

**SUPREME COURT  
OF CANADA**



**COUR SUPRÊME  
DU CANADA**

**BULLETIN OF  
PROCEEDINGS**

**BULLETIN DES  
PROCÉDURES**

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**APPLICATIONS FOR LEAVE TO  
APPEAL FILED**

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

**Gaston Lebrun**  
Benôit Turcotte  
Therrien, Turcotte

c. (27618)

**Sa Majesté la Reine (Qué.)**  
Henri-Pierre Labrie  
Procureur général du Québec

DATE DE PRODUCTION 30.3.2000

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**Paul Kenneth Bernardo**  
Paul Kenneth Bernardo

v. (27925)

**Her Majesty the Queen (Ont.)**  
James A. Ramsay  
A.G. for Ontario

FILING DATE 23.5.2000

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**Her Majesty the Queen**  
Christopher Webb  
A.G. for Ontario

v. (27996)

**James Handy (Ont.)**  
Richard N. Stern

FILING DATE 26.6.2000

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**Robert Donald VanDenburgh**  
Robert Donald VanDenburgh

v. (28015)

**Her Majesty the Queen (B.C.)**  
W.J. Scott Bell  
A.G. of British Columbia

FILING DATE 17.7.2000

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**Franco Cigana**  
Franco Cigana

v. (28016)

**Regent Millette et al. (Que.)**  
Regent Millette

FILING DATE 18.7.2000

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**Wyn Rhys-Jones**  
Leonard Max, Q.C.

v. (28017)

**Elizabeth Kathleen Rhys-Jones (Ont.)**  
John E. Johnson  
Nelligan-Power

FILING DATE 18.7.2000

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**Corrine Godin**  
Terrence P. Lenihan  
Byrne, Lenihan, Riordon

v. (28019)

**Premier Salon International Inc., et al. (N.B.)**  
Craig J. Carleton  
Robichaud, Godin, Williamson, Theriault  
& Johnstone

FILING DATE 20.7.2000

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**Les Freeman**  
Les Freeman

v. (28024)

**General Motors Acceptance Corporation of  
Canada, Limited (Sask.)**  
Eileen V. Libby  
MacPherson Leslie & Tyerman

FILING DATE 26.7.2000

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**Mil Systems, a division of Davie Industries Inc. et al.**

J. Bruce Carr-Harris  
Borden Ladner Gervais

v. (28022)

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

Michael F. Ciavaglia  
A.G. of Canada

FILING DATE 21.7.2000

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**Warren Anthony George**

Michael Code  
Sack Goldblatt Mitchell

v. (28031)

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

Michael Bernstein  
A.G. of Ontario

FILING DATE 2.8.2000

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**Vincenzo Cipollone**

Timothy E. Breen  
Fleming, Breen

v. (28035)

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

Lucy Cecchetto  
A.G. for Ontario

FILING DATE 2.8.2000

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**Nicholas Y. Bonamy**

Nicholas Y. Bonamy

v. (28038)

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

Kenneth J. Yule, Q.C.  
A.G. of Canada

FILING DATE 8.8.2000

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**Daniel Gaudreault**

Charles Bédard  
Martin Tremblay, Mario Bouchard &  
Assoc.

c. (28040)

**Sa Majesté la Reine (Qué.)**

Claudine Roy  
Procureur général du Québec

DATE DE PRODUCTION 3.8.2000

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**Lauchlin Ronald MacDonald**

Nash T. Brogan  
Kimball & Associates

v. (28048)

**Her Majesty the Queen (N.S.)**

James A. Gumpert, Q.C.  
Public Prosecutions Service

FILING DATE 9.8.2000

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**Alexander Jaworski**

F. Paul Morrison  
McCarthy Tétrault

v. (28052)

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

Robert H. Jaworsky  
A.G. of Canada

FILING DATE 8.8.2000

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**Glen Ekman**

Gil D. McKinnon, Q.C.

v. (28056)

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

William F. Ehrcke, Q.C.  
A.G. of British Columbia

FILING DATE 10.8.2000

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**Jacques Robitaille**

Jean-Luc Paris  
Pasquin & Associés

c. (28061)

**Sa Majesté la Reine (Qué.)**

Guyllaine Aspirot  
Procureur général du Québec

DATE DE PRODUCTION 15.8.2000

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**Atomic Energy of Canada Limited**

J. Brett Ledger  
Osler, Hoskin & Harcourt, LLP

v. (28020)

**Sierra Club of Canada, et al. (F.C.A.)**

Timothy J. Howard

FILING DATE 20.7.2000

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**Peter Fehr**

Marcel Jodoin  
Smith Neufeld Jodoin

v. (28023)

**Roman Brodowski (Man.)**

Leonard M. French  
Fillmore Riley

FILING DATE 24.7.2000

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**Clayton Charles Ruby**

Clayton C. Ruby  
Ruby & Edwardh

v. (28029)

**The Solicitor General (F.C.A.)**

Barbara McIsaac, Q.C.  
McCarthy Tétrault

FILING DATE 28.7.2000

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**Musqueam Holdings Ltd. et al.**

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

v. (28032)

**Assessor of Area #09 - Vancouver, et al. (B.C.)**

John Savage  
Crease Harman & Company

FILING DATE 1.8.2000

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**Tawich Development Corporation**

John Hurley  
Fraser Milner Casgrain

v. (28033)

**Deputy Minister of Revenue of Quebec (Que.)**

Jocelyne Mailloux Martin  
Veillette & Associés

FILING DATE 2.8.2000

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**Robin Edwin Hall**

John L. Sinclair  
Sinclair & Associates

v. (28034)

**Terri Lynn Melna et al. (Man.)**

Ken G. Mandzuik  
Taylor McCaffrey

FILING DATE 1.8.2000

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**JULY 24, 2000 / LE 24 JUILLET 2000**

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

**Bank of America Canada**

**v. (27898)**

**Clarica Trust Company, Mutual Trustco Inc., Mutual Life of Canada, Raymond Dore, Ian Sutherland, Robert  
A. Stuebing and S. Scott Cameron (Ont.)**

**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

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**Gary Kelemen and Christine Kelemen**

**v. (27693)**

**Chawki El-Homeira and Yolla El-Homeira (Alta.)**

**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

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**Ivan Vanek, Georgina Vanek and Eva Vanek,  
a minor by her litigation guardian, Georgina Vanek**

**v. (27735)**

**The Great Atlantic & Pacific Company of Canada Limited and  
Beatrice Foods Inc.**

**- and -**

**Fairlee Fruit Juice Ltd. (Ont.)**

**NATURE OF THE CASE**

Torts - Negligence - Duty of care - Foreseeability of nervous shock or mental, emotional and psychological distress - Child swallowing contaminated juice causing parents emotional distress - Whether the Court of Appeal for Ontario misapplied the legal test of foreseeability as set out in this case - Whether Court of Appeal for Ontario erred at law in interfering with the Trial Judge's finding of fact, and replacing the Trial Judge's finding of fact with its own, in the absence of any payable or overriding error on the part of the Trial Judge - Whether the Court of Appeal for Ontario misapplied and ignored key facts in determining the issue of foreseeability - Whether the Court of Appeal for Ontario erred in that it applied and followed case law precedent with significantly different facts, and in one case applied and followed the legal test of a foreign jurisdiction with no precedent in Canadian law - Whether the Court of Appeal erred in finding that there had been no claim for damages pleaded on behalf of the Plaintiff Georgina Vanek pursuant to the *Family Law Act*, R.S.O. 1990, c. F.3.

**PROCEDURAL HISTORY**

December 9, 1997 Superior Court of Justice (Cosgrove J.)	Award of \$39,000.00 in damages to parents and child
December 7, 1999 Court of Appeal for Ontario (Goudge, Borins and MacPherson JJ.A.)	Appeal allowed; damages reduced to a total of \$2,000.00 for child

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February 3, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Carl Laufer**

**v. (27761)**

**John Bucklaschuk (Man.)**

**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

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**Brian J. Stewart**

**v. (27860)**

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

**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 JJ.A.)	Appeal dismissed
April 17, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Her Majesty the Queen**

**v. (27724)**

**Jack Walls and Robert Buyyer (F.C.A.)(B.C.)**

**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

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

**Nichols Gravel Limited**

**v. (27720)**

**The Corporation of the Township of Delhi, David Anderson and Frank Gelinias (Ont.)**

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**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 <i>inter alia</i> , 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

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**Alan Bromstein**

**v. (27923)**

**Michael Khanna (Ont.)**

**NATURE OF THE CASE**

Procedural law - Pleadings - Motion to strike - Torts - Intentional torts - Prosecutorial immunity - Statutory immunity - Lawyer acting for Royal College of Dental Surgeons of Ontario in unsuccessful disciplinary proceedings against member who then sues lawyer alleging negligence, malicious prosecution, civil conspiracy, interference with economic relations, and abuse of process - What is the proper interpretation and application of the immunity provision of the *Regulated Health Professions Act*, S.O. 1991, c. 18 - What are the requirements of pleading malice or bad faith - What are the requirements of pleading the tort of malicious prosecution against a lawyer acting as counsel for the College in a disciplinary proceeding - What are the requirements of pleading the tort of conspiracy against a lawyer acting as counsel for the College in a disciplinary proceeding - *Regulated Health Professions Act*, S.O. 1991, c. 18, s. 38.

**PROCEDURAL HISTORY**

June 17, 1999 Superior Court of Justice (Cumming J.)	Motion to strike statement of claim as against the Applicant granted
March 27, 2000 Court of Appeal for Ontario (Mordeau, Finlayson, and Abella [ <i>dissenting</i> ] JJ.A.)	Appeal allowed
May 19, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Pierre Devinat**

**c. (27727)**

**La Commission de l'immigration et du statut de réfugié (C.A.F.) (Ont.)**

**NATURE DE LA CAUSE**

Droit administratif - Contrôle judiciaire - *Mandamus* - Article 20 de la *Loi sur les langues officielles*, L.R.Q. (1985) (4e suppl.), ch. 31 - La Cour d'appel fédérale a-t-elle commis une erreur de droit en refusant de sanctionner la violation par la Commission de l'immigration et du statut de réfugié d'une obligation linguistique quasi constitutionnelle, celle que lui impose l'article 20 de la *Loi sur les langues officielles*, par la délivrance du bref de mandamus demandé qui obligerait la CISR à mettre toutes ses décisions à la disposition du public dans les deux langues officielles?

**HISTORIQUE PROCÉDURAL**

Le 1er mai 1998 Cour fédérale du Canada (Nadon j.)	Demande de contrôle judiciaire rejetée
Le 29 novembre 1999 Cour d'appel fédérale (Desjardins, Linden et Létourneau jj.c.a.)	Appel rejeté
Le 28 janvier 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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Le 9 février 2000  
Cour suprême du Canada

Demande d'autorisation d'appel incident déposée

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**Franceschina Martelli**

**c. (27811)**

**La Commission des affaires sociales**

**- et -**

**La Société de l'assurance automobile du Québec (Qué.)**

**NATURE DE LA CAUSE**

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

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**The Gazette, une division de Southam Inc.**

**c. (27753)**

**Syndicat canadien des communications, de l'énergie et du papier, section locale 145, SCEP**

**-et-**

**Mme Rita Blondin, MM. Eriberto Di Paolo, Umed Gohil, Horace Holloway, Pierre Rebetez, Michael Thomson,  
Joseph Brazeau, Robert Davies, Jean-Pierre Martin, Leslie Stockwell et Marc Tremblay**

**-et-**

**Me André Sylvestre (Qué.)**

**NATURE DE LA CAUSE**

Droit du travail - Convention collective - Arbitrage - Ententes civiles tripartites - Droits acquis - Clause compromissoire - Grief - Droit au lock-out - Processus obligatoire de renouvellement de la convention collective selon l'arbitrage des meilleures offres finales - Un employeur et un syndicat, régis par la législation sur les rapports collectifs du travail au Canada et plus précisément par le *Code du travail*, peuvent-ils réglementer les conditions de travail des salariés par des ententes civiles assorties de clauses compromissoires parfaites au sens du *Code de procédure civile* plutôt que par voie de convention collective de travail sanctionnée par la procédure d'arbitrage de griefs? - Des salariés visés par une accréditation syndicale et encore soumis aux vicissitudes de la négociation collective peuvent-ils bénéficier de droits acquis ou immuables au sens de l'arrêt *Dayco (Canada) Ltd. c. TCA-Canada*, [1993] 2 R.C.S. 230? - Des salariés visés par une accréditation syndicale peuvent-ils obtenir des dommages-intérêts pour un geste posé par leur employeur qui a été jugé conforme à la convention collective par un arbitre de griefs suite à un grief de leur syndicat?

**HISTORIQUE PROCÉDURAL**

Le 5 février 1998  
Arbitre  
(Me André Sylvestre)

Mésentente du 8 mai rejetée;  
mésentente du 4 juin accueillie

Le 30 octobre 1998  
Cour supérieure du Québec  
(Grenier j.c.s.)

Requête en révision judiciaire de la demanderesse  
accueillie

Le 15 décembre 1999  
Cour d'appel du Québec  
(Rousseau-Houle, Chamberland, et Forget jj.c.a)

Appel accueilli en partie

Le 11 février 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

**André Arthur**

**c. (27772)**

**Le procureur général du Canada (C.A.F.) (Qué.)**

**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

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

**Gaston Lebrun**

**c. (27618)**

**Sa Majesté la Reine (Crim.)(Qué.)**

**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**

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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

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**Raymond Haid Shalala**

**v. (27810)**

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

**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



**Firm of Kirkland, Murphy & Ain**

v. (27763)

**John R. Wernikowski (Ont.)**

**NATURE OF THE CASE**

Procedural Law - Civil procedure - Striking out a pleading - Abuse of process - Negligence - Criminal lawyer - Collateral attack on final decision of court of competent jurisdiction in previous proceedings - Respondent convicted of two unrelated sexually related crimes - Respondent commenced civil claim against criminal defence lawyer for negligence and breach of fiduciary duty - Whether it is an abuse of process, absent fraud or fresh evidence, to permit a convicted offender, having exhausted his appeals, to re-litigate his criminal conviction by commencing an action against his lawyer for negligence in the conduct of the criminal proceedings - Whether a different test should be applied where the civil action involves allegations of negligence against a lawyer for the conduct of the criminal proceeding, where the criminal conviction involved a sexual offence.

**PROCEDURAL HISTORY**

December 15, 1998 Ontario Court (General Division) (Binks J.)	Order striking Statement of Claim and setting aside Respondent's noting of pleadings closed
December 17, 1999 Court of Appeal for Ontario (Doherty, Charron and Borins JJ.A.)	Order setting aside the Order of Binks J.
February 15, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Société en commandite 2858-9893 Québec**

c. (27673)

**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 et l'officier du Bureau de la publicité des droits de la circonscription foncière de Chicoutimi (Qué.)**

**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**

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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

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**Gérald Robitaille et Associés Ltée**

**c. (27799)**

**Sa Majesté la Reine du Canada (Qué.)**

**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

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**JULY 31, 2000 / LE 31 JUILLET 2000**

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

**Paul Kenneth Bernardo**

**v. (27925)**

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

**NATURE OF THE CASE**

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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

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**Patrick Russell Hurst**

**v. (27919)**

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

**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

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**Rachel Kleven**

**v. (27586)**

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

**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 <i>Criminal Code</i>
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

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**United Transportation Union**

v. (27765)

**International Brotherhood of Locomotive Engineers, Via Rail Canada Inc.  
and George Cairns et al. (F.C.A.)(Ont.)**

**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 *Crew Consist Adjustment Agreement*

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

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**Robert E. Zelinski and Ken A. Whent**

v. (27748)

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

**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

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

**Alan Emmette Simmons**

**v. (27979)**

**The United States of America (Crim.)(Ont.)**

**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

Dans l'affaire de la faillite de:

**Le Château d'Amos Ltée**  
débitrice

ENTRE :

Ville d'Amos

c. (27653)

**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 (Qué.)**

ET ENTRE :

**Procureure générale du Québec**

c. (27653)

**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 (Qué.)**

**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

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**Dragisa Gajic**

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v. (27750)

**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.)(B.C.)**

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

Appeal dismissed

March 6, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Lamerton & Associates Professional Surveyors Ltd.**

v. (27746)

**Frederick John Quinn, Inuvialuit Regional Corporation (Y.T.)**

**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

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**Dans l'affaire de la faillite de:**

**147557 Canada Ltée (Grudev Inc.)**

**Débitrice**

**ENTRE :**

**Procureure générale du Québec**

**c. (27651)**

**Ville de l'Île Bizard, Banque Nationale du Canada, et Le Conseil scolaire de l'Île de Montréal (Qué.)**

**ET ENTRE :**

**Le Conseil scolaire de l'Île de Montréal**

**c. (27651)**

**Ville de l'Île Bizard, Banque Nationale du Canada (Qué.)**

**ET ENTRE :**

**Ville de l'Île Bizard**

**c. (27651)**

**Le Conseil scolaire de l'Île de Montréal,  
Banque Nationale du Canada, Caron Bélanger Ernst & Young Inc. (Qué.)**

**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

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

**Her Majesty the Queen**

**v. (27912)**

**Keith Arnold Wren (Crim.)(Ont.)**

**NATURE OF THE CASE**

Criminal law - Care or control of a motor vehicle while impaired - Whether act or conduct of the accused in relation to the motor vehicle must create a risk of danger from putting the car in motion or in some other way.

**PROCEDURAL HISTORY**

February 11, 1998 Ontario Court of Justice (MacPhee J.)	Acquittal from charge of being impaired while in the care or control of a motor vehicle
February 10, 1999 Superior Court of Justice (Millette J.)	Summary conviction appeal dismissed
March 14, 2000 Court of Appeal for Ontario (Laskin, Feldman, and O'Connor JJ.A.)	Appeal dismissed
May 15, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Paul MacInnes**

**v. (27899)**

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

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal Law - Trial within a reasonable time - Unreasonable delay - Disclosure - Was the applicant's right to be tried within a reasonable time infringed when for a period of eight (8) months the Kingston Police Force was in contempt of court due to its refusal to comply with the trial court's disclosure order and when at trial the Crown failed to offer any explanation as to why it took five and a half (5.5) months to provide the applicant with two pages of the arresting officers' notes, which notes existed on the date of arrest - Whether the onus of proof of dispatch is on the Crown or the applicant - Did the Ontario Court of Appeal err in law in holding that the applicant's right to be tried within a reasonable period of time had not been infringed due to what it felt was very limited prejudice shown by the applicant at trial - *Canadian Charter of Rights and Freedoms*, s. 11(b).

**PROCEDURAL HISTORY**

April 1, 1999 Ontario Court (Provincial Division) (Pedlar Prov. J.)	Application for stay pursuant to s. 11(b) of <i>Charter</i> dismissed
October 19, 1999 Ontario Superior Court of Justice (MacLeod J.)	Appeal from conviction and dismissal of stay application dismissed
March 7, 2000 Court of Appeal for Ontario (Charron, Goudge, and MacPherson JJ.A.)	Appeal dismissed
May 5, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Volf Friedman, Bella Seyder and Shneur Friedman (minor)**

**v. (27930)**

**Minister of Citizenship and Immigration (F.C.T.D.-Que.)**

**NATURE OF THE CASE**

Immigration - Application for judicial review - Whether the Federal Court, Trial Division failed to observe a principle of natural justice, procedural fairness or other procedure that it was required by law to observe - Whether the Federal Court, Trial Division erred in law in making its decision, whether or not the error appears on the face of record - Whether the Federal Court, Trial Division based its decision on an erroneous finding of the fact that it made in a perverse or capricious manner or without regard for material before it.

**PROCEDURAL HISTORY**

May 20, 2000 Federal Court of Canada, Trial Division (Lemieux J.)	Applicants' request for leave to commence judicial review proceedings denied
June 16, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Succession de Dame Sylvia Schwartz**

**c. (27855)**

**Dionysia Zerbisias (Qué.)**

**NATURE DE LA CAUSE**

Code civil - Droit commercial - Vente d'un immeuble - «Vice caché» - Risque théorique - Le toit de l'immeuble construit en 1956 et acheté par l'intimée en 1989, était-il affecté d'un vice caché au sens de l'article 1522 du *C.c.B.C.*, soit un vice qui le rendait impropre à l'usage auquel on le destinait ou qui en diminuait de manière importante son utilité au point que l'intimée n'aurait pas acheté l'immeuble ou n'en aurait pas donné si haut prix? - La Cour d'appel a-t-elle valablement interprété les dispositions de l'article 1522 *C.c.B.C.* lorsqu'elle conclut que la présence d'un vice de construction joint au risque théorique de condensation en découlant permettent de conclure que l'intimée, eût-elle connu la situation au moment d'acheter l'immeuble, n'en aurait pas donné un si haut prix, alors que la preuve analysée et appréciée par le premier juge démontre que le toit, tel que construit, jouait son rôle de manière efficace et n'avait jamais été source de problèmes? - La Cour d'appel du Québec pouvait-elle intervenir en l'espèce et ainsi réviser la preuve et l'appréciation des témoignages par le premier juge qui conclut que le vice allégué ne rendait pas la résidence impropre à l'usage auquel on la destinait ou en diminuait l'utilité, sans pour autant identifier l'erreur manifeste d'appréciation prétendument commise? - Art. 1522 *Code civil du Bas Canada*.

**HISTORIQUE PROCÉDURAL**

Le 25 janvier 1994  
Cour supérieure du Québec  
(Landry j.)

Action en dommages accueillie en partie

Le 17 février 2000  
Cour d'appel du Québec  
(Chamberland, Robert, et Philippon jj.c.a )

Appel accueilli

Le 17 avril 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**Salvatore Gramaglia**

**v. (27729)**

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

**NATURE OF THE CASE**

Administrative law - Whether lower courts erred in disposition of Applicant's application for judicial review.

**PROCEDURAL HISTORY**

September 23, 1998 Federal Court of Canada, Trial Division (Rothstein J.)	Application for judicial review of a decision of the Pension Appeals Board dismissed
December 17, 1999 Federal Court of Appeal (Isaac, McDonald and Sexton JJ.A.)	Appeal dismissed
January 28, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**AUGUST 8, 2000 / LE 8 AOÛT 2000**

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

**Her Majesty the Queen**

**v. (27856)**

**Kambiz Mafi (Crim.)(B.C.)**

**NATURE OF THE CASE**

Criminal law - Sentencing - Whether the Court of Appeal erred in principle by applying the 1996 amendments to Part XXIII of the *Criminal Code*, in particular ss. 718.2(d) and (e), to the discrete sentencing provisions for second degree murder - Whether the Court of Appeal erred in principle by creating a narrowly-defined category of second degree murder for the purpose of determining parole ineligibility and by treating deviation from it as reviewable error - Whether the Court of Appeal erred in principle by determining that deterrence is not served by increasing parole ineligibility beyond 10 years.

**PROCEDURAL HISTORY**

July 24, 1996 Supreme Court of British Columbia (Oppal J.)	Convicted by a jury of second-degree murder and sentenced to life imprisonment with no eligibility to parole for 20 years
February 18, 2000 Court of Appeal of British Columbia (McEachern, Lambert, Braidwood [dissenting] JJ.A.)	Appeal allowed with respect to sentence: period of parole ineligibility reduced to 15 years
April 14, 2000 Supreme Court of Canada	Application for leave to appeal filed

**Helmut Johannes Merz**

**v. (27918)**

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

**NATURE OF THE CASE**

Criminal Law - Evidence - Hearsay - Threats - Whether Court of Appeal erred with respect to the prejudicial effect of hearsay evidence when applying s. 686(1)(b)(iv) of the *Criminal Code*, R.S.C., 1985, c. C-46 - Whether a limiting instruction regarding prohibited propensity inference was required in relation to evidence of threats.

**PROCEDURAL HISTORY**

April 10, 1995 Ontario Court of Justice (General Division) (Glithero J.)	Applicant convicted of first degree murder
November 17, 1999 Court of Appeal for Ontario (Doherty, Rosenberg, Feldman JJ.A.)	Appeal against conviction dismissed
May 12, 2000 Supreme Court of Canada	Application for leave to appeal filed
June 1, 2000 Supreme Court of Canada (Bastarache J.)	Extension of time to file and serve leave application granted

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**Terry Lee Meidel**

**v. (27909)**

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

**NATURE OF THE CASE**

Criminal law - Procedural law - Extension of time to appeal conviction and sentence - Trial in *absentia* - Interpretation - Section 431.1 (now s. 475) of the *Criminal Code*, R.S.C., 1985, c. C-46 - Whether the Court of Appeal erred in denying the Applicant's extension of time to appeal - Whether the learned trial judge erred in law in proceeding against the Applicant in *absentia* - Whether sentence imposed on the Applicant was disproportionate?

**PROCEDURAL HISTORY**

August 14, 1984 Supreme Court of British Columbia (Murray J.)	Applicant convicted of conspiracy to import narcotics, conspiracy to traffic narcotics and possession of narcotics
March 16, 2000 Court of Appeal for British Columbia (Southin [dissenting], Ryan, Braidwood JJ.A.)	Application for extension of time to appeal conviction and sentence dismissed

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May 15, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**David Beyo**

**v. (27917)**

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

**NATURE OF THE CASE**

Criminal law - Uttering threats - Elements of the offence - Lesser included offences.

**PROCEDURAL HISTORY**

May 27, 1996  
Ontario Court (Provincial Division)  
(Lampkin P.C.J.)

Conviction: mischief (2 counts); uttering threats; assault

March 23, 2000  
Court of Appeal for Ontario  
(Abella, Rosenberg and MacPherson JJ.A.)

Appeal allowed in part: new trial ordered for one count of mischief, charge subsequently stayed; conviction quashed for second charge of mischief; appeal dismissed for assault and uttering threats convictions

May 18, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Godwin Smith**

**v. (27878)**

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

**NATURE OF THE CASE**

Taxation - Procedural law - Assessment - Limitation of actions - Goods and Services Tax - Whether the trial judge erred in law, by not observing the limitation period of the *Income Tax Act* and that of the G.S.T.

**PROCEDURAL HISTORY**

September 29, 1998  
Tax Court of Canada  
(Bell J.T.C.C.)

Appeal from reassessment dismissed

March 27, 2000  
Federal Court of Appeal  
(Décary, Rothstein and Malone JJ.C.A.)

Application for judicial review dismissed

April 27, 2000

Application for leave to appeal filed

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Supreme Court of Canada

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**Barrie Romkey and Brian Romkey**

v. (27777)

**Her Majesty the Queen (F.C.A.)(N.S.)**

**NATURE OF THE CASE**

Taxation - Income Tax - Income Attribution and Indirect Payments - Trusts - Children's Trusts - *Income Tax Act*, R.S.C., 1985 (5th Supp.), c. 1, as amended, s. 74.1(2) - Company declared and paid dividends to the children's trusts - Minister included the dividends in the Applicants' respective incomes for the taxation years in question - Whether such dividends are to be included in the Applicants' income - Whether the court of appeal erred in determining the provisions of subsection 74.2(2) of the *Act* applied in the circumstances of this case so as to render the Applicants liable to include the dividends in their respective incomes.

**PROCEDURAL HISTORY**

April 29, 1997  
Tax Court of Canada  
(McArthur J.T.C.C.)

Applicants' appeals from assessments made under the *Income Tax Act* for the 1988, 1989 and 1990 taxation years dismissed with costs

December 24, 1999  
Federal Court of Appeal  
(Stone, Isaac and Sexton J.J.A.)

Appeals dismissed with costs

February 22, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Wanxia Liao**

v. (27840)

**Ontario Human Rights Commission, University of Toronto and David Waterhouse (Ont.)**

**NATURE OF THE CASE**

Administrative Law - Judicial Review - Claim of discrimination based on race - Equality Rights - Whether the Human Rights Commission erred in deciding not to refer subject to the board of inquiry - Motion to compel Human Rights Commission to file documents - Motion to set aside and/or vary decision on the motion denied at the Superior Court of Justice - Whether Court of Appeal for Ontario erred in not allowing motion to set aside or vary the decision of the Superior Court of Justice.

**PROCEDURAL HISTORY**

June 22, 1999  
Ontario Superior Court of Justice  
(Matlow J.)

Order to have documentary evidence pertaining to application produced, and then sealed until delivered to panel hearing application



October 21, 1999  
Ontario Superior Court of Justice (Divisional Court)  
(O'Driscoll, Paisley and Gillese JJ.)

Applications for adjournment and for an order to vary  
order from Matlow J. dismissed

February 14, 2000  
Court of Appeal for Ontario  
(Carthy, Charron and Rosenberg JJ.A.)

Application for leave to appeal dismissed

April 5, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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

**Jacob F. Goohsen**

**v. (27926)**

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

**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

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**Steeve Martel**

**c. (27907)**

**Sa Majesté la Reine (Crim.)(Qué.)**

**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

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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

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**Stéphane Bourbeau**

**c. (27906)**

**Sa Majesté la Reine (Crim.)(Qué.)**

### **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

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**Gary John Lazeo**

**v. (27830)**

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

**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 *Proceeds of Crime (Money Laundering) Act*, and on four charges of attempts to launder the proceeds of crime contrary to s. 19.2 of the *Narcotic Control Act*

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

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**Apotex Inc.**

**v. (27764)**

**Merck & Co., Inc. and Merck Frosst Canada Inc. (F.C.A.)(Ont.)**

**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 relitigate 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

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**Gail Snider**

**v. (27783)**

**Manitoba Association of Registered Nurses (Man.)**

**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.
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

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**Allan Durand**

**v. (27818)**

**Jean Bastien (Alta.)**

**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

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

**D.C.A.**

**v. (27913)**

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

**NATURE OF THE CASE**

Criminal law - Young offenders - Whether the Alberta Court of Appeal erred in its interpretation of the effect of the failure of the Youth Court to fulfil its mandatory duty pursuant to s. 23(3)(c) of the *Young Offenders Act*.

**PROCEDURAL HISTORY**

April 22, 1999 Court of Queen's Bench of Alberta (Dea J.)	Appeal against conviction dismissed
March 24, 2000 Court of Appeal of Alberta (McFadyen, Berger and Costigan JJ.A.)	Appeal dismissed
May 16, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Jonathan Trelawny Silbernagel**

**v. (27952)**

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

**NATURE OF THE CASE**

Procedural Law - Stare decisis - Whether Court of Appeal erred in denying leave to appeal on the basis that there was no merit to an argument that the applicant was entitled to rely on a decision by a Justice of the Peace available at trial but overruled between trial and appeal - Whether Court of Appeal erred by substituting a question of its own by holding that they would hear an appeal on the constitutionality of photo radar law but not on a question of precedent - Whether it was necessary to follow specified precedent - Whether the conduct of the Crown and the courts constitutes a breach of judicial independence sufficient to warrant granting leave to appeal.

**PROCEDURAL HISTORY**

August 25, 1998 Provincial Court of British Columbia (Turley J.P.)	Conviction for speeding; Fine of \$100 plus victim surcharge of \$15
March 3, 1999 Supreme Court of British Columbia (Henderson J.)	Summary Conviction Appeal dismissed
February 23, 2000 Court of Appeal of British Columbia (Hollinrake J.A.)	Application for leave to appeal dismissed
April 3, 2000 Court of Appeal of British Columbia (Southin, Prowse, Newbury JJ.A.)	Application for review dismissed
June 2, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Ka Lam Law, Kam Sun Chan et 2821109 Canada Inc.**

**c. (27870)**

**Sa Majesté la Reine (Crim.)(N.-B.)**

**NATURE DE LA CAUSE**

Charte canadienne - Droit criminel - Déclaration de culpabilité par procédure sommaire - Biens volés - Vie privée - Administration de la preuve - Requête de l'intimée demandant que les photocopies des documents trouvés dans un coffre-fort volé soient admises en preuve devant le tribunal à titre de pièce de conviction dans le cadre d'une poursuite en vertu de la *Loi sur la taxe d'accise*, L.R.C., 1985, c. E-15 - Preuve non reliée à l'enquête sur le crime de vol - La preuve est-elle obtenue de façon abusive et déconsidère-t-elle l'administration de la justice?

**HISTORIQUE PROCÉDURAL**

Le 14 novembre 1996 Cour provinciale du Nouveau-Brunswick (McKee j.)	Déclaration d'inadmissibilité de la preuve : demandeurs acquittés
Le 29 septembre 1998 Cour du Banc de la Reine du Nouveau-Brunswick, Division de première instance (Godin j.)	Appel rejeté
Le 25 février 2000 Cour d'appel du Nouveau-Brunswick (Rice j.c.a. (dissident), Ryan et Larlee jj.c.a.)	Appel accueilli; nouveau procès ordonné

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Le 25 avril 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**Harry William Kerr**

**v. (27943)**

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

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal Law - Right to Counsel - Right to silence - Trial- Re-examination - Whether Applicant's rights as guaranteed by Section 10(b) and 7 of the *Charter of Rights and Freedoms* were violated when an incriminating statement was obtained from the Applicant by the police approximately 45 minutes subsequent to the police agreeing with counsel retained by the Applicant that the police would not question or interview the Applicant without first contacting such counsel - Whether trial judge erred in refusing to allow Applicant's counsel to re-examine a defence witness being a psychiatrist, on areas raised by the Crown in cross-examination and not dealt with in examination in chief - *Canadian Charter of Rights and Freedoms*, ss. 7 and 10(b).

**PROCEDURAL HISTORY**

February 9, 1999  
Supreme Court of British Columbia  
(Melnick J.)

Applicant convicted of second degree murder

March 28, 2000  
Court of Appeal of British Columbia  
(McEachern C.J.B.C., Finch and Mackenzie JJ.A.)

Appeal against conviction dismissed

May 26, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Steckmar National Realty and Investment Corporation Ltd., Arthur H. Steckler**

**c. (27760)**

**Galerie Mirabelle Inc. (Qué.)**

**NATURE DE LA CAUSE**

Droit commercial - Contrats - Interprétation - Exigibilité d'un paiement - La Cour d'appel a-t-elle erré en droit en ignorant complètement certaines conclusions de faits du premier juge pourtant matérielles à l'issue du litige, la principale étant que l'intimée n'avait gagné aucune somme en vertu des articles 3.3.1, 3.3.2, 3.3.3 et 3.3.4 de l'Entente? - La Cour d'appel a-t-elle erré en droit en substituant son appréciation des faits à celle du premier juge - sans motiver cette intervention - relativement à la qualité de la contribution de l'intimée au projet et plus particulièrement au volet zonage du projet, qualité jugée essentiellement nulle par le juge de première instance, et relativement aux rares démarches effectuées par rapport à l'étendue de ses obligations aux termes de l'Entente?

**HISTORIQUE PROCÉDURAL**

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Le 19 février 1996  
Cour supérieure du Québec  
(Jolin j.c.s.)

Demande contre les deux demandeurs rejetée;  
demande contre la demanderesse Steckmar National  
Realty and Investment Corporation Ltd. partiellement  
accueillie

Le 15 décembre 1999  
Cour d'appel du Québec  
(Vallerand, Rousseau-Houle et Robert jj.c.a.)

Appel accueilli

Le 14 février 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**Air Wemindji Inc.**

**c. (27859)**

**Héli-Forex Inc. et Nation Cri de Wemindji (Qué.)**

**NATURE DE LA CAUSE**

Code civil - Droit commercial - Créancier et débiteur - Cession de contrat - Mode de paiement - Virement de fonds - Conditions pour avoir un paiement valide - Est-ce que l'art. 1564 *C.c.Q.* devrait être interprété de façon à requérir le consentement du créancier pour effectuer un paiement par virement de fonds? - Un débiteur devrait-il être libéré de son obligation lorsque le créancier a bénéficié du paiement fait à un tiers? - Art. 1564 du *Code civil du Québec* - Art. 1144 du *Code civil du Bas Canada*.

**HISTORIQUE PROCÉDURAL**

Le 28 juin 1996  
Cour supérieure du Québec (Goodwin j.c.s.)

Action de l'intimée Héli-Forex Inc. contre la demanderesse  
et l'intimée Nation Cri de Wemindji rejetée

Le 18 février 2000  
Cour d'appel du Québec  
(Michaud j.c.q., Pidgeon et Philippon [*ad hoc*] jj.c.a.)

Appel accueilli

Le 18 avril 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**Gilles Létourneau, Marc Lafontaine**

**c. (27877)**

**La Garantie, Compagnie d'Assurance de l'Amérique du Nord (Qué.)**

**NATURE DE LA CAUSE**

Code civil - Droit commercial - Cautionnement - Contrats - Vice de consentement - Erreur sur la nature du contrat - Erreur inexcusable - Clause illisible, incompréhensible ou abusive - «Personne raisonnable» - Articles 1400 et 1436 du *Code civil du Québec*.

**HISTORIQUE PROCÉDURAL**

Le 21 janvier 1997 Cour supérieure du Québec (Blanchard j.c.s.)	Action en vertu d'un cautionnement accueillie
Le 23 février 2000 Cour d'appel du Québec (Fish, Chamberland et Pidgeon jj.c.a.)	Appel rejeté
Le 25 avril 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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**AUGUST 14, 2000 / LE 14 AOÛT 2000**

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

**Her Majesty the Queen**

**v. (27847 / 27976)**

**B.J.S. (Crim.)(B.C.)**

**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.)

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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 (Waurnychuk 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	

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**Panduit Corp., Panduit (Canada) Limited**

**v. (27789)**

**Thomas & Betts, Limited (F.C.A.)(Que.)**

**NATURE OF THE CASE**

Property - Intellectual property - Patents - Trade marks - Application for summary judgment - Whether the Federal Court of Appeal erred in law by accepting that a patentee could potentially use trade-mark rights, after the expiry of a patent, to prevent the public from making the very same preferred embodiment as that described and depicted by the inventor of the patent - Whether the Federal Court of Appeal erred in law by misunderstanding the nature and role of the preferred embodiment in a patent - Whether the Federal Court of Appeal erred in law in finding that the so-called doctrine of functionality was developed by the Federal Court to deal with the issue of the use which the public may make of an expired patent?

**PROCEDURAL HISTORY**

April 23, 1997 Federal Court of Canada, Trial Division (Richard J.)	Application for summary judgment granted; Respondent's action dismissed
January 7, 2000 Federal Court of Appeal (Décary, Létourneau, and Noël JJ.A. )	Appeal allowed
March 6, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Conex Services Incorporated**

**v. (27671)**

**Bogner Developments Limited and Leon Samuel Bogner (B.C.)**

**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

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

**Sa Majesté la Reine**

**c. (27866)**

**Éric Fournier (Crim.)(Qué.)**

**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,

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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

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**Bank of Montreal**

**v. (27766)**

**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.)**

**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

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**Sonja Van Halteren**  
  
v. (27786)  
  
**Mark Steven Wilhelm (B.C.)**

**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

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**D.T.A.**

**c. (27984)**

**M.E.L. (Qué.)**

**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

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**ABI Biotechnology Inc.**

**v. (27795)**

**Apotex Inc., Iser Kay, Jack Kay,  
Craig Baxter, Dr. Bernard Sherman and Price Waterhouse Ltd. (Man.)**

**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

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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

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

**Wilfrid E. Beach, Therese Beach, Keith Beach, Carman McKay and Elaine Donnelly**

**v. (27916)**

**The United States of America (Crim.)(Man.)**

**NATURE OF THE CASE**

International law - Criminal law - Evidence - Treaty between Canada and the United States of America provides for mutual legal assistance in criminal matter - Treaty implemented by the *Mutual Legal Assistance in Criminal Matters Act*, S.C. 1988, c. 37 - Section 18(1) of that act creates process for gathering evidence in Canada for crimes committed in the United States of America - Whether the purpose and objective of that act allow for an interpretation of the words "reasonable grounds" and "will be found" in s. 18(1) that fails to meet the minimum constitutional threshold guaranteed by ss. 7 and 8 of the *Charter*.

**PROCEDURAL HISTORY**

March 4, 1999 Court of Queen's Bench of Manitoba (Oliphant A.C.J.Q.B.)	Applicants ordered, <i>ex parte</i> , to be examined under oath and to produce documents to foreign law enforcement authorities pursuant to <i>Mutual Legal Assistance in Criminal Matters Act</i>
May 26, 1999 Court of Queen's Bench of Manitoba (Oliphant A.C.J.Q.B.)	Motion to quash <i>ex parte</i> order and subpoenas issued pursuant to it dismissed
March 20, 2000 Court of Appeal of Manitoba	(Scott C.J.M., Helper and Monnin JJ.A.)

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Appeal dismissed

May 17, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Walter Antkiw**

**v. (27806)**

**Susan Verscheure and Stephen Verscheure (Ont.)**

**NATURE OF THE CASE**

Property Law - Wills - Revocation - Undue Influence - Child and Elderly Parent - Testator was an uneducated, elderly woman with diminished mental ability, who could not read or write English - Applicant persuaded Testator to destroy will - Testator transferred property to the Applicant without receiving independent legal advice - Whether the decision of the Supreme Court of Canada in *Geffen v. Goodman Estate*, [1991] 2 S.C.R. 353 has been inconsistently applied and interpreted by five appellate courts, and whether clarification of that decision is required, particularly where it operates together with other conflicting doctrines, presumptions, and onuses in the same factual context - Whether there is significant disparity in the lower courts' application and interpretation of the decision in *Vout v. Hay*, [1995] 2 S.C.R. 876, as it applies to situations where the *Geffen v. Goodman Estate* presumption also arises - Whether the courts below are inconsistent in their application of provincial statutory requirements of corroborative evidence, where the *Geffen v. Goodman Estate* and/or *Vout v. Hay* presumptions also apply - Whether the doctrine of presumption of undue influence as interpreted by the courts below places unreasonable restraints on the freedom to dispose of property by "marginalized" persons in society such as the elderly, the unsophisticated or the poorly educated - Whether there is sufficient doubt as to the correctness of the judgment of the Court of Appeal for Ontario to merit the consideration of the Supreme Court of Canada.

**PROCEDURAL HISTORY**

December 12, 1997  
Ontario Court (General Division)  
(Day J.)

Order: Gifts transferred from Sophie Antkiw to the Applicant be set aside by reason of undue influence; terms of her 1988 Last Will and Testament prevail

January 21, 2000  
Court of Appeal for Ontario  
(Labrosse, Weiler, and Charron JJ.A.)

Appeal dismissed

March 20, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Murray Ernest Greenwood, as administrator *ad litem* for Don Wilhelm**

**v. (27807)**

**Vernon Hickson, Leona Hickson, Wilhelm Heilman and Melanie Heilman (Sask.)**

**NATURE OF THE CASE**

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Property law - Wills - Barrister's and solicitors - Applicant solicitor negligently drafted will - Gifts to certain beneficiaries, including Respondents, failed due to negligent drafting - Whether Applicant liable to Respondents for failure of testamentary gift - If a duty of care exists, what is the correct remedy - If a duty of care exists, whether the Court of Appeal erred in varying quantum of damages - If a duty of care exists, whether the Court of Appeal erred in concluding that the testator had no contributory liability for Respondents' loss.

**PROCEDURAL HISTORY**

September 26, 1997 Court of Queen's Bench of Saskatchewan (Zarzechny J.)	Applicant found liable in negligence
January 20, 2000 Court of Appeal for Saskatchewan (Bayda C.J.S., Sherstobitoff and Jackson JJ.A.)	Applicant's appeal dismissed
March 20, 2000 Supreme Court of Canada	Application for leave to appeal filed
March 31, 2000 Supreme Court of Canada (Binnie J.)	Motion to extend the time to file or serve leave application to March 22, 2000 granted

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**Ioannis Sarvanis**

**v. (27796)**

**Her Majesty the Queen in Right of Canada (F.C.A) (Ont.)**

**NATURE OF THE CASE**

Statutes - Interpretation - Crown liability - Torts - Summary judgment - *Crown Liability and Proceedings Act*, R.S.C. 1985, c. C-50, s. 9 - Applicant alleges that he was injured by the negligence of a federal government actor - Applicant in receipt of disability benefits under the Canada Pension Plan - Whether, under the terms of the *Crown Liability and Proceedings Act*, s. 9, the payment of disability benefits disallows the Applicant from suing the Crown in tort for the injuries he suffered - Whether summary judgment was properly granted on that ground.

**PROCEDURAL HISTORY**

September 15, 1998 Federal Court of Canada, Trial Division (MacKay J.)	Respondent's motion for summary judgment dismissed
January 10, 2000 Federal Court of Appeal (Stone, Létourneau and Malone JJ.A.)	Appeal allowed
March 9, 2000 Supreme Court of Canada	Application for leave to appeal filed

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APPLICATIONS FOR LEAVE  
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS  
LA DERNIÈRE PARUTION

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**JUDGMENTS ON APPLICATIONS  
FOR LEAVE**

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

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**JULY 27, 2000 / LE 27 JUILLET 2000**

**27659**            **A.L.R. v. HER MAJESTY THE QUEEN** (Man.) (Crim.)

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**

Canadian Charter of Rights and Freedoms - Criminal law - Trial - Right to a fair trial - Interpreter - Whether the majority of the Court of Appeal erred in law by upholding the trial judge's failure to ensure that the accused had the same or another interpreter available to him to facilitate his communications with counsel - Whether the Court of Appeal erred in law by ruling that one interpreter can perform the dual roles of assisting the court as well as the accused in communicating with counsel.

**PROCEDURAL HISTORY**

October 2, 1998 Court of Queen's Bench of Manitoba (Hamilton J.)	Conviction: sexual assault
December 10, 1999 Court of Appeal of Manitoba (Twaddle [dissenting], Lyon, and Monnin JJ.A.)	Appeal against conviction dismissed
January 6, 2000 Supreme Court of Canada	Notice of appeal as of right filed
April 10, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**AUGUST 3, 2000 / LE 3 AOÛT 2000**

**27583**            **CHIEF STANLEY THOMAS ON BEHALF OF HIMSELF AND REPRESENTING EACH OF THE MEMBERS OF THE STONEY CREEK INDIAN BAND AND THE STONEY CREEK INDIAN BAND v. ALCAN ALUMINUM LIMITED, HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA AND THE ATTORNEY GENERAL OF BRITISH COLUMBIA**  
(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**

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Constitutional law - Division of powers - Procedural law - Limitation of actions - Whether a provincial limitation period is constitutionally inapplicable to an action in damages for trespass brought by persons entitled to exclusive possession of Indian reserve lands - Whether a finding of trespass was required before addressing the constitutional question - Whether the summary trial procedure was inapplicable to the determination of the constitutional issue - Whether the Court of Appeal erred by allowing the appeal on a point not appealed from.

**PROCEDURAL HISTORY**

October 23, 1998 Supreme Court of British Columbia (Lysyk J.)	Application for summary judgment dismissed
September 14, 1999 Court of Appeal for British Columbia (Southin, Ryan, and Hall JJ.A.)	Appeal allowed and action remitted to the Supreme Court of British Columbia
November 26, 1999 Supreme Court of Canada	Application for leave to appeal filed

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**27667**      **AMIR KARIM DEVJI, NAZLIN AMIR DEVJI, ASHIFA AMIR DEVJI AND SHEHIN AMIR DEVJI v. THE CORPORATION OF THE DISTRICT OF BURNABY AND JOHN DOE NOS. ONE TO TEN** (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**

Torts - Negligence - Nervous shock - Water line break allegedly making road surface unsafe - Woman losing control of vehicle and dying in crash - Parents and siblings suffering nervous shock after identifying the body - Whether Court of Appeal erred in holding that the psychiatric harm suffered by these plaintiffs was not reasonably foreseeable and that the defendant owed no duty of care to the plaintiffs.

**PROCEDURAL HISTORY**

April 24, 1998 Supreme Court of British Columbia (Burnyeat, J.)	Applicants' claim for nervous shock owing to the death of Yasmin Devji caused by a motor accident dismissed.
October 19, 1999 Court of Appeal of British Columbia (McEachern C.J. and Ryan and Mackenzie JJ.A)	Appeal dismissed
December 20, 1999 Supreme Court of Canada	Application for leave to appeal filed

**27628**            **FRITO LAY CANADA LTD. AND PEPSI-COLA CANADA LTD. v. CORRY HEYNEN** (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**

Labour Law - Wrongful Dismissal - Issue Estoppel - Whether the Court of Appeal erred in law in stating a test for issue estoppel that is inconsistent with earlier decisions of the Court of Appeal and this Honourable Court - Whether the Court of Appeal erred in law and in fact in not holding that the issue before both the Trial Judge and the Employment Standards Officer was whether or not the Respondent was entitled to compensation from his employer arising from the termination of his employment - Whether the Court of Appeal erred in law and in fact in holding that the issue before the Trial Judge was whether or not the Respondent engaged in any misconduct that was sufficiently wrongful to constitute just cause of his dismissal - Whether the Court of Appeal erred in law and in fact in holding that the issue before the Employment Standards Officer was whether or not the Respondent's contract of employment became impossible to perform or frustrated by fortuitous or unforeseeable events or circumstances?

**PROCEDURAL HISTORY**

November 12, 1997 Ontario Court of Justice (General Division) (MacPherson J.)	Respondent's action for wrongful dismissal dismissed
September 27, 1999 Court of Appeal for Ontario (Doherty, Austin and Goudge JJ.A.)	Respondent's appeal allowed; Applicants' cross-appeal dismissed
November 26, 1999 Supreme Court of Canada	Application for leave to appeal filed

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**27676**            **CHRISTOPHER ROY PENTY v. THE LAW SOCIETY OF BRITISH COLUMBIA** (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**

Administrative Law - Jurisdiction - Evidence - Board of professional law society obtaining evidence outside of a provincial tribunal's province - The means available to an administrative tribunal to receive evidence from witnesses located outside the tribunal's territorial boundary.

**PROCEDURAL HISTORY**

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May 27, 1999  
Supreme Court of British Columbia  
(Sinclair Prowse J.)

Motion for declaration that Respondent has no jurisdiction  
to obtain evidence outside of British Columbia dismissed

November 1, 1999  
Court of Appeal of British Columbia  
(Rowles, Newbury and Huddart JJ.A.)

Appeal dismissed

December 29, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27736**            **LORI GRACE RUTTAN - v. - HER MAJESTY THE QUEEN** (Crim.) (Ont.)

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**

Criminal law - Evidence - Similar fact evidence - Five count indictment - One count dealing with arson involving a house, one with arson involving a car and three counts dealing with insurance and mortgage fraud - Whether trial judge's instruction to the jury concerning how to approach the evidence was adequate, given that evidence on any count was not admissible as similar fact evidence on other counts.

**PROCEDURAL HISTORY**

May 3, 1994  
Ontario Court (General Division) (Weekes J.)

Applicant convicted on one count of arson and on two  
counts of attempted fraud

November 10, 1998  
Court of Appeal for Ontario  
(Morden A.C.J.O., Austin and Borins JJ.A.)

Appeals from conviction and sentence dismissed

February 4, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27675**            **LENORE RIDEOUT - v. - HER MAJESTY THE QUEEN** (Crim.) (Nfld.)

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**

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Criminal law - Evidence - Jury Charge - Conviction of second degree murder - Victim dies before trial - Victim makes hearsay statements before dying - Crown admits some hearsay statements but not others with consent of defense counsel - Whether redundant and repetitious hearsay evidence admitted - Whether charge to the jury was so long, complex and confusing that it amounted to a reversible error of law.

**PROCEDURAL HISTORY**

May 21, 1995 Supreme Court of Newfoundland (Trial Division) (Puddester J.)	Conviction of second degree murder
November 17, 1999 Court of Appeal of Newfoundland (Wells C.J.N., Roberts and Marshall JJ.A.)	Appeal from conviction dismissed
December 17, 1999 Supreme Court of Canada	Notice of Appeal as of right filed
January 28, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**27612**            **PAUL KEBE - c. - SALLY ANNE MANYI AGBOR** (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**

Procédures - Procédure civile - Procédure préalable au procès - Procédure frivole et manifestement mal fondée - Requête en rejet d'action en vertu de l'article 75.1 du *Code de procédure civile*, L.R.Q., ch. C-25, accueillie - Appel rejeté - La Cour d'appel a-t-elle erré?

**HISTORIQUE PROCÉDURAL**

Le 30 avril 1998 Cour supérieure du Québec (Chaput j.c.s.)	Requête en rejet de la demande du demandeur accueillie
Le 30 septembre 1999 Cour d'appel du Québec (Gendreau, Chamberland, et Denis [ <i>ad hoc</i> ] jj.c.a.)	Appel rejeté
Le 29 novembre 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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**27605**            **RÉGENT MILLETTE - c. - SA MAJESTÉ LA REINE** (C.A.F.)

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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**

Procédures - Jugements et ordonnances - Preuve - Cour d'appel fédérale - Ordonnance déterminant le contenu du dossier d'appel - Requête en modification de l'ordonnance antérieure rejetée - Articles 344, 351 et 397 des *Règles de la Cour fédérale (1998)*, SOR/DORS/98-106 - La Cour d'appel fédérale a-t-elle erré?

**HISTORIQUE PROCÉDURAL**

Le 21 janvier 1999  
Cour canadienne de l'impôt  
(Lamarre Proulx j.c.c.i.)

Appels des cotisations imposées par le Ministre du Revenu national pour les années d'imposition 1986 à 1992 accordés; cotisations déferées au Ministre pour nouvel examen et nouvelles cotisations

Le 27 avril 1999  
Cour d'appel fédérale  
(Létourneau j.c.a.)

Requête en détermination du contenu du dossier d'appel partiellement accueillie

Le 27 septembre 1999  
Cour d'appel fédérale  
(Létourneau j.c.a.)

Requête pour modification d'une ordonnance rejetée

Le 25 novembre 1999  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**27570** THE TORONTO-DOMINION BANK - v. - THE PLESSEY COMPANY (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**

Commercial law - Banks - Banking operations - Comfort letters - Interpretation - Parent company providing Bank with letter of comfort in support of loan to subsidiary - Letter containing paragraph stating that it was parent's policy that its subsidiaries would be managed in such a way as to be always in a position to meet their financial obligations - Subsidiary becoming bankrupt - Bank's action against parent company for breach of contract and negligent and fraudulent misrepresentation dismissed - Whether policy expressed in comfort letter is properly interpreted as a policy that the subsidiary will manage itself, with no obligation on the parent.

**PROCEDURAL HISTORY**

June 24, 1998

Applicant's action dismissed

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Ontario Court (General Division)  
(Winkler J.)

October 26, 1998  
Ontario Court (General Division)  
(Winkler J.)

Applicant ordered to pay solicitor-and-client costs to  
defendants

August 31, 1999  
Court of Appeal for Ontario  
(Doherty, Austin and Sharpe JJ.A.)

Applicant's appeal dismissed

November 1, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27603**            **THE CANADA LIFE ASSURANCE COMPANY - v. - DEBORAH ANN RYAN** (Nfld.)

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**

Procedural law - Courts - Appeal - Whether an appellate court, when it places an interpretation on a contract that neither of the parties argued, should refer the matter back to the trial judge to hear appropriate evidence based upon that interpretation rather than change the result of the trial based upon a lack of evidence on interpretation which amounts to a denial of natural justice.

**PROCEDURAL HISTORY**

January 10, 1997  
Supreme Court of Newfoundland  
(Lang J.)

Respondent's claim for benefits under personal  
disability policy issued by Applicant dismissed

September 24, 1999  
Supreme Court of Newfoundland  
(Appeal Division)  
(Gushue [dissenting], Mahoney and Marshall JJ.A.)

Appeal allowed

November 23, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**AUGUST 10, 2000 / LE 10 AOÛT 2000**

**27737**            **PAMELA KHAN - v. - HER MAJESTY THE QUEEN** (Ont.)

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

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The application for leave to appeal as well as all ancillary motions are dismissed.

La demande d'autorisation d'appel et toutes requêtes accessoires sont rejetées.

**NATURE OF THE CASE**

Procedural law - Appeal struck out.

**PROCEDURAL HISTORY**

September 2, 1999 Ontario Superior Court of Justice (Low J.)	Application for leave to institute or continue a proceeding dismissed
December 16, 1999 Court of Appeal for Ontario (Deputy Registrar)	Appeal struck out for delay
January 14, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**27762**      **NORMAN STERRIAH, ON BEHALF OF ALL MEMBERS OF THE ROSS RIVER DENA COUNCIL BAND and ROSS RIVER DENA DEVELOPMENT CORPORATION - v. - HER MAJESTY THE QUEEN IN RIGHT OF CANADA and THE GOVERNMENT OF YUKON (Y.T.)**

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**

Native Law - Reserves - What are the legal requirements for the creation of an Indian reserve under the *Indian Act* - Whether it is a legal requirement that there be an Order-in-Council to evidence the setting apart of lands by the Crown, in order for lands to be "set apart by Her Majesty for the use and benefit of a band" - Whether the Yukon Court of Appeal erred in fact and law in reversing the finding of the Chambers Judge that the Ross River Dena Village Site was a reserve under the *Indian Act - Indian Act*, R.S.C. 1985 c. I-6

**PROCEDURAL HISTORY**

June 8, 1998 Supreme Court of the Yukon Territory (Maddison J.)	Declaration that certain lands are an Indian Reserve, within the meaning of the <i>Indian Act</i>
December 15, 1999 Court of Appeal of the Yukon Territory (Richard, Finch [dissenting] and Hudson JJ.A.)	Appeal allowed

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February 14, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27778**            **ALISSA WESTERGARD-THORPE, ANNETTE MUTTRAY, JAMIE DOUCETTE, MARK BROOKS, DENIS PORTER, DEKE SAMCHOK and CRAIG ELTON JONES - v. - THE ATTORNEY GENERAL OF CANADA and HER MAJESTY THE QUEEN IN RIGHT OF CANADA - and between - CRAIG ELTON JONES, JONATHAN OPPENHEIM, JAMIE DOUCETTE, DEKE SAMCHOK, DENIS PORTER and ANNETTE MUTTRAY - v. - HER MAJESTY THE QUEEN, THE MINISTER OF JUSTICE and THE ATTORNEY GENERAL OF CANADA** (F.C.A.) (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**

Constitutional law - Procedural law - Evidence - Disclosure of government information - Objection relating to confidence of Queen's Privy Council - Applicants filing complaints with RCMP Public Complaints Commission alleging various forms of misconduct by RCMP personnel - Commission counsel requesting that Government of Canada disclose to panel all government records relevant to hearing - Clerks of Privy Council filing certificates under s. 39 of *Canada Evidence Act*, R.S.C. 1985, c. C-5, certifying that information contained in certain documents constituted confidences of Queen's Privy Council for Canada - Action by Applicants challenging constitutionality of s. 39 dismissed - Whether federal Parliament may enact an evidentiary provision that has the effect of shielding the federal executive from constitutional scrutiny, or whether unwritten constitutional principles bar it from so doing - Whether, if Parliament does have the power to provide a general privilege, such a provision must be "read down" here.

**PROCEDURAL HISTORY**

June 25, 1999 Federal Court of Canada, Trial Division (McKeown J.)	Application by Applicants challenging the constitutionality of s. 39 of the <i>Canada Evidence Act</i> dismissed
January 14, 2000 Federal Court of Appeal (Strayer, Robertson and McDonald JJ.A.)	Appeal dismissed
February 22, 2000 Supreme Court of Canada	Application for leave to appeal filed
March 6, 2000 Supreme Court of Canada (Bastarache J.)	Motion by Applicants for an order expediting the application for leave to appeal dismissed

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**27879**            **FAYEZ NASSER - v. - MONIKA MAYER-NASSER (ALSO KNOWN AS MONIKA MAYER)**  
(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**

Family law - Division of property - 23-year common-law relationship - Unjust enrichment - Applicant found to have been unjustly enriched - Whether there was unjust enrichment - Whether the Respondent was adequately compensated for her services - Whether the remedy awarded for the unjust enrichment was consistent with *Peter v. Beblow*, [1993] 1 S.C.R. 980.

**PROCEDURAL HISTORY**

January 21, 1998  
Ontario Court (General Division)  
(Kiteley J.)

Titles to be adjusted due to constructive trust; titles to be adjusted and Applicant to pay Respondent \$129,890 due to unjust enrichment

February 29, 2000  
Court of Appeal for Ontario  
(Osborne A.C.J.O., Morden and Moldaver JJ.A.)

Appeal and cross-appeal dismissed

April 27, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27691**            **EFRAIM BAGOLA - v. - ELYAHU OVADYA** (Ont.)

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

The application for leave to appeal is dismissed with costs on a solicitor-client basis.

La demande d'autorisation d'appel est rejetée avec dépens sur la base procureur-client.

**NATURE OF THE CASE**

Commercial law - Partnership - Remedies - Purchase of condominium units - Application of partnership principles to the facts of the case - Whether the Court of Appeal erred in finding that the parties were partners - Whether the existence of a partnership creates an automatic obligation on each person who is a party to the partnership to contribute equally to the partnership in the absence of any agreement providing for same between those same persons - Whether there was a special arrangement outside the scope of partnership law - Whether the Court of Appeal erred in law and/or in fact.

**PROCEDURAL HISTORY**

April 21, 1998  
Ontario Court of Justice (General Division)  
(Potts J.)

Action dismissed with costs

November 9, 1999  
Court of Appeal for Ontario  
(Austin, Borins and MacPherson JJ.A.)

Appeal allowed with costs

January 6, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27692**            **M<sup>e</sup> ANDRÉ RONALD COMEAU - c. - M<sup>e</sup> LOUISE COMEAU, ÈS QUALITÉS DE SYNDIC DU  
BARREAU DU QUÉBEC** (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**

Droit du travail - Droit des professions - Discipline professionnelle - Interprétation des lois - Droit transitoire - La Cour d'appel a-t-elle erré en droit en privant les tribunaux judiciaires spécialisés du droit de juger toutes questions de droit transitoire et, par extension, toutes questions de procédure émanant de législations concernant les organismes sur lesquels les tribunaux judiciaires spécialisés ont juridiction - La Cour d'appel a-t-elle erré en droit en interprétant l'article 12 de la *Loi d'interprétation*, L.R.Q., ch. I-16, comme l'autorisant à appliquer *mutatis mutandis* des dispositions s'appliquant à d'autres corporations professionnelles que celle du Barreau - La Cour d'appel a-t-elle erré en droit en décidant comme elle l'a fait alors que le législateur avait décidé de créer un régime spécial pour les membres du Barreau, accusés d'un acte criminel, en référant leur cas non pas, comme pour les autres professions, à un comité de discipline, mais bien en le confiant au Bureau de l'Ordre des avocats lui-même - La Cour d'appel a-t-elle erré en généralisant la situation du requérant-appelant, alors qu'il s'agit d'un cas d'espèce: situation que le Tribunal des professions avait bien saisie?

**HISTORIQUE PROCÉDURAL**

Le 10 septembre 1996  
Cour supérieure du Québec  
(Guthrie j.c.s.)

Requête en révision judiciaire d'un jugement du Tribunal  
des professions accueillie

Le 8 novembre 1999  
Cour d'appel du Québec  
(Rousseau-Houle, Chamberland et Forget jj.c.a.)

Appel rejeté

Le 7 janvier 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**27657**            **GROUPE TREMCA INC. et JAGNA LIMITED - c. - TECHNO BLOC INC.** (C.A.F.) (Qué.)

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

La demande d'autorisation d'appel est rejetée.

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The application for leave to appeal is dismissed.

**NATURE DE LA CAUSE**

Droit des professions - Avocats et procureurs - Conflit d'intérêts - La Cour d'appel fédérale a-t-elle erré en ne tenant pas compte du droit fondamental d'un justiciable de ne pas être privé sans raison valable de son droit de retenir les services de l'avocat de son choix? - La Cour d'appel fédérale a-t-elle erré en ne traitant pas de la renonciation de l'intimée à soulever le conflit d'intérêts? - La Cour d'appel fédérale a-t-elle erré en ne reconnaissant pas qu'il y avait eu renonciation à soulever le conflit d'intérêts dans le présent dossier? - *Succession MacDonald c. Martin*, [1990] 3 R.C.S. 1235.

**HISTORIQUE PROCÉDURAL**

Le 15 octobre 1998  
Cour fédérale du Canada, Section de première instance  
(Blais j.)

Appel contre la décision du protonotaire accueilli:  
procureurs des demandresses déclarés inhabiles à les  
représenter en raison d'un conflit d'intérêts

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

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**27785**      **KENNETH M. NARVEY - v. - THE MINISTER OF CITIZENSHIP AND IMMIGRATION and  
JOHANN DUECK (F.C.A.)**

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 - Clarification - Clarification of Order - Inherent power of a court to clarify an order notwithstanding the absence of specific rules - Representation of a group by a non-solicitor - Did the Federal Court of Appeal err by refusing to issue clarification of its reasons in a previous decision?

**PROCEDURAL HISTORY**

December 21, 1998  
Federal Court of Canada (Trial Division)  
(Noël J.)

Decision: Respondent Dueck allowed to keep his  
citizenship

March 16, 1999  
Federal Court of Canada (Trial Division)  
(Noël J.)

Motions by the Coalition and the Applicant for standing  
to seek reconsideration of the Order and clarification of  
the reasons of the Trial Division, dismissed

September 3, 1999  
Federal Court of Appeal

(Desjardins J.)

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Motion by the Coalition and the Applicant for leave to be represented by the Applicant rather than by a solicitor, and for leave for the Applicant, to act in person rather than be represented by a solicitor in that capacity, dismissed

November 5, 1999  
Federal Court of Appeal  
(Desjardins J.)

Motion for clarification of stated reasons of September 3rd, 1999 dismissed

March 6, 2000  
Supreme Court of Canada

Application for an extension of time to file a leave application and application for leave to appeal filed

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**27768**            **HER MAJESTY THE QUEEN - v. - CALEB McINTOSH** (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 - Criminal - Criminal law - Right to be informed promptly of reason for arrest or detention - Right to counsel - Exclusion of evidence bringing administration of justice into disrepute - Accused making confession to polygraph operator during interview following test - Accused then arrested and charged with first degree murder - Confession admitted and accused convicted - Court of Appeal allowing accused's appeal and ordering new trial - Whether Court of Appeal erred in law in ruling that accused was not adequately informed of his s. 10(a) and (b) Charter rights when he admitted to killing the deceased - If accused's s. 10 rights were violated, whether Court of Appeal erred in law in ruling that subsequent incriminating statements should be excluded pursuant to s. 24(2) of Charter.

**PROCEDURAL HISTORY**

June 21, 1996 Ontario Court (General Division) (Caputo J.)	Respondent convicted by judge and jury of first degree murder
December 20, 1999 Court of Appeal for Ontario (Weiler, Rosenberg and Feldman JJ.A.)	Appeal allowed; new trial ordered
February 17, 2000 Supreme Court of Canada	Application for leave to appeal filed

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27648      **MONIER M. RAHALL - v. - SUPERINTENDENT OF FINANCIAL INSTITUTIONS, CANADIAN PAYMENTS ASSOCIATION and THE BANK OF CANADA - and - HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA** (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**

Procedural law - Civil procedure - Appropriate forum - Applicant's action stayed on basis that Ontario was not appropriate forum - Whether Court of Appeal erred in holding that Applicant's action was properly stayed.

**PROCEDURAL HISTORY**

February 5, 1999 Ontario Court (General Division) (McNeely J.)	Applicant's action stayed
October 20, 1999 Court of Appeal for Ontario (Doherty, Charron and Borins JJ.A.)	Appeal dismissed
December 14, 1999 Supreme Court of Canada	Application for leave to appeal filed

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**27438**            **PAUL D'AOUST CONSTRUCTION LTD. and THE CARLETON ROMAN CATHOLIC SEPARATE SCHOOL BOARD - v. - MARKEL INSURANCE COMPANY OF CANADA - and - KENNETH DAKU** (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**

Commercial law - Suretyship - Performance bonds - Did the Court of Appeal for Ontario err in holding that the physical delivery of an instrument to the obligee by the principal debtor is a condition precedent to the liability of the party who issued the instrument? - Did the Court of Appeal for Ontario err in holding that where a party contractually agrees to complete a task it cannot be deemed to act as an agent for all other parties on the contract?

**PROCEDURAL HISTORY**

November 27, 1996  
Ontario Court of Justice (General Division)  
(McWilliam J.)

Applicant's action dismissed

May 20, 1999  
Court of Appeal for Ontario  
(Carthy, Doherty and Rosenberg JJ.A.)

Applicant's appeal dismissed

August 18, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27622**            **BROTHERHOOD OF MAINTENANCE OF WAY EMPLOYEES - v. - WAYNE LITKE** (Man.)

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**

Labour law - Labour relations - Whether the Court of Appeal erred in law in its interpretation and application of the *Trade Unions Act*, R.S.C. 1985, C. t-14 - Whether the Court of Appeal erred in law in its interpretation and application of the common law in respect of the jurisdiction of the Courts to enforce a fine imposed by a trade union on its member - Whether the Court of Appeal erred in law in its interpretation and application of the common law in respect of penalty clauses in contracts.

**PROCEDURAL HISTORY**

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December 18, 1998  
Court of Queen's Bench of Manitoba  
(Keyser J.)

Order: Respondent's claim that the court has no jurisdiction  
to entertain the Applicant's claim allowed

October 5, 1999  
Court of Appeal of Manitoba  
(Lyon, Kroft, and Monnin JJ.A.)

Appeal dismissed

November 30, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27453**            **JAMES KLOEPFER - 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**

Criminal Law - Evidence - Sentencing - Standard of determining reasonable doubt - Application of the burden of proof and standard of reasonable doubt - Application of conditional sentencing - Whether Courts of Appeal conflict on major questions of law - Whether trial judge erred by failing to properly apply the burden of proof - Whether trial judge, having made a positive finding of credibility in favour of the complainants, erred in failing to ask whether the evidence of the defence gave rise to a reasonable doubt - Whether the verdict is unsafe given evidence of considerable scarring on the applicant's penis and significant contradictions and inconsistencies in the evidence of the complainants - Whether trial judge failed to grasp the importance of this evidence - Whether trial judge failed to properly consider and reconcile serious issues in arriving at his conclusion of guilt and in assessing credibility - Whether trial judge erred in categorically rejecting conditional sentencing - Whether trial judge erred in failing to follow *R. v. W.(D.)*, [1991] 1 S.C.R. 742, and to give the accused the benefit of reasonable doubt - Whether conviction was unsafe in the circumstances - Whether trial judge failed to grasp the importance of or misapprehended evidence - Whether Court of Appeal erred in its finding that trial judge met the standard of determining whether there was a reasonable doubt - Whether courts below erred in categorically rejecting the application of conditional sentencing.

**PROCEDURAL HISTORY**

October 24, 1997  
Supreme Court of Nova Scotia  
(Kennedy A.C.J.)

Conviction: two counts of sexual assault and two counts of  
invitation to sexual touching

January 29, 1998  
Supreme Court of Nova Scotia  
(Kennedy A.C.J.)

Sentence: four years imprisonment

May 26, 1999  
Court of Appeal of Nova Scotia  
(Chipman, Roscoe and Pugsley JJ.A.)

Appeal from conviction dismissed; Sentence reduced to 30  
months imprisonment

August 25, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27637**            **LUC ALBERT - v. - NOELLA ALBERT and FONTAINE & ASSOCIATES INC., Trustee in Bankruptcy for the Estate of Noella Albert, a Bankrupt** (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**

Family law - Division of Property - Company Shares - Constructive or Resulting Trust - Bankruptcy - Whether the Court of Appeal erred in holding that a trustee in bankruptcy is entitled to apply on behalf of a creditor of a bankrupt spouse for the remedies of constructive trust and resulting in family law proceedings thereby declining to follow the decision of *Blackman v. Davidson* (1987), 12 B.C.L.R. (2d) 24 - Whether the Court of Appeal erred in holding that the trial judge judicially exercised his discretion on the equities to decline the remedies of resulting trust and constructive trust.

**PROCEDURAL HISTORY**

June 30, 1997  
Ontario Court of Justice (General Division)  
(Boissonneault J.)

Order: joint custody; exclusive possession of the matrimonial home; equalization of net family property; spousal support awarded

May 4, 1998  
Ontario Court of Justice (General Division)  
(Boissonneault J.)

June 30, 1997 judgment: mathematical errors corrected; party party costs awarded to Respondents

October 18, 1999  
Court of Appeal for Ontario  
(Carthy, Goudge and Feldman JJ.A.)

Appeal by Applicant granted in part: net family property calculation varied

December 13, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27613**            **TERRENCE GUILBAULT - v. - INVESTORS GROUP TRUST COMPANY LIMITED** (Ont.)

CORAM:            Gonthier, Binnie and Arbour JJ.

The applications for a stay of execution and for leave to appeal are dismissed with costs.

Les demandes de sursis et d'autorisation d'appel sont rejetées avec dépens.

**NATURE OF THE CASE**

Property law - Mortgages - Sureties - Whether notice was an extension or renewal of mortgage - *Manulife Bank of Canada v. Conlin*, [1996] 3 S.C.R. 415 - Whether ambiguity in the terms of the mortgage document or the notice - Should case have been disposed of by way of motion for summary judgment.

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**PROCEDURAL HISTORY**

January 29, 1999 Ontario Court of Justice (General Division) (Chilcott J.)	Respondent's motion for summary judgment against the Applicant allowed
September 29, 1999 Court of Appeal for Ontario (Abella, Goudge, and MacPherson JJ.A.)	Appeal dismissed
November 26, 1999 Supreme Court of Canada	Application for leave to appeal

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**27668**      **AGB HALIFAX ENTERPRISES INC. - v. - WOOD STREET DEVELOPMENTS INC., VIEWMARK HOMES LTD., SHELFAN INVESTMENTS LIMITED, KARLUB JOINT VENTURE** (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**

Property law - Real property - Trusts and trustees - Procedural law - Pre-trial procedure - Motion for summary judgment - Purchaser of hotel giving vendor mortgage back which was subsequently assigned to Applicant as mortgagee - Purchaser holding property as bare trustee for three beneficiaries - Partnership agreement between trustee and beneficiaries providing that trustee waived any right of indemnification it might have from partners - Mortgage going into default - Applicant suing purchaser on mortgage and obtaining judgment - Applicant commencing action claiming that beneficiaries liable to indemnify purchaser for amount of judgment against it - Beneficiaries granted summary judgment dismissing action - Whether bare trustee entitled to indemnification by beneficiaries of trust against liabilities incurred by trustee by reason of trustee's retention of trust property.

**PROCEDURAL HISTORY**

March 12, 1999 Ontario Court (General Division) (Sharpe J.)	Summary judgment granted dismissing the action
October 22, 1999 Court of Appeal for Ontario (Abella, Goudge and MacPherson JJ.A.)	Appeal dismissed
December 21, 1999 Supreme Court of Canada	Application for leave to appeal filed

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**27661**            **BRIAN L. EAMOR - v. - AIR CANADA LIMITED and AIR LINE PILOTS ASSOCIATION**  
(B.C.)

CORAM:            Gonthier, Binnie and Arbour JJ.

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

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens en faveur d'Air Canada Limited.

**NATURE OF THE CASE**

Administrative law - Labour law - Arbitration - Judicial review - Natural justice - Union's duty of fair representation - Union member's rights adjudicated in labour arbitration - Union member represented by independent counsel at arbitration - In separate proceedings before the Canada Labour Relations Board, union was found to have breached its duty of fair representation - Are the findings of the Canada Labour Relations Board binding in the judicial review proceedings concerning the arbitration in which the union had breached its duty - Can a new arbitration be ordered - If so, does the court or the labour tribunal have jurisdiction to order the new arbitration - Can relief be granted by the court to the employee only upon proof of the employer's error or misconduct - If a fair hearing has been denied, will a court grant a remedy regardless of the practical impact of the denial on the outcome of the proceeding?

**PROCEDURAL HISTORY**

June 5, 1998 Supreme Court of British Columbia (Low J.)	Applicant's petition for judicial review of arbitral decision dismissed
October 4, 1999 Court of Appeal of British Columbia (Esson, Donald [dissenting] and Newbury JJ.A.)	Appeal dismissed
December 16, 1999 Supreme Court of Canada	Application for leave to appeal filed

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**27677**            **RICHARD SAUVÉ - v.- CHIEF ELECTORAL OFFICER OF CANADA, SOLICITOR GENERAL OF CANADA and THE ATTORNEY GENERAL OF CANADA - and between - SHELDON McCORRISTER, Chairman, LLOYD KNEZACEK, Vice Chairman, on their own behalf and on the behalf of the Stony Mountain Inmate Welfare Committee, and CLAIR WOODHOUSE, Chairman, AARON SPENCE, Vice Chairman, on their own behalf and on the behalf of the Native Brotherhood Organization of Stony Mountain Institution, and SERGE BOULANGER, EMILE A. BEAR and RANDY OPOONECHAW - v. - THE ATTORNEY GENERAL OF CANADA** (F.C.A.)

CORAM:            Gonthier, Binnie and Arbour JJ.

The applications for leave to appeal are granted.

Les demandes d'autorisation d'appel sont accordées.

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**NATURE OF THE CASE**

Canadian Charter - Civil - Civil Rights - Right to vote - Prisoner voting - Federal Legislation prohibits inmates serving sentences of two years or more from voting in elections - Whether the Federal Legislation is saved by section 1 of the *Charter* as a reasonable limitation on the right to vote - Whether Federal Legislation meets minimal impairment and proportionality tests mandated by s. 1 of the *Charter* - Whether there is a rational connection between disenfranchising prisoners and enhancing the criminal sanction or promoting civic responsibility and respect for the rule of law - Whether the Federal Legislation is in breach of section 15 of the *Charter* - *Canada Elections Act*, R.S.C., 1985, c. E-2, s. 51(e) as am.

**PROCEDURAL HISTORY**

December 27, 1995  
Federal Court of Canada, Trial Division  
(Wetston J.)

Action by Applicants allowed: section 51(e) of the *Canada Elections Act* infringes section 3 of the *Canadian Charter of Rights and Freedoms* and is not saved by section 1; section 51(e) does not infringe section 15 of the *Charter*

October 21, 1999  
Federal Court of Appeal  
(Isaac C.J., Desjardins [dissenting] and Linden J.J.A.)

Appeal by Respondents allowed: judgment of Trial Judge set aside

December 17, 1999  
Supreme Court of Canada

Applications for leave to appeal filed

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**27649**      **TRIFOX, INC. - v. - ANGOSS II PARTNERSHIP, ANGOSS SOFTWARE INTERNATIONAL (U.S.A.), INC. and ANGOSS SOFTWARE INTERNATIONAL LIMITED** (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**

Commercial law - Contracts - Performance or breach of contract - Fundamental breach - Whether the lower courts erred in law in determining that the non-delivery of a computer source code in itself represented a substantial breach of contract regardless of the reason for that non-delivery or the importance the parties themselves placed upon delivery at any time prior to the termination of their contractual relationship - Whether the lower courts erred in failing to weigh the conclusions they reached with respect to the incomplete delivery of the computer source code and the significance of that incomplete delivery in the context of fundamental/substantial breach.

**PROCEDURAL HISTORY**

December 11, 1997  
Ontario Court of Justice (General Division)  
(Blair J.)

Action by Respondents allowed: Applicant ordered to pay damages to Respondents for breach of contract

October 20, 1999  
Court of Appeal for Ontario

Appeal dismissed

(Carthy, Austin and MacPherson JJ.A.)

December 17, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27632**            **ATOMIC ENERGY CONTROL BOARD - v. - ALEXANDER DANILOV** (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**

Labour Law - Jurisdiction of court - Non-unionised employee claiming for wrongful dismissal - Whether the Ontario Court of Appeal erred in concluding that the statutory grievance procedure available to the Respondent did not bar his action for wrongful dismissal - Whether the Ontario Court of Appeal's decision is inconsistent with *St. Anne Nackawic Pulp & Paper Co. Ltd. v. Canadian Paper Workers Union, Local 219*, [1986] 1 S.C.R. 704 - *Public Service Staff Relations Act*, R.S.C. 1985, c. P-35, ss. 91, 92 and 96.

**PROCEDURAL HISTORY**

May 27, 1999  
Ontario Court of Justice (General Division)  
(Bell J.)

Applicant's motion for summary judgment granted;  
Respondent's wrongful dismissal action dismissed in its entirety

October 8, 1999  
Court of Appeal for Ontario  
(Catzman, Abella and Goudge JJ.A.)

Respondent's appeal allowed

December 7, 1999  
Supreme Court of Canada

Application for leave to appeal filed

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**27680**            **SYNDICAT DES EMPLOYÉ(E)S DU C.E.V. D'AYLMER et ALAIN BOUDREAU - c. - PAVILLON DU PARC INC. - et - CAROL JOBIN** (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 administratif - Sentence arbitrale - Clause privative - La décision de l'arbitre de grief est-elle manifestement déraisonnable? - La Cour supérieure et la Cour d'appel pouvaient-elles intervenir sans appliquer la moindre réserve judiciaire?

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**HISTORIQUE PROCÉDURAL**

Le 8 décembre 1997 Décision arbitrale (Jobin (arbitre))	Congédiement annulé
Le 4 mars 1998 Cour supérieure du Québec (Landry j.c.s.)	Requête en révision judiciaire accueillie
Le 5 novembre 1999 Cour d'appel du Québec (Beauregard, Mailhot et Delisle jj.c.a.)	Appel rejeté
Le 29 décembre 1999 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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**27575**      **TRI-TEX CO. INC. - c. - GHALY ELIA GIDEON et GIDEOCHEM INC.** (Qué.)

CORAM:      Les juges Gonthier, Binnie et Arbour

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

The application for leave to appeal is dismissed without costs.

**NATURE DE LA CAUSE**

Droit des biens - Droit d'auteur - Procédure - Procédure préalable au procès - Saisie avant jugement - La Cour d'appel a-t-elle erré en droit en concluant que les formules chimiques de produits et colorants développées par la demanderesse, ne constituent pas des oeuvres littéraires pouvant bénéficier de la protection accordée par la *Loi sur le droit d'auteur*, L.R.C. (1985), c. C-42 - La Cour d'appel a-t-elle erré en droit en concluant que les produits fabriqués par les intimés à partir des formules chimiques appartenant à la demanderesse ne pouvaient pas faire l'objet d'une saisie avant jugement par la demanderesse à titre de propriétaire - Cour d'appel a-t-elle erré en droit en concluant que les formules chimiques volées à la demanderesse, tout en étant qualifiées d' "information confidentielle", ne constituent pas des "biens meubles" au sens de l'article 734 1° du *Code de procédure civile*, L.R.Q., c. C-25?

**HISTORIQUE PROCÉDURAL**

Le 22 juin 1998 Cour supérieure du Québec (Dalphond j.c.s.)	Requête des intimés en annulation de saisie avant jugement accueillie en partie; requête de la demanderesse pour permission d'analyser les documents et biens saisis avant jugement accueillie en partie
Le 30 juin 1998 Cour d'appel du Québec (Brossard j.c.a.)	Requêtes de la demanderesse et des intimés pour en appeler du jugement de Dalphond j.c.s. accueillies

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Le 7 septembre 1999  
Cour d'appel du Québec  
(Chamberland, Nuss et Philippon [*ad hoc*] jj.c.a.)

Appel de la demanderesse rejeté; appel des intimés  
accueilli: requête des intimés en annulation de saisie  
accueillie et requête de la demanderesse pour permission  
d'analyser les documents et biens saisis rejetée

Le 5 novembre 1999  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**AUGUST 17, 2000 / LE 17 AOÛT 2000**

**27779**            **C.V.M. v. HER MAJESTY THE QUEEN** (Alta.)(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 Court of Appeal misapplied *R. v. Yebes*, [1987] 2 S.C.R. 168 - Whether the application of *Yebes* to the facts of this case amounts to a miscarriage of justice - Whether the trial judge misapprehended and misapplied the evidence at trial on issues central to his finding resulting in a miscarriage of justice - Whether *Yebes* requires the Court of Appeal to uphold a finding of guilt in the circumstances of this case.

**PROCEDURAL HISTORY**

September 25, 1998  
Provincial Court of Alberta  
(Gaede J.)

Applicant convicted of sexual interference and sexual  
assault pursuant to ss. 271 and 151 of the *Criminal Code*

February 4, 2000  
Court of Appeal of Alberta  
(Côté, Sulatycky and Langston JJ.A.)

Appeal dismissed

February 24, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27683**            **LAWPOST, A DIVISION OF LEGAL RESEARCH CONSULTANTS INC. AND S. BRYANT SMITH v. PROVINCE OF NEW BRUNSWICK, THE LEGISLATIVE ASSEMBLY OF NEW BRUNSWICK AND ITS MEMBERS, AS REPRESENTED BY THE SPEAKER OF THE LEGISLATIVE ASSEMBLY OF NEW BRUNSWICK, THE COURT OF APPEAL OF NEW BRUNSWICK, AS REPRESENTED BY THE CHIEF JUSTICE OF NEW BRUNSWICK, THE COURT OF QUEEN'S BENCH OF NEW BRUNSWICK AND THE PROVINCIAL COURT OF NEW BRUNSWICK, AS REPRESENTED BY THE CHIEF JUDGE OF THE PROVINCIAL COURT OF NEW BRUNSWICK** (N.B.)

CORAM:            The Chief Justice, Iacobucci and Major JJ.

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The application for leave to appeal is dismissed with costs.

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

**NATURE OF THE CASE**

*Canadian Charter* - Civil - Civil rights - Procedural law - Courts - Parties to action - Property law - Copyright - Freedom of the press and life, liberty and security of the person - Crown copyright - Judgments, statutes and other "legislative products" - Statement of claim against Legislative Assembly and Courts struck and treated as judgment under Rules of Court - Whether Legislative Assembly and Courts are proper parties to an action to challenge the constitutionality of Crown copyright - Whether Legislative Assembly and Courts are subject to action for violations of the constitution - Whether Applicants are entitled to costs on a constitutional basis - Whether applicable decisions of the Supreme Court of Canada considered.

**PROCEDURAL HISTORY**

April 20, 1999  
Court of Queen's Bench of New Brunswick  
(Russell J.)

Action against Respondents Legislative Assembly, Court of Appeal of New Brunswick, Court of Queen's Bench of New Brunswick and Provincial court of New Brunswick dismissed

November 9, 1999  
Court of Appeal of New Brunswick  
(Ryan, Drapeau and Larlee JJ.A.)

Appeal dismissed

January 4, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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27801

**CHIEF COUNCILLOR MATHEW HILL, ALSO KNOWN AS THA-IATHATK, ON HIS OWN BEHALF AND ON BEHALF OF ALL OTHER MEMBERS OF THE KITKATLA BAND AND THE KITKATLA BAND v. THE MINISTER OF SMALL BUSINESS, TOURISM AND CULTURE, THE ATTORNEY GENERAL FOR THE PROVINCE OF BRITISH COLUMBIA AND INTERNATIONAL FOREST PRODUCT LIMITED - and between - CHIEF COUNCILLOR MATHEW HILL, ALSO KNOWN AS THA-IATHATK, ON HIS OWN BEHALF AND ON BEHALF OF ALL OTHER MEMBERS OF THE KITKATLA BAND AND THE KITKATLA BAND v. THE MINISTER OF SMALL BUSINESS, TOURISM AND CULTURE, THE ATTORNEY GENERAL FOR THE PROVINCE OF BRITISH COLUMBIA AND INTERNATIONAL FOREST PRODUCT LIMITED (B.C.)**

CORAM: The Chief Justice, Iacobucci and Major JJ.

The first application for leave to appeal (entitled "constitutional application") is granted. The second application for leave to appeal (entitled "statutory interpretation application") is dismissed with costs.

La première demande d'autorisation d'appel (intitulée «demande relative à une question constitutionnelle») est accueillie. La deuxième demande d'autorisation d'appel (intitulée «demande relative à une question d'interprétation législative») est rejetée avec dépens.

**NATURE OF THE CASE**

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Native Law - Constitutional Law - Division of powers - Whether the impugned sections of the *Heritage Conservation Act*, dealing with aboriginal heritage objects and sites, are *intra vires* the legislature of the Province of British Columbia - Whether the Province can authorize the destruction (extinguishment) of aboriginal heritage - Whether the impugned sections of the *Heritage Conservation Act* either apply of their own force as provincial legislation or through referential incorporation as federal law pursuant to s. 88 of the *Indian Act*.

Native Law - Administrative Law - Judicial Review - Jurisdiction - Whether the Minister of Small Business, Tourism and Culture has jurisdiction to consider or determine asserted aboriginal rights in relation to aboriginal heritage objects and sites when authorizing, by permit issued under the *Heritage Conservation Act*, the alteration of such aboriginal heritage - Whether the inclusion of words in the *Heritage Conservation Act* that nothing in the Act “abrogates or derogates from aboriginal treaty rights” relieves the Minister from an obligation to consider aboriginal rights, and that only judicial proceedings are available to remedy an infringement of aboriginal rights authorized by a permit issued under the *Heritage Conservation Act* - Whether the lack of legislative structuring of the exercise of the Minister’s discretion to consider aboriginal rights in the *Heritage Conservation Act* is evidence of the lack of legislative intention to confer a discretion to consider aboriginal rights.

**PROCEDURAL HISTORY**

November 12, 1998 Supreme Court of British Columbia (Wilson J.)	Application for a declaration that subsections 12(2)(a) and 13(2)(c) and (d) of the <i>Heritage Conservation Act</i> are <i>ultra vires</i> dismissed
December 15, 1998 Supreme Court of British Columbia (Wilson J.)	Application for prohibition against Minister of Small Business, Tourism and Culture from granting a site alteration permit dismissed
January 19, 2000 Court of Appeal of British Columbia (Prowse, Braidwood and Hall JJ.A.)	Appeal from both decisions dismissed
March 16, 2000 Supreme Court of Canada	Applications for leave to appeal filed

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**27742**            **THE CORPORATION OF THE CITY OF BRAMPTON v. MARIA BISOUKIS, CHRISTOS BISOUKIS AND SOPHIA BISOUKIS** (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**

Procedural law - Limitation of actions - Statement of claim filed three months after expiry of limitation period - Torts - Motor Vehicles - Liability of municipality for non-repair of highway pursuant to s. 284(1) of the *Municipal Act*, R.S.O. 1990, c. M.9 - Applicant injured after losing control of vehicle on black ice - Applicant suffering severe reactive depression as a result of the accident - Whether Applicant of was of “unsound mind” in accordance with s. 47 of the *Limitations Act*, R.S.O. 1990, c.L.15 so that claim not statute-barred - Whether municipality liable for injuries suffered as a result of non-repair of highway in the circumstances.

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**PROCEDURAL HISTORY**

July 30, 1997 Ontario Court of Justice (General Division) (Langdon J.)	Action by Respondents dismissed
December 7, 1999 Court of Appeal for Ontario (Doherty, Goudge and Borins JJ.A.)	Appeal allowed: judgement of trial court set aside and judgment granted in favour of the Respondents
February 4, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**27726**            **BRUCE CURT MULLIGAN v. HER MAJESTY THE QUEEN** (Alta.)(Crim.)

CORAM:        The Chief Justice, Iacobucci and Major JJ.

The motion 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 - Sexual assault and sexual touching- Charge to jury - Whether accused entitled to have jury instructed on issue of consent where it was not raised as a defence - Whether staying of charge on which accused convicted nullifies complaint concerning breach of procedural rights where accused was absent for part of trial - Whether introduction of prejudicial evidence by Crown on cross-examination constitutes a violation of accused's s. 7 rights or a reversible error.

**PROCEDURAL HISTORY**

November 20, 1998 Court of Queen's Bench of Alberta (Coutu J.)	Applicant convicted of sexual assault and sexual touching
November 30, 1999 Court of Appeal of Alberta (McClung, Hunt, and Costigan JJ.A)	Appeal dismissed
March 6, 2000 Supreme Court of Canada	Application for leave to appeal, and motion for extension of time filed

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**27880**            **MARY FRANCIS COOPER v. ROBERT J. HOBART AND HER MAJESTY THE QUEEN IN  
RIGHT OF THE PROVINCE OF BRITISH COLUMBIA** (B.C.)

CORAM:        The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is granted.

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La demande d'autorisation d'appel est accordée.

**NATURE OF THE CASE**

Torts - Negligence - Duty of care - Procedural law - Actions - Class proceedings - Applicant and others losing money in respect of investments made through mortgage broker licensed under *Mortgage Brokers Act*, R.S.B.C. 1996, c. 313 - Applicant bringing action alleging that Registrar breached his duty of care and was negligent in failing to suspend mortgage broker's licence earlier and in failing to notify persons that mortgage broker was under investigation - Chambers judge certifying Applicant's action as a class proceeding - Whether a statutory regulator owes a private law duty of care to members of the investing public for alleged negligence in failing to properly oversee the conduct of an investment company licensed by the regulator.

**PROCEDURAL HISTORY**

March 26, June 10, 1999  
Supreme Court of British Columbia  
(Tysoe J.)

Action certified as class proceeding

February 29, 2000  
Court of Appeal for British Columbia  
(Southin, Huddart and Newbury JJ.A.)

Appeal allowed; action in negligence dismissed

April 28, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27911**      **ERIC MARTIN JOHNSTON v. THEODORA MARIA JOHNSTON AND PHILIP HARRIS**  
(Ont.)

CORAM:      The Chief Justice, Iacobucci and Major JJ.

The application for leave to appeal is dismissed with costs fixed at \$8,000.00 plus GST.

La demande d'autorisation d'appel est rejetée avec dépens au montant de 8 000 \$ plus la TPS.

**NATURE OF THE CASE**

Family law - Division of property - Whether owner of investment property entitled to claim resulting or constructive trust to make non-titled spouse a co-owner for the purposes of equalization of net family property - Procedural law - Courts - Whether Court of Appeal erred in not finding a reasonable apprehension of bias on the part of the trial judge

**PROCEDURAL HISTORY**

August 25, 1998  
Superior Court of Justice  
(Métivier J.)

Order: Petition for divorce granted to take effect on September 25th, 1998; Applicant to pay equalization payment of \$93,311.00, and occupation rent of \$17,700.00.

February 26, 1999  
Superior Court of Justice  
(Métivier J.)

Fixed costs of \$90,000 awarded on a party and party scale to the Respondent

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March 15, 2000  
Court of Appeal for Ontario  
(Morden, Abella, and O'Driscoll [ *ad hoc* ] JJ.A.)

Appeal and cross-appeal dismissed; motion for the  
admission of fresh evidence dismissed

May 15, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27846**            **PRIVACY COMMISSIONER OF CANADA v. ATTORNEY GENERAL OF CANADA** (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 - Privacy - Customs and Excise - Employment Insurance - Legislation disentitles employment insurance recipients from receiving benefits during a period in which they are absent from Canada - Pursuant to an agreement, the Department of National Revenue disclosed travellers' personal information to the Canada Employment Insurance Commission with the purpose of detecting employment insurance beneficiaries receiving benefits while out of Canada - Whether the Federal Court of Appeal erred in finding that the disclosure of "personal information" by the Department of National Revenue to the Canada Employment Insurance Commission pursuant to the Ancillary Memorandum of Understanding for data capture and release of information on travellers was authorized by section 8 of the *Privacy Act* and section 108 of the *Customs Act* - Whether in view of the restrictions on the use of personal information in the *Privacy Act*, does paragraph 108(1)(b) of the *Customs Act* provide the Minister with authority to disclose personal information to the Commission for use in an investigative data match program - Whether the Minister properly authorized the disclosure of personal information in the Traveller Declaration Forms to the Commission for use in an investigative data match program - *Privacy Act*, R.S.C., 1985, c. P-21, ss. 7, 8 - *Customs Act*, R.S.C. 1985, c. C-1, s. 108.

**PROCEDURAL HISTORY**

January 29, 1999  
Federal Court of Canada, Trial Division  
(Tremblay-Lamer J.)

Court states the opinion that the disclosure of personal information by the Department of National Revenue to the Canada Employment Commission is not authorized by s.8 of the *Privacy Act* and s.108 of the *Customs Act*

February 9, 2000  
Federal Court of Appeal  
(Décary, Evans and Sexton JJ.A.)

Appeal allowed; Trial Division opinion set aside, and same question answered affirmatively

April 10, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27844**            **DEBORAH SMITH v. ATTORNEY GENERAL OF CANADA** (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**

Canadian Charter - Civil - Privacy - Customs and Excise - Employment Insurance - Legislation disentitles unemployment insurance recipients from receiving benefits during a period in which they are absent from Canada - The Applicant, an unemployment insurance recipient failed to inform the Canada Employment Insurance Commission of her absence from Canada - Pursuant to an agreement, the Department of National Revenue disclosed travellers' personal information to the Canada Employment Insurance Commission with the purpose of detecting employment insurance beneficiaries receiving benefits while out of Canada - Whether the disclosure by the Department of National Revenue to the Canada Employment and Insurance Commission of personal information from the Applicant's Traveller Declaration Form and the use of this information in the data match program, and subsequently, as evidence against the Applicant, contravenes the Applicant's right to be secure from unreasonable search or seizure under section 8 of the *Charter* and if so, whether the evidence should have been excluded under subsection 24(2) of the *Charter* - Whether the provision in the *Unemployment Insurance*

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*Act* which disentitles the Applicant from receiving benefits while outside of Canada infringes the Applicant's mobility rights under subsection 6(1) of the *Charter*

**PROCEDURAL HISTORY**

February 9, 2000  
Federal Court of Appeal  
(Décary, Sexton and Evans JJ.A.)

Application for judicial review of a decision from the  
Umpire dismissed

April 10, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27881**            **JEAN-GUY FOURNIER 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 - Admissibility of involuntary statements - Defence of dissociation - Trial Court ruling statements involuntary and inadmissible as to whether accused committed the murder but admissible as evidence of the accused's state of mind - Whether statements ruled involuntary can be used to determine whether an accused person possessed the requisite intent for murder.

**PROCEDURAL HISTORY**

February 26, 1998  
Supreme Court of British Columbia  
(Rowan J.)

Conviction: second degree murder (two counts)

March 2, 2000  
Court of Appeal of British Columbia  
(McEachern C.J., Hall, and Saunders JJ.A.)

Appeal against conviction dismissed

April 28, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27794**            **EARL FRANCIS PENFOLD v. HER MAJESTY THE QUEEN** (Alta.)(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.

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**NATURE OF THE CASE**

Canadian *Charter* - Criminal - Unlawful search and seizure (s. 8) - Detention - Excessive force - Search warrant not issued to particular person but to police force at a city - Police dog used in course of search - *Charter* found to be breached and evidence gathered as result of search found to be inadmissible - Whether search warrant issued pursuant to s. 11 of the *Controlled Drugs and Substance Act* is invalid if it is not issued to a named peace officer - Alternatively, whether s. 11 of *Controlled Drugs and Substances Act*, in so far as it relates to searches of dwelling houses, is inconsistent with s. 8 of the *Charter* - Whether physical force used by the police, in particular having a police dog attack the applicant, did not constitute excessive force in the circumstances - Whether, even assuming excessive force, the evidence obtained via the search should not be excluded pursuant to s. 24(2) of the *Charter*.

**PROCEDURAL HISTORY**

April 12, 1999  
Court of Queen's Bench of Alberta  
(Bielby J.)

Order excluding evidence obtained in violation of the  
Applicant's rights under s. 8 of the *Charter*

January 14, 2000  
Court of Appeal of Alberta (Calgary)  
(Fraser C.J. and Hunt and Forsyth JJ.A.)

Appeal allowed; new trial ordered

March 9, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27439**            **ATTORNEY GENERAL OF NEWFOUNDLAND - v. - COLIN SHEPPARD** (Nfld.)(Crim.)

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**

Criminal Law - Procedural Law - Obligation to provide reasons for conviction - Interpretation and application of s.830 of the *Criminal Code*, R.S.C. 1985, c. C-46.

**PROCEDURAL HISTORY**

November 21, 1996 Provincial Court of Newfoundland (Barnable J.)	Conviction: Possession of property obtained by commission of an offence
August 6, 1999 Court of Appeal of Newfoundland (O'Neill, Green, and Cameron [ <i>dissenting</i> ] JJ.A.)	Appeal allowed; New trial ordered
August 17, 1999 Supreme Court of Canada	Application for leave to appeal filed

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**AUGUST 24, 2000 / LE 24 AOÛT 2000**

**27696**            **GREATER EUROPE MISSION (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.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Taxation - Assessment - *Excise Tax Act*, R.S.C. 1985, c. E-15, Part IX- Charities - Whether s. 260 of the GST legislation is incapable of literal application and is ambiguous, such that it must be interpreted having regard to the scheme of that legislation as it relates to exported services and goods and the intent of Parliament - Whether services received by a charity in Canada are capable of being "exported" within the meaning of s. 260(1)(c) - Whether services received by a charity in Canada and which directly support the charity's overseas charitable activities are "exported" within the meaning of s. 260(1)(c) - Whether services received by a charity in Canada in the course of exporting property overseas are "exported" within the meaning of s. 260(1)(c) - Whether services performed outside Canada in the course of administering an overseas charitable activity are for "charitable purposes outside Canada" within the meaning of s. 260(1)(c).

**PROCEDURAL HISTORY**

October 23, 1996 Tax Court of Canada (Hamlyn J.T.C.C.)	Applicant's appeals from assessments made under the <i>Excise Tax Act</i> dismissed with one set of costs awarded to Respondent
November 10, 1999 Federal Court of Appeal (Strayer, Robertson, and Rothstein JJ.A.)	Appeal dismissed without costs
January 10, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**27694**            **WORLD RELIEF CANADA v. HER MAJESTY THE QUEEN** (F.C.A.)

CORAM:        The Chief Justice, Iacobucci and Major JJ.

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The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

**NATURE OF THE CASE**

Taxation - Assessment - *Excise Tax Act*, R.S.C. 1985, c. E-15, Part IX - Charities - Whether s. 260 of the GST legislation is incapable of literal application and is ambiguous, such that it must be interpreted having regard to the scheme of that legislation as it relates to exported services and goods and the intent of Parliament - Whether services received by a charity in Canada are capable of being "exported" within the meaning of s. 260(1)(c) - Whether services received by a charity in Canada and which directly support the charity's overseas charitable activities are "exported" within the meaning of s. 260(1)(c) - Whether services received by a charity in Canada in the course of exporting property overseas are "exported" within the meaning of s. 260(1)(c) - Whether services performed outside Canada in the course of administering an overseas charitable activity are for "charitable purposes outside Canada" within the meaning of s. 260(1)(c).

**PROCEDURAL HISTORY**

October 18, 1996  
Tax Court of Canada  
(Hamlyn J.T.C.C.)

Applicant's appeal from assessment made under the *Excise Tax Act* dismissed with one set of costs awarded to the Respondent

November 10, 1999  
Federal Court of Appeal  
(Strayer, Robertson and Rothstein JJ.A.)

Appeal dismissed without costs

January 10, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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27787 **VINCENZO COMMISSO - v. - UNITED STATES OF AMERICA - and between - COSIMO D'AGOSTINO - v. - UNITED STATES OF AMERICA - and between - ROCCO COMMISSO - v. - UNITED STATES OF AMERICA - and between - MATTHEW SZABO - v. - UNITED STATES OF AMERICA** (Crim.)(Ont.)

CORAM: **Gonthier, Binnie and Arbour JJ.**

The application for extension of time is granted to Cosimo d'Agostino and the applications for leave to appeal are dismissed.

La demande de prorogation de délai est accordée à Cosimo d'Agostino et les demandes d'autorisation d'appel sont rejetées.

**NATURE OF THE CASE**

Criminal law - Extradition - Whether the Court of Appeal for Ontario erred in law in holding that extradition could take place despite the absence of a *prima facie* case of the offence alleged - Whether the Court of Appeal for Ontario erred in holding that the conduct based standard for committal was satisfied when the facts underlying the foreign allegation revealed “some connection to or is some evidence of” those allegations - Whether the Court of Appeal for Ontario erred in law in holding that the extradition judge erred in his assessment of the sufficiency of the evidence in support of the specific charges upon which the extradition of the Applicant was sought - Whether the Court of Appeal for Ontario erred in law by committing the Applicants for surrender in relation to the counts of conspiracy to import and distribute narcotics when there was no evidence that the importation or distribution of narcotics into the United States was an object of the conspiracy alleged - Whether the Court of Appeal for Ontario erred in law in failing to hold that the 28 month delay in the appellate process, attributable exclusively to Canadian state actors, had not resulted in prejudice to the Applicants despite the uncontroverted evidence of personal prejudice elicited in the Court of Appeal.

**PROCEDURAL HISTORY**

June 5, 1997 Ontario Court of Justice, General Division (Matlow J.)	Applicants discharged; Respondent did not satisfy the preconditions for the Applicants’ committal for surrender for extradition
February 22, 2000 Court of Appeal for Ontario (Labrosse, Laskin, and O’Connor JJ.A)	Application for stay of extradition proceedings dismissed; appeal allowed; warrant of committal issued for each Applicant with respect to both charges for which extradition sought
April 25, 2000 Supreme Court of Canada	Application for leave to appeal filed for Applicant Vincenzo Commisso
April 25, 2000 Supreme Court of Canada	Application for leave to appeal filed for Applicant Rocco Commisso
April 25, 2000 Supreme Court of Canada	Application for leave to appeal filed for Applicant Cosimo D’Agostino
May 3, 2000 Supreme Court of Canada	Application for leave to appeal filed for Applicant Matthew Szabo

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**27715**            **MARCEL JOLY - v. - HER MAJESTY THE QUEEN** (Crim.)(Ont.)

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.

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**NATURE OF THE CASE**

Criminal law - Evidence - Whether the Court of Appeal erred in concluding that the trial judge was entitled to offer his opinion on the viability of the “other suspect” evidence - Whether there is any valid justification for the common law rule which permits trial judges to offer their opinion on the facts of a particular case - Whether the rule is consistent with the *Charter*.

**PROCEDURAL HISTORY**

December 5, 1994  
Ontario Court of Justice (General Division)  
(Soubliere J.)

Conviction: Second degree murder. Applicant sentenced to life imprisonment, with parole ineligibility for 20 years

April 26, 1999  
Court of Appeal for Ontario  
(Morden, Doherty and Abella JJ.A.)

Appeal against conviction dismissed; appeal against sentence allowed

January 24, 2000  
Supreme Court of Canada

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

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27639                    **COMMISSION DES DROITS DE LA PERSONNE ET DES DROITS DE LA JEUNESSE - c. -  
CENTRE D'HÉBERGEMENT ET DE SOINS DE LONGUE DURÉE CHAMPLAIN-MANOIR  
DE VERDUN - et - PIERRE SAUVÉ** (Qué.)

CORAM:                Les juges Gonthier, Binnie et Arbour

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

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

**NATURE DE LA CAUSE**

Droit du travail - Congédiement - Grief déposé - Plainte à la Commission des droits de la personne et des droits de la jeunesse - Entente intervenue entre le syndicat et l'employeur - Dans quelle mesure la Cour d'appel pouvait-elle supprimer le droit d'un organisme qui agit dans l'intérêt public de porter en appel un jugement qui réduit sa compétence d'enquête alors que c'est l'intimé qui, dans un premier temps, avait contesté la compétence d'enquête de la Commission, et qui a ensuite présenté une requête en rejet d'appel sur la base d'une transaction qu'il a lui-même négociée? - Les questions soulevées par le jugement de la première instance étaient-elles devenues théoriques en raison d'une transaction intervenue entre le salarié et l'intimé? - La Cour d'appel a-t-elle erré en droit en décidant qu'autoriser la continuation de l'appel dans les circonstances remettrait en cause toute la transaction intervenue et pourrait, à la limite, entraîner la nullité? - La Cour d'appel, en accueillant la requête en rejet d'appel, a-t-elle erré en droit en maintenant indirectement la conclusion du juge de première instance à l'effet que l'exercice d'un recours en grief constituait l'exercice du recours prévu à l'article 49 de la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12? - La Cour d'appel, en accueillant la requête pour rejet d'appel, a-t-elle erré en droit en maintenant indirectement la conclusion du juge de première instance à l'effet que la Commission devait cesser d'agir en faveur du mis en cause en vertu de l'article 77, al. 1, 2<sup>o</sup> de la *Charte*?

**HISTORIQUE PROCÉDURAL**

Le 3 novembre 1998  
Cour supérieure du Québec  
(Rochon j.c.s.)

Requête de l'intimé accueillie: la demanderesse est tenue de cesser d'agir en faveur du mis en cause Pierre Sauvé

Le 20 septembre 1999  
Cour d'appel du Québec  
(Delisle, Otis et Pidgeon jj.c.a.)

Requête en rejet d'appel de l'intimé accueillie: appel de la demanderesse rejeté

Le 13 décembre 1999  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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27773      **ROBERT MARTIN FRIEDLAND - v. - UNITED STATES OF AMERICA - and between - ROBERT MARTIN FRIEDLAND - v. - UNITED STATES OF AMERICA, DAVID L. DAIN, PETER R. MOUNSEY and NANCY A. MANGONE** (Ont.)

CORAM:      Gonthier, Binnie and Arbour 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**

International - Statutes - Interpretation - *Mareva* injunction vacated - Counterclaim - State immunity - Whether the Respondents explicitly submitted to the court's jurisdiction under s. 4(2)(a) of the *State Immunity Act*, R.S.C. 1982 c. S-18 (hereinafter "S.I.A.") - Whether the Respondents submitted to a counterclaim under s. 4(4) of the S.I.A. - Whether there is a loss of immunity for death, injury, damage or loss in Canada under s. 6 of the S.I.A.

**PROCEDURAL HISTORY**

June 22, 1998  
Superior Court of Justice  
(Lederman J.)

Applicant and Respondent's motions for orders dismissing Counterclaim based on *State Immunity Act* dismissed.

December 23, 1999  
Ontario Court of Appeal  
(Osborne, Brooke, and Catzman JJ.A.)

Order of Lederman J. set aside, order dismissing Applicant's counterclaim issued

February 21, 2000  
Supreme Court of Canada

Application for leave to appeal filed

**27660**            **JEAN BOUDREAU** - c. - **LE PROCUREUR GÉNÉRAL DU CANADA** (C.A.F.)(Qué.)

CORAM:            Les juges Gonthier, Binnie et Arbour

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

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

**NATURE DE LA CAUSE**

Droit administratif - Contrôle judiciaire - Plainte de discrimination contrairement à l'art. 14 de la *Loi canadienne sur les droits de la personne* - Est-ce que la Commission est obligée d'enquêter les plaintes en vertu de la *Loi* d'une manière neutre, impartiale et selon l'équité procédurale et quelle est la norme de révision de ses décisions?

**HISTORIQUE PROCÉDURAL**

Le 29 octobre 1996  
Commission canadienne des droits de la personne

Plainte de discrimination du demandeur rejetée

Le 23 décembre 1997  
Cour fédérale du Canada, Section de première instance  
(Nadon j.)

Demande de contrôle judiciaire de la décision de la  
Commission canadienne des droits de la personne  
rejetée

Le 14 octobre 1999  
Cour d'appel fédérale  
(Décary, Létourneau et Noël jj.c.a.)

Appel rejeté

Le 16 décembre 1999  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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18.7.2000

Before / Devant: THE DEPUTY REGISTRAR

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

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire, le dossier et le recueil de jurisprudence et de doctrine des intimés**

Bennett Jones Verchere, et al.

v. (27138)

Western Canadian Shopping Centres Inc., et al.  
(Alta.)

**GRANTED / ACCORDÉE** Time extended to July 12, 2000.

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18.7.2000

Before / Devant: LEBEL J.

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

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

Gary John Lazeo

v. (27830)

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

**GRANTED / ACCORDÉE** Time extended to May 15, 2000, *nunc pro tunc*.

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21.7.2000

Before / Devant: MAJOR J.

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

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

Terry Lee Meidel

v. (27909)

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

**GRANTED / ACCORDÉE** Time extended to May 16, 2000, *nunc pro tunc*.

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21.7.2000

Before / Devant: MAJOR J.

**Motion for leave to intervene**

**Requête en autorisation d'intervention**

BY/PAR: Labour Issues Coordinating  
Committee;  
Charter Committee on Poverty Issues

IN/DANS: Tom Dunmore, et al.

v. (27216)

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

UPON APPLICATION by the Charter Committee on Poverty Issues and the Labour Issues Coordinating Committee for leave to intervene in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

- 1) The motion for leave to intervene of the applicant Charter Committee on Poverty Issues is dismissed.
- 2) The motion for leave to intervene of the applicant Labour Issues Coordinating Committee is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length and the motion to introduce new evidence is dismissed.

The request to present oral argument is deferred to a rota judge following receipt and consideration of the written arguments of the parties and interveners.

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

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

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21.7.2000

Before / Devant: ARBOUR J.

**Motion for leave to intervene**

**Requête en autorisation d'intervention**

BY/PAR: Reebok Canada Inc.,  
Canadian Importers Association

IN/DANS: Mattel Canada Inc., et al.

v. (27174)

Her Majesty the Queen, et al.  
(F.C.A.)

UPON APPLICATION by the Canadian Importers Association and Reebok Canada Inc., for leave to intervene in the above appeal and cross-appeal;

AND HAVING READ the material filed;

IT IS ORDERED THAT:

- 1) The motion for leave to intervene of the applicant Canadian Importers Association is dismissed.
- 2) The motion for leave to intervene of the applicant Reebok Canada Inc. is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.

The request to present oral argument is deferred to a rota judge following receipt and consideration of the written arguments of the parties and the intervener.

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

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.

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21.7.2000

Before / Devant: LE REGISTRAIRE

**Requête permettant aux appelants de déposer un mémoire d'appel conjoint de plus de 40 pages**

**Motion permitting the appellants to file a joint factum on appeal of over 40 pages**

Werner Patek, et al.

c. (27817)

Sa Majesté la Reine (Crim.)(Qué.)

**GRANTED / ACCORDÉE** La requête pour obtenir une ordonnance permettant les appelants de produire un seul mémoire conjoint de plus de 40 pages, soit 73 pages est accordée.

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21.7.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the factum and book of authorities of the intervener The Advocates' Society**

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine de l'intervenante The Advocates' Society**

J.C.

v. (27109)

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

**GRANTED / ACCORDÉE** Time extended to July 31, 2000.

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24.7.2000

Before / Devant: IACOBUCCI J.

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

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

K.R.H.

v. (28021)

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

**GRANTED / ACCORDÉE** Time extended to September 29, 2000.

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24.7.2000

Before / Devant: IACOBUCCI J.

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

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

Her Majesty the Queen

v. (27847)

B.J.S. (Crim.)(B.C.)

**GRANTED / ACCORDÉE** Time extended to June 19, 2000.

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26.7.2000

Before / Devant: IACOBUCCI J.

**Miscellaneous motion**

Atomic Energy of Canada Limited

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v. (28020)

**Autre requête**

Sierra Club of Canada, et al. (F.C.A.)

**GRANTED / ACCORDÉE**

UPON APPLICATION on behalf of the Applicant (Intervenor) for a protective order, namely an order to protect the confidentiality of certain information and documentation disclosed by the Applicants (Intervenor) to the Respondent (Applicant), the Respondent (Respondents) and this Honourable Court herein in connection with the Applicant's application for leave to appeal and any appeal brought by the Applicant (Intervenor) before this Court;

AND UPON reading the consent of the parties by their counsel in respect of the Order herein;

THIS COURT DOTH ORDER:

For the purposes of the Applicant (Intervenor)'s application for leave to appeal and any appeal brought by the Applicant (Intervenor) before this Court:

1. The terms of the Order of Mr. Justice Isaac, Federal Court of Appeal dated January 21, 2000 in the Federal Court of Appeal shall continue to apply *mutatis mutandis* to the information, documents and portions thereof which may be produced or filed by the parties in any proceedings in this Court.
  2. All documents or portions thereof produced by the parties which are marked "CONFIDENTIAL" pursuant to the Order of Mr. Justice Isaac, Federal Court of Appeal dated January 21, 2000 (Federal Court of Appeal File No. A-699-99) shall also be subject to the terms of this Order.
  3. In particular, and without limiting the generality of the foregoing, the following documents shall be subject to the terms of this Order:
    - (a) the Supplementary Affidavit of Simon Pang sworn August 30, 2000 (the "Supplementary Pang Affidavit");
    - (b) the Affidavit of Gary Kugler sworn June 25, 1999 (the "Kugler Affidavit");
    - (c) those portions of the Memorandum of Argument of the Applicant (Intervenor) which refer to information and documents contained in the Kugler Affidavit and the Supplementary Pang Affidavit; and
    - (d) those portions of the Memorandum of Argument of the Respondent (Applicant) which refer to information and documents contained in the Kugler Affidavit and the Supplementary Pang Affidavit; and
    - (e) those portions of the Memorandum of Argument of the Respondents (Respondents) which refer to information and documents contained in the Kugler Affidavit and the Supplementary Pang Affidavit.
  4. The documents containing such information so designated when filed with this Court shall not form part of the public record and shall be filed sealed in envelopes to be opened by a Judge of this Court and made available only to the Judges of this Court, their law clerks, and appropriate Court personnel. The Registry of this Court shall not make such documents available to the public.
  5. The parties or either of them may apply to vary this Order or for directions as to any dispute with regard to its application.
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26.7.2000

Before / Devant: IACOBUCCI J.

**Motions for leave to intervene**

**Requêtes en autorisation d'intervention**

BY/PAR: Attorney General for Ontario;  
Attorney General of Canada; Her  
Majesty the Queen in Right of  
Alberta and Minister of Justice and  
the Attorney General of Alberta;  
Attorney General of Manitoba

IN/DANS: The General Manager, Liquor Control  
and Licensing Branch

v. (27371)

Ocean Port Hotel Limited (B.C.)

**GRANTED / ACCORDÉES**

UPON APPLICATION by the Attorney General of Manitoba, Her Majesty the Queen in right of Alberta and the Minister of Justice and the Attorney General of Alberta, the Attorney General of Canada, the Attorney General of Ontario for leave to intervene in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

- 1) The motion for leave to intervene of the applicant Attorney General of Manitoba is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.
- 2) The motion for leave to intervene of the applicants Her Majesty the Queen in right of Alberta, the Minister of Justice and the Attorney General of Alberta is granted and the applicants shall be entitled to serve and file a factum not to exceed 20 pages in length.
- 3) The motion for leave to intervene of the applicant Attorney General of Canada is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.
- 4) The motion for leave to intervene of the applicant Attorney General of Ontario is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.

The request to present oral argument is deferred to a rota judge following receipt and consideration of the written arguments of the parties and the interveners.

The interveners shall not be entitled to adduce further evidence or otherwise to supplement the record apart from their factums.

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

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27.7.2000

Before / Devant: LE REGISTRAIRE

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

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

Murielle Marcoux

c. (27554)

Jean-Marie Bouchard, et al. (Qué.)

**GRANTED / ACCORDÉE** La requête pour obtenir une ordonnance dispensant l'appelante de fournir un cautionnement ainsi que de payer tout autre timbre judiciaire ou honoraire au registraire en plus d'une ordonnance lui permettant de produire un nombre réduit d'exemplaires du dossier et du mémoire de l'appelante est accordée.

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27.7.2000

Before / Devant: BASTARACHE J.

**Motions for leave to intervene**

**Requêtes en autorisation d'intervention**

BY/PAR: Association of Immigration Counsel of Canada; Canadian Bar Association

IN/DANS: The Law Society of British Columbia

v. (27108)

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

**GRANTED / ACCORDÉES**

UPON APPLICATION by the Canadian Bar Association and the Association of Immigration Counsel of Canada for leave to intervene in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

- 1) The motion for leave to intervene of the applicant Canadian Bar Association is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length.
- 2) The motion for leave to intervene of the applicant Association of Immigration Counsel of Canada is granted and the applicants shall be entitled to serve and file a factum not to exceed 20 pages in length.

The request to present oral argument is deferred to a rota judge following receipt and consideration of the written arguments of the parties and the interveners.

The interveners shall not be entitled to adduce further evidence or otherwise to supplement the record apart from their factums.

Pursuant to Rule 18(6) the interveners shall pay to the appellant and respondents any additional disbursements occasioned to the appellant and respondents by the interventions.

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27.7.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the factums of the interveners Seventh-Day Adventist Church and The Christian Legal Fellowship**

British Columbia College of Teachers

v. (27168)

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

**GRANTED / ACCORDÉE** Time extended to July 14, 2000.

**Requête en prorogation du délai imparti pour signifier et déposer les mémoires des intervenants Seventh-Day Adventists Church et The Christian Legal Fellowship**

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31.7.2000

Before / Devant: LE JUGE L'HEUREUX-DUBÉ

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

D.T.A.

c. (27984)

M.E.L. (Qué.)

**GRANTED / ACCORDÉE** Délai prorogé au 16 juin 2000.

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



2.8.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the factum of the intervener Canadian Association of Chiefs of Police**

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire de l'intervenante l'Association canadienne des chefs de police**

Lorne Brown, et al.

v. (27150)

Regional Municipality of Durham Police Service Board (Ont.)

**GRANTED / ACCORDÉE** Time extended to September 30, 2000.

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2.8.2000

Before / Devant: LE JUGE L'HEUREUX-DUBÉ

**Requête en sursis d'exécution**

**Motion for a stay of execution**

N.V.

c. (27997)

P.-A.L. (Qué.)

**DISMISSED WITHOUT COSTS / REJETÉE SANS FRAIS**

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3.8.2000

Before / Devant: L'HEUREUX-DUBÉ J.

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

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

Jose Ronald Alexander Pimentel

v. (27931)

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

**GRANTED / ACCORDÉE** Time extended to September 30, 2000.

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4.8.2000

Before / Devant: L'HEUREUX-DUBÉ J.

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

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

BY/PAR: Manitoba Criminal Trial Lawyers  
Association

IN/DANS: Lorne Brown, et al.

v. (27150)

Regional Municipality of Durham  
Police Service Board (Ont.)

**GRANTED / ACCORDÉE**

UPON APPLICATION by the Manitoba Criminal Trial Lawyers Association 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 Manitoba Criminal Trial Lawyers Association is granted, the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length no later than September 4, 2000 and to present oral argument not to exceed 15 minutes.

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

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

8.8.2000

Before / Devant: LEBEL J.

**Motions for extension of time and leave to intervene**

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

BY/PAR: Estevan School Division No. 95;  
Public School Boards Association of  
Alberta, the Board of Trustees of the  
Edmonton School District No. 7 and  
Cathryn Staring Parrish

IN/DANS: Ontario English Catholic Teachers'  
Association, et al.

v. (27363)

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

**GRANTED / ACCORDÉES**

UPON APPLICATION by the Estevan School Division No. 95 and by the Public School Boards' Association of Alberta, The Board of Trustees of the Edmonton School District No. 7 and Cathryn Staring Parrish for extensions 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 Estevan School Division No. 95 is granted, the applicant shall be included as part of the group of Saskatchewan Public Boards' that was granted leave to intervene on May 19, 2000. The applicant will be represented by the same counsel as the other Saskatchewan Public Boards' and will participate in the appeal only as part of that group. It will not make separate submissions or representations to the Court.
- 2) The motion for an extension of time and for leave to intervene of the Public School Boards' Association of Alberta, The Board of Trustees of the Edmonton School District No. 7 and Cathryn Staring Parrish is granted, the applicants shall be entitled to serve and file a factum not to exceed 20 pages in length no later than September 4, 2000 and to present oral argument not to exceed 15 minutes.

The interveners shall not be entitled to adduce further evidence or otherwise to supplement the record apart from their factums and oral submissions.

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

8.8.2000

Before / Devant: LE REGISTRAIRE

**Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intervenant le procureur général de l'Ontario**

**Motion to extend the time in which to serve and file the book of authorities of the intervener Attorney General for Ontario**

Sa Majesté la Reine

c. (27250)

Jean Pierre Hamelin (Crim.)(Qué.)

**GRANTED / ACCORDÉE** Délai prorogé au 31 mai 2000, *nunc pro tunc*.

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8.8.2000

Before / Devant: LE REGISTRAIRE

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

**Motion to extend the time in which to serve and file the factum and book of authorities of the respondent**

Services des espaces verts Ltée / Chemlawn, et al.

c. (26937)

Ville de Hudson (Qué.)

**GRANTED / ACCORDÉE** Délai prorogé au 9 août 2000.

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9.8.2000

Before / Devant: THE REGISTRAR

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

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

E.S.

v. (27862)

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

**GRANTED / ACCORDÉE** Time extended to July 13, 2000.

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9.8.2000

Before / Devant: THE REGISTRAR

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

**Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine du ministère public**

J.C.

v. (27109)

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

**GRANTED / ACCORDÉE** Time extended to May 18, 2000.

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9.8.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the response of the respondent Ontario Human Rights Commission**

**Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimé la Commission ontarienne des droits de la personne**

McKenzie Forest Products Inc.

v. (27967)

Adam Tilberg, et al. (Ont.)

**GRANTED / ACCORDÉE** Time extended to September 8, 2000.

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9.8.2000

Before / Devant: LE REGISTRAIRE

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire, le dossier et le recueil de jurisprudence et de doctrine de l'intimé Tribunal du Travail**

**Motion to extend the time in which to serve and file the factum, record and book of authorities of the respondent Tribunal du travail**

Travailleurs et travailleuses unis de l'alimentation et du commerce, local 500, et al.

c. (27121)

Ivanhoe Inc., et al. (Qué.)

**GRANTED / ACCORDÉE** Délai prorogé au 22 juin 2000.

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10.8.2000

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Before / Devant: THE REGISTRAR

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

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

Ontario English Catholic Teachers' Association, et al.

v. (27363)

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

**GRANTED / ACCORDÉE** Time extended to May 25, 2000 to serve and file the factum and to June 14, 2000 for the book of authorities.

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10.8.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the factum and book of authorities of the interveners AFOCSC and ACEPO**

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine des intervenants AFOCSC et ACEPO**

Ontario English Catholic Teachers' Association, et al.

v. (27363)

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

**GRANTED / ACCORDÉE** Time extended to July 12, 2000.

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10.8.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the factum and book of authorities of the intervenor Attorney General of Manitoba**

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire et le recueil de jurisprudence et de doctrine de l'intervenant le procureur général du Manitoba**

Ontario English Catholic Teachers' Association, et al.

v. (27363)

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

**GRANTED / ACCORDÉE** Time extended to September 26, 2000.

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10.8.2000

Before / Devant: LE REGISTRAIRE

**Autre requête**

**Miscellaneous motion**

Huguette Doiron

c. (27940)

Olivier Lipp, et al. (Qué.)

**GRANTED / ACCORDÉE** La requête pour être exemptée de suivre les procédures selon l'article 23 est accordée.

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10.8.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the record and book of authorities of the respondent Mangione**

**Requête en prorogation du délai imparti pour signifier et déposer le dossier et le recueil de jurisprudence et de doctrine de l'intimé Mangione**

The Canadian Red Cross Society, et al.

v. (27285)

Lois Osborne as Executrix of the Estate of Ronald Charles Osborne, deceased, et al. (Ont.)

**GRANTED / ACCORDÉE** Time extended to July 14, 2000.

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10.8.2000

Before / Devant: GONTHIER J.

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

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

Scottish & York Insurance Co. Ltd.

v. (27851)

Pearl Somersall, et al. (Ont.)

**GRANTED / ACCORDÉE** The delay for serving and filing the respondent's response is further extended to July 17, 2000, said response having been filed on that day.

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11.8.2000

Before / Devant: GONTHIER J.

**Motion to strike an affidavit**

**Requête visant à radier un affidavit**

Cherie Gronnerud, by her Litigation Guardians, Glenn Gronnerud and Judith Ann Farr

v. (27993)

Harold Robert (Bud) Gronnerud, as Executor of the Estate of Harold Russell Gronnerud (Sask.)

**ALLOWED IN PART / ACCORDÉE EN PARTIE**

The respondent's motion to strike the affidavits of Kripa Sckhar, Judith Ann Farr and Barbara Lindsay is granted in part as follows: the affidavits of Kripa Sckhar and Barbara Lindsay are struck as expressing matters of opinion and paragraphs 7, 8 and 9 of the affidavit of Judith Ann Farr are likewise struck as expressing matters of opinion or which are irrelevant or unnecessary for the purposes of the application for leave. The motion to strike the remaining paragraphs of the affidavit of Judith Ann Farr is denied as they provide information that may be useful to the decision on the application for leave.

It is therefore ordered that the affidavit of Kripa Sckhar sworn June 15, 2000 and that of Barbara Lindsay sworn June 22, 2000 and paragraphs 7, 8 and 9 of the affidavit of Judith Ann Farr sworn June 21, 2000 be struck.

It is further ordered that the time in which the respondent must file a response to the application for leave to appeal be extended for a period of 30 days from this date.

There shall be no order as to costs.

11.8.2000

Before / Devant: THE REGISTRAR

**Motion permitting the appellants to serve and file a joint record and the respondents to serve and file a single record**

**Requête permettant aux appelants de signifier et déposer un dossier conjoint et aux intimés de signifier et déposer un seul dossier**

Janine Bailey, et al.

v. (27427)

Her Majesty the Queen in Right of Canada, et al. (F.C.A.)

**GRANTED / ACCORDÉE**



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11.8.2000

Before / Devant: LE JUGE GONTHIER

**Requête en prorogation du délai imparti pour signifier et déposer la réponse à la requête en sursis d'exécution**

**Motion to extend the time in which to serve and file the response to the motion for stay of execution**

Gérald Robitaille & Associés Ltée

c. (27799)

Sa Majesté la Reine du Chef du Canada (Qué.)

**GRANTED / ACCORDÉE** Délai prorogé au 25 août 2000.

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11.8.2000

Before / Devant: LE REGISTRAIRE

**Requête de l'appelant pour obtenir la permission de produire un mémoire en réplique de dix (10) pages**

**Motion by the appellant to obtain the permission to file a ten-page (10) reply**

Benoît Proulx

c. (27235)

Le procureur général du Québec (Qué.)

**DISMISSED / REJETÉE**

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11.8.2000

Before / Devant: LE REGISTRAIRE

**Requête permettant à l'intimée de déposer un mémoire d'appel de plus de 40 pages**

**Motion permitting the respondent to file a factum on appeal over 40 pages**

Benoît Proulx

c. (27235)

Le procureur général du Québec (Qué.)

**GRANTED / ACCORDÉE** Ordonnance autorisant à produire un mémoire de 61 pages en l'espèce.

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11.8.2000

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the respondent's Lavallee, Rackel and Heintz response**

**Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimé Lavallee, Rackel and Heintz**

Her Majesty the Queen

v. (27852)

Lavallee, Rackel and Heintz Barristers and Solicitors, et al. (Crim.)(Alta.)

**GRANTED / ACCORDÉE** Time extended to August 11, 2000.

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14.8.2000

Before / Devant: THE CHIEF JUSTICE

**Motion to extend the time in which to serve and file the respondent's response to the application for reconsideration of the leave application**

**Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimé visant la requête en réexamen de la demande d'autorisation**

Glen Sebastian Burns, et al.

v. (26211)

United States of America (Crim.)(B.C.)

**GRANTED / ACCORDÉE** Time extended to August 31, 2000.

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14.8.2000

Before / Devant: BINNIE J.

**Motion for a stay of execution**

**Requête en vue de surseoir à l'exécution**

Michael Edward Holoday, et al.

v. (27982)

Royal Bank of Canada (Ont.)

**DISMISSED with costs / REJETÉE avec dépens** Dismissed with costs to the respondent fixed at two hundred and fifty dollars.

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14.8.2000

Before / Devant: BINNIE J.

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

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

BY/PAR: Insurance Council of Canada

IN/DANS: Daphne Whiten, et al.

v. (27229)

Pilot Insurance Company, et al. (Ont.)

**GRANTED / ACCORDÉE**

UPON APPLICATION by the Insurance Council of Canada 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 Insurance Council of Canada is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length no later than September 15, 2000.

The request to present oral argument is deferred to a rota judge following receipt and consideration of the written arguments of the parties and the intervener.

The intervener shall not be entitled to adduce further evidence or otherwise to supplement the record of the parties. The appellant's request for discovery of documents and cross-examination of an ICC representative is dismissed.

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.

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15.8.2000

Before / Devant: THE CHIEF JUSTICE

**Motion for directions**

**Requête pour obtenir des directives**

Performance Industries Ltd., et al.

v. (27934)

Sylvan Lake Golf & Tennis Club Ltd., et al. (Alta.)

**GRANTED / ACCORDÉE**

UPON APPLICATION by counsel for the respondent Sylvan Lake Golf and Tennis Club Ltd. for an order directing that the within appeal and cross-appeal be heard in conjunction with and at the same time as the appeal in *Whiten v. Pilot Insurance Company* (27229);

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AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

1. The appeal and cross-appeal shall be heard with *Whiten v. Pilot Insurance Company* (27229) during the week of December 11, 2000;
2. The appellants shall serve and file the appellants' record and factum on or before October 6, 2000;
3. The respondent shall serve and file the respondent's record (if any) and factum on or before November 3, 2000;
4. The appellants shall serve and file their reply factum to the cross-appeal on or before November 24, 2000.

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14.8.2000

Before / Devant: THE CHIEF JUSTICE

**Motion on behalf of the respondent for an order  
expediting the hearing of this appeal**

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

Ronald Russell

v. (27732)

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

**DISMISSED / REJETÉE**

UPON APPLICATION by counsel on behalf of the Respondent for an order expediting the hearing of this appeal;

AND HAVING read the submissions of the parties;

IT IS HEREBY ORDERED THAT:

1. The motion for an order expediting the hearing of the appeal is dismissed.
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16.8.2000

Before / Devant: THE REGISTRAR

**Motion by the intervener The Advocates' Society to file a record**

**Requête permettant à l'intervenante The Advocates' Society de déposer un dossier**

J.C.

v. (27109)

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

**GRANTED / ACCORDÉE**

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17.8.2000

Before / Devant: THE REGISTRAR

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

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

Mary Danyluk

v. (27118)

Ainsworth Technologies Inc., et al. (Ont.)

**GRANTED / ACCORDÉE** Time extended to August 14, 2000.

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18.8.2000

Before / Devant: LE JUGE GONTHIER

**Miscellaneous motion**

**Autre requête**

Sa Majesté la Reine

c. (27579)

Roger Craig Denton (Crim.)(Qué.)

et

Sa Majesté la Reine

c. (27581)

Neil Peters (Crim.)(Qué.)

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Les requêtes des intimés demandant des ordonnances de divulgation de preuve visant le juge Céline Pelletier, de la Cour du Québec, et M<sup>e</sup> Claude Chartrand sont rejetées.

La requête des intimés demandant une ordonnance de divulgation de preuve visant M<sup>e</sup> Paul Monty est accueillie en partie comme suit: une ordonnance de divulgation est émise enjoignant à M<sup>e</sup> Paul Monty de répondre aux questions suivantes:

- (1) Quand, comment et par qui avez-vous appris qu'une requête en prohibition demandant l'arrêt des procédures pour cause de délais déraisonnables serait présentée dans l'affaire *Paulin Bolduc et autres*?
- (2) Avez-vous eu des conversations ou autres communications avec madame le juge Céline Pelletier ou monsieur le juge Luc Trudel relativement à cette requête en prohibition avant que ce dernier ne rende jugement dans cette affaire le 23 décembre 1996? Dans l'affirmative, quand, à l'initiative de qui, quelle en était la teneur?

La réponse sera sous forme d'affidavit produit au Greffe de la Cour d'ici le 1<sup>er</sup> septembre 2000.

18.8.2000

Before / Devant: LE JUGE GONTHIER

**Motion to extend the time in which to respond to the respondents' motion to disqualify both of the appellant's counsel**

**Requête visant à proroger le délai pour répondre à la requête des intimés en vue d'obtenir la disqualification des deux procureurs de l'appelante**

Sa Majesté la Reine

c. (27579)

Roger Craig Denton (Crim.)(Qué.)

et

Sa Majesté la Reine

c. (27581)

Neil Peters (Crim.)(Qué.)

**GRANTED / ACCORDÉE** Délai prorogé au 11 août 2000.

La requête de l'appelante visant à proroger le délai pour répondre à la requête des intimés en vue d'obtenir la disqualification des deux procureurs de l'appelante est accueillie. Le délai pour produire et signifier la réponse à cette requête est prorogé au 11 août 2000.

The appellant's motion to extend the time in which to respond to the respondents' motion to disqualify both of the appellant's counsel is granted. The time in which to serve and file a response to that motion is extended to August 11, 2000.

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18.8.2000

Before / Devant: LE JUGE GONTHIER

**Motion to adduce new evidence**

**Requête pour déposer d'autres éléments de preuve**

Sa Majesté la Reine

c. (27579)

Roger Craig Denton (Crim.)(Qué.)

et

Sa Majesté la Reine

c. (27581)

Neil Peters (Crim.)(Qué.)

**GRANTED / ACCORDÉE**

La requête de l'appelante pour présentation de nouvelle preuve est accueillie. L'affidavit de M<sup>e</sup> Claude Chartrand, complété par le contre-interrogatoire de M<sup>e</sup> Chartrand sur son affidavit, est admis à titre de nouvelle preuve.

The appellant's motion to present new evidence is granted. Mr. Claude Chartrand's affidavit, as completed by the cross-examination of Mr. Chartrand on his affidavit, is admitted as new evidence.

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**NOTICE OF APPEAL FILED SINCE  
LAST ISSUE**

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

27.7.2000

**Cleavon Francis, et al.**

**v. (27615)**

**Minister of Citizenship and Immigration et al.  
(Ont.)**

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31.7.2000

**Maria Joyce Francis, et al.**

**v. (27615)**

**The Minister of Citizenship and Immigration  
(Ont.)**

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31.7.2000

**Thérèse Prévost-Masson, en sa qualité de  
représentant légal de Feu Henri Masson**

**c. (27623)**

**Alban Perras, et al. (Qué.)**

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31.7.2000

**Her Majesty the Queen**

**v. (27717)**

**Ford Ward (Nfld.)**

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31.7.2000

**David Malmo-Levine**

**v. (28026)**

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

**AS OF RIGHT**

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8.8.2000

**Murielle Marcoux**

**c. (27554)**

**Dr. Jean-Marie Bouchard et al. (Qué.)**

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9.8.2000

**Giacinto Arcuri**

**v. (27797)**

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

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**NOTICE OF DISCONTINUANCE  
FILED SINCE LAST ISSUE**

**AVIS DE DÉSISTEMENT DÉPOSÉS  
DEPUIS LA DERNIÈRE PARUTION**

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15.8.2000

**Brenda Marie Johnson-Paquette**

**v. (27966)**

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

(leave)

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JUNE 15, 2000 / LE 15 JUIN 2000

**SYLVIE RENAUD - c. - LA COMMISSION DES AFFAIRES SOCIALES ET ENTRE LA SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC ET LE TRIBUNAL ADMINISTRATIF DU QUÉBEC** (Qué.)  
(26677)

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

À LA SUITE D'UNE REQUÊTE de l'appelante visant à obtenir une prorogation de délai et une nouvelle audition;

APRÈS AVOIR PRIS CONNAISSANCE de la documentation déposée à cet égard par les parties;

**IL EST ORDONNÉ CE QUI SUIT:**

- (1) La demande de prorogation de délai et de nouvelle audition présentée par l'appelante est accordée avec dépens;
- (2) Le jugement de la Cour, daté du 8 décembre 1999, est modifié par l'ajout des mots suivants à la dernière phrase: «dans notre Cour et les cours d'instance inférieure».

**UPON APPLICATION** by the Appellant for an extension of time and for a rehearing;

**UPON CONSIDERING** the materials filed by the parties in respect thereof;

**IT IS ORDERED** that:

1. The Appellant's request for an extension of time and for a re-hearing is granted with costs;
  - (2) The Court's judgment of December 8, 1999 is amended by adding the following words to the last sentence: "in this Court and in the courts below".
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## WEEKLY AGENDA

## ORDRE DU JOUR DE LA SEMAINE

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The next session of the Supreme Court of Canada commences on October 2, 2000.  
La prochaine session de la Cour suprême du Canada débute le 2 octobre 2000.

**The next bulletin of proceedings will be published September 29, 2000.**  
**Le prochain bulletin des procédures sera publié le 29 septembre 2000.**

## DEADLINES: MOTIONS

## DÉLAIS: REQUÊTES

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### BEFORE THE COURT:

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

**Motion day : 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

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## DEADLINES: APPEALS

## DÉLAIS: APPELS

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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.

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SUPREME COURT OF CANADA SCHEDULE  
CALENDRIER DE LA COUR SUPREME

- 2000 -

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

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

- 2001 -

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

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

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

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

MAY - MAI						
S D	M L	T M	W M	T J	F V	S S
		1	2	3	R 4	R 5
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 D	M L	T M	W M	T J	F V	S S
					1	2
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