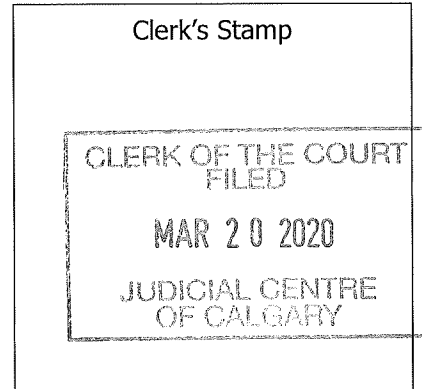


COURT FILE NO. 1901-09160
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY



PLAINTIFFS STEPHEN FLESCH, MARSHAL THOMPSON, TYLER MAKSYMCHUK, AND REID CHAMBERLAIN
DEFENDANTS APACHE CORPORATION, PARAMOUNT RESOURCES LTD., WILLIAM C. MONTGOMERY, ANNEL R. RAY, DANIEL W. RABUN, RENE R. JOYCE, AND CHARLES J. PITMAN

Brought under the Class Proceedings Act

DOCUMENT **STATEMENT OF DEFENCE**
PARTY FILING PARAMOUNT RESOURCES LTD.
THIS DOCUMENT

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
McLENNAN ROSS LLP
#1900, 600 -3 Avenue SW
Calgary, AB T2P 0G5
Lawyer: D. Robb Beeman
Telephone: 403-303-1690
Fax: 403-303-1667
Email: rbeeman@mross.com
File No.: 194016

GALL LEGGE GRANT ZWACK LLP
1000, 1199 West Hastings Street
Vancouver, B.C. V6E 3T5
Lawyer: John A. Legge
Telephone: 604-891-1187
Fax: 604-669-5101
Email: JLegge@glgzlaw.com

Note: State below only facts and not evidence (Rule 13.6).

Statement of facts relied on:

A. Introduction

1. The Defendant, Paramount Resources Ltd. ("**Paramount**") denies each and every allegation set out in the Amended Statement of Claim, unless expressly admitted herein.
2. Paramount admits paragraphs 9 to 11 of the Amended Statement of Claim.

3. This action has not yet been, and may never be, certified as a class proceeding. Paramount reserves all rights to amend its Statement of Defence as needed to address those issues, if any, that are in fact certified as common issues among the parties.

B. The Parties

4. Paramount is a publicly traded Canadian corporation, incorporated in the Province of Alberta, headquartered in Calgary, and is engaged in the oil and natural gas exploration and production business in Canada.
5. The Defendant, Apache Corporation ("**Apache Corp.**") is a publicly traded corporation headquartered in Houston, Texas.
6. Prior to August 16, 2017, Apache Canada Ltd. ("**Apache Canada**") was a privately held subsidiary and affiliate of Apache Corp., with offices and operations in the Province of Alberta.
7. On July 6, 2017, Paramount entered into an agreement to acquire all the shares of Apache Canada (the "**Share Purchase Agreement**"). Effective August 16, 2017 Paramount acquired all of the shares of Apache Canada (the "**Share Acquisition**").
8. Effective January 1, 2018, Apache Canada was amalgamated into Paramount.
9. References to "Apache Canada" herein are to the company prior to the Share Acquisition. References to "Paramount" herein include Apache Canada effective as of the Share Acquisition.

C. The ACL Legacy Employees remained employed by Paramount after the Share Acquisition

10. The employees who were employed by Apache Canada as of the date of the Share Acquisition will be collectively referred to herein as "**ACL Legacy Employees**".
11. All ACL Legacy Employees, including the Plaintiffs, Stephen Flesch, Marshal Thompson, Tyler Maksymchuk and Reid Chamberlain (collectively the "**Plaintiffs**") remained employed by Paramount after the Share Acquisition.
12. After the Share Acquisition:
 - (a) All ACL Legacy Employees' contracts of employment, including their job duties, responsibilities and salaries, continued in full force and effect; and
 - (b) Paramount provided the ACL Legacy Employees with various incentive compensation, including cash bonuses, Paramount restricted stock units and options to acquire Paramount Class A Common Shares (collectively the "**Paramount Incentives**").
13. Each of the Plaintiffs have since retired or resigned from their employment with Paramount. A number of other ACL Legacy Employees are no longer employed by Paramount.

D. Apache Canada Employees' Equity Incentive Agreements with Apache Corp.

14. Apache Corp. had an equity incentive plan (the "**AOCP**") which provided an opportunity for certain employees of Apache and its affiliates (including Apache Canada) to enter into agreements with Apache Corp. (the "**Apache Corp. Equity Incentive Agreements**") to receive the following equity based incentives:

- (a) Stock Options in Apache Corp. ("**Options**");
 - (b) Restricted Stock Units in Apache Corp. ("**RSUs**"); and
 - (c) Performance Awards in Apache Corp. ("**PAs**").
15. The Apache Corp. Equity Incentive Agreements included the following:
- (a) Option agreements and related notices;
 - (b) RSU agreements and related notices; and
 - (c) PA agreements and related notices.
16. The Apache Corp. Equity Incentive Agreements incorporated by reference the provisions of the AOCB.
17. To be eligible to receive the Options, RSUs and/or PAs, a person had to comply with all terms of the Apache Corp. Equity Incentive Agreements including, *inter alia*, (a) being an eligible person under those Agreements, (b) entering into the relevant Agreements, and (c) remaining an eligible person under the relevant Agreements.
18. If the Plaintiffs entered into the Apache Corp. Equity Incentive Agreements (or any of them) with Apache Corp. (which is not known to Paramount), Apache Canada was never a party to any such agreements.

E. The Apache Corp. Equity Incentive Agreements were not part of the employment agreements of ACL Legacy Employees with Apache Canada or Paramount

19. It was a term of each of the Apache Corp. Equity Incentive Agreements that these agreements and any rights that a person had thereunder were not a part of the person's employment agreement with Apache Canada.
20. Paramount specifically denies that the AOCB or the Apache Corp. Equity Incentive Agreements were part of the employment agreements of any of the ACL Legacy Employees, or any other agreement, with Apache Canada or Paramount.
21. Further, and in the alternative, even if the Apache Corp. Equity Incentive Agreements (or any of them) were part of the employment agreements or any other agreement between the ACL Legacy Employees and Apache Canada, which is denied, any rights the ACL Legacy Employees had under those employment agreements or any other agreements related to the Apache Corp. Equity Incentive Agreements were terminated upon completion of the Share Acquisition.

F. Apache Corp. did not breach the Apache Corp. Equity Incentive Agreements

22. Paramount denies that Apache Corp. breached the Apache Corp. Equity Incentive Agreements as alleged, or at all.
23. If Apache Corp. did breach the Apache Corp. Equity Incentive Agreements, which is denied, Paramount specifically denies that it has any liability for any such breach as alleged, or at all.

G. Paramount did not breach the Apache Corp. Equity Incentive Agreements

24. If Paramount was a party to the Apache Corp. Equity Incentive Agreements, whether as part of the employment agreements with the ACL Legacy Employees or any other agreements, all of which is denied, Paramount specifically denies that it breached any of these agreements as alleged, or at all.

H. Paramount did not breach any of the ACL Legacy Employees' employment agreements

25. Paramount specifically denies that it breached the employment agreements of the ACL Legacy Employees as alleged, or at all.
26. If the Apache Corp. Equity Incentive Agreements did form part of the ACL Legacy Employees' employment agreements with Paramount following the completion of the Share Acquisition, which is denied:
- (a) The ACL Legacy Employees expressly or impliedly agreed that their employment agreements would be amended by replacing their rights under the Apache Corp. Equity Incentive Agreements with the Paramount Incentives; and
 - (b) In the alternative, the ACL Legacy Employees lost any rights they may have had against Paramount under the Apache Corp. Equity Incentive Agreements (which rights are denied) prior to the issuance of the within Statement of Claim because of their continued employment with Paramount and the passage of time.

I. Paramount was not unjustly enriched

27. Paramount denies that:
- (a) It has been enriched at the expense of the ACL Legacy Employees; and
 - (b) There has been a corresponding deprivation of the ACL Employees,
- as alleged, or at all.
28. If Paramount was enriched at the expense of the ACL Legacy Employees, which is denied, there is a valid juristic reason for any such enrichment.

I. General

29. Paramount specifically denies that it owed any fiduciary duty to the ACL Legacy Employees concerning any rights they may have had under the Apache Corp. Equity Incentive Agreements as alleged, or at all.
30. If Paramount did owe a fiduciary duty to the ACL Legacy Employees concerning any rights they may have had under the Apache Corp. Equity Incentive Agreements, which is denied, Paramount specifically denies that it breached any such obligation.
31. Paramount pleads that at all material times it conducted itself in good faith and it has not engaged in any deliberate, malicious, arbitrary, callous or wanton, high-handed conduct with a flagrant disregard as alleged, or at all.

32. Paramount specifically denies that the Plaintiffs, or any ACL Legacy Employee, have suffered any damages for which it is, in law, liable.
33. In the alternative, if Paramount is liable to the Plaintiffs or any of the ACL Employees and they suffered damages as a result, all of which is denied:
 - (a) The damages claimed by the Plaintiffs on their own behalf and on behalf of the ACL Legacy Employees are excessive, too remote and not recoverable at law; and
 - (b) In the alternative, the Plaintiffs and the ACL Legacy Employees have failed to take all reasonable steps to mitigate any such damages.

J. This is not an appropriate case for a class action to be certified by this Honourable Court

34. If Paramount is liable to the Plaintiffs or the ACL Legacy Employees as alleged, or at all, which is denied, this is not an appropriate dispute to be certified as a class action by this Honourable Court for, *inter alia*, the following reasons:
 - (a) There are no common issues capable of being determined on a class wide basis that would sufficiently advance this litigation to justify this Action being certified as a Class Action;
 - (b) The determination of whether there was a breach of each ACL Legacy Employee's employment agreement requires a highly individualized inquiry, lacks commonality and requires an assessment and analysis of each employee's position, tenure, any change in their compensation and whether the employee accepted or condoned that change in their individual contract of employment; and
 - (c) The ACL Legacy Employees are not entitled to damages assessed on an aggregate basis.
35. Paramount pleads and relies upon the *Class Proceeding Act*.

Remedy sought:

36. Paramount therefore requests an Order dismissing this action with costs on a substantial indemnity basis or an amount that provides full indemnity to Paramount.