

Federal Court of Appeal



Cour d'appel fédérale

Date: 20190109

Docket: A-99-18

Citation: 2019 FCA 8

**CORAM: GAUTHIER J.A.
RENNIE J.A.
GLEASON J.A.**

BETWEEN:

HER MAJESTY THE QUEEN

Appellant

and

**JOHN DOE, SUZIE JONES,
and PENNY KOZMENSKI**

Respondents

Heard at Ottawa, Ontario, on January 9, 2019.
Judgment delivered from the Bench at Ottawa, Ontario, on January 9, 2019.

REASONS FOR JUDGMENT OF THE COURT BY:

GLEASON J.A.

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT
(Delivered from the Bench at Ottawa, Ontario, on January 9, 2019).

GLEASON J.A.

[1] This appeal must be dismissed because the appellant already appealed the certification order that certified as a common question the issue of whether an aggregate assessment of damages is available. The appellant had the opportunity during that first appeal to seek the relief it now seeks, but did not do so. Therefore, the portion of the certification order dealing with the

aggregate assessment of damages as a common question (i.e. that part of paragraph 8 in the certification order that follows the heading “With Respect to Damages” at paragraphs a) and b) of page 69 of the Record) is final.

[2] If there was an ambiguity in the earlier judgment of this Court, a matter we express no opinion on, it was incumbent on the appellant to have moved in a timely fashion before this Court under Rule 397 of the *Federal Courts Rules*, SOR/98-106.

[3] This appeal will accordingly be dismissed. That said, in light of the question certified, it will still be open to the appellant to make before the common questions judge the same arguments as advanced before us as to the propriety of an aggregate assessment of damages in respect of the causes of action that remain.

“Mary J.L. Gleason”

J.A.

FEDERAL COURT OF APPEAL

NAMES OF COUNSEL AND SOLICITORS OF RECORD

DOCKET: A-99-18

STYLE OF CAUSE: HER MAJESTY THE QUEEN v.
JOHN DOE, SUZIE JONES, and
PENNY KOZMENSKI

PLACE OF HEARING: Ottawa, Ontario

DATE OF HEARING: JANUARY 9, 2019

REASONS FOR JUDGMENT OF THE COURT BY: GAUTHIER J.A.
RENNIE J.A.
GLEASON J.A.

DELIVERED FROM THE BENCH BY: GLEASON J.A.

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