SUPREME COURT COUR SUPRÊME



OF CANADA DU CANADA

BULLETIN OF BULLETIN DES

PROCEEDINGS PROCÉDURES

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Kevin Charles MacKinnon

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Alain Hepner, Q.C.

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Brian Doody

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Martine Desjardins

Heenan Blaikie

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**Irving Oil Limited, a body corporate**

Robert G. Vincent, Q.C.

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**Gerhard Wiemer**

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**Jon Oprea et al.**

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Burstein and Paine

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**Les entreprises Raymond Denis Inc.**

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**BOT Construction Limited**

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

D. Murray Brown, Q.C.

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**Sa Majesté la Reine**

Germain Tremblay

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Office of Crown Counsel

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**Shannon Sullivan et al.**

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**Camp Carowanis Inc. (Qué.)**

Philippe Lelarge

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**Her Majesty The Queen**

William F. Ehrcke, Q.C.

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**Anthony James Gillies (B.C.)**

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**Guardian Insurance Company**

Brian A. Crane, Q.C.

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**Ontario Tree Fruits Limited (Ont.)**

Alan J. Lenczner, Q.C.

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**Robert Lavigne**

Robert Lavigne

v. (26774)

**Human Resources Development et al. (F.C.A.)(Que.)**

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FILING DATE 4.8.1998

**Sharon Rounds et al.**

Raymond G. Colautti

Paroian, Raphael, Courey, Cohen & Houston

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

Dale Yurka

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**Noel Francis Chantiam**

Warren Rapoport

McDonald & Hayden

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**Packall Packaging Inc. et al. (Ont.)**

Douglas G. Loucks

Kerr, Waid & Assoc.

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**Brent Paul Rockwood**

Brent Paul Rockwood

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**Esther Neuman**

Priscilla E.S.J. Kennedy

Parlee McLaws

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

W.W. Smart

Justice Canada

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**Winnipeg Child and Family Services (Man.)**

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**Ladner Downs et al.**

Stephen R. Schachter

Nathanson Schachter & Thompson

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**Douglas Shore (B.C.)**

Gregory K. Steele

Steele & Co.

FILING DATE 31.7.1998

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| **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**

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| --- | --- | --- |
| 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 JJ.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**

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| --- | --- | --- |
| June 18, 1986  Supreme Court of British Columbia (Trainor J.) |  |  |
|  |  |  |
| Guilty plea, one charge of conspiracy to import cocaineSeptember 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 dimissal 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 husdband 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**

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| --- | --- | --- |
| 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 |
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| --- | --- | --- |
| 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**

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| --- | --- | --- |
| 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 appreciated the effect of the prior inconsistent statements of the Complainant - Assessment of credibility.

**PROCEDURAL HISTORY**

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| February 21, 1997  Court of Queen’s Bench (Lovecchio J.) |  |  |
|  |  |  |
| Conviction: living off the avails of youth prostitution December 5, 1997  Court of Appeal for Alberta  (McFadyen, Hunt and Sulatycky JJ.A.) |  | Conviction appeal dismissed |
|  |  |  |
| June 11, 1998  Supreme Court of Canada |  | Application for leave to appeal filed |
|  |  |  |

**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**

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| March 11, 1992  Ontario Court (General Division) (McRae J.) |  | Conviction: second degree murder |
|  |  |  |
| March 5, 1996  Court of Appeal for Ontario  (Robins, Weiler, Laskin JJ.A.) |  | Appeal dismissed |
|  |  |  |
| May 8, 1998  Supreme Court of Canada |  | Application for leave to appeal and motion for the 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**

|  |  |  |
| --- | --- | --- |
| 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 |
|  |  |  |

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| --- | --- | --- |
| 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**

|  |  |  |
| --- | --- | --- |
| 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’ compensationschemes - 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 *certiorari* 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 *certiorari* 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**

|  |  |  |
| --- | --- | --- |
| 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 *C.p.c.* 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 *Code des professions* |
|  |  |  |
| 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 jj.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, JJ.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 withing 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**

|  |  |  |
| --- | --- | --- |
| 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 dismissedMarch 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.)

GMAC’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.)

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 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

February 26, 1998

Court of Appeal for Ontario

(McKinlay, Austin and Dunnet [*ad hoc*] JJ.A.)

Appeals dismissed

March 20, 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**

**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**

|  |  |  |
| --- | --- | --- |
| 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 rejetéLe 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 Dortélus 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*] jj.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 JJ.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 upheldJune 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**

|  |  |  |
| --- | --- | --- |
| 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 - Recission - 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**

|  |  |  |
| --- | --- | --- |
| Februrary 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 réglementer 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 rejetéeLe 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 jj.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**

|  |  |  |
| --- | --- | --- |
| 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 contruction 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**

|  |  |  |
| --- | --- | --- |
| 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, JJ.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 dismissedMay 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**

|  |  |  |
| --- | --- | --- |
| 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 |
|  |  |  |

**Jayme 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. 7of 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 extraditions 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 awardedFebruary 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 demanderesses 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*] jj.c.a.) |  | Pourvois des demanderesses 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 *Bankruptcy and Insolvency Act*, granted *nunc pro tunc* |
|  |  |  |
| 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 JJ.A., Sharpe J. *ad hoc*) |  |  |
|  |  |  |
| Appeal dismissedApril 7, 1998  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 *Motor Fuel Tax Act* dismissed |
|  |  |  |
| February 9, 1998  Court of Appeal for British Columbia  (Hinds, Donald and Huddart JJ.A.) |  | Appeal dismissed |
|  |  |  |
| 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 jj.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 [*ad hoc*] jj.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 |
|  |  |  |

**Ellen 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**

|  |  |  |
| --- | --- | --- |
| 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 dismissedOctober 21, 1996  Federal Court of Appeal  (Stone, Linden and Henry JJ.A.)  July 18, 1997  Federal Court of Appeal (Linden J.A.) |  | Appeal dismissed  Application for extension of time to reconsider dismissed |
|  |  |  |
| 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.)

Respondent’s appeals dismissed:

reassessments confirmed

January 14, 1998

Ontario Court of Appeal

(Carthy, Labrosse, Charron JJ.A.)

Appeal allowed: reassessments referred back to the Applicant for reconsideration

March 18, 1998

Supreme Court of Canada (Major J.)

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

April 15, 1998

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 |
|  |  |  |

|  |  |  |
| --- | --- | --- |
| **MOTIONS** |  | **REQUÊTES** |

22.5.1998

Before / Devant: McLACHLIN J.

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

The Estate of Kristen French et al.

v. (26529)

The Attorney General of Ontario (Ont.)

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

**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**

Michael C. James

v. (26692)

Her Majesty The Queen (Ont.)

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

**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**

Sa Majesté La Reine

c. (25858)

Edmon Kabbabe (Qué.)

**Motion to file a factum on appeal over 40 pages**

**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)**

Greif Containers Ltd.

v. (26065)

Her Majesty The Queen in right of Canada (Ont.)

**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)**

**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.**

Robert Lovelace et al.

v. (26165)

Her Majesty The Queen in right of Ontario et al. (Ont.)

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

**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**

Her Majesty The Queen

v. (26473)

Joanne Kimberley White (B.C.)

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

**GRANTED / ACCORDÉE** Time extended to June 17, 1998.

3.7.1998

Before / Devant: GONTHIER J.

**Motion for a stay of execution**

Thomas Peter Paul

v. (26718)

Her Majesty The Queen (N.B.)

**Requête en vue de surseoir à l'exécution**

**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**

Sa Majesté La Reine

c. (25858)

Edmon Kabbabe (Qué.)

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

**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**

Her Majesty The Queen in right of Canada

v. (26174)

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

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

**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**

BY/PAR: A.G. of Canada

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

v. (25970)

Her Majesty The Queen (B.C.)

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

**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**

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.)

**Requête en autorisation d’intervention**

**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**

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.)

**Requête en autorisation d’intervention**

**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**

Minister of Justice

v. (26129)

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

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

**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**

Mark Edward Russell

v. (26699)

Her Majesty The Queen (Alta.)

**Requête en radiation de certaines parties de l’avis d’appel**

**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**

Khalid Somra et al.

v. (26667)

432080 Ontario Ltd. et al. (Ont.)

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

**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**

Guarantee Company of North America

v. (26654)

Gordon Capital Corporation (Ont.)

**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**

The Guarantee Company of North America

v. (26654)

Gordon Capital Corporation et al. (Ont.)

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

**GRANTED / ACCORDÉE** Time extended to July 15, 1998.

22.7.1998

Before / Devant: LE JUGE IACOBUCCI

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

Edwin Pearson

c. (24107)

Le procureur général du Canada (Qué.)

**Motion to extend time and related motions**

**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**

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.)

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

**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**

Marcel Lalonde

v. (26261)

Her Majesty The Queen (Ont.)

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

**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

c. (25926)

The Attorney General of Canada (Qué.)

**Motion to extend the time in which to serve and file the interveners’ factums**

**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**

Aditya Narayan Varma

v. (26750)

Gordon Newton Forsyth (Ont.)

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

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

31.7.1998

Before / Devant: CORY J.

**Motion for a stay of execution**

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

v. (26751)

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

**Requête en vue de surseoir à l’exécution**

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**

Her Majesty The Queen

v. (26161)

John Sundown (Sask.)

**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**

Her Majesty The Queen

v. (26404)

Isaac Monney (Ont.)

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

**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**

Lee Edward Campbell

v. (26454)

Her Majesty The Queen (B.C.)

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

**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**

Jamie Tanis Gladue

v. (26300)

Her Majesty The Queen (B.C.)

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

**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 intervener factum and book of authorities**

BY/PAR: A.G. of Alberta

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

v. (25970)

Her Majesty The Queen (B.C.)

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

**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**

Terrence Dermott Pyne

v. (26648)

Her Majesty The Queen (Ont.)

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

**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 intervener’s factum and book of authorities**

BY/PAR: Native Council of Nova Scotia

IN/DANS: Donald John Marshall, Jr.

v. (26014)

Her Majesty The Queen (N.S.)

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

**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)

Her Majesty The Queen (N.S.)

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

**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**

Batchewana Indian Band et al.

v. (25708)

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

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

**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**

Michael Osier, also known as Michael Oniel

v. (26504)

Royal Bank of Canada (Ont.)

**Requête en suspension des procédures**

**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**

BY/PAR: Attorney General for Ontario

IN/DANS: Attorney General of Canada

v. (25944)

Canadianoxy Chemicals Ltd. et al. (B.C.)

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

**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**

David Jonathan Wild

v. (26384)

Her Majesty The Queen (B.C.)

**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**

**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**

Roger Aubin

c. (26674)

Sa Majesté La Reine (Qué.)

**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**

**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**

Kevin Charles MacKinnon

v. (26641)

Her Majesty The Queen (Alta.)

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

**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**

Hugh Abbey

c. (26716)

Sa Majesté La Reine (Qué.)

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

**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**

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.)

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

**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**

BY/PAR: Canadian Civil Liberties Association

IN/DANS: L.C.

v. (26358)

Brian Joseph Mills (Alta.)

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

**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.

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| **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**

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| **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.)**

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| **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)

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| **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**

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| **NOTICES TO THE PROFESSION**  **AND PRESS RELEASE** |  | **AVIS AUX AVOCATS ET**  **COMMUNIQUÉ DE PRESSE** |
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Counsel practising before the Court are asked to take note of the following information relating to hearings of appeals:

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

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 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 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. **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.

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.

This notice replaces the notice of August 1995.

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

Anne Roland

Registrar - Registraire

August 1998 Août 1998

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| **DEADLINES: APPEALS** |  | **DÉLAIS: APPELS** |

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| 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’appelant, 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’appelant.  **Le mémoire de l'intervenant et son recueil de jurisprudence et de doctrine**, le cas échéant, doivent être déposés dans les quatre semaines suivant la signification 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.  Veuillez consulter l’avis aux avocats du mois d’octobre 1997 pour plus de renseignements.  Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai pour le dépôt du mémoire de l'intimé. |

SUPREME COURT OF CANADA SCHEDULE

CALENDRIER DE LA COUR SUPREME

- 1998 -

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| **OCTOBER - OCTOBRE** | | | | | | |  | **NOVEMBER - NOVEMBRE** | | | | | | |  | **DECEMBER - DECEMBRE** | | | | | | |
| S  D | M  L | T  M | W  M | T  J | F  V | S  S |  | S  D | M  L | T  M | W  M | T  J | F  V | S  S |  | S  D | M  L | T  M | W  M | T  J | F  V | S  S |
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| 11 | H  12 | **13** | **14** | **15** | **16** | 17 |  | 15 | 16 | 17 | 18 | 19 | 20 | 21 |  | 13 | 14 | 15 | 16 | 17 | 18 | 19 |
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| **JANUARY - JANVIER** | | | | | | |  | **FEBRUARY - FÉVRIER** | | | | | | |  | **MARCH - MARS** | | | | | | |
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|  |  |  |  |  | H  1 | 2 |  |  | **M**  **1** | 2 | 3 | 4 | 5 | 6 |  |  | **M**  **1** | 2 | 3 | 4 | 5 | 6 |
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| **APRIL - AVRIL** | | | | | | |  | **MAY - MAI** | | | | | | |  | **JUNE - JUIN** | | | | | | |
| S  D | M  L | T  M | W  M | T  J | F  V | S  S |  | S  D | M  L | T  M | W  M | T  J | F  V | S  S |  | S  D | M  L | T  M | W  M | T  J | F  V | S  S |
|  |  |  |  | 1 | H  2 | 3 |  |  |  |  |  |  |  | 1 |  |  |  | 1 | 2 | 3 | 4 | 5 |
| 4 | H  5 | 6 | 7 | 8 | 9 | 10 |  | 2 | **M**  **3** | 4 | 5 | 6 | 7 | 8 |  | 6 | **M**  **7** | 8 | 9 | 10 | 11 | 12 |
| 11 | 12 | 13 | 14 | 15 | 16 | 17 |  | 9 | 10 | 11 | 12 | 13 | 14 | 15 |  | 13 | **14** | **15** | **16** | **17** | **18** | 19 |
| 18 | **M**  **19** | **20** | **21** | **22** | **23** | 24 |  | 16 | **17** | **18** | **19** | **20** | **21** | 22 |  | 20 | **21** | **22** | **23** | 24 | **25** | 26 |
| 25 | **26** | **27** | **28** | **29** | **30** |  |  | 23 | H  24 | **25** | **26** | **27** | **28** | 29 |  | 27 | 28 | 29 | 30 |  |  |  |
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| Sittings of the court:  Séances de la cour: |  | 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 |
| Motions:  Requêtes: | **M** |
| Holidays:  Jours fériés: | **H** |
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