

COURT OF APPEAL

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL

No: 500-09-021749-114
(500-06-000500-104)

MINUTES OF THE HEARING

DATE: June 29, 2011

THE HONOURABLE PIERRE J. DALPHOND, J.A.

PETITIONER	ATTORNEY
ROYAL BANK OF CANADA	Mtre Alexander L. De Zordo <i>BORDEN LADNER GERVAIS</i>

RESPONDENT	ATTORNEYS
VIRGINIA NELLES	Mtre Robert Kugler <i>KUGLER KANDESTIN</i> Mtre Neil H. Stein <i>STEIN & STEIN INC.</i>

MOTION FOR LEAVE TO APPEAL FROM A JUDGMENT RENDERED ON MAY 12 2011 BY THE HON. ROBERT MONGEON OF THE SUPERIOR COURT DISTRICT OF MONTREAL

Clerk: Annick Nguyen

Court Room: RC.18

HEARING

9:47 Commencement of the hearing.

9:48 Submission by Mtre De Zordo.

10:31 Submission by Mtre Kugler.

10:35 BY THE JUDGE:

GIVES ACT to the undertaking of the Respondent to provide Petitioner with her tax returns for the years 2004 to 2009 (Objection 28), the whole to be subject to the principles governing pre-trial disclosure.
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10:36 BY THE JUDGE.

Judgment – See page 3.

Annick Nguyen

Clerk

JUDGMENT

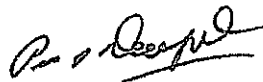
[1] I have some doubts about objection 28 that were dissipated by the undertaking of the Respondent to provide a copy of her tax returns. With regard to the remaining objections maintained by the trial judge for which leave is sought, I am of the view that the Petitioner's Motion should be dismissed.

[2] These objections can be regrouped in two classes. First, there are those that are identified as O-34 to O-40. They relate to the composition of the group represented. Obviously, the Respondent is not in a position to answer them in a meaningful way. In addition, the relevancy of the subjacent questions is, as said by the trial judge, dubious, especially at the stage the file is now.

[3] With regard to the other group of objections, I see *prima facie* no error of the judge in concluding that the subjacent questions are not relevant to the debate on the common questions. I think that the judge properly and succinctly resumes the debate at page 77 and 78 of the transcript as being whether there was a mishandling of funds by the bank.

[4] I agree with him that the subjacent questions are not relevant to this issue. They may become relevant for the assessment of the individual claims, assuming that the file reaches that point, but I don't have to decide that now.

[5] **FOR THESE REASONS**, the Motion is dismissed, without costs.



PIERRE J. DALPHOND, J.A.