

1 THE COURT: I am going to give the
2 following directions, and my aim in giving these
3 directions is to move this action along as
4 expeditiously as possible.

5 The Rules of Court cover a multitude of
6 issues. As Justice Charbonneau noted in her
7 judgment, it is often not easy for a
8 self-represented litigant, such as Mr. McMeekin,
9 to navigate their way through the Rules of Court.
10 And indeed, as I said before, the Rules of Court
11 are there to serve the process, they are not
12 masters of the process, and if in a certain
13 situation a rule is not applicable, would not
14 advance the cause of the action, then a Judge has
15 power to deviate from the rules.

16 Here, it seems to me, that the most
17 important points are these: first, to get the
18 pleadings clarified and finalized, to get
19 production of documents, and then to move on to
20 examinations for discovery so that both sides can
21 be in a position to go to trial.

22 As Justice Charbonneau said in her previous
23 judgment, no case will be entered for trial at
24 this early stage of a proceeding. We are not in
25 a default situation. The defence has been
26 responding. The defence filed a demand for
27 particulars. The obligation is on the plaintiff

1 to answer those demands and to answer them
2 adequately if the demand is proper. And then, in
3 the normal course of litigation, once the
4 pleadings have been filed, then parties move on
5 to exchange information about the documents that
6 are in their possession and then they move on to
7 examinations for discovery.

8 Now, Mr. McMeekin chooses to represent
9 himself; that is his right. But, just like
10 Justice Charbonneau did before me, I strongly
11 encourage him to get some legal advice because at
12 some point there may indeed be a heavy penalty to
13 pay in costs if this action turns out to be not
14 well-founded. I do not make any decision about
15 the merits of this action at this point. But
16 Mr. McMeekin should be aware that if he is not
17 successful ultimately in this action, he may find
18 himself penalized in court costs and the costs of
19 the other side, and that could run to a
20 significant amount of money.

21 So, with a view to moving this action along,
22 I am going to give the follow directions:

23 First of all, just as it was back when
24 Justice Charbonneau dealt with this matter, it is
25 premature to consider entering this action for
26 trial so the motion to enter for trial is
27 dismissed.

1 The motion for default for failing to file a
2 Statement of Defence, and all of the ancillary
3 applications relating to that, are dismissed.

4 What is important now is to deal with the
5 demand for particulars and to put timelines on
6 the filing of the next documents or pleadings.
7 So with respect to the demand for particulars,
8 some have been answered, some have been not.

9 I am going to direct that the plaintiff,
10 within 21 days, file further answers to the
11 following particulars demanded in the original
12 demand for particulars that was filed on November
13 25th - numbers 5, 7, 13, 14, 15, 17, and 19. For
14 those items, the plaintiff is to file further
15 answers. With respect to the demands numbered 3
16 and 9 relating to some "agreement", the plaintiff
17 is to say what agreements he is referring to and
18 whether those agreements are documents that are
19 in his possession or not, or whether those
20 agreements in fact exist or not, and whether he
21 has any details as to any such agreements. If
22 his position is that he cannot answer those
23 questions because he does not have the documents
24 he requested, then that is what he should say in
25 his response. Those answers are to be given
26 within 21 days of today by the plaintiff.

27 Once those answers are given, then the

1 defendant has 21 days from that date, from the
2 date that the answers are given, to file a
3 Statement of Defence.

4 Within 30 days of the filing of the
5 Statement of Defence, each party is to file and
6 serve a Statement as to Documents as required by
7 Rule 221 of the Rules of Court. That Statement
8 as to Documents is to set out, with specificity,
9 what documents are in each party's possession.
10 So, for example, the plaintiff is to set out what
11 documents are in his possession that relate to
12 this action in any way whatsoever. It does not
13 matter if copies of these documents have been
14 filed with previous affidavits or not, he is to
15 list each document that is in his possession that
16 relate to the matters in question in this action.
17 I am not talking about affidavits; I am talking
18 about documents. Any document relating to this
19 action that may be relevant to the issues in this
20 action are to be listed in the Statement as to
21 Documents by each party.

22 That Statement as to Documents must specify
23 which documents the party is willing to produce
24 and must state where and when those documents may
25 be inspected. If the other side wants copies of
26 any such documents, then the other side must pay
27 a reasonable fee for those copies, for the cost

1 of copying. And if the other side is prepared to
2 pay that fee, the cost of copying those
3 documents, then the party having the documents
4 must copy them and send them to the party in
5 question, upon payment of the cost of copying,
6 otherwise the documentation may be inspected at
7 the time and place specified in the Statement as
8 to Documents. Or the parties can wait until the
9 examinations for discovery, if they wish, and
10 bring the documents to the examinations for
11 discovery.

12 The Statement as to Documents must also
13 specify which documents the party is not willing
14 to produce and provide a statement as to why they
15 are not willing to produce them. If the ground
16 is privilege, if the ground is confidentiality,
17 whatever the ground may be, if a party has a
18 document in their possession that may be relevant
19 to this proceeding but is claiming privilege or
20 confidentiality or some other ground for
21 non-production, they must specify what the
22 document is and must specify what the claim is
23 upon which they seek non-disclosure. The other
24 side may challenge that claim of privilege or
25 confidentiality, or whatever it may be, by way of
26 a Notice of Motion seeking production of that
27 specific document. Otherwise, the Court will not

1 entertain any applications until both Statements
2 as to Documents have been filed and served.

3 Any future application that is made in this
4 action is to be brought to my attention at which
5 time I will consider some type of case management
6 procedure so as to be able to move this
7 proceeding along in an expeditious and
8 inexpensive manner.

9 In terms of directions for future service,
10 both sides have provided addresses for service
11 and it is apparent that both sides communicate
12 via e-mail. So as far as the future service of
13 any document is concerned, service may be
14 effected by either party on the other either by
15 way of mail to the other party's address for
16 service stipulated in the pleadings or to the
17 other party's e-mail address. Personal service
18 is not required.

19 The costs of these applications and today's
20 attendance will be left to be determined by the
21 trial Judge once the full scope of these
22 proceedings is known. I think the trial Judge
23 will be in a far better position to determine,
24 looking at it in hindsight, whether any
25 particular application was meritorious or whether
26 any particular application was frivolous and an
27 abuse of process. And if that determination is

1 made, then the cost consequences can be quite
2 severe.

3 A transcript of my directions will be
4 prepared by the court reporter and provided to
5 both parties. And again, Mr. Rouse, if you would
6 prepare a formal order, provide it to me for my
7 review and approval, and once filed then a copy
8 can be provided to Mr. McMeekin for his records.

9 MR. ROUSE: Yes, Your Honour.

10 THE COURT: Thank you, gentlemen, we are
11 adjourned.

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Certified to be a true and
accurate transcript pursuant
to Rules 723 and 724 of the
Supreme Court Rules,

Lois Hewitt, CSR(A), RPR, CRR
Court Reporter