**DRAFT**

**Form 6-5 (1 0f X)**

COURT FILE NUMBER: 500 of 2015

COURT OF QUEEN’S BENCH, SASKATCHEWAN, SASKATOON

PLAINTIFF Ashu Solo

DEFENDANT Sandra Finley

**NOTICE OF APPLICATION (1 0f X)**

**NOTICE TO 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:

Where: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Time: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

(Read the Notice at the end of this document to see what else you can do and when you must do it.)

**NOTE:** information that is normally confidential under Court of Queen Bench Rules but which may be submitted to the Court under specified conditions (Paragraph 4):

RE: “***in a form satisfactory****”* to the registrar*:*

December 6, 2016: I spoke with the Deputy-Registrar Val (306-933-5135).

As I understand our conversation, I will mail the Application and Affidavits. The references to confidential information will not appear in the Application but will be enclosed in a separate sealed envelope appropriately labeled.

**Remedy claimed or sought:**

1. An order to waive Questioning (Examination for Discovery) and Pre-trial Conference, which is to say, an order to require the use of Expedited procedure.

**Grounds for making this application:**

1. a. See the separate enclosed and sealed envelope, “confidential” re Mediation.

 (Scroll down, Page 6 below)

 b. To date, the cost of defending myself is more than $26,000.00

**Material or evidence to be relied on:**

1. November 22. Mediation Confidential. (sealed envelope).

 November 28, I requested of Plaintiff’s Counsel to use Expedited Procedure.

 November 29, Plaintiff and Counsel declined.

 December 6 I advised Plaintiff’s Counsel that I rescind my agreement to proceed to Questioning and Pretrial Conference. CQB Rules protect against abuse exercised in components of procedure such as Mediation, Questioning and Pretrial Conference that are normally confidential.

**Applicable rules:**

1. FromThe Queen’s Bench Rules (2013) (<https://www.canlii.org/en/sk/laws/regu/sask-gaz-december-27-2013-2684/latest/part-6/sask-gaz-december-27-2013-2684-part-6.html>)
2. PART 3: COURT ACTIONS Page 5, Division 1, Item 3-2, Paragraph (3):

 *An action may be started by originating application if these rules authorize the commencement of an action by originating application*

1. PART 5: DISCLOSURE OF INFORMATION  authorizes the originating application as follows:     Division 2

 *Modification or waiver of this Part*

*5-3(1) The Court may modify or waive any right or power pursuant to a rule in this Part or make any order warranted in the circumstances if:*

***a person acts or threatens to act in a manner that is vexatious, evasive, abusive, oppressive, improper or tediously lengthy;***

1. The Court may order the use of Expedited procedure under (Following 5-3(1) above)

*5-3(2) In addition to making a procedural order, the Court may do any one or more of the following:*

 *(b) order future questioning to be conducted before a judge or person designated by the Court;*

1. PART 8: EXPEDITED PROCEDURE

8-6(1) says I may not serve notice of application unless a pre-trial conference has been conducted, BUT subject to 8-6(2) and 8-6(3).

(2) and (3) permit me to bring the Application. And they permit the Court to make order:

*Bringing an application*

 *8-6(1) Subject to subrule (2), a party to an expedited procedure action shall not serve a notice of application on another party in relation to the action.*

 *(2) Subrule (1) does not apply to:*

 *(b) an application made to obtain leave to bring an application referred to in*

 *subrule (3); . . .*

 *(3) On application by a party, a judge may relieve a party from the requirements of subrule (1) if:*

 *(a) it is impracticable or unfair to require the party to comply with the requirement of subrule (1);*

1. CONFIDENTIALITY AND DISCLOSURE OF INFORMATION

Back to PART 5: DISCLOSURE OF INFORMATION

DIVISION 2 How Information is Disclosed

 5-4(1) Subject to subrule (2),

*the information and documents described in subrule (3) must be treated as confidential and may only be used by the recipient of the information or documents for the purpose of carrying on the action in which the information or*

 *documents were provided or disclosed unless:*

 *(a)  the Court otherwise orders;*

 *(c) it is otherwise required or permitted by law.*

 *(2) If, in the course of carrying on the action in which the information or documents described in subrule (3) were provided or disclosed, the recipient of the information or documents finds it necessary to file the document with the Court or make reference to the information or documents in materials filed with the Court on an application not determinative of the merits of the action, the information or documents or any reference to the information or documents must be sealed in a form satisfactory to the local registrar or a judge when filed, .*

 *(3) For the purposes of this rule, the information and documents are the following:*  (INSERT: UNLESS, 5-4(1) (a) the court otherwise orders)

 *(a) information provided or disclosed by one party to another in an affidavit served pursuant to this Division;*

 *(b) information provided or disclosed by one party to another in a document referred to in an affidavit served pursuant to this Division;*

 *(c) information recorded in a transcript of questioning made or in answers to written questions given pursuant to this Division.*

. .

**Applicable Acts and regulations:**

1. **Court of Queen’s Bench Act (1998)**

***PART VII Mediation***

*Evidence not admissible*

*43 Except with the written consent of the mediator and all parties to the proceeding in which the mediator acted, the following types of evidence are not admissible in any civil, . . . proceeding:*

*(a) evidence directly arising from anything said in the course of mediation;*

*(b) evidence of anything said in the course of mediation;*

*(c) evidence of an admission or communication made in the course of mediation*

INSERT: However, Part VI (following) and the Court of Queen’s Bench Rules (above) provide the authority and the “how to” for dealing with the question of confidentiality under specified conditions such as

***a person acts or threatens to act in a manner that is vexatious, evasive, abusive, oppressive, improper or tediously lengthy;***

**Part VI Procedure, Rules of Court**

*Item 28 The judges may make rules of court:*

*(n) in relation to any actions or matters, respecting:*

*(i) procedure in the court; . . . and (iii) the cost of proceedings in the court;*

*(o) generally regulating:*

 *(ii) any other thing that the judges consider expedient for better attaining the ends of justice, advancing the remedies of parties and carrying into effect this Act and the provisions of other Acts respecting the court.*

***Multiplicity of proceedings avoided***

*29(1) The court shall grant to the parties to an action or matter all remedies to which the parties appear to be entitled with respect to any legal or equitable claims that they have properly brought forward so that:*

*(a) all issues in controversy between the parties are determined as completely and finally as possible; and*

*(b) a multiplicity of legal proceedings concerning the issues is avoided.*

*(2) Relief pursuant to subsection (1) may be granted either absolutely or on any terms and conditions that a judge considers appropriate.*

**SEPARATE, SEALED ENVELOPE**

**Grounds (Paragraph 2) and Material or Evidence (Para 3) arising from Mediation; Confidential**

**Grounds for making this application:**

1. A. During Mediation, November 22, 2016, in the presence of
* the Mediator Tim Nickel
* co-defendant Loosefoot Computing (LFC), co-owner Andrew MacCorquodale (Regina)
* counsel for LFC, Rachelle from McDougall Gauley, Saskatoon
* the Plaintiff’s own lawyer Tyler Dahl, Cuelenaere LLP
* and myself (Sandra Finley),

when it came my turn to summarize my perspective, the Respondent (Plaintiff) would not let me speak. He shouted “Stop lying!”, “Stop lying!” loudly and repeatedly, in spite of admonitions from his Counsel and the Mediator. And ended by calling me a “fucking bitch”.

At that point, the Mediator led all but the Plaintiff and his Counsel from the room. The Mediator advised the three of us to leave the building, not stop in the coffee shop to de-brief, and to leave the area. The Plaintiff and Counsel would be delayed in the room to give us time.

That is recent and specific ground for making this application for an order by which the case would now proceed to trial (Expedited procedure; the Plaintiff disagrees with).

*5-3(1) The Court may modify or waive any right or power pursuant to a rule in this Part or make any order warranted in the circumstances if:*

***a person acts or threatens to act in a manner that is vexatious, evasive, abusive, oppressive, improper or tediously lengthy;***

I believe the intention of these Rules is to protect parties from exposure to repeated episodes of scare tactics (abuse), especially in a system that provides for confidentiality in each stage preceding Trial. I can expect similar tactics that scare everyone to continue through Questioning, and again at Pretrial Conference, and who knows what outside. This is not my only experience with the Plaintiff, and others have been subjected to worse.

Only in retrospect can I see the effectiveness of what the Plaintiff did in Mediation. He pretty well prevented me from being heard. It was probably the only way he could do it. It was pretty safe for him (benefits outweighed risks) because of the confidentiality rules.

**B.** FROM MEDIATION, NOVEMBER 22 re COST OF SETTLEMENT (Confidential):

Prior to mediation, the Plaintiff made a Formal Offer to Settle with LFC if they paid him $4,900.00. Lawyers, of course, advised “Accept the Offer”. LFC agreed to my request not to pay, for the time being. I was offered settlement at a price tag of $39,000.00 . . .

But come Mediation - - -

The price tag for LFC to settle increased to $25,000 The price tag for me to settle increased to more than $50,000 (My view is that the numbers are meant to scare and that negotiations are a way to drag out the proceedings and therefore the costs and frustration.)

In a decision whether or not to order that the case proceed under Expedited procedures, the question of abuse of process arises: when does an offer to settle become attempted extortion?

- My email to Plaintiff’s lawyer, November 28,   *I propose that the Expedited procedures for claims under $100,000.00 set out in the "New Rules", July 2013, would be appropriate*

-          November 29 Reply:  *It is our position that it would be inappropriate for this matter to proceed expeditiously, for the following reasons:*

1.      *This claim could easily exceed $100,000.00,*  . . .

Counsel for the Plaintiff should be aware of the history of Court awards in cases of Defamation: a few thousand dollars at most for ordinary citizens, if they are found to be guilty. So

* Given the price of settlement offered during Mediation ($25,000 for LFC; more than $50,000 for me), and *This claim could easily exceed $100,000.00,*  in the context of historical awards
* Given that the Plaintiff declined to use Expedited procedure,
* Given my documentation of exchanges between my lawyer (Daniel Reid, Harper Grey, Vancouver) with the Plaintiff’s Counsel in the first 6 months of legal process:   [***Repeated Requests:  please specify what is defamatory.  More than 6 times;  phone calls not counted.***](http://sandrafinley.ca/?p=17723)(password: C2B2).
* Given the aggressive behavior of the Plaintiff during Mediation
* Given that the cost of defending myself was $25,000 BEFORE we had even started Mandatory Mediation, let alone gotten to trial,
* Given the list of emails to other people in every one of which he threatens to sue at high expense to the person so threatened - - <http://sandrafinley.ca/?p=17757> (password C2B2)

There is reason to think that the case is about use of the Justice System to coerce, intimidate and extort.

**Material or evidence to be relied on:**

1. RE what happened at Mediation. My preference would be to give evidence myself under oath, and then be cross-examined. I have the advantage of now living in BC. There are a few witnesses to draw from. But most people find the Plaintiff’s actions scary and have fear because they don’t know how far he will go in his attacks on people who stand up to him or speak up in contradiction of him.

(In a public meeting Tonia Zimmerman offered an opinion that challenged Solo’s. She credits that with the start of his egregious cyberbullying of her. According to the email thread between John Gormley and Ashu Solo, which I authenticated, there are two other young women in addition to Zimmerman who Ashu Solo was also attacking via social media.)

END OF DRAFT