Docket: 2008-3239(IT)G

BETWEEN:

ROBERT KUBBERNUS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Motion heard on March 10, 2009, at Toronto, Ontario.

Before: The Honourable Justice François Angers

Appearances:

Counsel for the Appellant: Leigh Somerville Taylor
Counsel for the Respondent: Justin Kutyan

JUDGMENT

Upon motion by counsel for the respondent for an order quashing the appeal;

The motion is allowed and the appeal is quashed with costs in accordance with the attached Reasons for Judgment.

Signed at Edmundston, New Brunswick, this 29th day of June 2009.

"François Angers"

Angers J.

Citation: 2009 TCC 311
Date: 20090629
Docket: 2008-3239(IT)G

BETWEEN:

ROBERT KUBBERNUS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

Angers J.

[1] This is a motion by the respondent seeking an order quashing the appeal, or in the alternative, an order extending to a date that is 21 days after the date of the Court's order on this motion the time within which the respondent is required to file and serve a reply to the notice of appeal.

[2] The Minister of National Revenue (the "Minister") reassessed for the appellant's 2000 taxation year on October 16, 2006 to allow a capital loss carryforward of $545. The reassessment was triggered by an application for relief under the "Taxpayer Relief" legislation formerly known as the "fairness" legislation. As for the appeal, the principal issue raised is whether the Minister erred in including in computing the appellant's employment income for the 2000 taxation year $1,997,525 in respect of exercised stock options.

[3] The affidavit (with exhibits) of Emil Varden, a litigation officer with the Canada Revenue Agency was submitted by the respondent and the affidavit (with exhibits) of Agnes Predota, an employee of the appellant's counsel, was submitted on behalf of the appellant. The appellant's 2000 taxation year was initially assessed under the *Income Tax Act* (the "*Act*") on May 25, 2001. The Minister did not receive a notice of objection from the appellant with respect to this initial assessment. On February 18, 2002, the appellant submitted a T1 Adjustment Request regarding a

capital gain reserve for the 2000 taxation year. On July 6, 2002, the appellant further requested a loss carryback for the 2000 taxation year.

[4] As a result of the above, the Minister reassessed for the appellant's 2000 taxation year on September 3, 2002 on the basis of the T1 Adjustment Request, and on October 3, 2002, there was a further reassessment to permit the recognition of a capital loss for the 2000 taxation year. No notice of objection was received by the Minister with respect to these two reassessments.

[5] On or about June 29, 2006, the Minister received an application for relief under subsection 152(4.2) or 164(1.5) of the *Act* with respect to the appellant's 2000 taxation year. As a result, the Minister issued on October 16, 2006 a notice of reassessment in respect of the appellant's 2000 taxation year permitting a capital loss carryforward of $545. The October 16, 2006 reassessment clearly states on its face that the Minister adjusted the appellant's tax return under the fairness provisions of the *Act* and that as a result a notice of objection cannot be filed. The relevant statement reads as follows:

> As you requested, we have adjusted your return. In the past, you had to make such a request within three years of the date we mailed you the "Notice of Assessment" for that return. However, the fairness provisions of the "Income Tax Act" allow us to make adjustments beyond the usual three-year period. Since we allowed you an adjustment under these provisions, you cannot file a "Notice of Objection" regarding this reassessment.

[6] Notwithstanding the above, the appellant objected to the reassessment on or about January 15, 2007. The Canada Revenue Agency considered the appellant's objection and issued a notice of confirmation on July 15, 2008 in respect of his 2000 taxation year. Consequently, the appellant filed a notice of appeal with this Court on October 14, 2008, which appeal the respondent now seeks to have quashed.

[7] Counsel for the respondent submits that the 2006 reassessment was issued pursuant to subsection 152(4.2) of the *Act*. Subsection 165(1.2) of the *Act* provides that no objection can be made to a reassessment issued under subsection 152(4.2). He further maintains that in order to appeal a reassessment to this Court, the appellant must first meet the requirements set out in subsection 169(1) of the *Act*, which requires that a notice of objection be served on the Minister under section 165. If no valid objection can be made to the reassessment, it follows that there can be no appeal to this Court.

[8] Counsel for the appellant raises four arguments in opposing the motion. It is submitted firstly that the statutory authority for the reassessment was subparagraph 152(4)(*b*)(i) and subsection 152(6) of the *Act* rather than subsection 152(4.2). The appellant's objection to the 2006 reassessment is not prohibited by subsection 165(1.2) as this provision does not apply to reassessments made under subparagraph 152(4)(*b*)(i).

[9] Secondly, counsel for the appellant argues that subsection 169(1) of the *Act* does not prohibit an appeal from a reassessment issued under subsection 152(4.2). According to the implied exception rule endorsed by the Supreme Court of Canada, to express the mirrored limitations and prohibitions in section 169 without reference to subsection 152(4.2) is to exclude subsection 152(4.2).

[10] Thirdly, counsel submits that the Minister's actions in this case give rise to estoppel, and the Minister is thus estopped from questioning the validity of the objection. Finally, counsel submits that the respondent has not satisfied the test for granting an extension of time to file a reply. The motion for an extension of time should accordingly be dismissed and the allegations of fact contained in the notice of appeal should be presumed to be true for the purpose of the appeal.

[11] The issue is therefore whether the 2006 reassessment was issued pursuant to subsection 152(4.2) of the *Act*, thereby precluding the appellant from objecting to and appealing the assessment.

[12] The relevant provisions of the *Act* relied upon by the parties read as follows:

> **152(4.2) Reassessment with taxpayer's consent** — Notwithstanding subsections (4), (4.1) and (5), for the purpose of determining, at any time after the end of the normal reassessment period of a taxpayer who is an individual (other than a trust) or a testamentary trust in respect of a taxation year, the amount of any refund to which the taxpayer is entitled at that time for the year, or a reduction of an amount payable under this Part by the taxpayer for the year, the Minister may, if the taxpayer makes an application for that determination on or before the day that is ten calendar years after the end of that taxation year,
>
> (*a*) reassess tax, interest or penalties payable under this Part by the taxpayer in respect of that year; and
>
> (*b*) redetermine the amount, if any, deemed by subsection 120(2) or (2.2), 122.5(3), 122.51(2), 122.7(2) or (3), 127.1(1), 127.41(3) or 210.2(3) or (4) to be paid on account of the taxpayer's tax payable under this Part for the year or deemed by subsection 122.61(1) to be an overpayment on account of the taxpayer's liability under this Part for the year.

. . .

[13] The relevant parts of subsection 152(6) of the *Act* are as follows:

152(6) Reassessment where certain deductions claimed [carrybacks] — Where a taxpayer has filed for a particular taxation year the return of income required by section 150 and an amount is subsequently claimed by the taxpayer or on the taxpayer's behalf for the year as

. . .

(*b*) a deduction under section 41 in respect of the taxpayer's listed-personal-property loss for a subsequent taxation year,

. . .

(c) a deduction under section 118.1 in respect of a gift made in a subsequent taxation year or under section 111 in respect of a loss for a subsequent taxation year,

. . .

(d) a deduction under subsection 127(5) in respect of property acquired or an expenditure made in a subsequent taxation year,

by filing with the Minister, on or before the day on or before which the taxpayer is, or would be if a tax under this Part were payable by the taxpayer for that subsequent taxation year, required by section 150 to file a return of income for that subsequent taxation year, a prescribed form amending the return, the Minister shall reassess the taxpayer's tax for any relevant taxation year (other than a taxation year preceding the particular taxation year) in order to take into account the deduction claimed.

[14] Subsections 165(1.1) and (1.2) of the *Act* provide as follows:

165(1.1) Limitation of right to object to assessments or determinations — Notwithstanding subsection (1), where at any time the Minister assesses tax, interest, penalties or other amounts payable under this Part by, or makes a determination in respect of, a taxpayer

(*a*) under subsection 67.5(2) or 152(1.8), subparagraph 152(4)(*b*)(i) or subsection 152(4.3) or (6), 161.1(7), 164(4.1), 220(3.4) or 245(8) or in accordance with an order of a court vacating, varying or restoring an assessment or referring the assessment back to the Minister for reconsideration and reassessment,

(*b*) under subsection (3) where the underlying objection relates to an assessment or a determination made under any of the provisions or circumstances referred to in paragraph (*a*), or
(*c*) under a provision of an Act of Parliament requiring an assessment to be made that, but for that provision, would not be made because of subsections 152(4) to (5),

the taxpayer may object to the assessment or determination within 90 days after the day of mailing of the notice of assessment or determination, but only to the extent that the reasons for the objection can reasonably be regarded

(*d*) where the assessment or determination was made under subsection 152(1.8), as relating to any matter or conclusion specified in paragraph 152(1.8)(*a*), (*b*) or (*c*), and
(*e*) in any other case, as relating to any matter that gave rise to the assessment or determination

and that was not conclusively determined by the court, and this subsection shall not be read or construed as limiting the right of the taxpayer to object to an assessment or a determination issued or made before that time.

165(1.2) Limitation on objections — Notwithstanding subsections (1) and (1.1), no objection may be made by a taxpayer to an assessment made under subsection 118.1(11), 152(4.2), 169(3) or 220(3.1) nor, for greater certainty, in respect of an issue for which the right of objection has been waived in writing by the taxpayer.

[15] Subsection 169(1) of the *Act* provides as follows:

169(1) Appeal — Where a taxpayer has served notice of objection to an assessment under section 165, the taxpayer may appeal to the Tax Court of Canada to have the assessment vacated or varied after either

(*a*) the Minister has confirmed the assessment or reassessed, or
(*b*) 90 days have elapsed after service of the notice of objection and the Minister has not notified the taxpayer that the Minister has vacated or confirmed the assessment or reassessed,

but no appeal under this section may be instituted after the expiration of 90 days from the day notice has been mailed to the taxpayer under section 165 that the Minister has confirmed the assessment or reassessed.

[16] Subsection 152(4.2) of the *Act* is part of the "Taxpayer Relief" legislation formerly known as the "fairness" legislation and introduced on May 24, 1991 as part of the "Fairness Package". That subsection as it now reads is intended to provide

relief to an individual taxpayer who becomes aware, after the normal reassessment period, that he may be entitled to a refund or a reduction of an amount payable. The application for such a determination must be made within ten calendar years after the end of the taxation year. Notwithstanding a taxpayer's right to object to an assessment under section 165 of the *Act*, subsection 165(1.2) precludes a taxpayer from objecting to an assessment made under certain provisions of the *Act*, including subsection 152(4.2). The reasoning behind that is that a reassessment under subsection 152(4.2) is made at the Minister's discretion.

[17] It has been held in many decisions of this Court, subsequently upheld in the Federal Court of Appeal, that a taxpayer is precluded from appealing to this Court as he cannot object to a reassessment made pursuant to subsection 152(4.2) of the *Act*. Madam Justice Valerie Miller of this Court stated the following in *Groulx v. The Queen.*, 2008 TCC 445, a decision that was upheld by the Federal Court of Appeal, 2009 FCA 10:

> [11] The taxpayer is precluded from appealing his 1997 and 1998 taxation years to the Tax Court as he cannot object to the reassessments for those years as they have been made in accordance with subsection 152(4.2). Justice O'Connor had this to say in his decision in *Mellish*:
>
>> [10] The Court has previously considered the interplay between these three subsections and has consistently concluded that there is no right of appeal to the Tax Court of Canada for a reassessment issued under subsection 152(4.2)
>>
>> * *Yaremy* – Once satisfied that the reassessment was issued under subsection 152(4.2), the Court concluded, at paragraph 10, "that subsection 165(1.2) applies and no valid objection could be made by the Appellant. If no valid objection can be made, then no valid appeal can be commenced under subsection 169(1)."
>>
>> * *Haggart* – The Court concluded, at paragraph 37, "that it is not possible to file a valid Notice of Objection nor a Notice of Appeal to a Reassessment that was issued under subsection 152(4.2) of the Act."
>>
>> * *Chou* – The Court concluded, at paragraph 15, that "as the appellant could not validly file a notice of objection to the...reassessment issued pursuant to subsection 152(4.2) of the *Act,* she was consequently barred under subsections 165(1.2) and 169(1) of the *Act* from instituting an appeal from that reassessment before this Court."

[18] Notwithstanding the above-mentioned case law, the appellant submits that the principles of statutory interpretation, specifically the presumption against redundancy and the implied exception rule, warrant a reconsideration of those cases that have held that there is no right of appeal from an assessment made under subsection 152(4.2) of the *Act*.

[19] With respect to the presumption against redundancy, the appellant reviewed and compared subsections 165(1.2) and 169(2.2) of the *Act*, noting that there is an explicit statutory prohibition against disputing assessments where a taxpayer has filed a waiver in respect of a right to object. That prohibition is repeated in both subsections 165(1.2) and 169(2.2). Subsection 169(2.2) reads as follows:

> **169(2.2) Waived issues** — Notwithstanding subsections (1) and (2), for greater certainty a taxpayer may not appeal to the Tax Court of Canada to have an assessment under this Part vacated or varied in respect of an issue for which the right of objection or appeal has been waived in writing by the taxpayer.

[20] The appellant further argues on this point that if the prohibition under subsection 169(2.2) is to have any meaning and not be redundant, the only reasonable conclusion is that the legislator did not intend the prohibition of an objection with regard to a waived issue to operate so as to prohibit an appeal; consequently, that the legislator must not have intended the prohibition in subsection 165(1.2) to apply to appeals. The appellant also states that if the sections prescribing limitations on appeals are to have any meaning, then the limitations on appeals must be different than the limitations on objections.

[21] Subsection 169(2.2) was enacted to provide, for greater certainty, that no appeal could be instituted in this Court in respect of an issue for which the right of objection or appeal has been waived in writing by the taxpayer. If a taxpayer waives his right of objection, it follows that he may not appeal to this Court given that no valid objection can be made and the precondition in subsection 169(1) cannot be met. In my opinion, the word "or" suggests that a taxpayer may not appeal to this Court if he has waived his objection rights or if he has waived his appeal rights without waiving his objection rights. Either way, he is barred from appealing to this Court. Subsection 169(2.2), in my opinion, is not redundant.

[22] The appellant further argues that section 169 does not prohibit an appeal under subsection 152(4.2) of the *Act*. He submits that the legislator chose to repeat the prohibition on disputing waived items in subsections 165(1.2) and 169(2.2) and chose to repeat the limitation on disputing prescribed items in subsections 165(1.1)

and 169(2) of the *Act*. The appellant contends that if the legislator meant to deprive this Court of jurisdiction to hear an appeal from a reassessment made under subsection 152(4.2) of the *Act*, there would have to be an explicit deprivation of jurisdiction and the legislator's failure to mention that section is grounds for inferring that it was deliberately excluded. Thus, there is no prohibition on appeals from reassessments under subsection 152(4.2) of the *Act* or, at minimum, there is ambiguity, which should be resolved in favour of the taxpayer.

[23] Statutory interpretation must be done in accordance with the directives found in *Canada Trustco Mortgage Co. v. Canada*, [2005] 5 C.T.C. 215 (S.C.C.) at paragraph 10:

> It has been long established as a matter of statutory interpretation that "the words of an Act are to be read in their entire context and in their grammatical and ordinary sense harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament": see *65302 British Columbia Ltd. v. Canada*, [1999] 3 S.C.R. 804, at para. 50. The interpretation of a statutory provision must be made according to a textual, contextual and purposive analysis to find a meaning that is harmonious with the Act as a whole. When the words of a provision are precise and unequivocal, the ordinary meaning of the words play a dominant role in the interpretive process. On the other hand, where the words can support more than one reasonable meaning, the ordinary meaning of the words plays a lesser role. The relative effects of ordinary meaning, context and purpose on the interpretive process may vary, but in all cases the court must seek to read the provisions of an Act as a harmonious whole.

[24] With that in mind, it seems logical to say that the legislator did not repeat the prohibition for there was no need to do so. The *Act* already provides that in order to appeal to this Court, a notice of objection must be filed with the Minister under subsection 169(1) of the *Act*. It seems clear that by enacting subsection 165(1.2) prohibiting an objection to assessments made under subsection 152(4.2), the legislator was aware that no appeal could then be instituted to this Court with respect to such a reassessment and that it was thus intended that the prohibition apply to appeals. In my opinion, section 169 of the *Act* is not ambiguous. There is therefore no right of appeal from a reassessment under subsection 152(4.2) of the *Act*.

[25] The second point raised by the appellant has to do with subsection 152(6) of the *Act*. The appellant submits that the Minister has the statutory authority under that subsection to make an adjustment with respect to a loss from a later year up to six years after the date of mailing of the original notice of assessment. He suggests that the Minister recomputed the loss carryforward in October 2006 and issued a reassessment, to which he objected. He therefore maintains that the 2006

reassessment was authorized pursuant to subparagraph 152(4)(*b*)(i). It was therefore not necessary to resort to the discretionary assessment provisions of subsection 152(4.2) of the *Act*, as the adjustment was made within three years of the end of the normal reassessment period. Accordingly, the objection to the October 2006 reassessment is not prohibited by subsection 165(1.2) because it does not apply to reassessments made under subparagraph 152(4)(*b*)(i).

[26] The appellant further advances that the restrictions in subsections 152(4.01), 165(1.1) and 169(2) do not prohibit the assessment at issue because it is an assessment that can reasonably be regarded as relating to an assessment, reassessment or additional assessment to which subparagraph 152(4)(*b*)(i) applies, and that the wording "can reasonably be regarded as relating" is to be given a large and liberal interpretation. In this regard, the appellant relies on *Chevron Canada Resources Ltd. v. Canada,* [1997] 2 C.T.C. 2624 (T.C.C.) and *Agazarian v. Canada*, [2004] 3 C.T.C. 101 (F.C.A.). In *Agazarian*, it was held that the Minister had the power to reassess income tax returns more than once beyond the normal reassessment period provided the reassessments take place within the extended reassessment period.

[27] I agree that the Minister may issue a subsequent assessment arising from a subsection 152(6) assessment if necessary in the circumstances. I cannot agree, though, with the appellant's statement that the restrictions in subsections 152(4.01), 165(1.1) and 169(2) of the *Act* do not prohibit the subject assessment because it is an assessment that can reasonably be regarded as relating to an assessment or reassessment under subparagraph 152(4)(*b*)(i). In *Agazarian* (*supra*), the Court merely stated that the Minister is empowered to reassess more than once under paragraph 152(4)(*b*). It did not say that one may object to matters other than those provided for in the special provisions.

[28] It is important to remember here that the appellant did not object to the loss carryforward in this instance. He objected, rather, to the inclusion of certain employment income received from exercised stock options. To suggest that the matter that gave rise to the reassessment is the income of the taxpayer would be to defeat the limitations prescribed in subsection 165(1.1) of the *Act*.

[29] Subsection 165(1.1) of the *Act* was enacted to prevent a taxpayer from taking advantage of an assessment or reassessment made under special provisions by objecting to unrelated matters which could not otherwise have been objected to because the time for objecting to a prior assessment or reassessment had expired. Subparagraph 152(4)(*b*)(i) of the *Act* allows reassessments to be made after the

normal reassessment period where they are reassessments that are required under subsection 152(6) of the *Act* with respect to claims of certain deductions or credits, for example, in relation to a loss carryback to a particular taxation year from a subsequent taxation year. Subsection 152(6) is not concerned with inclusion of employment income. A dispute in respect of the inclusion of certain employment income cannot "reasonably be regarded as relating" to a reassessment regarding a loss carryback or carry-forward. In this instance, the loss does not relate in any way to the disputed employment income. The appellant is therefore precluded from objecting to a matter unrelated to the 2006 reassessment pursuant to subsections 165(1.1), 152(4.01) and 169(2) of the *Act*.

[30] In addition, the evidence does not disclose that any of the conditions set out in subsection 152(4), which are required in order for the Minister to be able to assess after the normal assessment period, have been met here. No evidence was adduced that would permit me to conclude that the October 2006 reassessment was issued pursuant to subparagraph 152(4)(*b*)(ii) or subsection 152(6) of the *Act.* The evidence, on the contrary, supports a finding that the reassessment was made under the "fairness" legislation, and the Minister reassessed for the appellant's 2000 taxation year in accordance with his request. As a consequence, no valid objection may be made; hence, no appeal can be filed before this Court.

[31] The appellant's third argument is that the Minister's actions give rise to estoppel. Despite the fact that the 2006 reassessment clearly stated that the Minister had adjusted the appellant's 2000 tax return under the fairness provisions of the *Act* and that no notice of objection could be filed, the appellant did object and the subsequent actions of the Minister were such that the objection was treated as valid. That conduct by the Minister, it is submitted, also precluded the appellant from pursuing an application to the Federal Court for judicial review with respect to the Minister's failure to adjust the return following the objection. On this point, the appellant relies on *Burnet v. Canada*, [1998] F.C.J. No. 364 (QL), *Wong v. Canada*, [2007] F.C.J. No. 842 (QL) and *Von Teichman v. Canada*, [2003] T.C.J. No. 505 (QL).

[32] The factors giving rise to estoppel were examined by Judge Bowman (as he then was) in *Goldstein v. Canada*, 1995 CarswellNat 438, [1995] 2 C.T.C. 2036 (T.C.C.) at paragraphs 21 and 22:

> 21 There is much authority relating to the question of estoppel in tax matters and no useful purpose would be served by yet another review of the cases. I shall endeavour however to set out the principles as I understand them, at least to the

> extent that they are relevant. Estoppels come in various forms — estoppel *in pais*, estoppel by record and estoppel by deed. In some cases reference is made to a concept of "equitable estoppel", a phrase which may or may not be accurate. (See *Canadian Pacific Railway Co. v. The King*, [1931] A.C. 414 at page 429. Cf. *Central London Property Trust Ltd. v. High Trees House Ltd.*, [1947] 1 K.B. I30.) It is sufficient to say that the only type of estoppel with which we are concerned here is estoppel *in pais*. In *Canadian Superior Oil Ltd. v. Paddon-Hughes Development Co.,* [1970] S.C.R. 932 at pages 939-40 Martland J. set out the factors giving rise to an estoppel as follows:
>
> > The essential factors giving rise to an estoppel are I think:
> >
> > (1) A representation or conduct amounting to a representation intended to induce a course of conduct on the part of the person to whom the representation is made.
> >
> > (2) An act or omission resulting from the representation, whether actual or by conduct, by the person to whom the representation is made.
> >
> > (3) Detriment to such person as a consequence of the act or omission.
>
> 22 Estoppel is no longer merely a rule of evidence. It is a rule of substantive law. Lord Denning calls it "a principle of justice and of equity". (See *Moorgate Mercantile Co. v. Twitchings*, [1976] 1 Q.B. 225, at page 241.)

[33] The respondent's concedes that the Minister erred in considering the Notice of Objection and issuing a Notice of Confirmation to the appellant. Counsel for the respondent argues though, that the error cannot change the requirements prescribed in law and that this Court cannot be bound by the error. The respondent adds that the error cannot have the effect of giving the appellant objection and appeal rights that are denied to him, and to all other taxpayers in similar circumstances. The respondent relies on *M.N.R. v. Inland Industries Ltd.*, [1974] S.C.R. 514 (S.C.C.) and *Goldstein*, *supra*, in which it was held that the courts are not bound by representations, opinions or admissions by the parties regarding the law.

[34] In the present fact situation, I do not believe that the appellant was misled by the Minister when he decided to file a notice of objection. In fact, it was he himself who set the wheels in motion by ignoring the prohibition set out in subsection 165(1.2) of the *Act* and referred to in the 2006 reassessment. As noted by Judge Bowman (as he then was) in *Goldstein*, *supra*, this Court has an obligation to decide cases (or motions) in accordance with the law. I am therefore not bound by erroneous representations or interpretations of the *Act* by CRA officials. Accordingly, no estoppel can be said to have arisen in the instant case if the representations were

not in accordance with the law. The situation in the cases cited by the appellant differs from that in the instant case as, in those cases, they were in accordance with the law.

[35] As for the appellant's being precluded from making an application to the Federal Court for judicial review, I understand from the evidence that the appellant requested a loss carryback for his 2000 taxation year and that the request was accepted by the Minister. Nothing in the evidence indicates that the appellant requested an adjustment to his employment income in respect of the exercised stock options.

[36] Under the fairness provisions, a second review may be sought and an extension of time may be had for the purpose of seeking judicial review. In my opinion, the appellant was not prejudiced in any way nor was he precluded from seeking judicial review of the CRA's actions.

[37] The motion to quash the appeal is allowed with costs. There is no need to consider the fourth question concerning an extension of time to file a reply.

Signed at Edmundston, New Brunswick, this 29th day of June 2009.

"François Angers"

Angers J.

CITATION:	2009 TCC 311
COURT FILE NO.:	2008-3239(IT)G
STYLE OF CAUSE:	Robert Kubbernus v. Her Majesty the Queen
PLACE OF HEARING:	Toronto, Ontario
DATE OF HEARING:	March 10, 2009
REASONS FOR JUDGMENT BY:	The Honourable Justice François Angers
DATE OF JUDGMENT:	June 29, 2009

APPEARANCES:

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Counsel for the Respondent:	Justin Kutyan

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