

**SUPREME COURT  
OF CANADA**



**COUR SUPRÊME  
DU CANADA**

**BULLETIN OF  
PROCEEDINGS**

**BULLETIN DES  
PROCÉDURES**

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

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

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

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

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

*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.*

**CONTENTS****TABLE DES MATIÈRES**

---

|  |             |   |
|--|-------------|---|
| Applications for leave to appeal filed                     | 1082 - 1084 | Demandes d'autorisation d'appel déposées                |
| Applications for leave submitted to Court since last issue | 1085 - 1094 | Demandes soumises à la Cour depuis la dernière parution |
| Oral hearing ordered                                       | -           | Audience ordonnée                                       |
| Oral hearing on applications for leave                     | 1095        | Audience sur les demandes d'autorisation                |
| Judgments on applications for leave                        | 1096 - 1114 | Jugements rendus sur les demandes d'autorisation        |
| Judgment on motion   | -           | Jugement sur requête                                    |
| Motions  | 1115 - 1118 | Requêtes  |
| Notices of appeal filed since last issue                   | 1119        | Avis d'appel déposés depuis la dernière parution        |
| Notices of intervention filed since last issue             | -           | Avis d'intervention déposés depuis la dernière parution |
| Notices of discontinuance filed since last issue           | -           | Avis de désistement déposés depuis la dernière parution |
| Appeals heard since last issue and disposition             | 1120 - 1123 | Appels entendus depuis la dernière parution et résultat |
| Pronouncements of appeals reserved                         | -           | Jugements rendus sur les appels en délibéré             |
| Rehearing  | 1124        | Nouvelle audition                                       |
| Headnotes of recent judgments                              | -           | Sommaires des arrêts récents                            |
| Agenda   | -           | Calendrier  |
| Summaries of the cases                                     | -           | Résumés des affaires                                    |
| Appeals inscribed - Session beginning                      | -           | Appels inscrits - Session commençant le                 |
| Notices to the Profession and Press Release                | -           | Avis aux avocats et communiqué de presse                |
| Deadlines: Motions before the Court                        | -           | Délais: Requêtes devant la Cour                         |
| Deadlines: Appeals   | 1125        | Délais: Appels  |
| Judgments reported in S.C.R.                               | -           | Jugements publiés au R.C.S.                             |

**APPLICATIONS FOR LEAVE TO  
APPEAL FILED**

**Schneider National Carriers Limited and Michael  
Magoon**

Scott Norton  
McInnes Cooper

v. (28626)

**Robert Lloyd Fowler, et al. (N.S.)**

W. Dale Dunlop  
Walker Dunlop

FILING DATE 31.5.2001

---

**Regent Millette**

Regent Millette

c. (28627)

**Revenu du Canada (C.F.)**

Claude Bernard  
A.G. of Canada

DATE DE PRODUCTION 1.6.2001

---

**Lilydale Co-operative Limited**

Ronald R. Nelson  
Brownlee Fryett

v. (28633)

**FFM Holdings Ltd., et al. (Alta.)**

Terry L. Czechowskyj  
Miles Davison McCarthy

FILING DATE 4.6.2001

---

**2774880 Manitoba Ltd.**

Richard W. Schwartz  
Scurfield Tapper Cuddy

v. (28631)

**Superior Management Ltd., et al. (Man.)**

J. Michael J. Dow  
Fillmore Riley

FILING DATE 4.6.2001

---

**Jerry Van Unen**

Craig Paterson

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

Paterson & Associates

v. (28630)

**Workers' Compensation Board (B.C.)**

Dana Neilson  
Workers' Compensation Board of British  
Columbia

FILING DATE 5.6.2001

---

**Law Society of New Brunswick**

J.C. Marc Richard  
Barry Spalding Richard

v. (28639)

**Michael A.A. Ryan (N.B.)**

Ray W. Dixon, Q.C.  
Allen Dixon Smith Townsend

FILING DATE 4.6.2001

---

**Her Majesty the Queen**

Goran Tomljanovic  
A.G. of Alberta

v. (28638)

**Michael Donald Dahl (Alta.)**

Alexander D. Pringle, Q.C.  
Pringle & Associates

FILING DATE 6.6.2001

---

**Settimio Provenzano**

Settimio Provenzano

v. (28636)

**Salvator Borraccia, et al. (Ont.)**

Ian S. Epstein  
Blaney, McMurtry, Stapells, Friedman

FILING DATE 7.6.2001

---

**Nelson Duncan McLennan and Sylvia Jean  
Longley as Executors and Trustees under the last  
Will and Testament of John F. McLennan,  
deceased**

---

Frank E. Walwyn  
Weir Foulds

v. (28637)

**The TDL Group Ltd., et al. (Ont.)**

Maureen L. Whelton  
Teplitsky, Colson

FILING DATE 7.6.2001

---

**Petro-Canada**

Richard R.E. DeFilippi  
Alexander Holburn Beaudin & Lang

v. (28608)

**The Corporation of the District of North  
Vancouver (B.C.)**

Grant Anderson  
Lidstone, Young, Anderson

FILING DATE 8.6.2001

---

**Dubord Construction Inc. et Raoul Dubord**

Alain-Claude Desforges  
Bélanger Sauvé

c. (28641)

**Société de Fiducie de la Banque Hong-Kong  
(Qué.)**

André Rivest  
Gowling, Lafleur, Henderson

DATE DE PRODUCTION 11.6.2001

---

**Ernest Lionel Joseph Blais**

Lionel Chartrand  
Aboriginal Centre Law Office

v. (28645)

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

Holly D. Penner  
A.G. of Manitoba

FILING DATE 7.6.2001

---

**Canadian Union of Postal Workers**

Stan Guenther  
Rush Crane Guenther

v. (28642)

**Canada Post Corporation (B.C.)**

Thora Sigurdson  
Fasken Martineau DuMoulin

FILING DATE 8.6.2001

---

**Constance St-Hilaire**

Suzy-Guyline Gagnon  
Rochon, Belzile, Carrier, Auger & Associés

c. (28643)

**Le procureur général du Canada, et al. (C.F.)**

René LeBlanc  
Procureur général du Canada

DATE DE PRODUCTION 8.6.2001

---

**Tri-M Systems Inc.**

Ron A. Skolrood  
Lawson Lundell Lawson & McIntosh

v. (28646)

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

Nils Bo Jensen  
A.G. of British Columbia

FILING DATE 8.6.2001

---

**J.S. McMillan Fisheries Ltd.**

Murray L. Smith  
Campney & Murphy

v. (28648)

**The owners and all others interested in the Ship  
“Qualicum Producer”, et al. (B.C.)**

Nils E. Daugulis  
Bull Housser & Tupper

FILING DATE 8.6.2001

---

**The Minister of Citizenship and Immigration**

Urszula Kaczmarczyk  
A.G. of Canada

v. (28647)

**Hoang Van Chu (F.C.)**

Darryl Larson  
Larson Boulton Sohn Stockholder

FILING DATE 11.6.2001

---

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

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

---

**JUNE 11, 2001 / LE 11 JUIN 2001**

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

**James Sapara**

**v. (28583)**

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

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal law - Trial within a reasonable time - Whether delays caused by a co-accused's failure to properly instruct and retain counsel are neutral delays

**PROCEDURAL HISTORY**

|  |   |
|--|---|
| April 10, 2000<br>Court of Queen's Bench of Alberta<br>(Clackson J.)                   | Application pursuant to s.11(b) of the <i>Charter</i> for stay of proceedings granted |
| March 5, 2001<br>Court of Appeal of Alberta<br>(Russell, Sulatycky and Costigan JJ.A.) | Appeal allowed; judicial stay set aside   |
| May 4, 2001<br>Supreme Court of Canada   | Application for leave to appeal filed   |

---

**John Susin**

**v. (28401)**

**Ronald G. Chapman, Joan Mary Johnston, the Executor of the Estate of Johnston, Deceased, and Avrich  
(Ont.)**

**NATURE OF THE CASE**

Procedural law - Rules of Civil Procedure - Security for costs - Court of Appeal affirmed orders granting motions to dismiss action and dismissing motion to reduce security for costs to zero - Plaintiff found not to be impecunious - Claim found to have no merit - Whether judicial discretion exercised properly in awarding security for costs and dismissing action under *Rules of Civil Procedure*.

**PROCEDURAL HISTORY**

|  |  |
|--|--|
| August 18, 1994<br>Ontario Court (General Division)<br>(Zelinski J.) | Order requiring Applicant to pay \$10,000 interim security for costs |
| September 9, 1994  | Ontario Court (General Division)                                     |

|   |  |
|---|--|
| (Matlow J.)   | Applicant's motion to set aside order of Zelinski J. dismissed   |
| December 8, 1994<br>Ontario Court (General Division)<br>(O'Brien J.)                    | Applicant's motion for leave to appeal order of Matlow J. dismissed  |
| January 25, 1995<br>Ontario Court (General Division)<br>(Hoilett J.)                    | Applicant's motion to set aside orders of Zelinski J., Matlow J. and O'Brien J. dismissed  |
| June 18, 1995<br>Ontario Court of Appeal<br>(Brooke J.A.)                               | Applicant's motion to extend time to appeal seven order of Ontario Court (General Division) dismissed                                  |
| June 21, 1995<br>Ontario Court of Appeal<br>(Catzman, Carthy and Laskin JJ.A.)          | Applicant's appeal of Hoilett J's order quashed  |
| May 6, 1997<br>Ontario Court (General Division)<br>(Dunn J.)                            | Order extending time for Applicant to pay security for costs, failing which action would be dismissed without notice                   |
| June 18, 1998<br>Ontario Court of Appeal<br>McKinlay, Rosenberg and Gouge JJ.A.)        | Applicant's appeal of Dunn J's order dismissed. Held: order was interlocutory; leave should have been sought from the Divisional Court |
| December 20, 1999<br>Superior Court of Justice<br>(O'Connor J.)                         | Applicant's motion to reduce order for security for costs to zero dismissed; Respondents' motion to dismiss action granted             |
| December 7, 2000<br>Court of Appeal for Ontario<br>(Abella, Laskin and Rosenberg JJ.A.) | Motion for leave to file fresh evidence dismissed; Appeal dismissed, affirming order of O'Connor J.                                    |
| February 2, 2001<br>Supreme Court of Canada   | Application for leave to appeal filed  |

---

**David Albert Siemens, Eloisa Ester Siemens and Sie-Cor Properties Inc. o/a The Winkler Inn**

**v. (28416)**

**The Attorney General of Manitoba and The Government of Manitoba (Man.)**

**NATURE OF THE CASE**

Canadian Charter - Constitutional law - Division of powers - Statutes - Interpretation - Whether *Gaming Control Local Option (VLT) Act* within jurisdiction of Legislature pursuant to s. 92 of the *Constitution Act, 1867* - Whether *Act* violates ss. 2(b), 7 or 15 of the *Charter*

**PROCEDURAL HISTORY**

---

September 8, 2000  
Court of Queen's Bench of Manitoba  
(Hamilton J.)

Applicants' challenge to constitutionality of *The Gaming Control Local Option (VLT) Act* rejected

December 13, 2000  
Court of Appeal of Manitoba  
(Twaddle, Kroft and Steel JJ.A.)

Appeal dismissed

February 8, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

**Visual Education Centre Limited and Active Intermedia, Inc.**

**v. (28484)**

**Stuart Grant, Randi Grant and Steven Sweigman (Ont.)**

**NATURE OF THE CASE**

Commercial Law - Contracts - Interpretation - Arbitration Clauses - Whether parties have an inherent right to have disputes determined by a court of competent jurisdiction rather than by arbitration in the absence of a specific and unequivocal agreement to refer the particular dispute to arbitration - Whether courts should broadly interpret and expand the scope of arbitration clauses with the result that parties are forced to arbitrate issues which were not contemplated nor contracted to be resolved by way of arbitration - Whether Court of Appeal's decision runs contrary to the existing authority and established practice.

**PROCEDURAL HISTORY**

April 13, 2000  
Superior Court of Justice  
(Whitten J.)

Application for the appointment of an arbitrator granted

January 24, 2001  
Court of Appeal for Ontario  
(Morden, Moldaver and MacPherson JJ.A.)

Appeal dismissed

March 23, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---



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

**Canadian Broadcasting Corporation**

**v. (28246)**

**Wilbert Colin Thatcher and The Attorney General of Saskatchewan (Sask.)**

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Broadcasting - Application by electronic media to access and broadcast proceedings denied - Whether denial of electronic access to court proceedings constitutes infringement of media's s. 2(b) *Charter* rights.

**PROCEDURAL HISTORY**

|  |                                       |
|--|---------------------------------------|
| October 11, 2000<br>Court of Queen's Bench for Saskatchewan<br>(Wimmer J.) | Application dismissed                 |
| November 16, 2000<br>Supreme Court of Canada                               | Application for leave to appeal filed |
| May 25, 2001<br>Supreme Court of Canada                                    | Motion to add parties                 |

---

**Claudette Sicotte**

**c. (28279)**

**Zurich du Canada Compagnie d'assurance-vie (Qué.)**

**NATURE DE LA CAUSE**

Code civil - Droit commercial - Assurance - Interprétation - déclarations mensongères - fraude - Quelle est la nature du fardeau de preuve de la fraude en vertu de l'article 2515 C.c.B.-C.? - Le juge de première instance a-t-il erré en droit en concluant que les déclarations de l'assuré étaient frauduleuses?

**HISTORIQUE PROCÉDURAL**

|  |   |
|--|---|
| Le 9 janvier 1995<br>Cour supérieure du Québec<br>(Flynn, j.c.s.)                    | Réclamation pour le paiement du produit d'une assurance-vie rejetée |
| Le 4 octobre 2000<br>Cour d'appel du Québec<br>(Dussault, Robert et Forget, jj.c.a.) | Appel rejeté  |
| Le 1er décembre 2000<br>Cour suprême du Canada                                       | Demande d'autorisation d'appel déposée                              |

---

**Camillo Fresco**

**v. (28164)**

**The City of Montreal (Que.)**

**NATURE OF THE CASE**

Municipal Law – Subordinate legislation – Zoning by-laws – Licencing of bars – Application for a permit to operate a bar with erotic performances – Alleged acquired rights – Commercial activities interrupted after revocation of liquor permit by the provincial licensing board – Whether the requirement of “high level of diligence” applies – Whether the municipal zoning by-laws conform to the enabling legislation – *Charter of the City of Montreal*, S.Q. 1959/1960, c. 102, s. 524 (as amended) – *Règlement d’urbanisme de la Ville de Montréal*, 94-077, s. 665.

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| April 19, 1996<br>Superior Court of Québec<br>(Tremblay J.)   | Application for a writ of mandamus ordering the City to issue a permit dismissed |
| July 4, 2000<br>Court of Appeal of Québec<br>(Gendreau, Nuss [ <i>dissenting</i> ] and Denis [ <i>ad hoc</i> ] JJ.A.) | Appeal dismissed   |
| September 27, 2000<br>Supreme Court of Canada   | Application for leave to appeal filed  |

---

**ADI Limited**

**v. (28404)**

**052987 N.B. Inc., Ronald Robinson, Heather Robinson and Hitchman Surveys (1987) Ltd. (N.B.)**

**NATURE OF THE CASE**

Commercial law - Company law - Remedies - Procedural law - Appeal - Evidence - Whether the Court of Appeal erred in failing to impose liability on the Respondents pursuant to sections 166(2)(c) and 166(3)(j) of the *Business Corporations Act* S.N.B. 1981, c.B-9.1 - Whether the Court of Appeal erred in law by interfering with the conclusions of the trial judge that involved a negative finding of credibility against a Respondent.

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| February 25, 2000<br>Court of Queen's Bench of New Brunswick<br>(Garnett J.)                    | Order: Respondents held jointly and severally liable to the Applicant                      |
| December 8, 2000<br>Court of Appeal of New Brunswick<br>(Turnbull, Drapeau and Robertson JJ.A.) | Order: Respondents' appeal allowed; decision of trial judge set aside and action dismissed |
| February 5, 2001  | Supreme Court of Canada  |

---

Application for leave to appeal filed

---

**Constance Clara Fogal and The Defense of Canadian Liberty Committee/Le Comité de la Liberté Canadienne**

**v. (28579)**

**Attorney General of Canada, Attorney General of Québec, City of Québec and Ste-Foy and Police Services for the City of Québec (Que.)**

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Freedom of expression - Freedom of assembly - Application for an interlocutory injunction - Whether the learned motions judge erred in deciding that actions of police officers, invoking the residual common law duty to keep the peace, can constitute a limit “prescribed by law” - Whether the learned motions judge erred in applying the test for an interlocutory injunction set out in *RJR - MacDonald Inc. v. Canada (Attorney General)*, [1994] 1 S.C.R. 311?

**PROCEDURAL HISTORY**

April 18, 2001  
Superior Court of Quebec  
(Blanchet j.c.s.)

Motion for interlocutory injunction dismissed

April 20, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

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

**Donna Lawrence**

**v. (28572)**

**Her Majesty the Queen (Crim.)(N.S.)**

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal - Procedural law - Right to counsel - Right to know full extent of legal jeopardy - Courts - Whether test for partiality applicable to cases where it is argued that trial fairness has been compromised by juror bias at the outset of the trial - Whether presiding judge has jurisdiction to declare a mistrial, on the basis of juror bias, once the jury has rendered a guilty verdict but before the judge has given sentence - Whether lost evidence pertinent and crucial - Whether breach of right to counsel at the time of arrest on the basis that the person did not know the full extent of her legal jeopardy is never of “no affect” as claimed by the Court of Appeal.

**PROCEDURAL HISTORY**

July 1, 1999  
Supreme Court of Nova Scotia  
(MacDonald J.)

Applicant convicted by jury of criminal negligence causing death, impaired driving causing death, criminal negligence causing bodily harm, and impaired driving

---

causing bodily harm, respectively contrary to s. 220,  
255(3), 221, and 255(2) of the *Criminal Code*

September 7, 1999  
Supreme Court of Nova Scotia  
(MacDonald J.)

Application for stay of proceedings on grounds of juror  
bias dismissed

February 27, 2001  
Nova Scotia Court of Appeal  
(Flinn, Chipman and Cromwell JJ.A.)

Appeal from conviction dismissed

April 30, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

**Patrick David Campbell Lees**

**v. (28499)**

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

**NATURE OF THE CASE**

Criminal law - Defence - Provocation - Whether the Court of Appeal erred in upholding the ruling of the trial judge that a wrongful act or insult which *could* cause the ordinary person to be deprived of self-control, as opposed to a wrongful act or insult which *would* cause the ordinary person to be deprived of self control, is not sufficient to meet the threshold test for the availability of the provocation defence under s. 232 of the *Criminal Code*.

**PROCEDURAL HISTORY**

June 1, 1999  
Supreme Court of British Columbia  
(Quijano J.)

Conviction: guilty of second degree murder

February 9, 2001  
Court of Appeal for British Columbia  
(Newbury, Braidwood and Hall JJ.A.)

Appeal dismissed

April 5, 2001  
Supreme Court of Canada

Application for leave to appeal filed

May 15, 2001  
Supreme Court of Canada

Motion to extend time granted

---

**934169 Ontario Limited, 673880 Ontario Limited, Gaetano Lucchese and Michael Feldman**

**v. (28409)**

**John Biggerstaff, Lynda Biggerstaff, Michael Bourrie, Christine Bourrie, Gina Brunetta, Luigi Bruno, Maria Bruno, Loris Dotto, Maria Dotto, John Flammia, Mary Flammia, Peter Hoffmeister, Gwendolyn Hoffmeister, Edi Kacin, Angela Kacin, Robert Lewis, Anna Lewis, Anthony Marziano, Silvana Pilioci-Marziano, Alberto**

---

**Massone, Gabriella Massone, Angelo Molognani, Janine Molognani, Jaroslaw Piekos, Lucyna Piekos, Michael Pollard, Kirsty Pollard, Eric Randell, Nathalie Randell, Robert Tym, Brenda Tym, Patrick Walker and Patricia Walker and Robert Brunetta**

**- and -**

**Charles M. Loopstra (Ont.)**

**NATURE OF THE CASE**

Procedural law - Pre-trial procedure - Torts - Negligence - Negligent misrepresentation - Barristers and solicitors - Removal of solicitors of record - Whether litigant entitled to an order removing opposing counsel from the record when it is alleged by that litigant that the opposing counsel's words, actions and conduct on behalf of his clients resulted in a settlement of the dispute between the litigants prior to litigation, which dispute is now the basis for the action - Whether solicitor can be liable to an opposing litigant for negligent representations made during the course of settlement negotiations - Whether solicitor's conduct, quite apart from or, alternatively, taken together with his words can give rise to an implied negligent representation.

**PROCEDURAL HISTORY**

February 9, 2000  
Superior Court of Justice  
(Hoilett J.)

Applicants' third party claim dismissed; Motion for removal of opposing solicitors of record dismissed; Paragraphs 26 to 33 of Amended Statement of Defence struck

December 19, 2000  
Court of Appeal for Ontario  
(Goudge, Borins and Sharpe JJ.A.)

Applicants' appeals dismissed

February 9, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

**The Minister of Labour for Ontario**

**v. (28396)**

**Canadian Union of Public Employees, Service Employees International Union (Ont.)**

**NATURE OF THE CASE**

Administrative Law - Judicial Review - New process adopted to select Chairs of arbitration boards pursuant to *Hospital Labour Disputes Arbitration Act*, R.S.O. 1990, c. H.14 - Minister of Labour appoints retired judges not listed on a roster of interest arbitrators compiled under the *Labour Relations Act*, S.O. 1995, c. 1, Sch. A - Respondents object to appointments - Respondents object to selection process and alleged abandonment of roster - Whether Court of Appeal obscured the distinction between review of ministerial discretion for procedural fairness and review of the purpose of the exercise of a ministerial discretion - Whether Court of Appeal substantially extended law with respect to when institutional independence becomes an issue - Whether Court of Appeal established new prerequisites for institutional independence - Whether appointments are statutorily authorized and cannot be attacked as a violation of procedural fairness - Whether retired judges are more independent than arbitrators - Whether Court of Appeal failed to apply perspective of a reasonable and informed person - Whether Court of Appeal failed to decide what test for bias should apply - Whether Court of Appeal significantly changed law with respect to legitimate expectations - Whether Court of Appeal made a number of errors with respect to undisputed facts - Whether Court of Appeal's prohibition against Minister exercising his discretion amounts to judicial amendment of statute.

**PROCEDURAL HISTORY**

February 17, 1999  
Superior Court of Justice  
(Southey, Philp and Lissaman JJ.)

Application for judicial review dismissed

November 21, 2000  
Court of Appeal for Ontario  
(Labrosse, Doherty and Austin JJ.A.)

Appeal granted; Minister prohibited from making appointments unless criteria met

January 22, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

**Alan H. Coles**

**v. (28264)**

**Canam Enterprises Inc., CB Commercial Real Estate Group Canada Inc., Kevin W. Leon and Peter D. Senst  
(Ont.)**

**NATURE OF THE CASE**

Procedural law - Courts - Issue estoppel - Abuse of process - Mutuality requirement for issue estoppel - Scope of doctrine of abuse of process - Right to seek contribution and indemnity under the *Negligence Act*, R.S.O. 1990, c. N.1 - Definition of privy.

**PROCEDURAL HISTORY**

March 2, 2000  
Superior Court of Justice  
(Nordheimer J.)

National Trust's (Fourth party) and Third parties motion  
for summary judgment dismissing both third and fourth  
party claim granted

December 8, 2000  
Court of Appeal for Ontario  
(Finlayson, Weiler and Goudge [dissenting] JJ.A.)

Appeal against motion for summary judgment dismissing  
third party claim dismissed

February 6, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---



**ORAL HEARING ON APPLICATIONS  
FOR LEAVE**

**AUDIENCE SUR LES DEMANDES  
D'AUTORISATION**

---

**JUNE 11, 2001 / LE 11 JUIN 2001**

CORAM: Gonthier, Major and Binnie JJ.

**John Guy Bradford**

Marie Henein, for the applicant.

**v. (28474)**

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

Laura Hodgson, for the respondent.

**DISMISSED / REJETÉE**

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms*- Criminal law - Complainant's signed statement lost - Applicant alleging breach of right to make full answer and defence under s. 7 of *Charter* - Stay of charges overturned and new trial ordered - Abuse of process - Appropriate remedy for negligent loss of evidence - Did Court of Appeal err in substituting its own findings for those of trial judge?

**PROCEDURAL HISTORY**

March 28, 2000  
Superior Court of Justice  
(Borkovich J.)

Stay: charges of indecent assault and sexual assault

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

Appeal allowed: stay quashed and new trial ordered

March 20, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

---

**JUNE 14, 2001 / LE 14 JUIN 2001**

**28155**            **THE COMMISSIONER OF PATENTS - v. - THE PRESIDENT AND FELLOWS OF HARVARD COLLEGE** (FC) (Civil)

CORAM:            The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

**NATURE OF THE CASE**

Property Law - Patentability of complex life forms - Whether the Federal Court of Appeal erred in law in holding that claims 1 to 12 in the patent application at issue amount to a "composition of matter" within the meaning of the term "invention" as defined in section 2 of the *Patent Act* - Whether the Federal Court of Appeal erred in law in holding that claims 1 to 12 amount to an "invention" under s. 2 of the *Patent Act* - Whether the Federal Court of Appeal erred in law in holding that the Respondent is entitled to a patent for the entire "non-human mammal" described in claims 1 to 12, even though the presence of an oncogene is the only aspect of the animal for which the Respondent is responsible - Whether the Federal Court of Appeal erred in law in holding that the applicable standard of review was not satisfied in this case.

**PROCEDURAL HISTORY**

April 21, 1998  
Federal Court of Canada, Trial Division  
(Nadon J.)

Appeal dismissed from a decision rendered by the Commissioner of Patents refusing to grant a patent

August 3, 2000  
Federal Court of Appeal  
(Linden, Isaac [*dissenting*] and Rothstein JJ.A.)

Decisions of the trial judge and the Commissioner of Patents quashed; matter remitted to the Commission with the direction to grant a patent covering claims 1 to 12 of the patent application

October 2, 2000  
Supreme Court of Canada

Application for leave to appeal filed

---

**28370**            **RUTH A. LASEUR - v. - WORKERS' COMPENSATION BOARD OF NOVA SCOTIA, NOVA SCOTIA WORKERS' COMPENSATION APPEALS TRIBUNAL AND ATTORNEY GENERAL OF NOVA SCOTIA** (N.S.) (Civil)

CORAM:            The Chief Justice, Iacobucci 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 of Rights and Freedoms* - Administrative Tribunals - Authority to apply the *Charter* - Equality Rights - Workers' Compensation - Whether the Worker's Compensation Appeals Tribunal of Nova Scotia has the authority to

refuse on *Charter* grounds to apply benefits provisions of its enabling statute - Whether the chronic pain provisions of the *Worker's Compensation Act*, S.N.S. 1994-95, c.10, and the *Functional Restoration (Multi-Faceted Pain Services) Program Regulations*, N.S. Reg.57/96 infringe the equality rights guaranteed under section 15 (1) of the *Charter*? - Whether the Nova Scotia Court of Appeal erred in upholding the Nova Scotia Workers' Compensation Board's policies which exclude chronic pain as a category of compensable injury?

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| January 31, 2000<br>Nova Scotia Workers' Compensation Appeals Tribunal<br>(L.M. Rodwell Hayes, A. Green and M.R. Margolian) | Appeal allowed in part   |
| November 8, 2000<br>Nova Scotia Court of Appeal<br>(Freeman, Flinn and Cromwell JJ.A.)                                      | Appeal against decision of the Worker's Compensation Appeals Tribunal allowed;<br>Applicant's cross-appeal dismissed |
| January 5, 2001<br>Supreme Court of Canada  | Application for leave to appeal filed  |

---

**28372**      **DONALD MARTIN - v. - WORKERS' COMPENSATION BOARD OF NOVA SCOTIA, NOVA SCOTIA WORKERS' COMPENSATION APPEALS TRIBUNAL AND ATTORNEY GENERAL OF NOVA SCOTIA** (N.S.) (Civil)

CORAM:      The Chief Justice, Iacobucci 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 of Rights and Freedoms* - Administrative Tribunals - Authority to apply the *Charter* - Equality Rights - Workers' Compensation - Whether the Worker's Compensation Appeals Tribunal of Nova Scotia has the authority to refuse on *Charter* grounds to apply benefits provisions of its enabling statute - Whether the chronic pain provisions of the *Worker's Compensation Act*, S.N.S. 1994-95, c.10, and the *Functional Restoration (Multi-Faceted Pain Services) Program Regulations*, N.S. Reg.57/96 infringe the equality rights guaranteed under section 15 (1) of the *Charter*? - Whether the Nova Scotia Court of Appeal erred in upholding the Nova Scotia Workers' Compensation Board's policies which exclude chronic pain as a category of compensable injury?

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| January 31, 2000<br>Nova Scotia Workers' Compensation Appeals Tribunal<br>(A.M Boucher, L.M. Rodwell Hayes and A. Hickey) | Appeal allowed; Applicant entitled to temporary earnings replacement benefits from August 6, 1996 to October 15, 1996 and medical aid up to October 15, 1996 |
| November 8, 2000<br>Nova Scotia Court of Appeal<br>(Freeman, Flinn and Cromwell JJ.A.)                                    | Appeals against decisions of the Workers' Compensation Appeals Tribunal allowed; Applicant's cross-appeal dismissed  |
| January 5, 2001<br>Supreme Court of Canada  | Application for leave to appeal filed  |

---

**28457**            **HER MAJESTY THE QUEEN - v. - MINH KHUAN MAC** (Ont.) (Criminal)

CORAM:            The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

**NATURE OF THE CASE**

Criminal Law - Offences - Forgery - Statutory Interpretation - Whether the Court of Appeal for Ontario erred in law in its interpretation of the word "adapted" contained in s. 369(b) of the *Criminal Code - Criminal Code*, R.S.C. 1985, c. C-46, s. 369(b)

**PROCEDURAL HISTORY**

May 1, 1997  
Ontario Court  
(Feldman J.)

Respondent convicted on 5 counts (counts 26 to 30 of the indictment) of possession of instruments of forgery contrary to s. 369(b) of the *Criminal Code*

February 6, 2001  
Court of Appeal for Ontario  
(Doherty, Charron and MacPherson JJ.A)

Appeal from conviction allowed; convictions on all counts quashed; acquittals entered on counts 26, 28, 29 and 30; new trial ordered for count 27

March 15, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

**28427**            **RENÉ PEARSON - c. - SA MAJESTÉ LA REINE** (Qué.) (Criminelle)

CORAM:            Le Juge en chef et les juges Iacobucci et Bastarache

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

**NATURE DE LA CAUSE**

Droit criminel - Détermination de la peine - Législation - Interprétation - Le demandeur a-t-il déjà été puni pour les faits au soutien de l'accusation de possession d'argent provenant d'une infraction de criminalité organisée - La Cour d'appel du Québec a-t-elle commis une erreur de droit dans l'interprétation des paragraphes 725(1) et (2) du *Code criminel* - La Cour d'appel du Québec a-t-elle commis une erreur de droit dans l'interprétation de l'alinéa 718.2(iv)a).

**HISTORIQUE PROCÉDURAL**

Le 28 septembre 1998  
Cour du Québec, Chambre criminelle et pénale  
(Plante j.c.q.)

Déclaration de culpabilité sur quatre chefs d'accusation de trafic de stupéfiants; peine de dix ans d'emprisonnement imposée

Le 5 novembre 1999  
Cour supérieure du Québec  
(Tremblay j.c.s.)

Requête en arrêt des procédures sur chef d'accusation de possession illégale au profit d'un gang accueillie

---

Le 30 novembre 2000  
Cour d'appel du Québec  
(Brossard, Thibault et Pelletier jj.c.a.)

Appel accueilli; jugement de Cour supérieure cassé;  
retour du dossier devant la Cour supérieure

Le 15 février 2001  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Le 3 avril 2001  
Cour suprême du Canada  
(Arbour j.)

Requête en prorogation de délai accordée

---

**28329**            **442246 B.C. AND CENTRAL CITY FINANCIAL SERVICES LTD. - v. - LAWRENCE T. SALLOUM AND SALLOUM DOAK** (B.C.) (Civil)

CORAM:            The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondents Lawrence T. Salloum and Salloum Doak.

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimés Lawrence T. Salloum et Salloum Doak.

**NATURE OF THE CASE**

Commercial law - Damages - Purchase of a gas station - Solicitor acting for both parties - Solicitor acted negligently and in breach of fiduciary duty - Where a lawyer is in breach of his fiduciary duty to his client and, later, on the same transaction, commits a further breach of fiduciary duty or an act of negligence, is the client entitled to full recovery based on the breach of fiduciary duty or is the client's recovery restricted to damages for the negligent act only? - What is the appropriate basis for determining the measure of damages?

**PROCEDURAL HISTORY**

March 22, 1999  
Supreme Court of British Columbia  
(Oppal J.)

Applicants' action for damages for negligence and breach of fiduciary duty granted; damages and compensation assessed at \$1,242,996

October 24, 2000  
Court of Appeal for British Columbia  
(Rowles, Finch and Mackenzie JJ.A.)

Appeal allowed in part; award reduced to \$200,000

December 27, 2000  
Supreme Court of Canada

Application for leave to appeal filed

February 2, 2001  
Supreme Court of Canada

Motion to file a 24-page memorandum of argument granted

---

**28435**            **S.L. - c. - S.D.** (Qué.) (Civile)

CORAM:            Le Juge en chef et les juges Iacobucci et Bastarache

---

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

### **NATURE DE LA CAUSE**

Droit de la famille - Aliments - La Cour d'appel a-t-elle erré en faits et en droit en ce qui a trait aux obligations d'un époux envers l'autre ainsi que dans son application des articles 15.2(6) et 16(10) de la *Loi sur le Divorce*, L.R.C. (1985), ch 3 (2e Suppl.) en n'ordonnant pas à l'intimée de payer une quelconque indemnisation, remboursement ou dépens au demandeur pour celui-ci ou pour ses enfants et ce malgré la dépendance économique du demandeur? - La Cour d'appel a-t-elle erré en omettant d'appliquer les principes jurisprudentiels faisant autorité relativement au maintien des conjoints désavantagés par un handicap?

### **HISTORIQUE PROCÉDURAL**

Le 7 septembre 1999  
Cour supérieure du Québec  
(Fournier j.c.s.)

Jugement de divorce prononcé; demande du demandeur d'ordonner à l'intimée de maintenir sa qualité de bénéficiaire d'une assurance médicale et dentaire, rejetée

Le 19 décembre 2000  
Cour d'appel du Québec  
(Gendreau, Deschamps et Otis jj.c.a.)

Appel accueilli; ordonne à l'intimée de maintenir le demandeur en tant que bénéficiaire et à ce dernier d'assumer les coûts de co-assurance

Le 8 février 2001  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

---

**28529**            **BRYAN LATHAM - v. - HER MAJESTY THE QUEEN** (Ont.) (Criminal)

CORAM:            The Chief Justice, Iacobucci and Bastarache JJ.

The application for extension of time is dismissed with costs. The application for leave to appeal would have been dismissed if the application for extension of time had been granted.

La demande de prorogation de délai est rejetée avec dépens. La demande d'autorisation d'appel aurait été rejetée, même si la demande de prorogation avait été accordée.

### **NATURE OF THE CASE**

Criminal law - Jurisdiction - *Habeas corpus* - Ontario courts holding that Federal Court had jurisdiction to deal with application for writ - Whether *Dumas v. Leclerc Institution*, [1986] 2 S.C.R. 459 is determinative of the jurisdictional issue.

### **PROCEDURAL HISTORY**

February 25, 1992  
Ontario Court of Justice (General Division)  
(O'Flynn J.)

Application for writ of *habeas corpus* with *certiorari* in aid dismissed

January 27, 1997

Appeal dismissed

---

Court of Appeal for Ontario  
(Morden A.C.J.O., McKinlay and Laskin JJ.A.)

April 2, 2001  
Supreme Court of Canada

Application for leave to appeal and motion for extension of  
time filed

---

**28324**            **STEFAN WANCZYK AND THOMAS J. CARTER - v. - JULIA FRARESSO** (B.C.) (Civil)

CORAM:        The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the respondent Julia Fraresso.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimée Julia Fraresso.

**NATURE OF THE CASE**

Commercial law - Contracts - Options - Whether the appropriate test for determining whether a unilateral option has been properly exercised is the contemporary mutual intentions of the parties or whether there has been strict compliance with the terms of the option.

**PROCEDURAL HISTORY**

October 30, 1998  
Supreme Court of British Columbia  
(Lowry J.)

Order: Respondent's claim for specific performance of a  
contract dismissed

May 11, 2000  
Court of Appeal of British Columbia  
(Lambert, Southin, and Finch JJ.A.)

Appeal allowed

October 30, 2000  
Court of Appeal for British Columbia  
(Lambert, Southin, and Finch JJ.A.)

Motion to vary May 11<sup>th</sup> decision denied but Order granted  
requiring that factual question be resolved by B.C.S.C.  
together with remaining issues

December 22, 2000  
Supreme Court of Canada

Application for leave to appeal filed

---

**28296**            **JOSEPH MEAGHER - v. - THE COLLEGE OF PHYSICIANS AND SURGEONS OF BRITISH  
COLUMBIA** (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 College of Physicians and Surgeons of British Columbia.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimé The College of Physicians and Surgeons of British Columbia.

This file has been sealed by order of Gonthier J. dated January 18, 2001 (see Bulletin dated January 26, 2001).

La mise sous scellés du présent dossier a été ordonnée par le juge Gonthier le 18 janvier 2001 (voir Bulletin du 26 janvier 2001).

**28140**            **STEPHEN M. BYER - v. - THE BAR OF MONTREAL AND THE ATTORNEY GENERAL OF QUEBEC** (Que.) (Criminal)

CORAM:            The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with no order as to costs.

La demande d'autorisation d'appel est rejetée, sans ordonnance concernant les dépens.

**NATURE OF THE CASE**

Constitutional law - Division of Powers - Jurisdiction - Application for a writ of prohibition - Whether the Court of Quebec has *ratione materiae* jurisdiction adjudicate upon matters which are within the exclusive jurisdiction of the Federal Court - Whether the Court of Appeal erred in dismissing the Applicant's appeal?

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| April 11, 2000<br>Superior Court of Quebec<br>(Boilard J.)                          | Application for a writ of prohibition dismissed  |
| August 18, 2000<br>Court of Appeal of Québec<br>(Baudouin, Deschamps, Robert JJ.A.) | Motion to dismiss appeal allowed and appeal dismissed;<br>Motion for leave to appeal dismissed |
| November 23, 2000<br>Supreme Court of Canada  | Application for leave to appeal filed  |
| December 8, 2000<br>Supreme Court of Canada   | Motion to extend time filed  |
| December 21, 2000<br>Supreme Court of Canada<br>(Bastarache J.)                     | Motion to extend time granted  |

**28053**            **TRANSPORT SCOLAIRE CHAUVEAU LTÉE - c. - LA PROCUREURE GÉNÉRALE DU QUÉBEC ET LA SOCIÉTÉ DE L'ASSURANCE AUTOMOBILE DU QUÉBEC** (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'intimée La Procureure générale du Québec.

The application for leave to appeal is dismissed with costs to the respondent The Attorney General of Quebec.

---



**NATURE DE LA CAUSE**

Droit administratif - Partialité - Est-ce qu'il y a crainte raisonnable de partialité à l'égard du juge de première instance du fait qu'il ait entendu un litige impliquant son ancien bureau? - Est-ce qu'il peut avoir partialité si la demanderesse a renoncé à invoquer ce moyen?

**HISTORIQUE PROCÉDURAL**

Le 23 avril 1999  
Cour supérieure du Québec  
(Rochette j.c.s.)

Action de la demanderesse rejetée

Le 10 mai 2000  
Cour d'appel du Québec  
(Delisle j.c.a. siégeant comme juge unique)

Requête en récusation rejetée

Le 27 octobre 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

---

**28111**      **MÉDIS SERVICES PHARMACEUTIQUES ET DE SANTÉ INC. - c. - SYNDICATS DES SALARIÉS DE DISTRIBUTION DE PRODUITS PHARMACEUTIQUES (FISA) ET TEAMSTERS DU QUÉBEC, CHAUFFEURS ET OUVRIERS DE DIVERSES INDUSTRIES, LOCAL 69** (Qué.) (Civile)

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

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

The application for leave to appeal is dismissed without costs.

**NATURE DE LA CAUSE**

Droit du travail – *Code du travail*, L.R.Q., c. C-27, art. 39, 45 et 46 – La Cour d’appel a-t-elle erré dans son interprétation de l’art. 39 du *Code du travail*? – Peut-il y avoir dans un même établissement deux conventions collectives et deux accréditations pour le même groupe de salariés? – Un commissaire du travail peut-il modifier la portée intentionnelle d’une accréditation syndicale? – La Cour d’appel a-t-elle erré en refusant de conclure qu’un commissaire du travail ne possède pas le pouvoir de modifier les droits et obligations contractuels découlant de conventions collectives?

**HISTORIQUE PROCÉDURAL**

|   |   |
|---|---|
| Le 21 novembre 1997<br>Tribunal du travail<br>(Langlois, j.c.q.)              | Décision du Commissaire du travail renversée  |
| Le 25 juin 1998<br>Cour supérieure du Québec<br>(Goodwin, j.c.s.)             | Demande en révision judiciaire accueillie ; décision du Tribunal du travail cassée et annulée |
| Le 7 juin 2000<br>Cour d’appel du Québec<br>(Baudouin, Nuss, Pidgeon, jj.c.a) | Jugement de la Cour supérieure cassé ; demande en révision judiciaire rejetée                 |
| Le 6 septembre 2000<br>Cour suprême du Canada                                 | Demande d’autorisation d’appel déposée  |

---

**28112**      **TEAMSTERS DU QUÉBEC, CHAUFFEURS ET OUVRIERS DE DIVERSES INDUSTRIES, LOCAL 69 - c. - SYNDICAT DES SALARIÉS DE DISTRIBUTION DE PRODUITS PHARMACEUTIQUES (FISA) ET MÉDIS, SERVICES PHARMACEUTIQUES ET DE SANTÉ INC.** (Qué.) (Civile)

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

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

The application for leave to appeal is dismissed without costs.

**NATURE DE LA CAUSE**

Droit du travail – *Code du travail*, L.R.Q., c. C-27, art. 39, 45 et 46 – La Cour d’appel a-t-elle erré dans son interprétation de l’art. 39 du *Code du travail*? – Y a-t-il eu fermeture ou démantèlement de l’entreprise? – Les pouvoirs conférés au Commissaire du travail par la Cour d’appel trouvent-ils leur source dans l’article 39 du *Code du travail*? – L’article 39 du *Code du travail* permet-il de déclarer la cohabitation de deux unités d’accréditation pour des salariés exerçant les mêmes fonctions?

**HISTORIQUE PROCÉDURAL**

|  |  |
|--|--|
| Le 21 novembre 1997<br>Tribunal du travail<br>(Langlois, j.c.q.) | Décision du Commissaire du travail renversée |
|--|--|

---

Le 25 juin 1998  
Cour supérieure du Québec  
(Goodwin, j.c.s.)

Demande en révision judiciaire accueillie ; décision du  
Tribunal du travail cassée et annulée

Le 7 juin 2000  
Cour d'appel du Québec  
(Baudouin, Nuss et Pidgeon, jj.c.a.)

Jugement de la Cour supérieure cassé ; demande en  
révision judiciaire rejetée

Le 6 septembre 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

---

**28214**            **TEMBEC INC. - v. - AMERICAN HOME ASSURANCE COMPANY, NEW HAMPSHIRE  
INSURANCE COMPANY AND COMMONWEALTH INSURANCE COMPANY** (Que.) (Civil)

CORAM:            L'Heureux-Dubé, Arbour and LeBel 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 - Insurance - Damages - All-risk insurance policy - Whether the trial judge and the Court of Appeal erred in denying indemnity to the Applicant under the terms of the all-risk insurance policy issued by the Respondents.

**PROCEDURAL HISTORY**

January 31, 1997  
Superior Court of Quebec  
(Décarie J.)

Applicant's claim seeking compensation under the "Multi-  
peril-subscription policy" dismissed

August 29, 2000  
Court of Appeal of Québec  
(Brossard, Rochette and Philippon [*ad hoc*] JJ.A.)

Appeal dismissed

October 27, 2000  
Supreme Court of Canada

Application for leave to appeal filed

---

**28351**            **CONSTANCE CLARA FOGAL AND THE DEFENCE OF CANADIAN LIBERTY  
COMMITTEE / LE COMITÉ DE LA LIBERTÉ CANADIENNE - v. - HER MAJESTY THE  
QUEEN IN RIGHT OF CANADA, SECRETARY OF STATE, THE MINISTER OF  
EXTERNAL AFFAIRS, THE DEPARTMENT OF FOREIGN AFFAIRS AND  
INTERNATIONAL TRADE, THE RIGHT HONOURABLE SERGIO MARCHI, THE RIGHT  
HONOURABLE JEAN CHRÉTIEN AND OTHER MEMBERS OF CABINET** (FC) (Civil)

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

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

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

---

**NATURE OF THE CASE**

Administrative law - Judicial review - Procedural law - Mootness - Respondents' motion to dismiss Applicants' application for judicial review for mootness granted - Federal Court of Appeal affirming decision - Whether Court of Appeal erred in creating new class of "non-moot" but "academic" or "hypothetical" constitutional issues which Federal Court had a "discretion" not to hear - Whether Court of Appeal erred in upholding motion judge's decision that, notwithstanding that some of the issues were not moot, he was nonetheless not going to hear them.

**PROCEDURAL HISTORY**

|  |  |
|--|--|
| January 21, 1999<br>Federal Court of Canada, Trial Division<br>(Dubé J.)         | Applicants' motion for recusal dismissed   |
| April 22, 1999<br>Federal Court of Canada, Trial Division<br>(McKeown J.)        | Applicants' application for judicial review dismissed;<br>Respondents' motion to dismiss application for mootness<br>granted |
| June 12, 2000<br>Federal Court of Appeal<br>(Isaac, Robertson and Sharlow JJ.A.) | Appeals dismissed  |
| January 4, 2001<br>Supreme Court of Canada                                       | Application for leave to appeal and motion to extend time<br>filed   |

---

**28432**      **LA PROCUREURE GÉNÉRALE DU QUÉBEC - c. - FUTURE ÉLECTRONIQUE INC. ET  
ROBERT G. MILLER - et - SA MAJESTÉ LA REINE, LA PROCUREURE GÉNÉRALE DU  
CANADA, PIERRE-YVES CARRIER, GÉRARD BOSSÉ ET JAMES S. KENDALL** (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**

Charte canadienne des droits et libertés - Droit criminel - Fouilles, perquisitions et saisies - *Traité d'entraide juridique en matière pénale entre le gouvernement du Canada et le gouvernement des États-Unis d'Amérique - Loi sur l'entraide juridique en matière criminelle*, L.R.C. (1985), ch. C-30 - La Cour d'appel a-t-elle commis une erreur en droit quant à la norme de fiabilité des motifs requis en vertu de l'art. 8 de la *Charte* pour la délivrance d'un mandat de perquisition lorsque ceux-ci sont obtenus d'une source connue et de surcroît dans le cadre d'une demande d'entraide juridique présentée par un État avec lequel le Canada a signé un traité?

**HISTORIQUE PROCÉDURAL**

---

Le 2 février 2000  
Cour supérieure du Québec  
(Boilard j.c.s.)

Ordonnance que tout ce qui fut saisi chez Future  
Électronique Inc. lors de la perquisition des 7 et 9 mai  
1999 soit transmis aux États-Unis

Le 11 décembre 2000  
Cour d'appel du Québec  
(Beauregard, Proulx et Pelletier jj.c.a.)

Appel accueilli; jugement de première instance infirmé

Le 31 janvier 2001  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Le 1<sup>er</sup> mars 2001  
Cour suprême du Canada

Requête des intimés pour directives accordée

---

**28203**            **RONALD BIRON - c. - LÉVESQUE BEAUBIEN GEOFFRION INC.** (Qué.) (Civile)

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

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

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

**NATURE DE LA CAUSE**

Responsabilité civile - Droit commercial - Lettres de change - Interprétation - Articles 136 et 137 de la *Loi sur les lettres de change*, L.R.C. 1985, ch B-4 - Les Bons du Trésor payables au porteur sont-ils régis par la *Loi sur les lettres de change* ou par le droit civil québécois lors d'une transaction au Québec? - Les articles 136 et 137 de la *Loi sur les lettres de change* s'appliquent-ils à un Bon du Trésor au porteur? - La règle *res perit domino* a-t-elle comme effet d'obliger l'intimée à assumer sa perte si, par ailleurs, son engagement envers la Banque du Canada l'oblige à rembourser la valeur des Bons du Trésor volés? - Le remboursement de l'intimée à la Banque du Canada donnait-il le droit à cette dernière de réclamer au demandeur les sommes ainsi remboursées alors que le demandeur n'était pas partie à l'entente entre la Banque et l'intimée? - La Cour d'appel a-t-elle erré en modifiant le jugement de la Cour supérieure dans l'affaire des Bons pour 225 000\$?

**HISTORIQUE PROCÉDURAL**

Le 8 novembre 1994  
Cour supérieure du Québec  
(Bénard j.c.s.)

Action du demandeur rejetée avec dépens; Action de  
l'intimée contre le demandeur rejetée avec dépens

Le 16 décembre 1999  
Cour d'appel du Québec  
(Vallerand, Rousseau-Houle, Robert jj.c.a.)

Appel du demandeur rejeté avec dépens; appel incidents  
rejetés sans frais

Le 18 mai 2000  
Cour d'appel du Québec  
(Vallerand, Rousseau-Houle, Robert jj.c.a.)

Appel de l'intimée accueilli avec dépens; demandeur  
condamné à payer à l'intimée 215, 100 \$

Le 19 octobre 2000  
Cour suprême du Canada

Requête en prorogation de délai et demande  
d'autorisation d'appel déposées

---

**28216**            **JACQUES BIRON - c. - LOUISE CHAMPOUX-PAILLÉ, L'ORDRE DES ADMINISTRATEURS AGRÉÉS DU QUÉBEC, BOISVERT LANCTÔT POULIOT ET JOCELYN GALARNEAU** (Qué.) (Civile)

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

La demande d'autorisation d'appel est rejetée avec dépens en cette Cour en faveur des intimés Louise Champoux-Paillé et l'Ordre des administrateurs agréés du Québec.

The application for leave to appeal is dismissed with costs in this Court to the respondents Louise Champoux-Paillé and l'Ordre des administrateurs agréés du Québec.

**NATURE DE LA CAUSE**

Procédure civile - *Code civil* - Article 55.1 du *Code des professions*, L.R.Q., c.C-26 - Preuve - La Cour d'appel a-t-elle erré en admettant un faux rapport de signification? - Le juge de première instance a-t-il erré en concluant que le rapport de signification attaqué en faux "n'aura aucune influence sur l'action principale" sans s'être préoccupé du respect des droits fondamentaux du demandeur? - Le juge de première instance a-t-il erré en permettant que les intimés ne se ménagent pas la preuve écrite d'un acte juridique?

**HISTORIQUE PROCÉDURAL**

Le 19 juin 2000  
Cour supérieure du Québec  
(Décarie j.c.s.)

Requête interlocutoire rejetée

Le 7 septembre 2000  
Cour d'appel du Québec  
(Forget j.c.a.)

Requête pour permission d'en appeler rejetée

Le 2 novembre 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

---

**28523**            **ROBERT LARRY BOUVIER - v. - HER MAJESTY THE QUEEN** (Sask.) (Criminal)

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

The application for an extension of time is granted. The application for leave to appeal and the motion for a stay of execution are dismissed.

La demande de prorogation de délai est accordée. La demande d'autorisation d'appel ainsi que la requête en sursis d'exécution sont rejetées.

**NATURE OF THE CASE**

Criminal law - Offences - Whether trial judge erred in her determination of the elements of criminal negligence and in finding the elements had been proven beyond a reasonable doubt - Whether trial judge made a palpable, overriding error in finding that the accused had increased his speed in response to the requests of his passengers to slow down - Whether verdict of guilty was unreasonable or could not have been supported by the evidence.

---

**PROCEDURAL HISTORY**

|   |  |
|---|--|
| January 31, 2000<br>Court of Queen's Bench of Saskatchewan<br>(Rothery J.)                | Conviction: three counts of negligent operation of a motor vehicle causing bodily harm contrary to s.221 of the <i>Criminal Code</i> |
| May 26, 2000<br>Court of Queen's Bench of Saskatchewan<br>(Rothery J.)                    | Applicant sentenced to 12 month conditional sentence on each count and a one year driving prohibition                                |
| January 30, 2001<br>Court of Appeal for Saskatchewan<br>(Cameron, Gerwing and Lane JJ.A.) | Appeals from conviction and sentence dismissed   |
| April 3, 2001<br>Supreme Court of Canada  | Application for leave to appeal; motion for extension of time and motion for stay filed  |

---

**28455**            **GORDON WAYNE PARIS - v. - HER MAJESTY THE QUEEN** (Ont.) (Criminal)

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

The application for an 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 - Instructions to the jury - Whether the Court of Appeal erred in ruling that the trial judge's instruction to the jury, based on *Browne v. Dunn*, was correct in law and caused no significant prejudice to the Applicant - Whether the Court of Appeal erred in finding that the trial judge, in his charge to the jury, adequately cured the Crown's improper cross-examination and closing to the jury which had violated the Applicant's right to silence.

**PROCEDURAL HISTORY**

|  |   |
|--|---|
| December 10, 1998<br>Ontario Court (General Division)<br>(MacKinnon J.)                  | Applicant convicted by jury of sexual assault and unlawful confinement              |
| December 11, 2000<br>Court of Appeal for Ontario<br>(Doherty, Moldaver and Sharpe JJ.A.) | Order: Applicant's appeal against conviction and sentence dismissed                 |
| March 13, 2001<br>Supreme Court of Canada  | Application for leave to appeal filed; notice of motion for extension of time filed |

---

**28342**            **SYLVIE LEGAULT, ÈS QUALITÉS DE DÉLÉGUÉE DU DIRECTEUR DE LA PROTECTION DE LA JEUNESSE DES CENTRES JEUNESSE DE LANAUDIÈRE - c. - Y.B. et P.B.** (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'intimée Y.B.

The application for leave to appeal is dismissed with costs to the respondent Y.B.

### **NATURE DE LA CAUSE**

Droit de la famille - Législation - Interprétation - L'article 79 de la *Loi sur la protection de la jeunesse*, L.R.Q. ch. P-34.1 - La procédure d'examen des mesures d'hébergement obligatoire provisoire prévue à la *Loi sur la protection de la jeunesse* est-elle soumise au respect des principes fondamentaux inscrits dans la *Charte canadienne des droits et libertés*, (art. 7) la *Charte des droits et libertés de la personne* (art.1) et le *Code civil du Québec*?(art.3, 9, 33)? - Y a-t-il lieu d'appliquer les dispositions de l'art. 79 de la *Loi sur la protection de la jeunesse* de manière à ne pas déroger aux principes énoncés ci-haut?

### **HISTORIQUE PROCÉDURAL**

Le 4 octobre 2000  
Cour du Québec (Chambre de la jeunesse)  
(Roy j.c.q.)

Ordonnance: hébergement provisoire de l'enfant intimé en vertu de la *Loi sur la protection de la jeunesse*, en centre de réadaptation avec un suivi social

Le 13 novembre 2000  
Cour du Québec (Chambre de la jeunesse)  
(Melançon j.c.q.)

Ordonnance: poursuite du maintien de l'hébergement provisoire

Le 5 décembre 2000  
Cour supérieure du Québec  
(Wery j.c.s.)

Requête pour émission d'un bref d'*habeas corpus* rejetée

Le 12 décembre 2000  
Cour d'appel du Québec  
(Beauregard J.A.)

Requête renouvelée en *habeas corpus* accueillie; décision du 13 novembre 2000 cassée; ordonnance de remettre l'enfant intimé en liberté

Le 15 décembre 2000  
Cour d'appel du Québec  
(Chamberland J.A.)

Requête en *habeas corpus* accueillie; jugement du 12 décembre 2000 suspendu jusqu'à ce que la Cour suprême se prononce sur la demande d'autorisation d'appel

Le 9 février 2001  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

---



**28353**            **JACOB G. BOGATIN - v. - ROYAL TRUST CORPORATION OF CANADA, IN ITS CAPACITY AS TRUSTEE OF CC & L DEDICATED ENTERPRISE FUND, ROYAL TRUST CORPORATION OF CANADA, IN ITS CAPACITY AS TRUSTEE OF THE CC & L BALANCED CANADIAN EQUITY FUND, CONNOR CLARK & LUNN INVESTMENT MANAGEMENT LTD., AND THE BRITISH COLUMBIA INVESTMENT MANAGEMENT CORPORATION - and between - JACOB G. BOGATIN - v. - ROGER MONDOR AND AMIT M. KARIA - and between - JACOB G. BOGATIN - v. - YBM MAGNEX INTERNATIONAL, INC., BY ITS RECEIVER AND MANAGER ERNST & YOUNG YBM INC.** (Ont.) (Civil)

CORAM:            Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs to Royal Trust Corporation of Canada, in its capacity as Trustee of CC & L Dedicated Enterprise Fund, Royal Trust Corporation of Canada, in its capacity as Trustee of the CC & L Balanced Canadian Equity Fund, Roger Mondor and Amit M. Karia.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de Royal Trust Corporation of Canada, ès qualités de fiduciaire de CC & L Dedicated Enterprise Fund, Royal Trust Corporation of Canada, ès qualités de fiduciaire de CC & L Balanced Canadian Equity Fund, Roger Mondor et Amit M. Karia.

**NATURE OF THE CASE**

Procedural law - Civil procedure - Stay of proceedings - Right to protection from self-incrimination - Applicant's motion to stay Ontario actions in which he is a defendant dismissed - Application of principle against self-incrimination in *Canadian Charter of Rights and Freedoms* to protect a defendant to actions in Ontario from being compelled to provide incriminating evidence where there is a live risk that such incriminating evidence will be used against that defendant in a foreign country.

**PROCEDURAL HISTORY**

|  |  |
|--|--|
| June 2, 2000<br>Superior Court of Justice<br>(Cumming J.)                          | Applicant's motion for a stay of certain actions dismissed |
| November 7, 2000<br>Superior Court of Justice<br>(Divisional Court)<br>(Ground J.) | Motion for leave to appeal dismissed                       |
| January 5, 2001<br>Supreme Court of Canada   | Application for leave to appeal filed                      |

---

**28363**            **THE CORPORATION OF THE CITY OF MISSISSAUGA - v. - GREATER TORONTO AIRPORTS AUTHORITY, GREATER TORONTO AIRPORTS AUTHORITY ASSOCIATES INC., HER MAJESTY THE QUEEN IN RIGHT OF CANADA** (Ont.) (Civil)

CORAM:            Gonthier, Major and Binnie JJ.

The application for leave to appeal is dismissed with costs to the Greater Toronto Airports Authority and Greater Toronto Airports Authority Associates Inc.

---

La demande d'autorisation d'appel est rejetée avec dépens en faveur de Greater Toronto Airports Authority et Greater Toronto Airports Authority Associates Inc.

**NATURE OF THE CASE**

Constitutional law - Division of powers - Airport development - Airport lands leased from federal Crown - Applicability of provincial building code regime and municipal development charges.

**PROCEDURAL HISTORY**

January 19, 1999  
Superior Court of Justice  
(MacPherson J.)

Respondent GTAA's application allowed; the *Building Code Act* and municipal by-laws and regulations enacted thereunder held inapplicable to the Airport Development Program at Toronto/Lester B. Pearson International Airport; Orders to Comply issued under *Building Code Act* held to be *ultra vires* the Respondents

November 3, 2000  
Court of Appeal for Ontario  
(McMurtry C.J. and Laskin and Charron JJ.A.)

Applicant's appeal dismissed

January 2, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

**28341**      **GOLDEN FLIGHT TRAVEL LTD. - v. - JOWAKS DEVELOPMENTS LIMITED, FREDWAKS DEVELOPMENTS LIMITED, ROBADAMS DEVELOPMENTS LIMITED, SUZADAMS DEVELOPMENTS LIMITED, HOWADAMS DEVELOPMENTS LIMITED, ELADAMS DEVELOPMENTS LIMITED, FRANBEE HOLDINGS LIMITED, CARBEE HOLDINGS LIMITED AND MICHABEE HOLDINGS LIMITED** (Ont.) (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.

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

**NATURE OF THE CASE**

Procedural law - Appeal - Summary judgment - Evidence - Admission of fresh evidence on appeal - Whether Court of Appeal erred in dismissing appeal from order for summary judgment and in refusing to admit fresh evidence

**PROCEDURAL HISTORY**

March 20, 2000  
Superior Court of Justice  
(Nordheimer J.)

Respondents' motion for summary judgment granted; Applicant's motion for leave to admit fresh evidence dismissed

October 19, 2000  
Court of Appeal for Ontario

Appeal dismissed

---

(Catzman, Borins and Feldman JJ.A.)

December 29, 2000  
Supreme Court of Canada

Application for leave to appeal and to extend time filed

---

**28315**            **CHEE K. LING - v. - HER MAJESTY THE QUEEN** (B.C.) (Civil)

CORAM:        Gonthier, Major and Binnie JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Taxation - Self-incrimination - Assessment - Income tax audit conducted pursuant to *Income Tax Act* - Statutorily compelled evidence obtained from audit used against taxpayer - Use and derivative use immunity in a subsequent tax evasion prosecution in which that person's liberty interest is at stake.

**PROCEDURAL HISTORY**

July 21, 1997  
Provincial Court of British Columbia (*Voir dire*)  
(Graham Prov. Ct. J.)

Information found during income tax audit to be admissible

August 7, 1997  
Provincial Court of British Columbia  
(Graham Prov. Ct. J.)

Applicant convicted of 5 offences under section 239(1)a) of the *Income Tax Act*, Canada; conditional stay of proceedings entered on a sixth count

June 5, 1998  
Supreme Court of British Columbia  
(Millward J.)

Appeal from conviction allowed and matter remitted for a new trial on all counts

October 19, 2000  
Court of Appeal of British Columbia  
(McEachern C.J. and Rowles and Hall JJ.A.)

Appeal dismissed

December 15, 2000  
Supreme Court of Canada

Application for leave to appeal filed

---

**28383**            **MR. B., MR. C. AND D. LTD. - v. - MR. A. AND ONTARIO HUMAN RIGHTS COMMISSION**  
(Ont.) (Civil)

CORAM:        Gonthier, Major and Binnie JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

**NATURE OF THE CASE**

---

Civil rights - Discrimination - Family status and marital status - Employee fired after his daughter, supported by her mother, made allegations of sexual abuse by the employer - Employer is the brother of the wife and uncle to the daughter - Whether the term “family status” as defined in Ontario’s *Human Rights Code* is broad enough to include the particular identity of one’s spouse and child - Whether the term “family status” is broad enough to include the particular identity of one’s spouse.

**PROCEDURAL HISTORY**

January 19, 1999  
Superior Court of Justice (Divisional Court)  
(Lane, Dunnet and Spence JJ.)

Appeal against dismissal granted by Ontario Human Rights  
Commission Board of Enquiry allowed

November 14, 2000  
Court of Appeal for Ontario  
(McMurtry C.J., and Abella and Feldman JJ.A.)

Appeal allowed

January 15, 2001  
Supreme Court of Canada

Application for leave to appeal filed

---

4.6.2001

Before / Devant: THE REGISTRAR

**Miscellaneous motion**

**Autre requête**

John Guy Bradford

v. (28474)

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

**GRANTED / ACCORDÉE** The motion to file the applicant's authorities for the hearing of the leave application on June 11, 2001 is granted.

6.6.2001

Before / Devant: L'HEUREUX-DUBÉ J.

**Motion to strike out**

**Requête en radiation**

Association des professeurs de Lignery, et al.

c. (28562)

Commission scolaire des Grandes Seigneuries  
(autrefois: Commission scolaire du Goéland) (Qué.)

**REFERRED / RÉFÉRÉE** La requête de l'intimée pour obtenir une ordonnance radiant l'affidavit de Donald Laurin daté du 18 avril 2001, est référée au banc qui entendra la demande d'autorisation d'appel.

6.6.2001

Before / Devant: L'HEUREUX-DUBÉ J.

**Motion to extend the time in which to serve and file a notice of intervention on behalf of the Attorney General for Saskatchewan**

**Requête en prorogation du délai de signification et de dépôt d'un avis d'intervention au nom du procureur général de la Saskatchewan**

Ralph Dick, et al.

v. (27641)

Her Majesty the Queen, et al. (F.C.)

**GRANTED / ACCORDÉE** Time extended to May 7, 2001, *nunc pro tunc*.

---

6.6.2001

Before / Devant: THE REGISTRAR

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

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

Her Majesty the Queen

v. (27996)

James Handy (Crim.)(Ont.)

**GRANTED / ACCORDÉE** Time extended to June 29, 2001.

---

7.6.2001

Before / Devant: L'HEUREUX-DUBÉ J.

**Miscellaneous motion**

**Autre requête**

Mohamed Zeki Mahjoub

v. (28528)

The Minister of Citizenship and Immigration, et al.  
(F.C.)

**REFERRED / RÉFÉRÉE**

**UPON APPLICATION** by the applicant Mohamed Zeki Mahjoub for a writ of certiorari, pursuant to s. 55 of the *Supreme Court Act*, to bring up all documents, to which the applicant was not privy, before Mr. Justice Nadon, in disposing of the s. 40.1 *Immigration Act* proceeding, in order to allow this Court to properly dispose of this leave application and that such material be forwarded under seal, and continued to be sealed, not accessible to the public, including the applicant and his counsel, until such further order of this Court;

**AND HAVING READ** the material filed ;

**IT IS HEREBY ORDERED THAT:**

The application is referred to the panel seized of the application for leave to appeal.

---

7.6.2001

Before / Devant: L'HEUREUX-DUBÉ J.

**Motion for a stay of execution and to expedite the application for leave to appeal****Requête en vue de surseoir à l'exécution et à accélérer la demande d'autorisation d'appel**

Superior Propane Inc., et al.

v. (28593)

The Commissioner of Competition (F.C.)

**REFERRED / RÉFÉRÉE****UPON APPLICATION** by the applicants Superior Propane Inc. and ICG Propane Inc. for a stay of the Competition Tribunal Proceedings and for an order expediting the application for leave to appeal and, if granted, the appeal;**AND HAVING READ** the material filed ;**IT IS HEREBY ORDERED THAT:**The application for a stay of proceedings and for an order expediting the application for leave to appeal and, if granted, the appeal, is referred to the panel seized of the application for leave to appeal.

7.6.2001

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: Winnipeg Free Press and Brandon Sun  
 Attorney General of Canada  
 Attorney General for Ontario  
 Attorney General of British Columbia  
 Canadian Newspaper Association

IN/DANS: Her Majesty the Queen

v. (27738)

Clayton George Mentuck  
 (Crim.)(Man.)

**GRANTED / ACCORDÉES****UPON APPLICATION** by the Winnipeg Free Press and Brandon Sun, the Attorney General of Canada, the Attorney General of Ontario, the Attorney General of British Columbia and the Canadian Newspaper Association;**AND FURTHER** to the Orders dated November 9, 2000, December 12, 2000 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:

|  |            |
|--|------------|
| - Winnipeg Free Press and Brandon Sun  | 15 minutes |
| - Attorney General of Canada           | 15 minutes |
| - Attorney General of British Columbia | 15 minutes |
| - Attorney General of Ontario          | 10 minutes |
| - Canadian Newspaper Association       | 10 minutes |

---

8.6.2001

Before / Devant: THE REGISTRAR

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

**Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'appelant**

Howard Burke

v. (28546)

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

**GRANTED / ACCORDÉE** Time extended to October 19, 2001.

---

8.6.2001

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the applicants' reply**

**Requête en prorogation du délai de signification et de dépôt de la réplique des requérants**

American International Assurance Life Company Ltd.,  
et al.

v. (28540)

Dorothy Martin (B.C.)

**GRANTED / ACCORDÉE** Time extended to June 6, 2001.

---



**NOTICE OF APPEAL FILED SINCE  
LAST ISSUE**

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

---

4.6.2001

**Her Majesty the Queen**

**v. (28628)**

**Antonio Portante (Ont.)**

**AS OF RIGHT**

---

7.6.2001

**Her Majesty the Queen**

**v. (28443)**

**Rajinder Kumar Benji (B.C.)**

---

**APPEALS HEARD SINCE LAST ISSUE  
AND DISPOSITION**

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

---

12.6.2001

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

**Osoyoos Indian Band**

**v. (27408)**

**The Town of Oliver, et al. (B.C.)(Civil)(By Leave)**

Louise Mandell, Q.C., Leslie Pinder and Clarine Ostrove for the appellant.

Timothy P. Leadem, Q.C., Paul Yearwood and Hunter Gordon for the respondent Her Majesty the Queen in Right of British Columbia.

Barry Williamson and Gregg Cockrill for the respondent The Town of Oliver.

John R. Rich and F. Matthew Kirchner for the intervener Squamish Indian Band.

Gerald Donegan, Q.C., Kathy Ring and Mary King for the intervener Attorney General of Canada.

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Statutes - Interpretation - Statutory instrument - Irrigation canal constructed across a portion of Reserve - Federal Order-in-Council 1957-577 - Whether s. 35 of the *Indian Act* authorizes the extinguishment of the aboriginal interest and removal of lands from the Reserve - Alternatively, if the Governor in Council can exercise the discretion conferred by s. 35 of the *Act* to remove the Indian interest of the Band in their reserve land, what principles control the exercise of such discretion - Whether s. 35 of the *Act* authorizes the removal of the Land from the Reserve through the vehicle of Order-in-Council 1957-577.

**Nature de la cause:**

Lois - Interprétation - Texte réglementaire - Canal d'irrigation aménagé sur une partie de la réserve - Décret fédéral 1957-577 - L'article 35 de la *Loi sur les Indiens* permet-il l'extinction du droit ancestral et la suppression de certaines terres de la réserve? - Subsidiairement, si le gouverneur en conseil peut exercer le pouvoir discrétionnaire qui lui est conféré par l'art. 35 de la *Loi* pour supprimer le droit ancestral que possède la bande sur le territoire de leur réserve, à quels principes est assujéti l'exercice d'un tel pouvoir discrétionnaire? - L'article 35 de la *Loi* autorise-t-il la suppression de cette terre de la réserve par l'entremise du décret 1957-577?

12.6.2001

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

**Janine Bailey, et al.**

v. (27427)

**Her Majesty the Queen in Right of Canada, et al.  
(F.C.)(Civil)(By Leave)**

Andrew Raven and David Yazbeck for the appellant Janine Bailey.

David J. Jewitt for the appellants Elisabeth Lavoie, et al.

Graham Garton, Q.C. and Yvonne Milosevic for the respondents.

Joanne St. Lewis and Milton James Fernandes for the intervener Center for Research Action on Race Relations.

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Constitutional law - Canadian Charter - Civil - Civil rights - Equality - Whether s. 15(1) of the Charter protects against discrimination between citizens and non-citizens in referral to open competitions for positions in the Federal Public Service - Whether the Federal Court of Appeal erred in finding that it did not - *Public Service Employment Act*, R.S.C., c. P-33, s. 16(4)(c).

**Nature de la cause:**

Droit constitutionnel - *Charte canadienne des droits et libertés* - Civil - Droits civils - Droit à l'égalité - Le par. 15(1) de la *Charte* interdit-il la discrimination entre un citoyen et un non-citoyen dans le cadre d'un concours public visant à doter un poste dans la Fonction publique fédérale? - La Cour d'appel fédérale a-t-elle erré en répondant par la négative à cette question? - *Loi sur l'emploi dans la fonction publique*, L.R.C., ch. P-33, al. 16(4)c).

---

13.6.2001

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

**John Hollick**

v. (27699)

**The City of Toronto (Ont.)(Civil)(By Leave)**

Michael McGowan, Kirk M. Baert, Pierre Sylvestre and Gabrielle Pop-Lazic for the appellant.

Graham Rempe and Kalli Y. Chapman for the respondent.

Robert V. Wright and Elizabeth Christie for the interveners Friends of the Earth, et al.

Doug Thomson and David McRobert for the intervener Environmental Commissioner of Ontario.

No one appeared for the intervener Law Foundation of Ontario (written submission by Mark M. Orkin, Q.C.).

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Procedural law - Action - Application for Certification of Action as a Class Proceeding - *Class Proceedings*

---

*Act, 1992, S.O. 1992, c. 6, s. 5* - What is the test for certification of a class proceeding under Ontario's *Class Proceedings Act, 1992*? - Whether the court has discretion to deny certification - Whether the Ontario Legislature intended to permit environmental class actions - Whether the Court of Appeal properly applied the certification test - Whether the claim for injunctive relief should be certified - What costs order should be made?

**Nature de la cause:**

Droit de procédure - Action en justice - Demande d'une ordonnance certifiant une instance comme recours collectif - *Loi de 1992 sur les recours collectifs, S.O. 1992, ch. 6, art. 5* - Quel est le critère de certification d'un recours collectif conformément à la *Loi de 1992 sur les recours collectifs* de l'Ontario? - La Cour dispose-t-elle du pouvoir discrétionnaire lui permettant de refuser la certification? - L'Assemblée législative de l'Ontario avait-t-elle l'intention d'autoriser des recours collectifs en matière environnementale? - La Cour d'appel a-t-elle bien appliqué le critère de certification? - La demande de redressement par injonction devrait-elle être certifiée? - Quelle ordonnance devrait être rendue quant aux dépens?

13.6.2001

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

**Her Majesty the Queen in Right of the Province of  
British Columbia**

James M. Sullivan, D. Clifton Prowse and Suzanne M. Kennedy for the appellant.

v. (27721)

Patrick G. Guy and Anne Sheane for the respondents.

**Leanne Rumley, et al. (B.C.)(Civil)(By Leave)**

**DISMISSED, REASONS TO FOLLOW / REJETÉ, MOTIFS À SUIVRE**

THE CHIEF JUSTICE (orally):

[TRADUCTION] LE JUGE EN CHEF (oralement):

The appeal is dismissed and the order of the Court of Appeal of British Columbia is affirmed. Reasons will follow.

Le pourvoi est rejeté et l'ordonnance de la Cour d'appel de la Colombie-Britannique est confirmée. Motifs à suivre.

**Nature of the case:**

**Nature de la cause:**

Procedural law - Civil procedure - Actions - Class actions - Chambers judge refusing to certify action for damages by former students of residential school for the deaf as a class proceeding under *Class Proceedings Act, R.S.B.C. 1996, c. 50* - Whether the Court of Appeal erred in determining that a class proceeding would be the "preferable procedure for the fair and efficient resolution" of the suggested common issues by failing to critically analyze the case in relation to the requirements specifically enumerated in section 4(2) of the *Act* - Whether the Court of Appeal erred in interfering with the exercise of the Certification Judge's

Droit procédural – Procédure civile – Actions – Recours collectifs – Le juge des requêtes a refusé de certifier une action en dommages-intérêts intentée par d'anciens étudiants d'un pensionnat pour sourds à titre de recours collectif sous le régime de la *Class Proceedings Act, R.S.B.C. 1996, c. 50* – La Cour d'appel a-t-elle erré en jugeant qu'un recours collectif serait la [TRADUCTION] « meilleure procédure pour le règlement juste et efficace » des questions communes soulevées en omettant de procéder à une analyse critique de l'affaire par rapport aux exigences expressément énumérées au paragraphe 4(2) de la *Loi*? détermination, in her discretion, that the proposed common issues did not give rise to sufficient commonality, that a class

proceeding was not the preferable procedure, and that it would inevitably break down into substantial individual trials.

– La Cour d’appel a-t-elle eu tort d’intervenir dans l’exercice du pouvoir discrétionnaire du juge de la certification en modifiant la décision portant que les éléments communs aux questions communes soulevées n’étaient pas suffisants, qu’un recours collectif n’était pas la meilleure procédure, et que le recours se solderait inévitablement par des procès individuels importants?

---

14.6.2001

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

**Kimberly Van de Perre**

v. (27897)

**Theodore Edwards, et al. (B.C.)(Civil)(By Leave)**

Steven N. Mansfield and Kenneth B. Oliver for the appellants.

F. Ean Maxwell, Q.C. and Barbara E. Bulmer for the respondents.

Sheena Scott and Marie Chen for the interveners African Canadian Legal Clinic, et al.

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Family law - Custody and access - Child of unmarried parents - Custody dispute between Caucasian mother of three year old child and Afro-American father - Whether the Court of Appeal determined and applied the appropriate standard of appellate review - Whether the Court of Appeal properly determined and applied the appropriate considerations when deciding what role race plays in the custody of a child of mixed-race - Whether the Court of Appeal erred in adding Mrs. Edwards as a party and as a custodial applicant during the course of the hearing of the appeal.

**Nature of the case:**

Droit de la famille - Garde et droits de visite - Enfant de parents non mariés - Litige relatif à la garde d’un enfant de trois ans entre la mère caucasienne et le père afro-américain - La Cour d’appel a-t-elle appliqué la norme de contrôle appropriée? - La Cour d’appel a-t-elle appliqué correctement les critères appropriés lorsqu’elle a déterminé le rôle joué par la race relativement à la garde d’un enfant de race mixte? - La Cour d’appel a-t-elle commis une erreur en ajoutant M<sup>me</sup> Edwards comme partie demandant la garde au cours de l’audition de l’appel?

JUNE 14, 2001 / LE 14 JUIN 2001

26912            HOWARD SHULMAN - v. - THE UNITED STATES OF AMERICA (Ont.) (Crim.)  
27610            HARRY COBB and ALLEN GROSSMAN - v. - THE UNITED STATES OF AMERICA  
                  (Ont.) (Crim.)  
27774            JAMES TSIUBRIS - v. - THE UNITED STATES OF AMERICA (Ont.) (Crim.)  
  
CORAM:            The Chief Justice and Gonthier, Iacobucci, Major, Bastarache, Binnie and Arbour JJ.

The application to adduce fresh evidence and the application for a rehearing are dismissed.

La demande de production d'éléments de preuve nouveaux et la demande de nouvelle audition sont rejetées.

---

## DEADLINES: APPEALS

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

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

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

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

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

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

The Registrar shall inscribe the appeal for hearing upon the filing of the respondent's factum or after the expiry of the time for filing the respondent's factum.

## DÉLAIS: APPELS

La session d'automne de la Cour suprême du Canada commencera le 1<sup>er</sup> octobre 2001.

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

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

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

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

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

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

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

SUPREME COURT OF CANADA SCHEDULE  
CALENDRIER DE LA COUR SUPREME

2000

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

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

- 2001 -

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

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

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

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

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

| JUNE - JUIN |         |        |        |        |        |        |
|-------------|---------|--------|--------|--------|--------|--------|
| S<br>D      | M<br>L  | T<br>M | W<br>M | T<br>J | F<br>V | S<br>S |
|             |         |        |        |        | 1      | 2      |
| 3           | 4       | 5      | 6      | 7      | 8      | 9      |
| 10          | M<br>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