

# OFFICIAL TRANSCRIPT

No. 9703 12949

IN THE COURT OF QUEEN'S BENCH OF ALBERTA  
JUDICIAL DISTRICT OF EDMONTON

BETWEEN:

EARL BRODER, GEORGE BRODER, RICHARD BRODER,  
MARGARET MACPHEE, DORIS BIBAUD, LUELLE ADAM AND  
DORIS BIBAUD AND GEORGE BRODER, PERSONAL  
REPRESENTATIVES OF THE ESTATE OF EDMUND BRODER,  
ALSO KNOWN AS ED BRODER, DECEASED

Plaintiffs  
(Applicants)

- and -

DON BRODER

Defendant  
(Respondent)

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P R O C E E D I N G S  
(Incomplete)

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Edmonton, Alberta  
23rd and 26th April, 2004  
Transcript Management Services, Edmonton

1 Proceedings taken in the Court of Queen's Bench of  
2 Alberta, Law Courts Building, Edmonton, Alberta

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4 \*April 23, 2004 1:09 p.m. session

5 The Honourable Madam Justice      Court of Queen's Bench  
6 M. Bielby                              of Alberta

7 E. MacInnis, Ms.                      For the Applicant  
8 D. Broder, Mr.                        The Respondent in Person  
9 L. Credgeur                            Court Clerk

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11 THE COURT:                            Good afternoon. Please be  
12                    seated.

13 MS. MACINNIS:                        Good afternoon.

14 THE COURT:                            Ms. MacInnis, you have  
15                    scheduled this application.

16 \*Submissions by Ms. MacInnis

17 MS. MACINNIS:                        Yes, I have, My Lady.

18                    We're making application to have Mr. Don Broder  
19                    held in civil contempt of both Your Ladyship's  
20                    judgment following the trial and also the order of  
21                    Madam Justice Veit which was granted on April 13th.

22                    In your reasons for judgment, you directed that  
23                    Mr. Don Broder forthwith turn over to the personal  
24                    representatives of the estate the deer head trophy, and  
25                    those reasons were issued on March 9th of 2004.

26                    Following that issuance of the judgment, there were  
27                    some concerns regarding the safety of the trophy, and

1 an application was made before Your Ladyship on March  
2 19th, which resulted in the order allowing a  
3 Mr. George Butler, our process server, to attend at  
4 Mr. Broder's residence in Sundry. After a thorough  
5 search, Mr. Butler took possession of what he thought  
6 at the time was the original trophy, but upon  
7 examination by a taxidermist turned out to be a  
8 replica of the trophy. We have had it examined by a  
9 taxidermist, and that affidavit is on file from the  
10 taxidermist saying that he's examined it and it is not  
11 the original deer head.

12 We then brought application before -- in regular  
13 chambers before Madam Justice Veit on April 13th.  
14 Mr. Don Broder was personally served with notice at  
15 that application. In the notice of motion, we asked  
16 for an order that he deliver the trophy to us by April  
17 14th, which would be the day following, at 4:00; and  
18 we also had a provision in the notice of motion that  
19 if it was not delivered that the defendant would  
20 appear in chambers today, April 23rd, at 1:00 to show  
21 cause as to why he should not be held in contempt of  
22 Your Ladyship's judgment and any order that we be  
23 granted that day. Justice Veit granted an order on  
24 April 13th that Mr. Don Broder provide the trophy to  
25 our offices by 4:00 the following day, April 14th.  
26 She also in that order directed that if he did not so  
27 he was to appear in court today to show cause why he

1 wouldn't be held in contempt.

2 Mr. Don Broder did not attend that hearing before  
3 Justice Veit. We attempted to serve him on the  
4 afternoon when the order was granted. He was not at  
5 home. The order was left with his wife, Mrs. Joyce  
6 Broder. However, a couple of days later on April  
7 16th, a week ago, Mr. Butler was able to personally  
8 serve Don Broder with that order. So he's having had  
9 notice, double, -- and he's here in any event -- of  
10 this application.

11 The trophy, needless to say, has not been produced  
12 to us. It's my submission that -- well, clearly, he's  
13 in contempt of both Your Ladyship's judgment and the  
14 subsequent order of Madam Justice Veit. It's my  
15 submission that Mr. Don Broder has had ample  
16 opportunity to comply with your order. It's been six  
17 weeks since your reasons for judgment were issued.  
18 I'm not aware of any excuse as to why he has not  
19 provided the original trophy to the personal  
20 representatives. Our process server, Mr. Butler, had  
21 offered, I understand, to Mr. Broder that if he would  
22 call him at, you know, any time, day or night, he  
23 would come up and pick up the original from him so as  
24 to be the least inconvenience.

25 And at this point, I guess we're asking the Court  
26 to enforce the order that it's given. And although  
27 I'm somewhat reluctant to ask for this remedy, I

1 really do not see any other effective remedy other  
2 than to request that the defendant be imprisoned for  
3 his contempt of the Court's order. It's -- clearly,  
4 he's been ordered to give this. He hasn't done so. I  
5 don't know of any other effective way to get  
6 Mr. Broder to comply with the order of the Court. And  
7 what I would be asking for would be, you know, a short  
8 period perhaps of imprisonment, after which he could  
9 perhaps be brought before the Court to have an  
10 opportunity to purge his contempt, you know, two or  
11 three days, something of that sort. And it's my  
12 submission that's the only way that the Court order,  
13 you know, can be effected, unless my friend has some  
14 other suggestion at this point.

15 In our notice of motion, we had also asked for  
16 directions from the Court regarding the replica, which  
17 is presently at my office. It would be my suggestion  
18 that that should be kept by our office until such time  
19 as we receive the original at that time, and we're  
20 prepared to give it back or whatever they  
21 (INDISCERNIBLE) at that time. But I would suggest  
22 that we be allowed to keep it until such time as we're  
23 in possession of the original.

24 We're also asking for costs of the applications.

25 THE COURT: All right. Thank you.

26 Mr. Broder.

27 MS. MACINNIS: Thank you, My Lady.

1 THE COURT: Would you like to say anything?

2 MR. JEFF BRODER: How are you today?

3 THE COURT: Fine. Thank you.

4 \*Submissions by Mr. Jeff Broder

5 MR. JEFF BRODER: The reason it has not been  
6 released is there is a possessory lien on it. You  
7 have granted my father money against what he had done,  
8 some of what he had done. So I made a submission on  
9 behalf of my father -- he did it -- with his costs,  
10 and I would like to give you a copy of that.

11 THE COURT: Have you got a copy for  
12 Ms. MacInnis?

13 MR. JEFF BRODER: Yes, I do. I didn't have time  
14 to file it. It was hard getting my father moving  
15 today. He's not doing very well.

16 THE COURT: Thank you.

17 MR. JEFF BRODER: And if you'd like, I'll read  
18 it, the first page and a half.

19 THE COURT: Why -- I can read it if you --

20 MR. JEFF BRODER: Okay.

21 THE COURT: Why do we not do that, seeing  
22 as it seems extensive, and this will give Ms. MacInnis  
23 a chance to read it at the same time. And I will then  
24 enter it as Exhibit 'A' in this application.

25 Thank you. I have had a chance to read through  
26 this now. It seems to me, Mr. Broder -- and I know  
27 both of you were present at the trial, and you were

1 present at the trial throughout, assisting your  
2 father -- that these issues were the subject matter of  
3 the trial in part, that they were discussed at the  
4 trial. The money that your father had expended to  
5 preserve the trophy and so forth was information that  
6 was received in evidence, and a decision was made at  
7 that time. And so the fact that he is not happy with  
8 the decision or now today wants to make a different  
9 kind of claim is no defence to the application brought  
10 by Ms. MacInnis to have him comply with the Court  
11 order to produce the trophy.

12 \*EXHIBIT 'A' FOR IDENTIFICATION - Two-page written  
13 \*submission with attached invoice submitted by respondent

14 MR. JEFF BRODER: But there is a possessory  
15 lien on it. You have awarded him money. If he is to  
16 give that deer head up, he will never see that money,  
17 none of it. He has had the deer head for 30 years,  
18 My Lady; 30 years of work put into it. And as this  
19 letter has said, in 1971, they tried to put it in the  
20 *Field & Stream*. It came back as zero, nothing. Since  
21 my father's had it since 1973 to now, they're saying  
22 it's worth \$1 million. Why is that? Why has the  
23 increase happened? Because of the hard work my father  
24 had done to do this. And I don't think -- if they're  
25 saying it's worth \$1 million and that's what they're  
26 going for, I think it's only fair that my father get  
27 paid for everything.

1           We were going in to fight out on who owned the  
2 deer, not on costs and everything else. It was on who  
3 owned the deer. That's why we did not have the costs  
4 done up like this. Now we know who the owner is, the  
5 estate. That's why we know who to give the bill to  
6 now.

7 THE COURT:                            Would your father like to say  
8 anything?

9 MR. DON BRODER:                      That's exactly what it's all  
10 about.

11 THE COURT:                            Ms. MacInnis has asked that I  
12 send you to gaol until you produce the deer head. Do  
13 you have anything that you would like to say in  
14 response to that?

15 MR. DON BRODER:                      No. (INDISCERNIBLE) put me in  
16 gaol, put me in gaol, I guess.

17 \*Ruling

18 THE COURT:                            Then I order that you be taken  
19 into custody and held in custody until the deer head  
20 is produced in --

21 MR. DON BRODER:                      And I want to say --

22 THE COURT:                            -- accordance with my order --

23 MR. DON BRODER:                      -- one other thing.

24 THE COURT:                            Excuse me. Let me finish.

25           I will however direct in light of your age that  
26 your son Craig Broder can take your place in custody,  
27 should he choose to do so. I also direct that you be



1 brought back before me at 9:30 next Monday morning,  
2 which is the 27th -- is it -- of April?

3 MS. MACINNIS: That would be the 26th, I  
4 believe, My Lady.

5 THE COURT: 26th of April. And we will  
6 discuss the matter further at that time. You may have  
7 had a change of heart and may be prepared to comply  
8 with the orders that were given by myself and  
9 Justice Veit.

10 MR. DON BRODER: I've never had  
11 (INDISCERNIBLE) --

12 MR. JEFF BRODER: I --

13 MR. DON BRODER: -- in this (INDISCERNIBLE).

14 MR. JEFF BRODER: I have a problem, My Lady. I  
15 haven't been treated fairly in this court, neither has  
16 my father. I've got a letter here that you might be  
17 interested in reading. I don't know if you received  
18 it, but it was one done up, and it was a response by a  
19 lawyer on what happened one day when I wasn't here,  
20 and it's talking about what you said about me.

21 THE COURT: This is in regard --

22 MR. JEFF BRODER: And talking to --

23 THE COURT: -- to your case management  
24 matter. This is separate litigation, is it not,  
25 Mr. Broder?

26 MR. JEFF BRODER: The way it is talking in there  
27 is how all the judges were talking about me and my

1 father and my cases, and it comes from a lawyer.

2 THE COURT: All right. Well, that has got

3 nothing to do with the trophy case, --

4 MR. JEFF BRODER: Has nothing.

5 THE COURT: -- Mr. Broder.

6 All right. Thanks. We will see you on Monday.

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8 PROCEEDINGS ADJOURNED UNTIL 9:30 A.M., 26TH APRIL, 2004

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1 \*April 26, 2004 9:36 a.m. session

2 The Honourable Madam Justice Court of Queen's Bench  
M. Bielby of Alberta

3

4 E. MacInnis, Ms. For the Applicant

5 D. Broder, Mr. The Respondent in Person

6 L. Credgeur Court Clerk

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8 \*Discussion

9 THE COURT: Good morning. Please be  
10 seated.

11 Ms. MacInnis, has the trophy been returned?

12 MS. MACINNIS: Pardon me?

13 THE COURT: Have you got the trophy back?

14 MS. MACINNIS: No, we do not.

15 THE COURT: All right. Thank you.

16 Mr. Broder, have you anything that you would like  
17 to say this morning?

18 MR. DON BRODER: What can I say?

19 THE COURT: All right. When I dealt with  
20 this matter on Friday, I directed that your son Craig  
21 Broder could take your place in custody in light of  
22 your advanced age if he was prepared to do that.

23 Are you prepared to do that, Mr. Broder?

24 MR. DON BRODER: I don't want him to.

25 MR. CRAIG BRODER: He doesn't want me to, but I  
26 object to even that offer being made, My Lady. First  
27 of all, I have a family and children that I provide

1 for; and I have an employment, a place I have to be;  
2 and you're making a very unreasonable offer to me.  
3 Okay.

4 THE COURT: So you are not inclined to --

5 MR. CRAIG BRODER: No, --

6 THE COURT: -- take your father's place.

7 MR. CRAIG BRODER: -- I'm not.

8 THE COURT: All right.

9 Well, Mr. Broder, I do not have much more than I  
10 can suggest than what we did on -- talked about on  
11 Friday. You --

12 UNIDENTIFIED SPEAKER: Can I ask --

13 THE COURT: -- were unsuccessful in the  
14 trial. You were directed to return to the estate of  
15 your father the trophy so that your brothers and  
16 sisters could share in it. You have declined to do  
17 that. Really, there is no remedy that I have to  
18 require you to compel you to comply with that order  
19 other than what we are pursuing here today, and so you  
20 are going to remain in custody until you return the  
21 trophy.

22 MR. JEFF BRODER: I have something to say,  
23 My Lady, as I brought up on Friday. I had turned you  
24 on my divorce for -- to the judiciary council for,  
25 one, information that was --

26 MS. MACINNIS: My Lady, --

27 MR. JEFF BRODER: -- in the letter.

1 THE COURT: All right.

2 MS. MACINNIS: -- I think this matter has  
3 been --

4 MR. JEFF BRODER: I'm speaking, My Lady. Just --

5 THE COURT: Okay.

6 MS. MACINNIS: Excuse me.

7 THE COURT: Just -- Ms. MacInnis, thank  
8 you.

9 Mr. Broder --

10 MR. JEFF BRODER: I have the judges --

11 THE COURT: Mr. --

12 MR. JEFF BRODER: -- in Alberta scared --

13 THE COURT: Excuse me.

14 MR. JEFF BRODER: -- for their safety.

15 THE COURT: Okay. Mr. Broder, I appreciate  
16 you have had other litigation in front of the court,  
17 some of which I am aware of and some of which I am  
18 not, but that is not relevant to this lawsuit and to  
19 your father's --

20 MR. JEFF BRODER: You are --

21 THE COURT: -- obligations.

22 MR. JEFF BRODER: -- biased and prejudiced  
23 against us because I turned you in to the judiciary  
24 council.

25 THE COURT: Okay. Well, that is news to  
26 me, but totally aside from that, --

27 MR. JEFF BRODER: That letter was there.

1 THE COURT: -- that is irrelevant today.

2 MR. JEFF BRODER: It was from --

3 THE COURT: Okay.

4 MR. JEFF BRODER: -- Pam Fischer. Guy turned you  
5 in --

6 THE COURT: Okay.

7 MR. JEFF BRODER: -- from Calgary, a lawyer.

8 THE COURT: All right. Thank you,  
9 Mr. Broder. I am going to turn to your brother, the  
10 other Mr. Broder, who is also standing.

11 Do -- did you have something that you wanted to  
12 say?

13 MR. CRAIG BRODER: Yes, My Lady, I --

14 MR. JEFF BRODER: (INDISCERNIBLE) to be expunged.

15 MR. CRAIG BRODER: I -- I'm -- I would like to  
16 draw your attention to a couple of matters that I've  
17 been informed of. I was drawn in again from my job.  
18 First of all, there has been a discontinuance issued  
19 against myself on this action.

20 THE COURT: Right.

21 MR. CRAIG BRODER: I still see my name on the  
22 paperwork that's being passed around or being served  
23 upon my father. I have never received service. I am  
24 here again. I demand costs because my name is still  
25 on the paperwork.

26 This woman is in -- or this firm that she  
27 represents is in conflict of interest. They sued

1 him. They filed a lawsuit against my father and I in  
2 the wrong context. They had no right to ask for  
3 replevin of any of the items. Regardless, my father  
4 has joint tenancy, at the minimum, of that deer head.  
5 And she had no right to demand replevin for four years  
6 until the administrator was finally appointed. And  
7 that was only because we challenged it with the  
8 Courts. They had no intent to ever appoint  
9 administrators. And those administrators should have  
10 never been added to the statement of claim, and you  
11 know that as well as -- as other people in this room.  
12 And this firm owes us not only a formal apology for  
13 what they've done to him and to us and to our family  
14 and to my children, they owe us money for the costs  
15 that we've incurred to defend ourselves.

16 THE COURT: Thank you, Mr. Broder. You  
17 were not required to appear today. I did not direct  
18 that you appear.

19 MR. CRAIG BRODER: My name is on the docket and  
20 the paperwork, My Lady.

21 THE COURT: Okay, but (INDISCERNIBLE) --

22 MR. CRAIG BRODER: And I do not show up in  
23 court -- I do not assume anything.

24 THE COURT: All right. Mr. Broder, it is  
25 not necessary for you to attend again unless you wish  
26 to.

27 MR. JEFF BRODER: Then his name shouldn't be on

1 the paperwork, My Lady.

2 THE COURT: All right. Mr. Broder, that is  
3 it.

4 MR. JEFF BRODER: My God.

5 THE COURT: I appreciate you do not -- you  
6 were unhappy about losing the lawsuit, but that is --

7 MR. JEFF BRODER: It should be expunged --

8 THE COURT: Excuse me.

9 MR. JEFF BRODER: -- because you're biased and  
10 prejudiced.

11 THE COURT: Excuse me, Mr. Broder. Thank  
12 you very much.

13 We will meet again Wednesday?

14 MS. MACINNIS: My Lady, we do have -- the  
15 motion regarding the issue of costs is returnable  
16 before the Court at 1:00 on Thursday afternoon,  
17 regarding our request for costs of the handwriting  
18 expert. So we will be here at 1:00 on Thursday in any  
19 event, but if you direct Wednesday, it's totally at  
20 Your Lady's --

21 THE COURT: No. No. We can return at 1:00  
22 on Thursday. But just to make it absolutely clear,  
23 the moment the deer head trophy is returned either to  
24 Ms. MacInnis' office or to the investigator she had  
25 serve you with the papers, you are to be released from  
26 custody, Mr. Broder, without any necessity to return  
27 to court. Alternatively, --



1 MR. DON BRODER: What are they going to do about  
2 insurance on this?

3 THE COURT: -- I will still -- excuse me.  
4 Alternatively, I will still extend the offer to allow  
5 either one of your sons to take your place in custody  
6 in light of your advanced age. And should they appear  
7 at the Remand Centre and make that offer, you can be  
8 released on any -- at any time without the necessity  
9 of returning to court, otherwise we will meet again at  
10 1:00 on Thursday as scheduled. We are going to talk  
11 about costs at that time in any event, and at that  
12 time, you can let me know whether you have had any  
13 second thoughts about your position.

14 MR. JEFF BRODER: This is nothing more than  
15 cruelty to a senior, My Lady. They were giving him --

16 THE COURT: All right. Mr. Broder --

17 MR. JEFF BRODER: -- half meds.

18 THE COURT: Mr. Broder, I cannot allow you  
19 to continue to speak in court unless you are going to  
20 be moderate and deal with the issues that are on --

21 MR. JEFF BRODER: They were giving him --

22 THE COURT: -- (INDISCERNIBLE) topic.

23 MR. JEFF BRODER: -- half meds in the Remand  
24 Centre, My Lady. He's bleeding from the bowels.  
25 That's no concern of yours?

26 THE COURT: All right. Do you have a  
27 medical report, Mr. Broder?

1 MR. JEFF BRODER: I want him taken to his  
2 doctor. I want him taken in to have him checked.

3 THE COURT: All right. Thank you,  
4 Mr. Broder. We will see you on Thursday.

5 MS. MACINNIS: Thank you, My Lady.

6 MR. JEFF BRODER: Biased and prejudiced.  
7 Whatever.

8 -----

9 PROCEEDINGS ADJOURNED UNTIL 1:00 P.M., 29TH APRIL, 2004

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1 \*Certificate of transcript

2 I hereby certify that the foregoing pages are a true  
3 and faithful transcript of the proceedings taken down by a  
4 digital recording device and transcribed to the best of my  
5 skill and ability.

6 Dated at the City of Edmonton, Province of Alberta,  
7 this 29th day of April, 2004.

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A handwritten signature in black ink, appearing to be 'S. Vega', is written over a horizontal line. The signature is stylized and cursive.

S. Vega, Transcriber

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April 23 and 26, 2004

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27 BRODER, Earl v. BRODER, Don