

**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**

Dr. Sylvia R. Hicks
Dr. Sylvia R. Hicks

v. (29167)

West Coast General Hospital, et al. (B.C.)
John G. Dives
Dives, Grauer & Harper

FILING DATE 18.4.2002

Charles Henry Beauchamp
Marvin R. Bloos
Beresh Depoe Cunningham

v. (29175)

Her Majesty the Queen (Alta.)
Eric Tolppanen
A.G. of Alberta

FILING DATE 18.4.2002

Marvin A. Haggith
Ronald E. Carr
Goodman and Carr

v. (29173)

33 Parliament Street Inc., et al. (Ont.)
Kirk F. Stevens
Lerner & Associates

FILING DATE 19.4.2002

Tai Foong International Limited
Brian J.E. Brock, Q.C.
Dutton, Brock, MacIntyre & Collier

v. (29176)

Lombard Canada Limited (Ont.)
Mark L.J. Edwards
Beard Winter

FILING DATE 19.4.2002

**Service Corporation International (Canada)
Limited**
Robert S. Russell
Borden Ladner Gervais

v. (29177)

Scanfield Holdings Ltd., et al. (Ont.)
Michel E. Barrack
McCarthy Tétrault

FILING DATE 23.4.2002

Barbara Haight-Smith
Barbara Haight-Smith

v. (29172)

**Janice Neden, Wendy Lichlyter, Evelyn Spicer,
Tony Dufficy, Ross Dickson, Tarry Grieve, Allan
Critchley, Geoff Gibbard, Connie Burris, et al.
(B.C.)**

James A. Dowler
Alexander Holburn Beaudin & Lang

FILING DATE 29.4.2002

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

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

MAY 6, 2002 / LE 6 MAI 2002

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

Kwok Ki Fong, a.k.a. Jimmy Fong

v. (28999)

United States of America (Crim.) (B.C.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Procedural law - Right to counsel - Evidence - Inculpatory statement without advice to right to counsel - Statement admitted by chambers judge conducting extradition hearing - Whether Applicant detained at time statement made - Whether statement admissible - Whether documents seized in the search are sufficient to justify the order of committal without inculpatory statement.

PROCEDURAL HISTORY

April 13, 2000 Supreme Court of British Columbia (Blair J.)	Applicant's statement declared admissible in extradition proceedings
June 10, 2000 Supreme Court of British Columbia (Blair J.)	Committal of Applicant ordered
December 3, 2001 Court of Appeal of British Columbia (Donald, Levine and Smith JJ.A.)	Appeal dismissed
January 25, 2002 Supreme Court of Canada	Application for leave to appeal filed

**410675 Alberta Ltd., Abbey Lane Homes Ltd., and B & R Development Corporation,
operating under the trade name of "Abbey Lane Homes"**

v. (28938)

Trail South Developments Inc.(Alta.)

NATURE OF THE CASE

Property law - Real Property - Sale of land - Remedies - Specific performance - Contract for the sale of commercial land - Principles governing the granting of specific performance - Whether the lands are unique - Whether there is conflict in the case law regarding the remedy of specific performance - Whether the lower courts erred in awarding damages.

PROCEDURAL HISTORY

May 2nd, 2001
Court of Queen's Bench of Alberta
(Gallant J.)

Applicant 410675 Alberta Ltd's action for specific performance dismissed; Respondent's application to discharge caveat of Applicant 410675 Alberta Ltd from the land title allowed

October 3rd, 2001
Court of Appeal of Alberta
(McClung, O'Leary and Russell JJ.A.)

Appeal dismissed

November 21, 2001
Supreme Court of Canada

Application for leave to appeal filed

Jeanette Black, *et al*

v. (28876)

Canada Employment Insurance Commission (F.C.)

NATURE OF THE CASE

Labour Law - Unemployment Insurance - Entitlement - Employee did not attempt to cross picket line during a strike by co-workers represented by another Local of her union - Terms of an Essential Services Order excluded her from her workplace during strike - Employee dis-entitled from unemployment insurance benefits because unemployment resulted from a labour dispute - Whether employee re-entitled because she did not participate nor had a direct interest in other Local's labour dispute - Whether non-striking employee precluded by an essential service order can be found to be participating in another Local's strike - Whether employee's interest in the outcome of strike or actions of employee's union can be grounds for finding participation - Whether failure to indicate willingness to work was grounds for finding participation - Whether employer's view as to whether employees might cross picket line can be grounds for finding participation - Whether Court of Appeal's approach makes unions the agent or mandatory of their members - Whether Court of Appeal's approach provides a disincentive to participate in negotiations respecting essential services.

PROCEDURAL HISTORY

July 15, 1998
Board of Referees

Appeal from decision that applicant not eligible for benefits dismissed

August 15, 2000
Office of the Umpire

Appeal dismissed

August 30, 2001
Federal Court of Appeal
(Rothstein, Sexton and Evans JJ.A.)

Application for judicial review dismissed

October 26, 2001
Supreme Court of Canada

Application for leave to appeal filed

The Information Commissioner of Canada

v. (28883)

The Minister of Industry Canada and Patrick McIntyre (F.C.A)

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

The Information Commissioner of Canada

v. (28884)

The Minister of Industry Canada (F.C.A)

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) (Gibson 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

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

**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. (28886)

Daniel O'Connor (N.S.)

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

Apotex Inc.

v. (28915)

Bayer AG, Bayer Inc. and The Minister of Health (F.C.A)

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

Mr. Allan Milton Paul Smart, also known as A.M.P. Smart

v. (28877)

The Society of Lloyd's (Ont.)

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	Application for leave to appeal filed

Supreme Court of Canada

Centre hospitalier St-Mary's

c. (29066)

Cathy Chouinard (Qué.)

ET ENTRE :

Michel Demarchie, Luc Laurier-Oligny et Howard Dawang

c.

Cathy Chouinard (Qué.)

NATURE DE LA CAUSE

Responsabilité civile - Prescription - Interruption de la prescription - Solidarité - Obligation *in solidum* - La Cour d'appel a-t-elle erré dans la qualification de la nature des obligations respectives des demandeurs et du Dr Robbins? - La Cour d'appel a-t-elle erré en déclarant que le Dr Robbins et les médecins du Centre hospitalier St-Mary's étaient coauteurs du même délit? - La Cour d'appel a-t-elle erré en concluant à l'existence d'une solidarité en vertu de l'art. 1106 du *Code civil du Bas-Canada* entre les demandeurs et le Dr Robbins? - Quels sont les effets secondaires de la solidarité imparfaite (obligation *in solidum*)? - La Cour d'appel a-t-elle erré en déclarant que la poursuite intentée contre le Dr Robbins avait eu pour effet d'interrompre la prescription contre les demandeurs? - L'intimée était-elle dans l'impossibilité absolue en droit ou en fait d'agir?

HISTORIQUE PROCÉDURAL

Le 20 mai 1999
Cour supérieure du Québec
(Barbeau j.c.s.)

Requêtes en irrecevabilité accueillies; action en dommages de l'intimée rejetée

Le 10 décembre 2001
Cour d'appel du Québec
(Vallerand, Robert et Rochette [dissident]
jj.c.a.)

Appel accueilli; requêtes en irrecevabilité rejetées; dossier retourné à la Cour supérieure

Le 8 février 2002
Cour suprême du Canada

Demande d'autorisation d'appel de la demanderesse déposée

Le 8 février 2002
Cour suprême du Canada

Demande d'autorisation d'appel des demandeurs déposée

Le 25 mars 2002
Cour suprême du Canada

Requête pour accélérer la demande d'autorisation d'appel déposée

Le 7 mai 2002
Cour suprême du Canada
(Iacobucci J.)

Requête pour accélérer la demande d'autorisation d'appel accueillie

Steven I. Robbins

v. (29068)

Catherine Chouinard (Que.)

NATURE OF THE CASE

Torts - Negligence - Respondent suffering from hyponatremia - Applicant family physician found to be negligent in treating condition - Respondent admitted to hospital and given inappropriate treatment - Respondent sustaining substantial brain damage - Whether the Court of Appeal's decision increases uncertainty and confusion about the test for adequate causation in medical negligence suits - Whether the Court of Appeal wrongly relied on the doctrine of adequate causation - Whether the Court of Appeal's decision casts doubt on the principle of non-interference with determinations of fact by a trial judge.

PROCEDURAL HISTORY

November 10, 1998 Superior Court of Quebec (Beaudoin J.)	Respondent's action for damages for medical negligence dismissed
December 10, 2001 Court of Appeal of Quebec (Vallerand, Robert and Rochette [dissenting] J.J.A.)	Appeal allowed: Applicant ordered to pay damages in the amount of \$1,173,751 plus interest
February 8, 2002 Supreme Court of Canada	Application for leave to appeal filed
March 25, 2002 Supreme Court of Canada	Motion to expedite the leave application filed
May 7, 2002 Supreme Court of Canada (Iacobucci, J.)	Motion to expedite the leave application granted

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

Tri Gro Enterprises Ltd., G.M.F. Part 2 carrying on business as Greenwood Mushroom Farm, Brent Taylor Holdings Ltd., Rick Campbell Holdings Ltd., 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. (28789)

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.)

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

Tom Mitchinson, Assistant Information and Privacy Commissioner of Ontario

v. (28853)

Solicitor General and Minister of Correctional Services, John Doe, Requester (Ont.)

AND BETWEEN:

Tom Mitchinson, Assistant Information and Privacy Commissioner of Ontario

v.

Solicitor General and Minister of Correctional Services and John Doe, Requester (Ont.)

AND BETWEEN:

Tom Mitchinson, Assistant Information and Privacy Commissioner of Ontario

v.

Solicitor General and Minister of Correctional Services and Jane Doe, Requester (Ont.)

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

Toronto Catholic District School Board

v. (28935)

Ontario English Catholic Teachers' Association (Toronto Elementary Unit) (Ont.)

NATURE OF THE CASE

Administrative law – Judicial review – Standard of review – Labour law – Arbitration – Labour relations – Arbitrator interpreting regulation made pursuant to *Education Act*, considered “outside” legislation – Standard when reviewing decision of arbitrator – patent unreasonableness according to Court of Appeal – Whether external statute so intimately connected with mandate of tribunal as to constitute an exception to general rule that judicial review to be on correctness standard – If so, whether arbitrator’s awards patently unreasonable – *Education Act*, R.S.O. 1990, c. E.2 – O.Reg. 298, R.R.O. 1990, as amended.

PROCEDURAL HISTORY

March 27, 2000 Arbitration (Marcotte, Arbitrator)	Respondent’s grievance allowed: Applicant declared in breach of art. 5.02 (a) of collective agreement
June 22, 2000 Supplemental Decision of the Arbitrator (Marcotte, Arbitrator)	Respondent’s submission allowed: Applicant’s implementation of the award declared improper
September 29, 2000 Ontario Superior Court of Justice (Zuber, Southey and Caputo JJ.)	Applicant’s application for judicial review allowed: arbitration award set aside, grievance dismissed
September 24, 2001 Court of Appeal for Ontario (McMurtry C.J.O., Abella and MacPherson JJ.A.)	Appeal allowed: arbitration award reinstated
November 20, 2001 Supreme Court of Canada	Application for leave to appeal filed

Falls Creek Falling Contractors Ltd.

v. (28969)

Pat Carson Bulldozing Ltd. (B.C.)

NATURE OF THE CASE

Commercial law - Contracts - Damages - Indemnity clause in contract - In the absence of a judgment obligating the indemnitee to pay monies to a third party, is an indemnitee required to show that the payment is a reasonable settlement of the indemnitee’s legal liability to that third party, in order to recoup from the indemnitor - Where there is no proof of a reasonable settlement of a legal liability, does the fact that the indemnitor has a right of subrogation against the third party justify recovery by the indemnitee of the payment?

PROCEDURAL HISTORY

April 28, 1999
Supreme Court of British Columbia
(Sigurdson J.)

Applicant's appeal from the June 30, 1997 arbitration award that declared the Applicant liable under contract for costs associated with a trespass dismissed

October 16, 2001
Court of Appeal of British Columbia
(Prowse, Newbury [dissenting] and Mackenzie JJ.A.)

Appeal dismissed.

December 14, 2001
Supreme Court of Canada

Application for leave to appeal filed

Elizabeth Mulak and Roman Mulak

v. (28951)

Her Majesty the Queen (F.C.A)

NATURE OF THE CASE

Taxation - Assessment - Business Tax - Business expenses - Whether the lower courts failed to give the Applicants due process of law - Whether the strict technical rules of evidence apply in an informal tax court hearing - Whether the lower courts erred in dismissing the appeals from reassessment - Whether there are any issues of public importance raised.

PROCEDURAL HISTORY

March 28, 2000
Tax Court of Canada
(Beaubier J.T.C.C.)

Applicants' appeals from reassessments for the 1993 and 1994 taxation years dismissed

October 3, 2001
Federal Court of Appeal
(Richard C.J., Rothstein and Noël JJ.A.)

Application for judicial review dismissed with costs

November 30, 2001
Supreme Court of Canada

Application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

MAY 9, 2002 / LE 9 MAI 2002

28788 **Jeffrey Scott Schellenberg - v. - Her Majesty the Queen** (Man.)(Criminal)

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

Criminal Law (Non-Charter) - Verdicts - Sentencing - Conditional sentences - Whether Court of Appeal erred in law in finding that guilty verdict was not unreasonable or that sentence was not unfit.

PROCEDURAL HISTORY

November 18, 1999 Manitoba Court of Queen's Bench (McCawley J.)	Conviction, sexual assault
August 3, 2000 Manitoba Court of Queen's Bench (McCawley J.)	Sentence, 30 months imprisonment
September 19, 2001 Court of Appeal of Manitoba (Huband [<i>dissenting in part</i>], Twaddle and Monnin JJ.A.)	Appeals against conviction and sentence dismissed
January 9, 2002 Supreme Court of Canada	Application for leave to appeal filed
January 14, 2002 Supreme Court of Canada (Major J.)	Extension of time to file leave application granted
March 1, 2002 Supreme Court of Canada (Deputy Registrar)	Motion to accept leave application as filed granted

29044 **Atmah Singh - v. - British Columbia Hydro and Power Authority** (B.C.) (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

Labour law - Master and Servant - Wrongful dismissal - Whether the rules concerning notice under the British Columbia *Employment Standards Act*, RSBC 1996, c.113, were breached resulting in the wrongful termination of the applicant?

PROCEDURAL HISTORY

February 23, 2000 Supreme Court of British Columbia (Parrett J.)	Summary judgment and action for wrongful dismissal dismissed.
December 4, 2001 Court of Appeal of British Columbia (Ryan, Saunders and Proudfoot JJ.A.)	Applicant's appeal allowed in part: required notice period increased to 27 months
February 4, 2002 Supreme Court of Canada	Application for leave to appeal filed

28912 **Re-Con Building Products Inc. - v. - Western Union Insurance Company and The Nordic Insurance Company of Canada** (B.C.) (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

International law - Conflict of laws - *Forum non conveniens* - Applicant commencing suit in California court for declaration that Respondent insurers were obligated to defend class action brought against it - Insurers bringing action in British Columbia Supreme Court seeking declaration that insurance policies were void *ab initio* - Applicant's application for declaration that British Columbia court had no jurisdiction dismissed - Whether Canadian courts, faced with litigation for which two jurisdictions are appropriate, will countenance maintenance of a second suit.

PROCEDURAL HISTORY

May 3, 2000 Supreme Court of British Columbia (Holmes J.)	Applicant's application for declaration that the Court has no jurisdiction dismissed
September 12, 2001 Court of Appeal for British Columbia (Southin, Finch and Donald JJ.A.)	Appeal dismissed
November 8, 2001 Supreme Court of Canada	Application for leave to appeal filed

28459 **Denis Brazeau - c. - Gérard Guay et Le Barreau du Québec** (Qué.) (Civile)

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

La demande de réexamen est rejetée avec dépens.

The application for reconsideration is dismissed with costs.

30.4.2002

Before / Devant: LEBEL J.

Motion for a stay of execution

Requête en vue de surseoir à l'exécution

Phil Lajeunesse, operating as "Prince Albert Northern Bus Repair" (Northern Bus Repair Centre Inc.)

v. (29070)

Wahpeton Dakota First Nation and Lorne Waditaka (Sask.)

GRANTED, COSTS TO FOLLOW / ACCORDÉE, DÉPENS À SUIVRE

The applicant Phil Lajeunesse has applied for leave to appeal from a judgment of the Saskatchewan Court of Appeal dated February 25, 2002. This judgment upheld a judgment of the Court of Queen's Bench of March 23, 2001 which ordered the applicant to return to the respondents the school buses which were withheld under the Garage Keeper's Act, R.R.S. 1978 c. G2, which belonged to the respondent Waditaka, a status Indian, and which were used to transport school children living on an Indian reserve. The applicant was granted a temporary stay for thirty days by Justice Tallis, J.C.A. of the Saskatchewan Court of Appeal in order to file a motion for leave to appeal and is now petitioning for a further stay, pending disposition of the motion for leave to appeal. The respondents object to the granting of a further stay.

After a review of the application and material filed in its support and in response to it, it appears this is a case where a further stay should be granted. The legal issues seem of significant importance and do not seem to have been addressed directly until now by our Court. Moreover, the central issue in this case is the validity of the security interest claimed by the applicant. The denial of a stay would deprive the applicant of the only security he appears to hold for the alleged indebtedness and might render the appeal moot. Moreover, at this stage, the balance of convenience favors the applicant. For these reasons, it is ordered that the execution of the Judgment of the Saskatchewan Court of Appeal be stayed until the disposition of the motion for leave to appeal, costs to follow.

30.4.2002

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the respondents' 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 intimés

ECU-Line N.V.

v. (28472)

Z.I. Pompey Industrie, et al. (F.C.)

GRANTED / ACCORDÉE Time extended to April 8, 2002.

1.5.2002

Before / Devant: THE CHIEF JUSTICE

Motion to state a constitutional question

Requête pour énoncer une question constitutionnelle

Her Majesty the Queen in Right of Alberta

v. (28261)

Devon Gary Ell, et al. (Alta.)

GRANTED / ACCORDÉE Notices of intervention are to be filed on or before June 10, 2002.

1. Does s. 2.4(8) of the *Justice of the Peace Act*, R.S.A. 1980, c.J-3, as amended, interfere with the tenure of non-sitting justices of the peace and thereby violate the principle of judicial independence guaranteed by:

- (a) the preamble of the *Constitution Act, 1867*, or
- (b) section 11(d) of the *Canadian Charter of Rights and Freedoms*?

2. If the answer to question 1(b) is yes, is the Act demonstrably justified as a reasonable limit prescribed by law under s. 1 of the *Charter*?

1. Le paragraphe 2.4(8) de la *Justice of the Peace Act*, R.S.A. 1980, ch.J-3 et ses modifications, porte-t-il atteinte à l'inamovibilité des juges de paix qui ne siègent pas et contrevient-il, de ce fait, au principe de l'indépendance judiciaire garanti par :

- a) le préambule de la *Loi constitutionnelle de 1867* ou
- b) l'alinéa 11d) de la *Charte canadienne des droits et libertés*?

2. Si la réponse à la première question est affirmative, s'agit-il d'une loi dont la justification peut se démontrer en tant que limite raisonnable prévue par une règle de droit en vertu de l'article premier de la *Charte*?

2.5.2002

Before / Devant: THE CHIEF JUSTICE

Motion to state a constitutional question

Requête pour énoncer une question constitutionnelle

Glenda Doucet-Boudreau, et al.

v. (28807)

Attorney General of Nova Scotia (N.S.)

DISMISSED / REJETÉE

UPON APPLICATION by the appellants for an order stating a constitutional question;

AND HAVING READ the material filed ;

IT IS HEREBY ORDERED THAT:

The application to state a constitutional question is denied.

7.5.2002

Before / Devant: IACOBUCCI J.

**Motions by the respondent to expedite the decision
on the applications for leave to appeal**

**Requêtes de l'intimée visant à obtenir rapidement
une décision sur les demandes d'autorisation d'appel**

Centre hospitalier St-Mary's, et al.

v. (29066)

Cathy Chouinard, et al. (Que.)

and

Steven I. Robbins

v. (29068)

Cathy Chouinard (Que.)

GRANTED / ACCORDÉES

UPON APPLICATION by the respondent, Cathy Chouinard for an order expediting the applications for leave to appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motions on behalf of the respondent, Cathy Chouinard for an order expediting the applications for leave to appeal are granted.

**AGENDA FOR MAY 2002
HEARINGS ON APPLICATIONS FOR
LEAVE**

**CALENDRIER DE MAI 2002
AUDIENCES SUR LES DEMANDES
D'AUTORISATION**

Date of Hearing/ Case Number and Name/
Date d'audition Numéro et nom de la cause

9:30 a.m.

2002/05/13

Motions / Requêtes

Procureur général du Québec c. R.C. (Qué.) (28923)
(Audition orale sur la demande d'autorisation d'appel / Oral hearing on leave)

Procureur général du Québec c. Sébastien Beauchamp et autres (Qué.) (29121)
(Audition orale sur la demande d'autorisation d'appel / Oral hearing on leave)

28923 *Attorney General of Quebec v. R.C.*

Canadian Charter of Rights and Freedoms - Criminal Law - Procedural Law - Appeals - Jurisdiction - Right to legal counsel - Sections 7 and 11(d) of the *Charter* - Whether the Superior Court erred in holding that the Respondent has a constitutional right to representation by a publicly funded lawyer at stage of hearing for judicial interim release - Whether the Superior Court had the authority to order the state to provide the services of a lawyer to the Respondent by looking only at his interests and not taking into account the interests of society, notably, the ability of the state to pay - Whether the Superior Court had the authority to dictate to the government the mechanism for providing this benefit - Whether the decision of the Superior Court can be appealed to the Supreme Court of Canada.

28923 *Procureur général du Québec c. R.C.*

Charte canadienne des droits et libertés - Droit criminel - Procédure - Appel - Compétence - Droit à l'avocat - Art. 7 et 11d) de la *Charte* - La Cour supérieure a-t-elle erré en reconnaissant à l'intimé un droit constitutionnel à la représentation par avocat aux frais de l'État à l'étape de l'enquête pour remise en liberté? - La Cour supérieure pouvait-elle ordonner à l'État de fournir les services d'un avocat à l'intimé en s'attardant uniquement aux intérêts de celui-ci et en ne tenant aucunement compte des intérêts de la société, notamment des limites à la capacité de l'État de payer? - La Cour supérieure pouvait-elle dicter au Gouvernement les mécanismes de prestation des services? - La décision de la Cour supérieure peut-elle faire l'objet d'un appel à la Cour suprême?

29121 *Attorney General of Quebec v. Sébastien Beauchamp et al.*

Canadian Charter of Rights and Freedoms - Criminal law - Procedure - Appeal - Jurisdiction - Right to a fair trial - Increase in legal aid tariff - Sections 7 and 11(d) of the *Charter* - Whether Superior Court's decision can be appealed to the Supreme Court under s. 40(1) of the *Supreme Court of Canada Act* - Whether Superior Court erred in finding that the Respondents had met their onus of establishing an infringement of their right to a fair trial - Whether Superior Court erred in failing to take into account and comply with the provisions of the Quebec legal aid plan which allow eligible persons to obtain the services of a competent lawyer - Whether Superior Court erred in substituting a new legal aid system parallel to the one already provided for by the Quebec legislature.

29121 *Procureur général du Québec c. Sébastien Beauchamp et autres*

Charte canadienne des droits et libertés - Droit criminel - Procédure - Appel - Compétence - Droit à un procès équitable - Majoration du tarif d'aide juridique - Art. 7 et 11d) de la *Charte* - La décision de la Cour supérieure peut-elle faire l'objet d'un appel à la Cour suprême en vertu du par. 40(1) de la *Loi sur la Cour suprême du Canada*? - La Cour supérieure a-t-elle erré en concluant que les intimés avaient rencontré leur fardeau de démontrer une violation de leur droit à un procès équitable? - La Cour supérieure a-t-elle erré en omettant de tenir compte et de respecter les dispositions du régime québécois de l'aide juridique qui permettent aux personnes admissibles d'obtenir les services d'un avocat compétent? - La Cour supérieure a-t-elle erré en substituant un nouveau régime parallèle d'aide juridique à celui déjà prévu par le législateur québécois?

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 : **June 10, 2002**
Service : May 17, 2002
Filing : May 24, 2002
Respondent : May 31, 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 : **10 juin 2002**
Signification : 17 mai 2002
Dépôt : 24 mai 2002
Intimé : 31 mai 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.

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

DECEMBER - DECEMBRE						
S D	M L	T M	W M	T J	F V	S S
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2	M 3	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					

- 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
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
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24	25	26	27	28		

MARCH - MARS						
S D	M L	T M	W M	T J	F V	S S
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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
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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
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19	H 20	21	22	23	24	25
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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