

COURT FILE NO. 1801 - 10699
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY
PLAINTIFF ROBERT HEMSTOCK
DEFENDANTS HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA, SARAH HOFFMAN, CHERYL OATES, and JOHN OR JANE DOES 1 – 20
DOCUMENT APPLICATION

CLERK OF THE COURT
FILED
MAR 29 2019
JUDICIAL CENTRE
OF CALGARY

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NOTICE TO THE RESPONDENT(S)

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: **Friday, April 12, 2019**
Time: 10:00 AM
Where: Calgary Court Centre, 601 - 5th Street S.W., Calgary, Alberta
Before: Master in Motions Court

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

Remedy claimed or sought:

1. The Plaintiff seeks an Order:
 - (a) Compelling the Defendants to swear a Supplemental Affidavit of Records;
 - (b) Directing the producible records to be provided to counsel for the Plaintiff within **20 days** of the Order;
 - (c) Awarding the costs of this Application to the Applicant in any event of the cause;
and

- (d) For such further and other relief as this Honourable Court may deem just and appropriate having regard to all of the circumstances.

Grounds for making this application:

2. The Action was commenced on July 30, 2018. A Statement of Defence was filed September 14, 2018.
3. On or about September 13, 2018, the Applicant provided, to counsel for the Defendants its sworn Affidavit of Records along with an electronic copy of all of its producible records as set out in Schedule 1 of its Affidavit of Records.
4. On or about November 23, 2018, the individual defendants Hoffman and Oates each provided to counsel for the Applicant their sworn Affidavit of Records.
5. The Affidavits omit key information that is relevant and material to the issues in the action. For example, e-mails disclosed by the Defendants reference briefings and meetings for which no notes or minutes have been produced. No meeting confirmations from the Defendants' Outlook Calendars were disclosed.
6. Despite an admission at paragraph 12 the Statement of Defence that the Defendants were mistakenly reviewing outdated versions of the PPA's that did not include the final wording of s. 4.3(j), the disclosure provided contains no emails from the time this mistake was discovered.
7. The disclosure provided references drafts being sent to various Government departments for comment, but does not disclose what feedback was received.
8. Minimal disclosure was received for the mid-December, 2015 time period, which was the time the Battle River PPA was terminated by Enmax, triggering multiple lawsuits.
9. References are made to revisions being made after discussions with specific people, yet no emails or comments are provided from those people.
10. The Disclosure provided makes no reference to who conceived of the idea to blame Enron or the Plaintiff for a large monetary loss and who vetted the research that was requested, when documents regarding this key issue must be in existence now or in the past.

Affidavit or other evidence to be used in support of this application:

11. The Affidavit of Robert Hemstock, filed

Applicable Rules:

12. Alberta *Rules of Court*, Alta. Reg. 124/2010, as amended, Rules 1.4, 5.1, 5.2, 5.3(1), 5.14, and 5.16(c).

Applicable Acts and Regulations:

13. Any other Acts, Regulations and Rules as this Honourable Court may permit.

Any irregularity complained of or objection relied on:

14. None.

How the application is proposed to be heard or considered:

15. It is proposed that the Application be heard in Masters Chambers pursuant to Rules 6.9(1)(a) and (2).

AFFIDAVIT EVIDENCE IS REQUIRED IF YOU WISH TO OBJECT.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant(s).