

# Bryan & Company

GEORGE J. BRYAN O.C. 1900 - 1975

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 ROBERT S. RIDDLE  
 IAN W. REYNOLDS  
 CARMEN R. CLEVELAND

COUNSEL

DONALD OSTRY R. JOHN BUTLER, O.C.

OUR FILE 13390-10 JJK  
 YOUR FILE 94-322 GPK

April 8, 1997

Hunt, Young & Parrotta-King  
 Barristers and Solicitors  
 440 Hong Kong Bank of Canada Building  
 10055 - 106 Street  
 Edmonton, Alberta  
 T5J 3Y2

Attention: Ms. Grace Parrotta-King

Dear Madam:

Re: Ed Broder - World Record Mule Deer Trophy

Thank you for your letter of April 4, 1997. As I explained, Mr. Craig Broder does not own, nor does he have anything to do with the world record mule deer trophy, other than he assisted his father in showing it at the recent sports show.

Mr. Don Broder does not agree with your client's version of the facts. I have not yet met with Mr. Don Broder as I have asked an associate to research the limitation issue. I believe that your clients may have a limitation problem and accordingly before I met with Mr. Broder I wanted to have that area fully researched.

Yours truly,

BRYAN & COMPANY

PER:  
 JOSEPH J. KUEBER

JJK/nma10247

cc: Mr. Don Broder

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Donald Broder  
 21  
 Sept. 09  
 Lisa Marie Paul

LISA MARIE PAUL  
 Commissioner for Oaths  
 in and for the Province  
 of Alberta expires June 15, 2010

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OUR FILE: 18087-1 JJK  
YOUR FILE: 94-322 GPK

April 24, 1997

Hunt, Young & Parrotta-King  
Barristers and Solicitors  
440 Hong Kong Bank of Canada Bldg.  
10055 - 106 Street  
Edmonton, Alberta  
T5J 2Y2

Attention: Ms. Grace Parrotta-King

Dear Madam;

Re: Ed Broder - World Record Mule Deer Trophy

I have now received my research regarding the possible claim that your clients might make against my client. I believe that your clients cause of action arose many years ago and that there is no way for your clients to avoid the provisions of the Limitations of Actions Act. The cause of action is barred as all of the *prima facie* elements of your clients cause of action existed many many years ago. If they had wanted to pursue a claim to ownership of the world record buck, they should have started their action quite some time ago.

Based on our research, I cannot determine that there are any facts which would allow your clients to rely on a possible argument that might postpone the running of the limitation period. Your clients were well aware of the facts and aware that my client took the position that he was the owner of this property. I believe that your clients indicated that my client had, over the years, indicated that "possession was 9/10 of the law".

Professor Jeremy S. Williams, in his book Limitations of Actions in Canada provides as follows:

"The cause of action accrues when an act of unlawful retention or an interference with possession or the immediate right to possession occurs.

April 24, 1997

Page 2

Such an act connotes immediate damage. The fact that the tortious act is not discovered quickly does not prevent the running of time unless the cause of action has been fraudulently concealed. The time at which a cause of action accrues in conversion depends on the acts alleged to be conversion. While demand and refusal is a common allegation in this tort and the date on which those acts took place will usually be clearer the cause of action accrues at that time (even if those acts are only evidence of a conversion)."

I do not believe that your clients could argue that there was some form of concealed fraud which might otherwise suspend or postpone the running of the limitations. As I understand it, my client did not conceal the fact that he has possession of the world record buck. There is no positive duty on him to do anything more than he already has done. Similarly, your clients will not be able to avail themselves of the proposition that they were mistaken in their belief regarding his claim to ownership.

In summary, I do not believe that your clients can take an action beyond the defences that would be available to my client under the Limitations of Actions Act. If they choose to pursue the matter further, we will defend based on the nature of the claim and, more importantly, the fact that the claim is statute barred based on the Statute of Limitations.

I trust this is satisfactory and remain,

Yours truly,

BRYAN & COMPANY

PER:  
JOSEPH J. KUEBER

JJK/nma10338

cc: Mr. Don Broder

*Bryan & Company*  
S/2

# Bryan & Company

GEORGE J. BRYAN O.C. 1500 - 1575

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COUNSEL  
DONALD OSTRY R. JOHN BUTLER, O.C. DOUGLAS O. GOSS

OUR FILE 18087-1 JJK  
YOUR FILE: 94-322 GPK

October 9, 1997

Hunt, Young, Parrotta-King  
Barristers and Solicitors  
440 Hong Kong Bank of Canada Building  
10055 - 106 Street  
Edmonton, Alberta  
T5J 2Y2

Attention: Grace Parrotta-King

Dear Madam:

Re: Ed Broder - World Record Mule Deer Trophy

This is Exhibit "B" referred to in the  
Affidavit of  
Donald Broder  
Sworn before me this 21 day  
of Sept A.D., 2009  
Lisa Marie Paul  
A Commissioner for Oaths in and for Alberta

LISA MARIE PAUL  
Commissioner for Oaths  
in and for the Province  
of Alberta expires June 15, 2010

I am presently unable to schedule Examinations for Discovery with your office as I am contemplating an application under Rule 159 for a summary dismissal of the claim. I may also combine this with an application under Rule 129 to strike out the claim. I think the limitation date has been missed and I do not believe that the claim can stand. Accordingly I do not want to waste your time scheduling Discoveries. I am awaiting certain information from my client so that i can finalize an Affidavit. i will telephone your office once i have the documentation ready so that we can schedule the application at a time convenient to all.

Yours truly,  
BRYAN & COMPANY

PER:  
JOSEPH J. KUEBER  
JJK/jlo10601  
cc: ~~Don Broder~~  
Craig Broder

Facsim Copy To CRAIC  
Nov 13/08

TRADE MARK AGENT

Joseph de Kieckhefer  
Jan 31/09  
14 E

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DONALD OSTRY

COUNSEL:

R. JOHN BUTLER, Q.C.

DOUGLAS O. SOSS

OUR FILE: 18087-1 JJK

YOUR FILE: 94-322 GPK

**October 27, 1997**

Hunt, Young, Parrotta-King  
Barristers and Solicitors  
440 Hong Kong Bank of Canada Building  
10055 - 106 Street  
Edmonton, Alberta  
T5J 2Y2

**Attention: Grace Parrotta-King**

Dear Madam:

**Re: Ed Broder - World Record Mule Deer Trophy**

I am in the process of finalizing a Motion under Rule 159 and **129 of the Rules of Court** regarding this claim, however my client is probably available during early December for Examinations for Discovery. My schedule, unfortunately, is full of Discoveries and Court applications and trials to that point in time. Even in December, I have Discoveries on December 5 and a trial during the week of December 15th.

I trust this is satisfactory and remain,

Yours truly,  
BRYAN & COMPANY

PER:  
JOSEPH J. KUEBER  
JJK/par3575

cc: Don Broder  
Craig Broder

*Revised to C.S.  
Nov 13/08*

*Submitted to court  
Jan 6/08*