

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

George Ghanotakis
George Ghanotakis

c. (28684)

Imprimerie regionale ARL Ltée, et al. (Qué.)
Claude St. Laurent
Lacoste, St. Laurent

DATE DE PRODUCTION 4.9.2001

**District of Parry Sound Social Services
Administration Board**
William Horton
Blake, Cassels & Graydon

v. (28819)

**Ontario Public Service Employees Union, Local
324, et al. (Ont.)**
Peggy E. Smith
Eliot, Smith

FILING DATE 18.9.2001

Aline Goyette
Aline Goyette

c. (28794)

Gisèle Léveillé, et al. (Qué.)
Gilles Brazeau
Brazeau, Grégoire, Cliche

DATE DE PRODUCTION 25.9.2001

**Donna Nicole Lacroix, a minor suing by her
litigation guardian, Janice Elaine Lacroix, et al.**
David G. Hill
Hill Abra Dewar

v. (28796)

Francis Stephen Dominique (Man.)
Helga D. Van Iderstine
Aikins, MacAuley & Thorvaldson

FILING DATE 25.9.2001

Gore Mutual Insurance Company

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

Eric A. Dolden
Dolden Wallace Folick

v. (28821)

Jim Christopher Churchland, et al. (B.C.)
Michael Armstrong
Armstrong & Company

FILING DATE 25.9.2001

Elliot C. Wightman, et al.
Serge Gauget
Heenan Blaikie

v. (28773)

Wolfgang Stolzenberg, et al. (Qué.)
Wolfgang Stolzenberg

DATE DE PRODUCTION 27.9.2001

Brenda Yvonne Muliner
Kenneth B. Oliver
Bayshore Law Group

v. (28798)

Glen Kenneth Bindley (B.C.)
Rose-Mary Liu Basham, Q.C.
Basham Thompson & Liu

FILING DATE 6.9.2001

Patricia Anne Spears-Haugen
Patricia Anne Spears-Haugen

v. (28822)

Randolph Bertram Haugen, et al. (Ont.)
Jeffrey Richey

FILING DATE 27.9.2001

John Correia, et al.
Theodore H. Kantor

v. (28820)

William Roland Danyluk (Alta.)

Eric F. Macklin, Q.C.
Duncan & Craig

FILING DATE 17.9.2001

David Monias, et al.

Cy Fien
Fillmore Riley

v. (28830)

Her Majesty the Queen (F.C.)

Gérald L. Chartier
A.G. of Canada

FILING DATE 26.9.2001

Lawrence Morrisroe

Bruce McDonald, Q.C.
Bennett Jones

v. (28833)

Ernest F. Stevens, et al. (Alta.)

Alan D. Hunter, Q.C.
Gowling Lafleur Henderson

FILING DATE 26.9.2001

Giant Grosmont Petroleums Ltd., et al.

James W. Rose, Q.C.
Fraser Milner Casgrain

v. (28827)

The Alberta Energy and Utilities Board (Alta.)

J. Michael Bruni
Alberta Energy and Utilities Board

FILING DATE 27.9.2001

Duncan & Craig, et al.

Phyllis A. Smith, Q.C.
Emery Jamieson

v. (28828)

West Edmonton Mall Property Inc., et al.(Alta.)

Dan Gallagher

Bennett Jones

FILING DATE 27.9.2001

Geoffrey Saldanha, et al.

J. Brian Casey
Baker & McKenzie

v. (28829)

Frederick H. Beals, III, et al. (Ont.)

Messod Boussidan
Levine, Sherkin, Boussidan

FILING DATE 27.9.2001

and between

Dominic Trivy

Neal H. Roth

v. (28829)

Frederick H. Beals, III, et al. (Ont.)

Messod Boussidan
Levine, Sherkin, Boussidan

FILING DATE 28.9.2001

The Crown in Right of Alberta, et al.

Hugh J.D. McPhail, Q.C.
McLennan Ross

v. (28834)

Audrey Allen, et al. (Alta.)

Brent Gawne
Gawne & Associates

FILING DATE 27.9.2001

Société du Grand Théâtre de Québec

Richard Laflamme
Huot Laflamme

c. (28825)

Communauté urbaine de Québec, et al. (Qué.)

Richard Grondin
Alain, Tardif & Associés

DATE DE PRODUCTION 28.9.2001

Canadian Cable Television Association

Thomas G. Heintzman, Q.C.
McCarthy Tétrault

v. (28826)

Barrie Public Utilities, et al. (F.C.)

Alan Mark
Goodmans

FILING DATE 28.9.2001

Siemens Westinghouse Inc.

Ronald D. Lunau
Gowling Lafleur Henderson

v. (28831)

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

Michael F. Ciavaglia
A.G. of Canada

FILING DATE 28.9.2001

La Compagnie Pétrolière Impériale Limitée

Pierre Legault
Desjardins Ducharme Stein Monast

c. (28835)

La procureure générale du Québec pour et au nom du ministre de l'Environnement, Monsieur Paul Bégin (Qué.)

Claude Bouchard
P.G. du Québec

DATE DE PRODUCTION 28.9.2001

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

BMW Canada Inc., et al.

François Shanks
Marchand Magnan Melançon Forget

c. (28832)

Automobiles Jalbert Inc. (Qué.)

Pierre Delisle
Pothier Delisle

DATE DE PRODUCTION 1.10.2001

Tri Gro Enterprises Ltd., et al.

John Nelligan, Q.C.
Nelligan O'Brien Payne

v. (28789)

Craig Pyke, et al. (Ont.)

Donald R. Good

FILING DATE 2.10.2001

Christian Savard

Christian Savard

c. (28824)

Banque nationale du Canada (Qué.)

Jacques Demers
Jolicoeur, Lacasse

DATE DE PRODUCTION 2.10.2001

Michael Ken Budai

Ian Donaldson, Q.C.
Donaldson Jetté

v. (28742)

Her Majesty the Queen (B.C.)

W.S. Berardino, Q.C.
Berardino & Harris

FILING DATE 3.10.2001

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

OCTOBER 9, 2001 / LE 9 OCTOBRE 2001

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

Joseph P. Melanson

v. (28696)

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

NATURE OF THE CASE

Criminal Law - Procedural Law - Trial - Sentencing - Applicant charged with attempted murder and aggravated sexual assault - Jury unable to reach unanimous verdict on counts as charged but return guilty verdict of aggravated assault - Mistrial declared on counts as charged and verdict of guilty of aggravated assault entered - Second trial commences on both counts as originally charged but aggravated sexual assault charge dismissed as *autrefois convict* - Second jury finds applicant guilty of attempted murder - Dangerous offender application dismissed in attempted murder proceedings but new hearing ordered on appeal - Double jeopardy - Jury proceedings - Dangerous offender proceedings - Whether Court of Appeal erred in finding that a verdict by a jury is not a conviction or a final disposition or that a matter is not *res judicata* when the underlying issue is adjudicated or that applicant was not tried and convicted twice for the same act over the same legal issue or failed to address whether assault can be a lesser-included charge of attempted murder - Whether Court of Appeal erred in failing to address that the first trial judge did not respond satisfactorily to a jury question on the meaning of intent or in not finding that a jury instruction on intent may have been misleading or that the second trial judge likely created the dilemma cautioned against in *Houghton v. R.* 93 CCC (3d) 99 - Whether Court of Appeal for Ontario erred by deeming thoughts to be actual behavior, allowing double sentencing or by not addressing whether the assault rose to the level of an aggravated assault.

PROCEDURAL HISTORY

April 1, 1998 Ontario Court (General Division) (Roberts J.)	Conviction: aggravated assault
June 22, 1998 Ontario Court (General Division) (McLean J.)	Conviction: attempted murder
September 23, 1999 Ontario Court (General Division) (McLean J.)	Dangerous offender application dismissed; Sentence for attempted murder - incarceration for two years less one day, no credit for time served
September 28, 1999 Ontario Court (General Division) (Roberts J.)	Stay of aggravated assault proceedings
March 14, 2001 Court of Appeal for Ontario	(McMurtry C.J., Carthy and Laskin JJ.A.)

Applicant's appeals from convictions dismissed; Crown's appeals from sentence and aggravated assault proceedings dismissed; Crown's appeal seeking new dangerous offender hearing allowed

June 29, 2001
Court of Appeal for Ontario
(Moldaver J.A.)

Order staying March 14, 2001 order, with conditions

July 26, 2001
Supreme Court of Canada

Application for leave to appeal and extension of time filed

Abdel Moneim Mousa and Barbara Aweryn

v. (28746)

City of Coquitlam (B.C.)

NATURE OF THE CASE

Municipal law - Zoning by-law - Building constructed as a five-plex in area zoned for single family dwellings - Respondent owners enjoined to bring the building into compliance with the by-law - Whether municipality's entitlement to statutory injunction is absolute or subject to limitations - Whether prosecution under the by-law was selective - Whether duty of fairness owed to the Applicants was violated

PROCEDURAL HISTORY

May 24, 2000
Supreme Court of British Columbia
(Morrison J.)

Respondent's application for a declaration that the Applicants were in breach of zoning by-law granted: Applicants ordered to bring building into compliance with by-law

May 16, 2001
Court of Appeal of British Columbia
(Donald, Low and Levine JJ.A.)

Appeal dismissed.

August 15, 2001
Supreme Court of Canada

Application for leave to appeal filed

Albert Carbone, Cathy Horvath and Kit Kat Bar & Grill, Restaurants and Clubs Inc.

v. (28662)

Relco Inc., Ernest Luwish and City of Toronto (Ont.)

NATURE OF THE CASE

Procedural law - Appeal - Contempt of court - Variation of consent judgment - What is the extent to which a court can amend or vary consent judgments, absent either a further consent of the parties or specific statutory authority - When can a court rectify a consent judgment, where rectification is not sought by the parties, no record respecting rectification is before the court, and the judge in first instance did not purport to rectify the consent judgment.

PROCEDURAL HISTORY

September 16, 1999 Superior Court of Justice (Wilson J.)	Consent judgment giving effect to Minutes of Settlement resulting from Respondent Relco Inc.'s action against Applicants
November 30, 2000 Superior Court of Justice (Rivard J.)	Respondent Relco Inc.'s motion to find Applicants Albert Carbone and Cathy Horvath and Respondent City in contempt of consent judgment dismissed; Motion to vary consent judgment granted; Applicants' cross-motion to set aside judgment dismissed
April 20, 2001 Court of Appeal for Ontario (Finlayson, Carthy and Weiler JJ.A.)	Appeal dismissed
June 18, 2001 Supreme Court of Canada	Application for leave to appeal filed

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

Pavage Rolland Fortier Inc.

c. (28582)

Caisse Populaire Desjardins de la Plaine

- et -

Le Forum de Lanaudière Inc., Forum de La Plaine Inc. et Bunny Lankowitch (Qué.)

NATURE DE LA CAUSE

Code civil - Enrichissement injustifié - Droits hypothécaires - Prise en paiement - Interprétation - Articles 1493 à 1496 et 2783 du *Code civil du Québec* - La Cour d'appel a-t-elle erré en considérant qu'une norme juridique pouvait constituer une justification à l'enrichissement aux dépens d'autrui, alors que cette norme n'est pas comprise dans les cas de justification prévus à l'article 1494 C.c.Q.? - La Cour d'appel a-t-elle erré en considérant que la norme juridique contenue dans l'article 2783 C.c.Q. pouvait constituer une justification à l'enrichissement dont profite un créancier hypothécaire qui prend en paiement un immeuble amélioré par un tiers appauvri au sens des articles 1493 à 1496 C.c.Q.?

HISTORIQUE PROCÉDURAL

Le 5 mars 1998 Cour supérieure du Québec (Trudel j.c.s.)	Requête en irrecevabilité accueillie; action rejetée
Le 12 mars 2001 Cour d'appel du Québec (Rothman, Proulx et Pidgeon jj.c.a.)	Appel rejeté

Le 11 mai 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Sadasivarao Byrapaneni

v. (28520)

Curtis Raymond and Krista Bennett (N.B.)

NATURE OF THE CASE

Commercial law - Contract - Lease of residential unit - Apartment abandoned part way through lease - Leaseholders finding another couple for apartment - Landlord renting another vacant apartment to other couple - Landlord seeking rent for balance of term of lease - Whether a lease is a contract or an estate in land - Whether "lost sale" principle applicable - Obligation of a landlord to mitigate loss.

PROCEDURAL HISTORY

December 20, 1999
Court of Queen's Bench of New Brunswick (Small
Claims Court)
(Garnett J.)

Damages of \$3000 awarded to the Applicant;
Respondents jointly liable

February 1, 2001
Court of Appeal of New Brunswick
(Turnbull, Deschênes and Robertson JJ.A.)

Appeal allowed; judgment set aside; judgment entered
dismissing the Applicant's small claim action

April 2, 2001
Supreme Court of Canada

Application for leave to appeal filed

Insurance Corporation of British Columbia

v. (28745)

Unifund Assurance Company of Canada (Ont.)

NATURE OF THE CASE

Commercial law - Insurance - Conflict of laws - Accident occurring in British Columbia and plaintiffs residing in Ontario - Plaintiffs paid no-fault insurance by own insurer - Action for damages in British Columbia finding liability against parties insured by Applicant - Insurance companies bringing actions in both provinces - Plaintiffs' province requiring arbitration procedure - Application by out-of-province insurer for stay of arbitration proceeding granted - Whether the Ontario regulatory scheme applies to out-of-province insurers in respect of an out-of-province accident -- Whether an arbitrator appointed under that scheme therefore has jurisdiction to proceed -- Whether the appropriate forum for resolution of a dispute can be determined without taking into account constitutional imperatives -- What principles should be applied to resolve the prospect of potentially inconsistent decisions in parallel proceedings -- Whether the Ontario legislative scheme ousts the inherent jurisdiction of the provincial superior courts to grant a stay of arbitration proceedings.

PROCEDURAL HISTORY

August 29, 2000

Superior Court of Justice

(Campbell J.)

Applicant's motion for a stay of Respondent's application seeking appointment of an arbitrator, granted

May 22, 2001
Court of Appeal for Ontario
(Carthy, Feldman and Simmons JJ.A.)

Appeal allowed: matter referred back to application judge in order to appoint an arbitrator under s. 10 of the *Arbitration Act*

August 20, 2001
Supreme Court of Canada

Application for leave to appeal filed

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

Brian Thomas Pratt

v. (28732)

The Board of Governors of the University of Lethbridge (Alta.)

NATURE OF THE CASE

Labour law - Labour relations - Collective agreement - University professor denied tenure - University attempting to hold tenure rehearing - Rehearing process not provided for in collective agreement - Whether essential character of dispute arises from interpretation, application, administration or violation of collective agreement so as to oust jurisdiction of courts - Whether conduct of University calls into question integrity of labour relations system warranting judicial intervention.

PROCEDURAL HISTORY

May 23, 2000
Court of Queen's Bench of Alberta
(Rowbotham J.)

Respondent's application to strike Applicant's statement of claim granted

May 15, 2001
Court of Appeal of Alberta
(Fraser C.J.A. [dissenting], Hunt and Paperny JJ.A.)

Appeal dismissed

August 14, 2001
Supreme Court of Canada

Application for leave to appeal filed

October 2, 2001
Supreme Court of Canada

Motion to expedite application for leave to appeal filed

Alexander Centre Industries Limited

v. (28680)

Kenneth McNamara (Ont.)

NATURE OF THE CASE

Labour law - Master and servant - Wrongful dismissal - Damages - Double recovery - Whether disability payments received by former employee during notice period should be deducted from damages award for wrongful dismissal

PROCEDURAL HISTORY

May 24, 2000 Ontario Superior Court of Justice (Hennessy J.)	Respondent awarded 281,066.08 plus interest in damages for wrongful dismissal
April 30, 2001 Court of Appeal for Ontario (McMurtry C.J.O., Borins and MacPherson JJ.A.)	Applicant's appeal against quantum of damages dismissed
June 29, 2001 Supreme Court of Canada	Application for leave to appeal filed

Cornell Engineering Company Limited

v. (28665)

978011 Ontario Ltd. (Ont.)

NATURE OF THE CASE

Commercial law - Contracts - Person experienced in business signing 11-page contract after reading only the first page - Respondent seeking to rely on termination clause - Whether parties to a contract are to be held to their bargain, or whether, in appropriate circumstances, a court of equity may intervene to relieve against an unjust or unconscionable bargain - What circumstances suffice to permit a court of equity to grant rectification for a unilateral mistake? - What is the appropriate standard of review to be used by an appellate court with respect to an exercise of equitable discretion by a trial judge?

PROCEDURAL HISTORY

October 19, 1998 Ontario Court of Justice (Cullity J.)	Respondent's action to enforce termination clause dismissed, termination clause struck out; Applicant's counterclaim dismissed
April 20, 2001 Court of Appeal for Ontario (Weiler, Rosenberg and MacPherson JJ.A.)	Appeal allowed; judgment granted in accordance with the termination clause in the Services Agreement
June 19, 2001 Supreme Court of Canada	Application for leave to appeal filed

MOTIONS FOR RECONSIDERATION / DEMANDES DE RÉEXAMEN

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

Les juges L'Heureux-Dubé, Gonthier et Bastarache

Pierre Benge, et al. c. Hôpital Général de Toronto, et al. (Ont.)(27010)

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

Eric Scheuneman v. Attorney General of Canada (Natural Resources Canada) (F.C.)(28344)

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

OCTOBER 11, 2001 / LE 11 OCTOBRE 2001

28633 **Lilydale Co-Operative Limited - v. - FFM Holdings Ltd. and Sylvester Mertz** (Alta.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondents FFM Holdings Ltd. and Sylvester Mertz.

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimés FFM Holdings Ltd. et Sylvester Mertz.

NATURE OF THE CASE

Commercial law - Company law - Co-operatives - Right of withdrawing members to redeem equity from co-operative - Whether co-operative's by-laws violate s. 39(2)(c) of the *Co-operative Associations Act*, R.S.A. 1980, c. C-24.

PROCEDURAL HISTORY

July 30, 1998 Court of Queen's Bench of Alberta (Sullivan J.)	Respondents' action dismissed
April 4, 2001 Court of Appeal of Alberta (Côté, Conrad and Wittmann JJ.A.)	Appeal allowed
June 4, 2001 Supreme Court of Canada	Application for leave to appeal filed

28.9.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the response of the respondents the Attorney General of British Columbia and the Director of Vital Statistics

Requête en prorogation du délai de signification et de dépôt de la réponse des intimés le procureur général de la Colombie-britannique et le directeur des statistiques de l'état civil

Darrell Wayne Trociuk

v. (28726)

Attorney General of British Columbia and the Director of Vital Statistics, et al. (B.C.)

GRANTED / ACCORDÉE Time extended to September 19, 2001.

1.10.2001

Before /Devant: THE REGISTRAR

Motions to extend the time in which to serve and file the respondents' responses

Requêtes en prorogation du délai de signification et de dépôt des réponses des intimés

First National Properties Ltd., et al.

v. (28705)

Robert McMinn, et al. (B.C.)

GRANTED / ACCORDÉE Time to serve and file the response of the respondent Robert McMinn extended to 30 days. Time to serve and file the response of the respondents Highlands and Bruce Woodbury, et al. extended to October 1, 2001.

2.10.2001

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 Attorney General of Quebec

Deborah Smith

v. (27844)

Attorney General of Canada (F.C.)

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

GRANTED / ACCORDÉE Délai prorogé au 19 septembre 2001.

2.10.2001

Before / Devant: LEBEL J.

Further order on motion for leave to intervene

BY/PAR: Canadian Association for Statutory
Human Rights Agencies

IN/DANS: Louise Gosselin

c. (27418)

Le Procureur général du Québec
(Qué.)

Autre ordonnance sur une requête en autorisation d'intervention

GRANTED / ACCORDÉE

À LA SUITE D'UNE DEMANDE PRÉSENTÉE RESPECTIVEMENT par l'Association canadienne des Commissions et Conseil des droits de la personne visant à obtenir l'autorisation d'intervenir dans l'appel susmentionné et suite à l'ordonnance du 5 septembre 2001;

IL EST EN OUTRE ORDONNÉ que la plaidoirie de l'intervenante soit ainsi limité à dix (10) minutes.

UPON APPLICATION by the Canadian Association for Statutory Human Rights Agencies for leave to intervene in the above appeal and pursuant to the order of September 5, 2001;

IT IS HEREBY FURTHER ORDERED THAT the said intervener is granted permission to present oral argument not exceeding 10 minutes at the hearing of the appeal.

3.10.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum of the respondents The Wellcome Foundation Ltd. and Glaxo Wellcome Inc.

Requête en prorogation du délai imparti pour signifier et déposer le mémoire des intimés The Wellcome Foundation Ltd. and Glaxo Wellcome Inc.

Novopharm Ltd., et al.

v. (28287)

The Wellcome Foundation Limited, et al. (F.C.)

GRANTED / ACCORDÉE Time extended to November 12, 2001.

3.10.2001

BEFORE / DEVANT: LEBEL J.

Miscellaneous motion

Autre requête

Christopher James Clay

v. (28189)

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

and

Victor Eugene Caine

v. (28148)

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

and

David Malmo-Levine

v. (28026)

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

GRANTED / ACCORDÉE

After a review of the motion filed by appellants and supportive documents;

a) The time to serve and file the factum of the appellant Clay is extended to October 19, 2001.

b) The appellants Clay, Caine and Malmo-Levine will be allowed to file a joint statement of legislative facts not to exceed 40 pages. In addition, they will be allowed to file individual factums not exceeding 30 pages each.

3.10.2001

Before / Devant: LEBEL J.

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

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

Philip Ofume

v. (28741)

Southwest Apartment Limited. (N.S.)

GRANTED IN PART / ACCORDÉE EN PARTIE

After reviewing the motion and supporting documents, the motion is granted in part and the delay to file and serve a motion for leave to appeal is extended to Friday, November 30, 2001.

3.10.2001

Before / Devant: LEBEL J.

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

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

Denise Nagel

v. (28780)

Cuelenaere, Kendall, Katzman & Richards, et al. (Sask.)

DISMISSED WITHOUT COSTS / REJETÉE SANS DÉPENS

The applicant has filed the application to extend the time to serve and file an application for leave to appeal, from an order of the Court of Appeal for the province of Saskatchewan and for ancillary motions. A review of the motion and the material in support confirms that the applicant has failed to establish sufficient reasons for an extension of time. The motion for an extension of time and all other ancillary motions are dismissed without costs.

4.10.2001

Before / Devant: GONTHIER J.

Further order on motions for leave to intervene

Autre ordonnance sur des requêtes en autorisation d'intervention

BY/PAR: Council of Forest Industries
Truck Loggers Association

IN/DANS: Chief Councillor Mathew Hill, also known as Tha-Iathatk, on his own behalf and on behalf of all other members of the Kitkatla Band, et al.

v. (27801)

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

DISMISSED / REJETÉES

UPON APPLICATION by the Council of Forest Industries and the Truck Loggers Association for leave to intervene in the above appeal and further to the Order of November 21, 2000 granting leave to intervene and file a factum not to exceed 20 pages in length;

AND HAVING RECEIVED and considered the written arguments of the parties and the interveners;

IT IS HEREBY ORDERED THAT:

1. The request to present oral argument by the said interveners is hereby denied.

5.10.2001

Before / Devant: THE DEPUTY REGISTRAR

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

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

Attorney General of Nova Scotia

v. (28179)

Susan Walsh, et al. (N.S.)

GRANTED / ACCORDÉE Time extended to September 28, 2001.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

3.10.2001

A.P.

v. (28352)

L.D., et al. (Que.)

(leave)

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

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

9.10.2001

BY/PAR: Procureur général du Québec

IN/DANS: **David Scott Hall**

v. (28223)

Her Majesty the Queen (Ont.)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

9.10.2001

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

Ivon Shearing

v. (27782)

Her Majesty the Queen (B.C.)(Criminal)(By Leave)

Richard C.C. Peck, Q.C., David M. Paciocco and Nikos Harris for the appellant.

Frank Addario for the intervener Criminal Lawyers' Association (Ontario).

William F. Ehrcke, Q.C. and Jennifer Duncan for the respondent.

Leslie Paine and Christine Bartlett-Hughes for the intervener the Attorney General for Ontario.

Sheilah Martin, Q.C. and Ritu Khullar for the intervener LEAF.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal law - Evidence - Similar fact evidence - Sexual offences - Cross-examination - Complainant's privacy interests - Whether the Court of Appeal erred in law in upholding the trial judge's admission of similar fact evidence - Whether the Court of Appeal erred in law in upholding the trial judge's ruling limiting the cross-examination of a complainant on the content of her personal diary.

Nature de la cause:

Droit criminel - Preuve - Preuve de faits similaires - Infractions sexuelles - Contre-interrogatoire - Droits de la plaignante à sa vie privée - La Cour d'appel a-t-elle erré en droit en confirmant la décision du juge du procès d'admettre une preuve de faits similaires? - La Cour d'appel a-t-elle erré en droit en confirmant la décision du juge du procès de restreindre le contre-interrogatoire de la plaignante relativement au contenu de son journal intime?

9.10.2001

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

Her Majesty the Queen

v. (27996)

James Handy (Ont.)(Criminal)(By Leave)

Christopher Webb for the appellant.

David E. Harris and Richard N. Stern for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal Law - Evidence - Similar Fact Evidence - Former wife's testimony regarding respondent's past sexual acts admitted into respondent's trial for sexual assault causing bodily harm - Whether potential for collusion is a serious consideration when assessing probative value - Whether potential for collusion is a matter of weight or admissibility - Whether propensity reasoning is a proper basis for admitting similar fact evidence.

Nature de la cause:

Droit criminel - Preuve - Preuve de faits similaires - Le témoignage de l'ancienne épouse relativement au comportement sexuel passé de l'intimé a été admis en preuve au procès de l'intimé pour agression sexuelle causant des lésions corporelles - La possibilité de collusion constitue-t-elle un facteur important pour l'appréciation de la valeur probante? - La possibilité de collusion constitue-t-elle une question de poids ou d'admissibilité? - Le raisonnement fondé sur la propension constitue-t-il un fondement acceptable pour l'admission d'une preuve de faits similaires?

10.10.2001

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

Kenneth Roydon Hibbert

v. (28021)

J.M. Peter Firestone and Catherine Tyhurst for the appellant.

Her Majesty the Queen (B.C.)(Criminal)(By Leave)

Kate Ker for the respondent.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal Law - Procedural Law - Jury Charges - Identification Evidence - Alibis - Whether Court of Appeal erred in finding no reversible error in trial judge's instructions with respect to issue of identification - Whether curative proviso in s. 686(1)(b)(iii) of the *Criminal Code*, R.S.C., c. C-46, should have been applied to erroneous instruction to jury that they could infer guilt from a false alibi.

Nature de la cause:

Droit criminel - Droit procédural - Directives au jury - Preuve d'identification - Alibis - La Cour d'appel a-t-elle erré en concluant que le juge de première instance n'avait pas commis d'erreur donnant lieu à cassation dans ses directives au jury concernant la preuve d'identification? - La disposition réparatrice édictée au sous-al. 686(1)(b)(iii) du *Code criminel*, L.R.C., ch. C-46, aurait-elle dû être appliquée aux directives erronées présentées au jury, selon lequel il pouvait déduire d'un faux alibi que l'accusé était coupable?

10.10.2001

CORAM: Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Ioannis Sarvanis

David R. Tensyen for the appellant.

v. (27796)

**Her Majesty the Queen in Right of Canada
(F.C.)(Civil) (By Leave)**

David Sgayias and Christopher Rupar for the
respondent.

RESERVED / EN DÉLIBÉRÉ

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 - Appellant alleges that
he was injured by the negligence of a federal
government actor - Appellant 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
Appellant from suing the Crown in tort for the injuries
he suffered.

Nature de la cause:

Lois - Interprétation - Responsabilité de l'État - Délits -
Jugement sommaire - *Loi sur la responsabilité civile de
l'État et le contentieux administratif*, L.R.C. (1985), ch.
C-50, art. 9 - L'appellant allègue avoir été blessé en
raison de la négligence d'une personne agissant au nom
de l'Administration fédérale - L'appellant reçoit des
prestations d'invalidité en vertu du *Régime de pensions
du Canada* - L'art. 9 de la *Loi sur la responsabilité
civile de l'État et le contentieux administratif* empêche-
t-il l'appellant, qui reçoit des prestations d'invalidité,
d'exercer un recours délictuel contre la Couronne pour
les blessures qu'il a subies?

11.10.2001

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

Galérie d'art Yves Laroche Inc., et al.

Marzia Frascadore et Vincent Chiara pour les appelants.

c. (27872)

Claude Théberge (Qué.)(Civile)(Autorisation)

Louis Linteau pour l'intimé.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Property law - Procedure - *Canadian Charter of Rights and Freedoms* - Civil - Copyright - Searches and seizures - Seizure before judgment - Legislation - Interpretation - Copyright infringement - Process of reproduction on canvas - Whether copyright is infringed upon within the meaning of the *Copyright Act* if there is no reproduction of a work - Whether a simple change of the backing of a work, in the instant case, in the transfer to canvas, constitutes a copyright infringement within the meaning of the *Copyright Act* - Whether the legitimate and legal use of an authorized reproduction by a third person may be restricted by Respondent - Whether any alleged copyright infringement provided for in the *Copyright Act* may give rise to a seizure under s. 38(1) of the *Copyright Act* - Whether the seizure before judgment carried out under s. 38(1) of the *Copyright Act*, along with an “Anton Piller” order, contravenes s. 8 of the *Charter* - Section 38(1) of the *Copyright Act*, R.S.C., 1985, c. C-42.

Nature de la cause:

Droit des biens - Procédure - *Charte canadienne des droits et libertés* - Civil - Droit d’auteur - Fouilles et saisies - Saisie avant jugement - Législation - Interprétation - Contrefaçon - Procédé de reproduction sur toile - Peut-il y avoir de la contrefaçon au sens de la *Loi sur le droit d’auteur* lorsqu’il n’y a aucune multiplication d’une oeuvre? - Est-ce qu’un simple changement de support d’une oeuvre, en l’occurrence le transfert sur toile, peut constituer de la contrefaçon au sens de la *Loi sur le droit d’auteur*? - Est-ce qu’un usage légitime et légal d’une reproduction autorisée par un tiers peut être restreint par le défendeur? - Est-ce que toute présumée violation d’un droit d’auteur quelconque prévue à la *Loi sur le droit d’auteur* peut donner ouverture à la saisie en vertu de l’art. 38(1) de la *Loi sur le droit d’auteur*? - La saisie avant jugement pratiquée en vertu de l’art. 38(1) de la *Loi sur le droit d’auteur*, accompagnée de l’ordonnance « Anton Piller », contrevient-elle à l’art. 8 de la *Charte*? - Article 38(1) de la *Loi sur le droit d’auteur*, L.R.C. 1985, c. C-42.

11.10.2001

CORAM: Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Autobus Thomas Inc.

Daniel Bourgeois et Virginie April pour l’appelante.

c. (27804)

Sa Majesté la Reine (C.F.)(Civile)(Autorisation)

Pierre Cossette et Marie-Andrée Legault pour l’intimée.

DISMISSED WITH COSTS /REJETÉ AVEC DÉPENS

Nature of the case:

Tax law - Commercial law - Capital of a corporation - Loan - Sale - Inventory financing- Line of credit - Instalment sales contract - “Loans and advances” - Real security - Transfer of money - Whether Appellant’s indebtedness in connection with the financing of its inventory of buses constitutes loans and advances under s. 181.2(3)(c) of the *Income Tax Act* - Whether Appellant’s indebtedness in connection with the financing of its inventory of buses constitutes indebtedness under s. 181.2(3)(d) of the *Income Tax Act*.

Nature de la cause:

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

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

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

Motion day : November 5, 2001

Service : October 12, 2001

Filing : October 19, 2001

Respondent : October 26, 2001

Motion day : December 3, 2001

Service : November 9, 2001

Filing : November 16, 2001

Respondent : November 23, 2001

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 : 5 novembre 2001

Signification : 12 octobre 2001

Dépôt : 19 octobre 2001

Intimé : 26 octobre 2001

Audience du : 3 décembre 2001

Signification : 9 novembre 2001

Dépôt : 16 novembre 2001

Intimé : 23 novembre 2001

DEADLINES: APPEALS

DÉLAIS: APPELS

The Winter Session of the Supreme Court of Canada will commence January 14, 2002.

La session d'hiver de la Cour suprême du Canada commencera le 14 janvier 2002.

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 du dépôt 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 du mémoire 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 du mémoire de l'intimé, sauf ordonnance contraire.

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.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2001 -

OCTOBER - OCTOBRE						
S	M	T	W	T	F	S
D	L	M	M	J	V	S
	M 1	2	3	4	5	6
7	H 8	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						
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DECEMBER - DECEMBRE						
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30	31					

- 2002 -

JANUARY - JANVIER						
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FEBRUARY - FÉVRIER						
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MARCH - MARS						
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APRIL - AVRIL						
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JUNE - JUIN						
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23 30	24	25	26	27	28	29

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour

79 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

2 holidays during sitting days / jours fériés durant les sessions