

**SUPREME COURT OF CANADA**

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| **Citation:** Christine DeJong Medicine Professional Corp.*v.* DBDC Spadina Ltd., 2019 SCC 30, [2019] 2 S.C.R. 530 |  | **Appeal Heard:** May 14, 2019  **Judgment Rendered:** May 14, 2019  **Docket:** 38051 |

**Between:**

**Christine DeJong Medicine Professional Corporation**

Appellant

and

**DBDC Spadina Ltd.,**

**Dr. Bernstein Diet Clinics Ltd.,**

**2272551 Ontario Limited,**

**DBDC Investments Atlantic Ltd.,**

**DBDC Investment Pape Ltd.,**

**DBDC Investments Highway 7 Ltd.,**

**DBDC Investments Trent Ltd.,**

**DBDC Investments St. Clair Ltd.,**

**DBDC Investments Tisdale Ltd.,**

**DBDC Investments Leslie Ltd.,**

**DBDC Investments Lesliebrook Ltd.,**

**DBDC Fraser Properties Ltd.,**

**DBDC Fraser Lands Ltd.,**

**DBDC Queen’s Corner Inc.,**

**DBDC Queen’s Plate Holdings Inc.,**

**DBDC Dupont Developments Ltd.,**

**DBDC Red Door Developments Inc.,**

**DBDC Red Door Lands Inc.,**

**DBDC Global Mills Ltd.,**

**DBDC Donalda Developments Ltd.,**

**DBDC Salmon River Properties Ltd.,**

**DBDC Cityview Industrial Ltd.,**

**DBDC Weston Lands Ltd.,**

**DBDC Double Rose Developments Ltd.,**

**DBDC Skyway Holdings Ltd.,**

**DBDC West Mall Holdings Ltd.,**

**DBDC Royal Gate Holdings Ltd.,**

**DBDC Dewhurst Developments Ltd.,**

**DBDC Eddystone Place Ltd. and**

**DBDC Richmond Row Holdings Ltd.**

Respondents

- and -

**Schonfeld Inc., in its capacity as the court-appointed**

**Inspector and Manager of Twin Dragons Corporation,**

**Bannockburn Lands Inc. / Skyline — 1185 Eglinton Avenue Inc.,**

**Wynford Professional Centre Ltd.,**

**Liberty Village Properties Ltd., Liberty Village Lands Inc.,**

**Riverdale Mansion Ltd., Royal Agincourt Corp.,**

**Hidden Gem Developments Inc., Ascalon Lands Ltd.,**

**Tisdale Mews Inc., Lesliebrook Holdings Ltd.,**

**Lesliebrook Lands Ltd., Fraser Properties Group,**

**Fraser Lands Ltd., Queen’s Corner Corp.,**

**Northern Dancer Lands Ltd., Dupont Developments Ltd.,**

**Red Door Developments Inc. and Red Door Lands Ltd.,**

**Global Mills Inc., Donalda Developments Ltd.,**

**Salmon River Properties Ltd., Cityview Industrial Ltd.,**

**Weston Lands Ltd., Double Rose Developments Ltd.,**

**Skyway Holdings Ltd., West Mall Holdings Ltd.,**

**Royal Gate Holdings Ltd., Royal Gate Nominee Inc.,**

**Royal Gate (Land) Nominee Inc., Dewhurst Development Ltd.,**

**Eddystone Place Inc., Richmond Row Holdings Ltd.,**

**El-Ad (1500 Don Mills) Limited, 165 Bathurst Inc.,**

**3270 American Drive, Mississauga, Ontario,**

**0 Luttrell Ave., Toronto, Ontario,**

**2 Kelvin Avenue, Toronto, Ontario,**

**346 Jarvis Street, Suites A, B, C, E and F, Toronto, Ontario,**

**1 William Morgan Drive, Toronto, Ontario,**

**324 Prince Edward Drive, Toronto, Ontario,**

**24 Cecil Street, Toronto, Ontario,**

**30 and 30A Hazelton Avenue, Toronto, Ontario,**

**777 St. Clarens Avenue, Toronto, Ontario,**

**252 Carlton Street and 478 Parliament Street, Toronto, Ontario,**

**66 Gerrard Street East, Toronto, Ontario,**

**2454 Bayview Avenue, Toronto, Ontario,**

**319-321 Carlaw, Toronto, Ontario,**

**260 Emerson Ave., Toronto, Ontario,**

**44 Park Lane Circle, Toronto, Ontario,**

**19 Tennis Crescent, Toronto, Ontario,**

**646 Broadview Avenue, Toronto, Ontario and**

**Canadian Chamber of Commerce**

Interveners

**Coram:** Wagner C.J. and Abella, Karakatsanis, Côté, Brown, Rowe and Martin JJ.

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| **Reasons for Judgment:**  (paras. 1 to 2) | Brown J. (Wagner C.J. and Abella, Karakatsanis, Côté, Rowe and Martin JJ. concurring) |

Christine DeJong Medicine Professional Corp. *v.* DBDC Spadina Ltd., 2019 SCC 30, [2019] 2 S.C.R. 530

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DBDC Fraser Properties Ltd.,

DBDC Fraser Lands Ltd.,

DBDC Queen’s Corner Inc.,

DBDC Queen’s Plate Holdings Inc.,

DBDC Dupont Developments Ltd.,

DBDC Red Door Developments Inc.,

DBDC Red Door Lands Inc.,

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DBDC Royal Gate Holdings Ltd.,

DBDC Dewhurst Developments Ltd.,

DBDC Eddystone Place Ltd. and

DBDC Richmond Row Holdings Ltd. Respondents

and

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260 Emerson Ave., Toronto, Ontario,

44 Park Lane Circle, Toronto, Ontario,

19 Tennis Crescent, Toronto, Ontario,

646 Broadview Avenue, Toronto, Ontario and

Canadian Chamber of Commerce Interveners

**Indexed as: C**hristine DeJong Medicine Professional Corp. ***v.*** DBDC Spadina Ltd.

2019 SCC 30

File No.: 38051.

2019: May 14.

Present: Wagner C.J. and Abella, Karakatsanis, Côté, Brown, Rowe and Martin JJ.

on appeal from the court of appeal for ontario

*Torts — Knowing assistance in breach of fiduciary duty — Attribution of individual wrongdoing to corporation — Applicable criteria — Complex multi-million dollar fraud perpetrated by husband and wife — Couple convincing investors to invest with them in specific-project corporations to acquire and hold commercial real estate properties — Couple taking funds for personal use instead — Investors claiming damages against husband and wife personally for fraudulent misrepresentation, deceit and breach of fiduciary duty — Investors also claiming liability for knowing assistance against specific-project corporations on basis that wife who committed fraud was their directing mind — Application judge awarding damages against husband and wife personally, but dismissing knowing assistance claim on basis that wife’s knowledge of fraud could not be imputed to specific-project corporations — Majority of Court of Appeal allowing knowing assistance claim — Dissenting judge finding that liability for knowing assistance could not be made out against specific-project corporations — Claim of knowing assistance must fail.*

**Cases Cited**

**Referred to:** *Deloitte & Touche v. Livent Inc. (Receiver of)*, 2017 SCC 63, [2017] 2 S.C.R. 855; *Canadian Dredge & Dock Co. v. The Queen*, [1985] 1 S.C.R. 662.

APPEAL from a judgment of the Ontario Court of Appeal (Cronk, Blair and van Rensburg JJ.A.), 2018 ONCA 60, 419 D.L.R. (4th) 409, 78 B.L.R. (5th) 183, 56 C.B.R. (6th) 174, 33 E.T.R. (4th) 173, [2018] O.J. No. 578 (QL), 2018 CarswellOnt 1571 (WL Can.), setting aside a decision of Newbould J., 2016 ONSC 6018, 40 C.B.R. (6th) 230, [2016] O.J. No. 5017 (QL), 2016 CarswellOnt 15044 (WL Can.). Appeal allowed.

Jeremy Opolsky, Jonathan Silver and Alicja Puchta, for the appellant.

Shara N. Roy, Paul-Erik Veel and Madison Robins, for the respondents.

Geoff R. Hall, Anu Koshal and Natalie V. Kolos, for the intervener the Canadian Chamber of Commerce.

Mark Dunn and Carlie Fox, for the other interveners.

The judgment of the Court was delivered orally by

[1] Brown J. — We agree with Justice van Rensburg, dissenting, at the Court of Appeal that the respondents’ claim for knowing assistance must fail, and we adopt her reasons as our own.

[2] In view of the statement of the majority at the Court of Appeal that this Court’s decision in *Deloitte & Touche v. Livent Inc. (Receiver of)*, 2017 SCC 63, [2017] 2 S.C.R. 855, invited a “flexible” application of the criteria stated in *Canadian Dredge & Dock Co. v. The Queen*, [1985] 1 S.C.R. 662, for attributing individual wrongdoing to a corporation, we respectfully add this. What the Court directed in *Livent*, at para. 104, was that *even where those criteria are satisfied*, “courts retain the discretion to refrain from applying [corporate attribution] where, in the circumstances of the case, it would not be in the public interest to do so” (emphasis added). In other words, while the presence of public interest concerns may *heighten* the burden on the party seeking to have the actions of a directing mind attributed to a corporation, *Canadian Dredge* states *minimal* criteria that must always be met. The appeal is allowed, with costs throughout.

*Judgment accordingly.*

Solicitors for the appellant: Torys, Toronto.

Solicitors for the respondents: Lenczner Slaght Royce Smith Griffin, Toronto.

Solicitors for the intervener the Canadian Chamber of Commerce: McCarthy Tétrault, Toronto.

Solicitors for the other interveners: Goodmans, Toronto.