

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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The Bulletin, being a factual report of recorded proceedings, is produced in the language of record. Where a judgment has been rendered, requests for copies should be made to the Registrar, with a remittance of \$10 for each set of reasons. All remittances should be made payable to the Receiver General for Canada.

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**

Jacques Chaoulli, et autre
Philippe H. Trudel
Trudel & Johnston

c. (29272)

Procureur général du Québec (Qué.)
Robert Monette
Bernard, Roy & Associés

DATE DE PRODUCTION 21.6.2002

Les Contenants Industriels Ltée
Anne M. Moreau

c. (29275)

**La Commission des lésions professionnelles, et
autres (Qué.)**
Claude Verge
Levasseur, Verge

DATE DE PRODUCTION 27.6.2002

Marc Ouimette
Michel Bélanger
Lauzon, Bélanger

c. (29279)

Procureur général du Canada (Qué.)
René Leblanc
P.G. du Canada

DATE DE PRODUCTION 16.7.2002

Wind Power Inc., et al.
Patrick N. McDonald
MacLean Keith

v. (29280)

Saskatchewan Power Corporation (Sask.)
Gordon J. Kuski, Q.C.
McDougall Gauley

FILING DATE 23.7.2002

Florence Munroe
Susan D. Baragar

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

Jones & Associates

v. (29281)

Frydryk (Fred) Holder, et al. (Man.)
Keith J. Ferbers
Aikins MacAulay & Thorvaldson

FILING DATE 24.7.2002

**Owen Warren Gobin, an infant by his Guardian
Ad Litem, Carol Gobin and the said Carole
Gobin**

Robert D. Gibbens
Laxton & Company

v. (29282)

**Her Majesty the Queen in Right of the Province
of British Columbia (B.C.)**
Thomas H. MacLachlan, Q.C.
A.G. of British Columbia

FILING DATE 24.7.2002

Her Majesty the Queen
Arnold Schlayer
A.G. of Alberta

v. (29283)

Abraham Robert Cooper (Alta)
Charles B. Davison
Abbey Davies Greaves Hunter Davison

FILING DATE 26.7.02

JULY 29, 2002 / LE 29 JUILLET 2002

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

Magdy Rashwan

v. (29215)

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

NATURE OF THE CASE

Criminal law - Procedural law - Trial - Administrative law - Prerogative writs - Whether the lower courts erred in refusing to grant the application for *certiorari*? - Whether the lower courts erred in refusing to exercise their jurisdiction to hear a *Charter* application included in the application for *certiorari*? - Whether the trial judge exceeded his jurisdiction when he heard third party applications brought by Ontario Power Generation and Hydro One Inc.? - Whether the trial judge in this case is biased and not independent? - Whether the trial judge erred when he excused witnesses from testifying? - Whether the trial judge erred in allowing the Crown to submit during re-examination an improved version of audio tape of an alleged phone call between the accused and the complainant and in his refusal to allow the applicant to cross-examine the complainant? - Whether the trial judge erred in ordering that the applicant shall not subpoena any witnesses at the trial, before any judicial officer other than himself, and the application for such subpoenas, ought to be brought before him in open court in the presence of the crown Counsel? - Whether the trial judge erred in accepting the evidence of police officer Upson as ordered on a *voir dire* on June 28, 2001? - Whether the trial judge erred in allowing the Crown Counsel to object to the applicant's examination of prior statements made by a witness?

PROCEDURAL HISTORY

March 4, 2002 Ontario Superior Court of Justice (Dambrot J.)	Applicant's application for <i>certiorari</i> , dismissed; order : trial proceedings to continue regardless of other applications to quash
March 28, 2002 Court of Appeal for Ontario (Catzman J.A.)	Applicant's application for stay of proceedings dismissed
May 21, 2002 Court of Appeal for Ontario (O'Connor A.C.J.O., Cronk and Armstrong JJ.A.)	Appeal from Dambrot J.'s decision on <i>certiorari</i> application dismissed
May 29, 2002 Supreme Court of Canada	Application for leave to appeal filed

Joan A. Williamson

v. (29104)

Best Plumbing & Heating Supplies Ltd. (Alta.)

NATURE OF THE CASE

Torts - Occupier's Liability - Whether the principles in *Her Majesty The Queen in Right of Canada v. Saskatchewan Wheat Pool* [1983] 1 S.C.R. 205 regarding building code compliance in the context of occupiers' liability is inconsistent with other decisions issued by the Supreme Court of Canada, such as *Kamloops v. Nielsen* [1984] 2 S.C.R. 2; *Rothfield v. Manolakas* [1989] 2 S.C.R. 1259; and *Ingles v. Tutkaluk Construction Ltd.* [2000] 1 S.C.R. 298, 2000 SCC 120? - Whether the law in this area requires clarification?

PROCEDURAL HISTORY

April 28, 2000
Court of Queen's Bench of Alberta
(Wilson J.C.Q.B.A.)

Applicant's action for damages for breach of duty of care under *Occupier's Liability Act* dismissed

January 10, 2002
Court of Appeal of Alberta
(Côté, Russell and Costigan JJ.A.)

Appeal dismissed

March 7, 2002
Supreme Court of Canada

Application for leave to appeal filed

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

The Attorney General of Canada

v. (29207)

Joseph Patrick Authorson, deceased, by his Litigation Administrator, Peter Mountney (Ont.)

NATURE OF THE CASE

Constitutional law - Civil rights - *Canadian Bill of Rights* - Veterans - Pensions - Crown - Fiduciary duty - Government administering pensions and allowances for war veterans and failing to invest funds and to pay interest - Whether the parliamentary legislative process constitutes "due process" for the purposes of section 1(a) of the *Bill of Rights*? - Whether in the enactment of legislation that may affect property rights, Parliament is required to provide "a fair hearing in accordance with the principles of fundamental justice" to those potentially affected by the legislation in accordance with section 2(e) of the *Bill of Rights*?

PROCEDURAL HISTORY

October 11, 2000
Ontario Superior Court of Justice
(Brockenshire J.)

Respondent's motion for summary judgment on liability granted; Applicant's cross-motion for dismissal of the action dismissed

March 13, 2002

Appeal dismissed

Court of Appeal for Ontario
(Weiler, Austin and Goudge JJ.A.)

May 10, 2002
Supreme Court of Canada

Application for leave to appeal filed

June 5, 2002
Court of Appeal for Ontario
(Austin J.A. (dissenting), and Weiler and Goudge, JJ.A)

Costs of the appeal to the respondent to be assessed on a partial indemnity basis

June 20, 2002
Superior Court of Justice

Order to Continue issued; direction that the title of the proceeding change to Joseph Patrick Authorson, deceased, by his Litigation Administrator, Peter Mountney v. The Attorney General of Canada

July 22, 2002
Supreme Court of Canada

Motion to expedite filed

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

Eric Squires

v. (29060)

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

NATURE OF THE CASE

Criminal law - First degree murder - Post-offence conduct - Whether the Court of Appeal erred in ruling that no instruction was necessary to the effect that the Applicant's post-offence conduct was equally attributable to the offences of first degree and second degree murder.

PROCEDURAL HISTORY

February 17, 1998
Supreme Court of Newfoundland, Trial Division
(Riche J.)

Applicant convicted by judge and jury of first degree murder contrary to s. 235 of the *Criminal Code*

January 24, 2002
Supreme Court of Newfoundland and Labrador, Court of Appeal
(O'Neill [*dissenting*], Marshall and Cameron JJ.A.)

Appeal from conviction dismissed

February 13, 2002
Supreme Court of Canada

Notice of appeal as of right filed

March 14, 2002
Supreme Court of Canada

Application for leave to appeal filed

Gordon D. MacDonald

v. (28918)

Eagle Resources Ltd. (Alta.)

NATURE OF THE CASE

Commercial law - Contracts - Test for damages for breach of warranty where no tortious liability was found - Whether the Court of Appeal correctly determined the consequences flowing from a wrong where the application of contract or tort rules could provide widely divergent results - Whether the law of tortious misrepresentation has any relevance to claims for breach of contractual warranty - Whether the Respondent's actual knowledge and reliance is relevant to the assessment of damages for breach of the contractual warranty.

PROCEDURAL HISTORY

August 25, 2000
Court of Queen's Bench of Alberta
(Hawco J.C.Q.B.A.)

Respondent's action for damages for fraudulent misrepresentation and breach of warranty dismissed

October 26, 2001
Court of Appeal of Alberta
(Côté, Russell and Costigan JJ.A.)

Appeal allowed; new trial ordered to determine damages

December 6, 2001
Supreme Court of Canada
(LeBel J.)

Motion to extend time on leave application to 60 days after decision on motion for reconsideration in Court of Appeal granted

January 4, 2002
Court of Appeal of Alberta
(Côté, Russell and Costigan JJ.A.)

Applicant's motion for rehearing dismissed

March 4, 2002
Supreme Court of Canada

Application for leave to appeal filed

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

Mark Harding

v. (29096)

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

NATURE OF THE CASE

Canadian Charter - Criminal - Criminal Law - Wilful promotion of hatred - Mens rea - Defences - Whether mens rea for wilful promotion of hatred includes wilful blindness - Whether statutory defence of good faith construed narrowly and unconstitutionally - Whether good faith requirement of statutory defence protects against misuse of defence.

PROCEDURAL HISTORY

June 19, 1998
Ontario Court (Provincial Division)
(Linden C.J.)

Applicant convicted of three counts of wilful promotion of hatred; Sentenced to three concurrent conditional terms of three months followed by two years probation

January 31, 2001
Ontario Superior Court of Justice
(Dambrot J.)

Appeal from convictions dismissed; Appeal from sentences abandoned; Crown's cross-appeal from sentences dismissed

December 17, 2001
Court of Appeal for Ontario
(Weiler, Laskin and Goudge JJ.A.)

Applicant's appeal dismissed

February 15, 2002
Supreme Court of Canada

Application for leave to appeal filed

Communauté Urbaine de Montréal

c. (28854)

Investissements Canpro Ltée (Qué.)

NATURE DE LA CAUSE

Droit municipal - Évaluation - Fiscalité municipale - La Cour d'appel a-t-elle erré en reprochant au Bureau de révision de l'évaluation foncière (ci-après le «Bureau») d'avoir omis de reconnaître le principe que les locataires de grande superficie bénéficient généralement d'un escompte sur leur loyer annuel - La Cour d'appel a-t-elle erré en reprochant au Bureau d'avoir omis de considérer une décision antérieure du Bureau à l'égard du même locataire qui avait reconnu le principe de l'escompte aux grands locataires sans donner aucun motif - La Cour d'appel a-t-elle erré en reprochant au Bureau d'avoir omis de tenir compte du principe de l'escompte pour plutôt prendre pour acquises les valeurs provenant des baux d'agrandissement, allant ainsi à l'encontre de la méthodologie que le Bureau avait adoptée antérieurement et que la Cour du Québec avait confirmée - La Cour d'appel a-t-elle erré en concluant qu'une preuve abondante avait été faite sur le principe voulant que les locataires de grande superficie bénéficient d'un escompte sur leur loyer annuel?

HISTORIQUE PROCÉDURAL

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

Le 17 octobre 1995
Bureau de révision de l'évaluation foncière du Québec
(M. Bergevin, Président et R. Aird, Membre)

Plainte de l'intimée contre une évaluation de la valeur
inscrite au rôle rejetée; valeur inscrite au rôle fixée à
19 468 000 \$

Le 9 octobre 1997
Cour du Québec
(Barbe j.c.q.)

Appel accueilli en partie; valeur inscrite au rôle fixée à
17 225 400 \$

Le 4 juin 2001
Cour d'appel du Québec
(Fish, Otis et Robert jj.c.a.)

Appel rejeté

Le 24 juin 2001
Cour d'appel du Québec
(Baudouin j.c.a.)

Requête en suspension d'exécution accordée

Le 9 octobre 2001
Cour suprême du Canada

Demande d'autorisation d'appel et requête en
prorogation du délai déposée

22.7.2002

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener Urban Alliance on Race Relations

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'intervenante Alliance urbaine sur les relations interraciales

The Estate of Manish Odhavji, Deceased, et al.

v. (28425)

Detective Martin Woodhouse, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to July 18, 2002, *nunc pro tunc*.

22.7.2002

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener Mental Health Legal Committee

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'intervenante Mental Health Legal Committee

The Estate of Manish Odhavji, Deceased, et al.

v. (28425)

Detective Martin Woodhouse, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to July 19, 2002, *nunc pro tunc*.

23.7.2002

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the response of the respondent Her Majesty the Queen

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

Edmonton Journal Group Inc.

v. (29214)

Her Majesty the Queen, et al. (Alta.)

GRANTED / ACCORDÉE Time extended to August 16, 2002.

26.7.2002

Before / Devant: LEBEL J.

Further order on motion for leave to intervene**Autre ordonnance sur une requête en autorisation d'intervention**

BY/PAR: Federation of Law Societies of
Canada

IN/DANS: Law Society of New Brunswick

v. (28639)

Michael A.A. Ryan (N.B.)

GRANTED / ACCORDÉE

UPON APPLICATION by the Federation of Law Societies of Canada for leave to intervene in the above appeal and pursuant to the order of December 5, 2001;

IT IS HEREBY FURTHER ORDERED THAT the said intervener is granted permission to present oral argument not exceeding fifteen (15) minutes at the hearing of the appeal.

26.7.2002

Before / Devant: LEBEL J.

Further order on motion for leave to intervene**Autre ordonnance sur une requête en autorisation d'intervention**

BY/PAR: 292129 Alberta Ltd., et al.

IN/DANS: David Albert Siemens, et al.

v. (28416)

The Attorney General of Manitoba, et
al. (Man.)

GRANTED / ACCORDÉE

UPON APPLICATION by 292129 Alberta Ltd., operating as The Empress Hotel, 484906 Alberta Ltd., operating as Lacombe Motor Inn, Leto Steak & Seafood House Ltd., Neubro Holdings Inc., operating as Lacombe Hotel, Wayne Neufeld, 324195 Alberta Ltd., operating as K.C.'s Steak & Pizza, and Katerina Kadoglou for leave to intervene in the above appeal and pursuant to the order of December 14, 2001;

IT IS HEREBY FURTHER ORDERED THAT said interveners are granted permission to present oral argument not exceeding fifteen (15) minutes at the hearing of the appeal.

26.7.2002

Before / Devant: LEBEL J.

Further order on motion for leave to intervene

**Autre ordonnance sur une requête en autorisation
d'intervention**

BY/PAR: Procureur général du Québec

IN/DANS: Mervyn Allen Buhay

v. (28667)

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

GRANTED / ACCORDÉE

À LA SUITE D'UNE DEMANDE du Procureur général du Québec visant à obtenir l'autorisation d'intervenir dans l'appel susmentionné et suite à l'ordonnance du 20 décembre 2001;

IL EST EN OUTRE ORDONNÉ que la plaidoirie de l'intervenant soit ainsi limitée à quinze (15) minutes.

DEADLINES: APPEALS

The Fall Session of the Supreme Court of Canada will commence September 30, 2002.

The Supreme Court of Canada has enacted new rules that came into force on June 28, 2002.

Pursuant to the *Supreme Court Act and Rules*, the following requirements for filing must be complied with before an appeal can be heard:

1) For notices of appeal filed on and after June 28, 2002

Appellant's record; appellant's factum; and appellant's book(s) of authorities must be filed within 12 weeks of the filing of the notice of appeal or 12 weeks from decision on the motion to state a constitutional question.

Respondent's record (if any); respondent's factum; and respondent's book(s) of authorities must be filed within eight weeks after the service of the appellant's documents.

Intervener's factum and intervener's book(s) of authorities, (if any), must be filed within eight weeks of the order granting leave to intervene or within 20 weeks of the filing of a notice of intervention under subrule 61(4).

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

2) For notices of appeal filed before June 28, 2002

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 documents.

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.

The Registrar shall enter the appeal on a list of cases to be heard after the respondent's factum is filed or at the end of the eight-week period referred to in Rule 36.

DÉLAIS : APPELS

La session d'automne de la Cour suprême du Canada commencera le 30 septembre 2002.

La Cour suprême du Canada a adopté de nouvelles règles qui sont entrées en vigueur le 28 juin 2002.

Conformément à la *Loi sur la Cour suprême* et aux *Règles*, il faut se conformer aux exigences suivantes avant qu'un appel puisse être entendu:

1) Pour les avis d'appel déposés le ou après le 28 juin 2002

Le dossier de l'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les douze semaines du dépôt de l'avis d'appel ou douze semaines de la décision de la requête pour formulation d'une question constitutionnelle.

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 des documents de l'appelant.

Le mémoire de l'intervenant et son recueil de jurisprudence et de doctrine, le cas échéant, doivent être déposés dans les huit semaines suivant l'ordonnance autorisant l'intervention ou dans les vingt semaines suivant le dépôt de l'avis d'intervention visé au paragraphe 61(4).

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

2) Pour les avis d'appel déposés avant le 28 juin 2002

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 des documents 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.

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai de huit semaines prévu à la règle 36.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2002 -

OCTOBER - OCTOBRE						
S D	M L	T M	W M	T J	F V	S S
	M 30	1	2	3	4	5
6	7	8	9	10	11	12
13	H 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	M 4	5	6	7	8	9
10	H 11	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	M 2	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				

- 2003 -

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	M 13	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
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2	3	4	5	6	7	8
9	M 10	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
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9	M 10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30	31					

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

Sittings of the court: 18 sitting weeks / semaines séances de la cour
Séances de la cour:

Motions: 80 sitting days / journées séances de la cour
Requêtes:

Holidays: 9 motion and conference days / journées requêtes, conférences
Jours fériés:

H 1 holidays during sitting days / jours fériés durant les sessions