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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

**DEMANDES D'AUTORISATION
D'APPEL DÉPOSÉES**

Canadian Human Rights Commission

William F. Pentney
CHRC

v. (24236)

Attorney General of Canada (F.C.A.)(Ont.)

Brian Evernden
A.G. of Canada

FILING DATE 26.7.1994

Gandolph St. Clair

Clayton C. Ruby
Ruby & Edwardh

v. (24237)

Her Majesty The Queen (Crim.)(Ont.)

FILING DATE 4.8.1994

William McAllister

Jacques Normandeau

v. (24238)

Les États-Unis d'Amérique et al. (Crim.)(Qué.)

James L. Brunton
Min. de la Justice

DATE DE PRODUCTION 12.8.1994

Christopher Tinkasimire

Christopher Tinkasimire

v. (24239)

**The Ontario Workers Compensation Board
(Ont.)**

Miriam E. Flynn

FILING DATE 10.8.1994

JULY 22, 1994 / LE 22

JUILLET 1994

CORAM: CHIEF JUSTICE LAMER AND CORY AND IACOBUCCI JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES CORY ET IACOBUCCI

Peter Anthony Rowe

v. (24127)

Her Majesty the Queen (Crim.)(Ont.)

NATURE OF THE CASE

Criminal law - Evidence - Credibility - Whether the Court of Appeal erred in law in applying s. 686(1)(b)(iii) of the *Criminal Code* to the procedural irregularities that occurred in dealing with the five-month delay of the Applicant's trial - Whether the Court of Appeal erred in law in applying s. 686(1)(b)(iii) of the *Criminal Code* to the fact that the Applicant was erroneously partially arraigned before the jury panel on charges held in a second separate indictment so as to deny him right to a fair trial pursuant to section 11(d) of the *Canadian Charter of Rights and Freedoms* - Whether the Court of Appeal erred in law in applying s. 686(1)(b)(iii) of the *Criminal Code* to the wrongful admission of evidence by the trial judge related to a conditional discharge granted to the Applicant.

PROCEDURAL HISTORY

November 7, 1990
Ontario Court (General Division)
(McDonald J.)

Conviction: 1 count of sexual assault contrary to s. 271 of the *Criminal Code* and 1 count of forceful confinement contrary to s. 279(2) of the *Criminal Code*

March 28, 1994
Ontario Court of Appeal
(Galligan, Arbour and Labrosse JJ.A.)

Appeal dismissed

May 6, 1994
Supreme Court of Canada

Application for leave to appeal filed

Peter Anthony Rowe

v. (24128)

Her Majesty the Queen (Crim.)(Ont.)

NATURE OF THE CASE

Criminal law - Evidence - Whether the Court of Appeal erred in law in applying s. 686(1)(b)(ii) of the *Criminal Code* to the evidence.

PROCEDURAL HISTORY

November 21, 1990
Ontario Court (General Division)
(Chadwick J.)

Conviction: 2 counts of sexual assault contrary to s. 271 of the *Criminal Code* and 1 count of forceful confinement contrary to s. 279(2) of the *Criminal Code*.

March 28, 1994
Court of Appeal for Ontario
(Galligan, Arbour and Labrosse JJ.A.)

Appeal dismissed

May 6, 1994
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: LA FOREST, SOPINKA AND MAJOR JJ. /
LES JUGES LA FOREST, SOPINKA ET MAJOR**

Gregory O'Connor

v. (24208)

Louis Mostyn, Q.C. (Ont.)

NATURE OF THE CASE

Procedural law - Civil procedure - Actions - Motion for summary judgment dismissing the Applicant's action allowed - Whether the Court of Appeal erred in failing to allow leave to appeal on the basis that the Applicant raised a genuine issue to be tried; that the Senior Master did not have jurisdiction to entertain a motion for summary judgment when a date for trial had been fixed; that the Senior Master erred in refusing the adjournment requested by the Applicant; that the test in *Pizza Pizza Ltd. v. Gillespie* (1990), 45 C.P.C. (2d) 168 was not properly applied.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

REQUÊTES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

June 21, 1993
Ontario Court, General Division
(Senior Master Sedgwick)

Motion for summary judgment dismissing the
Applicant's claim granted

September 29, 1993
Ontario Court, General Division
Divisional Court (Montgomery J.)

Appeal dismissed

January 31, 1994
Court of Appeal for Ontario
(Carthy, Arbour and Austin JJ.A.)

Motion for leave to appeal dismissed

June 27, 1994
Supreme Court of Canada

Application for leave to appeal and motion for an
extension of time filed

**CORAM: L'HEUREUX-DUBÉ, GONTHIER AND McLACHLIN JJ. /
LES JUGES L'HEUREUX-DUBÉ, GONTHIER ET McLACHLIN**

Her Majesty the Queen

v. (24142)

Dorothy Sloan (Crim.)(Ont.)

NATURE OF THE CASE

Criminal law - Offenses - Statutes - Interpretation - Section 173(1)(a) of the *Criminal Code*, R.S.C. 1985, c. C-46.

PROCEDURAL HISTORY

October 10, 1991
Ontario Court of Justice (Provincial Division) (Marck
P.C.J.)

Conviction: Indecent act

August 7, 1992
Ontario Court of Justice (General Division)
(Yates J.)

Summary conviction appeal dismissed

April 15, 1994
Court of Appeal for Ontario
(Goodman, Galligan and Osborne [dissenting] JJ.A.)

Appeal allowed

June 21, 1994
Supreme Court of Canada

Application for leave to appeal filed

JULY 28, 1994 / LE 28 JUILLET 1994

**CORAM: LA FOREST, SOPINKA AND MAJOR JJ. /
LES JUGES LA FOREST, SOPINKA ET MAJOR**

R.V.B.

v. (24217)

Her Majesty the Queen (Crim.)(Alta.)

NATURE OF THE CASE

Criminal law - Young offenders - Pre-trial procedure - Charge of second degree murder - Transfer test under s. 16(1.1) of the *Young Offenders Act* - Whether proper test applied in confirming Youth Court order transferring proceedings to ordinary court - Whether Court of Appeal erred in admitting new evidence at review stage of transfer hearing - Whether there is an assumption of guilt in transfer hearings that violates ss. 7 and 11(d) of the Charter.

PROCEDURAL HISTORY

October 9, 1992
Provincial Court of Alberta Youth Division
(Witten J.)

Accused transferred to ordinary court

November 12, 1993
Court of Appeal of Alberta
(Irving, Cote and McFadyen JJ.A.)

Motion to consider introduction of new evidence
denied

January 21, 1994
Court of Appeal of Alberta
(Irving, Cote and McFadyen JJ.A.)

Appeal dismissed

June 30, 1994
Supreme Court of Canada

Application for leave to appeal filed

JULY 29, 1994 / LE 29 JUILLET 1994

**CORAM: CHIEF JUSTICE LAMER AND CORY AND IACOBUCCI JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES CORY ET IACOBUCCI**

Siraz Pabani

v. (24222)

Her Majesty the Queen (Crim.)(Ont.)

NATURE OF THE CASE

Criminal law - Procedural law - Statutes - Interpretation - Evidence - Whether the Court of Appeal erred in holding that the trial judge had not erred in holding that the communications made during attempts at reconciliation were not admissible by virtue of the provisions of s. 10(5) of the *Divorce Act, 1985*, S.C. 1986, c. 4, or the common law.

PROCEDURAL HISTORY

April 4, 1991
Ontario Court of Justice (General Division)
(Then J.)

Conviction: Second degree murder

March 18, 1994
Court of Appeal for Ontario
(Lacourcière, Robins and Finlayson JJ.A.)

Appeal against conviction dismissed; Appeal against
sentence allowed

June 30, 1994
Supreme Court of Canada

Application for leave to appeal filed

AUGUST 10, 1994 / LE 10 AOÛT 1994

**CORAM: L'HEUREUX-DUBÉ, GONTHIER AND McLACHLIN JJ. /
LES JUGES L'HEUREUX-DUBÉ, GONTHIER ET McLACHLIN**

Les Placements Tanguay (1979) Ltée

c. (24145)

Fernande D. Ross

-et-

L.G. Ross Ltd. (Qué.)

NATURE DE LA CAUSE

Droit administratif - Procédure - Appel - Preuve - Défense - Faillite - Requête en faillite - Objections à la preuve maintenues - Avis d'appel de plein droit en vertu de l'article 193(a) de la *Loi sur la faillite et l'insolvabilité*, L.R.C., 1985, ch. B-3, déposé par la demanderesse - Requête en rejet d'appel des intimées accueillie - Déni de justice allégué - Droit à une défense pleine et entière - Droit d'une partie de contester, par toute preuve pertinente, la créance alléguée dans une requête en faillite - Le jugement de la Cour d'appel, accueillant la requête des intimées pour rejet d'appel, est-il mal fondé en droit en ce que la demanderesse bénéficiait d'un appel de plein droit, et ce, en vertu de l'article 193(a) de la *Loi sur la faillite et l'insolvabilité*.

HISTORIQUE PROCÉDURAL

Le 23 février 1994
Cour supérieure du Québec (Richard j.c.s.)

Objection à la preuve maintenue

Le 16 mars 1994
Cour d'appel du Québec (Otis j.c.a.)

Requête *de bene esse* pour permission d'en appeler
rejetée

Le 13 mai 1994
Cour suprême du Canada

Demande d'autorisation d'appel du jugement de la
Cour d'appel du 16 mars 1994 déposée et demande
de suspension de la décision sur la demande
d'autorisation d'appel déposée

Le 6 juin 1994
Cour d'appel du Québec
(Bisson, Rousseau-Houle et Delisle jj.c.a.)

Requête pour rejet d'appel accueillie

Le 14 juillet 1994
Cour suprême du Canada

Demande d'autorisation d'appel du jugement de la
Cour d'appel du 6 juin 1994 déposée

Le 25 juillet 1994
Cour suprême du Canada

Demande de suspension des procédures en première
instance relativement au jugement du 23 février
1994 déposée

AUGUST 15, 1994 / LE 15 AOÛT 1994

**CORAM: CHIEF JUSTICE LAMER AND CORY AND IACOBUCCI JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES CORY ET IACOBUCCI**

Gordon Capital Corporation

v. (24199)

The Guarantee Company of North America

- and -

**Chubb Insurance Company of Canada and
Laurentian General, Insurance Company Inc. (Ont.)**

NATURE OF THE CASE

Procedural law - Actions - Jurisdiction - Conflict of laws - Insurance - Multiplicity of actions - *Forum non conveniens* - Fidelity bonds issued in Ontario - Loss occurred in Ontario - Claim for recovery under the bond instituted in Quebec and Ontario - Respondent's motion to stay action in Quebec dismissed and appeal pending - Respondent commencing an action in Ontario for a declaration that the bond was rescinded by Applicant and is void *ab initio* and that it is not liable under the bond since Applicant failed to commence legal proceedings for the recovery of loss within 24 months from the discovery of such loss as required by the bond - Applicant's motion to stay or dismiss Respondent's action for declaratory relief dismissed - Judicial advantage to the Applicant to try the case in Quebec - Article 2495 of the *Civil Code of Lower Canada* providing that an action arising from an insurance contract is prescribed by three years from the time the right of action arises - Whether Ontario action should be stayed.

PROCEDURAL HISTORY

January 17, 1994
Ontario Court of Justice (General Division)
(Ground J.)

Motion by the Applicant for an order staying or
dismissing Respondent's action for declaratory relief
dismissed

April 25, 1994
Ontario Court of Justice (General Division)
(Montgomery J.)

Application for leave to appeal dismissed

July 7, 1994
Supreme Court of Canada
(Iacobucci J.)

Motion for an extension of time to serve and file the
application for leave to appeal referred to the panel
of the Court considering the application for leave to
appeal; Application for leave to appeal to be served
and filed no later than July 14, 1994

July 14, 1994
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: LA FOREST, SOPINKA AND MAJOR JJ. /
LES JUGES LA FOREST, SOPINKA ET MAJOR**

Luis Enrique Monsalve

v. (24220)

**The United States of America and The Minister of
Justice for Canada (Crim.)(Ont.)**

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Extradition - Evidence - Whether the Court of Appeal erred in failing to hold that the extradition judge erred in holding that the Applicant could not lead evidence to show that a witness might have resiled from his affidavit evidence - Whether the Court of Appeal erred in failing to hold that the Minister of Justice erred in holding that there was an onus on the Applicant to show that the witness had resiled from the evidence - Whether the Court of Appeal erred in failing to hold that the Minister of Justice erred in refusing to exercise his jurisdiction to cause inquiries to be made with respect to whether the witness had resiled from his evidence - Whether the Court of Appeal erred in failing to hold that a ruling which prohibited the Applicant to show that the witness had resiled from his evidence and, having the Minister of Justice not exercise his function in undertaking to review the evidence, was unfair and violated the Applicant's rights under s. 7 of the *Charter* - Whether the Court of Appeal erred in failing to hold that the Applicant had a reasonable apprehension of bias in that counsel appeared for both Respondents and could have been placed in a contradictory position when dealing with the issue of whether the witness resiled from his evidence - Whether the Court of Appeal erred in failing to hold that the extradition judge erred in finding that there should be a committal on the indictment.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

REQUÊTES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

May 25, 1993
Ontario Court of Justice (General Division)
(Whealy J.)

Application for removal of Respondents' counsel
dismissed

July 27, 1993
Ontario Court of Justice (General Division)
(Watt J.)

Warrant of committal issued

May 9, 1994
Court of Appeal for Ontario
(Finlayson, McKinlay and Laskin JJ.A.)

Application for judicial review and appeal dismissed

June 28, 1994
Supreme Court of Canada

Application for leave to appeal filed

JULY 28, 1994 / LE 28 JUILLET 1994

24095 The National Hockey League Pension Society, and Boston Professional Hockey Association Inc., Calgary Flames Hockey Club, Chicago Blackhawk Hockey Team, Inc., Detroit Red Wings, Inc., Edmonton Oilers Hockey Ltd., 8 Hockey Ventures Inc., Hartford Whalers Hockey Club, Le club de hockey Canadien Inc., Le club de hockey Les Nordiques 1979, Société en Commandite, L.A. Kings, Ltd., Maple Leaf Gardens Limited, Meadowlands Inc., Nassau Sports, New York Rangers Hockey Club (a division of Madison Square Gardens Centre, Inc.), Niagara Frontier Hockey, L.P., Northstar Hockey Partnership, Philadelphia Flyers Partnership Limited, Pittsburgh Penguins Inc., St. Louis Blues Hockey Club, L.P., Vancouver Hockey Club, Ltd. and Washington Hockey Limited Partnership, on their own behalf and as persons carrying on business as The National Hockey League - v. - Andrew Bathgate, Carl Thomas Brewer, Gordon Howe, Robert M. Hull, Allan Herbert Stanley, Edward Shack, Leo Charles Reise, on their own behalf and on behalf of those Player Participants of the National Hockey League Pension Plan and Trust with service under the Plan on or before June 30, 1982, and the Beneficiaries of such deceased Player Participants -and- Martin J. McSorley on his own behalf and on behalf of those Player Participants of the National Hockey Club Pension Plan and Trust with service under the Plan after June 30, 1982, and Beneficiaries of such deceased Player Participants and the National Hockey League Players' Association -and- The Manufacturers' Life Insurance Company (Ont.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed. Costs of this application are granted to the Respondents Andrew Bathgate, Carl Thomas Brewer, Gordon Howe, Robert M. Hull, Allan Herbert Stanley, Edward Shack, and Leo Charles Reise on their own behalf and on behalf of those Player Participants of the National Hockey League Pension Plan and Trust with service under the Plan on or before June 30, 1982, and the Beneficiaries of such deceased Player Participants in the same manner as was awarded in the courts below.

La demande d'autorisation d'appel est rejetée. Les dépens relatifs à la présente demande sont accordés aux intimés Andrew Bathgate, Carl Thomas Brewer, Gordon Howe, Robert M. Hull, Allan Herbert Stanley, Edward Shack et Leo Charles Reise en leur propre nom et en celui des joueurs participants à la fiducie et au régime de retraite de la Ligue nationale de hockey qui cotisaient au régime le 30 juin 1982 ou avant cette date, et des bénéficiaires de tels joueurs participants décédés, de la même manière que ceux qui ont été accordés devant les instances inférieures.

NATURE OF THE CASE

Labour law - Pensions - Surplus - Contracts - Trust - Entitlement to pension funds - Interpretation of pension plan and surrounding documents - Surplus funds arising from a participating feature in a group annuity contract between the pension society and the Respondent, The Manufacturer's Life Insurance Company - Funds in the form of "experience rate credits" and paid to the pension - What are the appropriate methods of interpreting pension plans and surrounding documents, such as collective agreements, and the impact of these methods upon the scope of pension plan powers of amendment - Whether surplus in an ongoing plan may be used to increase benefits of current employees - Whether surplus in an ongoing plan may be used to offset future employer contributions.

24144 Guy Harry Augusma - c. - Sa Majesté la Reine (Crim.)(Qué.)

CORAM: Le Juge en chef et les juges Cory et Iacobucci

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Procès - Jury - Droit à la dissidence d'un membre du jury - Requête du demandeur en application de l'alinéa 675 (1)a)(iii) du *Code criminel* rejetée - La Cour d'appel du Québec, à l'unanimité, a-t-elle erré en droit en refusant l'autorisation d'interjeter appel de la déclaration de culpabilité pour des motifs autres que de droit ou mixtes de droit et de faits?

AUGUST 4, 1994 / LE 4 AOÛT 1994

24065 ROBERT ANDREW CROSS v. HARRY WOOD (J.J. Harper, deceased) (Crim.)(Man.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Criminal law - Procedural law - Appeals - Evidence - Law Enforcement Review Board finding Applicant committed disciplinary default of abusing his authority by using excessive force towards the deceased - Whether the Court of Appeal erred in concluding that a Court hearing a statutory appeal from the Board does not have the authority to reverse a decision that is unreasonable or which has no sufficient basis in evidence - Whether the Court of Appeal erred in failing to hold that the decision of the Board against the Applicant was unreasonable and had no sufficient basis in evidence - Whether the Court of Appeal erred in failing to conclude that the Board erred in law when it reached a conclusion that was self-contradictory, speculative, and based on a misunderstanding of the concept of "beyond a reasonable doubt".

24107 EDWIN PEARSON v. HER MAJESTY THE QUEEN (Crim.)(Que.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for extension of time is granted and the application for leave to appeal is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Statutes - Interpretation - Evidence - Offenses - Narcotics - Whether the Court of Appeal erred in applying s. 686 of the *Criminal Code*, R.S.C. 1985, c. C-46 - Whether the Court of Appeal erred in holding that the trial judge did not err in admitting evidence sought to be excluded under s. 24 of the *Charter* - Whether the Court of Appeal erred in holding that the trial judge did not err in his charge to the jury pursuant to *R. v. Thatcher*, [1987] 1 S.C.R. 652 - Whether the Court of Appeal erred in finding that the acts of the Applicant came within the meaning of s. 2 of the *Narcotic Control Act*, R.S.C. 1985, c. N-1 - Whether the Court of Appeal erred in failing to adhere to the judgment of the trial judge on Count 4 - Whether the Court of Appeal erred in allowing the Respondent's motion to produce material and in finding that some of the material would not have been material to the defence at trial - Whether the Court of Appeal erred in holding as proper the trial judge's curtailment of the cross-examination of the Respondent's main witnesses - Whether the Court of Appeal's decision will cause prejudice to the Applicant at his new trial - Whether the Court of Appeal erred in failing to consider the "issue of fairness" - Whether the Court of Appeal erred in ordering a new trial only on the ground of entrapment - Whether the Court of Appeal erred in not granting a stay of proceedings.

24074 DENIS ST. GELAIS v. THE UNITED STATES OF AMERICA AND THE ATTORNEY GENERAL OF CANADA (Crim.)(Que.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Extradition - Criminal law - Statutes - Interpretation - Judicial review - Test for judicial review of the decision of the extradition judge - Whether the Court of Appeal erred in law in concluding that the appropriate standard of review of a committal for extradition, pursuant to section 19.6(a)(i) of the *Extradition Act*, R.S.C. 1985, c. E-23 as amended, is not the same as the standard of review which is applied to an appeal from a directed verdict - Whether the Court of Appeal erred in law in precluding the Appellant from raising an argument as to the

constitutional validity of section 18(1)(b) of the *Extradition Act* which was not included in the Applicant's factum - Whether the evidentiary standard set by section 18(1)(b) of the *Extradition Act* violates sections 7 and 15 of the *Canadian Charter of Rights and Freedoms*.

AUGUST 11, 1994 / LE 11 AOÛT 1994

24094 Stingray Holdings Limited - v. - Stephen George Mortimer, Donald Mortimer, Mary Mortimer, Richard Mortimer, Carol Hiltermann, Adrienne Dawson and Eugenie Dmytar -and- John Cameron and the Corporation of the City of London - and between - The Corporation of the City of London -v. - Stephen George Mortimer, Donald Mortimer, Mary Mortimer, Richard Mortimer, Carol Hiltermann, Adrienne Dawson and Eugenie Dmytar (Ont.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed with costs to the respondents Stephen George Mortimer, Donald Mortimer, Mary Mortimer, Richard Mortimer, Carol Hiltermann, Adrienne Dawson and Eugenie Dmytar.

La demande d'autorisation d'appel est rejetée avec dépens aux intimés Stephen George Mortimer, Donald Mortimer, Mary Mortimer, Richard Mortimer, Carol Hiltermann, Adrienne Dawson et Eugenie Dmytar

NATURE OF THE CASE

Torts - Negligence - Occupier's liability - Municipal corporations - Causation - Contributory negligence - Foreseeability - Statutory duty of occupier - Apportionment of liability - Test to be applied to determine whether a person's conduct is the proximate cause of the injury sustained - Application of the *Occupiers' Liability Act*, R.S.O. 1980, c. 322 - Whether the Court of Appeal's test for foreseeability is inconsistent with decisions of the Manitoba Court of Appeal and the Supreme Court of Canada with respect to foreseeing the 'precise concatenation of events' - Whether the Court of Appeal erred with respect to whether foreseeability is relevant and determinative of the test for causation - Whether the Court of Appeal erred in varying the apportionment of liability made by the trial judge - Whether the Court of Appeal erred in holding that the Applicant was in breach of its statutory duty as occupier to take reasonable care to make the premises reasonably safe by reason of its failure to retain someone with knowledge of the building code and good building practice to inspect the stairway from which the Respondent Stephen Mortimer fell.

24125 Triple Five Corporation Ltd., West Edmonton Mall Ltd. and Fantasyland Holdings Inc. - v. - Walt Disney Productions (Alta.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Evidence - Whether the Courts erred in admitting or placing reliance on the Respondent's survey evidence - Whether the Courts erred in concluding that there is confusion or likelihood of confusion in the minds of the public between the Applicants' and the Respondent's operations based on the Applicants' survey evidence.

24005 SEQUA CHEMICALS INC. v. UNITED COLOR AND CHEMICALS LTD. (F.C.A.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Property law - Trade-marks - Expungement - SUNREZ registered for "resins, paper coating insolubilizers" - Registrant prior distributor for Applicant - Whether the judgment of the Federal Court of Appeal presents conflicting authority as to whether a Canadian distributor can register the trade-mark of a foreign supplier.

23958 INTERNATIONAL LOTTERY DISTRIBUTORS INC., 67164 MANITOBA LTD., carrying on business under the firm name and style of Capital Distribution Services, and RAY VELAZQUEZ v. THE GOVERNMENT OF MANITOBA, WESTERN LOTTERY - MANITOBA DISTRIBUTORS INC., THE MANITOBA LOTTERIES FOUNDATION and WESTERN CANADA LOTTERY CORP., formerly WESTERN CANADA LOTTERY FOUNDATION (Man.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Commercial law - Contracts - Damages - Lotteries - Whether there was breach of contract - Whether representations made by one branch of an international firm should be binding upon all branches of that firm and whether each branch has an obligation to express opinions in Court matters to ensure that the opinions that are expressed are adopted and shared by all branches of the firm - Whether a new trial should be ordered or additional evidence allowed - Whether the trial judge erred in failing to find that his finding regarding liability had been influenced by the contents of a valuation report.

24018 ELLYN FLOYD v. THE ATTORNEY GENERAL OF CANADA (F.C.A.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Labour law - Statutes - Interpretation - Unemployment insurance - Jurisdiction - Canada Employment and Immigration Commission concluding that Respondent not entitled to unemployment insurance benefits because she had not proven that she was available for work - Whether the Umpire erred in making his decision, whether or not the error appears on the face of the record, in his interpretation of s. 14 of the *Unemployment Insurance Act*, R.S.C. 1985, c. U-1, and its application to the facts - Whether the Umpire based his decision on an erroneous finding of fact that he made in a perverse or capricious manner or without regard for the material before him in finding that the Applicant was "available for work" within the meaning of s. 14 of the *Act* - Whether the Umpire acted without jurisdiction, acted beyond his jurisdiction, or refused to exercise his jurisdiction in finding that the Respondent was entitled to be paid unemployment insurance benefits for a period of time during which the Respondent attended a language training course to which she had not been referred by the Canada Employment and Immigration Commission or its designate.

24021 MARTIN & STEWART INC., a body corporate v. THE SUPERINTENDENT OF PENSIONS (NOVA SCOTIA) and ROBERT ATTENBOROUGH (N.S.)

CORAM: La Forest, Sopinka and Major JJ.

The application for extension of time is granted and the application for leave to appeal is dismissed with costs payable in the same manner as directed by the trial judge.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens, payables de la manière prévue par le juge de première instance.

NATURE OF THE CASE

Labour law - Pensions - Application under the *Pensions Benefits Act*, R.S.N.S. 1989, c. 340, for a determination of entitlement to the surplus funds remaining in the Applicant's Pension Plan after it ceased operations, decided in favour of the Respondent Attenborough - Whether the Court of Appeal erred in finding that the accumulated surplus in the Pension Plan was an accrued benefit for the members - Whether the Court of Appeal erred in finding that an irrevocable trust had been established in favour of the former employees in respect of excess pension funds not required to cover the defined benefits of the members.

24036 PHILIP AVRITH and PHILIP AVRITH INVESTMENTS INC. v. RICHTER, USHER & VINEBERG and WASSERMAN, STOTLAND, BRATT & GROSSBAUM (Que.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Commercial law - Receivership - Judgments and orders - Evidence - Costs - Whether the trial judge erred in approving professional fees payable to the Respondents as there was no evidence of the performance of the Respondents regarding the usefulness and necessity of the services claimed to support a finding that professional fees were due in the amount awarded - Whether the trial judge's order is *ultra petita* - Whether the trial judge erred in granting costs against the Applicants when the Motion for fees was also contested by the original Respondents - Whether the Court of Appeal could have dismissed for frivolity an appeal *de plano*.

23652 PATRICIA B. MacCULLOCH v. PRICE WATERHOUSE LTD., THE BANK OF NOVA SCOTIA, and EMPLOYEES R. DOUGLAS and D. MacLEOD (N.S.)

CORAM: La Forest, Sopinka and Major JJ.

The application for extension of time is granted and the application for leave to appeal is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Commercial law - Actions - Evidence - Bankruptcy - Rules of procedure - Reasonable cause of action - Fees of trustee in bankruptcy - Applicant's statements of claim against Respondents alleging negligent mismanagement and conflict of interest struck out as disclosing no reasonable causes of action - Trial judge exercising her discretion under Nova Scotia Civil Procedure Rule 14.25 not to hear *viva voce* evidence on the applications before her - Whether the Nova Scotia Court erred in finding that the Applicant's statements of claim disclosed no reasonable causes of action - Whether the Court of Appeal erred in finding that the trial Judge made no reviewable error in exercising her discretion under Nova Scotia Civil Procedure Rule 14.25 not to hear *viva voce* evidence on the applications before her.

24045 MIDLAND SEAFOODS INC. v. HER MAJESTY THE QUEEN (Crim.)(Ont.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Pre-trial procedure - Offences - Fisheries - Information - Applicant charged with two counts of unlawful import into Canada of shipment of fish without having provided written notification of the importation of the said shipment to an inspector as required by s. 6(2)(e) of the *Fish Inspection Regulations*, C.R.C. 1978, c. 802 - Whether s. 6(2)(e) and the allegations contained in the Information disclose an offence known to law - Whether the Information contains sufficient detail of the circumstances of the alleged offence to enable the Applicant to defend it - Whether the defects in the Information could be corrected by amendment - Sections 7 and 11(g) of the *Charter*.

24047 DERRICK C. BROWN v. HER MAJESTY THE QUEEN (Crim.)(Ont.)

CORAM: La Forest, Sopinka and Major JJ.

The application for extension of time is granted and the application for leave to appeal is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Defence - Evidence - Offences - First degree murder - Provocation - Planning and deliberation - Whether the Court of Appeal erred in holding that the trial judge adequately reviewed planning and deliberation evidence in his charge to the jury so as to distinguish those issues from the Applicant's intent to kill *simpliciter*? - Whether the Court of Appeal erred in holding that the trial judge did not err in instructing the jury with respect to the distinction between provocation on the issue of planning and deliberation and provocation as set out in s. 232 of the *Criminal Code* - Whether the Court of Appeal erred in holding that the trial judge correctly instructed the jury that the Applicant was guilty of first degree murder only if the murder was a product of prior planning and deliberation - Whether the Court of Appeal erred in holding that the trial judge did not err in admitting into evidence documents relating to the Applicant's application for exclusive possession of the matrimonial home and custody of his children made after the death of the deceased - Whether the Court of Appeal erred in holding that the trial judge did not err in instructing the jury that a pre-existing intention to kill could rebut the defense of provocation? - Whether the Court of Appeal erred in holding that the trial judge did not err in instructing the jury so as to remove evidence probative to the Applicant's state of mind at the time of the stabbing from their consideration.

24067 MARK KREUZER v. HER MAJESTY THE QUEEN (Crim.)(Alta.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Police - Defence - Appeals - Whether the authorities can use assault as a method of silencing Holocaust revisionists and convict them while denying the principles of law and the right of self defence - Whether the principles of self defence were improperly denied by the Court of Appeal - Whether the Court of Appeal failed to perceive the significance and importance of demonstration and communication on public property.

24100 INTERNATIONAL LOTTERY DISTRIBUTORS INC., 67164 MANITOBA LTD., carrying on business under the firm name and style of Capital Distribution Services, and RAY VELAZQUEZ v. THE GOVERNMENT OF MANITOBA, WESTERN LOTTERY - MANITOBA DISTRIBUTORS INC., THE MANITOBA LOTTERIES FOUNDATION and WESTERN CANADA LOTTERY CORP., formerly WESTERN CANADA LOTTERY FOUNDATION (Man.)

CORAM: La Forest, Sopinka and Major JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Commercial law - Contracts - Damages - Costs - Lotteries - Whether promissory estoppel can be raised as a cause of action - Whether awarding of costs jointly against a co-Plaintiff whose claim involves a minor portion of the issues involved and was joined to the main action so as to avoid duplicity of actions is an improper exercise of judicial discretion without a finding of *mala fides* or other improper conduct - Whether all dealings between a private party and the government regarding lotteries constitute or involve illegal activities - Clarification of the legal status of arrangements between private parties and the government concerning lotteries.

23957 Renald Kean c. Sa Majesté La Reine (Crim.)(Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée.

The application for extension of time is granted and the application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Charte canadienne des droits et libertés de la personne - Droit criminel - Infractions - Défense - Meurtre au deuxième degré - Juge et jury - Directives - Le juge du procès n'aurait-il pas dû scinder en deux ses directives au jury, d'abord sur la question de l'automatisme et de l'acquittement qui en découle par priorité et, sur rejet de ce moyen de défense, sur les autres actes d'accusation possibles? - En ne scindant pas ses directives, le juge du procès a-t-il privé le demandeur de son droit à un procès équitable prévu aux alinéas 11d) et g) de la *Charte*?

23793 Raymonde Gaulin c. Centre des services sociaux de la Gaspésie et des Îles-de-la-Madeleine (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande d'autorisation d'appel est rejetée avec dépens.

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Procédures - Code civil - Procédure civile - Actions - Jugements et ordonnances - Exception déclinatoire - Donation d'immeuble sous réserve d'hypothèques judiciaires - La Cour d'appel du Québec a-t-elle commis une erreur en rejetant la requête pour permission spéciale d'appeler?

24064 Steinberg Inc. et Paul Bertrand, es qualités de coordonnateur c. Cavendish Shopping Center Co. Ltd. et Hudon et Deaudelin Ltd., Banque Toronto-Dominion, Caplan-Duval Gift Shops Inc., 168573 Canada Inc. (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande d'autorisation d'appel est rejetée avec dépens.

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Code civil - Contrats - Interprétation - Législation - *Loi sur les arrangements avec les créanciers des compagnies*, L.R.C. 1985, ch. C-36 - La Cour d'appel a-t-elle appliqué erronément les règles d'interprétation des contrats compte tenu de l'ensemble des dispositions de l'entente du 25 septembre 1992 et compte tenu du but et de l'objet même de cette convention? - La Cour d'appel a-t-elle erré en concluant qu'une compagnie débitrice et le coordonnateur désigné comme officier de la Cour pouvaient être liés par des obligations qui ne sont pas énoncées clairement dans une convention conclue en vertu de la *Loi sur les arrangements avec les créanciers des compagnies*?

24060 Celestino Branco v. Her Majesty the Queen (Crim.)(B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for an extension of time is granted and the application leave to appeal is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Procedural law - Statutes - Interpretation - Offenses - Evidence - Whether the Court of Appeal erred in finding that s. 679(3)(c) of the *Criminal Code* does not violate ss. 7 or 11(e) of the *Charter* - Whether the Court of Appeal erred in finding that the trial judge did not err in his charge to the jury regarding the conspiracy - Whether the Court of Appeal erred in finding that the trial judge did not err in finding that deficiencies in the affidavit in support of the wiretap authorization were corrected during the *voir dire*, and that the evidence was therefore admissible.

24039 International Association of Machinists and Aerospace Workers, District Lodge No. 692 v. United Brotherhood of Carpenters and Joiners of America, Local 2736 (Millwrights) and Industrial Relations Council of British Columbia, Proflex Systems Ltd., Team Machine Works Inc., T.I.G. Contractors Corporation, Van Steel Installations Limited and Peco Installations Inc. (B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for an extension of time is granted and the application leave to appeal is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Labour law - Administrative law - Statutes - Interpretation - Certification - Jurisdiction - Judicial review - Whether the Court of Appeal erred in applying the "pragmatic and functional" test set out in *U.E.S., Local 298 v. Bibeault*, [1988] 2 S.C.R. 1048, by misinterpreting the legislation which grants jurisdiction to the Respondent Industrial Relations Council of British Columbia - Whether the Court of Appeal erred in holding that the Respondent Council had jurisdiction under the *Industrial Relations Act*, R.S.B.C. 1979, c. 212, to determine the appropriateness of a bargaining agent when considering the appropriateness of the bargaining unit for which that trade union had applied for certification.

24076 Gilles Patenaude c. Ville de St-Hubert (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande d'autorisation d'appel est rejetée avec dépens.

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Procédure civile - Droit constitutionnel - Droit criminel - Conduite d'un véhicule sans ceinture de sécurité - Aveu de culpabilité du demandeur - Objection préliminaire portant que l'article 396 du *Code de la sécurité routière*, L.R.Q. ch. C-24 est contraire au deuxième paragraphe du préambule de la *Charte des droits et libertés de la personne* du Québec, L.R.Q., ch. C-12, et que la Cour municipale n'a pas compétence pour entendre l'affaire - Objection rejetée - Appel du demandeur - Requête de l'intimée en rejet d'appel accueillie - La Cour d'appel du Québec a-t-elle commis une erreur?

24078 Claude F. Archambault c. Sa Majesté La Reine (Crim.)(Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Droit administratif - Procédure - Preuve - Avocats et procureurs - Requête en vertu de l'article 683 du *Code criminel* pour que le témoignage rendu par deux témoins devant le Comité de discipline du Barreau soit déposé à titre de preuve à l'audition de l'appel du demandeur - Requête rejetée par la Cour d'appel du Québec - La Cour d'appel du Québec, à l'unanimité, a-t-elle erré en droit en refusant de permettre la production des témoignages rendus devant le Comité de discipline du Barreau du Québec pour servir de preuve à l'audition de l'appel du demandeur?

24088 Georges Dupuy c. Sa Majesté La Reine (Crim.)(Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Infractions - Interprétation - Procès - Preuve - Versions contradictoires des faits en litige - La Cour d'appel a-t-elle erré en droit en concluant que le juge de première instance n'avait commis aucune erreur dans l'appréciation de la preuve? - La Cour d'appel a-t-elle erré en droit en concluant que le juge de première instance n'avait commis aucune erreur quant à l'intention requise pour commettre l'infraction de proférer des menaces décrite à l'art. 264.1(1)a) du *Code criminel*, L.R.C. 1985, ch. C-46?

24066 Evelyn Ann Anderson v. Arne Gunnar Anderson (Man.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Torts - Occupier's liability - Damages - Whether the standard of care owing by a farmer to an employee or gratuitous helper on his farm is the same stringent standard of care stated by the courts in employers' liability cases - Whether the stringent standard of care is owed by a farmer to his spouse - Whether a farmer owes a positive duty to a person entering a barn for the purposes of working with respect to guarding dangerous equipment - What does *The Occupier's Liability Act*, R.S.M. 1987, c. O-8, include as "relevant circumstances" for considering the duty of care and standard of care - What relative weight is to be assigned to different relevant circumstances under *The Occupier's Liability Act*.

24124 Guy Lelièvre c. Centre communautaire juridique du Bas St-Laurent/Gaspésie et Syndic du Barreau du Québec et Procureur général du Québec (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande de prorogation du délai de signification est accordée et la demande d'autorisation d'appel est rejetée avec dépens.

The application for extension of time is granted and the application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Législation - Droit administratif - Injonction - *Charte québécoise des droits et libertés de la personne*, L.R.Q. ch. C-12 - *Loi sur l'aide juridique*, L.R.Q. ch. A-14 - *Loi sur le Barreau*, L.R.Q. ch. B-1 - Le Centre communautaire juridique du Bas St-Laurent/Gaspésie peut-il, par l'intermédiaire de son directeur général, contraindre un avocat à son emploi à lui donner accès aux dossiers de bénéficiaires de l'aide juridique sans le consentement des bénéficiaires en question et sans disposition expresse de la loi? - Les articles 47 et 91 de la *Loi sur l'aide juridique* constituent-ils des dispositions expresses au sens de l'article 9 de la *Charte québécoise des droits et libertés de la personne* qui relèvent l'avocat de son obligation au secret professionnel en l'absence de relation professionnelle et de communication entre le bénéficiaire et le directeur général?

24112 Lucille Dubé c. Ville de Hull (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et McLachlin

La demande d'autorisation d'appel est rejetée avec dépens.

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Procédure civile - Actions - Prescription - Moyens préliminaires - Action en dommages-intérêts intentée par la demanderesse contre l'intimée - Requête en irrecevabilité présentée par l'intimée en vertu de l'art. 165 alinéa 4 du *Code de procédure civile*, L.R.Q. 1977, ch. C-25 - Intimée demandant le rejet de l'action au motif qu'elle n'est pas fondée en droit puisque prescrite - La Cour supérieure a-t-elle erré en faisant droit à la requête en irrecevabilité? -La Cour d'appel a-t-elle erré en accueillant la requête de l'intimée visant à faire rejeter l'appel de la demanderesse en raison de son caractère abusif ou dilatoire (Art. 501 alinéa 5 *C.p.c.*)?

24104 District of Chilliwack v. Jespersion's Brake & Muffler Ltd., Allan Henry Jespersion and Ann Elizabeth Jespersion, Joint Tenants (B.C.)

CORAM: L'Heureux-Dubé, Gonthier and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Municipal law - Highways - Expropriation - Respondents claiming compensation for injurious affection following the construction of an overpass abutting their land - Land not expropriated - Whether, in applying the common law of private nuisance in the context of a public authority's liability to compensate a land owner for injurious affection *simpliciter*, the Court ought to balance the degree of interference with the claimant's property rights with the social utility and reasonableness of the local authority's project - Whether this Honourable Court's reasons for judgment in *St. Pierre v. Ministry of Transportation (Ontario)* [1987] 1 S.C.R. 906 should serve as the guidelines for compensable injurious affection *simpliciter* claims in all cases of alleged private nuisance arising out of the construction of public works.

AUGUST 18, 1994 / LE 18 AOÛT 1994

24069 The Attorney General of Ontario - v. - D.E. Franks and Domgroup Ltd. (Ont.)

CORAM: The Chief Justice and Cory and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Administrative law - Judicial review - Legislation - Interpretation - Labour law - Labour relations - Severance pay benefit - Standard of review - Reasonableness or correctness - Privative clause - Whether the Court of Appeal erred in holding that the standard of review of referees' decisions under the Ontario *Employment Standards Act*, R.S.O. 1980, Chap. 137 (now R.S.O. 1990, Chap. E.14) is reasonableness - Whether the Court of Appeal erred in holding that the provisions of s. 50(7) of the *Employment Standards Act*, (now s. 68(7) of R.S.O. 1990, Chap. E.14) have privative effect - Whether the Court of Appeal erred in overruling its previous decision in *Re Falconbridge Nickel Mines Ltd. and Egan et al.* (1983), 42 O.R. (2d) 179.

Before / Devant: LA FOREST J.

**Motion for an order that this appeal is to be
deemed not abandoned**

**Requête en déclaration que le présent appel est
censé ne pas avoir été abandonné**

Her Majesty The Queen

v. (23748)

Nathen Bernshaw (B.C.)

GRANTED / ACCORDÉE

25.7.1994

Before / Devant: THE DEPUTY REGISTRAR

Motion to dispense with printing of evidence

Requête en dispense d'impression des preuves

Clifford Crawford

With the consent of the parties.

v. (23711)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

25.7.1994

Before / Devant: LE REGISTRAIRE ADJOINT

**Motion for an order reducing the number of copies
to be filed**

Sa Majesté La Reine

c. (24154)

Suzanne Thibaudeau (Qué.)

ACCORDÉE / GRANTED

**Requête visant le dépôt d'un nombre réduit
d'exemplaires**

Avec le consentement des parties.

26.7.1994

Before / Devant: LE JUGE LA FOREST

**Requête en déclaration que le présent appel est
censé ne pas avoir été abandonné**

Robert Lortie et al.

c. (24010)

Procureur général du Canada (Qué.)

ACCORDÉE / GRANTED

**Motion for an order that this appeal is to be
deemed not abandoned**

Avec le consentement des parties.

26.7.1994

Before / Devant: LE REGISTRAIRE ADJOINT

Requête en prorogation du délai de dépôt du dossier d'appel et du mémoire de l'appelante

Andrée Ruffo

c. (23222 / 23127)

Conseil de la magistrature (Qué.)

ACCORDÉE / GRANTED

Motion to extend the time in which to file the case on appeal and the appellant's factum

Avec le consentement des parties.

28.7.1994

Before / Devant: LA FOREST J.

Motion for leave to intervene**Requête en autorisation d'intervention**

BY/PAR: Commission des droits de la
personne du Québec

IN/DANS: James Egan et al.

v. (23636)

Her Majesty The Queen in right of
Canada (F.C.A.)(Ont.)

GRANTED / ACCORDÉE

29.7.1994

Before / Devant: LA FOREST J.

Motion for an order that this appeal is to be deemed not abandoned

Her Majesty The Queen

v. (23974)

John Paul Lepage (Ont.)

Requête en déclaration que le présent appel est censé ne pas avoir été abandonné

With the consent of the parties.

GRANTED / ACCORDÉE on condition that the appeal be heard during the Fall session.

29.7.1994

Before / Devant: LA FOREST J.

Motion to extend the time in which to apply for leave to appeal

Her Majesty The Queen

v. (24218)

William Stewart (Ont.)

Requête en prorogation du délai pour obtenir l'autorisation d'appel

With the consent of the parties.

GRANTED / ACCORDÉE

3.8.1994

Before / Devant: GONTHIER J.

Motion for an order to file a supplemental factum

Requête en obtention d'une ordonnance autorisant le dépôt d'un mémoire additionnel

Victor R. Durish

Colin S. Baxter, for the motion.

v. (23483)

White Resource Management Ltd. et al. (Alta.)

Martin Mason, contra.

GRANTED / ACCORDÉE provided that the appellant obtains an order permitting the late filing of his factum filed on May 30, 1994.

4.8.1994

Before / Devant: THE DEPUTY REGISTRAR

Motion for an order to file supplementary case on appeal in its present form

Ihor Bardyn et al.

v. (23517)

Y.R. Botiuk (Ont.)

GRANTED / ACCORDÉE

4.8.1994

Before / Devant: IACOBUCCI J.

Requête en obtention d'une ordonnance autorisant le dépôt d'un dossier d'appel supplémentaire dans sa forme actuelle

With the consent of the parties.

Motion for a special place on the list

Percival Whitley

v. (23890)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

Requête en obtention d'une place spéciale sur le rôle

With the consent of the parties.

4.8.1994

Before / Devant: IACOBUCCI J.

Motion for a special place on the list

Timothy Erin Mowers

v. (23891)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

Requête en obtention d'une place spéciale sur le rôle

With the consent of the parties.

4.8.1994

Before / Devant: IACOBUCCI J.

Motion for leave to intervene

BY/PAR: Attorney General of Canada

IN/DANS: Heidi M. Harrer

v. (24141)

Her Majesty The Queen (B.C.)

Requête en autorisation d'intervention

With the consent of the parties.

GRANTED / ACCORDÉE

4.8.1994

Before / Devant: IACOBUCCI J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Inter-Faith Coalition on Marriage

IN/DANS: James Egan et al.

v. (23636)

Her Majesty The Queen in right of
Canada (F.C.A.)(Ont.)

GRANTED / ACCORDÉE

4.8.1994

Before / Devant: LE JUGE IACOBUCCI

Requête en vue d'apporter des ajouts au dossier

Imperial Tobacco Ltd.

v. (23490)

Attorney General of Canada (Qué.)

and / et

RJR-MacDonald Inc.

v. (23460)

Attorney General of Canada (Qué.)

Motion to add to the case on appeal

Robert W. Cosman, for the motion / pour la requête.

Colin K. Irving and/et Douglas Mitchell, for/pour
RJR-MacDonald Inc.

Simon Potter for/pour Imperial Tobacco ltd.

James Mabbutt, for the respondents/ pour les
intimés.

Robert C. Morrow, for the Attorney General of
Ontario / pour le procureur général de l'Ontario.

DISMISSED / REJETÉE

UPON APPLICATION by counsel on behalf of the Interveners, The Canadian Cancer Society, The Canadian Council on Smoking and Health, The Canadian Medical Association, The Heart and Stroke Foundation of Canada and the Canadian Lung Association, for an Order pursuant to Rules 18(5)(b) and 23.1:

- A. Granting the right to the Interveners to add to the case on appeal by filing with their factum a "Brandeis Brief" of four volumes of material containing medical, scientific, and social research studies that have been published in the four years since the trial and are therefore not part of the record on appeal before this Court.
- B. In the alternative, leaving it to this Court on the hearing of the appeal to determine if the supplementary material should be considered.
- C. Rendering any other Order this Court may deem appropriate to the circumstances of this case and to the additional material the Interveners wish to add to the case on appeal.

AND HAVING READ AND HEARD the submission of the parties;

AND CONSIDERING all the circumstances, including but not limited to: the lateness in this application by the Interveners, particularly in that the appeal has been scheduled to be heard on November 29 and 30, 1994; the extensive amendment to the case on appeal reflected by the "Brandeis Brief"; and that the Appellants would desire at least to file documentation or material in reply;

IT IS HEREBY ORDERED THAT the application to add to the case on appeal is denied.

8.8.1994

Before / Devant: CORY J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Canadian Council of Refugees

With the consent of the parties.

IN/DANS: Kwong Hung Chan

v. (23813)

Minister of Employment and
Immigration (F.C.A.)(B.C.)

GRANTED / ACCORDÉE

8.8.1994

Before / Devant: CORY J.

**Motion to extend the time in which to apply for
leave to appeal**

**Requête en prorogation du délai pour obtenir
l'autorisation d'appel**

Gandolph St. Clair

With the consent of the parties.

v. (24237)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to August 5, 1994.

8.8.1994

Before / Devant: THE DEPUTY REGISTRAR

**Motion to extend the time in which to file the
appellant's factum**

Her Majesty The Queen

v. (23974)

John Paul Lepage (Ont.)

GRANTED / ACCORDÉE Time extended to July 21, 1994.

**Requête en prorogation du délai de dépôt du
mémoire de l'appelante**

With the consent of the parties.

9.8.1994

Before / Devant: LE JUGE LA FOREST

Requête présentée au nom de l'appelante et de l'intimée pour déposer d'autres éléments de preuve

Motion on behalf of the appellant and of the respondent to adduce further evidence

Sa Majesté La Reine

c. (24154)

Suzanne Thibaudeau (C.A.F.)(Qué.)

ACCORDÉE / GRANTED

8.8.1994

Before / Devant: CORY J.

Other motion

Autre requête

Coronation Insurance Co.

Stephen D. Gill, for the motion.

v. (22157)

Carol Florence (B.C.)

Shawn Neylan, contra.

DISMISSED WITH COSTS / REJETÉE AVEC DÉPENS In the result the appeal from the taxation of costs by the Registrar is dismissed with costs.

11.8.1994

Before / Devant: CORY J.

Motion for leave to intervene

BY/PAR: Immigration and Refugee Board

IN/DANS: Kwong Hung Chan

v. (23813)

Minister of Employment and
Immigration (F.C.A.)(Ont.)**Requête en autorisation d'intervention**

Howard R. Eddy, for the motion.

Ed Sojonky, Q.C., and Lindsay Jeanes, contra.

GRANTED / ACCORDÉE

17.8.1994

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to file the
respondent's factum**

Herbert Raymond Webster

v. (23085)

B.C. Hydro and Power Authority (B.C.)

GRANTED / ACCORDÉE Time extended to August 31, 1994.

17.8.1994

Before / Devant: THE REGISTRAR

**Requête en prorogation du délai de dépôt du
mémoire de l'intimée**

With the consent of the parties.

**Motion to extend the time in which to file the case
on appeal**

Francisco Javier Uriol

v. (24159)

Her Majesty The Queen (Ont.)

**Requête en prorogation du délai de dépôt du
dossier d'appel**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to September 30, 1994.

17.8.1994

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to file a joint
factum**

Richard Pizzardi

v. (23760)

Her Majesty The Queen (Ont.)

**Requête en prorogation du délai de dépôt d'un
mémoire conjoint**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to August 19, 1994.

17.8.1994

Before / Devant: THE REGISTRAR

Motion to extend the time in which to file a joint factum

Steven Levis

v. (23809)

Her Majesty The Queen (Ont.)

Requête en prorogation du délai de dépôt d'un mémoire conjoint

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to August 19, 1994.

20.7.1994

Sandra Florence Vout

v. (24009)

Earl Hay et al. (Ont.)

21.7.1994

La Compagnie Minière Québec Cartier

c. (23960)

**Les Métallurgistes Unis d'Amérique, Local 6869
(Qué.)**

21.7.1994

Jasmine Bisson et al.

c. (24010)

Procureur général du Canada

et entre

Carmen Lortie-Fleury

c.

Procureur général du Canada

et entre

Robert Lortie et al.

c.

Procureur général du Canada (Crim.)(Qué.)

DE PLEIN DROIT

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

**AVIS D'INTERVENTION DÉPOSÉS
DEPUIS LA DERNIÈRE PARUTION**

BY/PAR: Procureur général du Québec
Attorney General of Ontario / Procureur général de l'Ontario

IN/DANS: **Sa Majesté La Reine**
c. (24154)
Suzanne Thibault (C.A.F.)(Qué.)

BY/PAR: Attorney General of Canada
Attorney General for Ontario

IN/DANS: **George Weldon Adams**
c. (23615)
Her Majesty The Queen (Qué.)

BY/PAR: Canadian Human Rights Commission
Commission des droits de la personne du Québec
Inter-Faith Coalition on Marriage and the Family comprising the Canadian Conference of Catholic Bishops

IN/DANS: **James Egan et al.**
v. (23636)
Her Majesty The Queen (F.C.A.)(Ont.)

BY/PAR: Attorney General of Canada

IN/DANS: **Heidi M. Harrer**
v. (24141)
Her Majesty The Queen (Crim.)(B.C.)

The next session of the Supreme Court of Canada commences on October 3, 1994. /
La prochaine session de la Cour suprême du Canada débute le 3 octobre 1994.

**The next bulletin of proceedings will be published September 9, 1994. /
Le prochain bulletin des procédures sera publié le 9 septembre 1994**

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

Pursuant to Rule 23.1 of the *Rules of the Supreme Court of Canada*, the following deadlines must be met before a motion before the Court can be heard:

Motion day : **October 3, 1994**
Service : September 12, 1994
Filing : September 19, 1994
Respondent : September 26, 1994

Motion day : **November 7, 1994**
Service : October 17, 1994
Filing : October 24, 1994
Respondent : October 31, 1994

Motion day : **December 5, 1994**
Service : November 14, 1994
Filing : November 21, 1994
Respondent : November 28, 1994

DEVANT LA COUR:

Conformément à l'article 23.1 des *Règles de la Cour suprême du Canada*, les délais suivants doivent être respectés pour qu'une requête soit entendue par la Cour:

Audience du : **3 octobre 1994**
Signification : 12 septembre 1994
Dépôt : 19 septembre 1994
Intimé : 26 septembre 1994

Audience du : **7 novembre 1994**
Signification : 17 octobre 1994
Dépôt : 24 octobre 1994
Intimé : 31 octobre 1994

Audience du : **5 décembre 1994**
Signification : 14 novembre 1994
Dépôt : 21 novembre 1994
Intimé : 28 novembre 1994

DEADLINES: APPEALS

The next session of the Supreme Court of Canada commences on October 3, 1994.

Pursuant to the *Supreme Court Act* and *Rules*, the following requirements for filing must be complied with before an appeal will be inscribed and set down for hearing:

Case on appeal must be filed within three months of the filing of the notice of appeal.

Appellant's factum must be filed within five months of the filing of the notice of appeal.

Respondent's factum must be filed within eight weeks of the date of service of the appellant's factum.

Intervener's factum must be filed within two weeks of the date of service of the respondent's factum.

The Registrar shall inscribe the appeal for hearing upon the filing of the respondent's factum or after the expiry of the time for filing the respondent's factum

The Registrar shall enter on a list all appeals inscribed for hearing at the October 1994 Session on August 9, 1994.

DÉLAIS: APPELS

La prochaine session de la Cour suprême du Canada débute le 3 octobre 1994.

Conformément à la *Loi sur la Cour suprême* et aux *Règles*, il faut se conformer aux exigences suivantes avant qu'un appel puisse être inscrit pour audition:

Le dossier d'appel doit être déposé dans les trois mois du dépôt de l'avis d'appel.

Le mémoire de l'appellant doit être déposé dans les cinq mois du dépôt de l'avis d'appel.

Le mémoire de l'intimé doit être déposé dans les huit semaines suivant la signification de celui de l'appellant.

Le mémoire de l'intervenant doit être déposé dans les deux semaines suivant la signification de celui de l'intimé.

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai de signification du mémoire de l'intimé.

Le 9 août 1994, le registraire met au rôle de la session d'octobre 1994 tous les appels inscrits pour audition.

**THE STYLES OF CAUSE IN THE PRESENT
TABLE ARE THE STANDARDIZED STYLES
OF CAUSE (AS EXPRESSED UNDER THE
"INDEXED AS" ENTRY IN EACH CASE).**

Judgments reported in [1994] 2 S.C.R., Part 1

Boutin v. Distributions C.L.B. Inc., [1994] 2 S.C.R. 7

British Columbia (Attorney General) v. Canada
(Attorney General); *An Act respecting the
Vancouver Island Railway* (Re), [1994] 2 S.C.R. 41

R. v. M. (M.L.), [1994] 2 S.C.R. 3

R. v. Mohan, [1994] 2 S.C.R. 9

R. v. Zazulak, [1994] 2 S.C.R. 5

Zeitel v. Ellscheid, [1994] 2 S.C.R. 142

**LES INTITULÉS UTILISÉS DANS CETTE
TABLE SONT LES INTITULÉS NORMALISÉS
DE LA RUBRIQUE "RÉPERTORIÉ" DANS
CHAQUE ARRÊT.**

Jugements publiés dans [1994] 2 R.C.S., partie 1

Boutin c. Distributions C.L.B. Inc., [1994] 2 R.C.S. 7

Colombie-Britannique (Procureur général) c. Canada
(Procureur général); *Acte concernant le chemin de
fer de l'Île de Vancouver* (Re), [1994] 2 R.C.S. 41

R. c. M. (M.L.), [1994] 2 R.C.S. 3

R. c. Mohan, [1994] 2 R.C.S. 9

R. c. Zazulak, [1994] 2 R.C.S. 5

Zeitel c. Ellscheid, [1994] 2 R.C.S. 142

Judgments reported in [1994] 2 S.C.R., Part 2

Canada v. Antosko, [1994] 2 S.C.R. 312

Catholic Children's Aid Society of Metropolitan
Toronto v. M. (C.), [1994] 2 S.C.R. 165

R. v. Howard, [1994] 2 S.C.R. 299

R. v. Jack, [1994] 2 S.C.R. 310

R. v. Jones, [1994] 2 S.C.R. 229

Willmor Discount Corp. v. Vaudreuil (City), [1994] 2
S.C.R. 210

Jugements publiés dans [1994] 2 R.C.S., partie 2

Canada c. Antosko, [1994] 2 R.C.S. 312

Catholic Children's Aid Society of Metropolitan
Toronto c. M. (C.), [1994] 2 R.C.S. 165

R. c. Howard, [1994] 2 R.C.S. 299

R. c. Jack, [1994] 2 R.C.S. 310

R. c. Jones, [1994] 2 R.C.S. 229

Willmor Discount Corp. c. Vaudreuil (Ville), [1994]
2 R.C.S. 210
