

**CITATION: Radvar v. Canada (Attorney General), 2007 ONCA 137**  
**DATE: 20070302**  
**DOCKET: C45326**

**COURT OF APPEAL FOR ONTARIO**

**RE: REZA RADVAR (Appellant (Plaintiff)) – and – THE ATTORNEY GENERAL OF CANADA, CHUBB INSURANCE COMPANY OF CANADA, SIGNUM CORPORATE SERVICES INC. and BROOKE RYE (Respondents (Defendants))**

**BEFORE: CATZMAN, GOUDGE and LaFORME JJ.A.**

**COUNSEL: Davies Bagambiire  
for the appellant**

**William Knights  
for the Attorney General of Canada**

**Sheila McKinlay  
for Chubb Insurance Company of Canada**

**Lisa La Horey  
for Signum Corporate Services Inc. and Brooke Rye**

**HEARD &  
RELEASED**

**ORALLY: February 16, 2007**

**On appeal from endorsements of Justice E. Eva Frank dated December 5, 2005 and January 20, 2006.**

**ENDORSEMENT**

[1] Mr. Radvar raises two fundamental grounds of appeal: one, the release executed by him in the prior action does not preclude the action that was the subject of the summary judgment motion and two, the release does not protect the respondents AG Canada, Signum and Rye from legal action by the appellant.

[2] Regarding the first ground, the motion judge, in our view, correctly found that the wording of the release is unambiguous and therefore amounts to a bar of the within action. Its language provides that only a dispute that “had not emerged or a question which had not at all arisen” will fall outside the scope of it.

[3] The evidence put before the motion judge plainly reveals that when Mr. Radvar executed the release, he was aware that his private information had been obtained by illegal means. Further, it establishes that he knew the essential elements of the claims in this action. In deciding the motion, it was not necessary for the motion judge to make any credibility assessments or findings. The motion judge correctly noted that any conflict in the evidence was with respect to the subjective intentions of the parties. Those intentions are not relevant to the determination of contractual intent.

[4] The second ground by Mr. Radvar is that, because the respondents Signum, Rye and AG Canada were not parties to the release, they could not benefit from it. We agree with the motion judge. There are two reasons why this argument must fail.

[5] First, the release specifically provides that it applies to Chubb's agents. This, therefore, includes Signum and Rye. Second, all of the claims against each of the respondents including AG Canada find their factual underpinnings in the precise facts to which the release applies. This case is different from *Van Patter v. Tillsonburg District Memorial Hospital* (1999), 45 O.R. (3d) 223 (C.A.). As the motion judge put it: "there are no claims against AG Canada that are not subject to a cross-claim against the co-defendants". We agree with her conclusion that "it would be unjust to permit the action against the Attorney General of Canada to proceed while preventing it from advancing its cross-claims against its co-defendants". See *Sinclair-Cockburn Insurance Brokers Ltd. v. Richards* (2002), 61 O.R. (3d) 105.

[6] In the end, Mr. Radvar failed to meet the burden of showing that there is a triable issue as to whether some unexpected situation emerged after the execution of the release. In this action, Mr. Radvar effectively seeks to ignore a bargain he made with full knowledge of the very same circumstances that existed when he agreed to and entered into the bargain. The motion judge correctly dismissed his action to do so.

[7] For these reasons, the appeal is dismissed with costs, inclusive of GST and disbursements, of \$15,000 for the respondent Chubb, \$15,000 for the respondents Signum and Rye, and \$10,000 for the respondent AG Canada.

"M.A. Catzman J.A."

"S.T. Goudge J.A."

"H.S. LaForme J.A."