

Court of King's Bench of Alberta

Citation: McKay v Worker's Compensation of Alberta, 2026 ABKB 477

Date: 20260629

Docket: 2608 00142

Registry: Medicine Hat

Between:

Jillian McKay

Plaintiff

- and -

**Worker's Compensation of Alberta, Dispute Resolution Board of Alberta, Dispute
Resolution and Review Body of Alberta, Jessica McQuaid, Christa Hammond, Krista Rae
Sveinson, Jordan Achymichuk, Rachel McIntosh**

Defendants

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

[1] On March 30, 2026, the Plaintiff filed a Statement of Claim in Action No. 2608 00142 (“**McKay 5 SOC**”), supported by an Affidavit affirmed and filed on March 30, 2026.

[2] On April 2, 2026, counsel for the Defendants asked the Court to review the McKay 5 SOC under Civil Practice Note 7 (“**CPN7**”).

CPN7 Review

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

[4] I reviewed the McKay 5 SOC. Based on my review of the facts and analysis of the law, I find the Statement of Claim appears on its face to be frivolous, vexatious, or an abuse of process. I make this determination because the Plaintiff has not particularized the circumstances supporting the claim, meaning that the Defendants may be unable to comprehend the case against them and the McKay 5 SOC may have no merit or prospect of success. The McKay 5 SOC also appears to be an abuse of process in that it constitutes a retaliatory or collateral attack on other litigation and administrative processes.

[5] Particularly, the McKay 5 SOC appears to be duplicative of the Statement of Claim filed by the Plaintiff against several of the same Defendants in Action No. 2508 00420. However, the Plaintiff has now added as Defendants the Dispute Resolution and Decision Review Body (“**DRDRB**”), which is an internal appeal board of the Workers’ Compensation Board (“**WCB**”), together with staff of the WCB and legal counsel representing the original Defendants.

[6] While counsel for the Defendants requested review of the Statement of Claim in Action No. 2508 00420 under the CPN7 process, that Statement of Claim was subsequently struck by Justice Kuntz on February 3, 2026 in Morning Justice Chambers. Justice Kuntz struck the matter because she found the Plaintiff had not exhausted the administrative appeal processes before the Appeals Commission for Alberta Workers’ Compensation, which is an independent, external appeal body for decisions of the WCB’s internal review body, the DRDRB.

[7] Notwithstanding that decision, the Plaintiff then commenced the present McKay 5 SOC on what appears to be the same facts even though she was directed to respect and exhaust the administrative process. I understand from counsel for the Defendants that the Plaintiff’s administrative appeal processes before the Appeals Commission for Alberta Workers’ Compensation are still ongoing, with hearing dates scheduled for this summer.

[8] The McKay 5 SOC is also duplicative of the Statements of Claim filed by the Plaintiff in several other Actions before the Court. Many of these other actions are also under review through the CPN7 process: **McKay v Southern Alberta Community Living Association**, 2025 ABKB 660; **McKay v Lethbridge Family Services**, 2025 ABKB 741; **McKay v CUPE Lethbridge**, 2026 ABKB 88.

[9] In respect of the McKay 5 SOC, the Plaintiff filed an Application for a Streamlined Trial which was heard before Justice Miller on June 23, 2026. Justice Miller heard and adjourned the Application for a Streamlined Trial *sine die* on the basis that the Plaintiff has upcoming hearings scheduled in July 2026 before the Appeals Commission for Alberta Workers’ Compensation, making her application before the Court premature. Counsel for the Defendants brought an Application to Dismiss, which was also adjourned *sine die*, only to be revived if the Plaintiff re-activates her Application for a Streamlined Trial following the Appeals Commission hearings or if she brings any other applications.

[10] In this present McKay 5 SOC, the Plaintiff pleads gross negligence, distribution of illegal documents, and illegal investigations, all seemingly related to her matter(s) and file(s) with the WCB and in Action No. 2508 00420. She also pleads several other alleged wrongs, including “Political Interference/Third Party Interference / Non disclosu[r]e of the injury being a by product of [p]rivate surgical contracts between the AHS, the government of Alberta and employer as later pieced together.” These appear to be speculations and bald assertions of some sort of conspiracy. The deficiency, however, is that she has not provided any supporting details which would permit the Defendants to comprehend the case against them.

[11] The Plaintiff goes on to reference “WCB file information” and what appears to be her concerns with the information on her WCB file and claims of inadequate disclosure in Action No. 2508 00420. In her McKay 5 SOC, she requests disclosure in Action No. 2508 00420 and this present Action. She also references various medical documents and appears to challenge the WCB’s findings and actions, stating that the WCB is “lying to deny the obvious evidence” and allegedly failed to disclose evidence “in the previous court action” as required by the *Rules of Court*.

[12] In the McKay 5 SOC, the Plaintiff seeks relief in the form of multiple monetary amounts. These amounts are listed as separate line-items, with no explanation as to how she as allocated these amounts or whether they are intended to align with the various allegations and grievances in her Statement of Facts. The total claim appears to be for at least \$25,650,000.00.

[13] The Plaintiff also seeks both court costs from the present Action but also for Action No. 2508 00420, notwithstanding that her Statement of Claim in that matter was struck in its entirety and an adverse cost award was imposed against her. The pleaded basis for seeking court costs is the “irritation” for commencing the new claim “until court action is resolved”. She states: “I did state if I had to re-file, [i]t would result in double the amount and justifiable evidence to support the amount”. This appears to suggest that the McKay 5 SOC is filed in retaliation for the struck claim in Action No. 2508 00420.

[14] In summary, I agree with counsel for the Defendants that the Plaintiff appears to be attempting to (re)commence parallel proceedings before this Court and the Appeals Commission for Alberta Workers’ Compensation despite the Court’s earlier decision in Action No. 2508 00420. It may be that the Plaintiff is attempting to induce some sort of disclosure in this Action which she then hopes to use to bolster her administrative appeals. However, that is not a proper purpose for litigation and the *Workers’ Compensation Act*, RSA 2000, c W-15 (WCA) provides the WCB with exclusive jurisdiction to “examine, inquire into, hear and determine all matters and questions arising under this Act or the regulations”, and section 13.1 of the WCA grants the Appeals Commission identical authority regarding appeals from decisions of internal review bodies. The jurisdiction of this Court is limited by operation of section 13.4 of the WCA. Moreover, section 17(2) of the WCA provides further statutory limits on claims against the WCB.

[15] It also appears that the Plaintiff may be confusing some of the rules under the *Alberta Rules of Court* and different affidavits that may be applicable during litigation. An Affidavit filed in connection with a Statement of Claim is a general narrative of facts to present sworn evidence to the Court in written form. This is distinct from an Affidavit of Records, which provides disclosure of relevant records, documents, and other evidentiary materials relevant to the claim. The requirements for an Affidavit of Records are set out in rule 5.6 of the *Alberta Rules of Court* and the required form is Form 26.

CPN7 Next Steps

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

- a. The Clerk will file and serve this Apparent Vexatious Application or Proceeding Notice (“**AVAP Notice**”) on the Plaintiff and the Defendants.

- b. If the Plaintiff wishes to respond to this AVAP Notice, she must prepare a Written Submission of no more than 10 pages. In her submissions, the Plaintiff may wish to address the following questions:
- i. In the McKay 5 SOC, the Plaintiff does not appear to support her broad claim of “gross negligence”, “financial distress”, “gaslighting and psychological distress”, “court costs” from previous and new Court Actions, “harassment and retaliation”, with any particulars. The limited facts plead in the McKay 5 SOC do not appear to support any specific legal obligation. The Plaintiff may wish to clarify the specific facts she relies on to support her claims, such as what duties were allegedly owed, how the duties were allegedly breached, how the breach(es) allegedly caused her losses, and how she calculated the damages claimed.
 - ii. In the McKay 5 SOC, the Plaintiff also appears to rely on the facts plead in the Statement of Claim in Action No. 2508 00420, which has been struck in its entirety. The Plaintiff may wish to clarify how the McKay 5 SOC can be differentiated.
 - iii. Similarly, in McKay 5 SOC, the Plaintiff is seeking costs related to the present Action and Action No. 2508 00420. The Plaintiff may wish to clarify how this issue is properly before the Court as in Action No. 2508 00420, costs were awarded against her.
 - iv. Many of the Plaintiff’s grievances in the McKay 5 SOC also appear to be repetitive of her pleadings in other matters, including the Statements of Claim filed by the Plaintiff in each of Action Nos. 2508 00414, 2508 00418, 2508 00419, and 2608 00141. The Plaintiff may wish to clarify for the Court how these matters can be distinguished.
 - v. The Plaintiff in the McKay 5 SOC appears to be requesting disclosure related to her WCB file, and/or disputing the disclosure requirements related to her file. It is unclear to the Court what the relevance of these requests and arguments is to the McKay 5 SOC. Is the Plaintiff attempting to demand or facilitate disclosure in connection with her other ongoing litigation and administrative proceedings?
 - vi. The Plaintiff may wish to address the concern that the Court does not have jurisdiction for this matter, given the operation of the WCA.
 - vii. The Plaintiff may wish to provide an explanation for the extraordinary monetary relief sought.

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

- c. If the Plaintiff does not file and serve a Written Submission by the deadline, the Court will make a final decision on whether the McKay 5 SOC should be struck out in whole or in part under rule 3.68 of the *Alberta Rules of Court*.
- d. If the Plaintiff does file and serve a Written Submission, the Defendants have seven days to provide a Written Reply of up to 10 pages. The Written Reply must be addressed “To the Attention of Associate Chief Justice D.B. Nixon” and should be sent to the address set out in paragraph “b” above. It must also be served on the Plaintiff.
- e. Once the Court receives the Plaintiff’s Written Submission (if any) and the Defendants’ Written Reply (if any), the Court will make a final decision on whether the McKay 5 SOC should be struck out in whole or in part under rule 3.68 of the *Alberta Rules of Court*.

Court Access Restrictions

[17] The numerous Statements of Claim commenced by the Plaintiff appear to reflect the escalation of her litigation activity, leading to multiple overlapping claims. The Plaintiff also appears to be filing Statements of Claim containing largely the same allegations from Statements of Claim that are under CPN7 review or that have been struck, let alone what appears to be attacks on various ongoing administrative processes. This means she is inappropriately attempting to relitigate matters that have already been decided or that are in the process of being decided.

[18] Given this history of litigation activity, I find that it is also appropriate to invite submissions from the Plaintiff, Defendants in this Action, and any other Defendants in the Plaintiff’s multiple Actions before the Court regarding the appropriateness of the Court imposing some form of court access restrictions or other procedural options to manage the Plaintiff’s litigation activities.

[19] Appropriate court access restrictions may include an order pursuant to section 23.1 of the *Judicature Act*, RSA 2000, c J-2. These provisions are applicable when the Court is satisfied that a person is “instituting vexatious proceedings or conducting a proceeding in a vexatious manner”. This can include, but is not limited to, when a person engages in the following persistent behaviour:

- a. bringing proceedings to determine an issue that has already been determined by a court of competent jurisdiction;
- b. persistently bringing proceedings that cannot succeed or that have no reasonable expectation of providing relief;
- c. bringing proceedings for improper purposes;
- d. using previously raised grounds and issues in subsequent proceedings inappropriately;
- e. failing to pay the costs of unsuccessful proceedings on the part of the person who commenced those proceedings;
- f. taking unsuccessful appeals from judicial decisions; or

- g. engaging in inappropriate courtroom behaviour.

[20] Section 23.1 of the *Judicature Act* sets out procedural requirements that must be followed in making an application for an order. One of these is the requirement that notice of the application must be served upon the Minister of Justice of Alberta. If any of the parties to the Plaintiff's litigation wish to make a formal application under the *Judicature Act*, they are reminded of this provision.

[21] Nevertheless, an order pursuant to section 23.1 of the *Judicature Act* is only appropriate in the most exceptional of circumstances and the Court has various other statutory and common law tools available to it to ensure that its resources are being used fairly and efficiently. Such intervention may include procedural options such as a leave requirement, communications procedures, or restrictions specific to certain Court Actions or subject-matter.

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

- a. In addition to the service provided for in paragraph 16(a) above, the Clerk will also file and serve this AVAP Notice on the Defendants in each of Action Nos. 2508 00414, 2508 00418, 2508 00419, 2508 00420, and 2608 00141.
- b. If the Plaintiff or any of the parties to the Plaintiff's litigation wish to make submissions concerning the Plaintiff's litigation activities in addition to those already submitted under the ongoing CPN7 processes, they are each invited to submit a written submission of not more than 10 pages, with the deadline for receipt being July 31, 2026. The submissions may be supported with an affidavit. The Plaintiff, in her submissions, may wish to address the presumption that she is instituting vexatious proceedings in the Court and/or conducting proceedings in the Court in a vexatious manner, such that she should be made subject to court access restrictions or formalized procedures to help manage her litigation activities.
- c. The materials shall be delivered to the following addresses:
 - i. The office of Associate Chief Justice D.B. Nixon, located at the Calgary Court Centre, 601 – 5th Street, SW, Calgary, Alberta T2P 5P7, marked "To the attention of Associate Chief Justice D.B. Nixon";
 - ii. The address for service of the other parties.
- d. Once the Court receives the written submissions of the parties (if any), the Court will make a decision on whether some form of intervention in the Plaintiff's litigation activities is appropriate.

[23] The *Alberta Rules of Court*, *Judicature Act*, and other helpful resources can be accessed for free on <https://www.canlii.org/>.

[24] The Defendants' form of Interim Order staying this Action until the CPN7 process is complete is accepted and I grant the Interim Order.

Dated at Medicine Hat, Alberta this 29th day of June 2026.

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

Appearances:

Jillian McKay – None
Plaintiff

Jordan Achtymichuk – Written Submission
Workers' Compensation Board – Alberta
for the Defendants