

**SUPREME COURT
OF CANADA**

**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Nandu Patel

Nandu Patel

v. (25997)

**Department of National Health and Welfare
Canada (F.C.A.)**

D. Akman, Sr.
A.G. of Canada

FILING DATE 8.5.1997

James Webb

Irwin Koziembrocki

v. (25999)

Her Majesty The Queen (Ont.)

A.G. of Ontario

FILING DATE 12.5.1997

Louis Rhingo

Paul Burstein
Burstein and Paine

v. (26001)

Her Majesty The Queen (Ont.)

A.G. for Ontario

FILING DATE 20.5.1997

Vernon Frederick Gale et al.

John A. MacIver
D.N. MacIver & Assoc.

v. (26002)

Robin Alexander Hominick et al. (Man.)

J.G. McKelvey
K.M. McColloch

FILING DATE 14.5.1997

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

Philip Avrith

André C. Lavigne

c. (26003)

William I. Miller (Qué.)

Cheryl S. Miller
Miller, Adel & Assoc.

DATE DE PRODUCTION 16.5.1997

Charlene (Redekopp) Daum

Daniel Tapp

v. (26004)

David Schroeder et al. (Sask.)

Robert Gibbings
Goldstein, Jackson, Gibbings

FILING DATE 16.5.1997

Jeannine Godin

E. Thomas Christie
Christie and Associates

v. (26005)

**Minister of Health and Community Services et al.
(N.B.)**

Bruce Judah, Q.C.
Dept. of Justice

FILING DATE 12.5.1997

Commercial Union Assurance Co. of Canada

Walley P. Lightbody, Q.C.
Connell Lightbody

v. (26006)

City of Surrey et al. (B.C.)

John S. Logan
Jenkins Marzan Logan

FILING DATE 16.5.1997

Marvin Lerch

Jonathan B. Pitblado
Giffen & Partners

v. (26007)

Cableshare Inc. (Ont.)

Jeffery B. Simpson
Lang, Michener

FILING DATE 20.5.1997

Steven Simonyi-Gindele

Leonard T. Doust, Q.C.
McCarthy Tétrault

v. (26008)

The Attorney General of British Columbia (B.C.)

V. Victor Svacek
A.G. of B.C.

FILING DATE 20.5.1997

Constantine Xinos

John McKinnon
Injured Workers' Consultants

v. (26009)

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

Cathy Doolan
Dept. of Justice

FILING DATE 20.5.1997

Émilien Boutet et al.

Jean-Guy Ouellet
Campeau, Ouellet & Assoc.

c. (26010)

**La Commission de l'Emploi et de l'Immigration du
Canada (C.A.F.)**

P. G. du Canada

DATE DE PRODUCTION 20.5.1997

Succession André Dubois et al.

Louis D. Pasquin
Pasquin & Assoc.

c. (26011)

Ministère des Transports du Québec (Qué.)

Patrice Claude
Bernard, Roy & Assoc.

DATE DE PRODUCTION 23.5.1997

Hartford Accident and Indemnity Co. et al.

Ross H. Haynes
The Haynes Group of Lawyers

v. (26012)

**The Maritime Life Assurance Co., a body
corporate (N.S.)**

Scott C. Norton
McInnes Cooper & Robertson

FILING DATE 23.5.1997

The Children's Foundation

William M. Holburn, Q.C.
Alexander, Holburn, Beaudin & Lang

v. (26013)

Patrick Allan Bazley (B.C.)

D. Brent Adair

FILING DATE 26.5.1997

Donald John Marshall, Jr.

Bruce H. Wildsmith

v. (26014)

Her Majesty The Queen (N.S.)

Michael A. Pare
Dept. of Justice

FILING DATE 23.5.1997

Vic Van Isle Construction Ltd.

William E. Knutson
Shapiro Hankinson & Knutson

v. (26015)

**The Board of School Trustees of School District
No. 23 (Central Okanagan) (B.C.)**

John R. Singleton
Singleton Urquhart Scott

FILING DATE 20.5.1997

Jacques Thériault

Darquise Jolicoeur
Beaudry, Bertrand

c. (26016)

La Commission scolaire Outaouais-Hull (Qué.)

Marie-Josée Bédard
Bédard, Saucier

DATE DE PRODUCTION 22.5.1997

Sheldon S. Richmond et al.

Dougald E. Brown
Nelligan Power

v. (26017)

Attorney General of Canada (F.C.A.)

Harvey Newman
Treasury Board Legal Services

FILING DATE 20.5.1997

Chief Victor Buffalo

James A. O'Reilly
O'Reilly & Assoc.

v. (26018)

**Her Majesty The Queen in Right of Canada et al.
(F.C.A.)**

Barbara Ritzen
A.G. of Canada

FILING DATE 30.5.1997

Clifford Robert Olson

Clifford Robert Olson

v. (26019)

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

Bruce Gibson
Dep. A.G. of Canada

FILING DATE 26.5.1997

MAY 30, 1997 / LE 30 MAI 1997

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

John Louis Stevenson

v. (25892)

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

NATURE OF THE CASE

Criminal Law - Evidence - Charged with second degree murder - Whether the trial judge's verdict was unreasonable and unsupported by the evidence - Whether the trial judge erred in applying *R. v. Cooper* (1977) 34 C.C.C. (2d) 18 as it related to finding guilt or innocence based on circumstantial evidence - Whether the trial judge erred in failing to give full consideration to the theory of the defence - Whether the trial judge erred in imposing the sentence.

PROCEDURAL HISTORY

September 28, 1992 Court of Queen's Bench of Alberta (Fraser J.)	Conviction: second degree murder
September 17, 1993 Alberta Court of Appeal (Lieberman, Stratton and Conrad JJ.A.)	Appeal from conviction dismissed
October 25, 1993 Alberta Court of Appeal (Fraser C.J.A., Prowse and Bielby JJ.A.)	Appeal from sentence dismissed
March 4, 1997 Supreme Court of Canada	Application for leave to appeal and motion for extension of time filed

Owen Wayne Lloyd

v. (25925)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Impaired driving - Right to counsel - Whether the Court of Appeal erred in finding that the Applicant's right to counsel was not denied when the police officer arrested the Applicant prior to making the screening test demand.

PROCEDURAL HISTORY

June 13, 1995 Provincial Court of Alberta (Rolf P.C.J.)	Acquittal: impaired driving; driving "over 80"
October 27, 1995 Court of Queen's Bench of Alberta (MacKenzie J.)	Summary conviction appeal allowed; new trial ordered
January 30, 1997 Alberta Court of Appeal (Cote, Russell, Berger JJ.A.)	Appeal dismissed
April 1, 1997 Supreme Court of Canada	Application for leave to appeal filed

Qatar Central Bank

v. (25846)

Akram Raja Himadeh (Ont.)

NATURE OF THE CASE

International - Procedural law - Appeal - To what extent do the principles of international comity affect Canadian court proceedings involving foreign litigants - Is the "palpable and overriding error" test an acceptable standard of appellate review of findings of fact?

PROCEDURAL HISTORY

January 5, 1996 Ontario Court (General Division) (Wilkins J.)	Applicant's action dismissed; declaration that Respondent was entitled to payment and that the full sum had been paid
December 18, 1996 Court of Appeal for Ontario (Catzman, Weiler and Moldaver JJ.A.)	Appeal dismissed; judgment against defendant by counterclaim set aside
February 17, 1997 Supreme Court of Canada	Application for leave to appeal filed

William Muckalt

v. (25799)

William Zapf (B.C.)

NATURE OF THE CASE

Torts - Negligence - Damages - Is a finding of carelessness sufficient to justify a finding that one participant was liable for the injuries sustained by another participant in the course of a competitive contact sporting event? - Is standard of care owed by one participant to another in a competitive contact sporting event is the same as the standard of care owed by one

participant to another in a recreational non contact sporting event? - Did the British Columbia Court of Appeal err by either misinterpreting findings of fact or alternately by replacing the findings of fact with its own? - Assessment of special damages.

PROCEDURAL HISTORY

September 1, 1995 Supreme Court of British Columbia (Humphries J.)	Respondent's action in damages allowed
December 3, 1996 Court of Appeal for British Columbia (Donald, Huddart and Proudfoot JJ.A.)	Appeal dismissed
January 31, 1997 Supreme Court of Canada	Application for leave to appeal filed

**CORAM: Chief Justice Lamer and L'Heureux-Dubé and Gonthier JJ. /
Le juge en chef Lamer et les juges L'Heureux-Dubé et Gonthier**

Quintus Perera and Iris Aloysius

v. (25830)

Aristea Stavropoulos (Qué.)

NATURE OF THE CASE

Civil Code - Property law - Real rights - Latent defect - Purchase with legal warranty - Action to recover the costs of repairing latent defects.

PROCEDURAL HISTORY

November 2, 1992 Superior Court of Québec (Marx, J.)	Applicants ordered to pay the Respondent \$28,998, plus interest on \$23,498 and costs of experts
November 21, 1996 Court of Appeal of Québec (Gendreau, Fish and Forget JJ.)	Appeal dismissed
February 12, 1997 Supreme Court of Canada	Application for leave to appeal and an extension of time filed

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

Western Surety Company

v. (25633)

National Bank of Canada (N.B.)

NATURE OF THE CASE

Procedural law - Civil Procedure - Appeal - Property law - Mechanics' liens - Whether the motions judge erred in law - Whether this decision conflicts with other courts' decisions.

PROCEDURAL HISTORY

September 20, 1996 Court of Queen's Bench of New Brunswick (Miller J.)	Decision in respect of Applicant's motion: Respondent's defence relying on s. 2 of the <i>Mechanics' Lien Act</i> should not be struck out
October 15, 1996 Court of Appeal of New Brunswick (Bastarache J.A.)	Applicant's motion for leave to appeal the September 20, 1996 decision dismissed
January 20, 1997 Court of Appeal of New Brunswick (Hoyt, C.J.N.B., Ayles, Ryan J.A.)	Applicant's application for an order to review, reconsider and rehear the decision on the motion for leave to appeal dismissed
November 22, 1996 Supreme Court of Canada (Gonthier J.)	Motion to extend time to file application for leave to appeal granted
February 17, 1997 Supreme Court of Canada	Application for leave to appeal the October 15, 1996 decision filed

Frederick W.L. Black

v. (25724)

Krupp Mak Maschinenbau GmbH, and Krupp Mak Diesel Inc. (N.S.)

NATURE OF THE CASE

Procedural law - Pre-trial procedure - Bankruptcy - Statutes - Interpretation - Fraud - Order pursuant to s. 38(1) of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B-3 - Whether the lower courts were in a conflict of interest respecting the conduct of the Associate Chief Justice in matters relating to the bankruptcy file of NsC Diesel Power Inc. - Whether the Court of Appeal erred in law when it failed to follow the law and refused to honour the proper exercise of discretion that the Court of first instance had a responsibility and jurisdiction to hear the present application - Whether the Court of Appeal erred in law when it wrongly applied s. 38 of the *Bankruptcy and Insolvency Act* to the facts as determined by the Court of first instance, and wrongly applied s.38 to the procedures as reviewed and adjudicated on by the Justices in the Court of first instance and in bankruptcy.

PROCEDURAL HISTORY

April 30, 1996 Supreme Court of Nova Scotia (MacDonald j.)	Applicant's motion to strike the Respondents' originating notice and statement of claim dismissed
October 22, 1996 Nova Scotia Court of Appeal (Freeman, Bateman and Flinn jj.a.)	Appeal dismissed
March 5, 1997 Supreme Court of Canada	Application for leave to appeal filed

Douglas A. Mayer

v. (25847)

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

NATURE OF THE CASE

Procedural law - Actions - Pre-trial procedure - Canadian Charter of Rights and Freedoms - Civil Rights - Pensions - Contributions to Canada Pension Plan - Whether the Federal Court of Appeal erred in striking out the Applicant's Statement of Claim - Whether the Canada Pension Plan violates ss. 7 and 15(1) of the *Canadian Charter of Rights and Freedoms* and the *Constitution Act*.

PROCEDURAL HISTORY

January 31, 1996 Federal Court (Trial Division) (Gibson J.)	Respondent's application for an order striking out the Applicant's statement of claim dismissed
December 18, 1996 Federal Court (Appeal Division) (Isaac C.J., Robertson, McDonald JJ.A.)	Respondent's appeal allowed
February 13, 1997 Supreme Court of Canada	Application for leave to appeal filed

John R. Hetherington, by his litigation guardian, Robert John Hetherington, Ado Park, Joseph H.S. Carriere, Robert C. Watt and Catherine Agnes Fallis, Executrix of the Estate of George A. Fallis, deceased

v. (25864)

The Estate of Frances McDonic by her Executrices Jane Cooper Coon, Martha Cooper Carr and the Estate of Norah Janetta Cooper by her Executrices Jane Cooper Coon and Martha Cooper Carr (Ont.)

NATURE OF THE CASE

Torts - Negligence - Vicarious liability - Partnership - Agency - mandate - Ordinary scope of a solicitor's practice - Scrivening - *Partnerships Act*, R.S.O. 1980, c.370 - Whether, in the absence of any contrary evidence, the ordinary scope of a solicitor's practice does not include receiving monies for investment at the solicitor's discretion - Whether the deposit of clients' funds in the firm account is an important consideration in determining whether the activity fell within the ordinary course of business of a law firm if the partners do not know that the monies are being deposited in the account.

PROCEDURAL HISTORY

July 31, 1995 Ontario Court (General Division) (Pitt J.)	Judgment for Respondents against Robert Charles Watt; action dismissed against the remaining Applicants
January 10, 1997 Court of Appeal for Ontario (Doherty, Weiler and Laskin JJ.A.)	Appeal allowed; judgment entered against all Applicants

March 7, 1997
Supreme Court of Canada

Application for leave to appeal filed

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

Ali Mohammed Siad

v. (25802)

The Secretary of State of Canada (B.C.)

NATURE OF THE CASE

Administrative Law - Procedural Law - Evidence - Duty of disclosure by the Crown before and during a Convention Refugee status hearing - Admissibility of a written report containing hearsay during a Convention Refugee status hearing.

PROCEDURAL HISTORY

May 14, 1992
Immigration and Refugee Board (Convention Refugee
Determination Division) (Singh and Robles, Members)

Convention Refugee status denied

April 24, 1994
Federal Court, Trial Division (Strayer J.)

Application for judicial review allowed, rehearing
ordered

December 3, 1996
Federal Court of Appeal
(Isaac C.J., McDonald and Gray JJ.A.)

Appeal allowed, application for judicial review
dismissed, rehearing order set aside

February 3, 1997
Supreme Court of Canada

Application for leave to appeal filed

Workers' Compensation Board of British Columbia

v. (25784)

Frances Elizabeth Kovach and G.S. Singh (B.C.)

AND BETWEEN:

Dr. G.S. Singh

- and -

Frances Elizabeth Kovach, Workers' Compensation Board and Attorney General of British Columbia (B.C.)

NATURE OF THE CASE

Administrative law - Judicial review - Jurisdiction - Torts - Negligence - Whether the Workers' Compensation Board of British Columbia erred in determining that the injuries allegedly suffered by an employee during the treatment of a work-

related injury, were also injuries “arising out of and in the course of her employment”, which precluded her from bringing an action in negligence against the employee/doctor - If the Board was in error, was it an error of law made within its jurisdiction, or an error as to the jurisdiction of the Board.

PROCEDURAL HISTORY

October 6, 1993 Workers' Compensation Board - Appeal Division	Certificate issued under s. 11 of the <i>Workers' Compensation Act</i>
March 6, 1995 Supreme Court of British Columbia (Huddart J.)	Petitioner's application dismissed
December 2, 1996 Court of Appeal for British Columbia (Donald, Newbury and Proudfoot JJ.A.)	Appeal allowed, certificate issued under s. 11 of the <i>Act</i> set aside
January 28, 1997 Supreme Court of Canada	Application for leave to appeal filed by The Workers' Compensation Board of British Columbia
January 30, 1997 Supreme Court of Canada	Application for leave to appeal filed by Dr. Singh

Carter Motor Cars Limited

v. (25853)

Charm Morrison (B.C.)

NATURE OF THE CASE

Torts - Motor vehicles - Statutes - Interpretation - *Motor Vehicle Act*, R.S.B.C. 1979, c.288 - Owner's liability - Express consent - Whether express consent to acquiring automobile keys and custody of demonstrator plates constitutes possession within the meaning of s.79(1) of the *Motor Vehicle Act*, despite limits placed on the use of the automobiles.

PROCEDURAL HISTORY

March 22, 1996 Supreme Court of British Columbia (Boyd J.)	Claim against Applicant dismissed; Cormier Vegetation Control Limited, Joseph Cormier and Pieter van der Griend found jointly and severally liable for damages sustained by Respondent; damages to be assessed
December 17, 1996 Court of Appeal for British Columbia (Southin, Hollinrake and Goldie JJ.A.)	Appeal allowed; Applicant found liable; case remitted to Supreme Court of British Columbia for the assessment of damages
February 17, 1997 Supreme Court of Canada	Application for leave to appeal filed

John Pawluk, Banff Investments Ltd., Regional Investments Ltd. and Quinpak Developments Ltd.

v. (25868)

Bank of Montreal and Fred G. Allen (Alta.)

NATURE OF THE CASE

Commercial Law - Contracts - Banks/Banking Operations - Evidence - Parole evidence - Whether parole evidence should have been led to contradict a commitment letter - Whether a bank breached a commitment letter by failing to take care and diligence or to use reasonable banking practices - Whether a failure to advance funds caused a loss of contractors - Onus to prove a causal link between withdrawn financing and losses - Whether it was reasonably foreseeable that refinancing would be difficult - Whether there were intervening acts and reasonable attempts to mitigate - Foreseeability of an opportunity to convert to another loan in another currency.

PROCEDURAL HISTORY

May 30, 1994 Court of Queen's Bench of Alberta (Andrekson J.)	Action dismissed
January 17, 1997 Court of Appeal of Alberta (McClung, Irving and Conard JJ.A.)	Appeal dismissed
March 5, 1997 Supreme Court of Canada	Application for leave to appeal filed

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

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

Eric Yu-Hua Chu v. Huberman Cristall Hutchinson (B.C.)(25681)

APRIL 24, 1997 / LE 24 AVRIL 1997

(REVISED MAY 28, 1997 / RÉVISÉ LE 28 MAI 1997)

25838 THE ATTORNEY GENERAL OF ONTARIO v. M. AND H. (Ont.)

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

The application for leave to appeal and the application for leave to cross-appeal are granted on the condition that the applicant undertakes to pay the costs of the appeal of the Respondent M. in any event of the cause.

La demande d'autorisation d'appel et la demande d'autorisation d'appel incident sont accordées à la condition que le requérant s'engage à payer les dépens de l'appel de l'intimé M. quelle qu'en soit l'issue.

NATURE OF THE CASE

Canadian Charter of Rights and Freedom - Family law - Maintenance - Definition of "spouse" pursuant to s. of the *Family Law Act*, R.S.O. 1990, c. F.3 - Same-sex respondents living together in relationship resembling that of marriage for twelve years - Relationship engendering economic dependancy of one party on the other - Respondents separating with majority of the personal and business assets retained by non-dependant party - Whether dependant party entitled to make a claim for interim and permanent support pursuant to the *Family Law Act* - Whether statutory definition of spouse should be broadened to include same-sex couples - *Charter of Rights* - Whether dependant party's s. 15(1) rights violated by spousal definition that does not include same-sex relationships - Whether violation under s.15(1) can be justified under s.1 - Procedural law - Costs - Whether Appellant, Attorney General, should bear the costs of appeal against successful litigant where neither party to the action has requested leave to appeal - Whether leave to appeal should be conditional on Attorney General paying Respondent, M's costs of appeal - Whether the suspended declaration, the denial of a personal exemption and the refusal to order costs of the appeal below are legal questions of national importance.

PROCEDURAL HISTORY

February 9, 1996
Ontario Court (General Division)
(Epstein J.)

Judgment for Respondent, "M", declaring s. 29 of the *Family Law Act* to be unconstitutional and permitting her to move for interim support pursuant to the *Family Law Act*

February 20, 1996
Court of Appeal for Ontario
(Moldaver J.A.)

Order staying portion of judgment requiring Respondent, "H" to file financial statement and permitting "M" to proceed with interim motion

June 28, 1996
Ontario Court (General Division)
(Epstein J.)

Supplementary Costs decision, awarding costs to the Respondent, "M" on a party - and - party scale as against the Appellant

December 18, 1996
Court of Appeal for Ontario
(Finlayson, Doherty and Charron, JJ. A.)

Order suspending implementation of trial judgment for one year; Respondent, "H"'s and Appellant's appeal re costs dismissed

December 10, 1996
Ontario Court (General Division) (Epstein J.)

Order expediting trial of all issues except support

January 27, 1997
Ontario Court (General Division) (Walsh J.)

Order for Trial Management Conference to take place
April 21, 1997

February 14, 1997
Supreme Court of Canada

Application for leave to appeal filed

JUNE 5, 1997 / LE 5 JUIN 1997

25728 **MARCEL BOURASSA, GEMMA BOURASSA, LISE BOURASSA, ROLAND DUPONT, 2949-3343 QUÉBEC INC. ET CLÉMENCE MELANÇON - c. - CAISSE POPULAIRE DE VERDUN (Qué.)**

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

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Procédure civile - Appel - Cautionnement - Application de l'art. 497 du *Code de procédure civile*, L.R.Q. 1977, ch. C-25, qui confère à un juge de la Cour d'appel le pouvoir d'ordonner à l'appelant, lorsque l'appel paraît abusif ou dilatoire, ou pour quelque autre raison spéciale, de fournir un cautionnement destiné à garantir, en totalité ou en partie, le paiement des frais d'appel et du montant de la condamnation au cas où le jugement de première instance serait confirmé - Est-ce que le cautionnement ordonné en l'espèce nie le droit d'appel des demandeurs et statue sur le fond du litige compte tenu de la forme de l'ordonnance, du montant fixé et vu qu'il est imposé à tous les demandeurs sans égard au jugement les concernant ou aux garanties détenues?

HISTORIQUE PROCÉDURAL

Le 27 février 1996
Cour supérieure du Québec (Tannenbaum j.c.s.)

Action de l'intimée accueillie

Le 11 novembre 1996
Cour d'appel du Québec
(Beauregard j.c.a.)

Requête de l'intimée pour cautionnement accueillie en partie: les demandeurs doivent fournir 250 000\$ dans un délai de 60 jours

Le 7 janvier 1997
Cour suprême du Canada

Demande d'autorisation d'appel déposée

25632 **CANADIAN NEWSPAPERS CO. LTD. v. KANSA GENERAL INSURANCE CO. LTD., KANSA INSURANCE MANAGEMENT INC. and JEVCO INSURANCE MANAGEMENT INC. (Ont.)**

CORAM: La Forest, Gonthier and Major JJ.

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Commercial Law - Contracts - Insurance - Insured's duty to co-operate - Implied covenant of good faith - Effect of a special reporting arrangement agreed to outside an insurance policy - Standard to determine a breach of an implied obligation of good faith - Burden of proof regarding whether a breach of an implied obligation of good faith prejudiced an insurer - Whether the payment of legal accounts amounted to a waiver of breaches of an insurance policy - Whether the Court of Appeal was justified in overturning the trial judge's findings of facts and credibility.

PROCEDURAL HISTORY

June 27, 1991 Ontario Court of Justice (General Division) (Anderson J.)	Damages awarded to Applicant; Respondent's counterclaim dismissed; Third party proceedings dismissed
September 11, 1996 Court of Appeal for Ontario (McKinlay, Doherty and Weiler JJ.A.)	Appeal of damages award allowed; Counterclaim allowed in part; Appeal of third party proceedings dismissed
November 12, 1996 Supreme Court of Canada	Application for leave to appeal filed

25741 **GEORGE PAN HADJANTONIOU v. EDITH HADJANTONIOU** (Ont.)

CORAM: La Forest, Gonthier and Major JJ.

The application for leave to appeal and other related motions are dismissed with costs.

La demande d'autorisation d'appel et les autres requêtes connexes sont rejetées avec dépens.

NATURE OF THE CASE

Family law - Custody and access - Child Support - Income attribution - Arrears of support - Best interests of the child - Two children of the marriage residing with Respondent pursuant to court order - Applicant seeking "joint" custody whereby younger child would reside with him until age fourteen, then would reside with Respondent - Older child wishing to remain with Respondent - Strong bond between children - Applicant demonstrating rigid and inflexible attitude toward children - Recommendations of Official Guardian adopted - Custody awarded to Respondent - Whether trial judge erred in failing to admit certain evidence - Whether trial judge erred in failing to give weight to Applicant's evidence and in adopting recommendations of Official Guardian - Whether trial judge failed to recognize parental bond - Whether s. 15 of the Charter infringed - Whether decisions of trial judge were biased - Applicant wilfully unemployed for six years despite education and experience - Child support awarded based upon income attributed to Applicant - Whether trial judge erred in failing to consider Applicant's past financial contributions to the children - Whether trial judge erred in rejecting Applicant's plan for the continued and future support of the children - Whether law regarding attribution of income incorrectly applied in the circumstances - Whether trial judge erred in refusing to rescind arrears of support.

PROCEDURAL HISTORY

April 24, 1990 Supreme Court of Ontario (Cork, Master)	Official Guardian's report ordered; Children to continue to reside with Respondent with access to continue according to de facto arrangement
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JUDGMENTS ON APPLICATIONS
FOR LEAVE

JUGEMENTS RENDUS SUR LES DEMANDES
D'AUTORISATION

May 17, 1990 Supreme Court of Ontario (Cork, Master)	Applicant ordered to pay interim interim child support
September 4, 1992 Ontario Court (General Division) (Cork, Master)	Respondent awarded interim interim custody of youngest child of the marriage
June 24, 1993 Supreme Court of Ontario (Potts, J.)	Order severing divorce from collateral issues
October 14, 1993 Supreme Court of Ontario (Jarvis, J.)	Order requiring Respondent to maintain the status quo regarding access pending the official Guardian's report
October 25, 1993 Supreme Court of Ontario (O'Connell, J.)	Divorce judgment
June 23, 1995 Ontario Court (General Division) (Smith J.)	Respondent awarded custody of the children; Applicant ordered to pay child support
November 3, 1995 Ontario Court (Provincial Division) (Hatton J.)	Applicant ordered to pay arrears of support on fixed schedule
October 27, 1995 Court of Appeal for Ontario (Catzman J.A.)	Applicant's motion to vary child support and stay of enforcement proceedings dismissed
November 14, 1996 Court of Appeal for Ontario (Brooke, Austin and Charron JJ.A.)	Appeal dismissed
August 27, 1996 Court of Appeal for Ontario (Austin J.A.)	Appeal from order of Hatton, J. and motion for stay of enforcement proceedings dismissed
January 13, 1997 Supreme Court of Canada	Application for leave to appeal filed

30.5.1997

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

Motion for a stay of proceedings and for ancillary relief; motion to challenge the validity of section 23

Canadian Egg Marketing Agency

v. (25192)

Pineview Poultry Products Ltd.

and between

Canadian Egg Marketing Agency

v.

Frank Richardson Operating as Northern Poultry (N.W.T.)

Requête en suspension des procédures et en obtention d'une réparation accessoire et requête visant à constater la validité de l'article 23

François Lemieux and David K. Wilson, for the appellant.

David R. Boyd, for the interveners the Council for Canadians et al.

Lori Sterling and Jennifer August, for the intervener the A.G. for Ontario.

Jean Bouchard, pour l'intervenant le procureur général du Québec.

George H. Copley, Q.C., for the intervener the A.G. of B.C.

Jim Bowron, for the intervener the A.G. of Alberta.

Edward R. Sojonky, Q.C. and Ian McCowan, for the intervener the A.G. of Canada.

Graham McLennan and Katharine L. Hurlburt, for the respondents.

James G. McConnell, for the intervener the Commissioner of the Northwest Territories.

RESERVED / EN DÉLIBÉRÉ

30.5.1997

Before / Devant: CHIEF JUSTICE LAMER

Motion to extend the time for leave to intervene

BY/PAR: John Remington Graham et al.

IN/DANS: Reference Re: Secession of Québec (Ont.)(25506)

Requête en prorogation du délai imparti pour obtenir l'autorisation d'intervenir**DISMISSED / REJETÉE**

À LA REQUÊTE de John Remington Graham et de Marie Bérengère Gabrielle Sylvie Fortin visant à obtenir la permission d'intervenir dans le présent renvoi et également pour obtenir une prorogation du délai prévu pour une telle permission d'intervenir;

APRÈS AVOIR PRIS EN CONSIDÉRATION les documents déposés par les parties à cet égard, y compris le fait que le Procureur général du Canada s'en remet à la décision de la Cour;

IL EST ORDONNÉ PAR LES PRÉSENTES:

que la demande pour obtenir une prorogation du délai est rejetée.

3.6.1997

Before / Devant: THE REGISTRAR

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

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

BY/PAR: A.G. of Manitoba

With the consent of the parties.

IN/DANS: Winnipeg Child and Family Services

v. (25508)

G. (D.F.) (Man.)

GRANTED / ACCORDÉE Time extended to May 29, 1997.

3.6.1997

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour déposer la réplique du requérant

Paul Fitzpatrick

With the consent of the parties.

v. (25819)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE Time extended to May 21, 1997.

3.6.1997

Before / Devant: THE REGISTRAR

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

Requête en prorogation du délai imparti pour déposer le dossier d'appel

Nancy Law

With the consent of the parties.

v. (25374)

Minister of Human Resources Development (B.C.)

GRANTED / ACCORDÉE Time extended to May 16, 1997.

3.6.1997

Before / Devant: THE REGISTRAR

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

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

Brian Gordon Jack

With the consent of the parties.

v. (25505)

Her Majesty The Queen (Man.)

GRANTED / ACCORDÉE Time extended to May 22, 1997.

2.6.1997

CORAM: Sopinka, Gonthier, Cory, McLachlin and Major JJ.

Motion to quash

Requête en annulation

Peter Hamilton

Robert Marchi and Thierry Nadon, for the motion / pour la requête.

v. (25837)

Her Majesty The Queen (Qué.)

Richard F. Prihoda, for the appellant / pour l'appelant.

GRANTED / ACCORDÉE

2.6.1997

CORAM: Sopinka, Gonthier, Cory, McLachlin and Major JJ.

SHOW CAUSE

George Westley Ryerse

v. (25721)

Her Majesty The Queen (Ont.)

AUDIENCE DE JUSTIFICATION

Andrew Lenz, for the appellant.

Robert Houston, Q.C., for the respondent.

GRANTED -- motion for an order removing Larry L. Ross / ACCORDÉE -- requête visant à obtenir le retrait de Larry L. Ross

DISMISSED -- Appeal abandoned / REJETÉE -- Appel abandonné

3.6.1997

Before / Devant: GONTHIER J.

Motion for leave to intervene

BY/PAR: League for Human Rights of B’Nai
Brith Canada

IN/DANS: Erichs Tobiass et al.

v. (25811)

The Minister of Citizenship and
Immigration (Ont.)

Requête en autorisation d’intervention

DISMISSED / REJETÉE

3.6.1997

Before / Devant: GONTHIER J.

/

Motion for leave to intervene

BY/PAR: The Hepatitis C. Survivors’ Society

IN/DANS: Canadian Red Cross Society et al.

v. (25810)

The Honorable Horace Krever et al.
(Ont.)

Requête en autorisation d’intervention

GRANTED / ACCORDÉE

4.6.1997

Before / Devant: CORY J.

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

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

Hotel Employees and Restaurant Employees
International Union Local 662

v. (25993)

Future Inns Canada (N.S.)

GRANTED / ACCORDÉE Time extended to May 16, 1997.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

2.6.1997

Her Majesty The Queen

v. (25705)

N.G.H. (B.C.)

30.5.1997

Travis Orlowski

v. (25751)

**The Director, Forensic Psychiatric Institute et al.
(B.C.)**

3.6.1997

Michael Colin Hodgson

v. (25561)

Her Majesty The Queen (Ont.)

4.6.1997

Stéphane Ménard

v. (25707)

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

22.5.1997

Oskar Chan

v. (26027)

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

AS OF RIGHT

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

22.5.1997

George Abdallah

v. (26028)

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

22.5.1997

Fayezah Jassim Shalaan

v. (26029)

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

AS OF RIGHT

26.5.1997

Victor Kudmani

c. (26030)

Sa Majesté La Reine (Crim.)(Qué.)

DE PLEIN DROIT

2.6.1997

Janusz Charemski

v. (26033)

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

AS OF RIGHT

2.6.1997

Mark John Maracle

v. (26034)

Her Majesty The Queen (Ont.)

AS OF RIGHT

**APPEALS HEARD SINCE LAST
ISSUE AND DISPOSITION**

**APPELS ENTENDUS DEPUIS LA
DERNIÈRE PARUTION ET
RÉSULTAT**

30.5.1997

CORAM: Chief Justice Lamer and La Forest, L'Heureux-Dubé, Sopinka, Gonthier, Cory, McLachlin, Iacobucci and Major JJ.

Canadian Egg Marketing Agency

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François Lemieux and David K. Wilson, for the appellant.

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Edward R. Sojonky, Q.C. and Ian McCowan, for the intervener the A.G. of Canada.

Graham McLennan and Katharine L. Hurlburt, for the respondents.

James G. McConnell, for the intervener the Commissioner of the Northwest Territories.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Constitutional - Mobility Rights - Freedom of Association - Discrimination - Place of Residence - Public Interest - Whether the federal-provincial egg marketing regulatory scheme, in whole or in part, infringe the rights and freedoms guaranteed by s. 2(d) and s. 6 of the *Canadian Charter of Rights and Freedoms* - If so, can this infringement be justified under s. 1 of the *Charter*.

Nature de la cause:

Droit constitutionnel - Liberté de circulation et d'établissement - Liberté d'association - Discrimination - Lieu de résidence - Intérêt public - Le plan fédéral-provincial de réglementation de la commercialisation des oeufs, en totalité ou en partie, viole-t-il les droits et libertés garantis par les art. 2d) et 6 de la *Charte canadienne des droits et libertés?* - Dans l'affirmative, cette violation peut-elle être justifiée en vertu de l'article premier de la *Charte*?

WEEKLY AGENDA

**ORDRE DU JOUR DE LA
SEMAINE**

AGENDA for the week beginning June 9, 1997.
ORDRE DU JOUR pour la semaine commençant le 9 juin 1997.

Date of Hearing/
Date d'audition

Case Number and Name/
Numéro et nom de la cause

The Court is not sitting this week

La Cour ne siège pas cette semaine

NOTE:

This agenda is subject to change. Hearing dates should be confirmed with Process Registry staff at (613) 996-8666.

Cet ordre du jour est sujet à modification. Les dates d'audience devraient être confirmées auprès du personnel du greffe au (613) 996-8666.

DEADLINES: MOTIONS

DÉLAIS: REQUÊTES

BEFORE THE COURT:

Pursuant to Rule 23.1 of the *Rules of the Supreme Court of Canada*, the following deadlines must be met before a motion before the Court can be heard:

Motion day : **June 2, 1997**
Service : May 12, 1997
Filing : May 19, 1997
Respondent : May 26, 1997

DEVANT LA COUR:

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

Audience du : **2 juin 1997**
Signification : 12 mai 1997
Dépôt : 19 mai 1997
Intimé : 26 mai 1997

DEADLINES: APPEALS

DÉLAIS: APPELS

The Fall Session of the Supreme Court of Canada will commence October 6, 1997.

La session d'automne de la Cour suprême du Canada commencera le 6 octobre 1997.

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

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:

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

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

Appellant's factum must be filed within four months of the filing of the notice of appeal.

Le mémoire de l'appelant doit être déposé dans les quatre mois du dépôt de l'avis d'appel.

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

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

Intervener's factum must be filed within four weeks of the date of service of the respondent's factum.

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

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.

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

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

Judgments reported in [1997] 1 S.C.R. Part 2

Benner *v.* Canada (Secretary of State), [1997] 1 S.C.R. 358

Eaton *v.* Brant County Board of Education, [1997] 1 S.C.R. 241

Goodswimmer *c.* Canada (Minister of Indian Affairs and Northern Development), [1997] 1 S.C.R. 309

R. *v.* Jacquard, [1997] 1 S.C.R. 314

R. *v.* Jensen, [1997] 1 S.C.R. 304

R. *v.* Latimer, [1997] 1 S.C.R. 217

R. *v.* Leipert, [1997] 1 S.C.R. 281

R. *v.* MacDonnell, [1997] 1 S.C.R. 305

R. *v.* Naud, [1997] 1 S.C.R. 312

R. *v.* Russell, [1997] 1 S.C.R. 356

R. *v.* Thompson, [1997] 1 S.C.R. 311

R. *v.* Wicksted, [1997] 1 S.C.R. 307

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

Jugements publiés dans [1997] 1 R.C.S. Partie 1

Benner *c.* Canada (Secrétaire d'État), [1997] 1 R.C.S. 358

Eaton *c.* Conseil scolaire du comté de Brant, [1997] 1 R.C.S. 241

Goodswimmer *c.* Canada (Ministère des Affaires indiennes et du Nord canadien), [1997] 1 R.C.S. 309

R. *c.* Jacquard, [1997] 1 R.C.S. 314

R. *c.* Jensen, [1997] 1 R.C.S. 304

R. *c.* Latimer, [1997] 1 R.C.S. 217

R. *c.* Leipert, [1997] 1 R.C.S. 281

R. *c.* MacDonnell, [1997] 1 R.C.S. 305

R. *c.* Naud, [1997] 1 R.C.S. 312

R. *c.* Russell, [1997] 1 R.C.S. 356

R. *c.* Thompson, [1997] 1 R.C.S. 311

R. *c.* Wicksted, [1997] 1 R.C.S. 307

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 1997 -

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

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

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

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour
83 sitting days / journées séances de la cour
8 motion and conference days / journées requêtes, conférences
1 holidays during sitting days / jours fériés durant les sessions