

SUPREME COURT
OF CANADA



COUR SUPRÊME
DU CANADA

BULLETIN OF
PROCEEDINGS

BULLETIN DES
PROCÉDURES

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September 11,
1998 1208 -
1274 (Special -
Motions /
Spécial -
Requêtes)le 11 septembre 1998

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**APPLICATIONS FOR LEAVE TO
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James Puskas

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Pinkofsky, Lockyer

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Her Majesty The Queen (Ont.)

Tom Beveridge
Dept. of Justice

FILING DATE 25.6.1998

Delbert Ross Chatwell

James Lockyer
Pinkofsky, Lockyer

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Her Majesty The Queen (Ont.)

Jennifer Woolcombe
Min. of the A.G. for Ontario

FILING DATE 25.6.1998

M.V.

Jean Richer
Richer & Richer

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Her Majesty The Queen (Ont.)

Miriam Bloomenfeld
Min. of the A.G.

FILING DATE 30.6.1998

Kevin Charles MacKinnon

Kevin Charles MacKinnon

v. (26641)

Her Majesty The Queen (Alta.)

Gorden Tomljanovic
Alberta Dept. of Justice

FILING DATE 7.5.1998

Randall Ray Debruin

Alain Hepner, Q.C.
Ross - Hepner

v. (26623)

Her Majesty The Queen (Alta.)

Elizabeth Hughes
Alberta Justice, Appeal and Criminal Law
Policy

FILING DATE 26.6.1998

James Warren Wells

Marian E. Bryant

v. (26642)

Her Majesty The Queen (Alta.)

Goran Tomljanovic
Alberta Justice, Appeals and Criminal
Law Policy

FILING DATE 4.6.1998

Jeffrey Fink et al.

Steven Skurka

v. (26647)

Her Majesty The Queen (Ont.)

Michal Fairburn
Crown Law Office, Criminal

FILING DATE 26.6.1998

Khalid Somra et al.
Kenneth Radnoff, Q.C.
Radnoff, Pearl, Slover, Swedko, Dwoskin

Derek A.J. D'Oliverira
Swanick & Associates

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FILING DATE 27.5.1998

432080 Ontario Limited et al.
Doris Merrill Nelson
Doris Merrill Nelson

FILING DATE 12.6.1998

v. (26684)

Her Majesty The Queen (F.C.A.)(B.C.)
Gregory Franklin
A.G. of Canada

Société nationale immobilière Sonatim Inc.
Jérôme Choquette, c.r.
Choquette Beaupré Rhéaume

c. (26713)

FILING DATE 2.6.1998

Société de développement de l'Île Bizard Inc. et al. (Qué.)

Walter C. Elmore

Huan Van Nguyen
Wes Wilson

DATE DE PRODUCTION 15.6.1998

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The United States of America et al. (Ont.)
Graham Reynolds
Dept. of Justice

Sophie Jarenko
Richard R. Arblaster

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FILING DATE 29.6.1998

Metropolitan Toronto Condominium Corporation No. 875, et al. (Ont.)

Howard W. Winkler
Gowling, Strathy & Henderson

Michael C. James B.Sc.
Michael C. James B.Sc.

FILING DATE 7.8.1998

v. (26692)

Her Majesty The Queen (F.C.A.)(Ont.)
Paul Plourde, Q.C.
Dep. A.G. of Canada

A. Tony Fiorelli
A. Tony Fiorelli

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FILING DATE 10.8.1998

Dr. J. G. Stephens et al. (Ont.)

W.J. Cornwall
McCarthy, Tétrault

Pushpa Thawani
Pushpa Thawani

FILING DATE 23.6.1998

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M. Leal Sarmiento

872935 Ontario Limited
Peter J. Lukasiewicz

Gowling, Strathy & Henderson

Reino, Conte & Assoc.

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FILING DATE 16.6.1998

Sherwood Design Services Inc. et al. (Ont.)

Antonio Conte

Cruise Canada Inc.

Benoît Lapointe

Paquette Gadler

Lavery de Billy

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J. Adory Laliberté et al.

J. Adory Laliberté

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Sa Majesté la Reine (C.A.F.)(Qué.)

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P.G. du Canada

Bendt Matthiessen

Robert J. Wachowich

Weir Bowen

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Avram Fishman

Goldstein, Flanz & Fishman

Her Majesty The Queen (Alta.)

Robert Frater

Dept. of Justice

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Elliot C. Wightman et al. (Qué.)

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Heenan Blaikie

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Kelly Sykes

Jeffrey R. Ray

Her Majesty The Queen (B.C.)

Peter Ewert

A.G. of B.C.

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FILING DATE 26.6.1998

Her Majesty The Queen (B.C.)

Peter Ewert, Q.C.

Min. of the A.G.

Brian Doody

Brian Doody

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Irving Oil Limited, a body corporate

Robert G. Vincent, Q.C.

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**Professional Training Committee of the Barreau
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Angela Moquin et al. (N.B.)

Drew L. Simpson
Simpson Law Office

Ville de Saint-Hubert

Pierre Cimoné
Bernard, Cimoné, Poupart, Despatis

c. (26738)

S.S.Q. Société d'assurance générale et al. (Qué.)

Odette Jobin-Laberge
Lavery, de Billy

DATE DE PRODUCTION 26.6.1998

Wyeth-Ayerst Canada Inc. et al.

James A. Robb, Q.C.
Stikeman, Elliott

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Claude-Armand Sheppard
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FILING DATE 22.6.1998

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Paul Cavalluzzo
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Leigh A. Taylor
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FILING DATE 26.6.1998

FILING DATE 29.6.1998

B.M.

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John Loring Patrick Sinclair

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The Law Society of Manitoba (Man.)

Eleanor R. Dawson
Aikins MacAulay & Thorvaldson

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Manac Inc. Corp.

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Stikeman, Elliott

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Dept. of Justice

FILING DATE 30.6.1998

Groupe Montech Inc. et al.

Nicholas Sanzari
Hanna Glasz & Sher

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Montage et découpage Promag Inc. et al. (Qué.)

Marc Simard
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DATE DE PRODUCTION 10.7.1998

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Aditya Narayan Varma

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Ernest A.J. Hawrish

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**The Minister of Human Resources Development
et al. (F.C.A.)(Man.)**

Roger R. Lafrenière
A.G. of Canada

FILING DATE 10.7.1998

The Law Society of Saskatchewan et al. (Sask.)

Allan T. Snell, Q.C.

FILING DATE 17.7.1998

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Angela Emerson
Gilbertson, Davis, Herceg, Emerson

FILING DATE 31.7.1998

Her Majesty The Queen (Ont.)

A.G. for Ontario

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Michael Khanna

Alan D. Gold
Gold & Fuerst

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Her Majesty The Queen (Ont.)

A.G. for Ontario

FILING DATE 23.7.1998

BOT Construction Limited

Ronald G. Chapman

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Her Majesty The Queen et al. (Ont.)

Dennis Brown
Min. of the A.G.

FILING DATE 10.8.1998

Hussmann Canada Inc.

I.V.B. Nordheimer
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Paul D. Amey
Waterous, Holden, Amey, Hitchon

FILING DATE 10.7.1998

H.K.

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**La direction de la protection de la jeunesse
(Centre jeunesse de Montréal) et al. (Qué.)**

Hughes Létourneau
Primeau, Létourneau & Assoc.

DATE DE PRODUCTION 27.7.1998

Les entreprises Raymond Denis Inc.

Michel Bouchard

c. (26756)

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DATE DE PRODUCTION 17.7.1998

Larry Havelange

Elaine Lee
Hnatyshyn Singer Thorstad

v. (26761)

Her Majesty The Queen (Sask.)

D. Murray Brown, Q.C.
Office of the A.G. for the province of
Sask.

FILING DATE 29.7.1998

Sa Majesté la Reine

Germain Tremblay

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Sassine Georges Sreih

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Taylor McCaffrey

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Terrance Horrod et al.
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Pearlman & Lindholm

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Lawrence Page
Page Fraser & Assoc.

FILING DATE 31.7.1998

W.C.W.
Hugh Gwillim

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Her Majesty The Queen (B.C.)
Dirk Ryneveld, Q.C.
Office of Crown Counsel

FILING DATE 4.8.1998

Shannon Sullivan et al.
James Murphy
Pearl & Associates

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Camp Carowanis Inc. (Qué.)
Philippe Lelarge
Gasco, Lelarge

DATE DE PRODUCTION 31.7.1998

Her Majesty The Queen
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Manitoba Justice

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FILING DATE 31.7.1998

Her Majesty The Queen
William F. Ehrcke, Q.C.
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Anthony James Gillies (B.C.)
Jeffrey R. Ray

FILING DATE 4.8.1998

Guardian Insurance Company
Brian A. Crane, Q.C.
Gowling, Strathy & Henderson

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Ontario Tree Fruits Limited (Ont.)
Alan J. Lenczner, Q.C.
Lenczner, Slaght, Royce, Smith, Griffin

FILING DATE 7.8.1998

Robert Lavigne
Robert Lavigne

v. (26774)

**Human Resources Development et al.
(F.C.A.)(Qué.)**
Raymond Piche
A.G. of Canada

FILING DATE 4.8.1998

Sharon Rounds et al.

Raymond G. Colautti
Paroian, Raphael, Courey, Cohen &
Houston

v. (26775)

**Her Majesty The Queen in the Right of Canada
(F.C.A.)(Ont.)**

Dale Yurka
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FILING DATE 6.8.1998

Noel Francis Chantiam

Warren Rapoport
McDonald & Hayden

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K.L.W.

R. Ian Histed
Downtown Legal Action

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Packall Packaging Inc. et al. (Ont.)

Douglas G. Loucks
Kerr, Waid & Assoc.

FILING DATE 17.7.1998

Winnipeg Child and Family Services (Man.)

Heather Leonoff, Q.C.
Wolch, Pinx, Tapper, Scurfield

FILING DATE 10.8.1998

Brent Paul Rockwood

Brent Paul Rockwood

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Ladner Downs et al.

Stephen R. Schachter
Nathanson Schachter & Thompson

v. (26780)

Minister of National Revenue (Nfld.)

Valerie A. Miller
A.G. of Canada

FILING DATE 28.5.1998

Douglas Shore (B.C.)

Gregory K. Steele
Steele & Co.

FILING DATE 31.7.1998

Esther Neuman

Priscilla E.S.J. Kennedy
Parlee McLaws

v. (26778)

Her Majesty The Queen (Alta.)

W.W. Smart
Justice Canada

FILING DATE 7.8.1998

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE
LAST ISSUE

DEMANDES SOUMISES À LA
COUR DEPUIS LA DERNIÈRE
PARUTION

JULY 6, 1998 / LE 6 JUILLET 1998

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

Greggory Tremblay

v. (26549)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Whether Court of Appeal erred in excusing the Respondent from adducing evidence of justification pursuant to section 1 of the *Canadian Charter of Rights and Freedoms* when opportunity was given to the Respondent to do so and such evidence was not led - Did the Court of Appeal err in dismissing the Applicant's appeal in the absence of such evidence?

PROCEDURAL HISTORY

October 21, 1996 Provincial Court of Saskatchewan (Caldwell P.C.J.)	Information dismissed
May 12, 1997 Court of Queen's Bench (Dielschneider J.)	Appeal allowed; dismissal set aside and verdict of guilty of driving "over 80" substituted
January 27, 1998 Court of Appeal for Saskatchewan (Bayda C.J.S. and Wakeling and Lane J.J.A.)	Appeal dismissed
March 30, 1998 Supreme Court of Canada	Application for leave to appeal filed

William O'Malley

v. (26480)

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

NATURE OF THE CASE

Criminal Law - *Canadian Charter* - Procedural Law - Appeals - Whether Court of Appeal properly dismissed application for extension of time to appeal from conviction - Application to admit "fresh evidence" in support of appeal from conviction based on guilty plea - Necessity to form intent to appeal within time allowed - Effect of failure of disclosure at trial - Effect of conduct of the Applicant's counsel at trial and during sentence appeal.

PROCEDURAL HISTORY

June 18, 1986 Supreme Court of British Columbia (Trainor J.)	
Guilty plea, one charge of conspiracy to import cocaine September 12, 1986 Supreme Court of British Columbia (Trainor J.)	Sentenced to 18 years imprisonment
July 21, 1988 Court of Appeal for British Columbia (Taggart, Hinkson, Craig JJ.A.)	Appeal from sentence dismissed
July 23, 1996 Court of Appeal for British Columbia (Hollinrake J.A.)	Extension of time to appeal from conviction refused
September 17, 1997 Court of Appeal for British Columbia (MacFarlane, Cumming, Finch JJ.A.)	Application for full panel review of decision to deny time extension dismissed for lack of jurisdiction
March 26, 1998 Supreme Court of Canada (Major J.)	Motion to appoint counsel dismissed, time to apply for leave to appeal extended to June 15, 1998
June 4, 1998 Supreme Court of Canada	Application for leave to appeal filed

Lorraine Marie Dopf

v. (26525)

The Royal Bank of Canada (B.C.)

NATURE OF THE CASE

Labour Law - Employment Law - Master and Servant - Fiduciary Duty - Dismissal and Termination of Employment Relationship - Employee of bank terminated for cause - Prior to dismissal for cause employee requested to provide security for, and make payments on, loans to a failing company of which she held one share and her husband held the remaining 99 shares - Employee instructed to appear at bank's premises upon completion of short-term disability leave but dismissed while eligible for extension of leave following accident - Bank dismissing without accepting employee's responses to its allegations of dishonesty - Whether circumstances preceding and surrounding dismissal gave rise to a fiduciary obligation on part of the bank - Whether bank breached fiduciary obligation - Whether aggravated or punitive damages could be awarded by jury - Whether Court of Appeal improperly interfered with jury awards of compensatory, punitive and aggravated damages.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
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DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

January 31, 1996 Supreme Court of British Columbia (Cooper J.)	Damages awarded
January 21, 1998 Court of Appeal of British Columbia (Macfarlane, Southin, Goldie JJ.A.)	Damages reduced
March 16, 1998 Supreme Court of Canada	Application for leave to appeal filed
April 14, 1998 Supreme Court of Canada	Application for leave to cross-appeal filed

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

Her Majesty The Queen

v. (26600)

Donald Alexander Elliott (Crim.)(Ont.)

NATURE OF THE CASE

Criminal Law - Procedural Law - Trial - Reasonable apprehension of bias - Past relationship between trial judge and accused - Trial judge presided over criminal trial of accused in which credibility of accused was an issue - Prior to appointment to Bench, trial judge had acted as counsel in unrelated civil proceedings in which his client had alleged that the accused had engaged in fraudulent activity - No indicia of actual bias - Whether circumstances gave rise to reasonable apprehension of bias.

PROCEDURAL HISTORY

June 16, 1994 Ontario Court (General Division) (Kennedy J.)	Conviction: Sexual assault Sentence: Imprisonment for 2 years less a day and 2 years probation
February 23, 1998 Court of Appeal for Ontario (McMurtry C.J., Charron and Borins JJ.A.)	Appeal allowed, conviction set aside and new trial ordered
April 24, 1998 Supreme Court of Canada	Application for leave to appeal filed

Andrew Mark Marshall

v. (26602)

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

NATURE OF THE CASE

Criminal law - The Court of Appeal for the Province of Alberta erred in law in not applying section 686(1)(a)(i) of the *Criminal Code of Canada*, which effectively denied the Applicant the opportunity of making full answer and defence - Whether error in law on the evidence - Whether Court of Appeal failed to resolve significant inconsistencies in the testimony of the complainant - Whether Court of Appeal for the Province of Alberta failed to appreciate the effect of the prior inconsistent statements of the Complainant - Assessment of credibility.

PROCEDURAL HISTORY

February 21, 1997
Court of Queen's Bench (Lovecchio J.)

Conviction: living off the avails of youth prostitution Conviction appeal dismissed
December 5, 1997
Court of Appeal for Alberta
(McFadyen, Hunt and Sulatycky JJ.A.)

June 11, 1998 Application for leave to appeal filed
Supreme Court of Canada

John Alexander Summerbell

v. (26630)

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

NATURE OF THE CASE

Criminal law - Juries - Charge to the jury - "Rolled-up" charge - Defences - Whether the trial judge was obliged to give the jury a rolled-up charge putting forth the Applicant's multiple defences - Whether the trial judge adequately instructed the jury on the defences put forth by the Applicant.

PROCEDURAL HISTORY

March 11, 1992 Conviction: second degree murder
Ontario Court (General Division) (McRae J.)

March 5, 1996 Appeal dismissed
Court of Appeal for Ontario
(Robins, Weiler, Laskin JJ.A.)

May 8, 1998 Application for leave to appeal and motion for the
Supreme Court of Canada extension of time filed

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

Andrew Michael McMechan

v. (26638)

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

NATURE OF THE CASE

Criminal law - Customs and excise - Whether the Court of Appeal erred in speculating as to the effect of s. 3 of the *Reporting of Exported Goods Regulations* when that was not before the trial judge and was not pleaded by the Crown - Whether the Court of Appeal erred in noting that s. 3 of the *Reporting of Exported Goods Regulations* could sustain a conviction where the use of s. 3 of the *Regulations* was not the determinative issue at trial - Whether the summary conviction appeal court erred in dismissing the Applicant's *Charter* argument raised for the first time on appeal.

PROCEDURAL HISTORY

September 12, 1996
Provincial Court of Manitoba
(Tarwid P.C.J.)

Conviction: unlawfully failing to present himself for questioning by a customs officer; unlawful removal of goods from a Customs office; unlawfully evading compliance with s. 114 of the *Customs Act* by failing to place in the custody of an officer property that was seized under the *Customs Act*; unlawfully eluding examination under the *Immigration Act*; failure to comply with the conditions of a recognizance

October 9, 1996
Provincial Court of Manitoba (Geisbrecht A.C.J.)

Failure to comply with the conditions of a recognizance

April 24, 1997
Court of Queen's Bench of Manitoba (Menzies J.)

Summary conviction appeal dismissed

March 16, 1998
Court of Appeal of Manitoba (Huband J.A.)

Leave to appeal denied

May 13, 1998
Supreme Court of Canada

Application for leave to appeal filed

R.L.

v. (26644)

The Children's Aid Society of Ottawa-Carleton (Ont.)

NATURE OF THE CASE

Family law - Wards of the Crown - *Child and Family Services Act*, R.S.O. 1990, c. C.11 - Child protection proceedings - Custody - Care and custody hearing - Whether the finding of protection was adjudicated - Whether the Court of Appeal's decision is contrary to the *Act* - Whether the lower courts disposed of the case properly.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
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DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

February 2, 1996
Ontario Court of Justice (Provincial Division)
(Michel P.C.J.)

Application granted: children to be made wards of the
Crown without access for the purpose of adoption

May 30, 1997
Ontario Court of Justice (General Division)
(Desmarais J.)

Appeal dismissed

March 19, 1998
Ontario Court of Appeal
(McMurtry C.J.O., Doherty and Laskin JJ.A.)

Appeal dismissed

May 15, 1998
Supreme Court of Canada

Application for leave to appeal filed

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

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

Georges A. Rocheleau c. Ville de Bedford, et al. (Qué.)(26425)

JULY 13, 1998 / LE 13 JUILLET 1998

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

Gerald O. Swicheniuk

v. (26649)

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

NATURE OF THE CASE

Criminal law - Counsel - Whether the Court of Appeal erred when it concluded that there is no constitutional requirement for trial judges to caution an unrepresented accused person on the danger of proceeding without counsel - Whether the Court of Appeal erred in concluding that the Applicant had received a fair trial.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

June 19, 1996
Court of Queen's Bench for Saskatchewan
(Wedge J.)

Conviction: fraud over \$1000; making a false document

March 17, 1998
Court of Appeal for Saskatchewan
(Cameron, Gerwing, Lane JJ.A.)

Appeal dismissed

May 19, 1998
Supreme Court of Canada

Application for leave to appeal filed

**Vera Marie Hagen and Vera Marie Hagen
as Executrix of the Estate of David Albert Hagen**

v. (26541)

Carl Gustav Stromner and Koch Oil Co. Ltd.

-and-

Workers' Compensation Board (Alta.)

NATURE OF THE CASE

Labour Law - Workers' Compensation - Canadian Charter - Civil - Civil actions outside workers' compensation schemes - Workers' Compensation Board finds fatal accident was within provincial workers' compensation scheme - Victim's widow and estate commencing action outside scheme - Board releasing certificate stating that it was subrogated to any cause of action arising under the W.C.A. and that it had not given consent to the action - Whether Board had jurisdiction to determine action was barred - Whether Board is a statutory tribunal - Whether parties to accident were in employer-employee relationships and under the provincial workers' compensation scheme - Whether Board had jurisdiction to determine status of parties - Whether certificate was determinative or capable of review - Whether *Workers' Compensation Act*, R.S.A. 1981, c. W-16 contravenes *Charter*.

PROCEDURAL HISTORY

August 20, 1996
Court of Queen's Bench of Alberta (Langston J.)

Motion for summary judgment dismissed, Declaration of entitlement to continue action granted

February 12, 1998
Court of Appeal of Alberta
(McFadyen, Picard and Berger JJ.A.)

Appeal allowed, action dismissed

March 25, 1998
Supreme Court of Canada

Application for leave to appeal filed

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

Gary R. Gurtler

v. (26640)

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

NATURE OF THE CASE

Criminal law - Evidence - Expert evidence - Whether the expert evidence was admissible - Whether there was any evidence supporting the authorship and origin of documents used by the experts for their testimony - Whether the Crown's address to the jury was unfair - Whether the Court of Appeal found an error that did not result in a miscarriage of justice - Whether the Court of Appeal erred in concluding that it was not necessary to deal with any of the grounds advanced by the Applicant on appeal.

PROCEDURAL HISTORY

November 27, 1996
Court of Queen's Bench for Saskatchewan (Gerein J.)

Conviction: second degree murder

March 27, 1998
Court of Appeal for Saskatchewan
(Tallis, Gerwing, Lane JJ.A.)

Appeal dismissed

May 21, 1998
Supreme Court of Canada

Application for leave to appeal filed

Roderick MacDonell

v. (26502)

Robert Flahiff and Gérald Lavoie

- and -

The Honourable Jean-Pierre Bonin
(*ès qualité judge of the Court of Québec*)

- and -

The Attorney General of Canada (Qué.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Administrative law - Jurisdiction - Procedural law - *Certiorari* - Right to a fair trial - Freedom of expression - Judge lifting his previous order prohibiting access to a search warrant and supporting affidavit, once charges were laid against the Respondents - Respondents claiming that information was false and its release would prejudice their right to a fair trial - Respondents applying for *certiorari*, on the basis of an error on the face of the record amounting to a jurisdictional error - Respondents' application dismissed by Superior Court of Québec, but overturned on appeal - Court of Appeal imposing publication ban on search warrant and supporting documents but allowing access by the press - Evidentiary basis required to justify a publication ban - Effect of section 487.3 of the *Criminal Code*, R.S.C. 1985, c. C-46, as amended - Sections 2(b) and 11(d) of the *Charter* - *A.G. (Nova Scotia) v. MacIntyre*, [1982] 1 S.C.R. 175 - *Dagenais v. Canadian Broadcasting Corp.*, [1994] 3 S.C.R. 835.

PROCEDURAL HISTORY

April 3, 1996 Court of Québec (Bonin J.)	Search warrant issued and order sealing the search warrant granted
September 23, 1997 Court of Québec (Bonin J.)	Previous order sealing search warrant, revoked; Order permitting access to search warrants and related information
October 17, 1997 Superior Court (de Blois J.)	Application for a writ of <i>certiorari</i> to quash the September 23, 1997 Order, dismissed but Order varied to refer to one search warrant only
January 8, 1998 Court of Appeal of Québec (Rothman, Brossard JJ.A. and Biron J.A. (ad hoc))	Appeal allowed, application for <i>certiorari</i> granted; Order giving Applicant access to search warrant but putting publication ban in place for all information relating to search warrant until Respondent's proceedings end
March 5, 1998 Supreme Court of Canada	Application for leave to appeal filed

Antoine Thibault

c. (26576)

Collège des médecins du Québec

- et -

Le Procureur général du Québec (Qué.)

NATURE DE LA CAUSE

Procédure - Législation - Interprétation - Obligation de donner au Procureur général un avis de trente jours "avant la date de l'audition" lorsqu'une partie entend soulever l'inconstitutionnalité d'une disposition législative ou réglementaire - La Cour d'appel a-t-elle erré dans l'interprétation et l'application des art. 34 du *Code de procédure pénale*, L.R.Q., ch. C-25.1, et 95 du *Code de procédure civile*, L.R.Q., ch. C-25? - La Cour d'appel a-t-elle erré en déclarant inopposable au Procureur général une entente intervenue entre le demandeur et l'intimé sur la présentation des moyens constitutionnels?

HISTORIQUE PROCÉDURAL

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

Le 27 juin 1994 Cour du Québec, chambre criminelle et pénale (Carrier j.c.q.)	Requête en irrecevabilité du Procureur général du Québec à l'encontre d'un avis signifié en vertu de l'art. 95 <i>C.p.c.</i> accueillie
Le 26 juin 1995 Cour du Québec, chambre criminelle et pénale (Carrier j.c.q.)	Demandeur reconnu coupable d'avoir exercé illégalement la médecine en violation de l'art. 188 du <i>Code des professions</i>
Le 12 février 1996 Cour supérieure du Québec, chambre criminelle (Tremblay j.c.s.)	Appel rejeté
Le 9 février 1998 Cour d'appel du Québec (Baudouin, Chamberland et Nuss j.c.a.)	Appel rejeté
Le 9 avril 1998 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Gilles Patenaude

c. (26588)

Procureur général du Québec (Qué.)

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Contestation constitutionnelle des paragraphes 254(2) et (5) du *Code criminel* fondée sur l'alinéa 11c) de la *Charte canadienne* et l'article 33.1 de la *Charte des droits et libertés de la personne*, L.R.Q., chap. C-12 - Absence de fondement factuel - Absence d'intérêt - Principe de l'autorité de la chose jugée - Requête de l'intimé en rejet de l'action directe en nullité intentée par le demandeur accueillie - Requête de l'intimé en rejet d'appel accueillie - Le demandeur doit-il avoir commis une infraction criminelle pour justifier d'un fondement factuel à la contestation constitutionnelle d'une disposition législative?

HISTORIQUE PROCÉDURAL

Le 27 janvier 1998 Cour supérieure du Québec (Tremblay J.C.S.)	Requête de l'intimé en rejet de l'action du demandeur accueillie
Le 16 mars 1998 Cour d'appel du Québec (Proulx, Rousseau-Houle et Forget, J.J.C.A.)	Requête de l'intimé en rejet d'appel accueillie
Le 14 avril 1998 Cour suprême du Canada	Demande d'autorisation déposée

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

Darrell Brertton

v. (26669)

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

AND BETWEEN:

Cameron Cardinal

v. (26669)

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

AND BETWEEN:

Samuel Lorne Bull, Jr.

v. (26669)

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

NATURE OF THE CASE

Criminal law - Constitutional law - Procedural law - Whether an appeal of constitutional issues falls within the scope of the *Provincial Offences Procedure Act* and the *Criminal Code* or whether it is an appeal as of right to the Court of Appeal - Whether constitutional issues are important questions of law.

PROCEDURAL HISTORY

June 18, 1997
Alberta Provincial Court
(Norheim P.C.J.)

Conviction: unlawfully hunting elk outside open season; unlawful possession of elk; unlawfully trespassing upon Crown land (Applicant Brertton); unlawful possession of elk; unlawfully trespassing upon Crown land (Applicants Cardinal and Bull)

March 12, 1998
Court of Queen's Bench for Alberta (Moreau J.)

Appeals dismissed in part; conviction for possession quashed (Applicant Brertton)

May 7, 1998
Court of Appeal of Alberta (McClung J.A.)

Leave to appeal granted on one issue

May 27, 1998
Supreme Court of Canada

Application for leave to appeal filed

Kyle Johnston

v. (26522)

M & E Holdings Limited (N.S.)

NATURE OF THE CASE

Torts - Damages - Negligence - Whether the lower courts erred in determining whether there was an unusual danger - Whether the lower courts erred in law by failing to analyse the evidence - Whether the Court of Appeal erred in law by failing to correct the palpable and manifest errors in law by the trial judge.

PROCEDURAL HISTORY

July 29, 1997 Supreme Court of Nova Scotia (MacLellan J.)	Applicant's action for damages dismissed
January 16, 1998 Nova Scotia Court of Appeal (Freeman, Hart and Flinn JJ.A.)	Appeal dismissed
March 17, 1998 Supreme Court of Canada	Application for leave to appeal filed

**MOTIONS FOR RECONSIDERATION -- REHEARING /
DEMANDES DE RÉEXAMEN -- NOUVELLE AUDITION**

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

1. M.-J.R. c. M.B. (Qué.)(26347)
2. Jacques Laurendeau c. Université Laval (Qué.)(26453)

JULY 20, 1998 / LE 20 JUILLET 1998

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

Bruce Hahn

v. (26685)

Her Majesty The Queen (Crim.)(P.E.I.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Procedure - Jurisdiction - Whether a preliminary inquiry judge is a court of competent jurisdiction for the purposes of s. 24(2) of the *Charter*.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

September 26, 1996
Provincial Court of PEI (FitzGerald P.C.J.)

Defence motion for a *Garofoli* hearing dismissed.

January 31, 1997
Supreme Court - Trial Division (Jenkins J.)

Application for prerogative relief in the nature of *certiorari* and *mandamus* dismissed

January 20, 1998
Supreme Court - Appeal Division
(Carruthers C.J., Mitchell, McQuaid JJ.A.)

Appeal dismissed

June 4, 1998
Supreme Court of Canada

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

**Agostinho Silva Bonanca, and Maria Augusta Bonanca,
on her own behalf and behalf of all others entitled to claim under the *Family Law Act***

v. (26521)

Donald P. Jones, Stanley Winston Epstein, and Toronto Western Hospital (Ont.)

NATURE OF THE CASE

Procedural Law - Limitation of Actions - Medical Malpractice - Negligence - Whether the Applicant knew, or ought to have known, all the medical facts or procedures that would trigger a limitation period more than one year before commencing an action.

PROCEDURAL HISTORY

December 6, 1996
Ontario Court (General Division) (Jarvis J.)

Summary judgment dismissing action as statute barred granted

January 21, 1998
Ontario Court of Appeal
(Morden A.C.J., Moldaver, Borins JJ.A.)

Appeal dismissed March 18, 1998
Supreme Court of Canada

Application for leave to appeal filed

Innopac Inc.

v. (26531)

Robert J. Reynolds (Ont.)

NATURE OF THE CASE

Labour law - Contracts - Constructive dismissal - "Parachute agreement" providing for payment on take-over of employer company and constructive dismissal of employee - Take-over occurred - Whether the Court of Appeal erred in retrying this case on its facts where there is no palpable or over-riding error and where such an error was not argued - Whether the Court of Appeal erred in law in holding that an employee can accept a higher paying job elsewhere before

rejecting an employer's request to transfer to a new office and can then rely upon the changes as amounting to constructive dismissal to trigger the terms of the parachute agreement - Whether the Court of Appeal erred in law in examining extra-contractual, subjective factors to determine if there was constructive dismissal - Whether the Court of Appeal erred in law in finding that the employee was not obliged to accept a transfer, requested in good faith, because he had lived all his life in southern Ontario - Whether an employee must clearly communicate to the employer that he does not agree to the transfer before he resigns in order for constructive dismissal based on the transfer to occur - Whether this case conflicts with *Smith v. Viking Helicopter* (1989), 68 O.R. (2d) 228 (Ont. C.A.) - Whether it is proper to consider the loss of benefits payable under a parachute agreement when determining if there has been a constructive dismissal which would trigger payment of those benefits?

PROCEDURAL HISTORY

September 30, 1992 Ontario Court (General Division) (Hawkins J.)	Action dismissed
January 22, 1998 Court of Appeal for Ontario (McKinlay, Catzman and Labrosse [dissenting]JJ.A.)	Appeal allowed; Applicant ordered to pay damages for constructive dismissal
March 20, 1998 Supreme Court of Canada	Application for leave to appeal filed

Anderson T. Walcott

v. (26567)

Her Majesty the Queen in Right of Ontario, Ontario Provincial Government, Ministry of Citizenship Culture and Recreation, Ontario Human Rights Commission, Ministry of Environment and Energy, York (Ontario) Hydro, Ministry of the Attorney General, Etobicoke Small Claims Court, North York Small Claims Court, Master's Court, Ontario Ministry of Finance, Ontario Insurance Commission, Toronto Transit Commission, Bell Canada, Schwerdt Map Art, Society of Management Accountants of Ontario, Bencharge Credit Service, Allstate Insurance Company of Canada, General Accident Assurance Co., General Motors Acceptance Corporation of Canada, G.B.C. Canada Inc, The Canada Trust Company (Ont.)

NATURE OF THE CASE

Procedural law - Civil Procedure - Pre-trial procedure - Summary judgment motions - Motions for default judgment - Whether the statement of claim disclosed a reasonable cause of action - Whether the statement of claim could be struck out on other grounds - Whether the lower courts disposed of the case properly.

PROCEDURAL HISTORY

April 9, 1997 Ontario Court (General Division) (Campbell J.)	The Canada Trust Company's motion for an order striking out the statement of claim granted
June 17, 1997 Ontario Court (General Division) (Molloy J.)	GMA C's motion for an order striking out the statement of claim granted; Applicant's motion for summary judgment dismissed; Applicant's motion to note Respondents in default and to issue default judgment dismissed
July 18, 1997 Ontario Court (General Division)	(Ground J.)

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

Respondents' motions for order striking out the statement of claim against York (Ontario) Hydro, Allstate Insurance of Canada, Bencharge Credit Service, General Accident Assurance Company of Canada, G.B.C. Canada Inc., the Ontario Provincial Government, Ministry of Citizenship Culture and February 26, 1998
Court of Appeal for Ontario
(McKinlay, Austin and Dunnet [*ad hoc*] J.J.A.)
March 20, 1998
Supreme Court of Canada

Recreation, Ontario Human Rights Commission, Ministry of the Attorney General, Etobicoke Small Claims Court, North York Small Claims Court, Masters Court, Ontario Ministry of Finance and the Ontario Insurance Commission were granted without leave to amend
Appeals dismissed

Application for leave to appeal filed

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

Stefan Hadrian Comsa

v. (26700)

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

NATURE OF THE CASE

Criminal law - Whether the Court of Appeal correctly applied s. 686(1)(b)(ii) - Whether the Court of Appeal properly considered all of the Applicant's submissions - Whether the Court of Appeal erred in denying the Applicant's motion to reopen the conviction appeal - Whether the Court of Appeal erred in denying the Applicant judicial interim release pending the decision on his application for leave to appeal to the Supreme Court of Canada - Whether the Applicant's fresh evidence should be admitted.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

January 16, 1997 Court of Queen's Bench (Mason J.)	Conviction: assault causing bodily harm
February 23, 1998 Court of Appeal for Alberta (Coté, McFadyen, Smith JJ.A.)	Conviction appeal dismissed
April 20, 1998 Court of Appeal for Alberta (Irving, O'Leary, Ritter JJ.A.)	Application for reconsideration of appeal dismissed
May 20, 1998 Court of Appeal for Alberta (McClung, Moore, Marceau JJ.A.)	Sentence appeal dismissed
June 1, 1998 Supreme Court of Canada	Application for leave to appeal conviction appeal, and motion for the extension of time filed
June 23, 1998 Supreme Court of Canada	Motion to adduce fresh evidence, application for judicial interim release, application for leave to appeal sentence appeal filed

Benny Abdenbi Barrouk

c. (26447)

**Brenda J. Crowther, Syncrude Canada et Darren J. Gibbs,
et leurs deux assurances: La Compagnie d'assurance
Guardian du Canada police no.88-29847 et Liberty Mutual Insurance Group
police A.C.2.271681054007023 (C.A.F.)(Alb.)**

NATURE DE LA CAUSE

Droit Administratif - Compétence - Action - Dommages-intérêts - Tiers - Victime d'un accident d'automobile - Véhicules automobiles - Action du demandeur rejetée pour cause d'absence juridiction - Droit à une plaidoirie écrite et orale.

HISTORIQUE PROCÉDURAL

Le 9 décembre 1996 Cour fédérale du Canada, section de première instance (Gibson J.)	Action en dommages du demandeur rejetée
Le 15 janvier 1998 Cour d'appel fédérale (Marceau, Desjardins et Létourneau J.A.)	
Appel rejeté Le 22 janvier 1998 Cour Suprême du Canada	Demande d'autorisation d'appel déposée

Ville de Boisbriand et Communauté urbaine de Montréal

c. (26583)

La Commission des droits de la personne et des droits de la jeunesse

- et -

Palmerino Troilo (Qué.)

ENTRE:

Ville de Montréal et Communauté urbaine de Montréal

c. (26583)

La Commission des droits de la personne et des droits de la jeunesse

- et -

Réjeanne Mercier (Qué.)

NATURE DE LA CAUSE

Libertés publiques - Droit du travail - Législation - Interprétation - Art. 10 de la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12 - Discrimination - Notion de "handicap" - Anomalies asymptomatiques et sans limitation fonctionnelle - Perception subjective de l'existence d'un handicap - Refus d'embauche de la plaignante à un poste de jardinière en raison d'une légère scoliose dorso-lombaire découverte lors d'un examen médical de préembauche - Plaignant renvoyé de son poste de policier parce qu'il est atteint de la maladie de Crohn - Cour d'appel concluant que l'employeur avait violé le droit à l'égalité des plaignants protégé par l'art. 10 - La Cour d'appel a-t-elle erré en concluant que la protection contre la discrimination fondée sur le handicap s'appliquait dans le cas d'une anomalie asymptomatique et n'occasionnant aucune incapacité fonctionnelle? - La Cour d'appel donne-t-elle une portée beaucoup trop large à la notion de handicap?

HISTORIQUE PROCÉDURAL

Le 21 mars 1995
Tribunal des droits de la personne
(Brossard, j.c.q., et Deschênes et Bridge, assesseurs)

Dossier Troilo: demande en dommages de la
Commission pour discrimination fondée sur le
handicap rejetée

Le 21 mars 1995
Tribunal des droits de la personne
(Brossard, j.c.q., et Dortéus et Laramée, assesseurs)

Dossier Mercier: demande en dommages de la
Commission pour discrimination fondée sur le
handicap rejetée

Le 13 février 1998
Cour d'appel du Québec
(Vallerand, Forget et Philippon [ad hoc] j.j.c.a.)

Interventions de la Communauté urbaine de Montréal
rejetées; appels accueillis et dossiers renvoyés au
Tribunal pour décision quant à la défense d'exigence
professionnelle ou la réparation appropriée le cas
échéantLe 14 avril 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Collie Woollen Mills Limited, James Edward Collie, James S. Collie, Jean L. Collie and Gene L. Collie
v. (26518)

Her Majesty The Queen (F.C.A.)(Ont.)

NATURE OF THE CASE

Procedural law - Pre-trial procedure - Civil Procedure - Motion for summary judgment - "Genuine issue for trial" - Whether the lower courts disposed of the case properly.

PROCEDURAL HISTORY

February 14, 1996 Federal Court of Canada (Trial Division) (Richard J.)	Respondent's motion for summary judgment granted
January 15, 1998 Federal Court of Appeal (Pratte, Denault, and Linden J.J.A.)	Appeal dismissed
March 16, 1998 Supreme Court of Canada	Application for leave to appeal filed

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

Terry Grismer (Estate)

v. (26481)

**British Columbia Council of Human Rights (Member Designate Tom Patch), British Columbia
Superintendent of Motor Vehicles and the Attorney General of British Columbia (B.C.)**

NATURE OF THE CASE

Administrative law - Judicial review - Human rights - Equality rights - Discrimination on the basis of physical disability - Motor vehicle licencing as a service or facility customarily available to the public - Complainant's driver's licence cancelled due to physical disability affecting vision - Whether the member designate of the British Columbia Council of Human Rights erred in finding that the complainant had been discriminated against and that the discrimination was unjustified - Test to be applied to persons with disabilities who have been discriminated against - Issue of accommodation.

PROCEDURAL HISTORY

December 7, 1994

British Columbia Council of Human Rights
(Tom Patch, Member Designate)

Complaint of discrimination upheld June 3, 1996
Supreme Court of British Columbia (Williamson J.)

Petition for judicial review dismissed

December 18, 1997

Court of Appeal for British Columbia
(Macfarlane, Ryan and Donald JJ.A.)

Appeal allowed; decision of the British Columbia
Council of Human Rights set aside

February 26, 1998

Supreme Court of Canada

Application for leave to appeal filed

March 23, 1998

Supreme Court of Canada
(Major J.)

Extension of time to file leave application to March 2,
1998 and leave to add the Estate of Terry Grismer as a
party granted

Nancy Chappell and News Publishing Company Ltd.
Publishers of the "Nelson Daily News" and the Nelson Daily News

v. (26571)

J.M.F. (B.C.)

NATURE OF THE CASE

Constitutional Law - Division of Powers - Civil and Property Rights - Criminal Law - Publication Bans - Torts - Invasion of Privacy - Negligence - Statutes - Interpretation - Publication ban ordered in criminal proceedings protecting identity of sexual assault victim - Count of sexual assault stayed in plea bargain - Victim's name subsequently published in newspaper report - Action for damages for invasion of privacy and negligence - Statutory defence claimed under s. 2(2) of *Privacy Act*, R.S.B.C., 1979 c.336 - Whether publication was privileged within the meaning of s. 3(1) of the *Libel and Slander Act*, R.S.B.C. 1979, c. 234 - Whether order for publication ban rendered under s. 486(3) of the *Criminal Code*, R.S.C. 1985, c. C-46 overrides defence provided by *Privacy Act* - Whether publication ban could be maintained after the charges giving rise to ban stayed - Parliamentary authority to nullify a statutory defence where both the defence and action are established within the same statute passed under provincial legislative power over property and civil rights.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

June 28, 1995 Supreme Court of British Columbia (Smith J.)	Damages awarded to Respondent
February 6, 1998 Court of Appeal for British Columbia (Donald, Hinds, Huddart JJ.A.)	Appeal granted in part, damages increased
April 7, 1998 Supreme Court of Canada	Application for leave to appeal filed
May 13, 1998 Supreme Court of Canada	Application for leave to cross-appeal filed

David Taggart and Linda Taggart

v. (26532)

Brancato Construction Ltd. and James Brancato (Ont.)

NATURE OF THE CASE

Property Law - Real Property - Agreement of Purchase and Sale - Misrepresentation - Breach of contract - Exclusionary clauses - Rescission - Whether misrepresentations were made to purchasers of land giving rise to a right to rescission - Whether vendor in breach of contract - Whether exclusionary clause applied - Whether Court of Appeal interfered with factual findings in absence of palpable or overriding error.

PROCEDURAL HISTORY

February 21, 1995 Ontario Court (General Division) (Lissaman J.)	Agreement of Purchase and Sale rescinded, deposit ordered returned, counterclaim dismissed
January 21, 1998 Court of Appeal for Ontario (Morden A.C.J., Moldaver, Borins JJ.A.)	Appeal allowed, damages awarded on counter-claim, deposit ordered forfeited
March 20, 1998 Supreme Court of Canada	Application for leave to appeal filed

JULY 27, 1998 / LE 27 JUILLET 1998

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

Peter Nordyne

c. (26574)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Droit fiscal - Accise - Poursuite intentée en vertu de l'art. 240 de la *Loi sur l'accise*, L.R.C. (1985) ch. E-14 - Possession de tabac non estampillé conformément à la *Loi sur l'accise* - Défaut de publier la directive sur le contenu des estampilles selon les exigences de la loi - Condamnation - Pouvoir du ministre de régler le contenu de l'estampille - Est-ce que les tribunaux inférieurs se sont posés la bonne question? - La Cour d'appel a-t-elle erré en maintenant la décision du juge de première instance qui a statué que l'acte d'accusation était valide?

HISTORIQUE PROCÉDURAL

Le 26 avril 1995

Cour supérieure du Québec (chambre criminelle)
(Béliveau j.c.s.)

Jugement sur requête pour casser l'accusation: requête
rejetée Le 17 mai 1995

Cour supérieure du Québec (chambre criminelle)
(Béliveau j.c.s.)

Verdict: coupable de deux chefs d'accusation
d'avoir eu en sa possession du tabac fabriqué non
empaqueté ni estampillé conformément à la *Loi sur
l'accise*

Le 13 février 1998

Cour d'appel du Québec
(Proulx, Forget et Pidgeon j.j.c.a.)

Appel rejeté

Le 8 avril 1998

Cour suprême du Canada

Demande d'autorisation d'appel déposée

Marty Lorraine Morrisey

v. (26703)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Sentencing - Cruel and unusual punishment or treatment - Whether the Court of Appeal erred in concluding that the mandatory minimum sentence in s. 220(a) (criminal negligence causing death) did not violate s. 12 of the *Charter*.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

September 11, 1996
Nova Scotia Supreme Court (Scanlan J.)

Conviction: criminal negligence causing death;
unlawfully pointing a firearm

October 18, 1996
Nova Scotia Supreme Court (Scanlan J.)

Sentence: three years imprisonment; s. 220(a) of the
Criminal Code held to be unconstitutional

March 23, 1998
Nova Scotia Court of Appeal
(Bateman, Freeman, Pugsley JJ.A.)

Sentence appeal allowed; s. 220(a) held
constitutionally valid; sentence varied to four years
imprisonment

May 25, 1998
Supreme Court of Canada

Application for leave to appeal filed

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

Thalayasingam Sivakumar

v. (26530)

Her Majesty the Queen and The Minister of Citizenship and Immigration (F.C.A.)(Ont.)

NATURE OF THE CASE

Immigration - International law - Procedural law - Pre-trial procedure - Motion to strike out portions of the statement of claim and certain defendants - Whether the lower courts erred in finding that it was plain and obvious that the pleadings disclosed no reasonable cause of action founded in estoppel - Whether the lower courts disposed of the case properly.

PROCEDURAL HISTORY

January 24, 1997
Federal Court Trial Division (Jerome A.C.J.)

Respondents' motion for an order striking portions of
the plaintiff's statement of claim granted

January 21, 1998
Federal Court of Appeal
(Isaac C.J., Linden and McDonald JJ.A.)

Appeal dismissed

March 20, 1998
Supreme Court of Canada

Application for leave to appeal filed

Distributions Percour Inc.

c. (26577)

Boutique de sexe Ultramag Inc.

et

La Ville de Montréal (Qué.)

ET ENTRE:

Distributions Percour Inc.

c. (26577)

La Ville de Montréal et Richard Houle (Qué.)

ET ENTRE:

Distributions Percour Inc. et Claude Perron

c. (26577)

La Ville de Montréal (Qué.)

NATURE DE LA CAUSE

Droit municipal - Municipalités - Législation - Textes réglementaires - Interprétation - Droit administratif - Contrôle judiciaire - Règlement de zonage - Usage dérogatoire - Établissement exploitant l'érotisme - "Objet érotique" - Imprécision du règlement - 1) Requête de Distribution Percour Inc. en mandamus pour forcer la Ville de Montréal à lui délivrer le permis d'exploitation de son établissement rejetée - 2) Action de Boutique de sexe Ultramag Inc. en injonction permanente pour que Percour cesse d'exploiter son commerce accueillie - 3) Requête de la Ville de Montréal en application de l'article 227 de la *Loi sur l'aménagement et l'urbanisme*, L.R.Q., chap. A-19.1, pour que cesse l'utilisation d'une construction contrevenant à un règlement de zonage accueillie - Appel de Distribution Percour Inc. rejeté - Les règlements municipaux sont-ils nuls pour cause d'imprécision?

HISTORIQUE PROCÉDURAL

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

Le 26 février 1996
Cour supérieure du Québec
(Vaillancourt J.C.S.)

1) Requête de Distribution Percour Inc. en mandamus rejetée; 2) Action de l'intimée Boutique de sexe Ultramag Inc. en injonction permanente accueillie; 3) Requête de la Ville de Montréal pour que cesse l'utilisation d'une construction contrevenant à un règlement de zonage accueillie

Le 22 mars 1996
Cour d'appel du Québec
(Chamberland J.C.A.)

Requête de Percour en suspension de l'injonction prononcée en Cour supérieure accordée jusqu'à ce qu'il soit disposé de l'appel au fond

Le 12 février 1998
Cour d'appel du Québec
(Delisle et Nuss, J.J.C.A. et Biron (*ad hoc*) J.C.A.)

Appel de Percour rejeté

Le 24 février 1998
Cour d'appel du Québec
(Brossard J.C.A.)

Requête de Percour en suspension du jugement rendu en Cour supérieure et confirmé en Cour d'appel accordée à certaines conditions

Le 14 avril 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Le 23 avril 1998
Cour suprême du Canada (Binnie J.)

Requête de Percour en sursis accordée

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

Timothy Sheldon McCreery

v. (26672)

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

NATURE OF THE CASE

Criminal law - Confessions - Whether undercover police officers were persons in authority for the purposes of the confession rule - Whether the Applicant's statements to undercover police officers were voluntary.

PROCEDURAL HISTORY

December 20, 1996
Supreme Court of British Columbia (Romilly J.)

Conviction: first degree murder

April 9, 1998
Court of Appeal for British Columbia
(Cumming, Ryan, Donald JJ.A.)

Appeal dismissed May 27, 1998
Supreme Court of Canada

Application for leave to appeal and motion for the appointment of counsel filed

Albert Baxter Bennett Sewell

v. (26536)

R.J. Hnatyshyn, E. Somers, A.K. Das Gupta, M. Mahmud, and B.N. Thivierge (Ont.)

NATURE OF THE CASE

Procedural law - Judgments and orders - Bias - Limitation period - Did the Court of Appeal for Ontario err in law in determining that the decision made by Chadwick J. was in accordance with established legal principles and jurisprudence - Were the motions judge and appellate court biased against the Applicant - Did the lower courts err in their application of the limitation period discoverability rule.

PROCEDURAL HISTORY

May 12, 1997 Ontario Court (General Division) (Chadwick J.)	Applicant's motion for change of venue dismissed; Applicant's statement of claim struck as disclosing no reasonable cause of action
February 24, 1998 Court of Appeal for Ontario (McKinlay and Austin JJ.A., and Dunnet J. (ad hoc))	Appeal dismissed
March 23, 1998 Supreme Court of Canada	Application for leave to appeal filed

Alan Christiansen

v. (26545)

Paramount Developments Corporation (Alta.)

NATURE OF THE CASE

Commercial law - Company law - Creditor and debtor - Bankruptcy - Statutes - Interpretation - Courts - Jurisdiction - Real property - *Companies' Creditors Arrangements Act*, R.S.C. 1985, c.C-36 - Whether the chambers judge had jurisdiction to order the sale of real property - Whether the Court of Appeal had the power to hear an appeal where leave to appeal has not been obtained under the *C.C.A.A.* - Whether the chambers judge had the power to sanction a plan of arrangement under the *C.C.A.A.* without a meeting of creditors or implement a plan of reorganization suggested but not put to the creditors.

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

September 30, 1997
Court of Queen's Bench of Alberta
(Agrios J.)

Respondent ordered to sell property to Applicant on
specified terms; stay of Receiving Order continued
until further order February 23, 1998
Alberta Court of Appeal
(Irving, O'Leary and Russell JJ.A.)

Appeal allowed; order quashed; matter remitted to
bankruptcy court

March 27, 1998
Supreme Court of Canada

Application for leave to appeal filed

Jayne Farber

v. (26557)

Townsgate 1 Limited (Ont.)

NATURE OF THE CASE

Commercial law - Contracts - Damages - Property law - Real property - Breach of agreement of purchase and sale - Condominiums - Contract interpretation - Provision providing for early occupancy prior to registration of declaration and description, with closing date to follow - Vendor set closing date by invoking provision for early occupation, however registration of declaration and description taking place earlier than anticipated - Purchaser failing to attend closing - Whether vendor could rely upon provision to say purchaser had repudiated contract, where all conditions of the provision no longer met - Court of Appeal finding implied term.

PROCEDURAL HISTORY

January 26, 1995
Ontario Court, General Division
(Potts J.)

Action in damages for breach of agreement of purchase
and sale dismissed; counterclaim for return of deposit
allowed

February 4, 1998
Court of Appeal for Ontario
(McMurtry C.J.O. Laskin and Rosenberg JJ.A)

Appeal allowed, judgment set aside, judgment in the
amount of \$136,005.08 to Respondent; counterclaim
dismissed

April 3, 1998
Supreme Court of Canada

Application for leave to appeal filed

JULY 31, 1998 / LE 31 JUILLET 1998

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

Huan Van Nguyen

v. (26691)

The United States of America (Crim.)(Ont.)

AND BETWEEN:

Huan Van Nguyen

v. (26691)

The Minister of Justice for Canada (Crim.)(Ont.)

NATURE OF THE CASE

Canadian Charter - Criminal - Criminal Law - Extradition - Whether s. 18(1)(b) of the *Extradition Act*, R.C.S. 1985, c. E-23 denies the right to fundamental justice provided by s. 7 of the *Charter* - Whether the rules of evidence applied to extradition hearings deny the right to presumption of innocence or the right to equal protection and benefit of the law - Whether the Minister of Justice's decision to surrender the Applicant without assurances that the foreign state would not seek the death penalty in the Applicant's trial in that state was based upon an improper onus of proof required of the Applicant - Whether the Minister of Justice's decision to surrender the Applicant without assurances that the foreign state would not seek the death penalty in the Applicant's trial in that state was based upon an improper requirement that the Applicant's case be of a special category of cases - Whether the evidence relied upon by the extradition judge or the Minister of Justice was sufficient to warrant the Applicant's committal or surrender.

PROCEDURAL HISTORY

May 7, 1996 Ontario Court (General Division) (MacPherson J.)	Warrant of committal
December 4, 1996 Minister of Justice (Alan Rock)	Unconditional surrender ordered
April 29, 1998 Court of Appeal for Ontario (McMurtry C.J., Catzman and Goudge JJ.A.)	Appeal and application for judicial review dismissed
June 29, 1998 Supreme Court of Canada	Application for leave to appeal filed

W.R. Scott Equipment Ltd.

v. (26556)

Guardian Insurance Company of Canada (Alta.)

NATURE OF THE CASE

Commercial Law - Insurance - Statutes - Interpretation - Lessor of chattels claiming under lessee's insurance policy for damage to chattels after an execution on a judgment against the lessee was returned *nulla bona* - Lessee's insurance contract insuring against all risks of damage to "property of every kind and description" defined as property of the insured or others for which the insured is liable or has assumed liability - Lessor's claim advanced under s. 219 of *Insurance Act*, R.S.A. 1985, c. I-5 - Interpretation of s. 219 of *Insurance Act* - Whether lessor has a right of action against insurer - Whether insurance policy was liability insurance or property insurance - Whether s. 219 applies to

property insurance policies - Whether a property insurance policy insures a judgment debtor in respect of the cause of action set forth in the pleadings giving rise to the judgment.

PROCEDURAL HISTORY

June 10, 1994

Court of Queen's Bench of Alberta (Cawsey J.)

Damages awarded February 2, 1998

Court of Appeal for Alberta

(Sulatycky, Bracco and McFadyen JJ.A.)

Appeal allowed

April 3, 1998

Supreme Court of Canada

Application for leave to appeal filed

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

Her Majesty the Queen (Transport Canada)

v. (26537)

Thomas Watt (F.C.A.)(Ont.)

NATURE OF THE CASE

Procedural Law - Civil Procedure - Limitation of Actions - Prescription - Pre-trial Procedure - Labour Law - Collective Agreement - Courts - Jurisdiction - Whether an action should have been stayed or struck as governed exclusively by a collective agreement - Whether an action should have been stayed or struck before the filing of a defence for having been commenced beyond a limitation period in a motion brought under Federal Court Rule 419(1)(a) - Whether the concurrency theory is available.

PROCEDURAL HISTORY

June 5, 1997

Federal Court, Trial Division (Denault J.)

Motion to stay or strike action dismissed, time extension to file defence granted

January 21, 1998

Federal Court of Appeal

(Marceau, Strayer, Desjardins JJ.A.)

Appeal dismissed

March 23, 1998

Supreme Court of Canada

Application for leave to appeal filed

Trust Prêt et Revenu, Daishowa inc. et Steinberg inc.

c. (26597)

La Commission de la santé et de la sécurité du travail (Qué.)

NATURE DE LA CAUSE

Droit administratif - Contrôle judiciaire - Recours - Droit du travail - Accidents du travail - Cotisation des employeurs - Traitement discriminatoire en l'absence de texte législatif permettant la catégorisation des employeurs - Recours en annulation d'avis de cotisation et en répétition de l'indu - Jugement de la Cour supérieure accueillant le recours en nullité au motif de mauvaise foi institutionnelle renversé par la Cour d'appel - Au nom du principe de la primauté du droit enchâssé dans le préambule de la *Loi constitutionnelle de 1982*, le seul fait pour la Commission d'agir, de façon systémique, à l'encontre des objets de la *Loi sur les accidents du travail et les maladies professionnelles*, L.R.Q., ch. A-3.001, laquelle ne prévoit pas d'inégalité de traitement, donne-t-il ouverture à un recours en réparation à la victime de l'inéquité, et ce, sans égard à la bonne ou à la mauvaise foi de la Commission?

HISTORIQUE PROCÉDURAL

Le 27 avril 1995
Cour supérieure du Québec
(Lebrun j.c.s.)

Actions des demandresses en nullité des avis de cotisation de 1986 à 1993 et en répétition de l'indu accueillies en partie

Le 18 février 1998
Cour d'appel du Québec
(LeBel, Brossard et Philippon [*ad hoc*] j.j.c.a.)

Pourvois des demandresses rejetés; pourvois incidents de la Commission accueillis

Le 20 avril 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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

Cargill Limited

v. (26547)

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

NATURE OF THE CASE

Taxation - *Income Tax Act*, s. 20(1)(gg) - Deductions - Whether a taxpayer was entitled to claim a deduction for an inventory allowance pursuant to s. 20(1)(gg) of the *Income Tax Act* - Whether the taxpayer had a sufficient proprietary interest in grain which it held in storage, commingled with grain which it had purchased, to qualify for the deduction -- Whether the Tax Court and the Federal Court of Appeal had erred in determining that the taxpayer did not qualify for the full deduction claimed.

PROCEDURAL HISTORY

January 19, 1996 Tax Court of Canada (Sarchuk J.T.C.C.)	Dismissed appeal from reassessment disallowing portion of Applicant's claim for inventory allowance.
January 28, 1998 Federal Court of Appeal (Isaac C.J., Stone and McDonald JJ.A.)	Appeal dismissed.
April 23, 1998 Supreme Court of Canada	Application for leave to appeal filed.

**IN THE MATTER OF THE BANKRUPTCY OF MONTEGO FOREST PRODUCTS LTD.
of the City of Toronto, in the Province of Ontario**

BETWEEN:

**Canadian Imperial Bank of Commerce, Peat Marwick Thorne,
Peat Marwick Thorne Inc. and KPMG Inc.,
the Trustees of the Estate of Montego Forest Products Ltd.**

v. (26568)

Montego Forest Products (Holdings) Ltd. (Ont.)

NATURE OF THE CASE

Commercial law - Bankruptcy - Creditor & debtor - Statutes - Interpretation - Procedural law - Judgments and orders - Is an action commenced by a creditor of a bankrupt, which has vested in the trustee in bankruptcy, a nullity if the creditor did not first obtain court approval, pursuant to Section 38 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, as amended? Is a court required to consider the merits of a proposed action before making an order pursuant to Section 38 of the *Bankruptcy and Insolvency Act*?- Section 38 order made *nunc pro tunc*.

PROCEDURAL HISTORY

November 6, 1996 Ontario Court (General Division)(In Bankruptcy) (Lax J.)	Motion by Roger DeGroote dismissed; Motion by Respondent for an order pursuant to s. 38 of the <i>Bankruptcy and Insolvency Act</i> , granted <i>nunc pro tunc</i>
February 4, 1998 Court of Appeal for Ontario (Robins, Catzman, Lederman (ad hoc) JJ.A.)	Appeal dismissed
April 6, 1998 Supreme Court of Canada	Application for leave to appeal filed

Harry Joseph Find and Barrie Sound Concepts Ltd.

v. (26575)

Bombardier Credit Limited (Ont.)

NATURE OF THE CASE

Commercial law - Bankruptcy - Statutes - Interpretation - Did the Court of Appeal err in depriving the Applicant of the right to a fair hearing in accordance with the principles of fundamental justice for the determination of his rights and obligations under the terms of the agreements entered into with the Respondent - Did the Ontario Court of Appeal err in failing to recognize that the creditor had not followed the strict timeliness constraints in the filing of the Petitions, as required in the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3, s. 43?

PROCEDURAL HISTORY

January 9, 1995 Ontario Court (General Division) (Haines J.)	Receiving orders made against both Applicants; receiver appointed
February 11, 1998 Ontario Court of Appeal (Labrosse and Charron J.J.A., Sharpe J. <i>ad hoc</i>)	
Appeal dismissed Supreme Court of Canada	Application for leave to appeal filed

AUGUST 10, 1998 / LE 10 AOÛT 1998

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

KLM Royal Dutch Airlines

v. (26572)

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

NATURE OF THE CASE

Constitutional law - Division of powers - Taxation - Statutes - International law - *Motor Fuel Tax Act*, S.B.C. 1985, c. 76 - Whether a reciprocal fuel tax exemption, given to the designated international airlines of each country in a treaty entered into between Canada and the Netherlands, applies to fuel taxes imposed by a province - Whether the transfer of fuel into international aircraft temporarily in the province is an activity taxable by the province under head 92(2) of the *Constitution Act, 1867*.

PROCEDURAL HISTORY

October 4, 1996 Supreme Court of British Columbia (Hutchison J.)	Appeal from decision of Minister of Finance and Corporate Relation not to refund taxes paid by Applicant under the <i>Motor Fuel Tax Act</i> dismissed
February 9, 1998 Court of Appeal for British Columbia	Appeal dismissed

(Hinds, Donald and Huddart JJ.A.)

April 8, 1998
Supreme Court of Canada

Application for leave to appeal filed

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

V.S.

c. (26475)

Y.B. (Qué.)

NATURE DE LA CAUSE

Code civil - Droit de la famille - Divorce - Partage des biens - Régime matrimonial - Action en nullité d'une entente relative à un partage de biens, conclue par la demanderesse et l'intimé avant la dissolution du régime matrimonial - Partage de la communauté de biens ayant existé entre les parties - Est-ce que l'acceptation ou la renonciation à la communauté doit être postérieure à sa dissolution? - Article 1338 du *Code civil du Bas-Canada*.

HISTORIQUE PROCÉDURAL

Le 29 juillet 1988
Cour supérieure du Québec (Melançon j.c.s.)

Action en nullité de la demanderesse accueillie

Le 5 décembre 1997
Cour d'appel du Québec
(Mailhot, Baudouin et Robert j.j.c.a.)

Appel accueilli; jugement de première instance infirmé; action en nullité de la demanderesse rejetée; saisie avant jugement pratiquée en l'instance annulée

Le 13 février 1998
Cour suprême du Canada

Demande d'autorisation d'appel et requête en prorogation des délais déposées

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

**604598 Saskatchewan Ltd., carrying on business under the name of
"The Great Canadian Superbar"**

v. (26566)

**The Saskatchewan Liquor and Gaming Authority, The Attorney General For Saskatchewan and
The Saskatchewan Liquor and Gaming Licensing Commission (Sask.)**

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil - Standing as of right - Public interest standing - "Exceptional prejudice" - Freedom of expression - Section 2(b) and section 1 of the *Charter* - Constitutional law - Division of powers - Constitutionality of laws - Administrative law - Liquor control licences - Prohibited entertainment pursuant to s. 54(1)(b) of *The Alcohol Control Regulations, 1994* - Striptease performance - Whether the Court of Appeal erred in

deciding the issue of standing - Whether the Court of Appeal erred in its consideration of the issue of challenging the constitutionality of laws - Whether the Court of Appeal erred in its *Charter* analysis.

PROCEDURAL HISTORY

February 14, 1997 Court of Queen's Bench of Saskatchewan (Hrabinsky J.)	Applicant's application allowed
February 5, 1998 Court of Appeal for Saskatchewan (Cameron, Lane, Jackson JJ.A.)	Appeal allowed
April 3, 1998 Supreme Court of Canada	Application for leave to appeal filed

AUGUST 17, 1998 / LE 17 AOÛT 1998

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

J.-J.L.

c. (26653)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Détermination de la peine - Demandeur reconnu coupable de grossière indécence et d'attentat à la pudeur sur trois jeunes enfants - La Cour d'appel a-t-elle erré en condamnant le demandeur à trois peines d'emprisonnement consécutives pour des événements contemporains et reliés? - Les circonstances justifiaient-elles la Cour d'appel d'attribuer au demandeur une peine d'emprisonnement totale de quatre ans pour des infractions dont l'emprisonnement maximal prévu était de cinq ans? - La Cour d'appel a-t-elle erré en affirmant que le premier juge n'avait pas considéré les objectifs et principes visés aux art. 718 à 718.2 du *Code criminel*, L.R.C. 1985, ch. C-46, lorsqu'il a ordonné au demandeur de purger sa peine dans la collectivité? - La Cour d'appel a-t-elle appliqué incorrectement l'art. 742.1 *C.cr.* aux fondements circonstanciels des crimes pour lesquels le demandeur a été condamné? - La Cour d'appel a-t-elle mal évalué le danger que le demandeur représentait pour la collectivité?

HISTORIQUE PROCÉDURAL

Le 26 février 1997 Cour du Québec, chambre criminelle et pénale (Provost j.c.q.)	Peine d'emprisonnement de 2 ans moins un jour à être purgée dans la collectivité infligée au demandeur
Le 24 mars 1998 Cour d'appel du Québec (Proulx, Otis et Zerbisias [<i>ad hoc</i>] j.j.c.a.)	Requête pour permission d'appel et appel accueillis; peine globale d'emprisonnement de 4 ans infligée
Le 25 mai 1998 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Elle LaBelle

v. (26488)

**The Law Society of Upper Canada; Robert Howe,
Jennifer Mackinnon, Hugh Brennan; The Attorney General for Ontario (Ont.)**

NATURE OF THE CASE

Procedural law - Civil Procedure - Service - Date and manner of service - Applicant alleging that a false affidavit of service was filed with the Respondent's notice intent to defend - Whether the Court of Appeal erred in not striking out the notice of intent and statement of defence filed by the Respondent on the basis that a false affidavit of service was filed with the notice of intent to defend.

PROCEDURAL HISTORY

June 25, 1997 Ontario Court (General Division) (Manton J.)	Applicant's motion to strike out notice of intent to defend and statement of defence, and noting Respondent Brennan in default dismissed
June 25, 1997 Ontario Court (General Division) (Manton J.)	Applicant's action dismissed on Respondent Brennan's cross-motion to strike out statement of claim against him
December 19, 1997 Court of Appeal for Ontario (Carthy, Labrosse and Charron JJ.A.)	Appeal dismissed
February 13, 1998 Supreme Court of Canada	Application for leave to appeal filed

Cecilia Augustine

v. (26582)

Dr. Anthony Lopes and Etobicoke General Hospital (Ont.)

NATURE OF THE CASE

Torts - Battery - Negligence - Physicians & surgeons - Does a physician have a duty to ensure that the patient has understood the medical information provided by the physician - Does a physician's fiduciary duty to his patient require some effort to persuade the patient to select a more conservative and less invasive option than the drastic and irreversible surgical procedure ostensibly chosen - Does a physician have a duty to explore what resources may be available to the patient to assist in paying for a procedure that may be less invasive but more costly than the one the patient has chosen - Does a hospital have a duty of care to review information received from a patient and in its file to confirm that the patient understands that he or she is in the hospital for a particular surgical procedure - Does a hospital have a duty of care to convey the information it receives from the patient to the doctor, particularly if that information is inconsistent with the doctor's understanding of why the patient is in the hospital?

PROCEDURAL HISTORY

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE

DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION

November 18, 1994 Ontario Court (General Division) (Rosenberg J.)	Applicant's action in negligence and battery dismissed
February 13, 1998 Court of Appeal for Ontario (McMurtry, Finlayson and Moldaver JJ.A.)	Appeal dismissed
April 14, 1998 Supreme Court of Canada	Application for leave to appeal filed

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

Vincent Lore

v. (26683)

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

NATURE OF THE CASE

Criminal law - Defences - Entrapment - "Reverse sting" - Whether the reverse sting operation used in this case was illegal and an abuse of process - Judicial bias - Whether the trial judge's remarks to the Crown in the presence of the jury affected the fairness of the trial or gave rise to a reasonable apprehension of bias; Whether the Court of Appeal erred in ordering the forfeiture of the money seized from the Applicant upon arrest.

PROCEDURAL HISTORY

March 1, 1991 Superior Court of Quebec (Criminal Division) (Pinard j.c.s.)	Conviction: Conspiracy to import and possess a narcotic for the purpose of trafficking
May 5, 1997 Court of Appeal for Quebec (Beauregard, Gendreau and Fish JJ.A.)	Conviction appeal dismissed; Sentence appeal allowed
May 26, 1998 Supreme Court of Canada	Application for leave to appeal and motion for the extension of time filed

600 Talbot Street London Limited and 59543 Ontario Limited

v. (26569)

Middlesex Condominium Corporation No. 87 (Ont.)

NATURE OF THE CASE

Property law - Condominiums - Statutes - Interpretation - Whether Court of Appeal for Ontario erred by interfering with a statutory regime set out in s. 52 of the *Condominium Act*, R.S.O. 1990, c. C26 and by introducing what it called a common law remedy into such statutory regime - Whether Court of Appeal for Ontario erred in its development of a

remedy which relies upon the assumptions of a “reasonable purchaser” in condominium law, which remedy is based upon principles contrary to the general principles of the common law.

PROCEDURAL HISTORY

December 20, 1993 Ontario Court (General Division) (Flinn J.)	Respondent’s action dismissed
February 6, 1998 Court of Appeal for Ontario (Finlayson, Osborne and Rosenberg JJ.A.)	Appeal allowed: judgment of Flinn J. set aside; Applicants ordered to convey condominium unit and parking space to Respondent
April 6, 1998 Supreme Court of Canada	Application for leave to appeal filed

Darren Richard Moore

v. (26586)

Arthur Drysdale Johnson (B.C.)

NATURE OF THE CASE

Torts - Negligence - Physicians & surgeons - Whether the lower courts fully considered the evidence adduced by the Applicant - Whether the lower courts erred in not applying *Snell v. Farrell* - Whether the lower courts dealt appropriately with the expert evidence.

PROCEDURAL HISTORY

May 31, 1996 Supreme Court of British Columbia (Gill J.)	Applicant’s claim in negligence dismissed
February 13, 1998 Court of Appeal for British Columbia (Hollinrake, Goldie and Rowles JJ.A.)	Appeal dismissed
April 14, 1998 Supreme Court of Canada	Application for leave to appeal filed

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

Aditya Varma

v. (26487)

**Canada Post Corporation, Canadian Union of Postal Workers
and Martin Teplitsky (F.C.A.)(Ont.)**

NATURE OF THE CASE

Administrative Law - Judicial review - Arbitration - Discrimination - Whether the Applicant was given a proper review of his complaint by the Canadian Human Rights Commission? - Whether the Applicant was discriminated against by the Commission, his employer and the Courts?

PROCEDURAL HISTORY

July 5, 1995

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

Application for judicial review of a decision of the Canadian Human Rights Commission dated December 10, 1993: Application dismissed October 21, 1996
Federal Court of Appeal
(Stone, Linden and Henry JJ.A.)

Appeal dismissed

Application for extension of time to reconsider dismissed

July 18, 1997

Federal Court of Appeal (Linden J.A.)

February 9, 1998
Supreme Court of Canada

Application for leave to appeal filed

February 12, 1998
Supreme Court of Canada

Motion for extension of time filed

**The Minister of Finance
(formerly the Minister of Revenue)**

v. (26503)

Upper Lakes Shipping Ltd (Ont.)

NATURE OF THE CASE

Taxation - Assessments - Business tax - Calculation of "paid-up capital" - Statutes - Interpretation - Corporations - Provincial corporations tax - *Corporations Tax Act*, R.S.O. 1980, c. 97, as amended - Whether this decision is inconsistent with the interpretations afforded to other federal and provincial legislative provisions which are virtually identical - Was the correct approach applied by the Court of Appeal in interpreting the statute - Whether the Court of Appeal's decision was based on a misapprehension regarding the issue of double taxation.

PROCEDURAL HISTORY

April 7, 1995
Ontario Court of Justice (General Division) (Potts J.)
January 14, 1998
Ontario Court of Appeal
(Carthy, Labrosse, Charron JJ.A.)
March 18, 1998
Supreme Court of Canada (Major J.)
April 15, 1998

Respondent's appeals dismissed:
reassessments confirmed
Appeal allowed: reassessments referred back to the Applicant for reconsideration

Motion for an extension of time to file application for leave to appeal granted
Supreme Court of Canada

Application for leave to appeal filed

Roya Sheikholeslami

v. (26608)

Atomic Energy of Canada Limited (F.C.A.)(B.C.)

NATURE OF THE CASE

Labour Law - Labour Relations - Administrative Law - Remedies - *Canada Labour Code* (unjust dismissal provisions)
- Reasons - Whether adjudicator erred in failing to order reinstatement after finding complainant had been unjustly dismissed - Whether adjudicator erred in law in failing to give reasons to support conclusion that reinstatement was not an appropriate remedy.

PROCEDURAL HISTORY

November 29, 1996
Federal Court, Trial Division (Rouleau J.)

Application for judicial review allowed; matter returned to adjudicator for reconsideration of remedy.

February 24, 1998
Federal Court of Appeal
(Marceau, Strayer and Létourneau JJ.A.)

Appeal allowed; decision of Trial Division quashed and decision of adjudicator confirmed

April 27, 1998
Supreme Court of Canada

Application for leave to appeal filed

22.5.1998

Before / Devant: McLACHLIN J.

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

Requête en prorogation du délai pour déposer la demande d'autorisation d'appel

The Estate of Kristen French et al.

v. (26529)

The Attorney General of Ontario (Ont.)

GRANTED / ACCORDÉE

UPON APPLICATION by counsel on behalf of the Applicants for an Order extending the time within which to perfect their two Applications for Leave and for directions concerning the consolidation and presentation of the two Applications for Leave and the Applicants' re-hearing application;

1. IT IS ORDERED that the time within which both Applications for Leave to Appeal may be served and filed be extended to September 15, 1998.
2. IT IS ORDERED that the Applicants may file one consolidated record for both Applications for Leave and their re-hearing application.
3. IT IS ORDERED that the Applicants and the Respondents may file three separate factums for each of the two Applications for Leave and for the re-hearing application.

16.6.1998

Before / Devant: MAJOR J.

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

Requête en prorogation du délai pour déposer la demande d'autorisation d'appel

Michael C. James

v. (26692)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

The application for an extension of time to serve and file an application for leave to appeal is granted subject to all material being filed within 60 days of this order.

2.7.1998

Before / Devant: LE REGISTRAIRE

Requête pour permission de déposer un mémoire d'appel de plus de 40 pages

Motion to file a factum on appeal over 40 pages

Sa Majesté La Reine

c. (25858)

Edmon Kabbabe (Qué.)
GRANTED / ACCORDÉE

La requête de l'appelante pour obtenir une ordonnance l'autorisant à produire un mémoire contenant plus de 40 pages, en l'espèce, 67 pages, est accordée.

2.7.1998

Before / Devant: THE REGISTRAR

Motion to extend the time to file respondent's record and for an order excusing the respondent from complying with Rule 33(3)(b), (c) and (d)

Requête visant à proroger le délai imparti pour déposer le dossier de l'intimée et à obtenir une ordonnance la dispensant de se conformer à la règle 33(3)b), c) et d)

Greif Containers Ltd.

v. (26065)

Her Majesty The Queen in right of Canada (Ont.)
GRANTED / ACCORDÉE Time extended to July 21, 1998

IT IS ORDERED THAT the time for filing of the Respondent's Record shall be and is hereby extended up to and including July 21, 1998.

IT IS ORDERED THAT the Respondent shall be and is hereby excused from complying with the requirements of subsections 33(3)(b), (c) and (d) of the Rules of the Supreme Court of Canada regarding the preparation of the Respondent's Record, and the Respondent's Record may be printed on legal size paper.

3.7.1998

Before / Devant: THE REGISTRAR

Motion to extend the time in which to file the factum and record of the appellants' Be-Wab-Bon Metis et al.

Requête en prorogation du délai imparti pour déposer le mémoire et dossier des appelants Be-Wab- Bon Metis et al.

Robert Lovelace et al.

v. (26165)

Her Majesty The Queen in right of Ontario et al. (Ont.)
GRANTED / ACCORDÉE Time extended to September 18, 1998.

3.7.1998

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour déposer le mémoire de l'appelante

Her Majesty The Queen

v. (26473)

Joanne Kimberley White (B.C.)

GRANTED / ACCORDÉE Time extended to June 17, 1998.

3.7.1998

Before / Devant: GONTHIER J.

Motion for a stay of execution

Requête en vue de surseoir à l'exécution

Thomas Peter Paul

v. (26718)

Her Majesty The Queen (N.B.)

DISMISSED / REJETÉE

While the undersigned has concurrent jurisdiction with the Court of Appeal or a judge thereof to grant the stay requested pursuant to s. 65.1 of the *Supreme Court Act*, I am not satisfied that the applicant has provided a valid reason for not making his application to the New Brunswick Court of Appeal. Though the application for leave to appeal alleges an error in the Court of Appeal's decision, this does not make it any less the appropriate forum; see *Richter & Partners Inc., Trustee of the Estate of Confederation Treasury Services Limited, a bankrupt v. Ernst & Young*, [1997] 2 S.C.R. 5, at p. 8. For this reason, the application is denied, without prejudice to the applicant's right to apply to the New Brunswick Court of Appeal.

7.7.1998

Before / Devant: LE JUGE EN CHEF LAMER

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

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

Sa Majesté La Reine

c. (25858)

Edmon Kabbabe (Qué.)

GRANTED / ACCORDÉE

SUR DEMANDE de l'avocat de l'appelant qui sollicite que le présent pourvoi ne soit pas réputé avoir été abandonné

IL EST ORDONNÉ QUE:

Le présent pourvoi ne soit pas réputé avoir été abandonné.

8.7.1998

Before / Devant: THE REGISTRAR

Motion for an order reducing the number of copies to be filed

Requête visant le dépôt d'un nombre réduit d'exemplaires

Her Majesty The Queen in right of Canada

v. (26174)

Angelo Del Zotto et al. (F.C.A.)

GRANTED / ACCORDÉE The motion for an order reducing the number of copies of volumes 1 to 13 of the appellant's record to 12 copies is granted. Twenty four copies of volume 14 are to be filed.

8.7.1998

Before / Devant: CORY J.

Motion to extend the time and for leave to intervene

Requête en prorogation de délai et en autorisation d'intervenir

BY/PAR: A.G. of Canada

IN/DANS: W. (D.D.)

v. (25970)

Her Majesty The Queen (B.C.)

GRANTED / ACCORDÉE

Order may go permitting the Attorney General of Canada to address the issue raised in paragraph 32 of the appellant's factum in responding to the constitutional issue stated in paragraph 33 of the appellant's factum.

9.7.1998

Before / Devant: CORY J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Women's Legal Education and Action Fund, the Disabled Women's Network Canada and the Canadian Labour Congress

IN/DANS: British Columbia Government and Service Employees' Union

v. (26274)

The Government of the Province of B.C. (B.C.)

GRANTED / ACCORDÉE

Order will go extending the time to intervene and granting leave to intervene subject to the following conditions: the joint factum of the applicants is not to exceed 20 pages and shall not be repetitive of other factums filed. Oral argument is to be limited to 10 minutes. The respondent may argue that new issues are raised by the interveners that should not be considered by the Court.

9.7.1998

Before / Devant: CORY J.

Motion for leave to intervene**Requête en autorisation d'intervention**

BY/PAR: British Columbia Human Rights
Commission

IN/DANS: British Columbia Government and
Service Employees' Union

v. (26274)

The Government of the Province of
B.C. (B.C.)

GRANTED / ACCORDÉE

Order may go granting the applicant leave to intervene subject to the following conditions: the factum is not to exceed 20 pages in length and avoid repetition of issues and arguments raised by the parties. Oral argument is not to exceed 10 minutes.

9.7.1998

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to file the
respondent Atif Ahmad Rafay's factum**

**Requête en prorogation du délai imparti pour
déposer le mémoire de l'intimé Atif Ahmad Rafay**

Minister of Justice

v. (26129)

Glen Sebastian Burns et al. (B.C.)

GRANTED / ACCORDÉE Time extended to September 4, 1998.

13.7.1998

Before / Devant: LE JUGE GONTHIER

**Requête en vue de surseoir à l'exécution en
attendant la requête du requérant visant à obtenir
un nouvel examen de sa demande d'autorisation
d'appel**

Ralph Hoyeck

c. (26200)

Banque Laurentienne du Canada (Qué.)

Motion for a stay of execution pending the applicant's motion for reconsideration of his application for leave to appeal
DISMISSED / REJETÉE

14.7.1998

Before / Devant: BINNIE J.

Motion to strike out parts of the notice of appeal

Requête en radiation de certaines parties de l'avis d'appel

Mark Edward Russell

v. (26699)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE

Order to go as asked without prejudice to appellant seeking an extension of time to obtain leave, and for leave to appeal the grounds struck out, if so advised.

16.7.1998

Before / Devant: BINNIE J.

Motion to strike out the appellants' affidavits from the leave application

Requête visant à radier de la demande d'autorisation les affidavits des appelants

Khalid Somra et al.

v. (26667)

432080 Ontario Ltd. et al. (Ont.)

GRANTED / ACCORDÉE

It is ordered that the Applicants shall file an amended application for leave to appeal and that the Respondents shall have 30 days thereafter to file their response.

It is ordered that costs of this motion shall be to the Respondents in the cause.

16.7.1998

Before / Devant: MAJOR J.

Motion to strike out an affidavit from the leave application

Gordon Capital Corporation (Ont.)

Guarantee Company of North America

v. (26654)

**Requête visant à radier un affidavit de la demande
d'autorisation
DISMISSED / REJETÉE**

It is hereby ordered that:

1. The application is dismissed.
2. The application to extend the time for response is granted and extended for 30 days.
3. Costs of this application shall be costs in the cause.

22.7.1998

Before / Devant: THE REGISTRAR

**Motion to extend the time to serve and file an
application for leave to cross-appeal**

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

The Guarantee Company of North America

v. (26654)

Gordon Capital Corporation et al. (Ont.)

GRANTED / ACCORDÉE Time extended to July 15, 1998.

22.7.1998

Before / Devant: LE JUGE IACOBUCCI

**Requête en prorogation du délai et requêtes
accessoires**

Motion to extend time and related motions

Edwin Pearson

c. (24107)

Le procureur général du Canada (Qué.)

GRANTED / ACCORDÉE

1. La requête en prorogation du délai pour signifier et produire le mémoire et le dossier de l'appelant au 13 juillet 1998 est accordée;
 2. L'appelant peut déposer les deux copies manquantes du dossier dans les 14 jours de cette ordonnance;
 3. L'appelant est dispensé de payer les frais de la présente requête.
-

27.7.1998

Before / Devant: McLACHLIN J.

Motion to extend the time and for leave to intervene

Requête en prorogation de délai et en autorisation d'intervenir

BY/PAR: Her Majesty The Queen in right of Alberta as represented by the Minister of Justice and A.G. of Alberta;
William Richard Blackwater et al.

IN/DANS: The Children's Foundation

v. (26013)

Patrick Alan Bazley (B.C.)

GRANTED / ACCORDÉE

1. The motion for an extension of time and for leave to intervene of the applicant *Her Majesty The Queen in right of Alberta as represented by the Minister of Justice and Attorney of Alberta* is granted. Leave is granted to serve and file a factum not to exceed 20 pages in length and to present oral argument not to exceed 15 minutes. The intervener shall have four weeks from the date of this order to serve and file their factum.
 2. The motion for an extension of time and for leave to intervene by the applicants *William Richard Blackwater et al.*, is granted. Leave is granted to serve and file a factum not to exceed 20 pages in length and to present oral argument not to exceed 15 minutes. The interveners shall have six weeks from the date of this order to serve and file their factum.
-

28.7.1998

Before / Devant: BINNIE J.

Motion to extend the time in which to serve and file the appellant's record, factum and book of authorities

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

Marcel Lalonde

v. (26261)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to October 9, 1998.

29.7.1998

Before / Devant: LE REGISTRAIRE

Requête en prorogation du délai pour signifier et déposer les mémoires des intervenants

BY/PAR: Canadian Labour Congress and Ontario Teachers' Federation

IN/DANS: Gaétan Delisle **Motion to extend the time in which to serve and file the interveners' factums**
 c. (25926)

The Attorney General of Canada
 (Qué.)

GRANTED / ACCORDÉE Time extended to July 8, 1998. / Délai prorogé au 8 juillet 1998.

30.7.1998

Before / Devant: BINNIE J.

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

Requête en prorogation du délai pour déposer la demande d'autorisation d'appel

Aditya Narayan Varma

v. (26750)

Gordon Newton Forsyth (Ont.)

GRANTED / ACCORDÉE Time extended to June 24, 1998, *nunc pro tunc*.

31.7.1998

Before / Devant: CORY J.

Motion for a stay of execution

Requête en vue de surseoir à l'exécution

Pacific Press - A Division of Southam Inc. et al.

v. (26751)

Her Majesty The Queen et al. (B.C.)

1. The Judgment or Order of the British Columbia Supreme Court dated July 14, 1998 upholding the subpoena of Stuart Hunter and the production of his notes of interviews with four of the complainants is stayed pending the disposition of the applicant's application for leave to appeal. If leave is granted, it will be for the panel considering the application to determine if the stay will be continued.

2. The time required to bring this motion is abridged so that it may be decided prior to August 4, 1998.

3. The application for leave to appeal is to be expedited so that the disposition may be given as quickly as possible.

4.8.1998

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's record, factum and book of authorities

v. (26161)

John Sundown (Sask.)

Her Majesty The Queen

Requête en prorogation du délai imparti pour signifier et déposer les dossier, mémoire et cahier de jurisprudence et de doctrine de l'appelante
GRANTED / ACCORDÉE

Time extended to serve and file the appellant's factum to June 17, 1998, the appellant's record to June 24, 1998, and the appellant's book of authorities to June 29, 1998.

4.8.1998

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai pour signifier et déposer le mémoire de l'intimé

Her Majesty The Queen

v. (26404)

Isaac Monney (Ont.)

GRANTED / ACCORDÉE Time extended to October 31, 1998.

5.8.1998

Before / Devant: THE REGISTRAR

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

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

Lee Edward Campbell

v. (26454)

Her Majesty The Queen (B.C.)

GRANTED / ACCORDÉE Time extended to August 4, 1998.

6.8.1998

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai pour signifier et déposer le mémoire de l'appelant

Jamie Tanis Gladue

v. (26300)

Her Majesty The Queen (B.C.)

GRANTED / ACCORDÉE Time extended to August 6, 1998.

11.8.1998

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file
an intervenor factum and book of authorities**

**Requête en prorogation du délai pour signifier et
déposer le mémoire et cahier de jurisprudence et de
doctrine d'un intervenant**

BY/PAR: A.G. of Alberta

IN/DANS: W. (D.D.)

v. (25970)

Her Majesty The Queen (B.C.)

GRANTED / ACCORDÉE Time extended to July 21, 1998 *nunc pro tunc*.

11.8.1998

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file
a response**

**Requête en prorogation du délai pour signifier et
déposer une réponse**

Terrence Dermott Pyne

v. (26648)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to July 9, 1998.

11.8.1998

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file
an intervenor's factum and book of authorities**

**Requête en prorogation du délai pour signifier et
déposer le mémoire et cahier de jurisprudence et
de doctrine d'un intervenant**

BY/PAR: Native Council of Nova Scotia

IN/DANS: Donald John Marshall, Jr.

v. (26014)

Her Majesty The Queen (N.S.)

GRANTED / ACCORDÉE Time extended to July 22, 1998.

11.8.1998

Before / Devant: BASTARACHE J.

Motion to extend the time and for leave to intervene

BY/PAR: Union of New Brunswick Indians

IN/DANS: Donald John Marshall, Jr.

v. (26014)

Requête en prorogation de délai et en autorisation d'intervenir

Her Majesty The Queen (N.S.)

GRANTED / ACCORDÉE

IT IS HEREBY ORDERED THAT:

The motion for extension of time and for leave to intervene of the Union of New Brunswick Indians is granted. The applicant is authorized to file a factum not exceeding 20 pages and is allowed 15 minutes for oral argument. Written and oral submissions are to be limited to the specific issues raised in the appeal, i.e. the existence and extent of treaty-based rights.

11.8.1998

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the appellant's factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer le mémoire et cahier de jurisprudence et de doctrine de l'appelante

Batchewana Indian Band et al.

v. (25708)

John Corbiere et al. (F.C.A.)(Ont.)

GRANTED / ACCORDÉE

The motion on behalf of the appellant Batchewana Indian Band for an order extending the time to serve and file the appellant's factum to May 8, 1998, nunc pro tunc, and the book of authorities to May 11, 1998, nunc pro tunc is granted.

11.8.1998

Before / Devant: IACOBUCCI J.

Motion for a stay of proceedings

Requête en suspension des procédures

Michael Osier, also known as Michael Oniel

v. (26504)

Royal Bank of Canada (Ont.)

DISMISSED WITH COSTS / REJETÉE AVEC DÉPENS

The application for a stay of proceedings is dismissed with costs.

12.8.1998

Before / Devant: IACOBUCCI J.

Motion to extend the time and for leave to intervene**Requête en prorogation de délai et en autorisation d'intervenir**

BY/PAR: Attorney General for Ontario

IN/DANS: Attorney General of Canada

v. (25944)

Canadianoxy Chemicals Ltd. et al.
(B.C.)**GRANTED / ACCORDÉE**

1. The application for an extension of time and for leave to intervene is granted; the applicant shall be entitled to serve and file a factum not to exceed 30 pages in length and to present oral argument not to exceed 15 minutes;
2. The applicant shall pay to the respondents any additional disbursements occasioned to the respondents by the intervention.

12.8.1998

Before / Devant: IACOBUCCI J.

Motion for an order that the application for leave to appeal be held in abeyance to be heard at the same time as the applicant's proposed motion to adduce new evidence**Requête en obtention d'une ordonnance enjoignant de suspendre la demande d'autorisation d'appel afin qu'elle soit entendue en même temps que la requête proposée du requérant visant à présenter une nouvelle preuve**

David Jonathan Wild

v. (26384)

Her Majesty The Queen (B.C.)

GRANTED / ACCORDÉE

The application is granted; the application for leave to appeal shall be held in abeyance to be heard at the same time as the applicant's proposed motion to adduce new evidence.

12.8.1998

Before / Devant: LE REGISTRAIRE ADJOINT

Requête en prorogation du délai pour signifier et déposer la réponse à une requête en prorogation du délai pour le dépôt d'une demande d'autorisation d'appel**Motion to extend the time in which to serve and file a response to the motion to extend the time to file a motion for leave to appeal**

Roger Aubin

c. (26674)

Sa Majesté La Reine (Qué.)

GRANTED / ACCORDÉE Délai prorogé au 23 juillet 1998.

13.8.1998

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to serve and file the applicant's reply

Requête en prorogation du délai pour signifier et déposer la réplique du requérant

Kevin Charles MacKinnon

v. (26641)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE Time extended to August 31, 1998.

13.8.1998

Before / Devant: LE JUGE IACOBUCCI

Requête en prorogation du délai pour signifier et déposer la demande d'autorisation d'appel

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

Hugh Abbey

c. (26716)

Sa Majesté La Reine (Qué.)

GRANTED / ACCORDÉE Time extended to June 18, 1998.

17.8.1998

Before / Devant: MAJOR J.

Motion to extend the time and for leave to intervene

Requête en prorogation de délai et en autorisation d'intervenir

BY/PAR: Canadian Manufacturers' Association, operating as the Alliance of Manufacturers and Exporters Canada

IN/DANS: United Food and Commercial Workers International Union, Local 1288P

v. (26203)

Allsco Building Products (N.B.)

GRANTED / ACCORDÉE

IT IS HEREBY ORDERED that the motion for an extension of time and leave to intervene is granted. Leave is granted to serve and file a factum not to exceed 20 pages and to present oral argument limited to 15 minutes.

17.8.1998

Before / Devant: MAJOR J.

Motion to extend the time and for leave to intervene

**Requête en prorogation de délai et en autorisation
d'intervenir**

BY/PAR: Canadian Civil Liberties Association

IN/DANS: L.C.

v. (26358)

Brian Joseph Mills (Alta.)

GRANTED / ACCORDÉE

IT IS HEREBY ordered that the motion for an extension of time and leave to intervene is granted. Leave is granted to serve and file a factum not to exceed 20 pages and to present oral argument limited to 15 minutes.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

5.6.1998

Her Majesty The Queen

v. (26462)

R.N.S. (B.C.)

9.6.1998

Fraser River Pile & Dredge Ltd.

v. (26415)

Can-Dive Services Ltd. (B.C.)

11.6.1998

Mark Edward Russell

v. (26699)

Her Majesty The Queen (Alta.)

AS OF RIGHT

30.6.1998

Her Majesty The Queen

v. (26329)

L.F.W. (Nfld.)

9.7.1998

**Pierre Poliquin de la firme Samson
Bélair/Deloitte & Touche Inc., syndic à la faillite
des débiteurs Raymond Malenfant, Colette
Perron, Alain Malenfant, Eusthelle Malenfant,
France Malenfant et Lynn Malenfant**

c. (26451)

Colette Perron-Malenfant et al. (Qué.)

22.7.1998

Westbank First Nation

v. (26450)

**British Columbia Hydro and Power Authority
et al. (B.C.)**

28.7.1998

Her Majesty The Queen

v. (26755)

Elaine Trombley (Ont.)

AS OF RIGHT

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

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

BY/PAR: Attorney General of Saskatchewan
Attorney General of Canada
Procureur général du Québec
Attorney General of Manitoba
Attorney General of British Columbia
Attorney General of Prince Edward Island
Attorney General of Nova Scotia

IN/DANS: **L.C. et al.**

v. (26358)

Brian Joseph Mills et al. (Alta.)

BY/PAR: Attorney General of New Brunswick
Attorney General of British Columbia
Attorney General of Saskatchewan

IN/DANS: **United Food and Commercial Workers International Union, Local 1288P**

v. (26203)

Allsco Building Products Ltd., a corporate et al. (N.B.)

BY/PAR: Attorney General of British Columbia
Attorney General of Saskatchewan

IN/DANS: **United Food and Commercial Workers, Local 1518**

v. (26209)

Kmart Canada Ltd. et al. (N.B.)

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

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

31.7.1998

Canadian Pacific Limited et al.

v. (26317)

*Director of Investigation and Research
(Ont.)*

(appeal)

14.8.1998

David Joseph Golub

v. (26298)

Her Majesty The Queen (Ont.)

(appeal)

19.8.1998

Société nationale immobilière Sonatim Inc.

c. (26713)

**Société de développement de l'Île Bizard Inc. et al.
(Qué.)**

(demande)

12.8.1998

W. (D.D.)

v. (25970)

Her Majesty The Queen (B.C.)

(Discontinuance of notice of intervention of the A.G.
of Manitoba)

WEEKLY AGENDA

ORDRE DU JOUR DE LA SEMAINE

*The next session of the Supreme Court of Canada commences October 5, 1998
La prochaine session de la Cour suprême du Canada débute le 5 octobre 1998.*

*The next bulletin of proceedings will be published September 18, 1998 /
Le prochain bulletin des procédures sera publié le 18 septembre 1998*

**NOTICES TO THE PROFESSION
AND PRESS RELEASE**

**AVIS AUX AVOCATS ET
COMMUNIQUÉ DE PRESSE**

Counsel practising before the Court are asked to take note of the following information relating to hearings of appeals:

1. Time allowed for argument

Each side has up to one hour for their principal argument. This includes the time required to argue a cross-appeal and any motions that must be dealt with in open court before the commencement of the appeal.

If the entire hour allotted for argument is used for the principal argument, five minutes will be allotted for reply. Where 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.

A party who requires more than the allotted time may make a motion for more time to the rota judge.

It is equally important for counsel to advise the Registrar before the day of hearing when less than the one hour allotted will be needed.

The Registrar will consult with counsel or their Ottawa agents to obtain firm

Les avocats qui plaident devant la Cour sont priés de prendre note des modifications suivantes concernant l'audition des appels. commitments for the time required for argument. Once the times have been settled, the Court will expect counsel to keep within the allotted time.

1. Durée des plaidoiries

Chaque côté dispose d'une heure pour la plaidoirie principale. L'heure qui est allouée inclut le temps requis pour la plaidoirie d'un appel incident et de toutes requêtes qui doivent être entendues à l'audience avant le commencement de l'appel.

Si l'appelant utilise toute l'heure qui lui est allouée pour sa plaidoirie principale, cinq minutes lui sont accordées pour sa réplique. Si l'appelant n'utilise pas toute l'heure allouée pour sa plaidoirie principale, il peut reporter un maximum de quinze minutes qui, avec les cinq minutes de réplique normalement

2. Counsel and Hearings

Counsel appearing on an appeal are asked to notify the Court, in writing, of the names of counsel who will be making submissions at the hearing of the appeal, at least one week before the hearing.

Hearings begin at 9:45 a.m. When two appeals are scheduled to be heard on the same day, counsel in both appeals must check in at the Process Registry, Room 166, by 9:15 a.m. on the day of hearing.

This notice replaces the notice of August 1995.

attribuées, donnent au plus vingt minutes de réplique.

Une partie qui estime avoir besoin de plus de temps peut faire une requête en ce sens au juge de service.

Il est aussi important que les avocats avisent le registraire avant le jour d'audience lorsqu'ils requièrent moins que l'heure allouée.

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.

2. Avocats et audiences

Les avocats qui comparaissent dans un appel sont priés d'aviser la Cour, par écrit et au moins une semaine avant la date d'audience, des noms des avocats qui plaideront l'appel.

Les audiences débuteront à 9 h 45. 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 le jour d'audience.

Le présent avis remplace l'avis d'août 1995.

Anne Roland

Registrar - Registraire

August 1998

Août 1998

DEADLINES: APPEALS

DÉLAIS: APPELS

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.

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'appellant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les quatre mois 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 de ceux de l'appellant.

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 de ceux de l'intimé.

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

Veillez 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

- 1998 -

OCTOBER - OCTOBRE						
S D	M L	T M	W M	T J	F V	S S
				1	2	3
4	M 5	6	7	8	9	10
11	H 12	13	14	15	16	17
18	19	20	21	22	23	24
25	26	27	28	29	30	31

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

- 1999 -

JANUARY - JANVIER						
S D	M L	T M	W M	T J	F V	S S
					H 1	2
3	4	5	6	7	8	9
10	11	12	13	14	15	16
17	M 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
	M 1	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						

MARCH - MARS						
S D	M L	T M	W M	T J	F V	S S
	M 1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	17	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	H 2	3
4	H 5	6	7	8	9	10
11	12	13	14	15	16	17
18	M 19	20	21	22	23	24

MAY - MAI						
S D	M L	T M	W M	T J	F V	S S
						1
2	M 3	4	5	6	7	8
9	10	11	12	13	14	15
16	17	18	19	20	21	22
	H					

JUNE - JUIN						
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	18	19
20	21	22	23	24	25	26

25	26	27	28	29	30	

23	24	25	26	27	28	29
30	31					

27	28	29	30		

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

M

- 18 sitting weeks / semaines séances de la cour
- 81 sitting days / journées séances de la cour
- 9 motion and conference days / journées requêtes, conférences
- 4 holidays during sitting days / jours fériés durant les sessions