



COURT FILE NUMBER 1801-10960
COURT COURT OF QUEEN'S BENCH OF ALBERTA
JUDICIAL CENTRE CALGARY

PLAINTIFFS PRICEWATERHOUSECOOPERS INC., LIT, in its capacity as the TRUSTEE IN BANKRUPTCY OF SEQUOIA RESOURCES CORP. and not in its personal capacity

DEFENDANTS PERPETUAL ENERGY INC., PERPETUAL OPERATING TRUST, PERPETUAL OPERATING CORP., and SUSAN RIDDELL ROSE

DOCUMENT **AMENDED, AMENDED APPLICATION FOR SUMMARY DISMISSAL AND STRIKING PLEADINGS**

PARTIES FILING THIS DOCUMENT SUSAN RIDDELL ROSE (**ROSE**)

ADDRESS FOR SERVICE AND CONTACT INFORMATION OF PARTY FILING THIS DOCUMENT
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NOTICE TO PLAINTIFF:

This application is made against you. You are the respondent.

You have the right to state your side of this matter before the judge.

To do so, you must be in Court when the application is heard as shown below:

| | |
|-------------|--|
| DATE | <u>November 8, 2018</u> |
| TIME | <u>10:00 A.M. – Commercial List</u> |
| WHERE | <u>Calgary Courts Centre</u> |
| BEFORE WHOM | <u>The Honourable Justice B. Nixon</u> |

Go to the end of this document to see what else you can do and when you must do it.

Remedy claimed or sought:

1. Rose seeks orders:
 - (a) summarily dismissing this action against her pursuant to Rule 7.3;
 - (b) in the alternative, striking this action against Rose pursuant to Rule 3.68;
 - (c) that the Plaintiff pay to Rose her costs of this application and this action on a full indemnity basis or on such scale as this Honourable Court determines to be just; and
 - (d) granting such other relief that this Honourable Court determines to be just.

Grounds for making this application:

2. Rose repeats and relies upon the grounds set out in the **Amended** Application for Summary Dismissal **and to Strike** of the Perpetual Defendants filed **October 19, 2018**, and incorporates herein the terms defined in her Statement of Defence filed August 27, 2018.
3. In addition:
 - a) the Plaintiff has no authority or standing to maintain the allegations of breaches of fiduciary duty and duty of care, and the allegations disclose no reasonable cause of action; and
 - b) by virtue of the Resignation and Mutual Release Agreement, PwC is barred and estopped from making the claims against Rose in this proceeding.
4. **Regarding the Plaintiff's claim against Rose for breach of fiduciary duty and oppression as pleaded in paragraphs 15-17 and 18-20 of the Statement of Claim, Rose applies to strike such pleadings pursuant to Rule 3.68.**

Material or evidence to be relied on:

5. Affidavit of Susan Riddell Rose, to be filed.

6. Pleadings and proceedings herein.
7. Such other materials as counsel advises and this Honourable Court admits.

Applicable Rules:

8. Rules 3.68 and 7.3 of the *Alberta Rules of Court*, Alta. Reg. 124/2010.

Applicable Acts and Regulations:

9. The *Bankruptcy and Insolvency Act* (Canada), s. 96.
10. The *Business Corporations Act* (Alberta), ss. 239(b)(iv), 242.
11. The *Responsible Energy Development Act*, S.A. 2012, c. R-17.3, the *Oil and Gas Conservation Act*, RSA 2000, c. O-6, and the regulations and directives promulgated thereunder.

How the application is proposed to be heard or considered:

12. Orally.

WARNING

If you do not come to Court either in person or by your lawyer, the Court may give the applicant(s) what they want in your absence. You will be bound by any order that the Court makes. If you want to take part in this application, you or your lawyer must attend in Court on the date and at the time shown at the beginning of the form. If you intend to rely on an affidavit or other evidence when the application is heard or considered, you must reply by giving reasonable notice of the material to the applicant(s).