

Federal Court of Appeal



Cour d'appel fédérale

**Date: 20110216**

**Dockets: A-341-10  
A-342-10**

**Citation: 2011 FCA 59**

**Present: NOËL J.A.**

**Docket: A-341-10**

**BETWEEN:**

**EARL BABICH**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**Docket: A-342-10**

**BETWEEN:**

**ABLE ENTERPRISES LTD.**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Dealt with in writing without appearance of parties.

Order delivered at Ottawa, Ontario, on February 16, 2011.

**REASONS FOR ORDER BY:**

**NOËL J.A.**

Federal Court of Appeal



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**ABLE ENTERPRISES LTD.**

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**and**

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**REASONS FOR ORDER**

**NOËL J.A.**

[1] I am seized in file A-342-10 with a motion by the corporate appellant to authorize Mr. Earl Babich to represent it as well as motions by the appellants in both files A-342-10 and A-342-10 to settle the contents of the appeal book.

[2] Dealing with the first motion, the respondent opposes the order sought because the evidence of impecuniosity is not sufficient and the appellant has not demonstrated that this matter will proceed expeditiously.

[3] Having considered the evidence, I am satisfied that the appellant is unable to pay for a lawyer and that accordingly alternative representation must be considered. Although the absence of legal representation may result in procedural complications, Mr. Babich is authorized as of right to act on his own behalf, and it seems logical that he should also be authorized to act on behalf of the corporate appellant. An order will be issued accordingly.

[4] Turning to the appeal book, the respondent proposes to include the pleadings, all the evidence tendered by the parties, as well as all evidentiary and jurisdictional rulings made by the Trial Judge. The respondent wishes to add a number of documents which were not in evidence at trial.

[5] I am satisfied that there are no circumstances in this case which would justify a departure from the generally accepted rule which is to restrict the contents of the appeal book to the material

that was before the Trial Judge. The appeal book will accordingly be constituted by the documents proposed by the respondent and listed at paragraph 2 of its respective motion records filed November 12, 2010.

“Marc Noël”

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-341-10

**STYLE OF CAUSE:** EARL BABICH and HER MAJESTY  
THE QUEEN

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:** Noël J.A.

**DATED:** February 16, 2011

**WRITTEN REPRESENTATIONS BY:**

Earl Babich

FOR THE APPELLANT  
(SELF-REPRESENTED)

Raj Grewal

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

N/A

FOR THE APPELLANT  
(SELF-REPRESENTED)

MYLES J. KIRVAN  
Deputy Attorney General of Canada

FOR THE RESPONDENT

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-342-10

**STYLE OF CAUSE:** ABLE ENTERPRISES LTD. and  
HER MAJESTY THE QUEEN

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:** Noël J.A.

**DATED:** February 16, 2011

**WRITTEN REPRESENTATIONS BY:**

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FOR THE APPELLANT  
(SELF-REPRESENTED)

Raj Grewal

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

N/A

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