



# Real Estate Bulletin

RIOPELLE GRIENER PROFESSIONAL CORPORATION

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## Courts render verdicts regarding commissions

### Court orders payment of commission

**The case:** *Homelife/Vision Realty v. Clubine*, a recent decision of the Ontario Superior Court.

**The facts (briefly):** In *Homelife/Vision Realty*, the plaintiff broker sued for payment of a commission of \$21,774.50 pursuant to a Buyer Agency Agreement entered into with the defendant buyer. Things started out well until the buyer's relationship with her agent and broker deteriorated. It was later discovered the buyer purchased another property using another agent during the term of the agreement. The dispute made its way to court and the court ordered the buyer to pay the commission.

In arriving at its decision, the judge was influenced by the agent's testimony that she had fully explained the nature of the agreement and the buyer's contractual obligations.

**Conclusion:** Agents should ensure Buyer Agency Agreements are thoroughly explained to their clients in order to ensure the agreement is valid and enforceable.



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### Court denies payment of commission

**The case:** *Re/Max Rouge River Realty Ltd. v. Gallacher and Gallacher*, a recent case of the Ontario Superior Court.

**The facts (briefly):** The judge refused to order payment of the commission because only one of the purchaser spouses signed the Buyer Agency Agreement, despite the fact the purchased property was registered in both spouses' names. The court held that since only the husband signed the Buyer Agency Agreement, and it was the wife who submitted the offer to purchase the property, the court could not find the wife was a party to the Buyer Agency Agreement nor could it find the husband was a party to the offer to purchase the property. The court rejected the argument the wife signed the offer to purchase on behalf of both her and her husband, despite the common intention of both spouses to purchase a property together.

**Conclusion:** When assisting a buyer, brokers and agents should ensure both spouses sign the Buyer Agency Agreement in order to protect their commission payment.

Best regards,  
Paula Riopelle

## Our Lawyers

ROBERT RIOPELLE

KEVIN GRIENER

JOSHUA BOND

PIERRE LAMBERT-BÉLANGER

GORDON CONLEY

PAULA RIOPELLE

KELLY WATSON

[www.rglaw.ca](http://www.rglaw.ca)