

CITATION: Soan Mechanical Ltd. v. Terra Infrastructure Inc., 2011 ONCA 371
DATE: 20110512
DOCKET: C51458

COURT OF APPEAL FOR ONTARIO

Rosenberg, Simmons and Blair JJ.A.

BETWEEN

Soan Mechanical Ltd.

Plaintiff (Respondent)

and

Terra Infrastructure Inc., Daniel Demelo,
Tony Di Battista and Richard Neath

Defendants (Appellants)

Marco Drudi, for the appellant Terra Infrastructure Inc.

Lianne Armstrong, for the respondent

Heard and endorsed: May 6, 2011

On appeal from the judgment of Justice Peter B. Hockin of the Superior Court of Justice dated December 15, 2009.

APPEAL BOOK ENDORSEMENT

[1] There is no merit to the appeal as to liability. The lack of personal knowledge does not affect the admissibility of business records: s. 35(4) of the *Ontario Evidence Act*. These records meet the definition of business records in s. 35(2).

[2] As to the pre-judgment interest, the circumstances including the lengthy time that this simple account was left unpaid, would justify a rate above the *Court of Justice Act* rate.

[3] There is an error in the judgment. Paragraph 2 is deleted.

[4] The judgment will bear interest at the rate of 2 percent.

[5] In all other respects, the appeal is dismissed with costs fixed at \$5,000 inclusive of disbursements and H.S.T.