

Court File No. _____
Vernon Registry

In the Supreme Court of British Columbia

Between:

**ROBERT MCKIBBON, NORMA LYNN MCKIBBON also known as LYNN MCKIBBON and
A.L.Y. HOLDINGS LTD.**

Plaintiffs

And:

**NICHOLAS RICHARD DOYLE, STEFANIE PAMELA DOYLE, INF FRANCHISING LTD. and
IRON NATION FITNESS CORP., IRON NATION FITNESS & APPAREL LTD.**

Defendants

NOTICE OF CIVIL CLAIM

This action has been started by the Plaintiff(s) for the relief set out in Part 2 below.

If you intend to respond to this action, you or your lawyer must

- (a) file a response to civil claim in Form 2 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim on the plaintiff.

If you intend to make a counterclaim, you or your lawyer must

- (a) file a response to civil claim in Form 2 and a counterclaim in Form 3 in the above-named registry of this court within the time for response to civil claim described below, and
- (b) serve a copy of the filed response to civil claim and counterclaim on the plaintiff and on any new parties named in the counterclaim.

JUDGMENT MAY BE PRONOUNCED AGAINST YOU IF YOU FAIL to file the response to civil claim within the time for response to civil claim described below.

Time for response to civil claim

A response to civil claim must be filed and served on the plaintiff(s),

- (a) if you reside anywhere in Canada, within 21 days after the date on which a copy of the filed notice of civil claim was served on you,
- (b) if you reside in the United States of America, within 35 days after the date on which a copy of the filed notice of civil claim was served on you,

- (c) if you reside elsewhere, within 49 days after the date on which a copy of the filed notice of civil claim was served on you, or
- (d) if the time for response to civil claim has been set by order of the court, within that time.

CLAIM OF THE PLAINTIFF

Part 1: STATEMENT OF FACTS

Background

1. The Plaintiffs, Robert McKibbon (“Rob”) and Norma Lynn McKibbon (“Lynn”, and together with Rob, the “Plaintiffs”) have an address for service in this action only at #301-2706, in the City of Vernon, in the Province of British Columbia.
2. The plaintiff company, A.L.Y. Holdings Ltd. (“ALY”), is a company owned by the Plaintiffs. ALY is duly registered in British Columbia and has an address for service in this action only at #301-2706, in the City of Vernon, in the Province of British Columbia.
3. The Defendants, Nicholas Richard Doyle (“Nick”) and Stefanie Pamela Doyle (“Stef”, and together with Nick, the “Defendants”) are businesspeople with a delivery address of #3 22306 50 Avenue in the City of Langley, British Columbia.
4. The defendant companies, INF Franchising Ltd. (“INF”) Iron Nation Fitness Corp. (“INFC”), and Iron Nation Fitness & Apparel Ltd. (“INFL” together with INF and INFC the “Defendant Companies”) are a group of related companies owned by the Defendants. The Defendant Companies are all registered in British Columbia with the following delivery addresses:
 - (a) for INF: 116 Crystal Heights Lane, Grande Prairie, Alberta, T8X 1R7; and
 - (b) for INFC: 2200 – 885 West Georgia Street, Vancouver, British Columbia, V6C 3E8; and
 - (c) INFL: 2200 – 885 West Georgia Street, Vancouver, British Columbia, V6C 3E8
5. The Defendant Companies are engaged in the business of operating and franchising gym and fitness related facilities under the Iron Nation brand in British Columbia and Alberta. One of these facilities is located in Blind Bay, British Columbia (the “Blind Bay Gym”).

6. The Blind Bay Gym is situated on the lands with the civic address of #9 – 2425 Golf Course Drive, Blind Bay, BC (“Lands”), and is subject to a lease which was entered into on October 1, 2020 between the Defendants and/or the Defendant Companies as tenant and FFD Devito Investments Ltd. as landlord (“Lease”).
7. Brad Clarke (“Clarke”) is a helicopter pilot and businessman in Salmon Arm. Clarke is the owner of Gympower Investments Inc. and is an investor in multiple Iron Nation brand gyms owned, operated, or franchised by the Defendants and the Defendant Companies.
8. Clarke is a longtime friend of the Plaintiffs. Clarke became friends with the Defendants due to Nick and Clarke’s mutual interest in aviation, involvement in the Shuswap gym community, and their business dealings.
9. The Plaintiffs were first introduced to the Defendants by Clarke at the opening of the Blind Bay Gym. The Plaintiffs became friends of the Defendants due to their involvement in the Shuswap region gym community.

Initial Sale of the Blind Bay Gym

10. In or around 2021, the Defendants and INF opened the Blind Bay Gym after the Defendants moved to the Shuswap region from Grande Prairie, Alberta.
11. In or around 2023, the Defendants decided to sell their corporate interest, through the Defendant Companies, in the Blind Bay Gym to Rachel and Les Biernaki (collectively, the “Biernakis”) for \$500,000.00 (the “Purchase Price”), which sale concluded in 2023 (“Biernaki Sale”).
12. After the Biernacki Sale, the Biernaki’s demanded that the Defendants and/or the Defendant Companies buy back the Blind Bay Gym in or around the fall of 2023 (the “2023 Buyback”).

2023 Clarke Buyback Loan

13. To facilitate the 2023 Buyback, Clarke agreed to loan the Defendants and/or the Defendant Companies \$510,000.00 (the “Original Loan”). The Original Loan was evidenced by a promissory note dated October 19, 2023 (the “Promissory Note”) executed as between INFC and Clarke’s company, Gympower Investments Inc (“Gympower”).
14. In or around October 20, 2023 the ownership of the Blind Bay Gym was transferred from the Biernakis to INF once the 2023 Buyback was completed using the Original Original Loan proceeds.

15. The repayment terms of the Promissory Note provided that the Original Loan would be repaid in 25 monthly instalments of \$20,000.00 until double the Original Loan amount (\$1,020,000.00) was paid out to Clarke.
16. The Defendants and/or the Defendant Companies initially made Original Loan payments to Clarke, but it became apparent that they would be unable to pay back the Original Loan in accordance with the terms of the Promissory Note, due to financial difficulties surfacing with other INF operations.

2024 Plaintiffs' Loan Assumption and Partial Ownership

17. Clarke and the Defendants suggested to the Plaintiffs that the Plaintiffs could acquire an ownership stake in the Blind Bay Gym if they assumed responsibility for the Original Loan. A series of meetings were held among the parties to determine the terms of such an arrangement.
18. In or around July 2024, the Plaintiffs agreed to assume the Defendant's outstanding Original Loan obligations in exchange, the Defendants and/or the Defendant Companies would provide:
 - (a) a 49% ownership interest in the company operating the Blind Bay Gym (the "Ownership Stake"); and
 - (b) monthly dividend payments of \$15,000.00 (the "Dividend Payments")
 (collectively, the "Assumption").
19. Further details of the Assumption were agreed to as between the Plaintiffs and Defendants and/or the Defendant Companies via email:
 - (a) on July 27, 2024 it was agreed that the Defendants and/or the Defendant Companies would continue to operate the Blind Bay Gym; and
 - (b) on August 11, 2024 the Defendants and/or the Defendant Companies agreed that they would set up a new corporation called INF Shuswap Ltd. ("INS") and that INF would transfer its ownership of the Blind Bay Gym assets to INS, and the Plaintiffs would then acquire 49% of the preferred shares of INS.
20. As part of the Assumption, the Plaintiffs and Clarke entered into an agreement that was executed on July 27, 2024 (the "Clarke Assumption Agreement") and contained the following terms:

- (a) the Plaintiffs agreed to pay \$515,000.00 (the “Assumption Amount”) to Clarke in satisfaction of the Defendants and/or the Defendant Companies entire outstanding Original Loan balance;
 - (b) the Defendants would be released from their obligations to make further Original Loan payments;
 - (c) the Plaintiffs would pay Clarke a total of \$150,000.00 of the Assumption Amount in cash on or before September 1, 2024 in addition to the \$115,000.00 already paid to Clarke previously.
 - (d) the Plaintiffs would pay the remaining balance of the Assumption Amount in monthly payments of \$15,000.00, plus 12% annual interest;
 - (e) the Plaintiffs would execute personal guarantees for the Assumption Amount; and
 - (f) that an agreement between the Plaintiffs and the Defendants and/or the Defendant Companies for transfer of ownership of the Blind Bay Gym was a condition precedent to the terms of the Clarke Assumption Agreement.
21. In reliance of the Assumption, Rob drafted an agreement between the Plaintiffs and the Defendants in relation to the transfer of ownership of the Blind Bay Gym pursuant to the Assumption (the “Doyle Assumption Agreement”). No lawyers were involved in the drafting or negotiation of the Doyle Assumption Agreement.
22. The Doyle Assumption Agreement was never executed by the Defendants, nor were the Plaintiffs issued any formal evidence of a transfer of the preferred shares that would evidence the Ownership Stake.
23. Despite this, the parties involved understood that the Defendants and the Defendant Companies often obtained financing from private investors they knew during oral negotiations and handshake deals as between friends, which would only later be retroactively formalized in written agreements.
24. The Plaintiffs, Defendants and Clarke therefore relied on the representation that the Ownership Stake of the Blind Bay Gym belonged to the Plaintiffs and acted upon the terms of the Doyle Assumption Agreement and the Clarke Assumption Agreement. In or around July 2024:
- (a) the Plaintiffs began making payments under the Clarke Assumption Agreement;

- (b) the Defendants and/or the Defendant Companies began making the monthly dividend payments to the Plaintiffs under the Doyle Assumption Agreement in September 2024; and
 - (c) the Plaintiffs became the partial owner of the Blind Bay Gym on September 1, 2024.
25. The Defendants and/or the Defendant Companies made Dividend Payments for the first five months following the Assumption. In February 2025, the sixth month following the Assumption, the Defendants and/or the Defendant Companies paid only half of the promised monthly dividend to the Plaintiffs.

Non-Payment of Dividend Payments

26. The Defendants continued to default on the Dividend Payments owed to the Plaintiffs and made no further Dividend Payments after February 2025.
27. The Defendants were apologetic about the missed payments and told the Plaintiffs that they were experiencing cash flow problems due to the construction of two new gyms in Alberta (the “New Gyms”), of which Clarke was an investor.
28. The Plaintiffs were sympathetic to their friends’ troubles and began to attempt to negotiate a mutually beneficial solution to the missed Dividend Payments with their friends.
29. In May 2025, the Plaintiffs introduced a friend named Kelly Guenther (“Guenther”) to the Defendants. Guenther loaned \$500,000.00 to the Defendant Companies in relation to an Iron Nation branded gym located in Grande Prairie, Alberta (the “Guenther Loan”).

2025 Transfer of Entire Ownership to Plaintiffs

30. On July 22, 2025, Nick and Rob had a telephone call during which Nick offered to transfer full ownership and operations of the Blind Bay Gym to the Plaintiffs in light of the financial difficulties of the Defendants and their inability to make the promised Dividend Payments.
31. On July 28, 2025, stakeholders of the Defendant Companies and the various Iron Nation brand gyms, including Rob, the Defendants, and Clarke, attended a business meeting at the River Rock Casino Resort in Richmond, British Columbia (the “River Rock Meeting”).
32. At the River Rock Meeting, the Defendants and Clarke confirmed to the Plaintiffs that:

- (a) the Plaintiffs acquired full ownership of the Blind Bay Gym;
- (b) the \$90,000.00 in Dividend Payments in arrears were assigned from the Plaintiffs back to Clarke and added to the amounts owing to Clarke related to the construction of the New Gyms (the “Dividend Assignment”); and
- (c) Clarke’s Original Loan and Promissory Note would be fully satisfied by the initial Loan payments of the Defendants to Clarke, the Assumption payments (including the \$265,000.00 in initial payments and \$165,000.00 in total monthly Loan payments) made by the Plaintiffs to Clarke, and the Dividend Assignment.

(“Full Ownership Transfer”)

- 33. As they had previously done, the Plaintiffs, Clarke, and the Defendants understood that such informal arrangements were typical for investors in the Defendant Companies and Iron Nation brand gyms and acted and relied on each others’ assurances that the transactions above were understood to have occurred regarding the Full Ownership Transfer.
- 34. In or around November 2025, the Plaintiffs attempted to formalize the transfer of ownership of the Blind Bay Gym, per the Full Ownership Transfer. The Defendants once again represented to the Plaintiffs that they owned the Blind Bay Gym, referring to it as “your gym” in correspondence with the Plaintiffs on November 21, 2025.
- 35. In or around early December 2025, the Plaintiffs and the Defendants took the following steps to formalize the transfer of the Blind Bay Gym to the Plaintiffs:
 - (a) on December 16, 2025 a draft purchase agreement was circulated, and the Defendants and Rob discussed operational details of the Blind Bay Gym including employee wages and the lease for the gym;
 - (b) on December 18, 2025 employment agreements contemplating the change in ownership were signed;
 - (c) on December 19, 2025 Stef agreed to sign (but did not sign) a draft sale agreement prepared by Rob and Rob agreed not to change the name of the Blind Bay Gym;
- 36. On December 22, 2025 a demand letter addressed to the Defendants was sent by counsel for Clarke’s company, Gympower Investments Inc., in relation to the Original Loan (the “Clarke Demand Letter”).

37. The Clarke Demand Letter stated that the Defendants made their last Loan payment to Clarke on January 21, 2025 and demanded immediate payment of the alleged outstanding Loan balance of \$270,000.00 by the Defendants, despite the agreement that the Loan and Promissory Note would be considered fully satisfied by both the Assumption and Dividend Assignment.
38. Despite the Clarke Demand Letter, the Plaintiffs and the Defendants and/or the Defendant Companies took the following further steps to formalize the Full Ownership Transfer:
- (a) on December 27, 2025 the Defendants provided a copy of Royal Bank paperwork to the Plaintiffs purporting to transfer the funds from the Blind Bay Gym account to the Plaintiffs; and
 - (b) on January 7, 2026 the Defendants emailed to tell the Plaintiffs that Royal Bank took issue with the requested changes to the account but promised to send the Plaintiffs some of the money that should have been sent to the Defendant's bank account in good faith. No funds were received pursuant to this promise.
39. The Defendants and/or the Defendant Companies have refused to formalize the Full Ownership Transfer of the Blind Bay Gym, despite there having been an agreement in place to do so, stemming from the River Rock Meeting.
40. Despite the lack of a formal transfer of the ownership of the Blind Bay Gym, the Plaintiffs had relied upon the representations and assurances of the Defendants that the Plaintiffs were the owners of the Blind Bay Gym as of the River Rock Meeting. If not for these representations and assurances, the Plaintiffs would have moved to enforce the terms of the Assumption in relation to the unpaid Dividend Payments and the Ownership Stake.
41. The Defendants and Defendant Companies have ultimately benefited from the Plaintiff's funds paid to Clarke pursuant to the Assumption, and have continued to use and benefit from any profits of the Blind Bay Gym despite representing that the Plaintiffs own the Blind Bay Gym. The Plaintiff have received almost none of the benefits they were promised in exchange for their funds, including any formal transfer of the Ownership Stake following the Assumption or Full Ownership Transfer of the Blind Bay Gym following the River Rock Meeting.

Reasonable Expectations of the Plaintiffs

42. Based on the above agreements and understandings, the Plaintiffs had the reasonable expectation that the Defendants would:

- (a) formalize the transfer of the Ownership Interest following the Assumption;
- (b) formalize the Full Ownership Transfer of the Blind Bay Gym to the Plaintiffs in a timely manner following the River Rock Meeting; and
- (c) in the time following the Assumption but preceding the formal Full Ownership Transfer:
 - (i) operate the Blind Bay Gym's affairs in a competent and prudent manner;
 - (ii) exercise the care, diligence, and skill of a reasonably prudent business owner;
 - (iii) ensure proper and complete bookkeeping, accounting, and human resource documentation was being done;
 - (iv) treat the Plaintiff fairly and honestly as an owner of the Blind Bay Gym;
 - (v) act in the best interest of the Blind Bay Gym;
 - (vi) not misuse or convert Blind Bay Gym funds; and
 - (vii) provide the Plaintiff with complete, accurate and timely financial disclosure, access to financial records, and human resource documentation

(collectively, the "Reasonable Expectations").

43. As evidenced by the Defendants' and Defendant Companies' responses to the Plaintiffs repeated requests to formalize their ownership interests and provide them information concerning the operations and finances of the Blind Bay Gym, these Reasonable Expectations were not met.

Part 2: RELIEF SOUGHT

1. As against the Defendants and the Defendant Companies, an interim and pre-trial injunction and preservation order enjoining and prohibiting any:

- (a) transfer or distribution of any funds attributable to the Blind Bay Gym (the “Funds”), and preserving the Funds until final judgment is rendered in the action or further court order;
 - (b) transfer of any ownership interest related to the Blind Bay Gym (including but not limited to any assets of the Blind Bay Gym or any ownership interest in any corporate entity that owns the Blind Bay Gym) until final judgement is rendered in the action or further court order; and
 - (c) creation of security interests, liens, or other encumbrances in relation to any assets of the Blind Bay Gym.
- 2. An order that the Plaintiffs are entitled to have the Lease interest itself transferred from the Defendants and or the Defendant Companies by assignment, declaration, constructive trust or specific performance.
- 3. That pursuant to s. 215 of the Land Title Act a certificate of pending litigation (“CPL”) be registered against the Lands, which are subject to the Lease.
- 4. A declaration that the Plaintiff is the sole legal and beneficial owner of the Blind Bay Gym, in addition to an order that the Defendants either:
 - (a) incorporate a new corporation (“NewCo”), transfer the Blind Bay Gym assets to NewCo, and then transfer the entire ownership of NewCo to ALY; or
 - (b) transfer all of the assets of the Blind Bay Gym to ALY, including the Lease of the commercial space occupied by the Blind Bay Gym.
- 5. In the alternative, if the court declines to find that the Plaintiffs own the Blind Bay Gym in its entirety, or the assets therein, a declaration that ALY is the owner of preferred shares representing a 49% ownership interest in the company that owns the Blind Bay Gym, in addition to:
 - (a) a declaration that the affairs of INF in respect of the Blind Bay Gym have been conducted in a manner that is oppressive or unfairly prejudicial to the Plaintiffs, or which unfairly disregards the Plaintiffs’ interests as shareholders and violates their Reasonable Expectations;
 - (b) a declaration that the Defendants, as directors of INF, have exercised their powers in relation to the Blind Bay Gym in a manner oppressive to the Plaintiffs, and
 - (c) an order compensating the Plaintiffs for damages caused by the oppressive conduct and breach of fiduciary duty of the Defendants.

6. An order directing the Defendants to update the central securities register of NewCo or INF to show ALY's shareholdings in accordance with any orders made above, if applicable.
7. An order directing that the Defendants provide to the Plaintiffs all financial and business records related to the Blind Bay Gym, including, but not limited to the following:
 - (a) accounting records;
 - (b) tax documents, including all income tax returns, notices of assessment, provincial sales tax reports, goods and services tax reports, remittance slips, CRA log-in information, government loan details and repayment information;
 - (c) invoices;
 - (d) receipts;
 - (e) financial statements;
 - (f) accounts payable;
 - (g) accounts receivable;
 - (h) balance sheets;
 - (i) income statements;
 - (j) cash flow statements;
 - (k) journals;
 - (l) general ledgers;
 - (m) payroll records;
 - (n) records of employment;
 - (o) sales records;
 - (p) bank statements, including statements of the Defendants' personal bank accounts from July 2024 to present;
 - (q) credit card statements;
 - (r) loan agreements and statements;

- (s) inventory lists and statements;
 - (t) lease/rental agreements with third party or related companies; and
 - (u) supply/inventory agreements.
8. An accounting from the Defendants of all monies they have taken or redirected from the Blind Bay Gym to benefit themselves, third parties, or other Iron Nation brand gyms from July 2024 to present including any wages, bonuses, expenses, management fees, and dividends.
 9. An order that the Defendants have committed fraudulent or negligent misrepresentation, on which the Plaintiffs relied to their detriment, and that damages be awarded to the Plaintiffs.
 10. An order that the Defendants and/or the Defendant Companies have been unjustly enriched by the Plaintiffs, and that the Court award a monetary award and/or constructive trust as against the Defendant Companies in favour of the Plaintiffs on terms as it deems appropriate.
 11. Pre-judgment and post-judgment interest on all amounts awarded to the Plaintiffs.
 12. Costs of this proceeding payable by the Defendants, and or each of them, to the Plaintiffs.
 13. Such further and other relief as this Honourable Court may deem just.

Part 3: LEGAL BASIS

Preservation Order

1. The Plaintiffs rely on Rule 10-1 of the *Supreme Court Civil Rules, B.C. Reg. 168/2009* ("SCCR"), which provides that a court may make an order to preserve any property that is the subject matter of a proceeding.
2. The considerations in exercising the discretion to grant a preservation order under Rule 10-1 of the SCCR (from *Kepis & Pobe Financial Group Inc. v. Timis Corporation*, 2018 BCCA 420, para. 21) are:
 - (a) If a claim to a proprietary interest in the property exists on the evidence and not solely the pleadings;
 - (b) there is some evidence to render reasonable the belief of the plaintiffs that the property is threatened with disposition or transfer outside the jurisdiction ;

- (c) there is a substantial question to be decided as to the plaintiff's entitlement to the property; and
 - (d) whether the balance of convenience favour granting the order.
3. Interim preservation orders with respect to shares of a company have been granted based on evidence that there was an at least circumstantial case to be made that a disputed share transaction was not a *bona fide* transaction (see e.g. *Skeena Resources Limited v. Eilat Exploration Ltd.*, 2018 BCSC 616 at paras. 21-27).

Plaintiff's Share Ownership in the Corporate Owner of the Blind Bay Gym

4. The Plaintiffs rely on section 230 of the *Business Corporations Act*, SBC 2002, c 57 ("BCBCA") which provides that if information is wrongfully omitted from a company's central security registry, a shareholder or other aggrieved party may apply to the court for an order that the basic records be corrected.
5. The Plaintiffs are a shareholder or aggrieved party on the basis that;
- (a) The Defendants agreed that the Plaintiffs were:
 - (i) 49% shareholders in a company that owns the Blind Bay Gym following the Assumption; and
 - (ii) the sole owners of the Blind Bay Gym following the River Rock Meeting
 (collectively, the "Ownership Interests").
 - (b) The Plaintiff provided consideration for the Ownership Interests in the Blind Bay Gym; and
 - (c) The Defendants have refused or neglected to register the Plaintiffs' shares in the central security registry of a company that owns the Blind Bay Gym.
6. In the alternative, if the Court declines to find that the Plaintiffs are the sole owners of the Blind Bay Gym, the Plaintiffs rely on section 68 of the *BCBCA* to validate the issue of preferred shares in accordance with the terms of the Assumption. *BCBCA* section 68 provides that a court may make an order validating the creation, allotment, or issue of shares that is inconsistent with any statutory provision, constating document of the company, or which might otherwise be invalid.

7. The British Columbia Court of Appeal in *Newcastle Projects Inc. v. Percon Projects Inc.*, 2010 BCCA 563 at paragraph 32 has noted that in lieu of an oppression claim in relation to the denial of a plaintiff's status as a shareholder, the need to resolve the issue of standing for such a claim via *BCBCA* section 227 could be avoided by applying under this section to validate the disputed allotment of shares to the purported shareholder.

Shareholder Oppression

8. The Plaintiffs rely on section 227(2) of the *BCBCA* which provides that a shareholder or appropriate person may apply to the Court for an order on the grounds that the affairs of the company are being, or have been conducted, or that the powers of the directors are being or have been exercised, in a manner oppressive to one or more of the shareholders, including the applicants.
9. In *BCE Inc. v. 1976 Debentureholders*, 2008 SCC 69 ("*BCE*"), the Court at paragraph 45 stated that the oppression remedy is available to a wide range of stakeholders, including security holders, creditors, directors and officers. In *Blumenschein v. Seel*, 2025 BCSC 1582 the Court noted that the existence of some form of beneficial or trust interest in the shares of a company could cause a plaintiff to be an appropriate person to make an application under section 227 of the *BCBCA*.
10. The oppression remedy is an equitable remedy which seeks to ensure not what is legal, but what is fair. As the court stated in *BCE* at paragraphs 58, 62:

"[i]n the context of whether it would be "just and equitable" to grant a remedy, the question is whether the expectation is reasonable having regard to the facts of the specific case, the relationships at issue, and the entire context, including the fact that there may be conflicting claims".
11. Failing to formalize the share ownership of the Plaintiffs, provide financial documentation and operational information and converting funds from the Blind Bay Gym without accounting, constitutes unfair disregard for the Plaintiff's legitimate interests and reasonable expectations in relation to their share ownership or beneficial interest in shares of the corporate owner of the Blind Bay Gym.
12. Acts of the Defendants designed to unilaterally conceal, eliminate, or dilute the Plaintiff's interests in the Blind Bay Gym unfairly disregards the Plaintiffs' legitimate interests and reasonable expectations.

13. The Plaintiffs seek court intervention to direct an order granting relief in accordance with section 227(3) of the *BCBCA* including, without limitation, the orders set out in Part 2 of this Notice of Civil Claim.
14. The Plaintiffs rely on the *BCBCA*, the *Law and Equity Act*, RSBC 1996, c 253, and the common law and statutory duties of corporate directors.

Misrepresentation

15. The Plaintiffs rely on the laws of negligent misrepresentation. The elements of negligent misrepresentation (from *Queen v Cognos Inc.*, 1993 1 SCR 87) are:
 - (a) there must be a duty of care based on a “special relationship” between the representor and the representee;
 - (b) the representation in question must be untrue, inaccurate, or misleading;
 - (c) the representor must have been acting negligently in making said representation;
 - (d) the representee must have relied, in a reasonable manner, on said negligent misrepresentation; and
 - (e) the reliance must have been detrimental to the representee in the sense that damages resulted.
16. There was a special relationship between the Defendants as directors and the Plaintiffs as shareholders and investors in relation to the Blind Bay Gym and the Defendant Companies.
17. The Defendants represented to the Plaintiffs that:
 - (a) following the Assumption, the Plaintiffs were a 49% shareholder of the company that owned the Blind Bay Gym; and
 - (b) following the River Rock Meeting, the Plaintiffs were the sole owner of the Blind Day Gym pursuant to the Full Ownership Transfer.

(collectively, the “Representations”).

18. The Defendants acted negligently making the Representations.
19. The Plaintiffs relied, in a reasonable manner, on the negligent Representations.

20. The Plaintiffs' relied on the Representations to their detriment and damages have resulted.
21. In the alternative, the Plaintiffs plead and rely upon the laws of fraudulent misrepresentation and the tort of deceit. The elements of fraudulent misrepresentation (from *Bevan v Husak*, 2024 BCCA 323, para 36) are:
 - a. The defendant made a representation of fact to the plaintiff;
 - b. The representation was, in fact, false;
 - c. The defendant knew the representation was false when it was made, or made the false representation recklessly, not knowing if it was true or false;
 - d. The defendant intended the plaintiff to act on the representation;
 - e. The plaintiff relied upon the false representation and thereby suffered a detriment.
22. The Defendants made the Representations to the Plaintiffs.
23. The Defendants knew that the Representations were, in fact, false.
24. The Defendants knew that the Representations were false when they were made, or made the false Representations recklessly, not knowing if they were true or false.
25. The Defendants intended for the Plaintiffs to act on the Representations.
26. The Plaintiffs relied on the Representations and thereby suffered a detriment.

Unjust Enrichment

27. In the further alternative, the Plaintiffs plead and rely on the laws of unjust enrichment. The elements of unjust enrichment (from *Pettkus v Becker*, 1980 2 SCR 834) are:
 - (a) An enrichment to the defendant;
 - (b) A corresponding deprivation to the plaintiff;
 - (c) An absence of a juristic reason for the enrichment;

28. The Defendants have been unjustly enriched by the Plaintiffs through their assumption of the Loan pursuant to the Assumption and the Doyle Assumption Agreement, including, but not limited to the \$265,000.00 in initial payments and \$165,000.00 in total monthly Loan payments.
29. The Plaintiffs suffered a corresponding deprivation.
30. There is an absence of juristic reason for the enrichment.
31. Remedies for a claim in unjust enrichment include a monetary award or a constructive trust: *Kerr v Baranow*, 2011 SCC 10.

Plaintiff's address for service:

Nixon Wenger LLP

Barristers and Solicitors

301, 2706 - 30 Avenue

Vernon, British Columbia, V1T 2B6

Telephone: (250) 542-5353

Fax number address for service: (250) 542-7273

E-mail address for service: service@nixonwenger.com

Place of trial: Vernon, British Columbia

The address of the registry is: 3001 - 27 Street
Vernon, British Columbia, V1T 4W5

DATED this [*] day of [*], 2026.

ANTHONY J. EDEN

Lawyer for the Plaintiff

Rule 7-1 (1) of the Supreme Court Civil Rules states:

- (1) Unless all parties of record consent or the court otherwise orders, each party of record to an action must, within 35 days after the end of the pleading period,

- (a) prepare a list of documents in Form 22 that lists
 - (i) all documents that are or have been in the party's possession or control and that could, if available, be used by any party at trial to prove or disprove a material fact, and
 - (ii) all other documents to which the party intends to refer at trial, and
- (b) serve the list on all parties of record.

APPENDIX

Part 1: CONCISE SUMMARY OF NATURE OF CLAIM:

1. A claim concerning the ownership of a business, shareholder oppression, misrepresentation, and unjust enrichment.

Part 2: THIS CLAIM ARISES FROM THE FOLLOWING:

A personal injury arising out of:

- ☐ a motor vehicle accident
- ☐ medical malpractice
- ☐ another cause

A dispute concerning:

- ☐ contaminated sites
- ☐ construction defects
- ☐ real property (real estate)
- ☐ personal property
- ☐ the provision of goods or services or other general commercial matters
- ☒ investment losses
- ☒ the lending of money
- ☐ an employment relationship
- ☐ a will or other issues concerning the probate of an estate
- ☒ a matter not listed here

Part 3: THIS CLAIM INVOLVES

- ☐ a class action
- ☐ maritime law
- ☐ aboriginal law
- ☐ constitutional law

- ☐ conflict of laws
- ☒ none of the above
- ☐ do not know

Part 4:

Business Corporations Act, SBC 2002, c 57

Law and Equity Act, RSBC 1996, c 253

Court Order Interest Act, RSBC 1996, c 79.