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File No. CI 22-01-38796

**THE KING'S BENCH  
Winnipeg Centre**

**(Proceeding under *The Class Proceedings Act*, C.C.S.M. c. 130)**

BETWEEN:

Jan 9 2023 14:26  
817 819262 1 CI 22-01-38796 122  
CHARGE/FEE PAID: 150.00

**COURTNEY PETERS**

Plaintiff,

- and -

**THE GOVERNMENT OF MANITOBA (HIS MAJESTY THE KING IN RIGHT OF  
MANITOBA), DR. BRENT ROUSSIN, CHIEF PUBLIC HEALTH OFFICER FOR  
THE PROVINCE OF MANITOBA, THE CITY OF WINNIPEG, and THE  
WINNIPEG POLICE SERVICE,**

Defendants.

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**NOTICE OF MOTION TO STRIKE STATEMENT OF CLAIM**  
Hearing Date: Tuesday, February 14, 2023 at 9:30 a.m.  
Master's Uncontested List

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FILED  
KING'S BENCH

JAN 09 2023

LAW COURTS  
WINNIPEG

**DOUGLAS BROWN**  
Director of Legal Services and City Solicitor  
The City of Winnipeg  
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[File No. CL.1/2022 (318)]

APPVD  
D.C.

**THE KING'S BENCH  
Winnipeg Centre**

**(Proceeding under *The Class Proceedings Act*, C.C.S.M. c. 130)**

**BETWEEN:**

**COURTNEY PETERS**

Plaintiff,

- and -

**THE GOVERNMENT OF MANITOBA (HIS MAJESTY THE KING IN RIGHT OF  
MANITOBA), DR. BRENT ROUSSIN, CHIEF PUBLIC HEALTH OFFICER FOR  
THE PROVINCE OF MANITOBA, THE CITY OF WINNIPEG, and THE  
WINNIPEG POLICE SERVICE,**

Defendants.

**NOTICE OF MOTION**

THE DEFENDANTS, THE CITY OF WINNIPEG, and THE WINNIPEG POLICE SERVICE (the "Police Defendants") will make a Motion, via teleconference (Toll free dial-in number: 1-855-342-6455, Conference ID: 5589296) before a Master on the Uncontested List, on Tuesday, the 14<sup>th</sup> day of February, 2023 at 9:30 a.m. or so soon thereafter as the Motion can be heard, at the Law Courts, 408 York Avenue, in Winnipeg, Manitoba.

**THIS MOTION IS FOR:**

- a) An Order Striking the Police Defendants as parties to this claim, without leave to amend;
- b) Costs; and

c) Such further and other relief as counsel may advise and this Honourable Court may permit.

**THE GROUNDS FOR THE MOTION** are as follows:

- a) *Court of King's Bench Act*, section 75, CCSM c C280;
- b) *Court of King's Bench Rules*, MR 553/88, sections 1.04(1), 25.06, and 25.11;
- c) *The Class Proceedings Act*, CCSM c C130, sections 12, 13, 37 and 40;
- d) *The Labour Relations Act*, CCSM c L10, sections 4, 20, 44, 78, and 143;
- e) *The Police Services Act*, CCSM c P94.5, sections 13;
- f) The Plaintiff and the proposed class members are employees of the City of Winnipeg (the "City"), which is an entity distinct in law from the Government of Manitoba. The City is a municipal corporation continued under *The City of Winnipeg Charter*, SM 2002, c 9 (the "Charter");
- g) The Winnipeg Police Service ("WPS") is a municipal police service established by the City, which derives its authority pursuant to the *Charter* and *The Police Services Act*, CCSM c P94.5. The WPS is municipal police service is a department of the City, which renders naming the WPS as a party redundant;
- h) The Plaintiff and the proposed class members are members of the Winnipeg Police Association ("WPA"), which has entered into a collective agreement on behalf of its members with the City ("Collective Agreement"). The WPA is the

exclusive bargaining agent for its members; the members must raise any grievances related to their employment through the WPA, and not to the City directly;

i) Legal disputes that arise in a unionized employment context where the essential character of those issues relate to the employment relationship are within the exclusive jurisdiction and to be determined by an arbitrator, as contemplated in the Collective Agreement, and *The Labour Relations Act*, CCSM c L10. This exclusive jurisdiction has been judicially considered by the Supreme Court of Canada in *Weber v. Ontario Hydro*, 1995 CarswellOnt 240 and more recently in *Northern Regional Health Authority v. Horrocks*, 2021 SCC 42;

j) The Plaintiff made an Application to the Manitoba Labour Board in January 2022 (Case No. 29/22/LRA);

k) The Statement of Claim is an abuse of process as it is a collateral attack on decision of the Manitoba Labour Board (Dismissal 2429) and the issues raised therein ought to be estopped from being reconsidered by this Court; and

l) Such further and other grounds as counsel may advise and this Honourable Court may allow.

**THE FOLLOWING DOCUMENTARY EVIDENCE** will be used at the hearing of this Motion:

a) The Statement of Claim filed December 8, 2022;

- b) The Affidavit of Andrea Trupish, to be filed; and
- c) Such further and other material as counsel may advise and this Honourable Court may allow.

January 9, 2023

**DOUGLAS BROWN**  
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Lawyers for the Defendant

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Counsel for the Plaintiff

AND TO: Manitoba Justice  
Legal Services Branch  
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Winnipeg MB R3C 3L6  
Attention: Jim Koch/Tamara Edkins  
Crown Counsel for the Manitoba Justice