

Court File No.
Commercial Court File No. 07-CL-7122

COURT OF APPEAL FOR ONTARIO

BETWEEN:

MICHAEL J. QUILLING, in his capacity as Court appointed receiver for
COURTNEY WALLIS SIMPSON

Applicant
(Respondent in Appeal)

- and -

NICHOLAS SMITH ATTORNEY IN FACT IN CANADA FOR
LLOYD'S UNDERWRITERS

Respondent
(Appellant in Appeal)

NOTICE OF APPEAL

THE RESPONDENT appeals to the Court of Appeal from the Order of the Honourable Justice Lederman, dated October 8, 2008, made at Toronto.

THE APPELLANT asks that the Order be set aside and that an Order be granted declaring that the provisions of the insurance policy in issue limit the sum payable to Claimants under the Consumer Deposit Insurance Extension of the policy is limited to \$500,000.00 on a pro rated basis.

THE GROUNDS OF APPEAL are as follows:

1. The learned judge erred in his interpretation of the insurance policy in issue by failing to find that the events giving rise to the claim were a single occurrence within the meaning of the policy.
2. In the alternative, the learned judge erred in his interpretation of the insurance policy in issue by failing to find that the events giving rise to the claim were a series of related occurrences within the meaning of the policy.
3. And such further and other grounds as counsel may advise and this Honourable Court permit.

THE BASIS OF THE APPELLATE COURT'S JURISDICTION IS:

1. *Courts of Justice Act*, R.S.O. 1990, c.C.43 S. 6(1)(b);
2. judgment is final;
3. no leave to appeal is required; and
4. the amount in issue exceeds \$500,000.00.

Dated: November 4, 2008

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(Respondent in the Appeal)

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MICHAEL J. QUILLING v. NICHOLAS SMITH

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