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COURT OF APPEAL FOR ONTARIO

**RE: JUDI ROTH (Plaintiff/Appellant) – and – CHRIS PLATIS,
PLATIS & SONS, PLATIS CLEANERS and 1281829 ONTARIO
LIMITED (Defendants/Respondents)**

BEFORE: WEILER, ARMSTRONG and BLAIR J.J.A.

**COUNSEL: Judi Roth
In person**

HEARD: November 18, 2004

On appeal from the judgment of Justice Romain Pitt of the Superior Court of Appeal dated December 22, 2003.

APPEAL BOOK ENDORSEMENT

[1] Ms. Roth complains that the trial judge erred (a) in not granting her compound interest on the outstanding debts, and (b) in failing to apply the NSF cheque and late payment charges and the collection letter charge, referred to in two of the three promissory notes.

[2] We do not agree.

[3] The trial judge held that the method of calculating interest was ambiguous on the face of the promissory notes and that interest should be calculated annually and not compounded (which is the general rule in the absence of a binding agreement to the contrary). He also held that the NSF and late payment charges, and the collection letter charges, were unconscionable and a penalty, and should therefore not be enforced.

[4] Given the extremely high interest rate of 25%, in the circumstances, and the way in which the promissory notes are worded, and given the amount and arbitrary nature of

the other charges, we are not persuaded that the trial judge erred in his findings or conclusions.

[5] The appeal is therefore dismissed.

[6] Mr Platis did not appear. There will be no order as to costs.

“K.M. Weiler J.A.”

“R.P. Armstrong J.A.”

“R.A. Blair J.A.”