

SUPERIOR COURT OF JUSTICE

B E T W E E N:

ELLEN SMITH

Plaintiff

- and -

INCO LIMITED

Defendant

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

(Ruling - Re: Qualifying Timothy Hu as an Expert Witness)

BEFORE THE HONOURABLE JUSTICE J. R.
HENDERSON, on Thursday, December 3, 2009,
at Welland, Ontario.

APPEARANCES:

E. Gillespie
K. Baert

Counsel for the plaintiff

L. Lowenstein
L. Fric
R. Stephenson
L. Murray

Counsel for the defendant

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Transcript Ordered: December 3, 2009
Transcript Completed: December 3, 2009
Ordering Party Notified: December 4, 2009

THURSDAY, DECEMBER 3, 2009

R U L I N G

HENDERSON, J. (Orally):

I am going to allow you to proceed in a very limited way with respect to qualifying Mr. Hu to give opinion evidence with respect to GeoWarehouse. I say that because I am well aware that the evidence from Mr. Hu is really the next piece of evidence in a string of accommodations that started with the late report of Mr. Maughan, followed by cross examination on documents produced by Mr. Cavallo.

I have already made a ruling that I thought that GeoWarehouse reports contain a mix of fact and opinion. To the extent that they contain opinion, I will allow this witness, provided that he is qualified, to give opinion evidence as it relates to GeoWarehouse. I intend to make that same ruling with respect to Mr. Cavallo when I hear from him. I am going to treat them with equal accommodation, if I could put it that way. So, you can call whatever evidence you want with respect to qualifications on that narrow area.

2.
Certification

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


Evidence Act

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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. 4521-1-0177-2009, which has been certified in Form 1.

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Dec 8/09
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Date


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

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