

1 Action No. 0901-16220
2 IN THE COURT OF QUEEN'S BENCH OF ALBERTA
3 JUDICIAL DISTRICT OF CALGARY
4

5
6 BETWEEN:

7
8 DONALD BRODER

9 Plaintiff

10 - and -

11 CLERK OF THE COURT

12 JUN - 7 2010

13 CALGARY, ALBERTA

11 GUY LACOURCIERE, BRIAN KICKHAM,

12 and MARVIN BLOOS

13 Defendants
14

15 CROSS-EXAMINATION OF GUY LACOURCIERE

16 BY MR. CRAIG BRODER

17 HELD THE 26TH DAY OF MAY, A.D. 2010
18

19
20 On his Affidavit sworn the 15th day of January,
21 A.D. 2010, taken before Carol Bourgeois, CSR(A),
22 Examiner, pursuant to Rules 203(3), 728, 204(1) of
23 the Court of Queen's Bench of Alberta, held at the
24 offices of Field LLP, 400, 604 - 1st Street, S.W.,
25 Calgary, Alberta.
26

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PRECISION REPORTING

APPEARANCES:

(Craig and Donald Broder Self-represented
(57 West Edge Road, Cochrane, Alberta T4C 1M7
(403) 932-9992)

(R. Wong, Esq. For the Defendant
(Lacourciere)
(Field LLP, 400, 604 - 1st Street, S.W.,
Calgary, Alberta T2P 1M7 (403) 260-8500)

(Carol A. Bourgeois, CSR(A) Court Reporter
Precision Reporting
(403) 686-2707)

1 Q Did you raise in your submissions -- did you raise
2 the issue that the first time lack of personal
3 representatives was raised was not early 2001, which
4 is tab A, page 13, Sawyer's motion, but was pleaded
5 within the original statement of defence?

6 A As a matter of fact, it was told to the court of
7 appeal. The comment was made by the court of appeal
8 -- well, you ambushed Ms. MacInnes and we said, no,
9 nobody was ambushed in respect to this. That matter
10 was raised at the beginning in the statement of
11 defence.

12 Q What you mean by "ambushed Ms. MacInnes?"

13 A The court had asked the question.

14 Q If we ambushed Elizabeth MacInnes?

15 A It appears to us that Ms. MacInnes may have been
16 ambushed by the motion, by Sawyer, in respect to --
17 in respect to the motion that had been filed in 2001.
18 And at that point in time what I had told the court
19 of appeal is that the matter had originally been set
20 out in the statement of defence.

21 Q I need some clarification that we ambushed Elizabeth
22 MacInnis.

23 MR. WONG: That's what the court of appeal
24 said.

25 Q MR. BRODER: We ambushed her? Is that not
26 when you raised issues, is that not considered a
27 lawyer of competence to know when and wait until the

1 issue being raised might be to your advantage -- or
2 to our advantage?

3 MR. WONG: Do you understand that?

4 A THE WITNESS: No.

5 MR. WONG: No. Can you repeat?

6 Q MR. BRODER: All I'm saying, if you're going
7 to wait to file motion 129, would it not be to our
8 advantage if our solicitor waited for a timely
9 application?

10 A Let's be clear. You filed a statement of defence.
11 In the statement of defence it raised the issue of
12 standing, okay? Later on a comment was made, first
13 of all, by Ms. MacInnes, that she had been ambushed.
14 At which point in time the court asked me about being
15 ambushed. And I said to the court, I said, no, that
16 the -- that Ms. MacInnes was not ambushed, that the
17 matter has been raised originally in the statement of
18 defence that had been filed by Mr. Sawyer.

19 Q Did you ever communicate with Robert Sawyer with
20 respect to bringing on a notice of motion pursuant to
21 the Alberta rules of court 129?

22 A No.

23 Q Did you ever tell Donald or Craig Broder that you
24 called Robert Sawyer to discuss bringing on an
25 application, that there was lack of personal
26 representatives or outstanding?

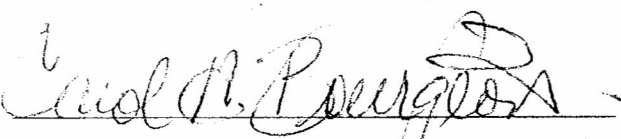
27 A No. I told you guys and you -- in fact, when you

~~PRECISION REPORTING~~

1 CERTIFICATE OF TRANSCRIPT

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3 I, Carol A. Bourgeois, hereby certify that the
4 foregoing pages 1 to 45 are a true and faithful
5 transcript of the proceedings taken down by me in
6 shorthand and transcribed from my shorthand notes to
7 the best of my skill and ability.

8 Dated at the City of Calgary, Province of
9 Alberta, this 28th day of May, A.D. 2010.

10 
11
12 Carol A. Bourgeois, CSR(A)
13 Court Reporter.