

**SUPREME COURT  
OF CANADA**



**COUR SUPRÊME  
DU CANADA**

**BULLETIN OF  
PROCEEDINGS**

**BULLETIN DES  
PROCÉDURES**

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**APRIL 26, 1999 / LE 26 AVRIL 1999**

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

**Fred Thompson**

**v. (27024)**

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

**NATURE OF THE CASE**

Criminal Law - Defence - Honest belief in consent - Evidence - Hearsay evidence - Whether there was an “air of reality” to the Applicant’s defence of honest belief in consent? - Whether the Court of Appeal erred in law in not setting aside a conviction for sexual assault after finding error in the admissibility of hearsay evidence at trial?

**PROCEDURAL HISTORY**

|  |                                       |
|--|---------------------------------------|
| February 5, 1997<br>Court of Queen's Bench of Alberta (Langston J.)                                  | Conviction: sexual assault            |
| November 30, 1998<br>Court of Appeal of Alberta (Calgary)<br>(Hetherington, Irving and Picard JJ.A.) | Appeal from conviction dismissed      |
| February 10, 1999<br>Supreme Court of Canada   | Application for leave to appeal filed |

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**Sa Majesté la Reine**

**c. (27114)**

**Paul Kebreau (Crim.)(Qué.)**

**NATURE DE LA CAUSE**

Droit criminel - Détermination de la peine - Preuve - Le juge du procès a-t-il erré en concluant qu’il n’était pas convaincu que le fait de purger la peine dans la collectivité ne mettait pas en danger la sécurité de celle-ci strictement, à partir de sa position de juge des faits et de son appréciation personnelle de la preuve, puisque la défense avait présenté deux témoins qui avait émis des opinions contraires sur le sujet? - Le juge du procès a-t-il erré en concluant le fait de purger la peine dans un cas où il est évident que l’accusé représente une menace réelle pour la victime quoiqu’il ne représente qu’une menace potentielle pour la société? - La Cour d’appel a-t-elle erré en estimant qu’une peine d’emprisonnement était manifestement non-indiquée dans les circonstances: considérant la planification, l’extrême violence et l’utilisation d’une arme à feu dans un contexte de difficultés dans une relation de travail?

**HISTORIQUE PROCÉDURAL**

Le 23 octobre 1998  
Cour du Québec  
(Dutil j.c.s.)

Intimé trouvé coupable de chefs d'accusation de voies de fait graves, de voies de fait alors qu'en possession d'une arme, d'avoir braqué une arme à feu et de menaces de mort

Le 1 décembre 1998  
Cour d'appel du Québec  
(Brossard, Rousseau-Houle et Biron (*ad hoc*))j.c.a.)

Appel accueilli

Le 28 janvier 1999  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**Denis Russel McCullough**

**v. (27088)**

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

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal law - Whether the Court of Appeal for Ontario erred in holding that the decision in *Regina v. Chaulk*, [1990] 3 S.C.R. 1303, concerning the constitutionality of former s. 16(4) of the *Criminal Code*, was determinative of the Applicant's constitutional challenge to ss. 16(2) and (3) of the current *Code* given the recent enactment of Part XX.1 of the *Code* - Whether the Applicant, because of his history as a patient in state-run mental health facilities under the authority of Lieutenant Governor's warrant, is entitled to a constitutional exemption, pursuant to s. 24(1) of the *Charter of Rights and Freedoms*, from the application of the presumption of sanity at his trial.

**PROCEDURAL HISTORY**

November 10, 1992  
Ontario Court of Justice (General Division)  
(Soublière J.)

Convictions: Escape from lawful custody; forcible confinement; possession of a weapon; sexual assault with a weapon; and uttering a death threat

July 9, 1998  
Court of Appeal for Ontario  
(McMurtry C.J.O., Labrosse, and Abella JJ.A.)

Appeal dismissed

January 19, 1999  
Supreme Court of Canada

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

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

**Roger Dale Paterson**

**v. (27133)**

**Her Majesty the Queen (Crim.)(B.C.)**

**NATURE OF THE CASE**

Criminal law - Charge to jury - "Rolled-up charge" - Defences - Automatism - Intent - Common sense inference - Second degree murder - Jury empanelling procedure - Challenge for cause - Whether the trial judge erred in failing to allow prospective jurors to be asked about bias against homosexuals - Whether the trial judge erred in imposing a publication ban on names of witnesses - Whether the trial judge erred regarding the admissibility of witnesses' statements - Whether the trial judge adequately instructed the jury on the defences put forth by the Applicant - Whether the trial judge was obligated to give the jury a rolled-up charge putting forth the Applicant's multiple defences - Whether the trial judge adequately instructed the jury on the common sense inference.

**PROCEDURAL HISTORY**

April 12, 1995  
Supreme Court of British Columbia (Low J.)

Conviction: second degree murder

January 27, 1998  
Court of Appeal for British Columbia  
(McEachern C.J.B.C., Cumming and Hollinrake JJ.A.)

Appeal from conviction dismissed

February 8, 1999  
Supreme Court of Canada

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

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**René Marchand, Jacques Grenier, Denise Cloutier, Pierre  
Tremblay, Paul Fournier, Hélène Garon, Georges Amyot**

**c. (26880)**

**Marina de la Chaudière, Normand Roy, Daniel Pelletier, Guy  
Laganière, Procureur général du Québec, Corporation municipale Ville de St-Romuald (Qué.)**

**NATURE DE LA CAUSE**

Droit des biens - Titres de propriété - Interprétation - Contrats - Interprétation des actes de concession seigneuriale de 1636 - La théorie de l'accessoire exprimée par cette Cour en 1903 est-elle toujours d'usage dans la province de Québec? - Y a-t-il réserve expresse d'un lit de rivière lorsqu'un vendeur vend un terrain "borné à la rivière"? - L'acte de 1985 contient-il une concession de l'autre moitié du lit de la rivière en faveur des demandeurs?

**HISTORIQUE PROCÉDURAL**

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Le 20 septembre 1988  
Cour supérieure du Québec  
(de Blois J.C.S.)

Action des demandeurs en déclaration d'un droit de propriété et en injonction rejetée; demande reconventionnelle de la Corporation de la Ville de St-Romuald rejetée.

Le 8 juillet 1998  
Cour d'appel du Québec  
(Beauregard, Otis J.J.C.A. et Letarte J.C.A. (*ad hoc*))

Appel principal rejeté; pourvoi incident accueilli, jugement de première instance infirmé en ce qui concerne la Corporation de la Ville de St-Romuald, intervention accueillie en partie.

Le 28 septembre 1998  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**2897041 Canada Inc.**

**v. (26936)**

**Immobilière Natgen Inc. (Que.)**

**NATURE OF THE CASE**

Civil Code - Loan - Leases - Assignment of rentals - Art. 1571 *Civil Code of Lower Canada*, S.C. 1865, c. 41 - Acceptance of assignment - Did the Lessee accept that all rental payments due by it under a lease agreement would be paid to the Lessor's first ranking hypothecary creditor? - Declaratory judgment by the Superior Court declaring that an assignment of rentals in favour of the Lessor's second ranking hypothecary creditor had priority over the assignment of rentals to the first ranking hypothecary creditor - Judgment reversed by the Court of Appeal, assignment of rentals in favour of first ranking hypothecary creditor held to have priority.

**PROCEDURAL HISTORY**

March 31, 1993  
Superior Court of Quebec (Forget J.)

Declaratory judgment in favour of the Applicant

August 26, 1998  
Court of Appeal of Quebec  
(Deschamps, Pidgeon and Philippon (*ad hoc*) J.J.C.A.)

Appeal allowed

October 26, 1998  
Supreme Court of Canada

Application for leave to appeal filed

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**Ronald Coughlin**

**v. (27027)**

**William F. Comery and Fleury Comery (Ont.)**

**NATURE OF THE CASE**

Torts - Negligence - Solicitor-client relationship - Standard of care - Scope of retainer agreement - What is the standard of care of a lawyer to a client - The scope of a lawyer's intake consultation - Whether a lawyer who is consulted in respect of an injury and potential rights under a disability policy owes a duty to his client in respect of the potential rights in tort law - Did the lower courts dispose of this case properly.

**PROCEDURAL HISTORY**

|  |                                       |
|--|---------------------------------------|
| March 8, 1996<br>Ontario Court of Justice (General Division) (Hoilett J.)                | Applicant's action dismissed          |
| October 13, 1998<br>Court of Appeal for Ontario<br>(Finlayson, Catzman and Abella JJ.A.) | Appeal and cross-appeal dismissed     |
| December 11, 1998<br>Supreme Court of Canada   | Application for leave to appeal filed |

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

**Craig Bendt Matthiessen**

**v. (27170)**

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

**NATURE OF THE CASE**

Criminal law - Evidence - Disclosure - Stay of proceedings - Abuse of process - "Reverse sting" - Undercover police engaged in covert money laundering operation for purposes of gathering evidence of money laundering and identifying assets obtained from proceeds of crime - Applicant charged and convicted of possession of proceeds of crime, money laundering, trafficking in a narcotic and possession of cocaine for the purposes of trafficking - Whether Court of Appeal erred in law in failing to enter a stay of proceedings for abuse of process - Whether Court of Appeal erred in holding that the trial judge had made no reversible error when she dismissed an application for further disclosure - Whether Court of Appeal erred in upholding the rulings of the learned trial judge with respect to a wiretap authorization and a warrantless search of the Applicant's suitcase.

**PROCEDURAL HISTORY**

|  |   |
|--|---|
| May 29, 1995<br>Court of Queen's Bench of Alberta (Nash J.)    | Applicant's application for disclosure of evidence dismissed  |
| June 30, 1995<br>Court of Queen's Bench of Alberta (Nash J.)   | Applicant's application for stay of proceedings for abuse of process dismissed                            |
| August 20, 1996<br>Court of Queen's Bench of Alberta (Nash J.) | Application for exclusion of evidence pursuant to sections 7, 8 and 24(2) of the <i>Charter</i> dismissed |

October 4, 1996 (written reasons released November 26, 1996)  
Court of Queen's Bench of Alberta (Nash J.)

Conviction: Possession of proceeds of crime; trafficking in a narcotic, laundering the proceeds of crime and possession of cocaine for the purposes of trafficking; 7.5 years imprisonment

February 2, 1999  
Court of Appeal of Alberta  
(Côté and Berger JJ.A. and Burrows J. (*ad hoc*))

Appeal dismissed

March 3, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**Bernie Mensink, Sonya Ford, Ben Mensink, Patricia Hogan,  
Frank Dale, by his Litigation Guardian Bernie Mensink,  
Kassandra Mensink, by her Litigation Guardian Bernie Mensink,  
Amanda Mensink, by her Litigation Guardian Bernie Mensink,  
Tommy Hogan, by his Litigation Guardian Bernie Mensink,  
Cristal Hogan, by her Litigation Guardian Bernie Mensink,  
Travis Ford, by his Litigation Guardian Bernie Mensink**

v. (27135)

**Tracey Marie Dale, Jose G. Tavares  
and M C F Concrete Forming LTD. (Ont.)**

**NATURE OF THE CASE**

Torts - Motor vehicles - Damages - Claim for lost housekeeping services under s.61(2)(e) of the *Family Law Act*, R.S.O., 1990, c. F.3 - Whether the words "guidance, care and companionship" in s.61(2)(e) provide for recovery of pecuniary or non-pecuniary loss, or both - Does the *Insurance Act*, R.S.O. 1990, c. I.8, s.267.1 eliminate all claims for loss of "guidance, care and companionship", eliminate only the pecuniary aspects of claims, or not eliminate any claims?

**PROCEDURAL HISTORY**

October 17, 1997  
Ontario Court (General Division)  
(Festeryga J.)

Replacement cost of housekeeping services not compensable under the *Family Law Act*, s.61(2)(e); non-pecuniary aspect of that loss not to be assessed at replacement cost

December 7, 1998  
Court of Appeal for Ontario  
(Carthy, Doherty and Rosenberg JJ.A.)

Appeal allowed in part

February 5, 1999  
Supreme Court of Canada

Application for leave to appeal filed



**Jevco Insurance Company**

v. (27129)

**Commercial Union Assurance Company (Ont.)**

**NATURE OF THE CASE**

Commercial Law - Insurance - Whether a back-hoe is an automobile for the purposes of requiring a commercial general liability insurer of the owner of the back-hoe to indemnify a first party insurer under s. 275 of the *Insurance Act* for no-fault benefits paid with respect to injuries sustained in an accident involving an automobile and the back-hoe.

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| July 19, 1996<br>Ontario Court (General Division) (Hoilett J.)                                    | Applicant's action to declare the Respondent as a "second party insurer" dismissed |
| December 10, 1998<br>Court of Appeal for Ontario<br>(Morden A.C.J.O., Catzman, and Feldman JJ.A.) | Appeal dismissed   |
| February 8, 1999<br>Supreme Court of Canada   | Application for leave to appeal filed  |

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**Kevin Morton, Dale Morton and Brent Morton by his Litigation Guardian, Dale Morton**

v. (27130)

**The Dominion of Canada General Insurance Company (Ont.)**

**NATURE OF THE CASE**

Commercial Law - Insurance - Whether a backhoe is an automobile for the purposes of mandatory uninsured automobile coverage and optional family protection endorsement in an automobile insurance policy - Whether the Court of Appeal erred in its interpretation of the word "automobile" - The proper interpretive approach to automobile insurance legislation and contracts.

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| July 19, 1996<br>Ontario Court (General Division) (Hoilett J.)                                  | Motion for summary judgment dismissing the claim dismissed |
| December 10, 1998<br>Court of Appeal for Ontario<br>(Morden A.C.J., Catzman, and Feldman JJ.A.) | Appeal allowed and action dismissed                        |
| February 8, 1999<br>Supreme Court of Canada   | Application for leave to appeal filed                      |

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**MOTION FOR RECONSIDERATION / DEMANDE DE RÉEXAMEN**

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

Lovey Cridge v. Lawrence Pierce (B.C.)(26838)

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**JUDGMENTS ON APPLICATIONS  
FOR LEAVE**

**JUGEMENTS RENDUS SUR LES  
DEMANDES D'AUTORISATION**

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**APRIL 29, 1999 / LE 29 AVRIL 1999**

**27068**            **TONY KHUU - v. - HER MAJESTY THE QUEEN** (Crim.)(Alta.)

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 - Defence request for witness warrant for police informant - Whether the Court of Appeal erred in finding that the trial judge did not err in denying a defence application for a witness warrant pursuant to s.698(2) of the *Criminal Code* to compel the arrest and testimony of a police informant in circumstances where informant privilege had been waived.

**PROCEDURAL HISTORY**

|   |   |
|---|---|
| November 14, 1996<br>Provincial Court of Alberta (Maloney J.)                               | Conviction: 3 counts of trafficking narcotics |
| July 15, 1997<br>Provincial Court of Alberta (Maloney J.)                                   | Application for a judicial stay denied        |
| November 4, 1998<br>Court of Appeal of Alberta<br>(Hetherington, Hunt, and Sulatycky JJ.A.) | Appeal dismissed                              |
| January 4, 1999<br>Supreme Court of Canada  | Application for leave to appeal filed         |

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**27091**            **CANADIAN BROADCASTING CORPORATION - v. - HER MAJESTY THE QUEEN**  
(Crim.)(N.W.T.)

CORAM:            The Chief Justice and McLachlin and Iacobucci JJ.

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

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

**NATURE OF THE CASE**

Criminal law - *Criminal Code*, s. 486(3) - Non-publication order - Canadian Charter of Rights and Freedoms, s. 2(b) - Freedom of the press - Whether a publication ban issued under s. 486 of the *Criminal Code* should be interpreted as surviving the death of a complainant - Whether the publication ban should be interpreted as prohibiting publication of a complainant's identity in a subsequent public proceeding - Whether s. 436(4) contravenes s. 2(b) of the Charter where the publication ban is issued at the request of the prosecutor or where it is issued by a judge *ex proprio motu*.

**PROCEDURAL HISTORY**

December 10, 1997  
Supreme Court of the Northwest Territories  
(Vertes J.)

Applicant's appeal from summary conviction and sentence dismissed; Crown's appeal from the granting of a non-suit and dismissal on a second charge allowed and new trial ordered

November 3, 1998  
Court of Appeal of the Northwest Territories  
(Fraser, Foisy, and Schuler JJ.A.)

Applicant's appeals dismissed

January 13, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27134**            **HER MAJESTY THE QUEEN - v. - VINCENT EDWARD ALLAN SHERLOCK** (Crim.)(Man.)

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 - Sentencing - Whether Court of Appeal erred in law in imposing its view as to the appropriate sentence where sentence imposed by trial judge was within the range of sentences imposed by other Courts of Appeal - Whether Court of Appeal erred in failing to adequately consider the need for denunciation, deterrence, and retribution with respect to drinking and driving offences - Relevance of victim impact statements to sentence.

**PROCEDURAL HISTORY**

August 18, 1998  
Manitoba Provincial Court  
(Enns J.)

Sentence: five years imprisonment for conviction for impaired driving causing death (1 count) and three years concurrent for impaired driving causing bodily harm (3 counts); 10 year driving prohibition to take effect upon release from custody

December 9, 1998  
Court of Appeal of Manitoba (Huband and Philip JJ.A.  
and Kroft J.A. [dissenting in part])

Appeal allowed; sentence reduced to two and a half years' imprisonment and driving licence suspension reduced from ten to two years

February 5, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27032**            **ASTRID ELFREDA FLASKA - v. - DONALD HINDSON, JAMES ROBERTSON, LAWRENCE FLASKA** (Ont.)

CORAM:            The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

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**NATURE OF THE CASE**

Property law - Estates - Executors and administrators - Compensation to executors of an estate - How should a court determine a quantum of compensation which is "fair and reasonable" pursuant to section 61 of the *Trustee Act*, R.S.O. 1990, c. T. 23 - Whether the Ontario Court of Appeal erred by reducing the importance of discretionary factors in favour of a mechanical percentage calculation of executors' compensation.

**PROCEDURAL HISTORY**

|   |   |
|---|---|
| December 19, 1994<br>Ontario Court (General Division) (Boyko J.)                        | Application to pass estate accounts granted, subject to a revision of the compensation payable to the executors |
| March 3, 1995<br>Ontario (General Division) (Boyko J.)                                  | Supplementary Endorsement clarifying Reasons for decision dated December 19, 1994                               |
| September 16, 1997<br>Divisional Court (Bell, MacLeod and Ferguson JJ.)                 | Appeal allowed  |
| April 14, 1998<br>Court of Appeal for Ontario<br>(Finlayson, Krever and Weiler JJ.A.)   | Leave to appeal granted   |
| October 20, 1998<br>Court of Appeal for Ontario<br>(Krever, Doherty and O'Connor JJ.A.) | Appeal dismissed  |
| December 17, 1998<br>Supreme Court of Canada  | Application for leave to appeal filed   |

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**27064**      **YVES GAGNÉ - c. - SA MAJESTÉ LA REINE** (Crim.)(Qué.)

CORAM:      Le juge en chef et les juges McLachlin et Iacobucci

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

**NATURE DE LA CAUSE**

Droit criminel - Preuve - Défense - Divulgence de la preuve - Droit à une défense pleine et entière Arrêt des procédures - La Cour d'appel a-t-elle erré en droit, en substituant, en l'absence d'erreur de droit de la part du juge de première instance, sa propre opinion à la discrétion que celui-ci avait exercée? - La Cour d'appel a-t-elle erré en droit en ignorant complètement le principe selon lequel non seulement il faut que justice soit rendue mais aussi que justice paraisse manifestement et indubitablement être rendue? -La Cour d'appel a-t-elle erré en droit en postulant qu'existait, sans le décrire ni le proposer, un autre remède également adéquat, avantageux et efficace pour assurer que justice soit faite ou tout au moins paraisse manifestement et indubitablement être rendue au demandeur?

**HISTORIQUE PROCÉDURAL**

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Le 10 mai 1996  
Cour supérieure du Québec (chambre criminelle)  
(Pinard j.c.s.)

Ordonnances: arrêt des procédures et la libération  
immédiate des accusés

Le 9 novembre 1998  
Cour d'appel du Québec  
(Fish, Otis, et Zerbisias [*ad hoc*] j.c.a.)

Appel accueilli

Le 7 janvier 1999  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**27102**            **SANGANI OSUITOK - v. - HER MAJESTY THE QUEEN** (Crim.)(N.W.T.)

CORAM:            The Chief Justice and McLachlin and Iacobucci JJ.

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

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

**NATURE OF THE CASE**

Criminal law - Charge to the jury - Reasonable doubt - Whether the trial judge properly defined the concept of "reasonable doubt" in his charge to the jury - Whether charge was in accordance with *R. v. Lifchus*, [1997] 3 S.C.R. 320.

**PROCEDURAL HISTORY**

February 1, 1998  
Supreme Court of the Northwest Territories (Vertes J.)

Conviction: sexual assault

October 14, 1998  
Court of Appeal of the Northwest Territories  
(Foisy, Richard, and Schuler JJ.A.)

Appeal dismissed

January 22, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27008**            **CRAIG NEWTON HURFORD - v. - HER MAJESTY THE QUEEN** (Crim.) (N.S.)

CORAM:            Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal law - Whether the Nova Scotia Court of Appeal erred in law in granting leave to the Crown under s. 839 (1) of the *Criminal Code*, R.S.C. 1985, c. C-46 on matters involving a mix of fact and law arising from the decision of the Summary Appeal Court Justice - Whether the Nova Scotia Court of Appeal erred in substituting its view of the evidence in preference to that of the Summary Appeal Court Justice who on a summary

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appeal is at law the proper court for an inquiry pursuant to s. 686(1)(a)(i) of the *Criminal Code* - Whether the Nova Scotia Court of Appeal erred in law by focusing on the facts and the decision of the trial judge thereby usurping the role of the Supreme Court Summary Appeal Court Justice on Appeal and, as a result, offending the Applicant's *Charter* Rights under s. 11(h).

**PROCEDURAL HISTORY**

|   |   |
|---|---|
| February 18, 1997<br>Provincial Court of Nova Scotia<br>(MacDonald P.C.J.)                  | Conviction: sexual assault                              |
| February 26, 1998<br>Supreme Court of Nova Scotia<br>(Boudreau J.)                          | Summary conviction appeal allowed; conviction set aside |
| October 9, 1998<br>Nova Scotia Court of Appeal<br>(Glube C.J.N.S., Bateman and Flinn JJ.A.) | Appeal allowed; conviction restored                     |
| December 4, 1998<br>Supreme Court of Canada   | Application for leave to appeal filed                   |

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**27139**      **MOHINDER TANDON a.k.a. MAHINDER TANDON - v. - CANADA TRUSTCO MORTGAGE COMPANY (Ont.)**

CORAM:      Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs and the request for an oral hearing is denied.

La demande d'autorisation d'appel est rejetée avec dépens et la demande d'audition est refusée.

**NATURE OF THE CASE**

Property law - Contract law - Mortgages - Repudiation - Whether the Applicant accepted repudiation of a mortgage contract - Whether the Court of Appeal erred in law in finding that the Applicant was liable under a promissory note secured by a mortgage when the secured party had breached the loan contract and had taken possession of the secured interest.

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| September 13, 1996<br>Ontario Court of Justice (General Division) (Cavarzan J.)         | Respondent's claim and Applicant's counter-claim dismissed |
| December 7, 1998<br>Court of Appeal for Ontario<br>(Carthy, Doherty, and Feldman JJ.A.) | Appeal allowed   |
| February 5, 1999<br>Supreme Court of Canada   | Application for leave to appeal filed                      |

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**26818**            **THORNHILL AGGREGATES LTD., MONTCALM AGGREGATES LTD., MAPLE RIDGE READY-MIX LTD. and ALLARD CONTRACTORS LTD., ALBION AGGREGATE LTD. AND MAPLE RIDGE READY-MIX (1993) LTD. - v. - CORPORATION OF THE DISTRICT OF MAPLE RIDGE** (B.C.)

CORAM:            Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs.

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

**NATURE OF THE CASE**

Municipal law - Does there exist any judicial discretion in a superior court to deny an injunction to a municipality which seeks to enforce its bylaws pursuant to statutory authority? - Does a municipality owe a ratepayer any duty of fairness when the municipality considers an application pursuant to statutory authority?

**PROCEDURAL HISTORY**

|  |  |
|--|--|
| June 23, 1995<br>Supreme Court of British Columbia<br>(Huddart J.)   | Respondent's application for injunction to prohibit the Applicants from operating a concrete ready-mix plant granted but order suspended pending resolution of Applicants' counterclaim  |
| December 27, 1996<br>Supreme Court of British Columbia<br>(Robinson J.)  | Applicants' counterclaim for an order that the municipal council of Maple Ridge consider both the Applicants' application for the amendment of the Official Community Plan and re-zoning and their application for a Temporary Industrial Use Permit dismissed |
| June 23, 1998<br>Court of Appeal for British Columbia (McEachern C.J.B.C [dissenting], and Cumming and Finch JJ.A. ) | Appeals dismissed  |
| August 31, 1998<br>Supreme Court of Canada   | Application for leave to appeal filed  |

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**26590**            **JOHN LEONARD BENNETT - v. - HER MAJESTY THE QUEEN** (Crim.) (Ont.)

CORAM:            Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Criminal law - Trial - Evidence - Impaired operation of a motor vehicle causing death - Whether the Court of Appeal erred regarding the standard of appellate review - Whether the Court of Appeal erred in failing to find that the trial judge erred in leaving for the jury's consideration a totally speculative theory which provided a means of exit supporting the conclusion that the deceased was the passenger - Whether the verdict was unreasonable or unsupported by evidence.

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**PROCEDURAL HISTORY**

|  |   |
|--|---|
| November 8, 1993<br>Ontario Court (General Division) (Wren J.)                         | Conviction: impaired operation of a motor vehicle causing death; impaired driving |
| April 14, 1998<br>Court of Appeal for Ontario<br>(Finlayson, Carthy and Osborne JJ.A.) | Appeal dismissed  |
| October 15, 1998<br>Supreme Court of Canada (Binnie J.)                                | Motion for an extension of time granted   |
| October 30, 1998<br>Supreme Court of Canada  | Application for leave to appeal filed   |

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**27009**            **SERGE DIONNE - v. - ETHEL KUHLMANN** (Ont.)

CORAM:        Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs.

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

**NATURE OF THE CASE**

Procedural law - Jury trial - Charge to jury - Address to jury - New evidence - Defendant admitting liability for motor vehicle accident - Applicant claiming neck and back soft tissue injuries and psychological problems as a result of accident - Respondent's address to jury focussing on evidence of Applicant's poor character - Evidence of police officer indicating that Applicant was not present at the scene of the accident - Trial judge refusing motion to discharge jury - Whether trial judge should have dismissed the jury when this evidence was adduced by the Respondent - Whether jury's zero verdict so plainly unreasonable and unjust that no jury reviewing the evidence as a whole and acting judicially could have reached it - Whether Court of Appeal should have allowed the appeal - Whether Applicant's failure to object to charge as it concerns impugned evidence, bears on the issue before the Court when a motion to withdraw the jury due to the impugned evidence is dismissed.

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| December 12, 1995<br>Ontario Court (Divisional Court) (Marshall J.)   | Order for partial summary judgment                                 |
| June 20, 1996<br>Ontario Court (Divisional Court) (Forestell J.)  | Appellant's action dismissed                                       |
| October 9, 1998<br>Court of Appeal for Ontario (Morden A.C.J.O.,<br>Rosenberg and Spence [ <i>ad hoc</i> ] JJ.A.) | Paragraph 2 of Forestell's judgment set aside and appeal dismissed |
| December 3, 1998<br>Supreme Court of Canada   | Application for leave to appeal filed                              |

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**26976**            **KULDIP SINGH SAMRA - v. - HER MAJESTY THE QUEEN** (Ont.)

CORAM:            Cory, Major and Binnie JJ.

The motion 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**

Canadian Charter - Criminal - Procedural Law - Amicus Curiae - Conflict of Interest - Trial judge appointed lawyer as amicus curiae in criminal trial - Lawyer had previously been counsel to accused in the proceedings - Lawyer discloses information learned during solicitor-client relationship - Trial judge and Crown counsel do not rely on disclosed information - Whether appointing an amicus curiae violates an accused's s. 7 Charter rights if the accused wishes to represent himself - Whether appointing an amicus curiae contravenes *R. v. Swain*, [1991] 1 S.C.R. 933 and a defendant's right to control his own defence - Whether the appointment of the accused's former counsel as amicus curiae creates a conflict of interest or jeopardizes the fairness of the trial process.

**PROCEDURAL HISTORY**

|  |  |
|--|--|
| December 17, 1993<br>Ontario Court (General Division) (Then J.)                              | Convicted of two counts of first degree murder; Sentenced to life imprisonment without parole for 25 years |
| January 17, 1994<br>Ontario Court (General Division) (Then J.)                               | Convicted of attempt murder; Sentenced to life imprisonment without parole for 25 years                    |
| September 23, 1998<br>Court of Appeal for Ontario<br>(McKinlay, Catzman and Rosenberg JJ.A.) | Appeal dismissed   |
| November 30, 1998<br>Supreme Court of Canada   | Applications for time extension and leave to appeal filed  |

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**27094**            **SUN NEWS LAL - v. - HER MAJESTY THE QUEEN** (Crim.) (B.C.)

CORAM:            Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Canadian Charter - Criminal - Detention and search - Articulate cause - Reasonable suspicion - Information provided to a police officer described a unique vehicle and warned that its owner was to be considered armed and dangerous and a threat to a family being protected by the police officer following the slaying of two brothers in a suspected gang war - The officer spotted the vehicle within three blocks of the family's residence on a busy arterial street in Vancouver and he and his partner stopped the vehicle using specialized precautionary procedures - They searched the driver who was also the owner of the vehicle and found a loaded pistol - They arrested the driver, searched the vehicle and discovered ammunition - Whether the circumstances gave rise to articulable cause to stop, detain and search the driver - Whether detaining officer had reasonable cause to suspect that the driver was criminally implicated in the activity under

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investigation - Whether detaining officer relied upon a wholly conclusory statement or a totality of circumstances - Whether Court of Appeal lowered the objective threshold for determining reasonable cause to suspect that a detainee is criminally implicated in activity under investigation.

**PROCEDURAL HISTORY**

|  |  |
|--|--|
| December 23, 1996<br>Supreme Court of British Columbia<br>(Mackenzie J.)                     | Convicted of unlawfully carrying a concealed weapon and possession of a restricted weapon without a registration certificate; Fined and sentenced to one day on each count, concurrent |
| October 22, 1998<br>Court of Appeal for British Columbia<br>(Southin, Prowse and Ryan JJ.A.) | Appeal dismissed   |
| January 22, 1999<br>Supreme Court of Canada  | Application for leave to appeal filed  |

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**27131**      **DAVID WILLIAM LORD - v. - HER MAJESTY THE QUEEN** (Crim.) (B.C.)

CORAM:      Cory, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal law - Evidence - Applicant convicted of trespassing at Kent Institution during a private family visit with an inmate - Charges arising from Applicant's refusal to comply with order that requires visitors to "stand to" for a head count - Whether Applicant's *Charter* rights infringed - Whether proper disclosure of evidence.

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| March 3, 1998<br>Provincial Court of British Columbia<br>(Hoy J.)                       | Applicant convicted of trespassing on a federal institution contrary to S. 45 (e) of the <i>Corrections and Conditional Release Act</i> ; applicant fined \$500.00 and ordered to keep the peace and not to enter a federal institution for one year |
| September 30, 1998<br>Supreme Court of British Columbia<br>(Williams C.J.S.C.B.C.)      | Summary conviction and fine upheld; order not to enter a federal institution reduced to 6 months   |
| December 22, 1998<br>Court of Appeal for British Columbia<br>(Donald J.A., in chambers) | Application for leave to appeal denied   |
| February 8, 1999<br>Supreme Court of Canada   | Application for leave to appeal filed  |

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**26783**            **RAMEY AYRE - v. - THE NOVA SCOTIA BARRISTERS' SOCIETY** (N.S.)

CORAM:            Cory, Major and Binnie JJ.

The application for reconsideration is dismissed with costs. It is further directed that no further proceedings which relate to this leave application be accepted by the Registrar.

La demande de nouvel examen est rejetée avec dépens. Il est en outre ordonné qu'aucun autre acte de procédure relatif à la présente demande d'autorisation ne soit accepté par le registraire.

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20.4.1999

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the respondent's response**

**Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimée**

Gordon Perks

v. (27153)

Her Majesty the Queen, et al. (Crim.)(Ont.)

**GRANTED / ACCORDÉE** Time extended to April 6, 1999.

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21.4.1999

Before / Devant: THE REGISTRAR

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

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

Free World Trust

v. (26406)

Électro Santé Inc., et al. (Qué.)

**GRANTED / ACCORDÉE** Délai prorogé au 6 avril 1999 / Time extended to April 6, 1999.

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21.4.1999

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the applicant's reply**

**Requête en prorogation du délai imparti pour signifier et déposer la réplique du demandeur**

Denis Russel McCullough

v. (27088)

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

**GRANTED / ACCORDÉE** Time extended to April 1, 1999.

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21.4.1999

Before / Devant: THE CHIEF JUSTICE

**Motion for leave to intervene**

**Requête en autorisation d'intervention**

BY/PAR: Toronto Star Newspapers Limited

IN/DANS: Doug French, et al.

v. (26529)

Her Majesty the Queen, et al.  
(Crim.)(Ont.)

**DISMISSED / REJETÉE**

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21.4.1999

Before / Devant: CHIEF JUSTICE LAMER

**Motion to expedite the hearing of the appeal**

**Requête visant à accélérer l'audition de l'appel**

Guarantee Company of North America

Colin Baxter, for the motion by Gordon Capital Corporation.

v. (26654)

Ken W. Scott, Q.C., for the appellant.

Gordon Capital Corporation

and

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

Jamieson Halfnight, for the respondent Chubb Insurance.

Ian Fraser, for the respondent Laurentian General Insurance.

**GRANTED / ACCORDÉE** The hearing of this appeal will be scheduled for June 18, 1999.

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22.4.1999

Before / Devant: BASTARACHE J.

**Motion by the intervener A.G. of Canada to extend the time in which to serve and file its factum and book of authorities; to file lengthy factum by the intervener; and for additional time to present oral argument and leave to file and make reference to a report entitled “Conditional Sentence Orders by Province and Territory”**

Her Majesty the Queen

v. (26339)

Thomas Andrew Bunn (Crim.)(Man.)

and

Her Majesty the Queen

v. (26376)

Jeromie Keith D. Proulx (Crim.)(Man.)

and

Her Majesty the Queen

v. (26462)

R.N.S. (Crim.)(B.C.)

and

Her Majesty the Queen

v. (26377)

R.A.R. (Crim.)(Man.)

and

Her Majesty the Queen

v. (26329)

L.F.W. (Crim.)(Nfld.)

**Requête de l'intervenant le procureur général du Canada en prorogation du délai imparti pour signifier et déposer son mémoire et son cahier de jurisprudence et de doctrine; visant le dépôt d'un long mémoire par l'intervenant; et visant à proroger le temps accordé pour la plaidoirie et à obtenir l'autorisation de déposer un rapport intitulé “Les dispositions d'emprisonnement avec sursis par province et territoire”, et de s'y référer**

**GRANTED / ACCORDÉE**

Time extended to serve and file the intervener A.G. of Canada's factum and book of authorities to April 9, 1999, to increase length of factum to 29 pages and to increase length of oral argument to 30 minutes.

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22.4.1999

Before / Devant: BINNIE J.

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

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

Helo Lafrentz, et al.

v. (27234)

Herbert Michel (Alta.)

**GRANTED / ACCORDÉE**

IT IS HEREBY ORDERED THAT:

In light of (i) the 7-week extension granted by order of the Alberta Court of Appeal in an arguably related file 9703-415AC; (ii) the timely advice to the respondent by the applicants of their intention to seek leave to appeal to this Court; (iii) the fact the extension in this file is limited to 8 business days; and (iv) the respondent alleging no prejudice by reason of an 8-day delay; the order is to go *nunc pro tunc* without costs extending the time within which the applicants may file their leave application to April 16, 1999.

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22.4.1999

Before / Devant: BINNIE J.

**Motion for leave to intervene**

v. (26701)

BY/PAR: Ontario Catholic School Trustees' Association ("OCSTA"), the Ontario Public School Boards' Association, the Ontario English Catholic Teachers' Association, the Catholic Section of the Saskatchewan School Trustees Association and St. Paul's Roman Catholic Separate School Division #20, the British Columbia School Trustees Association, the Saskatchewan School Trustees Association ("SSTA") and the Boards of Education of the Regina School Division No. 4, et al.

Attorney General of Alberta et al. (Alta.)

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

**Requête en autorisation d'intervention**

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**GRANTED / ACCORDÉE**

1. The motion for leave to intervene of the applicant Ontario Catholic School Trustees Association (“OCSTA”) 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;
2. The motion for leave to intervene of the applicant Ontario Public School Boards’ Association 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;
3. The motion for leave to intervene of the applicant Ontario English Catholic Teachers’ Association 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;
4. The motion for leave to intervene of the applicants Catholic Section of the Saskatchewan School Trustees Association and St. Paul’s Roman Catholic Separate School Division # 20 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;
5. The motion for leave to intervene of the applicant British Columbia School Trustees Association 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;
6. The motion for leave to intervene of the applicant Saskatchewan School Trustees Association (“SSTA”) 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;
7. The motion for leave to intervene of the applicant Board of Education of the Regina School Division No. 4, et al., 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 interveners 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), each of the interveners shall pay to the appellants and respondents any additional disbursements occasioned to the appellants and respondents by the interventions.

23.4.1999

Before / Devant: BASTARACHE J.

**Motion for an extension of time and leave to intervene**

**Requête en prorogation de délai et en autorisation d'intervenir**

BY/PAR: Criminal Trial Lawyers Association

IN/DANS: Aaron Joseph Molodowic

v. (26645)

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

and

Her Majesty the Queen

v. (26570)

John Biniaris (Crim.)(B.C.)

**GRANTED / ACCORDÉE**

IT IS HEREBY ORDERED THAT:

- a) The motion for an extension of time and for leave to intervene of the applicant Criminal Trial Lawyers Association is granted, the applicant shall be entitled to serve and file a single factum not to exceed 30 pages in length and to present a single oral argument not to exceed 15 minutes;

The intervener shall serve and file their factum no later than May 31, 1999.

23.4.1999

Before / Devant: BINNIE J.

**Motion by the Attorney General of Alberta for directions on costs and motion to file a lengthy factum**

**Requête par le procureur général de l'Alberta pour obtenir des directives sur dépens et requête visant le dépôt d'un long mémoire**

The Public School Boards' Association of Alberta et al.

v. (26701)

Attorney General of Alberta et al. (Alta.)

**ALLOWED IN PART / ACCORDÉE EN PARTIE**

IT IS HEREBY ORDERED AS FOLLOWS:

This motion raises two issues.

(i) As to costs, the proper procedure would be for the applicants to file an application for leave to cross-appeal under Rule 29. An extension of time is hereby granted for that purpose to and including Monday, May 10, 1999.

(ii) As to factum length, no facta having been filed by any of the appellants, it is premature to consider whether an enlargement beyond 40 pages is either necessary or desirable.

23.4.1999

Before / Devant: BINNIE J.

**Motion for leave to intervene**

BY/PAR: Société Saint-Thomas d'Aquin --  
Société acadienne de l'Île-du-Prince-  
Édouard, la Commission nationale  
des parents francophones, la  
Commission scolaire de langue  
française de l'Île-du-Prince-Édouard,  
le Commissaire aux langues  
officielles, Attorney General of  
Ontario, Attorney General of Canada  
and Attorney General of Manitoba

IN/DANS: Noëlla Arsenault-Cameron et al.

v. (26682)

Government of Prince Edward Island  
(P.E.I.)

**GRANTED / ACCORDÉE**

IT IS HEREBY ORDERED THAT:

1. The motion for leave to intervene of La Société Saint-Thomas d'Aquin - La Société Acadienne de l'Île-du-Prince-Édouard 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;
2. The motion for leave to intervene of La Commission nationale des parents francophones 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;

**Requête en autorisation d'intervention**

L'ORDONNANCE SUIVANTE EST RENDUE:

1. La demande d'autorisation d'intervenir présentée par la Société Saint-Thomas d'Aquin - Société acadienne de l'Île-du-Prince-Édouard est accueillie; la requérante aura le droit de signifier et déposer un mémoire de 20 pages tout au plus et de présenter une plaidoirie d'une durée maximale de 15 minutes;
2. La demande d'autorisation d'intervenir présentée par la Commission nationale des parents francophones est accueillie; la requérante aura le droit de signifier et déposer un mémoire de 20 pages tout au plus et de présenter une plaidoirie d'une durée maximale de 15 minutes;
3. The motion for leave to intervene of La Commission scolaire de langue française de l'Île-du-Prince-Édouard 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;

3. La demande d'autorisation d'intervenir présentée par la Commission scolaire de langue française de l'Île-du-Prince-Édouard est accueillie; la requérante aura le droit de signifier et déposer un mémoire de 20 pages tout au plus et de présenter une plaidoirie d'une durée maximale de 15 minutes;

4. La demande d'autorisation d'intervenir présentée par le Commissaire aux langues officielles est accueillie; le requérant aura le droit de signifier et déposer un mémoire de 20 pages tout au plus et de présenter une plaidoirie d'une durée maximale de 15 minutes;

5. La demande d'autorisation d'intervenir présentée par le procureur général de l'Ontario est accueillie; le requérant aura le droit de signifier et déposer un mémoire de 20 pages tout au plus et de présenter une plaidoirie d'une durée maximale de 15 minutes;

6. La demande d'autorisation d'intervenir présentée par le procureur général du Canada est accueillie; le requérant aura le droit de signifier et déposer un mémoire de 20 pages tout au plus et de présenter une plaidoirie d'une durée maximale de 15 minutes;

7. La demande d'autorisation d'intervenir présentée par le procureur général du Manitoba est accueillie; le requérant aura le droit de signifier et déposer un mémoire de 20 pages tout au plus et de présenter une plaidoirie d'une durée maximale de 15 minutes;

Les intervenants n'auront pas le droit de produire d'autres éléments de preuve ni d'ajouter quoi que ce soit au dossier outre leurs plaidoiries et leurs mémoires respectifs.

Conformément au par. 18(6) des *Règles de la Cour suprême du Canada*, chacun des intervenants paiera aux appelants et à l'intimé tous débours supplémentaires résultant de son intervention.

4. The motion for leave to intervene of Le Commissaire aux langues officielles 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;

5. The motion for leave to intervene of Attorney General of Ontario 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;

6. The motion for leave to intervene of Attorney General of Canada 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;

7. The motion for leave to intervene of Attorney General of Manitoba 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 interveners shall not be entitled to adduce further evidence or otherwise to supplement the record apart from their factums and oral submissions.

Pursuant to Rule 18(6), each of the interveners shall pay to the appellants and respondent any additional disbursements occasioned to the appellants and respondent by the interventions.

26.4.1999

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the applicant's response to the cross-appeal**

**Requête en prorogation du délai imparti pour signifier et déposer la réponse de la requérante à l'appel incident**

Her Majesty the Queen in Right of the Province of British Columbia

v. (27065)

C.A., et al. (Crim.)(B.C.)

**GRANTED / ACCORDÉE** Time extended to April 23, 1999.

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26.4.1999

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the factum and record of the appellants' Board of Trustees of Calgary et al.**

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le dossier des appelants Board of Trustees of Calgary et al.**

Public School Boards' Association of Alberta, et al.

v. (26701)

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

**GRANTED / ACCORDÉE** Time extended to 60 days after the order setting the Constitutional Questions and the order determining the respondents motion for directions on costs and lengthy factum.

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26.4.1999

Before / Devant: THE REGISTRAR

**Motion to file a memorandum of argument on leave to appeal of over 20 pages**

**Requête pour permission de déposer un mémoire sur une demande d'autorisation de plus de 20 pages**

Roger Dale Paterson

v. (27133)

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

**GRANTED / ACCORDÉE** Permission to file 30-page memorandum of argument in support of the application for leave.

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26.4.1999

Before / Devant: BINNIE J.

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**Motion to extend the time in which to serve and file the leave application****Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation**

Donald John Parsons, Executor of the Estate of Margaret Parsons, et al.

v. (27143)

Steven A. Guymer, et al. (Ont.)

**GRANTED / ACCORDÉE** Time extended to February 8, 1999.

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26.4.1999

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the respondent's factum, record and book of authorities****Requête en prorogation du délai imparti pour signifier et déposer le mémoire, le dossier et le cahier de jurisprudence et doctrine de l'intimé**

Her Majesty the Queen

v. (26705)

Glenn White (Crim.)(Nfld.)

**GRANTED / ACCORDÉE** Time extended to June 4, 1999.

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26.4.1999

Before / Devant: BINNIE J.

**Motion for an order sealing portion of file****Requête en vue de sceller une partie du dossier**

Peter Gassyt

v. (26947)

Her Majesty the Queen (Ont.)

**GRANTED / ACCORDÉE** Motion by the applicant for an order sealing the proposed fresh evidence in a separate volume titled "Motion Record – Fresh Evidence" except for the purpose of dealing with the application for leave to appeal.

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9.4.1999

**G.D.B**

**v. (27240)**

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

**AS OF RIGHT**

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20.4.1999

**Her Majesty the Queen**

**v. (26930)**

**Marijana Ruzic (Ont.)**

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23.4.1999

**Robert Lindsay**

**v. (26954)**

**Workers' Compensation Board et al. (Sask.)**

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**APPEALS HEARD SINCE LAST ISSUE  
AND DISPOSITION**

**APPELS ENTENDUS DEPUIS LA  
DERNIÈRE PARUTION ET  
RÉSULTAT**

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22.4.1999

CORAM: Le juge en chef Lamer et les juges L'Heureux-Dubé, Gonthier, Cory, McLachlin, Iacobucci, Major, Bastarache et Binnie.

**Richter & Associés Inc., et al.**

Eugène Czolij et Patrice Benoit, pour les appelantes.

c. (26272)

**Sous-ministre du Revenu du Québec, et al. (Qué.)**

René Bourassa et François Marcoux, pour l'intimé.

**RESERVED / EN DÉLIBÉRÉ**

**Nature de la cause:**

Droit commercial - Droit fiscal - Faillite - Législation -  
Interprétation - Fiducie réputée - Retenues à la source -  
Dette fiscale - Critères d'application d'une fiducie  
réputée.

**Nature of the case:**

Commercial law - Taxation - Bankruptcy - Statutes -  
Interpretation - Deemed trust - Source deductions - Tax  
liability - Proper test for deemed trust.

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23.4.1999

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Gonthier, Cory, McLachlin, Iacobucci, Major, Bastarache and Binnie JJ.

**Her Majesty the Queen**

Susan Kyle, for the appellant.

v. (26755)

**Elaine Trombley (Crim.)(Ont.)**

Marie Henein, for the respondent.

[TRANSLATION]

**THE CHIEF JUSTICE:**

This appeal comes to us as of right. We all agree substantially with the reasons and disposition of the case by the majority of the Court of Appeal of Ontario. Accordingly, the appeal is therefore dismissed and the order for a new trial on the charge of manslaughter is confirmed.

**LE JUGE EN CHEF:**

Le présent pourvoi est formé de plein droit. Nous sommes d'accord, pour l'essentiel, avec les motifs des juges majoritaires de la Cour d'appel de l'Ontario et avec la façon dont ils ont statué sur l'affaire. En conséquence, le pourvoi est rejeté et l'ordonnance de nouveau procès relativement à l'accusation d'homicide involontaire coupable est confirmée.



27.4.1999

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Gonthier, Cory, McLachlin, Iacobucci, Major, Bastarache and Binnie JJ.

**Thomas Bruce Baker**

**v. (26562)**

**Monica Frieda Francis (Ont.)**

Stephen M. Grant and Megan E. Shortreed, for the appellant.

Nicole Tellier and Kelly D. Jordan, for the respondent.

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Family law - Divorce - Child maintenance - Application of Federal Child Support Guidelines - Incomes over \$150,000 - Whether Court of Appeal erred in interpreting s. 4(b) of the Guidelines.

**Nature de la cause:**

Droit de la famille — Divorce — Aliments d'un enfant — Application des Lignes directrices fédérales sur les pensions alimentaires pour enfants — Revenus supérieurs à 150 000 \$ — La Cour d'appel a-t-elle commis une erreur en interprétant l'alinéa 4b) des Lignes directrices.

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**APRIL 29, 1999 / LE 29 AVRIL 1999**

**RICHTER & ASSOCIÉS INC. - c. - LE SOUS-MINISTRE DU REVENU DU QUÉBEC - et entre - TREMBLAY & COMPAGNIE SYNDICS ET GESTIONNAIRES LTÉE - c. - LE SOUS-MINISTRE DU REVENU DU QUÉBEC - et - LE PROCUREUR GÉNÉRAL DU CANADA AUX DROITS DU MINISTÈRE DU REVENU DU CANADA** (Qué.)(26272)

CORAM: Le Juge en chef et les juges L'Heureux-Dubé, Gonthier, Cory, McLachlin,  
Iacobucci, Major, Bastarache et Binnie

**PAR LA COUR:**

Dans l'affaire de la faillite de Nolisair International Inc.:

Le pourvoi est accueilli essentiellement aux motifs de M. le juge Fish de la Cour d'appel du Québec, l'arrêt de la Cour d'appel est infirmé et le jugement rendu par M. le juge Durand de la Cour supérieure est rétabli avec dépens dans toutes les cours.

- et -

Dans l'affaire de la faillite de Sécurité Saglac (1992) Inc.:

Le pourvoi est accueilli essentiellement aux motifs de M. le juge Fish de la Cour d'appel du Québec, l'arrêt de la Cour d'appel est infirmé et le jugement est rendu conformément aux conclusions de M. le juge Fish, le tout avec dépens dans toutes les cours.

[TRANSLATION]

**BY THE COURT:**

In the matter of the bankruptcy of Nolisair International Inc.:

The appeal is allowed essentially for the reasons given by Fish J.A. of the Quebec Court of Appeal, the judgment of the Court of Appeal is set aside and the judgment rendered by Durand J. of the Superior Court is restored with costs throughout.

- and -

In the matter of the bankruptcy of Sécurité Saglac (1992) Inc.:

The appeal is allowed essentially for the reasons given by Fish J.A. of the Quebec Court of Appeal, the judgment of the Court of Appeal is set aside and judgment is rendered in accordance with the conclusions of Fish J.A., the whole with costs throughout.

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## WEEKLY AGENDA

## ORDRE DU JOUR DE LA SEMAINE

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**AGENDA for the week beginning May 3, 1999.**

**ORDRE DU JOUR pour la semaine commençant le 3 mai 1999.**

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Date of Hearing/  
Date d'audition

Case Number and Name/  
Numéro et nom de la cause

1999/05/03

Motions – Requêtes

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### **NOTE:**

This agenda is subject to change. Hearing dates should be confirmed with Process 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.

## DEADLINES: MOTIONS

## DÉLAIS: REQUÊTES

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### BEFORE THE COURT:

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

**Motion day : May 3, 1999**

Service : April 12, 1999  
Filing : April 19, 1999  
Respondent : April 26, 1999

**Motion day : June 7, 1999**

Service : May 17, 1999  
Filing : May 24, 1999  
Respondent : May 31, 1999

### DEVANT LA COUR:

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

**Audience du : 3 mai 1999**

Signification : 12 avril 1999  
Dépôt : 19 avril 1999  
Intimé : 26 avril 1999

**Audience du : 7 juin 1999**

Signification : 17 mai 1999  
Dépôt : 24 mai 1999  
Intimé : 31 mai 1999

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SUPREME COURT OF CANADA SCHEDULE  
CALENDRIER DE LA COUR SUPREME

- 1998 -

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

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

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

- 1999 -

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

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

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

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

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

| JUNE - JUIN |        |        |        |        |        |        |
|-------------|--------|--------|--------|--------|--------|--------|
| S<br>D      | M<br>L | T<br>M | W<br>M | T<br>J | F<br>V | S<br>S |
|             |        | 1      | 2      | 3      | 4      | 5      |
| 6           | M<br>7 | 8      | 9      | 10     | 11     | 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:

Holidays:  
Jours fériés:



18 sitting weeks / semaines séances de la cour

81 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

3 holidays during sitting days / jours fériés durant les sessions