

May 24, 2016

The Panel
Alberta Court of Appeal
2600, 450 1 St. SW,
Calgary, AB, T2P 5H1

DELIVERED BY FAX 403.297.5294 (1 page)

Re.: Appeal Rensonnet v. Uttl, 1601-0058AC

Dear Panel:

I was advised by the Registrar on May 18, 2016, that you requested a filed copy of the formal Order of Justice Poelman. In person, the case management officer further told me that in the absence of the formal Order the Court of Appeal may not have the jurisdiction.

Respectfully, I disagree with the case management officer as your own decision in Phoenix Land Ventures Ltd v. FIC Real Estate Fund Ltd., 2015 ABCA 245, make it clear that the appeal time limit are triggered when the order is pronounced and when it becomes effective, rather than when the formal order is entered and served. Moreover, the Court made it clear that the new rules deliberately dispensed with the requirement for the formal order to be entered and served because that has led to too much delay and encouraged deliberate stalling in the entry process. Justice Côté of the Court provided detailed analysis as to what is meant by a judgment, an order or a decision, and observed:

"... the word "decision" cannot refer to entry. "Decision" refers to when the judge decides. And the words "order" or "judgment" can easily refer to an oral order or judgment. For one thing, orders and judgments in Alberta are effective on pronouncement, long before entry or a formal written judgment or order (R9.6(a))" [para 22]

I have appealed the decisions of Justice Poelman and the Order of Justice Poelman as pronounced on February 18, 2016, and as stated in writing in the Judgment part of the Reasons, and as in force from that date, and as attached to the Appeal Record.

Even though it is over 3 months since the Order was pronounced, the filed formal Order is not yet available and is likely not to be available in the foreseeable future. The Plaintiff prepared draft order only after 42 days and the Plaintiff's proposed order would significantly alter the Judgment as pronounced by adding clauses and altering the Judgment itself. The Plaintiff refused to sign draft order prepared and submitted by me, even though it is verbatim copy of the Judgment as pronounced, save for paragraph numbers. Furthermore, Justice Poelman informed the parties on May 5, 2016, that he will not be available to deal with the matter until after the end of June.

Although the Plaintiff requested that the appeal be delayed when we appeared before Justice Rowbotham on April 21, 2016 regarding the length of the factums, the Plaintiff's request was denied and the appeal scheduled for June 16, 2016. The appeal is urgent, scheduled as fast track appeal, because it deals in part with the decision of Justice Poelman that the children, born and raised as Alberta anglophones until the separation, would start Grade 1 in September 2016, in Francophone 100% French language homogeneous school where the Plaintiff enrolled them unilaterally and preemptively, without any consultation with the Defendant who does not speak nor understand French.

Respectfully,
Jan Uttl
januttl@gmail.com

