Date: 20261116
Docket: CI 25-01-52764
(Winnipeg Centre)
Indexed as: A.B.C. v. Valgardson et al.
Cited as: 2026 MBKB 157

COURT OF KING'S BENCH OF MANITOBA

B E T W E E N:

A.B.C.,	)	Faron J. Trippier
plaintiff,	)	Natasha Ellis
-and-	)	Brent Tichon
	)	for the plaintiff
TIMOTHY VALGARDSON and LEVENE TADMAN GOLUB LAW CORPORATION,	)	
defendants.	)	Samuel C. Kroft
	)	for the defendants
	)	
	)	
	)	Carter Liebzeit
	)	for Canadian Broadcasting
	)	Corporation and CTV
	)	(Interested Media Parties)
	)	
	)	Deborah L. Carlson
	)	for Province of Manitoba
	)	(Interested Third Party)
	)	
	)	Nicole K. Beasse
	)	for City of Winnipeg
	)	(Interested Third Party)
	)	
	)	Judgment Delivered:
	)	November 16, 2026

BOCK J.

INTRODUCTION

[1] The plaintiff moves for such relief as may be necessary to prevent the disclosure of their identity in this proceeding. The defendants do not oppose the motion. Various media outlets were served with notice of the plaintiff's motion. Counsel appeared for two of them, Canadian Broadcasting Corporation and CTV, to make submissions for the assistance of the court.

[2] As I will explain, the motion is granted on the terms set forth at the conclusion of these reasons.

BACKGROUND

[3] The following summary includes my findings for the purpose of this motion.

[4] The plaintiff has sued the City of Winnipeg, the Province of Manitoba and certain others in a separate action in the Manitoba Court of King's Bench. That action arises out of work alleged to have been performed by the plaintiff as a confidential informant in certain criminal investigations. The defendants in that action were served with notice of this motion, and counsel for the City of Winnipeg and the Province of Manitoba appeared to make submissions.

[5] The defendants in the first action have taken the position that the plaintiff's claim against them is time-barred. As a result, the plaintiff has commenced this action against their former counsel, alleging that if their first claim is time-barred (which remains to be decided), legal responsibility for that would lie with their counsel. In that event, their counsel ought to be found liable to compensate them accordingly.

[6] A central allegation in both actions is the plaintiff's status as a confidential informant. In their affidavit sworn in support of this motion, the plaintiff provides compelling and detailed evidence of their relevant personal history. That evidence includes how and when they came to be recruited as a confidential informant, the nature and scope of the work they did in that capacity, and the basis for the fear they have for their safety should their identity be made public.

[7] The plaintiff's evidence satisfies me that the plaintiff has been a confidential informant. Additionally, counsel for the City of Winnipeg and the Province of Manitoba confirmed before me that their clients did not contest the plaintiff's status as a confidential informant.

THE LAW

[8] The plaintiff claims confidential informant privilege over any information which might lead to their identification in either action. They therefore seek broad relief to prevent disclosure of their identity. This includes that this proceeding be conducted *in camera*; that the plaintiff be identified in this proceeding by the initials "A.B.C."; that publication of any information that could identify the plaintiff be prohibited; and that all documents in this proceeding be sealed from the public record.

[9] The relief sought by the plaintiff aims to place limits on the open court principle. The open court principle presumes that all court proceedings in Canada will be public and open to reporting by the media (***Sherman Estate v. Donovan***, 2021 SCC 25, paras. 37-42). It is an important and time-honoured principle, "one of the hallmarks of a democratic society", and embedded within the right to freedom of expression in s. 2(b)

of the ***Canadian Charter of Rights and Freedoms***, s. 7, Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act* 1982 (UK), 1982, c. 11, (***Canadian Broadcasting Corp. v. New Brunswick (Attorney General)***, 1996 CanLII 184 (SCC), [1996] 3 S.C.R. 480, paras. 22-23).

[10] In ***Sherman Estate***, the Supreme Court of Canada set out a three-part test to determine whether the presumption of court openness should be displaced. By that test the moving party must establish that (para. 38):

> [38] . . .
>
> (1) court openness poses a serious risk to an important public interest;
>
> (2) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and,
>
> (3) as a matter of proportionality, the benefits of the order outweigh its negative effects.

[11] Courts have long recognized that there is an important public interest in preserving and protecting the confidentiality of confidential informants because of the important role they play in providing law enforcement with useful information relevant to criminal investigation (***R. v. Durham Regional Crime Stoppers***, 2017 SCC 45, para. 1).

[12] Once a claim to informer privilege has been established, the court has no discretion but to apply it (***Named Person v. Vancouver Sun***, 2007 SCC 43, para. 23; ***R. v. Basi***, 2009 SCC 52, para. 37). The informer privilege rule is broad (***Named Person***, para. 26):

> [26] . . . *Any* information which might tend to identify an informer is protected by the privilege. Thus the protection is not limited simply to the informer's name, but extends to any information that might lead to identification.
>
> [Emphasis in the original]

[13] The process for establishing a claim of informer privilege is a sensitive matter because the party advancing the claim will want to be assured that pending the outcome of the motion, their identity will not be revealed. This problem was addressed in ***Named Person***, in which the Supreme Court of Canada set out a two-stage procedure to be applied when informer privilege is claimed. Nearly 20 years later, the Court reiterated the relevance of that procedure in ***Canadian Broadcasting Corp. v. Named Person***, 2024 SCC 21, para. 90.

[14] At the first stage, the court may proceed *in camera* and, if necessary, *ex parte*, to verify a claim for informer privilege without in any way disclosing even the existence of the claim (***Canadian Broadcasting Corp.***, para. 48).

[15] As a general rule, only the informer and the Crown may attend the hearing at the first stage (***Canadian Broadcasting Corp.***, para. 48). The court may exercise its discretion to expand that "circle of privilege" to include other necessary parties, such as a police officer to testify about the informer's status and *amicus curae* to provide the court guidance (***Canadian Broadcasting Corp.***, para. 48).

[16] Once having established the existence of informer privilege, the court will proceed to the second stage, where the scope of the order necessary to protect the informer's identity will be determined. Here again the court has the discretion, but not the duty, to expand the hearing to include submissions from interested third parties, such as the

media or *amicus curae*, to ensure that the order limits the open court principle no further than is necessary (***Canadian Broadcasting Corp.***, paras. 48-50).

[17] What the Supreme Court of Canada has not addressed is the question of how a party in the position of the plaintiff in this case may initiate an action without disclosing their identity and preserve their anonymity pending the outcome of their motion seeking relief. In Manitoba, that question has been answered to some extent by means of a practice direction issued by the Chief Justice of the Court of King's Bench, "Anonymizing Pleadings and the Contents of Publicly Available Court Records", dated December 10, 2025, a copy of which is appended to these reasons as Appendix "A". That practice direction sets out a procedure which permits a plaintiff to initiate proceedings in Manitoba anonymously, pending a determination of their ultimate right to maintain their anonymity.

DISCUSSION AND DISPOSITION

[18] As noted above, I find that at the times material to the plaintiff's action, they were a confidential informant. The evidence in support of the existence of informer privilege in this case is compelling. Given that finding, the three-part test in ***Sherman*** is satisfied. The ordinary application of the principle of court openness would pose a serious risk to the public's interest in maintaining the plaintiff's confidential informant privilege. In such circumstances, the Supreme Court of Canada has recognized that not only is the issuance of a protective order necessary, but the court is essentially duty-bound to do so (***Named Person***, para. 23).

[19] I have no doubt that maintaining the open court principle in this instance would pose a serious risk to the plaintiff, who has averred in their affidavit reasonable and serious concerns for their safety should their identity be made public. The open court principle must therefore give way to the demands of confidential informer privilege.

[20] I therefore order as follows:

a. the record of the *in camera* portions of the hearing of this matter on October 8, 19 and 21, 2026 and all associated audio recordings shall remain sealed;

b. henceforth, the court shall maintain two files for this proceeding, the first of which shall be publicly available and the second of which shall be sealed;

c. the first file, which shall be publicly available, shall contain copies of all documents filed in the proceeding. However, the plaintiff is granted leave to identify themself in such documents as "A.B.C.", and to redact such portions of those documents and to title them as they consider necessary to prevent the disclosure of any information which may lead to the plaintiff's identification;

d. the second file shall be sealed from all members of the public and shall contain complete, unredacted copies of all documents filed in the first file, including reference to the plaintiff by their full legal name and to documents by their full and proper title. At the time of filing, such documents shall be contained in a sealed envelope with a memorandum affixed directly to the envelope identifying its contents by reference to their description in the first file, and that they are sealed by virtue of this order;

e. the Court Registry and the online Registry shall identify the plaintiff as "A.B.C." and identify documents filed in this proceeding by the description provided by the plaintiff for the purpose of the first, publicly available, file;

f. a publication ban is imposed, prohibiting the publication of any information which might reveal the plaintiff's identity; and

g. this order shall remain in effect pending further order of the court.

[21] I make no order with respect to conducting further hearings in this matter *in camera*. In my opinion, should any party consider it necessary to conduct any particular portion of this proceeding *in camera*, that relief should be sought at the time with leave of the court.

[22] Counsel in both actions agreed before me that it would be appropriate for me to seize myself of this matter and the first action to which I referred at the outset of these reasons in order to ensure that the two files are coordinated in a manner that will guard against the disclosure of the plaintiff's identity. For that reason, an identical order shall issue in respect of that first file.

[23] Finally, the parties may make a formal request for case management in accordance with King's Bench Rule 50.1 (***The Court of King's Bench Rules***, M.R. 553/88) at their convenience.

_____ J.

Appendix "A"

PRACTICE DIRECTION
COURT OF KING'S BENCH OF MANITOBA
GENERAL DIVISION

RE: ANONYMIZING PLEADINGS AND THE CONTENTS OF PUBLICLY AVAILABLE COURT RECORDS

Court proceedings are presumptively open to the public. Nevertheless, in certain exceptional circumstances, the Court may make discretionary orders circumscribing that constitutionalized open court principle by, among other things, ordering a publication ban, sealing order, or anonymizing order.

This practice direction addresses the process by which a plaintiff may, subject to the Court's discretion, seek to have the originating pleadings and related court records anonymized (i.e., for a plaintiff to be identified using the pseudonym "Unnamed Person" rather than their full legal name).

The Court may, at its discretion, make an anonymity order to permit a plaintiff to bring proceedings anonymously in exceptional circumstances where the public interest in open courts is displaced by another important public interest.

The procedure is as follows:

1. At the time of filing the initiating document, the plaintiff seeking to be anonymized shall file two sets of originating documents: one set with the plaintiff's full legal name; one set anonymized using the pseudonym, "Unnamed Person". Where there is more than one plaintiff seeking an anonymity order, each plaintiff should be identified using the pseudonym and numbered sequentially (e.g. "Unnamed Person 1", "Unnamed Person 2", etc.).

2. Accompanying the two sets of originating documents, the plaintiff shall file a Notice of Motion (Form 37A), seeking an order to have the pleadings and related publicly available court record anonymized as described above. The draft order should include the following relief:

    a. That the plaintiff seeking to be anonymized shall be identified to the public in the originating documents and all further documents filed in the proceeding by the pseudonym "Unnamed Person";

b. That the Court registry shall maintain two files for the proceeding: the first of which shall be publicly available and shall contain copies of all filings that have been appropriately anonymized; the second of which shall be sealed from the public and shall contain copies of all filings that identify the plaintiff by their full legal name;

c. That the Court Registry and the online Registry shall identify the plaintiff as "Unnamed Person";

d. That no party to the proceeding or any third party shall publish or broadcast the anonymized plaintiff's full legal name as it relates to the proceeding and shall only publicly identify the plaintiff using the pseudonym "Unnamed Person";

e. That the Affidavit filed by the plaintiff seeking to be anonymized, which has been filed in support of the Motion, shall be sealed from the public and only maintained in the sealed court file, and no party to the proceeding or any third party shall publish or broadcast the contents of said Affidavit.

f. That the Order may be reviewed by the Court upon request of any party to the proceeding or member of the Media and shall remain in force until such further Order of the Court.

3. The originating documents and Notice of Motion must also be submitted with a Memorandum affixed directly to the package of documents directing that the documents be sent to the attention and stored in the office of the Registry Manager's office until such time as the Motion has been heard.

4. The Court Registry shall open the applicable court file with the initialism "T.B.D." (i.e., "to be determined") until such time as the Motion is heard and the matter decided.

5. The anonymized plaintiff shall then serve forthwith upon the defendant(s)/respondent(s), copies of the Notice of Motion, draft Order, Statement of Claim, Affidavit of the Plaintiff in support of their Motion, and the Motion Brief of the Plaintiff in two sets, one of which identifies the plaintiff by their full legal name, and one of which anonymizes the plaintiff using the pseudonym "Unnamed Person".

6. Where the Court, at its discretion, deems it in the public interest to do so, the anonymized plaintiff may also be required to serve upon the Media, by way of the media outlet distribution list as maintained by the Court of King's Bench,

anonymized copies of the Notice of Motion, draft Order, Statement of Claim, Affidavit of the Plaintiff in support of their Motion, and the Motion Brief of the Plaintiff, all using the pseudonym, "Unnamed Person".

7. In the event the Court exercises its discretion in the plaintiff's favour and grants the order sought, the Court Registry shall update the court file accordingly, using the plaintiff's pseudonym, "Unnamed Person", as described above. The set of originating documents that have been anonymized shall be publicly available; the set of originating documents using the plaintiff's full legal name shall be sealed. All future documents filed with the Court in respect of the matter shall be also filed in two sets: one set using the party's full legal name, which shall be deposited in the sealed file; and, one set using the pseudonym, "Unnamed Person", which shall form a part of the publicly available court record.

8. In the event the Court declines to order the anonymization of the pleadings, subject to a request for a stay pending appeal, the Court Registry shall update the court file accordingly, using the plaintiff's full legal name, and shall return the anonymized copies of all documents then filed with the Court to the plaintiff or their counsel. All future documents filed with the Court in respect of the matter shall be filed in the usual course, with the plaintiff's full legal name.

For clarity, if a defendant or respondent is served with an originating pleading that uses the parties' full legal names, and the defendant or respondent seeks to anonymize the pleadings, the defendant or respondent must, with appropriate modification, follow the process as herein described.

This Practice Direction does not apply to orders which are mandated by statute; nor is it intended to limit the Court's inherent jurisdiction to issue a publication ban or sealing order or anonymizing order.

Coming into effect:

This Practice Direction comes into effect immediately.

ISSUED BY:

"Original signed by Chief Justice Joyal"

The Honourable Chief Justice Glenn D. Joyal
Court of King's Bench (Manitoba)

DATE: December 10, 2025