

Date: 1998 01 08  
Docket: CV 05408

IN THE SUPREME COURT OF THE NORTHWEST TERRITORIES

BETWEEN:

**SHEILA FULLOWKA, DOREEN SHAUNA HOURIE, TRACEY NEILL, JUDIT PANDEV, ELLA MAY CAROL RIGGS, DOREEN VODNOSKI, CARLENE DAWN ROWSELL, KAREN RUSSELL and BONNIE LOU SAWLER**

Plaintiffs

- and -

**ROYAL OAK MINES INC., MARGARET K. WITTE, also known as PEGGY WITTE, PROCON MINERS INC., PINKERTON'S OF CANADA LIMITED, WILLIAM J.V. SHERIDAN, ANTHONY W.J. WHITFORD, DAVE TURNER, THE GOVERNMENT OF THE NORTHWEST TERRITORIES AS REPRESENTED BY THE COMMISSIONER OF THE NORTHWEST TERRITORIES, NATIONAL AUTOMOBILE, AEROSPACE AND AGRICULTURAL IMPLEMENT WORKERS UNION OF CANADA, Successor by Amalgamation to CANADIAN ASSOCIATION OF SMELTER AND ALLIED WORKERS and the Said CANADIAN ASSOCIATION OF SMELTER AND ALLIED WORKERS, HARRY SEETON, ALLAN RAYMOND SHEARING, TIMOTHY ALEXANDER BETTGER, TERRY LEGGE, JOHN DOE NUMBER THREE, ROGER WALLACE WARREN, JAMES EVOY, DALE JOHNSON, ROBERT KOSTA, HAROLD DAVID, J. MARC DANIS, BLAINE ROGER LISOWAY, WILLIAM (BILL) SCHRAM, JAMES MAGER, CONRAD LISOWAY, WAYNE CAMPBELL, SYLVAIN AMYOTTE and RICHARD ROE NUMBER THREE**

Defendants

MEMORANDUM OF JUDGMENT

[1] The motion by the Defendants Whitford and Turner to set aside Appointments for Examination for Discovery served on them is dismissed.

[2] I do not think it can be concluded, on the basis of the pleadings, that no liability can be found against these Defendants other than in some representative capacity on behalf of the government. The present case is different from those presented in argument by the Defendants where Cabinet ministers were sought to be examined on policy or constitutional issues. Here, these Defendants held their respective positions at the times relevant to this claim. This is not a question of whether these Defendants can in law be liable to the Plaintiffs; clearly, there are circumstances in which they can. But to determine that, one must have a solid evidentiary base.

[3] The Plaintiffs have a *prima facie* right to Examination for Discovery of named parties. The applicants have not presented any evidence to support the invocation of the Court's power to limit, at this time, such right. I direct, however, that these examinations proceed after the examination of the appointed official representative of the government. In this manner, it may be possible to avoid repetition of examination questions.

[4] Hence, the motion is dismissed. Counsel may speak to costs if necessary.

[5] Dated this 8th day of January 1998.

J.Z. Vertes,  
J.S.C.

To: J.P. Warner, Q.C.  
Counsel for the Plaintiffs

Pierre J. Mousseau,  
Counsel for the Defendants

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Defendants

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MEMORANDUM OF JUDGMENT OF THE  
HONOURABLE J.Z. VERTES

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