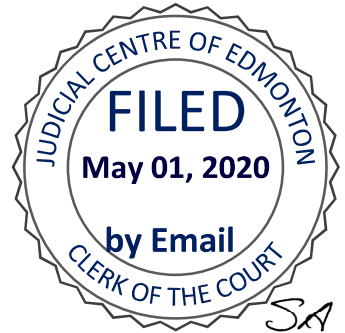


Clerk's stamp:



COURT FILE NUMBER: 2003 02258

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE: EDMONTON

PLAINTIFFS: BARBARA RYAN and COLD LAKE ESTATES INC.

DEFENDANTS: PRESTIGIOUS PROPERTIES KINGS CASTLE GP INC.,  
carrying on business under the firm name and style of  
KINGS CASTLE LIMITED PARTNERSHIP and  
PRESTIGIOUS INVESTMENT AND MANAGEMENT  
(PRISM)-A INC., carrying on business under the firm  
name and style of PRESTIGIOUS INVESTMENT AND  
MANAGEMENT (PRISM)-A LIMITED PARTNERSHIP

DOCUMENT: **STATEMENT OF DEFENCE**

ADDRESS FOR SERVICE AND CONTACT  
INFORMATION OF PERSON FILING THIS  
DOCUMENT:

**Field LLP**  
Barristers and Solicitors  
2500- 10175 101 Street NW  
Edmonton, AB T5J 0H3  
Ph: (780) 423-9591  
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**Attention: Sharon A. Roberts**  
File No. 70103-1

**Statement of facts relied on:**

1. The Defendant, PRESTIGIOUS PROPERTIES KINGS CASTLE GP INC. ("**Kings Castle GP**"), carrying on business under the firm name and style of KINGS CASTLE LIMITED PARTNERSHIP ("**Kings Castle LP**"), and the Defendant, PRESTIGIOUS INVESTMENT AND MANAGEMENT (PRISM)-A INC. ("**PRISM-A GP**"), carrying on business under the firm name and style of PRESTIGIOUS INVESTMENT AND MANAGEMENT (PRISM)-A LIMITED PARTNERSHIP ( "**PRISM-A**

LP”), respectively deny each and every allegation in the Statement of Claim, except as expressly admitted herein.

### Parties

2. PRISM-A LP is a limited liability partnership controlled by its general partner, PRISM-A GP.
3. Kings Castle LP is a limited liability partnership controlled by its general partner, Kings Castle GP.
4. So far as is known to the Defendants, Barbara Ryan, is a resident of Alberta and was at all material times the spouse of Charles Ryan.
5. So far as is known to the Defendants, Cold Lake Estates Inc. (“CLE”) is a body corporate incorporated pursuant to the laws of the Province of Alberta, which at all material times was and is owned, operated, directed and/or controlled by Charles Ryan.

### **Any matters that defeat the claim of the plaintiffs:**

6. As set out with greater particularity below, the Amended Statement of Claim represents an attempt by Barbara Ryan, CLE and Charles Ryan (through CLE) to bring claims relating to alleged harm, which is denied, that was known to them more than two years before the filing of this Statement of Claim on January 30, 2020 and/or that were previously litigated by Barbara Ryan and CLE or its directing mind, Charles Ryan, in or before June 2017, and in relation to which this Honourable Court made binding determinations that were not appealed by Barbara Ryan and/or CLE or filed a Partial Discontinuance and/or that for the reasons note below are without merit and, further, are an abuse of the processes of the Court, frivolous and/or vexatious and ought to be struck summarily.

### Previous Litigation History

7. Charles Ryan was the sole shareholder and director of Cold Lake Estates in 2015, when Cold Lake Estates brought a civil action against PRISM-A by its Limited Partnership (“PRISM-A

LP”) and Kings Castle by its Limited Partnership (“**Kings Castle LP**”) in Court of Queen’s of Alberta Bench File Number 1503 13545 (the “**2015 CLE Action**”).

8. By consolidation Order granted February 26, 2016 and filed March 16, 2016, the 2015 CLE Action and Court of Queen’s Bench Files 1503 08440 and 1503 09321 were consolidated into Court of Queen’s Bench File 1603 04928 (the “**2016 Consolidated Action**”).

9. As part of the 2016 Consolidated Action, the 2015 CLE Action became a Counterclaim by CLE as against PRISM-A LP and Kings Castle LP (the “**2016 CLE Counterclaim**”). The 2016 CLE Counterclaim was filed in Queen’s Bench File 1603 06360 in error rather than in Queen’s Bench File 1603 04928, the 2016 CLE Consolidated Action.

10. On April 17, 2016 the Court of Queen’s Bench of Alberta granted a without-notice attachment order directing the attachment of real property held in the names of Barbara Ryan, Cold Lake Estates and Charles Ryan (the “**Attachment Order**”).

11. CLE brought an application to compel PRISM-A LP and Kings Castle LP to post security in the event damages were owing to CLE in the 2016 Consolidated Action with respect to the Attachment Order (the “**CLE Security for Damages Application**”).

12. On February 1, 2018, the Court of Queen’s Bench of Alberta issued Reasons for Decision in the Consolidated Action pertaining, in part, to an application by CLE, Barbara Ryan and Charles Ryan to set aside the Attachment Order and the CLE Security for Damages Application, among other things. In its Reasons for Decision, the Court:

a. Vacated the Attachment Order, noting reasons that included:

i. The only one of seven parcels of lands transferred to Barbara Ryan in December 2015 (collectively, the “**Transferred Lands**”) to which the Attachment Order remained registered in June 2017 was the home residence of Barbara Ryan and Charles Ryan (the “**Ryan Home Property**”);

- ii. Charles Ryan gave as his reason for causing the transfers of the Transferred Lands multiple debts owing to Servus Credit Union (“**Servus**”), on which Servus had made demand for payment following which Charles Ryan had caused the sale of some lands to pay down the loans called by Servus, but Servus had applied payments in a priority not acceptable to Barbara Ryan;
  - iii. Barbara Ryan demanded complete control over the Transferred Lands and, by June 2017, had sold all but the Ryan Home Property, in consideration for which she voluntarily agreed to assume all liabilities in respect of the Transferred Lands;
  - iv. Apart from the assumption of liabilities estimated by Charles Ryan to be in excess of \$4,000,000 at the time the Transferred Lands were acquired by Barbara Ryan, the only consideration Barbara Ryan gave for each of those transfers was nominal cash;
  - v. By June 2017, Barbara Ryan had caused six of the seven Transferred Lands to be sold (collectively, the “**Sold Lands**”) and had paid down the Servus debts to \$826,496.84, which remained registered as a mortgage against the Ryan Home Property;
- b. Dismissed the CLE Security for Damages Application against PRISM-A LP and Kings Castle LP on the basis that it was moot; and
  - c. Awarded CLE, Barbara Ryan and Charles Ryan costs for their application to set aside the Attachment Order.
13. On June 29, 2018 a Partial Discontinuance of Counterclaim was filed in the Consolidated Action, by which CLE discontinued its 2016 CLE Counterclaim against PRISM-A and Kings Castle in the Consolidated Action, which had incorporated and included the Attachment Order and in which action the application to vacate it was resolved (the “**CLE Discontinuance**”).

The Plaintiffs' claims are untenable and/or barred by statute or equitable doctrines

14. Servus' demand on its loans was made in 2015, months before the Transferred Lands were acquired by Barbara Ryan, and many months before the Attachment Order was issued. Similarly, Barbara Ryan's sale of the Sold Lands occurred before June 20, 2017.

15. If Servus declined to extend credit to the Plaintiffs, or either of them, as a result of the Attachment Order, which is denied, that fact and any corresponding consequences of it were known to Barbara Ryan and CLE or its directing mind, Charles Ryan, more than two years before this action was commenced on January 31, 2018

16. Specifically, CLE remains an active Alberta corporation on the provincial registry and any losses or cessation of operations it experienced as a result of the April 2016 issuance and registration of the Attachment Order would have crystallized by June 2017, when it, Charles Ryan and Barbara Ryan brought their application to vacate the Attachment Order.

17. Further, insofar as CLE alleges it ceased to operate in 2016 and 2017, as set out in paragraph 7 of the Amended Statement of Claim, those losses were known to CLE by no later than December 31, 2017 and, as such, are out of time and barred by operation of the *Limitations Act*, RSA 2000, c L-12, and the doctrines of estoppel, laches, waiver and/or acquiescence, all of which the Defendants plead and rely upon.

18. Further, any alleged loss of profits on the sale of the Sold Lands, which is denied, crystallized and were known to Barbara Ryan by 2017. As such, all claims relating to a loss of profits from the sale of the Sold Lands are out of time and barred by operation of the *Limitations Act*, RSA 2000, c L-12, and the doctrines of estoppel, laches, waiver and/or acquiescence, all of which the Defendants plead and rely upon.

19. Further, or in the alternative, Barbara Ryan voluntarily sold to dispose of the Sold Lands and/or did so as a function of her voluntary assumption of liabilities upon acquisition of the Transferred Lands, which included an obligation to service the Servus debts, and otherwise were the result of her overarching desire to protect and preserve the Ryan Home Property and

not, as alleged in the Amended Statement of Claim, caused by or otherwise a result of the Attachment Order.

20. Further, or in the alternative, the Defendants deny that the Sold Lands were sold for “less than they were worth”. If Barbara Ryan suffered any loss in her voluntary sale of the Sold Lands, as alleged in paragraph 6(a) of the Amended Statement of Claim, such loss was a function of her administration of the assets and liabilities she voluntarily assumed in acquiring the Transferred Lands.

21. The Defendants deny that Barbara Ryan paid legal fees of \$60,000.00 to remove the Attachment Order or, alternatively, if she did incur such expenses, that fact was known to her by June 2017 and determined by the Court in its Reasons for Decision filed February 1, 2018 and, as such, any claim for indemnification costs (i.e., recovery of legal fees) is *res judicata* and/or barred by the equitable doctrines of estoppel and laches insofar as costs were sought from, and determined by, the Court, as set out in the Reasons for Decision filed February 1, 2018 in the Consolidated Action.

22. Further, or in the alternative, Barbara Ryan’s claim for legal fees from an application argued in June 2017 and determined on February 1, 2018 is frivolous, vexatious, and an abuse of the processes of the Court and ought to be struck summarily with costs payable throughout to the Defendants insofar as Barbara Ryan was a party to the costs award made payable under the decision to vacate the Attachment Order and is not properly a damages claim against non-parties to that Order.

23. The Defendants further deny that CLE paid legal fees of \$185,432.91 for wrongs alleged to have been committed by the Defendants. If CLE did pay legal fees in the alleged amount, which is denied, or at all, it did so prior to January 30, 2018, meaning more than two years before the Statement of Claim commencing this action was filed and, as such, this claim is also out of time and barred by operation of the *Limitations Act*, RSA 2000, c L-12, and the doctrines of estoppel, laches, waiver and/or acquiescence, all of which the Defendants plead and rely upon.

24. Further, or in the alternative, the Plaintiffs are or ought to be estopped from advancing the within action as against PRISM-A LP by PRISM-A GP (collectively, “**PRISM-A**”) and Kings Castle LP by Kings Castle GP (collectively, “**Kings Castle**”), or otherwise, on the basis that:

- a. This action is a collateral attack on the findings of this Court set out in Reasons for Decision filed February 1, 2018 pursuant to a hearing on June 20 and 22, 2017;
- b. This action is a collateral attack on the CLE Discontinuance, whereby CLE abandoned its claims including claims for damages as against Kings Castle LP and PRISM-A LP and, vicariously, their respective general partners;
- c. The within action is an attempt to re-litigate matters before the Court in the Consolidated Action and/or other actions and, as such, is an abuse of the Court’s processes, vexatious and an improper use of court and party resources warranting sanction;
- d. This action is otherwise an abuse of the Court’s process, or subject to equitable doctrines of laches, estoppel, waiver and/or acquiescence, including on the facts and for the grounds set out above; and
- e. On such other bases as may be proven at trial.

25. Finally, the Defendants deny the Plaintiffs suffered the damages alleged in the Amended Statement of Claim, state that said damages are inflated and have no, or no sufficient, causal connection to events giving rise to harm that were not known to the client before January 30, 2018 and otherwise are a result of the Plaintiffs’ failure to mitigate their respective losses and not attributable to or compensable by the Defendants.

**Remedy sought:**

26. The Defendants ask that the Amended Statement of Claim be dismissed, summarily or otherwise, with full indemnification costs payable by the Plaintiffs to the Defendants throughout.