

COURT OF APPEAL OF ALBERTA

Form AP-1
[Rules 14.8 and 14.12]

COURT OF APPEAL FILE NUMBER: 2101-0208AC

TRIAL COURT FILE NUMBER: 1901-09160

REGISTRY OFFICE: CALGARY

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



FIAT

STATUS ON APPEAL: RESPONDENTS

DEFENDANT: PARAMOUNT RESOURCES LTD.

STATUS ON APPEAL: APPELLANT

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

DOCUMENT: NOT PARTY TO THE APPEAL
AMENDED CIVIL NOTICE OF APPEAL OF THE DEFENDANTS, PARAMOUNT RESOURCES LTD.

APPELLANTS' ADDRESS FOR SERVICE AND CONTACT INFORMATION: For the Appellant, Paramount Resources Ltd. ("**Paramount**"):

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Let the within Amended Civil Notice of Appeal be filed.

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

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: 2021 ABQB 491

(Attach a copy of order or judgment: Rule 14.12(3). If a copy is not attached, indicate under item 14 and file a copy as soon as possible: Rule 14.18(2).)

2. Indicate where the matter originated:**Court of Queen's Bench**

Judicial Centre: Calgary

Justice: Honourable Mr. Justice G. H. Poelman

On appeal from a Queen's Bench Master or Provincial Court Judge?

No

Official neutral citation of reasons for decision, if any, of the Master or Provincial Court Judge: (do not attach copy) N/A

(If originating from an order of a Queen's Bench Master or Provincial Court Judge, a copy of that order is also required: Rule 14.18(1)(c).)

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

Permission not required

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

Whole

5. Provide a brief description of the issues:

The lower court erred in:

- (a) Its 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 Amended Statement of Claim disclosed a cause of action against Paramount;
 - (ii) The claims of the Respondents raised a common issue against Paramount;

- (iii) A class proceeding is the preferable procedure for the fair and efficient resolution of any common issues raised against Paramount (which common issues are denied);
 - (iv) The questions of fact or law common to the prospective class members against Paramount predominate over questions affecting only individual class members;
 - (v) The administration of the class proceeding would not create greater difficulties than those likely to be experienced if relief against Paramount were sought by other means; and
 - (vi) A class action against Paramount advances the policy objectives of access to justice, judicial economy and behaviour modification; and
- (b) The common issues it identified.

6. Provide a brief description of the relief claimed:

An order that:

- (a) The within Appeal be allowed;
- (b) The decision of the Honourable Mr. Justice G.H. Poelman be overturned;
- (c) The Respondents' application for certification of the action against Paramount be dismissed;
- (d) Costs be granted in favour of the Appellants for this Appeal and for the proceedings below; and
- (e) 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)

No

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

No

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

No

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

No

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

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:

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If specified constitutional issues are raised, service on the Attorney General is required under s. 24 of the Judicature Act: Rule 14.18(1)(c)(viii).

14. Attachments (check as applicable)

Order or judgment under appeal if available (not reasons for decision) (Rule 14.12(3)):
Not yet entered.

Earlier order of Master, etc. (Rule 14.18(1)(c)): N/A.

Order granting permission to appeal (Rule 14.12(3)(a)): N/A.

Copy of any restricted access order (Rule 14.12(2)(e)): N/A

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