

Case Name:

Jardine Lloyd Thompson Canada Inc. v. SJO Catlin

**Jardine Lloyd Thompson Canada Inc., Jardine Lloyd Thompson
Group PLC and JLT Risk Solutions Limited**

v.

**SJO Catlin & Others Syndicates 1003 and 2003 @ Lloyd's of
London, et al.**

[2006] S.C.C.A. No. 87

File No.: 31351

Supreme Court of Canada

Record created: March 14, 2006.

Record updated: June 1, 2006.

Appeal From:

ON APPEAL FROM THE COURT OF APPEAL FOR ALBERTA

Status:

Application for leave to appeal dismissed with costs (without reasons) June 1, 2006.

Catchwords:

Procedural law — Pre-hearing procedure — Arbitration — Jurisdiction — Whether arbitration panel on international commercial arbitration may order pre-hearing examinations for discovery of non-parties.

Case Summary:

The Applicants, "JLT", carry on business as insurance brokers. The Respondents are insurance underwriters. Western Oil Sands Inc. ("Western") is a corporation registered in Alberta that carries on business as an oil sands developer. Western obtained insurance coverage from the Underwriters on its Athabasca Oil Sands Project. JLT was not a party to this insurance contract, but acted as Western's agent and placing broker, participating for several months in the negotiations leading to the contract. After suffering losses during construction, a dispute arose with respect to the coverage under the policy of insurance. Western launched an action against the Respondents and JLT for an amount in excess of \$200,000,000, then commenced arbitration proceedings only against the Respondents. The arbitration proceeded in Calgary pursuant to the provisions of the Alberta International Commercial Arbitration Act, R.S.A. 2000, c. I-5 which incorporates the "Model Law." The Model Law permitted the parties to choose any procedure they wanted in order to conduct the arbitration. The parties chose the Alberta Rules of Court, which permit oral examinations for discovery of certain non-parties. The Respondents applied for an order to allow examinations of the four JLT employees.

Counsel:

David R. Haigh, Q.C. (Burnet, Duckworth & Palmer), for the motion.

Frank J.C. Newbould, Q.C. (Borden, Ladner, Gervais), contra.

Chronology:

1. Application for leave to appeal:

FILED: March 14, 2006. S.C.C. Bulletin, 2006, p. 424.
SUBMITTED TO THE COURT: May 8, 2006. S.C.C. Bulletin,
2006, p. 664.
DISMISSED WITH COSTS: June 1, 2006 (without reasons).
S.C.C. Bulletin, 2006, p. 771.
Before: Binnie, Deschamps and Abella JJ.

Procedural History:


Judgment at first instance: Respondents' motion for production of documents, for pre-hearing discovery of non-parties, and for the court's assistance to enforce order granted. Arbitration Panel, Cherniak, Chairman, Hunter and Graesser, Arbitrators, March 14.

Judgment at first instance: Applicants' motion for an order that the Arbitration Panel lacked jurisdiction to order the Applicant's witnesses to submit to pre-trial examination granted.
Court of Queen's Bench of Alberta, Wittmann J., August 12, 2005.

Judgment on appeal: Respondents' appeal allowed; Cross appeal dismissed.
Court of Appeal of Alberta, Conrad, O'Leary and O'Brien JJ.A., January 18, 2006.

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