

**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**

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

Joseph P. Melanson
Joel Lehman

v. (28696)

Her Majesty the Queen (Ont.)
Jennifer M. Woolcombe
A.G. for Ontario

FILING DATE 26.7.2001

AUGUST 7, 2001 / LE 7 AOÛT 2001

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

Peter William Harrison

v. (28651)

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

NATURE OF THE CASE

Criminal law - Evidence - Out-of-court statements - Inculpatory and exculpatory statements - Whether the trial judge erred in instructing the jury that the Applicant's exculpatory out-of-court statement was entitled to less weight than his inculpatory out-of-court statement

PROCEDURAL HISTORY

February 11, 1998
Supreme Court of British Columbia
(Meiklem J.)

Conviction: first degree murder

April 10, 2001
Court of Appeal of British Columbia
(McEachern C.J.B.C., Hall and Levine JJ.A.)

Appeal dismissed

June 21, 2001
Supreme Court of Canada
(Binnie J.)

Motion for extension of time granted

June 29, 2001
Supreme Court of Canada

Application for leave to appeal filed

Lise Girard

c. (28590)

Denis Demers

-et-

**Josée Thibault, Daniel Paquet, Réal Ouellet, Le Procureur général du Canada et
Le Procureur général du Québec (Crim.)(Qué.)**

NATURE DE LA CAUSE

Charte canadienne - Droit criminel - Liberté de la presse - Liberté d'expression - Alinéa 2b) de la *Charte canadienne de droits et libertés* - Article 487.2 du *Code criminel*, L.R.C. 1985, ch. C-46 - Les tribunaux de juridiction inférieure ont-ils erré en jugeant que l'art. 487.2 du *Code criminel* ne constitue pas une limite raisonnable à la liberté d'expression et la liberté de la presse dont la justification peut se démontrer en vertu de l'article premier de la *Charte canadienne*? Si l'art. 487.2 du *Code criminel* ne constitue pas une limite raisonnable, les tribunaux de juridiction inférieure ont-ils erré en jugeant que l'invalidation totale de la disposition constitue une réparation appropriée?

HISTORIQUE PROCÉDURAL

Le 20 février 1998
Cour supérieure du Québec
(Lévesque j.c.s.)

Requêtes des mis en cause Thibault et Paquet accueillies; article 487.2 du *Code criminel* déclaré invalide et inopérant en vertu de l'alinéa 2b) et de l'article 52 de la *Charte canadienne des droits et libertés*

Le 5 mars 2001
Cour d'appel du Québec
(Fish, Robert et Letarte [ad hoc] jj.c.a.)

Appel rejeté

Le 3 mai 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Jane Gold and The Estate of Muriel Millham

v. (28595)

The Toronto-Dominion Bank (B.C.)

NATURE OF THE CASE

Property Law - Trusts and Trustees - Powers of Attorney - Donor grants power of attorney over bank account but bank loses document granting power of attorney - Bank requests donee of power of attorney have second document executed - Donee presents second document signed by donor but neither witnessed nor notarized - Bank employee witnesses second power of attorney in absence of donor - Donee transfers donor's funds to personal account and disburses funds - Whether first power of attorney still valid - Whether Court of Appeal erred in holding that donee was lawfully entitled to transfer donor's assets for his own benefit and use - Whether Court of Appeal erred in holding that the bank had no duty in contract or tort to make inquiries as to the scope of authority held by the donee of the second power of attorney.

PROCEDURAL HISTORY

August 12, 1998
Supreme Court of British Columbia
(Hutchinson J.)

Applicants' action in breach of contract or negligence allowed; damages of \$120, 216.52 awarded

November 30, 1998
Supreme Court of British Columbia
(Hutchinson J.)

Application to set aside or stay judgment dismissed

March 16, 2001
Court of Appeal of British Columbia

Appeal allowed; action dismissed

(McEachern C.J.B.C., Hall and Levine JJ.A.)

May 15, 2001
Supreme Court of Canada

Application for leave to appeal filed

Pierre Landry Électrique Inc., Lily Marcotte et Pierre Landry

c. (28419)

Commission de la construction du Québec (Qué.)

NATURE DE LA CAUSE

Procédure — Procédure pénale — Infractions alléguées à la *Loi sur les relations de travail, la formation professionnelle et la gestion de la main-d'oeuvre dans l'industrie de la construction*, L.R.Q., ch. R-20 — Délivrance d'un second mandat de perquisition pour saisir des documents appartenant aux demandeurs après l'annulation des premiers mandats de perquisition — Révision judiciaire de l'autorisation de délivrance du second mandat de perquisition — *Code de procédure pénale*, L.R.Q., ch. P-25.1 — La Cour d'appel a-t-elle erré en concluant qu'une lecture de la dénonciation démontrait que la délivrance du mandat de perquisition était justifiée? — La Cour d'appel a-t-elle erré en concluant que l'intimée n'avait pas à donner de préavis à l'effet qu'elle requerrait un second mandat? — La Cour d'appel a-t-elle erré en concluant que le second mandat de perquisition était un mandat successif?

HISTORIQUE PROCÉDURAL

Le 23 décembre 1999
Cour supérieure du Québec
(Grenier j.c.s.)

Requête en révision judiciaire de l'autorisation du mandat de perquisition accueillie ; mandat annulé ; restitution aux demandeurs des documents saisis ordonnée

Le 12 décembre 2000
Cour d'appel du Québec
(Forget, Pidgeon, et Rochon [*ad hoc*] jj.c.a.)

Appel accueilli ; requête en révision judiciaire rejetée

Le 9 février 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Valerie Jennifer Askoty, April Joan Askoty, Keith Chipesia, Carol Dawn Monkman, Rita Rosie Glover, Sandra Rose Glover, Wayne Herbert Glover, Julie Joan Courtoreille on her own behalf and as guardian ad litem on behalf of her infant children, Clayton Joseph Courtoreille, Janneke Ashley Courtoreille and Dakota Ray Courtoreille, Tammy Lin Courtoreille on her own behalf and as guardian ad litem on behalf of her daughter, Natika Lin Piehl, Evelynn Caroline Bilotta, Bonnie Leigh Belcourt, April Calliou, Betty Sue Irene Calliou, Brenda Lorraine Calliou, Candice Kathleen Calliou, Carl Robert Calliou, Christopher John Calliou, Constance Frances Calliou, Dwayne Calliou, Gwen Calliou, Loretta Ann Calliou, Maria Isabel Calliou, Michelle Ann Calliou, Mona Lisa Calliou, Norah Marguerite Calliou, Pamela Joan Calliou, Priscilla Calliou, Sidney Joseph Calliou, Tania Mildred Calliou, Caroline Campbell, Dezmar Campbell, Gerri Maralyn Campbell, Glenda Sharon Campbell, Lyle Edward Campbell, Frances Rose Cross, Mary Cryingman, Allison Marjorie Gauthier, Claire Dean Gauthier, Clifford Curtis Gauthier, Crystal Lillian Gauthier, Derald Patrick Gauthier, Dorothy Beatrice Gauthier, Eldon Albert Gauthier, Geraldine Ann Gauthier, Jessica Claire Gauthier, Kimberly Sandra Gauthier, Lillian Maggy Gauthier, Lynn Mavis Gauthier, Myron Frederick Gauthier, Norma Mary Gauthier, Oliver Patrick Gauthier, Rhonda Lea Gauthier, Stella Ivy Gauthier, Alfred Ernest Gladue, Charlene Gladue, Charlotte Ann Gladue, Jean

Isabel Gladue, Kevin Gladue, Norah Marguerite Gladue, Riel Francis Gladue, Shane Beau Gladue, Wendy Noreen Gladue, Beverly Ann Greenwood, Albert Hamelin, Trevor Hoffman, Bert Lawrence Horseman, Jacqueline Hunter, Brandy Elaine Lenko, Blaine Edward Letendre, Donna Mae Letendre, Earl Letendre, Kathleen Rachel Letendre, Shirley Rose Letendre, Tina Marie Letendre, Winona Darlene Letendre, Bernadine Elvira Ramstead, Laverne Shade, Corrine Sharon Shearer, Cindy Skwarchuk, Annie Elizabeth Supernault, Stella Supernault, Tamara Supernault, Lisa Marie Taylor, Nicole Lynn Taylor, Patrick Derald Taylor, Jennifer Rachel Wynn and Lana Zatelny

v. (28614)

Joseph Apsassin, Chief of the Blueberry River Indian Band and Jerry Attachie, Chief of the Doig Indian River Bank, on behalf of themselves and all other members of the Doig River Indian Band, and the Blueberry River Indian Band AND Her Majesty the Queen in right of Canada as represented by the Department of Indian Affairs and Northern Development and the Director of the Veterans Land Act (F.C.A.)

AND BETWEEN:

Bradley Wayne Courtoreille on his own behalf and as guardian ad litem on behalf of his daughter Anna Marie Kimberlee Courtoreille, Daniel George Green on his own behalf and as Guardian Ad Litem on behalf of his infant children Daniel Frances Wells-Green, Alexander Peter Wells-Green, and Katia Rose Wells-Green, Allan Blayne Green and Korey Allan Green as guardians ad litem on behalf of their child, Brett Aaron Green, Walter Francis Green, Rose Ann Lessing, her children, Brett William Green, Erika Joanne Derose and Bryan Paul Lessing, Rose Ann Lessing as guardian ad litem on behalf of her grandchildren, Trent Robert Green, Terrence Leonard Green, Amanda Louise Green and Jordan Zeffira Catherine Derose, Theresa Rosanna (Green) De La Ronde, her children, Valerie Theresa De La Ronde, Charles Lance De La Ronde, Deborah Elise De La Ronde, Sharon Lori (De La Ronde) McLeod, Kevin John De La Ronde and Eldon Henry De La Ronde, and Theresa Rosanna (Green) De La Ronde as guardian ad litem on behalf of her grandchildren, Cherina Dawn Cooke, Gavin John De La Ronde, Rochelle Elise Dinah De La Ronde, Landon Charles Avramavic, Cole Jacob Avramavic, Jeremy John McLeod, and Tyler Mason MacLeod, Thomas Cecil Green, his children, Colin Brady Green, Cheryl Lea (Green) Frank, Tracy Alison (Green) Lefferson, and Thomas Cecil Green as guardian ad litem on behalf of his grandchildren, Emily Rachel Green, Travis Dean Frank, Troy Curtis Frank and Haley Rose Lefferson, Robert John Green on behalf of his children James Walter Green and Jodi Lorraine (Green) Hingley and Robert John Green as guardian ad litem on behalf of his grandchildren, Jesse Robert Green, Skylar Lee Green, Jeremy Joseph Hingley and Paige Elaine Hingley, William Darryl Green, and on behalf of his children, Joseph Shane Green and Jacquelyn Marie Green; Bradley Charles Green, Andrea Dawn Belcourt, Barb Vickie Belcourt, Curtis Tyrel Belcourt, Reign Alice Dawn Belcourt, Shannon Margaret Kathleen Belcourt, Cecile Martha Letendre, Cristina Rae Letendre, Clark Edward Letendre, Clayton Dennis Letendre, Clifton Ashley Letendre, Clinton Wayne Letendre, Colin George Letendre, Corey Isadore Letendre, Jalenna Brianne Letendre, Jana Cecile Letendre, Janelle Katelyn Paige Letendre, Laura Annie Letendre, Mallory Lane Letendre, Mason Anthony Ronald Letendre, Sheila Lou Letendre, Sherry Ann Wanda Letendre, Vyrel Glenda Noland, Alvina Joanna Supernant

v. (28614)

Joseph Apsassin, Chief of the Blueberry River Indian Band and Jerry Attachie, Chief of the Doig Indian River Bank, on behalf of themselves and all other members of the Doig River Indian Band, and the Blueberry River Indian Band, Her Majesty the Queen in right of Canada as represented by the Department of Indian Affairs and Northern Development and the Director of the Veterans Land Act (F.C.A.)

AND BETWEEN:

Bella Kucinsky on her own behalf and on behalf of those claiming to be present descendants of the Beaver Band of Indians, Albert Achla, Cecil Achla, Coleen Ellen Achla, on her own behalf and as guardian ad litem on behalf of

her children, Shania Margaret Davis, Annette Davis, and Tamara Ellen Ann Davis, David Achla, Edward Achla, Eunice Achla, Fredrick Raymond Achla, on his own behalf and as guardian ad litem on behalf of his child, Michelle Debra Jean Achla, John Achla, Norman Wesley Achla, Allan Rufus Apsassin, Junior Clifford Jimmy Darrell Apsassin, on his own behalf as guardian ad litem on behalf of his children, Dakota Rae Apsassin and Taelor Rebecca Apsassin, Keith Stewart Apsassin, on his own behalf and as guardian ad litem on behalf of his children, Ethan Cam Apsassin and Tanner Eli Phillip Apsassin, Janice Joan Askoty, as guardian ad litem on behalf of her child, Ross Johnnie Rider Askoty, Clayton Jack Askoty, Bruce Murray Attachie, Stewart Cameron, as guardian ad litem on behalf of the infants, Ashley Victoria Maas and Taylar Alexis Mayo, Darlene Marena Chipesia, on her own behalf and as guardian ad litem on behalf of her children, Stella Chipesia, Wade Chipesia, Ashley Chipesia, Lana Chipesia and Jann Chipesia, Jerry Chipesia, Joseph James Chipesia, Judy Lynn Chipesia, Kathryn Chipesia, on her own behalf and as guardian ad litem on behalf of her child, Barrington Chipesia, Loretta Chipesia, on her own behalf and as guardian ad litem on behalf of her children, Jamie Dawn Tsakoza, Rodney Leroy Chipesia, Leon Jorge Chipesia, Tanya Shavon Chipesia and Kerry Lindy Chipesia, Patricia Chipesia, Lorna Samantha Cochran, Anne Lenore Davis, on her own behalf and as guardian ad litem on behalf of her children, Raven Dawn Davis and, Ryan Scott Lussier, Dinah Helen Davis, on her own behalf and as guardian ad litem on behalf of her children, Conrad Clayton Davis, Chance Little Feather Davis, Cole Daniel Murray Davis and Alexander Junior Christian Clifford Davis, Annie Field, Darlene Field, on her own behalf and as guardian ad litem on behalf of her children, Diane Wendy Field, Belinda Dixie Roberta Field and Dustin Bernard George Joseph Courtoreille, Frances Field as guardian ad litem on behalf of her children, Florence Field, Ralph Achla and Shane Achla, Jason Field, Marilyn Fox, on her own behalf and as guardian ad litem on behalf of her child, Ashley Jamie Fox, Raymond Fox, Rita Fox, on her own behalf and as guardian ad litem on behalf of her children, Brent Clayton James Fox and Trenton Kelsey Amos Fox, Debbie Lori Hansen, on her own behalf and as guardian ad litem on behalf of her children, Laura Michelle Hansen and Allan Lee Hansen, Lee Hunter, Edna Jean Johnson, on her own behalf and as guardian, ad litem on behalf of her children, Blain Alexander Yahey, Grant Byron Kyle Johnson and Kendall Dion Johnson, Bella Kucinsky, on her own behalf and as guardian ad litem on behalf of her children, Christopher Richard Wolter, Cynthia Wanda Wolter and, Daniel John Kucinsky, Aaron Dennis Metecheah, Alice Metecheah, on her own behalf and as guardian ad litem on behalf of her child, Amanda Lynn Metecheah, Bernard Metecheah on his own behalf and as guardian ad litem on behalf of his children, Jennifer Field, Kirby Leslie Field, William Daniel Field, and as guardian ad litem on behalf of his granddaughter, Selena Field, Charlene Amy Metecheah, Dalphus Jason Metecheah, Elvis Darin Metecheah, Jeffrey Jake Metecheah, Katie Metecheah, on her own behalf and as guardian ad litem on behalf of her children, Shantel Sally Metecheah, Travis Alex Metecheah and Jeremy Rene Metecheah, Maizie Mary Metecheah, Joyce Morin, on her own behalf and as guardian ad litem on behalf of her children, Gavin Andrew James Morin, Jonathon Kirk Achla Morin, Micheala Joy Marie Morin and Sabrina Jane Morin, Edna Mary St. Pierre, on her own behalf and as guardian ad litem on behalf of her child, Tayte Wesley St. Pierre, Karen Julie St. Pierre, Beverly Maureen Stager, on her own behalf and as guardian ad litem on behalf of her children, Teesha Marie Stager and Nicole Ann Stager, Anice Ann Wokely, Jasper Wokely, Joseph Francis Wokely, Lois Wokely, Lori Ann Wokely, on her own behalf, and as guardian ad litem on behalf of her child, Michael James Pouce Coupe, Luana Wokely, on her own behalf and as guardian ad litem on behalf of her children, Alvina Davis and Irvin Wokely, Melvin Wokely, Norma Ruby Wokely, Richard Oscar Wokely, Sherry Wokely, on her own behalf and as guardian ad litem on behalf of her child, Newitin Barnard Apsassin-Wokely, Stephanie Merle Wokely, Frederick Wolfe, Mary Wolf, Evelyn Wolter, on her own behalf and as guardian ad litem on behalf of her child, Jordyn Chelsea Pauline Wolter, Adam Carrier, Deanna Carrier, Nathan Carrier, Allen Green, The Estate of Emil Charles Green, Donna MacDonald, Lindsay MacDonald, Colleen MacTavish, Lisa MacTavish, Meagan MacTavish, Joyce Price and Don Paul

v. (28614)

Joseph Apsassin, Chief of the Blueberry River Indian Band and Jerry Attachie, Chief of the Doig Indian River Bank, on behalf of themselves and all other members of the Doig River Indian Band, and the Blueberry River Indian Band, Her Majesty the Queen in right of Canada as represented by the Department of Indian Affairs and Northern Development and the Director of the Veterans Land Act (F.C.A.)

NATURE OF THE CASE

Procedural Law - Civil Procedure - Federal Court ordered to assess damages against the Crown for breach of fiduciary duty with respect to mineral rights in Indian Reserve 172 in *Blueberry River Indian Band v. Canada (Department of Indian Affairs and Northern Development)* - Damages assessed - Entitlement to share in damages disputed - Whether present descendants of the Beaver Band of Indians who are not members of the Doig River Indian Band or the Blueberry River Indian Band are entitled to share in the damages awarded against the Crown.

PROCEDURAL HISTORY

September 23, 1999
Federal Court of Canada, Trial Division
(Hugessen J.)

Applicants excluded from class entitled to damages

March 19, 2001
Federal Court of Appeal
(Richard C.J., Létourneau and Rothstein JJ.A.)

Appeals dismissed

May 18, 2001
Supreme Court of Canada

Three applications for leave to appeal filed

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

La procureure générale du Québec

c. (28431)

Le Syndicat du personnel de l'enseignement du Nord de la Capitale

- et -

**Rodrigue Blouin
Commission scolaire de Charlesbourg
Commission scolaire des Premières Seigneuries (Qué.)**

NATURE DE LA CAUSE

Droit du travail — Conditions de travail — Grief réclamant le remboursement de réductions de salaire — Grief conventionnel ou légal? — La Cour d'appel a-t-elle erré en concluant que l'arbitre avait compétence pour disposer du grief? — L'art. 11 de la *Loi assurant la reprise des services dans les collèges et les écoles du secteur public*, L.Q. 1983, ch. 1, est-il devenu inopérant par connexité avec la *Loi concernant la rémunération dans le secteur public*, L.Q. 1982, ch. 35 et la *Loi concernant les conditions de travail dans le secteur public*, L.Q. 1982, ch. 45? — Subsidièrement, même si l'art. 11 est devenu inopérant par connexité, cet article 11 est-il redevenu opérant lorsque la *Loi concernant la rémunération dans le secteur public* et la *Loi concernant les conditions de travail dans le secteur public* ont été validées rétroactivement par la *Loi concernant l'adoption des chapitres 35 et 45 des lois de 1982 et modifiant certaines conditions de travail dans le secteur public*, L.Q. 1983, ch. 17?

HISTORIQUE PROCÉDURAL

Le 19 mai 1998
Cour supérieure du Québec
(Allard j.c.s.)

Requête en révision judiciaire accueillie ; sentence arbitrale annulée ; griefs de l'intimé rejetés

Le 19 décembre 2000
Cour d'appel du Québec
(Fish, Robert, et Letarte [*ad hoc*] jj.c.a.)

Appel accueilli ; jugement de la Cour supérieure infirmé ; requête en révision judiciaire rejetée

Le 16 février 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Richard Carrière et Yves Imbeault

c. (28510)

Ambulance Saint-Raymond Inc. (Qué.)

NATURE DE LA CAUSE

Procédure - Procédure civile - Outrage au tribunal - Jugements & ordonnances - Actes postérieurs à l'émission d'une ordonnance spéciale de comparaître à une accusation d'outrage au tribunal - Amendement - La Cour d'appel a-t-elle erré en permettant à l'intimée de rechercher une condamnation pour outrage au tribunal pour des actes ou contraventions postérieures à l'émission d'une ordonnance spéciale de comparaître? - La Cour d'appel a-t-elle erré en considérant que l'intimée avait obtenu la permission d'amender sa requête originale pour y ajouter des faits postérieurs à l'ordonnance de comparaître? La Cour d'appel a-t-elle erré en considérant que les demandeurs n'avaient subi aucun préjudice?

HISTORIQUE PROCÉDURAL

Le 20 octobre 2000
Cour supérieure du Québec
(Gosselin j.c.s.)

Objection à la preuve rejetée; Requête pour arrêt des procédures rejetée; Requête pour non-lieu accueillie en partie; Demandeurs déclarés non coupables d'outrage au tribunal pour ce qui est de l'ordonnance d'injonction du 23 août 1999; Requête pour non-lieu relative aux contraventions à l'ordonnance d'injonction du 2 septembre 1999 rejetée

Le 16 février 2001
Cour d'appel du Québec
(Rothman, Rousseau-Houle et Thibault jj.c.a.)

Appel rejeté

Le 17 avril 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Lucille Dubé

c. (28493)

Commission scolaire des Portages-de-l'Outaouais (Qué.)

NATURE DE LA CAUSE

Procédure - Procédure civile - Défaut de plaider - Requête en rejet d'appel accueillie - La Cour d'appel a-t-elle erré en jugeant que la demanderesse était en défaut de plaider?

HISTORIQUE PROCÉDURAL

Le 24 octobre 2000
Cour du Québec
(Roy j.c.q.)

Action de l'intimée accueillie; demanderesse condamnée à payer à l'intimée la somme de 6 896,17 \$ en capital et intérêts, plus les intérêts sur la somme due en capital

Le 5 février 2001
Cour d'appel du Québec
(Beauregard, Chamberland et Philippon [*ad hoc*] jj.c.a.)

Requête en rejet d'appel accueillie; appel rejeté

Le 4 avril 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Zellers Inc. - Val D'or No 467

c. (28485)

Me Jean Lalonde ès-qualité de Commissaire du travail

- et -

Métallurgistes unis d'Amérique, section locale 9019 (Qué.)

NATURE DE LA CAUSE

Droit du travail - Accréditation - Unité d'accréditation - Caractère représentatif - Les instances inférieures ont-elles donné à la notion de caractère représentatif prévue à l'article 32 du *Code du travail du Québec*, L.R.Q., ch. C-27, une interprétation extensive non conforme à l'économie du *Code*? - La décision du Commissaire du travail viole-t-elle de façon flagrante les principes de justice naturelle, notamment la règle *audi alteram partem*, et l'article 23 de la *Charte des droits et libertés de la personne* du Québec?

HISTORIQUE PROCÉDURAL

Le 18 septembre 2000
Cour supérieure du Québec
(Guertin j.c.s.)

Requête de la demanderesse en révision judiciaire d'une
décision interlocutoire rendue par l'intimé rejetée

Le 24 janvier 2001
Cour d'appel du Québec
(Brossard, Rousseau-Houle et Thibault jj.c.a.)

Appel rejeté

Le 26 mars 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

**Stéphane Boucher, Noël Carone, Mélanie Cauvier, Jean-François Desroches, Yvon Harnois, Stéphane Poulin,
John F. Urriola, Wronski Radoslav**

c. (28458)

Logistik Unicorp Inc. (Qué.)

NATURE DE LA CAUSE

Droit du travail - Législation - Interprétation - Exécution des ordonnances - Interprétation des articles 19.1 et 130 du *Code du travail*, L.R.Q., ch. C-27 - Les articles 19.1 et 130 C.t. empêchent-ils un salarié qui bénéficie d'une ordonnance de réintégration rendue par le commissaire du travail en vertu des articles 15 et 19 C.t. de présenter une requête pour outrage au tribunal lorsque l'appel logé par l'employeur est toujours pendant devant le Tribunal du travail?

HISTORIQUE PROCÉDURAL

Le 1 avril 1998
Cour supérieure du Québec
(Dalphond j.c.s.)

Requête en irrecevabilité accueillie; requête pour outrage
au tribunal rejetée

Le 22 janvier 2001
Cour d'appel du Québec
(Delisle, Chamberland et Rochon (dissident) [*ad hoc*]
jj.c.a.)

Appel rejeté

Le 16 mars 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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

Wade Macklin

v. (28690)

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

NATURE OF THE CASE

Criminal law - Procedure - Retrospectivity - Whether a decision of the Supreme Court of Canada rendered after trial but prior to commencement of the appeal should be applied to issues raised on appeal - Adequacy of trial reasons - Whether the trial judge instructed himself properly with respect to the Applicant's credibility

PROCEDURAL HISTORY

March 29, 1999
Court of Queen's Bench of Alberta
(Hart J.)

Conviction: breaking and entering; sexual assault causing
bodily harm

November 3, 2000
Court of Appeal of Alberta
(Conrad, Sulatycky and Fruman JJ.A.)

Appeal dismissed

June 26, 2001
Supreme Court of Canada

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

Estate of Mary Theresa McCunn by Her Executor P. Donald McCunn

v. (28516)

Canadian Imperial Bank of Commerce and Mutual Life Assurance Company of Canada (Ont.)

NATURE OF THE CASE

Commercial Law - Insurance - Contracts - Holder of credit line purchases life insurance to reduce or liquidate any indebtedness under the credit line upon her death - Insurance policy states coverage terminates at age 70 - Bank continues deducting insurance premiums beyond credit holder's 70th birthday and until her death - Applicant seeks payment under the policy - Respondents refuse payment and Bank refunds premiums paid since credit holder's 70th birthday - Whether continued automatic withdrawal of funds can constitute an extension of contract by conduct - Whether doctrine of waiver applies to contractual requirements as a result of acceptance of payment.

PROCEDURAL HISTORY

June 17, 1999
Superior Court of Justice
(Chadwick J.)

Declaration contract of insurance existed

February 15, 2001
Court of Appeal for Ontario

Appeal allowed

(Catzman, Borins and Feldman [dissenting] JJ.A.)

April 17, 2001
Supreme Court of Canada

Application for leave to appeal filed

Petro-Canada

v. (28608)

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

NATURE OF THE CASE

Municipal law - Zoning - Zoning bylaw distinguishing gasoline vending facilities by whether a service bay was available or not - Bylaw also requiring full service but permitting self service option - Whether zoning power includes a broad, unrestricted power to command or compel, not just to regulate or prohibit, uses where that power has not been expressly conferred by the legislature on the municipality.

PROCEDURAL HISTORY

March 17, 2000
Supreme Court of British Columbia
(Williamson J.)

Applicant's application seeking order declaring Bylaw *ultra vires* null and void *ab initio*, dismissed

March 19, 2001
Court of Appeal for British Columbia
(Prowse, Newbury and Mackenzie JJ.A)

Appeal dismissed

May 30, 2001
Supreme Court of Canada
Major J.

Order granting motion to extend time to file and/or serve leave application

June 8, 2001
Supreme Court of Canada

Application for leave to appeal filed

Pfizer Canada Inc. and Pfizer Corporation

v. (28453)

Apotex Inc. and The Minister of National Health and Welfare (F.C.A.)

AND BETWEEN:

Pfizer Canada Inc. and Pfizer Corporation

v. (28453)

Nu-Pharm Inc. and The Minister of National Health and Welfare (F.C.A.)

NATURE OF THE CASE

Property law - Patents - Notice of compliance - Whether the Federal Court of Appeal erred in determining that the Applicants' appeal from the order of Reed J. and Joyal J. was rendered moot upon the issuance of a Notice of Compliance by the Respondent Minister of National Health and Welfare to the Respondents Apotex Inc. and Nu-Pharm Inc.

PROCEDURAL HISTORY

January 30, 1998
Federal Court of Canada, Trial Division
(Reed J.)

Application seeking order prohibiting Minister from issuing Notice of Compliance to Apotex Inc., pursuant to subsection 6(1) of *Patented Medicines (Notice of Compliance) Regulations*, dismissed.

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

Application seeking order prohibiting Minister from issuing Notice of Compliance to Nu-Pharm Inc., pursuant to subsection 6(1) of *Patented Medicines (Notice of Compliance) Regulations*, dismissed.

January 10, 2001
Federal Court of Appeal
(Isaac, Létourneau and McDonald JJ.A.)

Appeals dismissed with costs.

March 12, 2001
Supreme Court of Canada

Application for leave to appeal filed.

Rony Danilo Figueroa, Maritza Judith Morales de Figueroa, Heidy Figueroa-Morales, Elsa Maritza Figueroa-Morales

v. (28629)

The Minister of Citizenship and Immigration (F.C.A.)

NATURE OF THE CASE

Administrative law - Immigration law - Judicial review - Immigration officer denying application for landing - One of applicants included in application found to be in prohibited category - Application for judicial review denied by Federal Court (Trial Division) and appeal from that decision dismissed - Whether Immigration Officer has jurisdiction, under s. 46.04(3) of the *Immigration Act*, to declare the Applicants inadmissible because one of them is described in s. 19(1)(j) of the *Act*, without referring the s. 19(1)(j) issue to a Senior Immigration Officer and the Deputy Minister, who then refer the matter to an Immigration adjudicator for determination of the issue under s. 27(3) - Whether the principles set out in *Gwala v. Canada*, [1999] 3 F.C. 404 (C.A.), and *Raman v. Canada*, [1999] 4 F.C. 140 (C.A.), did not apply.

PROCEDURAL HISTORY

February 25, 2000
Federal Court of Canada, Trial Division
(Pinard J.)

Applicant's application for judicial review of the February 24, 1999 decision of the Immigration Officer, dismissed

April 6, 2001
Federal Court of Appeal
(Desjardins, Décary and Noël JJ.A)

Appeal dismissed

June 5, 2001
Supreme Court of Canada

Application for leave to appeal filed

AUGUST 9, 2001 / LE 9 AOÛT 2001

28591 **Yannick Auclair - c. - Sa Majesté la Reine** (Qué.) (Crim.)

CORAM: Le Juge en chef et les juges Iacobucci et Bastarache

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Droit criminel - Preuve - Directives au jury - Plaidoiries - La Cour d'appel du Québec a-t-elle commis une erreur de droit en refusant d'intervenir malgré une plaidoirie du procureur de la Couronne ayant rendu le procès inéquitable - La Cour d'appel du Québec a-t-elle commis une erreur de droit en refusant d'intervenir malgré le refus du juge de première instance d'instruire le jury sur les critères applicables à l'évaluation de la crédibilité en présence de versions contradictoires alors que l'accusé avait témoigné et que la crédibilité était une question importante et déterminante.

HISTORIQUE PROCÉDURAL

Le 10 janvier 1998
Cour supérieure du Québec
(Downs j.c.s.)

Déclaration de culpabilité: par juge et jury de meurtre
au premier degré contrairement à l'article 235 du *Code
criminel*

Le 12 mars 2001
Cour d'appel du Québec
(Rothman, Proulx et Pidgeon jj.c.a.)

Appel de la déclaration de culpabilité rejeté

Le 11 mai 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

28327 **Jacques Biron - c. - Sa Majesté la Reine** (C.F.) (Civile)

CORAM: Le Juge en chef et les juges Iacobucci et Bastarache

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Charte canadienne - Droit commercial - Faillite - Failli non libéré - Capacité pour intenter un recours - Compte tenu de son statut de failli non libéré, le demandeur avait-il, en l'espèce, la capacité pour déposer une requête en rétractation de jugement? - Le paragraphe 71(2) de la *Loi sur la faillite et l'insolvabilité*, L.R.C. (1985), c. B-3, contrevient-il à la *Charte canadienne des droits et libertés*?

HISTORIQUE PROCÉDURAL

Le 27 octobre 1997 Cour canadienne de l'impôt (Lamarre-Proulx j.c.c.i.)	Requête en rétractation rejetée
Le 2 mars 1998 Cour fédérale du Canada, Section de première instance (Hugessen j.c.f.)	Action rejetée
Le 2 novembre 2000 Cour d'appel fédérale (Décary, Létourneau et Noël jj.c.a.)	Appel rejeté
Le 22 décembre 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

28476 **Alberta & N.W.T. (District of MacKenzie) Building and Construction Trades Council on behalf of its Affiliated Local Unions - v. - Ledcor Industries Ltd. , Christian Labour Association of Canada, Local No. 63 and Christian Labour Association of Canada, Local No. 65** (Alta.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondents Ledcor Industries Ltd. and Christian Labour Association of Canada, Local No. 63 and Christian Labour Association of Canada, Local No. 65.

La demande d'autorisation d'appel est rejetée avec dépens aux intimées Ledcor Industries Ltd. and Christian Labour Association of Canada, Local No. 63 and Christian Labour Association of Canada, Local No. 65.

NATURE OF THE CASE

Labour law - Labour relations - Statutes - Interpretation - Whether the Alberta Labour Relations Board made a patently unreasonable interpretation of the *Alberta Labour Relations Code*, and regulations thereunder, thereby depriving itself of jurisdiction, or alternatively, failing to assume its proper jurisdiction - Whether the Alberta Labour Relations Board did not have jurisdiction to permit collective bargaining in the Construction Industry, outside the Registration system, pursuant to the *Alberta Labour Relations Code* and Regulations thereunder, as this is a mandatory Registration scheme.

PROCEDURAL HISTORY

February 10, 1999 Court of Queen's Bench of Alberta (Hembroff J.)	Application for judicial review setting aside a decision of the Labour Relations Board dismissed
January 29, 2001 Court of Appeal of Alberta (Hunt, Wittmann, and Costigan JJ.A.)	Appeal dismissed
March 30, 2001 Supreme Court of Canada	Application for leave to appeal filed

28452 **Doug Collins - v. - Harry Abrams, British Columbia Human Rights Tribunal, Deputy Chief Commissioner of the British Columbia Human Rights Commission and Attorney General of British Columbia** (B.C.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Administrative law - Procedural law - Jurisdiction - *Charter* issue raised before tribunal - *Charter* issue to be heard following argument on merits - Authority of tribunal to determine the constitutional validity of its enabling legislation.

PROCEDURAL HISTORY

December 2, 1999
Supreme Court of British Columbia
(Quijano J.)

Applicant's challenge to constitutional validity of section 7(1)(b) of *British Columbia's Human Rights Act* and questions of institutional bias and lack of independence contrary to section 11(d) of the *Charter* remitted to British Columbia Human Rights Tribunal for hearing

January 11, 2001
Court of Appeal of British Columbia
(Rowles, Prowse and Finch JJ.A.)

Appeal dismissed

March 12, 2001
Supreme Court of Canada

Application for leave to appeal filed

28422 **Fraser Park South Estates Ltd. - v. - Lang Michener Lawrence & Shaw a partnership carrying on the practice of law and Anthony H.S. Knight** (B.C.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache 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 - Breach of fiduciary duty - Real property - Damages - Solicitor negligent in failing to make an environmental search which would have disclosed a Pollution Abatement Order and in failing to disclose their breach of standard of care and potential liability - Whether Court of Appeal erred in finding chance of loss was speculative and insufficient to support a claim for damages beyond nominal damages in contract

PROCEDURAL HISTORY

January 28, 1999

Claims in negligence and contract dismissed as no causal

Supreme Court of British Columbia
(Satanove J.)

connection existed between breach of standard of care and damages suffered; Respondents to repay fees paid by Applicant, for breach of fiduciary duty in failing to disclose their breach of care and potential liability

January 5, 2001
Court of Appeal for British Columbia
(Southin [*dissenting*], Ryan and Mackenzie JJ.A.)

Applicant's appeal dismissed; chance of loss to Applicant speculative and insufficient for damages beyond nominal damages in contract

February 13, 2001
Supreme Court of Canada

Application for leave to appeal filed

28448 **Sandra Buschau, Sharon M. Parent and Albert Poy suing on their own behalf and in a Representative capacity on behalf of all persons entitled to be beneficiaries of the Premier Communications Limited Pension Plan - v. - Rogers Communications Incorporated (formerly known as Rogers Cablesystems Incorporated) and Rogers Cable T.V. Limited and National Trust Company** (B.C.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Property law - Trusts and trustees - Pension plan - Merger of plans - Contributions holidays by employer company - Whether the Court of Appeal erred in failing to recognize a breach of trust when an employer uses trust funds to meet its obligations - Whether the Court of Appeal erred in failing to follow the precedent for contribution holidays established in *Chateaufort v. TSCO of Canada* (1995) 124 D.L.R. (4th) 308 (Que. C.A.) - Whether the Court of Appeal erred in holding that, upon the merger of the Premier Plan into the RCI Plan, the beneficiaries of the Premier trust were solely the former members of the Premier plan.

PROCEDURAL HISTORY

September 25, 1998
Supreme Court of British Columbia
(Lowry J.)

Order: Company to pay to trust fund the surplus removed plus investment return on the fund as of September 25, 1998, less the money paid into the fund

January 11, 2001
Court of Appeal of British Columbia
(Newbury, Braidwood, and Hall JJ.A.)

Appeal dismissed except for ordering that Premier trust continued to exist as separate entity despite merger.

March 9, 2001
Supreme Court of Canada

Application for leave to appeal filed

April 5, 2001
Supreme Court of Canada

Application for cross-appeal filed

March 8, 1999
Superior Court of Justice
(Mossip J.)

Order granted requiring Respondent Society to apply for and obtain supplementary letters patent authorizing its activities within 90 days. Other aspects of application dismissed

November 14, 2000
Court of Appeal for Ontario
(Weiler, Rosenberg, and MacPherson JJ.A.)

Appeal dismissed.

January 15, 2001
Supreme Court of Canada

Application for leave to appeal filed

28572 **Donna Lawrence - v. - Her Majesty the Queen** (N.S.) (Crim.)

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

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal - Procedural law - Right to counsel - Right to know full extent of legal jeopardy - Courts - Whether test for partiality applicable to cases where it is argued that trial fairness has been compromised by juror bias at the outset of the trial - Whether presiding judge has jurisdiction to declare a mistrial, on the basis of juror bias, once the jury has rendered a guilty verdict but before the judge has given sentence - Whether lost evidence pertinent and crucial - Whether breach of right to counsel at the time of arrest on the basis that the person did not know the full extent of her legal jeopardy is never of "no affect" as claimed by the Court of Appeal.

PROCEDURAL HISTORY

July 1, 1999
Supreme Court of Nova Scotia
(MacDonald J.)

Applicant convicted by jury of criminal negligence causing death, impaired driving causing death, criminal negligence causing bodily harm, and impaired driving causing bodily harm, respectively contrary to s. 220, 255(3), 221, and 255(2) of the *Criminal Code*

September 7, 1999
Supreme Court of Nova Scotia
(MacDonald J.)

Application for stay of proceedings on grounds of juror bias dismissed

February 27, 2001
Nova Scotia Court of Appeal
(Flinn, Chipman and Cromwell JJ.A.)

Appeal from conviction dismissed

April 30, 2001
Supreme Court of Canada

Application for leave to appeal filed

28499 **Patrick David Campbell Lees - v. - Her Majesty the Queen** (B.C.) (Crim.)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Defence - Provocation - Whether the Court of Appeal erred in upholding the ruling of the trial judge that a wrongful act or insult which *could* cause the ordinary person to be deprived of self-control, as opposed to a wrongful act or insult which *would* cause the ordinary person to be deprived of self control, is not sufficient to meet the threshold test for the availability of the provocation defence under s. 232 of the *Criminal Code*.

PROCEDURAL HISTORY

June 1, 1999 Supreme Court of British Columbia (Quijano J.)	Conviction: guilty of second degree murder
February 9, 2001 Court of Appeal for British Columbia (Newbury, Braidwood and Hall JJ.A.)	Appeal dismissed
April 5, 2001 Supreme Court of Canada	Application for leave to appeal filed
May 15, 2001 Supreme Court of Canada	Motion to extend time granted

28617 Attorney General of Nova Scotia, representing Her Majesty the Queen in Right of the Province of Nova Scotia - v. - Founders Square Limited (N.S.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The motion to expedite the application is allowed and the application for leave to appeal is dismissed with costs.

La requête pour activer la demande est autorisée et la demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Commercial law - Contracts - Remedies - Parol agreement - Breach of contract - Whether the Court of Appeal erred in its interpretation of and application of the doctrine of part performance in the context of the *Statute of Frauds*, and by not enforcing the four corners of the agreement clause but instead giving precedence to a pre-contractual oral agreement inconsistent with written documents executed between the parties.

PROCEDURAL HISTORY

February 28, 2000 Supreme Court of Nova Scotia, Trial Division (Moir J.)	Respondent's action for a declaration that a parol contract existed dismissed
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March 22, 2001
Nova Scotia Court of Appeal
(Freeman, Roscoe and Flinn JJ.A.)

Appeal allowed; cross-appeal dismissed

May 22, 2001
Supreme Court of Canada

Application for leave to appeal filed

June 11, 2001
Supreme Court of Canada

Motion to expedite filed

28429 **Moneta Porcupine Mines Ltd. - v. - Charles Gryba** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Labour law - Dismissal without cause - Severance - Legal notice period - Whether stock options available during legal notice period notwithstanding clause restricting options to 30 days after dismissal - Mitigation of damages - Whether mining claims staked during legal notice period to be considered but sold to new employer after legal notice period to be calculated in mitigation of damages.

PROCEDURAL HISTORY

November 17, 1998
Superior Court of Justice
(Swinton J.)

Applicant ordered to pay Respondent \$111,308 plus interest as damages for wrongful dismissal

December 20, 2000
Court of Appeal for Ontario
(Finlayson [dissenting], Weiler and Goudge JJ.A.)

Appeal dismissed

February 16, 2001
Supreme Court of Canada

Application for leave to appeal filed

28345 **Rocco Galati - v. - Her Majesty the Queen in Right of Ontario and the Attorney General for Ontario** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for an extension of time to file 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

Canadian Charter of Rights and Freedoms - Constitutional law - Procedural law - Whether the Court of Appeal erred in applying the test for striking a statement of claim as enunciated by this Court in *Nelles v. The Queen in Right of Ontario*, [1989] 2 S.C.R. 170 - Whether the Court of Appeal erred in determining that the nomination and selection process of candidates of “registered political parties” is not government or “state action” - Whether the Court of Appeal erred in determining that the Attorney General of Ontario is not a state actor by virtue of the *Elections Act R.S.O. 1990 c. E-6* and *Elections Finances Act*, R.S.O. 1990 c. E-7 - Whether the Court of Appeal erred in determining that the Applicant’s constitutional rights were not infringed by way of Legislative omission as set out by this Court in *Vriend v. Alberta*, [1998] 1 S.C.R. 493 - Whether, notwithstanding “state or government action”, can an omission by the Legislature to regulate the nomination and selection process trigger constitutional scrutiny - Whether public funding of corrupt and unconstitutional practices of “registered political parties”, if countenanced by the absence of judicial review on constitutional grounds and the lack of statutory regulation, constitute a breach of the spending powers conferred under ss. 53, 54, and 90 of the *Constitution Act 1867*, where those practices otherwise breach or interfere with the rights under ss. 3, and 7, and /or 15 of the *Charter*.

PROCEDURAL HISTORY

June 15, 1999 Superior Court of Justice (Epstein J.)	Action against the Respondents struck out; and paragraphs 1(a), (b), (c), (d) and (e) and 37 of the Statement of Claim struck out for disclosing no reasonable cause of action
November 16, 1999 Court of Appeal for Ontario (Finlayson, Moldaver, and Weiler JJ.A.)	Appeal dismissed
January 12, 2001 Supreme Court of Canada	Application for leave to appeal and application for an extension of time, filed

28428 **Sean Shanahan, Katherine Shanahan, Elaine Triggs, Donald Triggs, Nancy McFadyen, John McFadyen, Larry Clarke and City of Toronto - v. - Derek Russell and Ontario Municipal Board (Ont.) (Civil)**

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

The application for leave to appeal is dismissed with costs to the respondent Derek Russell.

La demande d’autorisation d’appel est rejetée avec dépens en faveur de l’intimé Derek Russell.

NATURE OF THE CASE

Administrative Law - Municipal Law - Whether Review Panel of the Ontario Municipal Board may substitute its opinion for that of a Hearing Panel under Section 43 of the *Ontario Municipal Board Act*, R.S.O. 1990, c. O.28 - Powers of review under Section 43.

PROCEDURAL HISTORY

August 10, 1999 Superior Court of Justice (MacFarland, Ferrier and Winkler JJ.)	Appeals against Ontario Municipal Board’s Review Panel decision allowed
December 19, 2000 Court of Appeal for Ontario	Appeal allowed; Review Panel’s decision restored

(Finlayson, Labrosse and Weiler JJ.A.)

February 16, 2001
Supreme Court of Canada

Application for leave to appeal filed

28415 **Cordell F. Becker - v. - Director of Employment Standards of Alberta and 333506 Alberta Ltd.**
(Alta.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs to the Respondent, Director of Employment Standards of Alberta.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimé, Director of Employment Standards of Alberta.

NATURE OF THE CASE

Procedural law - Civil procedure - Administrative law - Judicial review - Limitation period - Evidence - Legislation - Interpretation - *Employment Standards Code, S.A. 1996, c. E-10.3, s. 104* - Whether the Court of Appeal erred in holding that the Originating Notice was served outside of the limitation period - Whether the Court of Appeal erred in refusing to allow cross-examination on affidavits.

PROCEDURAL HISTORY

June 29, 1998
Court of Queen's Bench of Alberta
(Holmes J.)

Respondents' applications for summary judgment granted:
Applicant's application for judicial review and motion to
cross-examine on affidavits dismissed

December 20, 2000
Court of Appeal of Alberta
(Sulatycky, Wittmann JJ.A. and Hart J.)

Appeal dismissed

February 19, 2001
Supreme Court of Canada

Application for leave to appeal filed

JUDGMENTS REVISED ON JULY 27, 2001 / JUGEMENTS RÉVISÉS LE 27 JUILLET 2001

JULY 12, 2001 / LE 12 JUILLET 2001

28268 **TRANSPORT BELMIRE INC., TRANSPORT THIBODEAU INC., ET TRANSPORT AMÉRICAIN CANADIEN C.A.T. INC. - c. - LA SOCIÉTÉ QUÉBÉCOISE DE DÉVELOPPEMENT DE LA MAIN-D'OEUVRE ET LE PROCUREUR GÉNÉRAL DU QUÉBEC** (Qué.) (Civile)

CORAM: Le Juge en chef et les juges Iacobucci et Bastarache

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimée la Société québécoise de développement de la main-d'oeuvre et du mis en cause le Procureur général du Québec.

The application for leave to appeal is dismissed with costs to the respondent la Société québécoise de développement de la main-d'oeuvre and to the mis en cause The Attorney General of Quebec.

28269 **EXPRESS DU MIDI INC. - c. - LA SOCIÉTÉ QUÉBÉCOISE DE DÉVELOPPEMENT DE LA MAIN D'OEUVRE ET LE PROCUREUR GÉNÉRAL DU QUÉBEC** (Qué.) (Civile)

CORAM: Le Juge en chef et les juges Iacobucci et Bastarache

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimée la Société québécoise de développement de la main-d'oeuvre et du mis en cause le Procureur général du Québec.

The application for leave to appeal is dismissed with costs to the respondent la Société québécoise de développement de la main-d'oeuvre and to the mis en cause The Attorney General of Quebec.

28270 **TRANSPORT ROBERT (1973) LTÉE, TRANSPORT PAPINEAU INC., TRANSPORT ASBESTOS EASTERN INC., TRANSPORT GUILBAULT INC. ET GOSSELIN EXPRESS LTÉE - c. - LA SOCIÉTÉ QUÉBÉCOISE DE DÉVELOPPEMENT DE LA MAIN D'OEUVRE ET LE PROCUREUR GÉNÉRAL DU QUÉBEC** (Qué.) (Civile)

CORAM: Le Juge en chef et les juges Iacobucci et Bastarache

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimée la Société québécoise de développement de la main-d'oeuvre et du mis en cause le Procureur général du Québec.

The application for leave to appeal is dismissed with costs to the respondent la Société québécoise de développement de la main-d'oeuvre and to the mis en cause The Attorney General of Quebec.

28246 **CANADIAN BROADCASTING CORPORATION - v. - WILBERT COLIN THATCHER, THE ATTORNEY GENERAL OF SASKATCHEWAN, GREG THATCHER, REGAN THATCHER AND STEPHANIE THATCHER** (Sask.) (Civil)

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

The application to add parties is granted and the application for leave to appeal is dismissed with costs to the respondents Greg Thatcher, Regan Thatcher and Stephanie Thatcher on a party and party basis.

La demande visant à ajouter des parties est accueillie et la demande d'autorisation d'appel est rejetée avec dépens entre parties en faveur des intimés Greg Thatcher, Regan Thatcher et Stephanie Thatcher.

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

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

2.8.2001

Carol Duguid

v. (27973)

Bank of Montreal (Ont.)

(appeal)

3.8.2001

934169 Ontario Limited, et al.

v. (28409)

John Biggerstaff, et al. (Ont.)

(leave)

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

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

Motion day : October 1, 2001
Service : September 10, 2001
Filing : September 14, 2001
Respondent : September 21, 2001

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 : 1 octobre 2001
Signification : 10 septembre 2001
Dépôt : 14 septembre 2001
Intimé : 21 septembre 2001

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 Fall Session of the Supreme Court of Canada will commence October 1, 2001.

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:

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.

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.

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.

Parties' condensed book, if required, must be filed on or before the day of hearing of the appeal.

Please consult the Notice to the Profession of October 1997 for further information.

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.

La session d'automne de la Cour suprême du Canada commencera le 1^{er} octobre 2001.

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:

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.

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.

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.

Le recueil condensé des parties, le cas échéant, doivent être déposés au plus tard le jour de l'audition de l'appel.

Veuillez consulter l'avis aux avocats du mois d'octobre 1997 pour plus de renseignements.

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 D	M L	T M	W M	T J	F V	S 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						
S D	M L	T M	W M	T J	F V	S S
				1	2	3
4	M 5	6	7	8	9	10
11	H 12	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	M 3	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					

- 2002 -

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	M 14	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	M 11	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	M 11	12	13	14	15	16
17	18	19	20	21	22	23
24 31	25	26	27	28	H 29	30

APRIL - AVRIL						
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				

MAY - MAI						
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	M 13	14	15	16	17	18
19	H 20	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	M 10	11	12	13	14	15
16	17	18	19	20	21	22
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