

COURT OF APPEAL FOR ONTARIO
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FROM: SANDRA THEROULDE *C54590- m. 40864.
Cambone v. Okken*

I AM TRANSMITTING 2 PAGES (INCLUDING THIS COVERING LETTER).
IF YOU DO NOT RECEIVE ALL PAGES, PLEASE CALL SANDRA THEROULDE
AT 416-327-6017 AS SOON AS POSSIBLE.

MESSAGE:

*Please find attached my
endorsement on the motion to dismiss the
above noted appeal which was heard on
January 11, 2012.*

GINA CAMBONE and DAVID MANNELL

JONATHAN CHUKWUDI OKOAKIH and ROYAL LEPAGE
REAL ESTATE SERVICES LTD.

and

Plaintiffs/Respondents

Defendant/Appellant

Court File No. C54590 *M 40864*

COURT OF APPEAL FOR ONTARIO

January 11, 2012.

This motion to dismiss the appeal for delay was scheduled and heard today. Mr. Scott Crocco appeared on behalf of counsel for the respondents Mr. Glenn E. Cohen and Mr. Odebye appeared as counsel on record for the appellant.

Pursuant to Rule 61.09(1) (a), where no transcript of evidence is required for the appeal, the appellant shall perfect within thirty days after filing the notice of appeal. The appeal was filed on November 16, 2011 and was not perfected within this timeline prescribed. The respondents therefore filed a motion to dismiss the appeal pursuant to Rule 61.13 (1) (b).

On the hearing date of this motion, January 11, 2012, the appellant served the respondents with the materials by mail and perfected the appeal before the hearing of this motion thereby curing the default. As a result of service by mail, counsel for the respondents was not aware of the perfection and therefore attended the court to proceed with the motion.

In accordance with Rule 61.13 (3), as the default was cured, the motion is dismissed. The respondents are advised to file a notice of appeal to the panel hearing the appeal.

AMENDED NOTICE OF MOTION

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