

SUPREME COURT OF NOVA SCOTIA
Citation: Wareham v. Ross, 2010 NSSC 142

Date: 20100407
Docket: Hfx. No. 237973
Registry: Halifax

Between:

Isabel M. Wareham

Plaintiff

v.

Joseph W. Ross

Defendant

DECISION

Judge: The Honourable Justice Suzanne M. Hood

Heard: April 7, 2010 in Halifax, Nova Scotia

Written Decision: April 16, 2010 (*written release of Oral decision on April 7, 2010*)

Counsel: Brian Hebert, for the plaintiff
Joey Palov, for the defendant

By the Court:

[1] The defendant seeks an advance ruling pursuant to *Rule 55.10(2)* about whether the expert's report of Dr. Matheson complies with *Rule 55.04(3)*. In my view, the report of Dr. Matheson meets *Rule 55.04(3)*.

He has given his qualifications: (3)(a); he has referred to any literature and publications: (3)(b) &(c); he has given information on tests and experiments, if any: 3(d); and he has set out a statement of documents, etc. that he has relied upon to prepare his opinion: (3)(e).

[2] On that basis, the report itself does meet *Rule 55.04* and can be offered and is proper to be before the court. Admissibility and qualifications and all such things are for the trial judge. The report meets the requirements of *Rule 55.04*.

[3] The supplementary issue is really whether or not *Rule 55.08* has been complied with and that is whether or not the supplementary affidavit of documents is complete. I do not have that affidavit. In my view, what *Rule 55.08* means is that if there are documents which are referred to in the expert's report which have not already been provided, they are to be provided in a supplementary affidavit of

documents. If they are not, the time limit does not begin to run on the thirty days to ask written questions (Rule 55.11(2)) until that is done. The parties will have to sort out for themselves whether or not the supplementary affidavit of documents does complete the picture with the list of documents or first affidavit of documents so that the person receiving the expert's report has all the documentation needed in order to be able to properly put the questions to the expert as is contemplated in *Rule 55.11*. It must also be noted that that *Rule* is without any derogation of the obligations both parties have under *Rule 15* with respect to ongoing disclosure.

Hood, J.