

# Texas lawyers target Voisey's Bay

## File lawsuit against Diamond Fields

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The Globe and Mail

Some of the most feared litigators in the United States are gunning for Voisey's Bay.

In one of the more bizarre twists in the year-long takeover battle for Diamond Fields Resources Inc., a group of prominent Texas lawyers has launched a lawsuit against the Vancouver-based mining company on behalf of a small Dallas mining exploration company that has been out of business for years. The suit was filed in Dallas County District Court.

The lawsuit's target? Most of Diamond Fields' assets, including the historic nickel discovery at Labrador's Voisey's Bay. The action comes on the eve of shareholder meetings next Wednesday to vote on a \$4.3-billion takeover

by Inco Ltd. of Diamond Fields.

In an extraordinary move, Exdiam Corp.'s Houston law firm issued a press release to announce their ambitious claim, which is based on allegations of certain business breaches by Diamond Field's co-founder and former Dallas businessman Jean-Raymond Boule.

"The Dallas lawsuit asserts a claim to most of the assets of Diamond Fields and could result in Inco paying \$4.3-billion for an empty shell," the release said. A lawyer for Exdiam said it was not seeking to stop Inco's takeover.

Diamond Fields was quick to dismiss the lawsuit. "We regard this as pure optimism to initiate these proceedings just prior to our shareholder meeting.

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"The suit is frivolous and totally without merit and we fully intend to proceed with the planned merger," said a Vancouver spokesman for Diamond Fields.

Indeed, a similar lawsuit launched by Exdiam against Diamond Fields in Arkansas last year was withdrawn by the plaintiffs to pursue the case in Texas.

Stuart Feiner, Inco's executive vice-president, said that after initial discussions with Diamond Fields lawyers, it appears the Dallas lawsuit is without merit. However, he said, Inco was concerned enough about the stature of lawyers involved in the case that it yesterday retained a law firm in Texas.

"These are well-known and respected lawyers. . . . We have to take this case seriously," Mr. Feiner said.

The lawyers representing Exdiam is a veritable who's who of some of the most prominent and highly paid Texas litigators. Lead counsel on the case is Eric Fryar, a partner with Susman Godfrey of Houston, which has successfully won multimillion-dollar awards by taking on big U.S. companies such as RJR Nabisco Holdings Corp. of New York and Xerox Corp. of Stamford, Conn.

Joining Mr. Fryar on the case is his firm's founder Stephen Susman, who launched one the U.S.'s first class action suits 15 years ago in a successful antitrust case against a packaging company.

Rounding up the team is famed Houston plaintiff lawyer John O'Quinn, who was pictured on the cover of Fortune Magazine's "Lawyers from Hell" issue last fall because of his aggressive litigation tactics. Ranked the second-highest paid trial lawyer in the United States with an annual income of \$40-million (U.S.) in 1994, Mr. O'Quinn has been blamed for pushing Dow Corning Corp. into bankruptcy because of his tactics in the silicone breast implant lawsuits.

Mr. O'Quinn is renowned as much for his ego as he is for his court room conquests. He frequently brags about the \$8.5-million award he won in a wrongful death suit involving a prize bull named Superman. While working on the bull case he boasted to a lawyer representing a paraplegic that "I'll get more for my dead bull than you'll get for your paraplegic." He did.

It was one of Mr. O'Quinn's and Mr. Fryar's previous cases that led them to the Diamond Fields lawsuit. Both lawyers represented two South African brothers in a lawsuit against Paris-based Schlumberger Cos. that led to an \$83-million judgment in their favour. The decision is being appealed, but one of the brothers John Swanson, alerted the lawyers to Diamond Fields.

Mr. Swanson and his wife Anna of Henderson, Nev., are among a group of four major Exdiam shareholders who allege they have been wronged by Diamond Field's Mr. Boule.

According to their claim, Mr. Boule, the Swansons and other shareholders formed Exdiam in the 1980s to invest in Arkansas Diamond Development Corp., a diamond exploration company. Exdiam was one of three owners of Arkansas Diamond and the claim alleges that Mr. Boule violated his fiduciary responsibility to Exdiam by selling one of Arkansas Diamond's joint venture partners to Diamond Fields in 1993.

The sale, alleges Mr. Fryar, violated a preemptive rights clause that prohibited the partners from offering their interests to outside parties. The assets Diamond Fields acquired, the suit alleges, gave the company the resources it needed to raise money through a public offering and hire prospectors to ultimately discover the nickel at Voisey's Bay.

"Does this entitle Exdiam to 100 per cent of Voisey's Bay? Yes, legally it does," Mr. Fryar said.