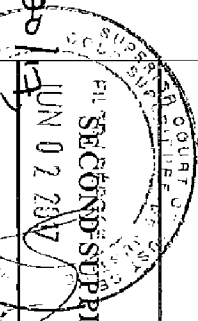


September 18, 2014

Moktar, M. For the D's
Bondary, S. For the P

ONTARIO
SUPERIOR COURT OF JUSTICE
PROCEEDING COMMENCED AT TORONTO



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Lawyers for the Defendants

Further to my decision dated June 30 2014 the parties were given the opportunity to submit submissions on costs if they could not agree. Both parties did so. Costs are extremely discretionary pursuant to Rule 57. In the present motion, the only issue was the raw data of the TI's expert, Dr. Young. The parties were both successful in this regard. I ordered the data to be produced (as requested by the D's and resisted by the TI) but with conditions (as suggested by the TI and


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(2)

resisted by the D's). I ordered Dr. Young to provide more than what the π had offered. As such, the parties shall bear their own costs vis-a-vis this issue. The D's also request costs thrown away due to a prior adjournment and the fact that U/L's were answered (w/ one refusal) after the motion was brought. Discoveries took place in Oct of 2016. This motion was originally scheduled for Jan 6/17. I agree with the π that the D's motion was overly aggressive, ^{premature} and their motion materials disproportionate to the types of documents sought. The materials could have been vastly less voluminous if the D's had made further attempts to obtain documents, the trial date having been adjourned. Even to decide on the 2 refusals and handful of under advisements, there was no need to produce such a volume of materials, even if the motion was appropriate and not premature. The key issue was the raw data underlying an important report - as evidenced by the fact that the D's factum focuses on it exclusively. The Defendants shall pay the π \$ ~~3500~~ ³⁵⁰⁰ inclusive of disbursements & HST within 30 days from the date of this order to compensate

(3)

her for time counsel had to spend on sifting through the excessive motion record and supplementary records which the Comt would largely not have required even if all issues had ~~not~~ been argued.



MASTER P.T. SUGUNASIRI