

COURT OF APPEAL OF
NEW BRUNSWICK



COUR D'APPEL DU
NOUVEAU-BRUNSWICK

103-19-CA

B E T W E E N :

JOAN E. ZED

APPELLANT

- and -

ALLAN J. LEVINE

RESPONDENT

- and -

PETER J.C. WHITE

RESPONDENT

- and -

DAVID M. LUTZ

RESPONDENT

Motion heard by teleconference:
The Honourable Justice Quigg

Date of hearing:
April 14, 2021

Date of decision:
April 15, 2021

Counsel at hearing:

Joan E. Zed, on her own behalf

For the Respondents:
David M. Lutz, Q.C.

E N T R E :

JOAN E. ZED

APPELANTE

- et -

ALLAN J. LEVINE

INTIMÉ

- et -

PETER J.C. WHITE

INTIMÉ

- et -

DAVID M. LUTZ

INTIMÉ

Motion entendue par téléconférence :
l'honorable juge Quigg

Date de l'audience :
le 14 avril 2021

Date de la décision :
le 15 avril 2021

Avocats à l'audience :

Joan E. Zed, en son propre nom

Pour les intimés :
David M. Lutz, c.r.

DECISION

[1] The motion for the Court to accept audio recordings of Allan J. Levine’s oral testimony from a hearing held at the Court of Queen’s Bench, Saint John, on January 10, 2018, and March 22, 2019, in place of “the alleged official transcript” is dismissed. According to Mrs. Zed, she received the official transcript and observed numerous errors. She received the corrected transcript “on or about April 8, 2021.” Both transcripts were provided to the Court. Having compared the oral testimony contained on the CD provided by Mrs. Zed to the corrected transcript, I have found nothing that would in any manner impact upon the trial judge’s findings, or any errors that affect the substance of the testimony. The Court will accept the transcript as corrected for the sole purpose of the appeal being heard on April 27, 2021.

[2] The request for a declaration that the transcript is “inaccurate in parts” and is “not a true copy of the audio recordings” is denied.

[3] Mr. Lutz, counsel for the respondents, requested the Court to strike paragraph (c) from the relief sought in the Notice of Motion, the request for a declaration regarding Mr. Lutz’s alleged actions. Paragraph (c) is struck.

[4] One set of costs is awarded to the respondents in the amount of \$2,000, payable forthwith by Mrs. Zed.

[5] As this matter is scheduled to be heard on April 27, 2021, I direct, in accordance with s. 24(2) of the *Official Languages Act*, S.N.B. 2002, c. O-0.5, that this decision be published first in English and, thereafter, at the earliest possible time, in French.