and 37-38. Counsel have a professional duty to advocate for their client's interests, within the law, to the fullest extent possible. As indicated in *Big Pond Communications 2000 Inc. v Kennedy*, 2004 CanLII 18758 at para 19, 236 DLR (4th) 727 (ONSC), "Our system of law would be rendered ineffectual if counsel was required to look behind them for fear of a lawsuit as a result of presenting his client's case. This is the mischief that the privilege seeks to prevent."

[105] The absolute privilege that arises from legal proceedings not only applies to statements made in court. It extends to all preparatory steps taken with a view to judicial proceedings. In *Lawrence v Sandilands*, 2003 BCSC 211 at paras 89-93 [*Lawrence*], cited with approval by Popescul C.J. in *J.L. v Shewchuk*, 2023 SKKB 253, the British Columbia Supreme Court explained its application in these terms:

Defamation claim

[89] The pleadings allege that the claims advanced by the defendant solicitors and their clients in the civil proceedings "have brought the plaintiffs into public scandal, odium and contempt" and, with respect to Mr. Lawrence, caused injury to "his character, credit and reputation..."

[90] Even assuming that the pleadings disclosed a separate cause of action for defamation, there is no plausible claim in law. That is because the defendant solicitors, as counsel advocating a position on behalf of their clients, are protected from claims alleging their conduct during the civil proceedings was defamatory. There is an absolute privilege for all communications made by counsel "in the course of, or incidental to, the processing and furtherance of judicial and quasi-judicial proceedings" (R.E. Brown, *The Law of Defamation in Canada* (2d ed.) (Toronto: Carswell, 1994) at p. 17).

[91] Whether the communications are made by parties, counsel or witnesses, they are made on an occasion of absolute

privilege and no civil action will lie for what is alleged (**Geyer v. Merritt and Gouge** (1979), 16 B.C.L.R. 27 (BCSC) at page 32; affirmed (1980), 26 B.C.L.R. 347(BCCA)).

[92] The protection extends to “the content of all pleadings, documents and testimony offered in evidence, and to all actions taken preliminary but necessary to the institution or processing of the action or essential to the judicial review of or execution upon judgement or decision” (**The Law of Defamation in Canada** (2d ed.) *supra*).

[93] As any statements made or steps taken by Mr. Baynham or Mr. Hilliker on their clients’ behalf in the course of the civil proceedings are subject to an absolute privilege, the pleadings disclose no reasonable claim for defamation.

[106] Absolute privilege may extend to communication by a party’s solicitor made before the actual commencement of proceedings so long as the statement or document is directly concerned with actual contemplated proceedings: *Salasel v Cuthbertson*, 2015 ONCA 115 at para 36, citing *Moseley-Williams v Hansler Industries Ltd.*, 2004 CanLII 66313, 38 CCEL (3d) 111 (ONSC), *aff’d* (2005), 137 ACWS (3d) 1089 (ONCA). See also *Peak Innovations Inc. v Pacific Rim Brackets Ltd.*, 2009 BCSC 1034 at paras 27-29.

[107] In *Wickham v Hamdy*, 2019 ONSC 1960 at para 35, the Ontario Superior Court of Justice explained what the privilege extends to in these terms:

[35] The privilege seeks to create a zone of protection for lawyers acting in pursuit of their clients’ interests. Lawyers are to be free to present their clients’ cases without fear of a lawsuit. The privilege is not simply confined to statements made in court. It also extends to all preparatory steps taken with a view to judicial proceedings so long as the step in question is directly concerned with actual or contemplated proceedings, see *Dingwall v. Lax*, 1988 CarswellOnt 1070 [(Westlaw)] (ONSC) at para. 16. The privilege extends to statements that are incidental or preparatory to judicial proceedings, see *Salasel v. Cuthbertson*, 2015 ONCA 115 at para. 36. Determining whether a statement is preparatory to or intimately connected with a judicial proceeding involves an assessment of remoteness. A

statement that is only remotely connected to a judicial proceeding may fall outside the scope of absolute privilege.

[108] As noted in *Lawrence*, the absolute privilege not only extends to preclude the claim against Mr. Ailsby and KMP Law, as the White's legal counsel, but it also extends to Elwood White and Joy White themselves.

[109] Here, I find the circumstances that gave rise to the July 11, 2023 letter were in preparation of and intimately connected to the commencement of the legal proceedings that were the subject-matter of Stan Sheppard's handwritten complaint. The whole purpose of the July 11, 2023 letter engages the public policy which underlies absolute privilege. Legal counsel would be deterred from responding to correspondence such as that which was sent by the plaintiffs, giving notice of a forthcoming legal claim, if their response could then be the subject of a defamation claim. Mr. Ailsby was asserting his client's rights as he was bound, as their solicitor, to do. As indicated in *Chualo v Worsoff*, 2022 ONSC 4079 at para 31, claims against lawyers of the party opposite are treated with scrutiny by the courts; this is necessary as "[o]ur adversarial system depends on the ability of lawyers to fearlessly advance their clients' positions".

[110] The letter was sent to a limited and discrete group, namely those who Stan Sheppard indicated were to be named in the upcoming lawsuit, and the RCMP, who had been involved in the various criminal allegations made by Stan Sheppard against the Whites.

[111] I am also concerned with the plaintiffs' indication that now that they have named the Whites' legal counsel, Mr. Ailsby, as a defendant, the solicitor-client privilege between them has been lifted. Such a statement is indicative of an ulterior motive other than asserting a legitimate legal claim.

[112] In summary, I find the defamation claim is vexatious and an abuse of the Court's process, and I strike it as such.

6. *Grazing Cattle (Amended Claim at paras. 14-15)*

[113] The plaintiffs allege on several occasions in May 2023 and June 2023, the Whites allowed their cattle to carry on forced free grazing of the grass on the Plaintiffs' Property. The plaintiffs say this "malicious" act of forced free grazing of the lands was not and will never be permitted, and they seek \$150,000 in compensatory damages against the Whites and the R.M.

[114] The Ailsby/White Defendants do not seek to strike this aspect of the Amended Claim.

[115] However, the R.M. seeks to strike the claim against it on the basis that the pleading raises no reasonable claim. They also argue the claim is out of time, as it was commenced outside the one-year limitation period in *The Municipalities Act*, SS 2005, c M-36.1, given the alleged grazing occurred in May 2023 and June 2023, and the claim was not commenced until July 2024.

[116] The pleading clearly alleges the cattle belonged to the Whites. The plaintiffs have not pleaded any wrongdoing on the part of the R.M.

[117] The plaintiffs have not pleaded any material facts to ground a cause of action against the R.M. with respect to the Whites' cattle grazing on the Plaintiffs' Property. As such, I strike this aspect of the Amended Claim against the R.M. Given my findings, it unnecessary to make any findings with respect to the limitation period.

7. *Status of the R.M Council (Amended Claim at para. 7)*

[118] In para. 7 of the Amended Claim, the plaintiffs allege that the entire R.M. council is *functus* and no longer qualifies to hold public office, and the plaintiffs seek an order removing the individual councillors. The plaintiffs plead the basis for the relief sought as follows:

7. ... In the quest of the R.M. council to carry on character assassination of Stan Sheppard the R.M. Council has overshot reasonable guidelines for running the R.M. and entered into a conspiracy with Adam Ailsby, KMP Law, Elwood White and Joy White and this conspiracy has carried out numerous unlawful acts. [sic]

[119] Other than Joy White, the other individual councillors are not mentioned in any other part of the Amended Claim. The plaintiffs mention the R.M. council, as a whole, in para. 9 of the Amended Claim and plead the R.M. council allowed the R.M. to be dishonestly and unlawfully manipulated by Joy White. This allegation relates to the ownership of the fence and the July 11, 2023 letter claims, both of which have been struck.

[120] I find the plaintiffs have failed to plead material facts to ground a cause of action against the individual councillors, including Joy White. As such, para. 7 must be struck in its entirety.

8. The R.M. Poundkeeper (Amended Claim at para. 10)

[121] At the end of para. 10 of the Amended Claim, there are two sentences that appear unrelated to the undeveloped road allowance, which is the subject-matter of the rest of the paragraph. In particular, these two sentences read:

10. ... Elwood White has abused his role as the R.M. Poundkeeper by the way he managed the forced free grazing. The Plaintiffs seek a Court Order removing Elwood White as Poundkeeper.

[122] It is not clear what this claim relates to. I find that the plaintiffs have failed to plead the material facts to give rise to a legal cause of action in relation the R.M. Poundkeeper claim. As such, I strike these two sentences of the Amended Claim.

E. Costs

[123] The defendants seek solicitor-client costs or, alternatively, party-and-party costs on an enhanced scale.

[124] Solicitor-client costs are awarded only in rare and exceptional cases: *Siemens v Bawolin*, 2002 SKCA 84 at para 118 [*Siemens*]. They are generally awarded only where there has been reprehensible, scandalous, or outrageous conduct on the part of one of the parties: *Young v Young*, 1993 CanLII 34, [1993] 4 SCR 3 at pp 134-135 (SCC). Further, they are not generally awarded as a reaction to the conduct giving rise to the litigation but are intended to censure behaviour related to the litigation alone: *Siemens* at para 118.

[125] Here, the defendants' applications to strike have been successful. In my view, they are entitled to costs. The question becomes whether I should exercise my discretion to order enhanced or solicitor-client costs.

[126] In my opinion, this is an appropriate circumstance in which to order significant enhanced costs given the plaintiffs' conduct in the litigation to date.

[127] As I found above, portions of the claim were brought for an ulterior purpose to harass and intimidate the defendants rather than to raise legitimate claims. In particular, I find it troubling that the plaintiffs – who are represented by counsel – used highly improper language in the Amended Claim that amounted to a personal attack on certain defendants. There is no place in pleadings for comparisons of the defendants to “Dr. Jack Kevorkian” and “legal suicide”. The Amended Claim was also used to warn or threaten future litigation if “any person or entity” took certain action. This is an entirely improper use of the Court's process.

[128] Further, I am also troubled by the plaintiffs' tactic of naming the Whites' long-term counsel, Mr. Ailsby and KMP Law, as parties to the action, seemingly in an

effort to affect solicitor-client privilege between the opposite party and their counsel and to interfere with the Whites' ability to retain their counsel of choice in this action. In my view, this is vexatious conduct and an abuse of the Court's process.

[129] The defendants identified other cost awards against the plaintiffs in other actions, which they say have not deterred the plaintiffs' litigation misconduct. In my view, it is appropriate for me to award a higher cost award here.

[130] Both sets of defendants indicate they have expended legal fees in excess of \$10,000 to bring their respective applications to strike. This is not unexpected given the manner in which the claims have been pleaded, which necessitated the parties opposite to try to decipher the pleading and how it could raise a legal claim.

[131] For contested applications, Schedule B of the Tariff of Costs identifies costs of \$2,500 for Column 3. While the types of claims raised here are not, by their nature, inherently complex, the manner in which they were pleaded significantly raised the complexity of the applications and unnecessarily increased the legal resources required to respond to the Amended Claim. As such, I find that it is appropriate to award costs on the basis of Column 3 of the Tariff.

[132] Further, pursuant to Rule 11-1(3)(e), I exercise my discretion to award enhanced costs as a multiple of Column 3 to account for the litigation misconduct I outlined in paragraphs 127 and 128 above. In my view, a multiplier of two is appropriate for each set of defendants.

[133] Consequently, I find the plaintiffs (jointly and severally) must pay the R.M. Defendants \$5,000 in costs and the Ailsby/White Defendants \$5,000 in costs, for a total cost award of \$10,000. While this does not fully indemnify the defendants for the actual legal costs they have incurred to strike significant portions of the Amended

Claim, it is an enhanced level of costs that, in my view, sanctions the type of litigation misconduct at issue in this action.

[134] These costs must be paid within 30 days of the date of this decision.

IV. CONCLUSION

[135] I strike portions of the Amended Claim that do not raise a reasonable claim or are scandalous, vexatious, and an abuse of the Court's process. Schedule A, attached to this decision, identifies the portions of the Claim which I have struck. The effect of my decision is that the R.M., the individual councillors, Patti Gurskey, Adam Ailsby, and KMP Law are to be removed as parties to the action.

J.
J.R. WILDEMAN

APPENDIX A

COURT FILE NUMBER
COURT OF KING'S BENCH FOR SASKATCHEWAN
JUDICIAL CENTRE REGINA

KBG RG No. 001630 of 2024



PLAINTIFFS 6517633 CANADA LTD. and STAN SHEPPARD
~~ADAM AILSBY, K M P LAW, ELWOOD WHITE,~~
~~JOY WHITE, BARRY DUANE SAMPLE, and R M~~
DEFENDANTS ~~of NORTON No. 69, MATT MAZER, DARREN~~
~~SCOTT, SHAUNA MADIGAN, SEAN~~
~~KESSLER, PAUL METKE, CRAIG SORENSON~~
~~and PATTI GURSKY~~

NOTICE TO DEFENDANT

1 The plaintiff may enter judgment in accordance with this Statement of Claim or the judgment that may be granted pursuant to *The King's Bench Rules* unless, in accordance with paragraph 2, you:

- (a) serve a Statement of Defence on the plaintiff; and
- (b) file a copy of it in the office of the local registrar of the Court for the judicial centre named above.

2 The Statement of Defence must be served and filed within the following period of days after you are served with the Statement of Claim (excluding the day of service):

- (a) 20 days if you were served in Saskatchewan;
- (b) 30 days if you were served elsewhere in Canada or in the United States of America;
- (c) 40 days if you were served outside Canada and the United States of America.

3 In many cases a defendant may have the trial of the action held at a judicial centre other than the one at which the Statement of Claim is issued. Every defendant should consult a lawyer as to his or her rights.

4 This Statement of Claim is to be served within 6 months from the date on which it is issued.

5 This Statement of Claim is issued at the above-named judicial centre on the 10th day of July, 2024

M Nieswandt Dy Local Registrar

AMENDED pursuant to *King's Bench Rule 3-72(1)* this 4th day of October, 2024

MACKAY & McLEAN

Sterling G. McLean

STATEMENT OF PLAINTIFFS' CLAIM

1. The Plaintiff 6517633 Canada Ltd. is a corporate body incorporated pursuant to the Laws of Canada and extra-provincially registered to carry on business in the Provinces of Alberta, Saskatchewan and Manitoba.
2. The Plaintiff Stan Sheppard resides in the City of Mission, in the Province of British Columbia and near the Village of Ogema in the Province of Saskatchewan.
- ~~3. The Defendant Adam Ailsby carries on a legal practice within the legal firm of Defendant KMP Law in the City of Regina, in the Province of Saskatchewan.~~
4. The Defendants Elwood White and Joy White reside in the Village of Pangman, in the Province of Saskatchewan.
5. The Defendant Barry Duane Sample resides near the Village of Pangman, in the Province of Saskatchewan.

- ~~6. The Defendant R.M. of Norton No. 69 has it's office and headquarters located in the Village of Pangman, in the Province of Saskatchewan.~~
- ~~7. The Plaintiff claims that the entire R.M. council is functus and no longer qualifies to hold public office and the Plaintiffs seek a Court Order removing Matt Mazer Reeve, Darren Scott Councilor Division #1, Joy White Councilor Division #2, Shauna Madigan Councilor Division #3, Sean Kessler Councilor Division #4, Paul Metke Councilor Division #5, Craig Sorenson Councilor Division #6. In the quest of the R.M. council to carry on character assassination of Stan Sheppard the R.M. Council has overshot reasonable guidelines for running the R.M. and entered into a conspiracy with Adam Ailsby, KMP Law, Elwood White and Joy White and this conspiracy has carried out numerous unlawful acts.~~
- ~~8. In February 2022 Plaintiff 6517633 Canada Ltd purchased SE 2 8 20 W2 from Lorraine Eekhart and the new land title had no encumbrance except an caveat registered in 1980 for the R.M.'s interest in the water well. The first illegal act of the R.M. acting on its own volition was to condone the R.M. Administrator Patti Gurskey assisting Kenneth and Joyce Kaufmann to register a registration on what otherwise was a clear title within two weeks of 6517633 Canada Ltd. committing to purchasing the land and prior to the title changing hands at Information Services Corporation of Saskatchewan. This registration was done without the consent of 6517633 Canada Ltd. and without any notice to 6517633 Canada Ltd. In a lawsuit launched by 6517633 Canada Ltd. in 2020 against Gibson Creek Farms Ltd., Hard Acres Farms Inc., and 4 Lazy S Farms Ltd. 6517633 Canada Ltd. applied to the Saskatchewan Court of Appeal for an Order that the three Defendants could not change the ownership of the lands into the names of the three Defendant corporations. While the Saskatchewan Court of Appeal declined to make this Order the Court did deal with the issue in its written ruling that if any entity attempted to unlawfully alter a title of any of the lands owned by 6517633 Canada Ltd. that 6517633 Canada Ltd. could launch a lawsuit and have this unlawful activity dealt with by the Court of King's Bench for Saskatchewan. The Court of Appeal ruled that the Court of King's Bench for Saskatchewan is the Court of enforcement of this matter. Based on the authority provided to it by the Saskatchewan Court of Appeal,~~

~~6517633 Canada Ltd. launched a lawsuit in 2022 against Kenneth and Joyce Kaufmann, Patti Gurskey and the R.M. of Norton #69 for the purpose of having the Court of King's Bench for Saskatchewan remove the registration and bring the conspirators involved in this unlawful activity to justice. Patti Gurskey as R.M. Administrator is the Dr. Jack Kevorkian of the R.M. administration occupation. Patti Gurskey, just like Dr. Jack Kevorkian, assisted Kenneth and Joyce Kaufmann to commit legal suicide by registering an interest in the SE 2-8-20-W2. As long as 6517633 Canada Ltd. is under the watch of Stan Sheppard no person or entity will ever be permitted to register an interest in any of the land titles owned by 6517633 Canada Ltd. and if a person or entity does register an interest a lawsuit will be launched and that person or entity will be dealt with by the Court of King's Bench for Saskatchewan. Any registration of any kind will amount to legal suicide by the person or entity registering the interest. Dr. Jack Kevorkian was arrogant and defiant and declared after he assisted a person with assisted suicide that he would keep on doing it in the future even if it was illegal. Patti Gurskey is cut from the same cloth as Dr. Jack Kevorkian. In her written materials she denies providing the assistance and is arrogant about it. Instead the R.M. reprimanding her for this activity, the R.M. Council is her biggest cheerleader making the R.M. a co-conspirator and complicit in carrying out this unlawful act.~~

9. ~~In August of 2022 6517633 Canada Ltd. purchased NE-29-7-20-W2 from Country Express Ltd. On the eastern boundary of this quarter section stands a barb wire fence that clearly is on the property of 6517633 Canada Ltd. The fence in the fall of 2022 was in a bad state of disrepair and was nowhere near being legal fence as defined in the Saskatchewan Stray Animals Act Regulations. The events that followed since the fall of 2022 show that Joy White has the ability to manipulate the council dishonestly and unlawfully. A half mile of unimproved road allowance lies to the East of NE-29-7-20-W2 and lies between NE-29-7-20-W2 and NW-28-7-20-W2. The NW-28-7-20-W2 is owned by Barry Duane Sample. There is no possibility that Barry Duane Sample owns the fence. KMP Law and Adam Ailsby failed to show restraint when a letter to the Plaintiffs was issued on July 11, 2023. In this letter Adam Ailsby threatening criminal charges if the fence was removed. Adam Ailsby threatened criminal charges in an effort to achieve a civil remedy. Adam Ailsby threatened criminal charges as if he somehow wielded the criminal justice system himself. Therefore~~

~~Adam Ailsby and KMP Law are co-conspirators and are complicit in carrying out these unlawful acts along with Elwood White and Joy White and the R.M. of Norton #69. Adam Ailsby, KMP Law, Elwood White, Joy White and the R.M. of Norton #69 are co-conspirators and complicit in carrying out the unlawful act of suggesting in a letter that the fence was not owned by 6517633 Canada Ltd. Elwood White and Joy White took no steps to prove that they owned the fence. Stan Sheppard took steps through Midwest Surveys of Regina, Saskatchewan to prove that 6517633 Canada Ltd. owned the fence. The unlawful influence by Joy White over the R.M. implicated the R.M. in these unlawful acts. Adam Ailsby issued the defamatory letter on July 11, 2023 and the lawsuit was filed on July 10, 2024 one day short of one year. By the R.M. council allowing the R.M. to be dishonestly and unlawfully manipulated by Joy White amounts to the R.M. being a co-conspirator and complicit.~~

~~10. An undeveloped road allowance one half mile in length lies between SE 32 7 20 W2 and SW 33 7 20 W2. The R.M. is complicit in carrying out the unlawful act of letting Joy White influence the council that Elwood White and Joy White's reasons for having access and use of this half mile of road allowance are more lawful than the reasons for the Plaintiffs. The R.M. has denied access to this road allowance to the Plaintiffs and given Elwood White and Joy White full unrestricted access. The R.M. has entered into the unlawful business of dictating who can use the road allowance and who can not. The R.M. has also unlawfully allowed Elwood White and Joy White to install two sets of gates across this road allowance and condones the gates being closed. The R.M. has taken no proper steps to close this roadway. It has not given notice and has not published its intention in the Saskatchewan Gazette. Elwood White has abused his role as the R.M. Poundkeeper by the way he managed the forced free grazing. The Plaintiffs seek a Court Order removing Elwood White as Poundkeeper.~~

~~11. In a small community news of a death travels quickly. Within half a day all the adults know about the death. The defamatory letter issued by Adam Ailsby on July 11, 2023 was like the death of the Plaintiffs' reputations. Adam Ailsby and KMP Law showed lack of restraint and legal discipline in issuing and distributing this letter. As a result of the death of the~~

~~reputation of the Plaintiffs the Plaintiffs cannot rent farm land or sell cattle oilers in the trading area resulting in substantial lost revenue to the Plaintiff 6517633 Canada Ltd.~~

~~12. As long as 6517633 Canada Ltd. is under the watch of Stan Sheppard if any person or entity attempts to steal or claim ownership of any asset in addition to farm land owned by 6517633 Canada Ltd. a lawsuit will be launched in the Court of King's Bench for Saskatchewan to recover the asset in question.~~ This lawsuit is partly about Elwood White and Joy White claiming ownership of the fence which belongs to 6517633 Canada Ltd. or at the very minimum claiming that it was owned by a person or entity other than 6517633 Canada Ltd. When 6517633 Canada Ltd. bought the NE-29-7-20-W2 from Country Express Ltd. the president of Country Express Ltd. Brian Jesse told Stan Sheppard that when the fence along the east edge of NE-29-7-20-W2 was built Brian Jesse requested of Barry Duane Sample to participate in the building cost however Barry Duane Sample refused to participate. ~~Due to Joy White and the R.M. of Norton being intertwined by Joy White's excessive influence over the R.M., the R.M. is negligent and culpable for not making it clear to Elwood White and Joy White that the R.M. does not own the fence and it is not possible for Barry Duane Sample to be the owner and therefore the only other owner possible would be 6517633 Canada Ltd. and the owner should have total care, custody and control of the fence. Dr. Jack Kevorkian couldn't resist the temptation of one assisted suicide after another. Patti Gurskey, like Dr. Jack Kevorkian, has the same weakness and is now assisting Elwood White, Joy White and the R.M. of Norton #69 in committing legal suicide and Adam Ailsby and KMP Law are the ringleaders and cheerleaders of the unlawful act.~~ The Plaintiff 6517633 Canada Ltd. seeks a Court Order that the fence that stands on the eastern edge of NE-29-7-20-W2 is the property of the Plaintiff 6517633 Canada Ltd. can be destroyed and removed by the Plaintiff 6517633 Canada Ltd.

~~13. Adam Ailsby and KMP Law in their request for particulars seek particulars on behalf of the R.M. of Norton #69 when it is clear that OWZW Lawyers LLP and Virgil Thomson represent the R.M. of Norton #69. This fact is further evidence that Adam Ailsby and KMP Law are co-conspirators and complicit.~~

14. The Defendants Elwood White and Joy White on several occasions in May and June of 2023 allowed their cattle to carry on forced free grazing of the grass on the NE-29-7-20-W2. These incidents occurred on May 22, June 4, June 11, June 18 and June 25, 2023 and the Plaintiff has a combination of photos and videos of the cattle grazing as proof of this unlawful activity. On June 25, 2023 someone in a truck which was sitting on the road allowance between NE-29-7-20-W2 and NW-28-7-20-W2 was watching as approximately 80 animals grazed at will and that person failed to take immediate action to remove the animals. This malicious act of forced free grazing of the lands was not and will never be permitted and the Plaintiff claims \$150,000.00 in Compensatory Damages against Elwood White and Joy White ~~and the R.M. of Norton No. 69~~. During the spring of 2024 Elwood White unlawfully entered onto the property owned by the Plaintiff and started making modifications to the fence and added a solar panel and electric fencer to the fence. This act of trespassing by Elwood White is contrary to the new Saskatchewan trespassing laws and the Plaintiffs seek a Court Order prohibiting Elwood White and Joy White from entering onto the lands owned or rented by the Plaintiff. The Plaintiffs seek a Court Order that Elwood White and Joy White are prohibited from grazing cattle on any lands which lie beside or diagonal to lands owned by 6517633 Canada Ltd. until such time as all lands are equipped with legal fences as defined in the Saskatchewan Stray Animals Act Regulations. The Defendants Elwood White and Joy White claimed false entitlement to the fence between NE-29-7-20-W2 and the road allowance.
15. The Defendant Barry Duane Sample being the owner of the NW-28-7-20-W2 is delinquent in renting the lands to Elwood White and Joy White without the lands having legal fences installed on it and therefore Barry Duane Sample is named as a Defendant and is jointly and severely liable with Elwood White and Joy White ~~and the R.M. of Norton No. 69~~ for the \$150,000.00 Compensatory Damages claim.
- ~~16. Adam Ailsby and KMP Law are responsible along with Elwood White and Joy White for issuing a letter dated July 11, 2023 and willy nilly spreading the letter around the community and by doing so defaming the Plaintiffs and damaging their ability to carry on business in the community.~~

~~17. The Defendants Adam Ailsby, KMP Law, Elwood White, Joy White and the R.M. of Norton No. 69 are complicit in carrying out unlawful acts. The R.M. of Norton No. 69 has allowed its councillor Joy White to abuse her role as Councillor. The R.M. of Norton No. 69 has condoned the installation of cameras on the road allowance between NE 29 7 20 W2 and NW 28 7 20 W2 to harass the Plaintiffs. The cameras have no other purpose but to harass the Plaintiffs because the fence is the property of one of the Plaintiffs and there is no good reason to have cameras directed at the fence and the Plaintiffs seek a Court Order that the cameras be removed and prohibited in the future.~~

~~18. The Defendant R.M. of Norton No. 69 has unlawfully denied the Plaintiffs access to the road allowance from using the half mile of road allowance between the NE corner of NE 29 7 20 W2 and the SE corner of NE 32 7 20 W2 and the lawsuit will seek a Court Order that the Plaintiffs can use the road allowance unrestricted by gates.~~

19. The Plaintiffs claim:

- a) Costs on a solicitor/client basis against the Defendants and all the named Defendants are jointly and several liable for the Client/Solicitor Costs.
- b) The Plaintiff claims \$150,000.00 for Compensatory Damages against Elwood White, Joy White, Barry Duane Sample and the R.M. of Norton No. 69 and each of these Defendants is jointly and severally liable for the Compensatory Damages.
- c) All the Defendants except Barry Duane Sample are responsible for \$1,000,000.00 in Punitive Damages and \$500,000.00 in Aggravated Damages and all of those Defendants are jointly and severally liable for the Punitive Damages and Aggravated Damages.
- d) Such other relief as this Honourable Court may allow.

Dated at the City of Regina, in the Province of Saskatchewan, this 10 day of July, 2024.

MACKAY & McLEAN

Sterling G. McLean

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