

**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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FILING DATE 13.10.1998

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FILING DATE 25.10.1998

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FILING DATE 29.10.1998

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George Hines

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Goran Tomljanovic
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FILING DATE 9.11.1998

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FILING DATE 4.11.1998

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DATE DE PRODUCTION 6.11.1998

Albert Fisher Canada Limited

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FILING DATE 2.11.1998

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v. (26943)

Her Majesty the Queen (B.C.)

Peter W. Hogg
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FILING DATE 6.11.1998

Le procureur général du Québec

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DATE DE PRODUCTION 29.10.1998

Dale Martin

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FILING DATE 9.11.1998

Anthony Joseph Kubanowski

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FILING DATE 9.11.1998

John Leonard Bennett

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Her Majesty the Queen (Ont.)

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FILING DATE 30.10.1998

Mr. Justice John E. Sheppard

Mr. Justice John E. Sheppard
Ontario Court of Justice

v. (26949)

**The Commissioner for Federal Judicial Affairs
(F.C.A.)(Ont.)**

Peter A. Vita, Q.C.
Dept. of Justice

FILING DATE 6.11.1998

NOVEMBER 9, 1998 / LE 9 NOVEMBRE 1998

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

Her Majesty The Queen

v. (26772)

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

NATURE OF THE CASE

Criminal law - Sentencing - Whether the Court of Appeal erred in holding that the effective sentence for second degree murder is ten years, and that therefore the range for manslaughter must usually be below ten years - Whether the Court of Appeal erred in holding that the range of sentence for manslaughter is four to six years, and that a sentence of eight years or more could not be imposed in the absence of special circumstances - Whether the Court of Appeal erred by substituting its view of the facts for that of the trial judge - Whether the Court of Appeal erred by treating as a mitigating circumstance the fact the Respondent was part of a mob when he killed the deceased.

PROCEDURAL HISTORY

March 13, 1997 Supreme Court of British Columbia (Koenigsberg J.)	Conviction: manslaughter
June 23, 1997 Supreme Court of British Columbia (Koenigsberg J.)	Sentence: six years imprisonment
May 15, 1998 Court of Appeal for British Columbia (McEachern C.J.B.C., Rowles and Finch JJ.A.)	Sentence appeal allowed and term of imprisonment reduced to three years
August 4, 1998 Supreme Court of Canada	Application for leave to appeal filed

Esther Neuman

v. (26778)

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

NATURE OF THE CASE

Criminal law - Constitutional law - Division of powers - Whether the *Animal Pedigree Act* is *intra vires* the Parliament of Canada - Whether the Canadian Kennel Club was a properly authorized association under the *Livestock Pedigree Act* and was therefore properly authorized under the *Animal Pedigree Act* through the latter's transitional provisions - Whether the precedent set by the Court of Appeal permits Parliament to legislate in respect of matters outside the jurisdiction conferred on it by the *Constitution Act, 1867* provided that such legislation is "tacked onto" validly enacted federal legislation rather than enacted in a separate piece of legislation.

PROCEDURAL HISTORY

March 27, 1996 Provincial Court of Alberta (Stevens-Guille J.)	Conviction: unlawfully and knowingly offering to sell or selling a dog in a manner that was likely to create an erroneous impression that the dog was registered or eligible to be registered (4 counts)
April 23, 1997 Court of Queen’s Bench of Alberta (Clarke J.)	Summary conviction appeal dismissed
May 8, 1998 Court of Appeal of Alberta (McFadyen, Hunt and Binder JJ.A.)	Appeal dismissed
August 7, 1998 Supreme Court of Canada	Application for leave to appeal filed

M.S.

v. (26886)

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

NATURE OF THE CASE

Criminal law - Whether motions judge erred in precluding the Applicant from returning anew to the court on *habeas corpus* with new grounds with fresh evidence - Whether Correctional Service and National Parole Board lost jurisdiction to continue to detain Applicant based on their failure to act within the 30-day time limitation prescribed by law and/or to notify the Applicant of the referral of his case to the National Parole Board - Whether courts below erred in disallowing the Applicant’s constitutional attack on the validity of s. 135(1) of the *Corrections and Conditional Release Act* for overbreadth and vagueness as it relates to the detention criterion “for the protection of society”.

PROCEDURAL HISTORY

January 16, 1998 Supreme Court of British Columbia (Henderson J.)	Application for order quashing the suspension of the Applicant’s statutory release dismissed; application re constitutional questions dismissed
June 1, 1998 British Columbia Court of Appeal (Ryan, Huddart and Braidwood JJ.A.)	Appeal dismissed
September 23, 1998 Supreme Court of Canada	Application for leave to appeal filed

F.N.

v. (26805)

Her Majesty the Queen

and

Roman Catholic School Board for St. John's

and

Avalon Consolidated School Board (Crim.)(Nfld.)

NATURE OF THE CASE

Young offenders - Criminal law - Whether the Provincial Court of Newfoundland exceeded its jurisdiction by releasing and distributing the Youth Court docket to the Respondent school boards - Whether distribution of the Youth Court docket is a violation of the non-disclosure requirements of s. 45 of the *Young Offenders Act* - Whether distribution of the Youth Court docket is a violation of the non-publication requirement of s. 38 of the *YOA*.

PROCEDURAL HISTORY

May 14, 1996 Supreme Court of Newfoundland (Wells J.)	Application for prohibition dismissed
May 15, 1998 Court of Appeal of Newfoundland (Gushue C.J.N. and Marshall and Steele JJ.A.)	Appeal dismissed
August 13, 1998 Supreme Court of Canada	Application for leave to appeal filed

N.V. Reykdal & Associates Ltd.

v. (26764)

K. & Fung Canada Limited (Alta.)

NATURE OF THE CASE

Commercial law - Lease and hire of work - Property law - Landlord tenant - Mechanics' liens - Tenant contracting with builder to perform leasehold improvements - Builder completing renovations - Tenant defaulting on lease and abandoning premises - Builder registering lien against property - Whether landlord is an "owner" within meaning of *Builders' Lien Act*, R.S.A. 1980, c. B-12 so that builder can claim under lien - Whether landlord made express or implied request for work to be done and materials to be furnished within meaning of s. 12(1) of the *Act*.

PROCEDURAL HISTORY

March 27, 1997 Court of Queen's Bench of Alberta (Master Laycock)	Order striking builders' liens filed by the Applicant from title to land owned by the Respondent
July 15, 1997 Court of Queen's Bench of Alberta (Prowse J.)	Order removing Applicant's liens filed against Respondent's land
May 12, 1998 Court of Appeal of Alberta (Bracco, Hunt and Berger JJ.A.)	Appeal dismissed

July 30, 1998
Supreme Court of Canada

Application for leave to appeal filed

City of Nanaimo

v. (26786)

Rascal Trucking Ltd. (B.C.)

NATURE OF THE CASE

Administrative law - Judicial review - Standard of review - Torts - Statutes - Interpretation - Municipal Law - Municipal corporations - Judicial review - Jurisdiction - Nuisance - *Municipal Act*, R.S.B.C. 1979, c. 290, s. 936 (removal of dangerous buildings and other structures) - *Ejusdem generis* rule of statutory interpretation - Whether the Applicant municipality had jurisdiction under s. 936 of the *Municipal Act* to declare a pile of topsoil to be a nuisance and to order it removed - Whether the Court of Appeal erred in holding that the Applicant had no such jurisdiction - Whether pile of topsoil constituted “other matter or thing” within the meaning of s. 936 - Whether Court of Appeal erred in holding that it did not and that “other matter or thing” referred to “constructed items” and “watercourses” pursuant to the *ejusdem generis* rule of statutory interpretation - Whether Court of Appeal unjustifiably interfered in a decision of an elected municipal council - What is the threshold test for judicial interference in municipal decisions? *Shell Canada Products v. Vancouver*, [1994] 1 S.C.R. 231.

PROCEDURAL HISTORY

October 11, 1996
Supreme Court of British Columbia
(Maczko J., in chambers)

Court declared that Applicant had jurisdiction under s. 936 of the *Municipal Act* to declare top soil to be a nuisance and to order that it be removed from the Respondent’s property

October 31, 1996
Supreme Court of British Columbia
(Rowan J., in chambers)

Applicant’s petition granted: Respondent ordered to permit Applicant to remove top soil from Respondent’s property; Respondent’s petition to quash resolutions dated July 3 and August 19, 1996 dismissed

May 20, 1998
Court of Appeal for British Columbia
(Prowse, Newbury and Hall JJ.A.)

Respondent’s appeal allowed; Respondent’s petition granted; decisions of Maczko J. and Rowan J. set aside; resolutions quashed

July 10, 1998
Supreme Court of Canada

Application for leave to appeal filed

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

Terrasse Jewellers Inc., Larry Baily and Ross Brothers (1975) Inc.

v. (26598)

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

NATURE OF THE CASE

Administrative law - Illegal seizure of jewellery by the Respondent - Action for damages - Applicants entitled to a return of or compensation for 25% of the value of the goods still remaining in the custody of the Respondent - Subsequent directive by trial judge - Order declaring trial judge *functus officio* - Whether the Court of Appeal erred in law in its interpretation of the effect of the judgment of Rouleau J. of June 9, 1988, and his direction of December 8, 1989 - Whether the Court of Appeal wrongly applied the principle of *functus officio* to this case.

PROCEDURAL HISTORY

June 9, 1988 Federal Court of Canada, Trial Division (Rouleau J.)	Action against Respondent for damages caused by negligent acts of the Respondent's servants or agents arising out of seizures of jewellery and other decorative items manufactured from precious metal granted
October 31, 1996 Federal Court of Canada, Trial Division (Rouleau J.)	Motion for an Order declaring that the Respondent was indebted to the Applicants under the judgment of Rouleau J. postponed <i>sine die</i> for determination by another judge whether Rouleau was <i>functus officio</i>
Federal Court of Canada, Trial Division (Nadon J.)	Order declaring that Rouleau J. is <i>functus officio</i> in this matter dismissed
February 20, 1998 Federal Court of Appeal (Pratte, Létourneau and Marceau (dissenting) JJ.)	Appeal against order declaring Rouleau J. <i>functus officio</i> dismissed
April 20, 1998 Supreme Court of Canada	Application for leave to appeal filed

**J. Adory Laliberté et
Georgette Otis Laliberté**

c. (26734)

Sa Majesté la Reine (C.A.F.)(Qué.)

NATURE DE LA CAUSE

Droit fiscal - Intérêts - Prêt - Cautionnement - Hypothèques - Déduction de frais d'intérêts encourus pour produire un revenu - La Cour fédérale d'appel a-t-elle erré en rejetant la demande de révision des demandeurs?

HISTORIQUE PROCÉDURAL

Le 19 février 1997 Cour canadienne de l'impôt (Tardif j.c.c.i.)	Appels d'avis de cotisation établis en vertu de la <i>Loi de l'impôt sur le revenu</i> rejetés
Le 1er mai 1998 Cour d'appel fédérale (Denault, Décary et Létourneau jj.a.)	Demande de contrôle judiciaire rejetée

Le 12 juin 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

John Loring Patrick Sinclair

v. (26743)

The Law Society of Manitoba (Man.)

NATURE OF THE CASE

Administrative Law - Jurisdiction - Whether a provincial Law Society has jurisdiction to prohibit a bencher of the Law Society from appearing before the governing body or its committees as counsel on behalf of a member - Whether such a prohibition is incidental or necessary to the conduct of Law Society's activities - Lawyer cited by the Law Society on charges of professional misconduct wished to be represented before a disciplinary committee by a bencher - Rule 25(1) of the *Law Society Rules* enacted under *The Law Society Act*, R.S.M. 1987, c. L.100, prohibited bencher from representing lawyer.

PROCEDURAL HISTORY

November 24, 1997
Court of Queen's Bench of Manitoba (Wright J.)

Application for a declaration dismissed

June 26, 1998
Court of Appeal of Manitoba
(Huband, Lyon and Kroft JJ.A.)

Appeal dismissed

July 13, 1998
Supreme Court of Canada

Application for leave to appeal filed

John Gallant and Bernice Gallant

v. (26785)

The Province of New Brunswick (N.B.)

NATURE OF THE CASE

Procedural law - Actions - Appeals - Whether Court of Appeal erred by not addressing the issue raised by the Applicant which was that the Applicant was not given a fair hearing - Whether Court of Appeal erred in law when it raised an issue which was not raised by either party at the trial or at the appeal - Whether the Court of Appeal erred in law in determining that Applicant had no cause of action against the Province of New Brunswick.

PROCEDURAL HISTORY

June 18, 1997
Court of Queen's Bench of New Brunswick
(Richard J.)

Applicants' action dismissed

May 13, 1998
Court of Appeal of New Brunswick
(Hoyt J.A.; Rice J.A. [dissenting] and Ryan J.A.)

Appeal dismissed

August 10, 1998
Supreme Court of Canada

Application for leave to appeal filed

Roy Morency

c. (26900)

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

NATURE DE LA CAUSE

Procédure - Procédure civile - La Cour d'appel a-t-elle erré en refusant la requête du demandeur pour ordonnance de sauvegarde des droits au motif qu'elle constituait une tentative de remettre en cause des jugements passés en force de chose jugée?

HISTORIQUE PROCÉDURAL

Le 17 janvier 1996
Cour supérieure du Québec
(Richard j.c.s.)

Requête de l'intimée accueillie; ordonnance interdisant au greffe d'accepter des procédures du demandeur concernant les séquelles de son accident de travail à moins d'avoir reçu une autorisation préalable du juge en chef ou d'un juge désigné

Le 15 juin 1998
Cour supérieure du Québec
(Dionne j.c.a.c.s.)

Demande du demandeur visant à forcer la Commission à se prononcer sur une aggravation et à payer une indemnité rejetée

Le 6 juillet 1998
Cour d'appel du Québec
(LeBel, Gendreau et Rousseau-Houle jj.c.a.)

Requête pour ordonnance de sauvegarder les droits rejetée

Le 28 septembre 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

William James Bradford Canning

v. (26814)

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

NATURE OF THE CASE

Criminal law - Whether Court of Appeal erred in dismissing appeal.

PROCEDURAL HISTORY

January 24, 1997 Court of Queen's Bench (Steel J.)	Convictions: 16 counts of robbery and 10 of wearing disguises while committing robbery; Sentences: 20 years imprisonment with no eligibility for parole for 10 years on robbery charges; 10 years on disguise charges
June 17, 1998 Court of Appeal of Manitoba (Huband, Philp and Monnin JJ.A.)	Appeal against convictions and sentences dismissed
August 27, 1998 Supreme Court of Canada	Application for leave to appeal filed

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

Howard White, Theresa White

v. (26722)

Raffaele Cugliari (Ont.)

NATURE OF THE CASE

Statutes - Interpretation - Torts - Damages - Whether Canada Pension Plan disability benefits, which are obtained pursuant to a mandatory public statutory program, are deductible from an award of damages either at common law or pursuant to s. 267(1)(c) of the *Insurance Act*, R.S.O. 1990, c. I. 8 - Whether Canada Pension Plan disability benefits were indemnity payments - Where s. 267 displaced the common law principles relating to the deductibility of benefits from damages awards in the context of motor vehicle accidents - *Cunningham v. Wheeler*, [1994] 1 S.C.R. 359.

PROCEDURAL HISTORY

May 31, 1995 Ontario Court (General Division) (Caswell J.)	Canada Pension Plan disability benefits received by Respondent held to be deducted from jury award of damages
October 4, 1996 Ontario Court of Justice (Divisional Court) (Carruthers, Dunnet and Speyer JJ.)	Appeal allowed
April 23, 1998 Court of Appeal for Ontario (Finlayson, Charron and Goudge JJ.A.)	Appeal dismissed
June 19, 1998 Supreme Court of Canada	Application for leave to appeal filed

Tam Thanh Chu

v. (26741)

Minister of Citizenship and Immigration (F.C.A.)(Ont.)

NATURE OF THE CASE

Immigration - Convention refugee - Documentary evidence - Administrative law - Judicial Review - Danger to the public determination pursuant to s. 70(5) of the *Immigration Act*, R.S.C. 1976-77, c. 52 - What is the appropriate standard of review - Whether the lower court erred by deciding that certain information on country conditions considered by the Minister's delegate in forming the opinion that the Applicant was a danger to the public was not extrinsic evidence requiring disclosure to the Applicant - Whether the lower court erred by making a presumption that documentary evidence was available to the Applicant.

PROCEDURAL HISTORY

August 28, 1997 Federal Court of Canada (Trial Division) (Reed J.)	Applicant's application for judicial review dismissed
May 1, 1998 Federal Court of Appeal (Stone, Décary, Robertson JJ.A.)	Applicant's appeal dismissed
June 29, 1998 Supreme Court of Canada	Application for leave to appeal filed

Jon Oprea and Elena Oprea

v. (26749)

The Royal Insurance Company of Canada (Ont.)

NATURE OF THE CASE

Commercial Law - Insurance - Claim for property losses following incendiary fire - Allegation of arson - Onus of proving arson - Whether evidence of motive and opportunity were proven and substantiated finding of arson.

PROCEDURAL HISTORY

April 29, 1994 Ontario Court (General Division) (MacDonald J.)	Action for damages dismissed
May 6, 1998 Court of Appeal for Ontario (Moldaver, Goudge JJ.A. and Ferrier J., <i>ad hoc</i>)	Appeal dismissed
July 31, 1998 Supreme Court of Canada	Application for leave to appeal filed

Ernest A.J. Hawrish

v. (26752)

The Law Society of Saskatchewan, The Benchers, The Committees and the Officers of the Law Society of Saskatchewan (Sask.)

NATURE OF THE CASE

Administrative law - Jurisdiction - Statutes - Interpretation - Disciplinary proceedings - Whether time requirements imposed by statute on tribunals of limited authority are to be strictly interpreted - Whether non-observance of time requirements by tribunal results in failure of jurisdiction - Whether a tribunal is required to stay its own proceedings when an application is made to the Supreme Court of Canada challenging the jurisdiction of the tribunal.

PROCEDURAL HISTORY

November 10, 1997
Saskatchewan Court of Queen's Bench
(Hrabinsky J.)

Order prohibiting the Respondents from filing any further proceedings or actions alleging that Applicant is guilty of conduct unbecoming a barrister and solicitor

May 19, 1998
Court of Appeal for Saskatchewan
(Cameron, Sherstobitoff and Lane JJ.A.)

Appeal allowed

July 17, 1998
Supreme Court of Canada

Application for leave to appeal filed

Peter D. Shanoha

v. (26763)

Motorways (1980) Ltd. (Man.)

NATURE OF THE CASE

Procedural law - Civil procedure - Summary judgment - Labour law - Collective agreement - Whether summary judgment was appropriately granted in this case - Whether the courts have jurisdiction in this case - Whether the collective agreement addresses the issues raised in the Applicant's statement of claim - Whether unionized workers can sue for wrongful dismissal if their collective agreement does not address the issue of termination.

PROCEDURAL HISTORY

March 20, 1995
Court of Queen's Bench of Manitoba (Krindle J.)

Summary judgment granted; action dismissed

November 24, 1995
Court of Appeal of Manitoba
(Scott C.J.M., Helper and Monnin JJ.A.)

Appeal dismissed

July 13, 1998
Supreme Court of Canada

Application for leave to appeal and for extension of time filed

NOVEMBER 16, 1998 / LE 16 NOVEMBRE 1998

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

Mark Bodenstein

v. (26728)

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

NATURE OF THE CASE

Criminal law - Whether Court of Appeal erred in law in applying section 686(1)(b)(iii) of the *Criminal Code of Canada* circumstances of this case - Whether Court of Appeal effectively denied the applicant the opportunity of making full answer and defence.

PROCEDURAL HISTORY

December 16, 1996 Ontario Court (Provincial Division) O'Hara P.C.J.	Conviction: possession of cocaine for the purpose of trafficking
July 4, 1997 Court of Appeal for Ontario (Houlden J.A.)	Applicant's motion for extension of time to appeal conviction dismissed; Applicant's motion to extend time to appeal sentence allowed
April 20, 1998 Court of Appeal for Ontario (Brooke, Weiler and Charron JJ.A.)	Appeal against sentence dismissed
June 8, 1998 Supreme Court of Canada	Motion to extend time for leave to appeal filed
September 23, 1998 Supreme Court of Canada	Application for leave to appeal filed

Ladner Downs and Arthur Equipment and Services Ltd.

v. (26780)

Douglas Shore (B.C.)

NATURE OF THE CASE

Labour law - Master and Servant - Dismissal - Appropriate period of notice of termination of employment - Contract of Employment - Contractual terms - Enforceability of contractual terms - Term in employment contract providing for 30 days notice - Statutory notice provisions - *Employment Standards Act*, S.B.C. 1980, c. 10, s. 2 - Common law presumption of reasonable notice - Whether the lower courts disposed of the case properly - Whether the contractual term in question is enforceable.

PROCEDURAL HISTORY

April 24, 1997
Supreme Court of British Columbia
(Collver J.)

Respondent's application for a summary trial for a determination of the appropriate period of notice. Order: term in employment contract providing for 30 days notice is unenforceable; five months notice of termination appropriate

May 5, 1998
British Columbia Court of Appeal
(Esson, Rowles, Hall JJ.A.)

Applicants' appeal dismissed

July 31, 1998
Supreme Court of Canada

Application for leave to appeal filed

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

Imtiaz Husain

v. (26798)

Canadian Airlines International Ltd. (F.C.A.)(Ont.)

NATURE OF THE CASE

Administrative law - Judicial review - Labour law - Statutes - Interpretation - *Canada Labour Code*, R.S.C. 1985, c.L-2 - Unjust dismissal - s. 242(3.1) (limitation on complaints) - Whether an adjudicator appointed under Part III of the *Canada Labour Code* had jurisdiction to hear a complaint of unjust dismissal - Whether such a hearing was barred by s. 242(3.1) of the *Code* which bars a complaint where the complainant "has been laid off because of lack of work or because of the discontinuance of a function" - An adjudicator held that the provision did not apply and that the Applicant had been unjustly dismissed - This was reversed by the Federal Court of Appeal - Whether Federal Court of Appeal erred in quashing the adjudicator's award - Whether Federal Court of Appeal erred in its interpretation of s. 242(3.1)(a) - Whether Federal Court of Appeal misapplied *Flieger v. New Brunswick*, [1993] 2 S.C.R. 651 - Whether Federal Court of Appeal misconstrued its role by substituting its opinion for that of the adjudicator on a finding of fact relating to the adjudicator's jurisdiction - Whether decision of Federal Court of Appeal is inconsistent with the pronouncements of this Honourable Court on the role of a court on judicial review of a labour tribunal.

PROCEDURAL HISTORY

March 3, 1995
Federal Court of Canada, Trial Division
(Jerome A.C.J.)

Application by Respondent for an order setting aside the decision of Adjudicator dismissed

May 5, 1998
Federal Court of Appeal
(Stone, Linden and Robertson JJ.A.)

Appeal allowed; order of the Trial Division set aside, application for judicial review allowed and award of adjudicator quashed

August 4, 1998
Supreme Court of Canada

Application for leave to appeal filed

G.G.

c. (26829)

J.L. (Qué.)

NATURE DE LA CAUSE

Droit de la famille - Divorce - Garde - Accès - Changement du lieu de résidence - La Cour d'appel a-t-elle erré en statuant que l'imposition de restrictions au "droit" du parent gardien de choisir le lieu de résidence est l'exception? - La Cour d'appel a-t-elle erré en refusant de considérer la conduite de l'intimée? - La Cour d'appel a-t-elle erré en confirmant la décision du juge Audet, laquelle fut prise sans nouvelle expertise et sans analyse complète de tous les éléments permettant de déterminer l'intérêt des enfants? - *Gordon c. Goertz*, [1996] 2 R.C.S. 27.

HISTORIQUE PROCÉDURAL

Le 21 juin 1996
Cour supérieure du Québec
(Rousseau j.c.s.)

Mesures provisoires: garde des trois enfants confiée à l'intimée à la condition qu'elle réside dans la grande région de Montréal

Le 14 août 1997
Cour supérieure du Québec
(Audet j.c.s.)

Requête de l'intimée visant à modifier l'ordonnance de garde provisoire accordée: intimée autorisée à déménager à Toronto avec les enfants

Le 8 décembre 1997
Cour supérieure du Québec
(Tellier j.c.s.)

Requête du demandeur visant à modifier l'ordonnance de garde provisoire afin d'obtenir la garde des enfants rejetée

Le 11 juin 1998
Cour d'appel du Québec
(Deschamps, Robert et Biron [*ad hoc*] jj.c.a.)

Pourvois du demandeur à l'encontre des décisions du 14 août et du 8 décembre rejetés

Le 10 septembre 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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

Ellis-Don Limited

v. (26709)

**The Ontario Labour Relations Board
and International Brotherhood of Electrical Workers, Local 894 (Ont.)**

NATURE OF THE CASE

Administrative law - Judicial review - Natural justice - Panel of an administrative tribunal hears grievance and drafts decision but then engages in discussions with full membership of the tribunal that lead to significant changes to the decision - Tribunal refuses to disclose what was discussed by the full membership and refuses documentary disclosure - Whether tribunal discussed questions of fact or discussed questions of policy - Whether tribunal interfered with panel's fact-finding process - Onus of proving interference - Whether the change in the panel's decision was evidence of

interference - Whether an adverse inference should have been drawn from the refusal to disclose - Whether any presumption of regularity in the tribunal's process was displaced by the refusal to disclose.

PROCEDURAL HISTORY

December 20, 1995 Ontario Court, Divisional Court (Saunders, Dunnet, Adams JJ.)	Application for judicial review dismissed
April 17, 1998 Court of Appeal for Ontario (Weiler, Moldaver JJ.A., Morden A.C.J.)	Appeal dismissed
June 12, 1998 Supreme Court of Canada	Application for leave to appeal filed

Mid Canada Millwork Ltd., and Sanford Weiss

v. (26809)

Delano Building Products Ltd., Michael Shamray, and 3082512 Manitoba Ltd. (Man.)

NATURE OF THE CASE

Commercial law - Inexperienced business person sharing confidential information with another business person in an attempt to convince that person to join him as a full partner in acquiring a business opportunity - Not extracting an express promise that the second person will not use the information to secretly acquire the opportunity for himself - Whether first person's resultant vulnerability to having the opportunity secretly acquired by the second person "gratuitously incurred" such that no fiduciary duty prevents the second party from secretly acquiring the opportunity - Can a person acquire enforceable confidentiality rights over information belonging to another party by virtue of lawfully acquiring possession of the information and sharing it in confidence with a third party? - Is it contrary to good conscience in Canada, such that a constructive trust will be imposed as occurred in *Soulos v. Korkontzilas*, [1997] 2 S.C.R. 217, for a party to retain the benefit of a business opportunity obtained by lying to a potential joint venture partner?

PROCEDURAL HISTORY

June 3, 1997 Court of Queen's Bench of Manitoba (Krindle J.)	Applicant's action dismissed
May 25, 1998 Court of Appeal of Manitoba (Scott C.J., Helper and Monnin JJ.A.)	Appeal dismissed
August 19, 1998 Supreme Court of Canada	Application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

**JUGEMENTS RENDUS SUR LES
DEMANDES D'AUTORISATION**

NOVEMBER 19, 1998 / LE 19 NOVEMBRE 1998

26642 JAMES WARREN WELLS - v. - MAJESTY THE QUEEN (Crim.)(Alta.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Sentencing - Conditional sentencing - Aboriginal people - Whether the Court of Appeal erred in its interpretation, definition and application of s. 718.2(e) of the *Criminal Code* by concluding that those provisions do not affect aboriginal offenders convicted of serious crimes - Whether the Court of Appeal erred in concluding that non-traditional sanctions within the framework of the conditional sentencing provisions of the *Criminal Code* might result in the victims of aboriginal offenders being entitled to less protection under the law - Whether the Court of Appeal erred in concluding that a conditional sentence would not ordinarily be available for those offences where the paramount consideration is denunciation and deterrence - Whether the Court of Appeal erred in concluding that a sentencing court need not make inquiries regarding offenders before the court.

PROCEDURAL HISTORY

November 8, 1996 Court of Queen's Bench of Alberta (McMahon J.)	Conviction: sexual assault
December 19, 1996 Court of Queen's Bench of Alberta (McMahon J.)	Sentence: 20 months imprisonment
January 16, 1998 Court of Appeal of Alberta (Irving, Picard and Sulatycky JJ.A.)	Appeal from conviction dismissed
April 15, 1998 Court of Appeal of Alberta (Sulatycky, Cairns and Belzil JJ.A.)	Appeal from sentence dismissed
June 4, 1998 Supreme Court of Canada	Application for leave to appeal sentence filed

26712 HER MAJESTY THE QUEEN - v. - RONALD CHARLES DALTON (Crim.)(Nfld.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Fresh Evidence - Whether the Court of Appeal erred in accepting the Respondent's fresh evidence and ordering a new trial - Whether the Court of Appeal adopted a test that ignored relevance and due diligence.

PROCEDURAL HISTORY

December 15, 1989
Supreme Court of Newfoundland (Trial Division)
(Barry J.)

Conviction: Second degree murder

May 29, 1998
Supreme Court of Newfoundland (Court of Appeal)
(Gushue C.J.N., Marshall and Green JJ.A.)

Fresh evidence application allowed; appeal allowed;
conviction quashed and new trial ordered

June 15, 1998
Supreme Court of Canada

Application for leave to appeal filed

26701 **THE PUBLIC SCHOOL BOARDS' ASSOCIATION OF ALBERTA, THE BOARD OF TRUSTEES OF THE EDMONTON SCHOOL DISTRICT NO. 7 AND CATHRYN STARING PARRISH-AND- THE BOARD OF TRUSTEES OF CALGARY BOARD OF EDUCATION NO. 19 AND MARGARET WARD LOUNDS - v. - HER MAJESTY THE QUEEN IN RIGHT OF ALBERTA, THE ATTORNEY GENERAL OF ALBERTA AND THE MINISTER OF EDUCATION** (Alta.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The applications for leave to appeal are granted.

Les demandes d'autorisation d'appel sont accordées.

NATURE OF THE CASE

Constitutional Law - Schools - Whether the Constitution of Canada impliedly or by convention guarantees the reasonable autonomy of school boards - Whether the *School Act*, 1988, S.A. c. S-3.1, as amended, violates the Constitution of Canada - Whether public schools have been denied a right enjoyed by separate schools to opt out of a provincial system of school funding in violation of a constitutional guarantee of "mirror" equality between public and separate schools - Whether public school boards in Alberta have been denied fairness, equal government and legislative treatment in respect to funding or equal ability to make expenditures without discrimination - Whether Court of Appeal erred in concluding that s.17(1) of the *Alberta Act* does not provide for "mirror equality" between public and separate school boards - Whether Court of Appeal erred in concluding that the *School Act*, 1988, S.A. c. S-3.1, as amended, is not discriminatory within the meaning of s. 17(2) of the *Alberta Act*.

PROCEDURAL HISTORY

November 28, 1995
Court of Queen's Bench of Alberta
(Smith J.)

Action to declare legislation invalid allowed in part;
Declaration suspended; Resolutions declared effective
for the 1997 taxation year

March 31, 1998
Court of Appeal for Alberta
(Russell, Picard and Berger JJ.A.)

Cross-appeal allowed; Appeal and cross-appeal dismissed

May 29, 1998
Supreme Court of Canada

Applications for leave to appeal filed

26705 **HER MAJESTY THE QUEEN - v. - GLENN WHITE** (Crim.)(Nfld.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for an oral hearing is dismissed. The application for leave to appeal is granted.

La demande d'audition est rejetée. La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Criminal law - Procedure - Appeals - Jurisdiction - Court of Appeal - Whether the Court of Appeal has inherent jurisdiction to vary sentence where no appeal from sentence has been sought.

PROCEDURAL HISTORY

May 22, 1996
Supreme Court of Newfoundland, Trial Division
(Lang J.)

Conviction: assault causing bodily harm, sexual assault, assault and obstruction of justice

July 11, 1996
Supreme Court of Newfoundland, Trial Division
(Lang J.)

Sentence: four years imprisonment

May 29, 1998
Supreme Court of Newfoundland, Court of Appeal
(Gushue C.J.N., Mahoney, Marshall JJ.A.)

Appeal from conviction dismissed; sentence appeal adjourned

June 11, 1998
Supreme Court of Canada

Application for leave to appeal filed

26732 **LANCE WILLIAM WUST - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is granted on the following issue:

Whether the Court of Appeal erred in holding that the provisions of s. 719(1) and (3) cannot be applied to take into account time spent in custody pending disposition of charges to reduce a sentence below the minimum four years required by s. 344(a) of the *Criminal Code*?

La demande d'autorisation d'appel est accueillie relativement à la question suivante:

La Cour d'appel a-t-elle commis une erreur en statuant que les dispositions des par. 719(1) et (3) ne peuvent être appliquées de manière à tenir compte de la période de détention écoulée en attendant une décision sur les accusations, pour réduire une peine en deçà de la peine minimale de quatre ans requise par l'al. 344a) du *Code criminel*?

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Sentencing - Mandatory minimum sentences - Cruel and unusual punishment - Whether the Court of Appeal erred in its application of the test relating to the constitutionality of mandatory minimum sentences as stated in *R. v. Smith* [1987] 1 S.C.R. 1045 - Whether the Court of Appeal erred in holding that the provisions of s. 719(1) and (3) cannot be applied to take into account time spent in custody pending disposition of charges to reduce a sentence below the minimum four years required by s. 344(a) of the *Criminal Code*.

PROCEDURAL HISTORY

February 26, 1998
Supreme Court of British Columbia
(Grist J.)

Convictions: robbery with a firearm; possession of a prohibited weapon
Sentence: three and one half years imprisonment

May 7, 1998
Court of Appeal for British Columbia
(McEachern C.J.B.C., Lambert and Finch JJ.A.)

Respondent's appeal from sentence allowed and term of imprisonment increased to four years

June 26, 1998
Supreme Court of Canada

Application for leave to appeal sentence filed

26800 **KELLY NEIL ARTHURS - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is granted on the following issue:

Whether the Court of Appeal erred in holding that the provisions of s. 719(1) and (3) cannot be applied to take into account time spent in custody pending disposition of charges to reduce a sentence below the minimum four years required by s. 344(a) of the *Criminal Code*?

La demande d'autorisation d'appel est accueillie relativement à la question suivante:

La Cour d'appel a-t-elle commis une erreur en statuant que les dispositions des par. 719(1) et (3) ne peuvent être appliquées de manière à tenir compte de la période de détention écoulée en attendant une décision sur les accusations, pour réduire une peine en deçà de la peine minimale de quatre ans requise par l'al. 344a) du *Code criminel*?

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Sentencing - Mandatory minimum sentences - Cruel and unusual punishment - Whether the Court of Appeal erred in its application of the test relating to the constitutionality of mandatory minimum sentences as stated in *Regina v. Smith* [1987] 1 S.C.R. 1045 - Whether the Court of Appeal erred in holding that the provisions of s. 719(1) and (3) cannot be applied to take into account time spent in custody pending disposition of charges to reduce a sentence below the minimum four years' imprisonment required by s. 344(a) of the *Criminal Code*.

PROCEDURAL HISTORY

May 15, 1996 Provincial Court of British Columbia (Ehrcke P.C.J.)	Conviction: robbery while using a firearm and attempted robbery
July 30, 1996 Provincial Court of British Columbia (Ehrcke P.C.J.)	Sentence: four years imprisonment (robbery) and three years imprisonment (attempted robbery) to be served concurrently; ten year firearms prohibition
May 7, 1998 Court of Appeal for British Columbia (McEachern C.J.B.C., Lambert and Finch JJ.A.)	Applicant's sentence appeal dismissed
August 6, 1998 Supreme Court of Canada	Application for leave to appeal filed

26802 **CHRISTOPHER RONALD ARRANCE - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is granted on the following issue:

Whether the Court of Appeal erred in holding that the provisions of s. 719(1) and (3) cannot be applied to take into account time spent in custody pending disposition of charges to reduce a sentence below the minimum four years required by s. 344(a) of the *Criminal Code*?

La demande d'autorisation d'appel est accueillie relativement à la question suivante:

La Cour d'appel a-t-elle commis une erreur en statuant que les dispositions des par. 719(1) et (3) ne peuvent être appliquées de manière à tenir compte de la période de détention écoulée en attendant une décision sur les accusations, pour réduire une peine en deçà de la peine minimale de quatre ans requise par l'al. 344a) du *Code criminel*?

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Sentencing - Mandatory minimum sentences - Cruel and unusual punishment - Whether the Court of Appeal erred in holding that the mandatory minimum punishment of imprisonment for four years in s. 344(a) of the *Criminal Code* was constitutionally valid - Whether the Court of Appeal erred in holding that the term of four years imprisonment mandated by s. 344(a) cannot be reduced by taking into account pre-disposition time served pursuant to s. 719(3) of the *Criminal Code*.

PROCEDURAL HISTORY

March 6, 1997 Provincial Court of British Columbia (Bendrodt P.C.J.)	Conviction: robbery while using a firearm
April 11, 1997 Provincial Court of British Columbia (Bendrodt P.C.J.)	Sentence: three and a half years imprisonment

May 7, 1998
Court of Appeal for British Columbia
(McEachern C.J.B.C., Lambert and Finch JJ.A.)

Applicant's sentence appeal dismissed; sentence increased to a term of imprisonment of four years

August 6, 1998
Supreme Court of Canada

Application for leave to appeal filed

26687 **GLEN CHARLES LALANNE - v. - HER MAJESTY THE QUEEN** (Crim.)(N.S.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for extension of time is granted and the application for leave to appeal is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Whether lower courts were correct in disposition of case - Whether Applicant's rights were respected.

PROCEDURAL HISTORY

April 30, 1996
Provincial Court of Nova Scotia (Cole P.C.J.)

Conviction: assault

November 21, 1996
Supreme Court of Nova Scotia (Anderson J.)

Summary conviction appeal dismissed

October 16, 1997
Nova Scotia Court of Appeal
(Jones, Hart and Chipman JJ.A.)

Application for leave to appeal dismissed

June 2, 1998
Supreme Court of Canada

Application for leave to appeal filed

26695 **VINCENT SCALERA - v. - M.J. OPPENHEIM IN HIS QUALITY AS ATTORNEY IN CANADA FOR THE NON-MARINE UNDERWRITERS, MEMBERS OF LLOYD'S OF LONDON** (B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial law - Insurance - Duty to defend - Interpretation - Applicant's homeowners' policy provides liability coverage for actions relating to "bodily injury" subject to an intentional act exclusion - Can an insurer under a contract of insurance obligate itself to provide a defence to a claim even if the insurance contract does not create a possible obligation to indemnify the insured - Do liability insurance policies containing intentional act exclusions relieve the insurer of its duty to defend a claim alleging harm as a result of sexual activity?

PROCEDURAL HISTORY

October 22, 1997 Supreme Court of British Columbia (Humphries J.)	Respondent ordered to provide Applicant with a defence in the underlying action
April 9, 1998 Court of Appeal for British Columbia (Hollinrake, Finch [dissenting] and Proudfoot JJ.A.)	Appeal allowed
June 4, 1998 Supreme Court of Canada	Application for leave to appeal filed

26708 **NICODEMO SANSALONE - v. - THE WAWANESA MUTUAL INSURANCE COMPANY** (B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial law - Insurance - Duty to defend - Interpretation - Applicant's homeowners' policy provides liability coverage for actions relating to "bodily harm" subject to an intentional injury exclusion - Underlying civil action for sexual misconduct and breach of fiduciary duty - Whether the Court of Appeal erred in its application of *Co-operative Fire & Casualty Co. v. Saindon et al.*, [1976] 1 S.C.R. 735, by concluding that "harm is a natural and probable consequence" of sexual activity.

PROCEDURAL HISTORY

January 10 and February 24, 1997 Supreme Court of British Columbia (K.J. Smith J.)	Respondent ordered to provide Applicant with a defence in the underlying action; Applicant entitled to select and instruct counsel
April 9, 1998 Court of Appeal for British Columbia (Hollinrake, Finch [dissenting] and Proudfoot JJ.A.)	Appeal allowed
June 4, 1998 Supreme Court of Canada	Application for leave to appeal filed

26770 **W.C.W. - v. - HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: The Chief Justice and McLachlin and Iacobucci JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Young offenders - Transfer to ordinary court - Whether the Court of Appeal erred by making contrary findings of fact to those made by the Youth Court judge - Whether the Court of Appeal erred by not affording due deference to the findings of fact made by the Youth Court judge in the evaluation of the evidence heard at the transfer hearing.

PROCEDURAL HISTORY

October 2, 1997
Provincial Court of British Columbia
(Youth Court) (Higinbotham P.C.J.)

Applicant transferred to Youth Court

May 14, 1998
Court of Appeal for British Columbia (McEachern
C.J.B.C. [dissenting] and Goldie and Ryan JJ.A.)

Appeal allowed; transfer ordered set aside

August 4, 1998
Supreme Court of Canada

Application for leave to appeal filed

26682 NOËLLA ARSENAULT-CAMERON, MADELEINE COSTA-PETITPAS AND LA FÉDÉRATION DES PARENTS DE L'ÎLE-DU-PRINCE-ÉDOUARD INC. v. GOVERNMENT OF PRINCE EDWARD ISLAND (P.E.I.)

CORAM: L'Heureux-Dubé, Gonthier and Bastarache JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Canadian Charter - Civil - Minority language rights - Whether the Applicants' section 23 rights entitle them to minority language education - If so, what level of minority language education are appropriate on the facts of this case.

PROCEDURAL HISTORY

January 8, 1997
Prince Edward Island Supreme Court – Trial Division
(DesRoches J.)

Infringement or denial of Applicants' s.23 rights found

April 24, 1998
Prince Edward Island Supreme Court – Appeal Division
(Carruthers C.J., Mitchell and McQuaid JJ.A.)

Respondent's appeal allowed; Applicants' cross-appeal dismissed

June 2, 1998
Supreme Court of Canada

Application for leave to appeal filed

tenu du principe de la chose jugée - Demande de contrôle judiciaire rejetée par directive de la Cour fédérale - Quatrième requête en rétractation rejetée par la Section de première instance de la Cour fédérale - Appel du demandeur rejeté par la Cour d'appel fédérale - La Cour d'appel fédérale a-t-elle commis une erreur en rejetant l'appel du demandeur?

HISTORIQUE PROCÉDURAL

Le 2 novembre 1992 Cour fédérale, Section de première instance (Dubé J.)	Action en dommages rejetée
Le 11 décembre 1992 Section de première instance de la Cour fédérale du Canada (Dubé J.C.F.)	Première requête du demandeur en rétractation du jugement du juge Dubé du 2 novembre 1992 rejetée
Le 8 février 1994 Cour d'appel fédérale (Marceau, Décary et Létourneau JJ.C.A.)	Appel rejeté
Le 23 juin 1994 Cour suprême du Canada (La Forest, Sopinka et Major, JJ.)	Demande d'autorisation d'appel rejetée (dossier 24082)
Le 25 août 1994 Cour suprême du Canada (La Forest, Sopinka et Major, JJ.)	Demande de réexamen rejetée
Le 9 décembre 1994 Cour suprême du Canada (La Cour)	Requête en révision rejetée; ordonnance enjoignant au greffe de ne plus accepter de document jusqu'à production d'une preuve de paiement de tous les dépens sur la requête et dans le dossier
Le 19 juin 1996 Section de première instance de la Cour fédérale du Canada (Dubé J.C.F.)	Directive: Deux requêtes du demandeur en rétractation du jugement du juge Dubé du 2 novembre 1992 rejetées selon le principe de la chose jugée
Le 26 juillet 1996 Section de première instance de la Cour fédérale du Canada (Dubé J.C.F.)	Directive: Demande de révision judiciaire rejetée
Le 9 août 1996 Section de première instance de la Cour fédérale du Canada (Isaac Juge en chef)	Directive: Avis d'appel déposé par le demandeur jugé irrégulier
Le 22 avril 1997 Section de première instance de la Cour fédérale du Canada (Lufty J.C.F.)	Quatrième requête du demandeur en rétractation du jugement du juge Dubé du 2 novembre 1992 rejetée
Le 10 mars 1998 Cour d'appel fédérale (Pratte, Denault et Desjardins, JJ.C.A.)	Appel rejeté
Le 16 mars 1998 Cour d'appel fédérale (Isaac, Juge en chef)	Directive: Requête du demandeur en réexamen du prononcé du jugement de la Cour d'appel fédérale du 10 mars 1998 refusée
Le 11 mai 1998 Cour suprême du Canada	Demande d'autorisation déposée et requête pour la tenue d'une audience

**26659 PLACEMENTS ARMAND LAFLAMME INC. c. JULES ROY ET PRUDENTIAL-BACHE
COMMODITIES CANADA LTD. (Qué.)**

CORAM: Les juges L'Heureux-Dubé, Gonthier et Bastarache

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

NATURE DE LA CAUSE

Responsabilité civile - Courtiers en valeurs mobilières - Dommages-intérêts - Évaluation - Preuve - Point de rupture du lien de causalité - Obligation de mitiger les dommages - Lorsque la faute d'un courtier en valeurs mobilières a consisté à acquérir sur le marché boursier un placement inapproprié pour le compte de son client, l'obligation de réparation du courtier s'étend-elle à la dépréciation de ce placement survenue après sa remise, quand le fait de conserver ce placement ne revêt pas un caractère déraisonnable dans le contexte prévalant lors de sa remise? - Dans l'affirmative, qui du client ou du courtier supporte le fardeau de démontrer le caractère raisonnable ou déraisonnable du fait de conserver le placement? - La Cour d'appel a-t-elle erré en modifiant les conclusions du juge de première instance portant sur l'évaluation des dommages?

HISTORIQUE PROCÉDURAL

Le 12 juillet 1996
Cour supérieure du Québec (Lebrun j.c.s.)

Action en dommages-intérêts accueillie; intimés condamnés à payer 1 466 141,08\$ à la demanderesse

Le 16 mars 1998
Cour d'appel du Québec
(Otis, Pidgeon et Letarte [*ad hoc*] jj.c.a.)

Pourvois des intimés accueillis; condamnation réduite à la somme de 70 723,79\$

Le 13 mai 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

**26658 DANS L'AFFAIRE DE LA PROPOSITION DE PERRETTE INC., DÉBITRICE: ULTRAMAR
CANADA INC. c. RICHTER ET ASSOCIÉS INC., ÈS QUALITÉS DE SYNDIC (Qué.)**

CORAM: Les juges L'Heureux-Dubé, Gonthier et Bastarache

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Faillite - Législation - Interprétation - Proposition concordataire - Paiement préférentiel - Recours - Dans le cadre d'une proposition, le paragraphe 101.1(1) de la *Loi sur la faillite et l'insolvabilité*, L.R.C. (1985), chap. B-3, permet-il au syndic de recouvrer des paiements préférentiels? - Dans l'affirmative, le syndic a-t-il valablement été autorisé à agir?

HISTORIQUE PROCÉDURAL

Le 13 septembre 1996
Cour supérieure du Québec
(en matière de faillite) (Tremblay J.C.S.)

Requête de la demanderesse en irrecevabilité accueillie;
requête du syndic intimé rejetée

Le 24 mars 1998
Cour d'appel du Québec
(Rothman, Dussault et Forget, J.J.C.A.)

Appel du syndic accueilli

Le 25 mai 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

26666 DANS L'AFFAIRE DE LA PROPOSITION DE PERRETTE INC., DÉBITRICE: SOUS-MINISTRE DU REVENU DU QUÉBEC, REVENU CANADA ET LE PROCUREUR GÉNÉRAL DU CANADA c. RICHTER ET ASSOCIÉS INC., ÈS QUALITÉS DE SYNDIC (Qué.)

CORAM: Les juges L'Heureux-Dubé, Gonthier et Bastarache

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Faillite - Législation - Interprétation - Proposition concordataire - Paiement préférentiel - Recours - Dans le cadre d'une proposition, le paragraphe 101.1(1) de la *Loi sur la faillite et l'insolvabilité*, L.R.C. (1985), chap. B-3, permet-il au syndic de recouvrer des paiements préférentiels? - Dans l'affirmative, le syndic a-t-il valablement été autorisé à agir?

HISTORIQUE PROCÉDURAL

Le 13 septembre 1996
Cour supérieure du Québec
(en matière de faillite) (Tremblay J.C.S.)

Requête des demandeurs en irrecevabilité accueillie;
requête du syndic intimé rejetée

Le 24 mars 1998
Cour d'appel du Québec
(Rothman, Dussault et Forget, J.J.C.A.)

Appel du syndic accueilli

Le 25 mai 1998
Cour suprême du Canada

Demande d'autorisation d'appel déposée

26679 ANITA ENDEAN - v. - HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, THE ATTORNEY GENERAL OF CANADA, and THE CANADIAN RED CROSS SOCIETY (B.C.)

CORAM: Cory, Major and Binnie JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Procedural law - Actions - Civil procedure - Torts - Whether the Court of Appeal for British Columbia erred in striking out as disclosing no reasonable cause of action, pleadings alleging the tort of “spoliation”.

PROCEDURAL HISTORY

May 22, 1997
British Columbia Supreme Court (Smith J.)

Application for certification of class proceeding allowed

April 1, 1998
Court of Appeal for British Columbia
(Cumming, Goldie and Braidwood JJ.A.)

Appeal allowed, portion of statement of claim struck out

May 29, 1998
Supreme Court of Canada

Application for leave to appeal filed

26689 UNITED ARTISTS CORPORATION - v. - PINK PANTHER BEAUTY CORPORATION (F.C.A.) (Ont.)

CORAM: Cory, Major and Binnie JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Property law - Trade-marks - Well-known or famous marks - Likelihood of confusion - Whether the Court of Appeal erred by not giving deference to the findings of fact of the trial judge on the question of confusion - Whether the Court of Appeal erred in holding that the use of the mark Pink Panther in respect of hair care and beauty supplies could not result in a likelihood of confusion with the well-known United Artist's mark in the mind of the average consumer - Whether the Court of Appeal erred in holding that where there was no connection between the wares or services of an applicant for registration and the wares or services of an opposing trade-mark holder, it is “only in exceptional circumstances, if ever” that likelihood of confusion can be established under the *Trade-marks Act* notwithstanding that the opposing mark is recognized as a famous and well-known mark - Whether the Court of Appeal erred in giving undue emphasis to the public's right to competition as opposed to the rights of the established trade-mark owner in its consideration of the tests for confusion under the *Trade-marks Act - Trade-marks Act*, R.S.C. 1985, c. T-10.

PROCEDURAL HISTORY

April 19, 1996 Federal Court, Trial Division (MacKay J.)	Appeal allowed: decision of the Registrar of Trade-marks set aside and Respondent's application for registration of its trade-mark to be refused
March 30, 1998 Federal Court of Appeal (Isaac C.J., Linden and McDonald JJ.A.)	Appeal allowed
May 29, 1998 Supreme Court of Canada	Application for leave to appeal filed

25784 THE WORKERS' COMPENSATION BOARD OF BRITISH COLUMBIA - v. - FRANCES ELIZABETH KOVACH and G.S. SINGH - and between - DR. G.S. SINGH - v. - FRANCES ELIZABETH KOVACH, WORKERS' COMPENSATION BOARD and THE ATTORNEY GENERAL OF BRITISH COLUMBIA (B.C.)

CORAM: Cory, Major and Binnie JJ.

The applications for leave to appeal are granted.

Les demandes d'autorisation d'appel sont accordées.

NATURE OF THE CASE

Administrative law - Judicial review - Jurisdiction - Torts - Negligence - The Workers' Compensation Board of British Columbia determining that the alleged injuries 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 arguably precluded her from bringing an action in negligence against the employee/doctor - Court of Appeal allowing appeal and setting aside certificate issued under s. 11 of the *Workers Compensation Act*, R.S.B.C. 1979, c. 437 - Whether appellate court failed to follow *Pasiechnyk v. Saskatchewan (Workers' Compensation Board)*, [1997] 2 S.C.R. 890 - Whether appellate court confused sections 10 and 11 of the *Act* - Whether appellate court correctly applied the patent unreasonableness test.

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.)	Respondent's application for an order quashing the certificate 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
October 16, 1997 Supreme Court of Canada (L'Heureux-Dubé, Sopinka and Iacobucci JJ.)	Matters remanded to the Court of Appeal of British Columbia for reconsideration

May 28, 1998
Court of Appeal for British Columbia
(Donald [dissenting], Newbury and Proudfoot JJ.A.)

Appeal allowed and certificate issued by Workers'
Compensation Board set aside; remitted to the Workers'
Compensation Board for reconsideration

August 24, 1998
Supreme Court of Canada

Application for leave to appeal filed by the Workers'
Compensation Board of British Columbia

August 27, 1998
Supreme Court of Canada

Application for leave to appeal filed by Dr. Singh

26484 CARPENTER FISHING CORPORATION, DON JOHANNES, KAARINA ETHERIDGE, WHITE HOPE HOLDINGS LTD., SIMPSON FISHING CO. LTD. And NORMAN JOHNSON - v. - HER MAJESTY THE QUEEN IN RIGHT OF CANADA and BERNARD VALCOURT, MINISTER OF FISHERIES AND OCEANS - and between - TITAN FISHING LTD. - v. - HER MAJESTY THE QUEEN IN RIGHT OF CANADA and BERNARD VALCOURT, MINISTER OF FISHERIES AND OCEANS (F.C.A.) (B.C.)

CORAM: Cory, Major and Binnie JJ.

The application for an oral hearing and the application for reconsideration are dismissed.

La demande d'audition et la demande de réexamen sont rejetées.

2.11.1998

Before / Devant: THE REGISTRAR

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

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

Lee Edward Campbell

v. (26454)

Her Majesty the Queen (B.C.)

GRANTED / ACCORDÉE Time extended to October 22, 1998.

2.11.1998

Before / Devant: L'HEUREUX-DUBÉ J.

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

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

Neil Grandmaison et al.

v. (26898)

Her Majesty the Queen (B.C.)

GRANTED / ACCORDÉE Time extended to October 2, 1998, *nunc pro tunc*.

3.11.1998

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum of an intervener

Requête en prorogation du délai imparti pour signifier et déposer le mémoire d'un intervenant

BY/PAR: Attorney General of Manitoba

IN/DANS: Her Majesty the Queen

v. (26161)

John Sundown (Sask.)

GRANTED / ACCORDÉE Time extended to October 16, 1998, *nunc pro tunc*.

3.11.1998

Before / Devant: THE REGISTRAR

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

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

BY/PAR: Attorney General of Alberta

IN/DANS: J.G.

v. (26005)

Minister of Health and Community
Services et al. (Sask.)

GRANTED / ACCORDÉE Time extended to October 28, 1998, *nunc pro tunc* to serve and file the factum and time extended to October 29, 1998 to serve and file the book of authorities.

3.11.1998

Before / Devant: LE REGISTRAIRE

Requête en prorogation de délai

Motion to extend time

Dany Fafard

c. (26856)

Commission d'enquête chargée de faire enquête sur la
sûreté du Québec (Qué.)

GRANTED / ACCORDÉE La requête pour obtenir une ordonnance prorogeant le délai pour produire et signifier la réponse à la demande d'autorisation d'appel au 16 novembre 1998, est accordée.

5.11.1998

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum of an intervener

Requête en prorogation du délai imparti pour signifier et déposer le mémoire d'un intervenant

BY/PAR: Union of New Brunswick Indians

IN/DANS: Donald Marshall, Jr.

v. (26014)

Her Majesty the Queen (N.S.)

GRANTED / ACCORDÉE Time extended to October 23, 1998.

5.11.1998

Before / Devant: THE REGISTRAR

Motion accepting appellant's record without marginal numbering

Requête visant à accepter le dossier de l'appelante sans numérotation dans la marge

Her Majesty the Queen

v. (26339)

Thomas Andrew Bunn (Man.)

GRANTED / ACCORDÉE

5.11.1998

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the factum of an intervener

Requête en prorogation du délai imparti pour signifier et déposer le mémoire d'un intervenant

BY/PAR: Attorney General of Canada

IN/DANS: Vincent Godoy

v. (26078)

Her Majesty the Queen (Ont.)

GRANTED / ACCORDÉE Time extended to November 4, 1998.

5.11.1998

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the book of authorities of an intervener

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

PY/PAR: Charter Committee on Poverty issues

J.G.

v. (26005)

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

GRANTED / ACCORDÉE Time extended to October 26, 1998.

5.11.1998

Before / Devant: THE REGISTRAR

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

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

Her Majesty the Queen

v. (26570)

John Biniaris (B.C.)

GRANTED / ACCORDÉE Time extended to October 26, 1998.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

6.10.1998

Norman Groot

v. (26929)

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

AS OF RIGHT

9.10.1998

John Carlos Terceira

v. (26546)

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

21.10.1998

Ronald Van Hook

v. (26922)

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

AS OF RIGHT

21.10.1998

**In the Matter of Section 27(1) of The Judicature
Act, R.S.A., 1980, Chapter J-1;**

**And in the Matter of a Reference by the
Lieutenant Governor in Council to the Court of
Appeal of Alberta for Hearing and Consideration
of the Questions Set Out in Order in Council
461/96 Respecting The Firearms Act, S.C. 1995,
Chapter 39 (Alta.)(26933)**

AS OF RIGHT

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

29.10.1998

Thérèse Blais Pelletier

c. (26928)

Sa Majesté la Reine (Crim.)(Qué.)

DE PLEIN DROIT

29.10.1998

Her Majesty the Queen

v. (26948)

Frederick Alexander Brooks (Crim.)(Ont.)

AS OF RIGHT

5.11.1998

Shell Canada Limited

v. (26596)

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

6.11.1998

Her Majesty the Queen

v. (26535)

Richard Floyd Oickle (N.S.)

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

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

2.11.1998

872935 Ontario Limited

v. (26725)

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

(leave)

5.11.1998

Deposit Insurance Corporation of Ontario

v. (26422)

Nesbitt, Burns Limited et al. (Ont.)

(appeal)

9.11.1998

**Lynda Tyndall, carrying on business under the
Firename and style of 2890675 Manitoba**

v. (26519)

**Local 511, Sheeteters, Deckers & Cladders Section of
Sheet Metal Workers' International Assoc. (Man.)**

(leave)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

9.11.1998

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Gonthier, Cory, McLachlin, Major and Binnie JJ.

J.G.

v. (26005)

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

E. Thomas Christie, for the appellant.

Arne Peltz and Martha Jackman, for the intervener the Charter Committee on Poverty Issues.

Carole Curtis and Anne Dugas-Horsman, for the interveners Women's Legal Education and Action Fund, et al.

W. Glen How, Q.C. and André Carbonneau, for the intervener Watch Tower Bible and Tract Society of Canada.

Barry L. Gorlick, Q.C. and Greg Delbigio, for the intervener Canadian Bar Association.

Bruce Judah, Q.C., for the respondents the A.G. of N.B. et al.

Gary A. Miller, for the respondents the Law Society of New Brunswick et al.

Heather Leonoff, Q.C., for the intervener the A.G. of Manitoba.

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

Roderick Wiltshire, for the intervener the A.G. of Alberta.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Constitutional Law - Family Law - Custody - Whether in the circumstances of this case, the parents have a right pursuant to s. 7 of the *Canadian Charter of Rights and Freedoms* to state-funded counsel when opposing Ministerial applications to take or extend custody of their children.

Nature de la cause:

Droit constitutionnel – Droit de la famille – Garde – Eu égard aux circonstances de l'espèce, les parents ont-ils droit aux termes de l'article 7 de la *Charte canadienne des droits et libertés* à un avocat payé par l'État lorsqu'ils s'opposent à des demandes ministérielles en vue d'obtenir ou de prolonger la garde de leurs enfants?

10.11.1998

CORAM: L'Heureux-Dubé, Gonthier, Cory, McLachlin, Iacobucci, Major and Binnie JJ.

Florent Des Champs

v. (25898)

**Conseil des écoles séparées catholiques de langue
française de Prescott-Russell et al. (Ont.)**

- and between -

Alfred Abouchar

v. (25899)

**Conseil scolaire de langue française d'Ottawa-
Carleton -- Section publique et al. (Ont.)**

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Procedural law - Limitation of actions - Statutes - Interpretation - Whether the shortened limitation periods that attach to acts done in pursuance of a statutory or public duty apply to employment-related decisions - Whether the allegations that the Respondents acted in bad faith were sufficient to exclude the application of the shortened limitation period contained in the *Public Authorities Protection Act* - In the alternative, if the *Public Authorities Protection Act* applies, does Mr. Des Champs' and Mr. Abouchar's loss of position and demotion constitute a "continuance of injury or damage" such that the six month limitation period did not expire.

Denis J. Power, Q.C. and Steven Welchner, for the appellants.

Paul S. Rouleau et Bruce Hutchison, pour les intimés.

Nature de la cause:

Droit procédural -- Prescription d'actions -- Lois -- Interprétation -- La période de prescription abrégée qui s'applique dans le cas d'actes accomplis dans l'exercice d'une obligation légale ou publique s'applique-t-elle aussi aux décisions rendues en matière d'emploi? -- Les allégations selon lesquelles les intimés ont agi de mauvaise foi suffisaient-elles pour exclure l'application de la période de prescription abrégée prévue dans la *Loi sur l'immunité des personnes exerçant des attributions d'ordre public*? -- Subsidiairement, si la *Loi sur l'immunité des personnes exerçant des attributions d'ordre public* s'applique, est-ce que la rétrogradation de MM. Des Champs et Abouchar et la perte de leur poste constituent un «cas où le préjudice s'est poursuivi» de sorte que la période de prescription de six mois n'était pas expirée?

12.11.1998

CORAM: L'Heureux-Dubé, Gonthier, McLachlin, Iacobucci, Major, Bastarache and Binnie JJ.

Sharon Leslie Chartier

v. (26456)

Gerald Leo Joseph Chartier (Man.)

Carla B. Paul, for the appellant.

No one appearing for the respondent.

L'HEUREUX-DUBÉ J. (orally for the Court):

We are all of the view that this appeal be allowed and the judgment of the Court of Appeal be set aside. We declare that the respondent stands in the place of a parent to Jessica Marlo Chartier, reasons to follow.

This case is accordingly remanded to the Court of Queen's Bench of Manitoba (Family Division) for determination of the quantum of child support. This Court orders interim support of \$200.00 per month for Jessica as of this date, subject to an application to the Court of Queen's Bench to recover support from the date of the trial judgment to this date.

[TRANSLATION] LE JUGE L'HEUREUX-DUBÉ
(oralement au nom de la Cour):

Nous sommes tous d'avis d'accueillir le présent pourvoi et d'infirmier l'arrêt de la Cour d'appel. Nous déclarons que l'intimé tient lieu de père pour Jessica Marlo Chartier, motifs à suivre.

La présente affaire est donc renvoyée devant la Cour du Banc de la Reine du Manitoba (Division de la famille) pour qu'elle détermine le montant de l'ordonnance alimentaire au profit de l'enfant. La Cour ordonne le versement d'une pension alimentaire provisoire pour Jessica de 200 \$ par mois, à compter de la présente date, sous réserve d'une requête à la Cour du Banc de la Reine en vue de recouvrer la pension alimentaire à partir de la date du jugement de première instance jusqu'à ce jour.

13.11.1998

CORAM: Chief Justice Lamer and L'Heureux-Dubé, Gonthier, McLachlin, Iacobucci, Bastarache and Binnie JJ.

Her Majesty The Queen

v. (26473)

Joann Kimberley White (Crim.)(B.C.)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter of Rights and Freedoms - Criminal law - Right to remain silent - Self-incrimination - Whether the Court of Appeal erred in finding that statements compelled by the operation of s. 61 of the *Motor Vehicle Act* (reporting requirement) are not properly admissible in evidence on a criminal trial for reasons analogous to those in *R. v. Fitzpatrick*, [1995] 4 S.C.R. 154 - Whether the Court of Appeal erred in finding that the trial judge did not err in placing the onus on the Crown to prove a statement was not made under s. 61 of the *Motor Vehicle Act* - Whether the Court of Appeal erred in finding that the trial judge did not err in his determination of what constitutes a statement made under the compulsion of s. 61 of the *Motor Vehicle Act*.

William F. Ehrcke, Q.C., for the appellant.

Peter Burns, for the respondent.

Nature de la cause:

Charte canadienne des droits et libertés - Droit criminel - Droit de garder le silence - Auto-incrimination - La Cour d'appel a-t-elle commis une erreur en concluant que les déclarations forcées résultant de l'application de l'art. 61 de la *Motor Vehicle Act* (exigence de déclaration) ne sont pas admissibles en preuve dans un procès criminel pour des motifs analogues à ceux exposés dans *R. c. Fitzpatrick*, [1995] 4 R.C.S. 154? - La Cour d'appel a-t-elle commis une erreur en concluant que le juge du procès n'a pas commis d'erreur en imposant au ministère public le fardeau de prouver qu'une déclaration n'a pas été faite en vertu de l'art. 61 de la *Motor Vehicle Act*? - La Cour d'appel a-t-elle commis une erreur en concluant que le juge du procès n'a pas commis d'erreur dans sa détermination de ce qui constitue une déclaration faite sous la contrainte imposée par l'art. 61 de la *Motor Vehicle Act*?

13.11.1998

CORAM: L'Heureux-Dubé, Gonthier, McLachlin, Iacobucci and Bastarache JJ.

Mary Lawlor

v. (26212)

**M.J. Oppenheim, C.A., Attorney in fact in Canada
for Lloyd's Non-Marine Underwriters (Nfld.)**

Neil Finkelstein, Matthew P. Gottlieb and Glen Noel, for
the appellant.

Philip J. Buckingham and Dennis Clarke, for the
respondent.

L'HEUREUX-DUBÉ J. (orally for the Court):

The Court is ready to render judgment now.
Justice Iacobucci will give the judgment of the Court.

[TRANSLATION] LE JUGE L'HEUREUX-DUBÉ (oralement
au nom de la Cour):

La Cour est prête à rendre jugement séance
tenante, lequel sera rendu par le juge Iacobucci.

IACOBUCCI J.:

We are all of the view to allow this appeal
substantially for the reasons of the trial judge, Wells J.,
and for the reasons of the dissenting judge in the
Newfoundland Court of Appeal, Mahoney J.A. The
Lloyd's insurance policy was valid and binding in law
and was not transferred or cancelled. Furthermore, there
was no novation to release Lloyd's from the obligations
under its policy issued to Royal.

LE JUGE IACOBUCCI:

Nous sommes tous d'avis qu'il y a lieu
d'accueillir le présent pourvoi essentiellement pour les
raisons exposées par le juge Wells de première instance,
et pour celles du juge Mahoney, dissident en Cour
d'appel de Terre-Neuve. La police d'assurance Lloyd's
était valide et était exécutoire en droit et elle n'a été ni
cédée ni annulée. En outre, il n'y a eu aucune novation
ayant pour effet de libérer Lloyd's des obligations qui
lui incombaient en vertu de la police qu'elle avait établie
pour Royal.

Accordingly, the appeal is allowed with costs
here and in the Court of Appeal, the judgement of the
Court of Appeal is set aside, and the decision of the trial
judge is restored.

En conséquence, le pourvoi est accueilli avec
dépens dans notre Cour et en Cour d'appel, l'arrêt de la
Cour d'appel est annulé et la décision du juge de
première instance est rétablie.

WEEKLY AGENDA

ORDRE DU JOUR DE LA SEMAINE

AGENDA for the week beginning November 23, 1998.

ORDRE DU JOUR pour la semaine commençant le 23 novembre 1998.

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 : **December 7, 1998**
Service : November 16, 1998
Filing : November 23, 1998
Respondent : November 30, 1998

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 : **7 décembre 1998**
Signification : 16 novembre 1998
Dépôt : 23 novembre 1998
Intimé : 30 novembre 1998

DEADLINES: APPEALS

DÉLAIS: APPELS

The Winter Session of the Supreme Court of Canada will commence January 18, 1999.

La session d'hiver de la Cour suprême du Canada commencera le 18 janvier 1999.

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

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:

Appellant's record; appellant's factum; and appellant's book(s) of authorities must be filed within four months of the filing of the notice of appeal.

Le dossier de l'appellant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les quatre mois de l'avis d'appel.

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

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

Intervener's factum and intervener's book(s) of authorities, if any, must be filed within four weeks of the date of service of the respondent's factum, unless otherwise ordered.

Le mémoire de l'intervenant et son recueil de jurisprudence et de doctrine, le cas échéant, doivent être déposés dans les quatre semaines suivant la signification de ceux de l'intimé.

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

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

Please consult the Notice to the Profession of October 1997 for further information.

Veillez consulter l'avis aux avocats du mois d'octobre 1997 pour plus de renseignements.

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 pour le dépôt du mémoire de l'intimé.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 1998 -

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

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

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

- 1999 -

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

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

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

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

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

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour

81 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

4 holidays during sitting days / jours fériés durant les sessions