

SUPREME COURT OF CANADA



COUR SUPRÊME DU CANADA

BULLETIN OF PROCEEDINGS

This Bulletin is published at the direction of the Registrar and is for general information only. It is not to be used as evidence of its content, which, if required, should be proved by Certificate of the Registrar under the Seal of the Court. While every effort is made to ensure accuracy, no responsibility is assumed for errors or omissions.

Subscriptions may be had at \$200 per year, payable in advance, in accordance with the Court tariff. During Court sessions it is usually issued weekly.

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

BULLETIN DES PROCÉDURES

Ce Bulletin, publié sous l'autorité de la registraire, ne vise qu'à fournir des renseignements d'ordre général. Il ne peut servir de preuve de son contenu. Celle-ci s'établit par un certificat de la registraire donné sous le sceau de la Cour. Rien n'est négligé pour assurer l'exactitude du contenu, mais la Cour décline toute responsabilité pour les erreurs ou omissions.

Le prix de l'abonnement, fixé dans le tarif de la Cour, est de 200 \$ l'an, payable d'avance. Le Bulletin paraît en principe toutes les semaines pendant les sessions de la Cour.

Le Bulletin rassemble les procédures devant la Cour dans la langue du dossier. Quand un arrêt est rendu, on peut se procurer les motifs de jugement en adressant sa demande à la registraire, accompagnée de 10 \$ par exemplaire. Le paiement doit être fait à l'ordre du Receveur général du Canada.

CONTENTS

TABLE DES MATIÈRES

Applications for leave to appeal filed	1 - 4	Demandes d'autorisation d'appel déposées
Applications for leave submitted to Court since last issue	5 - 12	Demandes soumises à la Cour depuis la dernière parution
Oral hearing ordered	-	Audience ordonnée
Oral hearing on applications for leave	-	Audience sur les demandes d'autorisation
Judgments on applications for leave	13 - 23	Jugements rendus sur les demandes d'autorisation
Judgment on motion	-	Jugement sur requête
Motions	24 - 28	Requêtes
Notice of reference	-	Avis de renvoi
Notices of appeal filed since last issue	29 - 30	Avis d'appel déposés depuis la dernière parution
Notices of intervention filed since last issue	-	Avis d'intervention déposés depuis la dernière parution
Notices of discontinuance filed since last issue	31	Avis de désistement déposés depuis la dernière parution
Appeals heard since last issue and disposition	-	Appels entendus depuis la dernière parution et résultat
Pronouncements of appeals reserved	-	Jugements rendus sur les appels en délibéré
Rehearing	32	Nouvelle audition
Headnotes of recent judgments	-	Sommaires des arrêts récents
Agenda	-	Calendrier
Summaries of the cases	-	Résumés des affaires
Notices to the Profession and Press Release	-	Avis aux avocats et communiqué de presse
Deadlines: Appeals	33	Délais: Appels
Judgments reported in S.C.R.	-	Jugements publiés au R.C.S.

**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Régent Millette

Régent Millette

c. (30667)

Rita Lefort Vigeant, et autre (Qc)

Pierre-Yves Trudel

Adessky, Poulin

DATE DE PRODUCTION: 30.11.2004

Huguette Cousineau

Huguette Cousineau

v. (30694)

Jean-Charles Perrier, et autres (Ont.)

Andrew T. Graham

Benson Percival Brown

FILING DATE: 2.12.2004

Bulani Agro Inc., et al.

Stuart A. Busse, Q.C.

Busse Law Professional Corporation

v. (30666)

**Imperial Oil, a Partnership of Imperial Oil
Limited and McColl-Frontenac Petroleums Inc.
(Sask.)**

Kenneth A. Ready, Q.C.

McDougall Gauley

FILING DATE: 3.12.2004

Peter Cross

Peter Cross

v. (30699)

Roger Madore, et al. (Que.)

Marc Lapointe

Dufour, Isabelle, Luduc, Bouthillette,
Lapointe, Beaulieu

FILING DATE: 3.12.2004

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

St. Anthony Seafoods Limited Partnership

Corwin Mills, Q.C.

Mills, Hussey & Pittman

v. (30669)

**Her Majesty the Queen in Right of
Newfoundland and Labrador, and at all times
represented by the Minister of Fisheries and
Aquaculture (NL)**

Herbert F. Edwards

A.G. of Newfoundland

FILING DATE: 6.12.2004

Wanda Young

Gillian D. Butler, Q.C.

v. (30670)

Leslie Bella, et al. (NL)

Wayne Bruce

Stewart, McKelvey, Stirling, Scales

FILING DATE: 7.12.2004

Her Majesty the Queen

Alexander Budlovsky

A.G. of British Columbia

v. (30662)

Peter Hugh Lyne Williams (B.C.)

Anil K. Kapoor

FILING DATE: 9.12.2004

Paul Joseph Ricci

Douglas H. Christie

v. (30684)

Her Majesty the Queen (Ont.)

Gary K.G. Caracciolo

A.G. of Ontario

FILING DATE: 10.12.2004

Gabor L. Zsoldos

Gabor Zsoldos

v. (30613)

Attorney General of Canada (F.C.)

André LeBlanc

A.G. of Canada

FILING DATE: 13.12.2004

Ilona Zsoldos

Ilona Zsoldos

v. (30614)

Attorney General of Canada (F.C.)

André LeBlanc

A.G. of Canada

FILING DATE: 13.12.2004

**Barrett MacDonald by his Litigation Guardians,
Claire MacDonald and Jerome MacDonald**

Hector J. MacIsaac

MacIsaac and Clarke

v. (30676)

John McGrath (N.S.)

Collin D. Piercey

Stewart, McKelvey, Stirling, Scales

FILING DATE: 13.12.2004

Michael Seifert

Douglas H. Christie

v. (30685)

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

Barney W. Brucker

A.G. of Canada

FILING DATE: 13.12.2004

David F. Hass

David F. Hass

v. (30687)

**Jetex Investments Inc. represented at first
instance by its agent, 1041646 Ontario Ltd., of
which Browning Property Services is a division
(Ont.)**

Davis Strashin

FILING DATE: 14.12.2004

Michael Divito

Clemente Monterosso

Monterosso, Giroux

c. (30679)

**Le ministre de la Justice du Canada, et autres
(Qc)**

Pierre E. Labelle

P.G. du Canada

DATE DE PRODUCTION: 15.12.2004

**Première Électronique Plus Inc. (F.A.S. Instant
Comptant)**

Patrick Choquette

Prévost, Fortin, D'Aoust

c. (30682)

Procureur général du Québec (Qc)

Karen Bédard

P.G. du Québec

DATE DE PRODUCTION: 17.12.2004

Jane Ceridwen Lloyd Miller

Jane Miller

v. (30673)

Government of British Columbia (B.C.)

Diane C. Roberts

A.G. of British Columbia

FILING DATE: 17.12.2004

Regroupement des marchands actionnaires inc.

Colin K. Irving
Irving, Mitchell & Associates

v. (30677)

Métro Inc., et al. (Que.)

Raynold Langlois, Q.C.
Langlois, Kronström, Desjardins

FILING DATE: 17.12.2004

Sa Majesté la Reine

Michel Pennou
P.G. du Québec

c. (30681)

Gennaro Angelillo (Qc)

Robert Delorme
Dufresne, Hébert, Comeau

DATE DE PRODUCTION: 20.12.2004

Ontario Provincial Police

Leslie M. McIntosh
A.G. of Ontario

v. (30683)

A.L. Favretto (Ont.)

David W. Scott, Q.C.
Borden, Ladner, Gervais

FILING DATE: 20.12.2004

Abattoir Saint-Alexandre (1982) Inc.

Laval Dallaire
Gagné, Letarte

c. (30598)

**Travailleurs et travailleuses unis de l'alimentation
et du commerce, section locale 503 (Qc)**

Michel Davis
Rivest Schmidt

DATE DE PRODUCTION: 21.12.2004

Lionel Fils-Aimé

Simon Lahaie
Pepper et Associés

c. (30674)

Ville de Montréal, et autre (Qc)

Pierre Yves Boisvert
Jalbert Séguin Caron

DATE DE PRODUCTION: 21.12.2004

Gérald Dewolf Shaw

André Legault
Alarie, Legault, Hénault

c. (30675)

Jacques Vignola, et autre (Qc)

Jacques Vignola

DATE DE PRODUCTION: 21.12.2004

Arthur Froom

Gregory Lafontaine
Lafontaine & Associates

v. (30686)

The Minister of Justice (Canada) (F.C.)

Dale Yurka
A.G. of Canada

FILING DATE: 21.12.2004

The Nova Scotia Human Rights Commission

Michael J. Wood, Q.C.
Burchell, Hayman, Parish

v. (30690)

Play It Again Sports Ltd., et al. (N.S.)

Trevor Muller

FILING DATE: 21.12.2004

Michel Duguay
Michel Duguay

c. (30692)

Christiane Théberge (Qc)
Allen Marcoux

DATE DE PRODUCTION: 22.12.2004

Jason Daniel MacKay
Brian D. Munro

v. (30557)

Her Majesty the Queen (N.B.)
John A. Henheffer
A.G. of New Brunswick

FILING DATE: 23.12.2004

**APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST
ISSUE**

**DEMANDES SOUMISES À LA COUR
DEPUIS LA DERNIÈRE PARUTION**

DECEMBER 30, 2004 / LE 30 DÉCEMBRE 2004

**CORAM: Chief Justice McLachlin and Binnie and Charron JJ.
La juge en chef McLachlin et les juges Binnie et Charron**

David Allen Colville

v. (30559)

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

NATURE OF THE CASE

Criminal law (Non Charter) - Offences - Careless use of a firearm - Criminal negligence - Inconsistent verdicts - Whether the Court of Appeal has jurisdiction to challenge a jury “acquittal” in the absence of a Crown appeal from the “acquittal” when determining the issue as to whether the verdicts are inconsistent? - If the verdicts of a jury are inconsistent, is it open to the appellate court to uphold the conviction by concluding that the error of the jury was in the finding that the accused was not guilty on the charge upon which he was “acquitted” notwithstanding that there was “no error of law” leading to that “acquittal” and that neither the verdict of “acquittal” nor the “findings of fact” by the jury were challenged by the Crown by way of an appeal? - As a matter of law, can a “conviction” by a jury on one count based upon “criminal negligence” be upheld in the face of an unchallenged “acquittal” by the same jury on another count, based upon “carelessness” where the gist of the allegations on both counts rely upon the same series of acts? - Whether the Court of Appeal erred in law by failing to consider portions of the Jury Charge ?

PROCEDURAL HISTORY

April 11, 2003
Court of Queen’s Bench of Alberta
(Bensler J.)

Applicant found guilty of manslaughter and criminal negligence causing bodily harm.

October 5, 2004
Court of Appeal of Alberta
(McFadyen, Paperny and Romaine JJ.A.)

Appeal dismissed

November 15, 2004
Supreme Court of Canada

Application for leave to appeal filed

The Corporation of the City of Kingston and Mirka Januszkiewicz

v. (30452)

Her Majesty the Queen (Ont.)

NATURE OF THE CASE

Environmental Law - Water and Watercourses - Statutes - Interpretation - Whether the offence of depositing a deleterious substance into water frequented by fish requires proof that the water into which the substance was alleged to have been deposited has become harmful to aquatic life because of the deposit - Whether statutory interpretations of sections of the *Fisheries Act* conflict - *Fisheries Act*, R.S.C. 1985, c. F-14, ss. 34(1)(a) and 36(3).

PROCEDURAL HISTORY

February 24, 1999
Ontario Superior Court of Justice
(Bell J.P.)

Applicants acquitted on one count and convicted on 7 counts of depositing a deleterious substance in water frequented by fish, contrary to s. 36(3) of the *Fisheries Act*

February 24, 1999
Ontario Superior Court of Justice
(Bell J.P.)

Fines of \$10,000 or \$30,000 on each of 7 counts; Order to produce reports, a program to monitor site and a plan to cap site; Suspended sentence to Mirka Januszkiewicz

June 7, 2002
Ontario Superior Court of Justice
(McWilliam J.)

Appeals against convictions allowed; Cross-appeal against acquittal and sentences allowed; new trial ordered on all counts

May 12, 2004
Court of Appeal for Ontario
(Feldman, Sharpe and Gillese JJ.A.)

Respondent's appeal allowed in part; Appeal with respect to 4 counts dismissed, convictions on three counts and acquittal on one count restored; Cross-appeal on sentence remitted to Ontario Superior Court of Justice

August 9, 2004
Supreme Court of Canada

Application for leave to appeal filed

Justin Sidney James Duddle

v. (30552)

City of Vernon, North Okanagan Regional District and District of Coldstream (B.C.)

-and-

Her Majesty the Queen in Right of the Province of British Columbia, The Honourable The Minister of the Department of Lands, Parks and Housing and B.C. Government Ministry of Environment, Lands and Parks

NATURE OF THE CASE

Torts - Occupiers' liability - Standard of care - Causation - Trial judge making finding of liability against municipality as a result of a diving accident - Court of Appeal allowing appeal and dismissing action - Whether Court of Appeal erred in taking one sentence out of trial judge's reasons for judgment to find that trial judge erred in stating standard of care - Whether Court of Appeal erred in law in approaching issue of causation in isolation from a general finding of negligence.

PROCEDURAL HISTORY

September 2, 2003
Supreme Court of British Columbia
(Koenigsberg J.)

Liability for injuries suffered by Applicant assessed 25% against municipal Respondents

July 14, 2004
Court of Appeal for British Columbia
(Levine, Smith and Lowry JJ.A)

Appeal allowed

September 29, 2004
Supreme Court of Canada

Application for leave to appeal filed

Gregory Peace

v. (30287)

Attorney General of Canada (F.C.)

NATURE OF THE CASE

Administrative law - Judicial review - Standard of review - Employment insurance - Constructive dismissal - Whether, as a preliminary question, an appellate court can review on a standard of correctness, the standard of review that an administrative tribunal selects when reviewing the decision of a lower tribunal - Whether the Federal Court of Appeal applied the correct standard of review in reviewing the case at bar - Whether the common law principle of constructive dismissal equates to involuntary leaving under the *Employment Insurance Act* - Whether the available remedy for constructive dismissal by means of legal action against an employer prevents a claim for benefits under the Act.

PROCEDURAL HISTORY

April 26, 2002
Board of Referees
(Fowler-Little, Chairperson, Blanchard and Soroka, members)
Applicant's appeal from decision of Employment Insurance Commission denying application for employment insurance benefits, dismissed

January 23, 2003
Office of the Umpire
(Haddad J., Umpire)
Appeal allowed

February 5, 2004
Federal Court of Appeal
(Rothstein, Sexton and Malone JJ.A.)
Application for judicial review allowed

October 13, 2004
Supreme Court of Canada
Application for leave to appeal and motion for extension of time filed

CORAM: Major, Fish and Abella JJ.
Les juges Major, Fish et Abella

Her Majesty the Queen

v. (30520)

Robert Pollock (Crim.) (Ont.)

NATURE OF THE CASE

Criminal law (Non Charter) - Joint trials - Cross examination - Whether the Court of Appeal erred in placing an onus on an accused to establish "appreciable evidence" supporting his defence as a condition precedent to his cross-examination of Crown witness in relation to disposition evidence of a co-accused - Whether the Court of Appeal erred in unfairly restricting the right of an accused to attack the character of another accused in a joint trial where there are antagonistic

defences - Whether the Court of Appeal exceeded its appellate jurisdiction by retrying this case and making factual findings of deliberate misconduct on the part of defence counsel unfounded on the evidence and contrary to the trial judge's findings.

PROCEDURAL HISTORY

June 27, 1998
Ontario Superior Court of Justice
(Zelinski J.)

Applicant convicted of first degree murder contrary to s. 235(1) of the Criminal Code, and attempted murder contrary to s. 239 of the Criminal Code.

June 23, 2004
Court of Appeal for Ontario
(Weiler, Rosenberg, and Borins JJ.A.)

Appeal from conviction allowed, convictions set aside, and new trial ordered.

September 22, 2004
Supreme Court of Canada

Application for leave to appeal filed

November 12, 2004
Supreme Court of Canada

Motion to extend time to file an amended Notice of Application for Leave filed

December 14, 2004
Supreme Court of Canada

Application for an Order permitting both the Applicant and Respondent to file Memoranda of Argument in excess of 20 pages

David Morrisson

v. (30573)

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

NATURE OF THE CASE

Criminal law (Non Charter) - Joint trials - What test is to be applied in balancing the rights of co-accused in a joint trial where the rights on one to a fair trial are in direct conflict with the rights of the other to make full answer and defence? - Are there cases where the "balancing" becomes too fine a process in order to give effect to the presumption in favour of joint trials to result in a fair trial of either or both of the accused persons? - What test is to be applied in deciding when to order a new trial for one of two co-accused where there has been a trial involving prejudice to both accused? Should the Court of Appeal's view of the conduct of trial counsel have any part to play in the decision to grant or not grant a new trial? Is the test in *R. v. Nygaard* (1989), 51 C.C.C. (3d) 417 (S.C.C.) definitive of the process to be employed in deciding when to grant a new trial to one or the other of two jointly tried accused?

PROCEDURAL HISTORY

June 27, 1998
Ontario Superior Court of Justice
(Zelinski J.)

Convicted of first degree murder and attempted murder.

June 23, 2004
Court of Appeal for Ontario
(Weiler, Rosenberg and Borins JJ.A.)

Appeal from conviction dismissed; Appeal from sentence allowed and reduction of the period of parole eligibility to 10 years for attempted murder and life imprisonment without parole for 25 years for first degree murder

October 12, 2004
Supreme Court of Canada

Application for extension of time and leave to appeal filed

Dr. Brian J. Penney and Dr. Greg Healey

v. (30602)

**Melissa Crawford, by her Litigation Guardian Jeanette Crawford,
Jeanette Crawford and Barry Crawford (Ont.)**

NATURE OF THE CASE

Torts - Appeals - Duty of trial judge to give reasons in civil cases - Extent and nature of duty.

PROCEDURAL HISTORY

January 15, 2003
Ontario Superior Court of Justice
(Power J.)

Applicants found liable in negligence for damages
suffered by Respondents.

September 10, 2004
Court of Appeal for Ontario
(Labrosse, Sharpe and Cronk JJ.A.)

Appeal dismissed

November 9, 2004
Supreme Court of Canada

Application for leave to appeal filed

Maria Sokolowska

v. (30631)

Her Majesty the Queen (F.C.)

NATURE OF THE CASE

Procedural law – Motion for summary judgment – Applicant bringing action for recovery of pension benefits in respect of a “Rehab” pension, Old Age Security (“OAS”) and Canada Pension Plan (“CPP”) – Federal Court granting motion for summary judgment as no genuine issue for trial, due to lack of jurisdiction regarding “Rehab” pension, entitlement to CPP not disputed by Applicant, and administrative remedies not exhausted regarding OAS entitlement – Motion for extension of time to file Notice of Appeal granted by Federal Court of Appeal – Motion for further extension of time to file Notice of Appeal denied – Whether public importance issues arise such that leave to appeal should be granted.

PROCEDURAL HISTORY

March 22, 2004
Federal Court of Canada
(Beaudry J.)

Motion for summary judgment to dismiss the Applicant’s
action in its entirety, granted with costs

May 13, 2004
Federal Court of Appeal
(Evans J.A.)

Applicant's motion for an extension of time to file a notice of appeal, granted

September 24, 2004
Federal Court of Appeal
(Létourneau J.A.)

Applicant's motion for a further extension of time to file a notice of appeal, denied

November 22, 2004
Supreme Court of Canada

Application for leave to appeal filed

CORAM: Bastarache, LeBel and Deschamps JJ.
Les juges Bastarache, LeBel et Deschamps

S.B. et G.G.

c. (30558)

**Marie Maynard, personne autorisée par le Directeur de la protection de la jeunesse
des Centres jeunesse de la Mauricie et du Centre du Québec, et N.B. (Qc)**

(Adoption)

Devinder Kour Rainal

v. (30592)

City of Toronto, Toronto Licensing Tribunal and Province of Ontario (Ont.)

NATURE OF THE CASE

Administrative law - Appeal - Judicial review- Toronto Licensing Tribunal - Procedural law - Judgments and orders - Whether the Order of the Court of Appeal deprived the Applicant of her fundamental right to earn her livelihood? - Whether the Court of Appeal erred by dismissing the Applicants' appeal under the circumstances?

PROCEDURAL HISTORY

December 12, 2002
Toronto Licensing Tribunal
(Ungerman, Vice-Chair, Manios and Shimski, Members)

Refusal to approve Applicant's taxicab sales agreement

March 26, 2004
Ontario Superior Court of Justice (Divisional Court)
(Ferrier, Swinton and De Sousa JJ.)

Applicant's application for an order quashing the Toronto Licensing Tribunal's decision, dismissed

September 2, 2004
Court of Appeal for Ontario
(MacPherson, Cronk and Lane [*ad hoc*] JJ.A.)

Appeal dismissed

October 18, 2004
Supreme Court of Canada

Application for leave to appeal filed

Province du Nouveau-Brunswick

c. (30522)

Scott D. MacFarlane (N.-B.)

NATURE DE LA CAUSE

Droit administratif - Appel - Compétence - Procédure - Jugements & ordonnances - Procédure préalable - Est-ce-que les critères de la règle 62.03(4)a) des *Règles de procédure du Nouveau-Brunswick*, Règl. du N.-B. 82-73 ont tous été satisfaits? - Est-ce-que la juge de première instance avait la discrétion d'ignorer la question de sa propre juridiction et est-ce-que cette question devait être résolue avant qu'une ordonnance de conversion de la requête soit émise? - Dans la mesure où la juge de première instance a assumé juridiction sur les parties et les questions en litige sans en dire un seul mot, est-ce-que la demanderesse est privée de son droit de faire réviser cette décision en appel?

HISTORIQUE DES PROCÉDURES

Le 28 juin 2004
Cour du Banc de la Reine du
Nouveau-Brunswick
(La juge Robichaud)

Requête de l'intimé pour une ordonnance déclaratoire et
pour de dommages-intérêts, convertie en action en vertu
de la règle 38.09 des *Règles de procédure du Nouveau-
Brunswick*

Le 19 juillet 2004
Cour d'appel du Nouveau-Brunswick
(Le juge Larlee)

Demande d'autorisation d'appel rejetée

Le 22 septembre 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

JUDGMENTS ON APPLICATIONS FOR LEAVE

JUGEMENTS RENDUS SUR LES DEMANDES D'AUTORISATION

JANUARY 6, 2005 / LE 6 JANVIER 2005

30474 **David Baugh v. Faculty Association of Red Deer College, Jim Scott, Peter Slade, Lorinda Myers also known as Lorinda Stuber, Pliny Hayes and Glynis Wilson-Boulton** (Alta.) (Civil) (By Leave)

Coram: Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Calgary), Number 0301-0123-AC, dated May 20, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Calgary), numéro 0301-0123-AC, daté du 20 mai 2004, est rejetée avec dépens.

NATURE OF THE CASE

Administrative law - Colleges & universities - Labour law - Collective agreement - Whether the common law duty of fair representation applies in a disciplinary inquiry where there is no grievance - If the duty of fair representation applies in a disciplinary inquiry where there is no grievance, how it differs from the duty as delineated by this Court for grievances - Whether the common law duty of fair representation applies in a disciplinary inquiry conducted by a faculty association - Whether the right of a faculty member to due process in a disciplinary inquiry conducted by a faculty association reside in contract - Whether abuse of process and bias by an association entitles a member to independent legal counsel of his choosing by the association - Whether rules of evidence governing summary judgment permit a court to parse several statements in documentary evidence, articulate a position not verbatim and contrary to at least one of them, when granting summary judgment, without the fact finding of a trial to determine truth - Whether an action can be brought against individual members of an association for breach of duty and bad faith.

PROCEDURAL HISTORY

April 10, 2003
Court of Queen's Bench of Alberta
(Lutz J.)

Respondent's motion for summary judgment granted;
Applicant's allegation of defamation dismissed

June 16, 2004
Court of Appeal of Alberta (Calgary)
(Conrad, McFadyen and Russell JJ.A.)

Appeal dismissed

October 7, 2004
Supreme Court of Canada

Application for leave to appeal filed

30471 **Jeffrey Streisfield v. Marvin Goodman, Carol Goodman, Joyce Lawee, David Lawee and Jean Karnovsky** (Ont.) (Civil) (By Leave)

Coram: Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C37669, dated May 14, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C37669, daté du 14 mai 2004, est rejetée avec dépens.

NATURE OF THE CASE

Property law - Wills - Whether the Respondents had status to sue the Applicant for the relief granted below - Whether the courts below committed palpable and overriding error in fixing the Applicant with liability for damages when there was no causal connection between any act of the Applicant and the loss sustained by the deceased

PROCEDURAL HISTORY

January 17, 2002
Ontario Superior Court of Justice
(Carnwath J.)

Applicants' action to declare will dated 1990 valid, dismissed; Applicants held jointly and severally liable for the monies wrongfully obtained from deceased

May 14, 2004
Court of Appeal for Ontario
(Labrosse, Weiler, and Charron JJ.A.)

Appeal and cross-appeal dismissed

August 13, 2004
Supreme Court of Canada

Application for leave to appeal filed

30446 **Kodiak Construction Ltd. v. Sharon Mugford, Ross Mugford, Myron Weber** (Alta.) (Civil) (By Leave)

Coram: Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Calgary), Number 0303-0245-AC, dated May 5, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Calgary), numéro 0303-0245-AC, daté du 5 mai 2004, est rejetée avec dépens.

NATURE OF THE CASE

Statutes - Interpretation - Torts - Negligence - Vicarious liability - When a person has possession of a motor vehicle with consent of the owner, but has neither express nor implied consent to possess or drive the vehicle on a highway at the time of an accident and/or is in breach of conditions attached to possession, does s.181(b) of the *Highway Traffic Act*, R.S.A. 1980, c. H-7 apply to make the owner vicariously liable for the driver's negligence - If s.181(b) does apply, how could the owner ever withdraw consent to possession or impose prohibitions, conditions or limitations on when, where and by whom the vehicle could be driven short of retaking physical possession of the vehicle?

PROCEDURAL HISTORY

June 18, 2003
Court of Queen's Bench of Alberta
(Topolniski J.)

Applicant not held vicariously liable under s.181(b) of the *Highway Traffic Act* for the negligent operation of a motor vehicle by its employee

May 5, 2004
Court of Appeal of Alberta
(Russell, Picard and Wittmann JJ.A)

Appeal allowed

August 4, 2004
Supreme Court of Canada

Application for leave to appeal filed

30364 **Her Majesty the Queen v. James Sauvé, Richard Trudel** (Ont.) (Criminal) (By Leave)

Coram: Major, Bastarache and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C25967, dated January 30, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C25967, daté du 30 janvier 2004, est rejetée.

NATURE OF THE CASE

Criminal law - Trial - Evidence - Whether Court of Appeal erred in law in its treatment of the fresh evidence of Jacques Trudel - Whether the trial judge failed to give an adequate "*Vetrovec* caution" - Whether Court of Appeal erred in law in excluding certain evidence related to the Respondent Sauvé's criminal record - Whether Court of Appeal erred in law in excluding certain alleged 'oath-helping' evidence.

PROCEDURAL HISTORY

May 20, 1996
Ontario Superior Court of Justice
(McWilliam J.)

Convictions: first degree murder

January 30, 2004
Court of Appeal for Ontario
(Catzman, Rosenberg and Borins, JJ.A.)

Appeals allowed; convictions quashed and new trial ordered

June 2, 2004
Supreme Court of Canada

Application for leave to appeal filed

June 28, 2004
Supreme Court of Canada
(LeBel J.)

Motion for extension of time to bring application for leave to appeal and to file a lengthy memorandum of argument granted

30569 **Donald Mosher v. Minister of Natural Resources** (Ont.) (Civil) (By Leave)

Coram: Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C40231, dated July 20, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C40231, daté du 20 juillet 2004, est rejetée avec dépens.

NATURE OF THE CASE

Property Law - Real Property - Vacant possession - Whether the Court of Appeal erred in not adjudicating in regard to arguments that the applications judge erred by refusing to hear arguments - Whether the Court of Appeal erred in not

allowing sufficient time for submissions - Whether the Court of Appeal erred in not adjudicating in regard to arguments that the applications judge erred by dismissing the applicant's counter-application, and judging that the counter-application was an appeal - Whether the Court of Appeal erred in allowing the Crown's application for vacant possession

PROCEDURAL HISTORY

May 29, 2003
Ontario Superior Court of Justice
(Stach J.)

Declaration that land use permit expired the Applicant is using the land without authority; Applicant ordered to deliver vacant possession of public lands to Respondent

July 20, 2004
Court of Appeal for Ontario
(Catzman, Lang and Gillese JJ.A.)

Appeal dismissed

September 29, 2004
Supreme Court of Canada

Application for leave to appeal filed

30457 Adrien Paquet, Céline Paquet, Odette Paquet, Julie Paquet, Marie-Josée Paquet c. Alain Tardif, Marcel Camiré, Gaétan Houde, Pierre Denault (Qc) (Civile) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Québec), numéro 200-09-004720-048, daté du 14 mai 2004, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Quebec), Number 200-09-004720-048, dated May 14, 2004, is dismissed with costs.

NATURE DE LA CAUSE

Procédure – Procédure civile – Procédure préalable au procès – Interrogatoire avant défense en vertu de l'art. 397 du *Code de procédure civile*, L.R.Q., ch. C-25 – Les instances inférieures ont-elles erré en autorisant la communication de documents contenant le nom des médecins consultés par le demandeur ainsi que les médicaments qui lui ont été prescrits?

HISTORIQUE DES PROCÉDURES

Le 9 janvier 2003
Cour supérieure du Québec
(Le juge Godbout)

Requête des intimés pour obtenir la communication de documents médicaux accueillie

Le 14 mai 2004
Cour d'appel du Québec
(Les juges Rochette, Hilton et Pelletier [*dissident*])

Appel rejeté

Le 11 août 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

30579 **Vivian Assaf v. Estate of Edward Assaf, deceased, by its Executor, Robert Bosada, Barbara LeCoq (also known as Barbara Assaf and also known as Barbara Evans)** (Ont.) (Civil) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C41009/M31430, dated June 29, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C41009/M31430, daté du 29 juin 2004, est rejetée.

NATURE OF THE CASE

Procedural Law - Security for costs - Estates - Whether the learned justice erred in not accepting as security for costs the assets pledged by the Applicant - Whether the assets pledged were sufficient and iron-clad security to cover the \$15,000.00 required to be posted before the Court of Appeal would hear the Applicant's appeal of the order of the Honourable Madam Justice Greer - Whether the learned justice placed too much weight on the pronouncements of Bernard Burton, counsel for Robert Bosada, who disputed the security proffered by the Applicant - Whether it would be unreasonable to allow the Applicant's appeal of Greer J.'s order to be dismissed without a hearing on the merits and based on the unsupported and undocumented representations of Mr. Burton, who *inter alia*, described the Applicant's claims regarding her parents estates as "innocuous" "dubious at best" and "murky" - Whether the *Victims' Bill of Rights*, 1995 S.O. 1995 c.6, related to the requirement of victims of crime to provide security, applies to this case.

PROCEDURAL HISTORY

October 20, 2003 Ontario Superior Court of Justice (Greer J.)	Applicant's motion for an order removing executor and setting aside all orders of Greer J. made after June 12, 1997 dismissed
February 10, 2004 Court of Appeal for Ontario (Blair J.A.)	Respondent's motion for an order that Applicant post \$15,000.00 as security for costs granted
June 3, 2004 Court of Appeal for Ontario (Laskin, Charron and Lang JJ.A.)	Applicant's motion for review of Blair J.A.'s order dismissed.
June 29, 2004 Court of Appeal for Ontario (MacPherson J.A.)	Appeal of Greer J.'s order dismissed
September 28, 2004 Supreme Court of Canada	Application for leave to appeal filed

30397 **Projets Lauphi Inc. c. Procureur général du Québec** (Qc) (Civile) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande de prorogation de délai pour déposer et signifier la réponse de l'intimé est accordée. La demande de prorogation de délai pour déposer et signifier la réplique de la demanderesse est rejetée. La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-011430-014, daté du 19 avril 2004, est rejetée avec dépens.

The application for an extension of time to file and serve the respondent's response is granted. The application for an extension of time to file and serve the applicant's reply is dismissed. The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-011430-014, dated April 19, 2004, is dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Contrats - Dommages-intérêts - La Cour d'appel a-t-elle erré quant au rôle et à la crédibilité des experts relativement aux calculs des quantités de roc excavées et des déblais, et à ses conséquences sur les délais, pénalités de retard et frais de chantier? - La Cour d'appel a-t-elle erré en n'accordant pas la réclamation pour traitement de roc et remboursement de pénalités prélevées à l'entrepreneur? - La Cour d'appel a-t-elle erré en concluant que l'appel à la caution était justifié? - La Cour d'appel a-t-elle erré en refusant les réclamations pour frais de carrière, pour nivellement du roc, pour paiement de roc hors profil, pour location de tracteur, pour le transport aux rebuts et pour le sable? - La Cour d'appel a-t-elle erré en ne calculant pas l'indexation prévue? - La Cour d'appel a-t-elle erré en refusant les intérêts à compter de 1990 au lieu de 1992?

HISTORIQUE DES PROCÉDURES

Le 30 août 2001
Cour supérieure du Québec
(Le juge Normand)

Action partiellement accueillie : intimé condamné à payer 107 875,42 \$ avec intérêts, depuis la date de l'assignation majorés de l'indemnité additionnelle

Le 19 avril 2004
Cour d'appel du Québec
(Le juge en chef Robert, les juges Mailhot et Morin)

Appel accueilli et appel incident rejeté : dommages octroyés par le premier juge réduits à 13 690,74 \$

Le 18 juin 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

30565 John Susin v. Ronald G. Chapman (Ont.) (Civil) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for an extension of time to apply for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C39279, dated January 19, 2004, is dismissed. In any event, had such application been granted, the application for leave to appeal from the said judgment would have been dismissed. The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C39279-M31105, dated July 6, 2004, is dismissed with costs.

La demande de prorogation de délai pour solliciter l'autorisation d'appeler de l'arrêt de la Cour d'appel de l'Ontario, numéro C39279, daté du 19 janvier 2004, est rejetée. Quoi qu'il en soit, même si la demande de prorogation avait été accueillie, la demande d'autorisation d'appel aurait été rejetée. La demande d'autorisation d'appel contre l'arrêt de la Cour d'appel de l'Ontario, numéro C39279-M31105, daté du 6 juillet 2004 est rejetée avec dépens.

NATURE OF THE CASE

Procedural law – Rules of Civil Procedure – Costs – Whether Court of Appeal erred in affirming orders dismissing action on basis of unpaid costs and refusing admission of fresh evidence.

PROCEDURAL HISTORY

November 18, 2002
Ontario Superior Court of Justice
(Bain J.)

Respondent's motion to dismiss Applicant's action, granted; Applicant's cross-motion for summary judgment dismissed; Applicant ordered to pay costs to the Respondent in the amount of \$15,872.99

February 6, 2003
Ontario Superior Court of Justice
(Bain J.)

Applicant's motion for order re-opening the motion heard September 27, 2002, and for order setting aside reasons for judgment dated November 18, 2002, and for order varying reasons for judgment dated November 18, 2002, dismissed with costs in amount of \$1000.00

January 19, 2004
Court of Appeal for Ontario
(Rosenberg, Goudge and Cronk JJ.A.)

Applicant's appeal and motion to adduce fresh evidence, dismissed; Applicant ordered to pay costs to the Respondent in the amount of \$5,000.00

July 6, 2004
Court of Appeal for Ontario
(Rosenberg, Goudge and Cronk JJ.A.)

Applicant's motion for order amending, setting aside or varying order of January 19, 2004, dismissed; Applicant ordered to pay costs to the Respondent in the amount of \$3,000.00

September 30, 2004
Supreme Court of Canada

Application for leave to appeal filed

30453 **Eryn Fitzgerald, Christine Jairamsingh, by their next friend Mark Cherrington v. Her Majesty the Queen in Right of Alberta** (Alta.) (Civil) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Edmonton), Number 0303-0076-AC, dated May 13, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Edmonton), numéro 0303-0076-AC, daté du 13 mai 2004, est rejetée avec dépens.

NATURE OF THE CASE

Canadian *Charter* - Civil - Civil rights - Right to vote - Right to equality - *Election Act*, R.S.A. 2000, c. E-1, s. 16(b), and *Local Authorities Election Act*, R.S.A. 2000, c. L-21, s. 47(1)(a), require that otherwise eligible be at least 18 years of age - Whether the *Election Act*, s. 16(b), is contrary to s. 3 of the *Charter* - Whether the *Election Act*, s. 16(b), and *Local Authorities Election Act*, s. 47(1)(a), are contrary to s. 15(1) of the *Charter* - Whether the Court of Appeal followed the appropriate approach to situations of "youth based" age discrimination - Whether the Court of Appeal made any reviewable error in assessing the "rational connection" and the "overall proportionality" aspects of the *Oakes* test.

PROCEDURAL HISTORY

December 12, 2002
Court of Queen's Bench of Alberta
(Lefsrud J.)

Election Act, R.S.A. 2000, c. E-1, s. 16(b), and *Local Authorities Election Act*, R.S.A. 2000, c. L-21, s. 47(1)(a), justified under s. 1 of the *Charter*; action dismissed

May 13, 2004
Court of Appeal of Alberta
(Costigan, Picard and Sirrs JJ.A.)

Appeal dismissed

August 10, 2004
Supreme Court of Canada

Application for leave to appeal filed

30539 **Bendy Jean Gilles c. Sa Majesté la Reine** (Qc) (Criminelle) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-10-002790-044, daté du 14 juillet 2004, est rejetée.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-10-002790-044, dated July 14, 2004, is dismissed.

NATURE DE LA CAUSE

Charte canadienne (criminel) - Droit criminel - Détention - Détermination de la peine - Procédure - La Cour d'appel a-t-elle erré en décidant que l'audition de la requête pour permission d'appeler de la sentence présentée par la Couronne en l'absence du demandeur détenu alors qu'il n'était pas représenté par avocat respecte son droit d'être entendu parce qu'il a été prévenu formellement de la date d'audition projetée - La Cour d'appel a-t-elle erré en décidant que le demandeur n'avait pas subi de préjudice immédiat du fait qu'il ne s'agissait pas de l'appel au fond.

HISTORIQUE DES PROCÉDURES

Le 26 mars 2004
Cour du Québec
(La juge Lamontagne)

Demandeur déclaré coupable d'avoir vécu des fruits de la prostitution, contrairement à l'article 212(1j) C.cr. et avoir exercé une direction et un contrôle pour aider une personne à s'adonner à la prostitution, en vertu de l'article 212(1h) C.Cr.; demandeur condamné à une peine de 16 mois d'enfermement

Le 4 juin 2004
Cour d'appel de Québec
(Le juge Rothman)

Requête du demandeur pour permission d'en appeler de la peine, accueillie

Le 14 juillet 2004
Cour d'appel du Québec
(Les juges Rayle, Morissette et Lemelin [*ad hoc*])

Requête du demandeur en rétractation de jugement rejetée

Le 28 septembre 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

30357 **Pascal Conway c. Sa Majesté la Reine** (Qc) (Criminelle) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-10-002158-010, daté du 29 mars 2004, est rejetée.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-10-002158-010, dated March 29, 2004, is dismissed.

NATURE DE LA CAUSE

Droit criminel (excluant la Charte) - Défense - Preuve - Admissibilité de la preuve - Défense de légitime-défense - Preuve de mobile - Témoignage - La Cour d'appel a-t-elle commis une erreur en refusant d'ordonner un nouveau procès malgré la contestation d'une erreur de droit dans les directives au jury sur la légitime défense au motif qu'elle n'était pas convaincue que le verdict aurait été différent n'eût été l'erreur? - La Cour d'appel a-t-elle erré en droit en décidant que la mise en garde du jury était suffisante relativement à une preuve de mobile inadmissible, n'ayant aucune valeur probante et n'ayant aucun « air of reality »?

HISTORIQUE DES PROCÉDURES

Le 27 avril 2001
Cour supérieure du Québec
(Le juge Tessier)

Déclaration de culpabilité: meurtre au deuxième degré en vertu de l'art. 235 du *Code criminel* et d'utilisation d'une arme à feu prohibée d'une manière négligente sans excuse légitime en vertu de l'art. 86(1)(3a) du *Code criminel*

Le 29 mars 2004
Cour d'appel du Québec
(Les juges Otis, Forget et Hilton)

Appel rejeté

Le 28 mai 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

30354 Ricardo Hrtschan c. Ville de Montréal aux droits, obligations et charges de Ville Mont-Royal, Duncan E. Campbell (Qc) (Civile) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande de prorogation de délai est accordée et la demande d'autorisation des arrêts de la Cour d'appel du Québec (Montréal), numéro 500-09-010681-013, datés du 15 septembre 2003 et du 22 mars 2004, est rejetée avec dépens. La demande d'autorisation d'appel incident est rejetée avec dépens.

The application for an extension of time is granted and the application for leave to appeal from the judgments of the Court of Appeal of Quebec (Montreal), Number 500-09-010681-013, dated September 15, 2003 and March 22, 2004, is dismissed with costs. The application for leave to cross-appeal is dismissed with costs.

NATURE DE LA CAUSE

Responsabilité civile - Dommages-intérêts - Libelle et diffamation - Dans l'exercice de ses fonctions comme chef exécutif de l'administration municipale, Hrtschan a-t-il commis une faute en suspendant temporairement Campbell de ses fonctions? - Advenant même que Hrtschan ait commis une faute, ce qui est formellement nié, celle-ci était-elle de nature à engager sa responsabilité civile? - Advenant même que Hrtschan puisse être tenu responsable, ce qui est formellement nié, le montant de 100 000\$ à titre de préjudice moral est-il justifié? - La Cour d'appel était-elle bien fondée de réviser l'octroi par la juge de première instance des frais extrajudiciaires encourus par l'intimé?

HISTORIQUE DES PROCÉDURES

Le 30 janvier 2001
Cour supérieure du Québec
(La juge Borenstein)

Requête de l'intimé Campbell, accueillie; Ville Mont-Royal et demandeur condamnés à payer 100 000\$ et 63 054,56\$ de frais extrajudiciaires à l'intimé Campbell; demandeur condamné à payer 10 000\$ en dommages exemplaires à l'intimé Campbell

Le 15 septembre 2004
Cour d'appel du Québec
(Les juges Beauregard, Rousseau-Houle et Pelletier)

Requête pour présenter une preuve nouvelle; rejetée

Le 22 mars 2004
Cour d'appel du Québec
(Les juges Beauregard [*dissident en partie*], Rousseau-Houle et Pelletier)

Appel accueilli en partie à la seule fin de réduire le montant de la condamnation à 25 000\$

Le 21 mai 2004
Cour suprême du Canada

Demandes d'autorisation d'appel et de prorogation de délai déposées

Le 18 juin 2004
Cour suprême du Canada

Demande d'autorisation d'appel incident déposée

30482 **Timothy Lincoln v. Bay Ferries Ltd.** (FC) (Civil) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-523-03, dated May 27, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-523-03, daté du 27 mai 2004, est rejetée avec dépens.

NATURE OF THE CASE

Civil rights - Discrimination on basis of race and colour - Canadian Human Rights Tribunal dismissing complaint that Respondent had discriminated against Applicant on the basis of race and colour contrary to s. 7 of the *Canadian Human Rights Act*, R.S.C. 1985, c. H-6 - Whether Tribunal erred in law in concluding that Applicant had not established a *prima facie* case - Whether Tribunal erred in law in failing to consider Respondent's failure to fulfill its obligations under the *Employment Equity Act*, S.C. 1995, c. 44.

PROCEDURAL HISTORY

February 20, 2002
Canadian Human Rights Tribunal
(Sinclair, Chairperson)

Complaint that Respondent discriminated against Applicant on the basis of race and colour contrary to s. 7 of the *Canadian Human Rights Act* dismissed

October 6, 2003
Federal Court of Canada, Trial Division
(Dawson J.)

Applicant's application for judicial review dismissed

May 27, 2004
Federal Court of Appeal
(Stone, Létourneau and Evans JJ.A.)

Appeal dismissed

August 26, 2004
Supreme Court of Canada

Application for leave to appeal filed

30476 **Développements de Normandie Inc. c. André Delorme** (Qc) (Civile) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-012928-024, daté du 26 mai 2004, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-012928-024, dated May 26, 2004, is dismissed with costs.

NATURE DE LA CAUSE

Droit des biens - Hypothèques - Recours - Jugements et ordonnances - Désistement - La Cour d'appel a-t-elle erré lorsqu'elle a autorisé la Caisse à exercer la prise en paiement tout en méconnaissant l'existence de la décision du juge Crépeau et en ignorant l'autorité de la chose jugée? - La Cour d'appel a-t-elle erré en omettant de déclarer sans effet le désistement du jugement Crépeau vu que ce désistement ne rencontrait pas les exigences strictes de l'art. 476 du *Code de procédure civile*, L.R.Q., ch. C-25? - La Cour d'appel a-t-elle erré quant à la portée du jugement Chaput lorsqu'elle a décidé que ce jugement confirme la subsistance de l'intégralité des droits de la Caisse sur le Golf Deauville?

HISTORIQUE DES PROCÉDURES

Le 4 novembre 2002
Cour supérieure du Québec
(Le juge De Grandpré)

Requête en délaissement et prise en paiement de l'intimé
accueillie

Le 26 mai 2004
Cour d'appel du Québec
(Les juges Rayle, Hilton et Lemelin [*ad hoc*])

Appel rejeté

Le 24 août 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

17.12.2004

Before / Devant: THE CHIEF JUSTICE

Motion to adjourn the hearing of the appeal

Requête en ajournement de l'audition de l'appel

Attorney General of Canada

v. (30137)

Donald Gladstone, et al. (B.C.)

DISMISSED / REJETÉE

UPON MOTION by the respondents for an order adjourning the hearing of the above mentioned appeal scheduled for Wednesday, February 9, 2005;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion is dismissed.

17.12.2004

Before / Devant: DESCHAMPS J.

Further order on motions for leave to intervene

Autre ordonnance relative aux requêtes en autorisation d'intervention

BY / PAR: Canadian Cancer Society, Canadian Lung Association, Canadian Medical Association, Heart and Stroke Foundation of Canada
Western Convenience Stores Association

IN / DANS: Government of Saskatchewan

v. (29973)

Rothmans, Benson & Hedges Inc.
(Sask.)

UPON APPLICATIONS by the Canadian Cancer Society, Canadian Lung Association, Canadian Medical Association, Heart and Stroke Foundation of Canada and the Western Convenience Stores Association, for leave to intervene in the above appeal and pursuant to the order of October 20, 2004;

IT IS HEREBY FURTHER ORDERED THAT the said interveners are denied permission to present oral argument at the hearing of the appeal.

21.12.2004

Before / Devant: CHARRON J.

Miscellaneous motion

Autre requête

Christopher Carter et autres

c. (30060)

Louise Glegg (Qc)

DISMISSED WITH COSTS / REJETÉE AVEC DÉPENS

À LA SUITE D'UNE DEMANDE de l'intimée visant à :

- 1) être désignée sous le pseudonyme « G.(L.) » dans tout document et/ou toute information se rapportant au présent dossier qui est et/ou pourrait être rendu public et ce, tant pour le passé, le présent que l'avenir;
- 2) empêcher que son nom complet soit mentionné lors de l'audition de l'appel, et à être désignée sous le pseudonyme « G.(L.) »;
- 3) empêcher que toute information de date ou de lieu qui permettrait de l'identifier soit rendue publique;
- 4) garantir la non-diffusion et la non-publication d'informations confidentielles et privées contenues au dossier relativement à son état de santé mentale, y compris toute information contenue à son dossier psychiatrique détenu par le Dr. Janusz Gawlik;
- 5) obtenir la mise sous scellés du présent dossier.

ET APRÈS EXAMEN des documents déposés;

IL EST PAR LA PRÉSENTE ORDONNÉ CE QUI SUIT:

À ce stade de la procédure, les protections usuelles accordées aux dossiers médicaux par les règles de pratique et la règle implicite de confidentialité de l'interrogatoire hors cour sont suffisantes : *Lac d'Amiante du Québec Ltée c. 2858-0702 Québec Inc.*, [2001] 2 R.C.S. 743.

L'intimée n'a pas démontré que le préjudice qu'elle subirait par le dévoilement de son nom doit l'emporter sur l'intérêt public qui exige la transparence et la publicité des débats judiciaires. De plus, il est notable que l'intimée n'a jamais demandé l'anonymat, ni d'ordonnances de non-publication et de non-diffusion devant les cours inférieures.

La requête est rejetée avec dépens.

22.12.2004

Before / Devant: BASTARACHE J.

Motion to file a reply factum on appeal**Requête en vue de déposer un mémoire en réplique concernant l'appel**

Procureur général du Canada

c. (30187)

Procureur général du Québec (Qc)

DISMISSED / REJETÉE

À LA SUITE D'UNE DEMANDE de l'intimé visant à obtenir la permission de signifier et de déposer un mémoire en réplique aux mémoires des intervenants et un recueil de sources additionnelles;

ET APRÈS EXAMEN des documents déposés;

IL EST PAR LA PRÉSENTE ORDONNÉ CE QUI SUIT:

La requête est rejetée.

22.12.2004

Before / Devant: BASTARACHE J.

Motion to stay execution and to strike**Requête en vue d'obtenir un sursis à l'exécution et en radiation**

Vivian Assaf

v. (30579)

Estate of Edward Assaf, deceased, by its Executor,
Robert Bosada, et al. (Ont.)**GRANTED IN PART / ACCORDÉE EN PARTIE**

UPON APPLICATION by the applicant for a stay of the application for leave to appeal and for an order striking the respondents' response;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

- 1) The motion for a stay of the application for leave to appeal is dismissed.
 - 2) The motion for an order striking the respondents' response is granted.
-

22.12.2004

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti à l'appelant pour signifier et déposer ses dossier, mémoire et recueil de sources

David George Stender

v. (30551)

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

GRANTED / ACCORDÉE Time extended to January 24, 2005.

23.12.2004

Before / Devant: MAJOR J.

Motion to adjourn

Requête en ajournement

Her Majesty the Queen in Right of the Province of Alberta, et al.

v. (30383)

Shirley Adrian, et al. (Alta.)

GRANTED / ACCORDÉE

UPON APPLICATION by the Attorney General of Canada for an adjournment of the within application;

AND UPON the respondents not opposing;

AND UPON REVIEWING the material filed;

IT IS HEREBY ORDERED THAT:

The application be granted in part and the within matter adjourned for sixty (60) days from December 23, 2004 ending February 23, 2005.

23.12.2004

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti aux appelants pour signifier et déposer le dossier, le mémoire et le recueil de sources

Balvir Singh Multani, et al.

v. (30322)

Commission scolaire Marguerite-Bourgeoys, et al.
(Que.)

GRANTED / ACCORDÉE Time extended to January 17, 2005.

23.12.2004

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti aux appelants pour signifier et déposer le dossier conjoint, le mémoire et le recueil de sources

Ronaldo Lising

v. (30240)

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

and between

Francisco Batista Pires

v. (30151)

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

GRANTED / ACCORDÉE Time to serve and file the appellants' joint record extended to December 1, 2004. Time to serve and file the appellants' factums and book of authorities extended to December 31, 2004. The respondent must file its factum and book of authorities and record, if any, by February 16, 2005.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

16.12.2004

Concordia University Faculty Association (CUFA)

v. (30363)

Richard Bisaillon, et al. (Que.)

- and between -

Concordia University

v. (30363)

Richard Bisaillon, et al. (Que.)

17.12.2004

Veuve Clicquot Ponsardin, maison fondée en 1772

c. (30398)

Les Boutiques Cliquot Ltée, et autres (C.F.)

20.12.2004

Air Canada

v. (30323)

Canadian Human Rights Commission, et al. (F.C.)

20.12.2004

Imperial Tobacco Canada Limited

v. (30411)

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

- and between -

Imperial Tobacco Canada Limited

v. (30411)

Attorney General of British Columbia (B.C.)

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

20.12.2004

Rothmans, Benson & Hedges Inc.

v. (30411)

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

- and between -

Rothmans, Benson & Hedges Inc.

v. (30411)

Attorney General of British Columbia (B.C.)

20.12.2004

JTI-Macdonald Corp.

v. (30411)

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

- and between -

JTI-Macdonald Corp.

v. (30411)

Attorney General of British Columbia (B.C.)

20.12.2004

Canadian Tobacco Manufacturers' Council

v. (30411)

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

20.12.2004

British American Tobacco (Investments) Limited

v. (30411)

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

20.12.2004

Philip Morris Incorporated, et al.

v. (30411)

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

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

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

23.12.2004

Garan, Lucow, Miller, P.C., et al.

v. (30336)

M.J. Jones Inc., et al. (Ont.)

(Appeal)

JANUARY 5, 2005 / LE 5 JANVIER 2005**ORDER****ORDONNANCE**

29712 William Thomas Vaughan v. Her Majesty the Queen and Attorney General of Alberta and Public Service Alliance of Canada (FC)

THE CHIEF JUSTICE:

Pursuant to the order of October 5, 2004, and on the consent of the parties, the Court will rehear the appeal by reviewing the transcript and viewing the videotape of the hearing held on May 18, 2004. Should any questions arise during the rehearing, an oral hearing will be held to allow counsel to present submissions in response to the questions from the Court.

Conformément à l'ordonnance du 5 octobre 2004 et avec le consentement des parties, la Cour procédera à la nouvelle audition du pourvoi en lisant la transcription et en visionnant la vidéocassette de l'audience du 18 mai 2004. Si des questions se posent pendant la nouvelle audition, la Cour convoquera les avocats à une audience afin de leur permettre d'y répondre.

DEADLINES: APPEALS

The Winter Session of the Supreme Court of Canada will commence January 10, 2005.

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

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

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

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

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

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

DÉLAIS : APPELS

La session d'hiver de la Cour suprême du Canada commencera le 10 janvier 2005.

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

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

Le dossier de l'intimé (le cas échéant), son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les huit semaines suivant la signification des documents de l'appelant.

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

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

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

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2004 -

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

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

10/06/04

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

- 2005 -

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

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

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

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

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

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

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

M
H

18 sitting weeks/semaines séances de la cour
88 sitting days/journées séances de la cour
9 motion and conference days/ journées
requêtes.conférences
2 holidays during sitting days/ jours fériés
durant les sessions