

**SUPREME COURT  
OF CANADA**



**COUR SUPRÊME  
DU CANADA**

**BULLETIN OF  
PROCEEDINGS**

**BULLETIN DES  
PROCÉDURES**

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**APPLICATIONS FOR LEAVE TO  
APPEAL FILED**

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

**The Corporation of the City of Mississauga**  
Thomas G. Heintzman  
McCarthy Tétrault

v. (28363)

**Greater Toronto Airports Authority et al. (Ont.)**  
Brian Morgan  
Osler, Hoskin & Harcourt

FILING DATE 2.1.2001

**Constance Clara Fogal et al.**  
Rocco Galati  
Galati, Rodrigues, Azevedo & Associates

v. (28351)

**Her Majesty the Queen in Right of Canada et al.  
(F.C.)**  
David Sgayias, Q.C.  
A.G. of Canada

FILING DATE 4.1.2001

**Michel Blondin**  
Franco Iezzoni  
Pateras & Iezzoni

c. (28366)

**Sa Majesté la Reine (Qué.)**  
Jean-Marie Tanguay  
Procureur général du Québec

DATE DE PRODUCTION 8.1.2001

**Warren James Jarvis**  
Alan D. Macleod, Q.C.  
Macleod Dixon LLP

v. (28378)

**Her Majesty the Queen (Alta.)**  
Donna R. Valgardson  
A.G. of Canada

FILING DATE 12.1.2001

**Linda Vosko**  
Pierre Fournier

Fournier, Perron, g.p.

v. (28437)

**Anne-France Goldwater (Que.)**  
Michael H. Kay  
Kugler Kandestin, g.p.

FILING DATE 22.1.2001

**Servier Canada Inc. et al.**  
William W. McNamara  
Ogilvy Renault

v. (28380)

**Sheila Wilson (Ont.)**  
Joel P. Rochon  
Rochon, Genova

FILING DATE 22.1.2001

**Antoine C. Zarzour**  
Antoine C. Zarzour

c. (28438)

**Sa Majesté la Reine**  
Rosemarie Millar  
Procureur général du Canada

DATE DE PRODUCTION 26.1.2001

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**La procureure générale du Québec**  
Serge Brodeur  
Procureur général du Québec

c. (28432)

**Future Electronique Inc. et al. (Qué.)**  
Guy Du Pont  
Goodman Phillips & Vineberg

DATE DE PRODUCTION 31.1.2001

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**J.R.L.**

Lawrence Greenspon  
Karam, Greenspon

v. (28381)

**Her Majesty the Queen (Ont.)**  
Renee Pomerance  
A.G. for Ontario

FILING DATE 5.2.2001

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**S.L.**

S.L.

c. (28435)

**S.D. (Qué.)**  
Céline Otis

DATE DE PRODUCTION 8.2.2001

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**Moneta Porcupine Mines Ltd.**

Darryl A. Cruz  
McCarthy Tétrault

v. (28429)

**Charles Gryba**  
Barry D. Prentice  
Blaney McMurtry LLP

FILING DATE 16.2.2001

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**La procureure générale du Québec**  
Monique Rousseau  
Procureure générale du Québec

c. (28431)

**Le Syndicat du personnel de l'enseignement du  
Nord de la Capitale (Qué.)**  
Michel Boyer  
Lapierre, St-Denis & Associés

DATE DE PRODUCTION 16.2.2001

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**Angelina Codina**

Alan D. Gold  
Gold & Fuerst

v. (28434)

**Her Majesty the Queen (Ont.)**  
Eric H. Siebenmorgen  
A.G. for Ontario

FILING DATE 19.2.2001

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**RJR Macdonald Inc.**

W. Jack Millar  
Millar Wyslobicky Kreklewetz LLP

v. (28440)

**Her Majesty the Queen (F.C.)**  
F.B. Woyiwada  
A.G. of Canada

FILING DATE 19.2.2001

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**Gunnar Kjelstrup Madsen et al.**

Timothy W. Clarke  
Bull, Housser & Tupper

v. (28439)

**Her Majesty the Queen (F.C.)**  
Anne-Marie Lévesque  
A.G. of Canada

FILING DATE 20.2.2001

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**Commission des droits de la personne et des droits  
de la jeunesse**

Maurice Drapeau  
Commission des droits de la personne et des  
droits de la jeunesse

c. (28436)

**Bernard Genest et al. (Qué.)**

Jean-Robert Laporte  
Roy, Laporte & Sylvestre

DATE DE PRODUCTION 1.3.2001

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**EDBE Consulting Limited**

Larry S. Heald

v. (28441)

**Union Gas Limited et al. (Alta.)**

FILING DATE 2.3.2001

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

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

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MARCH 12, 2001 / LE 12 MARS 2001

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

**Gillian Guess**

**v. (28303)**

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

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal law - Offences - Procedural law - Charge to the jury - Whether the trial judge erred in his charge to the jury with respect to the *actus reus* and *mens rea* of the offence of attempting to obstruct, pervert or defeat the course of justice - Whether the trial judge erred in his charge to the jury with respect to reasonable doubt - Whether the trial judge erred in ordering the accused excluded from proceedings relating to her trial - Whether the Applicant's rights under sections 11(d) and 7 of the *Charter* were infringed.

**PROCEDURAL HISTORY**

October 23, 1997  
Supreme Court of British Columbia  
(Paris J.)

Order: Applicant's counsel to have supervised access to evidence withheld by Crown, providing he not disclose the information to anyone, including the Applicant

June 19, 1998  
Supreme Court of British Columbia  
(Paris J.)

Conviction: Applicant convicted of wilfully attempting to obstruct, pervert or defeat the course of justice by having a personal relationship with an accused during his trial at which she was a juror

October 12, 2000  
Court of Appeal for British Columbia  
(Esson, Prowse and Hall JJ.A.)

Appeal against conviction dismissed

December 11, 2000  
Supreme Court of Canada

Application for leave to appeal filed

---

**Manuel Montecatine**

**c. (28330)**

**Sa Majesté la Reine (Crim.)(Qué.)**

**NATURE DE LA CAUSE**

Droit criminel - Preuve - Crédibilité - Est-ce que le jugement de culpabilité sur le chef de voie de fait est déraisonnable pour cause d'incompatibilité vu l'acquittement sur le chef de harcèlement pour doute raisonnable?

**HISTORIQUE PROCÉDURAL**

Le 1 novembre 1999  
Cour du Québec  
(Parent j.c.q.)

Demandeur acquitté sur chef de harcèlement et déclaré coupable sur chef de voie de fait, contrairement à l'article 266b) du *Code criminel*

Le 2 août 2000  
Cour supérieure du Québec  
(Paul j.c.s.)

Appel rejeté

Le 24 octobre 2000  
Cour d'appel du Québec  
(Beauregard j.c.a.)

Requête pour permission d'appeler rejetée

Le 20 décembre 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**Tawich Development Corporation**

**v. (28033)**

**Deputy Minister of Revenue of Quebec (Que.)**

**NATURE OF THE CASE**

Native law - Taxation - Interpretation - Section 985 of the *Taxation Act*, R.S.Q., c. I-3 - Whether the Cree Nation of Wemindji is a "Canadian municipality" under s. 985 of the *Taxation Act* - Whether the Applicant is exempt from capital tax under ss. 985 and 1143 of the *Taxation Act*?

**PROCEDURAL HISTORY**

December 23, 1996  
Quebec Court (Civil Division)  
(Vermette J.)

Appeals from confirmations of assessments dismissed

May 8, 2000  
Court of Appeal of Québec (Montréal)  
(Baudouin, Proulx and Otis JJ.A.)

Appeal dismissed

August 2, 2000  
Supreme Court of Canada

Application for leave to appeal filed

**Corrpro Canada Inc.**

v. (28202)

**Edmonton Centre West Ltd., Oxford Properties Canada Limited, Truscan Property Corporation, ECW Leaseholds Ltd., The Edmonton Centre Limited and Oxford Development Group Inc. (Alta.)**

**NATURE OF THE CASE**

Procedural law - Limitation of actions - Torts - Negligence - Injury to property - Defendant applying to dismiss action on basis that it was barred by s. 51(f) of the *Limitation of Actions Act*, R.S.A. 1980, c. L-15 - Whether allegation that negligent design of cathode protection system failed to prevent further corrosion of reinforced concrete slabs constitutes an allegation of "injury to real property" directly or indirectly arising from an extrinsic act.

**PROCEDURAL HISTORY**

June 11, 1999 Court of Queen's Bench of Alberta (Girgulis J.)	Applicant's application for an order dismissing Respondents' action granted
August 9, 2000 Court of Appeal of Alberta (Côté, Russell and Berger [dissenting in part] JJ.A.)	Appeal allowed; declaration that the action is subject to a six-year limitation granted
October 17, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**No. 1 Collision Repair & Painting (1982) Ltd.**

v. (28184)

**Insurance Corporation of British Columbia, Robert Brownlee, Gordon Parsons, Derek Vettese, Stacey Bernier, Richard Fister and Neil Weatherston (B.C.)**

**NATURE OF THE CASE**

Torts - Intentional Torts - Commercial Law - Contracts - History of conflict between Crown corporation with provincial monopoly to insure automobile owners and repair shop that bills its customers at rates exceeding those approved by Crown corporation - Crown corporation engages in deliberate course of conduct that includes illegally withholding payments due to repair shop - Conduct results in significant hardship and losses to repair shop and sale of business - Whether insurer acted lawfully in using statutory powers and monopoly position to intentionally inflict economic injury - Whether judgments below achieved an otherwise unavailable limitation on insurer's liability - Whether error to conclude that the insurer's obligations are limited - Whether error not to find unreasonable and unlawful restraint of trade.

**PROCEDURAL HISTORY**

March 13, 1998 Supreme Court of British Columbia (Henderson J.)	Applicant awarded damages and interest on those damages for breach of contract
August 8, 2000 Court of Appeal of British Columbia	Appeal dismissed



(Lambert, Donald and Hall JJ.A.)

October 5, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Hoechst Celanese Corporation**

v. (28154)

**Jean-Michel Furlan, Donald Atkinson, Russell D. Reid, Mark Zwanski, Grev Grey  
and Kirsten Williams**

**AND BETWEEN:**

**E.I. Du Pont de Nemours and Company, Shell Oil Company and  
Hoechst Celanese Corporation**

v.

**Jean-Michel Furlan, Donald Atkinson, Russell D. Reid, Mark Zwanski, Grev Grey  
and Kirsten Williams**

**AND BETWEEN:**

**Shell Oil Company**

v.

**Jean-Michel Furlan, Donald Atkinson, Russell D. Reid, Mark Swanski, Grev Grey  
and Kristen Williams (B.C.)**

**NATURE OF THE CASE**

Procedural law - Civil Procedure - Courts - Jurisdiction - Pre-trial procedure - Service *ex juris* - Appropriate criteria for assessing when a trial court may assume jurisdiction under “real and substantial connection” test - Whether principles of order and fairness require a plaintiff to adduce evidence of a good arguable case against a foreign defendant who challenges the jurisdiction of the court - *Morguard Investments Ltd. v. De Savoye*, [1990] 3 S.C.R. 1077

**PROCEDURAL HISTORY**

August 16, 1999  
Supreme Court of British Columbia  
(Williams C.J.)

Application for a Order setting aside the service *ex juris* of  
the Writ of Summons dismissed

June 30, 2000  
Court of Appeal of British Columbia  
(Esson, Rowles, and Mackenzie JJ.A.)

Appeal dismissed

September 27, 2000  
Supreme Court of Canada

Applications for leave to appeal filed

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

**Robert MacKenzie**

**v. (28369)**

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

**NATURE OF THE CASE**

Criminal law - Burden of Proof - Applicant convicted of attempting to obstruct justice - Whether trial judge created reverse onus - Whether trial judge required accused to contradict central allegation in order to raise reasonable doubt.

**PROCEDURAL HISTORY**

February 21, 1997  
Superior Court of Justice  
(Knazan J.)

Oral reasons for judgment: Applicant found guilty of wilfully attempting to obstruct the course of justice contrary to s. 139(2) of the *Criminal Code*

November 6, 2000  
Court of Appeal for Ontario  
(Finlayson, Weiler and Abella JJ.A.)

Endorsement: Appeal against conviction dismissed

January 5, 2001  
Supreme Court of Canada

Application for leave to appeal filed

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**Nataly Perron**

**c. (28121)**

**Le Ministre du revenu national (C.F.)**

**NATURE DE LA CAUSE**

Procédure - Contrôle judiciaire - Prescription - Interprétation - Législation et textes réglementaires - Assurance-emploi - La demanderesse a-t-elle été induite en erreur par les employés du Ministère du revenu national, de sorte qu'elle ait manqué le délai de prescription pour faire appel d'une décision du ministre quant l'assurabilité de son emploi ? - Y a-t-il une ambiguïté entre les *Règles de la Cour canadienne de l'impôt* et la *Loi sur l'assurance-emploi* ? - *Loi sur l'assurance-emploi*, L.C. (1996) ch. 23, par. 103(1) - *Règles de la Cour canadienne de l'impôt (Assurance-emploi)*, DORS/90-690 et modif., par. 26.1(1).

**HISTORIQUE PROCÉDURAL**

Le 20 avril 1998 Cour canadienne de l'impôt (Léger j.s.c.c.i.)	Requête pour faire rejeter l'appel accordée
Le 16 juin 2000 Cour d'appel fédérale (Desjardins, Létourneau et Noël jj.c.a.)	Demande de contrôle judiciaire rejetée
Le 13 septembre 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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**Clarence Paradis**

**c. (27900)**

**Les honorable juges; Paul-Arthur Gendreau, Morris J. Fish, René Letarte (ad hoc), La Commission des lésions professionnelles et Kraft Canada Inc. (Qué.)**

**NATURE DE LA CAUSE**

Droit du travail – Accident de travail – Date de la consolidation de la lésion professionnelle – Révision judiciaire d'une décision de la Commission d'appel en matière de lésions professionnelles – Disposition privative – *Loi sur les accidents de travail et les maladies professionnelles*, L.R.Q., c. A-3.001, art. 429.59 – La Cour d'appel a-t-elle erré en rejetant l'appel du demandeur?

**HISTORIQUE PROCÉDURAL**

Le 5 octobre 1995 Cour supérieure du Québec (Duval Hesler, j.c.s.)	Requête en révision judiciaire à l'encontre d'une décision de la Commission d'appel en matière de lésions professionnelles rejetée
Le 10 mars 2000 Cour d'appel du Québec (Gendreau, Fish et Letarte [ <i>ad hoc</i> ], jj.c.a.)	Appel rejeté sans dépens
Le 9 mai 2000 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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**Wilfried Koch**

**c. (28077)**

**Hydro-Québec**

**ET ENTRE :**

**Wilfried Koch**

**c.**

**Hydro-Québec, Corporation du village de Rawdon et Le Club juridique**

**ET ENTRE :**

**Wilfried Koch**

**c.**

**Hydro-Québec et l'Officier du Bureau de la publicité des  
droits de la circonscription foncière de Montcalm (Qué.)**

**NATURE DE LA CAUSE**

Droit des biens - Bail - Privilège et droit de premier refus sur un terrain - Recours en jugement déclaratoire - Recours en injonctions mandatoire et permanente - *Res judicata* - Non-conformité aux normes prescrites pour la publication de droits fonciers - Intérêt du public à ce qu'un terrain ne soit pas loué à un particulier - Y a-t-il lieu de déclarer à nouveau le privilège de location et le droit de premier acheteur consentis au demandeur par l'entente du 21 mai 1974 ? - Doit-on forcer l'inscription de ces droits au registre foncier ? - Doit-on forcer Hydro-Québec à louer son terrain au demandeur ?

**HISTORIQUE PROCÉDURAL**

Le 6 mars 1989 Cour supérieure du Québec (district de Montréal) (Trudeau j.c.s.)	Action du demandeur rejetée
Le 19 avril 1996 Cour d'appel du Québec (Beauregard, Otis, Biron ( <i>ad hoc</i> ) jj.c.a.)	Appel accueilli
Le 24 octobre 1996 Cour suprême du Canada (Lamer j.c., L'Heureux-Dubé et Gonthier jj.)	Demande d'autorisation d'appel rejetée (Dossier 25395)
Le 27 mars 1996 Cour suprême du Canada (Lamer j.c., L'Heureux-Dubé et Gonthier jj.)	Demande de ré-examen rejetée
Le 30 avril 1997 Cour supérieure du Québec (district de Laval) (Filiatreault j.c.s.)	Requête pour jugement déclaratoire rejetée
Le 28 janvier 1998 Cour supérieure du Québec (district de Joliette) (Bilodeau j.c.s.)	Requête pour injonction rejetée
Le 13 février 1998 Cour supérieure du Québec (district de Joliette) (Croteau j.c.s.)	Requête pour faire publier droits fonciers rejetée

Le 12 mai 2000  
Cour d'appel du Québec  
(Gendreau, Mailhot, Denis (*ad hoc*) jj.c.a)

Appels rejetés

Le 22 août 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Le 10 novembre 2000  
Cour suprême du Canada  
(L'Heureux-Dubé J.)

Requête en prorogation de délai accordée

---

**158514 Canada Inc. (Place du Saguenay) and Burnac Leaseholds, A Division of Burnac Corporation**

**v. (28082)**

**Stéphane Lachance & Associés Inc., in its quality as trustee in the bankruptcy of Groupe Boutique Chérie Inc.,  
Sam Lévy & Associés Inc., in its quality as trustee to bankruptcy of Arthur Blumer and David Blumer (Que.)**

**NATURE OF THE CASE**

Commercial Law - Bankruptcy - Procedural Law - Appeal - Delay for appeal - Whether the delay set forth in section 183(2) of the *Bankruptcy and Insolvency Act* and in section 31(1) of the *Bankruptcy and Insolvency General Rules* is preemptory? - Whether article 523 of the *Code of Civil Procedure* has any application with respect to the delay to appeal from a judgment rendered in a bankruptcy matter? - What are the applicable principles and procedures for obtaining leave to appeal beyond the delays?

**PROCEDURAL HISTORY**

January 19, 2000  
Superior Court of Quebec  
(Poulin J.)

Order maintaining the Motion in Inopposability and the oppression remedy on the part of Applicant 158514 Canada Inc.; Order maintaining the interventions on the part of Applicant Burnac Leasehold, a division of Burnac Corporation (Bernac). Respondents ordered to pay \$210,639.75 to Applicant 158514 Canada Inc. and \$278,020.76 to Applicant Burnac in both cases with interest and costs; Order for provisional execution of the Judgment notwithstanding appeal. Respondents ordered to pay the extra-judicial fees of the Applicants attorneys.

May 19, 2000  
Court of Appeal of Québec  
(Beauregard, Deschamps and Robert JJ.A.)

Order maintaining motion to dismiss Respondent's appeal but for costs only; Respondent's motion to extend the delays to appeal *de bene esse* without costs

August 18, 2000  
Supreme Court of Canada

Application for leave to appeal filed

**Lyndon and Fran Blacklaws, John Michael and Heather A. Smith on behalf of themselves and all other members of a class having claims against 470433 Alberta Ltd. carrying on business as Ghostpine Lake Golf and Country Resort**

v. (28126)

**Sam Morrow (Alta.)**

**NATURE OF THE CASE**

Torts - Negligence - Pure economic loss - Respondent sole owner and director of company owning company that contracted with Applicants for timeshare resort - Whether Respondent personally owed a duty of care to the Time Share Owners - Whether previously recognized categories of economic loss not applicable - Whether recovery for pure economic loss should be extended - Whether policy considerations might negate the scope of the duty owed, the class of persons to whom it was owed, or the damages to which a breach of the duty may give rise.

**PROCEDURAL HISTORY**

December 12, 1997  
Court of Queen's Bench of Alberta  
(Hembroff J.)

The plaintiffs are entitled to damages from Respondent for breach of contract and negligence.

June 21, 2000  
Court of Appeal of Alberta  
(Fraser C.J. and Côté and Berger JJ.A.)

Appeal allowed, Berger J.A. dissenting

September 15, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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

**Abdul Momen Shahnawaz**

v. (28265)

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

**NATURE OF THE CASE**

Criminal Law - Sentencing - Narcotics - Applicant convicted of four counts of trafficking in heroin - Applicant having suffered years of torture and political imprisonment in Afghanistan - Trial judge ordering conditional sentence in light of Applicant's psychological condition - Whether a trial judge may depart from the customary range of sentence imposed for a particular offence in order to avoid a sentence that would significantly impair the psychological integrity of the individual and result in cruel and unusual punishment

**PROCEDURAL HISTORY**

October 29, 1999  
Superior Court of Justice  
(Molloy J.)

Conviction: four counts of trafficking an illegal substance; sentenced to a conditional sentence of two years less a day to be served in the community to be followed by a two-year period of probation

November 7, 2000  
Court of Appeal for Ontario  
(Osborne A.C.J.O., Charron and  
Laskin (dissenting) JJ.A.)

Appeal against sentence allowed; term of six years' imprisonment imposed.

January 8, 2001  
Supreme Court of Canada

Application for leave to appeal filed

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**Dr. Ranjit Perera**

**v. (28114)**

**The Attorney General of Canada (F.C.)**

**NATURE OF THE CASE**

Administrative Law - Judicial Review - Statutes - Interpretation - Applicant screened out of job competition - Provision allows unsuccessful candidates to appeal appointments but appeal right can be barred in certain circumstances - Whether the Federal Court of Appeal erred in their conclusion that the Appeal Board, established pursuant to section 21 of the *Public Service Employment Act*, had no jurisdiction to determine if section 27 of the *Public Service Employment Regulations* infringed section 15 of the *Charter? Public Service Employment Act*, R.S.C. 1985, c. P-33, s. 21; *Public Service Employment Regulations*, Canada Gazette Part II, Vol. 127, No. 12, p. 2653, s. 27.

**PROCEDURAL HISTORY**

October 4, 1996  
Appeal Board  
(Mooney, John A.)

Board has authority to determine constitutional question.

December 17, 1998  
Federal Court of Canada, Trial Division  
(Rouleau J.)

Application for judicial review granted. Appeal Board decision quashed and Applicant's appeal dismissed.

June 8, 2000  
Federal Court of Appeal  
(Stone, Noël and McDonald JJ.A.(dissenting))

Appeal dismissed

September 7, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Bernard C. Tanner**

**v. (28183)**

**J.D. Bruce McDonald, Bennett Jones, The College of Physicians and Surgeons of Alberta, Dr. Patrick F. Conway, Dr. Paul Reynolds, Dr. Roland F. Lynch, Calgary Regional Health Authority, Metro-Calgary and Rural General Hospital District No. 93 (also know as Calgary Regional District Group) and Holy Cross Hospital (Alta.)**

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**NATURE OF THE CASE**

Procedural law - Appeals - Fresh evidence - Test for admission of fresh evidence after order for summary judgment -  
Limitation of actions - Fraudulent concealment - Effect of fraudulent concealment on application of limitation period

**PROCEDURAL HISTORY**

July 29, 1999 Court of Queen's Bench of Alberta (Hawco J.)	Applicant's action dismissed with costs
February 24, 2000 Court of Appeal of Alberta (Hunt J.A.)	Applicant's motion for production of documents dismissed
July 19, 2000 Court of Appeal of Alberta (McClung, Conrad and Berger JJ.A.)	Appeal dismissed with costs
October 3, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**Wayne E. Strong**

**v. (28170)**

**Neil M. Kisbee, Estate Trustee for the Estate of Micheline M. Paquet**

**AND BETWEEN:**

**Wayne E. Strong**

**v.**

**General Motors of Canada Limited (Ont.)**

**NATURE OF THE CASE**

Torts - Damages - Sexual assault - Wrongful dismissal - Defamation - Procedural law - Limitation of actions - Employee dismissed because of alleged sexual assault - Trial judge dismissing employee's actions for defamation and wrongful dismissal - Trial judge also dismissing counterclaim for damages for sexual assault - Whether Court of Appeal erred in upholding trial judge's dismissal of claim for wrongful dismissal - Whether Court of Appeal erred in allowing cross-appeal and awarding damages for sexual assault.

**PROCEDURAL HISTORY**

June 17, 1997 Ontario Court of Justice (General Division) (Granger J.)	Claim and counterclaim in first action dismissed; second action dismissed.
August 1, 2000 Court of Appeal for Ontario	Appeal dismissed; cross-appeal allowed and Applicant ordered to pay \$100,000 in damages.

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(Borins, MacPherson and Sharpe JJ.A.)

September 29, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**Corrine Godin**

**v. (28019)**

**Premier Salon International Inc., Magic Cuts Hair Salon Inc. and Gaétanne Thériault (N.B.)**

**NATURE OF THE CASE**

Torts - Negligence - Evidence - Plaintiff falling after rising to leave her chair at a hairdressing salon - Whether trial judge erred in assessing discovery evidence.

**PROCEDURAL HISTORY**

October 21, 1999  
Court of Queen's Bench of New Brunswick  
(Deschênes J.)

Applicant's action in tort for damages dismissed

May 25, 2000  
Court of Appeal of New Brunswick  
(Turnbull, Drapeau, Larlee JJ.A.)

Appeal dismissed

July 20, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**MOTIONS FOR RECONSIDERATION / DEMANDES DE RÉEXAMEN**

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

1. William Fook Wah Lim v. Hong Kee Lim (B.C.)(27635)

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

1. A.H. c. Institut Philippe Pinel, et al. (Qué.)(27854)

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

1. Arlette Jumelle c. Robert Maxwell Soloway (Man.)(27701)
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**JUDGMENTS ON APPLICATIONS  
FOR LEAVE**

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

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MARCH 15, 2001 / LE 15 MARS 2001

**28062**            **HER MAJESTY THE QUEEN IN RIGHT OF CANADA, AS REPRESENTED BY THE  
MINISTER OF NATIONAL REVENUE - v. - FIRST VANCOUVER FINANCE** (Sask.) (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**

Commercial law - Creditor and debtor - Statutes - Interpretation - Taxation - Whether deemed statutory trust under the *Income Tax Act* attaches property of an employer coming into existence after the employer fails to remit payroll deductions to Revenue Canada - Whether the interests of the Minister of National Revenue have priority over those of a factor in respect of accounts receivable - Whether the Goods and Services Tax component of accounts receivable purchased in a factoring transaction belong to the Minister of National Revenue.

**PROCEDURAL HISTORY**

January 18, 2000  
Court of Queen's Bench of Saskatchewan  
(Wimmer J.)

Application for declaration granted. Respondent First Vancouver Finance entitled to monies paid by Canada Safeway to Revenue Canada, except for that covered by accounts factored after February 10, 1999, which constituted "after-acquired" property.

May 16, 2000  
Court of Appeal for Saskatchewan  
(Cameron, Gerwing and Sherstobitoff JJ.A.)

Appeal and cross-appeal dismissed

August 14, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**28165**            **DUBREUIL BROTHERS EMPLOYEES ASSOCIATION, A DIVISION OF IWA CANADA,  
LOCAL 2693 - v. - LONDON LIFE INSURANCE COMPANY, DUBREUIL FOREST  
PRODUCTS LIMITED, MICHAEL BENDEL** (Ont.) (Civil)

CORAM:            The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to London Life Insurance Company.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de la compagnie d'assurance London Life.

**NATURE OF THE CASE**

Labour law - Arbitration - Jurisdiction - Collective agreement - Long term disability benefits - Whether the Ontario Court of Appeal erred in its analysis of the exclusive jurisdiction model of arbitral jurisdiction - Whether the Ontario Court of Appeal erred in concluding that a grievance arbitrator does not have jurisdiction to add a third party insurer as a party defendant - Whether the analysis of the Ontario Court of Appeal in its decision in the present matter is at variance with analyses in other of its recent decisions?

**PROCEDURAL HISTORY**

October 7, 1998 Ontario Court of Justice (General Division) Divisional Court (Bell, Sharpe and McKinnon JJ.)	Application for judicial review allowed
July 13, 2000 Court of Appeal for Ontario (Carthy, Goudge and O'Connor JJ.A.)	Appeal dismissed
September 29, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28081**            **MICHAEL MONAGHAN - v. - WILLIAM CHESHER, LISA CHESHER** (Ont.) (Civil)

CORAM:            The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to William Chesher and Lisa Chesher.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de William Chesher et Lisa Chesher.

**NATURE OF THE CASE**

Statutes - Interpretation - Torts - Damages - Was the statutory presumption in favour of periodic payments under s. 116 of the *Courts of Justice Act*, R.S.O. 1990, c. 43 outweighed by the Plaintiff's plan to use the damages awarded for his future care to pay current debts and add home improvements - Did the Court of Appeal err in refusing the Defendants' request for a structured settlement where the Plaintiff had requested and was awarded an income tax gross-up and where the intended use of a lump sum award would attract little or no income tax liability - Did the Court of Appeal err in permitting the Motion for a structure to become a forum for re-opening the assessment of damages at trial - Did the Court of Appeal err in deciding that because the proposed structure would cost less to the Defendant than payment of a lump sum that this would not be in the Plaintiff's best interest - Did the Court of Appeal err in considering the absence of a guarantee period as a reason for defeating the statutory presumption in favour of a structure - Did the Court of Appeal err in determining that the Court could not adjust the proposed structure in a manner that would meet the Plaintiff's best interests?

**PROCEDURAL HISTORY**

July 2, 1999 Superior Court of Justice (Kealey J.)	Defendant's motion for an order permitting him to pay the future costs periodically in a structure instead of a lump sum, dismissed
May 19, 2000 Court of Appeal for Ontario (Austin, Laskin, Borins JJ.A)	Appeal dismissed
August 18, 2000 Supreme Court of Canada	Application for leave to appeal filed
November 8, 2000 Supreme Court of Canada	Motion to extend time to file and/or serve application for leave to appeal to August 21, 2000, granted

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(L'Heureux-Dubé J.)

27989

**LE PROCUREUR GÉNÉRAL DU CANADA, EN SA QUALITÉ DE REPRÉSENTANT DE SA MAJESTÉ LA REINE DU CHEF DU CANADA, L'ADMINISTRATEUR FÉDÉRAL NOMMÉ EN VERTU DU CHAPITRE 22 DE LA CONVENTION DE LA BAIE JAMES ET DU NORD QUÉBÉCOIS ET CHRISTINE STEWART, EN SA QUALITÉ DE MINISTRE DE L'ENVIRONNEMENT DU CANADA, JANE STEWART, EN SA QUALITÉ DE MINISTRE DES AFFAIRES INDIENNES ET DU NORD CANADIEN ET JOHN MANLEY, EN SA QUALITÉ DE MINISTRE DE L'OFFICE FÉDÉRAL DE DÉVELOPPEMENT RÉGIONAL - QUÉBEC, DAVID M. COLLENETTE, EN SA QUALITÉ DE MINISTRE DES TRANSPORTS - c. - MARIO LORD, CHEF JOHN KITCHEN, CHEF GEORGE WAPACHEE, CHEF DR. BILLY DIAMOND, ANCIEN CHEF WILLIAM MIANSUM, CHEF KENNY LOON, CHEF ABEL BOSUM, GRAND CHEF MATTHEW COON COME, VIOLET PACHANOS, LA NATION CRIE DE WASWANAPI (BANDE), LA PREMIÈRE NATION DE WASKAGANISH (BANDE), LA PREMIÈRE NATION DE NEMASKA (BANDE), LA NATION CRIE DE MISTISSINI, LA NATION CRIE D'OUJÉ-BOUGOUMOU, LE GRAND CONSEIL DES CRIS (EYYOU ISTCHEE) (GRAND CONSEIL DES CRIS (DU QUÉBEC)), ADMINISTRATION RÉGIONALE CRIE, CREE TRAPPERS' ASSOCIATION, EDWARD GILPIN, LE PROCUREUR GÉNÉRAL DU QUÉBEC, L'ADMINISTRATEUR PROVINCIAL NOMMÉ EN VERTU DU CHAPITRE 22 DE LA CONVENTION DE LA BAIE JAMES ET DU NORD QUÉBÉCOIS, L'HONORABLE PAUL BÉGIN, L'HONORABLE GUY CHEVRETTE (MAINTENANT L'HONORABLE JACQUES BRASSARD) EN SA QUALITÉ DE MINISTRE DES RESSOURCES NATURELLES, LA SOCIÉTÉ DE DÉVELOPPEMENT DE LA BAIE JAMES, REXFOR, DOMTAR INC., PRODUITS FORESTIERS DONOHUE INC. (LAQUELLE INCLUT LA COMPAGNIE ANCIENNEMENT CONNUE COMME PRODUITS FORESTIERS SAUCIER INC.) ET BISSON ET BISSON INC., BARRETTE-CHAPAIS LTÉE ET FOURNITURES MINIÈRES SIMARD INC., TEMBEC INC., NORMICK-PERRON INC., LES INDUSTRIES NORBORD INC., PRODUITS FORESTIERS ALLIANCE INC., OPTIBOIS INC. (ANCIENNEMENT CONNUE COMME 2541-3998 QUÉBEC INC. (PRÉCIBOIS)) ET COMPAGNIE INTERNATIONALE DE PAPIER DU CANADA, LES CHANTIERS DE CHIBOUGAMAU LTÉE, ABITIBI-CONSOLIDATED INC. (ANCIENNEMENT CONNUE COMME COMPAGNIE STONE-CONSOLIDATED ET COMME ABITIBI-PRICE ET COMME CONSOLIDATED BATHURST), MATÉRIAUX BLANCHET INC., SCIERIE AMOS INC., SCIERIE GALLICHAN INC., SCIERIE LANDRIENNE INC., SCIERIE SENCO LTÉE, FILIFOR INC., IPB INTERNATIONAL INC., PANNEAUX CHAMBORD INC., LE GROUPE FOREX INC. ET FOREX INC., BOIS KMS (GMI) LTÉE, KRUGER INC., HOWARD - BIENVENUE INC. (Qué.) (Civile)**

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

La demande d'audition orale et la demande d'autorisation d'appel sont rejetées avec dépens à Mario Lord, Chef John Kitchen, Chef George Wapachee, Chef Dr. Billy Diamond, Ancien Chef William Mianscum, Chef Kenny Loon, Chef Abel Bosum, Grand Chef Matthew Coon Come, Violet Pachanos, La nation crie de Waswanipi (bande), La Première Nation de Waskaganish (bande), La Première Nation de Nemaska (bande), La Nation crie de Mistissini, La Nation crie d'Oujé-Bougoumou, Le Grand conseil des Cris (Eeyou Istchee) (Grand conseil des Cris (du Québec)), Administration régionale crie, Cree Trappers' Association et Edward Gilpin.

The application for an oral hearing and the application for leave to appeal are dismissed with costs to Mario Lord, Chief John Kitchen, Chief George Wapachee, Chief Dr. Billy Diamond, Former Chief William Mianscum, Chief Kenny Loon, Chief Abel Bosum, Grand Chief Matthew Coon Come, Violet Pachanos, The Cree Nation of Waswanipi (Band), The Waskaganis First Nation (Band), The Nemaska First Nation (Band), The Cree Nation of Mistissini (Band), The

Oujé-Bougoumou Cree Nation, The Grand Council of the Crees (Eeyou Istchee) (Grand Council of the Crees of Quebec), The Cree Regional Authority, Cree Trappers' Association and Edward Gilpin.

**NATURE DE LA CAUSE**

Droit constitutionnel – Droit des Autochtones – *Loi constitutionnelle de 1867*, art. 96 et 101 – *Loi constitutionnelle de 1982*, art. 35 – *Loi sur la Cour fédérale*, art. 17 et 18 – Compétence de la Cour supérieure – Compétence de la Cour fédérale – Immunité de la Couronne dans une action en dommages-intérêts soulevant des questions constitutionnelles – Lorsqu'elle a compétence sur un litige, la Cour supérieure peut-elle émettre des ordonnances de nature mandatoire, comme l'injonction et le *mandamus*, contre la Couronne fédérale? – La violation des droits garantis à l'art. 35 de la *Loi constitutionnelle de 1982* est-elle une question d'ordre constitutionnel?

**HISTORIQUE PROCÉDURAL**

Le 24 novembre 1999  
Cour supérieure du Québec  
(Croteau j.c.s.)

Requêtes en exception déclinatoire rejetées

Le 26 avril 2000  
Cour d'appel du Québec  
(Michaud j.c.q., Delisle et Pidgeon jj.c.a.)

Appel rejeté

Le 22 juin 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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28060

**MARIO LORD, CHIEF JOHN KITCHEN, CHIEF GEORGE WAPACHEE, CHIEF DR. BILLY DIAMOND, FORMER CHIEF WILLIAM MIANSCUM, CHIEF KENNY LOON, CHIEF ABEL BOSUM, GRAND CHIEF MATTHEW COON COME, VIOLET PACHANOS, THE CREE NATION OF WASWANIPI, THE NEMASKA FIRST NATION, THE WASKAGANISH FIRST NATION (BAND), THE CREE NATION OF MISTISSINI (BAND), THE OUJÉ-BOUGOUMOU CREE NATION, THE GRAND COUNCIL OF THE CREES (EYYOU ISTCHEE) (GRAND COUNCIL OF THE CREES (OF QUEBEC), THE CREE REGIONAL AUTHORITY, CREE TRAPPERS' ASSOCIATION, EDWARD GILPIN, ALLAN SAGANASH SR., CHRISTINE JOLLY SAGANASH AND CHIEF GEORGE WAPACHEE - v. - THE ATTORNEY GENERAL OF QUÉBEC, THE PROVINCIAL ADMINISTRATOR UNDER SECTION 22 OF THE JAMES BAY AND NORTHERN QUEBEC AGREEMENT AND THE HONOURABLE PAUL BÉGIN, MINISTER OF THE ENVIRONMENT, THE HONOURABLE GUY CHEVRETTE (NOW THE HONOURABLE JACQUES BRASSARD, IN HIS CAPACITY AS MINISTER OF NATURAL RESOURCES), THE ATTORNEY-GENERAL OF CANADA, THE FEDERAL ADMINISTRATOR UNDER SECTION 22 OF THE JAMES BAY AND NORTHERN QUÉBEC AGREEMENT, THE HONOURABLE CHRISTINE STEWART, THE HONOURABLE JANE STEWART, THE HONOURABLE JOHN MANLEY AND THE HONOURABLE DAVID M. COLLENETTE, JAMES BAY DEVELOPEMENT CORPORATION, REXFOR, DOMTAR INC., PRODUITS FORESTIERS DONOHUE INC., BISSON ET BISSON INC., BARRETTE-CHAPAIS LTD. AND FOURNITURES MINIÈRES SIMARD INC., TEMBEC INC., NORMICK-PERRON INC., LES INDUSTRIES NORBORD INC., PRODUITS FORESTIERS ALLIANCE INC., COMPAGNIE INTERNATIONALE DE PAPIER DU CANADA, SCIERIE LANDRIENNE INC., FILIFOR INC. AND MATÉRIAUX BLANCHET INC., OBTIBOIS INC. (FORMERLY KNOWN AS 2541-3998 QUÉBEC INC. (PRÉCIBOIS), LES CHANTIERS DE CHIBOUGAMAU LTÉE, SCIERIE AMOS INC., SCIERIE GALLICHAN INC. AND SCIERIE SENCO LTD., IPB INTERNATIONAL INC., PANNEAUX**

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**CHAMBORD INC., LE GROUPE FOREX INC. AND FOREX INC.,  
ABITIBI-CONSOLIDATED INC. (FORMERLY KNOWN AS STONE-CONSOLIDATED  
CORPORATION AND AS ABITIBI-PRICE AND AS CONSOLIDATED BATHURST),  
KRUGER INC.** (Que.) (Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

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

La demande d'autorisation d'appel est rejetée avec dépens en faveur de la procureure générale du Québec.

**NATURE OF THE CASE**

Procedural Law – Recusation– *Code of Civil Procedure*, ss. 29, 238 and 511 – Courts – Reasonable apprehension of bias on the part of the trial judge – Distinction between grounds for recusation and grounds for appeal – Did the Quebec Court of Appeal err in dismissing the Applicants' applications for leave to appeal the decision to forcibly remove the trial judge from the case?

**PROCEDURAL HISTORY**

March 8, 2000  
Superior Court of Quebec  
(Lemieux C.J.S.C.)

Order forcibly recusing Croteau J.

May 17, 2000  
Court of Appeal of Quebec  
(Baudouin, Proulx and Otis JJ.A.)

Applicants' application for leave to appeal dismissed

August 11, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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28074

**MARIO LORD, CHIEF JOHN KITCHEN, CHIEF GEORGE WAPACHEE, CHIEF DR. BILLY  
DIAMOND, FORMER CHIEF WILLIAM MIANSUM, CHIEF KENNY LOON, CHIEF ABEL  
BOSUM, GRAND CHIEF MATTHEW COON COME, VIOLET PACHANOS, THE CREE  
NATION OF WASWANIPI, THE NEMASKA FIRST NATION, THE WASKAGANISH FIRST  
NATION (BAND), THE CREE NATION OF MISTISSINI, THE OIJÉ-BOUGOUMOU CREE  
NATION, THE GRAND COUNCIL OF THE CREES (EYYOU ISTCHEE) (GRAND COUNCIL  
OF THE CREES (OF QUÉBEC), THE CREE REGIONAL AUTHORITY, CREE TRAPPERS'  
ASSOCIATION, EDWARD GILPIN - v. - THE ATTORNEY GENERAL OF QUÉBEC, THE  
PROVINCIAL ADMINISTRATOR UNDER SECTION 22 OF THE JAMES BAY AND  
NORTHERN QUEBEC AGREEMENT AND THE HONOURABLE PAUL BÉGIN, THE  
HONOURABLE GUY CHEVRETTE (NOW THE HONOURABLE JACQUES BRASSARD, IN  
HIS CAPACITY AS MINISTER OF NATURAL RESOURCES), JAMES BAY  
DEVELOPEMENT CORPORATION, REXFOR, DOMTAR INC., PRODUITS FORESTIERS  
DONOHUE INC., BISSON ET BISSON INC., BARRETTE-CHAPAIS LTD. AND  
FOURNITURES MINIÈRES SIMARD INC., TEMBEC INC., NORMICK-PERRON INC., LES  
INDUSTRIES NORBORD INC., PRODUITS FORESTIERS ALLIANCE INC., OPTIBOIS INC.  
(FORMERLY KNOWN AS 2541-3998 QUÉBEC INC. (PRÉCIBOIS), COMPAGNIE  
INTERNATIONALE DE PAPIER DU CANADA, SCIERIE LANDRIENNE INC., FILIFOR  
INC., MATÉRIAUX BLANCHET INC., LES CHANTIERS DE CHIBOUGAMAU LTD.,  
ABITIBI-CONSOLIDATED INC. (FORMERLY KNOWN AS STONE-CONSOLIDATED**

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**CORPORATION AND AS ABITIBI-PRICE AND AS CONSOLIDATED BATHURST),  
SCIERIE AMOS INC., SCIERIE GALLICHAN INC. AND SCIERIE SENCO LTD., IPB  
INTERNATIONAL INC., PANNEAUX CHAMBORD INC., LE GROUPE FOREX INC. AND  
FOREX INC., BOIS KMS (GMI) LTD., KRUGER INC., HOWARD - BIENVENUE INC.** (Que.)  
(Civil)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs to the Attorney General of Quebec, the Provincial Administrator Under Section 22 of the James Bay and Northern Quebec Agreement and the Honourable Paul Bégin, the Honourable Guy Chevrette (now the Honourable Jacques Brassard, in his capacity as Minister of Natural Resources), Domtar Inc., Produits Forestiers Donohue Inc., Bisson et Bisson Inc.

La demande d'autorisation d'appel est rejetée avec dépens à la procureure générale du Québec, l'Administrateur provincial nommé en vertu du chapitre 22 de la Convention de la Baie James et du Nord Québécois et l'honorable Paul Bégin, l'honorable Guy Chevrette (maintenant l'honorable Jacques Brassard, ès qualités de ministre des Ressources naturelles), Domtar Inc., Produits Forestiers Donohue Inc., Bisson et Bisson Inc.

#### **NATURE OF THE CASE**

Constitutional Law – Aboriginal Rights – *Constitution Act, 1982*, s. 35 – *Environment Quality Act*, R.S.Q., c. Q-2, s. 144 – James Bay and Northern Quebec Agreement – Motion for Safeguard – Interlocutory Injunction – Did the Trial Judge decide *ultra petita* in declaring that s. 144 of the *Environment Quality Act* was inoperative because it infringes on Aboriginal rights guaranteed by s. 35 *Constitution Act, 1982*? – Did the Trial Judge err in making such declaration, in light of the fact that he reserved his decision on the motion for safeguard?

#### **PROCEDURAL HISTORY**

December 20, 1999  
Superior Court of Quebec  
(Croteau J.)

Judgment reserved on the conclusions sought by the applicants and s.144 of *Environment Quality Act*, R.S.Q., c.Q-2, declared inoperative

May 15, 2000  
Court of Appeal of Québec  
(Baudouin, Proulx, Otis, JJ.A.)

Appeal allowed; judgment reversed

August 11, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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27887

**GERALD MICHAEL VAUGHAN - v. - HER MAJESTY THE QUEEN, ADMINISTRATOR OF THE PENETANGUISHENE MENTAL HEALTH CENTRE - and between - GERALD MICHAEL VAUGHAN - v. - HER MAJESTY THE QUEEN, ADMINISTRATOR OF THE PENETANGUISHENE MENTAL HEALTH CENTRE - and between - GERALD MICHAEL VAUGHAN - v. - HER MAJESTY THE QUEEN, ADMINISTRATOR OF THE PENETANGUISHENE MENTAL HEALTH CENTRE - and between - GERALD MICHAEL VAUGHAN - v. - HER MAJESTY THE QUEEN, ADMINISTRATOR OF THE**

**PENETANGUISHENE MENTAL HEALTH CENTRE, ONTARIO REVIEW BOARD** (Ont.)  
(Criminal)

CORAM: The Chief Justice, Iacobucci and Bastarache JJ.

The applications for an extension of time are granted and the applications for leave to appeal are dismissed.

Les demandes de prorogation de délai sont accordées et les demandes d'autorisation d'appel sont rejetées.

**NATURE OF THE CASE**

Criminal law - Procedural law - Mental disorder - Whether the court of appeal erred in holding that there was no merit to the procedural issues raised by the Applicant - Whether the court of appeal erred in dismissing the appeal without determining the issues raised in the Applicant's factum - Whether the court of appeal demonstrated bias toward the Applicant - Whether the Applicant had the right to waive his hearing under the mental disorder provisions of the *Criminal Code*

**PROCEDURAL HISTORY**

May 15, 1997 Ontario Review Board	Order that the Applicant's detention continue
May 5, 1998 Ontario Review Board	Order that the Applicant's detention continue
May 5, 1999 Ontario Review Board	Order that the Applicant's detention continue
October 26, 1999 Court of Appeal for Ontario (Doherty, Rosenberg and Feldman JJ.A.)	Applicant's appeals from the May 15, 1997, May 5, 1998 and May 5, 1999 review board orders dismissed
March 22, 2000 Supreme Court of Canada	Notice of Application for leave to appeal filed
November 8, 2000 Supreme Court of Canada	Application for leave to appeal (file no. 27887) and motion for the extension of time filed
December 20, 2000 Supreme Court of Canada	Applications for leave to appeal (file nos. 27887) and motions for the extension of time filed

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**28285** **SULLVIE POOLE - v. - HER MAJESTY THE QUEEN** (B.C.) (Criminal)

CORAM: The Chief Justice, Iacobucci and Bastarache 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.

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**NATURE OF THE CASE**

Canadian Charter - Criminal - Criminal Law - Detention - Sentencing - Dangerous offender provisions - Indeterminate imprisonment - Whether trial judge erred in sentencing applicant to indeterminate imprisonment under dangerous offender provisions - Whether finding of sentencing judge that applicant is a dangerous offender involves an error of law, fact, or mixed law and fact - Whether sentencing judge placed too much emphasis or complete reliance upon past behaviour and criminal record and ignored current circumstances or fettered his discretion by accepting conclusions of a report and evidence without assessing the merits of the conclusions - Whether trial judge misinterpreted dangerous offender provisions - Standard required by a proper interpretation of s. 753(1) for not declaring an offender to be a dangerous offender - Whether assessment provisions set out in s. 752.1(1) of the *Criminal Code* consistent with *Charter* - Whether assessment provisions compel applicant to provide evidence against himself, to provide information in circumstances that amount to unreasonable search and seizure, are unconstitutionally vague or infringe ss. 7, 8 or 11 of the *Charter - Criminal Code*, R.S.C. 1985, c. C-46, ss. 752, 753 and 759.

**PROCEDURAL HISTORY**

May 12, 1998 Supreme Court of British Columbia (Mackenzie J.)	Conviction for robbery
September 10, 1998 Supreme Court of British Columbia (Collver J.)	Remand for dangerous offender assessment
January 29, 1999 Supreme Court of British Columbia (Collver J.)	Designated dangerous offender; sentenced to indeterminate detention in a penitentiary
August 18, 2000 Court of Appeal of British Columbia (Lambert, Braidwood and Hall J.)	Appeal dismissed
November 29, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28097**            **GREYHOUND CANADA TRANSPORTATION CORP. - v. - MARIUSZ BRZOZOWSKI AND KAZIMIERZ KOWASLKI, THE WORKERS COMPENSATION BOARD** (B.C.) (Civil)

CORAM:        The Chief Justice, Iacobucci and Bastarache 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**

Administrative law - Judicial review - Jurisdiction - Workers' compensation - Whether the injuries suffered by the Respondents arose out of, and in the course of, their employment - Did the Court of Appeal of British Columbia err in holding that it could not review the reasoning of a Workers' Compensation Board's decision - Is the appellate decision inconsistent with *Kovach v. Workers' Compensation Board*, [2000] 1 SCR 55.

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**PROCEDURAL HISTORY**

September 9, 1999 Supreme Court of British Columbia (Allan J.)	Petition seeking order to set aside two decisions of the Appeal division of the Respondent Worker's Compensation Board dismissed
June 1, 2000 Court of Appeal of British Columbia (Southin, Hall, Mackenzie JJ.A.)	Appeal dismissed
August 30, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28133**            **METRO-CAN CONSTRUCTION LTD. - v. - HER MAJESTY THE QUEEN** (FC) (Civil)

CORAM:        The Chief Justice, Iacobucci and Bastarache 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**

Taxation - Assessment - Income tax - Partnerships - Debtor's gain on settlement of debts - *Income Tax Act* providing that amount of forgiven debt must be applied against taxpayer's non-capital losses, farm losses, net capital losses and restricted farm losses, in that order - Whether amount of debt forgiveness to be applied at partnership level or at partner level - *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), s. 80(1).

**PROCEDURAL HISTORY**

October 2, 1998 Tax Court of Canada (Bowie J.T.C.C.)	Appeals from income tax assessments for the 1989 and 1990 taxation years dismissed
June 22, 2000 Federal Court of Appeal (Desjardins, Létourneau and McDonald JJ.A.)	Appeal dismissed
September 20, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28134**      **FARM BUREAU MUTUAL INSURANCE COMPANY - v. - GINGER M. BERG, A MINOR,  
BY HER LITIGATION GUARDIAN, ELEANOR S. BERG** (Ont.) (Civil)

CORAM:      The Chief Justice, Iacobucci and Bastarache JJ.

The application for leave to appeal is dismissed with costs.

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

**NATURE OF THE CASE**

Procedural law - Civil procedure - Courts - Jurisdiction - Pre-trial procedure - Appropriate forum - Minnesota resident bringing action against Minnesota insurer in Ontario claiming entitlement to statutory accident benefits - Motions judge staying action but Court of Appeal reversing decision - Whether Court of Appeal erred in finding that Ontario was appropriate forum - Whether Court of Appeal failed to apply proper test for determining appropriate forum as outlined in *Amchem Products Inc. v. British Columbia (Workers' Compensation Board)*, [1993] 1 S.C.R. 897 - Whether Court of Appeal erred in finding that motions judge should have considered wording and effect of Power of Attorney and Undertaking signed by Minnesota insurer when determining whether Ontario was proper forum.

**PROCEDURAL HISTORY**

August 4, 1999 Superior Court of Justice (Jennings J.)	Respondent's action stayed
July 21, 2000 Court of Appeal for Ontario (Labrosse, Weiler and Sharpe JJ.A.)	Respondent's appeal allowed
September 20, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28148**                    **VICTOR EUGENE CAINE - v. - HER MAJESTY THE QUEEN** (B.C.) (Criminal)

CORAM:                L'Heureux-Dubé, Arbour and LeBel 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 - Section 7 - Narcotic Control Act, s. 3(1) - Whether the Court of Appeal erred in its formulation and appreciation of the significance of the test laid down in R. v. Butler [1992] 1 S.C.R. 452 in the context of cannabis (marihuana) prohibition - Whether the Court of Appeal erred in its “balancing of the interests” under s. 7 of the Charter based on the findings of the trial judge - Whether the Court of Appeal erred in failing to apply the limit to the “harm principle” that an act should not count as a crime unless it causes harm that is serious both in nature and degree - Whether the Court of Appeal erred in determining that the onus of proof under s. 7 of the Charter remained on the Applicant throughout the proceedings in which the Applicant asserted a breach of his rights under s. 7 of the Charter - Whether the Court of Appeal erred in failing to consider whether or not the conduct in question, the personal decision to choose to possess and consume cannabis sativa by taking it into one’s body, was a “decision of fundamental personal importance” thereby informing and delineating the ambit and scope of the liberty interest threatened with penal consequences in the circumstances - Whether the Court of Appeal erred in failing to identify and apply the additional principles of fundamental justice applicable to the circumstances of the case, namely the principle of restraint as a corollary to the harm principle, the principle precluding irrationality and arbitrariness in the legislative scheme, and the principle of overbreadth within the statutory regime, as additional or alternative bases upon which to ground violation of s. 7 of the Charter in the circumstances.*

**PROCEDURAL HISTORY**

April 20, 1998 Provincial Court of British Columbia (Howard J.)	Application for a declaration that s. 3(1) of the <i>Narcotic Control Act</i> prohibiting the possession of marihuana for personal use is contrary to s. 7 of the <i>Charter</i> denied
November 12, 1998 Supreme Court of British Columbia (Thackray J.)	Appeal dismissed
June 2, 2000 Court of Appeal of British Columbia (Rowles, Prowse [dissenting], Braidwood JJ.A.)	Appeal dismissed
October 6, 2000 Supreme Court of Canada (LeBel J.)	Motion for an extension of time to October 31, 2000 granted
October 30, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28026**                    **DAVID MALMO-LEVINE - v. - HER MAJESTY THE QUEEN** (B.C.) (Criminal)

CORAM:                L'Heureux-Dubé, Arbour and LeBel 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 - Section 7 - Narcotic Control Act, s. 4 - Whether the Court of Appeal erred in characterizing the harms that may come with cannabis use as inherent, instead of a product of mis-cultivation, mis-distribution and mis-use - Did the Court of Appeal fail to address the issue of whether the harm principle applies to growers and dealers of cannabis who arguably play an essential role in cannabis harm reduction? - Whether the Court of Appeal erred in not considering the principle of equality found in s. 15 of the Charter as it applies to "substance orientation" and in not applying equality to every producer and distributor of stimulants and relaxants, whether bean, grape, herb or otherwise - Whether the Court of Appeal erred in holding that the trial result would not have been different if certain evidence had been admitted.*

**PROCEDURAL HISTORY**

February 18, 1998  
British Columbia Supreme Court  
(Curtis J.)

Applicant convicted under s. 4 of the *Narcotic Control Act* (now s.5(2) of the *Controlled Drugs and Substances Act*); Applicant's application to call evidence in constitutional challenge dismissed

June 2, 2000  
British Columbia Court of Appeal  
(Rowles, Prowse [*dissenting*] and Braidwood JJ.A.)

Appeal against conviction dismissed

July 31, 2000  
Supreme Court of Canada

Notice of appeal as of right filed

October 6, 2000  
Supreme Court of Canada  
(Lebel J.)

Application for an extension of time granted

October 31, 2000  
Supreme Court of Canada

Application for leave to appeal filed

November 27, 2000  
Supreme Court of Canada

Motion to quash filed

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**28189**                    **CHRISTOPHER JAMES CLAY - v. - HER MAJESTY THE QUEEN** (Ont.) (Criminal)

CORAM:                L'Heureux-Dubé, Arbour and LeBel 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* - Criminal law - Narcotics - Whether the Court of Appeal erred in holding that so long as there was a reasonable apprehension of harm, an activity that is done in privacy and which involves no one but the actor may be the subject of a criminal prohibition and still be in accordance with the *Charter* s. 7 "principles of fundamental justice" - Whether the Court of Appeal erred in holding that the criminalization of the private consumption (and cultivation necessarily incidental to that private consumption) is not *ultra vires* Parliament - Whether the Court of Appeal erred in holding that the *Narcotic Control Act* should be interpreted to allow for the criminal prohibition of possessing and cultivating plants (or other substances) which have no psychoactive effects and are used exclusively as an industrial product.

**PROCEDURAL HISTORY**

August 14, 1997  
Superior Court of Justice  
(McCart J.)

Applicant convicted of trafficking in a narcotic, possessing a narcotic for the purpose of trafficking and cultivating marijuana contrary to ss. 4(1), 4(2) and 6(1) of the *Narcotic Control Act*

July 31, 2000  
Court of Appeal for Ontario  
(Catzman, Charron and Rosenberg JJ.A.)

Appeal against conviction dismissed

October 13, 2000  
Supreme Court of Canada  
(LeBel J.)

Motion to extend time granted

October 17, 2000  
Supreme Court of Canada

Application for leave to appeal filed

October 25, 2000  
Supreme Court of Canada  
(Arbour J.)

Motion to extend time granted

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**28287**                    **NOVOPHARM LTD. - v. - THE WELLCOME FOUNDATION LIMITED, GLAXO WELLCOME INC., APOTEX INC., INTERPHARM INC. AND ALLEN BARRY SHECHTMAN - and between - APOTEX INC. - v. - THE WELLCOME FOUNDATION LIMITED, GLAXO WELLCOME INC., NOVOPHARM LTD.** (FC) (Civil)

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

The applications for leave to appeal are granted with costs to the applicant Novopharm Ltd. in any event of the cause.

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Les demandes d'autorisation d'appel sont accordées avec dépens en faveur de la demanderesse Novopharm Ltd. quelle que soit l'issue du pourvoi.

**NATURE OF THE CASE**

Property law - Statutes - Interpretation - Patents - Validity - Definition of and requirements for invention and inventorship - Joint inventorship - Insufficiency of disclosure - Method of medical treatment - Date of invention and whether Federal Court of Appeal decision created artificial date of invention.

**PROCEDURAL HISTORY**

March 25, 1998  
Federal Court of Canada, Trial Division  
(Wetston J.)

Patent No. 1,238,277 declared valid; claims therein declared invalid; Applicants Apotex Inc. and Novopharm Ltd. declared to have infringed several claims; Applicants Apotex Inc. and Novopharm Ltd., and Respondent Interpharm Inc. enjoined from commercial practice or use of AZT as disclosed in Patent No. 1,238,277.

December 4, 2000  
Federal Court of Appeal  
(Rothstein, Sexton, Malone JJ.A)

Patent No. 1,238,277 declared valid; most claims therein declared invalid; Applicants Apotex Inc. and Novopharm Ltd., and Respondent Interpharm Inc. enjoined from commercial practice or use of AZT in pharmaceutical dosage form as disclosed in said Patent.

December 22, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**28027**      **LE GROUPE FOREX INC. ET LOUISIANA-PACIFIC CANADA LTD. - c. - LE PROCUREUR GÉNÉRAL DU QUÉBEC** (Qué.) (Civile)

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

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

**NATURE DE LA CAUSE**

Droit commercial - Contrats - Contrats d'approvisionnement et d'aménagement forestier (CAAF) émis par le ministre aux Forêts en conformité de la *Loi sur les forêts* à la demanderesse - Mode d'attribution applicable - Exigibilité du paiement de droits d'un bénéficiaire de CAAF alors que celui-ci n'a pas pu effectuer aucune récolte de bois suite à la décision du ministère de ne pas émettre un permis d'intervention bien que toutes les conditions relatives à son obtention aient été remplies.

**HISTORIQUE PROCÉDURAL**

Le 23 mars 1998  
Cour supérieure du Québec  
(Guertin j.c.s.)

Action de l'intimé accueillie: Demanderesse condamnée à verser 168 080,56\$ avec intérêts à l'intimé

Le 3 mai 2000  
Cour d'appel du Québec  
(Deschamps, Thibault et Denis jj.c.a.(*ad hoc*))

Appel rejeté

Le 28 juillet 2000  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**27851**                    **SCOTTISH & YORK INSURANCE CO. LTD. - v. - PEARL SOMERSALL, GWENDOLYN SOMERSALL AND JANICE SOMERSALL** (Ont.) (Civil)

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

The application for leave to appeal is granted with costs to the applicant in any event of the cause.

La demande d'autorisation d'appel est accordée avec dépens en faveur de la demanderesse quelle que soit l'issue du pourvoi.

**NATURE OF THE CASE**

Commercial law - Insurance - Automobile insurance - Statutory provision relating to underinsured coverage restricted to situations where "claimant is legally entitled to recover" - Agreement with tortfeasor to sue only to extent of insurance coverage - Whether claimant legally entitled to recover under underinsured provisions of own policy.

**PROCEDURAL HISTORY**

June 4, 1998  
Superior Court of Justice  
(Spiegel J.)

Respondents' action to recover damages from the underinsured motorist Jerry Friedman dismissed

February 16, 2000  
Court of Appeal for Ontario  
(Labrosse, Weiler, and Charron JJ.A.)

Appeal allowed

April 11, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**28191**            **LUCIEN E. BERNIER - c. - COMMISSION DE LA SANTÉ, DE LA SÉCURITÉ ET DE L'INDEMNISATION DES ACCIDENTS AU TRAVAIL DU NOUVEAU-BRUNSWICK** (N.-B.)  
(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 motion for extension of time is granted and the application for leave to appeal is dismissed with costs.

**NATURE DE LA CAUSE**

Droit administratif - Contrôle judiciaire - Droit du travail - Accidents du travail - Indemnisation - Procédure - Prorogation de délai - La Cour d'appel du Nouveau-Brunswick a-t-elle commis une erreur de droit en refusant d'ordonner que le Comité d'appel de la Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail du Nouveau-Brunswick ré-étudie la réclamation du demandeur suite au rapport médical du docteur Martin ? - *Loi sur la Cour suprême*, L.R.C. 1985, c. S-26, art. 40 et 43

**HISTORIQUE PROCÉDURAL**

Mai 1991 et 28 août 1991 Commission de la santé, de la sécurité et de l'indemnisation des accidents au travail du Nouveau-Brunswick ("CSSIAT")	Refus d'octroyer prestations ou traitements médicaux
Le 2 mai 1993 Comité d'appel de la CSSIAT du Nouveau-Brunswick (Arsenault, président, Belliveau et Thériault, membres)	Appel du demandeur rejeté
Le 29 janvier 1997 Comité d'appel de la CSSIAT du Nouveau-Brunswick (Arsenault, président)	Appel du demandeur rejeté
Le 27 août 1997 Cour d'appel du Nouveau-Brunswick (Rice, Ayles et Bastarache jj.c.a.)	Appel rejeté
Le 29 octobre 1998 Cour suprême du Canada (Lamer j.c., McLachlin et Iacobucci jj.)	Demande de prorogation de délai accordée; demande d'autorisation d'appel refusée
Le 30 septembre 1999 Comité d'appel de la CSSIAT du Nouveau-Brunswick (Godbout, responsable des services d'appel)	Demande de re-considération du dossier rejetée
Le 19 janvier 2000 Cour d'appel du Nouveau-Brunswick (Daigle j.c.c.a., Rice et Larlee, jj.c.a.)	Appel rejeté
Le 12 septembre 2000 Cour suprême du Canada	Demande de prorogation de délai et demande d'autorisation d'appel déposées

28116 **RON ARCHIBALD, EDWIN CAWKWELL, WILLIAM COOPER, RICK DOBRANSKI, DARREL ENGER, TIM HARVIE, MIKE JACKSON, CONRAD JOHNSON, GORDON KELLER, WAYNE A. KRIZ, DOUG MILLER, ART MCELROY, BRIAN OLSEN, PAUL S. ORSAK, BRIAN OTTO, JAMES M. PALLISTER, KELLY S. PATRICK, DOUGLAS ROBERTSON, GREG ROCKAFELLOW, BUCK SPENCER, WAYNE TUCK, THE ALBERTA BARLEY COMMISSION AND THE WESTERN BARLEY GROWERS ASSOCIATION - v. - HER MAJESTY THE QUEEN IN RIGHT OF CANADA AND THE CANADIAN WHEAT BOARD** (FC) (Civil)

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

The application for leave to appeal is dismissed with costs to the respondent Her Majesty the Queen in Right of Canada.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimée Sa Majesté la Reine du chef du Canada.

#### **NATURE OF THE CASE**

*Canadian Charter - Civil* - Monopoly granted to Canadian Wheat Board to market barley and wheat grown in Manitoba, Saskatchewan, Alberta and parts of British Columbia - Whether monopoly violates ss. 2(d), 6 or 15 of the *Charter* - If so, whether violations justified within the meaning of s. 1 of the *Charter* - Whether challenge to the *Canadian Wheat Board Act* dismissed for reasons involving erroneous interpretations and applications of ss. 2(d), 6 or 15 - Whether freedom of association protects association for the purpose of pursuing activities that would be lawful but for the impugned legislation - Whether freedom of association is restricted to association for the purpose of activity protected by the *Charter* - Whether s. 6 of the *Charter* applies to federal laws that apply only to portions of a province - Whether differential treatment of farmers in a designated area constitutes discrimination on an analogous ground contrary to s. 15(1) of the *Charter* - *Canadian Wheat Board Act*, R.S.C. 1985, C-24.

#### **PROCEDURAL HISTORY**

April 11, 1997 Federal Court of Canada, Trial Division (Muldoon J.)	Applicants' action dismissed with costs
June 12, 2000 Federal Court of Appeal (Décary, Rothstein and Sharlow JJ.A.)	Appeal dismissed with costs
September 11, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28194**            **MIGUEL FIGUEROA - v. - THE ATTORNEY GENERAL OF CANADA** (Ont.) (Civil)

CORAM:            L'Heureux-Dubé, Arbour and LeBel 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* - Civil - Elections - Statutory requirement that a political party nominate at least fifty candidates in a federal election before its contributors can receive tax benefits - Whether requirement contravenes *Charter* principles of fairness or *Charter* right to voter parity- Whether providing tax credits only to contributors to major parties who have fifty or more candidates is discrimination contrary to the *Charter* - Whether provision of tax credits only to supporters of some political parties infringes right to freedom of association - *Canada Elections Act*, R.S.C. 1985, c. E-2, as amended S.C. 1993, c. 19, ss. 24, 81, 84, 100.

**PROCEDURAL HISTORY**

March 10, 1999  
Ontario Court of Justice (General Division)  
(Molloy, J.)

Declaratory relief granted in part; sections of *Canada Elections Act* struck down, read down or changed

August 16, 2000  
Court of Appeal for Ontario  
(Doherty, Laskin and Moldaver JJ.A.)

Appeal allowed in part

October 11, 2000  
Supreme Court of Canada

Application for leave to appeal filed

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**27985**            **LAURA BANNON - v. - THE CORPORATION OF THE CITY OF THUNDER BAY** (Ont.)  
(Civil)

CORAM:            Gonthier, Major and Binnie JJ.

The application for leave to appeal is granted with costs to the applicant in any event of the cause.

La demande d'autorisation d'appel est accordée avec dépens en faveur de la demanderesse quelle que soit l'issue du pourvoi.

**NATURE OF THE CASE**

Statutes - Interpretation - Procedural law - Limitation of actions - Appeal - Torts - Negligence - Municipal law - Highways - Whether the Court of Appeal substituted its own findings for the findings of fact of the trial judge.

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**PROCEDURAL HISTORY**

August 28, 1998 Superior Court of Justice (Kozak J.)	Respondent found grossly negligent
April 26, 2000 Court of Appeal for Ontario (Carthy, Doherty and Feldman JJ.A.)	Appeal allowed; Applicant`s action dismissed
June 21, 2000 Supreme Court of Canada	Application for leave to appeal filed

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**28223**            **DAVID SCOTT HALL - v. - HER MAJESTY THE QUEEN** (Ont.) (Criminal)

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 - Criminal - Criminal Law - Pre-Trial Procedure - Judicial Interim Release - Detention of an accused in custody pending trial for just cause where necessary to maintain confidence in the administration of justice - Whether provision allowing detention consistent with s. 11(e) of *Charter* - Whether provision unconstitutionally vague or over broad - Whether Court of Appeal erred in determining constitutionality without regard to wording of provision - *Criminal Code*, R.S.C. 1985, c. C-46, s. 515(10)(c).

**PROCEDURAL HISTORY**

November 30, 1999 Superior Court of Justice (Caputo J.)	Application for release pending trial dismissed
September 1, 2000 Court of Appeal for Ontario (Osborne, Finlayson, Labrosse JJ.A.)	Appeal dismissed
October 31, 2000 Supreme Court of Canada	Application for leave to appeal filed

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28091 **ATTORNEY GENERAL OF CANADA ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA AND IN HIS CAPACITY AS MINISTER OF JUSTICE, THE TREASURY BOARD OF CANADA AND THE MINISTER OF JUSTICE - v. - PATRICIA BABCOCK, LINDA BELL, VICTORIA BRYAN, LYNN BURCH, KARL BURDAK, GEORGE CARRUTHERS, GORDON CARSCADDEN, MARGARET E.T. CLARE, TIMOTHY W. CLARKE, MOYRA DHALIWAL, MARY JANE DODGE, JONAS DUBAS, S. DAVID FRANKEL, GREG D. FRANKLIN, VALERIE HARTNEY, BRUCE HILCHEY, JOHN KENNEDY, DIGBY KIER, DANIEL L. KISELBACH, INGEBORG E. LLOYD, JOSEPHINE LONCARIC, JOHN LOO, WILLIAM MAH, IAN MCKINNON, ROBERT MOEN, NACY OSTER, MICHAEL OWENS, BRENT PARIS, DARLENE PATRICK, PAUL PELLETIER, DAVID PREST, BRIAN BURDY, CHRISTOPHER RANDALL, BRIAN SEDGWICK, KAREN SHIRLEY, PAMELA LINDSAY SMITH, TIM STOKES, CORY STOLTE, JOSEE TREMBLAY, KAREN A. TRUSCOTT, MAX WEDER, HARRY WRUCK AND WEDNY YOSHIDA - and between - ATTORNEY GENERAL OF CANADA ON BEHALF OF HER MAJESTY THE QUEEN IN RIGHT OF CANADA AND IN HIS CAPACITY AS MINISTER OF JUSTICE, THE TREASURY BOARD OF CANADA AND THE MINISTER OF JUSTICE - v. - ROSEMARY LUTTER AND EMILY REID (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**

Procedural law - Evidence - Production and disclosure of documents - Privilege - Public interest immunity - Cabinet Confidentiality - *Canada Evidence Act*, s. 39 - Whether the Court of Appeal erred in law in holding that public interest immunity under s. 39 of the *Canada Evidence Act*, R.S.C. 1985, c. C-5 can be waived and that a waiver can be effected by someone other than the Clerk of Privy Council or a minister of the Crown - Whether the Court of Appeal erred in law in holding that waiver of public interest immunity for one Cabinet confidence results in the waiver of the immunity for all Cabinet confidences listed in a certificate under s. 39 of the *Canada Evidence Act*.

#### **PROCEDURAL HISTORY**

July 28, 1999 Supreme Court of British Columbia (Edwards J.)	Applications compelling production of documents and court inspection of documents to determine if documents privileged dismissed
June 6, 2000 Court of Appeal of British Columbia (Mackenzie, Newbury, JJ.A., Southin J.A (dissenting))	Appeal allowed
August 29, 2000 Supreme Court of Canada	Application for leave to appeal filed

**27006**            **PACIFIC NATIONAL INVESTMENTS LTD. v. THE CORPORATION OF THE CITY OF VICTORIA** (B.C.) (Civil)

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

The application for a rehearing is dismissed with costs.

La demande de réaudition est rejetée avec dépens.

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5.3.2001

Before / Devant: THE REGISTRAR

**Motion to extend time**

**Requête en prorogation du délai**

Her Majesty the Queen

v. (27788)

Jacques Cinous (Crim.)(Que.)

**GRANTED / ACCORDÉE** L'intimé doit signifier et produire son mémoire, son dossier et son recueil de jurisprudence au plus tard le 21 mars 2001. Les intervenants doivent signifier et produire leur mémoire au plus tard le 11 avril 2001.

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6.3.2001

Before / Devant: BASTARACHE J.

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

**Requête en prorogation du délai de signification et de dépôt de la demande d'autorisation**

City of Calgary and Calgary Civic Employees Benefit Society, et al.

v. (28266)

Donald R. Sagers, et al. (Alta.)

**GRANTED / ACCORDÉE** Time extended to December 11, 2000.

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6.3.2001

Before / Devant: BASTARACHE J.

**Motion by the applicant for a stay of execution**

**Requête de la part du requérant en vue de surseoir à l'exécution**

J.R.L.

v. (28381)

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

**GRANTED / ACCORDÉE**

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6.3.2001

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the appellants' factum and book of authorities****Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine des appelants**

Chief Councillor Mathew Hill, also known as Thathathk, on his own behalf and on behalf of all other members of the Kitkatla Band, et al.

v. (27801)

The Minister of Small Business, Tourism and Culture, et al. (B.C.)

**GRANTED / ACCORDÉE** Time to serve the appellants' factum extended to February 15, 2001, *nunc pro tunc*. Time to serve and file the appellants' book of authorities extended to February 19, 2001, *nunc pro tunc*.

7.3.2001

Before / Devant: IACOBUCCI J.

**Motion for extension of time and leave to intervene****Requête visant à obtenir une prorogation de délai et l'autorisation d'intervenir**

BY/PAR: Canadian Judges Conference/  
Conférence canadienne des juges

IN/DANS: Her Majesty the Queen in Right of the Province of New Brunswick as represented by The Minister of Finance, et al.

v. (27722)

Ian P. Mackin, et al. (N.B.)

**GRANTED / ACCORDÉE**

**UPON APPLICATION** by the Canadian Judges Conference / Conférence canadienne des juges for an extension of time and for leave to intervene in the above appeal;

**AND HAVING READ** the material filed ;

**IT IS HEREBY ORDERED THAT:**

The motion for an extension of time and for leave to intervene of the applicant Canadian Judges Conference / Conférence canadienne des juges is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length to be served and filed on or before April 9, 2001.

The request to present oral argument is deferred to a date following receipt and consideration of the written arguments of the parties and the interveners.



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The intervener shall not be entitled to adduce further evidence or otherwise to supplement the record of the parties.

Pursuant to Rule 18(6) the intervener shall pay to the appellant and respondents any additional disbursements occasioned to the appellant and respondents by the intervention.

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7.3.2001

Before / Devant: BASTARACHE J.

**Motion by the applicants for a stay of execution**

**Requête de la part des requérants en vue de surseoir à l'exécution**

Bombardier Inc., et al.

v. (28414)

Public Service Alliance of Canada, et al. (F.C.)

**REFERRED to the panel seized of the application for leave to appeal / DÉFÉRÉE à la formation saisie de la demande d'autorisation d'appel.**

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8.3.2001

Before / Devant: THE REGISTRAR

**Motion for permission to file the appellant's record without marginal numbering**

**Requête visant à obtenir l'autorisation de déposer le dossier de l'appelante sans numérotation dans la marge**

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

v. (27721)

Leanne Rumley, et al. (B.C.)

**GRANTED / ACCORDÉE**

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8.3.2001

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the response of the respondent Her Majesty the Queen in Right of Ontario**

**Requête en prorogation du délai de signification et de dépôt de la réponse de l'intimée Sa Majesté la Reine en chef de l'Ontario**

Rocco Galati

v. (28345)

Her Majesty the Queen in Right of Ontario, et al. (Ont.)

**GRANTED / ACCORDÉE** Time extended to February 27, 2001.

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8.3.2001

Before / Devant: BASTARACHE J.

**Motion by the applicant to expedite the application for leave to appeal**

**Requête de la part du requérant visant à accélérer la demande d'autorisation d'appel**

Petre Carabat by his Litigation Guardian Virginia Carabat, et al.

v. (28260)

City of New York (Crim.)(Ont.)

**DISMISSED / REJETÉE**

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9.3.2001

Before / Devant: THE REGISTRAR

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

**Requête en prorogation du délai de signification et de dépôt de la réponse de l'intimée**

Warren James Jarvis

v. (28378)

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

**GRANTED / ACCORDÉE** Time extended to March 7, 2001.

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**NOTICE OF APPEAL FILED SINCE  
LAST ISSUE**

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

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6.2.2001

**James William Robertson**

**v. (28433)**

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

**AS OF RIGHT**

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2.3.2001

**Sa Majesté la Reine**

**c. (28158)**

**Éric Lamy (Qué.)**

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6.3.2001

**Clayton Fensom, et al.**

**v. (28068)**

**Deryk J. Kendall, et al. (Sask.)**

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7.3.2001

**Family Insurance Corporation**

**v. (28093)**

**Lombard Canada Ltd. (B.C.)**

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9.3.2001

**CIBC Mortgage Corporation**

**c. 27963**

**Marcella Vasquez (Qué.)**

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9.3.2001

**The Attorney General of Nova Scotia**

**v. (28179)**

**Susan Walsh et al. (N.S.)**

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**NOTICE OF DISCONTINUANCE  
FILED SINCE LAST ISSUE**

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

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9.3.2001

**Jacques Chaoulli**

c. (28357)

**Procureure générale du Québec, et al. (Qué.)**

(Leave)

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**APPEALS HEARD SINCE LAST ISSUE  
AND DISPOSITION**

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

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13.3.2001

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

**Monenco Limited, et al.**

**v. (27258)**

**Commonwealth Insurance Company (B.C.)(Civil)(By  
Leave)**

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Commercial law - Insurance - Duty to defend - Evidence - In determining the existence of a “duty to defend” under a policy of insurance is the inquiry to be confined to the policy at issue and the pleadings in the underlying action, or is extrinsic evidence admissible - Whether the allegations against 67669 and against Monenco in the Amended Statement of Claim filed in the Alberta Action fall within the terms of the Professional Services Exclusion contained in the Policy - Whether the Turnkey Exclusion contained in the Policy excluded coverage for both 67669 and Monenco.

John R. Singleton, Q.C. and Catherine L. McLean for the appellants.

D. Barry Kirkham, Q.C. for the respondent.

**Nature de la cause:**

Droit commercial - Assurances - Obligation de défendre - Preuve - Pour déterminer s’il existe une « obligation de défendre » en vertu d’une police d’assurance, l’examen doit-il porter uniquement sur la police en question et sur les actes de procédure de l’action principale, ou la preuve extrinsèque est-elle également admissible? - Les allégations faites contre 67669 et Monenco dans la déclaration modifiée déposée dans le cadre de l’action en Alberta tombent-elles sous le coup de l’exclusion relative aux services professionnels contenue dans la police? - L’exclusion Turnkey contenue dans la police prive-t-elle 67669 et Monenco d’une couverture d’assurance?

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14.3.2001

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

**Sa Majesté la Reine**

**c. (27652)**

**Réjean Parent (Qué.)(Crim.)(Autorisation)**

**RESERVED / EN DÉLIBÉRÉ**

Pierre Lapointe pour l’appelante.

Trevor Shaw pour l’intervenant Procureur général de l’Ontario.

Kenny Gionet pour l’intimé.

**Nature of the case:**

Criminal Law - Defence - Provocation - Judge's instructions to the jury - Whether the Court of Appeal erred in law by not recognizing that the trial judge had made an error in his charge to the jury when he made a distinction between defence of rage and defence of provocation.

**Nature de la cause:**

Droit criminel - Défense - Provocation - Directives du juge au jury - La Cour d'appel a-t-elle erré en droit en ne reconnaissant pas que le juge du procès avait lui-même commis une erreur dans son exposé au jury en créant une défense de colère distincte de la défense de provocation?

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15.3.2001

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

**Gerald Augustine Regan**

v. (27541)

**Her Majesty the Queen (N.S.)(Crim.)(As of Right)**

Edward L. Greenspan, Q.C. and Marie Henein for the appellant.

Robert Morrison, Q.C. and Heather Leonoff, Q.C. for the respondent.

Robert J. Frater and Silvie Kovacevich for the intervener Attorney General of Canada.

Mario Tremblay pour l'intervenante Procureure générale du Québec.

John J. Walsh for the intervener Attorney General for New Brunswick.

**RESERVED / EN DÉLIBÉRÉ**

**Nature of the case:**

Criminal law - Stay of proceedings - Abuse of process - Remedy - Whether the trial judge applied the wrong legal test in determining whether the Crown conduct constituted an abuse of process - Whether the trial judge erred in law in finding that the conduct of the Crown amounted to an abuse of process - Whether the trial judge erred in imposing a stay of proceedings as a remedy.

**Nature de la cause:**

Droit criminel - Arrêt des procédures - Abus de procédure - Réparation - Le juge du procès a-t-il appliqué le mauvais test quand il a déterminé si la conduite du ministère public constituait un abus de procédure? - Le juge du procès a-t-il commis une erreur de droit en concluant que la conduite du ministère public équivalait à un abus de procédure? - Le juge du procès a-t-il commis une erreur en imposant un arrêt des procédures en guise de réparation?

**DEADLINES: MOTIONS****DÉLAIS: REQUÊTES****BEFORE THE COURT:**

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

**Motion day : April 17, 2001**

Service : March 27, 2001  
Filing : March 30, 2001  
Respondent : April 9, 2001

**Motion day : May 14, 2001**

Service : April 23, 2001  
Filing : April 27, 2001  
Respondent : May 4, 2001

**Motion day : June 11, 2001**

Service : May 18, 2001  
Filing : May 25, 2001  
Respondent : June 1, 2001

**DEVANT LA COUR:**

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

**Audience du : 17 avril 2001**

Signification : 27 mars 2001  
Dépôt : 30 mars 2001  
Intimé : 9 avril 2001

**Audience du : 14 mai 2001**

Signification : 23 avril 2001  
Dépôt : 27 avril 2001  
Intimé : 4 mai 2001

**Audience du : 11 juin 2001**

Signification : 18 mai 2001  
Dépôt : 25 mai 2001  
Intimé : 1 juin 2001

## DEADLINES: APPEALS

## DÉLAIS: APPELS

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The Spring Session of the Supreme Court of Canada will commence April 17, 2001.

La session du printemps de la Cour suprême du Canada commencera le 17 avril 2001.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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SUPREME COURT OF CANADA SCHEDULE  
CALENDRIER DE LA COUR SUPREME

2000

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

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

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

- 2001 -

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

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

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

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

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

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

Sittings of the court:  
Séances de la cour:

Motions:  
Requêtes:

Holidays:  
Jours fériés:

M
H

18 sitting weeks / semaines séances de la cour

78 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

3 holidays during sitting days / jours fériés durant les sessions