

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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CONTENTS**TABLE DES MATIÈRES**

Applications for leave to appeal filed	663	Demandes d'autorisation d'appel déposées
Applications for leave submitted to Court since last issue	664	Demandes soumises à la Cour depuis la dernière parution
Motions	665 - 669	Requêtes
Appeals heard since last issue and disposition	670 - 672	Appels entendus depuis la dernière parution et résultat

**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Her Majesty the Queen

Christine Bartlett-Hughes
A.G. of Ontario

v. (31406)

J.C. (Ont.)

Enzo M. Battigaglia

FILING DATE: 12.4.2006

Fred Holtslag

James K. McFadyen
Parlee, McLaws

v. (31411)

**Her Majesty the Queen in Right of the Province of
Alberta (Alta.)**

Robert B. Whilte, Q.C.
Davis & Company

FILING DATE: 13.4.2006

Serge Giard

Serge Giard

v. (31409)

Yves Beaulieu, et autres (Qc)

Armand Poupart Jr.
Poupart & Poupart

FILING DATE: 18.4.2006

Besime Kallaba

Patrick Di Monte

v. (31412)

Bashkim (Brian) Bylykbashi (Ont.)

D. Smith
Smith Family Law Group

FILING DATE: 18.4.2006

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

Noel Joshua McCallum

Fergus J. (Chip) O'Connor

v. (31418)

Her Majesty the Queen (Ont.)

Karen Shai
A.G. for Ontario

FILING DATE: 19.4.2006

Karlheinz Schreiber

Edward L. Greenspan, Q.C.
Greenspan, White

v. (31340)

The Federal Republic of Germany, et al. (Ont.)

Robert W. Hobbard
A.G. of Canada

FILING DATE: 28.4.2006

Rakesh Saxena

George K. Macintosh, Q.C.

v. (31342)

Minister of Justice of Canada (B.C.)

Deborah J. Strachan
A.G. of Canada

FILING DATE: 28.4.2006

Garry J. Hart

Ewan Lyttle
McCann Law Offices

v. (31433)

Her Majesty the Queen (Ont.)

Kenneth L. Campbell
A.G. of Ontario

FILING DATE: 28.4.2006

MAY 8, 2006 / LE 8 MAI 2006

**CORAM: Chief Justice McLachlin and Charron and Rothstein JJ.
La juge en chef McLachlin et les juges Charron et Rothstein**

1. *Hassan S. Nazarali v. Her Majesty the Queen* (Ont.) (Criminal) (By Leave) (31348)
2. *Her Majesty the Queen v. K.R.T.* (Man.) (Criminal) (By Leave) (31123)
3. *Karl William Buchmann v. Her Majesty the Queen* (Sask.) (Criminal) (By Leave) (31310)
4. *G. Basmadji, Scientist v. The Crown* (F.C.) (Civil) (By Leave) (31382)
5. *Douglas Kerr, et al. v. Danier Leather Inc., et al.* (Ont.) (Civil) (By Leave) (31321)
6. *Antony Tsai v. Health Professions Appeal and Review Board, et al.* (Ont.) (Civil) (By Leave) (31401)

**CORAM: Bastarache, LeBel and Fish JJ.
Les juges Bastarache, LeBel et Fish**

7. *A.C. c. Sa Majesté la Reine* (Qc) (Criminelle) (Autorisation) (31235)
8. *Raynald Grenier c. Procureur général du Québec (Ministère des transports du Québec)* (Qc) (Civile) (Autorisation) (31363)
9. *Stephen M. Byer v. Bar of Montreal, et al.* (Que.) (Civil) (By Leave) (31387)
10. *Cheryl Jean Forsyth Phillips, otherwise known as Sherry Avena Phillips v. Marion R. Phillips, Herbert D. Wyman, Q.C., Allan J. McKinnon, C.A., personal representatives of the Estate of Joseph Albert Phillips, deceased, et al.* (Alta.) (Civil) (By Leave) (31358)
11. *Sylvain Dandurand, et al. c. Ville de Granby* (Qc) (Civile) (Autorisation) (31354)

**CORAM: Binnie, Deschamps and Abella JJ.
Les juges Binnie, Deschamps et Abella**

12. *Victor Polewsky v. Corporation of the City of London* (Ont.) (Criminal) (By Leave) (31305)
13. *Naseem Jamal v. Ontario Public Service Employees' Union ("OPSEU"), et al.* (Ont.) (Civil) (By Leave) (31386)
14. *Jardine Lloyd Thompson Canada Inc., et al. v. SJO Catlin & Others Syndicates 1003 and 2003 @ Lloyd's of London, et al.* (Alta.) (Civil) (By Leave) (31351)
15. *Salavatore Gramaglia v. Alberta Government Services Minister, et al.* (Alta.) (Civil) (By Leave) (31361)
16. *Jean Su v. McGill University* (Que.) (Civil) (By Leave) (31359)
17. *Loretta Foods Limited, et al. v. Market Leadership Inc.* (Ont.) (Civil) (By Leave) (31325)

4.5.2006

Before / Devant: LEBEL J.

Orders on interventions with respect to oral argument

Ordonnances relatives à la présentation d'une plaidoirie orale par les intervenants

RE: Canadian Generic Pharmaceutical Association;
Canada's Research-Based Pharmaceutical Companies

IN / DANS: Apotex Inc.

v. (30985)

AstraZeneca Canada Inc., et al.

- AND -

Apotex Inc.

v.

AstraZeneca Canada Inc., et al. (F.C.)

GRANTED / ACCORDÉES

FURTHER TO THE ORDER of Charron J. dated April 19, 2006, granting leave to intervene to the Canadian Generic Pharmaceutical Association and the Canada's Research-Based Pharmaceutical Companies;

IT IS HEREBY FURTHER ORDERED THAT the said interveners are each granted permission to present oral argument not exceeding fifteen (15) minutes at the hearing of the appeal.

4.5.2006

Before / Devant: LEBEL J.

Motion for additional time to present oral argument

Requête en prolongation du temps alloué pour la plaidoirie orale

Apotex Inc.

v. (30985)

AstraZeneca Canada Inc., et al.

- AND -

Apotex Inc.

v.

AstraZeneca Canada Inc., et al. (F.C.)

GRANTED IN PART / ACCORDÉE EN PARTIE

UPON APPLICATION by the Respondent, AstraZeneca Canada Inc., for an Order that the Respondents the Minister of Health and the Attorney General of Canada to present their oral argument before the Respondent AstraZeneca Canada Inc. and for an Order varying the time to present oral argument at the hearing of the appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The time for oral argument by the appellant and respondents in this appeal shall be as follows:

1. The appellant, Apotex Inc., shall have in total fifty-five (55) minutes for oral argument and five (5) minutes in reply;
2. The respondent, AstraZeneca Canada Inc., shall have in total fifty-five (55) minutes for oral argument;
3. The respondents, the Minister of Health and the Attorney General of Canada, shall present their oral argument before the Respondent AstraZeneca Canada Inc. and have in total fifteen (15) minutes for oral argument.

4.5.2006

Before / Devant: LEBEL J.

Motions for leave to intervene**Requêtes en autorisation d'intervenir**

BY / PAR: University of Toronto, Faculty of Law – International Human Rights Clinic and Human Rights Watch; Criminal Lawyers' Association (Ontario); Canadian Council of American-Islamic Relations and Canadian Muslim Civil Liberties Association; Canadian Bar Association; Canadian Civil Liberties Association; Canadian Council for Refugees, African Canadian Legal Clinic, International Civil Liberties Monitoring Group and National Anti-Racism Council of Canada; Amparo Torres Victoria and Refugee Lawyers' Association of Ontario; Amnesty International Canada; Federation of Law Societies of Canada; British Columbia Civil Liberties Association; Canadian Lawyers for International Human Rights; Mahmoud Es Sany Jaballah and Mohammad Zeki Mahjoub;

Conseil musulman de Montréal /
Muslim Council of Montréal;
Omar Ahmed Khadr;
Canadian Arab Federation;
Attorney General of Ontario;
League for Human Rights of B'nai
Brith Canada

IN / DANS: Adil Charkaoui

v. (30762)

Minister of Citizenship and
Immigration, et al. (F.C.)

- AND -

Hassan Almrei

v. (30929)

Minister of Citizenship and
Immigration, et al. (F.C.)

- AND -

Mohamed Harkat

v. (31178)

Minister of Citizenship and
Immigration, et al. (F.C.)

UPON APPLICATIONS by University of Toronto, Faculty of Law – International Human Rights Clinic and Human Rights Watch; Criminal Lawyers' Association (Ontario); Canadian Council of American-Islamic Relations and Canadian Muslim Civil Liberties Association; Canadian Bar Association; Canadian Civil Liberties Association; Canadian Council for Refugees, African Canadian Legal Clinic, International Civil Liberties Monitoring Group and National Anti-Racism Council of Canada; Amparo Torres Victoria and Refugee Lawyers' Association of Ontario; Amnesty International Canada; and, Federation of Law Societies of Canada for leave to intervene in the above three appeals, *Adil Charkaoui* (30762), *Hassan Almrei* (30929) and *Mohamed Harkat* (31178);

AND UPON APPLICATION by British Columbia Civil Liberties Association for an extension of time to apply for leave to intervene and for leave to intervene in the appeal of *Adil Charkaoui* (30762); and for leave to intervene in the appeals of *Hassan Almrei* (30929) and *Mohamed Harkat* (31178);

AND UPON APPLICATION by Canadian Lawyers for International Human Rights in the appeals of *Adil Charkaoui* (30762) and *Hassan Almrei* (30929);

AND UPON APPLICATION by Mahmoud Es Sany Jaballah and Mohammad Zeki Mahjoub in the appeals of *Adil Charkaoui* (31762) and *Mohamed Harkat* (31178);

AND UPON APPLICATIONS by Conseil musulman de Montréal / Muslim Council of Montréal; Omar Ahmed Khadr; and Canadian Arab Federation in the appeal of *Adil Charkaoui* (30762);

AND UPON APPLICATIONS by Attorney General of Ontario; and League for Human Rights of B'nai Brith Canada in the appeals of *Hassan Almrei* (30929);

AND THE MATERIAL FILED having been read;

IT IS HEREBY ORDERED THAT:

INTERVENTIONS IN ALL THREE (3) APPEALS, ADIL CHARKAOUI (30762), HASSAN ALMREI (30929) AND MOHAMED HARKAT (31178)

The motions for leave to intervene of the applicants University of Toronto, Faculty of Law – International Human Rights Clinic and Human Rights Watch, are granted and the applicants shall be entitled to serve and file a single joint factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicant, Criminal Lawyers' Association (Ontario), are granted and the applicant shall be entitled to serve and file a single factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicants, Canadian Council of American-Islamic Relations and Canadian Muslim Civil Liberties Association, are granted and the applicants shall be entitled to serve and file a single joint factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicant, Canadian Bar Association, are granted and the applicant shall be entitled to serve and file a single factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicant, Canadian Civil Liberties Association, are granted and the applicant shall be entitled to serve and file a single factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicants, Canadian Council for Refugees, African Canadian Legal Clinic, International Civil Liberties Monitoring Group and National Anti-Racism Council of Canada, are granted and the applicants shall be entitled to serve and file a single joint factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicant, Amnesty International Canada, are granted and the applicant shall be entitled to serve and file a single factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicant, Federation of Law Societies of Canada, are granted and the applicant shall be entitled to serve and file a single factum not to exceed 20 pages in length on or before May 26, 2006.

The motion for an extension of time to apply for leave to intervene and for leave to intervene of the applicant, British Columbia Civil Liberties Association, is granted and the applicant shall be entitled to serve and file a single factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicants Amparo Torres Victoria and Refugee Lawyers' Association of Ontario are dismissed.

INTERVENTIONS IN CHARKAOUI (30762) AND ALMREI (30929)

The motions for leave to intervene of the applicant Canadian Lawyers for International Human Rights are dismissed.

INTERVENTIONS IN CHARKAOUI (30762) AND HARKAT (31178)

The motions for leave to intervene of the applicants Mahmoud Es Sayy Jaballah and Mohammad Zeki Mahjoub are dismissed.

INTERVENTIONS IN CHARKAOUI (30762)

The motion for leave to intervene of the applicant, Canadian Arab Federation, is granted and the applicant shall be entitled to serve and file a single factum not to exceed 20 pages in length on or before May 26, 2006.

The motions for leave to intervene of the applicants Conseil musulman de Montréal / Muslim Council of Montréal; and Omar Ahmed Khadr are dismissed.

INTERVENTIONS IN ALMREI (30929)

The motion for leave to intervene of the applicant, Attorney General of Ontario, is granted and the applicant shall be entitled to serve and file a single factum not to exceed 20 pages in length on or before May 26, 2006.

The motion for leave to intervene of the applicant, League for Human Rights of B'nai Brith Canada is dismissed.

The requests to present oral argument are deferred to a date following receipt and consideration of the written arguments of the parties and the interveners.

The interveners shall not be entitled to raise new issues or to adduce further evidence or otherwise to supplement the record of the parties.

Pursuant to Rule 59(1)(a) of the *Rules of the Supreme Court of Canada* the interveners shall pay to the appellant and respondents any additional disbursements occasioned to the appellant and respondents by their interventions.

9.5.2006

Coram: The Chief Justice McLachlin and Bastarache, Binnie, LeBel, Deschamps, Fish, Abella, Charron and Rothstein JJ.

Jocelyn Binet

Philippe Frère, Odette Jobin-Laberge et Josiane L'Heureux pour l'appelant/intimé Jocelyn Binet

c.

Pharmascience Inc., et al.

Benoit Belleau et Pierre Arquin pour l'appelant/intimé,
Procureur général du Québec

(Premier appel)

ET

Procureur général du Québec

Guy Du Pont, Marc-André Boutin, Mathieu Bouchard et
Jean-Philippe Groleau pour les intimés, Pharmascience
Inc. et Morris S. Goodman

c. (30995)

Jocelyn Binet, et al. (Qc)

(Deuxième appel)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter (civil) - Labour law - Law of professions - Statutes - Interpretation - Disciplinary inquiry by syndic of pharmacists - Pharmaceutical company subject to injunction to produce documents for an inquiry into illegal benefits given to pharmacists by manufacturers of generic drugs - *Canadian Charter of Rights and Freedoms*, s. 8 - *Professional Code*, R.S.Q., c. C-26, ss. 2, 114 and 122 - Whether, in conducting inquiry, syndic of professional order can require third party to provide documents - Whether Superior Court could issue injunction requiring Respondent Pharmascience to hand over documents sought by syndic.

Nature de la cause :

Charte canadienne (civil) - Droit du travail - Droit des professions - Législation - Interprétation - Enquête disciplinaire du syndic des pharmaciens - Compagnie pharmaceutique visée par une injonction de produire des documents dans le cadre d'une enquête relative aux avantages versés illégalement aux pharmaciens par des fabricants de médicaments génériques - *Charte canadienne des droits et libertés*, art. 8 - *Code des professions*, L.R.Q. ch. C-26, art. 2, 114 et 122 - Dans le cadre d'une enquête, le syndic d'un ordre professionnel peut-il exiger d'un tiers qu'il fournisse des documents? - La Cour supérieure pouvait-elle émettre une injonction contraignant l'intimée Pharmascience à remettre au syndic les documents recherchés?

9.5.2006

Coram: The Chief Justice McLachlin and Bastarache, Binnie, LeBel, Deschamps, Fish, Abella, Charron and Rothstein JJ.

Stephen John Trochym

James Lockyer and C. Anik Morrow for the Appellant

v. (30717)

Sa Majesté la Reine (Ont.)

Kenneth L. Campbell and Howard Leibovich for the Respondent

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal Law (Non Charter) – Evidence – Procedural law – Trial – Whether hypnotically enhanced memories ought to be admissible at trial – Whether trial courts ought to limit the quantity and quality of post-offence conduct evidence that a jury can hear – Whether Crown counsel engaged in inappropriate cross-examination of the accused – Consequences to the verdict when boundaries of cross-examination are exceeded.

Nature de la cause :

Droit criminel (Excluant la Charte) – Preuve – Procédure – Procès – Devrait-on admettre en preuve des souvenirs ravivés par hypnose? – Les tribunaux de première instance devraient-ils limiter, en quantité et en qualité, la preuve relative au comportement postérieur à l'infraction qu'un jury peut entendre? - L'avocat de la poursuite a-t-il procédé à un contre-interrogatoire inapproprié de l'accusé? – Quelles sont les conséquences sur le verdict d'un contre-interrogatoire dont on a excédé les limites?

10.5.2006

Coram: The Chief Justice McLachlin and Bastarache, Binnie, LeBel, Deschamps, Fish, Abella, Charron and Rothstein JJ.

Donald J. Ritchie et al.

v. (31001)

Stephanie Suzanne Walker, et al. (Ont.)

Earl A. Cherniak Q.C., and Andra L. Maxwell-Baker for the Appellants

Ronald G. Slaght, Q.C. and Rebecca Jones for the Respondents

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Procedural law - Costs - Premium - Whether it is appropriate to award the lawyer of a successful party a premium for the risk of non-payment of fees and disbursements that is payable by the unsuccessful opposing party in the litigation, over and above the legal fees and disbursements otherwise awarded to the successful party.

Nature de la cause :

Procédure - Dépens - Indemnité - Y a-t-il lieu d'accorder à l'avocat de la partie obtenant gain de cause une indemnité, payable par la partie déboutée, pour le risque de non-paiement de ses honoraires et débours, en sus des frais de justice et débours accordés par ailleurs?

11.5.2006

Coram: The Chief Justice McLachlin and Bastarache, Binnie, LeBel, Deschamps, Fish, Abella, Charron and Rothstein JJ.

Apotex Inc.

Harry B. Radomski, Andrew R. Brodtkin and Miles Hastie for the Appellant

v.

Astrazeneca Canada Inc. et al.

Peter M. Southey and Frederick B. Woyiwada for the Respondents Minister of Health and Attorney General of Canada

AND

Apotex Inc.

Gunars A. Gaikis, Yoon Kang, Nancy P. Pei and Colin B. Ingram for the Respondent AstraZeneca Canada Inc.

v. (30985)

Astrazeneca Canada Inc. et al.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Statutes - Property law - Patents - Interpretation - Patented medicines - Should this Court intervene to clarify when a generic drug may be brought to the market by interpreting the “gateway” provisions of the *Patented Medicines (Notice of Compliance) Regulations*, SOR/93-133 for the first time? - Is the approach to statutory construction in *Biolyse [Bristol-Myers Squibb Co. v. Canada (Attorney General), 2005 SCC 26]* restricted to subsection 5(1.1) of the *Regulations*, or should every provision of the *Regulations* be interpreted with an eye to effecting the same balance of interest under the *Patent Act*, R.S.C. 1985, C. P-4? - Is the object of every provision of the *Regulations* concerned with preservation of patent rights, generally, or prevention of abuse of subsections 55.2(1) and (2) of the *Patent Act*? - Can a patentee gain a statutory injunction to prevent competition by commencing unmeritorious prohibition proceedings, then ‘evergreen’ the injunction by gaining new and unused NOCs with new patent lists during the pendency of the stay?

Nature de la cause :

Lois - Droit des biens - Brevets - Interprétation - Médicaments brevetés - Y a-t-il lieu que notre Cour précise quand un médicament générique peut être commercialisé, en interprétant pour la première fois les dispositions « d'accès au régime » du *Règlement sur les médicaments brevetés (avis de conformité)*, DORS/93-133? - Les règles d'interprétation formulées dans *Biolyse [Bristol-Myers Squibb Co. c. Canada (Procureur général), 2005 CSC 26]* concernent-elles uniquement le paragraphe 5(1.1) du *Règlement* ou faut-il interpréter toutes les dispositions du *Règlement* en recherchant le même équilibre entre divers intérêts conformément à la *Loi sur les brevets*, L.R.C. 1985, ch. P-4? - Toutes les dispositions du *Règlement* ont-elles pour objet de protéger les droits afférents aux brevets en général ou de prévenir l'utilisation abusive des paragraphes 55.2(1) et (2) de la *Loi sur les brevets*? - Un titulaire de brevet peut-il obtenir une injonction légale empêchant la concurrence en introduisant une instance non fondée en interdiction puis en « renouvelant à perpétuité » cette injonction par l'obtention de nouveaux AC non utilisés avec de nouvelles listes de brevets pendant le délai d'interdiction?

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2005 -

OCTOBER - OCTOBRE						
S D	M L	T M	W M	T J	F V	S S
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2	3	4	5	6	7	8
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16						22
23 30	24 31					29

NOVEMBER - NOVEMBRE						
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27						

DECEMBER - DECEMBRE						
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25	H 26	H 27				31

- 2006 -

JANUARY - JANVIER						
S D	M L	T M	W M	T J	F V	S S
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FEBRUARY - FÉVRIER						
S D	M L	T M	W M	T J	F V	S S
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26						

MARCH - MARS						
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APRIL - AVRIL						
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MAY - MAI						
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JUNE - JUIN						
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18						24
25						

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

18
9
5

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

