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COURT COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE DRUMHELLER

PLAINTIFF JESSICA ERNST

DEFENDANTS ENCANA CORPORATION, ENERGY RESOURCES CONSERVATION  
BOARD and HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA

DOCUMENT BRIEF OF ARGUMENT ON THE SPECIAL APPLICATION TO STRIKE  
PARAGRAPHS FROM THE FRESH STATEMENT OF CLAIM

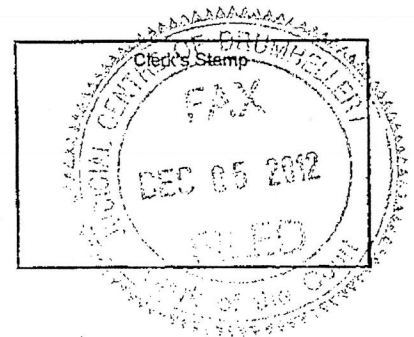
JUSTICE CHAMBERS – JANUARY 18, 2013

PARTY FILING THIS DOCUMENT THE DEFENDANT, HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

Alberta Justice – Civil Litigation  
#1710, 639 – 5<sup>th</sup> Avenue S.W.  
Calgary, AB T2P 0M9

Lawyers: Neil R. Boyle and Nancy A. McCurdy  
Phone: (403) 297-3790  
Fax: (403) 662-3824  
Email: [nancy.mccurdy@gov.ab.ca](mailto:nancy.mccurdy@gov.ab.ca)



ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
PLAINTIFF COUNSEL

Klippensteins  
Barristers & Solicitors  
160 John St., Suite 300  
Toronto, Ontario M5V 2E5  
Tel: (416) 598-0288  
Fax: (416) 598-9520

Lawyers: **Murray Klippenstein and W. Cory Wanless J.D.**  
Email: Cory.Wanless@klippensteins.ca

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
DEFENDANT  
COUNSEL ENCANA

Osler, Hoskin & Harcourt LLP  
Barristers and Solicitors  
450 0 1<sup>st</sup> St., SW, Suite 2500  
Calgary, Alberta T2P 5H1  
Tel: (403) 260-7003  
Fax: (403) 260-7024

Lawyers: **Maureen Killoran and Thomas Gelbman**  
Email: MKilloran@osler.com

ADDRESS FOR  
SERVICE AND  
CONTACT  
INFORMATION OF  
DEFENDANT  
COUNSEL ENERGY  
RESOURCES  
CONSERVATION  
BOARD

Jensen Shawa Solomon LLP  
Barristers304 – 8<sup>th</sup> Ave. SW, Suite 800  
Calgary, AB T2P 1C2  
Tel: (403) 571-1520  
Fax: (403) 571-1528

Lawyer: **Glenn Solomon, Q.C.**  
Email: gsolomon@jssbarristers.ca

## TABLE OF CONTENTS

I.	NATURE OF RELIEF SOUGHT .....	4
II.	BACKGROUND... ..	4
III.	ISSUE .....	5
IV.	APPLICABLE LAW .....	5
V.	ARGUMENT .....	8
VI.	RELIEF SOUGHT .....	18
VII.	LIST OF AUTHORITIES .....	19

## **I. NATURE OF RELIEF SOUGHT**

1. The Applicant, Her Majesty the Queen in Right of Alberta ("the Province"), seeks to strike out specific paragraphs of the Fresh Statement of Claim filed in the Judicial Centre of Drumheller Court File No. 0702-00120 on June 25, 2012.

2. Specifically, the Province seeks to strike out paragraphs 64, 65, 66, 67, 69, 70, 72, 74, 75, 77, 79, 84 and 85 of the Plaintiff's Fresh Statement of Claim ("the paragraphs in issue"), or portions of those paragraphs, on the basis that those paragraphs, or portions thereof, are frivolous, irrelevant or improper or are otherwise an abuse of the process and do not comply with the *Alberta Rules of Court* or the intention of the *Alberta Rules of Court*.

3. The paragraphs in issue identified by the Province relate primarily to the claims against the Province and do not identify any deficiencies in the claims against the Defendant, Encana Corporation ("Encana"), as identified in section II (A) of the Fresh Statement of Claim or the Defendant, Energy Resources Conservation Board ("ERCB"), as identified in section II (B) of the Fresh Statement of Claim.

## **II. BACKGROUND**

4. On December 3, 2007, the Plaintiffs, Jessica Ernst and 611640 Alberta Inc. d.b.a. Ernst Environmental Services, filed a 79 paragraph, 19 page Statement of Claim against Encana Corporation, Alberta Energy and Utilities Board, Neil McCrank, Jim Reid, Alberta Environment, Kevin Pilger, Alberta Health and Wellness and Her Majesty the Queen in Right of Alberta alleging among other things that Encana's coal bed methane activities negatively affected the Plaintiffs' groundwater and land and the Government of Alberta, specifically the Energy and Utilities Board, Alberta Environment and Alberta Health and Wellness failed to properly monitor and regulate Encana's activities. The Plaintiffs claimed damages against the Defendants in excess of \$300 million dollars.

5. On April 21, 2011, counsel for the Plaintiffs filed a 257 paragraph, 73 page Amended Statement of Claim which removed 611640 Alberta Inc. d.b.a. Ernst Environmental Services as Plaintiffs and removed Neil McCrank, Jim Reid, Kevin Pilger,



Alberta Environment and Alberta Health and Wellness as Defendants and substituted the Energy Resources Conservation Board for the Alberta Utilities Board. The Amended Statement of Claim's "Table of Contents" summarized the Plaintiff's allegations against the Defendants which included but were not limited to the contamination of the Plaintiff's well water by Encana's drilling activities, the failure of Alberta Energy and Utilities Board to properly monitor and regulate Encana's activities and the failure of Alberta Environment to properly monitor and regulate Encana's activities. The Plaintiff reduced the damages claimed against all of the Defendants from over \$300 million to approximately \$33 million.

6. On February 7, 2012, counsel for the Plaintiff filed a 69 page Second Amended Statement of Claim which removed paragraphs 13, 15, 18, 30, 32, 37, 39-41, 53-55, 57, 59, 60, 61, 63, 65, 66, 75, 212, 214 and 221, and revised paragraphs 17, 31, 58, 64, 94, 95, 98, 99, 165, 167, 213, 215, 219, 222 and 223.

7. Following an application by all of the Defendants and the Order of the Honourable Justice Veldhuis on April 26, 2012, the Plaintiff filed a Fresh Statement of Claim on June 25, 2012.

### **III. ISSUE**

8. The only issue in the Province's application is, should the paragraphs at issue in the Plaintiff's Fresh Statement of Claim be struck out on the grounds that they are frivolous, irrelevant or improper?

### **IV. APPLICABLE LAW**

#### **General Requirements of Pleadings**

9. A pleading **must** be succinct and **must** contain only the relevant facts on which a party relies, but not the evidence by which those facts are to be proved.

Rule 13.6(1)(a) and Rule 13.6(2)(a), *Alberta Rules of Court*  
**TAB 1**

10. Pleadings which are prolix, plead evidence, include irrelevant or immaterial allegations are improper.

*Donaldson v. Bibby*, 2009 CarswellAlta 249 (Q.B.) at para 50.

11. Prolix pleadings are not intended to be the result of the new *Alberta Rules of Court*. “The opposite is intended. Get to the issues and get them resolved fairly, but quickly and economically”.

*Donaldson v. Farrell*, 2011 ABQB 11 at para 28

TAB 3

12. Pleadings which go beyond a summary of the facts or are argumentative should not be pleaded.

*G. (A.J.) v. Alberta*, 2006 CarswellAlta 784 (Q.B.) at paras 22 and 23.

TAB 4

13. In both *Mikisew Cree First Nation v. Canada*, 1997 CarswellAlta 927 (Q.B.) and *K. v. K. (E.)*, 2004 CarswellAlta 331 (Q.B.), a decision that followed *Mikisew*, this Court provided several specific examples of paragraphs that ought to be struck from a Statement of Claim. These include:

- a. Allegations or facts so removed from the issues in the claim that to allow them to stand would unduly embarrass the fair trial of the action. In doing so, going beyond merely complex issues, and venturing into subjects that would not be relevant to the matters in issue: *Mikisew* at paragraphs 10 and 11;
- b. Not pleading any facts to provide founding for an allegation. As such, the allegation is virtually impossible to prove or disprove and so unduly onerous: *Mikisew* at paragraph 15;
- c. Similar fact evidence that is irrelevant and embarrassing (does not refer to the incidents at issue) and would unnecessarily prolong the trial. It is impossible to rely upon the harm done to others through similar facts, this would necessitate discovery of parties unrelated to the action and could potentially result in a windfall to a single plaintiff for wrongs done to others: *Mikisew* at paragraph 16 and *K. v. K. (E.)* at paragraph 83;
- d. Argumentative statements, attributing a motive for which no factual basis has been plead, are embarrassing: *Mikisew* at paragraph 23;
- e. Portions that are purely evidentiary: *Mikisew* at paragraph 25;

- f. Delving into legislative policy in a manner that leads to a myriad of issues that are irrelevant, clearly embarrassing: *Mikisew* at paragraph 28;
- g. The history of a Bill that has since become law is embarrassing and prolix: *Mikisew* at paragraph 30;
- h. Paragraphs that are redundant, or contain verbatim repetition, within a claim ought to be struck as prolix: *K. v. K. (E.)* at paragraphs 74 and 89;
- i. Redundancy is not cured by the addition of new wording, if the additional words do not add anything to the facts previously pled: *K. v. K. (E.)* at paragraph 87;
- j. Allegations that are too general are insufficient, unless specifics can be provided: *K v. K. (E.)* at paragraphs 63 and 64;
- k. A bare assertion of a legal right, without factual detail: *K. v. K. (E.)* at paragraph 75;
- l. A paragraph ought to be struck if it alleges a cause of action that does not exist at law: *K. v. K. (E.)* at paragraph 94.

*Mikisew Cree First Nation v. Canada*, 1997 CarswellAlta 927 (Q.B.).

**TAB 5**

*K. v. K. (E.)*, 2004 CarswellAlta 331 (Q.B.).

**TAB 6**

14. While it is appropriate for the Plaintiff to file a claim containing allegations about her specific situation, any allegations regarding how the oil and gas industry or the system as a whole operates, or how the oil and gas industry may affect other individuals, are irrelevant, improper and should be struck.

*G. (A.J.) v. Alberta*, 2006 CarswellAlta 784 (Q.B.) at paras 27 and 28.

**Supra, TAB 4**

#### Court Options to Deal with Significant Deficiencies in the Claim

15. Under Rule 3.68 of the *Alberta Rules of Court*, the Court may strike all or any part of a claim which discloses no cause of action, is frivolous, irrelevant or improper, or is otherwise an abuse of the process of the Court.

Rule 3.68, *Alberta Rules of Court*

**TAB 7**

16. Rule 3.68 of the *Alberta Rules of Court* must viewed through the lens of the foundational rule, Rule 1.2., which provides:

1.2(1) The purpose of these rules is to provide a means by which claims can be fairly and justly resolved in or by a court process in a timely and cost-effective way.

(2) In particular, these rules are intended to be used

- (a) to identify the real issues in dispute,
- (b) to facilitate the quickest means of resolving a claim at the least expense,
- (c) to encourage the parties to resolve the claim themselves, by agreement, with or without assistance, as early in the process as practicable.
- (d) to oblige the parties to communicate honestly, openly and in a timely way, and
- (e) to provide an effective and credible system of remedies and sanctions to enforce these rules and orders and judgments.

*Donaldson v. Farrell*, 2011 ABQB 11 at para 10  
Supra, **TAB 3**

17. The new *Alberta Rules of Court* have not lessened the test for striking out pleadings, the test is whether it is plain and obvious or beyond reasonable doubt that the claim cannot succeed.

*Donaldson v. Farrell*, 2011 ABQB 11 at para 30  
Supra, **TAB 3**

## **V. ARGUMENT**

18. It is the Province's submission that it is beyond doubt that the paragraphs in issue in the Fresh Statement of Claim, or portions thereof, are frivolous, irrelevant and improper and do not comply with the *Alberta Rules of Court* or the intention of the *Alberta Rules of Court*.

19. Generally speaking, the defects fall into the following categories:

- a. Pleading evidence, rather than relevant facts;
- b. Containing argument;
- c. Containing irrelevant facts, statements and/or theories;
- d. Involving non-parties; and
- e. Being redundant and unnecessarily prolix.

20. Some of the paragraphs in issue in the Fresh Statement of Claim have more than one category of defect.

21. The paragraphs in issue, the reasons for striking the paragraphs in issue are set out below.

#### **Paragraph 64**

22. Paragraph 64 states: *Alberta Environment's representations had the effect of, and were intended to, encourage and foster reliance on Alberta Environment by Ms. Ernst. In particular, Ms. Ernst relied on Alberta Environment to protect underground water supplies; to respond promptly and reasonably to any complaints raised by her **or other landowners**; and to undertake a prompt and adequate investigation into the causes of water contamination once identified.*

23. The bolded portion of this paragraph is irrelevant and improper as it suggests that there are "other landowners" that have complaints and those "other landowners" are not parties to the action. As such, the pleading is akin to allegations contained in a class action and would create the problem of Defendants having to respond to similar fact evidence, thereby unduly broadening the scope of questioning and effectively result in the Plaintiff advancing other's claims.

#### **Paragraph 65**

24. Paragraph 65 states: *By October 2004, Alberta Environment knew that EnCana was diverting fresh water from underground aquifers without the required diversion permits from Alberta Environment.*

25. Paragraph 65 is similar to paragraph 172 of the Second Amended Statement of Claim.

26. This allegation has nothing to do with the Plaintiff's claim that her water on her land is contaminated. It is, therefore, irrelevant, and should be struck.

#### **Paragraph 66**

27. Paragraph 66 states: *By mid 2005, Alberta Environment knew that a number of landowners had made complaints regarding suspected contamination of the Rosebud Aquifer potentially caused by oil and gas development. At that time, despite repeated complaints, Alberta Environment did not conduct an investigation or take any steps to respond to reported contamination of the Rosebud Aquifer.*

28. Paragraph 66 is similar to paragraph 155 of the Second Amended Statement of Claim.

29. This paragraph is irrelevant and improper as it suggests that there are “a number of landowners” that have made complaints regarding the “*reported contamination of the Rosebud Aquifer*” and Alberta Environment did not investigate their complaints, however, those alleged landowners are not parties to the action. As such, the pleading is akin to allegations contained in a class action and would create the problem of Defendants having to respond to similar fact evidence, thereby unduly broadening the scope of questioning and effectively result in the Plaintiff advancing other’s claims.

30. This paragraph also improperly argues that the “*suspected contamination of the Rosebud Aquifer [is] potentially caused by oil and gas development*”. Whether or not the Plaintiff’s water is contaminated and the cause of the contamination is up to the trial judge to determine following the presentation of evidence. Further, the use of the phrases “*suspected contamination*” and “*potentially caused by oil and gas development*” are entirely speculative and if allowed to stand, could amount to a pure fishing expedition by the Plaintiff and vastly expand the scope of disclosure and questioning, which would cause unnecessary delay and expense.

#### **Paragraph 67**

31. Paragraph 67 states: *In late 2005, Ms. Ernst contacted Alberta Environment to report concerns regarding her well water, **and to register concerns regarding potential impacts on groundwater caused by EnCana’s CBM Activities.** Alberta Environment failed to take any action regarding Ms. Ernst’s concerns at that time.*

32. The bolded portion is irrelevant to the Plaintiff's claim that her water from her well is contaminated. It is clear from this bolded portion of the paragraph that the Plaintiff is asking this court to embark on a public inquiry into the fracturing of coal bed methane in the oil and gas industry. This is improper and this portion of paragraph 67 should be struck.

#### **Paragraph 69**

33. Paragraph 69 states: *On March 3, 2006, several months after concerns were initially raised by Ms. Ernst, Alberta Environment began an investigation into possible contamination of **numerous water wells** in the Rosebud region, including the Ernst Well. **Tests conducted on these water wells showed the presence of hazardous chemicals and petroleum pollutants in water drawn from the Rosebud Aquifer. These tests also indicated high concentrations of methane in water drawn from the Rosebud Aquifer.***

34. The first bolded portion of this paragraph raises the issue of "*numerous water wells in the Rosebud region*", however, the owners of the "*numerous water wells*" are not parties to the action. As such, the pleading is similar to allegations contained in a class action and would create the problem of Defendants having to respond to similar fact evidence, thereby unduly broadening the scope of questioning and effectively result in the Plaintiff advancing other's claims.

35. Further, the allegation that there has been "*possible contamination of numerous water wells in the Rosebud region*" is entirely speculative and if allowed to stand, could amount to a pure fishing expedition by the Plaintiff and vastly expand the scope of disclosure and questioning, which would also cause unnecessary delay and expense

36. The second bolded portion of this paragraph contains evidence, specifically the results of the alleged tests conducted by Alberta Environment and is, therefore, improper in a pleading. In addition, the use of the words "*hazardous*" and "*pollutants*" is argumentative and should be struck.

#### **Paragraph 70**

37. Paragraph 70 states: *Alberta Environment specifically tested the Ernst Water Well. Tests conducted on the Ernst Water Well revealed that Ms. Ernst's water contained very high and hazardous levels of methane. Alberta Environment tests also indicated that Ms. Ernst's well water was contaminated with F-2 hydrocarbons, 2-Propanol 2-Methyl and Bis (2-ethyhexyl) phalate; that levels of Strontium, Barium and Potassium in her water had doubled; and that her well water contained greatly elevated levels of Chromium.*

38. The bolded portion of this paragraph contains evidence, specifically the results of the alleged tests conducted by Alberta Environment and is, therefore, improper. In addition, the use of the words "very high and hazardous" and "contaminated" is argumentative and should be struck.

#### **Paragraph 72**

39. Paragraph 72 states: *Alberta Environment knew that contaminants found in Ms. Ernst's water and in water drawn from elsewhere in the Rosebud Aquifer were related to and indicative of contamination caused by oil and gas development.*

40. The bolded portion of this paragraph is irrelevant and improper as it suggests that there is contaminated water drawn from "elsewhere in the Rosebud Aquifer". This suggests that there are other individuals who may be affected and those individuals are not parties to the action. As such, the paragraph is similar to allegations contained in a class action and would create the problem of Defendants having to respond to similar fact evidence, thereby unduly broadening the scope of questioning and effectively result in the Plaintiff advancing other's claims.

41. This paragraph also asserts that Alberta Environment knew the Plaintiff's water was contaminated and the contamination was "related to and indicative of contamination caused by oil and gas". This is argument/speculation not fact. What Alberta Environment knew, and whether the Plaintiff's water is contaminated and the cause of the contamination is up to the trial judge to determine following the presentation of evidence.



#### Paragraph 74

42. Paragraph 74 states: *Throughout the material time, Alberta Environment and its lead investigator, Mr. Kevin Pilger, dealt with Ms. Ernst in bad faith. In particular:*

- a. *Mr. Pilger concluded, before any investigation had begun, that **the water wells** he was responsible for investigating were not impacted by CBM development;*
- b. *Mr. Pilger repeatedly accused Ms. Ernst of being responsible for the contamination of her well water before conducting any investigations;*
- c. *Mr. Pilger falsely and recklessly accused Ms. Ernst of fabricating and forging a hydrogeologist's report that indicated Encana had fractured and perforated **into the Rosebud Aquifer**;*
- d. *Alberta Environment stonewalled and otherwise blocked all of Ms. Ernst's attempts to gain access to relevant information regarding the contamination of her well **and local CBM development**; and*
- e. *Alberta Environment shared information collected as part of the investigation with Encana, while refusing to release this information to Ms. Ernst, **her neighbours or to the general public**.*

43. Paragraph 74 is similar to paragraph 164 of the Second Amended Statement of Claim.

44. This paragraph, in particular, subsections (a) to (d) contain argumentative statements, attributing a motive to Alberta Environment and Kevin Pilger for which no factual basis has been plead. These subsections are improper and embarrassing and should be struck.

45. Furthermore, the bolded sections of this paragraph confirm that the Plaintiff is asking the court to embark on a public inquiry into the fracturing of coal bed methane in the oil and gas industry in Alberta. As such, this paragraph, or portions thereof, are improper and should be struck.

### **Paragraph 75**

46. Paragraph 75 states: *In November 2007, almost 2 years after the original complaint, Alberta Environment contracted the Alberta Research Council to complete a "Scientific and Technical Review" of the information gathered regarding Ms. Ernst's complaints to determine possible causes of water contamination. Alberta Environment in fact prevented an adequate review from taking place by radically restricting the scope of the review by instructing the ARC to review only the limited information provided by Alberta Environment. As a result, the ARC review failed to consider relevant data and information as part of its review.*

47. Paragraph 75 is similar to paragraph 181 of the Second Amended Statement of Claim.

48. This paragraph contains evidence and argument, specifically that the "Scientific and Technical Review" was flawed. This type of evidence and argument is improper in a pleading and should be the subject of an expert report.

49. In addition, the allegation that Alberta Environment "*prevented an adequate review from taking place by radically restricting the scope of the review*" is argumentative and embarrassing and should, therefore, be struck.

### **Paragraph 77**

50. Paragraph 77 states: *Despite knowledge of breaches of legal requirements under its jurisdiction at the Encana Wells, despite continued serious water contamination, and despite significant and legitimate unanswered questions regarding CBM Activities at the Encana Wells and potential impacts on the Rosebud Aquifer, Alberta Environment closed the investigation into Ms. Ernst's contaminated water on January 16, 2008 and stopped delivering safe, drinkable water to her home in April 2008.*

51. This paragraph contains evidence and argument and is embarrassing and improper in a pleading. Whether or not there are breaches of “*legal requirements*” (which is extremely vague and if allowed to stand, would require particulars) at the Encana wells (which is extremely broad and not relevant to the Plaintiff’s particular situation) and whether or not there are “*significant and legitimate unanswered questions regarding CBM activities at the Encana wells*” is completely irrelevant to whether or not Alberta Environment (and the other Defendants) owed the Plaintiff a duty of care with respect to her well and whether or not Alberta Environment (and the other Defendants) breached that duty of care.

**Paragraph 79**

52. Paragraph 79 states: *Alberta Environment breached this duty, and continues to breach this duty, by negligently implementing Alberta Environment’s own specific and published investigation and enforcement scheme. In particular, Alberta Environment:*

- a. *Conducted a negligent investigation into the contamination of the Ernst Water Well, as detailed above.*
- b. *Unduly and negligently restricted the scope of both the Alberta Environment and the ARC review;*
- c. *Negligently relied on an incomplete and inadequate review of the investigation, as detailed above.*
- d. *Failed to promptly inform the Plaintiff of **potential contamination of the Rosebud Aquifer** and potential risks to the Plaintiff’s health, safety and property;*
- e. ***Failed to investigate identified breaches of the Water Act, including Encana’s dewatering of the Rosebud Aquifer without approval or a permit, despite having specific evidence that such a breach had occurred;***
- f. ***Failed to report specific breaches of the Water Act and the Environmental Protection and Enhancement Act and related regulations to the Compliance Manager;***
- g. ***Failed to recommend to the Compliance Manager that enforcement action be taken;***

- h. Failed to use available enforcement powers to stop CBM Activities that were causing contamination of **the Rosebud Aquifer and the Plaintiff's water well** and to remediate water contamination and other harms caused by oil and gas industry activities that had already occurred;*
- i. Failed to investigate potential long-term impacts of CBM Activities on the Rosebud Aquifer.*

53. The bolded portions of paragraph 79 (d), (e), (f), (g), (h), (i) are irrelevant to the Plaintiff's claim that her water on her land is contaminated and should, therefore, be struck.

54. The bolded portion of this paragraph also suggests that there are other individuals who may be affected and those individuals are not parties to the action. As such, the paragraph is similar to allegations contained in a class action and would create the problem of Defendants having to respond to similar fact evidence, thereby unduly broadening the scope of questioning and effectively result in the Plaintiff advancing other's claims.

55. The Plaintiff is also asking this court to embark on a public inquiry into the fracturing of coal bed methane in the oil and gas industry. This is improper and the bolded portions of paragraph 79 should be struck.

#### **Paragraph 84**

56. Paragraph 84 states that: *The actions of Encana, the ERCB and Alberta Environment as detailed above, amount to high-handed, malicious and oppressive behaviour that justifies punitive damages. In relation to the Defendant, Encana, it is appropriate, just and necessary for the Court to assess large financial gains that Encana derived from **reckless and destructive resource development practices in the Rosebud region.***

57. While the bolded portion of the paragraph relates to the Defendant, Encana, it is clear that in this paragraph and other paragraphs already identified, the Plaintiff is asking this court to confirm that fracturing is a "*reckless and destructive resource development*

*practice in the Rosebud region*". The Plaintiff, however, does not have the ability to speak for and litigate on behalf of the residents of the Rosebud region unless she brings a class action.

58. Furthermore, as noted by the Honourable Justice Veldhuis on April 26, 2012 (at page 9, lines 32-35 of the transcript of the proceeding on April 26, 2012) when addressing the Plaintiff's allegation of *"risky and illegal CBM practices"* in the Second Amended Statement of Claim, the same holds true for the Plaintiff's allegation of a *"reckless and destructive resource development practice"* alleged in the Fresh Statement of Claim. This is improper in a pleading and is a determination to be made following the presentation of evidence and in argument.

#### **Paragraph 85**

Paragraph 85 states that: *In the alternative to the Plaintiff's claim for compensatory remedies from Encana, the Plaintiff claims the restitutionary remedy of disgorgement based on the doctrine of 'waiver of tort'. As detailed above, Encana's shallow and dangerous drilling of natural gas wells in the Rosebud area shows a cynical disregard for the environment and for the rights of the public and the Plaintiff. By negligently conducting CBM activities, including perforation and fracturing of coal seams at dangerously shallow depths at CBM wells located near the Plaintiff's home, Encana gained access to natural gas that would have remained inaccessible but for its negligent conduct. The Plaintiff asserts that Encana is liable to disgorge the profits gained through the sale of this wrongfully obtained natural gas.*

59. While this paragraph relates primarily to the Defendant, Encana, it is clear that in this paragraph and other paragraphs already identified, the Plaintiff is asking this court to confirm that the drilling of natural gas wells in the Rosebud area by fracturing is *"dangerous"* and *"shows a cynical disregard for the environment and for the rights of the public and the Plaintiff"*. Again, the Plaintiff does not have the ability to speak for and litigate on behalf of the residents in the Rosebud area or the public. As noted by the Honourable Justice Veldhuis on April 26, 2012 (at page 9, lines 32-35 of the transcript of the proceeding) when addressing the Plaintiff's allegation of *"risky and illegal CBM practices"* in the Second Amended Statement of Claim, the same is true for the Plaintiff's

allegation in the Fresh Statement of Claim that *"Encana's shallow and dangerous drilling of natural gas wells in the Rosebud area shows a cynical disregard for the environment and for the rights of the public and the Plaintiff"*. This is a determination to be made following the presentation of evidence and in argument.

**VI. RELIEF SOUGHT**

60. The Province submits that the paragraphs in issue in the Fresh Statement of Claim should be struck, or in the alternative, portions of the paragraphs in issue be struck, so that a determination of this case on its merits can be fairly and justly resolved in or by a court process in a timely and cost-effective way.

61. The Province further requests costs of this application payable in any event of the cause.

**ALL OF WHICH IS RESPECTFULLY SUBMITTED** this 5<sup>th</sup> day of December, 2012.

**ALBERTA JUSTICE**

Per:

  
NEIL R. BOYLE and NANCY A. McCURDY

## **VII. LIST OF AUTHORITIES**

<b>Tab No.</b>	<b>Authority</b>
1.	Rule 13.6(1)(a) and Rule 13.6(2)(a), <i>Alberta Rules of Court</i>
2.	<i>Donaldson v. Bibby</i> , 2009 CarswellAlta 249 (Q.B.)
3.	<i>Donaldson v. Farrell</i> , 2011 ABQB 11
4.	<i>G. (A.J.) v. Alberta</i> , 2006 CarswellAlta 784 (Q.B.)
5.	<i>Mikisew Cree First Nation v. Canada</i> , 1997 CarswellAlta 927 (Q.B.)
6.	<i>K. v. K. (E.)</i> 2004 CarswellAlta 331 (Q.B.)
7.	Rule 3.68, <i>Alberta Rules of Court</i>