

DATE: 20040116
DOCKET: C40326

COURT OF APPEAL FOR ONTARIO

**RE: CLARICA TRUST COMPANY and CROWN LIFE
INSURANCE COMPANY (Respondents/Applicants) –and–
DIAMOND FATEHALI ALIDINA and PARVIZ ALIDINA
(Appellants/Respondents)**

BEFORE: CATZMAN, LASKIN and FELDMAN JJ.A.

**COUNSEL: Kenneth Prehogan
for the appellants/respondents**

**Sean Cumming
for the respondents/applicants**

**HEARD AND
ENDORSED: January 16, 2004**

**On appeal from order of Justice John D. Ground of the Superior Court of Justice
dated June 26, 2003.**

APPEAL BOOK ENDORSEMENT

[1] Counsel for the appellants abandoned the arguments on the 80/20 split and on costs. He raised three issues:

1. Med-Chem. We did not call on counsel for the respondents on this issue because this was the product of a finding of fact by the deputy registrar, confirmed by Ground J., that the allocation of the monthly fee applied only during the 1995/1996 year. There was evidence to support this finding and no basis for this court to intervene.
2. Allocation of OHIP billings to expenses. In our view, it was open to the deputy registrar to conclude, as Ground J. confirmed, that paras. 1(b) and (d) of the clarification order authorized the finding he made which, again, was supported by the evidence.

3. Bank loans. The evidence reflected that, at the time the appellant took the proceeds of the bank loans, she was indebted to the clinic in a larger amount and it was open to the deputy registrar to find, as he did, and as Ground J. confirmed, that she was obliged to account for those moneys, together with interest.

[2] For these reasons, the appeal is dismissed with costs fixed in the sum of \$7,500, inclusive of disbursements and G.S.T.