

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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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.

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Marcel Cinq-Mars, c.r.
Fasken Martineau DuMoulin s.r.l.

c. (28027)

Le procureur général du Québec (Qué.)

Marcus Spivock
Bernard Roy & Associés

DATE DE PRODUCTION 28.7.2000

Biscuits Leclerc Ltée

Éric Lemay
Desjardins Ducharme Stein Monast

c. (28039)

**Compagnie d'assurance-vie Transamérica
Occidental (Qué.)**

René Vallerand
Pépin Létourneau

DATE DE PRODUCTION 4.8.2000

Her Majesty the Queen et al.

Graham Garton, Q.C.
A.G. of Canada

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George William Harris (F.C.A.)

Arne Peltz
Public Interest Law Centre

FILING DATE 8.8.2000

Construction Aggregates Ltd.

Charles F. Willms
Fasken Martineau DuMoulin LLP

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Paul T. McGivern
Harper Grey Easton

FILING DATE 2.8.2000

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David Duncan

E.J. Mockler, Q.C.
Mockler Peters Oley Rouse & Williams

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Confederation Trust Company et al. (N.B.)

Wayne R. Chapman, Q.C.
Stewart McKelvey Stirling Scales

FILING DATE 2.8.2000

Tysanna Robertson

Deren R. Lacey
Lacey Law Offices

v. (28044)

**Orrin Hart executor for Maurice Rupert King
(Alta.)**

Michael J. Swanson
Beaumont Church

FILING DATE 8.8.2000

Abitibi-Consolidated Inc.

Harold M. Smith
Stewart McKelvey Stirling Scales

v. (28050)

**Communications, Energy and Paperworkers
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Robert Breen, Q.C.
Pink Breen Larkin

FILING DATE 10.8.2000

Harry Morison Lay

John M. Freeman
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Gordon Berscheid
Morris A. Rosenberg
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Joel Hesje
McKercher, McKercher & Whitmore

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André Ouellet

André Ouellet

c. (28064)

Sa Majesté la Reine (Qué.)

Clément Goulet

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Harry Bell et al.

Leslie M. Little, Q.C.
Thorsteinssons

v. (28065)

Her Majesty the Queen (F.C.A.)

Morris A. Rosenberg
A.G. for Canada

FILING DATE 16.8.2000

Regent Millette

Regent Millette

c. (28045)

Marcel Dagenais et al. (Qué.)

Judah Lyon Wolofsky

DATE DE PRODUCTION 9.8.2000

Adam John Spencer

Mark S. Raftus
Wagner & Associates

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Michel J. Messenger
Cox Hanson O'Reilly Matheson

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John J.L. Hunter, Q.C.
Davis & Company

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Thomas H. MacLachlan
A.G. of British Columbia

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Paramount Towing Ltd.

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MacLeod Dixon

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McLeod & Company

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Drew S. Plaxton
Walker, Plaxton & Co.

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Kevin C. Wilson
MacPherson, Leslie & Tyerman

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United Food and Commercial Workers, Local 1400

Drew S. Plaxton
Walker, Plaxton & Co.

v. (28058)

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Westfair Foods Ltd.) et al. (Sask.)**

L.F. Seiferling, Q.C.
Gauley & Co.

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Canadian Drug Manufacturers Association

Ronald G. Slaght, Q.C.
Lenczner Slaght Royce Smith Griffin

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James O'Reilly
O'Reilly Mainville & Associés

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R. Woyiwada
A.G. of Canada

and

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H.B. Radomski
Goodman Phillips & Vineberg

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Robert Monette
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Douglas Clifford Cogswell

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A.G. of Canada

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Randy W. DiPaolo
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Mark Casey

Christopher Hicks
Hicks Block Adams

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W. Graeme Cameron
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L.K.W.

Damien R. Frost
Lomer & Frost

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W. Graeme Cameron
Min. of the A.G. for Ontario

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W.D. Sinclair
Dept. of Justice

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Jean-Sébastien Clément
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Robert Monette
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John Grabowski et al.

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Barry Hornsberger
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François Taddeo

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Jean-Marie Tanguay
Substitut du procureur général

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Pierre Mailloux

Pierre Mailloux

c. (28072)

Revenu Canada (C.A.F.)

Jannie Payette
Ministère de la Justice

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158514 Canada Inc. (Place du Saguenay), et al.

Illeana Edelstein
Bell Rudick Edelstein Lesco

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Stéphane Lachance & Associés Inc. in its quality as Trustee in the Bankruptcy of Groupe Boutique Chérie Inc. (Que.)

Denis A. Lapierre
Leduc Leblanc

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Sound Contracting Ltd.

Brian G. McLean
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Guy E. McDannold
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Aylesworth Thompson Phelan

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Canadian Imperial Bank of Commerce

Josiah Wood, Q.C.
Blake, Cassels & Graydon LLP

v. (28012)

Samos Investments Inc. et al. (B.C.)

Darrell Roberts, Q.C.
Roberts & Baker

FILING DATE 18.8.2000

and between

Gowling Lafleur Henderson

James A. Pattison, et al.

Irwin G. Nathanson, Q.C.
Nathanson, Schachter & Thompson

FILING DATE 21.8.2000

and between

v. (28012)

Samos Investments Inc. (B.C.)

Darrell W. Roberts, Q.C.
Roberts & Baker

FILING DATE 18.8.2000

and between

Donald C. Selman

James P. Taylor, Q.C.
J. Christopher Russell
Taylor Jordan Chafetz

v. (28012)

Samos Investments Inc. (B.C.)

Darrell W. Roberts, Q.C.
Roberts & Baker

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Hughes Communications Inc.

Colin K. Irving
Douglas C. Mitchell
Irving, Mitchell & Associates

v. (28070)

Spar Aerospace Limited (Que.)

Marc-André Blanchard
Gowling Lafleur Henderson

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and between

Westinghouse Electric Corporation

Joshua C. Borenstein
Spiegel Sohmer

v. (28070)

Spar Aerospace Limited (Que.)

Marc-André Blanchard

American Mobile Satellite Corporation

James A. Woods
Christian Immer
Vikki Andrighetti
Woods & Partners

v. (28070)

Spar Aerospace Limited (Que.)

Marc-André Blanchard
Gowling Lafleur Henderson

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and between

Satellite Transmissions Systems Inc.

Jean Bélanger
Lavery, de Billy

v. (28070)

Spar Aerospace Limited (Que.)

Marc-André Blanchard
Gowling Lafleur Henderson

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Chief and Council of the Shubenacadie Indian Band

Bruce H. Wildsmith, Q.C.

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Attorney General of Canada, representing the Minister of Indian Affairs and Northern Development (F.C.A.)

Jonathan D.N. Tarlton
A.G. of Canada

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Jon Lloyd Van Bergen a.k.a. John Lloyd Van Bergen

E. Christopher Archer

Michael Monaghan

Marc J. Somerville, Q.C.
Maxime Faille
Gowling Lafleur Henderson LLP

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Robert J.Reynolds
Reynolds, O'Brien, Kline & Selick

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Mostafa Khader

Mostafa Khader

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Her Majesty the Queen (Ont.)

Christine Tier
Min. of the A.G. for Ontario

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Wilfried Koch

Wilfried Koch

c. (28077)

Hydro Québec (Qué.)

Julie Lapierre
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Jean-Marie Tanguay
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The United States of America (Alta.)

Barbara Kothe
Dept. of Justice

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**Resman Holdings Ltd. (The Successor
Amalgamated Corporation to Airtex Industries
Ltd.) et al.**

Ken S. Skingle
Felesky Flynn LLP

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Her Majesty the Queen (F.C.A.)

Wendy Burnham
Dept. of Justice

FILING DATE 22.8.2000

Great Pacific Pumice

Jonathan Baker
Jonathan Baker & Company

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District of Squamish (B.C.)

Barry Williamson
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Her Majesty the Queen

Susan Ficek
Min. of the A.G. for Ontario

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Michael Code
Sask Goldblatt Mitchell

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Eugene D. Solomon

Eugene D. Solomon

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Jose Ronald Alexander Pimentel

**Workplace Safety and Insurance Board et al.
(Ont.)**

Elizabeth Kosmidis

FILING DATE 24.8.2000

**Coopers and Lybrand, Trustees in Bankruptcy of
350914 Alberta Ltd. (formerly Noralta Metal
Fabricators Inc.) et. al.**

John M. Hope, Q.C.
Edward R. Feehan
Duncan & Craig

v. (28090)

**The Trustees of the Edmonton Pipe Industry
Pension Plan Trust Fund, et al. (Alta.)**

Robert R. Blakely
Micah J. Field
Blakely & Dushenski

FILING DATE 24.8.2000

Martin D. Glazer

Martin Glazer Law Office

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Lorraine Prefontaine
A.G. of Manitoba

FILING DATE 24.8.2000

Angelo Del Zotto

Thomas G. Heintzman
William C. McDowell
Christopher A. Wayland
McCarthy Tétrault

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The Minister of National Revenue, et al. (F.C.A.)

Ivan Bloom, Q.C.
Dept. of Justice

FILING DATE 25.8.2000

Garth Aselford, et al.

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McCarthy Tétrault

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Fernande Ross, et al. (Qué.)

Georges-N. Parent
Langlois Robert

DATE DU PRODUCTION 25.8.2000

Gordon Glaves Holdings Ltd.

Eric Fournie
Lockwood & Associates

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Care Corporation of Canada Limited, et al. (Ont.)

Richard A. Conway
Torys

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Peter William Fliss

Richard C.C. Peck, Q.C.
Peck and Company

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William Ehrcke, Q.C.
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Diane Nielsen
Community Legal Assistance Society

v. (28094)

The Director, Adult Forensic Psychiatric Services, et al. (B.C.)

Mary P. Acheson
Min. of the A.G. of British Columbia

FILING DATE 28.8.2000

The Attorney General of Canada on behalf of Her Majesty the Queen in Right of Canada and in his capacity as Minister of Justice, et al.

Brian J. Saunders
Dept. of Justice

v. (28091)

Patricia Babcock, et al. (B.C.)

Richard R. Sugden, Q.C.
Craig P. Dennis
Sugden, McFee & Roos

FILING DATE 29.8.2000

Family Insurance Corporation

Neo J. Tuytel
Jonathan L.S. Hodes
Clark, Wilson

v. (28093)

Lombard Canada Ltd. (B.C.)

James H. MacMaster
Branch MacMaster

APPLICATIONS FOR LEAVE TO APPEAL
FILED

DEMANDES D'AUTORISATION D'APPEL
DÉPOSÉES

FILING DATE 29.8.2000

**APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE**

**DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION**

AUGUST 21, 2000 / LE 21 AOÛT 2000

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

E.S.

v. (27862)

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

NATURE OF THE CASE

Criminal law - Pre-trial procedure - Jurors - Challenge for cause - Whether offence-based challenge for cause is permitted in cases of charges of sexual offences against children and, if so, in what circumstances and what format should be followed in conducting the challenge for cause - Whether the decision of the Court of Appeal for Ontario in *R. v. Betker* was overruled by this Court in *R. v. Williams*, [1998] 1 S.C.R. 1128.

PROCEDURAL HISTORY

September 26, 1997 Superior Court of Justice (Speyer J.)	Applicant convicted of indecent assault, sexual assault against a male complainant and sexual assault against a female complainant
February 18, 2000 Court of Appeal for Ontario (Abella, Rosenberg and MacPherson JJ.A.)	Appeal against conviction dismissed
May 2, 2000 Supreme Court of Canada	Application for leave to appeal filed
June 21, 2000 Supreme Court of Canada	Motion for an extension of time filed

Aditya Narayan Varma

v. (27836)

**Canada Labour Relations Board, Canadian Union of Postal Workers and Canada Post Corporation
(F.C.A.)(Ont.)**

NATURE OF THE CASE

Procedural Law - Adjournment - Illness - Whether the Applicant was, at all material times, able to make the appropriate representations in court on February 7, 2000, given his illness and the medication used for treatment - Whether there should be an oral hearing of this application for leave to appeal pursuant to section 43(1)(c) of the *Supreme Court Act*

PROCEDURAL HISTORY

July 14, 1997 Canada Labour Relations Board (J.F.W. Weatherill, Chairman, and J.P. Morneault and J.L. Guilbeault, Vice-Chairs)	Application for reconsideration dismissed
February 11, 2000 Federal Court of Appeal (Desjardins, Rothstein and Sharlow JJ.A.)	Application for judicial review dismissed
April 4, 2000 Supreme Court of Canada	Application for leave to appeal filed

Seven-Up Canada Inc., Pathfinder Beverages Ltd., 161275 Canada Inc. and Thomas B. Baker

v. (27825)

Fasken Campbell Godfrey and Campbell Godfrey & Lewtas (Ont.)

NATURE OF THE CASE

Torts - Professions - Barristers and solicitors - Liability - Negligence - Duty to warn - Scope of Retainer - Whether the lower courts erred in finding, in part, that there was no duty to warn - Whether this decision is inconsistent with previous jurisprudence - Whether the lower courts erred in the assessment of damages and the onus of proof.

PROCEDURAL HISTORY

January 6, 1997 Ontario Court of Justice (General Division) (Sharpe J.)	Respondent FCG's action for outstanding legal fees allowed with costs; Applicants' counterclaim and set-off: allowed in part
January 25, 2000 Court of Appeal for Ontario (McMurtry C.J.O., Osborne and Feldman JJ.A.)	Appeal and cross-appeal dismissed with costs
March 27, 2000 Supreme Court of Canada	Application for leave to appeal filed

Giuseppe Rosati

v. (27719)

Antanas Liakus (Ont.)

NATURE OF THE CASE

Commercial law - Bankruptcy - Discharge proceedings - Statutory Interpretation - First time Bankrupt - Creditor filing Notice of Intended Opposition to the discharge - Creditor failing to prove facts alleged in Notice - Trial judge imposing condition on the discharge that the Applicant pay a further \$10,000 to the Trustee in Bankruptcy - Whether the proper interpretation of ss. 168.1(1)(f)(i), (3), (4) of the *Bankruptcy and Insolvency Act* require that an automatic (absolute) discharge be granted to a first-time bankrupt and that no discretion is available to grant a conditional discharge under s. 172(1) in circumstances where Notice of Intended Opposition to the discharge is found to be without merit - *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

PROCEDURAL HISTORY

June 3, 1998 Ontario Court of Justice (General Division) (Lederman J.)	Discharge granted, on appellant paying to trustee the sum of \$10,000.00
December 1, 1999 Court of Appeal for Ontario (Rosenberg, Feldman, and MacPherson JJ A.)	Appeal dismissed
January 25, 2000 Supreme Court of Canada	Application for leave to appeal filed

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

Dragisa Gajic

v. (27679)

Wolverton Securities Ltd. and Mark Frank Wolverton (B.C.)

NATURE OF THE CASE

Procedural law - Irregular statement of claim - Right to be heard - Did the Court of Appeal err in negligence on the part of the Respondents? - Did the Court of Appeal err in law of fact in a real issue of contract? - Did the Court of Appeal err in not considering the rules and regulations of the Vancouver Stock Exchange and the B.C. Securities Commission?

PROCEDURAL HISTORY

April 28, 1999 Supreme Court of British Columbia (Lamperson J.)	Applicant's statement of claim dismissed
August 11, 1999 Court of Appeal of British Columbia (Ryan J., in Chambers)	Application for indigent status and for an extension of time to file notice of appeal dismissed
November 30, 1999 Court of Appeal of British Columbia (Southin, Newbury and Mackenzie JJ.A.)	Order: application to vary the order of Ryan J. dismissed
January 26, 2000	Application for leave to appeal filed

Supreme Court of Canada

2953-6778 Québec Inc.

c. (27908)

Michael Gallagher, Mecar Metal Inc. et Rosemex Inc. (Qué.)

NATURE DE LA CAUSE

Droit commercial - Exécution d'un contrat - Administration de la preuve - Preuve testimoniale du contexte de l'entente admissible - Pas donc nécessaire de qualifier le contexte comme faisant la preuve de la considération, cause, objet ou condition du contrat - La Cour d'appel pouvait-elle autoriser la preuve testimoniale selon les règles de preuve de droit civil pour faire échec au formalisme de l'écrit imposé par l'article 14 de la *Loi canadienne sur les sociétés par actions* L.R.Q., 1985, c. C-44 à tout contrat conclu au nom d'une société par action avant sa constitution? - Selon les règles de l'administration de la preuve en droit civil, le seul fait de poser une question sur le contexte des négociations d'un contrat écrit donne-t-il ouverture à toute preuve testimoniale de nature à contredire l'écrit?

HISTORIQUE PROCÉDURAL

Le 23 septembre 1996
Cour supérieure du Québec (Downs j.c.s.)

Action rejetée

Le 15 mars 2000
Cour d'appel du Québec
(Mailhot, Deschamps et Forget jj.c.a.)

Appel rejeté

Le 12 mai 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Me Fernand Côté, ès qualité de Commissaire à la déontologie policière

c. (27882)

Rénald Taillefer (Qué.)

NATURE DE LA CAUSE

Droit administratif - Appel - Retenue judiciaire - Crédibilité des témoins - Position privilégiée du juge des faits - Clause privative - Erreur claire et identifiable - Substitution d'opinion non motivée - Le principe de la retenue judiciaire que doit observer une cour d'appel s'applique-t-il à titre de règle de droit au sens de l'arrêt *Hodgkinson c. Simms*, [1994] 3 R.C.S. 377 en droit administratif canadien? - La règle de justification des jugements énoncés dans l'arrêt *R. c. Burns*, [1994] 1 R.C.S. 656 constitue-t-elle une règle de droit? - Les juges majoritaires de la cour d'appel siégeant en appel d'un jugement de la Cour supérieure en révision judiciaire se sont-ils accordés une compétence qu'ils n'avaient pas en se substituant à la première cour d'appel dont le jugement avait été invalidé par la Cour supérieure? - Article 146 de la *Loi sur l'organisation policière*.

HISTORIQUE PROCÉDURAL

Le 7 octobre 1992
Comité de déontologie policière

(MM. Mignault, Groulx et Hyppolite)

Décision: l'intimé a commis des actes dérogatoires

Le 4 juillet 1995 Cour du Québec (Rouleau j.c.q.)	Appel de la décision du Comité de déontologie policière accueilli
Le 13 décembre 1995 Cour supérieure du Québec (Lesyk j.c.s.)	Requête en révision judiciaire accueillie
Le 28 février 2000 Cour d'appel du Québec (Deschamps, Delisle et Denis [<i>ad hoc</i>] [dissident] jj.c.a.)	Appel accueilli
Le 28 avril 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

André Ledoux

c. (27808)

Sa Majesté la Reine (C.A.F.)(Qué.)

NATURE DE LA CAUSE

Droit fiscal - Droit commercial - Vente - Revenu d'entreprise - Montage fiscal - Sociétés en commandite - Trompe-l'oeil - Prix de vente réel - Prélèvements - Mention «in trust» - Validité des offres d'achat et de vente - Droit de planifier ses affaires afin de réduire sa charge fiscale - La Cour canadienne de l'impôt a-t-elle mis de côté les règles fondamentales du droit civil du Québec en matière de validité des contrats?

HISTORIQUE PROCÉDURAL

Le 10 octobre 1997 Cour canadienne de l'impôt (Archambault j.c.c.i.)	Appel de la cotisation établie en vertu de la <i>Loi de l'impôt sur le revenu</i> à l'égard de l'année d'imposition 1987 rejeté; appel à l'égard de l'année d'imposition 1988 accueilli
Le 21 janvier 2000 Cour d'appel fédérale (Marceau, Desjardins, et Décary jj.c.a.)	Appel rejeté
Le 21 mars 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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

Wayne Leslie Bellegarde

v. (27821)

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

NATURE OF THE CASE

Criminal law - Evidence - Out-of-court statements made by co-accused - Whether the trial judge properly instructed the jury on the use of out-of-court statements made by the Applicant's co-accused - Powers of court of appeal - Whether the court of appeal erred in substituting a conviction of second degree murder for the conviction of first degree murder received at trial, rather than ordering a new trial - Whether the court of appeal's actions deprived the Applicant of his right to a trial by a jury of his peers as guaranteed by s. 11(f) of the *Charter*.

PROCEDURAL HISTORY

October 16, 1997 Court of Queen's Bench of Saskatchewan (Maurice J.)	Conviction: first degree murder
January 28, 2000 Court of Appeal of Saskatchewan (Bayda C.J.S., Tallis and Vancise JJ.A.)	Appeal allowed; conviction for first degree murder quashed; conviction for second degree murder substituted
April 10, 2000 Supreme Court of Canada (Arbour J.)	Motion for the extension of time granted until April 28, 2000
May 1, 2000 Supreme Court of Canada (Arbour J.)	Motion for the extension of time granted until June 30, 2000
June 30, 2000 Supreme Court of Canada	Application for leave to appeal filed

Lyne Pérusse

c. (27835)

Le Ministre du Revenu National (C.A.F.)(Qué.)

NATURE DE LA CAUSE

Charte canadienne - Civil - Droit à l'égalité - Assurance-chômage - Emplois exclus - «Personnes liées» - Présomption d'un lien de dépendance - L'alinéa 3(2)c) de la *Loi sur L'assurance-chômage* viole-t-il l'article 15(1) de la *Charte canadienne des droits et libertés*, compte tenu de l'affaire *Law c. Canada (Ministre de l'Emploi et de l'Immigration)*, [1999] 1 R.C.S. 497?

HISTORIQUE PROCÉDURAL

18 septembre 1997 Cour canadienne de l'impôt (Tardif j.c.c.i.)	Appel contre deux déterminations du ministre du Revenu national rejeté
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Le 10 mars 2000
Cour d'appel fédérale
(Marceau, Desjardins (dissidente) et Décary
jj.c.a.)

Demande de révision judiciaire accueillie

Le 4 avril 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Autobus Thomas Inc.

c. (27804)

Sa Majesté la Reine (C.A.F.)(Qué.)

NATURE DE LA CAUSE

Droit fiscal - Droit commercial - Capital d'une société - Prêt - Vente - Financement d'inventaires - Marge de crédit - Contrat de vente à tempérament - «Prêts et avances» - Sûreté réelle - Tradition d'argent - Les dettes de la demanderesse reliées au financement d'inventaires d'autobus constituent-elles des prêts et avances en vertu de l'alinéa 181.2(3)c) de la *Loi de l'impôt sur le revenu*? - Les dettes de la demanderesse reliées au financement d'inventaires d'autobus constituent-elles des dettes visées par l'alinéa 181.2(3)d) de la *Loi de l'impôt sur le revenu*?

HISTORIQUE PROCÉDURAL

Le 18 septembre 1998
Cour canadienne de l'impôt
(Dussault j.c.c.i.)

Appels de cotisations pour les années d'imposition 1991, 1992, 1993 et 1994 rejetés

Le 19 janvier 2000
Cour d'appel fédérale
(Marceau, Desjardins, et Décary jj.c.a.)

Appel rejeté

Le 17 mars 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Galerie d'art Yves Laroche Inc., Éditions Multi-Graph Ltée, Galerie d'art du Petit Champlain Inc., Galerie d'art Laroche, Denis Inc. et Serge Rosa

c. (27872)

Claude Théberge (Qué.)

NATURE DE LA CAUSE

Droit des biens - Procédure - Charte canadienne (civil) - Droit d'auteur - Fouilles et saisies - Saisie avant jugement - Législation - Interprétation - Contrefaçon - Procédé de reproduction sur toile - Peut-il y avoir de la contrefaçon au sens de la *Loi sur le droit d'auteur* lorsqu'il n'y a aucune multiplication d'une oeuvre? - Est-ce qu'un simple changement de support d'une oeuvre, en l'occurrence le transfert sur toile, peut constituer de la contrefaçon au sens de la *Loi sur le droit d'auteur*? - Est-ce qu'un usage légitime et légal d'une reproduction autorisée par un tiers peut être restreint par le défendeur? - Est-ce

que toute présumée violation d'un droit d'auteur quelconque prévu à la *Loi sur le droit d'auteur* peut donner ouverture à la saisie en vertu de l'article 38(1) de la *Loi sur le droit d'auteur*? - La saisie avant jugement pratiquée en vertu de l'article 38(1) de la *Loi sur le droit d'auteur*, accompagnée de l'ordonnance «Anton Piller», contreviennent-elles à l'article 8 de la *Charte canadienne des droits*? - Article 38(1) de la *Loi sur le droit d'auteur*, L.R.C. 1985, ch. C-42.

HISTORIQUE PROCÉDURAL

Le 23 septembre 1999 Cour supérieure du Québec (Bélanger j.c.s.)	Requête demandant la cassation d'une saisie avant jugement accueillie
Le 22 février 2000 Cour d'appel du Québec (Michaud j.c.q., Beauregard et Delisle jj.c.a.)	Appel accueilli
Le 20 avril 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

MOTION FOR RECONSIDERATION / DEMANDE DE RÉEXAMEN

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

1. Gilles Pinsonneault c. Sa Majesté la Reine (Crim.)(Qué.)(26795)
2. Constantin Teodorescu c. Richard Barbeau (Qué.)(27257)

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

1. Lawrence S. Etienne v. John L. Remus, et al. (Ont.)(26627)

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

1. Jacques Laurendeau c. Sa Majesté la Reine (Crim.)(Qué.)(27563)
2. Claude Deslauriers c. Roch Labelle, ès qualité de syndic, et al. (Qué.)(26993)

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

1. Salvatore Gramaglia v. Alberta Family and Social Services (Alta.)(27308)

AUGUST 28, 2000 / LE 28 AOÛT 2000

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

Robert Donald VanDenburgh

v. (28015)

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

NATURE OF THE CASE

Criminal law - Jurisdiction - Whether the lower courts assumed a secret or unwarranted jurisdiction over the Applicant -
Procedure - Disclosure - Whether an accused foreigner in Canada has the right to be informed of the nature of the charges
of which he has been accused - Whether the Crown had the right to keep silent when The Applicant requested to know the
nature of the charges against him.

PROCEDURAL HISTORY

September 12, 1997 Provincial Court of British Columbia	Conviction: speeding, failing to wear a seat belt (Applicant did not appear and was deemed not to have disputed charges)
February 24, 1998 Supreme Court of British Columbia	Conviction set aside; matter remitted back to Provincial Court
July 24, 1998 Provincial Court of British Columbia (Proctor J.P.)	Conviction: speeding, failing to wear a seat belt
October 22, 1998 Supreme Court of British Columbia (Dohm A.C.J.)	Summary conviction appeal dismissed
December 3, 1999 Court of Appeal of British Columbia (Ryan J.A.)	Leave to appeal denied
July 17, 2000 Supreme Court of Canada	Application for leave to appeal and motion for the extension of time filed

Earl Daniel Stevenson

v. (27620)

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

NATURE OF THE CASE

Criminal Law - Sentencing - Dangerous offender - Whether trial judge failed to consider psychiatric evidence - Whether trial judge failed to consider systemic or background circumstances of the Applicant as an aboriginal offender - Whether time required to successfully treat the applicant exceeded maximum determinate penalty for offense of sexual assault.

PROCEDURAL HISTORY

May 28, 1998 Court of Queen's Bench of Saskatchewan (Archambault J.)	Application declared a dangerous offender
January 19, 1999 Court of Appeal for Saskatchewan (Tallis, Gerwing, and Lane JJ.A.)	Appeal dismissed
April 26, 2000 Supreme Court of Canada	Applications for time extension and leave to appeal filed

Buck Consultants Limited

v. (27707)

Her Majesty the Queen (F.C.A.)

NATURE OF THE CASE

Statutes - Interpretation - Taxation - When is an expense incurred within the meaning of paragraph 18(1)(a) of the *Income Tax Act*, S.C. 1970-71 c. 63, as amended? - Whether an expense is “incurred” when the taxpayer has a legal, but not necessarily immediate, obligation to pay an amount.

PROCEDURAL HISTORY

June 3, 1996 Tax Court of Canada (Bonner T.C.J.)	Appeals from re-assessments of tax for the taxation years 1986, 1987, 1988, 1989 dismissed
November 19, 1999 Federal Court of Appeal (Stone, Isaac and Sexton JJ.A.)	Appeal dismissed
January 17, 2000 Supreme Court of Canada	Application for leave to appeal filed

Market News Publishing Inc. and Robert Shore

v. (27853)

Southam Inc. and David Baines (B.C.)

NATURE OF THE CASE

Torts - Libel and slander - Damages - Whether the Court of Appeal erred in law by failing to consider whether the traditional rules of defamation could be simply transposed to information found on the Internet - Whether the Court of Appeal erred in failing to overturn the trial judge’s finding of world-wide publication - Whether the Court of Appeal erred in law by failing to consider the effect the source of the information should have had on the damage award, and the “chilling effect” of the damage award - Whether the Court of Appeal erred in law by failing to find that the trial judge’s assessment of damages was wholly out of proportion to the injury suffered - Whether the Court of Appeal erred in law by failing to compare the damage award to other awards in similar cases and by upholding the award by reference to aggravating factors?

PROCEDURAL HISTORY

April 15, 1998 Supreme Court of British Columbia (Rowan J.)	Judgment against the Applicants for libel; Applicants ordered to pay damages in the amount of \$250,000
February 14, 2000 Court of Appeal for British Columbia (Hollinrake, Huddart and Saunders JJ.A)	Appeal dismissed
April 14, 2000 Supreme Court of Canada	Application for leave to appeal filed

Joseph William Hnatiw

v. (27601)

**Hilda Scramstad, Shane McDonald, Valerie McDonald, Executrix of the Estate of Calvin McDonald, Larry Bell
(Sask.)**

NATURE OF THE CASE

Torts - Motor Vehicles - Personal injury - Damages - Negligence - Whether the Court of Appeal for Saskatchewan erred in rejecting the Applicant's appeal against a judgment from the Court of Queen's Bench of Saskatchewan.

PROCEDURAL HISTORY

May 13, 1997 Court of Queen's Bench of Saskatchewan (Maurice J.)	Applicant's action against the Respondent Hilda Scramstad allowed; Applicant awarded \$18,900 plus \$14,195.03 in Pre-Judgment Interest; Applicant's actions against Respondents Larry Bell, Shane McDonald and Valerie McDonald, executrix of the Estate of Calvin McDonald, dismissed
September 22, 1999 Court of Appeal for Saskatchewan (Bayda C.J.S., Sherstobitoff, and Jackson JJ.A.)	Appeal dismissed
December 20, 1999 Supreme Court of Canada (Arbour J.)	Motion for an extension of time granted; time for filing application for leave to appeal extended to February 7, 2000
March 20, 2000 Supreme Court of Canada	Application for leave to appeal and motion for an extension of time filed

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

Rony Alexander Lopez

v. (27971)

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

NATURE OF THE CASE

Criminal Law - Evidence - Whether judge entitled to view videotape properly admitted into evidence at slow motion during deliberations.

PROCEDURAL HISTORY

September 15, 1999 Provincial Court of New Brunswick (McCarroll J.)	Conviction for aggravated assault, sentence to three years imprisonment
April 20, 2000	Appeal from conviction dismissed; Leave to appeal from

Court of Appeal of New Brunswick
(Ayles, Drapeau and Larlee JJ.A.)

sentence denied

June 16, 2000
Supreme Court of Canada

Application for leave to appeal filed

Barry Robert Morrison

v. (27813)

The Society of Lloyd's (N.B.)

NATURE OF THE CASE

International law - Conflict of laws - Contracts- Choice of jurisdiction - Choice of law - Public policy - Securities law - Whether a party who solicits investments in Canadian capital markets in violation of provincial securities laws can escape civil sanction under Canadian law by incorporating a choice of court and choice of law clause in favour of foreign courts and foreign laws into its investment contracts - Whether a choice of law and choice of court clause should be given effect where the plaintiff alleges that he is the victim of an antecedent fraudulent scheme on the part of the drafter and beneficiary of the clauses ?

PROCEDURAL HISTORY

January 11, 1999
Court of Queen's Bench of New Brunswick
(Creaghan J.)

Respondent's motion to stay actions commenced against it granted

January 24, 2000
Court of Appeal of New Brunswick
(Smith C.J.Q.B.[*ad hoc*], Savoie and Weldon JJ. [*ad hoc*])

Appeal dismissed

March 23, 2000
Supreme Court of Canada

Application for leave to appeal filed

Thomas Blair Drummie

v. (27815)

The Society of Lloyd's (N.B.)

NATURE OF THE CASE

International law - Conflict of laws - Contracts - Choice of jurisdiction - Choice of law - Securities law - Tort - Fraudulent misrepresentation - *Forum non conveniens* - Procedural Law - Appeal - Constitution of panel - Whether the Applicant's case was brought before the New Brunswick Court of Appeal in accordance with the provisions of section 8 of the *Judicature Act*, R.S.N.B. 1973, c. J-2 - Whether the Applicant was deprived of the opportunity to have his appeal heard before a properly constituted panel of the Court of Appeal - Whether the New Brunswick Court of Appeal erred in law in upholding the Motions Judge's imposition of a stay of the Applicant's action against the Respondent?

PROCEDURAL HISTORY

January 11, 1999 Court of Queen's Bench of New Brunswick (Creaghan J.)	Respondent's motion to stay actions commenced against it granted
January 24, 2000 Court of Appeal of New Brunswick (Smith C.J.Q.B. [<i>ad hoc</i>], Savoie, and Graser [<i>ad hoc</i>] JJ.A.)	Appeal dismissed
March 24, 2000 Supreme Court of Canada	Application for leave to appeal filed

Ville de Chambly

c. (27924)

Line Dicaire et Jean-Luc Leduc (Qué.)

NATURE DE LA CAUSE

Procédure - Procédure civile - Recours collectif - Autorisation - Questions identiques, similaires ou connexes - Représentation du groupe - Inondations - La Cour d'appel a-t-elle respecté le principe de non-intervention quant à la conclusion atteinte par le juge de première instance? - Les faits allégués paraissent-ils justifier les conclusions recherchées? - Les intimés ont-ils la qualité requise pour assumer le statut de représentant et assurer une représentation adéquate des membres? - Les questions de fait ou de droit soulevées par les différents membres du groupe sont-elles identiques, similaires ou connexes? - La cohérence des décisions des tribunaux a-t-elle été respectée? - La demande rencontre-t-elle la notion d'intérêt national?

HISTORIQUE PROCÉDURAL

Le 19 avril 1999 Cour supérieure du Québec (Reeves j.c.s.)	Requête en autorisation d'exercer un recours collectif rejetée
Le 24 mars 2000 Cour d'appel du Québec (Delisle, Otis jj.c.a et Denis j.c.a. (<i>ad hoc</i>))	Appel accueilli
Le 19 mai 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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

Dara Wilder

v. (27960)

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

NATURE OF THE CASE

Canadian Charter - Criminal - Criminal Law - Evidence - Whether evidence compelled under *Income Tax Act* can be used in criminal proceedings.

PROCEDURAL HISTORY

August 25, 1998 Supreme Court of British Columbia (Scarth J.)	Evidence held inadmissible
September 11, 1998 Supreme Court of British Columbia (Scarth J.)	Evidence obtained by search and seizure deemed conscripted evidence
October 13, 1998 Supreme Court of British Columbia (Scarth J.)	Prosecution held unrelated to administration or enforcement of Income Tax Act; Evidence deemed inadmissible
November 4, 1998 Supreme Court of British Columbia (Scarth J.)	Specific exhibits deemed inadmissible
November 4, 1998 Supreme Court of British Columbia (Scarth J.)	Applicant acquitted of seven counts of fraud and one count of possession of property obtained by fraud
January 14, 2000 Court of Appeal for British Columbia (Esson, Ryan and Mackenzie J.A.)	Held evidence should have been admitted, appeal allowed, acquittal set aside, new trial ordered,
March 21, 2000 Court of Appeal for British Columbia (Esson, Ryan and Mackenzie J.A.)	Motion for reconsideration dismissed
April 18, 2000 Court of Appeal for British Columbia (Esson, Ryan and Mackenzie J.A.)	Corrigendum to reasons for judgment
June 8, 2000 Supreme Court of Canada	Application for leave to appeal filed
August 9, 2000 Supreme Court of Canada	Application for extension of time to apply for leave to appeal filed

Wawanesa Mutual Insurance Company

v. (27945)

Donald Brown and Edna Brown (Sask.)

NATURE OF THE CASE

Procedural law - Insurance - Evidence - Fresh evidence - Whether the Court of Appeal's relaxation of the requirement for due diligence by trial counsel in the context of a non-criminal case detrimentally modifies the existing procedural rules pertaining to the introduction of fresh evidence on appeal - Whether the Court of Appeal erred in admitting the fresh evidence and ordering a new trial

PROCEDURAL HISTORY

February 1, 1995 Court of Queen's Bench for Saskatchewan (Dielschneider J.)	Respondents' action dismissed with costs
April 3, 2000 Court of Appeal for Saskatchewan (Tallis, Vancise and Lane JJ.A.)	Motion to admit fresh evidence on appeal allowed; new trial ordered
May 31, 2000 Supreme Court of Canada	Application for leave to appeal filed

Emile Dagher, Shoukat Choudry, Maurice Khoury, John Limnidis, Wayne King, Lucien Couraud Sr. and Roy Harland

v. (27829)

McDonnell-Ronald Limousine Service Limited and carrying on business as Airline Limousine (Ont.)

NATURE OF THE CASE

Labour law - Labour Relations - Collective Agreement - Arbitration - Procedural law - Court - Jurisdiction - Whether the Court of Appeal erred in holding that the essence of the dispute in question was within the OLRB's jurisdiction - Whether the Court of Appeal erred in failing to take into account the impact of its decision on non-bargaining unit brokers - Whether the Court of Appeal erred in holding that the contractual terms respecting the brokerage fees in the service agreement ceased to govern the parties once the union and employer entered into a collective agreement.

PROCEDURAL HISTORY

September 25, 1998 Ontario Court of Justice (General Division) (Brennan J.)	Applicant's application granted with costs: fee increase claimed by Respondent found contrary to Service Agreements
November 5, 1999 Court of Appeal for Ontario (Finlayson, Moldaver and Sharpe JJ.A.)	Appeal allowed
March 29, 2000 Supreme Court of Canada	Application for leave to appeal and motion for an extension of time filed

E.S. Fox Limited

v. (27834)

**Martin Hagt, Ontario Ministry of Labour
and Christopher Albertyn (Ont.)**

NATURE OF THE CASE

Labour law - Employment standards - Lay-off - Termination - Severance pay - Interpretation - Section 58(1) of the *Employment Standards Act*, R.S.O. 1990, c. E.14 - Whether the interpretation of the *Employment Standards Act* should be based on the subjective expectations or intentions of the employee, employer or the Ministry of Labour or on an objective basis as determined by the words of the statute?

PROCEDURAL HISTORY

March 29, 1999 Ontario Court of Justice (General Division), Divisional Court (Southey [dissenting], Gravelly and Cavarzan JJ.)	Application for judicial review allowed
February 7, 2000 Court of Appeal for Ontario (Catzman, Weiler and Abella JJ.A.)	Appeal allowed; application for judicial review dismissed
April 7, 2000 Supreme Court of Canada	Application for leave to appeal filed

SEPTEMBER 5, 2000 / LE 5 SEPTEMBRE 2000

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

Hospital Employees' Union

v. (27873)

**Children and Women's Health Centre (Health Employers Association
of British Columbia) and Co-operators Life Insurance Company (B.C.)**

NATURE OF THE CASE

Labour law - Arbitration - Jurisdiction - Collective agreement - Long term disability benefits - Whether the jurisdiction of Arbitration Boards over disputes arising out of the ambit of collective agreements includes the jurisdiction to determine whether employees are eligible to receive long term disability benefits provided in insured group plans mandated by the collective agreements - Whether Arbitration Boards have the jurisdiction to join group plan insurers as parties to arbitration proceedings without their consent, and to order them to pay benefits to eligible employees?

PROCEDURAL HISTORY

August 6, 1999 Arbitration Board (D.R. Munroe Q.C. [Chair], D. Ferguson and V. Carter)	Preliminary award declaring that Arbitration Board did not have jurisdiction to add the Respondent, Co-operators Life Insurance Company, as a party to the arbitration proceedings
March 3, 2000 Court of Appeal of British Columbia (Lambert, Southin and Finch JJ.A.)	Appeal dismissed

April 25, 2000
Supreme Court of Canada

Application for leave to appeal filed

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

David Karl Lansdowne and The Consortium Group Limited

v. (27842)

Pena & Associates (Ont.)

NATURE OF THE CASE

Procedural law - Pre-trial procedure - Motion to expunge new evidence from motion record - Motion to adduce new evidence - Whether the material submitted to the Appeal Court of Ontario was incomplete - Whether Appeal Court of Ontario erred in not providing reasons in writing for dismissal of appeal - Whether Appeal Court of Ontario erred in not deciding to adduce "Fresh Evidence".

PROCEDURAL HISTORY

June 5, 1998
Ontario Court (General Division)
(Browne J.)

Interlocutory order granting leave to have motion heard at London and to have same judge hear all motions in proceedings

February 23, 1999
Divisional Court of Ontario
(Haley J.)

Motion for leave to appeal the interlocutory order to the Divisional Court granted

June 14, 1999
Ontario Superior Court of Justice
(Divisional Court)
(Coo, Wright and Swinton JJ.)

Appeal for an order reversing interlocutory order dismissed

February 10, 2000
Court of Appeal for Ontario
(Goudge J.A.)

Order that new evidence in form of affidavit be expunged from motion record

February 10, 2000
Court of Appeal for Ontario
(Doherty, Charron and Borins JJ.A.)

Motion for leave to appeal dismissed

April 10, 2000
Supreme Court of Canada

Application for leave to appeal filed

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

Vincenzo Cipollone

v. (28035)

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

NATURE OF THE CASE

Criminal law - Defence - Provocation - Whether the trial judge erred in instructing the jury as to the evidentiary basis for “wrongful act or insult” under s. 232 of the *Criminal Code*, R.S.C., 1985, c. C-46 - Whether the trial judge erred in failing to specifically instruct the jury that the circumstances of the Applicant’s matrimonial dispute were to be considered when applying the objective and subjective components of the defence of provocation?

PROCEDURAL HISTORY

October 16, 1996
Ontario Court (General Division)
(Howden J.)

Applicant convicted of second degree murder and unlawfully causing bodily harm

January 17, 2000
Court of Appeal for Ontario
(Abella, Rosenberg and MacPherson J.J.A.)

Leave to appeal granted and appeal dismissed

August 2, 2000
Supreme Court of Canada

Application for leave to appeal and motion to extend time filed

MOTION FOR RECONSIDERATION / DEMANDE DE RÉEXAMEN

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

1. David Askey v. Her Majesty the Queen in Right of the Province of British Columbia, et al. (B.C.)(27607)
-

**CORAM: Chief Justice McLachlin and L'Heureux-Dubé and Major JJ. /
Le juge en chef McLachlin et les juges L'Heureux-Dubé et Major**

1. Michal Pniak v. London Psychiatric Hospital, et al. (Ont.)(25094)

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

1. 610990 Ontario Inc., et al. v. Business Development Bank of Canada (Ont.)(27479)
2. Ural Direk v. Anthony Dixon, et al. (Ont.)(26836)

SEPTEMBER 11, 2000 / LE 11 SEPTEMBRE 2000

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

**TransCanada Pipelines Limited, the Corporation of the Township of Beardmore,
the Corporation of the Township of Nakina, the Corporation of the Township of Longlac Long Lake 58 First
Nation, Nishnawbe-Aski Nation and Ginoogaming First Nation**

v. (27950)

**Her Majesty the Queen in Right of Ontario as represented by the Minister of Municipal Affairs and Housing, and
Bob Gray, Commissioner of the Greenstone Restructuring Commission (Ont.)**

NATURE OF THE CASE

Municipal law - Native law - Administrative law - Municipal restructuring under the *Municipal Act*, R.S.O. 1990, c. M. 45 - Whether the Commissioner had a duty to consult with First Nations affected by reorganization - Whether the Treaty rights of aboriginal peoples can be determined on summary application - Whether the Court of Appeal correctly identified the level of deference owed to the Commission - Whether the Commission appropriately ordered the annexation of unorganized territory.

PROCEDURAL HISTORY

December 31, 1997
Supreme Court of Ontario
(O'Driscoll J.)

Applicants' applications for judicial review allowed; Final Proposal and Order of Greenstone Restructuring Commission quashed

April 5, 2000
Court of Appeal for Ontario
(Weiler, Borins and Goudge JJ.A.)

Respondents' appeal allowed; Applicants' cross-appeal dismissed

June 2, 2000
Supreme Court of Canada

Applications for leave to appeal filed

August 14, 2000
Supreme Court of Canada

Application for stay of proceedings filed

Todd Biderman, Matthew Biderman and Justin Biderman

v. (27841)

Her Majesty the Queen (F.C.A.)

NATURE OF THE CASE

Taxation - Assessment - Statutes - Interpretation - Under the common law, can a beneficiary disclaim entitlement to a gift prior to the death of the testator?- Should paragraph 248(8)(b) of the *Income Tax Act*, S.C. 1970-71 c. 63, as amended, be interpreted as applying to the balance of section 248 and the rest of the *Act*, including paragraph 160(1)(c)?

PROCEDURAL HISTORY

July 10, 1998 Tax Court of Canada (McArthur J.T.C.C.)	Appeals concerning Appellants' assessments dismissed
February 4, 2000 Federal Court of Appeal (Stone, Létourneau and Malone JJ.A.)	Appeals dismissed
March 31, 2000 Supreme Court of Canada	Application for leave to appeal filed

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

The Canadian Union of Public Employees Local 882 and Donna Brewster

v. (27816)

The City of Prince Albert (Sask.)

NATURE OF THE CASE

Labour Law - Collective Agreement - Employee terminated without cause - Collective agreement silent on the issue of termination without just cause - Whether terms of collective agreement abrogated the employer's common law right to terminate without just cause - Whether arbitration board decision was "patently unreasonable"

PROCEDURAL HISTORY

February 2, 1999 Court of Queen's Bench of Saskatchewan (Wimmer J.)	Application to quash the award of a labour arbitration board dismissed
January 26, 2000 Court of Appeal for Saskatchewan (Tallis, Cameron, and Gerwing JJ.A.)	Appeal dismissed
March 24, 2000	Application for leave to appeal filed

Supreme Court of Canada

CLR Construction Labour Relations Association of Saskatchewan Inc.

v. (27833)

PCL Industrial Constructors Inc., and Lockerbie and Hole Company Limited (Sask.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil - s. 2(b) - Freedom of Association - Commercial law - Construction - Labour law - Collective Bargaining Rights - Applicant organization is the sole representative of all unionized employers in the construction industry, and conducts collective bargaining on their behalf - Respondents denied membership in Applicant organization - Reach of *Charter* into private sphere - Meaning of freedom of association - Whether the lower courts erred - Whether the interpretation of the oppression remedy is of substantial importance - Jurisdiction of courts and administrative tribunals.

PROCEDURAL HISTORY

February 15, 1999
Court of Queen's Bench of Saskatchewan
(Baynton J.)

Respondents' action allowed with costs; Applicant's counterclaim dismissed with costs against Applicant

February 1, 2000
Court of Appeal for Saskatchewan
(Gerwing, Cameron and Jackson JJ.A.)

Appeal dismissed with costs

April 3, 2000
Supreme Court of Canada

Application for leave to appeal filed

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

Terri - Jean Bedford

v. (28004)

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

NATURE OF THE CASE

Criminal law - Keeping a common bawdy-house for the purposes of prostitution - Elements of the offence - Whether the Court of Appeal erred in interpreting "prostitution" under s. 210(1) of the *Criminal Code* - *Canadian Charter of Rights and Freedoms* (ss. 8, 24) - Remedies - Judicial stay of proceedings - Whether the Court of Appeal erred in deciding that the manner of the police search and seizure did not justify a stay of proceedings

PROCEDURAL HISTORY

October 9, 1998
Ontario Court of Justice (Provincial Division)
(Bogusky Prov. Div. J.)

Conviction: unlawfully keeping a bawdy-house for the purposes of prostitution (*Criminal Code* s. 210(1))

March 23, 2000
Court of Appeal for Ontario
(Osborne A.C.J.O, Finlayson and Labrosse JJ.A.)

Appeal dismissed

July 5, 2000
Supreme Court of Canada

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

Mil Systems, A Division of Davie Industries Inc. and Fleetway Inc.

v. (28022)

**The Minister of Public Works and Government Services Canada and Siemens Westinghouse Incorporated
(F.C.A.)**

NATURE OF THE CASE

Administrative Law - Judicial Review - Standard of Review - Judicial review of decision by Canadian International Trade Tribunal with respect to tender process for government contract - Jurisdiction of the Canadian International Trade Tribunal - Standard of review applicable to decision by Canadian International Trade Tribunal.

PROCEDURAL HISTORY

March 21, 2000
Canadian International Trade Tribunal
(Trudeau)

Contract terminated, Order to re-evaluate two bids

June 23, 2000
Federal Court of Appeal
(Robertson, Noël and McDonald JJ.A)

Application for judicial review allowed in part; Order to re-evaluate to include third bid

July 21, 2000
Supreme Court of Canada

Application for leave to appeal filed

SEPTEMBER 18, 2000 / LE 18 SEPTEMBRE 2000

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

Birgit Kajat

v. (27857)

The Ship "Arctic Taglu" the owners and all others interested in the ship "Arctic Taglu", The Ship "Link 100", the owners and all others interested in the ship "Link 100", Sea-Link Marine Services Ltd., Malcolm Bruce Brophy, and Gary McKrae,

and

Her Majesty the Queen in Right of Canada, as represented by the Minister of Transport (F.C.A.)

NATURE OF THE CASE

Torts - Negligence - Similar fact evidence - Trial judge relies upon similar fact evidence to find a fact in issue - Whether a failure to explicitly state a clear evaluation of whether the similar fact evidence was logically probative constituted an error in law.

PROCEDURAL HISTORY

December 4, 1997
Federal Court of Canada, Trial Division
(Read J.)

Action in negligence allowed, liability apportioned between
Applicant's husband and Respondents

February 15, 2000
Federal Court of Appeal
(Malone, Strayer and Sharlow JJ.A.)

Appeal allowed, new trial ordered, cross-appeal dismissed

April 17, 2000
Supreme Court of Canada

Application for leave to appeal filed

248524 Alberta Ltd.

v. (27828)

155569 Canada Limited, Eli Adler and Eli Adler through or in the name of D.F.C. Diversified Financial Corp., Canpro Investments Ltd., Cambridge Builders Inc., Ellis Developments Ltd. and Trans America Investments Ltd. (Alta.)

NATURE OF THE CASE

Commercial law - Fiduciary duty - Partnership - Developer financing project in part through sale of limited partnerships - Limited partners unaware of financial arrangements required to meet minimum of Offering Memorandum - Whether dealings involving the various parties to commercial project in financial trouble giving rise to fiduciary relationships and if so, whether defences valid or statute-barred.

PROCEDURAL HISTORY

May 2, 1995 Court of Queen's Bench of Alberta (Veit J.)	Action against Applicant for mortgage foreclosure allowed
February 2, 2000 Court of Appeal of Alberta (Edmonton) (Irving, O'Leary and Russell JJ.A.)	Appeals dismissed
March 29, 2000 Supreme Court of Canada	Application for leave to appeal filed

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

Smithkline Beecham Animal Health Inc.

v. (27850)

Her Majesty the Queen (F.C.A.)

NATURE OF THE CASE

Taxation - Income tax - Assessment - Procedure - Application to file an Amended Reply to Notice of Appeal - Whether the Federal Court of Appeal and the Tax Court of Canada erred in concluding that the Minister of National Revenue was merely advancing a new argument to support its assessment after the time to reassess under the *Income Tax Act* has expired - Whether the recent enactment of subsection 152(9) of the *Income Tax Act* in effect overruled the decision of the Supreme Court of Canada in *Continental Bank of Canada v. Canada*, [1998] 2 S.C.R. 358?

PROCEDURAL HISTORY

November 4, 1999 Tax Court of Canada (Bonner J.T.C.C.)	Respondent's motion for an order permitting the filing of an Amended Reply to the Notice of Appeal allowed
February 11, 2000 Federal Court of Appeal (Desjardins, Rothstein and Sharlow JJ.A.)	Appeal dismissed
April 11, 2000 Supreme Court of Canada	Application for leave to appeal filed

Douglas Sloan

v. (27892)

**David J. Johnson,
Minister of Education for the Province of Ontario**

-and-

The Attorney General of Ontario

-and-

The York Region District School Board

-and-

Michael Magarrey

As a principal of the York Region District School Board

-and-

Gary Michael

As a vice-principal of the York Region District School Board

-and-

Helen Fox

As a principal of the York Region District School Board

-and-

Frances J. McKenna

As a Superintendent of Schools for the York Region District School Board (Ont.)

NATURE OF THE CASE

Labour law - Collective agreement - Arbitration - Jurisdiction - Civil rights - Whether the lower courts erred in considering that the Applicant's dispute with the Respondent Minister fell under the collective agreement between the Applicant's union and the Respondent School Board - Whether the lower courts erred in considering that the Applicant's dispute could be dealt with by an arbitrator - Whether the Respondent Minister's interpretation of a provision of Section 24 of Regulation 298 of the Education Act is unconstitutional

PROCEDURAL HISTORY

January 27, 1999
Superior Court of Justice
(Meehan J.)

Application for judicial review dismissed

June 25, 1999
Superior Court of Justice (Divisional Court)
(Hart, Campbell and Wright JJ.)

Motion to set aside or vary previous decision dismissed

March 10, 2000
Court of Appeal for Ontario
(McMurtry C.J.O., Abella and Feldman JJ.A.)

Motion for leave to appeal dismissed

May 4, 2000
Supreme Court of Canada

Application for leave to appeal and motion for a stay of execution filed

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

Phillip Rosen

v. (27903)

Her Majesty the Queen (F.C.A.)

NATURE OF THE CASE

Procedural law - Actions - Civil procedure - Pre-trial procedure - Interpretation - Statutes - Statutory instruments - *Federal Court Rules, 1998*, SOR/98-106, Rule 382(2)(a) - Whether Rule 382(2)(a) is contrary s. 39(1) of the *Federal Court Act*, R.S.C., 1985, c. F-7 - Whether Rule 382(2)(a) alters substantive law and is therefore beyond the jurisdiction of the Rules Committee - Whether Rule 382(2)(a) conflicts with Rule 3 of the *Federal Courts Rules, 1998*.

PROCEDURAL HISTORY

June 10, 1999 Federal Court of Canada (Trial Division) (Denault J.)	Proceeding dismissed for delay
July 19, 1999 Federal Court of Canada (Trial Division) (Denault J.)	Motions for extension of time and reconsideration dismissed
March 31, 2000 Federal Court of Appeal (Décary, Rothstein and Malone JJ.A.)	Appeal dismissed
May 10, 2000 Supreme Court of Canada	Application for leave to appeal filed

Canada Mortgage and Housing Corporation

v. (27874)

The Corporation of the District of North Vancouver (B.C.)

NATURE OF THE CASE

Municipal law - Zoning - Land Use Bylaws - Validity of zoning bylaw - Whether judicial review of the validity of a zoning bylaw is restricted to the face of the bylaw whenever the bylaw can be justified by a purpose theoretically permitted in the description of the bylaw - Whether judicial review of the validity of a zoning bylaw is restricted to the face of the bylaw even where the evidence uniformly shows that Council's true purpose was unauthorized - Whether an allegation of jurisdictional error in the enactment of a bylaw requires the judicial investigation of Council's true purpose, what is the appropriate standard of review?

PROCEDURAL HISTORY

March 23, 1998 Supreme Court of British Columbia (Humphries J.)	Petitions to quash bylaws enacted by the Respondent dismissed with costs
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February 24, 2000
Court of Appeal of British Columbia
(Esson, Cumming, and Donald JJ.A.)

Appeal dismissed with costs

April 25, 2000
Supreme Court of Canada

Application for leave to appeal filed

Bernadette Smith

v. (27875)

Co-operators General Insurance Company (Ont.)

NATURE OF THE CASE

Commercial law - Insurance - Motor vehicles - Procedure - Limitation of actions - Interpretation - Whether s. 71 of the *Statutory Accident Benefits Schedule – Accidents After December 31, 1993 and Before November 1, 1996*, O. Reg. 776/93, requires that an insurer describe to its insured the dispute resolution procedure, including the limitation period involved in that procedure?

PROCEDURAL HISTORY

June 23, 1999
Superior Court of Justice
(MacKinnon J.)

Motion for summary judgment allowed; Applicant's action claiming statutory accident benefits for injuries resulting from a motor vehicle accident dismissed

February 21, 2000
Court of Appeal for Ontario
(Catzman, Borins [dissenting], and Sharpe JJ.A.)

Appeal dismissed

April 25, 2000
Supreme Court of Canada

Application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

AUGUST 31, 2000 / LE 31 AOÛT 2000

27690 **JOAN MOHAMMED - v. - HER MAJESTY THE QUEEN IN RIGHT OF CANADA AS REPRESENTED BY TREASURY BOARD - and between - ROSE O'HAGAN, SUSAN FIELD, JANICE NACHTEGAELE, EDITH NELSON - v. - ATTORNEY GENERAL OF CANADA (SOLICITOR GENERAL-CORRECTIONAL SERVICE OF CANADA) - and between - ROSS ROBERT BOUTILIER - v. - ATTORNEY GENERAL OF CANADA (F.C.A.)**

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

The applications for leave to appeal are dismissed with costs.

Les demandes d'autorisation d'appel sont rejetées avec dépens.

NATURE OF THE CASE

Labour Law - Statutes - Interpretation - Collective agreement - Grievance - Administrative procedure for redress - Whether grievances with human rights aspects may be referred to adjudication under the *Public Service Staff Relations Act - Public Service Staff Relations Act*, R.S.C. 1985, c. P-35, ss. 91-92 - *Canadian Human Rights Act*, R.S.C. 1985, c. H-6.

PROCEDURAL HISTORY

October 30, 1995 Public Service Staff Relations Board (A.S. Burke, Board Member)	File O'Hagan: Grievances dismissed for lack of jurisdiction
April 15, 1997 Public Service Staff Relations Board (P.Chodos, Deputy Chairperson)	File Mohammed: Grievance dismissed for lack of jurisdiction
June 4, 1997 Public Service Staff Relations Board (Y. Tarte, Chairperson)	File Boutilier: Grievance allowed
June 16, 1998 Federal Court of Canada, Trial Division (Cullen J.)	File Mohammed: Application for judicial review dismissed
November 13, 1998 Federal Court of Canada, Trial Division (McGillis J.)	File Boutilier: Application for judicial review allowed
January 11, 1999 Federal Court of Canada, Trial Division (Wetston J.)	File O'Hagan: Application for judicial review dismissed
December 2, 1999 Federal Court of Appeal (Stone, Linden, and Sexton JJ.A.)	Appeals dismissed
January 5, 2000 Supreme Court of Canada	File Mohammed: Application for leave to appeal filed

January 31, 2000
Supreme Court of Canada

File O'Hagan: Application for leave to appeal filed

January 31, 2000
Supreme Court of Canada

File Boutilier: Application for leave to appeal filed

27730 **LÉVESQUE AUTOMOBILE LIMITÉE - c. - ADÉODAT DENIS et M^e ROBERT LEVAC** (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimé Adéodat Denis.

The application for leave to appeal is dismissed with costs to the respondent Adéodat Denis.

NATURE DE LA CAUSE

Droit du travail - Employeur et employé - Plainte de congédiement sans cause juste et suffisante - La Cour d'appel a-t-elle erré en modifiant la décision du juge de la Cour supérieure sans faire état d'aucune erreur de la part de ce dernier dans sa décision qui, à l'aide de raisons spécifiques, cassait celle du Commissaire du travail? - La Cour d'appel a-t-elle erré en ordonnant à la demanderesse de réintégrer l'employé dans son emploi malgré la fermeture de l'entreprise? - La Cour d'appel a-t-elle erré en retournant le dossier au Commissaire pour qu'il dispose de la question de l'indemnité étant donné l'erreur manifestement déraisonnable quant à la somme à payer mais tout en déterminant à l'avance ladite somme? - La Cour d'appel a-t-elle erré en ne faisant aucunement état des allégations de l'employeur du non-respect des règles de justice naturelle par le Commissaire quant à l'empêchement de l'employeur de présenter une preuve et quant à l'attitude cavalière et non respectueuse et empreinte de partialité de la part du Commissaire?

HISTORIQUE PROCÉDURAL

Le 5 février 1996
Cour supérieure du Québec
(Barakett j.c.s)

Requête en révision judiciaire accueillie; décision du Commissaire général du travail cassée; plainte de congédiement en vertu de l'art. 124 de la *Loi sur les normes du travail* rejetée

Le 3 décembre 1999
Cour d'appel du Québec
(Rousseau-Houle, Thibault et Biron [*ad hoc*] jj.c.a.)

Pourvoi accueilli en parti

Le 31 janvier 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27734 **ROBERT BLAINE TEWS - v. - HER MAJESTY THE QUEEN** (Crim.)(Man.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Criminal Law - Evidence - Waiver of *voir dire* - Whether the Court of Appeal erred in holding that the Applicant's statements to the police be admitted as evidence without the necessity of a waiver directly from the accused - Whether the Court of Appeal erred in holding that there was no obligation on the Crown to establish on the record that the Applicant waived the right to have a *voir dire* to determine the voluntariness of the Applicant's statement

PROCEDURAL HISTORY

June 26, 1997 Court of Queen's Bench of Manitoba (Hewak C.J.)	Conviction: three counts of first degree murder Sentence: life imprisonment with no eligibility for parole for twenty-five years
March 17, 1999 Court of Appeal of Manitoba (Scott C.J., Helper and Monnin JJ.A.)	Appeal from conviction dismissed
January 18, 2000 Supreme Court of Canada	Motion for extension of time filed
April 7, 2000 Supreme Court of Canada	Application for leave to appeal filed

27703 **RÉJEAN VACHON - c. - CAISSE DESJARDINS LACHINE/ST-PIERRE** (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Droit commercial - Procédure civile - Chose jugée - Appel à caractère abusif ou dilatoire - Obligation de conseil et de loyauté d'une caisse populaire - La Cour d'appel a-t-elle erré en droit en concluant à un appel abusif ou dilatoire? - La Cour d'appel a-t-elle erré en droit en concluant qu'il y avait chose jugée? - La Cour d'appel a-t-elle erré en droit en refusant de considérer l'entente du 30 mai 1997 du simple fait que le demandeur était en défaut? - *Code de procédure civile*, L.R.Q., ch. C-25, art. 165(1) et 501(5)

HISTORIQUE PROCÉDURAL

Le 13 septembre 1999
Cour supérieure du Québec
(Downs j.c.s.)

Action en dommages-intérêts du demandeur rejetée sur
une requête en irrecevabilité présentée par l'intimée

Le 15 novembre 1999
Cour d'appel du Québec
(Beauregard, Thibault, Denis jj.c.a)

Requête de l'intimée pour rejet d'appel accueillie; appel
rejeté

Le 14 janvier 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27716 **SIDBEC-DOSCO (ISPAT) INC. - c. - COMMISSION DES LÉSIONS PROFESSIONNELLES**
et JEAN-CLAUDE DANIS - et - RAYMOND GEMME (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

La demande d'autorisation d'appel est rejetée avec dépens en faveur du mis en cause.

The application for leave to appeal is dismissed with costs to the mis en cause.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Contrôle judiciaire - Norme de contrôle applicable - Accidents du travail - Législation - Interprétation - Mesure discriminatoire - La Commission d'appel en matière de lésions professionnelles a-t-elle excédé sa compétence en important dans le cadre de son interprétation de l'art. 32 de la *Loi sur les accidents du travail et les maladies professionnelles* la notion de discrimination non intentionnelle ou par suite d'un effet préjudiciable introduite par l'arrêt *Andrews c. Law Society of British Columbia*, [1989] 1 R.C.S. 143 rendu en matière de droits et libertés? - La Cour d'appel a-t-elle erré en omettant de considérer l'impact de la référence à l'arrêt *Andrews* sur l'ensemble de la décision R-3 de la Commission d'appel en matière de lésions professionnelles et sur le critère de révision judiciaire applicable? - L'interprétation qu'a donnée la Commission d'appel en matière de lésions professionnelles à la notion de «mesure discriminatoire» retrouvée à l'art. 32 de la *Loi sur les accidents du travail et les maladies professionnelles* et confirmée par la Cour d'appel, est-elle manifestement déraisonnable?

HISTORIQUE PROCÉDURAL

Le 19 février 1996
Commission d'appel en matière de lésions
professionnelles
(Danis, commissaire)

Appel de la décision du Bureau de révision accueilli;
plainte du mis en cause accueillie

Le 25 juin 1996
Cour supérieure du Québec
(Croteau j.c.s.)

Requête en révision judiciaire accueillie

Le 26 novembre 1999
Cour d'appel du Québec
(Deschamps, Nuss, et Pidgeon jj.c.a.)

Appel accueilli

Le 25 janvier 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27718 **SIDBEC-DOSCO (ISPAT) INC. - c. - COMMISSION DES LÉSIONS PROFESSIONNELLES et M^c JEAN-YVES DESJARDINS - et - CLERMONT GAGNÉ, MICHEL CUSSON, SERGE PICARD, BERNARD SÉGUIN, GIUSSEPE PICHIRALLO, ROBERT POWNEY, BENITO CARMOSINO, ROLLAND BRABANT** (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

La demande d'autorisation d'appel est rejetée avec dépens en faveur des mis en cause.

The application for leave to appeal is dismissed with costs to the mis en cause.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Contrôle judiciaire - Norme de contrôle applicable - Accidents du travail - Législation - Interprétation - Mesure discriminatoire - La Commission d'appel en matière de lésions professionnelles a-t-elle excédé sa compétence en important dans le cadre de son interprétation de l'art. 32 de la *Loi sur les accidents du travail et les maladies professionnelles* la notion de discrimination non intentionnelle ou par suite d'un effet préjudiciable introduite par l'arrêt *Andrews c. Law Society of British Columbia*, [1989] 1 R.C.S. 143 rendu en matière de droits et libertés? - La Cour d'appel a-t-elle erré en omettant de considérer l'impact de la référence à l'arrêt *Andrews* sur l'ensemble de la décision R-3 de la Commission d'appel en matière de lésions professionnelles et sur le critère de révision judiciaire applicable? - L'interprétation qu'a donnée la Commission d'appel en matière de lésions professionnelles à la notion de «mesure discriminatoire» retrouvée à l'art. 32 de la *Loi sur les accidents du travail et les maladies professionnelles* et confirmée par la Cour d'appel, est-elle manifestement déraisonnable?

HISTORIQUE PROCÉDURAL

Le 14 décembre 1995 Commission d'appel en matière de lésions professionnelles (Desjardins, commissaire)	Appels des décisions du Bureau de révision accueillis; plaintes des mis en cause accueillies
Le 24 septembre 1996 Cour supérieure du Québec (Tannenbaum j.c.s.)	Requête en révision judiciaire rejetée
Le 26 novembre 1999 Cour d'appel du Québec (Deschamps, Nuss, et Pidgeon jj.c.a.)	Appel rejeté
Le 25 janvier 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

27784 **ALEXANDER WILLIAM HART - v. - HER MAJESTY THE QUEEN** (Crim.)(N.S.)

CORAM: Gonthier, Binnie and Arbour 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

Canadian *Charter* - Criminal - Criminal law - Right to a fair trial - Right to make full answer and defence - Cross-examination of a largely unresponsive child witness - Whether the Court of Appeal erred in its characterization of the common law rule regarding the admission of evidence of a non-responsive witness, especially a non-responsive child witness - Whether the Court of Appeal erred in failing to require a proper inquiry into the fairness of the trial process by the trial judge - Whether the Court of Appeal erred in failing to conduct its own inquiry into the fairness of the trial process - If so, whether these failures violated the Applicant's *Charter* rights under ss. 7 and 11(d) - Whether the Court of Appeal erred in failing to consider the competence of counsel at trial where trial counsel had carriage of the appeal?

PROCEDURAL HISTORY

April 6, 1998
Supreme Court of Nova Scotia
(MacDonald J.)

Applicant convicted on two counts of sexual assault and one of sexual touching contrary to ss. 271 and 151(a) of the *Criminal Code*

February 19, 1999
Nova Scotia Court of Appeal
(Cromwell, Roscoe and Bateman JJ.A.)

Appeal dismissed

March 3, 2000
Supreme Court of Canada

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

27805 **TAI HUAN DO - c. - SA MAJESTÉ LA REINE** (Qué.)(Crim.)

CORAM: Les juges Gonthier, Binnie et Arbour

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Preuve - Admissibilité de déclarations - La Cour d'appel a-t-elle commis une erreur en maintenant que le juge de première instance pouvait juger comme libre et volontaire une déclaration verbale de cinq heures sans prise de notes ni enregistrement? - La Cour d'appel a-t-elle commis une erreur en maintenant que le juge de première instance pouvait juger comme libre et volontaire qu'une déclaration verbale de cinq heures pendant la nuit, sans notes ni enregistrement, ne viole pas le droit au silence ni le droit à une défense pleine et entière de l'Article 7 de la *Charte* ni le droit à l'avocat de l'Article 10.b) de la *Charte*? - La Cour d'appel a-t-elle commis une erreur en ne considérant pas que les erreurs manifestes du juge du procès l'ont empêché de saisir un aspect important de la preuve entraînant ainsi un verdict déraisonnable? - La Cour d'appel du Québec et la Cour du Québec ont-elles erré en droit en refusant la demande d'arrêt des procédures au motif du manquement du ministère public de divulguer à la défense l'identité d'un témoin à charge? - Le juge de première instance a-t-il manifestement erré en déclarant comme libre et volontaire la déclaration du demandeur au syndic de son ordre professionnel, car cette déclaration était imposée par le *Code des professions du Québec*, sous peine de sanction pénale et disciplinaire?

HISTORIQUE PROCÉDURAL

Le 31 octobre 1997
Cour du Québec
(Morier j.)

Déclaration de culpabilité: un chef d'agression sexuelle et un chef d'administration d'une drogue contrairement à l'article 271 (1) a) et 246.b) du *Code criminel*

Le 24 janvier 2000
Cour d'appel du Québec
(Rothman, Deschamps, et Nuss jj.c.a.)

Appel rejeté

Le 17 mars 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27905 **THIERRY VAN DOOSSELAERE, FRANS G.A. DE ROY, as trustees in bankruptcy of
ANTWERP BULKCARRIERS, N.V. - v. - HOLT CARGO SYSTEMS INC., CONTAINER
APPLICATIONS INTERNATIONAL INC.** (Que.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is granted with costs to the applicants in any event of the cause.

La demande d'autorisation d'appel est accordée avec dépens en faveur des demandeurs quelle que soit l'issue du pourvoi.

NATURE OF THE CASE

International Law - Commercial Law - Conflict of Laws - Bankruptcy - To which Canadian court a request for assistance made by a foreign bankruptcy court should be addressed - Whether judgments of Canadian courts exercising bankruptcy jurisdiction should be paramount where bankruptcy matters are involved, regardless of which Canadian court is first seized - Appropriate judicial response to a request for assistance from a foreign bankruptcy court seeking to adopt a "universal" approach to an international bankruptcy.

PROCEDURAL HISTORY

June 28, 1996
Superior Court of Quebec
(Guthrie J.S.C.)

Motions to review, rescind, vary or set aside in part an *ex parte* order and motion to shorten the notice of presentation granted

March 14, 2000
Court of Appeal of Québec
(Gendreau, Proulx, and Robert J.C.A.)

Appeal allowed

May 12, 2000
Supreme Court of Canada

Application for leave to appeal filed

SEPTEMBER 14, 2000 / LE 14 SEPTEMBRE 2000

27837 **FREDERICK W.L. BLACK - v - HER MAJESTY THE QUEEN** (N.S.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Procedure - Appeal of interlocutory decisions - Whether the Nova Scotia Court of Appeal erred by failing to apply the *Canadian Charter of Rights and Freedoms* in relation to the *Criminal Code* in a clear case of abuse of process of police powers and an abuse in the process of the administration of justice.

PROCEDURAL HISTORY

October 6, 1999 Nova Scotia Supreme Court (Kennedy C.J.S.C.)	Motion for disclosure of additional information and documentation dismissed
February 1, 2000 Nova Scotia Court of Appeal (Freeman, Roscoe, and Bateman JJ.A.)	Application to quash the notice of appeal allowed
April 3, 2000 Supreme Court of Canada	Application for leave to appeal filed

27793 **ROYAL DONALD McCORMACK - v. - HER MAJESTY THE QUEEN** (B.C.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Statutes - Interpretation - Whether the warrantless search of the Applicant's apartment was authorized by s. 11(7) of the *Controlled Drugs and Substances Act*, R.S.C. 1996, c. 19 - *R. v. Silveira*, [1995] 2 S.C.R. 297.

PROCEDURAL HISTORY

August 31, 1998 Provincial Court of British Columbia (Stone P.C.J.)	Conviction: unlawfully possessing cocaine for the purpose of trafficking; possession of a restricted weapon (2 counts)
January 25, 2000 Court of Appeal for British Columbia (Ryan, Saunders, Proudfoot, JJ.A.)	Appeal dismissed
March 8, 2000 Supreme Court of Canada	Application for leave to appeal filed

27839 **MOLSON BREWERIES, A PARTNERSHIP - v. - JOHN LABATT LIMITED AND LABATT BREWING COMPANY LIMITED** (F.C.A.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Property law - Trade marks - Registrability - Distinctiveness - The word "EXPORT" found not to be distinctive of the Applicant's brewed alcoholic beverage - Whether the word "EXPORT" was correctly seen as not registrable by the Court of Appeal - Whether the Court of Appeal should have considered whether the word "EXPORT" possesses a separate significance for trade-mark purposes, notwithstanding the fact that it is displayed with the house mark "MOLSON" - Whether the Court of Appeal should have given weight to an admission against interest by the Respondents - Whether the Court of Appeal should have given weight to the Applicant's uncontradicted evidence of acquired distinctiveness - Whether that evidence was self-serving - Whether the Court of Appeal should have deferred to the lower court's findings of fact on the question of acquired distinctiveness.

PROCEDURAL HISTORY

June 25, 1998 Federal Court of Canada, Trial Division (Tremblay-Lamer J.)	Appeal from Registrar of Trade-marks' decision not to allow registration granted
February 3, 2000 Federal Court of Appeal (Isaac [dissenting], Létourneau and Rothstein JJ.A.)	Appeal allowed
April 3, 2000 Supreme Court of Canada	Application for leave to appeal filed

27740 **THE CHASE MANHATTAN BANK OF CANADA v. HER MAJESTY THE QUEEN** (F.C.A.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Taxation - Income from a business or property - Deductions - Interest - Loan to subsidiary - Subsidiary of the Applicant sought to deduct interest paid on loan advanced by the Applicant - Whether the interest expense incurred on money borrowed to replace equity with debt financing for a business is deductible as interest incurred for the purpose of earning income - *Income Tax Act*, S.C. 1970-71-72, c. 63, s.20(1)(c)(i)

PROCEDURAL HISTORY

March 4, 1997
Tax Court of Canada
(McArthur J.)

The borrowed funds by the appellant were used to pay a dividend and can not be traced to an income earning use

December 9, 1999
Federal Court of Appeal
(Strayer, Létourneau, and Noel JJ.A)

Appeal dismissed

February 4, 2000
Supreme Court of Canada

Application for leave to appeal filed

27898 **BANK OF AMERICA CANADA - v. - CLARICA TRUST COMPANY** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial Law - Procedural Law - Interest - Damages - Breach of contract - Statute - Interpretation - Availability of compound interest on damage awards - Circumstances that a court ought to consider in determining whether compound interest is appropriate - Legal or equitable basis for awarding compound interest - *Courts of Justice Act*, R.S.O. 1990, c. C-43, ss. 128, 129, 130.

PROCEDURAL HISTORY

April 14, 1998
Ontario Court of Justice, General Division
(Farley J.)

Action allowed

March 10, 2000
Court of Appeal for Ontario
(Carthy, Goudge, and Feldman JJ.A.)

Appeal allowed in part on the issue of interest

May 8, 2000
Supreme Court of Canada

Application for leave to appeal filed

27693 **GARY KELEMEN AND CHRISTINE KELEMEN - v. - CHAWKI EL-HOMEIRA AND YOLLA EL-HOMEIRA** (Alta.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Deceit - Materiality - Vendor real estate agent providing his co-worker for advice on real estate transaction to purchasers - Do three of the elements that a Plaintiff must prove to support an action in damages for the tort of deceit include material inducement, a false representation of fact and an intention to deceive and does material inducement require a two-part test, the first of which is objective - Has the legislature of the Province of Alberta, as well as many other legislatures in Canada, determined that contributory negligence applies to intentional torts including deceit - Can a married woman be found guilty of deceit and be liable for damages solely as a result of the fact that she is married to the person who allegedly made the deceitful representation - Do Courts of Appeal in Canada have a positive duty to deal in a meaningful way with substantive and substantial arguments relating to obvious factual errors undermining the trial judgment.

PROCEDURAL HISTORY

December 4, 1997
Court of Queen's Bench of Alberta
(Bielby J.)

Counter-claim of Respondents allowed and Applicants' claim dismissed

December 16, 1999
Court of Appeal of Alberta
(Picard, Côté, and Hunt JJ.A.)

Appeal dismissed

January 7, 2000
Supreme Court of Canada

Application for leave to appeal filed

27761 **CARL LAUFER - v. - JOHN BUCKLASCHUK** (Man.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Libel and slander - Costs - Is a jury in a defamation case, which involves multiple statements, required to answer questions indicating which extended meaning (false innuendo) pleaded by the plaintiff the jury attributes to each of the alleged defamatory statements and which of the statements the jury finds to be defamatory - Is a party who agrees on the form of questions to be put to a jury bound by that agreement or may that party raise as a ground of appeal that the form of questions was inadequate and in error? - Is a trial judge required to instruct the jury on each particular extended meaning (false innuendoes) pleaded by the plaintiff that each of the allegedly defamatory statements could reasonably bear and instruct the jury that it is their responsibility to determine whether each allegedly defamatory statement does in fact bear a particular extended meaning? - When determining whether there is express or actual malice on the part of a defendant on an occasion of qualified privilege, may a jury consider whether the allegedly defamatory statements were made for any indirect motive or purpose other than the honest fulfilment of the duty to communicate the information to the persons concerned and conclude that malice exists - Is it the law in Canada that qualified privilege can only be defeated if the dominant purpose for publishing the defamatory statements was to injure the plaintiff's reputation? - Does non-direction to a jury constitute a ground of appeal if no objection is raised at trial by counsel?

PROCEDURAL HISTORY

August 5, 1998
Court of Queen's Bench of Manitoba
(Hanssen J.)

Applicant's defamation action allowed: \$2,000,000 damage awarded by jury

December 20, 1999
Court of Appeal of Manitoba
(Scott, Helper, Monnin J.J.A.)

Appeal allowed: matter remitted for new trial

February 14, 2000
Supreme Court of Canada

Application for leave to appeal filed

27860 **BRIAN J. STEWART - v. - HER MAJESTY THE QUEEN** (F.C.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is granted with costs to the applicant in any event of the cause.

La demande d'autorisation d'appel est accordée avec dépens en faveur du demandeur quelle que soit l'issue du pourvoi.

NATURE OF THE CASE

Statutes - Interpretation - Taxation - Whether the Federal Court of Appeal erred in law in applying the "reasonable expectation of profit" test to disallow the deduction of losses of the Applicant arising from investments in real estate where the investments were not acquired for personal use but for the purpose of earning rental income - Whether the Federal Court of Appeal erred in law in failing to analyse the true issue in this case of whether the interest expenses of the Applicant were deductible pursuant to paragraph 20(1)(c) of the *Income Tax Act*, S.C. 1970-71 c. 63, as amended.

PROCEDURAL HISTORY

April 24, 1998
Tax Court of Canada
(McArthur J.T.C.C.)

Applicant's appeal from the assessments of his 1990, 1991 and 1992 taxation years dismissed

February 18, 2000
Federal Court of Appeal
(Desjardins, Rothstein and Sharlow J.J.A.)

Appeal dismissed

April 17, 2000
Supreme Court of Canada

Application for leave to appeal filed

27724 **HER MAJESTY THE QUEEN - v. - JACK WALLS AND ROBERT BUYER** (F.C.A.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Statutes - Interpretation - Taxation - Whether the reasonable expectation of profit test laid down in *Moldowan v. The Queen*, [1978] 1 S.C.R. 480 for determining the existence of income under the *Act* is effectively only applicable in circumstances where there is a personal element to the activity which is under review.

PROCEDURAL HISTORY

February 2, 1996
Federal Court of Canada, Trial Division
(Pinard J.)

Respondents' appeal of their 1984-85 tax assessments dismissed

November 23, 1999
Federal Court of Appeal
(Strayer, Robertson and McDonald JJ.A.)

Respondents' appeal allowed

January 26, 2000
Supreme Court of Canada

Application for leave to appeal and motion for an extension of time to file the application to January 26, 2000 filed

27705 **ELIO CANNELLA, KELLY ANN KENNEDY, ANITA PATEL, LENINO SICILIANO (BY HIS LITIGATION GUARDIAN MASSIMO SICILIANO) and MONICA WRIGHT - v. - THE TORONTO TRANSIT COMMISSION and THE CITY OF TORONTO** (Ont.)

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

The application for leave to appeal is dismissed without costs.

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

NATURE OF THE CASE

Canadian Charter - Civil - Right to equality - Public transportation - Respondent Transit Commission operating Wheel-Trans, a specialized door-to-door service for persons unable to use conventional transit - Applicants found by Commission to be ineligible for Wheel-Trans under new criteria adopted in 1996 - Divisional Court dismissing Applicants' motion to quash Commission's decision - Whether Divisional Court erred in failing to find that Applicants suffered an infringement of their rights under s. 15 and/or s. 7 of the *Canadian Charter of Rights and Freedoms*.

PROCEDURAL HISTORY

June 18, 1999 Ontario Superior Court of Justice (Divisional Court) (Southey, Coo and J. Macdonald JJ.)	Application for an order quashing the Respondent Toronto Transit Commission's decision denying eligibility for services dismissed
November 19, 1999 Court of Appeal for Ontario (Finlayson, Weiler and Moldaver JJ.A.)	Motion for leave to appeal dismissed
January 14, 2000 Supreme Court of Canada	Application for leave to appeal filed

27824 **RASHID AZIZ - v. - UNITED USED AUTO & TRUCK PARTS LTD., VECW INDUSTRIES LTD., SEILER HOLDINGS LTD. and UNITED USED AUTO PARTS (STORAGE DIV.) LTD., ERNST & YOUNG INC., CANADIAN WESTERN BANK, CENTURY SERVICES INC., ROYAL BANK OF CANADA, CLARICA LIFE INSURANCE COMPANY, CITY OF SURREY, HER MAJESTY THE QUEEN IN RIGHT OF CANADA, INTERNATIONAL UNION OF OPERATING ENGINEERS AND LOCAL 115** (B.C.)

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

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial law - Creditor and debtor - Priorities - Cured lenders obtaining order to sell mortgaged lands of operating business - Stay of execution enforcement proceedings granted under *Companies' Creditors Arrangement Act* - Application to set aside the *ex parte* Initial Stay Order dismissed and priority granted with respect to certain expenses of Monitor and Petitioners - Application to set aside the *ex parte* Initial Stay Order dismissed - Whether a court has jurisdiction to grant priority to funding for a reorganization under the *CCAA* ahead of secured creditors without their consent.

PROCEDURAL HISTORY

November 8, 1999 Supreme Court of British Columbia (Tysoe J.)	Order: Application for an <i>ex parte</i> order under the <i>Companies' Creditors Arrangement Act</i> staying all execution enforcement proceedings against the Respondents granted
November 19, 1999 Supreme Court of British Columbia (Tysoe J.)	Order: Application to set aside the <i>ex parte</i> Initial Stay Order dismissed
January 27, 2000 Court of Appeal of British Columbia (Rowles, Prowse, and Mackenzie JJ.A.)	Appeal dismissed
March 27, 2000 Supreme Court of Canada	Application for leave to appeal filed

27616 **KENNETH MacPHERSON - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

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

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Evidence - Jury charge - Whether the Court of Appeal erred in holding that the trial judge did not err in his instructions with respect to reasonable doubt and the burden of proof - Whether the Court of Appeal erred in concluding that the trial judge did not err in his instructions on motive - Whether the Court of Appeal erred in concluding that the expert evidence called by the Crown was admissible and in concluding that the trial Judge did not err in failing to warn the jury of the dangers of relying on that evidence.

PROCEDURAL HISTORY

November 19, 1996 Ontario Court of Justice (General Division) (Quinn J.)	Conviction: arson; sentence of imprisonment of two years less a day
November 10, 1999	Appeal dismissed

Droit administratif - Procédure - Contrôle judiciaire - Norme de contrôle applicable - Preuve - Dommages corporels - «Thin skull rule» - *Res ipsa loquitur* - Règles de justice naturelle - Compétence de la Commission des affaires sociales - Appréciation de la preuve médicale - Relation entre l'accident dont a été victime la demanderesse et sa lombalgie.

HISTORIQUE PROCÉDURAL

Le 10 avril 1992
Commission des affaires sociales
(Dr Bisailon et Me Tellier, commissaires)

Appel de deux décisions de la Société de
l'assurance automobile du Québec accueilli en
partie

Le 31 mai 1994
Commission des affaires sociales
(Dr Therrien et Me Rudel-Tessier, commissaires)

Requête en révision rejetée

Le 31 août 1995
Cour supérieure du Québec
(Tellier j.c.s.)

Requête en révision judiciaire de deux décisions de la
Commission des affaires sociales accueillie

Le 14 décembre 1999
Cour d'appel du Québec
(Fish, Deschamps, Pidgeon jj.c.a)

Appel accueilli

Le 22 mars 2000
Cour suprême du Canada

Demande d'autorisation d'appel et requête en
prorogation de délai déposées

27772 **ANDRÉ ARTHUR - c. - LE PROCUREUR GÉNÉRAL DU CANADA** (C.A.F.)(Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Droit administratif - Contrôle judiciaire - Requête en radiation - Caractère théorique du recours - Caractère approprié du recours - Intérêt requis pour attaquer la décision du Conseil de la radiodiffusion et des télécommunications canadiennes - Compétence pour se prononcer sur la constitutionnalité de la loi constitutive du Conseil de la radiodiffusion et des télécommunications canadiennes - La Cour d'appel fédérale a-t-elle erré en ordonnant que soit expurgées du dossier les conclusions b), c), d) et e) de la demande de contrôle judiciaire du demandeur?

HISTORIQUE PROCÉDURAL

Le 23 décembre 1999
Cour d'appel fédérale
(Décary, Létourneau et Noël jj.c.a.)

Requête en radiation rejetée

Le 21 février 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27979 **ALAN EMMETTE SIMMONS - v. - THE UNITED STATES OF AMERICA** (Crim.)(Ont.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Criminal Law - Extradition - Whether the offence in the United States of America of knowingly transporting a minor in foreign commerce between Canada and the United States with intent that she engage in sexual activity for which the perpetrator could be charged with the criminal offence of sexual assault satisfies the double criminality requirement under s. 18(1)(b) of the *Extradition Act*, R.S.C. (1985), c. E-23, as amended.

PROCEDURAL HISTORY

May 15, 1998
Ontario Court (General Division)
(McKinnon J.)

Request for extradition for an offence relating to sexual assault of a minor granted; request for extradition for an offence of making a sexually explicit video denied

November 12, 1999
Court of Appeal for Ontario
(Labrosse, Doherty and Abella JJ.A.)

Appeal from extradition order dismissed; Appeal from dismissal of request for extradition for offence of making a sexually explicit video allowed

June 19, 2000
Supreme Court of Canada

Applications for leave to appeal and for time extension for leave to appeal filed

27653 **DANS L'AFFAIRE DE LA FAILLITE DE: LE CHÂTEAU D'AMOS LTÉE**

ENTRE: VILLE D'AMOS - c. - RAYMOND, CHABOT INC. et BANQUE CANADIENNE IMPÉRIALE DE COMMERCE, COMPAGNIE TRUST NATIONAL, BANQUE LAURENTIENNE DU CANADA, CENTRE D'AIDE AUX ENTREPRISES HARRICANA INC. et COMMISSION SCOLAIRE HARRICANA - et - L'OFFICIER DE LA PUBLICITÉ DES DROITS DE LA CIRCONSCRIPTION FONCIÈRE D'ABITIBI et LE PROCUREUR GÉNÉRAL DU QUÉBEC - et entre - PROCUREURE GÉNÉRALE DU QUÉBEC - c. - RAYMOND, CHABOT INC. et BANQUE CANADIENNE IMPÉRIALE DE COMMERCE, COMPAGNIE TRUST NATIONAL, BANQUE LAURENTIENNE DU CANADA, CENTRE D'AIDE AUX ENTREPRISES HARRICANA INC., VILLE D'AMOS et COMMISSION

SCOLAIRE HARRICANA - et - L'OFFICER DE LA PUBLICITÉ DES DROITS DE LA CIRCONSCRIPTION FONCIÈRE D'ABITIBI (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

Les demandes d'autorisation d'appel sont rejetées avec dépens.

The applications for leave to appeal are dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Faillite - Ordre de collocation - Municipalités - Taxes foncières - Hypothèque légale et priorité - Créance garantie - Application, interprétation et interrelation de l'article 136(1)(e) de la *Loi sur la faillite et l'insolvabilité*, L.R.C. (1985), ch. B-3 (ci-après "*L.F.I.*") et des articles 2651(5) *C.c.Q.* et 498 *Loi sur les cités et villes*, L.R.Q., ch. C-19 (ci-après "*L.C.V.*").

HISTORIQUE PROCÉDURAL

Le 2 septembre 1997
Cour supérieure du Québec
(Viens j.c.s.)

Ordonnances quant au traitement des biens de la débitrice

Le 19 octobre 1999
Cour d'appel du Québec
(Beauregard, Brossard (dissident en partie) et Nuss
jj.c.a.)

Appels de la demanderesse, Procureure générale du Québec, de l'intimée Raymond, Chabot Inc. et de l'intimée Commission scolaire Harricana rejetés; appel des intimées Banque canadienne impériale de commerce, Compagnie Trust National et Banque Laurentienne du Canada accueilli

Les 16 et 17 décembre 1999
Cour suprême du Canada

Demandes d'autorisation d'appel déposées

27746 **LAMERTON & ASSOCIATES PROFESSIONAL SURVEYORS LTD. - v. - FREDERICK JOHN QUINN, INUVIALUIT REGIONAL CORPORATION** (Y.T.)

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

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

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

NATURE OF THE CASE

Procedural law - Motion to dismiss action - *Yukon Territory Supreme Court Rules*, Rule 19(24) - Limitation of Acts - *Limitation of Actions Act*, R.S.Y. 1986, c. 104, s. 2 - Torts - Fiduciary Duty - Damages - Economic Loss - The scope of the principle of liability for pure economic loss and its application - Whether this Court should define the scope of fiduciary obligation in traditionally non fiduciary roles - Whether the scope of the discoverability rule and the steps to which a legislature must go to override it needs to be clarified at a national level.

PROCEDURAL HISTORY

December 2, 1998
Supreme Court of the Yukon Territory
(Hirschfield J.)

Action against Respondents dismissed with costs

September 17, 1999
Court of Appeal for the Yukon Territory
(McEachern C.J.B.C., Finch and MacKenzie JJ.A.)

Appeal dismissed with costs

February 8, 2000
Supreme Court of Canada

Motion for an extension of time and application for leave
to appeal filed

27651 **DANS L'AFFAIRE DE LA FAILLITE DE: 147557 CANADA LTÉE**

ENTRE: PROCUREURE GÉNÉRALE DU QUÉBEC - c. - VILLE DE L'ÎLE BIZARD, BANQUE NATIONALE DU CANADA, et LE CONSEIL SCOLAIRE DE L'ÎLE DE MONTRÉAL - et - CARON BÉLANGER ERNST & YOUNG INC. - et entre - LE CONSEIL SCOLAIRE DE L'ÎLE DE MONTRÉAL - c. - VILLE DE L'ÎLE BIZARD et BANQUE NATIONALE DU CANADA - et - LE PROCUREUR GÉNÉRAL DU QUÉBEC et CARON BÉLANGER ERNST & YOUNG INC. - et entre - VILLE DE L'ÎLE BIZARD - c. - LE CONSEIL SCOLAIRE DE L'ÎLE DE MONTRÉAL, BANQUE NATIONALE DU CANADA et CARON BÉLANGER ERNST & YOUNG INC., ÈS QUALITÉS - et - LE PROCUREUR GÉNÉRAL DU QUÉBEC (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

Les demandes d'autorisation d'appel sont rejetées avec dépens.

The applications for leave to appeal are dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Faillite - Ordre de collocation - Municipalités - Taxes foncières - Hypothèque légale et priorité - Créance garantie - Application, interprétation et interrelation de l'article 136(1)(e) de la *Loi sur la faillite et l'insolvabilité*, L.R.C. (1985), ch. B-3 (ci-après "*L.F.I.*") et des articles 2651(5) *C.c.Q.* et 498 *Loi sur les cités et villes*, L.R.Q., ch. C-19 (ci-après "*L.C.V.*").

HISTORIQUE PROCÉDURAL

Le 31 août 1998
Cour supérieure du Québec
(Chaput j.c.s.)

Requête pour jugement déclaratoire accueillie

Le 19 octobre 1999
Cour d'appel du Québec
(Beauregard, Brossard et Nuss jj.c.a.)

Appel de la demanderesse, la Procureure générale du Québec, rejeté

Les 15, 16 et 17 décembre 1999
Cour suprême du Canada

Demandes d'autorisation d'appel déposées par la Procureure générale du Québec, le Conseil scolaire de l'Île de Montréal et la Ville de l'Île Bizard

27799 **GÉRALD ROBITAILLE & ASSOCIÉS LTÉE - c. - SA MAJESTÉ LA REINE DU CANADA**
(Qué.)

CORAM: Les juges Gonthier, Binnie et Arbour

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Droit fiscal - Faillite - Avis d'intention - Compensation statutaire - «Recours» - La compensation statutaire prévue à l'article 224.1 de la *Loi de l'impôt sur le revenu* peut-elle faire échec à la suspension des recours prévue au paragraphe 69(1) de la *Loi sur la faillite et l'insolvabilité*? - La compensation légale est-elle possible dans un contexte d'insolvabilité entre une créance pré-avis d'intention et une créance post-avis d'intention? - Art. 69(1) de la *Loi sur la faillite et l'insolvabilité* - Art. 224.1 de la *Loi de l'impôt sur le revenu*

HISTORIQUE PROCÉDURAL

Le 11 décembre 1998
Cour supérieure du Québec
(Barakett j.c.s.)

Requête en irrecevabilité de l'intimée rejetée; requête de la demanderesse pour suspension de la compensation statutaire émise par Revenu Canada accueillie

Le 11 janvier 2000
Cour d'appel du Québec
(Beauregard, Gendreau, Chamberland jj.c.a)

Appel accueilli

Le 13 mars 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27799 **GÉRALD ROBITAILLE & ASSOCIÉS LTÉE - c. - SA MAJESTÉ LA REINE DU CANADA**
(Qué.)

LE JUGE GONTHIER:

Vu le rejet de la demande d'autorisation d'appel, la requête de sursis est rejetée.

As the application for leave to appeal has been dismissed, the motion for a stay of proceedings is also dismissed.

SEPTEMBER 21, 2000 / LE 21 SEPTEMBRE 2000

27886 **KONRAD KOVACEVIC - v. - HER MAJESTY THE QUEEN**(B.C.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Reasonable doubt - Whether the Court of Appeal erred in law in concluding that the instruction that the learned trial judge gave to the jury on the meaning of reasonable doubt was correct and in accordance with this Court's decision in *Regina v. Lifchus*, [1997] 3 S.C.R. 320 - Whether there are conflicting appellate court decisions on the issue of the "inarticulate juror" instruction - Whether the "in the system" doctrine as set out by the Court in *Regina v. Wigman*, [1987] 1 S.C.R. 246 and *Regina v. Thomas*, [1990] 1 S.C.R. 713 applies.

PROCEDURAL HISTORY

June 17, 1996 Supreme Court of British Columbia (Low J.)	Applicant convicted on charges of incest, indecent assault and gross indecency
March 8, 2000 Court of Appeal for British Columbia (Esson, Rowles, Newbury, Braidwood and Hall JJ.A.)	Appeal dismissed
May 3, 2000 Supreme Court of Canada	Application for leave to appeal filed

27863 **DAI GEUN RHEE - v. - HER MAJESTY THE QUEEN**(B.C.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Whether the majority of the Court of Appeal erred in law in finding that the learned trial judge had not committed reversible error in his definition of reasonable doubt to the jury - Whether the Court of Appeal erred in law in regards to the issue of the retroactivity of "incremental" changes in the law - Whether the Court of Appeal, by refusing to follow appellate authority from Ontario, effectively created a "dual standard" for jury charges in Canada contrary to the principles of fundamental justice enshrined in section 7 of the *Canadian Charter of Rights and Freedoms*.

PROCEDURAL HISTORY

February 28, 1997 Supreme Court of British Columbia (Lowry J.)	Conviction: 1 count of attempted murder, 1 count of assault causing bodily harm
March 8, 2000 Court of Appeal of British Columbia (Esson J.A., Rowles J.A.[<i>dissenting</i>], Newbury J.A. [<i>dissenting</i>] Braidwood and Hall JJ.A)	Appeal dismissed
April 18, 2000 Supreme Court of Canada	Notice of appeal as of right filed
May 8, 2000 Supreme Court of Canada	Application for leave to appeal filed

27751 **MARGARET K. WITTE - v. - THE WORKERS' COMPENSATION BOARD OF THE NORTHWEST TERRITORIES, THE CORPORATE BOARD OF THE WORKERS' COMPENSATION BOARD OF THE NORTHWEST TERRITORIES, SHEILA FULLOWKA, DOREEN SHAUNA HOURIE, TRACEY NEILL, JUDIT PANDEV, ELLA MAY CAROLE RIGGS, DOREEN VODNOSKI and JAMES O'NEIL** (N.W.T.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Administrative law - Judicial review - Standard of review - Bias - Whether the patently unreasonable standard of review or the correctness standard of review applies where an overt and serious conflict of interest is found to exist between the administrative tribunal and one of the parties appearing before it but that administrative tribunal has the exclusive jurisdiction to decide the issue - Whether the legislature may provide for a lower standard of review for certain decisions of a Workers' Compensation Board than the patently unreasonable standard - Whether an administrative tribunal decision which flies in the face of what the legislature has said and which fails to take into account the very broad functions of the legislation is saved merely because the tribunal attributed "some reason" to it - Whether the decision or the process must be patently unreasonable.

PROCEDURAL HISTORY

April 21, 1998 Workers' Compensation Board of the Northwest Territories, Corporate Board (Wray, Chairperson, and Bardak, Kuksuk and Stevely, Members)	Application by Applicant dismissed: the alleged acts or omissions of the Applicant set out in a civil action raised in the Supreme Court of the Northwest Territories are not statute-barred
September 15, 1998 Supreme Court of the Northwest Territories	Application by Applicant for judicial review allowed: decision of the Board set aside and quashed

(Veit J.)

December 16, 1999
Court of Appeal of the Northwest Territories
(Côté, Picard and Hunt JJ.A.)

Appeal by Respondents allowed: decision of the Board re-
instated

February 10, 2000
Supreme Court of Canada

Application for leave to appeal filed

March 7, 2000
Supreme Court of Canada

Conditional application for leave to cross-appeal filed by
Respondent O'Neil

March 8, 2000
Supreme Court of Canada

Conditional application for leave to cross-appeal filed by
Respondents Fullowka, Hourie, Neill, Pandev, Riggs and
Vodnoski

27925 **PAUL KENNETH BERNARDO - v. - HER MAJESTY THE QUEEN** (Ont.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Trial - Procedure - Charge to jury - Whether trial judge erred in law in concluding that section 635(1) of the *Criminal Code of Canada* did not alternately require the Crown to declare whether or not it was peremptorily challenging a prospective juror before resolving the Appellant's challenge for cause - Whether trial judge misdirected the jury with respect to how the burden of proof applied to the issue of whether another person killed either or both of the victims - Whether learned trial judge failed to adequately warn the jury against inferring from other person's plea agreement with the Crown that she could not have been the actual killer of either victim.

PROCEDURAL HISTORY

September 1, 1995
Superior Court of Justice
(LeSage A.C.J.)

Conviction: first degree murder, kidnapping, unlawful
confinement, aggravated sexual assault and offering an
indignity to a dead body

March 29, 2000
Court of Appeal for Ontario
(Laskin, Moldaver and MacPherson JJ.A.)

Appeal against conviction dismissed

May 23, 2000
Supreme Court of Canada

Application for leave to appeal filed

27919 **PATRICK RUSSELL HURST - v. - HER MAJESTY THE QUEEN** (B.C.) (Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter - Criminal Law - Disclosure - Admissibility of Evidence - Right to a fair trial - Whether the Crown has a duty to provide the accused with full disclosure according to s. 603 of the *Criminal Code* and ss. 7 and 11(d) of the *Charter* - Whether the right of the accused to make full answer and defence as stated in s. 650 of the *Criminal Code* is denied where full disclosure is denied - Whether the undisclosed driving record was inadmissible as evidence according to British Columbia's *Supreme Court Rules*, B.C. Reg. 221/90 - Whether the accused's right to a fair trial as guaranteed by s. 11(d) of the *Charter* is denied where the Court of Appeal ignores its own law and condones the use of inadmissible evidence - Whether allegations of a prior conviction used for cross-examination must be proven to eliminate both prejudice and erroneous fact finding - Whether the resulting prejudice and the denial of the accused's right "to be presumed innocent until proven guilty" as stated in s. 11(d) of the *Charter* results in an unfair trial where proof is not provided, and the alleged prior conviction is erroneous - Whether when the Court of Appeal eroded the legitimacy of the judicial process when it ignored errors made at trial that strike at the accused's fundamental rights enshrined in ss. 7 and 11(d) of the *Charter*.

PROCEDURAL HISTORY

March 29, 1999 Supreme Court of British Columbia (Hunter J.)	Appeal from conviction and sentence on a charge of speeding on a highway contrary to section 146(3) of the <i>Motor Vehicle Act</i> , dismissed
March 20, 2000 Court of Appeal of British Columbia (Finch, Mackenzie, and Saunders JJ.A.)	Appeal against conviction dismissed; appeal with respect to victim surcharge levy allowed; appeal with respect to the demerit points dismissed
May 17, 2000 Supreme Court of Canada	Application for leave to appeal filed

27586 RACHEL KLEVEN - v. - HER MAJESTY THE QUEEN (B.C.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Evidence - Defence - Did the Court of Appeal err in law in ruling that it was permissible for the trial judge to leave with the jury the issue of whether the Applicant was a party to the offence under s. 21 of the *Criminal Code*? - Was the instruction with respect to s. 21 of the *Criminal Code* inadequate, both in law and in failing to relate the evidence to the law, or both? - Did the Court of Appeal err in law in failing to find that the verdict of guilt against the Applicant, based in whole or in part upon the testimony of the co-accused, was unreasonable?

PROCEDURAL HISTORY

November 27, 1996
Supreme Court of British Columbia
(Stewart J.)

Conviction: second degree murder contrary to s. 235 of the
Criminal Code

September 17, 1999
Court of Appeal of British Columbia
(Ryan, Donald, and Mackenzie JJ.A.)

Appeal dismissed

April 20, 2000
Supreme Court of Canada
(Arbour J.)

Motion to extend time granted

May 1, 2000
Supreme Court of Canada

Application for leave to appeal and motion to extend time
filed

27765 **UNITED TRANSPORTATION UNION - v. - INTERNATIONAL BROTHERHOOD OF
LOCOMOTIVE ENGINEERS, VIA RAIL CANADA INC. and GEORGE CAIRNS et al** (F.C.A.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Administrative Law - Judicial Review - Procedural law - Labour Law - Stay of decision of Canada Industrial Relations Board pending judicial review - Whether the Federal Court of Appeal erred by applying the wrong test in determining when a stay of a Canada Industrial Relations Board decision should be granted - Whether, even if the appropriate test was applied, the Federal Court of Appeal erred in concluding that all of the conditions of that test were met - Whether the Federal Court of Appeal erred in making findings where there was no evidence to support such findings and where there was in fact evidence to the contrary - Whether costs should have been awarded - Whether the issues raised by this application are of sufficient national importance as to warrant granting leave to appeal.

PROCEDURAL HISTORY

October 22, 1999 Canada Industrial Relations Board (Pineau Vice-Chairperson)	Board orders the reopening of select issues under the <i>Crew Consist Adjustment Agreement</i>
January 17, 2000 Federal Court of Appeal (Sexton J.A.)	Decision of the Canadian Industrial Relations Board stayed pending judicial review
February 15, 2000 Supreme Court of Canada	Application for leave to appeal filed

27748 **ROBERT E. ZELINSKI and KEN A. WHENT - v. - HER MAJESTY THE QUEEN** (F.C.A.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Taxation - Assessment - Interest - Certified art work acquired cheaply by lawyers and donated to approved public art galleries - Appraised value much more than cost of acquisition - Appraised value deducted from professional incomes - Minister reassessing taxpayers' returns - Whether Minister could advance an alternative basis for reassessment not raised until pleadings delivered after the expiration of the limitation period - Whether interest payable on tax as of the date of assessment notwithstanding that taxes were not determined to be outstanding by Minister until after reassessment, thus imposing on Canadian taxpayers a burden contrary to that expressed in subsection 161(1) of the *Act* - If so, whether commencement date for interest is the date of a Notice of Reassessment, irrespective of the grounds relied upon by the Minister, or the date when the grounds upon which the Minister achieved success is first raised.

PROCEDURAL HISTORY

July 12, 1996 Tax Court of Canada (Mogan J.)	The taxpayers did not engage in an adventure in the nature of trade.
December 10, 1999 Federal Court of Appeal (Stone, Isaac, and Sexton JJ.A)	Appeal dismissed
February 8, 2000 Supreme Court of Canada	Application for leave to appeal filed

27847 **HER MAJESTY THE QUEEN - v. - B.J.S.** (B.C.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Sentencing - Conditional Sentence Orders - Breach - Fitness of sentence on breach - Factors to be considered - When conditional sentence order should be terminated - Whether the Court of Appeal erred in determining that when considering the fitness of a sentence for breach of a conditional sentence order, the circumstances of the offences leading to the conditional sentence order were not relevant - Whether the Court of Appeal erred by giving too little weight to the principles of deterrence and denunciation - Whether the Court of Appeal erred in determining that a prior criminal conviction was a condition precedent to the application of the presumption that incarceration should follow a breach of a conditional sentence order - Whether the Court of Appeal erred in determining that the gravity of the second breach of conditional sentence ought to be determined by comparison to the first breach, rather than as part of a continuing sequence of criminal conduct - Whether the Court of Appeal erred in giving unwarranted deference to the decision of the sentencing judge

PROCEDURAL HISTORY

September 9, 1999
Provincial Court of British Columbia
(Waurynchuk J.)

Conviction: Sexual assault, uttering threats, unlawful confinement, careless storage of a firearm
Sentence: Conditional sentence order prohibiting contact with complainant and requiring participation in counselling

December 15, 1999
Provincial Court of British Columbia
(Waurynchuk J.)

First breach (27847): Conditional sentence order amended to include condition that Respondent have no contact with complainant or his children

February 15, 2000
British Columbia Court of Appeal
(McEachern C.J.B.C., Southin, Donald JJ.A.)

Crown sentence appeal of first breach dismissed

February 23, 2000
Provincial Court of British Columbia
(Waurynchuk P.C.J.)

Second breach (27976): Conditional sentence order amended to include condition that Respondent apologize to his children when deemed appropriate by counsellors

April 20, 2000
British Columbia Court of Appeal
(Rowles, Hall, Mackenzie JJ.A)

Crown sentence appeal of second breach decision dismissed

June 19, 2000
Supreme Court of Canada

Applications for leave to appeal filed (27847 & 27976)

July 24, 2000
Supreme Court of Canada (Iacobucci, J.)

Motion for an extension of time granted

27976 **HER MAJESTY THE QUEEN - v. - B.J.S.** (B.C.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Sentencing - Conditional Sentence Orders - Breach - Fitness of sentence on breach - Factors to be considered - When conditional sentence order should be terminated - Whether the Court of Appeal erred in determining that when considering the fitness of a sentence for breach of a conditional sentence order, the circumstances of the offences leading to the conditional sentence order were not relevant - Whether the Court of Appeal erred by giving too little weight to the principles of deterrence and denunciation - Whether the Court of Appeal erred in determining that a prior criminal conviction was a condition precedent to the application of the presumption that incarceration should follow a breach of a conditional sentence order - Whether the Court of Appeal erred in determining that the gravity of the second breach of conditional sentence ought to be determined by comparison to the first breach, rather than as part of a continuing sequence of criminal conduct - Whether the Court of Appeal erred in giving unwarranted deference to the decision of the sentencing judge

PROCEDURAL HISTORY

September 9, 1999
Provincial Court of British Columbia
(Waurynchuk J.)

Conviction: Sexual assault, uttering threats, unlawful confinement, careless storage of a firearm
Sentence: Conditional sentence order prohibiting contact with complainant and requiring participation in counselling

December 15, 1999
Provincial Court of British Columbia
(Waurynchuk J.)

First breach (27847): Conditional sentence order amended to include condition that Respondent have no contact with complainant or his children

February 15, 2000
British Columbia Court of Appeal
(McEachern C.J.B.C., Southin, Donald JJ.A.)

Crown sentence appeal of first breach dismissed

February 23, 2000
Provincial Court of British Columbia
(Waurynchuk P.C.J.)

Second breach (27976): Conditional sentence order amended to include condition that Respondent apologize to his children when deemed appropriate by counsellors

April 20, 2000
British Columbia Court of Appeal
(Rowles, Hall, Mackenzie JJ.A)

Crown sentence appeal of second breach decision dismissed

June 19, 2000
Supreme Court of Canada

Applications for leave to appeal filed (27847 & 27976)

July 24, 2000
Supreme Court of Canada (Iacobucci, J.)

Motion for an extension of time granted

27671 **CONEX SERVICES INCORPORATED - v. - BOGNER DEVELOPMENTS LIMITED and LEON SAMUEL BOGNER (B.C.)**

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Commercial law - Contract - Tort - Negligent misrepresentation - Concurrent liability - Damages - Whether the law respecting negligent misrepresentations amounting to inducements is unclear or at least unclearly applied in British Columbia in circumstances where tort and contract liability coexist - Whether victims of negligent misrepresentation who are induced to enter into a contract with the inducer's company need to have their interest protected, especially where the inducer is not a contracting party.

PROCEDURAL HISTORY

February 7, 1997 Supreme Court of British Columbia (Curtis J.)	Applicant's action dismissed
March 3, 1997 Supreme Court of British Columbia (Curtis J.)	Sum held in trust to be paid out to the Applicant
November 1, 1999 Court of Appeal of British Columbia	Appeal allowed in part; Cross-appeal dismissed
December 31, 1999 Supreme Court of Canada	Application for leave to appeal filed

27836 **ADITYA NARAYAN VARMA - v. - CANADA LABOUR RELATIONS BOARD, CANADIAN UNION OF POSTAL WORKERS AND CANADA POST CORPORATION (F.C.A.)**

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs to Canada Post Corporation.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de la Société canadienne des Postes.

NATURE OF THE CASE

Procedural Law - Adjourment - Illness - Whether the Applicant was, at all material times, able to make the appropriate representations in court on February 7, 2000, given his illness and the medication used for treatment - Whether there should be an oral hearing of this application for leave to appeal pursuant to section 43(1)(c) of the *Supreme Court Act*

PROCEDURAL HISTORY

July 14, 1997
Canada Labour Relations Board
(J.F.W. Weatherill, Chairman, and J.P. Morneau and J.L.
Guilbeault, Vice-Chairs) Application for reconsideration dismissed

February 11, 2000
Federal Court of Appeal
(Desjardins, Rothstein and Sharlow JJ.A.) Application for judicial review dismissed

April 4, 2000
Supreme Court of Canada Application for leave to appeal filed

27825 **SEVEN-UP CANADA INC., PATHFINDER BEVERAGES LTD., 161275 CANADA INC. and
THOMAS B. BAKER - v. - FASKEN CAMPBELL GODFREY and CAMPBELL GODFREY
& LEWTAS** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Professions - Barristers and solicitors - Liability - Negligence - Duty to warn - Scope of Retainer - Whether the lower courts erred in finding, in part, that there was no duty to warn - Whether this decision is inconsistent with previous jurisprudence - Whether the lower courts erred in the assessment of damages and the onus of proof.

PROCEDURAL HISTORY

January 6, 1997
Ontario Court of Justice (General Division)
(Sharpe J.) Respondent FCG's action for outstanding legal fees allowed with costs; Applicants' counterclaim and set-off: allowed in part

January 25, 2000
Court of Appeal for Ontario
(McMurtry C.J.O., Osborne and Feldman JJ.A.) Appeal and cross-appeal dismissed with costs

March 27, 2000
Supreme Court of Canada Application for leave to appeal filed

27719 **GUISEPPE ROSATI - v. - ANTANAS LIAKUS** (Ont.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs fixed at \$2,000.00.

La demande d'autorisation d'appel est rejetée avec dépens au montant de 2,000 00 \$.

NATURE OF THE CASE

Commercial law - Bankruptcy - Discharge proceedings - Statutory Interpretation - First time Bankrupt - Creditor filing Notice of Intended Opposition to the discharge - Creditor failing to prove facts alleged in Notice - Trial judge imposing condition on the discharge that the Applicant pay a further \$10,000 to the Trustee in Bankruptcy - Whether the proper interpretation of ss. 168.1(1)(f)(i), (3), (4) of the *Bankruptcy and Insolvency Act* require that an automatic (absolute) discharge be granted to a first-time bankrupt and that no discretion is available to grant a conditional discharge under s. 172(1) in circumstances where Notice of Intended Opposition to the discharge is found to be without merit - *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3.

PROCEDURAL HISTORY

June 3, 1998 Ontario Court of Justice (General Division) (Lederman J.)	Discharge granted, on appellant paying to trustee the sum of \$10,000.00
December 1, 1999 Court of Appeal for Ontario (Rosenberg, Feldman, and MacPherson JJ A.)	Appeal dismissed
January 25, 2000 Supreme Court of Canada	Application for leave to appeal filed

28015 **ROBERT DONALD VanDENBURGH - v. - HER MAJESTY THE QUEEN** (B.C.)(Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

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

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

NATURE OF THE CASE

Criminal law - Jurisdiction - Whether the lower courts assumed a secret or unwarranted jurisdiction over the Applicant - Procedure - Disclosure - Whether an accused foreigner in Canada has the right to be informed of the nature of the charges of which he has been accused - Whether the Crown had the right to keep silent when The Applicant requested to know the nature of the charges against him

PROCEDURAL HISTORY

September 12, 1997 Provincial Court of British Columbia	Conviction: speeding, failing to wear a seat belt (Applicant did not appear and was deemed not to have disputed charges)
February 24, 1998 Supreme Court of British Columbia	Conviction set aside; matter remitted back to Provincial Court
July 24, 1998	Conviction: speeding, failing to wear a seat belt

Provincial Court of British Columbia
(Proctor J.P.)

October 22, 1998

Supreme Court of British Columbia
(Dohm A.C.J.)

Summary conviction appeal dismissed

December 3, 1999

Court of Appeal of British Columbia
(Ryan J.A.)

Leave to appeal denied

July 17, 2000

Supreme Court of Canada

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

27620 **EARL DANIEL STEVENSON - v. - HER MAJESTY THE QUEEN** (Sask.) (Crim.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

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

La demande de prorogation de délai imparti pour déposer la demande d'autorisation est accordée. La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal Law - Sentencing - Dangerous offender - Whether trial judge failed to consider psychiatric evidence - Whether trial judge failed to consider systemic or background circumstances of the Applicant as an aboriginal offender - Whether time required to successfully treat the applicant exceeded maximum determinate penalty for offense of sexual assault.

PROCEDURAL HISTORY

May 28, 1998

Court of Queen's Bench of Saskatchewan
(Archambault J.)

Application declared a dangerous offender

January 19, 1999

Court of Appeal for Saskatchewan
(Tallis, Gerwing, and Lane JJ.A.)

Appeal dismissed

April 26, 2000

Supreme Court of Canada

Applications for time extension and leave to appeal filed

27707 **BUCK CONSULTANTS LIMITED - v. - HER MAJESTY THE QUEEN** (F.C.A.)

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Statutes - Interpretation - Taxation - When is an expense incurred within the meaning of paragraph 18(1)(a) of the *Income Tax Act*, S.C. 1970-71 c. 63, as amended? - Whether an expense is "incurred" when the taxpayer has a legal, but not necessarily immediate, obligation to pay an amount.

PROCEDURAL HISTORY

June 3, 1996 Tax Court of Canada (Bonner T.C.J.)	Appeals from re-assessments of tax for the taxation years 1986, 1987, 1988, 1989 dismissed
November 19, 1999 Federal Court of Appeal (Stone, Isaac and Sexton JJ.A.)	Appeal dismissed
January 17, 2000 Supreme Court of Canada	Application for leave to appeal filed

27853 **MARKET NEWS PUBLISHING INC. and ROBERT SHORE - v. - SOUTHAM INC. and DAVID BAINES(B.C.)**

CORAM: The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs to David Baines.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de David Baines.

NATURE OF THE CASE

Torts - Libel and slander - Damages - Whether the Court of Appeal erred in law by failing to consider whether the traditional rules of defamation could be simply transposed to information found on the Internet - Whether the Court of Appeal erred in failing to overturn the trial judge's finding of world-wide publication - Whether the Court of Appeal erred in law by failing to consider the effect the source of the information should have had on the damage award, and the "chilling effect" of the damage award - Whether the Court of Appeal erred in law by failing to find that the trial judge's assessment of damages was wholly out of proportion to the injury suffered - Whether the Court of Appeal erred in law by failing to compare the damage award to other awards in similar cases and by upholding the award by reference to aggravating factors?

PROCEDURAL HISTORY

April 15, 1998 Supreme Court of British Columbia (Rowan J.)	Judgment against the Applicants for libel; Applicants ordered to pay damages in the amount of \$250,000
February 14, 2000 Court of Appeal for British Columbia (Hollinrake, Huddart and Saunders JJ.A)	Appeal dismissed
April 14, 2000 Supreme Court of Canada	Application for leave to appeal filed

27750 **DRAGISA GAJIC - v. - HER MAJESTY THE QUEEN IN THE NAME OF REVENUE CANADA, HER MAJESTY THE QUEEN IN THE RIGHT OF THE MINISTRY OF FINANCE AND CORPORATE RELATIONS FOR THE PROVINCE OF BRITISH COLUMBIA (F.C.A.)**

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Taxation - Assessment - Minister of National Revenue assessing Applicant for income tax for several years - Assessment grossly overstating Applicant's income - Applicant receiving remission of portion of excess taxes - Provincial government refusing that similar remission be granted of provincial portion of excess taxes - Did the government of British Columbia suspend and deny the Applicant's rights to proper adjudication in the Supreme Court of British Columbia and in the Court of Appeal of British Columbia by ordering to the Court to stop the review of the claim? - Did the government of British Columbia abuse its power in discriminating against the Applicant under British Columbian law?

PROCEDURAL HISTORY

June 8, 1998 Federal Court of Canada (Rothstein J.)	Order: appeal from a decision of the Prothonotary dismissing the Applicant's statement of claim as disclosing no reasonable cause of action, dismissed
January 27, 2000	Appeal dismissed

Federal Court of Appeal
(Strayer, Sharlow and Malone JJ.A.)

March 6, 2000
Supreme Court of Canada

Application for leave to appeal filed

27926 **JACOB F. GOOHSEN - v. - HER MAJESTY THE QUEEN** (Crim.)(Sask.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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

Criminal law - Credibility - Deference to findings of fact by a trial judge - *R. v. Brooks*, [2000] 1 S.C.R. 237.

PROCEDURAL HISTORY

April 19, 1999
Court of Queen's Bench of Saskatchewan
(Hunter J.)

Conviction: attempting to obtain and obtaining, for consideration, the sexual services of a child, contrary to section 212(4) of the *Criminal Code*

March 13, 2000
Court of Appeal for Saskatchewan
(Tallis, Gerwing, and Sherstobitoff JJ.A.)

Appeal against conviction dismissed

May 19, 2000
Supreme Court of Canada

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

27907 **STEEVE MARTEL - c. - SA MAJESTÉ LA REINE** (Crim.)(Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Directives du juge au jury - Doute raisonnable - Fardeau imposé à la défense - Distinction entre meurtre et homicide involontaire - La Cour d'appel du Québec a-t-elle erré en omettant de se prononcer quant à l'erreur du juge de première instance qui a imposé à la défense le fardeau de soulever un doute raisonnable pour amener l'acquittement? - La Cour d'appel du Québec a-t-elle erré en n'ordonnant pas la tenue d'un nouveau procès alors qu'elle a déterminé que les directives données au jury relativement à la distinction entre meurtre et homicide involontaire coupable ne rencontraient pas les exigences requises? - La Cour d'appel du Québec a-t-elle erré en déterminant que l'article 229c) du *Code criminel* s'appliquait aux faits de la cause? - article 686(1)b)(iii) du *Code criminel*.

HISTORIQUE PROCÉDURAL

Le 17 avril 1997
Cour supérieure du Québec
(Tremblay j.c.s.)

Demandeur déclaré coupable de complot pour commettre un acte criminel (art. 433a) *C.cr.*), de meurtre au deuxième degré (art. 235 et 21 *C.cr.*) et d'avoir causé par le feu un dommage à un bien (art. 433a) et 21 *C.cr.*)

Le 15 mars 2000
Cour d'appel du Québec
(Baudouin, Nuss et Pidgeon jj.c.a.)

Appel rejeté

Le 12 mai 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27906 **STÉPHANE BOURBEAU - c. - SA MAJESTÉ LA REINE** (Crim.)(Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Directives du juge au jury - Doute raisonnable - Fardeau imposé à la défense - Distinction entre meurtre et homicide involontaire - La Cour d'appel du Québec a-t-elle erré en omettant de se prononcer quant à l'erreur du juge de première instance qui a imposé à la défense le fardeau de soulever un doute raisonnable pour amener l'acquittement? - La Cour d'appel du Québec a-t-elle erré en n'ordonnant pas la tenue d'un nouveau procès alors qu'elle a déterminé que les directives données au jury relativement à la distinction entre meurtre et homicide involontaire coupable ne rencontraient pas les exigences requises? - La Cour d'appel du Québec a-t-elle erré en déterminant que l'article 229c) du *Code criminel* s'appliquait aux faits de la cause? - Article 686(1b)(iii) du *Code criminel*.

HISTORIQUE PROCÉDURAL

Le 17 avril 1997
Cour supérieure du Québec
(Tremblay j.c.s.)

Demandeur déclaré coupable de complot pour commettre un acte criminel (art. 433a) *C.cr.*), de meurtre au deuxième degré (art. 235 et 21 *C.cr.*) et d'avoir causé par le feu un dommage à un bien (art. 433a) et 21 *C.cr.*)

Le 15 mars 2000
Cour d'appel du Québec
(Baudouin, Nuss et Pidgeon jj.c.a.)

Appel rejeté

Le 12 mai 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27830 **GARY JOHN LAZEO - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

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

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal Law - Regulatory Offences - Money Laundering - Narcotics - Entrapment - Resulting from a police undercover operation, the Applicant was convicted of charges under the *Proceeds of Crime (money laundering) Act*, S.C. 1991, c. 26 and of attempting to launder money contrary to the *Narcotic Control Act*, R.S.C., 1985, c. N-1 - Police had no reasonable suspicion that the Applicant was failing to comply with legislation - Whether the Court of Appeal erred on a fundamental point of Canadian criminal law and procedure, in upholding the Applicant's convictions where the evidence at trial, conducted entirely on an Agreed Statement of Facts, contained a clear and unequivocal admission that the Crown had failed to prove the attempted money laundering counts as particularized in the Indictment - Whether the Court of Appeal erred in upholding the decision of the trial judge that a defence based on "random virtue testing", entrapment, was not available to accused persons charged with the commission of a regulatory offence - Whether the Court of Appeal erred in upholding the trial judge's decision that offences under s. 6 of the *Proceeds of Crime (Money Laundering) Act* are properly classified as purely regulatory offences as opposed to criminal offences with regulatory aspects to them, quasi criminal offences, or criminal offences - Whether regulatory offences are exempt from the application of the defence of "random virtue testing" entrapment, as defined in *R. v. Barnes*, [1991] 1 S.C.R. 449 - Whether charges of attempted offences, as opposed to charges of substantive offences are an exception to the rule that it is a fundamental principle of criminal law that the offence, as particularized in the charge, must be proved.

PROCEDURAL HISTORY

December 7, 1998 Supreme Court of British Columbia (Cowan J.)	Applicant convicted on six counts of violating s. 6 of the <i>Proceeds of Crime (Money Laundering) Act</i> , and on four charges of attempts to launder the proceeds of crime contrary to s. 19.2 of the <i>Narcotic Control Act</i>
January 22, 1999 Supreme Court of British Columbia (Cowan J.)	Defence of entrapment rejected
March 13, 2000 Court of Appeal of British Columbia (Cummin, Newbury and Hall JJ.A.)	Appeal from conviction dismissed
May 15, 2000 Supreme Court of Canada	Application for leave to appeal filed
July 18, 2000 Supreme Court of Canada (Lebel J.)	Motion for an extension of time granted

27764 **APOTEX INC. - v. - MERCK & CO. INC. and MERCK FROSST CANADA INC.** (F.C.A)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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 - Property law - Food and drugs - Patents - *Res judicata* - Permanent injunctions - Variation or stay of injunction - What is the proper scope of *res judicata* in circumstances where a party: defends an action brought against it in respect of a definite subject matter on a particular basis; intentionally and expressly adopts one position in respect of the earlier subject matter but proposes to reserve its position in respect of any other subject matter; does not seek to re-litigate the earlier subject matter on the basis that some issue was not previously raised at trial; and seeks to raise its previously reserved position in respect of new subject matter discovered after trial?

PROCEDURAL HISTORY

January 23, 1998 Federal Court of Canada, Trial Division (MacKay J.)	Motion to vary or stay permanent injunction granted in earlier trial dismissed
December 14, 1999 Federal Court of Appeal (Stone, Linden and Rothstein JJ.A.)	Appeal dismissed
February 15, 2000 Supreme Court of Canada	Application for leave to appeal filed
March 13, 2000 Supreme Court of Canada (Bastarache J.)	Motion to extend time allowed

27783 **GAIL SNIDER - v. - MANITOBA ASSOCIATION OF REGISTERED NURSES** (Man.)

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

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Administrative law - Appeal - Professional Misconduct - Disciplinary committee of association for registered nurses revokes a nurse's registration for eight counts of professional misconduct - Whether tribunal considered evidence with respect to each of eight distinct charges separately - Reliance on similar fact evidence - Presumption of innocence, conflicting oaths and standard of proof - Absence of expert opinion on whether conduct constituted professional misconduct - Receipt of legal advice from counsel in absence of person affected by the decision - Weight of character reference letters in assessing appropriate discipline - Wrongful characterization of evidence, reliance on irrelevant evidence and considering evidence in totality as it relates to distinct charges - Appropriate relief if right to life, liberty and security of person in accordance with the principles of fundamental justice was denied - Standard of review.

PROCEDURAL HISTORY

May 14, 1999 Court of Queen's Bench of Manitoba (Clearwater J.)	Appeal from discipline committee's finding of misconduct allowed in part.
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February 2, 2000
Court of Appeal of Manitoba
(Philp, Twaddle, and Helper JJ.A)

Appeal allowed

March 3, 2000
Supreme Court of Canada

Application for leave to appeal filed

27818 **ALLAN DURAND - v. - JEAN BASTIEN** (Alta.)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Motor Vehicles - Liability of registered owner of vehicle - Whether the Court of Appeal of Alberta erred in law, or alternatively in fact of law, in upholding the judgment of the trial judge - Whether the manner of determining ownership of a registered vehicle is of public importance - Whether the onus upon a party attempting to rebut a presumption of ownership should be clearly identified as to the nature of evidence required and the legal test to be applied to the evidence - The interpretation of the intent of the Legislature of the Province of Alberta with respect to insurance and personal injury law.

PROCEDURAL HISTORY

November 19, 1998
Court of Queen's Bench of Alberta
(Medhurst J.)

Respondent declared not the owner of a vehicle

January 26, 2000
Court of Appeal of Alberta
(McClung, Howe, and Wittmann JJ.A.)

Appeal dismissed

March 23, 2000
Supreme Court of Canada

Application for leave to appeal filed

27866 **SA MAJESTÉ LA REINE - c. - ÉRIC FOURNIER** (Crim.)(Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Charte canadienne - Droit criminel - Preuve - Obligation de divulgation - Éléments de preuve détruits ou perdus par la police - Requête pour arrêt des procédures - Défense pleine et entière - Réparation- Arrêt des procédures - Violation de l'article 7 de la *Charte* - La Cour d'appel a-t-elle erré en droit en concluant que, malgré l'absence de négligence des policiers et à défaut d'une démonstration par l'accusé d'un préjudice réel, la non-saisie ou la non-conservation d'éléments matériels constituait en soi un préjudice justifiant cette mesure exceptionnelle qu'est l'arrêt des procédures pour le chef d'accusation de meurtre au premier degré concernant Richard Jobin? - La Cour d'appel a-t-elle erré en droit en concluant que, malgré l'absence d'une démonstration par l'accusé d'un préjudice réel et concret au stade d'une requête préliminaire, la non-conservation d'un seul élément matériel, soit un fil de téléphone, justifiait cette mesure exceptionnelle qu'est l'arrêt des procédures pour le chef d'accusation de meurtre au premier degré concernant Martin Nault?

HISTORIQUE PROCÉDURAL

Le 25 septembre 1998
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour arrêt des procédures accueillie

Le 24 février 2000
Cour d'appel du Québec
(Brossard, Robert et Forget jj.c.a.)

Pourvoi rejeté

Le 20 avril 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

27766

BANK OF MONTREAL - v. - ENCHANT RESOURCES LTD., D.S. WILLNESS, DYNEX PETROLEUM LTD., ALBERTA ENERGY COMPANY LTD., ARDMORE INVESTMENTS LTD., TRANSCANADA PIPELINES LTD., AMOCO CANADA PETROLEUM LTD., ATCOR LTD., CRESTAR ENERGY INC., DANA DISTRIBUTORS LTD., VIMYVIEW LTD., COL-SYB HOLDINGS LTD., HEXAM HOLDINGS LTD., DAVIDS INVESTMENTS LTD., EDWARD A. HADWAY, ESTATE OF HARRY VEINER, VICTOR SOPKIW, NANCY OIL & GAS LTD., STANILOFF OIL & GAS LTD., CORY OILS LTD., DORAN INVESTMENTS LTD., ENCOR ENERGY CORPORATION, EPIC RESOURCES LTD., KIRRIEMUIR RESOURCES LTD., MERIDIAN OIL INC., NORTH CANADIAN OILS LIMITED, ODESSA NATURAL CORPORATION, PRECAMBRIAN SHIELD RESOURCES LIMITED, STAR OIL & GAS LTD., SUNCOR INC., EARL GORDON, ANTELOPE LAND SERVICES LTD., BRANNIGAN RESOURCES CANADA (1992) LTD., JIM BRUCES CONSULTANTS, SASKATCHEWAN OIL & GAS CORPORATION, SASK OIL RESOURCES INC., LANDSEA OIL & GAS LTD., INTENSITY RESOURCES LTD., DEANE ENTERPRISES LTD., SHELL CANADA RESOURCES LTD., CHANNEL LAKE PETROLEUM LTD. AND ENRON OIL CANADA LTD. (Alta.)

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

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Property law - Commercial law - Real estate - Bankruptcy - Oil and gas law - Overriding royalties - Whether overriding royalties (agreements providing a participation in proceeds of sale of production from oil and gas and mineral resource

properties and created or granted by persons holding only interests in the nature of *profits à prendre* in the related lands) cannot in law be interests in land - Whether overriding royalty interests are not *per se* interests in land notwithstanding that arrangements could be embodied in agreements by way of charges upon the grantor's property interest which would stand as security for the future obligations under the agreement - Whether the common law rule that it is not possible to create by subdivision out of an incorporeal hereditament another separate incorporeal hereditament should stand and whether there is a fundamental difference between royalties granted by the owner of freehold mineral title and those granted by persons holding only a subsidiary right to exploit.

PROCEDURAL HISTORY

December 19, 1995 Court of Queen's Bench of Alberta (Rooke J.)	Overriding royalties do not constitute interests in land
December 17, 1999 Court of Appeal of Alberta (Foisy, Berger, and Sulatycky JJ.A)	Appeal allowed on the first issue
February 15, 2000 Supreme Court of Canada	Application for leave to appeal filed

27786 **SONJA VAN HALTEREN - v. - MARK STEVEN WILHELM** (B.C.)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Assessment of damages - Mitigation - Trial - Credibility - Litigation guardian for litigant under a mental disability - Applicant injured in motor vehicle accident alleging brain injury but found by trial judge to be suffering from depression and not a credible witness - What is the proper approach to the evidence of a plaintiff whose credibility and ability to relate events may have been destroyed by the defendant in a case where brain injury is in issue - How far can a plaintiff, particularly in the circumstances of the applicant, be faulted for failure to articulate with any specificity what she alleges was her post accident condition to her medical advisors - In cases such as this, particularly where there is uncontradicted evidence of all the medical experts, ought the Court to appoint a guardian *ad litem* to protect a plaintiff.

PROCEDURAL HISTORY

December 16, 1997 Supreme Court of British Columbia (Taylor J.)	Applicant awarded general damages of \$35,000.00 and past wage loss of \$10,000.00; claims for future loss of income, loss of earning capacity and management fees dismissed
January 7, 2000 Court of Appeal of British Columbia (McEachern C.J., Finch and Hall J.J.A)	Appeal dismissed
March 6, 2000 Supreme Court of Canada	Application for leave to appeal filed

27984 **D.T.A. - c. - M.E.L.** (Qué.)

CORAM: Les juges L'Heureux-Dubé, Bastarache et LeBel.

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Procédure civile - Appel - Cautionnement - Le juge Robert a-t-il exercé sa discrétion judiciairement en vertu de l'art. 497 du *Code de procédure civile*, L.R.Q., ch. C-25, en ordonnant le paiement d'un cautionnement équivalant au montant de la condamnation en première instance et omettant de tenir compte de la nature de l'appel du demandeur, à savoir le défaut de pouvoir se faire entendre en première instance?

HISTORIQUE PROCÉDURAL

Le 5 janvier 2000 Cour supérieure du Québec (Bellavance j.c.s.)	Demandeur condamné à payer à l'intimée une somme globale de 600 000\$ ainsi qu'une provision pour frais de 50 000\$, avec intérêt de 5%
Le 5 avril 2000 Cour d'appel du Québec (Robert j.c.a.)	Requête de l'intimée pour cautionnement en appel accueillie: le demandeur doit fournir un cautionnement de 600 000\$ au plus tard le 5 juin 2000
Le 5 juin 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Le 7 juin 2000
Cour d'appel du Québec
(Beauregard j.c.a.)

Requête en sursis du demandeur accueillie: exécution du jugement du juge Robert suspendue jusqu'au 7 juillet 2000 mais le demandeur doit fournir d'ici cette date un cautionnement de 200 000\$

Le 31 juillet 2000
Cour suprême du Canada
(L'Heureux-Dubé j.)

Requête en prorogation de délai pour présenter ou signifier la demande d'autorisations d'appel accordée

27795 **ABI BIOTECHNOLOGY INC. - v. - APOTEX INC., ISER KAY, JACK KAY, CRAIG BAXTER, DR. BERNARD SHERMAN and PRICE WATERHOUSE LTD.(Man.)**

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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 - Courts - Security for costs - Corporation in effective control of another corporation acquiring assets of controlled corporation rendering it impecunious - Committee of shareholders of impecunious corporation bringing action on behalf of impoverished company - Defendants in action seeking security for costs - Whether the fact that some shareholders of impecunious corporation have assets is a factor to be considered in determining whether security for costs should be required - Whether Court of Appeal should overrule trial court and allow deprived corporation to pursue legal proceedings without posting security for costs - Whether directors who were appointed by dominant corporation and who exercised their power as directors to the detriment of the corporation of which they are directors can escape responsibility by demanding security for costs from the corporation which they have cooperated in making impecunious.

PROCEDURAL HISTORY

September 23, 1997
Court of Queen's Bench of Manitoba
(Senior Master Goldberg)

Motion by Respondents for security for costs granted

January 29, 1999
Court of Queen's Bench of Manitoba
(Glowacki J.)

Appeals by Applicant from the orders granting security for costs allowed: orders set aside; appeal by Applicant from the order dismissing its motion for severance dismissed

January 14, 2000
Court of Appeal of Manitoba
(Scott C.J., Philp and Helper JJ.A.)

Appeals by Respondents Apotex Inc. and Price Waterhouse Ltd. with respect to security for costs allowed; cross-appeal by Applicant with respect to severance dismissed

March 9, 2000
Supreme Court of Canada

Application for leave to appeal filed

27644 **THE FRIENDS OF THE WEST COUNTRY ASSOCIATION - v. - MINISTER OF FISHERIES AND OCEANS, DIRECTOR, MARINE PROGRAMS, CANADIAN COAST GUARD** (F.C.A.)

CORAM: Gonthier, Binnie and Arbour JJ.

The motion for leave to intervene by Manitoba's Future Forest Alliance in the application for leave to appeal is dismissed. The application for leave to appeal is also dismissed.

La requête pour permission d'intervenir par Manitoba's Future Forest Alliance dans la demande d'autorisation d'appel est rejetée. La demande d'autorisation d'appel est également rejetée.

NATURE OF THE CASE

Administrative law - Judicial review - Statutes - Interpretation - Whether the Court of Appeal erred in concluding that a federal environmental assessment should focus on a consideration of environmental effects that are within federal jurisdiction - Whether the Court of Appeal erred in determining that s.15 of the *Canadian Environmental Assessment Act*, S.C. 1992, c. 37, as amended, does not require an environmental assessment to consider all interdependent parts of a project - Whether the Court of Appeal erred in refusing to rule on the Applicant's arguments concerning s. 15(1) of *CEAA*, based on its finding that the Applicant was required to cross-appeal - Whether the Court of Appeal erred in interpreting s. 16(3) of the *CEAA* in a manner that confers discretion on federal authorities to disregard cumulative environmental effects which otherwise fall within the mandatory requirements of s. 16(1)(a).

PROCEDURAL HISTORY

July 7, 1998 Federal Court of Canada, Trial Division (Gibson J.)	Order: application for judicial review allowed
October 12, 1999 Federal Court of Appeal (Linden, Rothstein, and McDonald JJ.A.)	Appeal dismissed, matter remitted to the Canadian Coast Guard for redetermination in accordance with lower court and appellate reasons
December 13, 1999 Supreme Court of Canada	Application for leave to appeal filed

27699 **JOHN HOLLICK - v. - THE CITY OF TORONTO** (Ont.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Procedural law - Action - Application for Certification of Act as a Class Proceeding - *Class Proceedings Act, 1992, S.O. 1992, c. 6, s. 5* - Whether the Court of Appeal erred in law in denying certification - Whether the Court of Appeal erred in concluding that this case raised no "common issues" - Whether a class action for environmental pollution is inherently unmanageable - Whether the Court of Appeal erred in failing to follow the case law - Whether the claim for public

nuisance by definition is appropriate for a class action - Whether the court has a discretion to deny certification on grounds other than those expressly stated in s.5 of the *Act*.

PROCEDURAL HISTORY

March 30, 1998 Ontario Court of Justice (General Division) (Jenkins J.)	Motion for certification as a class action granted with fixed costs
December 17, 1998 Ontario Court of Justice (Divisional Court) (O'Leary, Flinn, and Sedgwick JJ.)	Appeal allowed; cross-appeal dismissed
December 15, 1999 Court of Appeal for Ontario (Carthy, Goudge, and Feldman JJ.A)	Appeal dismissed
January 11, 2000 Supreme Court of Canada	Application for leave to appeal filed

SEPTEMBER 28, 2000 / LE 28 SEPTEMBRE 2000

27526 **LAWRENCE COLLYMORE, KEVIN GAYLE and MAXINE NUGENT - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

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

The motion for extension of time and the application for leave to appeal are dismissed.

La demande de prorogation de délai et la demande d'autorisation d'appel sont rejetées.

NATURE OF THE CASE

Canadian Charter, s. 8 - Criminal - Customs - Search and seizure - Seizure of cocaine by Customs officers after unsuccessful attempt by a courier to deliver an imported package led to opening of package, arousal of courier's suspicion, return to Customs officer and search by Customs - -Whether a border search occurred - Whether search and seizure was reasonable - Whether courier had been directed or compelled to return packages to Canada Customs - Whether Customs officer subjectively relied upon *Customs Act* at time of search - Whether Court of Appeal relied on facts contrary to the findings of trial judge - Whether Respondent met burden under s. 24(2) of *Charter - Customs Act*, R.S.C. 1985, c. 1 (2nd Supp.), ss. 99(1)(d)(e).

PROCEDURAL HISTORY

April 24, 1996 Ontario Court (General Division) (Matlow J.)	Acquittals of conspiracy to import narcotic, trafficking and possession for trafficking
July 26, 1999 Court of Appeal for Ontario	Appeal allowed; acquittals set aside, new trial directed

(Brooke, Osborne and Goudge JJ.A.)

April 3, 2000
Supreme Court of Canada

Application for leave to appeal and motion to extend time
filed

April 27, 2000
Supreme Court of Canadian
(Gonthier J.)

Motion to extend time deferred to the panel designed to
consider the application for leave

27720 **NICHOLS GRAVEL LIMITED - v. - THE CORPORATION OF THE TOWNSHIP OF DELHI,
DAVID ANDERSON and FRANK GELINAS** (Ont.)

CORAM: L'Heureux-Dubé, Bastarache and LeBel 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 - Judgments and orders - Appellate jurisdiction - Torts - Commercial law - Action for injurious falsehood, unlawful interference with economic relations and conspiracy - Punitive damages and equitable relief sought - Action dismissed at trial - Allegation that appeal wrongly heard by Divisional Court on consent of counsel rather than in Court of Appeal - Leave to appeal to Court of Appeal denied - Whether counsel's consent can confer jurisdiction on a court that would otherwise not be entitled to hear an appeal - Whether any obligation on the Court of Appeal to grant a remedy when presented with a lower court judgment made in the absence of jurisdiction - What principles govern a trial Judge's assessment under s. 19(1)(a)(iv) of the *Courts of Justice Act*, for the purposes of determining appellate jurisdiction - Whether an action in negligence lies against a government body that fails to follow its own law governing the award of contracts through a tendering process.

PROCEDURAL HISTORY

August 23, 1996
Ontario Court (General Division)
(Cavarzan J.)

Claims for *inter alia*, negligence, injurious falsehood and
for an order quashing the Respondent's "Quality Assurance
Policy" dismissed

February 7, 1997
Ontario Court (General Division)
(Cavarzan J.)

Supplementary reasons for judgment on costs.

June 3, 1999
Divisional Court
(Keenan, Cumming and Somers JJ.)

Appeal dismissed

November 24, 1999
Court of Appeal
(Finlayson, Weiler and O'Connor JJ.A.)

Motion for an order granting leave to appeal dismissed

January 24, 2000
Supreme Court of Canada

Application for leave to appeal filed

27733 WALTER SCHEPANOW - v. - HER MAJESTY THE QUEEN IN RIGHT OF ONTARIO, BOHDAN ZAROWSKY and EUGENIA KARNAUGH (EXECUTORS OF THE ESTATE OF PETER STARODUB), MITCHELL BARDYN ZALUCKY, IHOR BARDYN, VICTOR LISHCHYNA, YAROSLAV MIKITCHOOK, MCMILLAN BINCH, BRAD HANNA, JOHN TAMMING, MARKLE MAY PHIBBS, RICHARD EVENSON, DUNDALK DISTRICT CREDIT UNION LIMITED, CANADIAN IMPERIAL BANK OF COMMERCE, BANK OF MONTREAL - and - ATTORNEY GENERAL OF CANADA (F.C.A.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is dismissed with costs to Her Majesty the Queen in Right of Ontario, the Canadian Imperial Bank of Commerce and the Attorney General of Canada.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de Sa Majesté la Reine du Chef de l'Ontario, la Banque canadienne impériale de commerce et le Procureur général du Canada.

NATURE OF THE CASE

Canadian *Charter* - Civil - Section 24 relief - Procedural law - Courts - Jurisdiction - Actions found outside jurisdiction of Court - Appeal from orders declaring actions to be vexatious - Whether Federal Court of Appeal erred in refusing to consider that the Applicant's *Charter* damages tort, ground in the tort of conspiracy, was "new law" - Whether legal argument ought to have been allowed - Whether Federal Court of Appeal erred by re-inventing the "burden of proof" and the principles of fundamental justice to deny the relief sought under Section 24 of the *Charter* - Whether the Ontario Court of Appeal and the Federal Court of Appeal "vacated the field" rather than provide a recorded ruling on the Applicant's *Charter* damages tort - Whether the Federal Court, Trial Division and the Federal Court of Appeal violated the Applicant's *Charter* rights guaranteed under ss. 2, 7, 11(d), and 15(1) - Whether the Federal Court of Appeal finding that the Applicant was vexatious was proper given that the Ontario Court of Appeal had ruled that the Applicant's conduct and actions were not vexatious in accessing the Estates and Trust Acts.

PROCEDURAL HISTORY

October 5, 1998
Federal Court of Canada, Trial Division
(McKeown J.)

Motions by Respondents granted: Applicant's action dismissed (*note: there are five separate orders dismissing the action following separate motions by four individual respondents and a group of the other respondents - see p. 110-119)

August 18, 1999
Federal Court of Appeal
(Décary, Linden and Rothstein JJ.A.)

Motions by Respondents granted: Applicant's appeals quashed

December 6, 1999
Federal Court of Appeal
(Rothstein J.A.)

Application by Applicant for an order setting aside the orders quashing his appeals dismissed

December 7, 1999
Federal Court of Appeal
(Linden, Rothstein and Malone JJ.A.)

Application by Respondent Her Majesty the Queen for an order quashing the Applicant's appeal granted

February 1, 2000

Application for leave to appeal filed

Supreme Court of Canada

27698 **DR. ARIF HAYAT - v. - FACULTY OF DENTISTRY, UNIVERSITY OF TORONTO** (Ont.)

CORAM: Gonthier, 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

Administrative law - Judicial review - Colleges & universities - Did the Court of Appeal owe a greater degree of judicial deference the Divisional Court's decision in judicial review? - What is the appropriate standard of review of a tribunal that exercises a statutory power of decision when it defines the scope of its jurisdiction? - Did the Tribunal act without jurisdiction or err in law when it decided that in reaching its decision, it was not bound to require compliance with the terms of the grading policy, and that it could approve of a change in the methods of evaluation that was not permitted by the Policy? - Was it manifestly unfair to require that the Applicant successfully complete a further evaluation process, after he had successfully completed the announced and established evaluations?

PROCEDURAL HISTORY

May 5, 1998 Academic Appeals Committee of the Governing Council of the University of Toronto (Scan, Coleman, Grisé, Lomic, and Robins)	Decision: Respondent was within its rights to schedule the written examination which was set in accordance with the information sheet distributed to the first year orthodontic residents
December 14, 1998 Ontario Court of Justice - Divisional Court (Rosenberg, Haley, and Forestell JJ.)	Action in judicial review allowed: Committee decision quashed; Writ of <i>mandamus</i> issued compelling University to confer a diploma in orthodontics to Applicant
November 10, 1999 Court of Appeal for Ontario (Doherty, Charron, Borins JJ.A.)	Appeal allowed: judgment of Divisional Court set aside and decision of Committee restored
January 10, 2000 Supreme Court of Canada	Application for leave to appeal filed

27656 **JEAN-DENIS CÔTÉ - c. - SA MAJESTÉ LA REINE** (C.A.F.)

CORAM: Les juges Gonthier, Binnie et Arbour

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Code civil - Droit fiscal - Régime matrimonial - Régime de la communauté de biens réduite aux acquêts - Droit de propriété sur les biens de la communauté - Gain de capital - Les principes établis dans l'arrêt *Sura c. M.N.R.*, [1962] R.C.S. 65 sont-ils toujours applicables? - Lequel des époux doit être imposé sur le gain en capital résultant de la disposition d'actions provenant de la masse commune d'un régime de communauté de biens? - *Code civil du Bas Canada*, art. 1292.

HISTORIQUE PROCÉDURAL

Le 13 novembre 1996 Cour canadienne de l'impôt (Archambault j.c.c.i.)	Appels du demandeur pour les années d'imposition 1988 et 1989 rejetés
Le 10 novembre 1999 Cour d'appel fédérale (Décary, Létourneau et Noël jj.c.a.)	Appel rejeté
Le 7 janvier 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

27704 **ROGER GUIGNARD - c. - VILLE DE ST-HYACINTHE** (Qué.)

CORAM: Les juges Gonthier, Binnie et Arbour

La demande d'autorisation d'appel est accordée avec dépens en faveur du demandeur quelle que soit l'issue du pourvoi.

The application for leave to appeal is granted with costs to the applicant in any event of the cause.

NATURE DE LA CAUSE

Charte canadienne - Civil - Libertés publiques - Liberté d'expression - Règlement municipal - Enseigne publicitaire - "Contre-publicité" - Les juridictions inférieures ont-elles erré en droit en concluant que l'article 14.1.5 p) du *Règlement de zonage de la Ville de Saint-Hyacinthe* constituait une violation justifiée de la liberté d'expression du demandeur, à titre de consommateur et au moyen de "contre-publicité"?

HISTORIQUE PROCÉDURAL

Le 30 avril 1997 Cour municipale (St-Hyacinthe) (Lalande j.c.m.)	Demandeur déclaré coupable de violation de l'article 14.1.5 p) du <i>Règlement de zonage de la Ville de St-Hyacinthe</i>
Le 8 octobre 1997 Cour supérieure du Québec (chambre criminelle) (Downs j.c.s.)	Appel rejeté
Le 17 novembre 1999 Cour d'appel du Québec (Beauregard, Thibault et Denis [<i>ad hoc</i>] jj.c.a.)	Appel rejeté
Le 14 janvier 2000	Cour suprême du Canada

Demande d'autorisation d'appel déposée

27755 **HETTEMA INC. and VISSER POTATO LTD. - v. - CLAUDE & CONRAD TONER LTD.**
(N.B.)

CORAM: Gonthier, 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

Commercial law - Contracts - Whether the Court of Appeal erred in law in finding that an inspection by an independent government agency which is required by law amounts to an examination by the Applicant buyers, such that the implied condition of merchantable quality under section 15(b) of the *Sale of Goods Act*, R.S.N.B. 1970, c. S-1 did not apply - Whether the Court of Appeal erred in law in finding reliance by the Applicants on the government inspectors precludes reliance upon the skill of the potato grower, so that the implied condition of reasonably fit for the purpose under section 15(b) of the *Sale of Goods Act* did not apply - Whether the Court of Appeal erred in failing to find a fundamental breach of contract by the Respondent which would allow repudiation of the contract.

PROCEDURAL HISTORY

January 29, 1999
Court of Queen's Bench of New Brunswick
(Angers J.)

Applicants' claim for breach of contract and counterclaim for damages dismissed; Respondent's claim for payment allowed

December 13, 1999
Court of Appeal of New Brunswick
(Ryan, Turnbull and Larlee JJ.A.)

Appeal dismissed

February 11, 2000
Supreme Court of Canada

Application for leave to appeal filed

27721 **HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA**
- v. - LEANNE RUMLEY, JOHN PRATT, SHARON RUMLEY, J.S. and M.M. (B.C.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Procedural law - Civil procedure - Actions - Class actions - Chambers judge refusing to certify action for damages by former students of residential school for the deaf as a class proceeding under *Class Proceedings Act*, R.S.B.C. 1996, c. 50 - Court of Appeal allowing appeal in part and certifying common issues related to sexual abuse of students at school - Whether Court of Appeal erred in approach it adopted to determining whether allegations raised gave rise to common issues for which certification as a class proceeding was appropriate.

PROCEDURAL HISTORY

October 30, 1998 Supreme Court of British Columbia (Kirkpatrick J.)	Application to certify proceedings as a class action dismissed
November 26, 1999 Court of Appeal for British Columbia (Ryan, Donald and Mackenzie JJ.A.)	Appeal allowed in part; proceeding certified as a class proceeding with a defined class for a common issue related to sexual abuse
January 25, 2000 Supreme Court of Canada	Application for leave to appeal filed

27770 **ATTORNEY GENERAL OF CANADA, DONALD UHRICH, ROY HALFYARD, MARCEL BUJOLD, PAUL SÉGUIN, JANET BALL, ED SNYDER, ALLAN BAGNALL, ANN MacDONALD and ROBERT BOURGEOIS - v. - PAUL PLEAU, HEATHER PLEAU and ADRIANNA and PAUL PHILLIP PLEAU, BY THEIR LITIGATION GUARDIAN, HEATHER PLEAU** (N.S.)

CORAM: Gonthier, Binnie and Arbour JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Labour law - Jurisdiction of court - Motion to strike statement of claim - Federal public servant filing tort action against employer and several other employees - Whether statutory grievance procedure available under the *Public Service Staff Relations Act*, R.S.C., 1985, c. P-35 ousts jurisdiction of court - Whether Court of Appeal erred in failing to prohibit action.

PROCEDURAL HISTORY

May 25, 1999 Supreme Court of Nova Scotia, Trial Division (Hood J.)	Motion to strike out statement of claim dismissed
December 21, 1999 Nova Scotia Court of Appeal (Glube C.J.N.S., Cromwell and Roscoe J.J.A.)	Appeal dismissed
February 18, 2000 Supreme Court of Canada	Application for leave to appeal filed

27868 **F.C.B. - v. - HER MAJESTY THE QUEEN** (Crim.)(N.S.)

CORAM: Gonthier, 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 - Criminal - Criminal law - Evidence - Disclosure - Lost evidence - Remedies - Stay of proceedings - Applicant charged with gross indecency, incest and indecent assault - Complainant's original handwritten statement unavailable because police file had been destroyed five years after it was closed pursuant to file retention policy in existence at time - Whether Crown's failure to produce original statement constituted breach of Applicant's right to make full answer and defence under ss. 7 and 11(d) of *Canadian Charter of Rights and Freedoms* - Whether police file unavailable owing to unacceptable negligence - Whether trial judge erred in ordering stay of proceedings.

PROCEDURAL HISTORY

April 8, 1999 Nova Scotia Provincial Court (Nichols Prov. Ct. J.)	Stay of proceedings against the Applicant ordered
February 23, 2000 Nova Scotia Court of Appeal (Roscoe, Bateman and Cromwell JJ.A.)	Appeal allowed; stay of proceedings set aside and new trial ordered
April 20, 2000 Supreme Court of Canada	Application for leave to appeal filed

27921 **HER MAJESTY THE QUEEN - v. - KENNETH WILLIAMSON** (Crim.)(Ont.)

CORAM: Gonthier, 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 of Rights and Freedoms - Criminal Law - Trial - Trial within reasonable time - Delay - Whether the Respondent's constitutional right to be "tried within a reasonable time" was violated in the circumstances of the present case - Whether the Respondent had impliedly waived his rights under s. 11(b) of the *Charter* in connection with the 10 month period of delay from September 26, 1997 to July 20, 1998 - Whether the trial judge erred in the manner in which she assessed the question of whether or not the Respondent suffered any significant "prejudice" as a result of the delay in this case - Whether the trial judge erred in refusing to consider the significance of the complete absence of any "pre-charge delay" in this case when assessing the reasonableness of the period of post-charge delay in this case - *Canadian Charter of Rights and Freedoms*, s. 11(b).

PROCEDURAL HISTORY

September 9, 1998 Ontario Court (Provincial Division) (Hawke J.)	Application for a stay of proceedings granted
April 25, 2000 Court of Appeal for Ontario (Carthy, Charron and Sharpe JJ.A.)	Appeal dismissed
May 18, 2000 Supreme Court of Canada	Application for leave to appeal filed

27618 **GASTON LEBRUN - c. - SA MAJESTÉ LA REINE** (Qué.)(Crim.)

CORAM: Les juges Gonthier, Binnie et Arbour

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

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

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Défense - Législation - Interprétation - L'alinéa 273.2b) du *Code criminel* porte-t-il atteinte aux droits garantis par les articles 11d) et 7 de la *Charte* en ce qu'il opère un renversement du fardeau de preuve de la *mens rea* sur l'accusé? - L'alinéa 273.2b) augmente-t-il le fardeau de preuve de l'accusé, ce qui porte atteinte aux droits garantis par les articles 11d) et 7 de la *Charte*? - L'alinéa 273.2b) impose-t-il la preuve d'une *mens rea* objective ce qui porte atteinte aux droits garantis par l'article 7 de la *Charte*? - L'alinéa 273.2b) va-t-il à l'encontre du principe de la gradation de la responsabilité pénale, ce qui porte atteinte aux droits garantis par l'article 7 de la *Charte*? - Ces violations aux articles 7 et 11d) de la *Charte* constituent-elles des limites raisonnables et justifiées dans une société démocratique? - La Cour d'appel du Québec a-t-elle erré en droit, en ne reconnaissant pas que les erreurs commises par le juge de première instance dans ses directives au jury constituaient un déni de justice fondamentale justifiant la tenue d'un nouveau procès? - La Cour d'appel du Québec a-t-elle erré en droit, en affirmant que la preuve de l'absence de consentement de la part de la présumée victime constitue une preuve *prima facie* de l'intention coupable de l'accusé dans le cadre d'une accusation d'agression sexuelle, ce qui impose alors un fardeau à l'accusé d'apporter des éléments de preuve tendant à démontrer l'absence de cette intention coupable?

HISTORIQUE PROCÉDURAL

Le 26 février 1996
Cour supérieure du Québec
(Bellavance j.)

Déclaration de culpabilité: agression sexuelle,
contrairement à l'article 271(1)a) du *Code criminel*

Le 7 décembre 1999
Cour d'appel du Québec
(Beauregard, Gendreau, et Baudouin jj.c.a)

Appel rejeté

Le 30 mars 2000
Cour suprême du Canada

Demande d'autorisation d'appel et requête en
prorogation de délai déposées

27810 **RAYMOND HAID SHALALA - v. - HER MAJESTY THE QUEEN** (N.B.)(Crim.)

CORAM: Gonthier, 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 of Rights and Freedoms - Criminal law - Invasion of privacy - Trial - Whether the present statutory scheme allowing electronic interception is constitutionally invalid as a result of the 1993 amendments to Part VI of the *Criminal Code* - Whether the 1993 amendments to the wiretap provisions of the *Criminal Code* apply retrospectively - Whether the standards of review on a *Garofoli* hearing will vary depending on the nature of evidentiary record and, if so, what are the different standards - Whether s. 8 of the *Charter* mandates a particularity requirement to be found for the affidavit and authorization order as a minimum constitutional standard - What is the scope and extent of the requirement of investigative necessity; what is the standard to be applied in judging investigative necessity.

PROCEDURAL HISTORY

January 28, 1998
Court of Queen's Bench of New Brunswick
(Landry J.)

Guilty of conspiracy to import a narcotic contrary to section 465(1)(c) of the *Criminal Code* (one count)

February 27, 2000
Court of Appeal of New Brunswick
(Ayles, Ryan and Drapeau JJ.A.)

Appeal against conviction and application for leave to appeal sentence dismissed

March 31, 2000
Supreme Court of Canada
Binnie J.

Motion to file a lengthy memorandum granted in part (no more than 25 pages); Motion for an extension of time to April 20, 2000 granted

April 18, 2000
Supreme Court of Canada

Application for leave to appeal filed

27673

SOCIÉTÉ EN COMMANDITE 2858-9893 QUÉBEC - c. - 2420-3242 QUÉBEC INC. "IN TRUST", SOCIÉTÉ EN COMMANDITE PLACE DE LA LOIRE, GÉRALD CHAMPAGNE et ROLAND LANDRY - et - SOUS-MINISTRE DU REVENU DU QUÉBEC (Qué.)

CORAM: Les juges Gonthier, Binnie et Arbour

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Droit des biens - Société en commandite - Créancier et débiteur - Hypothèque - Confusion - Obligation de bonne foi - Société en commandite ayant un patrimoine distinct de ses commanditaires - Prête-nom - Est-ce que la Cour d'appel a privé la demanderesse et «le groupe» de vingt-trois (23) personnes qui n'était pas partie au débat de première instance de leur droit à une audition impartiale de leur cause par un tribunal qui ne soit pas préjugé, conformément à l'article 23 de la *Charte des droits et libertés de la personne du Québec*, L.R.Q. ch. C-12, art. 23?

HISTORIQUE PROCÉDURAL

Le 10 avril 1996
Cour supérieure du Québec
(Thibaut j.c.s.)

Requête en délaissement forcé et prise en paiement accueillie

Le 18 octobre 1999
Cour d'appel du Québec
(Mailhot, Rousseau-Houle et Biron [*ad hoc*] jj.c.a.)

Appel accueilli

Le 16 décembre 1999
Cour suprême du Canada

Demande d'autorisation d'appel déposée

18.8.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's record and factum**Requête en prorogation du délai imparti pour signifier et déposer le dossier et le mémoire de l'appelante**

Her Majesty the Queen

v. (28002)

Hugo Gayetano Llorenz (Crim.)(Ont.)

This motion, filed by the Appellant under rule 5 of the *Rules of the Supreme Court of Canada* and consented to by the Respondent, requests an extension of time to serve and file the Appellant's record and factum to July 31, 2001. The Appellant requires an extension of almost a year because the court reporter cannot transcribe the entire Respondent's trial until March 31, 2001. The Appellant's counsel indicates in her affidavit in support of the motion that she would require four months from that date to complete the record and factum.

This is an appeal as of right filed under s. 693(1)(a) of the *Criminal Code* from a decision of the Court of Appeal for Ontario, dated June 1, 2000, which allowed the appeal, set aside the convictions and ordered a new trial. Sharpe J.A., dissenting, would have dismissed the appeal against conviction and sentence. According to the above mentioned affidavit, the dissent raised a question of law "concerning the admissibility of expert opinion evidence".

For the purpose of the appeal in the Court of Appeal for Ontario, the record contained a streamlined version of the transcript, that is, the charge to the jury, the reasons for the sentence and the testimony of the two expert witnesses, supplemented by the Trial Judge's Report.

Having reviewed the affidavit and the decision of the Court of Appeal, I conclude that the record before the Court of Appeal, which record contains all the elements necessary to raise the question for decision of this Court as provided by rule 33(1) of the *Rules of the Supreme Court of Canada*, is sufficient for the proper consideration of the case by this Court.

Therefore, the motion is dismissed. In the circumstances, however, a one month extension to November 30, 2000 is granted for filing the Appellant's record and factum.

18.8.2000

Before / Devant: GONTHIER J.

Motion for extension of time and for leave to intervene**Requête en prorogation de délai et en autorisation d'intervenir**

BY/PAR: Attorney General of Alberta

IN/DANS: Pepsi-Cola Canada Beverages (West) Ltd.

v. (27060)

Retail, Wholesale and Department
Store Union Local 558, et al. (Sask.)**GRANTED / ACCORDÉE**

UPON APPLICATION by counsel on behalf of the Attorney General of Alberta for an extension of time and for leave to intervene in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

- 1) The motion for an extension of time and for leave to intervene of the applicant Attorney General of Alberta is granted and 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 of the parties.

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

18.8.2000

Before / Devant: BINNIE J.

Motion for a stay of execution

Requête en vue de surseoir à l'exécution

Mil Systems, a Division of Davie Industries Inc., et al.

v. (28022)

The Minister of Public Works and Government Services
Canada, et al. (F.C.A.)

DISMISSED / REJETÉE

1. The Applicants seek an order for
 - 1) a stay of execution of the judgment of the Federal Court of Appeal herein dated June 23, 2000 pending disposition of the leave application;
 - 2) expediting the determination of the application for leave to appeal;
 - 3) if leave is granted, expediting the appeal and related relief.
 2. In October 1999, the respondent Minister of Public Works and Government Services ("PWGSC") awarded a contract for in-service support to Canadian warships to the Respondent Siemens. That award was ordered terminated by the Canadian International Trade Tribunal (CITT) in its decision of March 6, 2000. This aspect of the CITT order was sustained in the Federal Court of Appeal. The contract was terminated by PWGSC on July 13th 2000.
 3. The issue on this proposed appeal is simply whether Siemens is to be included amongst those bidders which are entitled to have their bids reconsidered for this contract. The CITT found that Siemens was not to be considered, the Federal Court of Appeal reversed that part of the CITT decision. The proposed stay would exclude Siemens from consideration until the leave application is disposed of, and thereafter if leave is granted until the appeal is heard and disposed of.
 4. The application to expedite the leave application should be granted.
-

5. The stay application ought to have been directed to the Federal Court of Appeal. However, the applicant says it considered it efficient to have the stay motion dealt with at the same time as the motion to expedite, which could only be decided by this Court. It would be wasteful of resources at this stage to require the return of the stay motion to the court appealed from.

6. I do not think a stay is justified. The applicants have not established any risk of loss which could not be compensated for in damages. The balance of convenience favours an inclusive process of reconsideration subject, if that be the result of the litigation, to the exclusion of Siemens at a later date. If PWGSC enters into a contract with Siemens prior to the disposition of the litigation both parties will do so with full awareness of the potential cost if Siemens is afterwards excluded. The applicant's potential loss in terms of the cost of maintaining its personal establishment is a matter of dollars and cents, albeit there may be difficulties of calculation. The stay motion is therefore dismissed.

7. The motion to expedite the hearing if leave be granted is premature.

8. As success is divided there will no order as to costs.

18.8.2000

Before / Devant: THE CHIEF JUSTICE

Motion for directions

Requête pour obtenir des directives

Rui Wen Pan

v. (27424)

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

GRANTED / ACCORDÉE

UPON APPLICATION by counsel for the appellant an order directing that the within appeal be heard in conjunction with and at the same time as the appeal in *Sawyer v. Her Majesty the Queen* (27277);

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

1. The appeal shall be heard with *Sawyer v. Her Majesty the Queen* (27277) during the week of December 11, 2000;
2. The appellant be permitted to serve and file a factum not exceeding fifty (50) pages;
3. The appellant shall serve and file the appellant's record and factum on or before August 22, 2000;
4. The factum of the intervener, the Criminal Lawyers' Association (Ontario), shall be served and filed on or before September 22, 2000;
5. The factum of the respondent shall be served and filed on or before October 17, 2000;
6. The factums of all other interveners shall be served and filed on or before November 16, 2000.

21.8.2000

Before / Devant: ARBOUR J.

Motion to extend the time in which to serve and file the application for leave to January 31, 2000

Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation au 31 janvier 2000

Dezso Kadar

v. (28018)

Gabriella Kadar (Ont.)

ALLOWED IN PART / ACCORDÉE EN PARTIE Order will go extending the time to serve and file the application for leave to appeal to September 18, 2000.

22.8.2000

Before / Devant: LE JUGE ARBOUR

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

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

Transport scolaire Chauveau Ltée

c. (28053)

Procureur général du Québec, et al. (Qué.)

GRANTED / ACCORDÉE Délai prorogé au 30 octobre 2000.

29.8.2000

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the factum of the intervener the Attorney General for Alberta

Requête en prorogation du délai imparti pour signifier et déposer le mémoire de l'intervenant le procureur général de l'Alberta

Lorne Brown, et al.

v. (27150)

Regional Municipality of Durham Police Service Board (Ont.)

GRANTED / ACCORDÉE Time extended to September 30, 2000.

29.8.2000

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the factum of the intervener the Ontario Catholic School Trustees' Association

Requête en prorogation du délai imparti pour signifier et déposer le mémoire de l'intervenant la Ontario Catholic School Trustees' Association

Ontario English Catholic Teachers' Association, et al.

v. (27363)

Attorney General for Ontario, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to August 15, 2000.

30.8.2000

Before / Devant: THE DEPUTY 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'intimé

Tysanna Robertson

v. (28044)

Orrin Hart, executor for Maurice Rupert King (Alta.)

GRANTED / ACCORDÉE Time extended to October 2, 2000.

31.8.2000

Before / Devant: LEBEL J.

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

Requête en prorogation du délai de signification et de dépôt de la demande d'autorisation

David Malmo-Levine

v. (28026)

Her Majesty the Queen (B.C.)

GRANTED / ACCORDÉE Time extended to October 1, 2000.

31.8.2000

Before /Devant: LEBEL J.

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

v. (28068)

Deryk J. Kendall, et al. (Sask.)

Clayton Fensom, et al.

Requête en prorogation du délai de signification et de dépôt de la demande d'autorisation**GRANTED / ACCORDÉE** Time extended to August 16, 2000.

31.8.2000

Before / Devant: LEBEL J.

Requête en prorogation du délai imparti pour signifier et déposer les dossier, mémoire et cahier de jurisprudence et de doctrine des appelantes**Motion to extend the time to serve and file the appellants' record, factum and book of authorities**

2858-0702 Québec Inc., et al.

c. (27324)

Lac d'Amiante du Québec Ltée (Qué.)

GRANTED / ACCORDÉE Délai prorogé au 28 juillet 2000.

31.8.2000

Before / Devant: LEBEL J.

Requête en rejet de l'appel pour défaut d'agir**Motion to dismiss the appeal for want of prosecution**

2858-0702 Québec Inc., et al.

c. (27324)

Lac d'Amiante du Québec Ltée (Qué.)

DISMISSED / REJETÉE sans dépens.

31.8.2000

Before / Devant: ARBOUR J.

Motion to adduce new evidence

Requête visant à produire de nouveaux éléments de preuve

The Law Society of British Columbia

v. (27108)

Jaswant Singh Mangat, et al. (B.C.)

GRANTED / ACCORDÉE Although the affidavit of Mr. Mangat is not admissible as fresh evidence, it should be filed to complete the record before this Court. Order to go accordingly.

31.8.2000

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et déposer le mémoire de l'intimé

Her Majesty the Queen

v. (27555)

M.O. (Ont.)(Crim.)

GRANTED / ACCORDÉE Time extended to August 22, 2000.

31.8.2000

Before / Devant: THE DEPUTY REGISTRAR

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

Requête en prorogation du délai de signification et de dépôt de la réplique du requérant

Ernst & Young, et al.

v. (27948)

J.M. Webster, et al. (B.C.)

GRANTED / ACCORDÉE Time extended to August 22, 2000.

31.8.2000

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the appellant's response, record and book of authorities to the cross-appeal of the respondent Pilot Insurance

Requête en prorogation du délai imparti pour signifier et déposer les réponse, dossier et cahier de jurisprudence et de doctrine de l'appelante dans l'appel incident de l'intimée Pilot Insurance

Daphne Whiten, et al.

v. (27229)

Pilot Insurance Company, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to June 2, 2000, *nunc pro tunc*.

31.8.2000

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time to serve and file the respondent's book of authorities

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

Her Majesty the Queen in Right of Ontario

v. (27084)

974649 Ontario Inc. c.o.b. as Dunedin Construction (1992), et al. (Ont.)

GRANTED / ACCORDÉE Time extended to August 15, 2000.

31.8.2000

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time to serve and file the factum of the intervener the Attorney General for Alberta

Requête en prorogation du délai imparti pour signifier et déposer le mémoire de l'intervenant le procureur général de l'Alberta

Her Majesty the Queen in Right of Ontario

v. (27084)

974649 Ontario Inc. c.o.b. as Dunedin Construction (1992), et al. (Ont.)

GRANTED / ACCORDÉE Time extended to September 15, 2000.

6.9.2000

Before / Devant: MAJOR J.

Motion for additional time to present oral argument

Requête en prorogation du temps accordé pour la plaidoirie

British Columbia College of Teachers

v. (27168)

Trinity Western University, et al. (B.C.)

DISMISSED / REJETÉE

UPON APPLICATION by the appellant the British Columbia College of Teachers;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT the application for extended time at the hearing of this appeal is dismissed without prejudice to right of appellant to apply at the conclusion of the hearing for the right to file an extended reply factum.

6.9.2000

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et déposer les dossier, mémoire et cahier de jurisprudence et de doctrine de l'appelante

Westec Aerospace Inc.

v. (27356)

Raytheon Aircraft Company (B.C.)

GRANTED / ACCORDÉE Time extended to September 13, 2000.

6.9.2000

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et déposer les dossier, mémoire et cahier de jurisprudence et de doctrine de l'appelant

Tom Dunmore, et al.

v. (27216)

Attorney General for the Province of Ontario, et al.(Ont.)

GRANTED / ACCORDÉE Time extended to August 31, 2000.

6.9.2000

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de dépôt de la réplique et du cahier de jurisprudence et de doctrine de la requérante

The Corporation of the City of Mississauga, et al.

v. (27951)

Slough Estates Canada Limited, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to August 24, 2000.

8.9.2000

Before / Devant: L'HEUREUX-DUBÉ J.

Motion to expedite the appeal

Requête visant à accélérer l'appel

Philip Douglas Backman

v. (27561)

Her Majesty the Queen (F.C.A.)

GRANTED / ACCORDÉE

12.9.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to file the respondent's record, factum and book of authorities

Requête en prorogation du délai imparti pour déposer les dossier, mémoire et cahier de jurisprudence et de doctrine de l'intimé

Pepsi-Cola Canada Beverages (West) Ltd.

v. (27060)

Retail, Wholesale and Department Store Union Local 558, et al. (Sask.)

GRANTED / ACCORDÉE Time extended to September 7, 2000.

13.9.2000

Before / Devant: LEBEL J.

Requête en vue de surseoir à l'exécution

Motion for a stay of execution

Garth Aselford, et al.

c. (28088)

Fernande Ross, et al. (Que.)

DISMISSED with costs / REJETÉE avec dépens

Les appelants présentent une requête pour sursis de l'exécution d'un jugement après avoir déposé une requête pour autorisation de pourvoi contre un arrêt de la Cour d'appel du Québec prononcé le 28 mai 2000. Celui-ci confirmait en partie un jugement rendu par la Cour supérieure, le 19 décembre 1996, en réduisant toutefois le montant de la condamnation prononcée à l'origine. La Cour d'appel annulait alors une cession de créance d'un million trois cent soixante-dix-sept dollars (1 377 000,00 \$) consentie par une compagnie en faillite, Les Placements Tanguay (1979) Ltée. En même temps, elle condamnait solidairement les quatre appelants, Garth Aselford, Garth Aselford Limited, John Martin, et 2958-3838 Québec Inc., à payer 712 970,18 \$ à Fernande Ross et L.G. Ross Ltée et condamnait solidairement les mêmes parties à verser 373 910,92 \$ au Syndic Poissant Thibault-Peat Marwick Thorne Inc. La société commerciale 2958-3838 Québec Inc. était aussi condamnée à payer 230 118,54 \$ au même Syndic. Ces créances résultaient des paiements préférentiels dont auraient bénéficié les appelants.

Les appelants affirment qu'ils présentent des moyens d'appel sérieux. Ils ajoutent que l'exécution immédiate du jugement les lèserait gravement et que les intimés n'en subiraient pas de préjudice grave.

Sans que le juge saisi de la demande d'autorisation se substitue à la formation qui examinera éventuellement de la requête pour autorisation de pourvoi, il doit néanmoins s'assurer qu'il existe des moyens d'appel sérieux. Il lui faut ensuite examiner la question de préjudice pour la partie et, enfin, la prépondérance des inconvénients. (Voir B. Crane et H. Brown, *Supreme Court of Canada Practice 2000*, p. 132 et D. Ferland et B. Emery, *Précis de procédure civile du Québec*, volume 2, 3^e éd., p. 80.)

Dans l'espèce, les motifs de l'appelant ne semblent pas rencontrer les critères requis pour l'octroi d'un sursis d'exécution en vertu de l'article 65.1 de la *Loi sur la Cour suprême*. Essentiellement techniques, les moyens d'appel ne

me paraissent pas susceptibles de remettre en cause ce constat du juge Pidgeon en Cour d'appel du Québec sur la nature des manoeuvres des appelants et sur les recours exercés par les intimés:

[71] La preuve est claire. Aselford et Martin ont participé à des manoeuvres soigneusement planifiées, leur permettant de liquider en douceur les actifs de Tanguay contrôlés par Garth Aselford Ltd. et J. Walton Martin Ltd. et ainsi s'assurer que les créances de ces dernières et de leurs compagnies affiliées soient payées par préférence au détriment de la masse des créanciers de Tanguay. Abordant la question de l'intention des âmes dirigeantes au moment de la signature du "Funding Agreement" ainsi que lors de la restructuration corporative des compagnies, le juge conclut que le but évident des dirigeants, Aselford et Martin, était de créer une structure permettant de préférer leur créance ordinaire à celles des intimés : ...".

Le préjudice allégué serait essentiellement l'incapacité de satisfaire immédiatement à la condamnation. Si tel était le cas, il serait douteux que le passage du temps améliore les choses pour les intimés. La requête des appelants ne comprend d'ailleurs aucune offre ou suggestion indiquant qu'ils seraient prêts à fournir la moindre garantie aux intimés pour l'exécution éventuelle du jugement ou capables de la fournir. Le sursis demandé paraît rechercher de nouveaux délais dans une affaire où ils se sont accumulés depuis huit ans, au moins, parmi les aléas d'une procédure complexe.

Dans ce contexte, la requête pour autorisation de pourvoi est injustifiée. La demande de suspension des procédures est donc rejetée avec dépens de l'incident en faveur des intimés.

The appellants are bringing a motion for a stay of execution of a judgment after filing an application for leave to appeal against a judgment of the Quebec Court of Appeal rendered on May 28, 2000. That decision upheld, in part, a judgment of the Superior Court rendered on December 19, 1996; however, it reduced the total liability originally determined. The Court of Appeal set aside an assignment of a claim of one million three hundred and seventy-seven thousand dollars (\$1 377 000.00) by a bankrupt company, Les Placements Tanguay (1979) Ltée. At the same time, it found the four appellants, Garth Aselford, Garth Aselford Limited, John Martin, and 2958-3838 Québec Inc., jointly and severally liable to pay \$712 970.18 to Fernande Ross and L.G. Ross Ltée, and found the same parties jointly and severally liable to pay \$373 910.92 to the Trustee Poissant Thibault-Peat Marwick Thorne Inc. The business corporation 2958-3838 Québec Inc. was also found liable to pay \$230 118.54 to the same Trustee. These liabilities resulted from preferential payments which the appellants had apparently received.

The appellants state that they are submitting serious grounds of appeal. They add that immediate execution of the judgment would severely prejudice them and that the stay would cause no serious harm to respondents.

While the judge to whom the application is made must not take the place of the panel that will in due course consider the application for leave to appeal, the aforementioned judge must nonetheless be satisfied that there are serious grounds of appeal. He or she must then review the issue of prejudice to the party and, last, the balance of convenience. (See B. Crane and H. Brown, *Supreme Court of Canada Practice* 2000, p.132, and D. Ferland and B. Emery, *Précis de procédure civile du Québec*, Volume 2, 3rd ed., p.80.)

In the case in bar, the appellant's grounds do not seem to satisfy the required criteria for granting a stay of execution pursuant to section 65.1 of the *Supreme Court Act*. The grounds of appeal, which are essentially technical, are in my view insufficient to challenge the finding of Pidgeon J.A. of the Quebec Court of Appeal concerning the nature of the appellants' manoeuvres and of the remedies exercised by the respondents:

[71] [TRANSLATION] The evidence is clear. Aselford and Martin participated in carefully planned manoeuvres enabling them to quietly liquidate the assets of Tanguay controlled by Garth Aselford Ltd. and J. Walton Martin Ltd., thus ensuring that their claims and those of their affiliated companies were paid in preference at the expense of the main body of Tanguay's creditors. Addressing the issue of the intent of the directing minds at the time when the Funding Agreement was signed and during the companies' corporate reorganization, the judge found that the clear purpose of the directing minds, Aselford and Martin, was to establish a structure that would enable their unsecured claim to be given preference over the claims of the respondents: . . ."

Essentially, the alleged prejudice would be the inability to meet the liability at once. In such a case, it may be doubted whether the passage of time would improve the situation for the respondents. In addition, the appellants' motion does not include any offer or indication to the effect that they would be prepared to provide the respondents with some security for the eventual execution of the judgment, or that they would be capable of providing such security. The purpose of the stay applied for would seem to be further delays in a case where such delays have accumulated for at least eight years during the vagaries of a complex proceeding.

In such a context, the application for leave to appeal is unfounded. The motion for a stay of proceedings is therefore dismissed with costs of the motion to the respondents.

14.9.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's factum and record

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et dossier de l'appelante

Lenore Rideout

v. (27675)

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

GRANTED / ACCORDÉE Time extended to October 31, 2000.

14.9.2000

Before / Devant: MAJOR J.

Motion for additional time to present oral argument

Requête en prorogation du temps accordé pour la plaidoirie

Ontario English Catholic Teachers' Association, et al.

v. (27363)

Attorney General for Ontario, et al. (Ont.)

DISMISSED / REJETÉE

UPON APPLICATION by the appellants for an extension of time for oral submissions;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT the application be dismissed.

14.9.2000

Before / Devant: MAJOR J.

Autre requête

Miscellaneous motion

G.H.

c. (27658)

T.L. (Qué.)

DISMISSED / REJETÉE

À LA SUITE D'UNE REQUÊTE de G.H. sollicitant la modification de l'ordonnance rejetant la demande de prorogation du délai imparti pour signifier et déposer une demande d'autorisation d'appel;

ET APRÈS AVOIR PRIS CONNAISSANCE de la documentation déposée;

IL EST PAR LES PRÉSENTES ORDONNÉ CE QUI SUIT:

La requête est rejetée.

UPON APPLICATION by G.H. for an order varying the order denying the extension of time to serve and file an application for leave to appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion is denied.

19.9.2000

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de dépôt de la réponse de l'intimée

Earl Daniel Stevenson

v. (27620)

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

GRANTED / ACCORDÉE Time extended to July 6, 2000.

19.9.2000

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the joint books of authorities, vols. I - III

Requête en prorogation du délai imparti pour signifier et déposer les cahiers conjoints de jurisprudence et de doctrine, vols. I à III

British Columbia College of Teachers

v. (27168)

Trinity Western University, et al. (B.C.)

GRANTED / ACCORDÉE Time extended to August 9, 2000.

21.9.2000

Before / Devant: The REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et déposer les dossier, mémoire et cahier de jurisprudence et de doctrine de l'appelante

Monenco Limited, et al.

v. (27258)

Commonwealth Insurance Company (B.C.)

GRANTED / ACCORDÉE Time extended to September 15, 2000.

21.9.2000

Before / Devant: THE REGISTRAR

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

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

Rui Wen Pan

v. (27424)

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

GRANTED / ACCORDÉE Time extended to September 15, 2000.

21.9.2000

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai de signification et de dépôt de la réponse de l'intimé

John Grabowski, et al.

v. (28067)

The Joint Chiropractic Professional Review Committee,
et al. (Sask.)

GRANTED / ACCORDÉE Time extended to October 18, 2000.

21.9.2000

Before/ Devant: THE CHIEF JUSTICE

Motion to state a constitutional question

Requête pour énoncer une question constitutionnelle

The Law Society of British Columbia

v. (27108)

Jaswant Singh Mangat, et al. (B.C.)

GRANTED / ACCORDÉE

UPON APPLICATIONS by Counsels for the Appellant and the Respondents for an order stating constitutional questions; and

UPON CONSIDERING the submissions of the parties and the materials filed by the parties in respect thereof,

IT IS HEREBY ORDERED THAT:

The motion to state constitutional questions is granted, the question formulated being:

- (1) Is s. 26 of the *Legal Profession Act*, S.B.C. 1987, c. 25 constitutionally inoperative or inapplicable to persons acting under ss. 30 and 69 of the *Immigration Act*, R.S.C. 1985, c. I-2 and its associated Rules and Regulations and, if so, are the latter provisions *ultra vires* Parliament?
- (1) L'article 26 de la *Legal Profession Act*, S.B.C. 1987, ch. 25, est-il inopérant du point de vue constitutionnel ou inapplicable aux personnes agissant en vertu des articles 30 et 69 de la *Loi sur l'immigration*, L.R.C. 1985, ch. I-2, et ses textes d'application? Dans l'affirmative, ces dispositions excèdent-elles la compétence du Parlement?

AND IT IS FURTHER ORDERED that all interventions by the said Attorneys General and Ministers of Justice shall be served and filed with the Registrar of the Supreme Court of Canada on or before Monday, October 22, 2000.

22.9.2000

Before / Devant: BINNIE J.

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

BY/PAR: Canadian Psychological Association

IN/DANS: Bradley Sawyer

v. (27277)

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

DISMISSED without costs / REJETÉE sans dépens

This is an application of the Canadian Psychological Association for leave to intervene in appeals where one of the issues is the admissibility of evidence of alleged jury irregularities sought to be introduced through testimony about the deliberations of the two juries that entered convictions in these two cases respectively. The Canadian Psychological Association filed in support of the motion an affidavit by its President, James Robert Ogloff, who deposes that the Canadian Psychological Association “has an interest and expertise in three issues which are relevant to the disposition of the appeals before the Court”, which he identified as the study and evaluation of jurors' comprehension and application of judicial instructions, research on jury behaviour and decision-making processes, and the examination and treatment of juror stress. The Canadian Psychological Association “believes that a jury secrecy law that permitted psychologists to have access to former jurors for controlled studies and for therapeutic purposes relating to their deliberations would not frustrate the underlying rationales for jury secrecy”. In my view, the concerns of the Canadian Psychological Association, while of interest generally, would expand impermissibly the scope of this appeal. Dr. Ogloff states that “We have no vested or particular interest in seeing the restrictions on access to jurors in general removed”, and the specific purpose for which the Canadian Psychological Association seeks access (research and therapy) have nothing in common with the specific purposes advocated by the appellants. In my view, the hearing of the appeal would be unduly complicated by the proposed mixture of issues only some of which are relevant to the appellants and I would therefore dismiss without costs the application for leave to intervene.

22.9.2000

Before / Devant: BINNIE J.

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

BY/PAR: Canadian Psychological Association

IN/DANS: Rui Wen Pan

v. (27424)

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

DISMISSED without costs / REJETÉE sans dépens

This is an application of the Canadian Psychological Association for leave to intervene in appeals where one of the issues is the admissibility of evidence of alleged jury irregularities sought to be introduced through testimony about the deliberations of the two juries that entered convictions in these two cases respectively. The Canadian Psychological Association filed in support of the motion an affidavit by its President, James Robert Ogloff, who deposes that the Canadian Psychological Association “has an interest and expertise in three issues which are relevant to the disposition of the appeals before the Court”, which he identified as the study and evaluation of jurors' comprehension and application

of judicial instructions, research on jury behaviour and decision-making processes, and the examination and treatment of juror stress. The Canadian Psychological Association “believes that a jury secrecy law that permitted psychologists to have access to former jurors for controlled studies and for therapeutic purposes relating to their deliberations would not frustrate the underlying rationales for jury secrecy”. In my view, the concerns of the Canadian Psychological Association, while of interest generally, would expand impermissibly the scope of this appeal. Dr. Ogloff states that “We have no vested or particular interest in seeing the restrictions on access to jurors in general removed”, and the specific purpose for which the Canadian Psychological Association seeks access (research and therapy) have nothing in common with the specific purposes advocated by the appellants. In my view, the hearing of the appeal would be unduly complicated by the proposed mixture of issues only some of which are relevant to the appellants and I would therefore dismiss without costs the application for leave to intervene.

22.9.2000

Before / Devant: BINNIE J.

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

**Requête en prorogation du délai de signification et de
dépôt de la demande d'autorisation**

Grace Evangelyn Chisholm

v. (28130)

Bank of Nova Scotia (F.C.A.)

DISMISSED / REJETÉE

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

16.8.2000

A.L.R.

v. (27659)

Her Majesty the Queen (Man.)

17.8.2000

Richard Sauvé

v. (27677)

Chief Electoral Officer of Canada et al. (F.C.A.)

and

Sheldon McCorrister, Chairman et al.

v. (27677)

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

21.8.2000

Mary Francis Cooper

v. (27880)

Robert J. Hobart, et al. (B.C.)

24.8.2000

**Dans l'affaire de faillite de:
Eagle River International Ltd.**

Azco Mining Inc.

c. (27876)

**Sam Lévy & Associés Inc. es qualités de
syndic à la faillite d'Eagle River
International Ltd. (Qué.)**

22.8.2000

Privacy Commissioner of Canada

v. (27846)

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

22.8.2000

Deborah Smith

v. (27844)

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

28.8.2000

**Chief Councillor Mathew Hill, also known as
Tha-lathatk, on his own behalf and on behalf of
all other members of the Kitkatla Band, et al.**

v. (27801)

**The Minister of Small Business, Tourism and
Culture et al. (B.C.)**

29.8.2000

Performance Industries Ltd. et al.

v. (27934)

Sylvan Lake Golf & Tennis Club Ltd. (Alta.)

29.8.2000

Attorney General of Newfoundland

v. (27439)

Colin Sheppard (Nfld.)

7.9.2000

**Norman Sterriah, on behalf of all members of the
Ross River Dena Council Band et al.**

v. (27762)

**Her Majesty the Queen in Right of Canada et al.
(Y.T.)**

21.9.2000

Robert Martin Friedland

v. (27773)

United States of America et al. (Ont.)

21.9.2000

Rashid Aziz

v. (27824)

United Used Auto & Truck Parts Ltd. et al. (B.C.)

22.9.2000

Thierry Van Doosselaere, et al.

v. (27905)

Holt Cargo Systems Inc. et al. (Que.)

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

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

BY/PAR: La Procureure générale du Québec

IN/DANS: **Tom Dunmore et al.**

v. (27216)

The Attorney General for Ontario et al. (Ont.)

BY/PAR: The Attorney General of British Columbia

IN/DANS: **Dwayne W. Hynes**

v. (27443)

Her Majesty the Queen (Nfld.)

BY/PAR: The Attorney General of British Columbia

IN/DANS: **Rui Wen Pan**

v. (27424)

Her Majesty the Queen (Ont.)

BY/PAR: The Attorney General for Alberta

IN/DANS: **Tom Dunmore et al.**

v. (27216)

The Attorney General for Ontario et al. (Ont.)

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

**AVIS DE DÉSISTEMENT DÉPOSÉS
DEPUIS LA DERNIÈRE PARUTION**

31.8.2000

Corporation of the City of Toronto

v. (27626)

The Toronto Terminals Railway Company (Ont.)

(leave)

WEEKLY AGENDA

**ORDRE DU JOUR DE LA
SEMAINE**

AGENDA for the weeks beginning October 2 and October 9, 2000.

ORDRE DU JOUR pour les semaines commençant les 2 octobre et 9 octobre 2000.

<u>Date of Hearing/ Date d'audition</u>	<u>Case Number and Name/ Numéro et nom de la cause</u>
2000/10/02	Motions - Requêtes
2000/10/03	M. le juge Richard Therrien, J.C.Q. c. Ministre de la Justice, et al. (Qué.) (Civile) (Autorisation) (27004)
2000/10/04	Sa Majesté la Reine c. Marie-Suzanne Caouette (Qué.) (Criminelle) (Autorisation) (27050)
2000/10/04	Sa Majesté la Reine c. Jean Pierre Hamelin (Qué.) (Criminelle) (Autorisation) (27250)
2000/10/05	J.C. v. Her Majesty the Queen, et al. (Ont.) (Criminal) (By Leave) (27109)
2000/10/06	Kingsley Michael Sutton v. Her Majesty the Queen (N.B.) (Criminal) (As of Right) (27666)
2000/10/09	Holiday - Congé
2000/10/10	Huor Chieu v. Minister of Citizenship and Immigration (F.C.) (Civil) (By Leave) (27107)
2000/10/10	Ahmad Abdulaal Al Sagban v. Minister of Citizenship and Immigration (F.C.) (Civil) (By Leave) (27111)
2000/10/11	Christian Noël c. La Société d'énergie de la Baie James (SEBJ) (Qué.) (Civile) (Autorisation) (26914)
2000/10/12	Lorne Brown, et al. v. Regional Municipality of Durham Police Service Board (Ont.) (Civil) (By Leave) (27150)
2000/10/13	Her Majesty the Queen v. M.O. (Ont.) (Criminal) (As of Right) (27555)
2000/10/13	Karl Find v. Her Majesty the Queen (Ont.) (Criminal) (As of Right) (27495)

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.

SUMMARIES OF THE CASES**RÉSUMÉS DES AFFAIRES**

27004 *Judge Richard Therrien (Court of Québec) v. Minister of Justice and Attorney General of Quebec*

Canadian Charter of Rights and Freedoms - Civil liberties - Constitutional law - Courts - Jurisdiction - Judicial independence - Judicial ethics - Procedure for removal of judges - Complaint by Respondent to judicial council on ground Appellant failed to disclose criminal record to judicial selection committee - Legal effect of pardon under s. 5(b) of the *Criminal Records Act*, R.S.C. 1985, c. C-47 - Whether Supreme Court has jurisdiction to hear Appellant's application for leave to appeal inquiry report and judgments of Court of Appeal - Whether statutory rule enacted in 1941 (*Act to amend the Courts of Justice Act*, S.Q., c. 50, s. 2, assented to May 17, 1941) and now found in s. 95 of the *Courts of Justice Act*, R.S.Q., c. T-16, permitting Government to remove judge without Address of legislature, is of no force or effect because it infringes fundamental principle of judicial independence guaranteed by preamble to the *Constitution Act, 1867* - If not, whether statutory rule in s. 95 of the *Courts of Justice Act*, R.S.Q., c. T-16, is of no force or effect on ground of inconsistency with fundamental principle of judicial independence guaranteed by preamble to the *Constitution Act, 1867*, in that Government may remove judge regardless of findings and recommendations in Court of Appeal's report.

On April 15, 1971, the Appellant was found guilty of two offences under the *Public Order Regulations, 1970*, SOR/70-444, made under the *War Measures Act*, R.S.C., c. W-2. On September 24, 1987, he was granted a pardon by the Governor General in Council.

On September 18, 1996, the Appellant was appointed to the bench of the Court of Québec. On November 11, 1996, the Respondent lodged a complaint with the judicial council on the ground that the Appellant had failed to disclose his brush with the law. The council's committee of inquiry completed its investigation on July 11, 1997. The majority of the committee members found the complaint to be justified and recommended that the Appellant be removed. After reviewing the report, the council adopted a resolution on July 22, 1997, recommending that the Minister of Justice initiate the removal process. Pursuant to section 95 of the *Courts of Justice Act*, the Minister filed a motion with the Court of Appeal on August 11, 1997, requesting that the Court commence an inquiry and prepare a report on the Appellant's conduct.

On October 2, 1997, the Appellant filed an application for judicial review and a motion for declaratory relief in the Superior Court. The Respondent then filed motions to dismiss the proceedings. The Respondent's initial arguments were unsuccessful. On May 14, 1998, a majority of the Court of Appeal allowed one of the Respondent's appeals and dismissed the application for judicial review. The same Court unanimously allowed the second appeal and dismissed the motion for declaratory relief.

The Court of Appeal's report was released to the parties on October 28, 1998, and filed with the Registrar of the Court of Appeal on October 30, 1998. The report recommended that the Government revoke the Appellant's appointment.

Origin of the case: Quebec

File No.: 27004

Judgment of the Court of Appeal: October 28, 1998

Counsel: Jean-Claude Hébert, Sophie Bourque and Christian Brunelle for the Appellant
Robert Mongeon for the Respondent, the Minister of Justice
Benoît Belleau, Monique Rousseau and Anne-Marie Brunet for the Respondent, the
Attorney General of Quebec

27004

Le juge Richard Therrien, j.c.q. c. Le ministre de la Justice et Procureur général du Québec

Charte canadienne - Libertés publiques - Droit constitutionnel - Tribunaux - Compétence - Indépendance judiciaire - Déontologie judiciaire - Procédure de destitution - Plainte de l'intimé au Conseil de la magistrature au motif que l'appelant a omis de divulguer ses antécédents judiciaires au comité de sélection des candidats à la magistrature - Portée juridique du pardon octroyé en vertu de l'art. 5b) de la Loi sur le casier judiciaire, L.R.C. (1985), ch. C-47 - La Cour suprême a-t-elle compétence pour disposer de la demande d'autorisation d'appel de l'appelant à l'encontre du rapport d'enquête et des jugements de la Cour d'appel? - La règle de droit - adoptée en 1941 (Loi modifiant la Loi des tribunaux judiciaires, S.Q. ch. 50, art. 2, sanctionnée le 17 mai 1941) et actualisée par l'art. 95 de la Loi sur les tribunaux judiciaires, L.R.Q., ch. T-16 - permettant au gouvernement de destituer un juge sans adresse parlementaire est-elle inopérante dans la mesure où elle porterait atteinte au principe structurel de l'indépendance de la magistrature lequel est garanti par le préambule de la Loi constitutionnelle de 1867? - S'il doit être répondu négativement à la première question, la règle de droit contenue à l'art. 95 de la Loi sur les tribunaux judiciaires, L.R.Q., ch. T-16, est-elle inopérante au motif d'incompatibilité avec le principe structurel de l'indépendance de la magistrature garanti par le préambule de la Loi constitutionnelle de 1867, dans la mesure où le gouvernement peut démettre un juge sans être lié par les conclusions et recommandations du rapport de la Cour d'appel?

Le 15 avril 1971, l'appelant fut trouvé coupable sous deux chefs d'accusation lui reprochant autant d'infractions réglementaires prévues au *Règlement de 1970 concernant l'ordre public*, DORS/70-444, adopté en vertu de la *Loi sur les mesures de guerre*, S.R.C. ch. W-2. Le 24 septembre 1987, le Gouverneur général en conseil lui octroya un pardon.

Le 18 septembre 1996, le gouvernement procéda à la nomination de l'appelant comme juge à la Cour du Québec. Le 11 novembre 1996, l'intimé déposa une plainte au Conseil de la magistrature au motif que l'appelant avait omis de divulguer ses démêlés avec le système judiciaire. Le 11 juillet 1997, le comité d'enquête du Conseil de la magistrature compléta son enquête. La plainte fut jugée bien fondée par la majorité et on recommanda la destitution de l'appelant. Une résolution recommandant au ministre de la Justice d'enclencher le processus de destitution fut adoptée le 22 juillet 1997 par le Conseil de la magistrature, après l'examen du rapport. Le 11 août 1997, le ministre, prenant appui sur l'article 95 de la *Loi sur les tribunaux judiciaires*, déposa à la Cour d'appel une requête invitant cette cour à faire enquête et à produire un rapport sur la conduite de l'appelant.

Le 2 octobre 1997, l'appelant déposa à la Cour supérieure un recours en révision judiciaire et une requête en jugement déclaratoire. L'intimé déposa alors des requêtes en irrecevabilité. Les moyens préliminaires de l'intimé furent rejetés. Le 14 mai 1998, la Cour d'appel accueillit à la majorité l'un des pourvois de l'intimé et déclara irrecevable la requête en révision judiciaire. Unanime, la Cour d'appel fit droit au second pourvoi quant à l'irrecevabilité de la requête en jugement déclaratoire.

Le rapport de la formation d'enquête de la Cour d'appel fut remis aux parties le 28 octobre 1998, pour ensuite être déposé au greffe de la Cour d'appel le 30 octobre 1998. Les membres de la formation recommandent au gouvernement de révoquer la commission de l'appelant.

Origine: Québec

N° du greffe: 27004

Arrêt de la Cour d'appel: Le 28 octobre 1998

Avocats: Mes Jean-Claude Hébert, Sophie Bourque et Christian Brunelle pour l'appelant
Me Robert Mongeon pour l'intimé Le Ministre de la Justice
Mes Benoît Belleau, Monique Rousseau et Anne-Marie Brunet pour l'intimée La Procureure Générale du Québec

27050

Her Majesty the Queen v. Marie Suzanne Caouette

Canadian Charter - Criminal law - Evidence - Statements by accused - Admissibility - Whether free and voluntary - Right to counsel - Right to silence - Charge of first degree murder and conspiracy to commit murder - Whether Court of Appeal erred in law by holding that the statement written by the respondent had been obtained in violation of her right to silence and her right to counsel, and that the police should have stopped questioning her after her lawyer, who had met with her earlier, recommended that they do so - Whether Court of Appeal erred in law by deciding that the statements made by the respondent during transportation from the police station to the courthouse were not free and voluntary in the sense that they were not made knowingly, even though the statements were spontaneous, unsolicited, coherent and logical - Whether the Court of Appeal erred in law by substituting its own assessment of the facts for that of the trial judge on the question of whether the respondent's statements were free and voluntary - Whether the respondent's convictions on the counts of conspiracy to murder and murder led to application of the rule against multiple convictions laid down in *Kineapple v. The Queen*, [1975] 1 S.C.R. 729.

On December 3, 1995, the respondent was convicted of conspiracy to murder and premeditated murder. A *voir dire* was held to decide whether four oral and written statements made by the respondent on March 7, 9 and 10, 1994, were admissible. The murder was allegedly committed on or about March 6, 1994. On March 7, 1994, the day the victim's body was discovered, the respondent was questioned by the police as a witness, not as a suspect. At that time, the respondent gave a non-incriminating oral statement to an investigator, which was subsequently written down, reread and signed by the respondent. On March 9, 1994, the respondent was arrested at her home. The respondent was then informed of her right to silence and her right to counsel. The respondent eventually contacted Pierre Gaudreault by telephone, and he met with her for about fifteen minutes. When he came out of his interview with the respondent, Mr. Gaudreault informed the police officers that he had recommended that the respondent not talk to the police and asked them to stop questioning her. The police investigators, Guy Lamontagne and Carl Pelletier, returned to the interrogation room and asked the respondent whether she wanted to talk to them again. She said that she did and then made an incriminating oral statement which she subsequently wrote down in her own handwriting and signed at about 2:25 a.m. on March 10, 1994. The respondent was then transported in a police van for her appearance at the courthouse. During the trip, she made a spontaneous incriminating statement which was not solicited, without any intervention by the people travelling with her.

By judgment dated October 2, 1995, Desjardins J. of the Superior Court held that all the statements except the oral account and written statement made by the respondent on the evening and night of March 9 to 10, 1994, were admissible. On December 3, 1995, a jury found the respondent guilty of premeditated murder and conspiracy to murder. The respondent appealed the conviction. The Court of Appeal ruled that the statements made by the respondent while being transported in the police van on March 10, 1994, were inadmissible, set aside the verdict of December 3, 1995 and ordered a new trial.

Origin: Quebec

Court no.: 27050

Decision of the Court of Appeal: November 11, 1998

Counsel: Jacques Casgrain for the appellant
Nathalie Caron for the respondent

27050

Sa Majesté la Reine c. Marie Suzanne Caouette

Charte canadienne - Droit criminel - Preuve - Déclarations de l'accusée - Admissibilité - Caractère libre et volontaire - Droit à l'assistance d'un avocat - Droit au silence - Accusation de meurtre au premier degré et de complot pour commettre un meurtre - La Cour d'appel a-t-elle erré en droit en maintenant que la déclaration écrite par l'intimée avait été obtenue en violation de son droit au silence et de son droit à l'avocat, et que les policiers auraient dû cesser de l'interroger après que son avocat, qui l'avait rencontrée précédemment, leur eût recommandé de le faire? - La Cour d'appel a-t-elle erré en droit en décidant que les déclarations de l'intimée, lors de son transport du poste de police au palais de justice, n'étaient pas libres et volontaires dans le sens où elles n'étaient pas le fruit d'un esprit conscient, même si ces déclarations étaient spontanées, non sollicitées, cohérentes et logiques? - La Cour d'appel a-t-elle erré en droit en substituant son évaluation des faits à celle du juge de première instance quant au caractère libre et volontaire des déclarations de l'intimée? - Les condamnations de l'intimée sous les chefs de complot pour meurtre et meurtre entraînent-elles l'application de la règle énoncée dans l'arrêt *Kineapple c. La Reine*, [1975] 1 R.C.S. 729, interdisant les condamnations multiples?

Le 3 décembre 1995, l'intimée a été déclarée coupable de complot pour meurtre et de meurtre avec préméditation. Un voir-dire a été tenu pour décider de l'admissibilité en preuve de quatre déclarations verbales et écrites faites par l'intimée les 7, 9 et 10 mars 1994. Le meurtre aurait été commis le ou vers le 6 mars 1994. Le 7 mars 1994, jour de la découverte du corps de la victime, l'intimée est interrogée par la police à titre de témoin et non à titre de suspecte. À ce moment, l'intimée fournit une déclaration verbale non incriminante à un enquêteur qui est ensuite consignée par écrit, relue et signée par l'intimée. Le 9 mars 1994, l'intimée est mise en état d'arrestation à son domicile. L'intimée est alors avisée de son droit au silence et son droit à l'assistance d'un avocat. Éventuellement, l'intimée communique par téléphone avec Me Pierre Gaudreault, qui la rencontre pendant une quinzaine de minutes. À sa sortie de l'entrevue avec l'intimée, Me Gaudreault informe les policiers qu'il a recommandé à l'intimée de ne plus parler à la police et leur demande de cesser l'interrogatoire. Les policiers enquêteurs MM. Guy Lamontagne et Carl Pelletier retournent dans la salle d'interrogatoire et demandent à l'intimée si elle désire encore leur parler. Elle répond dans l'affirmative et fait alors une déclaration orale incriminante qu'elle écrit par la suite de sa propre main et signe vers 2h 25 du matin le 10 mars 1994. Par la suite, l'intimée est transportée dans un fourgon cellulaire pour sa comparution au palais de justice. Lors du voyage elle fait une déclaration incriminante spontanée qui n'a pas été sollicitée et en l'absence de toute intervention de la part des personnes l'accompagnant.

Par jugement en date du 2 octobre 1995, le juge Desjardins de la Cour supérieure déclare admissibles toutes les déclarations sauf le récit verbal et la déclaration écrite émanant de l'intimée dans la soirée et la nuit du 9 au 10 mars 1994. Le 3 décembre 1995, un jury déclare l'intimée coupable de meurtre avec préméditation et de complot pour meurtre. L'intimée porte sa déclaration de culpabilité en appel. La Cour d'appel déclare inadmissibles les déclarations de l'intimée données lors de son transport dans le fourgon cellulaire le 10 mars 1994, casse le verdict du 3 décembre 1995 et ordonne un nouveau procès.

Origine: Québec

N° du greffe: 27050

Arrêt de la Cour d'appel: Le 11 novembre 1998

Avocats: Me Jacques Casgrain pour l'appelante
Me Nathalie Caron pour l'intimée

27250

Her Majesty the Queen v. Jean-Pierre Hamelin

Criminal law - Evidence - Expert witness - Credibility of witnesses - Whether Court of Appeal erred in law by ruling expert evidence on the value of the investigative procedures followed in obtaining testimony used by the prosecution was admissible - Whether Court of Appeal erred in law by criticizing the trial judge for failing to have regard to the expert testimony where that testimony was not outside the ordinary experience of the trier of fact.

The respondent was a secondary school teacher. On January 24, 1997, he was convicted of 17 counts of touching a part of the body for a sexual purpose, thereby committing the offence set out in s. 151 of the *Criminal Code*. A stay of proceedings was ordered on 17 counts of sexual assault under s. 271 Cr.C. The offences with which the respondent was charged were allegedly committed against Secondary I and Secondary II students between 1991 and 1993. In late March 1993 a student informed her teacher that she had been sexually abused by the respondent. The school principal then alerted the Direction de la protection de la jeunesse. A Trois-Rivières municipal police investigator who specialized in problems involving young offenders, René Véronneau, was assigned to the investigation of the case. In the weeks that followed, Mr. Véronneau held several individual or group interviews with the students at the institution.

The respondent pleaded not guilty to 18 counts of sexual touching and 18 counts of sexual assault. Extensive evidence was presented at the trial. The respondent presented a defence, including the testimony of an expert, Hubert Van Gijsegem, a well-known psychologist with a particular interest in research into the study and treatment of sexual abuse problems. According to counsel for the defence, the expert evidence related to the conduct of the investigation that preceded or accompanied the laying of the charges. The expert evidence attacked the reliability of the investigative procedures followed by Mr. Véronneau and the school's administration.

By oral judgment dated January 24, 1997, Carrier J. convicted the respondent of 17 counts of sexual touching. The respondent appealed that judgment. On February 12, 1999, the Court of Appeal allowed the respondent's appeal, set aside the convictions and ordered a new trial.

Origin: Quebec

Court no.: 27250

Decision of the Court of Appeal: February 12, 1999

Counsel: Jacques Blais for the appellant
Pierre Poupart and François Dadour for the respondent

27250

Sa Majesté la Reine c. Jean-Pierre Hamelin

Droit criminel - Preuve - Témoin expert - Crédibilité des témoins - La Cour d'appel a-t-elle erré en droit en déclarant admissible une preuve d'expert sur la valeur des procédures d'enquête employées pour obtenir les témoignages utilisés par la poursuite? - La Cour d'appel a-t-elle erré en droit en reprochant au juge du procès de ne pas avoir tenu compte du témoignage de l'expert dans la mesure où celui-ci n'allait pas au-delà de l'expérience ordinaire du juge des faits?

L'intimé était professeur dans une école secondaire. Le 24 janvier 1997, il a été déclaré coupable de 17 chefs d'accusation d'attouchements à des fins sexuelles sur une partie du corps, commettant ainsi l'acte criminel prévu à l'art. 151 du *Code criminel*. Un arrêt des procédures a été prononcé sur 17 chefs d'agression sexuelle portés en vertu de l'art. 271 C.cr. Les actes criminels qu'on reproche à l'intimé auraient été posés à l'égard d'étudiantes de Secondaire I et de Secondaire II entre 1991 et 1993. À la fin du mois de mars 1993 une élève a informé son professeur qu'elle avait été victime d'abus sexuels de la part de l'intimé. Le directeur de l'école a alors averti la Direction de la protection de la jeunesse. Un enquêteur de la police municipale de Trois-Rivières, spécialisé dans les problèmes de jeunes contrevenants, M. René Véronneau, a été affecté à l'enquête dans cette affaire. Pendant les semaines qui ont suivi, M. Véronneau a tenu plusieurs rencontres individuelles ou collectives avec les élèves de l'institution.

L'intimé a plaidé non-coupable à 18 chefs d'accusation d'attouchements sexuels et autant de chefs d'agressions sexuelles. Une preuve considérable a été présentée lors du procès. L'intimé a présenté une défense, dont le témoignage d'un expert, M. Hubert Van Gijseghem, un psychologue connu, intéressé notamment à la recherche sur l'examen et le traitement des problèmes d'abus sexuels. Selon le procureur de la défense, l'expertise vise le déroulement de l'enquête qui avait précédé ou accompagné le dépôt des plaintes. L'expertise attaque la fiabilité des procédures d'enquête adoptées par M. Véronneau et la direction de l'école.

Par jugement oral, rendu le 24 janvier 1997, le juge Carrier a trouvé l'intimé coupable de 17 chefs d'accusation d'attouchements sexuels. L'intimé a porté en appel ce jugement. Le 12 février 1999, la Cour d'appel a accueilli le pourvoi de l'intimé, cassé les verdicts de culpabilité et ordonné un nouveau procès.

Origine: Québec

N° du greffe: 27250

Arrêt de la Cour d'appel: Le 12 février 1999

Avocats: Me Jacques Blais pour l'appelante
Me Pierre Poupart et Me François Dadour pour l'intimé

27109

J.C. v. Her Majesty the Queen and David Elliott McClure

Criminal law - Barristers and Solicitors - Should the solicitor and client privilege ever yield to the accused's right to full answer and defence? - If so, in what circumstances? - What would be the appropriate test?

The Respondent McClure was a teacher at a North York high school attended by the Appellant in the mid-1970's. The Respondent was charged with sexual offences against former students, including the Appellant.

The Appellant brought proceedings in the Ontario Court (General Division) seeking damages from the Respondent McClure and the North York Board of Education. Following a preliminary inquiry, the Respondent McClure was ordered to stand trial. He brought a motion seeking production of third party records, including the civil litigation file and notes of the Appellant's solicitor. The trial judge ordered the solicitor's file to be produced for review by the Court. After reviewing the file and hearing submissions, the trial judge granted access to the litigation file.

The Appellant states in his Statement of Facts that he obtained an order staying the order disclosing the file pending this appeal. The Respondent McClure states that the counts involving the Appellant were severed and the Respondent McClure was tried on the balance of the counts and convicted on eleven counts, in relation to six complainants.

Origin of the case:	Ontario
File No.:	27109
Judgment of the Ontario Court (General Division):	December 4, 1998
Counsel:	Anthony Moustacalis for the Appellant Christine Bartlett-Hughes for the Respondent A.G. Maureen Forestell and Samantha Peeris for the Respondent McClure

27109

J.C. c. Sa Majesté la Reine et David Elliott McClure

Droit criminel - Avocats - Le droit de l'accusé à une défense pleine et entière peut-il avoir préséance sur le secret professionnel de l'avocat? - Le cas échéant, dans quelles circonstances? - Quel serait le critère approprié?

L'intimé McClure était professeur dans une école secondaire de North York que fréquentait l'appelant au milieu des années 1970. L'intimé a été accusé d'infractions à caractère sexuel commises contre d'anciens élèves, dont l'appelant.

L'appelant a intenté une action devant la Cour de l'Ontario (Division générale) en vue d'obtenir des dommages-intérêt de l'intimé McClure et du Conseil de l'éducation de North York. À la suite de son enquête préliminaire, l'intimé a été cité à procès. Il a présenté une requête en vue d'obtenir la production de dossiers en la possession de tiers, dont le dossier relatif à l'instance civile et les notes de l'avocat de l'appelant. Le juge du procès a ordonné la production du dossier de l'avocat pour que la Cour l'examine. Après avoir examiné le dossier et entendu les prétentions des parties, le juge du procès a permis la communication du dossier relatif à l'instance.

L'appelant précise dans sa Déclaration qu'il a obtenu une ordonnance de sursis de l'exécution de l'ordonnance de divulgation du dossier jusqu'à l'issue du pourvoi. L'intimé McClure dit que les chefs d'accusation concernant l'appelant ont été séparés des autres et que l'intimé McClure a subi son procès relativement aux autres chefs d'accusation. Il a été déclaré coupable de onze chefs d'accusation, concernant six plaignants.

Origine : Ontario

N° du greffe : 27109

Jugement de la Cour de l'Ontario (Division générale) : 4 décembre 1998

Avocats : Anthony Moustacalis pour l'appelant
Christine Barlett-Hughes pour le procureur général intimé
Maureen Forestell et Samantha Peeris pour l'intimé McClure

27666

Kingsley Michael Sutton v. Her Majesty the Queen

Criminal law - Evidence - Hearsay - Charge to jury - Whether this Court's approach to the "co-conspirator's exception to the hearsay rule" as set out in *R. v. Carter* [1982] 1 S.C.R. 938 remains applicable in a trial for a substantive offence - Whether the trial judge was not required as a matter of law to direct the jury to "potentially confirmatory evidence" as part of a *Vetrovec* warning - Whether a new trial should not have been ordered because the Crown had not shown with certainty that the verdict would have been different.

In late 1997, the R.C.M.P. enlisted the services of John Gulliver, a recovering cocaine addict and alcoholic with a fairly extensive criminal record, to act as one of its undercover agents. In the course of this operation he contacted Adam Merrick, a former acquaintance and drug trafficker, for the purchase of cocaine. There was evidence that Gulliver was introduced by Merrick to the Appellant as a "trustworthy" drug purchaser and ensuring discussions between the three led to an agreement for the sale to Gulliver of one pound of cocaine.

The actual exchange of drugs took place on February 17, 1998 in the parking lot of a mall in Saint John. Mr. Sutton was charged jointly with Merrick not only of trafficking in cocaine, but with possession of the \$24,000.00 paid by Gulliver for the cocaine, namely possession of the proceeds of crime. The Crown conceded that the actual physical exchanged involved Gulliver and an unknown male known as "Randy" and that the Appellant neither personally delivered the package nor received the proceeds.

Merrick pled guilty to trafficking in cocaine and the charge of possession of the proceeds of crime was stayed against him. The Appellant pled not guilty to both charges. At trial, Gulliver's testimony directly incriminated the Appellant. The Crown also relied on audio-tapes of intercepted communications between Gulliver and Merrick that took place shortly before the drug delivery occurred.

In his charge to the jury, the trial judge described Gulliver as an unsavoury witness and he cautioned the jury to be careful before convicting on the evidence of such an unsavoury witness. He told the jury that Gulliver's testimony was the only evidence against the Appellant, but did not review the testimony nor invite the jury to look for evidence that could confirm it. The jury returned with a request for clarification about credible witnesses to which the trial judge repeated the standard instruction concerning factors a jury may consider in assessing the credibility of a witness. The jury later returned with a verdict of not guilty on both charges. On appeal, the majority of the Court of Appeal allowed the Crown's appeal.

Origin of the case: New Brunswick

File No.: 27666

Judgment of the Court of Appeal: November 25, 1999

Counsel: Margaret Gallagher for the Appellant
S. David Frankel Q.C. for the Respondent

27666

Kingsley Michael Sutton c. Sa Majesté la Reine

Droit criminel - Preuve - Ouï-dire - Exposé au jury - La démarche adoptée par notre Cour dans l'arrêt *R. c. Carter* [1982] R.C.S. 938, relativement à « l'exception à la règle du ouï-dire à l'égard des conspirateurs » s'applique-t-elle également dans un procès portant sur une infraction substantielle? - Est-il vrai que le juge du procès n'était pas tenu en droit d'indiquer au jury l'existence d'une « déposition potentiellement corroborante » dans le cadre d'une mise en garde de type *Vetrovec*? - Est-il vrai que la tenue d'un nouveau procès n'aurait pas dû être ordonnée parce que le ministère public n'avait pas établi de façon certaine que le verdict aurait été différent?

À la fin de 1997, la G.R.C. a fait appel à John Gulliver, un toxicomane et un alcoolique en voie de réhabilitation ayant un casier judiciaire assez chargé, pour qu'il agisse en tant qu'agent d'infiltration. Au cours de l'opération, il a communiqué avec Adam Merrick, une ancienne connaissance et un trafiquant de drogues, en vue d'acheter de la cocaïne. Il y avait des éléments de preuve démontrant que Gulliver avait été présenté par Merrick à l'appelant, qui l'avait décrit comme un acheteur de drogues « digne de confiance », et que les pourparlers subséquents entre les trois avaient mené à une entente prévoyant la vente d'une livre de cocaïne à Gulliver.

La livraison de la drogue a eu lieu le 17 février 1998 dans le stationnement d'un centre commercial à Saint John. M. Sutton a été accusé conjointement avec Merrick non seulement d'avoir fait le trafic de cocaïne, mais également d'avoir eu en sa possession le montant de 24 000 \$ versé par Gulliver pour la cocaïne, à savoir la possession des produits de la criminalité. Le ministère public a admis que la livraison elle-même s'était passée entre Gulliver et un inconnu dénommé « Randy » et que l'appelant n'avait pas personnellement livré le paquet ni reçu le produit de la vente.

Merrick a plaidé coupable relativement à l'accusation de trafic de cocaïne, et on a sursis à l'accusation de possession des produits de la criminalité. L'appelant a plaidé non coupable relativement aux deux accusations. Au procès, la déposition de Gulliver incriminait directement l'appelant. Le ministère public s'est également appuyé sur les cassettes de l'enregistrement des communications interceptées entre Gulliver et Merrick qui ont eu lieu peu de temps avant la livraison de la drogue.

Dans son exposé au jury, le juge du procès a qualifié Gulliver de témoin douteux et il a averti les jurés de faire preuve de prudence avant de prononcer une déclaration de culpabilité fondée sur la déposition d'un tel témoin. Il a dit au jury que la déposition de Gulliver était la seule preuve existant contre l'appelant, mais il n'a pas passé la déposition en revue ni n'a invité le jury à rechercher des éléments de preuve susceptibles de la confirmer. Le jury est revenu avec une demande de précision au sujet de la crédibilité des témoins, à laquelle le juge a répondu en répétant la directive normale relative aux facteurs dont le jury peut tenir compte lorsqu'il évalue la crédibilité d'un témoin. Le jury a ensuite rendu un verdict de non culpabilité relativement aux deux accusations. En appel, la Cour d'appel a accueilli l'appel du ministère public à la majorité.

Origine : Nouveau-Brunswick

N° du greffe : 27666

Arrêt de la Cour d'appel : Le 25 novembre 1999

Avocats : Margaret Gallagher pour l'appelant
S. David Frankel, c.r., pour l'intimée

27107

Huor Chieu v. The Minister of Citizenship and Immigration

Immigration - Statutes - Interpretation - Whether under s. 70(1)(b) of the *Immigration Act*, the Immigration Appeal Division may not consider the country and its conditions to which a non-refugee Appellant might be removed when assessing whether “the person should not be removed from Canada”.

The Appellant was born in Cambodia on December 12, 1966. In 1975, he and his family fled to Vietnam, where they resided under a series of temporary three month resident permits until 1993. On February 12, 1988, the Appellant married a Vietnamese citizen, and they had a son on November 12, 1988.

In 1989, the Appellant’s sister came to Canada, sponsored by her Canadian fiancée. In 1991, she in turn sponsored her family, including the Appellant to come to Canada. The Appellant arrived in Canada as a landed immigrant on October 21, 1993, with his parents and three brothers, and reported to officials at that time that he had no dependants. The following year, an immigration officer reported that the Appellant was a permanent resident by reason of misrepresentation of a material fact - that he was single. An inquiry was directed to be held.

An inquiry was held on June 29, 1994, the Appellant conceded that he had misrepresented his marital status and that he was not making a refugee claim. The adjudicator ordered his deportation. The Appellant appealed the order to the Appeal Division of the Immigration and Refugee Board. On October 30, 1995, the Board dismissed the appeal, declining to take into consideration the conditions in the Appellant’s country of origin, his likely deportation destination. The Board concluded that it would be premature for it to consider this circumstance, because the Minister had not determined to which country the Appellant would be deported. She did consider, however, hardship with respect to returning to Vietnam because the Appellant’s wife and child resided there.

The Appellant applied for leave and judicial review of the decision of the Appeal Board. The Trial Division granted leave but denied an order for judicial review on December 18, 1996.

The Federal Court Trial Division judge certified this question : Can the Appeal Division of the Immigration and Refugee Board, in the exercise of its “all the circumstances of the case jurisdiction” under section 70(1)(b) of the *Immigration Act*, consider the country (and its condition) to which the non-refugee appellant would, on the balance of probabilities, be removed when assessing whether “the person should not be removed from Canada”; or not, in accordance with the decision of Mr. Justice MacGuigan in a refugee case, *Hoang v. Minister of Employment and Immigration* (1990), 120 N.R. 193 at 195.

The Federal Court of Appeal dismissed the Appellant’s appeal on December 3, 1998, stating that the Appeal Division is not entitled to consider the country of probable destination of the non-refugee Appellant when assessing whether “the person should not be removed from Canada”.

Origin of the case: Federal Court of Appeal

File No.: 27107

Judgment of the Court of Appeal: December 3, 1998

Counsel: David Matas for the Appellant
Judith Bowers Q.C. and Sharlene Telles-Langdon for the Respondent

27107

Huor Chieu c. Le ministre de la Citoyenneté et de l'Immigration

Immigration - Lois - Interprétation - Sous le régime de l'art. 70(1)b) de la *Loi sur l'immigration*, la section d'appel de la Commission de l'immigration et du statut de réfugié peut-elle examiner la situation du pays où l'appelant qui n'est pas un réfugié risquerait d'être renvoyé lorsqu'il s'agit de déterminer s'«il[...] ne devrai[t] pas être renvoyé[...] du Canada»?

L'appelant est né au Cambodge le 12 décembre 1966. En 1975, il a fui avec sa famille au Viêt-nam, où ils ont vécu jusqu'en 1993 en recourant à une série de permis de résidence temporaires, d'une durée de trois mois chacun. Le 12 février 1988, l'appelant a épousé une citoyenne vietnamienne et un fils est né de cette union le 12 novembre 1988.

En 1989, la soeur de l'appelant est arrivée au Canada, parrainée par son fiancé canadien. En 1991, elle a à son tour parrainé sa famille, notamment l'appelant. L'appelant est arrivé au Canada avec ses parents et ses trois frères à titre de résident permanent le 21 octobre 1993, et avait déclaré aux autorités qu'il n'avait aucune personne à charge. L'année suivante, un agent d'immigration a signalé que l'appelant avait été autorisé à entrer au pays en raison d'une fausse indication portant sur un fait important: le fait qu'il était célibataire. On a ordonné la tenue d'une enquête.

L'enquête a été tenue le 29 juin 1994, au cours de laquelle l'appelant a avoué qu'il avait donné de fausses indications sur son état civil et qu'il ne présentait pas une demande de statut de réfugié. L'arbitre a pris une mesure de renvoi à son égard. L'appelant a interjeté appel de cette décision auprès de la section d'appel de la Commission de l'immigration et du statut de réfugié. Le 30 octobre 1995, la section d'appel a rejeté son appel, refusant de prendre en compte la situation du pays d'origine de l'appelant, pays vers lequel il allait vraisemblablement être expulsé. La section d'appel a conclu qu'il lui était prématuré d'examiner cette circonstance, étant donné que le ministre n'avait pas encore déterminé vers quel pays l'appelant allait être expulsé. Il a été tenu compte cependant du préjudice que l'appelant pourrait connaître s'il devait retourner au Viêt-nam, vu que son épouse et son fils y résidaient.

L'appelant a présenté une demande d'autorisation et de contrôle judiciaire de la décision rendue par la section d'appel. La Section de première instance de la Cour fédérale a accordé l'autorisation d'interjeter appel, mais a refusé d'accorder une ordonnance de contrôle judiciaire le 18 décembre 1996.

Le juge de la Section de première instance de la Cour fédérale a certifié la question suivante : Dans l'exercice de son pouvoir discrétionnaire d'avoir «égard aux circonstances particulières de l'espèce», sous le régime de l'art. 70(1)b) de la *Loi sur l'immigration*, la section d'appel de la CISR peut-elle examiner la situation du pays où l'appelant, qui n'est pas un réfugié, serait, selon la balance des probabilités, renvoyé lorsqu'il s'agit de déterminer s'«il[...] ne devrai[t] pas être renvoyé[...] du Canada»; ou non, conformément à l'arrêt rendu par le juge MacGuigan dans l'affaire de réfugiés *Hoang c. Ministre de l'Emploi et de l'Immigration* (1990), 120 N.R. 193, à la page 195?

La Cour d'appel fédérale a rejeté l'appel de l'appelant le 3 décembre 1998, statuant que lorsqu'elle examine si la personne «ne devrai[t] pas être renvoyé[e] du Canada», la section d'appel n'avait pas compétence pour examiner la situation du pays où l'appelant, qui n'est pas réfugié, sera vraisemblablement renvoyé.

Origine:	Cour d'appel fédérale
No du greffe:	27107
Arrêt de la Cour d'appel:	Le 3 décembre 1998
Avocats:	David Matas pour l'appelant Judith Bowers, c.r., et Sharlene Telles-Langdon pour l'intimé

27111

Ahmad Abulaal Al Sagban v. The Minister of Citizenship and Immigration

Immigration - Statutes - Interpretation - Whether the Immigration and Refugee Appeal Board may consider “all of the circumstances of the case” pursuant to paragraph 70(1)(b) of the *Immigration Act*, R.S.C. 1985, c. I-12, as amended, in determining the country to which a person is likely to be removed and consider the conditions in that country, including the possible harm that could befall an individual in that country.

The Appellant was born in Iraq in 1964. He was landed in Canada with his parents and brother on August 3, 1986. He is not a convention refugee. In September of 1994, he was ordered deported by an Immigration adjudicator because of three criminal convictions involving fraud, making a false affidavit and fabricating evidence. Twice he violated his parole conditions by moving out of the jurisdiction, and was later returned to prison. Efforts to rehabilitate him were considered unsuccessful and he was assessed as a very high risk to reoffend. The Immigration and Refugee Board, Appeal Division rejected his appeal from the Adjudicator. Despite concluding that the Appellant would suffer extreme hardship if returned to Iraq, the Board held that the negative factors outweighed the positive factors, and ruled against the Appellant.

On judicial review of the decision before the Federal Court, Trial Division, Reed J. held that the matter should be sent back to a differently constituted Appeal Board empowered to consider the conditions in the country of deportation in making their decision. Reed J. heard evidence that due to the circumstances surrounding the family’s departure from Iraq, and the Appellant’s father’s position in Iraq’s previous government, it was likely that the Appellant would be hanged or suffer serious harm if returned to Iraq. She certified a question on this issue for resolution by the Appeal Division of the Federal Court. In dismissing the application for judicial review, the Federal Court of Appeal held that the Immigration and Refugee Board, Appeal Division did not have jurisdiction to consider the conditions and possible harm to the individual in the potential countries to which the non-refugee appellant might be removed when assessing whether the person should not be removed from Canada.

Origin of the case: Federal Court of Appeal

File No.: 27111

Judgment of the Court of Appeal: December 3, 1998

Counsel: Christopher Elgin for the Appellant
Judith Bowers Q.C. and Sharlene Telles-Langdon for the Respondent

27111

Ahmad Abulaal Al Sagban c. Le ministre de la Citoyenneté et de l'Immigration

Immigration - Lois - Interprétation - La section d'appel de la Commission de l'immigration et du statut de réfugié peut-elle examiner toutes les «circonstances particulières de l'espèce» aux termes de l'alinéa 70(1)b) de la *Loi sur l'immigration*, L.R.C. (1985), ch. I-12, sous sa forme modifiée, pour déterminer le pays vers lequel une personne sera vraisemblablement expulsée et prendre en compte la situation qui prévaut dans ce pays, y compris le risque de danger auquel s'expose un individu vivant dans ce pays?

L'appelant est né en 1964, en Irak. Il est arrivé au Canada avec ses parents et son frère le 3 août 1986. Il n'est pas un réfugié au sens de la Convention. En septembre 1994, un arbitre de l'immigration a pris une mesure de renvoi à son égard en raison de ses trois déclarations de culpabilité au criminel relativement à une fraude, à un faux affidavit et à la fabrication d'éléments de preuve. À deux reprises, l'appelant a manqué aux conditions de sa libération conditionnelle en changeant de province et a été réincarcéré. Les tentatives de le réhabiliter ont échoué et on a évalué son risque de récidive très élevé. La section d'appel de la Commission de l'immigration et du statut de réfugié a rejeté l'appel interjeté de la décision de l'arbitre. Même en concluant que l'appelant subirait des contraintes excessives s'il retournait en Irak, la section d'appel a statué que les facteurs négatifs l'emportaient sur les facteurs positifs, rejetant ainsi la demande de l'appelant.

En contrôle judiciaire de cette décision auprès de la Section de première instance de la Cour fédérale, Madame le juge Reed a statué que l'affaire devait être renvoyée devant une formation différemment constituée de la section d'appel qui, afin de tirer une conclusion, serait habilitée à examiner la situation d'un pays vers lequel la personne pourrait être expulsée. Le juge Reed a entendu la preuve selon laquelle les circonstances entourant le départ de la famille de l'Irak et le poste qu'occupait le père de l'appelant sous l'ancien régime irakien exposeraient vraisemblablement l'appelant à un préjudice sérieux ou à la pendaison à son retour. Madame le juge Reed a certifié une question à ce sujet aux fins d'adjudication devant la section d'appel de Cour fédérale. Rejetant la demande de contrôle judiciaire, la Cour d'appel fédérale a conclu que, lorsqu'elle examine la question de savoir si une personne ne devrait pas être expulsée du Canada, la section d'appel de la Commission de l'immigration et du statut de réfugié n'a pas compétence pour examiner la situation des pays vers lesquels un appelant qui n'est pas réfugié pourrait être expulsé, ni du danger auquel il pourrait y être exposé.

Origine: Cour d'appel fédérale

No du greffe: 27111

Arrêt de la Cour d'appel: le 3 décembre 1998

Avocats: Christopher Elgin pour l'appelant
Judith Bowers, c.r., et Sharlene Telles-Langdon pour l'intimé

26914

Christian Noël v. La Société d'énergie de la Baie James

Labour law - Administrative law - Arbitration - Judicial review - Jurisdiction - Action in direct nullity under art. 33 of the *Code of Civil Procedure*, R.S.Q., c. C-25, instituted personally by an employee governed by a collective agreement - Union having exclusive power of representation - Whether union member has the necessary interest to personally institute a direct action in nullity against an arbitral award upholding dismissal of the employee - If so, whether the issue is *res judicata*.

From September 18, 1992 to October 21, 1993, the appellant was employed by the respondent, Société d'énergie de la Baie James (SEBJ), where he held the position of air traffic controller II at the Frontange airport and was governed by the collective agreement between the United Steelworkers of America, local 6833 (FTQ) and the respondent. Under that agreement, the union has the exclusive power to represent employees covered by the certificate, and an employee has no right to take a grievance to arbitration personally or to be a party to a proceeding before the arbitrator.

Between July 22, 1993 and January 28, 1994, the appellant filed eight grievances against the respondent, including the July 21 grievance concerning his dismissal. At the hearing of the grievances before the arbitrator, Bernard Lefebvre, Robert Bernier represented the union, but the arbitrator nonetheless permitted the appellant to make his own submissions and argument to assert his rights. On February 20, 1995, the arbitrator dismissed all of the appellant's grievances and upheld the dismissal.

In June 1995, the appellant filed an application for judicial review of the arbitral award under art. 846 of the *Code of Civil Procedure*, R.S.Q., c. C-25. The respondent filed a motion for dismissal under para. 165(3) *C.C.P.*, alleging that the appellant was not a "party" to the proceedings before the arbitrator under art. 846 and that he therefore could not apply for review of the arbitral award. On October 25, 1996, Côté J. of the Superior Court allowed the motion to dismiss from the bench. The appellant did not appeal that judgment, but rather decided to bring a direct action in nullity based on art. 33 *C.C.P.* He contended that the arbitrator's decision contained two patently unreasonable errors of fact and law. Relying on paras. 165(1), (3) and (4) *C.C.P.*, the respondent filed another motion to dismiss arguing *res judicata*, lack of interest and unreasonable delay. On January 26, 1996, Halperin J. of the Superior Court allowed the motion to dismiss on the ground that the appellant did not have the interest needed for instituting a direct action in nullity and that the decision of Côté J. constituted *res judicata* in this instance.

On August 19, 1998, the Court of Appeal dismissed the appellant's appeal, by majority decision. Robert J.A., dissenting, would have allowed the appeal, set aside the lower court's judgment and referred the matter back to the Superior Court for it to dispose of the issue of the reasonableness of the delay in seeking judicial review and, if necessary, to dispose of the case on the merits.

Origin: Quebec

Court no.: 26914

Decision of the Court of Appeal: August 19, 1998

Counsel: Paule Lafontaine for the appellant
Jean Beauregard for the respondent

26914

Christian Noël c. La Société d'énergie de la Baie James

Droit du travail - Droit administratif - Arbitrage - Contrôle judiciaire - Compétence - Action directe en nullité en vertu de l'art. 33 du *Code de procédure civile*, L.R.Q., ch. C-25, intentée personnellement par un salarié régi par une convention collective - Pouvoir exclusif de représentation du syndicat - Un syndiqué a-t-il l'intérêt requis afin d'intenter lui-même une action directe en nullité contre une sentence arbitrale qui maintient son congédiement? - Si oui, y a-t-il chose jugée en l'espèce?

Du 18 septembre 1992 au 21 octobre 1993, l'appelant est à l'emploi de l'intimée, la Société d'énergie de la Baie James (ci-après SEBJ), où il occupe le poste de régulateur de transport aérien II à l'aéroport de Frontange. Il est alors régi par la convention collective conclue entre le Syndicat des métallurgistes unis d'Amérique, local 6833 (FTQ), et l'intimée. Selon cette convention, le syndicat bénéficie du pouvoir exclusif de représenter les salariés couverts par l'accréditation et le salarié ne possède aucun droit de soumettre personnellement un grief à l'arbitrage ou de se porter partie à l'instance devant l'arbitre.

Entre le 22 juillet 1993 et le 28 janvier 1994, l'appelant formule huit griefs contre l'intimée dont celui du 21 janvier qui concerne son congédiement. Lors de l'audition de ces griefs devant l'arbitre Bernard Lefebvre, monsieur Robert Bernier représente le syndicat mais ce dernier permet tout de même à l'appelant de soumettre ses prétentions et les moyens de son choix pour faire valoir ses droits. Le 20 février 1995, l'arbitre rejette tous les griefs de l'appelant et maintient son congédiement.

En juin 1995, l'appelant présente une requête en révision judiciaire à l'encontre de la sentence arbitrale en vertu de l'art. 846 du *Code de procédure civile*, L.R.Q., ch. C-25. L'intimée dépose une requête en irrecevabilité en vertu du par. 165(3) *C.p.c.* alléguant que l'appelant n'était pas une "partie" au litige devant l'arbitre selon l'art. 846 et qu'il ne pouvait donc se pourvoir en révision de la sentence arbitrale. Le 25 octobre 1995, le juge Côté de la Cour supérieure accueille séance tenante la requête en irrecevabilité. L'appelant ne porte pas ce jugement en appel, mais décide plutôt d'intenter une action directe en nullité fondée sur l'art. 33 *C.p.c.* Il plaide que la décision de l'arbitre comporte des erreurs de faits et de droit manifestement déraisonnables. S'appuyant sur les par. 165(1)(3) et (4) *C.p.c.*, l'intimée présente une autre requête en irrecevabilité alléguant chose jugée, défaut d'intérêt et délai déraisonnable. Le 26 janvier 1996, le juge Halperin de la Cour supérieure accueille la requête en irrecevabilité aux motifs que l'appelant n'a pas l'intérêt requis pour intenter une action directe en nullité et que la décision du juge Côté possède en l'espèce l'autorité de la chose jugée.

Le 19 août 1998, la Cour d'appel rejette à la majorité le pourvoi de l'appelant. Le juge Robert, dissident, aurait accueilli le pourvoi, infirmé le jugement de première instance et retourné le dossier devant la Cour supérieure afin qu'il soit statué sur le caractère raisonnable du délai pour recourir au contrôle judiciaire et, le cas échéant, sur le fond du litige.

Origine:	Québec
N° du greffe:	26914
Arrêt de la Cour d'appel:	Le 19 août 1998
Avocats:	Me Paule Lafontaine pour l'appelant Me Jean Beauregard pour l'intimée

27150

Lorne Brown et al v. Regional Municipality of Durham Police Service Board

Charter of Rights and Freedoms - Detention - Highway Traffic Act, R.S.O 1990, c. H.8 - Appellants 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.

The three Appellants are officers of the “Para-dice” or “Paradise” Riders Motorcycle Club and members of the club. On August 22, 1990, the club purchased a marina on Lake Scugog near the hamlet of Caesarea, Ontario, for recreational purposes, where members of the club and their guests would gather on summer weekends, sometimes in large numbers. In 1991 and 1992 several large weekend functions were arranged by the club, when as many as 350 club members, associates and guests would be attendance.

The police in the Durham region believed that the Paradise Riders and other similar “outlaw” motorcycle gangs were criminal organizations which posed a threat to the other members of the community, particularly when they gathered in large numbers. To counter the perceived danger, the police decided to establish checkpoints on the roads leading to the marina property on all of the weekends when the large parties would be held.

The checkpoints were large scale operations, involving approximately 65 officers, the police canine unit, and roadside screening devices. The officers compelled anyone believed to be travelling to the Scugog property to pull off the highway at the checkpoint. Those riding Harley-Davidson motorcycles and anyone wearing gang colours or insignia were pulled over. Other travellers were waived through.

Approximately ten officers would be posted to each checkpoint to conduct their activities. Those who were detained at the checkpoints were asked for their licence, vehicle registration, insurance and ownership documents, which were processed through the police computer for outstanding warrants. While waiting for a report, the police would conduct equipment checks on the club members’ helmets and on the mechanical fitness of the vehicles. Those stopped were often photographed or videotaped by the police for identification purposes. Some were questioned or engaged in casual conversation. The motorcyclists were normally detained by the police for between 3 and 20 minutes.

The Appellants commenced this action because they view the checkpoint procedure to be a form of harassment of groups perceived to be outside the normal mainstream. The Respondent seeks judicial affirmation for the checkpoint procedure as a legitimate response to the dangers posed by organizations such as the Paradise Riders.

The trial judge concluded that the Appellants’ s. 9 *Charter* rights had not been breached, and that the actions of the police were not arbitrary. The Court of Appeal unanimously upheld this position.

Origin of the case:	Ontario
File No.:	27150
Judgment of the Court of Appeal:	December 15, 1998
Counsel:	Alan D. Gold for the Appellants David J.D. Sims Q.C. for the Respondent

27150

Lorne Brown et al c. Regional Municipality of Durham Police Service Board

Charte des droits et libertés - Détenion - Code de la route, L.R.O. 1990, ch. H-8 - Les appelants, qui sont membres d'une bande de motards connue, ont fait l'objet de vérifications policières en route vers un grand rassemblement de motards - Les vérifications de routine faites par la police à l'endroit de certains motocyclistes constituaient-elles une atteinte aux droits garantis par l'art. 9 de la *Charte*?

Les trois appelants sont des membres et des dirigeants du « *Para-dice* » ou du « *Paradise* » *Riders Motorcycle Club*. Le 22 août 1990, le club a acheté une marina au lac Scugog, situé près du hameau Caesarea (Ontario), à des fins de loisir pour que les membres du club et leurs invités puissent se rassembler, parfois en grand nombre, au cours des fins de semaine de l'été. En 1991 et en 1992, plusieurs importantes activités de fin de semaine, auxquelles participaient jusqu'à 350 membres, collaborateurs et invités du club, ont été organisées par celui-ci.

Les policiers de la région de Durham estimaient que les *Paradise Riders* et les autres bandes de motards « hors-la-loi » étaient des organisations criminelles qui constituaient une menace aux autres membres de la collectivité, surtout lorsqu'ils se réunissaient en grand nombre. Pour contrer le danger qu'ils percevaient, les policiers ont décidé d'établir des barrages sur les routes menant à la marina toutes les fins de semaine où il y aurait une grande fête.

Les barrages routiers constituaient de vastes opérations faisant appel à environ 65 agents, à l'unité canine de la police et à l'utilisation d'ivressomètres. Les agents forçaient tous ceux qu'ils croyaient se rendre au lac Scugog à s'arrêter aux barrages. Les conducteurs de motocyclettes de marque Harley-Davidson ainsi que tous ceux affichant les couleurs ou les emblèmes de bandes étaient interceptés. Les autres voyageurs pouvaient circuler.

Environ dix agents étaient postés à chaque barrage dans le cadre des opérations. Les personnes détenues aux barrages se faisaient demander leur permis de conduire, l'immatriculation de leur véhicule ainsi que leurs documents d'assurance et de propriété, que les policiers utilisaient afin de vérifier par ordinateur l'existence de mandats non exécutés. En attendant le rapport, les policiers vérifiaient la conformité des casques des membres du club ainsi que l'état mécanique de leurs véhicules. Les policiers photographiaient et filmaient souvent les personnes interceptées à des fins d'identification. Ils interrogeaient parfois ces dernières ou avaient des conversations informelles avec elles. Les motocyclistes étaient généralement détenus pendant une période variant de 3 à 20 minutes.

Les appelants ont institué la présente action car ils considèrent l'établissement de barrages routiers comme une forme de harcèlement de groupes perçus comme étant non traditionnels. L'intimée cherche à obtenir la confirmation par les tribunaux que les barrages routiers constituent une réponse légitime aux dangers que constituent des organisations comme les *Paradise Riders*.

Le juge du procès a conclu que les droits garantis aux appelants par l'art. 9 de la *Charte* n'avaient pas été violés et que les actes de la police n'étaient pas arbitraires. La Cour d'appel a confirmé cette position à l'unanimité.

Origine :	Ontario
N° du greffe :	27150
Arrêt de la Cour d'appel :	Le 15 décembre 1998
Avocats :	Alan D. Gold pour les appelants David J.D. Sims, c.r., pour l'intimée

27555 *Her Majesty the Queen v. M.O.*

Criminal law - Sexual assault - Consent - Whether the majority of the Court of Appeal erred in concluding that the trial judge did not misapprehend the elements of the defence of honest but mistaken belief in consent - If the answer to the first question is yes, should this court substitute a conviction for sexual assault as opposed to ordering a new trial?

The Respondent was acquitted of sexual assault. The accounts of the complainant and the Respondent varied significantly. At the time of the alleged assault, the complainant was 15 years old, a ward of the Children's Aid Society and lived in a group home. The Respondent was 23 years old and lived in a bachelor apartment.

The complainant and the Respondent met at a bus stop. They chatted briefly and agreed to walk to the Respondent's apartment and drink beer together. They went to a beer store and then to the apartment, where they sat and drank beer for some time.

At one point, the complainant went to the bathroom and when she returned she found the Respondent lying on the bed. At his urging, she joined him on the bed, although she testified that she felt awkward. The Respondent testified that the complainant allowed him to massage her, which the complainant denied. They began to have intercourse and the Respondent testified that he asked her whether he should use a condom and according to the Respondent, the complainant said that would be a good idea. The Respondent testified that there was no further intercourse.

The complainant testified that there were two acts of sexual intercourse. On cross-examination, the Respondent acknowledged that at some time the complainant had said "no", but he took that as meaning "no" without a condom. The complainant testified that she said "no" on the earlier occasion as the Respondent was trying to take her pants off, but the Respondent testified that she took off her own pants.

At trial, the trial judge acquitted the Respondent. On appeal, the majority of the Court of Appeal dismissed the appeal. Rosenberg J.A. dissenting held that the trial judge had erred in determining the elements of the defence relating to a mistaken belief in consent and that on the evidence the defence had a sufficient air of reality to support its consideration.

Origin of the case:	Ontario
File No.:	27555
Judgment of the Court of Appeal:	September 23, 1999
Counsel:	Robert Kelly for the Appellant Robert C. Sheppard for the Respondent

27555

Sa Majesté la Reine c. M.O.

Droit criminel - Agression sexuelle - Consentement - Les juges majoritaires de la Cour d'appel ont-ils commis une erreur en concluant que le juge du procès n'avait pas mal saisi les éléments de la défense de croyance sincère mais erronée au consentement? - Si la réponse à la première question est affirmative, notre Cour doit-elle substituer une déclaration de culpabilité d'agression sexuelle plutôt que d'ordonner la tenue d'un nouveau procès?

L'intimé a été acquitté relativement à l'accusation d'agression sexuelle. La version de la plaignante et celle de l'intimé différaient grandement. Au moment de la prétendue agression, la plaignante était âgée de 15 ans, était sous la garde de la Société d'aide à l'enfance et vivait dans un foyer de groupe. L'intimé était âgé de 23 ans et vivait dans un studio.

La plaignante et l'intimé se sont rencontrés à un arrêt d'autobus. Ils ont conversé brièvement et ont convenu de marcher jusqu'à l'appartement de l'intimé et de boire de la bière ensemble. Ils se sont rendus à un magasin de bières pour ensuite se rendre à l'appartement, où ils se sont assis et ont bu de la bière pendant un certain temps.

À un moment donné, la plaignante est allée aux toilettes et, à son retour, a trouvé l'intimé étendu sur le lit. À la demande de celui-ci, elle l'a rejoint sur le lit même si, d'après son témoignage, elle s'est sentie mal à l'aise. L'intimé a témoigné que la plaignante l'avait laissé lui donner un massage, ce que la plaignante a nié. Ils ont commencé à avoir des relations sexuelles et, selon la déposition de l'intimé, il lui a demandé s'il devait utiliser un condom et la plaignante a dit que ce serait une bonne idée. L'intimé a témoigné qu'il n'y a pas eu d'autre relation sexuelle.

La plaignante a témoigné qu'il y avait eu deux relations sexuelles. L'intimé a reconnu en contre-interrogatoire qu'à un certain moment, la plaignante avait dit « non », mais il a cru que cela signifiait « non » sans condom. La plaignante a témoigné qu'elle avait dit non auparavant lorsque l'intimé tentait de lui enlever ses pantalons, mais celui-ci a témoigné qu'elle les avait enlevés elle-même.

Au procès, le juge a acquitté l'intimé. En appel, la Cour d'appel a rejeté l'appel à la majorité. Le juge Rosenberg, dissident, a conclu que le juge du procès avait commis une erreur en déterminant les éléments de la défense relatifs à une croyance erronée au consentement et en concluant qu'à la lumière de la preuve, la défense avait une apparence de vraisemblance suffisante pour être examinée.

Origine :	Ontario
N° du greffe :	27555
Arrêt de la Cour d'appel :	Le 23 septembre 1999
Avocats :	Robert Kelly pour l'appelante Robert C. Sheppard pour l'intimé

27495

Karl Find v. Her Majesty the Queen

Criminal law - Jurors - Application by Appellant to challenge prospective jurors on the basis of the nature of the charge - Whether the majority of the Court of Appeal erred in holding that the Appellant had failed to establish a reasonable possibility that there exists generic prejudice against individuals charged with sexual offences.

The Appellant was convicted of committing sexual offences against three complainants between 1963 and 1976, when they were between the ages of 6 and 12. At trial, the complainants were between the ages of 29 and 33. The Appellant was 61 years old at the time of the trial. He testified and denied that he had ever sexually assaulted the complainants.

Prior to jury selection, the Appellant applied to challenge prospective jurors for cause under s. 638(1)(b) of the *Criminal Code*. Defence counsel wished to ask the jurors whether they have strong feelings about the issue of rape and violence on young children and if so, what these feelings were based on. He also wished to inquire if these strong feelings would prevent them from giving the Appellant a fair trial based solely on the evidence given during the trial. No evidentiary basis was relied on in support of the application. The application was denied.

On appeal, counsel submitted that the evidentiary base was established because one prospective juror had indicated that he would have a problem hearing the case because he had two young children and thought his feelings about them would influence his attitude. The juror was challenged peremptorily. The majority of the Court of Appeal dismissed the appeal. Moldaver J.A. dissenting held that the trial judge erred in refusing to permit a challenge of prospective jurors for cause based on the nature of the crime.

Origin of the case: Ontario

File No.: 27495

Judgment of the Court of Appeal: September 13, 1999

Counsel: David M. Tanovich and Umberto Sapone for the Appellant
Susan Reid for the Respondent

27495 *Karl Find c. Sa Majesté la Reine*

Droit criminel - Jurés - Demande de l'appelant visant à récuser des candidats-jurés sur la base de la nature de l'accusation - La Cour d'appel à la majorité a-t-elle commis une erreur en concluant que l'appelant n'avait pas établi une possibilité raisonnable qu'il existe un préjudice fondé sur le genre contre les individus accusés d'infractions de nature sexuelle?

L'appelant a été déclaré coupable d'avoir commis, entre 1963 et 1976, des infractions de nature sexuelle contre trois enfants dont l'âge allait de 6 à 12 ans et dont l'âge, au moment du procès, se situait entre 29 et 33 ans. L'appelant avait 61 ans au moment du procès. Il a témoigné et a nié avoir jamais agressé sexuellement ces enfants.

Avant la sélection des jurés, l'appelant a présenté une demande visant à récuser pour cause des candidats-jurés en vertu de l'al. 638(1)b) du *Code criminel*. L'avocat de la défense désirait demander aux jurés s'ils avaient des opinions arrêtées sur la question du viol et de la violence faite aux jeunes enfants et, dans l'affirmative, sur quoi étaient fondées ces opinions. Il voulait également savoir si ces opinions arrêtées les empêcheraient de donner à l'appelant un procès juste basé exclusivement sur la preuve présentée pendant le procès. Il n'y avait aucun fondement probatoire à l'appui de la demande. La demande a été rejetée.

En appel, l'avocat a allégué que le fondement probatoire a été établi parce qu'un candidat-juré avait indiqué qu'il éprouverait des difficultés à entendre l'affaire parce qu'il avait deux jeunes enfants et qu'il pensait que ses sentiments à leur égard influenceraient son attitude. Le juré a été récusé péremptoirement. La Cour d'appel à la majorité a rejeté l'appel. Le juge Moldaver, dissident, a conclu que le juge du procès avait commis une erreur en ne permettant pas la récusation motivée de candidats-jurés fondée sur la nature du crime.

Origine:	Ontario
N° du greffe:	27495
Arrêt de la Cour d'appel:	le 13 septembre 1999
Avocats:	David M. Tanovich et Umberto Sapone pour l'appelant Susan Reid pour l'intimée

APPEALS INSCRIBED FOR
HEARING AT THE SESSION OF
THE SUPREME COURT OF
CANADA, BEGINNING
MONDAY, OCTOBER 2, 2000

APPELS INSCRITS POUR
AUDITION À LA SESSION DE LA
COUR SUPRÊME DU CANADA
COMMENÇANT LE LUNDI
2 OCTOBRE 2000

Enclosed is the list of the appeals inscribed for hearing by the Supreme Court of Canada during the session which begins in Ottawa, on Monday, October 2, 2000.

Cases will not necessarily be heard in the order in which they have been entered on the list.

During this session which is expected to last until December 15, 2000, the Court will sit Monday through Friday, from 9:45 a.m. on.

Throughout the session, we will continue to provide whenever possible advance notice of judgments to be rendered and any changes made to the schedule of appeals to be heard.

If you would like to receive these communications electronically and as quickly as possible, you are encouraged to subscribe to our "Press Release" ListServ. The instructions for doing so are available on our Internet site at <http://www.scc-csc.gc.ca>, which also provides access to other information about the Court such as the Court's agenda, case dockets, Notices to the profession and its decisions.

Material supporting applications for leave to appeal and appeals can be examined at the Court.

Ci-joint le rôle des appels inscrits pour audition devant la Cour suprême du Canada durant la session qui commence le lundi 2 octobre 2000 à Ottawa.

Les causes ne seront pas nécessairement entendues dans l'ordre dans lequel elles ont été inscrites sur le rôle.

Pendant cette session qui doit durer jusqu'au 15 décembre 2000, la Cour siégera du lundi au vendredi, à partir de 9 h 45.

Nous essaierons dans la mesure du possible d'indiquer à l'avance la date des jugements de même que les changements apportés dans l'ordre des audiences.

Si vous désirez recevoir ces renseignements par moyen électronique, nous vous encourageons à souscrire à notre liste d'envoi pour les communiqués de presse. Vous pouvez retrouver les consignes pour vous y abonner sur notre site Internet à l'adresse suivante <http://www.scc-csc.gc.ca>. Vous y trouverez aussi des renseignements supplémentaires concernant la Cour, tels l'ordre du jour, les registres des dossiers, les avis aux avocats et l'accès aux jugements.

On peut consulter au greffe de la Cour, les documents à l'appui des demandes d'autorisation d'appel ou des appels.

ANNE ROLAND
REGISTRAR REGISTRAIRE

February 15, 2000

Le 15 février 2000

SUPREME COURT OF CANADA - COUR SUPRÊME DU CANADA

Session commencing Monday, October 2, 2000 ♦ ♦ ♦ Session commençant le lundi 2 octobre 2000

File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant
1	27277 Bradley Sawyer v. Her Majesty the Queen (Ont.) (Criminal) (As of Right)	Shayne G. Kert Renee M. Pomerance	Leonard M. Shore, Q.C. Robert E. Houston, Q.C.
2	27424 Rui Wen Pan v. Her Majesty the Queen (Ont.) (Criminal) (By Leave)	Keith E. Wright Renee M. Pomerance	Terri H. Semanyk Robert E. Houston, Q.C.
3	27004 M. le juge Richard Therrien, J.C.Q. c. Ministre de la Justice, et al. (Qué.) (Civile) (Autorisation)	Jean-Claude Hébert Benoit Belleau Robert Mongeon	Richard Gaudreau Sylvie Roussel
4	27495 Karl Find v. Her Majesty the Queen (Ont.) (Criminal) (As of Right)	David M. Tanovich Susan L. Reid	Henry S. Brown, Q.C. Robert E. Houston, Q.C.
5	27050 Sa Majesté la Reine c. Marie-Suzanne Caouette (Qué.) (Criminelle) (Autorisation)	Jacques Casgrain Nathalie Caron	Sylvie Roussel Richard Gaudreau
6	27250 Sa Majesté la Reine c. Jean Pierre Hamelin (Qué.) (Criminelle) (Autorisation)	Jacques Blais Pierre Poupart	Sylvie Roussel Guy Régimbal

	File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant
7	27107	Huor Chieu v. Minister of Citizenship and Immigration (FC) (Civil) (By Leave)	David Matas Judith Bowers, Q.C.	Henry S. Brown, Q.C. Graham R. Garton, Q.C.
8	27109	J.C. v. Her Majesty the Queen, et al. (Ont.) (Criminal) (By Leave)	Anthony Moustacalis Christine Bartlett-Hughes Maureen Forestell	Brian A. Crane, Q.C. James Foord Robert E. Houston, Q.C.
9	27111	Ahmad Abdulaal Al Sagban v. Minister of Citizenship and Immigration (FC) (Civil) (By Leave)	Christopher Elgin Judith Bowers, Q.C.	Brian A. Crane, Q.C. Graham R. Garton, Q.C.
10	26914	Christian Noël c. La Société d'énergie de la Baie James (SEBJ) (Qué.) (Civile) (Autorisation)	Paule Lafontaine Jean Beauregard	Francine Dupont Sylvie Roussel
11	27121	Travailleurs et travailleuses unis de l'alimentation et du commerce, local 500, et al. c. Ivanhoe Inc., et al. (Qué.) (Civile) (Autorisation)	Serge Benoît Jean-Marc Brodeur Robert Laurin Benoit Belleau Serge Benoît Jean-Marc Brodeur Robert Laurin	Richard Gaudreau Sylvie Roussel Richard Gaudreau Sylvie Roussel
12	27003	Commission scolaire de Rivière-du-Loup c. Syndicat de l'enseignement du Grand-Portage (Qué.) (Civile) (Autorisation)	Jean-Claude Girard Linda Lavoie	Sylvie Roussel Richard Gaudreau

File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant	
13	27060	Pepsi-Cola Canada Beverages (West) Ltd. v. Retail, Wholesale and Department Store Union Local 558, et al. (Sask.) (Civil) (By Leave)	Robert G. Richards, Q.C. Larry W. Kowalchuk	Henry S. Brown, Q.C. Pablo Fernandez-Davila
14	27152	Barreau du Québec c. Simon Fortin, et al. (Qué.) (Civile) (Autorisation)	François Folot	Richard Gaudreau
15	27295	Sa Majesté la Reine du chef du Canada c. Bernard Miller (Qué.) (Civile) (Autorisation)	Marie Nichols, Q.C. Leonard E. Seidman	Jean-Marc Aubry, c.r. Sylvie Roussel
16	27307	Monit International Inc. c. Bernard Miller (Qué.) (Civile) (Autorisation)	Paul A. Melançon Leonard E. Seidman	Jacqueline V. Loignon Sylvie Roussel
17	27229	Daphne Whiten, et al. v. Pilot Insurance Company, et al. (Ont.) (Civil) (By Leave)	Earl A. Cherniak, Q.C. Gary R. Will Earl A. Cherniak, Q.C. Gary R. Will	David M. Attwater Brian A. Crane, Q.C. David M. Attwater Brian A. Crane, Q.C.
18	27284	The Canadian Red Cross Society v. Douglas Walker as Executor of the Estate of Alma Walker, deceased, et al. (Ont.) (Civil) (By Leave)	Peter K. Boeckle Bonnie A. Tough	Eugene Meehan Gordon K. Cameron

File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant	
19	27285	The Canadian Red Cross Society, et al. v. Lois Osborne as Executrix of the Estate of Ronald Charles Osborne, deceased, et al. (Ont.) (Civil) (By Leave)	Peter K. Boeckle Kenneth Arenson Bonnie A. Tough	Eugene Meehan Gordon K. Cameron Brian A. Crane, Q.C.
20	27363	Ontario English Catholic Teachers' Association, et al. v. Attorney General for Ontario, et al. (Ont.) (Civil) (By Leave)	Paul J.J. Cavalluzzo Maurice A. Green Michael A. Hines Brian A. Kelsey, Q.C. Elizabeth J. Shilton Janet E. Minor	Dougald E. Brown David K. Wilson Robert E. Houston, Q.C.
21	27555	Her Majesty the Queen v. M.O. (Ont.) (Criminal) (As of Right)	Robert Kelly Christopher A.W. Bentley	Robert E. Houston, Q.C. Brian A. Crane, Q.C.
22	27168	British Columbia College of Teachers v. Trinity Western University, et al. (B.C.) (Civil) (By Leave)	Thomas R. Berger, Q.C. Robert G. Kuhn	Henry S. Brown, Q.C. Colin S. Baxter
23	27210	Ville de Saint-Romuald c. Claudette Olivier, et al. (Qué.) (Civile) (Autorisation)	Jacques Tremblay François Marchand William Noonan	Sylvie Roussel Guy Régimbal
24	26937	Services des espaces verts Ltée/Chemlawn, et al. c. Ville de Hudson (Qué.) (Civile) (Autorisation)	Gérard Dugré Stéphane Brière	Sylvie Roussel Guy Régimbal

	File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant
25	27395	Mohamed Ameerulla Khan v. Her Majesty the Queen (Man.) (Criminal) (By Leave)	Martin D. Glazer Richard A. Saull	Henry S. Brown, Q.C. Henry S. Brown, Q.C.
26	27235	Benoît Proulx c. Le procureur général du Québec (Qué.) (Civile) (Autorisation)	Lawrence Corriveau, c.r. Claude Gagnon	 Sylvie Roussel
27	27084	Her Majesty the Queen in Right of Ontario v. 974649 Ontario Inc. c.o.b. as Dunedin Construction (1992), et al. (Ont.) (Civil) (By Leave)	Hart Schwartz Norman A. Keith	Robert E. Houston, Q.C. Robert E. Houston, Q.C.
28	27118	Mary Danyluk v. Ainsworth Technologies Inc., et al. (Ont.) (Civil) (By Leave)	Howard Levitt John E. Brooks	Jeffrey W. Beedell Andrew Tremayne
29	27290	Frans G.A. Derooy and Thierry Van Dooselaere as Trustees in Bankruptcy of ABC Containerline N.V., et al. v. Holt Cargo Systems Inc. (FC) (Civil) (By Leave)	David G. Colford Thomas E. Hart	Jacqueline V. Loignon Henry S. Brown, Q.C.
30	27666	Kingsley Michael Sutton v. Her Majesty the Queen (N.B.) (Criminal) (As of Right)	Margaret Gallagher S. David Frankel, Q.C.	Robert E. Houston, Q.C. Robert J. Frater

	File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant
31	27767	François Simard c. Sa Majesté la Reine (Qué.) (Criminelle) (De plein droit)	Louis Gélinas Joëlle St-Germain	Richard Gaudreau Sylvie Roussel
32	27022	Ministère de la santé et des services sociaux c. Centre Hospitalier Mont-Sinaï, et al. (Qué.) (Civile) (Autorisation)	Patrice Claude Gilles Poulin	Sylvie Roussel David M. Attwater
33	27138	Bennett Jones Verchere, et al. v. Western Canadian Shopping Centres Inc., et al. (Alta.) (Civil) (By Leave)	J. Robert Black Barry R. Crump Rick Davidson Havelock B. Madill, Q.C. J.P. Peacock, Q.C. Robert B. White, Q.C. Neil C. Wittmann, Q.C. Hervé H. Durocher	Jeffrey W. Beedell Stephen J. Grace
34	27150	Lorne Brown, et al. v. Regional Municipality of Durham Police Service Board (Ont.) (Civil) (By Leave)	Alan D. Gold David J.D. Sims, Q.C.	Lawrence Greenspon David H. Hill, Q.C.
35	27415	Spire Freezers Limited, et al. v. Her Majesty the Queen (FC) (Civil) (By Leave)	Warren J.A. Mitchell, Q.C. Jack S. Gill, Q.C.	Henry S. Brown, Q.C. Graham R. Garton, Q.C.

File / Dossier	Style of Cause / Intitulé de la cause	Counsel / Procureur	Agent / Correspondant
36	27252	Committee for the equal treatment of Asbestos minority shareholders v. Her Majesty the Queen in Right of Quebec, et al. (Ont.) (Civil) (By Leave)	David W. Scott, Q.C. Gordon K. Cameron Brian A. Crane, Q.C. Matthew J. Halpin
37	27291	Ville de Sept-Iles c. Le Syndicat canadien de la fonction publique, Section locale 2589, et al. (Qué.) (Civile) (Autorisation)	Jacqueline V. Loignon Pierre R. Lamoureux Jacqueline V. Loignon Sylvie Roussel
38	27934	Performance Industries Ltd., et al. v. Sylvan Lake Golf & Tennis Club Ltd., et al. (Alta.) (Civil) (By Leave)	David R. Haigh, Q.C. L.A. Westersund David R. Haigh, Q.C. L.A. Westersund
39	27561	Philip Douglas Backman v. Her Majesty the Queen (FC) (Civil) (By Leave)	Henry S. Brown, Q.C. Graham R. Garton, Q.C.

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

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

Motion day : October 2, 2000

Service : September 11, 2000
Filing : September 15, 2000
Respondent : September 22, 2000

Motion day : November 6, 2000

Service : October 16, 2000
Filing : October 20, 2000
Respondent : October 27, 2000

Motion day : December 4, 2000

Service : November 10, 2000
Filing : November 17, 2000
Respondent : November 24, 2000

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 : 2 octobre 2000

Signification: 11 septembre 2000
Dépôt : 15 septembre 2000
Intimé : 22 septembre 2000

Audience du : 6 novembre 2000

Signification: 16 octobre 2000
Dépôt : 20 octobre 2000
Intimé : 27 octobre 2000

Audience du : 4 décembre 2000

Signification: 10 novembre 2000
Dépôt : 17 novembre 2000
Intimé : 24 novembre 2000

DEADLINES: APPEALS

DÉLAIS: APPELS

The Fall Session of the Supreme Court of Canada will commence October 2, 2000.

La session d'automne de la Cour suprême du Canada commencera le 2 octobre 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:

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:

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.

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.

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.

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.

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.

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.

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

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

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

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

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.

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).

Judgments reported in [2000] 1 S.C.R. Part 4

Granovsky v. Canada (Minister of Employment and Immigration), [2000] 1 S.C.R. 703, 2000 SCC 28

Laflamme v. Prudential-Bache Commodities Canada Ltd., [2000] 1 S.C.R. 638, 2000 SCC 26

Non-Marine Underwriters, Lloyd's of London v. Scalera, [2000] 1 S.C.R. 55, 2000 SCC 24

Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Montréal (City); Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Boisbriand (City), [2000] 1 S.C.R. 665, 2000 SCC 27

Sansalone v. Wawanesa Mutual Insurance Co., [2000] 1 S.C.R. 627, 2000 SCC 25

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

Jugements publiés dans [2000] 1 R.C.S. Partie 4

Granovsky c. Canada (Ministre de l'Emploi et de l'Immigration), [2000] 1 R.C.S. 703, 2000 CSC 28

Laflamme c. Prudential-Bache Commodities Canada Ltd., [2000] 1 R.C.S. 638, 2000 CSC 26

Non-Marine Underwriters, Lloyd's of London c. Scalera, [2000] 1 R.C.S. 551, 2000 CSC 24

Québec (Commission des droits de la personne et des droits de la jeunesse) c. Montréal (Ville); Québec (Commission des droits de la personne et des droits de la jeunesse) c. Boisbriand (Ville), [2000] 1 R.C.S. 665, 2000 CSC 27

Sansalone c. Wawanesa Mutual Insurance Co., [2000] 1 R.C.S. 627, 2000 CSC 25

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2000 -

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

NOVEMBER - NOVEMBRE						
S	M	T	W	T	F	S
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5	M 6	7	8	9	10	11
12	H 13	14	15	16	17	18
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DECEMBER - DECEMBRE						
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24	H 25	H 26	27	28	29	30
31						

- 2001 -

JANUARY - JANVIER						
S	M	T	W	T	F	S
D	L	M	M	J	V	S
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7	8	9	10	11	12	13
14	M 15	16	17	18	19	20
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FEBRUARY - FÉVRIER						
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MARCH - MARS						
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APRIL - AVRIL						
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29	30					

MAY - MAI						
S	M	T	W	T	F	S
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R 6	7	8	9	10	11	12
13	M 14	15	16	17	18	19
20	H 21	22	23	24	25	26
27	28	29	30	31		

JUNE - JUIN						
S	M	T	W	T	F	S
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3	4	5	6	7	8	9
10	M 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

78 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