

No. 9703 12949

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

EARL BRODER, GEORGE BRODER, RICHARD BRODER,  
MARGARET MACPHEE, DORIS BIBAUD, LUELLA ADAM AND  
DORIS BIBAUD AND GEORGE BRODER, PERSONAL  
REPRESENTATIVES OF THE ESTATE OF EDMUND BRODER,  
ALSO KNOWN AS ED BRODER, DECEASED

Plaintiffs  
(Applicants)

This is Exhibit "8" referred to in the

Affidavit of

DONALD H. BRODER

Sworn before me this 14 day

of DEC. A.D., 2010

*[Signature]*  
A Commissioner for Oaths in and for Alberta

#0686559

- and -

DON BRODER

Defendant  
(Respondent)

2

PROCEEDINGS  
(Incomplete)

*Craig Broder*

*Nancy*

*[Signature]*

23rd April, 2004

Edmonton, Alberta

Transcript Management Services, Edmonton

1 Proceedings taken in the Court of Queen's Bench of  
 2 Alberta, Law Courts Building, Edmonton, Alberta

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4 \*April 23, 2004 1:09 p.m. session

5 The Honourable Madam Justice Court of Queen's Bench  
 M. Bielby of Alberta

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7 E. MacInnis, Ms. For the Applicant

8 D. Broder, Mr. The Respondent in Person

9 L. Credgeur Court Clerk

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11 THE COURT: Good afternoon. Please be  
 12 seated.

13 MS. MACINNIS: Good afternoon.

14 THE COURT: Ms. MacInnis, you have  
 15 scheduled this application.

16 \*Submissions by Ms. MacInnis

17 MS. MACINNIS: Yes, I have, My Lady.

18 We're making application to have Mr. Don Broder  
 19 held in civil contempt of both Your Ladyship's  
 20 judgment following the trial and also the order of  
 21 Madam Justice Veit which was granted on April 13th.

22 In your reasons for judgment, you directed that  
 23 Mr. Don Broder forthwith turn over to the personal  
 24 representatives of the estate the deer head trophy, and  
 25 those reasons were issued on March 9th of 2004.

26 Following that issuance of the judgment, there were  
 27 some concerns regarding the safety of the trophy, and

1 an application was made before Your Ladyship on March  
 2 19th, which resulted in the order allowing a  
 3 Mr. George Butler, our process server, to attend at  
 4 Mr. Broder's residence in Sundry. After a thorough  
 5 search, Mr. Butler took possession of what he thought  
 6 at the time was the original trophy, but upon  
 7 examination by a taxidermist turned out to be a  
 8 replica of the trophy. We have had it examined by a  
 9 taxidermist, and that affidavit is on file from the  
 10 taxidermist saying that he's examined it and it is not  
 11 the original deer head.

12 We then brought application before -- in regular  
 13 chambers before Madam Justice Veit on April 13th.  
 14 Mr. Don Broder was personally served with notice at  
 15 that application. In the notice of motion, we asked  
 16 for an order that he deliver the trophy to us by April  
 17 14th, which would be the day following, at 4:00; and  
 18 we also had a provision in the notice of motion that  
 19 if it was not delivered that the defendant would  
 20 appear in chambers today, April 23rd, at 1:00 to show  
 21 cause as to why he should not be held in contempt of  
 22 Your Ladyship's judgment and any order that we be  
 23 granted that day. Justice Veit granted an order on  
 24 April 13th that Mr. Don Broder provide the trophy to  
 25 our offices by 4:00 the following day, April 14th.  
 26 She also in that order directed that if he did not so  
 27 he was to appear in court today to show cause why he

1 wouldn't be held in contempt.

2 Mr. Don Broder did not attend that hearing before  
3 Justice Veit. We attempted to serve him on the  
4 afternoon when the order was granted. He was not at  
5 home. The order was left with his wife, Mrs. Joyce  
6 Broder. However, a couple of days later on April  
7 16th, a week ago, Mr. Butler was able to personally  
8 serve Don Broder with that order. So he's having had  
9 notice, double, -- and he's here in any event -- of  
10 this application.

11 The trophy, needless to say, has not been produced  
12 to us. It's my submission that -- well, clearly, he's  
13 in contempt of both Your Ladyship's judgment and the  
14 subsequent order of Madam Justice Veit. It's my  
15 submission that Mr. Don Broder has had ample  
16 opportunity to comply with your order. It's been six  
17 weeks since your reasons for judgment were issued.  
18 I'm not aware of any excuse as to why he has not  
19 provided the original trophy to the personal  
20 representatives. Our process server, Mr. Butler, had  
21 offered, I understand, to Mr. Broder that if he would  
22 call him at, you know, any time, day or night, he  
23 would come up and pick up the original from him so as  
24 to be the least inconvenience.

25 And at this point, I guess we're asking the Court  
26 to enforce the order that it's given. And although  
27 I'm somewhat reluctant to ask for this remedy, I

1 really do not see any other effective remedy other  
 2 than to request that the defendant be imprisoned for  
 3 his contempt of the Court's order. It's -- clearly,  
 4 he's been ordered to give this. He hasn't done so. I  
 5 don't know of any other effective way to get  
 6 Mr. Broder to comply with the order of the Court. And  
 7 what I would be asking for would be, you know, a short  
 8 period perhaps of imprisonment, after which he could  
 9 perhaps be brought before the Court to have an  
 10 opportunity to purge his contempt, you know, two or  
 11 three days, something of that sort. And it's my  
 12 submission that's the only way that the Court order,  
 13 you know, can be effected, unless my friend has some  
 14 other suggestion at this point.

15 In our notice of motion, we had also asked for  
 16 directions from the Court regarding the replica, which  
 17 is presently at my office. It would be my suggestion  
 18 that that should be kept by our office until such time  
 19 as we receive the original at that time, and we're  
 20 prepared to give it back or whatever they  
 21 (INDISCERNIBLE) at that time. But I would suggest  
 22 that we be allowed to keep it until such time as we're  
 23 in possession of the original.

24 We're also asking for costs of the applications.

25 THE COURT: All right. Thank you.

26 Mr. Broder.

27 MS. MACINNIS: Thank you, My Lady.