

Form 27
[Rule 6.3]

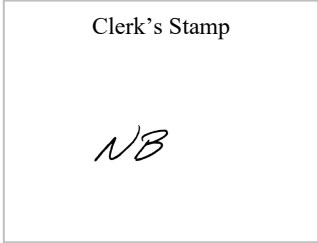
COURT FILE NUMBER 2401 05557

COURT COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE CALGARY

PLAINTIFF CARRIE SAKAMOTO

DEFENDANTS ATTORNEY GENERAL OF CANADA and HIS MAJESTY THE KING IN RIGHT OF ALBERTA



**Brought under the *Class Proceedings Act*,
S.A. 2003, c C-16.5**

DOCUMENT **APPLICATION BY THE DEFENDANT, HIS MAJESTY THE KING IN RIGHT OF ALBERTA**

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT JOHN-MARC DUBE
ALBERTA JUSTICE
LEGAL SERVICES DIVISION
9th FLOOR, PEACE HILLS TRUST
10011 – 109 STREET
TELEPHONE: 780-427-1295
FACSIMILE: 780-427-1230
EMAIL: [REDACTED]
File: 43209

NOTICE TO THE RESPONDENT

This application is made against you. You are a respondent.

You have the right to state your side of this matter before the Court.

To do so, you must be in Court when the application is heard as shown below:

- Date: To Be Determined
- Time: To Be Determined
- Where: Calgary Court Centre, 601 – 5th Street SW, Calgary, AB T2P 5P7
- Before: The Honourable Justice Dilts in Case Management

Go to the end of this document to see what you can do and when you must do it.

Remedy claimed or sought:

1. An Order granting the Defendant, His Majesty the King in right of Alberta (“Alberta”), permission to have the Notice of Application to Strike the Amended, Amended, Amended Statement of Claim (the “Claim”), attached as **Schedule “A”** (“Application to Strike”) to this application, heard prior to the Plaintiff’s certification application.
2. That the Court schedule a one (1) day hearing for the Defendants’ Application to Strike at a time available for the Court and mutually available for the parties.
3. That the Court establish deadlines for the parties to file written material relating to the Defendants’ Application to Strike, including:
 - a. Written material in support of the Defendants’ Application to Strike,
 - b. Plaintiff’s response written material; and
 - c. Any reply written material by the Defendants.
4. That costs of this application be determined at the conclusion of Alberta’s striking application or, alternatively, at the conclusion of the certification application.
5. Such further and other relief as this Honourable Court may deem just and appropriate.

Grounds for making this application:

6. Hearing Alberta’s Application to Strike prior to the Plaintiff’s certification hearing allows for the most efficient and fair resolution of the pleadings issue for the Court and the parties.
7. There is a strong basis to conclude that the Claim discloses no reasonable claim against Alberta and should be struck pursuant to Rule 3.68(2)(b).
8. Alberta’s Application to Strike will fully resolve the pleadings issue as between Alberta and the entire class. It will also create efficiencies by determining issues on the certification application, if necessary.
9. The Application to Strike will resolve the pleadings issue as between Alberta and the entire class, creating efficiencies by removing any late amendments to the pleadings at or immediately prior to the certification hearing.
10. The risk of delay is minimal.
11. Hearing the Application to Strike is more cost effective for the Court and all the parties and promotes judicial efficiencies.

Material or evidence relied on:

12. The Amended Amended Amended Statement of Claim, filed in this action on February 29, 2024.
13. Such further material as Counsel may advise and this Honourable Court may allow.

Applicable Acts:

14. *Class Proceedings Act*, S.A. 2003, c C-16.5 ,at sections 5(1), 12, 13, and 41
15. *Proceedings Against the Crown Act*, RSA 2000, c P-25, at section 3(c)
16. *Provincial Health Agencies Act*, RSA 2000, c P-32.5, at section 1.93(1), as amended from the *Regional Health Authorities Act*, RSA 2000, c R-10, at section 3(3).

Applicable Rules:

17. *Alberta Rules of Court*, Alta Reg 124/2010, at rule 3.68

WARNING

You are named as a respondent because you have made or are expected to make an adverse claim in respect of this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes, or another order might be given or other proceedings taken which the applicant(s) is/are entitled to make without any further notice to you. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form. If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must reply by giving reasonable notice of that material to the applicant(s).

Schedule "A"

Form 27
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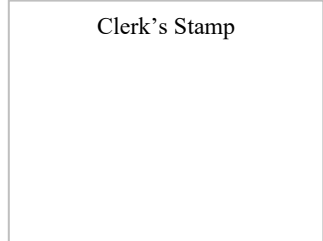
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Before: The Honourable Justice Dilts in Case Management

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Remedy claimed or sought:

1. An Order striking out the Amended, Amended, Amended Statement of Claim (the "Claim") against the Defendant, His Majesty the King in right of Alberta ("Alberta"), pursuant to Rule 3.68 of the *Alberta Rules of Court*.
2. Costs of this application and the entire action.
3. Such further and other relief as this Honourable Court may deem just and appropriate.

Grounds for making this application:

4. The entire Claim discloses no reasonable claim against Alberta and should be struck as against Alberta pursuant to Rule 3.68(2)(b).
5. With respect to paragraphs 17 – 19, 40, 46, 49, 60 and 94 of the Claim, Alberta is not responsible at law for any acts or omissions of Alberta Health Services.
6. Alberta is not the regulatory agency responsible for the approval, monitoring or any compliance relating to any Covid-19 vaccine pursuant to the *Food and Drug Act*, RSC 1985, c F-27 or at all.
7. Any acts, omissions, or public statements alleged in the Claim to have been made by Alberta, including by any officer or agent of Alberta, relating to any Covid-19 vaccine or the Covid-19 pandemic generally, do not establish a duty of care towards the proposed class.
8. Further, any acts, omissions, or public statements alleged in the Claim to have been made by Alberta, including by any officer or agent of Alberta, were not at law capable of being relied upon by the class when the class provided the health care practitioner with informed consent to receive a Covid-19 vaccine.
9. Any acts, omissions, or public statements alleged in the Claim to have been made by Alberta, including by any officer or agent of Alberta, relating to any Covid-19 vaccine or the Covid-19 pandemic generally, were not illegal, unlawful or done in the exercise of any statutory or prerogative power.
10. Any acts, omissions, or public statements alleged in the Claim to have been made by Alberta, including by any officer or agent of Alberta, relating to any Covid-19 vaccine or the Covid-19 pandemic generally, do not establish an undertaking to act in the proposed class's best interest.

11. Any acts, omissions, or public statements alleged in the Claim to have been made by Alberta, including by any officer or agent of Alberta, relating to any Covid-19 vaccine or the Covid-19 pandemic generally, do not at law amount to an agreement between Alberta and any other party, to injure any class members.

Material or evidence relied on:

12. The Amended Amended Amended Statement of Claim, filed in this action on February 29, 2024.

13. Such further material as Counsel may advise and this Honourable Court may allow.

Applicable Acts:

14. *Class Proceedings Act*, S.A. 2003, c C-16.5

15. *Proceedings Against the Crown Act*, RSA 2000, c P-25, at section 3(c)

16. *Provincial Health Agencies Act*, RSA 2000, c P-32.5, at section 1.93(1), as amended from the *Regional Health Authorities Act*, RSA 2000, c R-10, at section 3(3)

17. *Food and Drug Act*, RSC 1985, c F-27

Applicable Rules:

18. *Alberta Rules of Court*, Alta Reg 124/2010, at rule 3.68

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