

# OFFICIAL TRANSCRIPT

No. 9703 12949

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

THIS IS EXHIBIT "P" referred to in the  
Affidavit  
Don Broder Sworn  
Sworn before me on the 9 day  
of March 2004  
My Commission expires March 31, 2004

BETWEEN:

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

Plaintiffs

- and -

DON BRODER AND CRAIG BRODER

My Commission expires March 31, 2004  
Defendants

AND BY WAY OF COUNTERCLAIM:

DON BRODER

Plaintiff by Counterclaim

- and -

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

Defendants by Counterclaim

PROCEEDINGS

Craig Broder  
November 2007  
My Commission expires March 31, 2004

Edmonton, Alberta  
July 13th, 2004

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My Commission expires March 31, 2004

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

3 -----  
4 July 13th, 2004 1:00 p.m. session

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

8  
9 E. MacInnis, Ms. For the Plaintiffs/  
10 Defendants by Counterclaim  
11 G. Lacourciere, Esq. For the Defendants/  
12 Plaintiffs by Counterclaim  
13 J. Anderson Court Clerk

14 -----  
15 THE COURT: Good afternoon. Please be seated.

16 MR. LACOURCIERE: Good afternoon, My Lady.

17 My Lady, I've asked Mr. Broder to sit at the table up  
18 here so that if I need his specific instructions, I can  
19 ask him for those instructions.

20 THE COURT: Yes. Certainly.

21 Ms. MacInnis?

22 MS. MACINNIS: Thank you, My Lady.

23 We have made an application for the approval of the  
24 sale of the Broder buck antlers, which was adjourned to  
25 today, and it was adjourned in order to allow anybody  
26 who's interested in purchasing the world record antlers  
27 to make a bid. And I understand from the clerk's office

Go ahead, Ms. MacInnis.

1  
 2 MS. MACINNIS: My point regarding that, My Lady,  
 3 is that there has been a -- there was a previous finding  
 4 of contempt against Mr. Don Broder in these proceedings,  
 5 and it's my submission that that is a relevant factor to  
 6 look at. He had previously been found in contempt of  
 7 Court in this same action, and that was by Justice  
 8 Marceau last November. So, it's not the first time that  
 9 Mr. Don Broder failed to comply with a Court order.

10 Another factor that I submit is relevant in -- in  
 11 looking at what sanctions should be on Mr. Don Broder is  
 12 that he did not voluntarily come forward to the Court to  
 13 advise the Court that the antlers had been disposed of.  
 14 The information that they had been disposed of came to  
 15 light through third parties and we brought that  
 16 information before the Court at the time when Mr. Don  
 17 Broder was in custody. It was then later -- he then did  
 18 acknowledge that the antlers had been sold, but it wasn't  
 19 that he voluntarily came forward and said, that's why I'm  
 20 not complying with it. He chose instead to say nothing  
 21 to go to -- to be imprisoned.

22 There has been another factor, I think, that the  
 23 Court looks at as to whether the defendant, or person  
 24 who's in contempt, has made any apology to the Court.  
 25 Well, there has been no apology made here by Mr. Don  
 26 Broder.

27 Another factor is that the trial took place over this

1 trophy when Mr. Don Broder did not have it in his -- in  
 2 his possession, and I would submit that really was a  
 3 misrepresentation to his siblings who were the plaintiffs  
 4 in the action to the estate and most importantly to the  
 5 Court. We went through a trial over an item that we were  
 6 -- there was a dispute about who it belonged to, and that  
 7 item was not any longer in the possession of the  
 8 defendant and that that should be considered in looking  
 9 at the sanction.

10 And going through the trial, all of the plaintiffs  
 11 are elderly. A number of them do have health issues and,  
 12 of course, any time going through a trial for the  
 13 litigants, it is in a stressful situation for them.

14 And it's my submission that the Court should send a  
 15 strong message to Mr. Don Broder that when a Court order  
 16 is given, that it ought to be obeyed. What we are  
 17 seeking is a penalty, which I think is a -- would be  
 18 measured in terms of the costs of the -- the plaintiffs  
 19 for the litigation and -- and I've given you particulars  
 20 of that in the 37,887.13, that's the first aspect of it.

21 The second part of it is the application for  
 22 indemnity for the solicitor/client costs of the applicant  
 23 in the contempt matter and I think the case law in the  
 24 package that I passed up to Your Ladyship, I have  
 25 provided you with copies of two decisions, one of Justice  
 26 Côté in the Zalowzo (phonetic) case and the other of  
 27 Justice Clark in the Perry case. And those cases