COURT OF QUEBEC

CANADA
PROVINCE OF QUEBEC
DISTRICT OF MONTREAL
TOWN OF MONTREAL
CIVIL DIVISION

No: 500-22-144795-088

DATE: October 13, 2009

BY THE HONOURABLE MICHEL A. PINSONNAULT, J.C.Q.

ELLEN RHODA LIVERMAN
Plaintiff
v.
RITA NORA MANASTER

THE ESTATE OF THE LATE MARK SCHICK

CO-OWNERSHIP OF 5880, 5882, 5890 AND 5892 DAVID-LEWIS STREET

and

ING INSURANCE COMPANY OF CANADA

Defendants

JUDGMENT

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[1] Plaintiff, Mrs. Ellen Rhoda Liverman, is the owner of the condominium unit situated at [...] in Côte-St-Luc ("**Unit [...1]**").

[2] Defendants, Mrs. Rita Nora Manaster and the Estate of the Late Mark Schick (the "**Estate**"), own the unit situated at […] ("**Unit [...2]**"). It is directly above Mrs. Liverman's unit.

[3] The Co-ownership of 5880, 5882, 5890, and 5892 David-Lewis Street is the Syndicate of the co-owners (the "**Syndicate**").

[4] ING Insurance Company of Canada ("**ING**") is a party to the present proceedings in its capacity as the insurer of the Estate and of Mrs. Manaster as well as the insurer of the Syndicate.

[5] Mrs. Liverman is claiming from Defendants $18,651.15 representing material damages of $13,651.15 sustained as water infiltrations from Mrs. Manaster's unit as well as moral damages of $5,000 for stress, lost time and inconvenience suffered as a result of Mrs. Manaster's gross negligence.

[6] Mrs. Manaster, the Estate, the Syndicate and ING were all represented by the same lawyer who was, at all relevant times, alone during the entire trial save and except for a thirty minute period during which Mrs. Manaster appeared briefly to testify.

[7] Defendants' defense rests essentially on their interpretation of a provision of the Declaration of co-ownership dated August 18, 1989 that binds, in their view, Mrs. Liverman and that prevents her from instituting legal proceedings against the Syndicate and any of the co-owners since each co-owner has the obligation to hold and maintain in force the following insurance coverage:

Article 56-B

Each co-proprietor shall be solely responsible for obtaining and maintaining in force the following insurance coverage, namely:

1. An insurance against fire, water damage and other similar losses and damages to the increased value given to his exclusive portion, to the furnishings and to all his personal effects as well as against loss of use resulting from the decreased occupancy of his apartment and such policy shall contain a waiver of subrogation against the administration of the co-ownership, their employees, agents, servants, and other co-proprietors, members of their household, guests or tenants, except in the case of fraud or arson. (. . .) »

[8] Defendants claim that, as Article 56-B stipulates:

- Co-owners must be insured for the type of damages sustained and presently claimed by Mrs. Liverman; and
- the insurer must waive, in its policy, the right to exercise a subrogatory recourse of its insured's claim, once indemnified, against the Syndicate and the other co-owners (the "**Waiver**"),
- it infers implicitly that the co-owners cannot institute legal proceedings directly against the Syndicate and/or any of the other co-owners for damages that can be claimed from their own insurer under the type of insurance coverage required under the Declaration.

[9] Defendants believe that Mrs. Liverman is trying to circumvent the binding provisions of the Declaration by refraining from claiming her damages from her insurer (who happens to be ING) and by choosing to sue Defendants instead.

[10] Mrs. Liverman disputes the position adopted by Defendants in that the provisions of Article 56-B do not expressly prohibit legal recourses between the co-owners and/or the Syndicate. It only provides for the obligation for co-owners to hold an insurance policy that contains a Waiver. The co-owner must ensure that the insurer upon issuing a policy incorporates the Waiver. In other words, it only protects the Syndicate and the co-owners from subrogatory recourses from a co-owner's insurer who has indemnified its insured for damages for which the Syndicate and/or another co-owner could be responsible.

[11] In any event, without prejudice to her principal argument, Mrs. Liverman also maintains that Mrs. Manaster acted herein in a grossly negligent manner, thus triggering the application of the provisions of article 1474 of the *Civil Code of Québec* that reads as follows:

1474. A person may not exclude or limit his liability for material injury caused to another through an intentional or gross fault; a gross fault is a fault which shows gross recklessness, gross carelessness or gross negligence.

He may not in any way exclude or limit his liability for bodily or moral injury caused to another.

QUESTIONS AT ISSUE

[12] The Court has to determine whether, in light of the provisions of Article 56-B of the Declaration, Mrs. Liverman actually disposes of a right of action against the Syndicate, Mrs. Manaster and the Estate and as a result thereof, against their insurer ING.

[13] If not, did Mrs. Manaster cause the alleged damages through a gross fault on her part (article 1474 of the *Civil Code of Québec*)?

[14] In the affirmative to either of the aforementioned questions, the Court has to determine the amount of the material and moral damages to be awarded, if any.

THE FACTS

[15] As previously indicated, Mrs. Liverman lives, since June 2005, in the unit below the one occupied by Mrs. Manaster who moved in on August 2006.

[16] Soon after Mrs. Manaster's move, Mrs. Liverman noted some water infiltration on a lamp fixture (pot light) on the ceiling. The water soon disappeared and as there were no visible damages, she did not pursue the matter any further.

[17] During the fall of 2006, water is streaming through a ceiling pot light in the den below Mrs. Manaster's bathroom. The bath/shower leaked while Mrs. Manaster's daughter was taking a shower.

[18] Mrs. Manaster assured Mrs. Liverman that her daughters would not use the shower before the plumber repairs the leak.

[19] But, later on, a new water infiltration reappears in the same place. Mrs. Liverman speaks again to Mrs. Manaster about it. Mrs. Liverman realizes that a daughter is using the shower again and that Mrs. Manaster did not have the repairs done yet.

[20] Later in November 2006, Mrs. Liverman experiences this time a major water infiltration. The ceiling and the floor in her den (below Mrs. Manaster's bathroom) are damaged as well as wall units. The water came from Mrs. Manaster's unit.

[21] Mrs. Liverman filed a claim with her insurer ING who covered the repairs that cost some $10,000. Mrs. Liverman and her husband had to stay at the hotel for a seven-day period during the repairs (February 2007). According to Mrs. Liverman, this incident and the length of the repairs carried out caused a lot of stress and inconvenience to the couple.

[22] In late June 2007, Mrs. Liverman and her husband, Mr. Seymour Socransky, are away for the weekend. Upon their return home, they enter through the basement and discover that a new water infiltration has damaged once again the ceilings and floors of the den (below Mrs. Manaster's bathroom), but also part of the finished basement (below the den). The water is coming from Mrs. Manaster's unit as they arrive in the den.

[23] Once notified, Mrs. Manaster tried to call a plumber but to no avail, as it was the St-Jean-Baptiste weekend. Mrs. Liverman managed to find one who accepted to come the morning after.

[24] According to Mrs. Manaster, the plumber discovered that her toilet was leaking in two locations. The water supply was leaking and the wax seal under the toilet had to be replaced, as it was broken. The plumber had to open a portion of the ceiling underneath the bathroom to inspect the piping. According to Mrs. Liverman who was present, Mrs. Manaster's plumber told her that Mrs. Manaster did not need a plumber but rather a contractor to correct the entire problem. Mrs. Liverman claims that she discussed this specific issue at the time with Mrs. Manaster who would have told her that the repairs were too expensive for her; she could not afford it. Mrs. Manaster denies having had such a discussion.

[25] Given the extent of the damages, the repeated water infiltrations and the fact that she had filed a claim with ING a few months earlier for the same type of damages, Mrs. Liverman accepted her husband's recommendation not to claim again from ING, but rather file a claim against Mrs. Manaster. Mr. Socransky testified that he acted as an insurance broker for some 35 years and in light of his own professional experience, if his wife filed another claim with ING under those particular circumstances, ING would either increase her premium substantially or would even cancel her policy. She would be left without insurance. His view was never denied or disputed by ING at trial.

[26] Mrs. Liverman obtained a detailed estimate of the repairs to be carried-out totaling $13,651.15 (the amount of the material damages presently claimed), but could not file it upon objection of Defendants' lawyer due to the contractor's steadfast refusal to come to Court to testify.

[27] In any event, on July 12, 2007, Mrs. Liverman sent a letter of demand (P-5) to Mrs. Manaster and Mr. Mark Schick claiming the aforesaid damages of $13,651.15 plus $3,000 for the stress and inconvenience suffered. Mrs. Manaster did not respond directly to the letter of demand. Instead, she sent the letter to her insurer ING who happens to insure the Syndicate and Mrs. Liverman as well.

[28] A few weeks later, ING sent an appraiser, Philippe Loyer & Associés, who determined that the damages sustained to the unit amounted to $7,117.53 ($4,867.75 (D-2) and $2,249.78 (P-6)).

[29] On November 8, 2007, Mrs. Liverman's lawyer wrote a second letter (P-8) to Mrs. Manaster reiterating her claim and stating that her attempts to settle this matter with Mrs. Manaster's insurer, ING, over the previous four months having proven unfruitful due to ING's refusal, she had no other alternative but to institute the present legal proceedings.

[30] Since the June 2007 incident, the repairs have not been carried-out to the wooden floor and the ceiling remains open as Mrs. Liverman does not want to close the ceiling and carry-out the necessary repairs before she is certain that other leaks will not occur, especially since Mrs. Manaster refuses to make the necessary repairs to her bathroom equipment and her plumbing system above her den.

[31] In fact, the preponderant evidence revealed that since the June 2007 incident, other leaks reappeared, the last one as late as a few weeks before the trial. Mr. Socransky talked about 5 or 6 incidents since Mrs. Manaster had moved into the unit above. He does not see the opportunity of repairing the open ceiling before Mrs. Manaster gives them an assurance that her plumbing system is sound and that it will stop leaking.

[32] Defendants' proof on the facts that gave rise to the present claim, rested upon Mrs. Manaster's brief appearance and testimony.

[33] During her testimony, Mrs. Manaster explained that she was aware of only two leaks, one in November 2006 and the other one on June 2007. She also indicated that a leak was caused by faulty caulking around the bath/shower when her daughter used the bath/shower. She hired a plumber on November 6, 2006 to reapply caulking at a cost of $316.10 (D-3). As far as she was concerned at the time, the problem had been solved.

[34] But, based on Mrs. Liverman's testimony, water infiltrations occurred before because of the use of the shower. Two leaks occurred earlier with Mrs. Manaster's assurances that it would be fixed. Yet, it reoccurred due to her daughter using the shower. The following leak in November 2006 finally prompted Mrs. Manaster to call a plumber to apply caulking. The Court noted that for this problem, it took three interventions on the part of Mrs. Liverman and three water infiltrations (the last one causing some $10,000 in damages) before Mrs. Manaster decided to call the plumber in November.

[35] Although the problem had been resolved with the plumber's intervention in November 2006, according to Mrs. Manaster's testimony, the latter mentioned that during the spring of 2007, she had further repairs carried-out to "stop the leakage" namely, reapplying caulking in the bathroom and replacing the window at a total cost of $1,017.32. To support her assertions, Mrs. Manaster produced a second invoice dated June 4, 2007 (D-4) from Groupe Jenoma. The invoice is addressed to Sunny State Investments and refers to work performed at 5892 David-Lewis with the following particulars:

- Carpenters 18 hours at $45.00 per hour (special price) - $810.00
- Material $71.97 plus 15% profit - $82.77

[36] During her cross-examination, Mrs. Manaster explained that 5892 David-Lewis was a "typo" error, as her address is [...2]. Upon further questioning, she volunteered that the work was done by her father who owns Sunny State Investments and who paid for the corrective work. However, she could not explain in any convincing manner the reason why a fairly large window, that was allegedly installed in her bathroom, cost only $71.97. It was finally revealed that the unit situated at 5892 David-Lewis is not only in the same building as her own unit, but that it belongs to her father. No credible explanation could be offered by the witness on the 18 hours spent by "carpenters" who would have replaced a window and reapplied caulking that had allegedly been applied in November by the plumber that she had hired. Why reapply caulking if it was done 7 months earlier? The problem had been solved, according to Mrs. Manaster's own testimony.

[37] With all due respect, the Court does not believe Mrs. Manaster's testimony and does not believe that the June 7, 2007 invoice (D-4) relates to any work allegedly carried out in her bathroom in June 2007.

[38] A couple weeks after the alleged work of June 7th, there is another major water infiltration into Mrs. Liverman's unit that spanned over a couple of days before its discovery.

[39] This time, Mrs. Manaster explained that the wax seal under the toilet was apparently broken and leaked. Moreover, the pipe supplying the water to the toilet reservoir was apparently loose and water leaked on the bathroom floor that eventually found its way into Mrs. Liverman's unit.

[40] On June 26, 2007, the plumber called by Mrs. Liverman effected some repairs in Mrs. Manaster's bathroom at a cost of $159.78 (D-5). Mrs. Manaster paid the invoice and said that as far as she was concerned, this latest intervention resolved once and for all problems regarding leaks to the unit below.

[41] Mrs. Manaster acknowledged that the water infiltration into Mrs. Liverman's unit came from her bathroom. When she visited Mrs. Liverman's unit to examine the damages and saw the open ceiling, she indicated to her neighbor that she would take care of it and fix it.

[42] Mrs. Manaster denied however having ever been told by the plumber that her plumbing system required substantial additional repairs. She also denied having talked about this specific subject with Mrs. Liverman and telling her that she could not do the additional needed repairs, as the cost was too high.

[43] Mrs. Manaster also claims that she was not aware of any further leaks in the unit below since then.

[44] All in all and with all due respect, the testimony of Mrs. Manaster did not sound sincere or convincing. The repeated leaks experienced by her neighbor below did not seem to concern her. The repeated leaks have caused significant damages to Mrs. Liverman's property in excess of an aggregate of $15,000 to $20,000, including the previous incident. In the meantime, Mrs. Manaster spent less than $500 to "repair" the leaks to her satisfaction. In that respect, the Court discards the evidence relating to the June 7th, 2007 alleged repairs. This invoice does not evidence any work carried out in Mrs. Manaster's unit.

[45] Moreover, Mrs. Manaster's testimony contradicts the information appearing in the said invoice. Again with all due respect, her testimony simply does not appear credible and realistic in the eyes of the Court and must be set aside entirely.

[46] A serious and diligent owner, genuinely preoccupied with the right of her neighbor below right to enjoy her own premises without repeated leaks, would not have waited until a third major leak in November 2006 to finally hire a plumber to simply apply caulking. Then, if the problem was actually resolved, why pay 2 carpenters to reapply caulking during some 18 hours? If the carpenters actually worked on June 7, 2007, a fact that was not established in the eyes of the Court, it is somewhat surprising that, soon after their alleged intervention, another water infiltration occurred. Finally, given the extent of the damages all the way to the basement, if the water supply to the reservoir was leaking on the floor, as affirmed by Mrs. Manaster although the invoice she produced (D-5) does not reveal that particular fact, it is somewhat difficult to believe that nobody in her household noticed wetness on the floor, for a significant length of time.

[47] All in all, in light of the preponderant evidence, the Court is convinced that the damages sustained by Mrs. Liverman were caused directly through a gross fault committed by Mrs. Manaster who totally ignored the need to take care of her bathroom equipment and plumbing system. Although there can be water leaks from time to time, under normal circumstances, it remains a rare occurrence. In the present instance, the frequent reoccurrences, regardless of their respective intensities, show that there exists a problem in the unit owned by Mrs. Manaster and the Estate, a problem that has not yet been corrected, based on the credible testimonies of Mrs. Liverman and Mr. Socransky.

[48] In the meantime, even though Mrs. Manaster recognized that the damages stemmed from a water leak originating from her unit and even though she indicated to Mrs. Liverman, at the time, that she would take care of it and fix it (as per her own admission at trial), the years have passed without any attempts on her part to correct the damages caused through her gross fault or even to ascertain that the leaks would not reoccur. With all due respect, she has shown total disregard towards her neighbor, Mrs. Liverman and the trouble that she caused through her own gross negligence.

[49] In light of the foregoing, the Court firmly believes that Mrs. Manaster's behavior in the present matter falls within the purview of article 1474 of the *Civil Code of Québec* and prevents her, the Estate and their insurer ING from opposing the provisions of Article 56-B of the Declaration, should they apply to the present case.

[50] On that particular subject, in light of the Court's above findings on the application of article 1474 of the *Civil Code of Québec*, it shall not be necessary to address the question of the actual scope of the provisions of Article 56-B of the Declaration.

[51] However and with all due respect to the attorney for Defendants, the Court is far from being convinced that the wording of Article 56-B purports to limit or even prohibit all recourses between co-owners and/or the Syndicate for damages that could possibly be indemnified through an insurance policy.

[52] Moreover, the concerns of Mr. Socransky and of his wife, Mrs. Liverman, over the actual adverse repercussions of repeated claims to ING for similar damages on Mrs. Liverman's policy were genuine. It was very interesting, if not quite revealing, that ING's witness called upon to testify on Mrs. Liverman's account was never asked the question by Defendants' lawyer. Maybe, he already knew the answer.

[53] Based on Defendants' position, if a co-owner, through negligence or not, causes repeated damages to another co-owner's unit and that the other co-owner has to claim repeatedly from his or her insurer, thus causing

a significant increase in the premium paid for the insurance coverage or even a loss of coverage, that co-owner would never be able to exercise any recourse in that regard against the former co-owner based on the provisions of the Insurance Clause (Article 56-B) found in the Co-ownership declaration. The Court respectfully does not believe that the provisions of Article 56-B purport to go beyond its specific wording. In order to curtail the co-owners' fundamental right to exercise legal recourses in a court of law against other co-owners and/or the Syndicate, as suggested by Defendants herein, the wording must be more specific.

[54] In the present instance, the wording of Article 56-B only provides that each co-owner must hold an insurance policy and that such *policy shall contain a waiver of subrogation against the administration of the co-ownership, their employees, agents, servants, and other co-proprietors, members of their household, guests or tenants, except in the case of fraud or arson*. It does not even oblige the co-owner to claim under the insurance policy in the event of an accident.

[55] Moreover, if an insurer, such as ING, accepts to insure a co-owner, such as Mrs. Liverman, it is up to the latter to make sure, in order to comply with the provisions of Article 56-B, that the insurance policy be issued with a Waiver. It is up to the insurer to decide at the outset whether it agrees to issue such a "restricted" coverage or not.

[56] In the present instance, ING did not produce the policy issued in favor of either Mrs. Liverman or Mrs. Manaster. Nobody knows if the Waiver had been granted to them by ING.

[57] The Court believes that the provisions of Article 56-B of the Declaration do not bind ING, as an insurer. They only govern and bind the co-owners and the Syndicate. ING is only bound indirectly if it has agreed to issue a policy in favor of the co-owner containing such a Waiver. The obligation to seek and obtain the Waiver rests upon the co-owners.

[58] Nevertheless, the liability of the owners of unit [...2], Mrs. Manaster and of the Estate, has been established.

[59] With respect to the Syndicate, the evidence does not support any condemnation despite the fact that it somehow allowed the situation to fester unnecessarily. In fact, again based on the evidence, the problems have not yet been fully resolved between units [...1] and [...2], even if damages are awarded to Mrs. Liverman, as the soundness of the plumbing system and of the plumbing equipments of unit [...2] remains questionable. A prudent and diligent owner and prudent and diligent administrators would ensure that the true cause of the leaks be identified and corrected once and for all, as opposed to performing minor "patch work", as complained by Mrs. Liverman and her husband.

[60] Once again, it is quite revealing that the Defendants never tried to present any evidence on the actual state of unit [...2]'s plumbing system and equipment to counter Plaintiff's assertions of repeated leaks caused by the same.

[61] The Court cannot ignore the fact that ING was at all relevant times the insurer of the Syndicate, Mrs. Liverman, Mrs. Manaster and the Estate who were all duly insured for the damages presently claimed. The conduct of the insurer in the present instance is questionable. Why favor such protracted litigation and cause unnecessary expenses, under such special and particular circumstances, when ING insured, at all relevant times, all parties herein? Furthermore, there is absolutely no doubt that the damages sustained by Mrs. Liverman were covered by the policies issued by ING.

[62] It is opportune to point out that the provisions of article 1375 of the *Civil Code of Québec* applies not only to Mrs. Liverman, but also Mrs. Manaster, the Estate, the Syndicate as well as to ING:

1375. The parties shall conduct themselves in good faith both at the time the obligation is created and at the time it is performed or extinguished.

[63] There remains to determine the amount of the damages claimed of $18,651.15 representing material damages of $13,651.15 and moral damages of $5,000 for stress, lost time and inconvenience.

[64] It is true that the evidence of the $13,651.15 material damages was not made due to the objection of Defendants' attorney and the contractor's steadfast refusal to come to testify.

[65] Nevertheless, the Court disposes of sufficient evidence to note and appreciate the existence and the extent of the damages sustained through the testimonies and photographs produced as exhibits. The Court has also the appraisal done, at the request of ING, by Mr. André Prud'homme of Philippe Loyer & Associés in the aggregate amount of $7,117.53.

[66] Mr. Prud'homme segregated his appraisal into two portions, $4,867.75 (D-2) covering the leasehold improvements (Mrs. Liverman's portion) and $2,249.78 (P-6) covering the building (the Syndicate's portion).

Mr. Prud'homme testified that he segregated his appraisal on the basis of the provisions of the Declaration without ever identifying any of them at trial. He also mentioned that he calculated the absolute minimum in his appraisal.

[67] This approach was confirmed by the fact that Mr. Prud'homme also depreciated the paint on the walls and ceiling and the hardwood floor finishing, applied a few months earlier. This is a very surprising approach for an "expert witness" who is supposed to provide the Court with his professional "unbiased" opinion, based on the facts. The Court understands that ING, a long-term client of Philippe Loyer & Associés, appointed him to perform the appraisal and provide his "professional opinion" to the Court. Yet, he knew or should have known that ING had paid, only a few months before, all the damages caused to Mrs. Liverman's property by Mrs. Manaster in November 2006. The ceiling was repainted and the hardwood floor was so damaged that it had to be refinished at ING's cost. At the time, ING even wrote to Mrs. Manaster holding her responsible for said damages (P-9).

[68] A few months later, Mrs. Manaster causes additional damages for the same reason, damages so severe that they even spread to the basement. Yet, ING's appraiser decides to depreciate the paint and the hardwood finishing that were brand new. Why? Because, Mrs. Liverman did not file another claim with ING who, in any event, is the insurer of all the other parties herein?

[69] Such a partisan approach is unacceptable from an expert witness and depreciates the function of an expert witness. The Court can only retain from Mr. Prud'homme's testimony that the figures he proposed are the absolute minimum that he could award and then, he reduced them further with a depreciation ratio clearly unreasonable herein.

[70] Furthermore, the Court cannot segregate the amounts claimed based on the groundless assertions made by Mr. Prud'homme without even indicating the provisions of the Co-ownership Declaration that he allegedly relied upon.

[71] Based on the evidence, the Court arbitrates the material damages sustained by Mrs. Liverman at $9,500.

[72] As to the moral damages, the Court finds that Mrs. Liverman is entitled to $3,500 that is fully justified by the stress and inconvenience stemming from the last major leak as well as the gross negligence of Mrs. Manaster to deal, once and for all, with her problematic plumbing system and equipment. The preponderant evidence favours Plaintiff's version that water infiltrations have not ceased, albeit with less intensity (probably because the ceiling is open and the water infiltration can be noticed before serious damages occur).

[73] Mrs. Liverman does not have to live with a sword of Damocles over her head with the "understanding" that she can never exercise any rights against Mrs. Manaster and the Syndicate despite their failure to honour their own respective obligations. Moreover, Mrs. Liverman was entirely right to affirm that, under the present circumstances, she has also been living so far with the fear that she will be exposed to a claim from a future buyer of her own unit if and when she sells, in the event that Mrs. Manaster does not correct and resolve the on-going problem by then. It affects the value of her own property.

[74] Given the present circumstances, the Court reserves the right of Mrs. Liverman to claim further damages from Mrs. Manaster, the Estate and the Syndicate, as the case may be, should further water infiltrations occur.

FOR THOSE REASONS, THE COURT:

DISMISSES without costs the action against Defendant, the Co-ownership of 5880, 5882, 5890, and 5892 David-Lewis Street;

GRANTS in part the action of Plaintiff, Mrs. Ellen Rhoda Liverman;

CONDEMNS Defendants, Mrs. Rita Nora Manaster, the Estate of the Late Mark Schick and their insurer, ING Insurance Company of Canada, to pay solidarily to Plaintiff, Mrs. Ellen Rhoda Liverman, the sum of $13,000.00 with interest at the legal rate of 5% *per annum* and the additional indemnity of article 1619 of the *Civil Code Quebec* from July 12th, 2007, the date of the letter of demand, P-5;

THE WHOLE with costs solidarily against Defendants, Mrs. Rita Nora Manaster and the Estate of the Late Mark Schick and their insurer, ING Insurance Company of Canada.

MICHEL A. PINSONNAULT, J.C.Q.

Me Mimikos Athanassiadis
Prosecutor for Plaintiff

Me Simon Corriveau
ROBINSON SHEPPARD SHAPIRO
Prosecutor for Defendants

Dates of hearing: October 1 and 2, 2009