

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

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

Edmonton Journal Group Inc.

Frederick S. Kozak
Reynolds, Mirth, Richards & Farmer

v. (29214)

Her Majesty the Queen, et al. (Alta.)

Susan Hughson
A.G. of Alberta

FILING DATE 9.5.2002

John Patrick MacAdam

John Patrick MacAdam

v. (29046)

Her Majesty the Queen (Ont.)

Lillianne Cameron
A.G. for Ontario

FILING DATE 14.5.2002

Jane Hamilton

Susan J. Heakes
Heenan Blaikie

v. (29225)

Open Window Bakery Limited, et al. (Ont.)

Paul Gemmink
Gemmink & Associate

FILING DATE 27.5.2002

Magdy Rashwan

Magdy Rashwan

v. (29215)

Her Majesty the Queen (Ont.)

Susan G. Ficek
A.G. for Ontario

FILING DATE 29.5.2002

Le procureur général du Québec

Louis Coulombe
P.G. du Québec

c. (29185)

Claude Daoust, et autre (Qué.)

Jean Asselin
Labrecque, Robitaille & Ass.

DATE DE PRODUCTION 30.5.2002

Frank Lambert, et autre

Claudine Barabé
Ouellet, Nadon et associés

c. (29227)

Le Procureur général du Québec (Qué.)

André Fauteux
Bernard Roy et associés

DATE DE PRODUCTION 30.5.2002

JUNE 10, 2002 / LE 10 JUIN 2002

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

Granada Investments Limited, Joseph Shaw and Barbara Allan Shaw

v. (28966)

Manufacturers Life Insurance Company and KPMG Inc. (Ont.)

NATURE OF THE CASE

Property law - Real property - Mortgage - Action on a mortgage - Duties of mortgagee - Whether the mortgagee is under a duty to mitigate - Whether the duty to mitigate applies to an action on a fixed debt - Whether the court of appeal erred by substituting its findings of fact - When did the mortgagee assume control of the property - Whether the court of appeal erred by excluding a reference in the amendments substituted in the trial judgment - Whether there are issues of public importance raised.

PROCEDURAL HISTORY

February 16, 1999 Ontario Court of Justice (Ground J.)	Respondents entitled to the amount of the mortgage debt as October 31, 1996 of \$5,726,911
October 10, 2001 Court of Appeal for Ontario (Osborne A.C.J.O., Labrosse and Doherty JJ.A.)	Appeal allowed
December 10, 2001 Supreme Court of Canada	Application for leave to appeal filed
February 6, 2002 Supreme Court of Canada (Major J.)	Motion for a stay of execution dismissed with costs

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

v. (28616)

M. B. (B.C.)

NATURE OF THE CASE

Tort law - Fiduciary duty - Negligence - What is the proper test for determining whether the Crown is liable on a no-fault basis for misconduct by foster parents who are not employees of the Government - Vicarious liability - Non-delegable duty - What is the relationship between the principles of no fault liability under a non-delegable duty of care and vicarious liability - Damages - double recovery - Deductibility of social assistance benefits received by tort victim - Interest - Calculation of interest on damages for past loss of earning capacity

PROCEDURAL HISTORY

May 3, 2000 Supreme Court of British Columbia (Levine J.)	Respondent's action for damages granted; Applicant ordered to pay damages totalling \$172,726.04 (\$10,000 for past lost earning capacity) plus pre-judgment interest on the damages for past lost earning capacity in the amount of 18,551.25
March 27, 2001 Court of Appeal of British Columbia (McEachern C.J.[dissenting], Prowse, Mackenzie JJ.A.)	Applicant's appeal against liability dismissed; Applicant's appeal against quantum of damages allowed in part: \$50,000 substituted for past loss of opportunity to earn income
December 6, 2001 Supreme Court of Canada (McLachlin C.J., Iacobucci, Bastarache JJ.)	First application for leave to appeal granted
February 28, 2002 Court of Appeal of British Columbia (Finch, Prowse, Hall, Mackenzie, Smith JJ.A.)	Further reasons for judgment on the award for past loss and interest thereon
April 29, 2002 Supreme Court of Canada	Second application for leave to appeal filed

Brian S. Heron

v. (28808)

Charles A. Smith (N.S.)

NATURE OF THE CASE

Procedural law - Actions - Appeal - Judgments and Orders - Whether the Supreme Court of Nova Scotia and the Nova Scotia Court of Appeal erred in their decision granting summary judgment to the respondent in respect of two orders for costs made by courts in California against the applicant?

PROCEDURAL HISTORY

July 18, 2000 Supreme Court of Nova Scotia (Goodfellow J.)	Summary judgment granted in respect of two orders for costs by California Courts against the applicant
June 20, 2001 Nova Scotia Court of Appeal (Roscoe C.J.N.S., Glube and Saunders JJ.A.)	Appeal dismissed
October 15, 2001 Supreme Court of Canada (LeBel J.)	Motion to extend time and/or serve the leave application granted until November 16, 2001
November 21, 2001	Application for leave to appeal and motion to extend time

Supreme Court of Canada

filed

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

Robert Leblanc

c. (29013)

Sa Majesté la Reine (Crim.) (Qué.)

NATURE DE LA CAUSE

Droit criminel - Preuve - Directives au jury - Communication de la preuve - La Cour d'appel a-t-elle erré en droit en omettant de tenir compte que le juge, dans ses directives au jury, a indiqué que s'il concluait que l'accusé était probablement coupable, il devait, en sus, entretenir un doute raisonnable pour l'acquitter? - La Cour d'appel a-t-elle erré en confirmant qu'un juge du procès peut refuser d'ordonner au Ministère public de communiquer à la défense des éléments de preuve en se fondant uniquement sur une déclaration du Ministère public, sans examiner les éléments en question, quant à l'absence de pertinence des éléments de preuve alors que cet aspect était évidemment le litige? La Cour d'appel a-t-elle erré en appliquant l'article 686(1)(b)(iii) du *C.cr.*?

HISTORIQUE PROCÉDURAL

Le 15 février 1996
Cour supérieure du Québec
(Zerbisias j.c.s.)

Demandeur déclaré coupable par jury de meurtre au premier degré contrairement à l'article 231 du *Code criminel*, L.R.C. ch. C-46.

Le 16 octobre 2001
Cour d'appel du Québec
(Proulx, Fish et Chamberland jj.c.a.)

Appel rejeté

Le 4 janvier 2002
Cour suprême du Canada

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

D.C.

c. (29116)

T.D. (Qué.)

NATURE DE LA CAUSE

Droit de la famille - Garde - Accès - La Cour d'appel a-t-elle erré dans son appréciation de la preuve - Le juge de première instance a-t-elle démontré un manque d'impartialité ou d'éthique - Le juge de première instance a-t-elle erré en droit, en fait ou dans son appréciation de la preuve - Le juge de première instance a-t-elle erré en refusant de faire entendre la mineure malgré la demande explicite du demandeur?

HISTORIQUE PROCÉDURAL

Le 11 avril 2001
Cour supérieure du Québec
(Sévigny j.c.s.)

Garde exclusive accordée à l'intimée; droits d'accès du demandeur suspendus

Le 14 décembre 2001
Cour d'appel du Québec
(Vallerand, Gendreau et Rochon [*ad hoc*]
jj.c.a.)

Appel accueilli en partie; ordonnance quant au droit d'accès modifiée

Le 1er mars 2002
Cour suprême du Canada

Demande d'autorisation d'appel et requête en prorogation de délai déposées

Michael Mohl

v. (29086)

The Senate Committee on Appeals on Academic Standing (B.C.)

NATURE OF THE CASE

Administrative law – Judicial review – Jurisdiction – Standard of review – Universities – University Committee upholding faculty decision to give student failing grade – Whether appropriate standard of review correctness or patent unreasonableness – Whether Court of Appeal erred in finding rules of procedural fairness and natural justice not breached and appropriate standard of review met.

PROCEDURAL HISTORY

December 22, 2000
Supreme Court of British Columbia
(Macaulay J.)

Applicant's application for judicial review of the decision of the Senate Committee on Appeals on Academic Standing of the University of British Columbia, dismissed

December 19, 2001
Court of Appeal of British Columbia
(Esson, Donald and Saunders JJ.A.)

Appeal dismissed

February 15, 2002
Supreme Court of Canada

Application for leave to appeal filed

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

Levesque Beaubien Geoffrion Inc.

v. (28990)

Allan Thomas Barakett (N.S.)

NATURE OF THE CASE

Labour law - Master and servant - Wrongful dismissal - Respondent's action against Applicant for wrongful dismissal allowed - Court of Appeal upholding decision - Whether Court of Appeal erred in finding that manner of dismissal is simply another factor to be considered in determining period of reasonable notice - Whether Court of Appeal erred in failing to assess impact of manner of dismissal and extent of Respondent's injuries in order to determine appropriate level of compensation - Whether Court of Appeal erred in finding that Applicant breached its obligation of good faith and fair dealing in manner of dismissal.

PROCEDURAL HISTORY

March 14, 2001 Supreme Court of Nova Scotia (Gruchy J.)	Respondent's action for wrongful dismissal allowed
October 31, 2001 Nova Scotia Court of Appeal (Glube C.J.N.S., Freeman and Cromwell JJ.A.)	Appeal dismissed
December 28, 2001 Supreme Court of Canada	Application for leave to appeal filed

707739 Alberta Ltd. and Azmin Habib

v. (29063)

Tim Phillips (Alta.)

NATURE OF THE CASE

Procedural law – Appeal – Civil procedure – Appeal struck from General Appeal List for failure to appear pursuant to Alberta *Rules of Court* – Court of Appeal finding no reasonable excuse for delay and interests of justice not warranting restoration of appeal – Whether Court of Appeal erred in refusing to restore appeal.

PROCEDURAL HISTORY

February 15, 2000 Court of Queen's Bench of Alberta (Rooke J.)	Judgment for the Respondent in the amount of \$73,949 for breach of contract; Applicant to pay punitive an exemplary damages in the amount of \$25,000, for fraud
September 5, 2001 Court of Appeal of Alberta	Application to restore the appeal dismissed

(Hunt J.A.)

January 25, 2002
Supreme Court of Canada

Application for leave to appeal filed and motion to extend
time

**CORAM: Bastarache, Arbour and LeBel JJ. /
Les juges Bastarache, Arbour et LeBel**

Pearl Winnifred Bell, and Robert William Bell, on their own behalf and on behalf of Karen Lisa Sangster, Allan Wayne Bell, William L. Bell and Donald Robert Bell; Kelly-Ann Benoit on her own behalf; Lisa Marie Benoit-Murrin on her own behalf; Shirley Ann Benoit on her own behalf and on behalf of Nadine Cheryl Benoit; Darlene Pamela Dollimont on her own behalf and on behalf of Cheree Alyi Teresa Dollimont; Marie Anita Doyle and A. Marshall Doyle on their own behalf and on the behalf of, R. Allan Doyle, James A. Doyle and Donald P. Doyle; G. Isabel Gillis on her own behalf and on behalf of Christopher Gillis, Ashley Anne Gillis and Daniel A. Gillis; Eileen Gillis and Joe Gillis on their own behalf; Genesta Agatha Halloran on her own behalf and on behalf of Trevor Lawrence Halloran and Nicole Margaret Halloran; Bonnie Atkings on her own behalf and on behalf of Jessie David Atkings and Kristy Erin Jahn; Reta Jahn on her own behalf and on behalf of Larry Jahn, Faye Gibos, Marvin Jahn, Norma Bare, Cheryl Trotter, Dana Chodyka, Beverly Toppin and Tracey Jahn; Eleanor C. Lilley on her own behalf and on the behalf of Simon P. Lilley; Darren C. Lilley on his own behalf and Stephen P. Lilley on his own behalf; Christopher Cory McIsaac and James Eric McIsaac by their Guardian ad Litem Cheryl Leblanc; Beverly MacKay on her own behalf and on behalf of Sara MacKay and Janelle MacKay; Randy Robert Poplar and Nancy Lee McKeigan; Sheila Mae Dykstra on her own behalf and on behalf of Lori Shalene Dykstra; Shelle Alanna McCallum on her own behalf and on the behalf of Anthony Darren McCallum and Kimberly Leslie MacCallum; Marguerite MacNeil on her own behalf and on the behalf of Christopher Lee MacDonald, Lisa Marie MacNeil and Shawn Angus MacNeil; Lisa Poplar on her own behalf; Veronica Poplar on her own behalf; Eva Poplar on her own behalf and on behalf of, Shirley Anne Conway on her own behalf and on the behalf of Tammy Conway, Shari Conway, and Scott Conway; Carolyne Ann Dewan on her own behalf and on the behalf of Jennifer Amanda Dewan and Trevor James Dewan

v. (29094)

Attorney General of Canada, Attorney General of Nova Scotia (N.S.)

NATURE OF THE CASE

Labour Law - Workers' Compensation - Whether Workers' Compensation Board admitted the Province of Nova Scotia as an employer within the scope of *Workers' Compensation Act* - Whether the benefit of the statutory bar against civil suits applies only to law suits against the Province as employer or immunizes Province from suits against it in its role as regulator - *Workers' Compensation Act 1989*, R.S.N.S. c. 508.

PROCEDURAL HISTORY

August 10, 2001
Supreme Court of Nova Scotia
(Davidson J.)

Applicants' action for negligence, dismissed

January 16, 2002
Nova Scotia Court of Appeal
(Cromwell, Hallett and Saunders JJ.A.)

Appeal dismissed; decision subject to a variation order of
the chambers judge

March 18, 2002
Supreme Court of Canada

Application for leave to appeal filed

May 16, 2002
Supreme Court of Canada
(Bastarache J.)

Order to strike affidavit and references to affidavit in leave
application

May 23, 2002
Supreme Court of Canada

Amended application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

JUNE 13, 2002 / LE 13 JUIN 2002

28883 **The Information Commissioner of Canada - v. - The Minister of Industry Canada and Patrick McIntyre** (FC) (Civil)

CORAM: The Chief Justice, Iacobucci and Arbour JJ.

The application for leave to appeal is dismissed with costs to the respondent, the Minister of Industry Canada.

La demande d'autorisation d'appel est rejetée avec dépens en faveur de l'intimé, Ministre de l'industrie du Canada.

NATURE OF THE CASE

Administrative law - Judicial review - Public right to access to information - Ministerial decision to claim exemption from disclosure of information related to the application process for telecommunications licences - Whether Court of Appeal erred in its interpretation of the discretionary exemption in s. 21(1)(a) of the *Access to Information Act*, R.S.C. 1985, c. A-1

PROCEDURAL HISTORY

January 14, 2000 Federal Court of Canada (Trial Division) (Gibson J.)	Applicant's application for judicial review of Respondent, Minister of Industry's refusal to release information granted; disclosure of records ordered
August 29, 2001 Federal Court of Appeal (Strayer, Décary and Evans JJ.A.)	Appeal allowed
October 29, 2001 Supreme Court of Canada	Application for leave to appeal filed

28884 **The Information Commissioner of Canada - v. - The Minister of Industry Canada** (FC) (Civil)

CORAM: The Chief Justice, Iacobucci and Arbour 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 - - Public right to access to information - Ministerial decision to refuse to disclose information related to the application process for telecommunications licences - Whether Court of Appeal erred in its interpretation of the discretionary exemption in s. 21(1)(a) of the *Access to Information Act*, R.S.C. 1985, c. A-1 - Whether Minister lawfully exercised his discretion to withhold information requested

PROCEDURAL HISTORY

November 17, 1999 Federal Court of Canada (Trial Division) (Sharlow J.)	Application for judicial review of Respondent`s refusal to release information dismissed
August 29, 2001 Federal Court of Appeal (Strayer, Décary and Evans JJ.A.)	Appeal dismissed
October 29, 2001 Supreme Court of Canada	Application for leave to appeal filed

29030 **Manitoba Association of Optometrists - v. - Keith Mondesir** (Man.) (Civil)

CORAM: **The Chief Justice, Iacobucci and Arbour JJ.**

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Administrative law - Appeals - Professional misconduct - Respondent optometrist found guilty of professional misconduct by discipline committee - Court of Queen's Bench upholding decision - Court of Appeal reversing that judgment - Whether Court of Appeal's decision applies a level of procedural fairness which cannot be met at the preliminary, investigative stage of proceedings by professional bodies.

PROCEDURAL HISTORY

January 2000 Discipline Committee of the Manitoba Association of Optometrists (Small, Caners and MacKenzie, Members)	Respondent found guilty of professional misconduct
May 17, 2001 Court of Queen's Bench of Manitoba (Menzies J.)	Appeal dismissed
November 23, 2001 Court of Appeal of Manitoba (Huband, Philp and Monnin JJ.A.)	Appeal allowed; conviction set aside
January 18, 2002 Supreme Court of Canada	Application for leave to appeal filed

28898 **Edward J. Nordquist and Domo Gasoline Corporation Ltd. - v. - Patricia Gurniak, Valerie Michelle Ross and Shannon Lee Ross, by their guardian ad Litem, Patricia Gurniak** (B.C.) (Civil)

CORAM: The Chief Justice, Iacobucci and Arbour JJ.

The application for leave to appeal is granted.

La demande d'autorisation d'appel est accordée.

NATURE OF THE CASE

Commercial Law - Insurance - Automobile accident insurance - Spouse and dependent children of victim killed in automobile accident in British Columbia commence claim under Family Compensation Act - Whether no-fault benefits paid in Quebec deductible from any award - Proper approach to determining whether no-fault accident benefits paid under a legislative scheme of one province should be deducted from a subsequent damage award recovered in another province so as to avoid double recovery - Characterization of benefits paid under a complete or pure no-fault scheme - Whether there is a need to pronounce definitively on answer by the British Columbia courts to interpretive questions relating to Quebec's no-fault scheme.

PROCEDURAL HISTORY

May 12, 1997
Supreme Court of British Columbia
(Bauman J.)

SAAQ benefits to Respondent Patricia Gurniak declared benefits under the Insurance (Motor Vehicle) Act; SAAQ benefits to Valerie Michelle and Shannon Lee Ross declared not benefits under the Insurance (Motor Vehicle) Act

June 22, 1999
Supreme Court of British Columbia
(Bauman J.)

Application to reduce liability to Patricia Gurniak by amount of SAAQ benefits dismissed

September 7, 2001
Court of Appeal for British Columbia
(Newbury, Braidwood and Hall JJ.A.)

Appeals dismissed

November 5, 2001
Supreme Court of Canada

Application for leave to appeal filed

28844 **Sam Hall - v. - Barry Vogel, Andrew Larking and Alain Le Sann** (Alta.) (Civil)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Torts - Negligence - Procedural law - Civil Procedure - Standing - Municipal Law - Liability of municipal officers - Standing of ratepayers to bring action against municipal officer - Is the *MacIlreith* test still relevant and if so, is the special damage requirement more than a mere formality - Is evidence municipality's mill rate did not increase a basis for denying status - Should judicial discretion to grant status be permitted to extend beyond *Thorson* and *Finlay* to cases involving allegations of gross negligence relating to supervision - Whether a mental element such as conscious indifference is a necessary element distinguishing gross negligence from ordinary negligence.

PROCEDURAL HISTORY

March 30, 2000 Court of Queen's Bench of Alberta (McIntyre J.C.Q.B.A.)	Damages of \$2,354,432 for gross negligence granted
July 3, 2001 Court of Appeal of Alberta (Hunt, Sulatycky and Fruman JJ.A.)	Appeal dismissed
October 1, 2001 Supreme Court of Canada	Application for leave to appeal filed

28886 **Her Majesty the Queen in Right of the Province of Nova Scotia as represented by Dr. Patricia Ripley, Deputy Minister of the Priorities and Planning Secretariat - v. - Daniel O'Connor (N.S.)**
(Civil)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Statutes - Interpretation - *Freedom of Information and Protection of Privacy Act*, S.N.S. 1993, c.5, ss. 3(1)(a), 13(1), 13(2) - Whether the Court of Appeal erred in law in interpreting the "substance of deliberations" of Cabinet under s. 13(1) of the *Act*, including advice or recommendations to Cabinet or its committees, or both, as falling within the meaning of "background information" required to be disclosed under ss. 3(1)(a) and 13(2)(c) of the *Act* - Whether the Court of Appeal erred in law in upholding the chambers judge's interpretation of "feasibility study" in s. 3(1)(a)(ix) of the *Act* - Whether the Court of Appeal erred in law in upholding the chambers judge's decision to grant access to requested information in the Respondent's format of choice notwithstanding that this was acknowledged to constitute an excess of jurisdiction under the *Act*.

PROCEDURAL HISTORY

February 2, 2001 Nova Scotia Supreme Court (MacDonald A.C.J.S.C.)	Appeal dismissed; documents to be disclosed sealed for 30 days
March 2, 2001	Nova Scotia Court of Appeal

(Cromwell J.A.)	Stay of February 2, 2001 order extended to June 12, 2001
October 2, 2001 Nova Scotia Court of Appeal (Saunders, Freeman and Bateman JJ.A.)	Appeal and cross-appeal dismissed
October 30, 2001 Nova Scotia Court of Appeal (Roscoe J.A.)	Stay of proceedings of October 2, 2001 judgment granted pending decision on application for leave
December 3, 2001 Supreme Court of Canada	Application for leave to appeal filed

28915 **Apotex Inc. - v. - Bayer AG, Bayer Inc. and The Minister of Health** (FC) (Civil)

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

The application for leave to appeal is dismissed with costs to the respondents Bayer AG and Bayer Inc.

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimées Bayer AG et Bayer Inc.

NATURE OF THE CASE

Property Law - Patents - Whether the court below made significant errors of law in maintaining the validity of the respondents' patent rights - Whether the immediate availability of ciprofloxacin from the applicant is of crucial and demonstrated importance to the federal government, the provincial Ministries of Health and the general public - Whether the relevant claims of the respondents' patent are invalid because its filing date was more than twelve months after an application for the same invention was filed in Chile - Whether a decision to grant a prohibition order on the basis that a foreign patent did not relate to the same invention was incorrect or inconsistent with jurisprudence - Whether the decision below appears to permit patent holders to obtain monopolies in excess of their entitlements - Whether the decision below allows avoidance of a foreign patent bar contrary to Canada's treaty obligations and the policy of patent law.

PROCEDURAL HISTORY

November 3, 1998 Federal Court of Canada (Trial Division) (Gibson J.)	Respondent Minister of Health prohibited from issuing a Notice of Compliance to applicant
September 13, 2001 Federal Court of Appeal (Rothstein, Sexton, Evans JJ.A.)	Appeal dismissed
November 13, 2001 Supreme Court of Canada	Application for leave to appeal filed

28877 **Mr. Allan Milton Paul Smart, also known as A.M.P. Smart - v. - The Society of Lloyd's** (Ont.)
(Civil)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

International law - Conflict of laws - Enforcement of foreign judgments - Defences - Respondent applying to have English judgments registered in Ontario - Applicant defending application on basis that to enforce judgments would be counter to public policy due to allegations of fraud and breach of securities laws - Whether foreign judgments that condone violations of the prospectus disclosure rules under Ontario securities laws should be enforceable under the *Reciprocal Enforcement of Judgments (U.K.) Act*, R.S.O. 1990, c. R 6 because of principles of international comity - What meaning and scope is to be given to the public policy exception to the registration or enforcement of a foreign judgment.

PROCEDURAL HISTORY

March 7, 2000
Superior Court of Justice
(Swinton J.)

Respondent's application for registration of U.K. judgments that ordered recovery against the Applicant and other parties granted

August 29, 2001
Court of Appeal for Ontario
(Laskin, Goudge and Feldman JJ.A.)

Appeal dismissed

October 29, 2001
Supreme Court of Canada

Application for leave to appeal filed

28965 **Jacques Laurendeau - c. - Sa Majesté la Reine** (Qué.) (Criminelle)

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

La demande d'autorisation d'appel est rejetée.

The application for leave to appeal is dismissed.

NATURE DE LA CAUSE

Procédure - Appel - Procédure civile - Preuve - Est-ce que le droit d'être entendu doit prévaloir sur le droit de l'irréfutabilité des jugements?

HISTORIQUE PROCÉDURAL

Le 26 novembre 1999
Cour du Québec (Chambre criminelle)
(Verdon j.p.c.q.)

Demandeur déclaré coupable d'avoir omis ou refusé de se conformer à l'une des conditions de l'ordonnance de probation contrairement à l'article 733.1 du *Code criminel*

Le 14 mars 2000
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour demande de remise accueillie

Le 31 mai 2000
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour demande de remise accueillie

Le 6 décembre 2000
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour demande de remise accueillie

Le 26 février 2001
Cour supérieure du Québec
(Beaulieu j.c.s.)

Requête pour demande de remise accueillie

Le 17 septembre 2001
Cour supérieure (Chambre criminelle)
(Tremblay j.c.s.)

Requête pour omission de se conformer à une ordonnance rejetée

Le 16 octobre 2001
Cour d'appel du Québec
(Gendreau j.c.a.)

Demande d'autorisation d'appel et requête pour prorogation de délai rejetées

Le 12 décembre 2001
Cour suprême du Canada

Demande d'autorisation d'appel déposée

29039 **Giles Poirier - v. - Her Majesty the Queen** (N.S.) (Criminal)

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

The application for an oral hearing and the application for leave to appeal are dismissed.

La demande d'audition et la demande d'autorisation d'appel sont rejetées.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Right to fair trial - Pre-trial Procedure - Stay of proceedings - Remedies - Costs - Allegations of wrongdoing on part of police and Crown prosecution - Whether "prejudice" necessary to granting a stay of proceedings on the basis of the "residual category" where there is a finding of continuing or ongoing harm to the integrity of the judicial process - Scope of "continuing or ongoing harm to the integrity of the judicial process" - Threshold to be met for a stay of proceedings on the basis of a finding of prosecutorial misconduct - Circumstances in which costs against the Crown an appropriate remedy in a finding of abuse of process - Whether Court of Appeal improperly substituted its own view of the trial judge's findings of fact.

PROCEDURAL HISTORY

April 7, 2000 Supreme Court of Nova Scotia, Trial Division (Boudreau J.)	Applicant's application for stay of proceedings relating to charge of unlawfully conspiring to traffic in a narcotic contrary to s. 4(1) of the <i>Narcotic Control Act</i> and contrary to s. 465(1)(c) of the <i>Criminal Code</i> granted
January 4, 2001 Supreme Court of Nova Scotia, Trial Division (Boudreau J.)	Applicant's request for costs granted in part: Respondent ordered to pay Applicant \$35,000 for costs
November 27, 2001 Nova Scotia Court of Appeal (Roscoe, Chipman and Flinn JJ.A.)	Respondent's appeals allowed: stay of proceedings and order for costs set aside, new trial ordered
January 28, 2002 Supreme Court of Canada	Application for leave to appeal filed

29005 **Émile Dejardin - c. - Ville de Varennes - et entre - Habitations Turgeon Inc., Luth Balane et Émile Dejardin - c. - Ville de Longueuil - et entre - Émile Dejardin - c. - Ville de Longueuil - et entre - Émile Dejardin - c. - Sa Majesté la Reine - et entre - Émile Dejardin - c. - Ville de Longueuil, Daniel Gauthier et Jean-Paul Dubois** (Qué.) (Civile)

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

La demande de prorogation de délai est accordée. Les requêtes accessoires et la demande d'autorisation d'appel sont rejetées.

The application for an extension of time is granted. The ancillary motions and the application for leave to appeal are dismissed.

NATURE DE LA CAUSE

Procédure - Tribunaux - Appel - La Cour d'appel a-t-elle erré en rejetant les requêtes en suspension d'exécution de jugement, en arrêt de procédures, en rejet d'action, en rétractation de jugement, en précision de jugement, en rectification de jugement, en permission d'appeler et en irrecevabilité au motif qu'elles étaient sans mérite quant au fond? - La Cour d'appel a-t-elle erré en concluant que les démarches du requérant constituent un usage abusif du système judiciaire? - Y a-t-il atteinte en l'espèce à un droit protégé par la *Charte canadienne des droits et libertés*?

HISTORIQUE PROCÉDURAL

Le 9 octobre 2001
Cour d'appel du Québec
(Baudouin, Chamberland et Biron [*ad hoc*] jj.c.a.)

Requêtes en suspension d'exécution de jugement, en arrêt de procédures, en rejet d'action, en rétractation de jugement, en précision de jugement, en rectification de jugement, en permission d'appeler et en irrecevabilité rejetées

Le 21 novembre 2001
Cour suprême du Canada

Requête en prorogation de délai, requête en sursis et requête pour la désignation d'un procureur déposées

Le 20 mars 2002
Cour suprême du Canada

Demande d'autorisation d'appel déposée

28962 **Jane Baptist - v. - Her Majesty the Queen** (FC) (Civil)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Taxation - Assessment - Appeal from an assessment of income tax for compensation received from "special duty pay" - Whether an employee who provides services to a third party outside of their regular employment and is paid by the third party should be regarded as doing so as part of their regular employment or regarded as providing services outside of their employment? - Whether the "four-in-one" test relied upon in this case, and since refined in the case of *671122 Canada Ltd. v. Sagaz Industries Canada Inc.*, 2000 SCC 59, needs to be further examined in regards to how it applies to skilled and professional persons providing services to third parties outside the terms of their normal employment? - Whether there is a contract for services between an individual and a third party when a contract of services is arranged for an individual through processes administered by that individual's employer, but payment for services is made directly by a third party in circumstances where the employer has no liability for payment? - Whether courts can ignore the characterization of a provincial statute that characterizes services in one way, such as in the *Police Service Act* which characterizes the services provided as being private, and make a different finding?

PROCEDURAL HISTORY

April 11, 2000
Tax Court of Canada
(Bonner J.)

Appeal from the 1993 taxation year assessment dismissed.

October 11, 2001
Federal Court of Appeal
(Linden, Noël and Malone JJ.A.)

Appeal dismissed

December 10, 2001
Supreme Court of Canada

Application for leave to appeal filed

28993 **FWS Joint Sports Claimants Inc. - v. - Border Broadcasters Inc., Canadian Broadcasters Rights Agency Inc., Canadian Retransmission Collective, Canadian Retransmission Right Association, Copyright Collective of Canada, Major League Baseball Collective of Canada Inc. and Society of Composers, Authors and Music Publishers of Canada** (FC) (Civil)

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

The application for leave to appeal is dismissed with costs to the respondents Border Broadcasters Inc., Canadian Broadcasters Rights Agency Inc., Canadian Retransmission Right Association and Copyright Collective of Canada.

La demande d'autorisation d'appel est rejetée avec dépens en faveur des intimées Border Broadcasters Inc., Agence des droits des radiodiffuseurs canadiens, Association du droit de retransmission canadien et Société de perception des droits d'auteurs du Canada.

NATURE OF THE CASE

Property law - Copyright - Royalties - Allocation of royalties - Method of allocation - Administrative law - Judicial review - Standard of review - Whether the Board changed the legal standard under which it acts - If so, whether the Court of Appeal rewrote the Board's decision to make it appear that the legal standard had not been changed - If so, whether the Court of Appeal erred in so doing - Whether allocating a sum of money among several claimants is a "polycentric" matter justifying substantial deference to the Board's decision - Whether the Court of Appeal erred in referring to the hearing transcript to find that the Board "came to grips with" evidence not mentioned in its decision.

PROCEDURAL HISTORY

February 25, 2000 Copyright Board Canada (Héту, Burns and Fenus, Members)	Applicant's objection to the Board's royalty allocation methodology rejected
November 6, 2001 Federal Court of Appeal (Strayer, Sexton and Evans JJ.A.)	Application for judicial review dismissed
January 10, 2002 Supreme Court of Canada (Major J.)	Motion to extend time to file and serve leave application to January 18, 2002 granted
January 18, 2002 Supreme Court of Canada	Application for leave to appeal filed

28825 **Société du Grand Théâtre de Québec - c. - Communauté urbaine de Québec et Ville de Québec** (Qué.) (Civile)

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

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

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit municipal — Fiscalité municipale — Évaluation foncière — Détermination de la valeur de l'immeuble du Grand Théâtre de Québec pour fins d'évaluation — Prise en compte des désuétudes physiques, fonctionnelles et économiques — *Loi sur la fiscalité municipale*, L.R.Q., ch. F-2.1, art. 43, 44 et 45 — Droit administratif — Appel — La décision de la Cour du Québec est-elle déraisonnable? — La Cour du Québec a-t-elle erré en refusant d'intervenir? — La Cour du Québec a-t-elle erré en refusant de renvoyer le dossier devant le Tribunal administratif du Québec? — L'immeuble du Grand Théâtre de Québec était-il affecté par des désuétudes économiques et fonctionnelles découlant des lois du marché?

HISTORIQUE PROCÉDURAL

Le 20 juin 2000 Cour du Québec (Sheehan, j.c.q.)	Requête pour permission d'en appeler d'une décision Tribunal administratif du Québec (section des affaires immobilières), accordée
Le 24 juillet 2001 Cour du Québec (Lavoie, j.c.q.)	Appel d'une décision du Tribunal administratif du Québec (section des affaires immobilières) accueilli en partie ; valeur réelle confirmée
Le 28 septembre 2001 Cour suprême du Canada	Demande d'autorisation d'appel déposée

29033 **Thomas Rory Clancey - v. - Her Majesty the Queen** (Ont.) (Criminal)

CORAM: L'Heureux-Dubé, Bastarache and Binnie 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 - Evidence - Hearsay - Statutes - Interpretation - *Criminal Code*, R.S.C. 1985, c. C-46, s. 231(5)(e) - Whether the Court of Appeal erred in law in ruling that the trial judge had not erred in refusing to permit the introduction into evidence of the statements of David Teed - Whether the Court of Appeal erred in law in ruling that the trial judge had not erred in his instruction to the jury as to the difference between first and second degree murder.

PROCEDURAL HISTORY

July 13, 1995 Ontario Superior Court of Justice (Watt J.)	Applicant convicted by judge and jury of first degree murder contrary to s. 229 of the <i>Criminal Code</i>
September 13, 2001 Court of Appeal for Ontario (Doherty, Austin and MacPherson JJ.A.)	Appeal against conviction dismissed
January 22, 2002 Supreme Court of Canada	Application for leave to appeal and motion to extend time filed

28924 **John Clarke, Mabel Clarke, 386724 Alberta Ltd. and 505807 Alberta Ltd. - v. - Peter Rossburger, Gisela Rossburger, Alan E. Spievak and G.A.P. Mining Supply Inc.** (Alta.) (Civil)

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

The application for leave to appeal is dismissed with costs.

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

NATURE OF THE CASE

Commercial law - Remedies - Shareholders' remedies - Oppression remedy - Whether respondents' conduct had the effect of unfairly disregarding and unfairly prejudicing shareholder's interest - Whether the court of appeal's interpretation of s. 234 of the Act was too narrow and incorrectly held that causation needs to be established - Whether this decision is inconsistent with the case law - *Business Corporations Act*, S.A. 1981, c. B-15, s. 234.

PROCEDURAL HISTORY

October 29, 1999
Court of Queen's Bench of Alberta
(Cairns J.)

Applicants' action for breach of contract, breach of fiduciary duty, and oppression remedy, dismissed

September 11, 2001
Court of Appeal of Alberta
(McClung, Hunt and Paperny(dissenting) JJ.A.)

Appeal dismissed

November 13, 2001
Supreme Court of Canada

Application for leave to appeal filed

28789 **Tri Gro Enterprises Ltd., G.M.F. Part 2 carrying on business as Greenwood Mushroom Farm, Brent Taylor Holdings Ltd., Rick Campbell Holdings Ltd. and Snobelen Mushrooms Ltd., carrying on business as G.M.F. Part 2, Clayton Russell Taylor, Donald Leslie Van Dusen, Nicholas Van Halteren and David Brent Taylor - v. - Craig Pyke, Patricia Pyke, Gary Young, Erlyne Young, Kenneth Giles, Sally Giles, Bernice Gardner, Jean Gardner, Donald Walker, Leslie Walker, Margaret Davis, Ronald Chapman, Gordon Donnison, Karen Donnison, John Lennox, Nadia Lennox, Chris Downes, Christa Downes and 1094581 Ontario Limited** (Ont.) (Civil)

CORAM: Gonthier, Major 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

Torts - Nuisance - Property law - Real property - Land use conflicts - Statutes - Interpretation - Neighbouring property owners suing operators of mushroom farm as a result of odours created by operation of farm - Trial judge finding farm operators liable in nuisance - Whether owners' claims in nuisance barred by "right to farm" legislation - Whether phrase "normal farm practice" accurately interpreted by Court of Appeal - *Farm Practices Protection Act, 1988*, S.O. 1988, c. 62, R.S.O. 1990, c. F.6 - *Farming and Food Production Protection Act, 1998*, S.O. 1998, c. 1.

PROCEDURAL HISTORY

April 11, 2000 Ontario Superior Court of Justice (Ferguson J.)	Respondents' action for damages for nuisance granted
August 3, 2001 Court of Appeal for Ontario (Abella, Charron [dissenting] and Sharpe JJ.A.)	Appeal dismissed
October 2, 2001 Supreme Court of Canada	Application for leave to appeal filed
October 12, 2001 Supreme Court of Canada	Stay of execution granted

28853 **Tom Mitchinson, Assistant Information and Privacy Commissioner of Ontario - v. - Solicitor General and Minister of Correctional Services, John Doe, Requester - and between - Tom Mitchinson, Assistant Information and Privacy Commissioner of Ontario - v. - Solicitor General and Minister of Correctional Services, Jane Doe, Requester - and between - Tom Mitchinson, Assistant Information and Privacy Commissioner of Ontario - v. - The Attorney General for Ontario, John Doe, Requester** (Ont.) (Civil)

CORAM: Gonthier, Major and LeBel JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Administrative law - Judicial review - Access to documents denied - Appeal to Information Privacy Commissioner - Quashing an Order - Statutes - *Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.F.31 - *Municipal Freedom of Information and Protection of Privacy Act*, R.S.O. 1990, c.M.56 - Interpretation of *Pushpanathan v. Canada (Minister of Citizenship and Immigration)*, [1998] 1 S.C.R. 982 - *Dagg v. Canada (Minister of Finance)*, [1997] 2 S.C.R. 403

PROCEDURAL HISTORY

March 20, 2001
Superior Court of Justice (Divisional Court)
(Hartt, Meehan and Kozak JJ.A.)

Applications for judicial review of three of the Applicant's decisions that held the requested records to be subject to the *Freedom of Information and Protection of Privacy Act* dismissed

August 8, 2001
Court of Appeal for Ontario
(Catzman, Doherty and Simmons JJ.A.)

Appeals allowed; Applicant's decisions quashed

October 5, 2001
Supreme Court of Canada

Application for leave to appeal filed

28974 **Attorney General of British Columbia and the Ministry of Forests - v. - Thomas Paul, Forest Appeals Commission - and between - Forest Appeals Commission - v. - Attorney General of British Columbia and the Ministry of Forests, Thomas Paul** (B.C.) (Civil)

CORAM: Gonthier, Major and LeBel JJ.

The application for leave to appeal by the Attorney General of British Columbia and the Ministry of Forests is granted. The application for leave to appeal by the Forest Appeals Commission is dismissed without prejudice to the Applicant's rights to apply for leave to intervene in the appeal by the Attorney General of British Columbia and the Ministry of Forests.

La demande d'autorisation d'appel du procureur général de la Colombie-Britannique et du Ministry of Forests est accueillie. La demande d'autorisation d'appel de la Forest Appeals Commission est rejetée sous réserve du droit de la demanderesse de présenter une demande d'autorisation d'intervenir dans le pourvoi du procureur général de la Colombie-Britannique et du Ministry of Forests.

NATURE OF THE CASE

Constitutional law - Native law - Administrative law - Procedural law - Division of powers - Courts - Aboriginal rights - Province providing for administrative process for dealing with forest disputes - Forest dispute involving aboriginal right to take timber with band's permission from traditional band territory - Whether province has the legislative capacity to confer on the Forest Appeals Commission any jurisdiction to decide questions of aboriginal rights or aboriginal title in the course of exercising its functions under the *Forest Practices Code* - Whether a provincially constituted administrative tribunal can determine questions of aboriginal rights and title in the course of exercising its statutory mandate.

PROCEDURAL HISTORY

October 9, 1996
Ministry of Forests, Port Albani Forest District
(Pashnik, District Manager)

Determination that Respondent Paul violated s. 96(1) of the *Forest Practices Code* and s. 65(3) of the *Forest Act*

April 24, 1998
Forest Appeals Commission
(Vigod, Chair)
Determination that Commission has jurisdiction to adjudicate upon questions involving aboriginal rights

September 23, 1999 Supreme Court of British Columbia (Pitfield J.)	Respondent Paul's application for an order prohibiting the Forest Appeals Commission from hearing an appeal dismissed
June 14, 2001 Court of Appeal for British Columbia (Lambert, Donald and Huddart [dissenting] JJ.A.)	Appeal allowed.
October 30, 2001 Court of Appeal for British Columbia (Lambert, Donald and Huddart [dissenting] JJ.A.)	Supplementary reasons with respect to remedy
December 17, 2001 Supreme Court of Canada	Application for leave to appeal filed by the Attorney General of British Columbia and the Ministry of Forests
December 27, 2001 Supreme Court of Canada	Application for leave to appeal filed by Forest Appeals Commission

28927 **Julio Cesar Lucas - v. - Attorney General of Canada** (Ont.) (Civil)

CORAM: Gonthier, Major 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

Procedural law - Proceedings against the Crown - Motion to strike portions of statement of claim and to dismiss action against Respondent - Criminal charges against Applicant for anal intercourse with person under 18 contrary to s. 159 of *Criminal Code* withdrawn - Section 159 having been declared unconstitutional before charge laid - Applicant bringing civil action against Attorney General of Canada and others - Claim against Attorney General for failing to exercise legislative power to amend *Criminal Code* struck - Whether Applicant's claim against Attorney General justiciable - Whether there exists tort of constitutional negligence - Whether Respondent has duty to repeal or amend legislation declared unconstitutional - Whether remedies available where *Charter* rights violated subsequent to declaration of constitutional validity

PROCEDURAL HISTORY

November 15, 2000 Ontario Superior Court of Justice (Backhouse J.)	Respondent Attorney General of Canada's motion to strike out portions of the Applicant's statement of claim and to dismiss the action, dismissed
June 14, 2001 Ontario Superior Court of Justice (Divisional Court) (Then, Borkovich and Hill JJ.A.)	Appeal allowed in part; Portions of the Applicant's statement of claim struck; Applicant's action dismissed
September 10, 2001	Applicant's application for leave to appeal to Court of

Court of Appeal for Ontario
(Catzman, Doherty and Goudge JJ.A.)

Appeal for Ontario dismissed

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

Motion to extend time to file and serve the leave
application granted

January 30, 2002
Supreme Court of Canada

Application for leave to appeal filed

28365

The Chippewas of Sarnia Band - v. - Attorney General of Canada, Her Majesty the Queen in Right of Ontario, Canadian National Railway Company, Dow Chemical Canada Inc. and Union Gas Ltd., The Corporation of the City of Sarnia, Amoco Canada Resources Ltd. and Amoco Canada Petroleum Company Ltd., Ontario Hydro Networks Company Inc., Union Gas Limited, Interprovincial Pipe Line Inc., The Bank of Montreal, The Toronto-Dominion Bank and Canada Trustco Mortgage Company individually and as class representatives (Ont.) (Civil)

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

The motion for reconsideration of the application for leave to appeal is dismissed with costs to the respondents.

La demande de réexamen de la demande d'autorisation d'appel est rejetée avec dépens en faveur des intimés.

4.6.2002

Before / Devant: MAJOR J.

Motion for a stay of execution

Requête en vue de surseoir à l'exécution

Magdy Rashwan

v. (29215)

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

DISMISSED / REJETÉE

UPON APPLICATION by the applicant for an order granting a stay of execution;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

The application for a stay of execution is dismissed.

4.6.2002

Before / Devant: GONTHIER J.

Miscellaneous motion

Autre requête

James Chamberlain, et al.

v. (28654)

The Board of Trustees of School District #36 (Surrey)
(B.C.)

DISMISSED / REJETÉE The motion to reconsider the order of Gonthier J. dated April 17, 2002 is dismissed.

 REVISED / RÉVISÉ

5.6.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's response and book of authorities to August 9, 2002

Requête en prorogation du délai imparti pour signifier et déposer les réponse et recueil de jurisprudence et de doctrine de l'intimée au 9 août 2002

G.S. (A Young Person)

v. (29203)

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

GRANTED / ACCORDÉE

 7.6.2002

Before / Devant: THE REGISTRAR

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

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

Her Majesty the Queen

v. (28628)

Antonio Portante (Crim.)(Ont.)

GRANTED / ACCORDÉE Time extended to June 5, 2002.

 10.6.2002

Before / Devant: THE CHIEF JUSTICE

Motion for additional time to present oral argument

Requête en prorogation du temps alloué pour les plaidoiries

James Chamberlain, et al.

v. (28654)

The Board of Trustees of School District #36 (Surrey)
(B.C.)**DISMISSED / REJETÉE****UPON APPLICATION** by the appellants for additional time for oral argument in the above appeal;**AND HAVING READ** the material filed ;**IT IS HEREBY ORDERED THAT:**

The application on behalf of the appellants for additional time for oral argument is dismissed.

**NOTICES OF APPEAL FILED SINCE
LAST ISSUE**

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

10.6.2002

Canadian Cable Television Association

v. (28826)

Barrie Public Utilities, et al. (F.C.)

11.6.2002

Geoffrey Saldanha, et al.

v. (28829)

Frederick H. Beals, III, et al. (Ont.)

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

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

6.6.2002

BY/PAR: Attorney General of Manitoba

IN/DANS: **Her Majesty the Queen in Right of Alberta**

v. (28261)

Devon Gary Ell, et al. (Alta.)

7.6.2002

BY/PAR: Procureur général du Québec
Attorney General of British Columbia

IN/DANS: **Her Majesty the Queen in Right of Alberta**

v. (28261)

Devon Gary Ell, et al. (Alta.)

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

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

11.6.2002

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

Hughes Communications Inc., et al.

v. (28070)

Spar Aerospace Limited (Que.) (Civil) (By Leave)

Colin K. Irving and Catherine McKenzie for the appellant Hughes Communications Inc.

Jean Bélanger et Louis Charette pour l'appelante Adaptive Broadband Corporation (*Formerly Satellite Transmissions Systems Inc.*).

James A. Woods and Christian Immer for the appellant Motient Corporation (*Formerly American Mobile Satellite Corporation*).

Joshua C. Borenstein for the appellant Viacom Inc. (*Formerly Westinghouse Electric Corporation*).

Marc-André Blanchard pour l'intimée.

DISMISSED WITH COSTS, REASONS TO FOLLOW / REJETÉ AVEC DÉPENS, MOTIFS À SUIVRE

GONTHIER J.: (orally)

This appeal is dismissed with costs. Reasons to follow.

Nature of the case:

International law - Conflict of laws - Articles 3135 and 3148 of the *Civil Code of Québec* - Jurisdiction of Quebec courts - *Forum non conveniens* - Whether the Quebec courts have jurisdiction over the action instituted by the Respondent against the Appellants - Whether loss of reputation constitutes an "injurious act" under art. 3148 C.C.Q. - Whether an injurious act occurred in Quebec - Whether the Respondent suffered damage in Quebec - Whether there is a real and substantial connection between the subject matter of the Respondent's action and Quebec - Whether jurisdiction should be declined on the basis of the doctrine of *forum non conveniens*?

LE JUGE GONTHIER (oralement)

Cet appel est rejeté avec dépens. Motifs de jugement à suivre.

Nature de la cause:

Droit international - Droit international privé - Articles 3135 et 3148 du *Code civil du Québec* - Compétence des tribunaux du Québec - *Forum non conveniens* - L'action intentée par l'intimée contre les appelantes est-elle du ressort des tribunaux du Québec? - L'atteinte à la réputation constitue-t-elle un « fait dommageable » au sens de l'art. 3148 du C.C.Q.? - Un fait dommageable s'est-il produit au Québec? - L'intimée a-t-elle subi un dommage au Québec? - Y a-t-il un lien réel et substantiel entre l'objet de l'action intentée par l'intimée et le Québec? - Les tribunaux du Québec devraient-ils décliner compétence en se fondant sur la doctrine de *forum non conveniens*?

11.6.2002

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

Her Majesty the Queen

Scott C. Hutchison for the appellant.

v. (28628)

Antonio Portante (Ont.) (Criminal) (As of Right)

Philip Campbell for the respondent.

DISMISSED / REJETÉ

THE CHIEF JUSTICE (orally):

[TRANSLATION] LE JUGE EN CHEF (oralement):

This is an appeal as of right. We are all of a view to dismiss the appeal, substantially for the reasons of Charron JA in the Court of Appeal.

Le présent appel a été interjeté de plein droit. Nous sommes tous d'avis de rejeter l'appel, essentiellement pour les mêmes motifs que ceux exposés par le juge Charron de la Cour d'appel.

Nature of the case:

Nature de la cause:

Criminal law - Evidence - Hearsay - Out-of-court statement - Jury instructions - Whether the majority of the Court of Appeal erred in law in concluding that the jury had to ignore Coiro's evidence about Angelo Portante's statement in considering DeFrancesca's credibility, but only in so far as he implicated the Respondent.

Droit criminel - Preuve - Oûi-dire - Déclaration extra-judiciaire - Directives au jury - Les juges majoritaires de la Cour d'appel ont-ils commis une erreur de droit en concluant que le jury devait ne pas tenir compte du témoignage de Coiro au sujet de la déclaration d'Angelo Portante dans l'examen de la crédibilité de DeFrancesca, mais seulement dans la mesure où Coiro mettait l'intimé en cause.

12.6.2002

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

James Chamberlain, et al.

Joseph J. Arvay, Q.C. and Catherine J. Parker for the appellants.

v. (28654)

**The Board of Trustees of School District # 36
(Surrey)
(B.C.) (Civil) (By Leave)**

John G. Dives and Kevin L. Boonstra for the respondent.

Chris W. Sanderson, Q.C. and Keith B. Bergner for the intervener British Columbia Civil Liberties Association.

Susan Ursel and David A. Wright for the intervener Families in Partnership.

Andrew K. Lokan and Stephen L. McCammon for the intervener Canadian Civil Liberties Association.

Cynthia Petersen and Kenneth W. Smith for the

intervener EGALE Canada Inc.

No one appeared for the intervener Elementary Teachers' Federation of Ontario (written submission by H. Goldblatt).

Daniel R. Bennett and Paul A. Craven for the intervener The Board of Trustees of School District no. 34 (Abbotsford).

D. Geoffrey Cowper, Q.C. and Cindy Silver for the interveners Evangelical Fellowship of Canada, et al.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Administrative law - Jurisdiction - *Canadian Charter of Rights and Freedoms* - Equality rights- Freedom of religion - School Board refused approval of books depicting positive representations of same-sex parents for use as learning resources in kindergarten and grade one classrooms -Whether the School Board's refusal pursuant to section 85(2)(b) of the *School Act* to approve learning resources because they include positive representations of same sex parents offends the rights and freedoms guaranteed by sections 15(1), 2(a) and 2(b) of the *Charter* - Whether the proper interpretation of the *School Act* precludes a School Board from refusing to approve books which include positive representations of same sex parents on the basis that affirming the value of such families would conflict with the religious views of some parents.

Nature de la cause:

Droit administratif - Compétence - *Charte canadienne des droits et libertés* - Droits à l'égalité- Liberté de religion - La commission scolaire a refusé d'approuver l'utilisation, comme matériel pédagogique pour les classes de maternelle et de première année, de livres décrivant de façon positive les parents de même sexe - Fondé sur l'alinéa 85(2)b) de la *School Act*, le refus de la commission scolaire d'approuver du matériel pédagogique parce qu'il comporte des descriptions positives des parents de même sexe porte-t-il atteinte aux droits et libertés garantis par le paragraphe 15(1) et les alinéa 2a) et 2b) de la *Charte*? - Bien interprétée, la *School Act* interdit-elle à une commission scolaire de refuser d'approuver des livres comportant des descriptions positives des parents de même sexe au motif que l'affirmation de la valeur de telles familles entrerait en conflit avec les croyances religieuses de certains parents?

13.6.2002

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

Chee K. Ling

v. (28315)

Her Majesty the Queen (B.C.) (Criminal) (By Leave)

and between

Warren James Jarvis

v. (28378)

Her Majesty the Queen (Alta.) (Criminal) (By Leave)

Craig C. Sturrock and Thomas M. Boddez for the appellant Chee K. Ling.

Alan D. Macleod, Q.C. and Wendy K. McCallum for the appellant Warren James Jarvis.

S. David Frankel, Q.C., Bruce A. Harper and Janet Henchey for the respondent.

Scott K. Fenton for the intervener Criminal Lawyers' Association (Ontario).

Trevor Shaw for the intervener the Attorney General for Ontario.

Monique Rousseau et Gilles Laporte pour l'intervenant le procureur général du Québec.

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

28315

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 - Whether Respondent is precluded under the *Charter* from tendering statutorily compelled evidence in a criminal prosecution of the Appellant for tax evasion for which the Appellant claims use immunity and derivative use immunity.

28378

Canadian Charter of Rights and Freedoms - Criminal law - Income tax - Search and seizure - Right to remain silent - Whether Revenue Canada can use its administrative powers under s. 231.1 and 231.2 of the *Income Tax Act* to pursue an investigation once a compliance audit has become an investigation - Were the taxpayer's rights under s. 7 and s. 8 of the *Charter* breached and is exclusion of the evidence under s. 24(2) the appropriate remedy - What role can evidence not presented at the Crown's instance to the issuing judge at

Nature de la cause:

28315

Charte canadienne des droits et libertés - Droit fiscal - Auto-incrimination - Cotisation - Vérification de l'impôt sur le revenu effectuée suivant la *Loi de l'impôt sur le revenu* - L'utilisation contre un contribuable d'un témoignage donné sous contrainte légale dans le cadre d'une vérification - La *Charte* empêche-t-elle l'intimée, lors d'une poursuite criminelle contre l'appelant pour fraude fiscale, de déposer un témoignage donné sous contrainte légale lorsque l'appelant réclame l'immunité contre l'utilisation de la preuve et de la preuve dérivée?

28378

Charte canadienne des droits et libertés - Droit criminel - Impôt sur le revenu - Fouille, perquisition et saisie - Droit de garder le silence - Revenu Canada peut-il utiliser les pouvoirs administratifs d'enquête que lui confèrent les art. 231.1 et 231.2 de la *Loi de l'impôt sur le revenu* une fois qu'une vérification de conformité s'est transformée en enquête? - Les droits garantis au contribuable par les art. 7 et 8 de la *Charte* ont-ils été the time of the application for a search warrant play in a judicial review of the authorization.

violés et l'exclusion des éléments de preuve en vertu du par. 24(2) constitue-t-elle la réparation appropriée? - Quel rôle les éléments de preuve que le ministère public n'a pas présentés au juge lorsqu'il lui a soumis sa demande de mandat de perquisition peuvent-ils jouer dans le cadre de la révision judiciaire de l'autorisation?

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 : September 30, 2002
Service : September 9, 2002
Filing : September 13, 2002
Respondent : September 20, 2002

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 : 30 septembre 2002
Signification : 9 septembre 2002
Dépôt : 13 septembre 2002
Intimé : 20 septembre 2002

Motion day : November 4, 2002
Service : October 11, 2002
Filing : October 18, 2002
Respondent : October 25, 2002

Audience du : 4 novembre 2002
Signification : 11 octobre 2002
Dépôt : 18 octobre 2002
Intimé : 25 octobre 2002

Motion day : December 2, 2002
Service : November 8, 2002
Filing : November 15, 2002
Respondent : November 22, 2002

Audience du : 2 décembre 2002
Signification : 8 novembre 2002
Dépôt : 15 novembre 2002
Intimé : 22 novembre 2002

Note: These motion dates apply only where the notice of appeal will be filed before June 28, 2002

Note: Ces dates de requête s'appliquent seulement où l'avis d'appel sera déposé avant le 28 juin 2002.

DEADLINES: APPEALS

DÉLAIS: APPELS

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.

The Supreme Court of Canada has enacted new rules that will come into force on June 28, 2002.

Please consult the Notice to the Profession of April 2002 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.

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'appellant, 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'appellant.

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.

La Cour suprême du Canada a adopté de nouvelles règles qui entreront en vigueur le 28 juin 2002.

Veillez consulter l'avis aux avocats du mois d'avril 2002 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

- 2001 -

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

DECEMBER - DECEMBRE						
S D	M L	T M	W M	T J	F V	S S
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16	17	18	19	20	21	22
23	24	H 25	H 26	27	28	29
30	31					

- 2002 -

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	M 14	15	16	17	18	19
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27	28	29	30	31		

FEBRUARY - FÉVRIER						
S D	M L	T M	W M	T J	F V	S S
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MARCH - MARS						
S D	M L	T M	W M	T J	F V	S S
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24 31	25	26	27	28	H 29	30

APRIL - AVRIL						
S D	M L	T M	W M	T J	F V	S S
	H 1	2	3	4	5	6
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28	29	30				

MAY - MAI						
S D	M L	T M	W M	T J	F V	S S
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12	M 13	14	15	16	17	18
19	H 20	21	22	23	24	25
26	27	28	29	30	31	

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

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour

79 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

2 holidays during sitting days / jours fériés durant les sessions