

**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 to Strike Statement of Claim

Hearing Date: Monday, February 27, 2023 at 9:30 a.m.
Master's Uncontested List

MANITOBA JUSTICE
Legal Services Branch
7th Floor, 405 Broadway
Winnipeg, MB R3C 3L6
Fax No: 204-948-2826
File No: HE2500 (69)

FILED
KING'S BENCH
JAN 05 2023
LAW COURTS
WINNIPEG

Per: Jim Koch/Tamara Edkins
Crown Counsel
Tel. (204) 805-4164 / (204) 794-1890

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Defendants.

NOTICE OF MOTION

THE DEFENDANTS The Government of Manitoba (His Majesty the King in Right of Manitoba) and Dr. Brent Roussin Chief Public Health Officer for the Province of Manitoba, (together "these Defendants") will make a Motion before a Master on the Uncontested List, on Monday, the 27th 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.

1. THIS MOTION IS FOR:

- (a) An Order Striking these Defendants as parties to this claim, without leave to amend.
- (b) Costs of this motion and, if the order is granted striking these Defendants as parties to this claim, costs of the action.
- (c) Such further and other relief as counsel may advise and this Honourable Court may permit.

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

- (a) *Court of King's Bench Rules*, sections 1.04(1) and 25.11.
- (b) *The Class Proceedings Act*, C.C.S.M. c. C130, sections 12 and 40.
- (c) The Plaintiff and the putative class members are all employees of the City of Winnipeg, which is an entity distinct in law from the Government of Manitoba. The City of Winnipeg is established as its own body corporate under *The City of Winnipeg Charter*, S.M. 2002, c. 9, with its own capacity, rights and powers. The Winnipeg Police Service is a municipal police service established by the City of Winnipeg, which derives its main capacity, rights and powers pursuant to *The City of Winnipeg Charter* and *The Police Services Act*, C.C.S.M. c. P94.5.
- (d) The putative class members take issue with employment policies and orders of the City of Winnipeg and/or the Winnipeg Police Service, which apply to them in their capacity as employees. These Defendants played no role in making, approving or administering those policies or orders. Neither of these Defendants is an employer of any of the class members.
- (e) The statement of claim pleads no relationship in law as between the putative class members and these Defendants. It identifies no conduct on the part of these Defendants grounding a cause of action. In fact, the claim alleges no conduct of any kind by either of these Defendants, whether actionable or otherwise. The statement of claim accordingly discloses no reasonable cause of action against any of these Defendants
- (f) Furthermore, the statement of claim is an abuse of the process of the court, and is scandalous, frivolous and vexatious. It pleads general discontent with vaccines and the response to the Covid-19 pandemic, rather than material facts of any cause of action. Moreover, it presents bald assertions that are demonstrably inaccurate in law. By way of example:

- a. The claim advances a theory about vaccination without consent. However, sections 67(4) and 97 of *The Public Health Act*, C.C.S.M. c. P210 require consent to immunization.
- b. The claim argues that COVID-19 vaccines are experimental, and that Health Canada approvals were either inadequate or entirely absent. But it gives no indication that Health Canada's approvals did not comply with the legislated approval process under the *Food and Drugs Act*, R.S.C., 1985, c. F-27 (Canada).

In short, the statement of claim is framed for political discourse, and is not a court filing that meets the pleading requirements of the *Court of King's Bench Rules*.

- (g) Given this claim has been filed as a proposed class proceeding under *The Class Proceedings Act*, C.C.S.M. c. C190, the Court should exercise its discretion to hear this pre-certification motion, because this motion is in the interests of economy and judicial efficiency and will dispose of the entire proceeding against these Defendants.
- (h) Such further and other grounds as counsel may advise and this Honourable Court may allow.

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

- (a) The Statement of Claim of December 8, 2022; and
- (b) Such further and other material as counsel may advise and this Honourable Court may allow.

January 6, 2023

Per: Jim Koch/Tamara Edkins
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