

Form 3-49
(Rule 3-49)

DEC 17 2021

FILED

COURT FILE NUMBER QBG 252-2021

COURT OF QUEEN'S BENCH FOR SASKATCHEWAN

JUDICIAL CENTRE PRINCE ALBERT

APPLICANT(S) ALLAN ADAM ON BEHALF OF ATHABASCA HEALTH AUTHORITY INC. AND ALLAN ADAM ON HIS OWN BEHALF

RESPONDENT(S) ATHABASCA HEALTH AUTHORITY INC. BOARD OF DIRECTORS, CLAIRE LAROCQUE, PAULINE THATCHER, KEVIN MERCREDI, JOHN TOUTSAIT COREEN SAYAZIE, MERVIN MACDONALD and SHEILA ROBILLARD

ORIGINATING APPLICATION

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:

Where: Court of Queens Bench,
1800 Central Avenue

Date Tuesday, ~~December 21, 2021~~ Jan 4, 2022 *at*

Time ~~4:00 PM~~ 1:30 PM *at*
SLB

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

PARTICULARS OF APPLICATION

1. This is an application for Judicial review of the Athabasca Health A Board decision to terminate CEO Allan Adam dated December 2, 2021 terminating Allan Adam as CEO of AHA; and
2. Further, an application for Judicial review of the AHA Board decision to appoint Sheila Robillard as Interim CEO of AHA;
3. Further, an application for an order of *Mandamus* pursuant to s. 3-56(1)(2)(a) of the *Queen's Bench Rules* (rules) declaring the termination of CEO *ultra vires* and therefore null and void or illegal;

4. Further, an application for an order of prohibition against the AHA Board pursuant to s. 3-56(1)(2)(a) of the rules forbidding them from making any decisions until they have a legally constituted Board with legitimate Directors registered with the Corporate Registry;
5. Further, an application for prohibition against Sheila Robillard pursuant to s. 3-56(1)(2)(a) of the rules forbidding her from attending the premises of AHA and acting in any manner as an employee of the organization.
6. Further, an application for *certiorari* pursuant to s. 3-56(1)(2)(a) of the rules quashing the decision of the Board to terminate Allan Adam as CEO of AHA;
7. Further, an application for *certiorari* pursuant to s. 3-56(1)(2)(a) of the rules quashing the AHA Board resolution dated December 2, 2021 restoring Sheila Robillard to her position as;
8. Further an application for an injunction pursuant to s. 3-56(1)(2)(b) of the rules;

The applicant seeks the following remedy or order:

9. An order immediately reinstating Allan Adam as CEO of AHA.
10. An order prohibiting the AHA Board of Directors from passing any motions in relation to the day-to-day operations of AHA.
11. An order prohibiting Sheila Robillard, from occupying the position of acting CEO of AHA.
12. An order quashing the AHA decision dated December 2, 2021 appointing Sheila Robillard as acting CEO of AHA.
13. An order quashing the AHA decision dated December 2, 2021 terminating Allan Adam as CEO of AHA.
14. An injunction preventing the AHA Board and Sheila Robillard from making any decisions in relation to AHA and terminating employees and positions that were part of the organization structure prior to December 2, 2021.
15. A police enforcement clause to ensure that this Court order is enforced requiring the RCMP assistance if necessary.
16. Costs of this application and any other remedy this Honourable Court sees fit.

The applicant's ground(s) for making this application is/are:

17. The Board acted outside their authority or illegally because they were not properly constituted or registered according to the Corporate Registry of Saskatchewan in accordance with the *Non-Profit Corporations Act* Saskatchewan.
18. The Board breached the principles of procedural fairness by making a biased decision to terminate Allan Adam as CEO of AHA, pre-judging the outcome and acting while in

conflicted position and choosing sides.

19. The Board breached the principles of procedural fairness by failing to provide an opportunity for Allan Adam to provide a response to their decision to terminate his employment and to consider terms in the "Employment Agreement – Chief Executive Officer, Athabasca Health Authority" (agreement).
20. The Board breached the principles of procedural fairness by failing to provide reasons for terminating Allan Adam as CEO of AHA.
21. The Board breached procedural fairness by failing to adhere to the terms of the "probationary" period contrary to s.4.1 of the agreement and by not invoking s. 4.3 of the agreement by notice or otherwise which is a legitimate expectation.
22. The Board failed to follow AHA policy and acted contrary to the governing law under the *Non-Profit Corporations Act*.
23. The Board breached AHA policy by appointing a former terminated employee to the position of acting CEO contrary to their "rehire" policy.
24. The Interim CEO Sheila Robillard is causing irreparable harm to AHA as an organization by recklessly terminating employees and leaving positions unfilled and by not acting in the best interests of AHA in general.
25. The Interim CEO Sheila Robillard is causing irreparable harm to the communities serviced by AHA by damaging relationships between service providers/medical staff. Staff are left without adequate direction and some are fearing their job security is in jeopardy. This is particularly stressful right before Christmas.
26. The Interim CEO Sheila and the Board by extension are causing irreparable harm to the communities by jeopardizing established trust relationships. Dissemination of education and counselling for COVID 19, Suicide, and Tuberculosis has ceased by firing key employees and failing to fill vacant positions (Christmas requires increased services).

The applicant's summary of the material facts is as follows:

27. "The Authority [AHA] is a non-profit corporation comprised of five members: the Black Lake Denesuline Nation, The Fond du Lac Denesuline Nation, the Northern Hamlet of Stony Rapids, and the Northern Settlements of Uranium City and Camsell Portage. The Board is a Policy Governance Board and its specific role is defined by the *Non-profit Corporations Act* and AHA's constituting documents." Emphasis added (Per ATHABASCA HEALTH AUTHORITY ANNUAL REPORT 2020)

28. The AHA Vision is as follows:

The Athabasca Health Authority (AHA) believes in a future where people and the land are healthy, where communities, families and individuals live in peace and harmony, where traditional values, concepts and health practices are maintained, respected and understood in partnership with contemporary care. Emphasis added.

all of the AHA governing policies mandate the principles contained in the Vision.

29. After careful consideration, the AHA Board hired Allan Adam as CEO in March 2021. He is from the Fond du lac Denesuline First Nation and grew up in the territory serviced by AHA. Allan Adam is a fluent speaker of the Dene language, practices traditional ceremonies and is a respecter of the land. Allan Adam's credentials, experience, education and indigenous philosophy were scrutinized and approved prior to the hire.
30. The AHA Board policy mandates that they hold one meeting per month and the CEO is required to attend all meetings. Also, Committee meetings are held separately as needed and the CEO is also required to attend those.
31. The Board failed to provide Allan Adam with information regarding, location or internet link for all but two Board meetings in a period of eight months. 48 hours notice to ALL board members and CEO is required. The meetings were held in camera and no minutes were taken or provided to Allan Adam.
32. Allan Adam engaged with the community, expanded traditional services, provided education in the Dene language and commenced putting together a team of suitable health care service providers to accommodate the unique nature of the communities in the vast northern territory. All of which are terms of his agreement.
33. Allan Adam was chastised and warned against practicing traditional healing methods and ceremony. He was directed to cease traditional activities by Resolution of the AHA Board in June of 2021. The Resolution was not made pursuant to any AHA Board policy, the agreement, the AHA policy and the *Non-profit Corporations Act*.
34. Allan Adam terminated Sheila Robillard November 30, 2021 for cause. The next day December 1, 2021 the AHA Board reversed Allan Adam's termination and reinstated Sheila Robillard to her previous position in senior management and also appointed her Interim CEO of AHA.
35. AHA policy specifically prohibits rehiring former employees. Sheila Robillard is a former employee and is not eligible for rehire. Her only recourse is to make an employment standards complaint if she thinks our decision is unfair.
36. The AHA Board terminated CEO Allan Adam on December 1, 2012 in a letter signed by Pauline Thatcher on behalf of Mervin McDonald. No legitimate reasons were provided and the probationary period had ended.
37. Allan Adam was removed from his office and the premises and given orders to vacate the housing unit he was occupying. The RCMP attended in support of the Interim CEO Other staff were and are being removed/terminated as well. Separate security had also been contracted to ensure Allan Adam leave the premises.
38. On December 6, 2021 Taiwo Olubanwo, Executive Director of Primary Health Care was given a letter from Interim CEO Sheila Robillard purporting to terminate his employment then he was escorted out of the building.
39. The COVID pandemic dangers have increased significantly due to the Delta and Omicron variants. CEO Allan Adam and Executive Director Taiwo Olubanwo are the only

people qualified and familiar enough with AHA resources and federal and provincial government agencies to fill the requirements of the positions they occupy.

In support of this application, the applicant relies on the following material or evidence:


Judicial Notice of the COVID pandemic and related variants.

The Northern Health September 2021 Issue

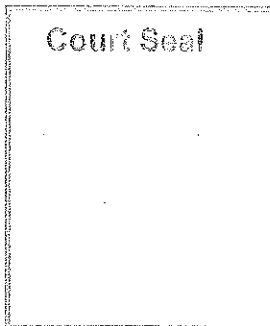
Affidavit of Allan Adam dated December 15, 2021

Affidavit of Taiwo Olubanwo dated December 15, 2021

DATED at Edmonton , Alberta, this 14th day of December , 2021 .


Will Willter

This notice is issued at the above-noted judicial centre on the 17th day of
December , 2021 .




Local Registrar

NOTICE

You are named as a respondent because you have made or are expected to make an adverse claim with respect to this originating application. If you do not come to Court either in person or by your lawyer, the Court may make an order declaring you and all persons claiming under you to be barred from taking any further proceedings against the applicant(s) and against all persons claiming under the applicant(s). You will be bound by any order the Court makes. If you want to take part in the application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of this form.

The rules require that a party moving or opposing an originating application must serve any brief of written argument on each of the other parties and file it at least 3 days before the date scheduled for hearing the originating application.

If you intend to rely on an affidavit or other evidence when the originating application is heard or considered, you must serve a copy of the affidavit and other evidence on the originating applicant at least 10 days before the originating application is to be heard or considered.

CONTACT INFORMATION AND ADDRESS FOR SERVICE

If prepared by a lawyer for the party: **WILLIER AND COMPANY**

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NOTICE

The government offices below are also served:

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