

**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**

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

Gaétan Plante

Gaétan Plante

c. (28634)

Sa Majesté la Reine (Qué.)

Nadine Dubois

Procureur général du Québec

DATE DE PRODUCTION 6.6.2001

K.P.N. Holding Ltd.

J.B. Rotstein

Chen & Leung

v. (28649)

West Shore Ventures Limited (B.C.)

S. Russel Chamberlain, Q.C.

FILING DATE 11.6.2001

Louise Gauthier Bardier

Michael E. Heller

Heller Salois Tellier

c. (28650)

Gestion Hervieux-Seddiqi Holding Cie Inc. (Qué.)

Alfred A. Bélisle

Bélisle, Bertrand, Dubé, St-Jean

DATE DE PRODUCTION 11.6.2001

Le Syndicat de la fonction publique du Québec Inc.

Pierre Brun

Grondin, Poudrier, Bernier

c. (28653)

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

Patrice Claude

Bernard, Roy et Associés

DATE DE PRODUCTION 11.6.2001

JUNE 18, 2001 / LE 18 JUIN 2001

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

Steven Kong Tang

v. (28506)

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

NATURE OF THE CASE

Criminal law - *Canadian Charter of Rights and Freedoms* - Seizure - Narcotics - Evidence - Whether the trial judge erred in law in ruling that while the Applicant's rights under s. 8 of the *Charter* were violated, the evidence obtained from that search was not to be excluded under s. 24(2).

PROCEDURAL HISTORY

March 3, 1999
Supreme Court of British Columbia
(Quijano J.)

Conviction: guilty of possession of narcotics for the purpose of trafficking (2 counts)

April 3, 2001
Court of Appeal for British Columbia
(McEachern C.J.B.C., Hall and Levine JJ.A.)

Appeal dismissed

April 17, 2001
Supreme Court of Canada

Application for leave to appeal filed

Transport Belmire Inc., Transport Thibodeau Inc. et Transport Américain Canadien C.A.T. Inc.

c. (28268)

La Société Québécoise de développement de la main-d'oeuvre

- et -

La Procureur générale du Québec(Qué.)

ET ENTRE :

Express du Midi Inc.

c. (28269)

La Société Québécoise de développement de la main d'oeuvre

- et -

La Procureur générale du Québec (Qué.)

ET ENTRE :

Transport Robert (1973) Ltée, Transport Papineau Inc., Transport Asbestos Eastern Inc., Transport Guilbault Inc. et Gosselin Expres Ltée

c. (28270)

La Société Québécoise de développement de la main d'oeuvre

- et -

La Procureur générale du Québec (Qué.)

NATURE DE LA CAUSE

Droit constitutionnel -- Partage des compétences -- Les demanderesses sont des entreprises de transport extra-provincial par véhicules moteur -- La Loi favorisant le développement de la formation de la main-d'oeuvre, L.Q., 1995, C. 43, oblige les employeurs à participer au développement de la formation de la main-d'oeuvre en consacrant à des dépenses de formation admissibles un montant représentant au moins 1% de leur masse salariale -- Cette Loi et les règlements qui en découlent ont-ils pour objet véritable de régir le domaine de l'éducation ou est-ce plutôt celui des conditions de travail, des relations de travail ou de la gestion des entreprises? -- Cette Loi et les règlements qui en découlent, ont-ils pour effet d'affecter un élément vital ou essentiel de l'exploitation des entreprises des demanderesses? -- La technique de rédaction législative utilisée pour cette Loi peut-elle affecter la qualification de l'objet véritable de la loi, aux fins constitutionnelles?

HISTORIQUE PROCÉDURAL

Le 10 novembre 1997
Cour supérieure du Québec
(Pelletier j.c.s.)

Requête en jugement déclaratoire visant à statuer que les requérantes n'étaient pas assujettis à la *Loi favorisant le développement de la formation de la main-d'oeuvre* rejetée avec dépens (Requête rejetée avec dépens)

Le 11 septembre 2000
Cour d'appel du Québec
(Michaud, Otis, Forget jj.c.a.)

Appel du jugement déclaratoire rejeté avec dépens (pourvoi rejeté avec dépens)

Le 12 mars 2000
Cour suprême du Canada
(LeBel, J)

Demande en prorogation de délai accordée

Le 10 novembre 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Nu-Pharm Inc.

v. (28247)

Mr. Jean Rochon in his quality as Minister of Health and Social Services, The Attorney General of Quebec and Conseil Consultatif de Pharmacologie (Que.)

NATURE OF THE CASE

Administrative Law - Statutes - Interpretation - Directives - Whether the criterion relied on by the Minister was validly adopted as a directive or whether a regulation was required - If not, then was the criterion correctly interpreted? - Whether the interpretation given to the criterion allows Québec to extend its jurisdiction and sabotage the medicare system of Saskatchewan - Whether the Minister's decision was manifestly unreasonable and contrary to the purpose of the legislation - Whether the Minister properly carried out his decisional functions or illegally delegated them or used them in a manner contrary to the duty to act fairly.

PROCEDURAL HISTORY

April 29, 1997
Superior Court of Quebec
(Grenier J.)

Respondent Minister's decision to remove 37 of the Applicant's medications from the list of insurable medications declared null and void

September 18, 2000
Court of Appeal of Quebec
(Beauregard [dissenting], Rousseau-Houle and Biron [*ad hoc*] JJ.A.)

Respondent's appeal allowed

November 16, 2000
Supreme Court of Canada

Application for leave to appeal filed

Resurgence Asset Management LLC

v. (28388)

Canadian Airlines Corporation and Canadian Airlines International Ltd. (Alta.)

NATURE OF THE CASE

Procedural law - Courts - Leave to appeal - Jurisdiction of three-member panel of the Court of Appeal to review a decision of a single justice of the Court of Appeal denying leave to appeal to that court pursuant to s.13 of the *Companies' Creditors Arrangement Act*, R.S.C., 1985, c. C-35 (CCAA) - Legal test an applicant must satisfy in order to obtain leave to appeal under the CCAA.

PROCEDURAL HISTORY

June 27, 2000 Court of Queen's Bench of Alberta (Paperny J.C.Q.B.A.)	Plan of compromise and arrangement proposed by Respondents sanctioned
August 29, 2000 Court of Appeal of Alberta (Wittmann J.A.)	Applicant's application for leave to appeal dismissed
December 15, 2000 Court of Appeal of Alberta (Conrad, McFadyen and O'Leary JJ.A.)	Applicant's application seeking order confirming jurisdiction of three-Justice panel to hear appeal from single Justice of Court of Appeal denying leave to appeal under the CCAA dismissed
February 13, 2001 Supreme Court of Canada	Application for leave to appeal filed

Antoine C. Zarzour

c. (28438)

Sa Majesté la Reine (C.F.)

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit administratif - Droit carcéral - Législation - Interprétation du para. 144(2) de la Loi sur le système correctionnel et la mise en liberté sous condition - La Cour d'appel a-t-elle erré en décidant que le juge de première instance n'était pas justifié d'ordonner que les lettres de l'ex-conjointe du demandeur soient extirpées de son dossier? - La Cour d'appel a-t-elle erré en jugeant qu'il n'y avait pas eu violation des articles 7, 12, et 15 de la Charte canadienne des droits et libertés?

HISTORIQUE PROCÉDURAL

Le 28 mai 1999 Cour fédérale du Canada, Section de première instance (Denault j.)	Ordonnance: à la Commission nationale des libérations conditionnelles d'extirper du dossier du demandeur et de ne plus tenir compte des lettres de son ex-conjointe; l'intimée condamnée à payer dommages-intérêts
Le 18 décembre 2000 Cour d'appel fédérale (Décary, Létourneau et Noël jj.c.a.)	Appel de l'intimée accueilli; décision du juge de première instance annulée; action du demandeur rejetée
Le 26 janvier 2001 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Richard A. Morand, Andrée Marier, Manon Boivin, Gaétan Couturier et Daniel Drouin

c. (28257)

**L'Honorable Herbert Marx, Procureur général de la province du Québec et le Procureur général du Canada
(Qué.)**

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit constitutionnel - Législation - Interprétation - Droits linguistiques - Liberté d'expression - La liberté d'expression garantie par l'article 2b) de la *Charte canadienne* et par l'article 3 de la *Charte québécoise des droits et libertés de la personne* constitue-t-elle un droit fondamental dont font partie les droits linguistiques? - Un justiciable unilingue qui reçoit un jugement dans une langue officielle qui n'est pas la sienne bénéficie-t-il d'un traitement égal au regard des articles 15 de la *Charte canadienne* et 10 de la *Charte québécoise*? - L'État provincial a-t-il l'obligation, au regard des *Chartes* des droits, de fournir une traduction officielle d'un jugement qui ne serait pas dans la langue comprise par le justiciable

HISTORIQUE PROCÉDURAL

Le 19 août 1991
Cour supérieure du Québec
(Trudeau j.c.s.)

Requête des demandeurs en jugement déclaratoire et en mandamus rejetée avec dépens

Le 3 octobre 2000
Cour d'appel du Québec
(Beauregard, Gendreau, Fish jj.c.a.)

Appel rejeté avec dépens

Le 24 novembre 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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

Sa Majesté la Reine

c. (28559)

Mélanie Roux, Johanne Comeau (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Infractions - Interprétation - Indécence - La Cour d'appel a-t-elle tenu compte de facteurs non pertinents dans son évaluation de la norme sociale de tolérance en matière d'indécence? - Une distinction doit-elle être faite entre des activités sexuelles présentées sur une scène et des activités sexuelles présentées par des moyens électroniques? - La Cour d'appel a-t-elle erré dans son application de l'arrêt *R. c. Mara*, [1997] 2 R.C.S. 630?

HISTORIQUE PROCÉDURAL

Le 21 mai 1999
Cour municipale du Québec
(Discepola j.c.m.)

Intimées déclarées coupables d'avoir illégalement et volontairement commis une action indécente dans un endroit public contrairement à l'article 173(1)a) du *Code Criminel*

Le 7 février 2000
Cour supérieure du Québec
(Tessier j.c.s.)

Appel à l'encontre du verdict de culpabilité et sentence rejeté

Le 28 février 2001
Cour d'appel du Québec
(Proulx, Dussault et Forget jj.c.a.)

Pourvoi accueilli; intimées acquittées

Le 30 avril 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Thomas Robert Zinck

v. (28367)

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

NATURE OF THE CASE

Criminal law - Sentencing - Order for delayed parole - Whether the New Brunswick Court of Appeal erred in law in holding that the imposition of an order pursuant to s. 743.6 (1) of the *Criminal Code* on the Applicant was justified.

PROCEDURAL HISTORY

December 22, 1997
Court of Queen's Bench
(Godin J.)

The Applicant pleaded guilty to manslaughter and was sentenced to 12 years' imprisonment; parole was delayed under s. 743.6(1) of the *Criminal Code*.

February 22, 1999
Court of Appeal of New Brunswick
(Rice [*dissenting*], Turnbull, and Larlee JJ.A.)

Appeal dismissed; Appeal against sentence dismissed

April 5, 2001
Supreme Court of Canada

Filing of application for leave to appeal, motion to extend time, and request that legal counsel be appointed

June 1, 2001
Supreme Court of Canada

Filing of amended application for leave to appeal, motion to extend time, and request that legal counsel be appointed

Her Majesty the Queen in Right of Alberta

v. (28261)

Devon Gary Ell, John Michael Maguire and Roselynn Margaret Spencer (Alta.)

NATURE OF THE CASE

Constitutional law - Judicial independence - Justices of the peace - Legislative amendments affecting statutory tenure - Determine balance between the principles of judicial independence with the state's authority to reform an office or commission to improve the independence, impartiality and competence of judicial decision makers - Whether Court of Appeal erred in ruling tenure of judicial officers with adjudicative powers is constitutionally protected in all cases against removal except for cause? - Whether the Court of Appeal erred in ruling the impugned reforms to the justice of the peace system were "arbitrary and discretionary" and in violation of the principle of judicial independence? - Whether the Court of Appeal erred in preventing the Alberta legislature from reforming the office of non-sitting justices of the peace thus resulting in delays and denying the public of the benefits of these reforms?

PROCEDURAL HISTORY

January 21, 1999
Court of Queen's Bench of Alberta
(McMahon J.C.Q.B.A.)

Sections 2.4(8) of Alberta's *Justice of the Peace Act* and 3(5) of the *Justice Statutes Amendment Act* declared to be of no force or effect as they relate to the Respondents. Solicitor-client costs denied.

September 18, 2000
Court of Appeal of Alberta
(Bracco, McFadyen, and Picard JJ.A.)

Applicant's appeal dismissed; Respondents' cross-appeal dismissed; Respondents to have full indemnity of reasonable costs of appeal.

November 20, 2000
Supreme Court of Canada

Application for leave to appeal filed

February 27, 2001
Supreme Court of Canada

Miscellaneous motion granted permitting Respondent to file sur-reply, Iacobucci J.

April 30, 2001
Supreme Court of Canada

Miscellaneous motion granted permitting Applicant to file a response to the sur-reply
Arbour J.

Adel F. Antippa

c. (28176)

Jean-Yves Durand

et

Université du Québec à Trois-Rivières (Qué.)

NATURE DE LA CAUSE

Droit du travail - Arbitrage - Grief - Contrôle judiciaire - Norme de contrôle - La Cour d'appel a-t-elle erré en rejetant la requête pour permission d'appeler du demandeur?

HISTORIQUE PROCÉDURAL

Le 19 mai 2000
Cour supérieure du Québec
(Babin j.)

Requête en révision judiciaire rejetée

Le 12 juillet 2000
Cour d'appel du Québec
(Rousseau-Houle j.c.a)

Requête pour permission d'appeler rejetée

Le 29 septembre 2000
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Linda Vosko

v. (28437)

Anne-France Goldwater (Que.)

NATURE OF THE CASE

Torts - Damages - Delict - Professional liability - Whether the Court of Appeal erred in deciding that an agreement entered into by the attorneys for the parties, in the presence of the Court, is not a binding agreement unless completed by a writing - Whether the Court erred in exonerating an attorney from her obligation to adduce expert evidence in support of her client's case on the grounds that the trial judge had the discretion to use an expert if he thought it necessary to do so - Whether the Court erred in holding that a lawyer's fear of annoying a trial judge was sufficient grounds for her convincing her client to waive her right of appeal, particularly in a case where the lawyer was aware of the fact that she would not be able to adduce expert evidence in a case which required such evidence - Are lawyers exempt from liability where the Courts have discretion to remedy their failures - What are the obligations of lawyers and their clients with respect to undertakings made in the presence of the Court - What are the obligations of lawyers towards their clients in the face of requests made by the Courts which, if acquiesced to, will result in a loss of rights for their clients.

PROCEDURAL HISTORY

June 30, 1997 Superior Court of Quebec (Borenstein J.)	Applicant's action for damages and Respondent's cross-demand dismissed
November 23, 2000 Court of Appeal of Quebec (Mailhot, Dussault and Letarte (ad hoc) JJ.A.)	Appeal dismissed
January 22, 2001 Supreme Court of Canada	Application for leave to appeal filed

De la Capitale Dodge Chrysler (Québec) Ltée

c. (28298)

Jean-Yves Ratté

-et-

Le bureau du commissaire général du travail et Pierre-Philippe Lachapelle (Qué.)

NATURE DE LA CAUSE

Droit administratif - Contrôle judiciaire - Justice naturelle - Règle *audi alteram partem* - Droit à une audition juste et équitable - Appréciation de la preuve - Le commissaire du travail a-t-il commis une erreur dans l'appréciation de la preuve qui lui a été soumise? - Le commissaire du travail a-t-il enfreint les règles de justice naturelle, notamment la règle *audi alteram partem*?

HISTORIQUE PROCÉDURAL

Le 11 mai 2000 Cour supérieure du Québec (Richard j.c.s.)	Requête en révision judiciaire de la décision du Commissaire du travail rejetée
Le 6 octobre 2000 Cour d'appel du Québec (Mailhot, Rousseau-Houle et Philippon [ad hoc] jj.c.a.)	Pourvoi de la demanderesse accueilli : jugement de la Cour supérieure infirmé et requête en révision judiciaire accordée, avec dépens, aux fins de substituer dans la décision du commissaire, à titre d'indemnité de fin d'emploi, l'équivalent de 8 mois de salaire au lieu de 17 mois, les autres conclusions du commissaire demeurant
Le 5 décembre 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Sing Chi Stephen Chiau

v. (28418)

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

NATURE OF THE CASE

Administrative law - Immigration - Judicial review - Applicant denied admission to Canada on basis that reasonable grounds existed to believe he was an inadmissible person because of his membership in an organization engaged in criminal activity, visa officer having obtained confidential information to that effect from foreign source which was not disclosed to the applicant - Whether non-disclosure of the secret information or a summary thereof by visa officer or during trial and appeal proceedings, breaches duty of fairness - Whether Court of Appeal erred in relation to meaning of "members" and "reasonable grounds to believe" - *Immigration Act of Canada*, R.S.C. 1985, c. I-2, ss. 19(1)(c.2), 82.1(10).

PROCEDURAL HISTORY

February 3, 1998
Federal Court of Canada (Trial Division)
(Dubé J.)

Applicant's application for judicial review of the March 26 1996 decision by a Visa Officer of the Canadian High Commission in Hong Kong, dismissed

December 12, 2000
Federal Court of Appeal
(Linden, Sexton and Evans JJ.A.)

Appeal dismissed

February 12, 2001
Supreme Court of Canada

Application for leave to appeal filed

March 5, 2001
Supreme Court of Canada
(Bastarache J.)

Motion to extend time granted

March 21, 2001
Supreme Court of Canada
(Binnie J.)

Motion for leave to file Secret Record of the Respondent containing secret evidence filed in the Federal Court, Trial Division and Court of Appeal, pursuant to subsection 82.1(10) of the *Immigration Act* granted, the Record to be sealed without disclosing to Applicant or his counsel because disclosure would be injurious to national security and to safety of persons; access to the Secret Record limited to judges and staff of Supreme Court of Canada.

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

**Canadian Broadcasting Corporation, CTV Television Inc., Global Communications Limited, ONTV Limited
and The Globe and Mail, a division of Thomson Canada Limited**

v. (28477)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Search and Seizure - Freedom of the press - Whether the issuing justice was required to give the Applicants notice and an opportunity to be heard before issuing search warrants for the Applicants' premises - Whether an *ex post facto* review process gives adequate protection to the Applicants' s. 2(b) and s. 8 *Charter* rights - When alternative sources for the information sought with the search warrants ought to be considered

PROCEDURAL HISTORY

July 11, 2000 Ontario Court of Justice (Dobney J.)	Search warrants for the Applicants' premises granted
November 1, 2000 Ontario Superior Court of Justice (Roberts J.)	Applicants' application for <i>certiorari</i> dismissed
March 2, 2001 Court of Appeal for Ontario (Moldaver, Goudge and Simmons JJ.A.)	Appeal dismissed
April 12, 2001 Supreme Court of Canada	Application for leave to appeal filed

Attorney General of Nova Scotia, representing Her Majesty the Queen in Right of the Province of Nova Scotia

v. (28617)

Founders Square Limited (N.S.)

NATURE OF THE CASE

Commercial law - Contracts - Remedies - Parol agreement - Breach of contract - Whether the Court of Appeal erred in its interpretation of and application of the doctrine of part performance in the context of the *Statute of Frauds*, and by not enforcing the four corners of the agreement clause but instead giving precedence to a pre-contractual oral agreement inconsistent with written documents executed between the parties.

PROCEDURAL HISTORY

February 28, 2000 Supreme Court of Nova Scotia, Trial Division (Moir J.)	Respondent's action for a declaration that a parol contract existed dismissed
March 22, 2001 Nova Scotia Court of Appeal (Freeman, Roscoe and Flinn JJ.A.)	Appeal allowed; cross-appeal dismissed
May 22, 2001 Supreme Court of Canada	Application for leave to appeal filed
June 11, 2001 Supreme Court of Canada	Motion to expedite filed

Mohamed Zeki Mahjoub

v. (28528)

The Minister of Citizenship and Immigration and Solicitor General of Canada (F.C.)

NATURE OF THE CASE

Constitutional Law - Canadian Charter - Civil - Immigration Law - Minister of Immigration and Solicitor General of Canada may sign and file certificate that a person is of an inadmissible class - Certificates reviewed by Federal Court of Canada under s. 40.1 of the *Immigration Act*, R.S.C. 1985, c. I-2 - Whether Federal Court, Trial Division has jurisdiction to determine constitutionality of s. 40.1 - Whether procedures set out in s. 40.1 are balanced as in *Garofoli* or *O'Connor* applications - Whether procedure lacks appropriate judicial scrutiny.

PROCEDURAL HISTORY

January 23, 2001 Federal Court of Canada, Trial Division (Nadon J.)	Applicant's motion challenging the constitutionality of s. 40.1(1), (2), (3), (4) and (5.1) of the <i>Immigration Act</i> , dismissed
February 16, 2001 Federal Court of Canada, Trial Division (Nadon J.)	Applicant's motion for disclosure and attendance of witnesses for examination, dismissed
March 23, 2001 Supreme Court of Canada	Application for leave to appeal filed

Moneta Porcupine Mines Ltd.

v. (28429)

Charles Gryba (Ont.)

NATURE OF THE CASE

Labour law - Dismissal without cause - Severance - Legal notice period - Whether stock options available during legal notice period notwithstanding clause restricting options to 30 days after dismissal - Mitigation of damages - Whether mining claims staked during legal notice period to be considered but sold to new employer after legal notice period to be calculated in mitigation of damages.

PROCEDURAL HISTORY

November 17, 1998 Superior Court of Justice (Swinton J.)	Applicant ordered to pay Respondent \$111,308 plus interest as damages for wrongful dismissal
December 20, 2000 Court of Appeal for Ontario (Finlayson [dissenting], Weiler and Goudge JJ.A.)	Appeal dismissed
February 16, 2001 Supreme Court of Canada	Application for leave to appeal filed

Rocco Galati

v. (28345)

Her Majesty the Queen in Right of Ontario and the Attorney General for Ontario (Ont.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Constitutional law - Procedural law - Whether the Court of Appeal erred in applying the test for striking a statement of claim as enunciated by this Court in *Nelles v. The Queen in Right of Ontario*, [1989] 2 S.C.R. 170 - Whether the Court of Appeal erred in determining that the nomination and selection process of candidates of “registered political parties” is not government or “state action” - Whether the Court of Appeal erred in determining that the Attorney General of Ontario is not a state actor by virtue of the *Elections Act R.S.O. 1990 c. E-6* and *Elections Finances Act, R.S.O. 1990 c. E-7* - Whether the Court of Appeal erred in determining that the Applicant’s constitutional rights were not infringed by way of Legislative omission as set out by this Court in *Vriend v. Alberta*, [1998] 1 S.C.R. 493 - Whether, notwithstanding “state or government action”, can an omission by the Legislature to regulate the nomination and selection process trigger constitutional scrutiny - Whether public funding of corrupt and unconstitutional practices of “registered political parties”, if countenanced by the absence of judicial review on constitutional grounds and the lack of statutory regulation, constitute a breach of the spending powers conferred under ss. 53, 54, and 90 of the *Constitution Act 1867*, where those practices otherwise breach or interfere with the rights under ss. 3, and 7, and /or 15 of the *Charter*.

PROCEDURAL HISTORY

June 15, 1999 Superior Court of Justice (Epstein J.)	Action against the Respondents struck out; and paragraphs 1(a), (b), (c), (d) and (e) and 37 of the Statement of Claim struck out for disclosing no reasonable cause of action
November 16, 1999 Court of Appeal for Ontario (Finlayson, Moldaver, and Weiler JJ.A.)	Appeal dismissed
January 12, 2001 Supreme Court of Canada	Application for leave to appeal and application for an extension of time, filed

Sean Shanahan, Katherine Shanahan, Elaine Triggs, Donald Triggs, Nancy McFadyen, John McFadyen, Larry Clarke and City of Toronto

v. (28428)

Derek Russell and Ontario Municipal Board (Ont.)

NATURE OF THE CASE

Administrative Law - Municipal Law - Whether Review Panel of the Ontario Municipal Board may substitute its opinion for that of a Hearing Panel under Section 43 of the *Ontario Municipal Board Act*, R.S.O. 1990, c. O.28 - Powers of review under Section 43.

PROCEDURAL HISTORY

August 10, 1999 Superior Court of Justice (MacFarland, Ferrier and Winkler JJ.)	Appeals against Ontario Municipal Board's Review Panel decision allowed
December 19, 2000 Court of Appeal for Ontario (Finlayson, Labrosse and Weiler JJ.A.)	Appeal allowed; Review Panel's decision restored
February 16, 2001 Supreme Court of Canada	Application for leave to appeal filed

Cordell F. Becker

v. (28415)

Director of Employment Standards of Alberta and 333506 Alberta Ltd. (Alta.)

NATURE OF THE CASE

Procedural law - Civil procedure - Administrative law - Judicial review - Limitation period - Evidence - Legislation - Interpretation - *Employment Standards Code*, S.A. 1996, c. E-10.3, s. 104 - Whether the Court of Appeal erred in holding that the Originating Notice was served outside of the limitation period - Whether the Court of Appeal erred in refusing to allow cross-examination on affidavits.

PROCEDURAL HISTORY

June 29, 1998
Court of Queen's Bench of Alberta
(Holmes J.)

Respondents' applications for summary judgment granted;
Applicant's application for judicial review and motion to
cross-examine on affidavits dismissed

December 20, 2000
Court of Appeal of Alberta
(Sulatycky, Wittmann J.J.A. and Hart J.)

Appeal dismissed

February 19, 2001
Supreme Court of Canada

Application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

JUNE 21, 2001 / LE 21 JUIN 2001

28323 **LIFE INSURANCE COUNCIL, HARVEY D. ROSS AND DON TRAILL, JOHN MUZIKA, ABE KROEGER, RON FULLAN, JIM DALE, GARY ANDREWS AND DENNIS ULLRICH - v. - RBC DS FINANCIAL SERVICES INC., JOYCE MARBACH AND ATTORNEY GENERAL FOR SASKATCHEWAN** (Sask.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondents RBC DS Financial Services Inc., Joyce Marbach.

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimés RBC DS Financial Services Inc., Joyce Marbach.

NATURE OF THE CASE

Administrative law - Judicial review - Jurisdiction - Standard of review - Did the Saskatchewan Court of Appeal err in holding that the standard of review for bylaws adopted pursuant to delegated legislative authority is correctness - Whether the Court of Appeal erred in holding that a bylaw adopted by the Life Insurance Council prohibiting life insurance agents from maintaining or occupying an office that is not separate and distinct from the premises of a bank was *ultra vires* the Council's legislative authority.

PROCEDURAL HISTORY

April 14, 1998 Court of Queen's Bench of Saskatchewan (Maurice J.)	Respondents' claim for a declaration that subsection 11(1)(b) of the Applicants' bylaws is invalid and unenforceable, dismissed
October 20, 2000 Court of Appeal for Saskatchewan (Bayda C.J.S., Lane, and Jackson [<i>dissenting</i>] JJ.A.)	Appeal allowed
December 19, 2000 Supreme Court of Canada	Application for leave to appeal filed

28387 **VINCENT STUART McPHERSON - v. - HER MAJESTY THE QUEEN** (Man.) (Criminal)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Trial - Evidence - Opening and closing addresses to jury - Applicant convicted of second degree murder following jury trial - Court of Appeal affirming conviction - Whether Crown counsel's opening and closing addresses improper - Whether Court of Appeal employed proper standard of review in reviewing trial judge's response to issues of Crown counsel's conduct - Whether trial judge took adequate measures to remedy improper remarks by Crown counsel -

Whether trial judge erred in failing to direct jury on effect of intoxication on issue of specific intent - Whether trial judge erred in admitting certain evidence.

PROCEDURAL HISTORY

September 7, 1999 Court of Queen's Bench of Manitoba (Monnin J.)	Applicant convicted of second degree murder and unlawful assault using a weapon
December 18, 2000 Court of Appeal of Manitoba (Huband, Philp and Twaddle JJ.A.)	Appeal against conviction dismissed
February 16, 2001 Supreme Court of Canada	Application for leave to appeal filed

28302 **JOHN D. TILLEMAN - v. - HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF BRITISH COLUMBIA, THE CLAIMS REVIEW COMMITTEE ARBITRATION BOARD, THE COORDINATOR OF THE CLAIMS REVIEW COMMITTEE ARBITRATION BOARD AND THE GREAT WEST LIFE ASSURANCE COMPANY** (B.C.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondent The Great West Life Assurance Company.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimée La Great West, compagnie d'assurance-vie.

NATURE OF THE CASE

Procedural Law - Civil Procedure - Courts - Jurisdiction - Appeal from decision of coordinator of Claims Review Committee not to delay hearing concerning a claim for benefits under Public Service Benefits Plan - Jurisdiction of Court of Appeal for British Columbia to hear appeal.

PROCEDURAL HISTORY

June 16, 2000 Court of Appeal for British Columbia (Newbury J.A.)	Motion to quash appeal granted
October 17, 2000 Court of Appeal for British Columbia (Braidwood, Hall and Low JJ.A.)	Application to overturn decision to quash dismissed, appeal quashed
December 8, 2000 Supreme Court of Canada	Application for leave to appeal filed

27894 **STEPHEN M. BYER - v. - THE INSPECTOR GENERAL OF FINANCIAL INSTITUTIONS,
ROYAL INSURANCE COMPANY OF CANADA / ROYAL SUN ALLIANCE AND CFCF INC.,
ET ALS** (Que.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondent The Inspector General of Financial Institutions.

La demande d'autorisation d'appel est rejetée avec dépend en faveur de l'intimé Inspecteur général des institutions financières.

NATURE OF THE CASE

Civil Code - Insurance - Administrative law - Writ of *mandamus* - Interpretation - Article 2473 of the *Civil Code of Québec* - Whether the Court of Appeal erred in dismissing the Applicant's appeal.

PROCEDURAL HISTORY

December 15, 1999 Superior Court of Quebec (Fraiberg J.S.C.)	Motions to dismiss Applicant's application for a writ of <i>mandamus</i> granted; Applicant's application for a writ of <i>mandamus</i> dismissed
April 10, 2000 Court of Appeal of Quebec (Gendreau, Fish and Robert JJ.A.)	Motions to dismiss appeals granted; Applicant's appeal dismissed
September 25, 2000 Supreme Court of Canada	Motion to extend time filed
October 25, 2000 Supreme Court of Canada Arbour J.	Motion for an extension of time allowed
November 23, 2000 Supreme Court of Canada	Motion to extend time filed
December 7, 2000 Supreme Court of Canada Arbour J.	Motion for an extension of time allowed
December 21, 2000 Supreme Court of Canada	Application for leave to appeal filed

28314 **WILLIE GORDON - v. - HER MAJESTY THE QUEEN** (Que.) (Criminal)

CORAM: L'Heureux-Dubé, Arbour and LeBel JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal Law - Narcotics - Sentencing - Prisons - Native Law - Did the Court of Appeal of Quebec err in law in denying the Applicant, without motives, leave to appeal the legality of the sentence - Does the sentence respect the Applicant's rights as an Inuk under the *James Bay and Northern Québec Agreement (Agreement)* and its ratifying laws - Under the Agreement and its ratifying laws, under which circumstances should an Inuk be detained, confined or imprisoned - Considering the Applicant's rights recognized by the Agreement and its ratifying laws, does the sentence violate his constitutional rights, namely his right to life, liberty and security as well as his rights against cruel and unusual punishment, as provided by section 7 and 12 of the *Canadian Charter* - Should a conflict between the *Agreement* and its ratifying laws and the *Criminal Code* be resolved by imposing a conditional sentence as provided by section 742.1 of the *Criminal Code* - Considering previous conditional sentences rendered by the same judge in Kuujuaq for the same offense and considering the Applicant's rights recognized by the *Agreement*, does the sentence violates the Applicant's constitutional right to equal protection and equal benefit of the law, as provided by section 15 of the *Canadian Charter*.

PROCEDURAL HISTORY

November 17, 2000 Quebec Court (Bédard J.)	Applicant sentenced to a 14 month detention term followed by a two-year probation
November 24, 2000 Court of Appeal of Quebec (Rochette J.A.)	Application for leave to appeal from sentence dismissed
December 14, 2000 Supreme Court of Canada	Application for leave to appeal filed

28101 **GENERAL MOTORS DU CANADA LIMITÉE - c. - SERGE DESRIVIÈRES, COMMISSION DE LA SANTÉ ET DE LA SÉCURITÉ DU TRAVAIL, COMMISSION D'APPEL EN MATIÈRE DE LÉSIONS PROFESSIONNELLES ET COMMISSION DES LÉSIONS PROFESSIONNELLES EN REPRISE D'INSTANCE M^E GINETTE GODIN, M^E ANNE LEYDET, M^E MARIE LAMARRE** (Qué.) (Civile)

CORAM: Les juges L'Heureux-Dubé, Arbour et LeBel

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimé Serge Desrivières.

The application for leave to appeal is dismissed with costs to the respondent Serge Desrivières.

NATURE DE LA CAUSE

Droit administratif -- Contrôle judiciaire -- Interprétation législative -- Prestations d'indemnités de remplacement du revenu -- Les prestations versées par la CSST après la date de consolidation de la lésion professionnelle ont-elles été reçues sans droit ? -- La CSST a-t-elle l'obligation ou le droit d'exiger de l'intimé le remboursement de ces sommes ? -- La Cour d'appel du Québec a-t-elle erré dans son intervention ? -- *Loi sur les accidents du travail et les maladies professionnelles*, L.R.Q., c. A-3.001

HISTORIQUE PROCÉDURAL

Le 5 avril 1988 Bureau de révision paritaire de la CSST (St-Jean, Bessette et Dion, membres)	Demande de révision rejetée; intimé doit rembourser 474,94\$
Le 16 décembre 1991 Commission d'appel en matière de lésions professionnelles (Godin, Leydet et Lamarre, commissaires)	Appel rejeté
Le 12 janvier 1993 Cour supérieure du Québec (Marcelin j.c.s.)	Requête en révision judiciaire rejeté
Le 6 juin 2000 Cour d'appel du Québec (Chamberland, Robert et Thibault jj.c.a.)	Appel accueilli
Le 31 août 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

28322 **SA MAJESTÉ LA REINE - c. - MICHEL OTIS** (Qué.) (Criminelle)

CORAM: Les juges L'Heureux-Dubé, Arbour et LeBel

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Droit au silence - Déclaration incriminante - Admissibilité - La Cour d'appel a-t-elle erré en droit en concluant que la poursuite de l'interrogatoire de l'intimé constituait une violation de son droit au silence? - La Cour d'appel a-t-elle erré en droit en rejetant les aveux de l'intimé, au motif de l'effondrement émotionnel de l'intimé, alors que les facteurs d'un climat d'oppression étaient absents?

HISTORIQUE PROCÉDURAL

Le 30 avril 1998 Cour supérieure du Québec (Piché j.c.s.)	Requête pour mettre en preuve les déclarations faites par l'intimé après son arrestation accueillie en partie
Le 2 novembre 2000 Cour d'appel du Québec (Proulx, Robert et Denis [<i>ad hoc</i>] jj.c.a.)	Appel rejeté
Le 21 décembre 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

28236 **JEAN-ROBERT GAUTHIER - c. - CONSEIL DE LA RADIODIFFUSION ET DES TÉLÉCOMMUNICATIONS CANADIENNES, LE PROCUREUR GÉNÉRAL DU CANADA, ASSOCIATION CANADIENNE DES RADIODIFFUSEURS, ASSOCIATION CANADIENNE DE TÉLÉVISION PAR CÂBLE, VIDEOTRON COMMUNICATIONS INC., COGECO CÂBLE CANADA INC., L'ASSOCIATION DE LA TÉLÉVISION SPÉCIALISÉE ET PAYANTE, ACTION RÉSEAU CONSOMMATEURS, ASTRAL, TÉLÉ-QUÉBEC, ASSOCIATION DES PRODUCTEURS DE FILMS ET DE TÉLÉVISION DU QUÉBEC, PIERRE DE SAVOYE ET ROLAND SAUMURE** (CF) (Civile)

CORAM: Les juges L'Heureux-Dubé, Arbour et LeBel

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimées Association canadienne des radiodiffuseurs, Association canadienne de télévision par câble, Videotron Communications Inc. et Télé-Québec.

The application for leave to appeal is dismissed with costs to the respondents Canadian Association of Broadcasters, Canadian Cable Television Association, Videotron Communications Inc. and Télé-Québec.

NATURE DE LA CAUSE

Droit administratif - Révision judiciaire - Radiodiffusion - La Cour d'appel fédérale refuse sans motifs la demande de révision judiciaire - La Cour d'appel fédérale a-t-elle erré dans l'exercice de son pouvoir discrétionnaire ? - Le CRTC a-t-il commis une erreur de droit en refusant d'acquiescer à la demande de TVOntario ? - Les questions soulevées dans la présente demande méritent-elles considération par la Cour suprême du Canada - *Loi sur la radiodiffusion*, L.C. 1991, ch. 11, al. 9(1)h).

HISTORIQUE PROCÉDURAL

Le 1er mars 2000 CRTC (Décary, Létourneau et Noël jj.c.a.)	Demande refusée
Le 6 septembre 2000 Cour d'appel fédérale (Décary, Létourneau et Noël jj.c.a.)	Demande d'autorisation d'appel rejetée
Le 6 novembre 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

28417 **PROCUREURE GÉNÉRALE DU QUÉBEC - c. - LAURENT LAROCHE, GARAGE CÔTÉ LAROCHE INC. ET L'HONORABLE JUGE CLAUDE PINARD, J.C.Q., ÈS QUALITÉS** (Qué.)
(Criminelle)

CORAM: Les juges L'Heureux-Dubé, Arbour et LeBel

La demande d'autorisation d'appel est accordée.

The application for leave to appeal is granted.

NATURE DE LA CAUSE

Droit criminel – Produits de la criminalité – Ordonnance de blocage – *Code criminel*, art. 462.33 – Révision d'une ordonnance de blocage – Le juge de première instance a-t-il erré dans son interprétation des pouvoirs d'un juge siégeant en révision d'une ordonnance de blocage? – Le juge de première instance a-t-il erré dans son interprétation des principes énoncés par la Cour suprême dans l'arrêt *Colarusso*? – Le juge de première instance a-t-il erré en droit quant à la norme juridique applicable à la procédure de révision? – *Code criminel*, art. 462.34

HISTORIQUE PROCÉDURAL

Le 13 juillet 2000 Cour du Québec (Chambre criminelle et pénale) (Pinard, j.c.q.)	Requête pour l'émission d'une ordonnance de blocage accueillie ; ordonnance de blocage émise
Le 8 février 2001 Cour supérieure du Québec (Grenier, j.c.s.)	Requête en révision de l'ordonnance de blocage accueillie ; ordonnance de blocage annulée
Le 6 mars 2001 Cour supérieure du Québec (De Blois, j.c.s.)	Requête en suspension d'exécution du jugement du 8 février 2001 accueillie ; ordonnance de sursis émise
Le 20 mars 2001 Cour suprême du Canada	Requête en annulation de l'ordonnance de sursis déposée
Le 3 avril 2001 Cour suprême du Canada (Binnie, j.c.s.c.)	Requête en annulation de l'ordonnance de sursis rejetée ; traitement accéléré de la demande d'autorisation d'appel ordonné
Le 9 avril 2001 Cour suprême du Canada	Demande d'autorisation d'appel déposée

28250 **HI-WAY SERVICE INC. - v. - THOMAS H. OLSON OPERATING AS MOOSE MOUNTAIN BUFFALO RANCH AND THOMAS H. OLSON AND MOOSE MOUNTAIN BUFFALO RANCH** (Alta.) (Civil)

CORAM: Gonthier, Major and Binnie 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 - Conflicting evidence of the terms of agreement between the parties - Court of Appeal increasing amount awarded on counterclaim - Procedural law - Appeals - Standard of review - Whether appellate court is entitled to substitute its own views of the facts and credibility in the face of the accepted test of palpable and overriding error when no such error has been identified - Whether appellate court may substitute its view of the weight to be afforded to expert evidence for that of the trial judge

PROCEDURAL HISTORY

August 31, 1999
Court of Queen's Bench of Alberta
(Langston J.)

Applicant awarded \$140,147.95; Respondent's counterclaim allowed in the amount of \$25,000

November 3, 2000
Alberta Court of Appeal
(Fraser C.J.A., McFadyen and O'Leary JJ.A.)

Appeal allowed; cross-appeal dismissed; Respondent's damages increased to \$164,000

November 29, 2000
Supreme Court of Canada
(LeBel J.)

Application for an extension of time granted

January 11, 2001
Supreme Court of Canada

Application for leave to appeal filed

28266 **THE CITY OF CALGARY AND CALGARY CIVIC EMPLOYEES BENEFIT SOCIETY - v. - DONALD R. SAGGERS AND ALBERTA HUMAN RIGHTS COMMISSION - and between - ALBERTA HUMAN RIGHTS COMMISSION - v. - THE CITY OF CALGARY AND CALGARY CIVIC EMPLOYEES BENEFIT SOCIETY AND DONALD R. SAGGERS** (Alta.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The applications for leave to appeal are dismissed with costs to the respondent Donald R. Saggere.

Les demandes d'autorisation d'appel sont rejetées avec dépens en faveur de Donald R. Saggere.

NATURE OF THE CASE

Administrative law - Judicial review - Standard of review - Grievance arbitration - *Res judicata* - Human Rights Commission dismissing complaint under *Individual's Rights Protection Act*, R.S.A. 1980, c. I-2, on basis of *res judicata* - Chambers judge setting aside decision and ordering Commission to hear complaint on its merits - Whether courts below erred in applying standard of correctness rather than patent unreasonableness to Commission's decision not to proceed further with the complaint - Whether Court of Appeal erred in holding that Arbitration Board had no jurisdiction to address a grievance on the ground of mental disability.

PROCEDURAL HISTORY

April 10, 1997 Court of Queen's Bench of Alberta (Hutchinson J.)	Decision of Alberta Human Rights Commission set aside; Commission ordered to hear Saggars' complaint on its merits
September 29, 2000 Court of Appeal of Alberta (Bracco, Hunt and Berger JJ.A.)	Appeal dismissed; matter remitted to the Commission
December 5, 2000 Supreme Court of Canada (LeBel J.)	Motion to extend time granted
December 11, 2000 Supreme Court of Canada	Application for leave to appeal filed
December 11, 2000 Supreme Court of Canada	Application for leave to appeal filed
March 6, 2001 Supreme Court of Canada (Bastarache J.)	Motion to extend time granted

28382 **ELI LILLY & COMPANY AND ELI LILLY CANADA INC. - v. - APOTEX INC., NU-PHARM
INC. AND NOVOPHARM LIMITED** (FC) (Civil)

CORAM: Gonthier, Major and Binnie 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

Property law - Unfair competition - Passing off - Trade marks - Whether the relevant universe in a pharmaceutical get-up case extends beyond those who are users of the particular pharmaceutical in issue - Whether a patient can still make a meaningful choice as to brand when competitive pharmaceutical manufacturers are not required to adopt a different get-up for their products - Whether this Court should clarify its decision in *Ciba-Geigy Canada Inc. v. Apotex Inc.*, [1992] 3 S.C.R. 120.

PROCEDURAL HISTORY

April 25, 1997	Applicant's claim dismissed
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Federal Court of Canada, Trial Division
(Reed J.)

December 19, 2000
Federal Court of Appeal
(Desjardins, Sexton and Sharlow JJ.A.)

Applicant's appeal dismissed

February 19, 2001
Supreme Court of Canada

Application for leave to appeal filed

28495 **ROBERT CAYA - v. - HER MAJESTY THE QUEEN** (Ont.) (Criminal)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Sentencing - Whether the lower courts erred in refusing to accept the joint submission with respect to sentence - Whether the lower courts erred in failing to consider the fact that in exchange for a reduced sentence the Applicant pleaded guilty to a charge where there was little likelihood of a successful prosecution - Whether the Court of Appeal erred in failing to hold that the rejection of the plea bargained joint submission worked an unfairness to the Applicant.

PROCEDURAL HISTORY

August 31, 2000
Ontario Court of Justice
(Perozak J.)

Applicant pleaded guilty of robbery contrary to s.344 of the *Criminal Code*; sentenced to 5 years' imprisonment

February 12, 2001
Court of Appeal for Ontario
(Osborne A.C.J.O., Doherty and Sharpe JJ.A.)

Appeal against sentence dismissed

April 4, 2001
Supreme Court of Canada

Application for leave to appeal filed

28461 **JOSEPH ALAN SIDOROV - v. - HER MAJESTY THE QUEEN** (Alta.) (Criminal)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Trial procedure - Arrest - Warrants - Whether the trial judge erred in issuing a bench warrant for the Applicant's arrest when the Applicant failed to appear in person for his summary conviction trial - Service - Jurisdiction - Whether the court of appeal erred in holding that an order for service *ex juris* was not required to serve the Applicant with a notice of appeal outside the province where the appeal was to be heard

PROCEDURAL HISTORY

February 16, 1999 Provincial Court of Alberta (Troughton J.)	Order: Bench warrant issued for the Applicant's arrest
June 24, 1999 Court of Queen's Bench of Alberta (Lutz J.)	Application for <i>certiorari</i> granted; bench warrant quashed
January 18, 2001 Court of Appeal of Alberta (Conrad, O'Leary and Picard JJ.A.)	Respondent's appeal allowed; matter to be returned for trial
March 16, 2001 Supreme Court of Canada	Application for leave to appeal filed

28220 **PRABHAKARA CHOWDARY BALLA, AND TRIT TEK RESEARCH LTD. - v. - ALLIANCE SEMICONDUCTOR CORPORATION** (B.C.) (Civil)

CORAM: Gonthier, Major and Binnie 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

Procedural law - Civil procedure - Service *ex juris* - In the absence of proof of service, whether the documents came to the Respondent's notice - Whether the default judgment and the assessment of damages should be set aside.

PROCEDURAL HISTORY

February 8, 1999 Supreme Court of British Columbia (Cowan J.)	Default judgment entered against Alliance Semiconductor Corporation on October 20, 1995 for breach of trust, fiduciary duty, punitive and exemplary damages set aside
July 26, 2000 Court of Appeal of British Columbia (Southin, Rowles and Mackenzie JJ.A)	Appeal allowed and default judgment remitted to the Supreme Court of British Columbia
September 6, 2000 Court of Appeal of British Columbia (Southin, Rowles and Mackenzie JJ.A)	Judgment assessing damages set aside
November 4, 2000	Application for leave to appeal filed

Supreme Court of Canada

28334 **THE CORPORATION OF THE COUNTY OF HURON HURONVIEW HOME FOR THE AGED - v. - SERVICE EMPLOYEES' UNION LOCAL 210 AFFILIATED WITH SERVICE EMPLOYEES INTERNATIONAL UNION** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie 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

Labour law - Arbitration - Judicial review - Whether an employer who depends on public sector funding may lay off an employee where the lack of work results from funding cutbacks - Whether the decision of the Court of Appeal creates a new, inappropriate and unfair standard for layoffs in the public sector.

PROCEDURAL HISTORY

May 20, 1998
Ontario Court of Justice (General Division) - Divisional Court
(Cunningham, Lofchik and McKinnon JJ.)

Applicant's application for judicial review granted; decision of the Arbitrator quashed

October 25, 2000
Court of Appeal for Ontario
(Sharpe, Charron and Macpherson JJ.A.)

Appeal granted; order restoring the award of the Arbitrator

December 27, 2000
Supreme Court of Canada

Application for leave to appeal filed

28344 **ERIC SCHEUNEMAN - v. - ATTORNEY GENERAL OF CANADA (NATURAL RESOURCES CANADA)** (FC) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed without costs.

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

NATURE OF THE CASE

Canadian Charter - Civil - Civil Rights - Labour Law - Employment Law - Whether termination of employment constituted discrimination for the purpose of the Charter - Whether termination was discrimination on the ground of disability - Whether employment relationship immune to Charter scrutiny - Whether termination infringed Charter - Whether adjudicator erred in rejecting allegation of bad faith - Whether adjudicator provided adequate reasons - Whether

adjudicator erred in not admitting evidence or in favouring affidavit evidence - Whether there was reasonable apprehension of bias or procedural unfairness.

PROCEDURAL HISTORY

November 15, 1999 Federal Court, Trial Division (Cullen J.)	Application to quash adjudicator's decision on grievance dismissed
December 1, 2000 Federal Court of Appeal (Linden, Evans and Sharlow JJ.A.)	Appeal dismissed
January 22, 2001 Supreme Court of Canada	Application for leave to appeal filed

28272 **THE CORPORATION OF THE CITY OF WINDSOR - v. - CANADIAN PACIFIC RAILWAY COMPANY, SHERGAR DEVELOPMENTS INC. AND CANADIAN TRANSPORTATION AGENCY** (FC) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for an extension of time is granted and the application for leave to appeal is dismissed with costs to the respondents Canadian Pacific Railway Company and Shergar Developments Inc.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens en faveur de la Compagnie de chemin de fer du Canadien Pacifique et Shergar Developments Inc.

NATURE OF THE CASE

Constitutional law - Division of powers - Railways - Canadian Transportation Agency (CTA) jurisdiction - Authority of CTA to enforce orders against railway company respecting maintenance of bridges previously used in connection with railway line after company has validly abandoned the railway line.

PROCEDURAL HISTORY

Canadian Transportation Agency November 23, 1998 (Mary-Jane Bennett and Michael Sutton, Members)	Agency found to be without regulatory jurisdiction on abandonment of rail line; previous orders found to be without further effect; Agency without jurisdiction to make restoration order requested
September 26, 2000 Federal Court of Appeal (Linden, Sexton and Evans JJ.A.)	Applicant's appeal to overturn Canadian Transportation Agency's decision dismissed; held to be exclusively with in provincial jurisdiction
January 9, 2001 Supreme Court of Canada	Application for leave to appeal filed

28538 **MARY MAURICI - v. - ANTONIO MAURICI** (Ont.) (Civil)

CORAM: Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed without costs.

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

NATURE OF THE CASE

Family law - Divorce - Division of property - Maintenance - Spousal support - Equalization payment - Whether spousal support lump sum awarded to Applicant should be varied - Whether equalization of non-family assets should be varied.

PROCEDURAL HISTORY

June 12, 2000
Superior Court of Justice
(O'Connell J.)

Applicant's application for an equalization of family assets dismissed; lump sum payment of \$50,000 awarded for spousal support

January 19, 2001
Court of Appeal for Ontario
(Finlayson, Borins and Feldman JJ.A.)

Appeal dismissed; cross-appeal from spousal support order dismissed

March 14, 2001
Supreme Court of Canada

Application for leave to appeal filed

12.6.2001

Before / Devant: L'HEUREUX-DUBÉ J.

Miscellaneous motion**Autre requête**

David Lloyd Neil

v. (28282)

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

GRANTED / ACCORDÉE

UPON APPLICATION by the applicant David Lloyd Neil for an order pursuant to Section 694.1 of the Criminal Code, appointing Mr. Nathan Whitling as counsel and for an order extending the time to serve and file a notice of appeal as of right to five (5) business days from the date of the Court's Order and for an order abridging the time to serve and file the applicant's factum, record and book of authorities to a date thirty (30) days from the date of the Court's order;

AND HAVING READ the material filed ;**IT IS HEREBY ORDERED THAT:**

1. Mr. Nathan Whitling of Parlee McLaws, Barristers and Solicitors, be assigned to act as counsel on behalf of the applicant with regard to all proceedings to be taken in this Court; and
2. That the fees and disbursements of the applicant shall be paid by the respondent, the Attorney General of Alberta, according to the legal aid tariff in Alberta;
3. The applicant shall serve and file his Notice of Appeal on or before June 20, 2001;
4. The applicant shall serve and file his factum, record and book of authorities on or before July 27, 2001.

13.6.2001

Before / Devant: L'HEUREUX-DUBÉ J.

Further order on motions for leave to intervene**Autre ordonnance sur des requêtes en autorisation d'intervention**

BY/PAR: Attorney General for Ontario
British Columbia Civil Liberties
Association
Canadian Newspaper Association

IN/DANS: The Vancouver Sun

v. (28190)

Her Majesty the Queen, et al.
(Crim.)(B.C.)

GRANTED / ACCORDÉES

UPON APPLICATION by the Attorney General of Ontario, the British Columbia Civil Liberties Association and the Canadian Newspaper Association;

AND FURTHER to the Orders dated April 2, 2001 and April 17, 2001, granting the applicants leave to intervene in the above appeal;

AND FURTHER to the request in the above applications to present oral argument;

IT IS HEREBY ORDERED THAT the said interveners are granted permission to present oral argument at the hearing of the appeal not to exceed the time allowed respectively to each of them as follows:

- | | |
|--|------------|
| - British Columbia Civil Liberties Association | 15 minutes |
| - Attorney General of Ontario | 10 minutes |
| - Canadian Newspaper Association | 10 minutes |
-

14.6.2001

Before / Devant: THE REGISTRAR

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

**Requête en prorogation du délai imparti pour
signifier et déposer une réponse à la demande en
autorisation**

Ville de Kirkland

c. (28491)

Les Immeubles Yale Ltée, et al. (Qué.)

et

Communauté Urbaine de Montréal

c. (28531)

Les Immeubles Yale Ltée, et al. (Qué.)

GRANTED / ACCORDÉE Délai prorogé au 29 mai 2001.

14.6.2001

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the book of authorities of the respondent The Town of Oliver

Requête en prorogation du délai imparti pour signifier et déposer le recueil de jurisprudence et de doctrine de l'intimé la ville d'Oliver

Osoyoos Indian Band

v. (27408)

The Town of Oliver, et al. (B.C.)

GRANTED / ACCORDÉE Time extended to May 30, 2001.

15.6.2001

Before / Devant: THE REGISTRAR

Taxation of costs

Taxation des dépens

Louis Metzner

v. (28208)

Martha Metzner (B.C.)

On December 14, 2000, the Supreme Court of Canada dismissed the application for leave to appeal in the above-mentioned case with costs on a solicitor-client basis. The respondent, a self represented lay litigant, filed her bill of costs and the applicant filed his objections, taking issue with the lack of evidence for the actual time spent by the respondent in preparing her response to the application for leave, and with the rate she claimed of \$150 per hour. The applicant did not dispute the other items included in the bill of costs. The respondent remedied the lack of evidence by filing an affidavit as to the amount of time spent for her preparation (30 hours) and filed a revised bill of costs. The applicant did not question the affidavit.

The only outstanding issue is the appropriate rate to be applied for the time spent by the self represented lay respondent in the preparation of her response to the application for leave. Both parties referred to *City Club Development (Middlegate) Corp. v. Cutts* (1996), 26 B.C.L.R. (3d) 39 where Registrar Doolan reviewed the criteria applicable to the determination of special costs in favour of a self represented lay litigant. At paragraph 22, he concluded that the “reasonably competent solicitor approach [referred to in *Bradshaw Construction Ltd. v. Bank of Nova Scotia* (1991), 54 B.C.L.R. (2d) 309 (S.C.)] was unworkable when assessing special costs awarded to a lay litigant”, and that the only reasonable approach was “to make the award on a quantum meruit basis”.

In *Fong v. Chang* (1999), 46 O.R. (3d) 330, Sharpe J.A. examined the recovery of costs by self represented lawyers, and reviewed also the situation of self represented lay litigants. He concluded at paragraph 26 that “As the early Chancery rule recognized, a self represented lay litigant should receive only a “moderate” or “reasonable” allowance for the loss of time devoted to preparing and presenting the case”.

In view of the above-mentioned criteria and the fact that I agree with Registrar Doolan’s analysis that the award should be made on a quantum meruit basis, the particular circumstances of the case must be taken into account. It is relevant that the application for leave raised the novel issue of remanded cases, that the amounts at stake were substantial and that the

litigation extended over a long period of time. Given these circumstances, I conclude that on a quantum meruit basis the hourly rate should be established at \$100 an hour.

The bill of costs is therefore taxed accordingly.

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

18.6.2001

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

Her Majesty the Queen

v. (27738)

Clayton George Mentuck (Man.)(Crim.)(By Leave)

Heather Leonoff, Q.C. and Darrin R. Davis for the appellant.

Timothy J. Killeen and Wendy A. Stewart for the respondent.

Cheryl J. Tobias and Malcolm G. Palmer for the intervener Attorney General of Canada.

Christopher Webb for the intervener Attorney General for Ontario (written submission only).

John M. Gordon for the intervener Attorney General of British Columbia.

Jonathan B. Kroft and Brent C. Ross for the interveners Winnipeg Free Press, et al.

Paul B. Schabas and Tony S. K. Wong for the intervener Canadian Newspaper Association.

RESERVED /EN DÉLIBÉRÉ

Nature of the case:

Criminal - Criminal law - Publication bans - Statutes - Interpretation - Jurisdiction - Limited publication ban granted with respect to information identifying undercover police officers - Publication ban denied with respect to police operational methods - Whether this Court has jurisdiction under *Supreme Court Act* s. 40(1) - Whether the trial judge erred in refusing to grant the publication ban and in concluding that the public interest in effective law enforcement was not a factor to be considered in determining whether to grant the ban - Whether the trial judge erred in failing to give proper effect to his findings that the security and well being of the police officers involved in this investigation would be subjected to *bona fide* risk if they were identified.

Nature de la cause:

Criminel - Droit criminel - Ordonnances de non-publication - Lois - Interprétation - Compétence - Une ordonnance de non-publication limitée a été délivrée relativement à des renseignements permettant d'identifier des policiers banalisés - L'ordonnance de non-publication a été refusée relativement aux méthodes opérationnelles utilisées par les policiers - Cette Cour peut-elle être saisie de la question en vertu du par. 40(1) de la *Loi sur la Cour suprême*? - Le juge du procès a-t-il commis une erreur en refusant d'accorder l'ordonnance de non-publication et en statuant que l'intérêt qu'a le public dans l'application efficace de la loi ne constitue pas un facteur dont il faut tenir compte pour déterminer s'il y a lieu d'accorder l'ordonnance de non-publication? - Le juge du procès a-t-il commis une erreur en omettant de prévoir les mesures nécessaires à la mise en oeuvre de sa conclusion selon laquelle la enquête seraient véritablement menacés si l'identité des policiers était révélée?

18.6.2001

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

The Vancouver Sun

v. (28190)

**Her Majesty the Queen, et al. (B.C.)(Crim.)(By
Leave)**

Robert S. Anderson and Ludmila B. Herbst for the
appellant.

John M. Gordon for the respondent Her Majesty the
Queen.

Phillip C. Rankin for the respondent (supporting the
appellant) O.N.E.

Cheryl J. Tobias and Malcolm G. Palmer for the
respondent Attorney General of Canada.

Paul B. Schabas and Tony S. K. Wong for the intervener
Canadian Newspaper Association.

Paul S. McMurray and Jason B. Gratl for the intervener
B.C. Civil Liberties Association.

Christopher Webb for the intervener Attorney General
for Ontario.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal law - Publication ban - Trial judge prohibiting
publication of information regarding undercover police
operation - Whether trial judge erred in failing to apply
the test set out in *CBC v. Dagenais* when he upheld the
publication ban - Whether trial judge erred in failing to
appreciate the superordinate importance of the public
interest - Access to judgments of the courts.

Nature de la cause:

Droit criminel - Ordonnance de non publication - Le
juge de procès a interdit la publication de
renseignements relatifs à une opération policière secrète
- Le juge du procès a-t-il erré en n'appliquant pas le
critère établi dans l'arrêt *SRC c. Dagenais* quand il a
confirmé l'interdiction de publication? - Le juge du
procès a-t-il erré en ne faisant aucun cas de l'importance
primordiale de l'intérêt public? - Accès aux jugements
des tribunaux.

19.6.2001

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

Sa Majesté la Reine du chef de la Province du Nouveau-Brunswick représentée par le Bureau du Conseil exécutif, et al.

c. (28206)

Le juge Jocelyne Moreau-Bérubé (N.B.) (Civile) (Autorisation)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Administrative law - Judicial review - Natural justice - Judicial ethics - Removal proceedings - Judicial Council - Interpretation - Section 6.11(4) of the *Provincial Court Act*, R.S.N.B. 1973, c. P-21 - Whether Court of Appeal erred in law in finding that Judicial Council exceeded its jurisdiction by failing to observe *audi alteram partem* rule - Whether Court of Appeal erred in law in finding Judicial Council bound by findings of its panel - Whether Court of Appeal erred in law by getting involved in discussion of whether findings of fact made by Judicial Council constitute adequate factual basis for justifying recommendation to remove Respondent from office and in substituting its decision for decision of Judicial Council, thereby disregarding jurisdiction of Judicial Council.

J. C. Marc Richard et Chantal A. Thibodeau pour l'appelant Conseil de la magistrature.

Cedric L. Haines pour l'appelante la Province du Nouveau-Brunswick.

Anne E. Bertrand, Paul Bertrand et Michael Phelan pour l'intimée.

Nature de la cause:

Droit administratif - Contrôle judiciaire - Justice naturelle - Déontologie judiciaire - Procédure de destitution - Conseil de la magistrature - Interprétation - Article 6.11(4) de la *Loi sur la Cour provinciale*, L.R.N.-B. 1973, c. P-21 - La Cour d'appel a-t-elle erré en droit en concluant que le Conseil de la magistrature a outrepassé sa compétence en ne respectant pas la règle *audi alteram partem* - La Cour d'appel a-t-elle erré en droit en concluant que le Conseil de la magistrature était lié par les conclusions de son comité d'enquête - La Cour d'appel a-t-elle erré en droit en s'immisçant dans le débat de la question à savoir si les conclusions de fait tirées par le Conseil de la magistrature constituent un fondement factuel suffisant pour justifier la recommandation en faveur de la destitution de l'intimée et en substituant sa décision à celle du Conseil de la magistrature, faisant alors fi de la compétence du Conseil de la magistrature en cette matière?

19.6.2001

CORAM: Chief Justice McLachlin, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Sagaz Industries Canada Inc., et al.

v. (27820)

671122 Ontario Limited formerly Design Dynamics Limited (Ont.) (Civil) (By Leave)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

H. Lorne Morphy, Q.C., John B. Laskin and M. Paul Mitchell for the appellants.

Martin Teplinsky, Q.C. and James M. Wortzman for the respondent.

Torts - Master and servant - Vicarious liability - Procedural law - Trial - Evidence - Re-opening of trial

to admit fresh evidence - What is the proper test for determining whether, outside of traditional “master and servant” or “employment” relationships, a relationship exists that gives rise to vicarious liability for intentional torts? - May vicarious liability be imposed absent control? - What is the proper test for re-opening a civil trial to admit fresh evidence? - Should the trial judge reopen a trial after judgment but before formal judgment has been entered without assessing the credibility of the fresh evidence, and based only on the determination that the evidence, if believed, might probably change the result? - Whether the reasonable diligence requirement met.

Nature de la cause:

Responsabilité délictuelle - Employeur et employé - Responsabilité du fait d'autrui - Droit procédural - Procès - Preuve - Réouverture de procès pour l'admission d'une nouvelle preuve - Quel est le critère approprié pour déterminer s'il existe, à l'extérieur du cadre d'une relation traditionnelle « employeur-employé » ou d'une relation « de travail », un lien qui donne ouverture à la responsabilité du fait d'autrui pour délit intentionnel? - La responsabilité du fait d'autrui peut-elle être imposée en l'absence de contrôle? - Quel est le critère approprié pour procéder à la réouverture d'un procès civil pour l'admission d'une nouvelle preuve? - Le juge de première instance devrait-il rouvrir un procès après que le jugement soit rendu, mais avant que le jugement formel ne soit consigné et sans évaluer la crédibilité d'une nouvelle preuve, et en se fondant uniquement sur la décision que la preuve, si elle était acceptée, pourrait probablement changer l'issue du procès? - Le critère de la diligence raisonnable a-t-il été satisfait?

20.6.2001

CORAM: Chief Justice McLachlin, Gonthier, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Mary Francis Cooper

v. (27880)

Robert J. Hobart, et al. (B.C.) (Civil) (By Leave)

David P. Church, Andrew J. Pearson and Ian G. Schildt for the appellant.

D. Clifton Prowse, Karen Horsman and Keith L. Johnston for the respondents.

Donald J. Rennie for the intervener Attorney General of Canada.

Sara Blake for the intervener Attorney General for Ontario.

Cedric L. Haines, Q.C. for the intervener Attorney General of New Brunswick (written submission only).

Tim Hurlburt for the interveners Her Majesty the Queen in Right of Alberta, et al.

James A. Sasha Angus and Lorne Herlin for the intervener British Columbia Securities Commission.

Neil Finkelstein and Johanna M. Superina for the interveners Ontario Securities Commission, et al.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Torts - Negligence - Duty of care - Procedural law - Actions - Class proceedings - Appellant and others losing money in respect of investments made through mortgage broker licensed under *Mortgage Brokers Act*, R.S.B.C. 1996, c. 313 - Whether it is possible for a statutory regulator, such as the Registrar, to owe a duty of care in carrying out their functions such that a failure to do so might give rise to a cause of action by those who suffer reasonably foreseeable damage.

Nature de la cause:

Délits civils - Négligence - Obligation de diligence - Droit procédural - Actions - Recours collectifs - L'appelante et d'autres personnes ont essuyé des pertes financières par suite d'investissements effectués par l'entremise d'un courtier en hypothèques agréé en vertu de la *Mortgage Brokers Act*, R.S.B.C. 1996, ch. 313 - Une autorité de réglementation, comme le registraire, peut-elle avoir une obligation de diligence dans l'exécution de ses fonctions, de telle sorte qu'un manquement à cette obligation puisse faire naître une cause d'action au bénéfice d'une personne ayant subi un préjudice raisonnablement prévisible?

20.6.2001

CORAM: Chief Justice McLachlin, Gonthier, Major, Bastarache, Binnie, Arbour and LeBel JJ.

John Edwards, et al.

v. (28108)

The Law Society of Upper Canada (Ont.) (Civil) (By Leave)

David E. Wires, Karen E. Jolley and Lisa D. La Horey for the appellants.

W. Ross Murray, Q.C. and M. Christine Fotopoulos for the respondent.

Sara Blake for the intervener Attorney General for Ontario.

Neil Finkelstein and Johanna M. Superina for the intervener Ontario Securities Commission.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Torts - Negligence - Whether the Law Society owes a duty of care to persons who deposit monies into a lawyer's trust account where the Law Society has actual knowledge of a serious allegation of misuse of that lawyer's trust account made by another member of the Law Society - Whether such determination can be made at the pleadings stage, without the benefit of a trial record from which to consider the policy elements favouring or negating a duty.

Nature de la cause:

Responsabilité civile - Négligence - Le Barreau est-il assujéti à une obligation de diligence à l'égard des personnes dont les fonds ont été déposés dans le compte en fiducie d'un avocat, lorsque le Barreau savait dans les faits qu'un autre membre du Barreau avait déposé de graves allégations d'usage abusif concernant le compte en fiducie de cet avocat? - Une telle conclusion peut-elle être tirée à l'étape des actes de procédure, en l'absence du dossier de première instance à partir duquel il aurait été possible d'examiner les principes militant en faveur ou à l'encontre de cette obligation?

21.6.2001

CORAM: Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Her Majesty the Queen

v. (27439)

Colin Sheppard (Nfld.) (Criminal) (By Leave)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal Law - Procedural Law - Obligation to provide reasons for conviction - Whether there is a requirement for a trial judge to give reasons for acquitting or convicting, and if so to what extent, and when will the absence of reasons result in a conviction or acquittal being set aside.

Harold J. Porter for the appellant.

Richard S. Rogers for the respondent.

Nature de la cause:

Droit criminel - Droit procédural - Obligation de motiver la déclaration de culpabilité - Le juge du procès est-il tenu de préciser les motifs pour lesquels il acquitte l'accusé ou le reconnaît coupable? - Dans l'affirmative, dans quelle mesure et dans quelles circonstances l'absence de motifs justifie-t-elle l'annulation de la déclaration de culpabilité ou de l'acquittement?

21.6.2001

CORAM: Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour and LeBel JJ.

Her Majesty the Queen

v. (27843)

Ajmer Braich, et al. (B.C.) (Criminal) (As of Right)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Criminal law - Evidence - Identification evidence - Whether there is a requirement that a trial judge demonstrate in his or her reasons for judgment that all of the evidence which might have affected the credibility and reliability of the Crown witnesses, was sufficiently and properly considered, appreciated and weighed.

W.J. Scott Bell for the appellant.

Richard C.C. Peck, Q.C. and Nikos Harris for the respondent Ajmer Braich.

William B. Smart, Q.C. for the respondent Sukhminder Braich.

Nature de la cause:

Droit criminel - Preuve - Preuve d'identification - Le juge du procès a-t-il l'obligation d'établir dans ses motifs que tous les éléments de preuve qui auraient pu avoir une incidence sur la crédibilité et la fiabilité des témoins du ministère public ont été considérés, évalués et soupesés de manière suffisante et appropriée.

DEADLINES: APPEALS

DÉLAIS: APPELS

The Fall Session of the Supreme Court of Canada will commence October 1, 2001.

La session d'automne de la Cour suprême du Canada commencera le 1^{er} octobre 2001.

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'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les quatre mois du dépôt 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 du mémoire de l'appelant.

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 du mémoire de l'intimé, sauf ordonnance contraire.

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.

Veuillez 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

2000

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

- 2001 -

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	M 15	16	17	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
				1	2	3
4	5	6	7	8	9	10
11	M 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
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4	5	6	7	8	9	10
11	M 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	2	3	4	5	6	7
8	9	10	11	12	H 13	14
15	H 16	M 17	18	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	3	R 4	R 5
R 6	7	8	9	10	11	12
13	M 14	15	16	17	18	19
20	H 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	2
3	4	5	6	7	8	9
10	M 11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

M
H

18 sitting weeks / semaines séances de la cour

78 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

3 holidays during sitting days / jours fériés durant les sessions