

SUPREME COURT OF YUKON

Citation: *Calandra et al. v. Henley et al.*,
2008 YKSC 96

Date: 20081008
Docket: 07-A0159
Registry: Whitehorse

BETWEEN:

FRANCESCO CALANDRA AND YVONNE FRADSHAM

Plaintiffs

AND:

**WINSTON HENLEY, AIR RIDE MOBILE MOVING
AND CATHY REHN**

Defendants

Before: Mr. Justice R.S. Veale

Appearances:

Francesco Calandra
James Tucker

Counsel for himself and Yvonne Fradsham
Counsel for Henley and Air Ride
No one representing Cathy Rehn

RULING ON AFFIDAVIT OF RICHARD GADOURY DELIVERED FROM THE BENCH

[1] VEALE J. (Oral): We are in a Rule 19 summary trial proceeding. At the outset an objection has been made to the affidavit of Richard Gadoury, G-A-D-O-U-R-Y. The copy I have in the Chambers record does not have a date of filing but the date of swearing it is September 30, 2008. Counsel for Mr. Henley has objected to the affidavit on the grounds that it is in the guise of an expert report but it does not comply with Rule 34(5), which indicates the form of report required for expert reports.

[2] Mr. Calandra, who is representing himself as plaintiff, takes the position that pursuant to Rule 19(4)(e), the Court can either rule that the affidavit of Richard Gadoury conforms with Rule 34(5) or it is admissible even though it does not conform with Rule 34(5).

[3] I have examined the affidavit. It is a two-page affidavit accompanied by a *curriculum vitae* of Mr. Gadoury. The affidavit relates to the amount of money that it would cost to put the piece of property that is involved in this litigation back to its natural state.

[4] In general, this Court takes a somewhat relaxed attitude to the admission of expert opinion and it does not require university degrees but rather one looks at the background of the individual and whether or not the individual is capable of making or giving the opinion that is given in the report.

[5] In this case my view is that it does not comply with Rule 34(5) and I am not prepared to rule it admissible. The affidavit is extremely limited and basically comes up with an approximate amount of \$40,000 to \$45,000 but with absolutely no detail on how that figure is arrived at which could in any way assist the Court in determining the cost of putting the land back to its natural state. So I am not going to allow the affidavit to be admitted under Rule 34(5), nor Rule 19(4)(e)(ii).

VEALE J.