

**ONTARIO  
SUPERIOR COURT OF JUSTICE  
DIVISIONAL COURT**

THE HONOURABLE MR.  
JUSTICE M. DAMBROT

THURSDAY, THE 1<sup>ST</sup>  
DAY OF APRIL, 2010

**B E T W E E N:**

**KATHRYN ROBINSON and RICK ROBINSON**

**Plaintiffs**

and

**ROCHESTER FINANCIAL LIMITED, PROMITTERE CAPITAL GROUP  
INC., PROMITTERE ASSET MANAGEMENT LTD., BANYAN TREE  
FOUNDATION and FRASER MILNER CASGRAIN LLP**

**Defendants**

Proceedings under the *Class Proceedings Act, 1992*

**ORDER**

**(MOTION FOR LEAVE TO APPEAL)**

THESE MOTIONS, made by the defendants, ROCHESTER FINANCIAL LIMITED, PROMITTERE CAPITAL GROUP INC., PROMITTERE ASSET MANAGEMENT LTD., BANYAN TREE FOUNDATION, ("Gift Program Defendants") and the defendant, Fraser Milner Casgrain <sup>LLP</sup> ("FMC"), seeking leave to appeal from the

Order of the Honourable Lax, J. dated January 19, 2010, to the Divisional Court, was heard March 24, 2010, at Toronto, Ontario.

ON READING THE notice of motion of the Gift Program Defendants seeking leave to appeal; the factum and brief of authorities of the Gift Program Defendants; the notice of motion of FMC seeking leave to appeal; the supplementary motion record of FMC; the factum and brief of authorities of FMC; and the factum of the plaintiffs/respondents; and upon hearing submissions from counsel for the parties;

IN ACCORDANCE with written reasons issued April 1, 2010,

1. THIS COURT ORDERS that the motion of the Gift Program Defendants seeking leave to appeal is hereby dismissed.
2. THIS COURT ORDERS that the motion of the defendant, FMC, for leave to appeal is hereby dismissed.
3. THIS COURT ORDERS that the plaintiffs/respondents will have 15 days from the date of this order to serve and file written submissions as to costs. The defendants will have 15 days from receipt of those submissions to serve and file their brief written submissions as to costs.

ENTERED AT / INSCRIT À TORONTO ON / BOOK NO: 15 LE / DANS LE REGISTRE NO.: 166  APR 12 2010  PER / PAR: N
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*Rosmarie Sheraton*  
(Signature of judge, officer or registrar)  
*Assistant Registrar*

**KATHRYN ROBINSON et al.**  
Plaintiffs

-and-

**ROCHESTER FINANCIAL LIMITED et al.**  
Defendants

Divisional Court File No. 56/10  
71/10

**ONTARIO**  
SUPERIOR COURT OF JUSTICE  
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PROCEEDING COMMENCED AT  
TORONTO

**ORDER**  
**(MOTION FOR LEAVE TO APPEAL)**

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