

NOVA SCOTIA COURT OF APPEAL

Citation: *Ameron International Corporation v. Sable Offshore Energy Inc.*, 2010 NSCA 107

Date: 20101222

Docket: CA 328825

Registry: Halifax

Between:

Ameron International Corporation and
Ameron B.V.

Appellants

Respondents on cross-appeal

v.

Sable Offshore Energy Inc., as agent for and on behalf of the Working Owners of the Sable Offshore Energy Project, Exxon Mobile Canada Properties, Shell Canada Limited, Imperial Oil Resources, Mossbacher Operating Ltd., and Pengrowth Corporation; Exxonmobile Canada Properties, as operator of the Sable Offshore Energy Project, Allcolour Paint Limited, Amercoat Canada, Rubyco Ltd., Danroh Inc., and Serious Business Inc.

Respondents

Appellants on cross-appeal

Judge: The Honourable Justice David P.S. Farrar

Appeal Heard: November 30, 2010

Subject: **Pierringer Settlement Agreement - Scope of Discovery Examination for Expert Witnesses Retained by Settling Defendants - Form of Order Approving Settlement of Pierringer Agreements - Civil Procedure Rules (1972)**

Summary: Ameron appeals from the Order approving the Pierringer Agreements on the basis that the Chambers judge erred in limiting access to expert evidence of the settling defendants to factual matters only on the basis the evidence was litigation privileged. Sable cross-appeals alleging that the Chambers

judge erred in ordering that the allegations in its Statement of Claim against the settling defendants remain in the Amended Statement of Claim after the action against those defendants was settled.

Issues: Whether the Chambers erred in restricting the non-settling defendants' access to evidence in the possession or knowledge of the experts retained by the settling defendants to factual matters only; whether the Chambers judge erred in ordering that the allegations against the settling defendants remain in the Amended Statement of Claim and be shaded.

Result: Appeal allowed, in part. Order approving the Pierringer Agreements amended. The Chambers judge's determination that the experts' evidence be limited to factual matters was set aside. Any determination of litigation privilege would be determined when, and if, it arises. Cross-appeal dismissed. The Chambers judge did not err in requiring the allegations against the settling defendants to remain in the Statement of Claim.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 22 pages.