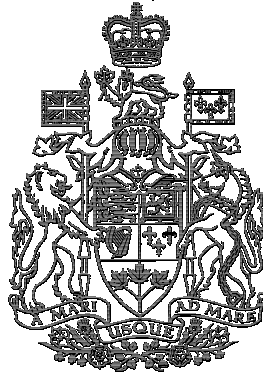


**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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August 25, 1995

1291 - 1335

le 25 août 1995

NOTICE / AVIS

BULLETIN OF PROCEEDINGS SUBSCRIPTION RATE CHANGE

Schedules A and B to the *Rules of the Supreme Court of Canada* (the tariff of fees payable to the Registrar and the fees taxable between parties) have been replaced. The new tariffs came into force on April 5, 1995, registered as SOR/95-158.

Under the new Schedule A, the cost of an individual issue of the *Bulletin of Proceedings* will be \$10 (effective April 5, 1995) and the annual subscription will be \$200 (effective January 1, 1996) (GST to be added).

**BULLETIN DES PROCÉDURES
CHANGEMENT DU PRIX D'ABONNEMENT**

Les annexes A et B des *Règles de la Cour suprême du Canada* (le tarif des honoraires payables au registraire et des honoraires taxables entre parties) ont été remplacées. Les nouveaux tarifs sont entrés en vigueur le 5 avril 1995 et sont enregistrés sous le n^o DORS/95-158.

En vertu de la nouvelle annexe A, le prix d'un exemplaire du *Bulletin des procédures* sera de 10 \$ (à compter du 5 avril 1995) et l'abonnement annuel sera de 200 \$ (à compter du 1^{er} janvier 1996) (TPS en plus).

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Min. of the A.G.

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Dolores Sheila Angela Ash

v. (24516)

Arthur Edward Ash (B.C.)

Danica Djordjevich
Du Mont, Reif & Rendina

FILING DATE 14.7.1995

Joseph De Francesca

Alan D. Gold
Gold & Fuerst

v. (24767)

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

D.D. Graham Reynolds, Q.C.
A.G. of Ontario

FILING DATE 27.7.1995

Rodney Tyler Fieldhouse

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Rosen, Fleming

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Carol A. Brewer
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FILING DATE 21.7.1995

Stephen Biscette

Rupert N. Joshi
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Her Majesty The Queen (Crim.)(Alta.)

Earl Wilson, Q.C.
Min. of the A.G.

FILING DATE 27.7.1995

Penelope Karvellas Sullivan

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**DEMANDES D'AUTORISATION
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R. Douglas Vigen

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Fernando Arduengo Naredo et al.

Lorne Waldman

v. (24820)

**The Minister of Employment and Immigration
(F.C.A.)(Ont.)**

A.G. of Canada

FILING DATE 25.7.1995

Steven M. Soucy

J. Anderson Ritchie
Ritchie, Cannell

v. (24821)

Her Majesty The Queen (N.B.)

Catherine S. McNally
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FILING DATE 25.7.1995

Leonidas Kartsonas

Leonidas Kartsonas

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FILING DATE 9.8.1995

**Ascenza Scamolla, Administratrix of the Estate
of Vincenzo Scamolla, deceased et al.**

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FILING DATE 8.8.1995

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P.G. du Québec

DATE DE PRODUCTION 8.8.1995

The Town of St. Andrews
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FILING DATE 10.8.1995

Her Majesty The Queen
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Dept. of Justice

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FILING DATE 10.8.1995

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Agent of the A.G. of Alta.

FILING DATE 11.8.1995

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Douglas W. Welder

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Pushor Mitchell Davies Montgomery &
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FILING DATE 17.8.1995

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Bruce Duncan

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Graham Reynolds, Q.C.
Dept. of Justice

FILING DATE 18.8.1995

Suzanne Poirier
Clément Monterosso

c. (24836)

Ville de Lachine et al. (Qué.)
Patrice Guay
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DATE DE PRODUCTION 18.8.1995

Her Majesty The Queen
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Dept. of Justice

v. (24837)

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FILING DATE 21.8.1995

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v. (24827)

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David Butt
A.G. of Ontario

FILING DATE 2.8.1995

JULY 24, 1995 / LE 24

JUILLET 1995

**CORAM: CHIEF JUSTICE LAMER AND GONTHIER AND IACOBUCCI JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES GONTHIER ET IACOBUCCI**

**Paintings, Drawings and Photographic slides of Paintings
seized on February 23, 1994 by virtue of a warrant issued
on February 23, 1994 pursuant to s. 164
of the *Criminal Code of Canada***

Applicant (Respondent to application for leave to cross-appeal)

v. (24791)

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

Respondent (Applicant by way of cross-appeal)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Freedom of expression under s. 2(b) of the *Charter* - Unreasonable seizure under s. 8 of the *Charter* - Remedy - Section 1 of the *Charter* - Forfeiture hearing under s. 163.1 and 164 of the *Criminal Code*, R.S.C. 1985, c. C-46 pursuant to which paintings and drawings by Eli Langer were seized - Whether provisions of the *Criminal Code* infringe the *Charter*, and if so, whether justified under s. 1 - Appropriate remedy - Reading down.

PROCEDURAL HISTORY

June 14, 1995
Ontario Court (General Division)
(McCombs J.)

Application for forfeiture to Crown of certain paintings, drawings and photographic slides dismissed; Application for declaration that ss. 163.1 and 164 are of no force and effect allowed in part

June 19, 1995
Supreme Court of Canada

Application for leave to appeal filed

June 19, 1995
Supreme Court of Canada

Application for leave to cross-appeal filed

**CORAM: LA FOREST, CORY AND MAJOR JJ. /
LES JUGES LA FOREST, CORY ET MAJOR**

**Kenneth Satosi Taguchi/ Kenneth Satosi Taguchi
as Administrator of the Estate of Patricia Christine Taguchi,
Deceased, Edgar George Sissons, Krisztina Tell-Sissons,
Charles Patrick Catt, Charles Patrick Catt as
Executor of the Estate of Grace Emiko Catt, Deceased,
Jennifer Hisae Catt, an Infant, by Her Next Friend
Charles Patrick Catt, Douglas Takahashi Catt, an Infant by
His Next Friend Charles Patrick Catt,
Tomstu Tsukishima, and Keiko Tsukishima**

v. (24756)

Mike Stuparyk (Alta.)

NATURE OF THE CASE

Torts - Damages - Assessment - Loss of future housekeeping services - Whether the majority Court erred in interfering with the award made by the trial judge to the Applicants for the future loss of housekeeping services given the weight of evidence before the Court and his trial judge's findings of fact and conclusion - Whether this Court should address the issue concerning the economic value of the loss of housekeeping services, particularly the managerial component arising from fatal accident and serious personal injury claims and provide guidelines to assist the lower Courts in assessing these services.

PROCEDURAL HISTORY

January 12, 1994
Court of Queen's Bench of Alberta (Matheson J.)

Judgment awarded against the Respondent

April 6, 1995
Court of Appeal of Alberta
(McClung, Belzil and [Conrad dissenting in part]
J.J.A.)

Trial award affirmed, but the total award reduced by
an adjustment of the hourly rate for loss of services
subsequent to trial

June 1, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: L'HEUREUX-DUBÉ, SOPINKA AND McLACHLIN JJ. /
LES JUGES L'HEUREUX-DUBÉ, SOPINKA ET McLACHLIN**

**Merck & Co., Inc and
Merck Frosst Canada Inc.**

v. (24751)

Apotex Inc. (F.C.A.)(Ont.)

NATURE OF THE CASE

Property law - Food and drugs - Patents - Statutes - Interpretation - Patent infringement - S. 56 of the *Patent Act*, R.S.C. 1985, c. P-4 - Whether s. 56 of the *Patent Act* provided a full defence to the Applicant's patent infringement claim against the Respondent - Whether s. 56 applies not only to the specific article or composition of matter in existence prior to the grant of the patent but also a pharmaceutical composition, a different specific article or composition of matter - Whether the Court of Appeal erred in applying a different and broader standard to the scope of application of s. 56 than the prior more restrictive interpretations by the Exchequer Court, Federal Court and Supreme Court of Canada - Whether the Court of Appeal erred in equating the word "use" in s. 56 with "manufacture".

PROCEDURAL HISTORY

December 14, 1994
Federal Court of Appeal, Trial Division
(MacKay J.)

Infringement by Respondent of Applicant's
exclusive patent rights and Respondent not saved by
s. 56 of the *Patent Act*

April 19, 1995
Federal Court of Appeal
(Stone, MacGuigan and Robertson JJ.A.)

Appeal allowed: Counter-claim dismissed

May 18, 1995
Supreme Court of Canada

Application for leave to appeal filed

**Andreas Rokanas and
Elpis Renovations Ltd.**

v. (24727)

**John Doe and
Insurance Corporation of British Columbia (B.C.)**

NATURE OF THE CASE

Torts - Evidence - Negligence - Appeal - Judgments and orders - Damages - Evidence of doctor as to pain suffered by plaintiff in action - Whether medical person must be certified by a board in order to give expert evidence - Relevance of expert evidence on issue of pain to causation - Should Court of Appeal have come to final conclusion with respect to trial judge error?

PROCEDURAL HISTORY

February 10, 1993
Supreme Court of British Columbia (Harvey J.)

Applicant's action allowed

March 16, 1995
Court of Appeal for British Columbia
(Southin, Gibbs and Hutcheon JJ.A.)

Applicant's appeal against assessment of damages
dismissed

May 15, 1995
Supreme Court of Canada

Application for leave to appeal filed

Westcoast Energy Inc.

v. (24719)

**Husky Oil Operations Ltd., Husky Oil Operations Ltd.
on behalf of The Savanna Creek Producers,
The Public Utilities Board and
The Alberta Petroleum Marketing Commission**

AND BETWEEN:

Westcoast Energy Inc.

v.

**Husky Oil Operations Ltd., Husky Oil Operations Ltd.
on behalf of The Savanna Creek Producers**

and

**The Public Utilities Board and
The Alberta Petroleum Marketing Commission (Alta.)**

NATURE OF THE CASE

Administrative law - Procedural law - Appeal - Courts - Interest - Claim for interest - Whether or to what extent the doctrine of *res judicata* applies to decisions of administrative tribunals - Whether or to what extent courts can interfere with findings of fact or policy decisions by administrative tribunals on matters within their jurisdiction - Whether the Court of Appeal failed to apply applicable standard of review - *Natural Gas Pricing Agreement Act*, R.S.A. 1980, c. N.-4, *Natural Gas Price Administration Act*, R.S.A. 1980, c. N-3, *Public Utilities Board Act*, R.S.A. 1980, c. P-37.

PROCEDURAL HISTORY

November 22, 1990
The Alberta Petroleum Marketing Commission
Decision No. 901122-01

Alberta cost of service determination

August 2, 1991
The Alberta Petroleum Marketing Commission
Decision No. 910802-02

Review of the Alberta Petroleum Marketing Commission Decision No. 901122-01: Applicant's objection to the sulphur revenue calculations denied; Respondents'[Husky Oil Operations Ltd., Husky Oil Operations Ltd. on behalf of The Savanna Creek Producers] request for interest granted

May 8, 1992
The Public Utilities Board
Decision No. C92028

Appeal by the Applicant from the Alberta cost of service determination: Calculation by the Commission of the Alberta cost of service reduced; Applicant ordered to pay the sum of \$11,307,288.74 together with interest on the sum of \$5,511,879.79

March 13, 1995
Court of Appeal of Alberta
(Stratton, Irving and McFadyen JJ.A.)

Appeal of the Applicant as to the award of interest dismissed; Appeal of the Respondents [Husky Oil Operations Ltd., Husky Oil Operations Ltd. on behalf of The Savanna Creek Producers] allowed

May 11, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: CHIEF JUSTICE LAMER AND L'HEUREUX-DUBÉ AND GONTHIER JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES L'HEUREUX-DUBÉ ET GONTHIER**

Nurul I. Choudhury

v. (24747)

**Cour supérieure, l'honorable juge Pierre Viau,
Tribunal des professions, l'honorable juge Jacques Biron,
Dr. Rock Bernier, Dr. Augustin Roy, Dr. Suzanne Richer,
Dr. Michel Léveillé, Dr. Jacques Brière et Dr. André Lapierre (Qué.)**

NATURE OF THE CASE

Procedural law - Civil procedure - Appeal - Jurisdiction - Statutes - Interpretation - Time limits - Whether the Court of Appeal of Quebec erred in dismissing Applicant's motion for leave to appeal - Application of s. 523 C.C.P.

PROCEDURAL HISTORY

February 28, 1991
Tribunal des professions
(Biron, Charette et Lafontaine, JJ.Q.C.)

Applicant's appeal from the decision of the Bureau du Collège des médecins dismissed

August 12, 1992
Superior Court of Quebec (Viau J.S.C.)

Applicant's motion for judicial review dismissed

May 5, 1994
Court of Appeal of Quebec
(LeBel, Gendreau et Deschamps, JJ.A.)

Applicant's motion for leave to appeal dismissed

May 29, 1995
Supreme Court of Canada

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

July 11, 1995
Supreme Court of Canada

Application for an extension of time to file a reply to the Respondents' response

Lorraine Gadoury

c. (24738)

François Fortin (Qué.)

NATURE DE LA CAUSE

Droit municipal - Municipalités - Législation - Interprétation - La Cour d'appel a-t-elle erré en concluant que l'art. 306 de la *Loi sur les élections et les référendums dans les municipalités*, L.R.Q. 1977, ch. E-2.2, ne requiert aucune preuve d'intention ou de négligence grossière et que l'expression "sciemment" signifie uniquement "en pleine connaissance de cause"? - La Cour d'appel a-t-elle erré en décidant que la défense de bonne foi n'est pas pertinente en réponse à une action en déclaration d'incapacité fondée sur les art. 306 et 308 de la *Loi*? - La Cour d'appel a-t-elle erré en décidant que la notion d'inconduite de l'art. 306 vise "tout geste posé par un membre du conseil municipal qui se détache de la norme", sans égard à son caractère véral, fourbe ou visant à tromper?

HISTORIQUE PROCÉDURAL

Le 27 avril 1993
Cour supérieure du Québec
(Croteau j.c.s.)

Action en déclaration d'incapacité rejetée

Le 27 mars 1995
Cour d'appel du Québec
(Bisson, Brossard et Delisle jj.c.a.)

Pourvoi accueilli et demanderesse déclarée incapable
à exercer la fonction de membre d'un conseil
municipal pour un an

Le 19 mai 1995
Cour d'appel du Québec (Proulx j.c.a.)

Requête pour l'obtention d'un sursis accordée

Le 26 mai 1995
Cour suprême du Canada

Demande d'autorisation d'appel déposée

JULY 31, 1995 / LE 31 JUILLET 1995

**CORAM: CHIEF JUSTICE LAMER AND GONTHIER AND IACOBUCCI JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES GONTHIER ET IACOBUCCI**

Theophilus Williams

v. (24783)

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

NATURE OF THE CASE

Criminal law - Offences - Narcotics - Evidence - Weight and admissibility of voice evidence - Whether the Court of Appeal for Ontario erred in law by finding that evidence of voice identification was reliable even where the witness had not heard the voice in eight months, the conversation in which the voice was heard was a telephone conversation lasting approximately one minute and where there was minimal and ambiguous circumstantial evidence tending to confirm that the voice had been correctly identified.

PROCEDURAL HISTORY

November 22, 1994
Ontario Court of Justice (Provincial Division)
(Fraser O.C.J.)

Conviction: Trafficking in a narcotic

April 13, 1995
Court of Appeal for Ontario
(Finlayson, Galligan and Laskin, JJ.A.)

Appeal dismissed

June 12, 1995
Supreme Court of Canada

Application for leave to appeal filed

July 25, 1995
Supreme Court of Canada

Motion to file a lengthy memorandum filed

Prince Rupert Hotel (1957) Ltd.

v. (24755)

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

NATURE OF THE CASE

Taxation - Assessment - Evidence - Damages - Compensation - Characterization of the compensation received by the Applicant from settlement with its solicitors for errors committed in the drafting of the management fee of the partnership agreements - Is the determination of the character of a damage award as profit or capital for income tax purposes a question of law? - If the determination is a question of law, what legal principles should be applied in distinguishing between taxable damages for lost profit and non taxable damages for a loss in the value of capital property?

PROCEDURAL HISTORY

May 5, 1993
Federal Court, Trial Division
(Pinard, F.C.J.)

Appeal by the Applicant of reassessments by the MNR for the taxation years 1984, 1985 and 1986 dismissed

March 31, 1995
Federal Court of Appeal (Hugessen J.A. [dissenting],
Strayer and Desjardins, JJ.A.)

Appeal dismissed

May 29, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: LA FOREST, CORY AND MAJOR JJ. /
LES JUGES LA FOREST, CORY ET MAJOR**

Lionel Painchaud

v. (24749)

**Yorkton Securities Inc., John Buskell,
Yorkton Continental Securities Inc. (Alta.)**

NATURE OF THE CASE

Torts - Negligence - Securities - Stockbrokers - Whether a commodity futures trader is required to determine from a client when opening an account in which advice is intended to be given by the trader, what a client's risk capital is, assuming that the term "risk capital" is that portion of a client's liquid capital that the client is prepared to risk trading in the account, in order to meet the standard of conduct as set out in the Know Your Client rule, the cardinal rule in the industry.

PROCEDURAL HISTORY

May 20, 1994
Court of Queen's Bench (Wilson J.)

Applicant's action allowed in part

April 13, 1995
Court of Appeal of Alberta
(Lieberman, Stratton and Russell JJ.A.)

Appeal dismissed

May 30, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: L'HEUREUX-DUBÉ, SOPINKA AND McLACHLIN JJ. /
LES JUGES L'HEUREUX-DUBÉ, SOPINKA ET McLACHLIN**

**Alfred Goodswimmer, Keith Goodswimmer, Jerry Goodswimmer and Ron Sunshine
on their own behalf and on behalf of other Members of the Sturgeon
Lake Indian Band, the Council of the Sturgeon Lake Indian Band, Mary Kappo,
Mary Delphine Goodswimmer, Lucy Sunshine, Louise Redhead, Cecile Kiyawasew,
Marina Plante, Florestine Chowace, Forence Standingribbon,
Wilfred Goodswimmer and the Lesser Slave Lake Indian Regional Council**

v. (24737/24745)

**The Attorney General of Canada, the Minister of Indian Affairs and Northern
Development and Darlene Desjarlais, in Her Capacity as Chief of the
Sturgeon Lake Indian Band (F.C.A.)(Alta.)**

NATURE OF THE CASE

Indians - Statutes - Interpretation - Elections - Requirement for Elections - Whether as a matter of interpretation of the *Indian Act*, R.S.C. 1985, c.I.-5, as amended, a person who is not an elector of an Indian band is eligible to be a candidate for and may be elected as chief of the band?

PROCEDURAL HISTORY

August 31, 1993
Federal Court of Canada, Trial Division
(Jerome A.C.J.)

Applications to determine a question of law in two separate actions: Question of law answered in the affirmative

March 21, 1995
Federal Court of Appeal
(Stone, Strayer, and McDonald JJ.A.)

Appeals dismissed

May 19, 1995
Supreme Court of Canada

Application for leave filed by Alfred, Keith and Jerry Goodswimmer, Ron Sunshine on their own behalf and on behalf of other Members of the Sturgeon Lake Indian Band and Council (**File No. 24737**)

May 19, 1995
Supreme Court of Canada

Application for leave to appeal filed by Mary Kappo, Mary Delphine Goodswimmer, Lucy Sunshine, Louise Redhead, Cecile Kiyawasew, Marina Plante, Florestine Chowace, Forence Standingribbon, Wilfred Goodswimmer and the Lesser Slave Lake Indian Regional Council (**File No. 24745**)

**CORAM: CHIEF JUSTICE LAMER AND L'HEUREUX-DUBÉ AND GONTHIER JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES L'HEUREUX-DUBÉ ET GONTHIER**

Gerald M. Snyder

v. (24739)

Canadian Newspaper Company Limited

BETWEEN:

Gerald M. Snyder

v.

C.J.A.D. Inc. (Qué.)

NATURE OF THE CASE

Civil Code - Torts - Damages - Assessment - Actions - Whether the Court of Appeal erred in ruling that the Applicant should be deprived of the additional indemnity provided for by art. 1056c of the *Civil Code of Lower Canada* on the ground that he caused delays by insisting to have five libel cases tried by separate juries and on the ground that the amounts claimed by the Applicant were exaggerated and hence made the likelihood of settlement unrealistic.

PROCEDURAL HISTORY

January 13, 1992
Superior Court of Quebec (Hannan J.)

Claim for additional indemnity provided for by art.
1056c of the *Civil Code of Lower Canada* allowed

March 20, 1995
Court of Appeal of Quebec
(Tourigny, Baudouin and Proulx JJ.A.)

Respondents' appeals allowed

May 19, 1995
Supreme Court of Canada

Application for leave to appeal filed

RÉVISÉ

Joseph Philippe

c. (24807)

Université de Montréal (Qué.)

NATURE DE LA CAUSE

Libertés publiques - Droit administratif - Législation - *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12 - Discrimination fondée sur la race et l'âge dans la promotion en cours d'emploi - Recours devant le Tribunal des droits de la personne rejeté - La Cour d'appel du Québec a-t-elle commis une erreur en rejetant la requête pour permission d'appel du demandeur?

HISTORIQUE PROCÉDURAL

Le 17 janvier 1995
Tribunal des droits de la personne
(Brossard, J.C.Q.)

Action du demandeur rejetée

Le 19 avril 1995
Cour d'appel du Québec (Brossard, J.C.A.)

Requête pour permission d'appel rejetée

Le 4 juillet 1995
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Le 19 juillet 1995
Cour suprême du Canada

Demande de prorogation de délai déposée

AUGUST 9, 1995 / LE 9 AOÛT 1995

**CORAM: CHIEF JUSTICE LAMER AND GONTHIER AND IACOBUCCI JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES GONTHIER ET IACOBUCCI**

M.D.C.

v. (24811)

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

NATURE OF THE CASE

Criminal law - Trial - Evidence - Sexual assault - Failure of the accused to testify - Whether the Court of Appeal erred in law in finding that the trial judge was permitted to comment on the Applicant's failure to testify - *R. v. François*, [1994] 2 S.C.R. 827; *R. v. Lepage*, [1995] 1 S.C.R. 654.

PROCEDURAL HISTORY

February 18, 1994
Supreme Court of British Columbia (Shaw J.)

Conviction: Sexual assault and sexual interference

June 21, 1995
Court of Appeal for British Columbia
(McEachern C.J., Taylor and Goldie JJ.A.)

Appeal dismissed

July 13, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: CHIEF JUSTICE LAMER AND LA FOREST AND MAJOR JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES LA FOREST ET MAJOR**

**E.A. Manning Limited, Judith Marcella Manning, Timothy Edward Manning, William Douglas Elik, Mary
Martha Fritz, Marc Harold Schwab and Peter John Finance**

v. (24773)

Ontario Securities Commission (Ont.)

NATURE OF THE CASE

Administrative law - Board and tribunals - Bias - Doctrine of necessity - Respondent enacting policy about trading in penny stocks because of concern that security dealers were engaging in unfair practices - Respondent commencing proceedings to cancel registration of Applicant dealer - Whether findings of fact by the Respondent that the Applicant, E.A. Manning Limited, had and would continue to engage in abusive and unfair sales practices unless stopped, preclude the Commission from subsequently holding a disciplinary hearing based on allegations that the Applicant engaged in the same conduct as forming the basis for its Policy - Whether the new Commissioners ought to be prohibited from sitting on hearings concerning alleged improper conduct by the Applicants - Whether the doctrine of necessity would, despite actual bias or a reasonable apprehension of bias on the part of the Respondent or all of its members, permit the Respondent to hold such a hearing - Securities Act, R.S.O. 1990, c. S.5.

PROCEDURAL HISTORY

May 13, 1994
Ontario Court (General Division)
Divisional Court
(Montgomery, Dunnet and Howden JJ.)

Order dismissing the Applicant's application for judicial review to prohibit the Respondent Commission from proceeding with two hearings but requiring such hearing to proceed only before a panel composed of Commissioners appointed after the adoption of the Policy Statement

May 9, 1995
Court of Appeal for Ontario
(Dubin C.J.O., Labrosse and Doherty JJ.A.)

Appeal dismissed

June 8, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: LA FOREST, CORY AND MAJOR JJ. /
LES JUGES LA FOREST, CORY ET MAJOR**

B.C. Bancorp (formerly the Bank of British Columbia)

v. (24754)

T. Andrew Hockin, Charles T. Tricker and Denis G. Pender, on their own behalf and on behalf of all retired members and other members who are entitled to a paid up deferred annual plan established by the Bank of British Columbia March 1968

and

The Canada Trust Company, Victor Dobb and others (B.C.)

NATURE OF THE CASE

Procedural law - Pensions - Appeals - Judgments and orders - Pension surplus - Uncertainty in the jurisprudence concerning contribution holidays following the decision in *Schmidt v. Air Products Canada Ltd* (1994 2 S.C.R. 611 - Interpretation of the *Pension Benefits Standards Regulations* - Whether there should be an exception to *res judicata* in "special circumstances" and, if so, the proper scope of the exception.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

August 17, 1993
Supreme Court of British Columbia (Paris J.)

Applicants' claims dismissed

March 31, 1995
Court of Appeal for British Columbia
(Cumming, Hollinrake and Finch JJ.A.)

Appeal allowed in part but dismissed as to claims for
exemplary and punitive damages

May 29, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: CHIEF JUSTICE LAMER AND L'HEUREUX-DUBÉ AND GONTHIER JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES L'HEUREUX-DUBÉ ET GONTHIER**

**Albert Alepin et Pierre Alepin (ci-après appelé
"Le Groupe Clément")**

c. (24795)

**Jean Alepin, Jacques Alepin et Dame Afife Kurdi (ci-après
appelé "Le Groupe Joseph") et Jacques Huard, en sa
qualité de liquidateur de LaSalle Land
Development Co. Ltd. (Qué.)**

NATURE DE LA CAUSE

Droit commercial - Droit des compagnies - Procédure - Procédure civile - Appel - Législation - Interprétation - Requête en rejet d'appel présentée en vertu de l'art. 501(2) du *Code de procédure civile* du Québec au motif de l'inexistence d'un droit d'appel - Requête rejetée par la Cour d'appel - La Cour d'appel a-t-elle erré en concluant que la décision de la Cour supérieure rendue sous l'art. 25 de la *Loi sur la liquidation des compagnies*, L.R.Q. 1977, ch. L-4, n'est pas une ordonnance ou une décision "ayant trait à la liquidation", au sens du dernier alinéa de l'art. 32 de *Loi*, et donc qu'elle peut faire l'objet d'un appel? - La Cour d'appel a-t-elle erré en décidant que le dernier alinéa de l'art. 32 de la *Loi* ne s'applique pas à toute ordonnance prononcée par la Cour supérieure sous l'art. 25?

HISTORIQUE PROCÉDURAL

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

Le 19 janvier 1995
Cour supérieure du Québec
(Nolin j.c.s.)

Requête de l'intimé Huard présentée en vertu de l'art.
25 de la *Loi* afin d'obtenir une ordonnance accordée

Le 1er mai 1995
Cour d'appel du Québec
(Beauregard, Deschamps et Otis jj.c.a.)

Requêtes des demandeurs et de l'intimé Huard visant
à faire rejeter le pourvoi des intimés rejetées

Le 23 juin 1995
Cour suprême du Canada

Demande d'autorisation d'appel déposée

**MOTION FOR RECONSIDERATION / REHEARING --
DEMANDE DE RÉEXAMEN / NOUVELLE AUDITION**

**CORAM: CHIEF JUSTICE LAMER AND L'HEUREUX-DUBÉ AND GONTHIER JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES L'HEUREUX-DUBÉ ET GONTHIER**

Rodrigue Girard c. Marius Moisan (Qué.)(24704)

AUGUST 21, 1995 / LE 21 AOÛT 1995

**CORAM: CHIEF JUSTICE LAMER AND GONTHIER AND IACOBUCCI JJ. /
LE JUGE EN CHEF LAMER ET LES JUGES GONTHIER ET IACOBUCCI**

Her Majesty the Queen

v. (24798)

Félix Michaud (Crim.)(N.B.)

NATURE OF THE CASE

Criminal law - Defence - Evidence - Alibi - Accomplice's evidence - Whether the Court of Appeal of New Brunswick erred as to the nature of the charge to the jury required in the case of evidence of an "accomplice" - Whether the Court of Appeal erred as to the nature of the charge to the jury required when the accused presents the defence of alibi - Whether the Court of Appeal erred in law in finding that the address by Crown counsel to the jury was, in law, inflammatory.

PROCEDURAL HISTORY

March 22, 1993
Court of Queen's Bench of New Brunswick
(Daigle J.)

Conviction: First degree murder

April 25, 1994
Court of Appeal of New Brunswick
(Angers, Ryan and Turnbull, JJ.A.)

Appeal allowed, conviction quashed, new trial ordered

June 23, 1995
Supreme Court of Canada

Application for leave to appeal filed

Glengarry Memorial Hospital

v. (24757)

Pay Equity Hearings Tribunal and Ontario Nurses' Association (Ont.)

NATURE OF THE CASE

Labour law - Labour relations - Administrative law - Judicial review - Jurisdiction - *Pay Equity Act*, R.S.O. 1990, c. P.7 - Whether the Court of Appeal erred in finding that the decisions of the Pay Equity Hearings Tribunal were within its jurisdiction - Whether the Court of Appeal erred in reversing the Divisional Court, which held that, pay equity having been achieved, the jurisdiction of the Tribunal was thereby exhausted - Whether the Court of Appeal erred in failing to hold, in the alternative, that the decisions of the Tribunal were patently unreasonable - *U.E.S., Local 298 v. Bibeault*, [1988] 2 S.C.R. 1048.

PROCEDURAL HISTORY

December 23, 1993
Ontario Court of Justice (General Division) Divisional
Court (Hart, Southey and Smith JJ.)

Application for judicial review granted and
decisions of Pay Equity Hearings Tribunal quashed

April 10, 1995
Court of Appeal for Ontario
(Catzman, Osborne and Abella JJ.A.)

Appeal allowed

June 5, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: LA FOREST, CORY AND MAJOR JJ. /
LES JUGES LA FOREST, CORY ET MAJOR**

Michael A. Dagg

v. (24786)

The Minister of Finance (F.C.A.)(Ont.)

NATURE OF THE CASE

Statutes - Interpretation - Crown - Applicant filing with the Department of Finance a request pursuant to s. 6 of the *Access to Information Act*, R.S.C. 1985, c. A-1, for copies of its departmental sign-in logs signed by employees entering and leaving the work-place after regular working hours - Respondent disclosing the relevant sheets from the sign-in logs but deleting therefrom the names of the employees, their identification numbers and signatures - Whether the Federal Court of Appeal erred in finding that the names which the Respondent refused to disclose were personal information within the meaning of s. 3(i) of the *Privacy Act*, R.S.C. 1985, c. P-21 - Whether the Federal Court of Appeal erred in finding that the information contained on the sign-in sheets did not relate to the position or functions of the employees as provided by s. 3(j) of the *Privacy Act* - Whether the Federal Court of Appeal erred in finding that the Respondent did not exercise his discretion improperly when he declined a public interest waiver pursuant to s. 8(2)(m) of the *Privacy Act*.

PROCEDURAL HISTORY

November 8, 1993
Federal Court, Trial Division
(Cullen J.)

Application for review pursuant to s. 41 of the
Access to Information Act allowed and Respondent's
decision overturned

April 21, 1995
Federal Court, Appeal Division
(Isaac C.J., Stone and McDonald JJ.A.)

Appeal allowed

June 20, 1995
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: L'HEUREUX-DUBÉ, SOPINKA AND McLACHLIN JJ. /
LES JUGES L'HEUREUX-DUBÉ, SOPINKA ET McLACHLIN**

William James Wong

v. (24698)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Extradition - Statutes - Interpretation - Appeals - Jurisdiction - Judicial review - Interpretation of the words "extradition hearing" - Commencement of hearing - Whether fundamental justice requires that there must always be a right to a judicial review of or appeal from an order which first deprives a person of his or her liberty - Whether the Court of Appeal erred in finding that it had jurisdiction to hear an appeal of the Respondent from the discharge of the Applicant - In particular, whether the Court of Appeal erred in concluding that the *Extradition Act*, enacted as R.C.S. 1985, c. E-23, as amended by *An Act to Extradition Act*, S.C. 1992, c. 13, governed the Applicant's extradition proceedings - *Charter*, s. 7.

PROCEDURAL HISTORY

November 1, 1993
Supreme Court of British Columbia
(Holmes J.)

Applicant discharged

April 21, 1995
Court of Appeal for British Columbia
(Legg, Ryan and Donald JJ.A.)

Appeal allowed; discharge set aside

June 20, 1995
Supreme Court of Canada (McLachlin J.)

Application for an extension of time to file leave to
appeal granted

June 29, 1995
Supreme Court of Canada

Application for leave to appeal filed

Kevin Lacey

v. (24800)

The United States of America

AND BETWEEN:

Kevin Lacey

v.

Her Majesty the Queen (Ont.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - International law - Extradition - Criminal law - Narcotics - Sentence - Did the Minister of Justice err in deciding to surrender the Applicant despite the mandatory minimum ten year sentence that Florida law imposes if the Applicant was convicted of either of two conspiracy charges that he presently faces? - Did the Extradition Judge err in committing the Applicant with respect to counts where there was no evidence of the type of narcotic particularized in the Fifth Superseding Indictment?

PROCEDURAL HISTORY

April 29, 1994
Ontario Court of Justice (General Division)
(Hayes, J.)

Warrant of committal issued

September 25, 1994
Minister of Justice

Surrender of the Applicant to the United States
ordered

June 20, 1995
Court of Appeal for Ontario
(Galligan, Austin and Laskin, JJ.A.)

Appeal against committal dismissed;
Application for review of the Justice Minister's
decision dismissed

July 14, 1995
Supreme Court of Canada

Application for leave to appeal filed

AUGUST 17, 1995 / LE 17 AOÛT 1995

24393 **IAN BLUE, Q.C. -and- ONTARIO HYDRO, ONTARIO ENERGY BOARD TECHNICAL STAFF, and INDEPENDENT POWER PRODUCERS' SOCIETY OF ONTARIO** (Ont.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Administrative law - Law of professions - Barristers and solicitors - Energy - Judicial review - Interpretation - Ontario Energy Board rate hearings - Proper test for determining whether lawyer should be disqualified from acting by reason of conflict of interest - *MacDonald Estate v. Martin*, [1990] 3 S.C.R. 1235.

24496 **LUSCAR LTD. -and- PEMBINA RESOURCES LIMITED** (Alta.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Procedural law - Actions - Limitation of actions - Commercial law - Contract - Unjust enrichment - Remedies - Applicability of discoverability rule in breach of contract action - Availability of concurrent equitable relief.

24623 **ATTORNEY GENERAL FOR NEW-BRUNSWICK, MINISTER OF HEALTH and COMMUNITY SERVICES and DIRECTOR OF THE MEDICARE BRANCH OF THE INSURED SERVICES DIVISION OF THE DEPARTMENT OF HEALTH and COMMUNITY SERVICES -and- HENRY MORGENTALER** (N.B.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Constitutional law - Criminal law - Division of powers - Statutes - Interpretation - Physicians and surgeons - Abortion - Whether ss. 56(b.1) and 56.2 of the *Medical Act*, S.N.B. 1985, c. 76 are *ultra vires* the legislative competence of the Province being in pith and substance criminal law - Application of *R. v. Morgentaler*, [1993] 3 S.C.R. 463.

24680 **RICHARD ZABARTANY - c. - LE MINISTRE DE LA JUSTICE DU CANADA - et - LE PROCUREUR GÉNÉRAL DU QUÉBEC, LE DIRECTEUR DU CENTRE DE DÉTENTION DE PARTHENAIS, LES ÉTATS-UNIS D'AMÉRIQUE, L'ÉTAT DE NEW-YORK** (Qué.)

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

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Extradition - Droit administratif - Contrôle judiciaire - Preuve - Le juge a-t-il erré en droit en décidant que l'obligation de divulgation de la preuve obtenue au Canada (*R. c. Stinchcombe*, [1991] 3 R.S.C. 326) ne s'applique pas en matière d'extradition? - Le juge a-t-il erré en droit en décidant que la décision du Ministre de la Justice ne contrevient pas à l'article 7 de la *Charte canadienne des droits et libertés* compte tenu du refus de divulgation de la preuve au Canada?

24689 **ARTHURO NUOSCI - v. - THE ROYAL CANADIAN MOUNTED POLICE AND COMMISSIONER N.D. INKSTER** (Crim.)(F.C.A.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Administrative law - Evidence - Penal law - Disclosure - Applicant convicted of disgraceful conduct contrary to s. 25 of the *Royal Canadian Mounted Police Act* - Whether the Courts below erred in failing to properly interpret and apply the principles developed in *R. v. Stinchcombe*, [1991] 3 S.C.R. 326 to the refusal of the RCMP to disclose to the Applicant the materials sought by him before his Service Trial - Whether the Courts below erred in holding that the materials sought by the Applicant before his Service Trial were exempt from disclosure because they were irrelevant to the subject matter of the charge - Whether the Federal Court of Appeal erred in exercising its appellate review by failing to independently consider whether or not the failure to disclose the materials sought by the Applicant impaired his right and ability to make full answer and defence, and thereby prejudiced the overall fairness of his trial.

24663 **CANDEREL LIMITED - v. - HER MAJESTY THE QUEEN** (F.C.A.)

CORAM: The Chief Justice and Gonthier and Iacobucci 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

Taxation - Statutes - Assessment - Accounting - Interpretation - Tenant inducement payments - Subsections 9(1) and 18(1)(a) of the *Income Tax Act*, R.S.C. 1985 (5th Supp.), c.1 - Whether the expensing method or the amortization method of accounting should be used in deducting expenses incurred as tenant inducement payments - Did the Federal Court of Appeal amend core provisions in the *Income Tax Act*, relating to the computation of profits, thereby exceeding its jurisdiction - Whether the Federal Court of Appeal recast established rules of law and the meaning of the *Income Tax Act*, when it applied the matching principle of accounting as a principle of law.

24720 **GUY BISSONNETTE - c. - SA MAJESTÉ LA REINE** (Crim.)(Qué.)

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

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Preuve - Meurtre au deuxième degré - Déclaration extra-judiciaire - Voir-dire - Dans le cas d'un voir-dire au cours duquel le ministère public veut introduire une déclaration extra-judiciaire incriminante, à qui incombe le fardeau de preuve, aux fins de l'application du paragraphe 24(2) de la *Charte canadienne des droits et libertés*, lorsque la question en litige porte sur la crédibilité en vue d'établir si la preuve a été obtenue par suite d'une violation alléguée du droit à l'avocat prévue à l'alinéa 10 b) de la *Charte*?

24740 **EWA PAWLAK LANGNER, STANISLAW LANGNER, ROBERT LANGNER, DEMIAN LANGNER - c. - MINISTRE DE L'EMPLOI ET L'IMMIGRATION - et - LE SOUS PROCUREUR GÉNÉRAL DU CANADA (C.A.F.)**

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

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit administratif - Immigration - *Charte canadienne des droits et libertés* - Contrôle judiciaire - Motifs humanitaires - Demande d'être exemptés en vertu du paragraphe 114(2) de la *Loi sur l'immigration* de l'obligation de quitter la Canada rejetée - La Cour d'appel a-t-elle erré en concluant que la *Charte* ne s'appliquait pas dans les circonstances où les parents d'enfants nés au Canada se voient obligés de quitter le pays.

24777 **VALERY I. FABRIKANT - v. - HER MAJESTY THE QUEEN (Crim.)(Que.)**

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for urgent relief and the application for the appointment of counsel are dismissed. The application for leave to appeal is dismissed.

La demande de redressement urgent et la demande de nomination d'un procureur sont rejetées. La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Procedural law - Contempt of court - Trial judge bringing Applicant's defence to an end after numerous warnings - Six convictions for contempt of court - Right of the accused to make full answer and defence - Integrity of judicial system.

24687 **ALLEN ANTONIUK AND GERALD ANTONIUK - v. - WESTERN HERITABLE INVESTMENT CO. CANADA LTD. AND CECILE MACTAGGART (Alta.)**

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Procedural law - Commercial law - Landlord and tenant - Lease & hire of work - Damages - Evidence - Breach of rental

lease - What is the effect of the Respondent landlords' having paid their witness, their property manager, a witness fee of \$3,000 in their action against the Applicants?

24670 **SYNDICAT DES TRAVAILLEURS(EUSES) DE L'HÔPITAL LOUIS-H. LAFONTAINE (C.S.N.) - c. - JEAN-PIERRE LUSSIER - et - L'HÔPITAL LOUIS-H. LAFONTAINE (Qué.)**

CORAM: Le Juge en chef et les juges L'Heureux-Dubé et Gonthier

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Relations de travail - Arbitrage - Convention collective - Contrôle judiciaire - Compétence - Législation - Interprétation - Mixité des postes de travail - Discrimination - Articles 10 et 20 de la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12 - Exigence professionnelle normale - La Cour d'appel du Québec a-t-elle commis une erreur en ne reconnaissant pas que l'arbitre, confronté à un problème de discrimination directe, a commis une erreur dans l'application des critères objectifs reliés aux aptitudes ou qualités requises par l'emploi, comme l'exige l'article 20 de la *Charte des droits et libertés de la personne* du Québec? - La Cour d'appel a-t-elle commis une erreur en concluant que le premier juge a eu raison de conclure que l'intimé n'avait commis aucune erreur justifiant le contrôle judiciaire? - La Cour d'appel a-t-elle commis une erreur en n'exerçant pas son pouvoir de surveillance et de contrôle judiciaire, alors que l'intimé a commis une erreur dans l'interprétation et l'application de l'article 20 de la *Charte des droits et libertés de la personne* du Québec?

24672 **SYNDICAT DES EMPLOYÉS DU TRANSPORT EN PUBLIC DU QUÉBEC MÉTROPOLITAIN INC. (C.S.N.) - c. - LA COMMISSION DE TRANSPORT DE LA COMMUNAUTÉ URBAINE DU QUÉBEC, JEAN-GUY MENARD, EN SA QUALITÉ D'ARBITRE (Qué.)**

CORAM: Le Juge en chef et les juges L'Heureux-Dubé et Gonthier

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Relations de travail - Arbitrage - Convention collective - Contrôle judiciaire - Compétence - Mesure disciplinaire ou administrative - Manquement du salarié - Fausses déclarations à l'embauche - Chauffeur d'autobus à l'emploi de l'intimée depuis 1983 congédié par suite de fausses déclarations dans le questionnaire médical rempli au moment de l'embauche - L'arbitre a-t-il commis une erreur déraisonnable en appliquant la théorie civiliste de l'erreur à un contrat individuel de travail dont il reconnaît qu'il n'a jamais existé? - L'arbitre a-t-il commis une erreur déraisonnable en ne qualifiant pas le congédiement de mesure disciplinaire?

24773 **E.A. MANNING LIMITED, JUDITH MARCELLA MANNING, TIMOTHY EDWARD MANNING, WILLIAM DOUGLAS ELIK, MARY MARTHA FRITZ, MARC HAROLD SCHWALB AND PETER JOHN FINANCE - v. - ONTARIO SECURITIES COMMISSION (Ont.)**

CORAM: The Chief Justice and La Forest and Major JJ.

The application for leave to appeal and the application for a stay of proceedings are dismissed with costs.

La demande d'autorisation d'appel et la demande de sursis des procédures sont rejetées avec dépens.

NATURE OF THE CASE

Administrative law - Board and tribunals - Bias - Doctrine of necessity - Respondent enacting policy about trading in penny stocks because of concern that security dealers were engaging in unfair practices - Respondent commencing proceedings to cancel registration of Applicant dealer - Whether findings of fact by the Respondent that the Applicant, E.A. Manning Limited, had and would continue to engage in abusive and unfair sales practices unless stopped, preclude the Commission from subsequently holding a disciplinary hearing based on allegations that the Applicant engaged in the same conduct as forming the basis for its Policy - Whether the new Commissioners ought to be prohibited from sitting on hearings concerning alleged improper conduct by the Applicants - Whether the doctrine of necessity would, despite actual bias or a reasonable apprehension of bias on the part of the Respondent or all of its members, permit the Respondent to hold such a hearing - Securities Act, R.S.O. 1990, c. S.5.

Before / Devant: CHIEF JUSTICE LAMER

Motion to state a constitutional question

Howard Pamajewon, et al

v. (24596)

Her Majesty The Queen (Ont.)

Requête pour énoncer une question constitutionnelle

Robert E. Houston, Q.C., for the motion.

Heather Perkins-McVey, contra.

GRANTED / ACCORDÉE Notices of intention to intervene are to be filed no later than September 15, 1995.

1. Are s. 201, s. 206 or s. 207 of the *Criminal Code of Canada*, separately or in combination, of no force and effect with respect to the Appellants, by virtue of s. 52 of the *Constitution Act, 1982* in the circumstances of these proceedings, by reason of the aboriginal or treaty rights within the meaning of s. 35 of the *Constitution Act, 1982* invoked by the Appellants?

1. Dans les circonstances du présent pourvoi, les articles 201, 206 ou 207 du *Code criminel*, pris isolément ou ensemble, sont-ils inopérants à l'égard des appelants, en application de l'art. 52 de la *Loi constitutionnelle de 1982*, en raison des droits ancestraux ou issus de traités au sens de l'art. 35 de la *Loi constitutionnelle de 1982* invoqués par les appelants?

20.7.1995

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to file the case
on appeal**

Harley Howard McMaster

v. (24395)

Her Majesty The Queen (Alta.)

**Requête en prorogation du délai de dépôt du
dossier d'appel**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to July 21, 1995.

20.7.1995

Before / Devant: MAJOR J.

**Motion to extend the time in which to apply for
leave to appeal**

**Requête en prorogation du délai pour obtenir
l'autorisation d'appel**

British Columbia Council of Human Rights

With the consent of the parties.

v. (24742)

Gregory Miles Zutter (B.C.)

GRANTED / ACCORDÉE Time extended to July 14, 1995.

21.7.1995

Before / Devant: IACOBUCCI J.

Motion to appoint counsel

Requête en nomination d'un procureur

Winston L. Francis

v. (24810)

Her Majesty The Queen (Alta.)

DISMISSED / REJETÉE

27.7.1995

Before / Devant: IACOBUCCI J.

**Motion to extend the time in which to file an
intervener's factum**

David Attis

v. (24002)

Board of School Trustees, District No. 15 (N.B.)

**Requête en prorogation du délai de dépôt du
mémoire d'un intervenant**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to August 31, 1995.

27.7.1995

Before / Devant: IACOBUCCI J.

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

A.W.

v. (24414)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to July 10, 1995.

28.7.1995

Before / Devant: LE JUGE IACOBUCCI

Requête en déclaration que le présent appel est censé ne pas avoir été abandonné

Sa Majesté La Reine

c. (24551)

Denis Laporte (Qué.)

ACCORDÉE / GRANTED

28.7.1995

Before / Devant: LE JUGE IACOBUCCI

Requête en prorogation du délai du dépôt du mémoire de l'appelant

With the consent of the parties.

Motion for an order that this appeal is to be not deemed abandoned

Avec le consentement des parties.

**Requête en prorogation du délai de dépôt du
mémoire d'un intervenant**

George Weldon Adams

c. (23615)

Sa Majesté La Reine (Qué.)

**Motion to extend the time in which to file an
intervener's factum**

Avec le consentement des parties.

ACCORDÉE / GRANTED Délai prorogé au 8 août 1995.

28.7.1995

Before / Devant: IACOBUCCI J.

**Motion to extend the time in which to file an
intervener's factum**

In the matter of the Residential Tenancies Act
(N.S.)(24276)

**Requête en prorogation du délai de dépôt du
mémoire d'un intervenant**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to July 19, 1995.

1.8.1995

Before / Devant: GONTHIER J.

**Motion to extend the time in which to apply for
leave to appeal**

Brady Lewis Williams

v. (24770)

Her Majesty The Queen (B.C.)

**Requête en prorogation du délai pour obtenir
l'autorisation d'appel**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to August 15, 1995.

1.8.1995

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to file the case
on appeal and the appellant's factum**

**Requête en prorogation du délai de dépôt du
dossier d'appel et du mémoire de l'appelante**

Helo Enterprises Ltd.

v. (23924)

Ernst & Young Inc. (B.C.)

GRANTED / ACCORDÉE Time extended to August 1, 1995 and the number of copies of the case on appeal is reduced to 14.

3.8.1995

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to file the
respondents' factum**

**Requête en prorogation du délai de dépôt du
mémoire des intimés**

Ontario Home Builders Assoc. et al.

With the consent of the parties.

v. (24085)

York Region Board of Education et al. (Ont.)

GRANTED / ACCORDÉE Time extended to July 28, 1995.

3.8.1995

Before / Devant: LE REGISTRAR

Requête en prorogation du délai de dépôt du mémoire de l'appelant

Marc Michaud

c. (23764)

Procureur général du Québec (Qué.)

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

Avec le consentement des parties.

ACCORDÉE / GRANTED Délai prorogé au 13 juillet 1995.

3.8.1995

Before / Devant: LA FOREST J.

Motion for an order that this appeal is to be not deemed abandoned

Giovanni Marinaro

v. (24322)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

Requête en déclaration que le présent appel est censé ne pas avoir été abandonné

With the consent of the parties.

3.8.1995

Before / Devant: LA FOREST J.

**Motion to extend the time in which to file the case
on appeal and the appellant's factum**

**Requête en prorogation du délai de dépôt du
dossier d'appel et du mémoire de l'appelant**

Giovanni Marinaro

With the consent of the parties.

v. (24322)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to August 1, 1995.

4.8.1995

Before / Devant: LE REGISTRAIRE

Requête en prorogation du délai de dépôt du mémoire d'un intervenant

George Weldon Adams

c. (23615)

Sa Majesté La Reine (Qué.)

Motion to extend the time in which to file an intervenor's factum

Avec le consentement des parties.

ACCORDÉE / GRANTED Délai prorogé au 11 août 1995.

8.8.1995

Before / Devant: MAJOR J.

Motion for an order to file a supplemental factum

Cheryl Rae Evans et al.

v. (24359)

Her Majesty The Queen (B.C.)

Requête en obtention d'une ordonnance autorisant le dépôt d'un mémoire additionnel

Robert Frater, Erin McKey, for the motion.

Martin Mason, contra.

DISMISSED / REJETÉE

10.8.1995

Before / Devant: McLACHLIN J.

Motion for acceptance of factum on appeal over 40 pages

NTC Smokehouse Ltd.

v. (23800)

Her Majesty The Queen (B.C.)

and between

Donald Gladstone et al.

v. (23801)

Her Majesty The Queen (B.C.)

and between

Allan Jacob Lewis et al.

v. (23802)

Her Majesty The Queen (B.C.)

and between

Benjamin Nikal

v. (23804)

Her Majesty The Queen (B.C.)

Requête en acceptation d'un mémoire d'appel de plus de 40 pages

V. Jennifer Mackinnon, for the motion.

Brian A. Crane, Q.C., contra.

Respondent not objecting.

DISMISSED / REJETÉE The motion to deliver two facta in the above appeals is granted, provided that the two facta in total do not exceed 30 pages.

15.8.1995

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to file the case
on appeal and supplementary case on appeal**

**Requête en prorogation du délai de dépôt du
dossier d'appel et d'un dossier d'appel
additionnel**

Lee Michael Whitley

With the consent of the parties.

v. (24438)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to August 15, 1995.

15.8.1995

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to file the
respondents' factum**

Yukon Human Rights Commission et al.

v. (23584)

Yukon Order of Pioneers et al. (Yuk.)

**Requête en prorogation du délai de dépôt du
mémoire des intimés**

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to August 15, 1995.

15.8.1995

Before / Devant: THE REGISTRAR

Motion for acceptance of memorandum of argument on leave to appeal of over 20 pages

Requête en acceptation d'un mémoire de demande d'autorisation de plus de 20 pages

Joaquin Sevillano

With the consent of the parties.

v. (24812)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE the motion on behalf of the applicant and the respondent for leave to file an argument in excess of 20 pages on the application for leave to appeal.

18.8.1995

Before / Devant: CORY J.

Motion for inscription, consecutive hearings and filing dates

Stephen Ross

v. (24400)

The United States of America (B.C.)

and between

Lee Michael Whitley

v. (24438)

The United States of America (Ont.)

and between

The Minister of Justice of Canada

v. (24253)

Daniel Jamieson (Qué.)

Requête en inscription et visant à fixer des audiences consécutives et des dates de dépôt

Robert Frater, for the motion.

Sylvie Roussel, for Jamieson.

Heather Perkins-McVey, for Whitley.

H.S. Brown, Q.C., for Ross.

ADJOURNED / AJOURNÉE

Motions adjourned 2 weeks to Friday 1 Sept. If during that time the appeals scheduled for Friday the 3 Nov. 95 are adjourned or remanded to the next sitting then these appeals will be heard together on that date. The Attorney General for Canada will undertake to so reduce his time allotment that all these appeals can be heard on that date within the normal hours of court sitting.

If the cases scheduled for Friday the 3 Nov. 95 have not been adjourned or remanded to the next sitting then this motion will be dismissed. These appeals will then be heard together during the January sittings. The Attorney General will undertake to so reduce his time allotment so that all these appeals can be heard on one day.

9.8.1995

Before / Devant: THE REGISTRAR

Motion to excuse applicant from payment of filing fee

Requête visant à dispenser le requérant de payer les honoraires de dépôt

John Thor Widema

v. (24827)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

**NOTICES OF APPEAL FILED SINCE
LAST ISSUE**

21.7.1995

Lorne McConnell et al.

v. (24779)

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

AS OF RIGHT

25.7.1995

Shawn Trevor Laverty

v. (24822)

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

AS OF RIGHT

25.7.1995

Anne-Marie Parise

v. (24824)

Her Majesty The Queen (Crim.)(N.B.)

AS OF RIGHT

31.7.1995

Canadian Pacific Ltd.

v. (24317)

**Brotherhood of Maintenance of Way
Employees Canadian Pacific Systems Federation
(B.C.)**

AVIS D'APPEL INCIDENT

22.8.1995

Louissette Béliveau St-Jacques

c. (22339)

**Fédération des employés et employés de services
publics Inc. (CSN) et al. (Qué.)**

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

2.8.1995

Armada Lines Ltd. (now Clipper Shipping Lines)

v. (24351)

Chaleur Fertilizers Ltd. (F.C.A.)(Ont.)

17.8.1995

Robert William Latimer

v. (24818)

Her Majesty The Queen (Crim.)(Sask.)

18.8.1995

Her Majesty The Queen

v. (24835)

William Goldhart (Crim.)(Ont.)

AS OF RIGHT

22.8.1995

Sa Majesté La Reine

c. (24838)

Gaétan Proulx (Qué.)

DE PLEIN DROIT

**NOTICES OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

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

10.8.1995

Town of Lac La Biche

v. (24413)

Her Majesty The Queen in Right of Alberta

and between

Alberta Civil Liberties Association

and

**Minister of Justice and Attorney General of
Alberta (Under Section 36 of the SC Act) (Alta.)**

(appeal)

The next session of the Supreme Court of Canada commences on October 2, 1995. /
La prochaine session de la Cour suprême du Canada débute le 2 octobre 1995.

**The next bulletin of proceedings will be published September 15, 1995. /
Le prochain bulletin des procédures sera publié le 15 septembre 1995.**

NOTICES TO THE PROFESSION AND PRESS RELEASE

AVIS AUX AVOCATS ET COMMUNIQUÉ DE PRESSE

Counsel are hereby notified of the following amendments to the *Rules of the Supreme Court of Canada*, registered as SOR/95-325 and SOR/95-326 and published in Part II of the Canada Gazette on July 26, 1995.

1. Time limits for filing an application for leave to cross-appeal

Rule 29(1) as been amended to give a respondent to a leave application **30 days** to apply for leave to cross-appeal.

2. Time limits for filing factums on appeals

The amendment to Rule 38(3)(a) reduces the time to serve and file an appellant's factum to **four months** from the filing of the notice of appeal, a decrease from the five months previously allowed under the rules.

New Rule 38(3)(c) increases the time to serve and file an intervenor's factum from two to **four weeks** from the service of the respondent's factum, unless otherwise ordered under Rule 18. Counsel should note the consequential amendments to Rule 18(6).

The new time limits under Rule 38 will be applied to all cases where the notice of appeal is filed on or after July 26, 1995.

3. Abandoned appeals

If the appellant's factum is not served and filed within **six months** of the filing of the notice of appeal or granting of leave, the appeal may be dismissed as abandoned. Rule 45 allows the Registrar to apply to a judge to have the appeal dismissed as abandoned, unless the appellant obtains an extension of time within **30 days** after the service of the Registrar's notice.

Any inquiries about these amendments should be addressed to Claude E. Alain, Director of Legal Affairs at (613) 996-7684.

Les avocats sont avisés des modifications suivantes qui ont été apportées aux *Règles de la Cour suprême du Canada* dans DORS/95-325 et DORS/95-326, et publiées dans la partie II de la Gazette du Canada du 26 juillet 1995.

1. Délai pour déposer une demande d'autorisation d'appel incident

Le paragraphe 29(1) des *Règles* a été modifié de sorte que l'intimé à une demande d'autorisation peut, dans les **30 jours**, demander l'autorisation d'appel incident.

2. Délai pour déposer des mémoires relatifs à l'appel

En raison de la modification apportée à l'alinéa 38(3)a) des *Règles*, l'appelant doit signifier et déposer son mémoire dans les **quatre mois** suivant la date de dépôt de l'avis d'appel, et non plus dans le délai de cinq mois auparavant fixé par les *Règles*.

Le nouvel alinéa 38(3)c) des *Règles* accroît le délai imparti pour la signification et le dépôt par l'intervenant de son mémoire de deux à **quatre semaines** suivant la date de signification du mémoire de l'intimé, sauf ordonnance contraire en application de l'article 18. Les avocats sont priés de prendre note des modifications corrélatives apportées au paragraphe 18(6) des *Règles*.

Les nouveaux délais fixés à l'article 38 des *Règles* s'appliqueront dans tous les cas où l'avis d'appel est déposé à compter du 26 juillet 1995.

3. Appels abandonnés

Dans les cas où le mémoire de l'appelant n'est pas déposé et signifié dans les **six mois** qui suivent le dépôt de l'avis d'appel ou l'octroi de l'autorisation d'appel, l'appel peut être rejeté en tant qu'appel abandonné. L'article 45 des *Règles* permet au registraire de demander à un juge de rejeter l'appel en tant qu'appel abandonné à moins que l'appelant n'obtienne une extension de délai dans les **30 jours** suivant la signification de l'avis au registraire.

Toutes questions concernant ces modifications doivent être adressées à Claude E. Alain, directeur des Affaires juridiques, (613) 996-7684.

Anne Roland
Registrar - Registraire

August, 1995

Août 1995

Counsel practising before the Court are asked to take note of the following changes relating to hearings of appeals.

1. **Hours of hearings**

Beginning with the 1995 Fall Session, hearings will begin at **9:45 a.m.** rather than 10:15 a.m.

When two appeals are scheduled to be heard on the same day, counsel in **both** appeals are requested to attend at the Process Registry, Room 166, no later than 9:15 a.m.

2. **Time allowed for argument**

Normally each side has up to one hour for their principal argument. If the appellant uses the entire hour allotted for argument in the principal argument, five minutes will be allotted for reply. If the appellant does not use the entire hour for principal argument, up to a maximum of fifteen additional minutes may be taken thus giving up to twenty minutes for reply. If a party to an appeal brings a motion which must be dealt with in open court before the commencement of the appeal, the time allotted to that party for principal argument will be reduced accordingly, unless otherwise ordered.

A party not satisfied with the allotted time may make a motion for more time to the Registrar.

The Registrar will consult with counsel or their Ottawa agents to obtain firm commitments for the time required for argument. Once the times have been settled, the Court will expect counsel to keep within the allotted time.

This notice replaces the notices of August 1991 and July 1992.

Anne Roland
Registrar - Registraire

August, 1995

Les avocats qui plaident devant la Cour sont priés de prendre note des modifications suivantes concernant l'audition des appels.

1. **Heures des audiences**

À compter de la session d'automne 1995, les audiences débuteront à **9 h 45** plutôt qu'à 10 h 15.

Lorsque deux appels doivent être entendus le même jour, les avocats dans les **deux** dossiers sont priés de se présenter au greffe, pièce 166, au plus tard à 9 h 15.

2. **Durée des plaidoiries**

Chaque côté dispose normalement d'une heure pour la plaidoirie principale. Si l'appellant utilise toute l'heure qui lui est allouée pour sa plaidoirie principale, cinq minutes lui sont accordées pour sa réplique. Si l'appellant n'utilise pas toute l'heure allouée pour sa plaidoirie principale, il peut reporter un maximum de quinze minutes aux cinq minutes de réplique normalement attribuées, soit au plus vingt minutes de réplique. Si une partie à l'appel présente une requête qui doit être entendue à l'audience avant le commencement de l'appel, le temps accordé à cette partie pour la plaidoirie principale sera réduit d'autant, sauf ordonnance contraire.

Une partie insatisfaite du temps accordé peut s'adresser au registraire par requête pour obtenir plus de temps.

Le registraire consultera les avocats ou leurs correspondants à Ottawa pour obtenir un engagement ferme sur le temps nécessaire aux plaidoiries. Une fois le temps fixé, la Cour s'attend à ce que les avocats s'y conforment.

Le présent avis remplace les avis d'août 1991 et de juillet 1992.

Août 1995

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 2, 1995**
Service : September 11, 1995
Filing : September 18, 1995
Respondent : September 25, 1995

Motion day : **November 6, 1995**
Service : October 16, 1995
Filing : October 23, 1995
Respondent : October 30, 1995

Motion day : **December 4, 1995**
Service : November 13, 1995
Filing : November 20, 1995
Respondent : November 27, 1995

DÉVANT LA COUR:

Conformément à l'article 23.1 des *Règles de la Cour suprême du Canada*, les délais suivants doivent être respectés pour qu'une requête soit entendue par la Cour :

Audience du : **2 octobre 1995**
Signification : 11 septembre 1995
Dépôt : 18 septembre 1995
Intimé : 25 septembre 1995

Audience du : **6 novembre 1995**
Signification : 16 octobre 1995
Dépôt : 23 octobre 1995
Intimé : 30 octobre 1995

Audience du : **4 décembre 1995**
Signification : 13 novembre 1995
Dépôt : 20 novembre 1995
Intimé : 27 novembre 1995

DEADLINES: APPEALS

The fall session of the Supreme Court of Canada will commence October 2, 1995.

Pursuant to the *Supreme Court Act* and *Rules*, the following requirements for filing must be complied with before an appeal will be inscribed and set down for hearing:

Case on appeal must be filed within three months of the filing of the notice of appeal.

Appellant's factum must be filed within four months of the filing of the notice of appeal. For appeals in which the notice of appeal was filed before July 26, 1995, the factum must be filed within five months.

Respondent's factum must be filed within eight weeks of the date of service of the appellant's factum.

Intervener's factum must be filed within four weeks of the date of service of the respondent's factum. For appeals in which the notice of appeal was filed before July 26, 1995, the factum must be filed within two weeks.

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

The Registrar shall enter on a list all appeals inscribed for hearing at the October 1995 session August 8 1995.

DÉLAIS: APPELS

La session d'automne de la Cour suprême du Canada commencera le 2 octobre, 1995.

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 d'appel doit être déposé dans les trois mois du dépôt de l'avis d'appel.

Le mémoire de l'appellant doit être déposé dans les quatre mois du dépôt de l'avis d'appel. Pour les appels dont l'avis d'appel a été déposé avant le 26 juillet 1995, le mémoire doit être déposé dans les cinq mois.

Le mémoire de l'intimé doit être déposé dans les huit semaines suivant la signification de celui de l'appellant.

Le mémoire de l'intervenant doit être déposé dans les quatre semaines suivant la signification de celui de l'intimé. Pour les appels dont l'avis d'appel a été déposé avant le 26 juillet 1995, le mémoire doit être déposé dans les deux semaines.

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai de signification du mémoire de l'intimé.

Le 8 août 1995, le registraire mettra au rôle de la session d'octobre 1995 tous les appels inscrits pour audition.

**THE STYLES OF CAUSE IN THE PRESENT
TABLE ARE THE STANDARDIZED STYLES
OF CAUSE (AS EXPRESSED UNDER THE
"INDEXED AS" ENTRY IN EACH CASE).**

**LES INTITULÉS UTILISÉS DANS CETTE
TABLE SONT LES INTITULÉS NORMALISÉS
DE LA RUBRIQUE "RÉPERTORIÉ" DANS
CHAQUE ARRÊT.**

Judgments reported in [1995] 2 S.C.R., Part 1

British Columbia Securities Commission *v.* Branch,
[1995] 2 S.C.R. 3

R. v. Jobin, [1995] 2 S.C.R. 78

R. v. Primeau, [1995] 2 S.C.R. 60

Phillips v. Nova Scotia (Commission of Inquiry into
the Westray Mine Tragedy), [1995] 2 S.C.R. 97

Jugements publiés dans [1995] 2 R.C.S., partie 1

British Columbia Securities Commission *c.* Branch,
[1995] 2 R.C.S. 3

R. c. Jobin, [1995] 2 R.C.S. 78

R. c. Primeau, [1995] 2 R.C.S. 60

Phillips c. Nouvelle-Écosse (Commission d'enquête
sur la tragédie de la mine Westray), [1995] 2 R.C.S.
97
