SUPREME COURT OF CANADA

COUR SUPRÊME DU CANADA

BULLETIN OF PROCEEDINGS

BULLETIN DES PROCÉDURES

This Bulletin is published at the direction of the Registrar and is for general information only. It is not to be used as evidence of its content, which, if required, should be proved by Certificate of the Registrar under the Seal of the Court. While every effort is made to ensure accuracy, no responsibility is assumed for errors or omissions.

Subscriptions may be had at $200 per year, payable in advance, in accordance with the Court tariff. During Court sessions it is usually issued weekly.

The Bulletin, being a factual report of recorded proceedings, is produced in the language of record. Where a judgment has been rendered, requests for copies should be made to the Registrar, with a remittance of $10 for each set of reasons. All remittances should be made payable to the Receiver General for Canada.

Ce Bulletin, publié sous l'autorité du registraire, ne vise qu'à fournir des renseignements d'ordre général. Il ne peut servir de preuve de son contenu. Celle-ci s'établit par un certificat du registraire donné sous le sceau de la Cour. Rien n'est négligé pour assurer l'exactitude du contenu, mais la Cour décline toute responsabilité pour les erreurs ou omissions.

Le prix de l'abonnement, fixé dans le tarif de la Cour, est de 200 $ l'an, payable d'avance. Le Bulletin paraît en principe toutes les semaines pendant les sessions de la Cour.

Le Bulletin rassemble les procédures devant la Cour dans la langue du dossier. Quand un arrêt est rendu, on peut se procurer les motifs de jugement en adressant sa demande au registraire, accompagnée de 10 $ par exemplaire. Le paiement doit être fait à l'ordre du Receveur général du Canada.

APPLICATIONS FOR LEAVE TO APPEAL FILED

Philip Douglas Backman
Michel Bourque
Bennett Jones

v. (27561)

Her Majesty the Queen (F.C.A.)
Naomi Goldstein
A.G. of Canada

FILING DATE 30.11.1999

Tuan Van Pham
Michael D. Sanders

v. (27572)

Her Majesty the Queen (B.C.)
Kenneth J. Yule
A.G. of Canada

FILING DATE 29.11.1999

Weimin Wu
Weimin Wu

v. (27599)

Her Majesty the Queen (Que.)
Martin Lamontagne
A.G. of Canada

FILING DATE 8.11.1999

DEMANDES D'AUTORISATION D'APPEL DÉPOSÉES

Syndicat des fonctionnaires municipaux de Montréal SCFP - Section locale 429
Jacques Lamoureux
Lamoureux, Morin, Lamoureux

c. (27600)

Communauté urbaine de Montréal et al. (Qué.)
Gilles Dubé
Leduc Bélanger Boisvert Laurendeau Rivard

DATE DE PRODUCTION 19.11.1999

The Canada Life Assurance Company
Martin Lockyer
Patterson Palmer Hunt Murphy

v. (27603)

Deborah Ann Ryan (Nfld.)
Lois J. Skanes
Williams, Roebothan, McKay and Marshall

FILING DATE 23.11.1999

Kozy Israel Kosikar
John R. Mann III

v. (27604)

Her Majesty the Queen (Ont.)
Eric Siebenmorgen
A.G. for Ontario

FILING DATE 26.11.1999

Régent Millette
Régent Millette

c. (27605)

Sa Majesté la Reine (C.A.F.)
Daniel Bourgeois
P.G. Canada

DATE DE PRODUCTION 25.11.1999

M.E.P.

Miriam Grassby
Miriam Grassby & Associées

v. (27602)

K.R.O. (Que.)

John T. Pepper Jr.
Pepper & Associés

FILING DATE 19.11.1999

DECEMBER 6, 1999 / LE 6 DÉCEMBRE 1999

CORAM: Chief Justice Lamer and McLachlin and Iacobucci JJ. /
Le juge en chef Lamer et les juges McLachlin et Iacobucci

Osagie Prince Patrick Eholor

v. (27504)

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

NATURE OF THE CASE

Charter of Rights and Freedoms - Right to a fair trial - Criminal law - Conviction - Sentence - Remedies - Stay of proceedings - Whether the lower courts erred by misapplying the law in relation to the application for mistrial concerning the admissibility of the transcript of the first trial, and none of the appellate justices gave reasons for this - Whether the lower courts erred by misapplying the law in relation to the application under the *Charter* for a remedy concerning the destruction of documents and misconstrued the facts upon which the application was made - Whether the lower courts erred by misapplying the law in relation to reasonable doubt and whether Ryan J. misdirected himself in this regard - Whether the finding that the accused was not credible at the first trial infringed the accused's right to a fair trial - Whether the destruction of documents infringed the accused's right to a fair trial - Was the test of reasonable doubt used by Ryan J. as a matter of law?

PROCEDURAL HISTORY

July 9, 1998 Ontario Court (Provincial Division) (Ryan J.)	Conviction: s. 29(2)(a) *Citizenship Act*
July 10,1998 Ontario Court (Provincial Division) (Ryan J.)	A motion for a mistrial and for a stay of proceedings denied; Sentence: $300 fine imposed
April 7, 1999 Ontario Court of Justice (General Division) (Charbonneau J.)	Appeal against conviction and sentence of dismissed
July 29, 1999 Court of Appeal for Ontario (Krever, Borins, O'Connor, JJ.A)	Application for leave to appeal dismissed
September 22, 1999 Supreme Court of Canada	Application for leave to appeal filed

Steve Serré

c. (27470)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Charte canadienne des droits de la personne - Droit criminel - Recours - Arrêt des procédures - Demandeur commis voies de faits à l'endroit d'agent des services correctionnels lors de tentative d'évasion - Demandeur subséquemment objet de sévices de la part d'agents - La Cour d'appel a-t-elle erré en droit en intervenant dans l'exercice du pouvoir discrétionnaire du juge de première instance d'accorder un arrêt des procédures? - La Cour d'appel a-t-elle erré en droit en concluant que le juge de première instance a erré en choisissant comme mesure de réparation, en vertu de l'article 24(1) de la *Charte canadienne*, l'arrêt des procédures suite à la violation des droits du demandeur, car la mesure choisie heurte l'intérêt de la collectivité.

HISTORIQUE PROCÉDURAL

Le 7 mai 1996 Cour du Québec (Chevalier j.c.q.)	Arrêt des procédures ordonné
Le 11 mai 1999 Cour d'appel du Québec (Beauregard, Brossard et Nuss jj.c.a.)	Pourvoi accueilli, ordre d'arrêt de procédures de première instance infirmé
Le 8 septembre 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

---

**Committee For The Equal Treatment of
Asbestos Minority Shareholders**

v. (27252)

**Sa Majesté du chef du Québec
Ontario Securities Commission and
Société Nationale de l'Amiante (Ont.)**

NATURE OF THE CASE

Commercial law - Securities - Minority shareholders - Jurisdiction - Public Interest Jurisdiction - Ontario Securities Commission - *Securities Act*, R.S.O. 1990, c. S. 5, s. 127(1)3 - Whether as a result of this decision securities regulators may now decline to exercise their "public interest" jurisdiction in change of control transactions because of the lack of geographic transactional connection, even when the transaction is "abusive of" "manifestly unfair to" minority shareholders - Whether this decision is detrimental to the fair and efficient functioning of the Canadian capital markets - Whether the Court of Appeal erred in allowing the OSC to require a finding of "conscious motive" to structure the

transaction as an extra-provincial one for the purpose of evading regulatory scrutiny, as a pre-condition to the exercise

of its "public interest" jurisdiction - Whether the Court of Appeal erred in construing the "public interest" jurisdiction of the OSC as purely a jurisdiction over future conduct - Whether the Court of Appeal erred in its application of the standard of review.

PROCEDURAL HISTORY

May 2, 1997 Ontario Court of Justice (General Division)(Divisional Court) (O'Driscoll, Steele [*dissenting in part*], and Crane JJ.)	Applicant's appeal from the decision of the Ontario Securities Commission which found that the actions of the Quebec government and the SNA were abusive to the minority of shareholders of Asbestos allowed; ordered that the Commission failed to exercise its public interest jurisdiction
February 18, 1999 Court of Appeal for Ontario (Doherty, Laskin, and Rosenberg JJ.A.)	Respondents' appeals allowed; order of the Divisional Court set aside and in its place order that the Applicant's appeal be dismissed; decision of the OSC restored
April 16, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

**John Gorenko, et Gor-Can Canada Inc. et John Gorenko Holdings Ltd.
et Alpha-Leather Canada Inc. et Herbert A. Walter**

c. (27266)

**Sa Majesté la Reine du Canada, le Procureur général du Canada
et le Ministre du Revenu et al.**

- et -

L'honorable juge Robert B. Giroux (Qué.)

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit constitutionnel - Droit criminel - Fiscalité - Protection contre les fouilles, les perquisitions et les saisies abusives - Impôt sur le revenu - Enquête en vertu des dispositions de la *Loi de l'impôt sur le revenu*, L.R.C. 1985, 5e suppl., c.1, (ci-après *LIR*) - L'article 231.1 *LIR* porte-t-il atteinte aux articles 7 et 8 de la *Charte canadienne*?

HISTORIQUE PROCÉDURAL

Le 17 juillet 1997 Cour supérieure du Québec (Côté j.)	Requête en *certiorari* et en réparation en vertu de l'article 24 de la *Charte canadienne des droits et libertés* visant à obtenir l'annulation de six mandats de perquisition rejetée
Le 23 février1999 Cour d'appel du Québec (Proulx, Otis and Robert jj.c.a.)	Appel rejeté
Le 23 avril 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

CORAM: L'Heureux-Dubé, Gonthier and Bastarache JJ. /
Les juges L'Heureux-Dubé, Gonthier et Bastarache

Réal Bérubé

c. (27530)

Sa Majesté la Reine (Crim.)(Qué.)

ET ENTRE :

Paul Couture

c. (27530)

Sa Majesté la Reine (Crim.)(Qué.)

ET ENTRE :

Marcel Huard

c. (27530)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Saisie - Procédure - Délai - Saisie d'appareils vidéos-poker - Rapports d'exécution des mandats de perquisition remis neuf jours après le délai prévu à l'art. 113 du *Code de procédure pénale*, L.R.Q. 1977, ch. C-25.1 - Requête des demandeurs visant à annuler les mandats de perquisition en raison du retard à produire les rapports d'exécution - Le juge de première instance devait-il annuler les mandats de perquisition? - Le juge de première instance jouissait-il d'une discrétion compte tenu du texte clair de l'art. 113 du *Code de procédure pénale*?

HISTORIQUE PROCÉDURAL

Le 20 octobre 1995 Cour du Québec (Chambre criminelle et pénale) (Dionne j.c.q.)	Requête des demandeurs pour annuler les mandats de perquisition rejetée
Le 4 octobre 1996 Cour du Québec (Chambre criminelle et pénale) (Dionne j.c.q.)	Demandeurs déclarés coupable d'avoir comploté de tenir une maison de jeu en violation de l'art. 465(1)c) *C.cr.*
Le 6 juillet 1999 Cour d'appel du Québec (Michaud j.c.q., Rousseau-Houle et Biron [*ad hoc*] jj.c.a.)	Appels à l'encontre des deux décisions du juge Dionne rejetés
Le 30 septembre 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée
Le 26 octobre 1999 Cour suprême du Canada (Arbour j.)	Requête en prorogation du délai pour signifier et déposer la demande accordée

**The Toronto-Dominion Bank
and Toronto-Dominion Securities Inc.**

v. (27423)

C. John Schumacher (Ont.)

NATURE OF THE CASE

Labour law - Master and Servant - Wrongful Dismissal - Constructive dismissal - Applicant bank hiring a new senior employee to assume responsibility for part of Respondent's job - Whether reallocation of duties amounts to constructive dismissal in all of the circumstances - What legal principles should the court employ to determine the essential terms of an employment contract and whether those essential terms have been unilaterally changed by the employer to a degree amounting to constructive dismissal - Whether constructively dismissed employee has a duty to mitigate damages by continuing in the position offered by the defendant employer

PROCEDURAL HISTORY

May 15, 1997 Ontario Court of Justice (General Division) (Kiteley J.)	Respondent awarded damages of $1,723,382.49 for constructive dismissal
May 19, 1999 Court of Appeal for Ontario (McMurtry C.J.O., Weiler and Goudge JJ.A.)	Appeal and cross-appeal dismissed
August 12, 1999 Supreme Court of Canada	Application for leave to appeal filed

Centra Gas Manitoba Inc.

v. (27197)

**Jack Bohemier, Allan Pickard and John McNabb,
on their own behalf and on behalf of certain
retired employees or the widows/widowers thereof
of Centra Gas Manitoba Inc. (Man.)**

NATURE OF THE CASE

Labour law - Labour relations - Pensions - Civil procedure - Proper forum - Whether retired employees, who while employed were members of a bargaining unit and represented by a bargaining agent, have an independent cause of action in Court, without resort to assistance from the bargaining agent, for an alleged violation of their pension benefit entitlement where those benefits are provided as a result of negotiations between the bargaining agent and the employer

PROCEDURAL HISTORY

January 12, 1998 Court of Queen's Bench of Manitoba (Hirschfield J.)	Summary judgment granted to Centra Gas Manitoba Inc. and the action against it dismissed
January 21, 1999 Court of Appeal of Manitoba (Huband, Lyon and Kroft JJ.A.)	Appeal allowed
March 19, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

Association des radiologistes du Québec

c. (27313)

Jean Rochon (Qué.)

NATURE DE LA CAUSE

Droit administratif - Droit du travail - Médecins et chirurgiens - Législation - Interprétation - Pouvoir discrétionnaire - Article 19 de la *Loi sur l'assurance-maladie*, L.R.Q., ch. A-29 - Reconnaissance d'un organisme représentatif aux fins de la négociation d'une entente portant sur les modes de rémunération des médecins spécialistes - L'intimé a-t-il violé son devoir d'équité procédurale en rendant, ou non, sa décision quant à la demande de reconnaissance de la demanderesse? - L'entente conclue avec la Fédération des Médecins Spécialistes du Québec est-elle opposable à la demanderesse? - L'article 19 de la Loi permet-il à l'intimé de mettre en place les mesures de plafonnement des gains de pratique et un tarif "désincitatif" applicable aux médecins après l'atteinte du plafond? - Le tarif "désincitatif" est-il contraire aux exigences de l'ordre public, porte-t-il atteinte au principe du libre choix du médecin par le patient et porte-t-il atteinte à l'article 46 de la *Charte québécoise des droits et libertés de la personne*, L.R.Q., ch. C-12?

HISTORIQUE PROCÉDURAL

Le 19 mars 1997 Cour supérieure du Québec (Rochon j.c.s.)	L'action de la demanderesse visant à lui faire déclarer inopposable l'entente conclue entre l'intimé et Fédération des Médecins Spécialistes du Québec est rejetée; la clause compromissoire prévue à l'entente est cependant annulée
Le 23 mars 1999 Cour d'appel du Québec (Robert, Delisle et Philippon [*ad hoc*] jj.c.a.)	Appel rejeté
Le 21 mai 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

---

**CORAM: Major, Binnie and Arbour JJ. /
Les juges Major, Binnie et Arbour**

Olympia Interiors Ltd. and Mary David

v. (27550)

Her Majesty The Queen (F.C.A.)(Ont.)

NATURE OF THE CASE

Canadian Charter - Criminal Law - Evasion of tax - Torts - Taxation - Business Tax - Intentional Torts - Criminal proceedings commenced under the *Excise Tax Act*, R.S.C. 1970, c. E-13 but stayed following motion by Crown counsel - Applicants commence tort action for malicious prosecution, negligence, misfeasance, abuse of authority, conspiracy, and breach of *Charter* rights - Whether the *Excise Tax Act*, Revenue Canada *Circular ET 62*, and administrative actions were valid under the *Canadian Bill of Rights*, S.C. 1960, c. 44 and the *Charter* - Whether laying of criminal charges was arbitrary or capricious - Whether there was a legitimate basis in policy, the *Excise Tax Act*, or *Circular ET 62* to justify actions against the Applicants.

PROCEDURAL HISTORY

March 31, 1999 Federal Court of Canada, Trial Division (MacKay J.)	Action dismissed
September 13, 1999 Federal Court of Appeal (Décary, Robertson and Sexton JJ.A.)	Appeal dismissed
October 18, 1999 Supreme Court of Canada	Application for leave to appeal filed

Ministry of Finance

v. (27191)

**John Higgins, Inquiry Officer, and
John Doe, Requester (Ont.)**

NATURE OF THE CASE

Administrative law - Judicial review - Appropriate standard of review - Whether s. 23 of the *Freedom of Information and Protection of Privacy Act* was correctly interpreted and applied by the Inquiry Officer.

PROCEDURAL HISTORY

February 6, 1998 Ontario Court of Justice (General Division) Divisional Court (Farley J., Wright J. and MacDougall [dissenting] J.)	Order of Inquiry Officer ordering disclosure quashed
February 2, 1999	Order of Divisional Court set aside

Court of Appeal for Ontario (Austin and Feldman JJ.A. and Sharpe J. *ad hoc*)	Order of Inquiry Officer reinstated with costs
March 24, 1999 Supreme Court of Canada	Application for leave to appeal filed

Terra Energy Ltd.

v. (27341)

Kilborn Engineering Alberta Ltd., William Strand, Kilborn Engineering & Construction Limited, Kilborn Western Inc., Bitmin Resources Inc. and Bitmin Corporation (Alta.)

NATURE OF THE CASE

Commercial law - Contracts - Fiduciary relationship - Fiduciary duty - Duties of loyalty, good faith and avoidance of conflict of interest - Implied terms of a contract - Equitable remedies - Breach of contract - Whether the development and promotion of a competing process by an engineering consultant during the term of its contract with a client constituted a breach of any contractual term or duty owed.

PROCEDURAL HISTORY

May 1, 1997 Court of Queen's Bench of Alberta (Cairns J.C.Q.B.A.)	Applicant's action regarding misuse of confidential information or the existence of fiduciary duties dismissed; Respondent Kilborn Engineering found in breach of implied contractual duties of loyalty, good faith and avoidance of conflict of interest
February 25, 1999 Court of Appeal of Alberta (Calgary) (Hetherington, Irving, O'Leary JJ.A.)	Applicant's appeal dismissed; Respondent Kilborn Engineering's cross-appeal allowed
April 19, 1999 Court of Appeal of Alberta (Hetherington, Irving, O'Leary JJ.A.)	Applicant's application for leave to re-argue dismissed
June 11, 1999 Supreme Court of Canada	Application for leave to appeal filed

Phyllis Susin carrying on business as Romano Construction Co. and John Susin

v. (27221)

Harper, Haney and White (Ont.)

NATURE OF THE CASE

Commercial law - Torts - Negligence - Damages - Mechanics' liens - Estoppel - Was the Respondent solicitor liable in negligence or breach of contract for failing to file lien and bond claims? - Did the issues of *res judicata* or estoppel apply? - Did the lower courts err in their decisions?

PROCEDURAL HISTORY

September 18, 1995 Ontario Court of Justice (General Division) (German J.)	Action against Respondent dismissed
February 2, 1999 Court of Appeal for Ontario (McMurtry C.J.O., Carthy and Weiler JJ.A.)	Appeal dismissed
April 1, 1999 Supreme Court of Canada	Application for leave to appeal filed

DECEMBER 6, 1999 / LE 6 DÉCEMBRE 1999

CORAM: Chief Justice Lamer and McLachlin and Iacobucci JJ.

Russell Grant Kelly Dawson and Laura K. Stevens, for the applicant.

v. (27476)

Her Majesty the Queen (Crim.)(Alta.) Robert Frater, for the respondent.

DISMISSED / REJETÉE

NATURE OF THE CASE

Criminal law (Non *Charter*) - Evidence - Admissibility of evidence - Documentary evidence excluded - Accused acquitted - Whether exclusion of evidence was an error of law.

PROCEDURAL HISTORY

April 7, 1998 Court of Queen's Bench of Alberta (Murray J.)	Charges of violation of ss. 7(1) and 5(2) of the *Controlled Drugs and Substances Act* dismissed; Applicant acquitted
July 6, 1999 Court of Appeal of Alberta (Edmonton) (Fraser C.J.A., Conrad and Fruman JJ.A.)	Appeal against acquittal allowed; New trial ordered
September 9, 1999 Supreme Court of Canada	Application for leave to appeal and for an extension of time filed; oral hearing requested

27242 **ANDERSON T. WALCOTT - v. - CHARLES ROACH AND DAVID AIKEN** (Ont.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Civil procedure - Fraud on court - Lawyer allegedly retained to deal with several unlawful dismissal matters and with mortgage - Allegations that lawyer or mortgagee misappropriated of mortgage funds - Allegations that lawyer did not properly deal with unlawful dismissal matters - Second lawyer retained to determine whether the lawyer or mortgagee owed the Applicant money - Whether the Court of Appeal erred in failing to apply the *Solicitors Act* or the law of perjury, fraud or conspiracy against the Respondents - Whether the Court of Appeal erred in failing to correct procedural breaches by the Respondents.

PROCEDURAL HISTORY

May 25, 1998 Ontario Court (General Division) (Sheard J.)	Various actions against Respondents dismissed; one wrongful dismissal action and one misappropriation action continued
June 8, 1998 Ontario Court (General Division) (Wilkins J.)	Motion to set aside judgment on grounds of fraud returned to judge of first instance
June 24, 1998 Ontario Court (General Division) (Sheard J.)	Motion to set aside decision on the ground of fraud dismissed
February 10, 1999 Ontario Court of Appeal (Carthy, Abella and Goudge JJ.A.)	Appeal dismissed
April 9, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

27162 **GORDON CHARLES JOHNSON, EXECUTOR AND REPRESENTATIVE OF THE ESTATE AND HEIRS OF STANLEY GORDON JOHNSON, ROBERT JOHNSON, GENEVIEVE JULIAN AND JOHN BERNARD - v. - THE ATTORNEY GENERAL OF NOVA SCOTIA, REPRESENTING HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF NOVA SCOTIA** (N.S.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Commercial law - Restitution - Whether a plaintiff has a presumptive right to restitution upon proving either benefit to the defendant from the defendant's wrongdoing to the plaintiff or unjust enrichment of the defendant by subtraction from the wealth of the plaintiff - Whether a taxpayer has a presumptive right to restitution of taxes paid by him when the taxes were wrongfully demanded by government without legislative authority - Whether the government has the legal burden of proving all defences and counter-claims - Whether the government has the burden of proving as an element of the defence that the persons to whom the tax was passed were entitled to a refund of tax - Whether it is a defence that the government is no better off by collecting tax without legislative authority than if it had collected tax with legislative authority - Whether illegality or the absence of "clean hands" on the part of the taxpayer are defences available to the government, and if so whether there are exceptions to these defences - Whether it is a defence that the taxpayer did not pass on the tax because the taxpayer has a duty of mitigation

PROCEDURAL HISTORY

March 31, 1998 Supreme Court of Nova Scotia, Trial Division (Davison J.)	Applicants' application for the return of the monies they paid the Respondent as a statutory rebate or, alternatively, under the terms of an implied-in-fact contract dismissed
December 30, 1998 Supreme Court of Nova Scotia, Appeal Division (Pugsley, Flinn and Cromwell JJ.A.)	Appeal dismissed
February 25, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

27494 **LINDA STAMOULOS - v. - EPAMINONDAS PAVLAKIS** (B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Family law - Maintenance for child of unmarried parents - Mother assuming burden of supporting child for several years without financial assistance of father until court order - Whether court can order lump sum retroactive child support to compensate for years support not paid, pursuant to principles of unjust enrichment - Whether Court of Appeal erred in failing to award lump sum.

PROCEDURAL HISTORY

February 1, 1984 British Columbia Provincial Court	Declaration of paternity; Support in the amount of $1 per month ordered
July 1, 1995 Supreme Court of British Columbia Master	Interim child support in the amount of $3,000 per month awarded; upheld on appeal
April 9, 1998 Supreme Court of British Columbia	(Pitfield J.)

Application for lump sum retroactive child support dismissed; Child support varied to total of $960 per month	June 21, 1999 Court of Appeal for British Columbia (Hollinrake, Goldie, and Rowles JJ.A.)
Appeal as to retroactive variation and cross-appeal as to costs dismissed; Child support of $1,700 per month awarded	September 16, 1999 Supreme Court of Canada
Application for leave to appeal filed	

27397 **GEORGE WALTER MARCELLUS - v. - HER MAJESTY THE QUEEN** (Crim.) (N.B.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Statutes - Interpretation - Impaired - Care and control - Did the majority of the Court of Appeal for New Brunswick err in holding that the Applicant's breath samples were taken at least fifteen minutes apart as required by section 258 (1)(c)(iii) of the *Criminal Code of Canada*?

PROCEDURAL HISTORY

June 25, 1998 Court of Queen's Bench of New Brunswick (Godin J.)	Conviction: having care and control of a motor vehicle with a blood alcohol level over .80
June 15, 1999 Court of Appeal of New Brunswick (Rice J.A. [dissenting] and Turnbull and Larlee J.J.A)	Appeal dismissed
September 14, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

27168 **THE BRITISH COLUMBIA COLLEGE OF TEACHERS - v. - TRINITY WESTERN UNIVERSITY AND DONNA GAIL LINDQUIST** (B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Administrative law - Jurisdiction - Remedies - Prerogative writs - Application to Applicant for certification of a teacher education program at Respondent university - Respondent university not meeting requirements for certification in several particulars - Students and teachers at Respondent university required to agree to refrain from practices, including homosexual behaviour, that are biblically condemned - Whether Applicant's Council was entitled to take *Charter* and human rights values into account without actually interpreting the *Charter* or human rights legislation in deciding whether to certify a teacher education program - If it was, what standard of review is appropriate for review of a decision taking those values into account - If it was, was there evidence of discrimination - If it was, was it also entitled to consider the risk of discrimination when making the certification decision - Whether *mandamus* is available against the Council in these circumstances?

PROCEDURAL HISTORY

September 11, 1997 Supreme Court of British Columbia (W.H. Davies J.)	Respondents' application for judicial review granted
December 30, 1998 Court of Appeal for British Columbia (Goldie, Rowles [dissenting], and Braidwood JJ.A.)	Appeal dismissed, Applicants' council ordered to certify Respondent University's teacher education program on certain conditions
February 25, 1999 Supreme Court of Canada	Application for leave to appeal filed
March 3, 1999 Supreme Court of Canada (Cory J.)	On consent, Court of Appeal order stayed pending disposition of the leave application or, if leave is granted, disposition of the appeal

---

27269 **A.W. - v. - H.C.W. AND HER MAJESTY THE QUEEN** (Alta.) (Crim.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for extension of time is granted. Under s. 43(1.1) of the *Supreme Court Act*, this case is remanded to the Court of Queen's Bench of Alberta to be reconsidered in accordance with the decision of this Court in *L.C.* v. *Brian Joseph Mills and Her Majesty the Queen* (Alta.) (26358).

La demande de prorogation de délai est accordée. En application du par. 43(1.1) de la *Loi sur la Cour suprême*, l'affaire est renvoyée devant la Cour du banc de la Reine de l'Alberta pour qu'elle l'examine de nouveau conformément à l'arrêt de notre Cour *L.C.* c. *Brian Joseph Mills et Sa Majesté la Reine* (Alta.) (26358).

NATURE OF THE CASE

Charter - Criminal Law - Procedural Law - Appeals - Disclosure of records held by Family and Social Service organization - Whether an order to disclose confidential records violated privacy - Whether the order was made without application of the disclosure procedures set out in ss. 278.1 through 278.91 of the *Criminal Code* -Whether the order was made without proper consideration of *R. v. O'Connor*, [1995] 4 S.C.R. 411 - Whether ss. 278.1 through 278.91 infringe the *Charter* - Whether s. 674 of the *Criminal Code* infringes the *Charter* by denying a right to an appeal from a decision made under ss.278.5(1) or 278.7(1) except to this Court.

PROCEDURAL HISTORY

August 25, 1998	Order for disclosure of third party's records

Court of Queen's Bench of Alberta
(Lefsrud J.)

April 29, 1999
Supreme Court of Canada

Application for leave to appeal filed

27138 **BENNETT JONES VERCHERE, GARNET SCHULHAUSER, ARTHUR ANDERSON & CO., ERNST & YOUNG, ALAN LUNDELL, THE ROYAL TRUST COMPANY, WILLIAM R. MACNEILL, R. BYRON HENDERSON, C. MICHAEL RYER, GARY L. BILLINGSLEY, PETER K. GUMMER, JAMES G. ENGDAHL, AND JON R. MACNEILL - v. - WESTERN CANADIAN SHOPPING CENTERS INC. AND MUH-MIN LIN AND HOI-WAH WU, REPRESENTATIVES OF ALL HOLDERS OF CLASS "A", CLASS "E" AND CLASS "F" DEBENTURES ISSUED BY WESTERN CANADIAN SHOPPING CENTRES INC.** (Alta.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The applications for leave to appeal and cross-appeal are granted.

Les demandes d'autorisation d'appel et d'appel-incident sont accordées.

NATURE OF THE CASE

Procedural law - Civil procedure - Representative action - Fiduciary duty - Appropriate test for determining whether a representative action has been properly constituted - Whether a representative action should be permitted to continue in circumstances where there is a dispute about whether the plaintiffs to be represented all relied upon the alleged wrongful acts of the defendants, or all relied upon such acts in the same way - Whether reliance (or reliance and vulnerability) must be proved in order to prove the existence of a fiduciary duty.

PROCEDURAL HISTORY

October 2, 1996
Court of Queen's Bench of Alberta
(Wilkins J.)

Order dismissing applications to strike out portions of an amended statement of claim under Rule 42 for failing to meet the requirements of a representative action

December 11, 1998
Court of Appeal of Alberta
(Irving, Russell and Picard JJ.A.)

Appeal dismissed: order that each of the 229 represented Respondents afford all Applicants documentary and oral discovery

February 8, 1999
Supreme Court of Canada

Application for leave to appeal filed

March 19, 1999
Supreme Court of Canada

Application for leave to cross-appeal and for an extension of time filed

---

27395 **MOHAMED AMEERULLA KHAN - v. - HER MAJESTY THE QUEEN** (Crim.) (Man.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is granted on issues 1 to 5 set out in the application for leave to appeal.

La demande d'autorisation d'appel est accordée sur les items 1 à 5 énoncés dans la demande d'autorisation d'appel.

NATURE OF THE CASE

Criminal law - Appeal - Evidence - Proviso in s. 686(1)(b)(iii) of the *Criminal Code*, R.S.C., 1985, c. C-46 - Did Applicant receive fair trial even though jury was given transcript referring to comments which, on *voir dire*, had been ruled inadmissible? - Whether Court of Appeal erred by not considering the issue of the appearance of an unfair trial in the circumstances of this case - Whether Court of Appeal erred by concluding that the mistake in providing jury with tainted transcript was not one which permitted the jury to see or hear evidence that it should not have seen or heard - Did Court of Appeal err in law by invoking section 686(1)(b)(iii) of the *Criminal Code*? - Did Court of Appeal apply wrong test on the issue of unreasonable verdict? - Whether trial judge erred in her instructions to the jury with respect to the issue of permissible inferences as opposed to speculation - Was Applicant entitled to directed verdict of acquittal? - Did Court of Appeal err in rejecting the Applicant's grounds for appeal that the trial judge erred regarding evidence of opportunity, erred in not intervening when prosecution suggested to the jury that the Crown's witness was wrong with respect to the issue of alibi, and erred in not advising jury that unexplained asphyxia did not constitute evidence of murder - Whether the Court of Appeal erred in upholding trial judge's ruling that witness was qualified to give evidence as an expert in forensic pathology - Whether Court of Appeal erred in concluding that opinion of pathologist was overwhelming evidence as to manner, time and place of death.

PROCEDURAL HISTORY

February 13, 1998 Court of the Queen's Bench for Manitoba (Keyser J.)	Conviction: first degree murder
June 17, 1999 Court of Appeal of Manitoba (Scott C.J.M., Kroft and Monnin JJ.A.)	Appeal against conviction dismissed
September 9, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

26358 **HER MAJESTY THE QUEEN - v. - BRIAN JOSEPH MILLS and [L.C.]** (Alta.)(Crim.)

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

This case is remanded to the Alberta Court of Queen's Bench to be reconsidered in accordance with the decision of this Court in *L.C. v. Brian Joseph Mills and Her Majesty the Queen* (Alta.)(26358), judgment rendered November 25, 1999.

L'affaire est renvoyée à la Cour du banc de la Reine de l'Alberta pour qu'elle l'examine de nouveau conformément à l'arrêt de notre Cour dans *L.C. c. Brian Joseph Mills et Sa Majesté la Reine* (Alta.)(26358), jugement rendu le 25 novembre 1999.

27148 **SHERRY LYNN WILSON - v. - GEOFF SCHIERBECK and SCHIERBECK PRINTING and PUBLISHING LTD.** (Alta.)

CORAM: L'Heureux-Dubé, Gonthier and Bastarache 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

Procedural Law - Civil Procedure - Jury Verdicts - Appearance of justice - Jury foreperson states a finding of no to gross misconduct in response to a question put to the jury to determine whether the Respondent was grossly negligent - Court clerk enters verdict as no to gross negligence and jury polled - Whether jury foreperson misspoke - Whether the verdict indicates that the jury misunderstood the question - Whether a jury must be seen to understand the question put to it - Whether the decision of the jury contradicts law.

PROCEDURAL HISTORY

November 26, 1996 Court of Queen's Bench of Alberta (Wilson J.)	Action dismissed
October 29, 1998 Court of Appeal of Alberta (Picard, Berger and Burrows JJ.A.)	Appeal dismissed
February 12, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

27502 **MARIA DALE GALLANT - v. - KAZIMIERZ GALLANT** (Man.)

CORAM: L'Heureux-Dubé, Gonthier and Bastarache 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

Family law - Division of property - Commercial assets - Whether the Manitoba Court of Appeal erred when it caused a re-evaluation of the Applicant's equalization payment by causing her to share in the loss of the husband's company shares eight years after the statutory valuation date - Whether there is a fiduciary duty between spouses with respect to unilaterally controlled assets - What is the appropriate scope for the exercise of judicial discretion in the post-separation valuation of marital assets - Whether the Manitoba Court of Appeal contributed to the feminisation of poverty when it denied a lump sum payment of spousal support

PROCEDURAL HISTORY

January 30, 1997 Court of Queen's Bench of Manitoba (Stefanson J.)	Applicant's claim for periodic spousal support dismissed: Respondent ordered to pay lump sum spousal support to Applicant; Respondent's applications to delete arrears, for a remedial constructive trust and for unequal division of marital property dismissed

October 19, 1998 Court of Appeal of Manitoba (Huband, Kroft and Monnin [dissenting] JJ.A.)	Respondent's appeal on the issues of unequal division of marital property and lump sum spousal support allowed; Respondent's appeal on the issues of constructive trust, deletion of interest on equalization payment and deletion of spousal support arrears dismissed
June 28, 1999 Court of Appeal of Manitoba (Huband, Kroft and Monnin JJ.A.)	Clarification of certain issues arising out of the reasons for decision delivered October 19, 1998
September 23, 1999 Supreme Court of Canada	Application for leave to appeal filed

27176 **ONTARIO NURSES' ASSOCIATION - v.- ORILLIA SOLDIERS' MEMORIAL HOSPITAL and SAULT STE. MARIE GENERAL HOSPITAL** (Ont.)

CORAM: Major, Binnie and Arbour JJ.

The application for leave to appeal is dismissed with costs. The application for leave to cross-appeal is dismissed.

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

NATURE OF THE CASE

Civil rights - Labour law - Collective Agreement - Discrimination on the basis of handicap - *Human Rights Code*, R.S.O. 1990, c. H.19, ss. 5, 17 - Whether the Court of Appeal erred in failing to find that the majority decision of the Arbitration Board was incorrect - Whether the Court of Appeal erred by failing to find that the denial of accrued service and employer contributions to benefit premiums during employee absences due to handicap discriminate contrary to the *Code* - Whether the Court of Appeal erred in its analytical paradigm - Whether the Court of Appeal erred by applying a similarly situated test to assess discrimination - Whether the Court of Appeal erroneously found that service accrual was compensation - Whether the Court of Appeal erred in its analysis of accommodation - Whether the Court of Appeal erred by finding that indirect discrimination was justified in the absence of any evidence of undue hardship.

PROCEDURAL HISTORY

June 13, 1997 Divisional Court of Ontario (Hartt, Campbell and Caswell JJ.)	Applicant's application for judicial review dismissed; Respondents' application for judicial review allowed
January 12, 1999 Court of Appeal for Ontario (Doherty, Laskin and Rosenberg JJ.A.)	Appeal allowed in part: Arbitration Board's award restored- only the seniority provisions contravene the *Human Rights Code*
March 15, 1999 Supreme Court of Canada	Application for leave to appeal filed
April 9, 1999 Supreme Court of Canada	Application for leave to cross-appeal filed

27180 **BERT MOXHAM - v.- HER MAJESTY THE QUEEN IN RIGHT OF CANADA, SOLICITOR GENERAL OF CANADA and BRIAN KEGLER** (F.C.A.)

CORAM: Major, Binnie and Arbour 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

Statutes - Interpretation - Torts - Vicarious liability - Crown Liability - Whether the scope of liability of the Federal Crown pursuant to s. 3(a) of the *Crown Liability and Proceedings Act* R.S.C. 1985, c. C-50, includes only such provincial statutes as were in effect at the time of the enactment of the *Crown Liability and Proceedings Act* or that are not repugnant to or do not impose a different liability on the federal Crown - Whether ss.102 and 103(2) of the *Automobile Accident Insurance Act*, R.S.S. 1978, c. A-35, are applicable to determine the scope of the liability of the federal Crown.

PROCEDURAL HISTORY

April 30, 1998 Federal Court of Canada (Trial Division) (Teitelbaum J.)	Applicant's action dismissed
February 19, 1999 Federal Court of Appeal (Décary, Linden and Robertson JJ.A.)	Appeal dismissed
March 17, 1999 Supreme Court of Canada	Application for leave to appeal filed

27127 **MARILYN FERREL, SANDRA WHITING, GRACE EDWARD GALABUZI and KIRSTEN LANGE - v.- ATTORNEY GENERAL FOR ONTARIO** (Ont.)

CORAM: Major, Binnie and Arbour JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter - Civil - Statutes - Repeal of Statutes - Labour Law - Employment Equity -Whether the enactment of the *Job Quotas Repeal Act, 1995*, S.O. 1995, c. 4 , repealing the *Employment Equity Act, 1993*, S.O. 1993, c. 35 and other employment equity provisions violated the s. 15 of the *Charter* - Whether the Court of Appeal erred in its interpretation and application of s. 15 of the *Charter* in ruling that the *Job Quotas Repeal Act* did not violate the *Charter* - Whether the Court of Appeal effectively negated a finding that the *Job Quotas Repeal Act* is a form of government action subject to compliance with and scrutiny under the *Charter* - Whether the Court of Appeal conflated the question of the constitutionality of the *Job Quotas Repeal Act* with a separate and distinct question of whether a provincial Legislature has a positive duty to enact Employment Equity legislation -Whether the Court of Appeal misapplied *Vriend v. Alberta* by finding that a complete repeal of the *Employment Equity Act, 1993* did not involve a distinction within the meaning

of an analysis under s. 15 of the *Charter* - Whether the Court of Appeal erred in failing to consider any discriminatory impact of the *Job Quotas Repeal Act* - Whether the Court of Appeal failed to make an appropriate comparison to determine whether the *Job Quotas Repeal Act* had a discriminatory impact upon disadvantaged groups - Whether the Court of Appeal narrowed and restricted the scope of the s. 15(1) of the *Charter* in interpreting and applying s. 15(2) of the *Charter* - Whether the Court of Appeal accorded undue deference to a provincial Legislature - Whether the Court of Appeal erred in failing to find that a requirement in the *Job Quotas Repeal Act* to destroy data collected under the *Employment Equity Act* violates s. 15 of the *Charter* - Whether and to what extent the repeal of equality legislation is amenable to review under the *Charter* - Whether and to what extent a Legislature can take active steps to reverse gains made under equality legislation towards overcoming discrimination - The relationship between section 15(1) and section 15(2) of the *Charter*.

PROCEDURAL HISTORY

July 9, 1997 Ontario Court (General Division) (Dilks J.)	Application for declaration dismissed
December 7, 1998 Court of Appeal for Ontario (Morden A.C.J., Weiler and Moldaver JJ.A.)	Appeal dismissed
February 5, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

27150 **LORNE BROWN, DONALD PETERSEN, TERO RAMPANEN and 689571 ONTARIO LIMITED, operating as SOVEREIGN PROPERTY CORPORATION - v. - REGIONAL MUNICIPALITY OF DURHAM POLICE SERVICE BOARD** (Ont.)

CORAM: Major, Binnie and Arbour JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Charter of Rights and Freedoms - Detention - *Highway Traffic Act*, R.S.O. 1990, c. H.8 - Applicants members of known motorcycle gang subjected to roadside police checks *en route* to large biker gatherings - Whether routine checks performed by police on selected motorists constituted a violation of rights under s. 9 of the *Charter*.

PROCEDURAL HISTORY

May 1, 1996 Ontario Court of Justice (General Division) (Ferguson J.)	Applicant's action dismissed
December 15, 1998 Court of Appeal for Ontario (Doherty, Weiler and Goudge JJ.A.)	Appeal and cross-appeal dismissed
February 12, 1999 Supreme Court of Canada	Application for leave to appeal filed

27154 **MARY GLASS, HIN F. KO, MABEL W. KO, ROY WESTWICK, GWYNETH M. WESTWICK, KERRY-LYNNE FERRIS, STEPHEN W. FINDLAY, NORAH C. FINDLAY, JERRY JANES, DIANA JANES, GREGORY PAPPAS, TASIE PAPPAS, SOLON S. WANG, PETER M. LEE, HERBERT M. LEWIS, ALEXANDER KALINOWSKI, KATARINA KALINOWSKI, JOHN W. WHITEFOOT, SHEILA M. WHITEFOOT, LISBET MACKAY, PIERRE DOW, MONA MCKINNON, WONG L. LEE, MAN-LOONGI LEE, JOHN M. GLAISERMAN, JUAN L. G. CAM, ELIZABETH C. CAM, EVELYN M. MURRAY, WILLIAM T. ZIEMBA, JAMES R. THOMPSON, ANN B. THOMPSON, YUM C. LAU, IRENE LAU, JAMES Y. P. KING, TJIN K. TAN, EIJI MURAKAMI, MIYAKO MURAKAMI, THOMAS W. F. FUNG, AMY M. L. CHAN, GERTRUDE HENNEKEN, HANS T. HENNEKEN, HOWARD G. ISMAN, MARJORIE E. ISMAN, STANLEY EVANS, DOROTHY EVANS, KHI YOENG TJIN, WEN-TIEN TAI, KUI-HSIANG HUANG, PHYLLIS WEINSTEIN, PATRICIA LAI, WILFRED E. PATTON, JEAN M. PATTON, ATTILIO GIRARDI, MARY GIRARDI, IRMA E. BOULTER, GEORGE S. BOULTER, JOHN G. CRAGG, OLGA B. CRAGG, HOWARD E. CADINHA, ARLENE B. CADINHA, MARIA C. ORMOND, DOUGLAS R. EYRL, JUDITH F. EYRL, CHEUNG K. CHOI, CHAN P. K. CHOI, CELIA KAAN, CECIL S. C. KAAN, RAMON Y. KAN, HELENA KAN, LESLIE BARA, OTTILIA BARA, ALFRED K. LEE, ESTHER K. LEE, DIANA W. C. SUNG, DONALD C. GRAHAM, WINNIFRED A. GRAHAM, RONALD J. MACKEE, ALEXANDER H. WONG, STELLA L. WONG, EDWARD B. HUYCK, DOROTHY A. HUYCK, FREDERICK S. EDY, ELLEN V. EDY, VICTOR H. HILDEBRAND, JOHN E. EGAN, CHI K. CHING, SIU Y. CHAN, LAVENDER CHU, FREDERICK CHU, GEORGE E. RUSH, ANN L. RUSH, HERTA J. NEUMANN, CORNELIUS NEUMANN, JAMES A. FORSYTHE, DIANE R. FORSYTHE, PETER J. FUNK, ELIZABETH FUNK, ELFRIEDE MACHEK, ADELHEID MACHEK, LILLIAN P. TOEWS, HUI C. KEUNG, PATRICIA H. K. S. WAH, VADILAL J. MODI, MIRA V. MODI, CHARLES H. SHNIER, ELAINE C. SHNIER, AGNES P. C. SHEN, CAROL M. LAU, DENNIS LAU, MARJORIE MCCLELLAND, ARTHUR NEE, LAURA T. NEE, DONALD W. SCHEIDEMAN, KATHRYN M. SCHEIDEMAN, WILLIAM N. KING, ALLAN J. HUNTER, GRACE K. HUNTER, GRACE NG, IRVING GLASSNER, NOREEN G. GLASSNER, PRISCILLA FRATKIN, NANCY B. BERNER, GREGORY HRYHORCHUK, DARCY L. HRYHORCHUK, ASTLEY E. SMITH, BETTY ANN SMITH, LILY R. ENG - v. - MUSQUEAM INDIAN BAND and CHIEF JOSEPH RALPH BECKER, ERNIE CAMPBELL, WAYNE SPARROW, LEONA M. SPARROW, NOLAN CHARLES, MARY CHARLES, JOHNNA CRAWFORD, GAIL Y. SPARROW, MYRTLE MCKAY, LARRY GRANT and HER MAJESTY THE QUEEN** (F.C.A.)(B.C.)

CORAM: Major, Binnie and Arbour JJ.

The application for leave to appeal is granted. The application for leave to cross-appeal is granted.

La demande d'autorisation d'appel est accordée. La demande d'autorisation d'appel-incident est accordée.

NATURE OF THE CASE

Native law - Property law - Leases - Rent review - Evaluation of lands located on a reserve - Whether the Federal Court of Appeal erred by introducing a presumption that, in the determination of annual rent for leased reserve land, the "land" must be valued as if it were surrendered absolutely for sale in fee simple, free of the market benefits and limitations associated with it status as reserve land? - Whether the Federal Court of Appeal erred in its construction of the words "current land value"? - Whether the Federal Court of Appeal erred in construing "this agreement" in clause 2(2)(a) of the lease agreement to mean an antecedent agreement for the development of 40 acres of Musqueam Reserve No. 2, rather than the individual lease agreements themselves? Whether the Federal Court of Appeal erred in requiring the costs of developing and servicing the land be calculated and deducted from the "current land value" of the lots?

PROCEDURAL HISTORY

December 11, 1997 Federal Court of Canada, Trial Division (Rothstein J.)	Order as to the calculation of the annual rent for the Applicants' lots in the Musqueam Park Subdivision
December 21, 1998 Federal Court of Appeal (Desjardins, Robertson and Sexton JJ.A.)	Appeal granted in part: modifications to the calculations of annual rent
February 25, 1999 Supreme Court of Canada	Application for leave to appeal filed
March 29, 1999 Supreme Court of Canada	Application for leave to cross-appeal filed

---

27506 **TATIANA TABATADZE - v. - THE MINISTRY OF EMPLOYMENT AND IMMIGRATION** (F.C.A.)(Ont.)

CORAM: Major, Binnie and Arbour JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Immigration law - Judicial review - Appeals - Jurisdiction - Immigration and Refugee Board dismissing claim for refugee status - Federal Court, Trial Division refusing leave to commence application for judicial review - Whether Supreme Court of Canada has jurisdiction to hear matter - Whether board failed to observe principle of natural justice or procedural fairness in making decision.

PROCEDURAL HISTORY

December 17, 1998 Immigration and Refugee Board (Refugee Division) (McCauley and Khan, members)	Determination by Refugee Division that the Applicant is not a Convention refugee
June 29, 1999 Federal Court of Canada, Trial Division (Muldoon J.)	Application for leave to commence an application for judicial review dismissed
September 24, 1999 Supreme Court of Canada	Application for leave to appeal filed

---

27290 **FRANS G.A. DEROY and THIERRY VAN DOOSELAERE as Trustees in Bankruptcy of ABC Containerline N.V., The Owners, Charterers and all others interested in The Ship "BRUSSEL" and THE SHIP BRUSSEL - v. - HOLT CARGO SYSTEMS INC.** (F.C.A.)(Qué.)

CORAM: Major, Binnie and Arbour JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

International Law - Maritime Law - Commercial Law - Bankruptcy - Conflict of Laws - Securities - Maritime lien - Whether in international bankruptcies, a "universal" approach is to be preferred to the "territorial" approach, or whether an admiralty insolvency is to be treated differently from any other commercial insolvency - Whether the relationship between the exercise of the bankruptcy and admiralty jurisdictions, their cooperation with each other are important issues involving the administration of justice in Canada - What the appropriate response of the Canadian judicial system, whether it be through a bankruptcy court or an admiralty court, or both, should be to a request for assistance from a foreign bankruptcy court which has a real and substantial connection to the administration of the insolvent estates.

PROCEDURAL HISTORY

April 9, 1997 Federal Court of Canada, Trial Division (MacKay J.)	Order that the proceeds of the sale of the ship "Brussel" be paid to Applicants after posting by Applicants of satisfactory security to meet the claims of secured creditors
March 12, 1999 Federal Court of Appeal (Desjardins, Létourneau, and Noël JJ.A.)	Appeal dismissed
May 11, 1999 Supreme Court of Canada	Application for leave to appeal filed

30.11.1999

Before / Devant: GONTHIER J.

Motion to extend the time in which to serve and file a notice of intervention

Requête en prorogation du délai imparti pour signifier et déposer un avis d'intervention

BY/PAR: A.G. of New Brunswick

IN/DANS: Public School Boards' Association of Alberta, et al.

v. (26701)

Attorney General of Alberta, et al. (Alta.)

GRANTED / ACCORDÉE Time extended to November 17, 1999.

30.11.1999

Before / Devant: GONTHIER J.

Motion to extend the time in which to serve and file the application for leave

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation

Harold Lanteigne, et al.

v. (27528)

Her Majesty the Queen (Crim.)(N.B.)

GRANTED / ACCORDÉE Time extended to September 30, 1999.

30.11.1999

Before / Devant: GONTHIER J.

Miscellaneous motion

Autre requête

Davinder Singh

v. (27491)

Minister of Citizenship and Immigration (F.C.A.)

DISMISSED / REJETÉE

Without pronouncing on the issue of the Court's jurisdiction to entertain the appeal, I am of the view that in any event I have no jurisdiction to grant the remedy requested having regard to s. 65.1 of the *Supreme Court Act*.

The application is therefore dismissed.

M'abstenant de me prononcer sur la compétence de la Cour pour se saisir de l'appel, je suis d'avis que de toute façon je n'ai pas la compétence d'accorder les conclusions recherchées eu égard à l'art. 65.1 de la *Loi sur la Cour suprême*.

La requête est donc rejetée.

2.12.1999

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent the Attorney General of British Columbia's factum to November 12, 1999 and its book of authorities to November 18, 1999

Requête en prorogation du délai imparti pour signifier et déposer le mémoire de l'intimé le procureur général de la Colombie-Britannique le 12 novembre 1999 et son recueil de jurisprudence et de doctrine le 18 novembre 1999

Little Sisters Book and Art Emporium, et al.

v. (26858)

Minister of Justice, et al. (B.C.)

GRANTED / ACCORDÉE

2.12.1999

Before / Devant: LE REGISTRAIRE

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'appelante

Motion to extend the time in which to serve and file the appellant's book of authorities

Sa Majesté la Reine

c. (27050)

Marie-Suzanne Caouette (Crim.)(Qué.)

GRANTED / ACCORDÉE Délai prorogé au 22 novembre 1999.

2.12.1999

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellants' record to November 17, 1999, its factum to November 24, 1999 and its book of authorities to November 10, 1999

Requête en prorogation du délai imparti pour signifier et déposer le dossier de l'appelant le 17 novembre 1999, son mémoire le 24 novembre 1999 et son recueil de jurisprudence et de doctrine le 10 novembre 1999

A.R.B.

v. (26918)

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

GRANTED / ACCORDÉE

2.12.1999

Before / Devant: L'HEUREUX-DUBÉ J.

Motion for extension of time and leave to intervene

Requête en prorogation de délai et en autorisation d'intervenir

BY/PAR: Canadian Coalition of Open Shop Contractors Associations

IN/DANS: Advance Cutting & Coring Ltd., et al.

v. (26664)

Her Majesty the Queen (Que.)

GRANTED / ACCORDÉE

IT IS HEREBY ORDERED THAT:

1. The motion for an extension of time and for leave to intervene of the applicant Canadian Coalition of Open Shop Contractors Associations is granted, the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length and to present oral argument not to exceed 15 minutes.

The intervener shall not be entitled to adduce further evidence or otherwise to supplement the record apart from its factum and oral submissions.

Pursuant to Rule 18(6) the intervener shall pay to the appellants and respondent any additional disbursements occasioned to the appellants and respondent by the intervention.

3.12.1999

Before / Devant: GONTHIER J.

Motion to strike out and for additional time to present oral argument

Requête en radiation et en prorogation du temps accordé pour la plaidoirie

Robert Lovelace, on his own behalf and on behalf of the Ardoch Algonquin First Nation and Allies, et al.

v. (26165)

Her Majesty the Queen in Right of Ontario, et al. (Ont.)

DISMISSED / REJETÉE

The appellants Robert Lovelace et al. have made a motion to strike certain passages from the factum filed by the respondent Chiefs of Ontario on November 29, 1999 pertaining to the availability of provincial programs to off-reserve and on-reserve aboriginals. I find that the issue was dealt with in the factum of the said appellants and also in that of the respondent Attorney General of Ontario. These assertions made in facta are not evidence and are only valid in so far as they are supported by the evidence on record. While assertions unsupported by evidence should be avoided, parties are entitled to put forward and join issue on differing views of the evidence and attempt to support them on the record. I am of the view that issue has already been joined in the facta between the parties and that the hearing may proceed on this basis. I would accordingly dismiss the motion to strike.

The appellants also request an additional 30 minutes of time to make their oral arguments which I understand counsel for these appellants and the appellants Be-Wab-Bon et al. are prepared to share 15 minutes each by reason of the late filing of the factum of the Chiefs of Ontario on November 26, 1999. I am not prepared to grant this request at this time, it being open to the appellants to reapply should they consider it necessary as the hearing of the appeal develops.

The motion is accordingly dismissed.

Les appelants Robert Lovelace et al. présentent une requête en radiation de certains passages du mémoire produit par l'intimé Chiefs of Ontario le 29 novembre 1999 visant la disponibilité de programmes provinciaux aux autochtones hors réserve et en réserve. Je constate que le mémoire desdits appelants traite de la question qui est également traitée dans celui de l'intimé le Procureur général de l'Ontario. Ces affirmations dans les mémoires ne font pas preuve et ne sont valables que dans la mesure qu'elles trouvent appui dans la preuve au dossier. Quoiqu'on doive éviter des affirmations non appuyées par la preuve, les parties sont admises à mettre de l'avant des points de vue divergents quant à la preuve, lier contestation à ce sujet et tenter d'en trouver appui au dossier. Je suis d'avis que les mémoires des parties ont déjà lié contestation et que l'audition peut se tenir sur cette base. En conséquence, je rejette la requête en radiation.

Les appelants demandent également qu'on alloue à leur plaidoirie orale 30 minutes additionnelles que les procureurs des présents appelants ainsi que les appelants Be-Wab-Bon et al. auraient convenu de partager à raison de 15 minutes chacun, ceci en raison de la production tardive du mémoire des Chiefs of Ontario le 26 novembre 1999. Je ne suis pas d'avis d'accorder cette demande en ce moment. Il reste loisible aux appelants de renouveler leur demande s'ils croient nécessaire de le faire selon le déroulement de l'audition du pourvoi.

La requête est donc rejetée.

3.12.1999

Before / Devant: GONTHIER J.

Motion for extension of time and leave to intervene

Requête en prorogation de délai et en autorisation d'intervenir

BY/PAR: Procter & Gamble Inc.

IN/DANS: Free World Trust

v. (26406)

Électro Santé Inc., et al. (Que.)

GRANTED / ACCORDÉE

The applicant requests leave to intervene to present argument in support of the legal principles upon which the Quebec Court of Appeal rested its decision in this appeal which is to proceed *ex parte* in the absence of any participation by the respondents, the respondent Électro-Santé Inc. being declared bankrupt on July 13, 1999. At issue is the infringement of patents, the validity of which was upheld by the Court of Appeal. The present appeal is to be heard on December 14, 1999 together with the appeals *Maytag Corporation, Maytag Limited and Maytag Quebec Inc. v. Whirlpool Corporation and Inglis Limited* (F.C.A.)(27209) and *Camco Inc. and General Electric Company v. Whirlpool Corporation and Inglis Limited* (F.C.A.)(27208) in which the validity of certain patents is contested. While the legal issues in these cases are related, the focus differs.

The applicant has filed in support of its motion a draft intervener's factum which provides argument in support of the legal principles adopted by the Court of Appeal. I find this material helpful in the absence of any argument by the respondents or others in support of the judgment below and a useful supplement to arguments which have been or may be presented in the above related cases set down for a joint hearing.

Having regard to the response filed by the appellant, however, it is not appropriate that the applicant argue the facts of this appeal or take a position on its disposition. Paragraphs 11 to 16 inclusive and paragraphs 50, 51 and 67 of the draft intervener's factum should be deleted. While it is tardy, I would however grant the motion in part as follows as I consider it helpful to the Court and in the interests of justice to do so.

IT IS THEREFORE ORDERED:

THAT leave be granted to Procter & Gamble Inc. to file its Notice of Motion dated November 11, 1999 out of time, same having been filed on November 12, 1999.

THAT leave be granted to Procter & Gamble Inc. to intervene in the appeal, including leave to file an intervener's factum in the form included with the motion provided that paragraphs 11 to16 inclusive and paragraphs 50, 51 and 67 be deleted, no later than December 6, 1999.

THAT leave be granted to the said intervener to present oral argument for a maximum of 15 minutes at the hearing of this appeal.

Le requérant demande l'autorisation d'intervenir aux fins de présenter des arguments à l'appui des principes juridiques invoqués par la Cour d'appel du Québec au soutien de sa décision. Ce pourvoi doit être entendu *ex parte* en l'absence de toute participation des intimés, Électro-Santé Inc. ayant fait faillite le 13 juillet 1999. Le litige porte sur la contrefaçon de brevets dont la validité a été reconnue par la Cour d'appel. L'audition du pourvoi est prévue pour le 14 décembre 1999 conjointement avec les pourvois *Maytag Corporation, Maytag Limited and Maytag Quebec Inc. v.*

Whirlpool Corporation and Inglis Limited (C.A.F.)(27209) et *Camco Inc. and General Electric Company v. Whirlpool Corporation and Inglis Limited* (C.A.F.)(27208) dans lesquels la validité de certains brevets est contestée. Quoique les questions juridiques dans ces causes soient apparentées, leurs objets sont différents.

Le requérant a produit au soutien de sa requête un projet de mémoire d'intervenant qui contient des arguments à l'appui des principes juridiques invoqués par la Cour d'appel. J'estime que cette information est utile vu l'absence de toute argumentation de la part des intimés ou d'autres personnes à l'appui du jugement dont appel est susceptible de compléter l'argumentation qui est ou sera présentée dans les autres pourvois inscrits pour une audition commune.

Eu égard à la réponse produite par l'appelant, cependant, il n'est pas opportun que le requérant plaide les faits en litige ou se prononce sur la façon d'en disposer. Il y a donc lieu d'écarter les paragraphes 11 à 16 inclusivement et les paragraphes 50, 51 et 67 du projet de mémoire de l'intervenant. Quoiqu'elle soit hors délai, j'accorderais cependant cette requête en partie comme suit puisque je l'estime utile pour la Cour et dans l'intérêt de la justice de ce faire.

EN CONSÉQUENCE, IL EST ORDONNÉ:

QUE Procter & Gamble Inc. soit autorisée à produire son Avis de requête en date du 11 novembre 1999 hors délai, production en ayant été faite le 12 novembre 1999.

QUE Procter & Gamble Inc. soit autorisée à intervenir dans le pourvoi et à produire un mémoire d'intervenant selon le projet produit avec la requête sous réserve que soient enlevés les paragraphes 11 à 16 inclusivement ainsi que les paragraphes 50, 51 et 67, ceci au plus tard le 6 décembre 1999.

QUE ledit intervenant soit autorisé à présenter une argumentation orale d'au plus 15 minutes à l'audition du pourvoi.

3.12.1999

Before / Devant: BASTARACHE J.

Motion for time to present oral argument

Requête en prorogation du temps accordé pour la plaidoirie

BY/PAR: The intervener the Charter Committee on Poverty Issues

IN/DANS: Robert Lovelace, on his own behalf and on behalf of the Ardoch Algonquin First Nation and Allies, et al.

v. (26165)

Her Majesty the Queen in Right of Ontario, et al. (Ont.)

DISMISSED / REJETÉE Motion for leave to present oral argument of 15 minutes dismissed.

6.12.1999

Before / Devant: ARBOUR J.

Motion to extend the time in which to serve and file the application for leave

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation

Terrance Nelson

v. (27594)

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

GRANTED / ACCORDÉE Time extended to November 15, 1999.

6.12.1999

Before / Devant: BASTARACHE J.

Motion for time to present oral argument

Requête en prorogation du temps accordé pour la plaidoirie

BY/PAR: The intervener the Métis National Council of Women

IN/DANS: Robert Lovelace, on his own behalf and on behalf of the Ardoch Algonquin First Nation and Allies, et al.

v. (26165)

Her Majesty the Queen in Right of Ontario, et al. (Ont.)

DISMISSED / REJETÉE Motion for leave to present oral argument of 15 minutes dismissed.

6.12.1999

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent Her Majesty the Queen's book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intimée Sa Majesté la Reine

Robert Lovelace, on his own behalf and on behalf of the Ardoch Algonquin First Nation and Allies, et al.

v. (26165)

Her Majesty the Queen in Right of Ontario, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to November 26, 1999.

6.12.1999

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum, record and book of authorities of the respondent Attorney General of Alberta

Requête en prorogation du délai imparti pour signifier et déposer le mémoire, le dossier et le recueil de jurisprudence et de doctrine de l'intimé le procureur général de l'Alberta

Public School Boards' Association of Alberta, et al.

v. (26701)

Attorney General of Alberta, et al. (Alta.)

GRANTED / ACCORDÉE Time extended to three weeks following the decision on the appellants' motion to adduce fresh evidence.

3.12.1999

Jean-Marc Lacroix

c. (27394)

Sa Majesté la Reine (Qué.)

(demande)

AGENDA for the week beginning December 13, 1999.
ORDRE DU JOUR pour la semaine commençant le13 décembre 1999.

Please note that the Fall session ends on December 17, 1999 /
Veuillez prendre note que la session d'automne se termine le 17 décembre 1999.

Date of Hearing/ Date d'audition	Case Number and Name/ Numéro et nom de la cause
1999/12/13	Thérèse Blais Pelletier c. Sa Majesté la Reine (Qué.) (Criminelle) (De plein droit)(26928)
1999/12/14	Free World Trust c. Électro Santé Inc. (Qué.) (Civile) (Autorisation) (26406)
1999/12/14	Camco Inc., et al. v. Whirlpool Corporation, et al. (FC) (Civil) (By Leave) (27208)
1999/12/14	Maytag Corporation, et al. v. Whirlpool Corporation, et al. (FC) (Civil) (By Leave) (27209)
1999/12/16	John Carlos Terceira v. Her Majesty the Queen (Ont.) (Criminal) (By Leave) (26546)

NOTE:

This agenda is subject to change. Hearing dates should be confirmed with Registry staff at (613) 996-8666.

Cet ordre du jour est sujet à modification. Les dates d'audience devraient être confirmées auprès du personnel du greffe au (613) 996-8666.

26928 ***Thérèse Blais Pelletier v. Her Majesty the Queen***

Criminal law - Offences - Acts of indecency - Common bawdy-house - Public place - Nude dancers performing in cubicle - Whether alleged acts indecent - Determination of community tolerance standard - Application of *R. v. Tremblay*, [1993] 2 S.C.R. 932, or *R. v. Mara*, [1997] 2 S.C.R. 630 - Ss. 197(1) and 210(1) of the *Criminal Code*, R.S.C., 1985, c. C-46.

The Appellant was co-owner of a strip bar where dancers performed lap dances in a cubicle for $10. The dancers were required to follow the Appellant's rule against touching clients, but clients were allowed to touch the dancers' buttocks and breasts. There was an opening in the cubicle that allowed people sitting at the bar or walking by to see inside. The Appellant and her bouncer enforced the rules.

Two plainclothes police officers visited the premises on April 28 and 29, 1992, and purchased lap dances. Their testimony, accepted by the trial judge, disclosed the nature of the acts committed.

The trial judge held that these acts were not indecent acts within the meaning of s. 197(1) of the *Criminal Code* and therefore acquitted the Appellant of the charge of keeping a common bawdy-house (s. 210(1) of the *Criminal Code*).

Unanimously and on the basis of *R. v. Tremblay*, [1993] 2 S.C.R. 932, and *R. v. Mara*, [1997] 2 S.C.R. 630, the Court of Appeal overturned the trial judgment and found the Appellant guilty. The Appellant appeals as of right to the Supreme Court of Canada.

Origin of the case:	Quebec
File No.:	26928
Judgment of the Court of Appeal:	September 29, 1998
Counsel:	Josée Ferrari for the Appellant Danielle Allard for the Respondent

26928 ***Thérèse Blais Pelletier c. Sa Majesté la Reine***

Droit criminel - Infractions - Actes d'indécence - Maison de débauche - Endroit public - Danseuses nues se produisant dans un isoloir - Les actes reprochés étaient-ils indécents? - Quelle est la norme de tolérance de la société? - Application de *R.* c. *Tremblay* [1993] 2 R.C.S. 932 ou *R.* c. *Mara* [1997] 2 R.C.S. 630 - Art. 197 (1) et 210 (1) du *Code criminel*, L.R.C. (1985), ch. C-46.

L'appelante était copropriétaire d'un bar de danseuses dans lequel était situé un isoloir où se déroulaient des danses nues qui coûtaient 10.00$ (danses à 10.00$). Les danseuses étaient tenues d'observer les règlements, imposés par l'appelante, qui leur interdisaient de toucher aux clients. On tolérait par contre que ces derniers touchent aux fesses et aux seins des danseuses. L'isoloir comportait une ouverture qui permettait aux personnes assises au bar ou passant devant celui-ci de voir à l'intérieur. L'appelante ainsi que son portier vérifiaient que les règlements étaient suivis.

Deux policiers en civil se sont rendus sur les lieux, les 28 et 29 avril 1992, et ont retenu les services des danseuses pour ce type de danse. Leurs témoignages, acceptés par le premier juge, a révélé la nature des gestes posés.

Le premier juge a conclu que ces gestes ne constituaient pas des gestes indécents au sens de l'article 197 (1) du *Code criminel* et a donc acquitté l'appelante de l'accusation d'avoir tenu une maison de débauche (art. 210 (1) C. cr.).

La Cour d'appel, à l'unanimité et en vertu des arrêts *R.* c. *Tremblay* [1993] 2 R.C.S. 932 et *R.* c. *Mara* [1997] 2 R.C.S. 630, a renversé le premier jugement et a déclaré l'appelante coupable de l'infraction reprochée. L'appelante se pourvoit donc de plein droit devant la Cour suprême du Canada.

Origine:	Québec
N^{o} du greffe:	26928
Arrêt de la Cour d'appel:	Le 29 septembre 1998
Avocats:	Me Josée Ferrari pour l'appelante Me Danielle Allard pour l'intimée

26406 ***Free World Trust v. Électro Santé Inc., Paul Demers, Noël Desjardins***

Property law - Patents - Infringement - Electromagnetic system for therapeutic use - Lack of definition of "infringement" in *Patent Act*, R.S.C., c. P-4 - Definition of "infringement" in Canadian law - Appellant arguing lack of uniform and consistent rules - Method of construction when construing patent where infringement alleged - Inventor's burden of proof - Test and scope of method adopted by Federal Court of Appeal in *O'Hara Manufacturing Ltd. v. Eli Lilly & Co.*, (1990) 26 C.P.R. (3d) 1.

The Appellant is the patentee of two patents obtained in 1981 and 1983 under the Patent Act for systems marketed under the name Rhumart. According to the claims in the patent applications, the systems are low-frequency systems that use sine waves, pulsed waves or bundles of pulsed waves to treat the human body. The systems consist of a magnetic coil designed to create a predetermined magnetic field in response to wave forms from a generator of predetermined current so as to create a magnetic field with the desired treatment properties. Between 1981 and 1992, a number of models of Rhumart systems were marketed. In 1991, sales amounted to more than $13 million.

The Respondent Paul Demers dealt with sales of Rhumart systems between August 1989 and March 1992. On November 25, 1991, he incorporated Électro-Santé to start a business with a manufacturing system that would produce pulsed magnetic waves, different in technical design from the both of the Rhumart systems. That system was marketed by Électro-Santé in the summer of 1992 and went on sale the following September. The Respondent Noël Desjardins, a former independent distributor of Rhumart systems, joined Demers to market the Électro-Santé system.

In October 1992, the Appellant advised the Respondents to cease manufacturing and selling their system. It alleged that the Électro-Santé system infringed several claims of both its patents. It subsequently brought an action in which it sought a permanent injunction requiring the Respondents to cease manufacturing and selling the Électro-Santé system. It also claimed $100 000 in damages caused by the infringement and unfair competition, and $50 000 in punitive damages. In response, the Respondents challenged the validity of the Appellant's patents and denied the allegations of infringement and unfair competition. The Superior Court declared the Appellant's patents invalid and dismissed its action. The Court of Appeal unanimously allowed the Appellant's appeal, but only for the purpose of declaring the patents valid.

Origin of the case:	Quebec
File No.:	26406
Judgment of the Court of Appeal:	October 27, 1997
Counsel:	Louis Masson and Nathalie Vaillant for the Appellant None for the Respondents

26406 ***Free World Trust c. Électro Santé inc., Paul Demers, Noël Desjardins***

Droit des biens - Brevets d'invention - Contrefaçon - Appareil électromagnétique servant à des fins thérapeutiques - Absence de définition de la "contrefaçon" dans la *Loi sur les brevets,* L.R.C., ch. P-4 - Définition de la "contrefaçon" en droit canadien - Appelante alléguant absence de règles uniformes et cohérentes - Quelle méthode d'interprétation doit être utilisée par les tribunaux chargés d'interpréter un brevet d'invention en cas d'allégations de contrefaçon? - Quel est le fardeau de preuve de l'inventeur? - Critères et champ d'application de la méthode adoptée par la Cour d'appel fédérale dans *O'Hara Manufacturing Ltd. c. Eli Lilly & Co.,* (1990) 26 C.P.R. (3d) 1.

L'appelante est titulaire de deux brevets d'invention obtenus en 1981 et 1983 en vertu de la *Loi sur les brevets* pour des appareils commercialisés sous le nom de Rhumart. Selon les revendications apparaissant dans les demandes d'enregistrement de brevets, il s'agit d'appareils électromagnétiques de basse fréquence qui utilisent des ondes sinusoïdales ou bien des ondes ou groupement d'ondes pulsées aux fins de traiter le corps humain. Les appareils comprennent une bobine de magnétisation destinée à créer un champ magnétique prédéterminé en réponse à des formes d'ondes d'une génératrice de courant prédéterminé de façon à créer un champ magnétique qui possédera les caractéristiques du traitement désiré. Entre 1981 et 1992, plusieurs modèles d'appareils Rhumart sont commercialisés. En 1991, le chiffre d'affaires s'élève à plus de 13 millions de dollars.

L'intimé Paul Demers s'occupe de la vente des appareils Rhumart entre août 1989 et mars 1992. Le 25 novembre 1991, il incorpore la compagnie Électro-Santé en vue de lancer une entreprise dont l'objectif est de fabriquer un appareil produisant des ondes magnétiques pulsées mais différentes quant à sa conception technique des deux appareils Rhumart. L'appareil conçu est commercialisé par Électro-Santé à l'été 1992 et mis en vente au mois de septembre suivant. L'intimé Noël Desjardins, un ancien distributeur indépendant d'appareils Rhumart, se joint à Demers pour assurer la mise en marché de l'appareil Électro-Santé.

En octobre 1992, l'appelante adresse aux intimés une mise en demeure de cesser la fabrication et la vente de leur appareil. Elle allègue que l'appareil Électro-Santé contrevient à plusieurs revendications de ses deux brevets. Elle intente par la suite une action dans laquelle elle demande une injonction permanente enjoignant aux intimés de cesser de fabriquer et vendre l'appareil Électro-Santé. Elle réclame également 100 000$ pour les dommages causés par la contrefaçon et la concurrence déloyale et 50 000$ comme dommages punitifs. En réponse, les intimés contestent la validité des brevets d'invention de l'appelante et nient les allégations de contrefaçon et de concurrence déloyale. La Cour supérieure déclare les brevets d'invention de l'appelante invalides et rejette son action. Pour sa part, la Cour d'appel accueille le pourvoi de l'appelante à l'unanimité à la seule fin de déclarer les brevets valides.

Origine:	Québec
N^{o} du greffe:	26406
Arrêt de la Cour d'appel:	Le 27 octobre 1997
Avocats:	Me Louis Masson et Me Nathalie Vaillant pour l'appelante Aucun pour les intimés

27208 ***Camco Inc. and General Electric Company v. Whirlpool Corporation and Inglis Limited***

Property law - Patents - Construction - Validity - Double patenting - Obviousness - Whether the Federal Court of Appeal erred in failing to find that the trial judge failed to properly construe the patents in issue - Whether the Federal Court of Appeal erred by failing to correctly enunciate and apply the principles governing claim construction - Whether the Federal Court of Appeal erred in law by importing the term "rigid" into the claims of Canadian Patents No. 1,049,803 and1,045,401 to modify the term "vanes" - Whether the Federal Court of Appeal erred in law by failing to correctly enunciate and apply the principles governing the doctrine of double patenting - Whether the Federal Court of Appeal erred in law in concluding that the claims of Canadian Patent No. 1,049,803 were not double patented by the claims of Canadian Patent No. 1,095,734 - Whether the Federal Court of Appeal erred in law in concluding that Canadian Patent No. 1,095,734 was valid.

The Respondent Whirlpool Corporation was plaintiff in an action for a declaration of validity of two patents: Canadian Patent No. 1,049,803 ("patent 803") and Canadian Patent No. 1,095,734 ("patent 734"). Whirlpool also owns Canadian Patent No. 1,045,401 ("patent 401"). All three patents relate to dual-action agitators for clothes washing machines. The invention dates for each patent are at least as early as July 12, 1973 for patent 401, March 2, 1983 for patent 803, and June 5, 1974 for patent 734. The first dual-action agitator was disclosed to the public in June, 1975. The parties agreed that dual-action agitation was a tremendous advance over unitary-action agitation.

Patent 401 discloses a two-part, dual-action agitator that improves the movement of clothes within the washing machine, and so is useful with large or heavy loads. It is silent on whether the vanes on the lower agitator are rigid or flexible. Patent 401 was followed by patent 803, which had expired at the time of trial but was in force when the alleged infringement occurred. Patents 401 and 803 were followed by patent 734,which was due to expire in February or March, 1998. Patents 401 and 803 were said in patent 734 to be prior art. The trial judge summarized the claims in patent 734:

> Claim 6 speaks to the drive means which continuously drives the upper auger portion of the agitator.
> … Claim 8 speaks to the continuous, unidirectional rotation of the upper auger.
> … Claim 14 finally describes the improvement as being flex vanes plus a continuous, unidirectional drive means for continuously rotating the upper auger, resulting in positive toroidal rollovers of the clothes in the washing machine.

The Respondents alleged that the Appellants' agitator infringed claims of patent 803 and all the claims in patent 734. Whirlpool sought damages, profits and costs with respect to patent 803, and a permanent injunction with respect to patent 734. The Appellants denied having infringed claims 6, 8 and 14 of patent 734. As patent 401 had expired, there was no infringement allegation with respect to it.

The trial judge held that both patents 803 and 734 were valid. He further found that 734 was infringed, but patent 803 was not. The Court of Appeal dismissed the Appellants' appeal.

Origin of the case:	Federal Court of Appeal
File No.:	27208
Judgment of the Court of Appeal:	January 22, 1999
Counsel:	James D. Kokonis Q.C., Dennis S.K. Leung and Kevin K. Graham for the Appellants Ronald E. Dimock and Dino P. Clarizio for the Respondents

27208 ***Camco Inc. et General Electric Company c. Whirlpool Corporation et Inglis Limited***

Droit des biens - Brevets - Interprétation - Validité - Double brevet - Évidence - La Cour d'appel fédérale a-t-elle commis une erreur en omettant de conclure que le juge de première instance n'avait pas correctement interprété les brevets en question? - La Cour d'appel fédérale a-t-elle commis une erreur en omettant d'énoncer et d'appliquer correctement les principes régissant l'interprétation des revendications? - La Cour d'appel fédérale a-t-elle commis une erreur de droit en incorporant le terme «fixes» au terme «ailettes» lors de l'interprétation des revendications relatives aux brevets canadiens nº 1049803 et 1045401? - La Cour d'appel fédérale a-t-elle commis une erreur de droit en omettant d'énoncer et d'appliquer correctement les principes régissant la doctrine du double brevet? - La Cour d'appel fédérale a-t-elle commis une erreur de droit en concluant que les revendications du brevet canadien nº 1049803 ne faisaient pas l'objet d'un double brevet à la lumière des revendications du brevet canadien nº 1095734? - La Cour d'appel fédérale a-t-elle commis une erreur en droit en concluant que le brevet canadien nº 1095734 était valide?

La défenderesse Whirlpool Corporation était demanderesse dans le cadre d'une action en vue de faire déclarer la validité de deux brevets : le brevet canadien nº 1049803 (le brevet 803) et le brevet canadien nº 1095734 (le brevet 734). Whirlpool est également propriétaire du brevet canadien nº 1045401 (le brevet 401). Les trois brevets portent tous sur un agitateur à double effet pour laveuse automatique. Leur date d'invention respective remonte aussi loin qu'au 12 juillet 1973 en ce qui concerne le brevet 401, au 2 mars 1983 pour le brevet 803 et au 5 juin 1974 pour le brevet 734. Le premier agitateur à double effet a été divulgué au public en juin 1975. Les parties ont convenu que le mécanisme d'agitation à double effet représentait un progrès énorme par rapport à l'agitation à simple effet.

Le brevet 401 porte sur un agitateur à double effet, en deux pièces, qui favorise le mouvement des vêtements à l'intérieur de la laveuse et qui, ainsi, est pratique dans le cas des grosses brassées ou des vêtements lourds. Il ne mentionne pas si les ailettes sur l'agitateur inférieur sont fixes ou flexibles. Le brevet 401 a été suivi du brevet 803, lequel avait expiré au moment du procès mais était en vigueur lorsque la contrefaçon alléguée est survenue. Le brevet 734 a succédé aux brevets 401 et 803, et devait expirer en février ou en mars 1998. Les brevets 401 et 803 ont été qualifiés d'antériorités dans le brevet 734. Le juge de première instance a résumé les revendications du brevet 734 ainsi :

> La revendication 6 porte sur le mécanisme d'entraînement qui commande le mouvement continu de la chemise supérieure de l'agitateur.
> [...] La revendication 8 traite de la rotation continue, unidirectionnelle, de la chemise supérieure.
> [...] Enfin, la revendication 14 décrit le perfectionnement de l'invention comme étant l'intégration d'ailettes flexibles et d'un dispositif d'entraînement continu et unidirectionnel assurant la rotation continue de la chemise supérieure, cette rotation générant un mouvement torique qui entraîne successivement la chute des vêtements d'un côté et de l'autre dans la laveuse.

Les défenderesses allèguent que l'agitateur des appelantes contrefait certaines revendications du brevet 803 et toutes celles du brevet 734. Whirlpool a cherché à obtenir des dommages-intérêts, une remise des profits et les dépens relatifs au brevet 803, de même qu'une injonction permanente à l'égard du brevet 734. Les appelantes ont nié avoir contrefait les revendications 6, 8 et 14 du brevet 734. Comme le brevet 401 avait expiré, il n'y a eu aucune allégation de contrefaçon à son égard.

Le juge de première instance a conclu que les brevets 803 et 734 étaient valides. Il a de plus statué qu'il y avait contrefaçon à l'égard du brevet 734, mais non en ce qui concerne le brevet 803. La Cour d'appel a rejeté l'appel formé par les appelantes.

Origine :	Cour d'appel fédérale
N° du greffe :	27208
Arrêt de la Cour d'appel :	Le 22 janvier 1999
Avocats :	James D. Kokonis, c.r., Dennis S.K. Leung et Kevin K. Graham pour les appelantes
	Ronald E. Dimock et Dino P. Clarizio pour les défenderesses

27209 ***Maytag Corporation, Maytag Limited and Maytag Quebec Inc. v. Whirlpool Corporation and Inglis Limited***

Property law - Patents - Construction - Validity - Double patenting - Obviousness - Whether the Federal Court of Appeal erred in failing to find that the trial judge failed to properly construe the patents in issue - Whether the Federal Court of Appeal erred by failing to correctly enunciate and apply the principles governing claim construction - Whether the Federal Court of Appeal erred in law by importing the term "rigid" into the claims of Canadian Patents No. 1,049,803 and No. 1,045,401 to modify the term "vanes" - Whether the Federal Court of Appeal erred in law by failing to correctly enunciate and apply the principles governing the doctrine of double patenting - Whether the Federal Court of Appeal erred in law in concluding that the claims of Canadian Patent No. 1,049,803 were not double patented by the claims of Canadian Patent No. 1,095,734 - Whether the Federal Court of Appeal erred in law in concluding that Canadian Patent No. 1,095,734 was valid.

The appeal arises from an action brought for an infringement of a patent relating to automatic washing machine agitators, namely Canadian Patent No. 1,095,734 ("patent '734"). The Appellant Maytag Corporation is an American Corporation which makes and sells automatic washing machines in the United States. The Appellants Maytag Limited and Maytag Quebec Inc. are Canadian companies which sell automatic washing machines in Canada. The Respondent Whirlpool Corporation is the assignee of Canadian Patent No. 1,045, 401 ("patent '401"), as well as the '803 and '734 Patents. The Respondent Inglis Limited is a wholly owned subsidiary of Whirlpool and a licensee of these patents. The action did not proceed to trial, but was settled on consent with judgment of Cullen J. in *Camco Inc. et al v. Whirlpool Corporation et al* ("File No. 27208").

By consent, Hugessen J. accepted the reasons for judgment of Cullen J. in (File No. 27208) without prejudice to the Appellants' right to appeal issues concerning the validity of patent 734. Patent 734 was thereby found to be valid and the Appellants were found to have infringed claims 1-5, 7, and 11-14 of patent 734. A permanent injunction issued against Appellants restraining infringement of patent 734 for the remainder of its life. The Respondents were to elect between profits and damages. The Appellants' counterclaim was dismissed. This appeal differs from that in *Camco* ("File No. 27208") in that only the claims 1-5, 7 and 9-13 of the '734 Patent are in issue.

Origin of the case:	Federal Court of Appeal
File No.:	27209
Judgment of the Court of Appeal:	January 22, 1999
Counsel:	James D. Kokonis Q.C., Dennis S.K. Leung and Kevin K. Graham for the Appellants
	Stephen M. Lane for the Respondents

27209 ***Maytag Corporation, Maytag Limited et Maytag Quebec Inc. c. Whirlpool Corporation et Inglis Limited***

Droit des biens - Brevets - Interprétation - Validité - Double brevet - Évidence - La Cour d'appel fédérale a-t-elle commis une erreur en omettant de conclure que le juge de première instance n'avait pas correctement interprété les brevets en question? - La Cour d'appel fédérale a-t-elle commis une erreur en omettant d'énoncer et d'appliquer correctement les principes régissant l'interprétation des revendications? - La Cour d'appel fédérale a-t-elle commis une erreur de droit en incorporant le terme «fixes» au terme «ailettes» lors de l'interprétation des revendications relatives aux brevets canadiens nº 1049803 et 1045401? - La Cour d'appel fédérale a-t-elle commis une erreur de droit en omettant d'énoncer et d'appliquer correctement les principes régissant la doctrine du double brevet? - La Cour d'appel fédérale a-t-elle commis une erreur de droit en concluant que les revendications du brevet canadien nº 1049803 ne faisaient pas l'objet d'un double brevet à la lumière des revendications du brevet canadien nº 1095734? - La Cour d'appel fédérale a-t-elle commis une erreur en droit en concluant que le brevet canadien nº 1095734 était valide?

Le présent pourvoi découle d'une action intentée pour contrefaçon d'un brevet relatif aux agitateurs pour laveuse à linge automatique, soit le brevet canadien nº 1095734 (le brevet 734). L'appelante, Maytag Corporation, est une société américaine qui fabrique et qui vend des laveuses automatiques aux États-Unis. Les appelantes Maytag Limited et Maytag Quebec Inc. sont des sociétés canadiennes qui vendent des laveuses automatiques au Canada. La défenderesse Whirlpool Corporation est cessionnaire du brevet canadien nº 1045401 (le brevet 401), de même que des brevets 803 et 734. La défenderesse Inglis Limited est une filiale en propriété exclusive de Whirlpool et est titulaire d'une licence de ces brevets. L'action n'a pas été instruite, mais a été réglée sur consentement avec le jugement du juge Cullen dans l'affaire *Camco Inc. et autres c. Whirlpool Corporation et autres* (nº de dossier 27208).

Le juge Hugessen a, sur consentement, accepté les motifs de la décision du juge Cullen (nº de dossier 27208) sous réserve du droit des appelantes de porter en appel des questions relatives à la validité du brevet 734. L'on a conclu que le brevet 734 était valide et que les appelantes avaient contrefait les revendications 1 à 5, 7 et 11 à 14 du brevet 734. Une injonction permanente a été délivrée contre les appelantes pour interdire la contrefaçon du brevet 734 pour le reste de sa durée de validité. Les défenderesses devaient choisir entre une remise des profits et les dommages-intérêts. La demande reconventionnelle des appelantes a été rejetée. Le présent pourvoi se distingue du pourvoi *Camco* (nº de dossier 27208) en ce que seules les revendications 1 à 5, 7 et 9 à 13 du brevet 734 font l'objet du litige.

Origine :	Cour d'appel fédérale
Nº du greffe :	27209
Arrêt de la Cour d'appel :	Le 22 janvier 1999
Avocats :	James D. Kokonis, c.r., Dennis S.K. Leung et Kevin K. Graham pour les appelantes
	Stephen M. Lane pour les défenderesses

26546 ***John Carlos Terceira v. Her Majesty The Queen***

Criminal law - Evidence - DNA evidence - Burden of proof - Whether the Court of Appeal erred in holding that DNA statistical evidence is admissible in criminal trials - Whether the Court of Appeal erred in failing to hold that forensic laboratories applying a novel scientific technique should be subject to special scrutiny pursuant to *R. v. Mohan* - Whether the Court of Appeal erred in holding that the Crown is not required to prove the reliability of a novel DNA technique beyond a reasonable doubt.

On October 14, 1990, shortly after 9:00 a.m., Andrea Atkinson said goodbye to her mother, and left her apartment to play outside. She was last seen outside the apartment building at 9:30 a.m. by a neighbour. During the next nine days, an extensive search was conducted for Andrea. On October 23, 1990, a janitor and maintenance supervisor discovered Andrea's body in the sixth floor boiler room of the apartment building where she lived. Forensic examinations established that she had been sexually assaulted. The cause of death was determined to be asphyxia.

The Appellant worked as a janitor at Andrea's apartment building. He was working on October 14, 1990. Two residents of the building saw him at the building after Andrea was last seen alive. The Crown alleged that the Appellant saw Andrea in the area and lured her to the sixth floor where he sexually assaulted and smothered her. He was charged with murder on December 3, 1990. The location of the boiler room on the sixth floor was not well known, even to occupants of the apartment building. The Appellant knew about the boiler room's existence, had keys to it and admitted he went there to smoke.

Forensic evidence linked the Appellant to the murder . Hair, fibre, blood and DNA evidence, which matched the Appellant, was left on the floor at the attack site and on Andrea's clothing. A mixed blood and semen stain was found on the concrete floor outside the boiler room at the base of the stairs. The semen found on the floor was sufficient in quantity to conduct both conventional serology and DNA testing. Semen was also found on a great deal of Andrea's clothing. A semen stain found in her leotards was of sufficient quality and quantity to conduct DNA testing. DNA testing indicated that Andrea's blood was mixed with the Appellant's semen. Numerous fibres consistent with fibres from the outer portion of the sweat pants worn by the Appellant on October 14, 1990 were found on Andrea's clothing and on the floor outside the boiler room.

The defence theory was that the Appellant had nothing to do with the sexual assault and murder of Andrea. While the defence challenged the cause of death, the defence position remained unequivocal that the Appellant was not present in the apartment building at the time of the killing, and that he did not commit the murder.

The jury convicted the Appellant of first degree murder. His appeal was dismissed.

Origin of the case:	Ontario
File No.:	26546
Judgment of the Court of Appeal:	February 9, 1998
Counsel:	Russell Silverstein and David M. Tanovich for the Appellant C. Jane Arnup for the Respondent

26546 ***John Carlos Terceira c. Sa Majesté la Reine***

Droit criminel - Preuve - Preuve par empreintes génétiques - Fardeau de la preuve - La Cour d'appel a-t-elle commis une erreur en statuant qu'une preuve statistique fondée sur une analyse de l'ADN est admissible lors de procès criminels? - La Cour d'appel a-t-elle commis une erreur en omettant de statuer qu'il faudrait être particulièrement prudent à l'égard des laboratoires médico-légaux utilisant une nouvelle technique scientifique, conformément à *R. c. Mohan*? - La Cour d'appel a-t-elle commis une erreur en statuant que le ministère public n'est pas tenu de prouver la fiabilité d'une nouvelle technique d'analyse de l'ADN hors de tout doute raisonnable?

Le 14 octobre 1990, peu après 9 h, Andrea Atkinson a dit au revoir à sa mère et est sortie de son appartement pour jouer à l'extérieur. Elle a été vue pour la dernière fois à l'extérieur de l'immeuble à 9 h 30 par un voisin. Pendant les 9 jours qui ont suivi, une recherche intensive d'Andrea a été menée. Le 23 octobre 1990, un préposé à l'entretien ménager et un surveillant de la maintenance ont découvert le corps d'Andrea dans la chaufferie du sixième étage de l'immeuble où elle demeurait. Les examens médico-légaux ont établi qu'elle avait été agressée sexuellement. Elle est morte par asphyxie.

L'appelant était un préposé à l'entretien ménager dans l'immeuble où Andrea vivait. Il travaillait le 14 octobre 1990. Deux résidants de l'immeuble l'y ont vu après qu'Andrea eut été vue vivante pour la dernière fois. Le ministère public a allégué que l'appelant avait vu Andrea près de l'immeuble et l'avait attirée au sixième étage, où il l'avait agressée sexuellement, puis étouffée. Il a été accusé de meurtre le 3 décembre 1990. L'endroit où se trouvait exactement la chaufferie au sixième étage n'était pas bien connu, même des occupants de l'immeuble. L'appelant connaissait l'existence de cette chaufferie, était en possession des clés y donnant accès et a admis s'y être rendu pour fumer.

La preuve médico-légale a relié l'appelant au meurtre. Des cheveux, des fibres et du sang, dont l'empreinte génétique qui correspondait à celle de l'appelant, ont été trouvés sur les vêtements d'Andrea et sur le sol là où avait eu lieu l'agression. Une tache de sang et de sperme a été trouvée sur le sol en béton au bas de l'escalier. Le sperme trouvé sur le sol était en quantité suffisante pour permettre à la fois un test sérologique conventionnel et une analyse génétique. Du sperme a aussi été trouvé à plusieurs endroits sur les vêtements d'Andrea. Le sperme trouvée sur ses collants avait la qualité et était en quantité suffisantes pour permettre une analyse génétique. L'analyse génétique a permis d'établir que le sang d'Andrea était mélangé au sperme de l'appelant. De nombreuses fibres correspondant aux fibres provenant de la partie extérieure du pantalon de survêtement porté par l'appelant le 14 octobre 1990 ont été trouvées sur les vêtements d'Andrea et sur le sol à l'extérieur de la chaufferie.

La défense a présenté comme thèse que l'appelant n'avait rien à voir avec l'agression sexuelle et le meurtre d'Andrea. Tout en contestant la cause de la mort, la défense a plaidé sans équivoque l'absence de l'appelant de l'immeuble au moment du meurtre et son innocence.

Le jury a déclaré l'appelant coupable de meurtre au premier degré. Son appel a été rejeté.

Origine :	Ontario
N° du greffe :	26546
Arrêt de la Cour d'appel :	9 février 1998
Avocats :	Russel Silverstein et David M. Tanovich pour l'appelant C. Jane Arnup pour l'intimée

DEADLINES: APPEALS

The Winter Session of the Supreme Court of Canada will commence January 17, 2000.

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

Appellant's record; appellant's factum; and appellant's book(s) of authorities must be filed within four months of the filing of the notice of appeal.

Respondent's record (if any); respondent's factum; and respondent's book(s) of authorities must be filed within eight weeks of the date of service of the appellant's factum.

Intervener's factum and intervener's book(s) of authorities, if any, must be filed within four weeks of the date of service of the respondent's factum, unless otherwise ordered.

Parties' condensed book, if required, must be filed on or before the day of hearing of the appeal.

Please consult the Notice to the Profession of October 1997 for further information.

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.

DÉLAIS: APPELS

La session d'hiver de la Cour suprême du Canada commencera le 17 janvier 2000.

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 de l'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les quatre mois de l'avis d'appel.

Le dossier de l'intimé (le cas échéant), son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les huit semaines suivant la signification de ceux de l'appelant.

Le mémoire de l'intervenant et son recueil de jurisprudence et de doctrine, le cas échéant, doivent être déposés dans les quatre semaines suivant la signification de ceux de l'intimé.

Le recueil condensé des parties, le cas échéant, doivent être déposés au plus tard le jour de l'audition de l'appel.

Veuillez consulter l'avis aux avocats du mois d'octobre 1997 pour plus de renseignements.

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

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

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

Judgments reported in [1999] 2 S.C.R. Part 3

Jugements publiés dans [1999] 2 R.C.S. Partie 3

Bazley *v.* Curry, [1999] 2 S.C.R. 534

Bazley *c.* Curry, [1999] 2 R.C.S. 534

Hickey *v.* Hickey, [1999] 2 S.C.R. 518

Hickey *c.* Hickey, [1999] 2 R.C.S. 518

Jacobi *v.* Griffiths, [1999] 2 S.C.R. 570

Jacobi *c.* Griffiths, [1999] 2 R.C.S. 570

R. *v.* G. (B.), [1999] 2 S.C.R. 475

R. *c.* G. (B.), [1999] 2 R.C.S. 475

R. *v.* White, [1999] 2 S.C.R. 417

R. *c.* White, [1999] 2 R.C.S. 417

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 1999 -

OCTOBER - OCTOBRE

S D	M L	T M	W M	T J	F V	S S
					1	2
3	**M 4**	**5**	**6**	**7**	**8**	9
10	H 11	**12**	**13**	**14**	**15**	16
17	18	19	20	21	22	23
24 31	25	26	27	28	29	30

NOVEMBER - NOVEMBRE

S D	M L	T M	W M	T J	F V	S S
	M 1	**2**	**3**	**4**	**5**	6
7	**8**	**9**	**10**	H 11	**12**	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30				

DECEMBER - DECEMBRE

S D	M L	T M	W M	T J	F V	S S
			1	2	3	4
5	**M 6**	**7**	**8**	**9**	**10**	11
12	**13**	**14**	**15**	**16**	**17**	18
19	20	21	22	23	24	25
26	H 27	H 28	29	30	31	

- 2000 -

JANUARY - JANVIER

S D	M L	T M	W M	T J	F V	S S
						1
2	H 3	4	5	6	7	8
9	10	11	12	13	14	15
16	**M 17**	**18**	**19**	**20**	**21**	22
23	**24**	**25**	**26**	**27**	**28**	29
30	31					

FEBRUARY - FÉVRIER

S D	M L	T M	W M	T J	F V	S S
		1	2	3	4	5
6	7	8	9	10	11	12
13	**M 14**	**15**	**16**	**17**	**18**	19
20	**21**	**22**	**23**	**24**	**25**	26
27	28	29				

MARCH - MARS

S D	M L	T M	W M	T J	F V	S S
			1	2	3	4
5	6	7	8	9	10	11
12	**M 13**	**14**	**15**	**16**	**17**	18
19	**20**	**21**	**22**	**23**	**24**	25
26	27	28	29	30	31	

APRIL - AVRIL

S D	M L	T M	W M	T J	F V	S S
						1
2	3	4	5	6	7	8
9	**10**	**11**	**12**	**13**	**14**	15
16	**17**	**18**	**19**	**20**	H 21	22
23	H 24	25	26	27	28	29
30						

MAY - MAI

S D	M L	T M	W M	T J	F V	S S
	1	2	3	4	**5**	**6**
7	8	9	10	11	12	13
14	**M 15**	**16**	**17**	**18**	**19**	20
21	H 22	**23**	**24**	**25**	**26**	27
28	29	30	31			

JUNE - JUIN

S D	M L	T M	W M	T J	F V	S S
				1	2	3
4	5	6	7	8	9	10
11	**M 12**	**13**	**14**	**15**	**16**	17
18	**19**	**20**	**21**	**22**	**23**	24
25	26	27	28	29	30	

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

M

Holidays:
Jours fériés:

H

18 sitting weeks / semaines séances de la cour
77 sitting days / journées séances de la cour
9 motion and conference days / journées requêtes, conférences
4 holidays during sitting / jours fériés durant les sessions