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Let the within  
Amended Civil Notice of Appeal  
be filed.

COURT OF APPEAL OF ALBERTA  
FORM AP-1  
[RULES 14.8 AND 14.12]



*J. Baptiste*  
Lauree Baptiste  
Case Management Officer  
Dated: July 26, 2021

COURT OF APPEAL FILE NUMBER 2101-0209AC  
TRIAL COURT FILE NUMBER 1901-09160  
REGISTRY OFFICE Calgary



PLAINTIFFS: STEPHEN FLESCH, MARSHAL THOMPSON, TYLER MAKSYMCHUK  
and REID CHAMBERLAIN

STATUS ON APPEAL: RESPONDENTS

DEFENDANTS: APACHE CORPORATION, ~~PARAMOUNT RESOURCES LTD.~~,  
WILLIAM C. MONTGOMERY, ANNELL R. BAY, DANIEL W. RABUN,  
RENE R. JOYCE AND CHARLES J. PITMAN

STATUS ON APPEAL: APPELLANTS

DEFENDANT: PARAMOUNT RESOURCES LTD.

STATUS ON APPEAL: NOT PARTY TO THE APPEAL

**AMENDED CIVIL NOTICE OF APPEAL OF THE DEFENDANTS:**  
**APACHE CORPORATION, WILLIAM C. MONTGOMERY, ANNELL  
R. BAY, DANIEL W. RABUN, RENE R. JOYCE and CHARLES J.  
PITMAN**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PARTY FILING THIS  
DOCUMENT

**Jensen Shawa Solomon Duguid Hawkes LLP**  
800, 304 - 8 Avenue SW  
Calgary, Alberta T2P 1C2

Andrew Wilson  
Charlotte Stokes  
Tel: 403 571 1520  
Fax: 403 571 1528

**WARNING**

To the Respondent: If you do not respond to this appeal as provided for in the Alberta Rules of Court, the appeal will be decided in your absence and without your input.

**1. Particulars of Judgment, Order or Decision Appealed From:**

Date pronounced: June 25, 2021  
Date entered: N/A  
Date served: N/A  
Official neutral citation of reasons for decision, if any: (do not attach a copy) *Flesch v Apache Corporation*, 2021 ABQB 491

**2. Indicate where the matter originated:**

**Court of Queen's Bench**

Judicial Centre: Calgary  
Justice: The Honourable Justice G.H. Poelman  
On appeal from a Queen's Bench Master or Provincial Court Judge?: Yes:  No:   
Official neutral citation of reasons for decision, if any: (do not attach a copy) *Flesch v Apache Corporation*, 2021 ABQB 491

**Board, Tribunal or Professional Discipline Body**

Specify Body: N/A

**3. Details of Permission to Appeal, if required (Rules 14.5 and 14.12(3)(a)).**

Permission Not Required OR  Granted:  
Date: N/A  
Justice: N/A

**4. Portion being appealed (Rule 14.12(2)(c)):**

Whole, or  
 Only Specific Parts (if specific part, indicate

which part):

**5. Provide a brief description of the issues:**

It is respectfully submitted that the Honourable Justice G.H. Poelman erred in law, or alternatively, in mixed fact and law, by:

(a) The Honourable Justice G.H. Poelman's decision to certify the Respondents' claim as a class proceeding under the *Class Proceedings Act*, SA 2003, c C-16.5 including in concluding, *inter alia*, that:

- (i) The claims of the Respondents raised a common issue against Apache Corporation, William C. Montgomery, Annell R. Bay, Daniel W. Rabun, Rene R. Joyce and Charles J. Pitman;
- (ii) A class proceeding is the preferable procedure for the fair and efficient resolution of any common issues raised against Apache Corporation, William C. Montgomery, Annell R. Bay, Daniel W. Rabun, Rene R. Joyce and Charles J. Pitman (which common issues are denied);
- (iii) The questions of fact or law common to the prospective class members against Apache Corporation, William C. Montgomery, Annell R. Bay, Daniel W. Rabun, Rene R. Joyce and Charles J. Pitman predominate over questions affecting only individual class members;
- (iv) The administration of a class proceeding would not create greater difficulties than those likely to be experienced if relief against Apache Corporation, William C. Montgomery, Annell R. Bay, Daniel W. Rabun, Rene R. Joyce and Charles J. Pitman were sought by other means; and
- (v) A class action against Apache Corporation, William C. Montgomery, Annell R. Bay, Daniel W. Rabun, Rene R. Joyce and Charles J. Pitman advances the policy objectives of access to justice, judicial economy and behaviour modification.

(b) In addition or alternatively, the Honourable Justice G.H. Poelman erred in framing and identifying the common issues as he did, and that such common issues should properly be narrowed and re-framed by this Honourable Court.

**6. Provide a brief description of the relief claimed:**

An order that:

- (a) The within Appeal be allowed;

- (b) The decision of the Honourable Justice G.H. Poelman be overturned;
- (c) The Respondents' application for certification of the action against Apache Corporation, William C. Montgomery, Annell R. Bay, Daniel W. Rabun, Rene R. Joyce and Charles J. Pitman be dismissed;
- (d) Alternatively, the common issues be narrowed and re-framed;
- (e) Costs be granted in favour of the Appellants for this Appeal and for the proceedings below; and
- (f) Such further and other relief as may be granted to the Appellants during the course of this Appeal.

7. **Is this appeal required to be dealt with as a fast track appeal? (Rule 14.14)**

Yes  No

8. **Does this appeal involve the custody, access, parenting or support of a child? (Rule 14.14(2)(b))**

Yes  No

9. **Will an application be made to expedite this appeal?**

Yes  No

10. **Is Judicial Dispute Resolution with a view to settlement or crystallization of issues appropriate? (Rule 14.60)**

Yes  No

11. **Could this matter be decided without oral argument? (Rule 14.32(2))**

Yes  No

12. **Are there any restricted access orders or statutory provisions that affect the privacy of this file? (Rules 6.29, 14.12(2)(e),14.83)**

Yes  No

13. **List respondent(s) or counsel for the respondent(s), with contact information:**

**Counsel for the Plaintiffs / Respondents, Stephen Flesch, Marshal Thompson, Tyler Maksymchuk and Reid Chamberlain**

David Rosenfeld

Koskie Minsky LLP  
900-20 Queen Street West  
Toronto, ON, M5H 3R3  
drosenfeld@kmlaw.ca

Eugene Bodnar  
Scott Venturo Rudakoff LLP  
1500, 222 3 Avenue SW  
Calgary, AB, T2P 0B4  
g.bodnar@svrlawyers.com

**Counsel for the Co-Defendant / Co-Appellant, Paramount Resources Ltd.**

Robb Beeman  
McLennan Ross LLP  
1900, 600 3 Avenue SW  
Calgary, AB T2P 0G5  
rbeeman@mross.com

John Legge  
Gall Legge Grant Zwack LLP  
1000, 1199 West Hastings Street  
Vancouver, BC, V6E 3T5  
jlegge@glgzlaw.com

**14. Attachments (check as applicable)**

Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3))

Copy not attached. Filed copy will be provided when available.

Earlier order of Master, etc. (Rule 14.18(1)(c))

Order granting permission to appeal (Rule 14.12(3)(a))

Copy of any restricted access order (Rule 14.12(2)(e))

*If any document is not available, it should be appended to the factum, or included elsewhere in the appeal record.*