

**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**

E.D.G.

Megan Rehill Ellis
Stowe Ellis

v. (28613)

Svein Hammer, et al. (B.C.)

Harmon C. Hayden
Watson Goepel Maledy

FILING DATE 28.5.2001

James Chamberlain, et al.

Joseph J. Arvay, Q.C.
Arvay Finlay

v. (28654)

**The Board of Trustees of School District #36
(Surrey) (B.C.)**

Kevin G. Sawatsky
Kuhn & Company

FILING DATE 12.6.2001

Janice Lynn Brimacombe et al.

Joseph J. Arvay, Q.C.
Arvay Finlay

v. (28666)

Dr. J. David Mathews (B.C.)

Christopher Hinkson, Q.C.
Harper Grey Easton

FILING DATE 20.6.2001

Her Majesty the Queen

Jamie C. Klukach
A.G. for Ontario

v. (28669)

Terry Robert Shepherd (Ont.)

Martin Kerbel, Q.C.

FILING DATE 21.6.2001

Michel Couture

Michel Couture

c. (28548)

Le Ministre du Revenu National (C.F.)

Nathalie Lessard
P.G. du Canada

DATE DE PRODUCTION 22.6.2001

Mario Guerriero, et al.

Mario Guerriero

c. (28560)

**Commission de protection du territoire agricole
du Québec (Qué.)**

Pierre H. Girard
Cardinal, Landry

DATE DE PRODUCTION 22.6.2001

Norman Jurchison

Charles W. Skipper
Fogler Rubinoff

v. (28668)

Her Majesty the Queen (F.C.)

David W. Chodikoff
A.G. of Canada

and between

Norway Insulation Inc.
Charles W. Skipper
Fogler Rubinoff

v. (28668)

Her Majesty the Queen (F.C.)
David W. Chodikoff
A.G. of Canada

FILING DATE 25.6.2001

Eric Juri Miglin
Nicole Tellier

v. (28670)

Linda Susan Miglin (Ont.)
Philip M. Epstein
Epstein, Cole

FILING DATE 25.6.2001

George Alexander Hardy
R. Douglas Vigen

v. (28672)

Her Majesty the Queen (Alta.)
Larry R.A. Ackerl
A.G. of Canada

FILING DATE 25.6.2001

André Meese
Pierre Sylvestre
Sylvestre Charbonneau Fafard

c. (28673)

La procureure générale du Canada, et al. (Qué.)
Claude Joyal
Procureur général du Canada

DATE DE PRODUCTION 25.6.2001

Sadrudin Jessani
Barbara Jackman

Jackman, Waldman & Associates

v. (28675)

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

David Tyndale
A.G. of Canada

FILING DATE 26.6.2001

Maryse Dupéré

Jean-Guy Ouellet
Ouellet, Nadon, Barabé, Cyr, de Merchant,
Bernstein, Cousineau, Heap, Palardy,
Gagnon, Tremblay

c. (28676)

La Procureure générale du Canada (C.F.)

Carole Bureau
P.g. du Canada

et entre

France Bélanger

Jean-Guy Ouellet
Ouellet, Nadon, Barabé, Cyr, de Merchant,
Bernstein, Cousineau, Heap, Palardy,
Gagnon, Tremblay

c. (28676)

La Procureure générale du Canada (C.F.)

Carole Bureau
Procureur général du Canada

DATE DE PRODUCTION 28.6.2001

Peter William Harrison

Matthew A. Nathanson
Gibbons Ritchie

v. (28651)

Her Majesty the Queen (B.C.)

John M. Gordon
A.G. of British Columbia

FILING DATE 29.6.2001

**Her Majesty the Queen in Right of the Province of
British Columbia**

Thomas H. MacLachlan
A.G. of British Columbia

v. (28616)

M.B. (B.C.)

Gail M. Dickson, Q.C.
Dickson, Murray

FILING DATE 28.5.2001

K.L.B., P.B., H.B. and V.E.R.B.

Gail M. Dickson, Q.C.
Dickson Murray

v. (28612)

**Her Majesty the Queen in Right of the Province of
British Columbia (B.C.)**

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

FILING DATE 28.5.2001

JULY 3, 2001 / LE 3 JUILLET 2001

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

Marvin Androschuk and Nora Androschuk

v. (28447)

Kenneth Bell and Trimac Transportation Services Ltd. (Alta.)

NATURE OF THE CASE

Torts - Motor vehicles - Negligence - Contributory negligence - Whether the anachronism of the doctrine of last clear chance been fully replaced by the apportionment of liability provided for in the *Contributory Negligence Act* of Alberta and in similar statutes in the other common law jurisdictions of Canada - Whether the *Motor Transport Act* (Alberta) and similar statutes and regulations in other Canadian jurisdictions meant to regulate the inherently dangerous activity of commercial trucking, expressly or implicitly place an onus on truckers to show that a failure to respect safety standards has not contributed to a motor vehicle accident.

PROCEDURAL HISTORY

December 11, 1998
Court of Queen's Bench of Alberta
(Trussler J.)

Order: Applicants' action dismissed

January 23, 2001
Court of Appeal of Alberta
(McClung, Picard, and Perras JJ.A.)

Appeal dismissed

March 8, 2001
Supreme Court of Canada

Application for leave to appeal filed

Patricia B. MacCulloch

v. (28463)

Stewart McInnes & McInnes Cooper & Robertson (N.S.)

NATURE OF THE CASE

Torts - Damages - Property law - Wills - Whether the Court of Appeal of Nova Scotia erred in dismissing the Applicant's cross-appeal on the quantum of damages awarded against the Respondents.

PROCEDURAL HISTORY

May 2, 2000 Supreme Court of Nova Scotia (MacLellan J.)	Respondents held liable to Applicant in negligence; Applicant awarded amount she paid in legal fees; parties to make written submissions on value of diminution of estate from expenses and fees of trustee
June 20, 2000 Supreme Court of Nova Scotia (MacLellan J.)	Applicant awarded further damages
January 19, 2001 Nova Scotia Court of Appeal (Freeman, Bateman and Cromwell JJ.A.)	Applicant's cross-appeal on quantum dismissed; Respondents' appeal on finding of negligence dismissed;
March 19, 2001 Supreme Court of Canada	Application for leave to appeal filed

Christian Carrier

c. (28234)

Jean Rochon, ès qualités Ministre de la Santé et des Services Sociaux et Fédération des médecins spécialistes du Québec

- et -

Procureur général du Québec (Qué.)

NATURE DE LA CAUSE

Droit du travail – Droit des professions – Médecins spécialistes – Entente relative à la rémunération des médecins spécialistes conclue entre le ministre de la Santé et la Fédération des médecins spécialistes – Entente établit un taux de rémunération moindre pour les jeunes médecins – Compétence exclusive du conseil d'arbitrage en matière d'interprétation de l'entente – L'entente est-elle illégale parce que *ultra vires*? – *Loi sur l'assurance-maladie*, L.R.Q., ch. A-29, art. 19, 21, 54 et 57 – L'entente est-elle discriminatoire à l'endroit des jeunes médecins? – *Charte canadienne des droits et libertés*, art. 7 et 15 – *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12, art. 1, 4, 10, 13, 17, 19 et 46 – Procédure civile – Tribunaux – Recours collectif – *Code de procédure civile*, L.R.Q., ch. C-25, art. 1002 et 1003 – La Cour supérieure est-elle compétente pour connaître d'une demande en recours collectif relative à l'entente?

HISTORIQUE PROCÉDURAL

Le 15 décembre 1998 Cour supérieure du Québec (Lesyk j.c.s.)	Demande en recours collectif rejetée ; requête pour exception déclinatoire accueillie
Le 14 septembre 2000 Cour d'appel du Québec (Gendreau, Otis et Pidgeon jj.c.a.)	Appel rejeté
Le 7 novembre 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

The Information Commissioner of Canada

v. (28601)

The Commissioner of the Royal Canadian Mounted Police (F.C.)

NATURE OF THE CASE

Statutes - Interpretation - *Access to Information Act*, R.S.C. 1985, c. A-1 - *Privacy Act*, R.S.C. 1985, c. P-21 - Review of a decision of the Commissioner of the Royal Canadian Mounted Police not to disclose records requested by a Canadian citizen - Whether the Court of Appeal's decision undermines the careful balance established by Parliament between the right to privacy for public officials and the right of members of the public to obtain factual information about them? - Whether the Court of Appeal adopted an overly narrow interpretation of the exception to the definition of personal information in subsection 3(j) of the *Privacy Act* based on a misapprehension of the decision in *Dagg v. Canada (Minister of Finance)* [1997] 2 S.C.R. 403? - Issue has significant impact on the right of Canadian citizens and residents to request and obtain factual information relating to the positions and functions of public officials, as set out in subsection 3(j) of the *Privacy Act*.

PROCEDURAL HISTORY

November 18, 1999
Federal Court of Canada, Trial Division
(Cullen J.)

Requested information was not required to be disclosed under 19(1) of *Information Act*. Respondent failed in exercise of discretion under 19(2) and matter of whether information should be released pursuant to 8(2)(m)(i) of the *Privacy Act* is to be considered by respondent

March 13, 2001
Federal Court of Appeal
(Décary, Létourneau and Noël JJ.A.)

Appeal dismissed

May 14, 2001
Supreme Court of Canada

Application for leave to appeal filed

EDBE Consulting Limited

v. (28441)

Union Gas Limited, Union Gas Investments Limited, Enron Oil Canada Ltd. and Mark Resources Inc. (Alta.)

NATURE OF THE CASE

Commercial law - Contract - Interpretation of Contracts - Agreement for consulting services provide for cash and overriding royalties - Termination Agreement continues certain provisions of first Agreement - Whether the question of whether a contractual obligation applies to a future event or is to be limited to the facts as existed at the date of the contract, does the doctrine of "commercial certainty" require that the contract be interpreted so as to limit its effect to the facts as they existed at the date of the contract?

PROCEDURAL HISTORY

July 5, 1999
Court of Queen's Bench of Alberta

Order: Applicant's claim against Respondent Union Gas Limited dismissed

(Romaine J.)

January 5, 2001
Court of Appeal of Alberta
(McFadyen, O'Leary and Hunt JJ.A.)

Appeals allowed; Applicant's claim against Respondents dismissed

March 2, 2001
Supreme Court of Canada

Application for leave to appeal filed

**Gunnar Kjelstrup Madsen, Bruce Chutka, Mary Ann Madsen, Stephen Funk, Larry J. Lee, Ken Grunenberg,
Rose Heinekey and Wallace T. Oppal**

v. (28439)

Her Majesty the Queen (F.C.)

NATURE OF THE CASE

Taxation - Assessment - Inadequate consideration - Non-arm's length transactions - Partnerships - Minister of National Revenue finding that purchase of certain equipment by partnership was not made at arm's length - Section 69(1)(a) of *Income Tax Act*, S.C. 1970-71-72, c. 63, consequently applying to deem purchaser to have acquired equipment at fair market value - Whether "as if" rule contained in s. 96 of Act supercedes general law of partnerships for purposes of computing income or loss of partners - Whether a partnership can ever be a "taxpayer" under the Act - How arm's length concept should be applied to a partnership, if at all, in context of computing income of partners in a partnership.

PROCEDURAL HISTORY

March 20, 1998
Tax Court of Canada
(Christie A.C.J.T.C.)

Appeals dismissed

December 22, 2000
Federal Court of Appeal
(Linden, Isaac JJ.A., Campbell J.)

Appeals dismissed with one set of costs

February 20, 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**

Her Majesty the Queen

v. (28527)

William Briggs (Crim.)(Ont.)

NATURE OF THE CASE

Criminal law - DNA sample - Stay of order - Respondent pleading guilty to charges of robbery, use of an imitation firearm in the commission of an indictable offence, and possession of property obtained by crime - Whether the Court of Appeal erred in law in finding that it had jurisdiction to stay a DNA data bank order made pursuant to s. 487.052 of the *Criminal Code* - Whether the the Court of Appeal erred in law in applying an unduly lenient test in determining whether a stay should be ordered in the circumstances of this case.

PROCEDURAL HISTORY

July 21, 2000
Ontario Court of Justice
(Foster J.)

Order: pursuant to s. 487.052 of the *Criminal Code* for the Respondent to provide a sample of his DNA

February 26, 2001
Court of Appeal for Ontario
(Doherty [*dissenting*], Goudge and Simmons JJ.A.)

Stay of the order granted

April 10, 2001
Supreme Court of Canada

Application for leave to appeal filed

Jack Marks, Chief of Police of the Municipality of Metropolitan Toronto Police Force, The Estate of James Hughes (now deceased) and Mark Hegenauer

v. (28464)

Michael Oniel (Ont.)

NATURE OF THE CASE

Torts - Police - Malicious prosecution - Negligent investigation - Constitutional tort - Damages - Court of Appeal found trial judge erred in failing to give jury clear direction that it could infer malice if police persisted with prosecution with reckless indifference to guilt or innocence of accused where no reasonable and probable grounds to continue - Court of Appeal exercised discretion pursuant to s. 134(1)(c) of the *Courts of Justice Act* by entering judgment rather than ordering a new trial - Whether the Court of Appeal erred in determining that an inference of malice could be drawn from a lack of reasonable and probable grounds - Whether the Court of Appeal erred in exercising its discretion to set aside the jury verdict and entering judgment for the Respondent

PROCEDURAL HISTORY

June 12, 1998 Ontario Court of Justice (Somers J.)	Respondent's claim for malicious prosecution dismissed
September 22, 1998 Superior Court of Justice (Somers J.)	Respondent's claim for violation of s.7, 11(d) and 6(2)(d) dismissed; action in its entirety dismissed
January 18, 2001 Court of Appeal for Ontario (Borins, MacPherson [<i>dissenting</i>] and Sharpe J.J.A.)	Appeal allowed; judgment set aside; judgment entered in favour of the Respondent
February 19, 2001 Court of Appeal for Ontario (Borins, MacPherson [<i>dissenting</i>] and Sharpe J.J.A.)	Supplementary reasons for judgment re. costs: costs of the first and second trials and appeal to the Respondent on a party and party basis
March 16, 2001 Supreme Court of Canada	Application for leave to appeal filed
April 25, 2001 Supreme Court of Canada (Lebel J.)	Motion to expedite application for leave to appeal dismissed

Janice Johnson, in her capacity as tutrix to Tyler Théroux and Gail Bubelis, in her capacity as tutrix to Christopher Cwiklinski

v. (28166)

The Lester B. Pearson School Board (Que.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Education Law – Needs of exceptional children – Students suffering from autism – *Education Act*, R.S.Q., c. I-13.3. ss. 96.14 and 213 – Alleged failure by school board to accommodate the special needs of exceptional children – Equality Rights – *Canadian Charter of Rights and Freedoms*, s. 15 – *Charter of Human Rights and Freedoms*, R.S.Q., c. C-12, ss. 10 and 12 – Whether the lower courts erred by failing to apply the test enunciated in *Eaton v. Brant County Board of Education* – Whether the lower courts erred by failing to take into account the best interest of the children.

PROCEDURAL HISTORY

July 28, 1999 Superior Court of Québec (Marcelin J.)	Applicants' motion for injunction and declaratory judgment dismissed; Respondent's cross-demand dismissed
July 3, 2000	Appeal dismissed

Québec Court of Appeal
(Gendreau, Mailhot and Denis [*ad hoc*] JJ.A.)

September 29, 2000
Supreme Court of Canada

Application for leave to appeal filed

ITV Technologies Inc.

v. (28525)

WIC Television Ltd. (F.C.)

NATURE OF THE CASE

Procedural Law - Pre-Trial Procedure - Summary Judgment - Standard for summary judgment - Sufficiency of grounds to deny summary judgment - Standard of appellate review of motion judge's reasons denying summary judgment.

PROCEDURAL HISTORY

August 10, 1999
Federal Court of Canada, Trial Division
(Teitelbaum J.)

Application for summary judgment dismissed

February 8, 2001
Federal Court of Appeal
(Noël, Evans and Sharlow JJ.A.)

Appeal dismissed

April 18, 2001
Supreme Court of Canada

Application for leave to appeal filed

Les Hélicoptères Viking Ltd. et Ngo Tho Xuan

c. (28349)

Jacques Laine (Qué.)

NATURE DE LA CAUSE

Responsabilité civile - Droit international privé - Subrogation - Droit d'action - Calcul des aléas de la vie - Partage de responsabilité - Faute contributive - Tiers à l'étranger en partie subrogé dans les droits de l'intimé - Les tribunaux inférieurs devaient-ils examiner le droit français sur la question de la naissance du droit à la subrogation de la Caisse primaire de Paris? - Dans l'affirmative, la subrogation de la Caisse primaire de Paris naît-elle lors du paiement ou lors du dépôt de la réclamation de la victime? - Si la subrogation naît au moment de la réclamation, quel montant devrait être retranché des dommages accordés à l'intimé?

HISTORIQUE PROCÉDURAL

Le 3 mai 1999 Cour supérieure du Québec (Grenier j.c.s.)	Action de l'intimé en dommages-intérêts accueillie
Le 7 novembre 2000 Cour d'appel du Québec (Rothman, Chamberland et Rochon [<i>ad hoc</i>] jj.c.a.)	Appel des demandeurs rejeté
Le 5 janvier 2001 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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

Fred Weeks

v. (28421)

Her Majesty the Queen (F.C.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Taxation - Equality rights - Deduction for disabled persons - Deductions available for institutionalised disabled persons but not for those cared in home - Whether legislation discriminatory and contrary to equality rights in s. 15(1) of the *Charter*.

PROCEDURAL HISTORY

December 15, 1998 Tax Court of Canada (Teskey J.T.C.C.)	Appeals from the assessments made under the <i>Income Tax Act</i> for the 1991 through 1994 taxation years dismissed
December 12, 2000 Federal Court of Appeal (Rothstein, McDonald, and Sharlow JJ.A.)	Appeal dismissed
February 12, 2001 Supreme Court of Canada	Application for leave to appeal filed

Carl Cardella

v. (28563)

Her Majesty the Queen (F.C.)

NATURE OF THE CASE

Taxation - Assessment - Deduction in computing income for losses sustained with respect to interests in limited partnership - Whether there was a reasonable expectation of profit.

PROCEDURAL HISTORY

March 16, 1999 Tax Court of Canada (Bonner J.T.C.C.)	Appeal from assessments for the 1989, 1990 and 1991 taxation years dismissed
February 26, 2001 Federal Court of Appeal (Stone, Evans and Malone JJ.A.)	Appeal allowed in part; Referral back for reassessment
April 26, 2001 Supreme Court of Canada	Application for leave to appeal filed

Abdelhafidh Ben-Hafsia

v. (28454)

**City of Vancouver, City of Ottawa Police Services Board, City of Hull, Communauté urbaine de Montréal
(F.C.)**

NATURE OF THE CASE

Procedural law - Scope of the extra provincial jurisdiction conferred by s.25 of the *Federal Court Act* [R.S.C. 1985, c. F-7] on the Federal Court of Canada.

PROCEDURAL HISTORY

December 19, 2000 Federal Court of Canada (Trial Division) (Dubé, J.)	Applicant's application for an order to amend Notice of Appeal or for extension of time, dismissed
January 29, 2001 Federal Court of Appeal (Stone J.A.)	Applicant's motion granted in part; Notice of Appeal amended by substituting "September 26, 2000" for "September 25, 2000"
March 2, 2001 Federal Court of Appeal	Applicant's motion seeking stay of order of Stone J.A. dismissed

(Evans J.)

March 13, 2001
Supreme Court of Canada

Application for leave to appeal

ORC Management Limited (carrying on business as the Ontario Racquet Club)

v. (28445)

Infinite Maintenance Systems Ltd. (Ont.)

NATURE OF THE CASE

Commercial law - Contracts - Penalty and liquidated damage clauses - Whether contract clause a penalty or liquidated damage clause - Damages.

PROCEDURAL HISTORY

May 12, 1999
Superior Court of Justice
(Ground J.)

Order: Applicant's action dismissed

January 17, 2001
Court of Appeal for Ontario
(Finlayson, Labrosse, and Weiler JJ.A.)

Appeal dismissed

March 7, 2001
Supreme Court of Canada

Application for leave to appeal filed

Raymond F. Pasquan

v. (28478)

Her Majesty the Queen (F.C.)

NATURE OF THE CASE

Labour law - Unemployment Insurance - Termination of employment by mutual agreement - Whether failure to consider "mutual agreement" as just cause for voluntarily leaving employment violates s. 2(d) of the *Charter* - Whether an indefinite disqualification for voluntarily leaving employment without just cause violates s. 12 of the *Charter* - Whether the reliance by the Board on hearsay evidence was a breach of the principles of natural justice.

PROCEDURAL HISTORY

January 23, 2001
Federal Court of Appeal
(Strayer, Noël and Evans JJ.A.)

Applicant's application for judicial review of Umpire's decision to dismiss appeal of Board of Referees' decision, which held Applicant had voluntarily terminated employment without just cause, dismissed

March 20, 2001
Supreme Court of Canada

Application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

JULY 5, 2001 / LE 5 JUILLET 2001

28299 **ANDRZEJ ALEKSANDROWICZ - v. - HER MAJESTY THE QUEEN** (Ont.) (Criminal)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

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

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

NATURE OF THE CASE

Criminal law - Whether Applicant's rights to have a fair trial were violated - Whether trial judge was impartial, ignored doubts, minimized lack of truthfulness of the complainant, and relied on contaminated evidence.

PROCEDURAL HISTORY

August 8, 1997
Ontario Court (Superior Court of Justice)
(Wein J.)

Conviction: break and enter with intent, assault with a weapon, sexual assault with a weapon and uttering death threats

September 25, 2000
Court of Appeal for Ontario
(Morden, Catzman, and Austin JJ.A.)

Appeal against conviction dismissed; Leave to appeal sentence granted - appeal against sentence dismissed

November 27, 2000
Supreme Court of Canada

Application for leave to appeal filed

March 30, 2001
Supreme Court of Canada

Motion to extend file filed

28597 **MARY LOUISE SCARLETT - v. - HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA** (B.C.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for extension of time is granted. The request for counsel, the application for leave to appeal and respondent's request for costs are dismissed.

La requête en prorogation de délai est accordée. La demande d'assistance d'un avocat, la demande d'autorisation de pourvoi ainsi que la demande de dépens présentée par l'intimée sont rejetées.

NATURE OF THE CASE

Procedural law - Appeal - Application to Court of Appeal for indigent status dismissed - Whether Court of Appeal erred.

PROCEDURAL HISTORY

July 13, 2000

Motion to dismiss claim granted

Supreme Court of British Columbia
(Vickers J.)

August 28, 2000
Court of Appeal of British Columbia
(Mackenzie J.A.)

Application for indigent status for purposes of appeal
dismissed

December 12, 2000
Court of Appeal of British Columbia
(Southin, Huddart and Low JJ.A.)

Application to vary order dismissed

May 11, 2001
Supreme Court of Canada

Application for leave to appeal filed

28325 **JOAN MONTEFERRANTE TARDI - v. - CAISSE POPULAIRE D'OUTREMONT** (Que.) (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

Procedural law - Civil procedure - Evidence - Whether the Court of Appeal erred in concluding that the Applicant's contestation of an expulsion order was ill-founded - Whether the Court of Appeal erred in refusing to admit new evidence - Whether the Court of Appeal's decision undermined the application of the *Quebec Charter of Human Rights and Freedoms* ch. 1.1, 10, 10.1, 3 and 23

PROCEDURAL HISTORY

April 8, 1997
Superior Court of Quebec
(Halperin J.)

Respondent's motion seeking an order of expulsion against
the Applicant and her family granted

October 23, 2000
Court of Appeal of Quebec
(Beauregard, Gendreau and Fish JJ.A.)

Appeal dismissed; motion seeking admittance of new
evidentiary elements dismissed

December 21, 2000
Supreme Court of Canada

Application for leave to appeal filed

28397 **BOURQUE, PIERRE & FILS LTÉE - v. - HER MAJESTY THE QUEEN IN RIGHT OF CANADA** (FC) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

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

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

NATURE OF THE CASE

Statutes - Interpretation - Procedural law - Whether ss. 380-382 of the *Federal Court Rules, 1998* are inoperative as conflicting with the *Canadian Bill of Rights*, unless they are interpreted as requiring an oral hearing before a case pending before the Federal Court of Canada is dismissed - Whether they are inoperative as being in conflict with the *Canadian Bill of Rights* as they permit the Federal Court of Canada to dismiss an appeal for delay without providing reasons for the dismissal, thereby allowing the possibility that the court failed to take into account all relevant considerations, including the national importance of the dispute before the court - Whether void for vagueness.

PROCEDURAL HISTORY

January 20, 1999
Federal Court of Canada, Trial Division
(MacKay J.)

Applicant's motion for order adjourning hearing of Respondent's motion for summary judgment dismissed; Respondent's motion for order granting summary judgment by dismissing Applicant's action allowed

November 9, 2000
Federal Court of Appeal
(Strayer, Linden and Isaac JJ.A.)

Appeal dismissed

January 23, 2001
Supreme Court of Canada

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

28583 **JAMES SAPARA - v. - HER MAJESTY THE QUEEN** (Alta.) (Criminal)

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 - Criminal law - Trial within a reasonable time - Whether delays caused by a co-accused's failure to properly instruct and retain counsel are neutral delays

PROCEDURAL HISTORY

April 10, 2000 Court of Queen's Bench of Alberta (Clackson J.)	Application pursuant to s.11(b) of the <i>Charter</i> for stay of proceedings granted
March 5, 2001 Court of Appeal of Alberta (Russell, Sulatycky and Costigan JJ.A.)	Appeal allowed; judicial stay set aside
May 4, 2001 Supreme Court of Canada	Application for leave to appeal filed

28401 **JOHN SUSIN - v. - RONALD G. CHAPMAN AND JOAN MARY JOHNSTON, THE EXECUTOR OF THE ESTATE OF JOHNSTON, DECEASED, AND AVRICH** (Ont.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondents Ronald G. Chapman and Joan Mary Johnston, the Executor of the Estate of Johnston, Deceased, and Avrigh.

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimés Ronald G. Chapman et Joan Mary Johnston, l'exécutrice testamentaire de feu Johnston, et Avrigh.

NATURE OF THE CASE

Procedural law - Rules of Civil Procedure - Security for costs - Court of Appeal affirmed orders granting motions to dismiss action and dismissing motion to reduce security for costs to zero - Plaintiff found not to be impecunious - Claim found to have no merit - Whether judicial discretion exercised properly in awarding security for costs and dismissing action under *Rules of Civil Procedure*.

PROCEDURAL HISTORY

August 18, 1994 Ontario Court (General Division) (Zelinski J.)	Order requiring Applicant to pay \$10,000 interim security for costs
September 9, 1994 Ontario Court (General Division) (Matlow J.)	Applicant's motion to set aside order of Zelinski J. dismissed
December 8, 1994 Ontario Court (General Division) (O'Brien J.)	Applicant's motion for leave to appeal order of Matlow J. dismissed
January 25, 1995 Ontario Court (General Division) (Hoilett J.)	Applicant's motion to set aside orders of Zelinski J., Matlow J. and O'Brien J. dismissed
June 18, 1995 Ontario Court of Appeal	(Brooke J.A.)

Applicant's motion to extend time to appeal
seven order of Ontario Court (General Division)
dismissed

June 21, 1995
Ontario Court of Appeal
(Catzman, Carthy and Laskin JJ.A.)

Applicant's appeal of Hoilett J's order
quashed

May 6, 1997
Ontario Cour (General Division)
(Dunn J.)

Order extending time for Applicant to pay
security for costs, failing which action would be
dismissed without notice

June 18, 1998
Ontario Court of Appeal
McKinlay, Rosenberg and Gouge JJ.A.)

Applicant's appeal of Dunn J's order dismissed. Held:
order was interlocutory; leave should have been sought
from the Divisional Court

December 20, 1999
Superior Court of Justice
(O'Connor J.)

Applicant's motion to reduce order for security for costs to
zero dismissed; Respondents' motion to dismiss action
granted

December 7, 2000
Court of Appeal for Ontario
(Abella, Laskin and Rosenberg JJ.A.)

Motion for leave to file fresh evidence dismissed; Appeal
dismissed, affirming order of O'Connor J.

February 2, 2001
Supreme Court of Canada

Application for leave to appeal filed

28484

**VISUAL EDUCATION CENTRE LIMITED AND ACTIVE INTERMEDIA INC. - v. - STUART
GRANT, RANDI GRANT AND STEVEN SWEIGMAN** (Ont.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondents Stuart Grant, Randi Grant and Steven Sweigman, taxed party and party pursuant to the tariff of fees contained in Schedule B.

La demande d'autorisation de pourvoi est rejetée avec dépens en faveur des intimés Stuart Grant, Randi Grant et Steven Sweigman, les dépens étant taxés entre parties conformément au tarif des honoraires établi à l'annexe B.

NATURE OF THE CASE

Commercial Law - Contracts - Interpretation - Arbitration Clauses - Whether parties have an inherent right to have disputes determined by a court of competent jurisdiction rather than by arbitration in the absence of a specific and unequivocal agreement to refer the particular dispute to arbitration - Whether courts should broadly interpret and expand the scope of arbitration clauses with the result that parties are forced to arbitrate issues which were not contemplated nor contracted to be resolved by way of arbitration - Whether Court of Appeal's decision runs contrary to the existing authority and established practice.

PROCEDURAL HISTORY

April 13, 2000
Superior Court of Justice
(Whitten J.)

Application for the appointment of an arbitrator granted

January 24, 2001
Court of Appeal for Ontario
(Morden, Moldaver and MacPherson JJ.A.)

Appeal dismissed

March 23, 2001
Supreme Court of Canada

Application for leave to appeal filed

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

22.6.2001

V.C.A.S.

v. (28671)

Her Majesty the Queen (Man.)

AS OF RIGHT

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

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.

DÉLAIS: APPELS

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
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NOVEMBER - NOVEMBRE						
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DECEMBER - DECEMBRE						
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- 2002 -

JANUARY - JANVIER						
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APRIL - AVRIL						
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MAY - MAI						
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JUNE - JUIN						
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9	M 10	11	12	13	14	15
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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