

Action No.: 1803-07522
E-File No.: EVQ19WEINRICH
Appeal No.: _____

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

BETWEEN:

WEINRICH CONTRACTING LTD

Plaintiff

and

OCTO MECHANICAL LTD., GRANT WEINRICH, TREVOR BOLENCIUK,
DARREN FREDERICKSON, VERNON JOHANNSON, ANDRES LIMON
FALCON, and KENNETH POWER

Defendants

P R O C E E D I N G S

Edmonton, Alberta
February 20, 2019

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

2
3 February 20, 2019

Morning Session

4
5 Master Schulz

Court of Queen's Bench of Alberta

6
7 (No Appearance)

For Weinrich Contracting Ltd.

8 A. Nanda

For Octo Mechanical Ltd.

9 A. Young

Court Clerk

10
11 **Discussion**

12
13 MASTER SCHULZ: Good morning everyone. Please be seated. We
14 are doing numbers 31 to the end of the list in this courtroom today. Are there any
15 applications, before we start the list, consent orders, applications without notice, et cetera?

16
17 MR. NANDA:

Good morning Master Schulz.

18
19 MASTER SCHULZ:

Good morning.

20
21 **Submissions by Mr. Nanda**

22
23 MR. NANDA: I have a -- unique fiat for your consideration
24 that's on notice of a -- the consent of my friends. This is an action that was dismissed by
25 Master Wacowich in July of 2018. It was subsequently appealed by my friends. It's --

26
27 MASTER SCHULZ:

Suddenly -- I didn't that.

28
29 MR. NANDA:

Subsequently, appealed by my friends --

30
31 MASTER SCHULZ:

Okay.

32
33 MR. NANDA: -- to a QB Justice. Everything was moving fine
34 and then end of January, the appellants -- or, the plaintiffs -- plaintiff in this case filed a
35 late affidavit. And that's (INDISCERNIBLE) record. And we were scrambling to do a
36 bunch of things, questionings and such in order to meet the appeal date which is March 5th
37 of 2019. It didn't look like that was possible. And I appeared before Justice Gill on Friday
38 seeking an adjournment in order to allow for this. Justice Gill had a different view. He put
39 in place some strict deadlines for us to accomplish what we needed to accomplish in order
40 to have the appeal heard.
41

1 But however, one of the - the - the deadlines that Justice Gill imposed was, my client had
2 to provide rebuttal - rebuttal evidence by the end of business today. Notwithstanding the
3 fact that my principle -- the individual who instructs -- the corporate defendant that I act
4 for is in Cuba. And not only that is he in Cuba, he's in places in Cuba where there's limited
5 access to internet as well as ability to print.

6
7 So, I commissioned his affidavit through Skype. And I know other jurisdictions in this
8 country have permitted it. I know in Alberta there's no prohibition on commissioning
9 affidavits over Skype or video teleconferencing as long as they're before me. But it's
10 through Skype. So, I put this to my friends saying, given the circumstances, given the
11 necessity to have this in, a fiat -- this affidavit is properly commissioned. They seem to
12 have agreed. I'm just wondering if the Court would agree to allowing me to file this. And
13 if - if there are issues later on before the justice, my friends can make that. But I just need
14 it in there because if not, my --

15
16 MASTER SCHULZ: To comply with Justice Gill's order.

17
18 MR. NANDA: Yeah. And my client receives prej - prejudice if
19 this evidence is not in.

20
21 MASTER SCHULZ: So, he somehow managed to get the signed
22 affidavit to you, but it wasn't commissioned?

23
24 MR. NANDA: So --

25
26 MASTER SCHULZ: So --

27
28 MR. NANDA: -- he - he signed it through -- he has an electronic
29 signature.

30
31 MASTER SCHULZ: Okay.

32
33 MR. NANDA: He just puts on there. But -- I - I mentioned it in
34 the affidavit itself. I think at paragraph 3 or 4 he says, this is an electronic signature. But
35 I'm ready to be questioned on this and I swear that it's true so help me God. And - and --

36
37 MASTER SCHULZ: And so, you saw him basically raise his hand --

38
39 MR. NANDA: I did everything --

40
41 MASTER SCHULZ: Okay.

1
2 MR. NANDA: -- on video. And he comes back on Monday -- or
3 actually Friday evening. From question -- I told my friend, anytime you want -- in
4 compliance with Justice Gill's order. And - and my friend is seeking instructions if she
5 wants to do that. And we've agreed that timelines may be shifted if that does occur. And -
6 and I put it on the jurat too so it's clear.

7
8 MASTER SCHULZ: I noticed that, yes.

9
10 MR. NANDA: Yeah.

11
12 MASTER SCHULZ: So, I mean, all we are doing at this point is
13 allowing it be filed.

14
15 MR. NANDA: Yes.

16
17 MASTER SCHULZ: And she can then make whatever argument she
18 wants to.

19
20 MR. NANDA: Yes.

21
22 MASTER SCHULZ: And she knows you are here today?

23
24 MR. NANDA: Yes. Yeah. I notice but nul (phonetic) -- and I
25 think at some point there may be a need for the Court to maybe put directions on this sort
26 of -- in these sorts of situations. But it's interesting.

27
28 MASTER SCHULZ: I mean, as an officer of the court, you are telling
29 me that you properly --

30
31 MR. NANDA: Yeah.

32
33 **Decision**

34
35 MASTER SCHULZ: -- you know, you asked all the right questions
36 and they said the right things and held up their right hand and all the rest of it. So, as far as
37 I am concerned, it can go in. Whether the Justice is going to have an issue with it is going
38 to be something you will have to deal with.

39
40 MR. NANDA: Sure. Thank you Master.

41

1 MASTER SCHULZ:

Okay. Thank you.

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5 PROCEEDINGS CONCLUDED
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1 **Certificate of Record**

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3 I, Alyssa Young, certify that this recording is the record made of the evidence in the
4 proceedings in the Court of Queen's Bench, held in courtroom 213 at Edmonton, Alberta, on
5 the 20th day of February, 2019, and that I, Alyssa Young, was the court official in charge of
6 the sound-recording machine during the proceeding -- proceedings.
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1 **Certificate of Transcript**

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3 I, Christine Hanson, certify that

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5 (a) I transcribed the record, which was recorded by a sound-recording machine, to the best of
6 my skill and ability and the foregoing pages are a complete and accurate transcript of the
7 contents of the record, and

8
9 (b) the Certificate of Record for these proceedings was included orally on the record and is
10 transcribed in this transcript.

11
12 Christine Hanson, Gagné Transcription Services

13 Order Number: AL-JO-1002-8283

14 Dated: March 26, 2019
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