

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20250925**

**Docket: A-252-25**

**Citation: 2025 FCA 172**

**Present: LOCKE J.A.**

**BETWEEN:**

**ROBERT MAGRO**

**Appellant**

**and**

**HIS MAJESTY THE KING**

**Respondent**

Dealt with in writing without appearance of parties

Order delivered at Ottawa, Ontario, on September 25, 2025.

**REASONS FOR ORDER BY:**

**LOCKE J.A.**

**Federal Court of Appeal**



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**REASONS FOR ORDER**

**LOCKE J.A.**

[1] The appellant, Robert Magro, moves pursuant to Rule 343(3) of the *Federal Courts Rules*, S.O.R./98-106, for an Order determining the content of the appeal book. Mr. Magro provides a list of documents that he wishes to have included.

[2] The respondent, His Majesty the King (the Crown), opposes the inclusion of some of the documents identified by Mr. Magro and proposes several other documents for inclusion.

[3] For the reasons set out below, I conclude that some, but not all, of the contested documents identified by Mr. Magro should be included in the appeal book. I conclude also that none of the additional documents identified by the Crown should be included in the appeal book.

[4] The contested documents identified by Mr. Magro concern exchanges of correspondence between the parties and with the Tax Court of Canada prior to the May 30, 2024 trial date. These include (i) exchanges from February, March and April 2024 between Mr. Magro and counsel for the Crown concerning the latter's production of certain documents to the former (the document production documents), and (ii) a request by Mr. Magro dated March 28, 2024 to adjourn the trial, a letter dated April 4, 2024 from the Crown opposing the adjournment request and an April 5, 2024 decision by the Tax Court refusing the request (the adjournment request documents). Though Mr. Magro indicates that all of these contested documents were part of the Tax Court file, I see no indication that the document production documents were ever communicated to the Tax Court.

[5] Rule 344(1) identifies the categories of documents that should be included in the appeal book. Rule 344(1)(g) indicates "any other document relevant to the appeal". Mr. Magro argues that the documents noted in the previous paragraph are relevant to his appeal, which focuses on issues of procedural fairness surrounding the Tax Court's refusal to adjourn the trial.

[6] In order for the documents in question to be relevant, it must be possible that they will help determine whether the Tax Court erred in refusing to adjourn the trial. I cannot see how documents that were never provided to the Tax Court could help in that regard. Accordingly, I

conclude that the document production documents are not relevant and should not be included in the appeal book. On the other hand, the adjournment request documents, which were on the Tax Court file, are relevant at least to the April 5, 2024 decision refusing Mr. Magro's original adjournment request. Since the present appeal is from a decision in an informal proceeding before the Tax Court, pursuant to subsection 27(1.2) of the *Federal Courts Act*, R.S.C. 1985, c. F-4, I note that Mr. Magro was not able to appeal that interlocutory decision until the Tax Court had issued a final decision.

[7] I turn now to the additional documents identified by the Crown for inclusion in the appeal book. These are noted in the Crown's written representations in response to Mr. Magro's motion. In his reply, Mr. Magro argues that these documents are not relevant to the issues on appeal because they relate to the merits of the case that was before the Tax Court concerning Mr. Magro's tax liability, whereas his present appeal is limited to questions of procedural fairness.

[8] The Crown provides no information to contradict Mr. Magro's argument in this regard, and I conclude that the additional documents it identifies are not relevant to the issues in dispute in the present appeal and should not be included in the appeal book.

[9] Accordingly, the list of documents to be included in the appeal book is as follows:

1. A table of contents describing each document;
2. The notice of appeal to the Federal Court of Appeal dated July 18, 2025;
3. The judgment and reasons for judgment of the Tax Court of Canada dated May 30, 2024 and amended June 5, 2024;

4. The notice of appeal to the Tax Court of Canada dated February 21, 2023;
5. The reply to the notice of appeal dated May 16, 2023;
6. The transcript of the May 30, 2024 hearing in Tax Court of Canada File No. 2023-429(IT)I;
7. The letter dated March 28, 2024 from Robert Magro to the Tax Court of Canada;
8. The letter dated April 4, 2024 from counsel for the Crown James Whittier to the Tax Court of Canada;
9. The letter dated April 5, 2024 from the Tax Court of Canada to Robert Magro and counsel for the Crown James Whittier;
10. The email message, together with the attachment thereto, dated August 16, 2025 from Robert Magro to Terence Katerynych;
11. The letter dated August 22, 2025 from counsel for the Crown Stan McDonald to Robert Magro;
12. The Order of this Court, together with the reasons therefor, dated September 25, 2025 in this File No. A-252-25;
13. A Certificate of Completeness of Appeal Book (Form 344).

"George R. Locke"

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J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:**

A-252-25

**STYLE OF CAUSE:**

ROBERT MAGRO v. HIS  
MAJESTY THE KING

**MOTION DEALT WITH IN WRITING WITHOUT APPEARANCE OF PARTIES**

**REASONS FOR ORDER BY:**

LOCKE J.A.

**DATED:**

SEPTEMBER 25, 2025

**WRITTEN REPRESENTATIONS BY:**

Robert Magro

FOR THE APPELLANT  
ON HIS OWN BEHALF

Stan McDonald

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Shalene Curtis-Micallef  
Deputy Attorney General of Canada

FOR THE RESPONDENT