

**REPUBLIC OF TRINIDAD AND TOBAGO**

**IN THE HIGH COURT OF JUSTICE**

**CV 2009-00551**

**HCA No. 1798 of 2005**

**BETWEEN**

**MORA OIL VENTURES LIMITED  
MORA VEN HOLDINGS LIMITED**

**CLAIMANTS**

**AND**

**SCOTIABANK TRINIDAD & TOBAGO LIMITED**

**DEFENDANT**

**Before the Honourable Mr. Justice A. des Vignes**

**Appearances:**

Mr. Lionel Luckhoo for the Claimants

Mrs. Deborah Peake, S.C. and  
Mrs. Nadia Kangaloo for the Defendant

## **RULING**

By Notice of Application filed on the 27<sup>th</sup> April 2012 the Defendant sought an Order striking out the Claimant's Expert Report filed on the 23<sup>rd</sup> February 2012 on several grounds.

On the 28<sup>th</sup> June 2012 I granted the application but on the 3<sup>rd</sup> July 2012 the Claimants filed a procedural appeal against my Order. On the 30<sup>th</sup> July 2012, the Court of Appeal upheld the appeal and on the 28<sup>th</sup> November 2012 it was brought to my attention that I had not considered and ruled upon the Defendant's application on the grounds set out at paragraphs 2(iv), (v) and (vi) thereof.

Accordingly, I reserved my decision on the Defendant's application to a date to be fixed. Having considered these grounds of the Defendant's application as well as the written submissions of the parties in support of and in opposition, I have decided to refuse the Defendant's application to strike out the Expert Report of Mr. Mario Young for the following reasons:

1. To the extent that the Defendant, at paragraph 16 of their submissions filed on the 1<sup>st</sup> June 2012, relied on the Claimant's disregard of the list of instructions set out in the Order of Master Sobion, that argument is no longer tenable in the light of the decision of the Court of Appeal made on the 30<sup>th</sup> July 2012;
2. Having considered the Report of Mr. Young, I am of the view that the Report is substantially in compliance with the requirements of Part 33.10. Although the format of question and answer has been criticised by the Defendant's Attorneys, I am not persuaded that the questions asked and the answers given reveal bias in favour of the Claimant's case. The witness has expressed his opinion on the questions asked and any criticism of his evidence by the Defendant can be addressed by cross-examination;
3. Although the written instructions given to Mr. Young were not attached to his Report, these documents are not in dispute between the parties. Accordingly, their omission from the Report does not justify the exclusion of the Report.
4. Bearing in mind the overriding objective of dealing with this case justly and the factors mentioned in Part 1.1, I am of the view that it is appropriate to permit the Claimants to call their expert and determine what weight I will put on the opinions of both experts after their cross-examination.

#### Costs

Having regard to the history of this matter as well as the cross-undertakings given by the Claimants and the Defendant not to pursue the costs of the application filed on the 27<sup>th</sup> April, 2012 as ordered by the Court of Appeal and by me on the 8<sup>th</sup> October 2012, I am of the view that it would be appropriate to make no order as to costs on the said application.

**Dated this 25<sup>th</sup> day of February 2013.**

**André des Vignes  
Judge.**