

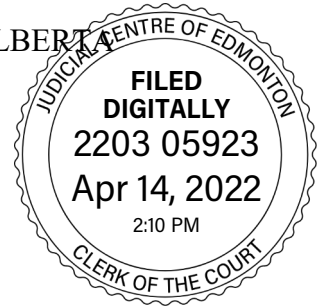
COURT FILE NUMBER

COURT

COURT OF QUEEN'S BENCH OF ALBERTA

JUDICIAL CENTRE

EDMONTON



PLAINTIFF

COBRA MORTGAGE SERVICES LTD.

DEFENDANTS

WOLF CREEK GOLF RESORT LTD., WOLF CREEK VILLAGE LTD. and RYAN VOLD

DOCUMENT

**STATEMENT OF CLAIM**

ADDRESS FOR SERVICE  
AND CONTACT  
INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

WARREN SINCLAIR LLP  
600, 4911 – 51 STREET  
RED DEER, AB T4N 6V4  
**ATTENTION: MATTHEW R. PARK**  
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FILE NUMBER: 116174/MP

**NOTICE TO DEFENDANT(S)**

You are being sued. You are a defendant.

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

**Statement of facts relied on:**

**Introduction:**

1. The Plaintiff is a body corporate incorporated pursuant to the laws of the Province

of Alberta and having its registered office at Red Deer, Alberta.

2. At all material times, the defendant Wolf Creek Golf Resort Ltd. (“**Resort**”) was a body corporate incorporated pursuant to the laws of the Province of Alberta and having its registered office at Ponoka, Alberta.
3. At all material times, the defendant Wolf Creek Village Ltd. (“**Village**”) was a body corporate incorporated pursuant to the laws of the Province of Alberta and having its registered office at Ponoka, Alberta.
4. The defendant Ryan Vold (“**Vold**”) is an individual who resides, insofar as is known to the Plaintiff, at or near Ponoka, Alberta.
5. At all material times, Vold was a director and officer, or either of those things, of Resort and Village, or either of them.

**The Resort Indebtedness and Security:**

6. By way of a promissory note dated September 12, 2018, (the “**Promissory Note**”), Resort promised to pay to the Plaintiff the principal sum of \$2,750,000.00, with interest thereon at the greater of 8.00% per annum and a variable rate per annum (in either case, both before and after maturity, default and judgment) equal to the rate established by the Royal Bank of Canada from time to time as the Royal Bank of Canada’s prime lending rate for Canadian Dollar Loans, plus 4.30% on the outstanding balance of the principal sum owing from time to time, with such interest calculated daily and payable monthly.
7. The terms of repayment of the indebtedness of Resort to the Plaintiff, as set out in the Promissory Note, were monthly, interest-only payments on any funds advanced by the Plaintiff to Resort, commencing November 1, 2018 and continuing until October 1, 2019, at which time the balance of principal and interest then outstanding was due and payable.

8. By way of a mortgage made under the Alberta *Land Titles Act* dated September 12, 2018 and registered in the Land Titles Office on October 2, 2018 as registration number 182 246 658 (the “**Collateral Mortgage**”), and as security for all present and future indebtedness owed by Resort to the Plaintiff (to the extent of the principal sum of \$2,750,000.000), including the indebtedness owing under the Promissory Note, Resort mortgaged to the Plaintiff lands the legal descriptions of which are set out in the document attached as Schedule “A” hereto.
9. By the Collateral Mortgage, Resort covenanted to pay principal and interest to the Plaintiff at the rate(s) provided for by the Promissory Note and on the days and times mentioned therein.
10. By the Collateral Mortgage, Resort covenanted with the Plaintiff to pay all liens, taxes, rates, charges or encumbrances on the Lands which may fall due or be unpaid and also to insure the buildings on the said lands against damage by fire, in default of all or any of which the Plaintiff should have the right to do the same and add to the Collateral Mortgage all costs and expenses incurred by it in that regard.
11. By the Collateral Mortgage, Resort covenanted with the Plaintiff to pay all costs and expenses incurred by the Plaintiff with respect to any steps or proceedings taken to enforce any right, power or remedy in the Collateral Mortgage, including all legal costs on a solicitor and his own client, full indemnity basis.

**Village’s Guarantee:**

12. By way of an agreement in writing dated September 12, 2018 (“**Village’s Guarantee**”), Village unconditionally guaranteed the due performance and observance by Resort of all of its obligations under the Promissory Note and the Collateral Mortgage, or either of those things.
13. It was a term of Village’s Guarantee that if default should occur under the

Promissory Note and the Collateral Mortgage, or either of them, Village would forthwith upon demand pay all principal, interest, costs and expenses owing by Resort to the Plaintiff under the Promissory Note and the Collateral Mortgage, or either of them, including all legal expenses of the Plaintiff incurred by virtue of its enforcement of the same.

**Vold's Guarantee:**

14. By way of an agreement in writing dated September 12, 2018 (“**Vold's Guarantee**”), Vold unconditionally guaranteed the due performance and observance by Resort of all of its obligations under the Promissory Note and the Collateral Mortgage, or either of those things.
15. It was a term of Vold's Guarantee that if default should occur under the Promissory Note and the Collateral Mortgage, or either of them, Vold would forthwith upon demand pay all principal, interest, costs and expenses owing by Resort to the Plaintiff under the Promissory Note and the Collateral Mortgage, or either of them, including all legal expenses of the Plaintiff incurred by virtue of its enforcement of the same.

**The Initial Default:**

16. Default was made by Resort in payment of the principal sum and in payment of the interest provided for by the Promissory Note.
17. By way of letter dated April 20, 2020, the Plaintiff demanded payment of the amounts owing to it by Resort under the Promissory Note.
18. By way of letter dated April 20, 2020, the Plaintiff demanded payment of the amounts owing to it by Village under the terms of Village's Guarantee.
19. By way of letter dated April 20, 2020, the Plaintiff demanded payment of the

amounts owing to it by Vold under the terms of Vold's Guarantee.

**The Forbearance Agreement:**

20. On or about April 20, 2020, a Forbearance Agreement was entered into between by the parties (the "**Forbearance Agreement**").

21. By the Forbearance Agreement, the Defendants, as applicable, acknowledged and agreed, amongst other things, that:

- a) They were in default of their obligations owed to the Plaintiff.
- b) Their liability to the Plaintiff was joint and several.
- c) They did not dispute their liability to the Plaintiff and had no claims for set-off, counterclaim or damages as against the Plaintiff.
- d) The Security (as defined in the Forbearance Agreement) was binding upon them and enforceable against them in accordance with the terms thereof.

26. By the Forbearance Agreement, the Defendants acknowledged and agreed that they were required to indemnify the Plaintiff for its legal costs on a solicitor and his own client, full indemnity basis.

27. By the Forbearance Agreement, the Defendants agreed to the appointment of a Receiver of all of Resort and Village's current and future assets, undertakings and properties of every nature and kind whatsoever and wherever situate, including all proceeds thereof.

28. By the Forbearance Agreement, the parties agreed that:

- a) The Forbearance Agreement constituted the entire agreement of the parties relating to the subject matter thereof and could not be amended or modified except by written consent executed by all parties.
  - b) No provision of the Forbearance Agreement would be deemed waived by any course of conduct unless such waiver was in writing and signed by all parties, specifically stating that it is intended to modify the Forbearance Agreement.
29. By the Forbearance Agreement, the Defendants agreed to pay all amounts owed by them to the Plaintiff, as particularized in the Forbearance Agreement, no later than August 1, 2020, failing which the Plaintiff would be at liberty to pursue all remedies available to it at law and in equity including, without limitation, the remedies available to it pursuant to the terms of the Forbearance Agreement.

**The Post-Forbearance Default:**

30. Default has been made by the Defendants in terms of their payment obligations owed to the Plaintiff, as set out in the Forbearance Agreement and in the Promissory Note, Village's Guarantee and Vold's Guarantee, as applicable.
31. By way of letters dated March 28, 2022, the Plaintiff demanded payment of the amounts due and owing to it by the Defendants. Despite that demand for payment, the Defendants have failed, neglected or refused to pay the amount demanded, or any portion thereof.
32. There is due and owing by the Defendants to the Plaintiff, jointly and severally, to the Plaintiff, as of March 28 2022 and pursuant to the terms of the Forbearance Agreement, the Promissory Note, Village's Guarantee and Vold's Guarantee, or any one or combination of them, the sum of \$2,904,200.48

(inclusive of principal , interest and legal costs billed to and paid by the Plaintiff as of March 28, 2022) plus interest from and after such date at the per diem rate of \$583.69, plus costs.

**Remedy sought:**

**As against Resort:**

- a) A declaration as to the amount owing under the Promissory Note and Collateral Mortgage, with interest calculated in accordance with the terms thereof or, in the alternative, pursuant to the terms of the *Alberta Judgment Interest Act* and, in default of payment, sale or foreclosure;
- b) An order appointing a Receiver and/or a Receiver and Manager;
- c) An order setting a period of redemption of less than six (6) months, or as the Court may direct;
- d) In the alternative, an immediate Order - Sale to Plaintiff or Order for Foreclosure and an order for possession of the Lands;
- e) Judgment in the amount of \$2,904,200.48 or in such further or other amount as may be established at the trial of this action, plus interest calculated in accordance with the terms of the Promissory Note and Collateral Mortgage or, alternatively, pursuant to the terms of the *Alberta Judgment Interest Act*;
- f) An order allowing the Plaintiff or its duly authorized agent to enter the Lands for the purpose of doing any and all things necessary to preserve the property and for an order that the Plaintiff shall not be considered a mortgagee in possession or trespasser;

- g) Costs on a solicitor and own client, full indemnity basis, or on such further or other basis as the Court may direct; and
- h) Such further or other relief as the Court may deem fit and just to grant.

**As against Village:**

- a) Judgment in the amount of \$2,904,200.48, or in such further or other amount as may be established at the trial of this action, plus interest calculated in accordance with the terms of Village's Guarantee or, alternatively, pursuant to the terms of the *Alberta Judgment Interest Act*;
- b) Costs on a solicitor and own client, full indemnity basis, or on such further or other basis as the Court may direct; and
- c) Such further or other relief as the Court may deem fit and just to grant.

**As against Vold:**

- a) Judgment in the amount of \$2,904,200.48, or in such further or other amount as may be established at the trial of this action, plus interest calculated in accordance with the terms of Vold's Guarantee or, alternatively, pursuant to the terms of the *Alberta Judgment Interest Act*;
- b) Costs on a solicitor and own client, full indemnity basis, or on such further or other basis as the Court may direct; and
- c) Such further or other relief as the Court may deem fit and just to grant.

**NOTICE TO THE DEFENDANT(S)**

**You only have a short time to do something to defend yourself against this claim:**



**20 days if you are served in Alberta**

**1 month if you are served outside Alberta but in Canada**

**2 months if you are served outside Canada.**

**You can respond by filing a statement of defence or a demand for notice in the office of the clerk of the Court of Queen's Bench at Edmonton, Alberta, AND serving your statement of defence or a demand for notice on the plaintiff's(s') address for service.**

**WARNING**

**If you do not file and serve a statement of defence or a demand for notice within your time period, you risk losing the law suit automatically. If you do not file, or do not serve, or are late in doing either of these things, a court may give a judgment to the plaintiff(s) against you.**