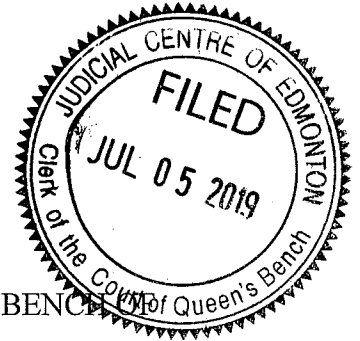


Clerk's stamp:



COURT FILE NUMBER:

1903 13819

COURT:

COURT OF QUEEN'S BENCH  
ALBERTA

JUDICIAL CENTRE:

EDMONTON

PLAINTIFFS:

THE ALBERTA TEACHERS  
ASSOCIATION, JASON SCHILLING,  
JENNIFER REGAL, AND DARRIN BAUER

DEFENDANT:

HER MAJESTY THE QUEEN IN RIGHT OF  
ALBERTA

DOCUMENT:

**STATEMENT OF CLAIM**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PERSON FILING THIS  
DOCUMENT:

Field LLP  
2500 – 10175 101 St. NW  
Edmonton, AB T5J 0H3  
Ph: (780)423-3003  
Fax: (780)428-9329  
File No. 10-3397  
Attention: Jeremy L. Taylor

**NOTICE TO DEFENDANT:**

You are being sued. You are a Defendant.

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

**Statement of facts relied on:**

**A. Parties**

1. The Plaintiff, the Alberta Teachers Association (the "Association"), is the professional association and union representing over 46,000 certificated teachers in the province of Alberta. Pursuant to s. 7 of the *Public Education Collective Bargaining Act*, S.A. c. P-36.5 (the "*PECBA*"), the Association is the exclusive bargaining agent for its members in numerous bargaining units comprised of teachers employed by 61 local school jurisdictions across the Province of Alberta.

2. The Plaintiff, Jason Schilling, is an individual resident of Lethbridge, Alberta, and is the President of the Association. He is a certificated teacher employed by Palliser Regional Schools, and as such is a member of the Association in Palliser Local No. 19. Mr. Schilling is on leave from his school district for the term July 01, 2019 to June 30, 2021.
3. The Plaintiff, Jennifer (Jenny) Regal, is an individual resident of Calgary, Alberta, and is a Vice President of the Association. She is a certificated teacher employed by the Calgary Board of Education, and as such is a member of the Association in Calgary Public Teachers Local 38.
4. The Plaintiff, Darrin Bauer, is an individual resident of Edmonton, Alberta, and is a Vice President of the Association. He is a certificated teacher employed by Edmonton Catholic Schools, and as such is a member of the Association in Edmonton Catholic Local 54.
5. The Association brings this claim on its own behalf and on behalf of all of its members. All aspects of the claim set out below are raised by the Association and all of its members including the Plaintiffs Schilling, Regal and Bauer.
6. The Defendant, Her Majesty the Queen in Right of Alberta, as represented by the President of the Treasury Board and Minister of Finance (the “Government”), is responsible for enacting the *Public Sector Wage Arbitration Deferral Act* (the “PSWADA”).

**B. Central Agreement (September 1, 2018 to August 31, 2020)**

7. Association collective agreements are bargained both centrally with the Teachers’ Employer Bargaining Association (“TEBA”) and locally with each of the 61 school boards in Alberta. In accordance with s. 15(2) of the *PECBA*, TEBA is comprised of a board of directors. As set out in s. 7 of the *Public Education Collective Bargaining Regulation*, (Alta. Reg. 18/2016), the majority of the members of the TEBA board of directors are appointed by the Government’s Minister of Education.

8. Pursuant to the provisions of the *PECBA*, the Association bargains with TEBA on central matters affecting all teachers and employers. After central bargaining is complete, the Association bargains directly with each school board regarding local matters.
9. Salary adjustments for teachers are the subject of central bargaining between the Association and TEBA. The Association opened for bargaining with TEBA on June 5, 2018 to negotiate the central agreement for the period from September 1, 2018 to August 31, 2020.
10. The Association and TEBA were unable to reach consensus on all aspects of the central agreement. Accordingly, in December 2018, the Association applied for mediation. On March 7, 2019, the mediator issued a report recommending, among other things, that salary increases be determined by way of interest arbitration with the arbitration hearing to be held no later than September 30, 2019.
11. The mediator's report was ratified by TEBA on March 15, 2019, was ratified by teachers on April 7, 2019, and resulted in a central agreement between the Association and TEBA for the period from September 1, 2018 to August 31, 2020 (the "Central Agreement").
12. The interest arbitration to determine salary increases pursuant to the Central Agreement is scheduled for September 17-19, 2019.

**C. Lack of Meaningful Consultation**

13. On Tuesday, May 21, 2019, Ms. Athana Mentzelpoulos, the Government's Deputy Minister of Treasury Board and Finance, wrote to Mr. Greg Jeffery, then President of the Association, regarding "Invitation to Consultation: Public Sector Wage Reopener Arbitrations Delay" (the "Delay Letter"), inviting Mr. Jeffery to a purported "consultation session". The purported "consultation session" was scheduled for May 23, 2019 at 10:00 a.m. In the Delay Letter, Ms. Mentzelpoulos informed the Association that:

Given the change to Alberta's economic circumstances and uncertainty of the impact to Alberta's finances, government is contemplating steps to delay Public Sector Wage Reopener Arbitrations where government is funder, employer or has a direct governance relationship. A delay may give government the time to make an informed decision on

how best to approach the wage reopener arbitrations based partially on advice from the MacKinnon Panel.

14. The Delay Letter further invited the Association to share its thoughts on a delay, and noted that the Government was considering all available options up to and including legislation. The Delay Letter also advised that written submissions on the issue would be accepted until end of day on May 27, 2019.
15. Mr. Jeffery was out of the province at the time of receipt of the Delay Letter, and given the very short notice of the meeting was unable to change his schedule in order to attend. Accordingly, the Association provided a written submission to Ms. Mentzelpoulos dated May 22, 2019 (the "Association Submission").
16. In the Association Submission, the Association confirmed that general increases to teachers' salary grids were to be determined by an interest arbitration heard no later than September 30, 2019. The Association further noted that the MacKinnon Panel was to report back by August 15, 2019, which was more than a month prior to the deadline for interest arbitration. That being the case, there was ample time for TEBA to incorporate the contents of the MacKinnon Panel report into its representation, and there was therefore no need or justification for delay.
17. The Association made clear in the Association Submission that Alberta teachers expect the Government to: honour the Central Agreement; allow the interest arbitration to take place within the timeframes specified in the Central Agreement; permit an arbitration process that is fair and free from Government intervention or interference; and to respect the outcome of the interest arbitration.
18. No response from the Government was received by the Association to the Association Submission. The Delay Letter and the Association Submission represented the entirety of the communications the Government had with the Association about delaying the interest arbitration.

**D. Enactment of the *PSWADA***

19. The Government introduced the *PSWADA* in the Alberta Legislature on June 13, 2019, as Bill 9. Bill 9 passed third reading on June 19, 2019 and received Royal Assent on June 28, 2019. The Association did not receive any notice of this impending legislation, nor did the Government meaningfully consult with the Association or its members, or with other unions, employees or any representatives in the drafting or passing of the *PSWADA*.
20. Sections 2 and 3 of the *PSWADA* suspend and delay the arbitration process provided for by the Central Agreement. The *PSWADA* also grants the Lieutenant Governor in Council significant powers that are not subject to legislative oversight, including the power to make regulations respecting any other matter that the Lieutenant Governor in Council considers necessary or advisable for carrying out the intent of the Act (s. 5(c)), and to designate additional collective agreements as subject to the *PSWADA* (s. 5(a)).

**E. Freedom of Association**

21. Section 2(d) of the *Canadian Charter of Rights and Freedoms* (the “*Charter*”) guarantees the right of employees to meaningfully associate in the pursuit of collective workplace goals, which includes a right to collective bargaining. The right to a process of collective bargaining includes the right to unite, to present demands to the employer collectively and to engage in discussions in an attempt to achieve workplace-related goals, and the right to strike. Section 2(d) also places constraints on the exercise of legislative powers in respect of the right to collective bargaining.
22. The right to a process of collective bargaining under s. 2(d) of the *Charter* is infringed where a legislative measure disrupts the balance of power between employees and employer necessary to ensure the meaningful pursuit of workplace goals so as to substantially interfere with meaningful collective bargaining.
23. The *PSWADA* infringes s. 2(d) of the *Charter* by:
  - (a) Violating and overriding freely negotiated provisions of the Central Agreement agreed to by the Association and TEBA;

- (b) Unilaterally rewriting the Central Agreement and the upcoming interest arbitration structure and agreed on timeframes for the interest arbitration;
  - (c) Depriving Association members of their ability to address increases to the salary grids in a fair, effective and expeditious manner;
  - (d) Failing to meaningfully consult with the Association in good faith about delaying the interest arbitration process;
  - (e) Undermining the ability of the Association to properly and effectively bargain on behalf of its members;
  - (f) Violating the rights of other unions and employees in a similar manner to the particulars described in (a) through (e) above; and
  - (g) Such further and other ways as may be proven at trial.
24. The infringements of s. 2(d) of the *Charter* identified above are claimed in relation to the rights of the Association and all of its members, including the Plaintiffs Schilling, Regal and Bauer.
25. The infringements of the Plaintiffs' s. 2(d) rights do not constitute reasonable limits demonstrably justified in a free and democratic society and therefore are not justified under s. 1 of the *Charter*.
26. The infringements of the Plaintiffs' s. 2(d) rights also violate s. 1(e) of the *Alberta Bill of Rights*, R.S.A. 2000, c. A-14 as well as international laws including Article 8(1) of the *International Covenant on Economic, Social and Cultural Rights*, 993 U.N.T.S. and the *Charter of the Organization of American States*, Can. T.S. 1990 No. 23 Article 45(c).

**Remedy sought:**

27. A declaration that the *PSWADA*, or portions thereof, infringes s. 2(d) of the *Charter* and is not saved by s. 1.
28. A declaration that the *PSWADA*, or portions thereof, is of no force or effect.

29. A declaration that the *PSWADA*, or portions thereof, infringes s. 1(e) of the *Alberta Bill of Rights*, RSA 2000, c. A -14 and pursuant to s. 2 of the *Alberta Bill of Rights* is of no force and effect.
30. Damages pursuant to s. 24(1) of the *Charter*.
31. Interest pursuant to the *Judgment Interest Act*, RSA 2000 c. J-1.
32. Costs on a solicitor and own client, full indemnity basis.
33. Such further and other relief as the Plaintiffs may request and this Honourable Court may deem fit.

**NOTICE TO THE DEFENDANT:**

You only have a short time to do something to defend yourself against this claim:

- 20 days if you are served in Alberta
- 1 month if you are served outside Alberta but in Canada
- 2 months if you are served outside Canada.

You can respond by filing a Statement of Defence or a Demand for Notice in the Office of the Clerk of the Court of Queen's Bench at Edmonton, Alberta, AND serving your Statement of Defence or a Demand for Notice on the Plaintiffs' address for service.

**WARNING:**

If you do not file and serve a Statement of Defence or a Demand for Notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve or are late in doing either of these things, a court may give a judgment to the Plaintiffs against you.