

SUPERIOR COURT OF JUSTICE

B E T W E E N:

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ELLEN SMITH

Plaintiff

- and -

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INCO LIMITED

Defendant

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P R O C E E D I N G S A T T R I A L

(Ruling - Evidence of David Atlin - Cross Examination)
(Request by Plaintiff's Counsel for Witness to Do Further)
(Calculations)

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BEFORE THE HONOURABLE JUSTICE J. R.
HENDERSON on Wednesday, January 13, 2010,
at WELLAND, Ontario.

APPEARANCES:

25

E. Gillespie
K. Baert
D. Rosenfeld

Counsel for the plaintiff

A. Lenczner
L. Lowenstein
L. Fric
R. Stephenson

Counsel for the defendant

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Ruling

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Transcript Ordered: January 13, 2010

Transcript Completed: January 17, 2010

Ordering Party Notified: January 18, 2010

WEDNESDAY, JANUARY 13, 2010

R U L I N G

HENDERSON, J. (Orally):

Let me do the ruling in two parts.

First of all, I will allow at least some further questioning as to why Mr. Atlin did not update the report. I think he has already given an answer to that question but I will allow you to explore that further if you wish. Certainly you cannot get into solicitor's advice to this witness.

Secondly, with respect to asking Mr. Atlin to perform calculations to update his report, I think Mr. Gillespie you are going to have great difficulty convincing me that I should order that, for many reasons. But, I am not going to make a final decision on that until I have allowed you to explore the first question.

2.
Certification

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FORM 2
CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))

Evidence Act

I, Heather L. Marceau, certify that this document is a true and accurate transcript of the recording of Smith v. Inco in the Superior Court of Justice held at Welland, Ontario, taken from Recording No. 4521-1-0007-2010, which has been certified in Form 1.

Jan 19, 2010
Date

H. Marceau
.....
(Signature of Authorized Person)
Heather L. Marceau
Certified Verbatim Court Reporter