

COURT OF APPEAL FOR ONTARIO

CITATION: Strudwick v. Applied Consumer & Clinical Evaluations Inc., 2014
ONCA 588
DATE: 20140815
DOCKET: C58588

Doherty, Laskin and Epstein JJ.A.

BETWEEN

Vicky Karen Strudwick

Plaintiff (Respondent in Appeal)

and

Applied Consumer & Clinical Evaluations Inc.

Defendant (Appellant)

Peter M. Callahan, for the defendant (appellant)

C. Du Vernet and Carlin McGoogan, for the plaintiff (respondent)

Heard: August 14, 2014

On appeal from the order of Justice Spence of the Superior Court of Justice,
dated March 10, 2014.

APPEAL BOOK ENDORSEMENT

[1] The appeal turns on whether the motion judge's finding that the conduct of the defendant "reveal a litigant who has no real interest in going to trial but simply wishes to delay for as long as possible" can be set aside as unreasonable.

[2] In our view, the finding is justified on the record. Counsel does not take issue with the motion judge's characterization of the specific complaints raised on the motion about the pleadings as an exercise in "clutching at trivialities". In our view, that characterization speaks volumes about the overall conduct of the defence.

[3] The finding of the motion judge was not unreasonable. That finding was central to his refusal to set aside the noting in default. We not interfere with his order.

[4] The appeal is dismissed.

[5] Costs are awarded on a partial indemnity basis fixed at \$8,000, inclusive of taxes and disbursements.