SUPREME COURT OF CANADA

COUR SUPRÊME DU CANADA

BULLETIN OF PROCEEDINGS

BULLETIN DES PROCÉDURES

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APPLICATIONS FOR LEAVE TO APPEAL FILED

Reliance Insurance Company
Crawford M. MacIntyre, Q.C.
Dutton Brock

v. (29594)

Lafarge Canada Limited, et al. (Ont.)
Glenn A. Smith
Lenzcner Slaght Royce Smith Griffin

FILING DATE 17.2.2003

The Information and Privacy Commissioner of the Province of British Columbia
Joseph J. Arvay, Q.C.
Arvay Finlay

v. (29626)

The College of Physicians and Surgeons of British Columbia, et al. (B.C.)
David Martin
Miller Thomson

- and between -

The Applicant
Patrick Dickie
Granville & Pender Labour Law Office

v. (29626)

The College of Physicians and Surgeons of British Columbia, et al. (B.C.)
David Martin
Miller Thomson

FILING DATE 10.2.2003

DEMANDES D'AUTORISATION D'APPEL DÉPOSÉES

Constable Brian McGrath
D. Bradford L. Wicks
Williams, Roebothan, McKay & Marshall

v. (29628)

The Royal Newfoundland Constabulary Public Complaints Commission (Nfld. & Lab.)
Norman J. Whalen, Q.C.
Martin Whelan Hennebury & Stamp

FILING DATE 21.2.2003

Paul David Reashore
Allan F. Nicholson
Nova Scotia Legal Aid

v. (29629)

Her Majesty the Queen (N.S.)
Kenneth W.F. Fiske, Q.C.
A.G. of Nova Scotia

FILING DATE 21.2.2003

Clifford John Brown
Balfour Q.H. Der, Q.C.
Batting, Der

v. (29633)

Her Majesty the Queen (Alta.)
John P. Bodurtha
A.G. of Canada

FILING DATE 24.2.2003

MARCH 3, 2003 / LE 3 MARS 2003

CORAM: Chief Justice McLachlin and Bastarache and Deschamps JJ. /
La juge en chef McLachlin et les juges Bastarache et Deschamps

Monica Leung

v. (29487)

The City of Edmonton, Jane Kan and Ms. Jean Sullivan (Alta.)

NATURE OF THE CASE

Procedural law - Municipal law - Limitation of actions - Elections - Challenges - *Local Authorities Election Act* providing for specific procedure for challenging municipal election - "Original Notices of Motion" filed by Applicant not meeting procedure or time limits mandated by Act - Whether "Original Notices of Motion" properly struck and whether that originating notice of motion allows three years limitation period to file.

PROCEDURAL HISTORY

December 13, 2001 Court of Queen's Bench of Alberta (Gallant J.)	Applicant's motion struck out
October 11, 2002 Court of Appeal of Alberta (Côté, Conrad and McFadyen JJ.A.)	Appeal dismissed
December 3, 2002 Supreme Court of Canada	Application for leave to appeal filed

Fern Tardif and International Brotherhood of Electrical Workers, Local 625

v. (29261)

Halifax Shipyard, a division of Irving Building Inc. (N.S.)

NATURE OF THE CASE

Labour law -Torts - Labour relations - Economic torts - Whether Court of Appeal erred in finding that on a *prima facie* basis the Applicants had intimidated or coerced union members to cease to be a member of a trade union contrary to s. 58(1) of the *Trade Union Act* - Whether the Court of Appeal erred when it found that, on a *prima facie* basis, the Applicants had committed the tort of indirect interference in contractual relations between the Respondent and the owners of the oil rig.

PROCEDURAL HISTORY

September 18, 2001 Supreme Court of Nova Scotia (Gruchy J.)	Respondent's application for an interim injunction restraining and enjoining Applicant's activities, granted
April 22, 2002 Nova Scotia Court of Appeal (Cromwell, Hallett and Roscoe JJ.A.)	Appeal dismissed
June 20, 2002 Supreme Court of Canada	Application for leave to appeal filed

Roman Catholic Episcopal Corporation of St. George's

v. (29426)

John Doe ("a pseudonym"), and John Doe ("a pseudonym") (Nfld.)

AND BETWEEN:

John Doe ("a pseudonym"), and John Doe ("a pseudonym")

v.

**Alphonsus Penney, Raymond Lahey,
Roman Catholic Episcopal Corporation of St. John's,
James MacDonald and the Roman Catholic Church**

- and -

Roman Catholic Episcopal Corporation of St. George's

NATURE OF THE CASE

Torts - Liability - Corporation sole - Sexual assaults by priest - What, if any, liability in law attaches to a corporation sole in respect of acts of negligence of the incorporated office holder which are unrelated to the powers and purposes of the corporation sole - Whether the Supreme Court of Newfoundland and Labrador Court of Appeal erred in imposing direct liability upon the Roman Catholic Episcopal Corporation of St. George's in respect of certain sexual assaults upon the respondents - Whether the said determination by the Court of Appeal raises issues of public importance in respect of the rights of recovery of every Canadian advancing a claim of any nature or kind against the hierarchy of the Roman Catholic Church

PROCEDURAL HISTORY

July 4, 2000 Supreme Court of Newfoundland (Wells J.)	Applicant declared vicariously liable to the Respondents for the torts of Father Bennett
August 23, 2002 Supreme Court of Newfoundland and Labrador Court of Appeal (Marshall, Steele and, Cameron [*dissenting in part*] JJ.A.)	Applicant's appeal dismissed insofar as its liability is direct but allowed insofar as its liability is vicarious; Respondents' cross-appeal dismissed

October 23, 2002
Supreme Court of Canada

Application for leave to appeal filed

Melba Florine Manson and Melba Florine Manson in right of Estate of Hugh Manson (deceased husband)

v. (29512)

Her Majesty the Queen as represented by the Minister of National Revenue and Canada Customs and Revenue Agency (F.C.A.)

NATURE OF THE CASE

Procedural law - Appeal - Civil Procedure - Applicant appealing lower court decision but appeal not made ready for hearing because no acceptable appeal book filed - Whether the Federal Court of Appeal erred in dismissing the appeal based on the determination that the applicant failed to justify failure to file Appeal Book in accordance with previous court order.

PROCEDURAL HISTORY

May 23, 2000
Federal Court of Canada, Trial Division
(Gibson J.)

Applicants' application for an order for production of proof plus refund of seized money, dismissed

July 13, 2000
Federal Court of Appeal, Trial Division
(Reed J.)

Applicant's motion for extension of time granted; appeal to be filed on or before July 27, 2000

August 9, 2001
Federal Court of Appeal
(Sharlow J.)

Applicant's motion to adduce evidence on appeal, allowed in part

May 28, 2002
Federal Court of Appeal
(Létourneau J.A.)

Appeal Book ordered to be returned to appellant; new Appeal Book to be filed and served by June 21, 2002, failing which appeal to be dismissed without further notice.

October 3, 2002
Federal Court of Appeal
(Rothstein, Noël and Sharlow JJ.A.)

Appeal dismissed

November 29, 2002
Supreme Court of Canada

Application for leave to appeal filed

Save the Eaton's Building Coalition

v. (29526)

The City of Winnipeg (Man.)

NATURE OF THE CASE

Administrative law - Remedies - Duty to act fairly - Bias - Municipal law - Zoning - Amendment - Coalition's application to quash a zoning by-law and a conditional use order on the grounds of bias and procedural unfairness dismissed - Whether a court may deny a remedy to a party after having found that a decision making authority has breached its duties of procedural fairness and the procedure mandated by its governing statute - Whether bias may be inferred from the actions of the municipal authority in entering into a binding agreement to give effect to a development prior to conducting the public hearings into aspects of the development.

PROCEDURAL HISTORY

June 4, 2002 Court of Queen's Bench of Manitoba (MacInnes J.)	Applicant's application for orders quashing a zoning by-law and a conditional use order dismissed
October 25, 2002 Court of Appeal of Manitoba (Scott C.J.M., Huband and Hamilton JJ.A.)	Appeal dismissed
December 23, 2002 Supreme Court of Canada	Application for leave to appeal filed

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

Granbury Developments Limited

v. (29539)

Her Majesty the Queen (F.C.A.)

NATURE OF THE CASE

Procedural law - Actions - Appeals - Consent executed by solicitors agreeing to be bound by result in another case - Parties also reserving right of appeal - Whether consent has the effect of dismissing the appeal - Whether Applicant contracted away its statutory right of appeal

PROCEDURAL HISTORY

September 29, 2000 Tax Court of Canada (Beaubier J.T.C.C.)	Applicant's motion to amend the January 29, 1999 order dismissed; Applicant's appeal from the denial of the Minister of National Revenue of input tax credits dismissed
November 5, 2002 Federal Court of Appeal (Stone, Rothstein and Pelletier JJ.A.)	Appeal dismissed
January 6, 2003 Supreme Court of Canada	Application for leave to appeal filed

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Glenn Alexander Ross

v. (29500)

Her Majesty the Queen (F.C.A.)

NATURE OF THE CASE

Statutes - Interpretation - Taxation - Assessment - Collection of unpaid income tax - Collection of income tax debt owing the Crown for 1989 and 1990 taxation years - Reassessment confirmed January 3, 1995 and no appeal filed - Collection could be undertaken April 3, 1995 - Certificate of indebtedness registered in the Federal Court on September 30, 1999 - Whether limitation periods in the *Crown Liability and Proceedings Act* or the *Limitation Act* apply to the collection of federal and provincial income tax debts - If s. 32 of the *Crown Liability and Proceedings Act* imposes or incorporates a limitation for the collection of federal tax debts, when does the six-year limitation period begin to run - If the *Limitation Act* imposes a limitation for the collection of provincial tax debts, when does the six-year limitation period begin to run - Does the filing of a Certificate pursuant to s. 223(3) of the *Income Tax Act* within the six-year period for the collection of tax debts preserve the debt.

PROCEDURAL HISTORY

April 10, 2002 Federal Court of Canada, Trial Division (Dawson J.)	Applicant's application for judicial review of a decision of the Minister of National Revenue communicated on May 16, 2001 in a Requirement to pay, dismissed
October 3, 2002 Federal Court of Appeal (Décary, Linden and Létourneau JJ.A.)	Appeal dismissed
November 28, 2002 Supreme Court of Canada	Application for leave to appeal filed

John Susin

v. (29438)

Ronald G. Chapman, Baker and Baker (Ont.)

NATURE OF THE CASE

Procedural law - Judgments and orders - Appeal - Costs - Jurisdiction - Whether the order dismissing the Applicant's action is a nullity.

PROCEDURAL HISTORY

November 9, 2001 Ontario Superior Court of Justice (Dunn J.)	Applicant's action dismissed
September 6, 2002 Court of Appeal for Ontario (O'Connor A.C.J.O., Catzman and Doherty JJ.A.)	Appeal dismissed

November 5, 2002
Supreme Court of Canada

Application for leave to appeal filed

Luu Thong Vuong and My Kien Vuong, both personally and as Executors of the Estate of Yen Bach Vuong, Deceased, Kenny Vuong and Dung Chi Vuong

v. (29565)

Toronto East General & Orthopaedic Hospital, George S. Porfiris (Ont.)

NATURE OF THE CASE

Procedural law - Civil Procedure - Limitation of actions - Property law - Estates - Trusts and trustees - Action commenced for damages for alleged negligence outside of two year period under the *Trustee Act* - Whether the court of appeal erred in law in upholding a decision in which the trial judge found that the limitation period applicable to the Applicants' claim therein was not subject to the discoverability rule notwithstanding the language in the *Family Law Act* and the *Trustees Act* - Whether the court of appeal erred in law by finding that the court of appeal has already dealt with this issue - Whether there are issues of public importance raised - *Trustee Act*, R.S.O. 1990, c. T.23, s.38(3).

PROCEDURAL HISTORY

March 13, 2002
Ontario Superior Court of Justice
(Chapnik J.)

Applicants' statement of claim struck with costs

November 4, 2002
Court of Appeal for Ontario
(Morden, Doherty and Feldman JJ.A.)

Appeal dismissed with costs

January 3, 2003
Supreme Court of Canada

Application for leave to appeal filed

Bruce Brett

v. (29466)

Superior Propane Inc., a body corporate under the laws of Nova Scotia (N.S.)

NATURE OF THE CASE

Procedural law - Civil law - Rules of Civil Procedure - Solicitor representation - Solicitor-client privilege - Disclosure - Conflict of interest - *Nova Scotia Rules of Civil Procedure*, Rule 48.02(c) - Application for removal of solicitors of record - Whether the Court of Appeal erred in its interpretation of Rule 48.02(c) when it found that the Rule did not require that a party applying for a Recovery Order waive solicitor-client privilege as it pertained to the solicitor's advice required to

be disclosed pursuant to Rule 48.02(c) - Whether the Court of Appeal erred in finding that the Respondent's solicitor was not a compellable witness in the main proceeding and, therefore, not in a conflict of interest on that basis - Whether the Court of Appeal erred in finding that the Respondent's solicitor's firm was not in a disqualifying conflict of interest due to the firm's undertaking simultaneous litigation retainers advocating for and against the interests of the Applicant - Whether the Court of Appeal erred in finding that, absent "related matters", an ethical violation cannot occur related to a conflict of interest.

PROCEDURAL HISTORY

March 25, 2002 Supreme Court of Nova Scotia (LeBlanc J.)	Applicant's application to remove Respondent's solicitors of record for conflict of interest dismissed
September 20, 2002 Nova Scotia Court of Appeal (Glube C.J.N.S., Freeman and Hamilton JJ.A.)	Appeal dismissed
November 19, 2002 Supreme Court of Canada	Application for leave to appeal filed

CORAM: Iacobucci, Binnie and LeBel JJ. /
Les juges Iacobucci, Binnie et LeBel

Her Majesty the Queen

v. (29579)

Bernard Edgar Moore (Crim.) (N.S.)

NATURE OF THE CASE

Canadian Charter - Criminal - Criminal law - Right to counsel - Exclusion of evidence bringing administration of justice into disrepute - Respondent convicted of operating motor vehicle with blood alcohol concentration exceeding legal limit - Conviction set aside and acquittal entered - Whether Court of Appeal erred in law in ruling that Respondent's rights under s. 10(*b*) of *Canadian Charter of Rights and Freedoms* were violated as a result of Respondent not being advised of existence and availability of Legal Aid - Whether Court of Appeal erred in law in ruling inadmissible as evidence breathalyzer readings of Respondent herein.

PROCEDURAL HISTORY

December 12, 2001 Nova Scotia Provincial Court (Judge Randall)	Respondent found guilty of operating a motor vehicle with a blood alcohol concentration exceeding the .08 limit prescribed by s. 253(*b*) of the *Criminal Code*
May 28, 2002 Supreme Court of Nova Scotia (Moir J.)	Respondent's appeal allowed: conviction set aside and acquittal entered
November 27, 2002 Nova Scotia Court of Appeal (Glube C.J.N.S., Chipman and Hamilton JJ.A.)	Appeal dismissed

January 24, 2003
Supreme Court of Canada

Application for leave to appeal filed

Earl Cameron Creighton

v. (29558)

Charlotte Bjornson (Ont.)

NATURE OF THE CASE

Family law - Custody - Mobility rights - Mother desiring to move from Ontario to Alberta with child - Mother having strong family ties and employment opportunity in Alberta - Father wanting child to remain in Ontario - Mother awarded custody of child - Whether Court of Appeal erred in failing to consider fresh evidence - Whether Court of Appeal erred in overturning decision of trial judge - Whether trial judge erred in awarding sole custody where both parents were found to be loving and caring - Whether trial judge erred in altering the status quo

PROCEDURAL HISTORY

August 21, 2000 Ontario Superior Court of Justice (Sills J.)	Sole custody of the child awarded to the Respondent; Applicant granted access; Mother's request to be permitted to move to Alberta with child refused
November 19, 2002 Court of Appeal for Ontario (Weiler, Austin and Laskin JJ.A.)	Respondent's appeal allowed; Respondent permitted to move to Alberta with child -Applicant's cross-appeal allowed in part
January 16, 2003 Supreme Court of Canada	Application for leave to appeal filed

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The Toronto-Dominion Bank

v. (29452)

Margaret Valentine and the estate of Peter Valentine, by its personal representative Margaret Valentine (Ont.)

NATURE OF THE CASE

Commercial Law -Procedural Law - Courts - Creditor and Debtor - Bank/banking operations - Contracts - Insurance - Loan - Remedies - Appeal - Jurisdiction - Procedural fairness - Demand for payment on line of credit - Obligations of a bank to a debtor beyond the terms of the loan agreement before and after demanding payment - Whether Court of Appeal may decide an appeal on its own motion and on a ground not raised or argued by any party - Whether Court of Appeal erred in law in dismissing appeal on the basis of a remedy not raised or argued by counsel and after an untested analysis - Whether breach of contract prevented demand for payment of line of credit - Whether bank owed a duty to provide notice of intent to demand for payment and consequences for insurance coverage - Whether bank owed duty to notify of the

effect of a demand for payment on insurance - Whether breach of duty was a ground for dismissing appeal in the absence of any evidence of damage resulting from breach.

PROCEDURAL HISTORY

June 6, 2000 Ontario Superior Court of Justice (Klowak J.)	Declaration discharging respondents' indebtedness to applicant in amount of $75,000; Order to applicant to discharge mortgage; Applicant's counterclaim dismissed
September 13, 2002 Court of Appeal for Ontario (Finlayson [*dissenting*], Doherty and MacPherson JJ.A.)	Appeal dismissed
November 12, 2002 Supreme Court of Canada	Application for leave to appeal filed

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Wallace International Silversmiths, Inc.

v. (29439)

Heritage Silversmiths Inc. (Ont.)

NATURE OF THE CASE

Commercial law - Company law - Remedies - Motion to cure alleged breach of undertaking - Whether the lower courts erred in failing to find that an undertaking was given and breached - Whether the court of appeal erred in failing to require a lawyer to comply with a clear, unequivocal and unambiguous undertaking to hold funds in trust "pending the outcome of the action" - What is the standard to which the courts will hold lawyers as officers of the court - Whether there are issues of public importance raised.

PROCEDURAL HISTORY

October 3, 2001 Ontario Superior Court of Justice (Farley J.)	Applicant's motion for an order requiring Respondent to cure alleged breach of undertaking and repay trustfund monies to Applicant, dismissed
January 8, 2002 Ontario Superior Court of Justice (Farley J.)	Costs disposition: Smith Lyons granted costs of the application on a party and party basis, and fixed costs at $875
September 6, 2002 Court of Appeal for Ontario (Goudge, MacPherson and Armstrong JJ.A.)	Appeal dismissed, fixed costs to Smith Lyons at $2000
November 1, 2002 Supreme Court of Canada	Application for leave to appeal filed

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John Suchon

v. (29430)

Her Majesty the Queen (F.C.)

NATURE OF THE CASE

Taxation - Evidence - If the Federal Court of Appeal has ruled that evidence which was disallowed by the Tax Court Judge was actually relevant and admissible, should the Applicant automatically be granted a new trial on the basis that the first trial was unfair in that the Applicant was not allowed to present his case properly? - In the Applicant's case the federal Court of Appeal relied heavily on the Federal Court of Appeal Decision in the *Whitney* case which was going on at the same time, should the Applicant's application for leave be considered on the same basis as *Whitney*?

PROCEDURAL HISTORY

October 10, 2001 Tax Court of Canada (Margeson T.E.)	Appeals from Minister's assessments dismissed
July 3, 2002 Federal Court of Appeal (Linden, Rothstein and Sharlow J.A.)	Application for judicial review dismissed
October 22, 2002 Supreme Court of Canada	Applications for leave to appeal and motion to extend time filed

MARCH 6, 2003 / LE 6 MARS 2003

29408 **Cecil Scott v. Her Majesty the Queen** (Ont.) (Criminal) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C29370, dated March 6, 2002, is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C29370, daté du 6 mars 2002, est rejetée.

NATURE OF THE CASE

Criminal Law (Non-Charter) - Defences - Jury Charge - Homicide - Defence of Not Criminally Responsible - Whether trial judge erred in instructing jury that a verdict of not criminally responsible was contingent upon a finding that the applicant was psychotic at the time of the homicide - Whether trial judge erred in failing to instruct the jury properly on capacity for rational perception and choice.

PROCEDURAL HISTORY

February 4, 1998 Ontario Court of Justice (O'Driscoll J.)	Conviction of second degree murder
February 23, 1998 Ontario Court of Justice (O'Driscoll J.)	Sentence of life imprisonment, no parole eligibility for 15 years
March 6, 2002 Court of Appeal for Ontario (Abella, Goudge and Simmons JJ.A.)	Appeal against conviction dismissed; appeal against sentence allowed: period of parole ineligibility varied to 10 years
October 4, 2002 Supreme Court of Canada	Applications for extension of time to apply for leave to appeal and for leave to appeal filed

29498 **M.F. v. N.M.H.** (Que.) (Civil) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-011709-011, dated September 30, 2002, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-011709-011, daté du 30 septembre 2002, est rejetée.

NATURE OF THE CASE

Family law - Divorce - Maintenance - Whether a party of virtually unlimited means can invoke his ex-wife's past failures in administering her affairs and order her not to take into account certain real debts which she has incurred for the purpose of fixing alimony - Whether an alimentary order can be made binding on the estate of the alimentary debtor - Whether because art. 501(5) has never been the subject of a Supreme Court judgment, is of great importance in daily practice before the Quebec Court of Appeal and is applied inconsistently by different benches; when misapplied, as in this case, it caused a grave miscarriage of justice?

PROCEDURAL HISTORY

November 15, 2001 Superior Court of Quebec (Bénard J.S.C.)	Applicant's motion in modification of divorce accessory measures, allowed in part; Respondent ordered to pay lump sum of 30,000$ and yearly alimony in the amount of 195,000$
September 30, 2002 Court of Appeal of Quebec (Rothman, Delisle and Rochon JJ.C.A.)	Appeal dismissed
November 27, 2002 Supreme Court of Canada	Application for leave to appeal filed

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29540 **David John Sharpe v. Yvette Jacqueline Kirk (formerly Yvette Jacqueline Sharpe)** (Man.) (Civil) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Manitoba, Number AF02-30-05290, dated November 6, 2002, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Manitoba, numéro AF02-30-05290, daté du 6 novembre 2002, est rejetée avec dépens.

NATURE OF THE CASE

Family law - Child support - Imputed income - Financial disclosure - Whether the learned motion's court Justice erred in determining that a financial disclosure order was justified even where the children have no unmet needs - Whether the learned Justices of the Manitoba Court of Appeal similarly erred in determining that a *prima facie* case had been established justifying the issuance of the financial disclosure order - Whether the learned Justices aforesaid erred in giving insufficient weight to the statutory objectives of child support - *Federal Child Support Guidelines*, SOR/97-175

PROCEDURAL HISTORY

April 12, 2002 Manitoba Court of Queen's Bench, Family Division (Bryk J.)	Respondent's application for financial disclosure, allowed in part; disclosure of Applicant's assets, liabilities and income tax returns ordered; request for the Applicant's monthly income and expenses, denied
November 6, 2002 Court of Appeal of Manitoba (Scott C.J.M., Philp and Hamilton JJ.A.)	Appeal dismissed

January 6, 2003
Supreme Court of Canada

Application for leave to appeal filed

29158 **Syndicat des travailleurs et travailleuses des postes, Sylvie Leblanc c. Société canadienne des postes** (Qué.) (Civile) (Autorisation)

Coram: La juge en chef McLachlin et les juges Bastarache et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-010407-005, daté du 15 février 2002, est rejetée avec dépens en faveur de l'intimée.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-010407-005, dated February 15, 2002, is dismissed with costs to the Respondent.

NATURE DE LA CAUSE

Droit du travail - Arbitrage - Convention collective - Droit administratif - Compétence - Contrôle judiciaire - Décision manifestement déraisonnable - La Cour d'appel a-t-elle erré en jugeant qu'il était manifestement déraisonnable de la part de l'arbitre de conclure que l'entrevue du 26 mars était de nature disciplinaire et que la violation des garanties procédurales applicables à une telle entrevue, prévues à l'article 10.04 de la convention collective, entraînait l'annulation *ab initio* de la suspension et du congédiement? - La Cour d'appel a-t-elle erré en tenant pour déterminant l'absence de préjudice de la demanderesse résultant de la violation par l'intimée de ces garanties procédurales? - La Cour d'appel a-t-elle erré en appliquant le principe de l'équité procédurale prévu contractuellement par les parties sous la forme de garanties procédurales dans une convention collective de manière différente des critères établis par cette Cour dans le domaine de l'administration publique?

HISTORIQUE PROCÉDURAL

Le 30 juin 2000 (Me Sabourin, arbitre)	Objections préliminaires du Syndicat demandeur accueillies; avis de suspension et avis de congédiement annulés; griefs accueillis
Le 9 novembre 2000 Cour supérieure du Québec (Mass j.c.s.)	Requête en révision judiciaire rejetée
Le 15 février 2002 Cour d'appel du Québec (Baudouin, Fish et Rousseau-Houle [dissidente] jj.c.a.)	Appel accueilli; décision de la Cour supérieure et décision arbitrale cassées; requête en révision judiciaire accueillie; dossier retourné à un autre arbitre pour statuer sur le fond du litige
Le 16 avril 2002 Cour suprême du Canada	Demande d'autorisation d'appel déposée

29401 **T.D.L. Petroleums Inc., Fast Trucking Services Ltd. v. Montreal Trust Company, The Long Riders Rig Corporation, Capital Developments Corp., Spalding G. Wathen Investments Ltd., The Fresno San Andreas Oil Corporation, Gopher Oil & Gas Company Ltd. and Blackfire Oil Ltd. AND BETWEEN The Long Riders Rig Corporation, Capital Developments Corp., Spalding G.**

Wathen Investments Ltd., The Fresno San Andreas Oil Corporation, Gopher Oil & Gas Company Ltd. and Blackfire Oil Ltd. v. Montreal Trust Company (Sask.) (Civil) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The applications for leave to appeal from the judgment of the Court of Appeal for Saskatchewan, Numbers 2002 SKCA 91 - 417 and 419, dated July 17, 2002, are dismissed with costs.

Les demandes d'autorisation d'appel de l'arrêt de la Cour d'appel de la Saskatchewan, numéros 2002 SKCA 91 - 417 et 419, daté du 17 juillet 2002, sont rejetées avec dépens.

NATURE OF THE CASE

Property law - Leases - Petroleum and natural gas - Lease dated 1952 declared to have terminated on January 3, 1990 - Whether oil and gas leaseholders in Western Canada who maintain effort and activities at a well site during periods of non-production should lose their lease investment by reason of the courts taking an overly restrictive view of what "working operations" mean in the habendum clause in an oil and gas lease - Whether courts should recognize the fundamental difference that exists between wells that have already been drilled and have been producing and those that remain to be drilled and to be put into production - Whether an assurance as to the future is the equivalent of a representation of fact, such that the approval of the drilling satisfied the first two elements of the doctrine of estoppel by representation - Whether there is sufficient reliance when the party who received the representation or assurance then proceeds with a project already underway at the time the representation or assurance is made.

PROCEDURAL HISTORY

September 6, 2001 Court of Queen's Bench of Saskatchewan (Gerein C.J.Q.B.)	Lease dated 1952 declared to have terminated on January 3, 1990; Crossclaim of the Applicants The Long Riders Rig Corporation et al. allowed
July 17, 2002 Court of Appeal for Saskatchewan (Vancise, Gerwing and Lane JJ.A.)	Applicants' appeal dismissed; Applicant T.D.L. Petroleums Inc.'s appeal on the crossclaim dismissed
September 30, 2002 Supreme Court of Canada	First application for leave to appeal filed
September 30, 2002 Supreme Court of Canada	Second application for leave to appeal filed

29386 **Donald George Bilawchuk, Shirley Bilawchuk v. Pauline Wawryko, Zurich Insurance Company** (Alta.) (Civil) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal of Alberta (Edmonton), Number 0103-0042-AC, dated July 25, 2002, is dismissed with costs to the Respondents.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Edmonton), numéro 0103-0042-AC, daté du 25 juillet 2002, est rejetée avec dépens en faveur des intimées.

NATURE OF THE CASE

Procedural law - Civil Procedure - Pre-trial procedure - Examination for discovery - Action for damages commenced for work-related injury - Whether enough evidence has been given to allow the male Applicant to go to trial, but avoid being examined for discovery - Whether the majority of the court of appeal erred in their interpretation of the law regarding waiver of discovery and its application - Whether the majority of the court of appeal erred in disregarding and misconstruing the affidavit evidence - Whether the majority of the court of appeal gave insufficient weight to relevant considerations, took into account irrelevant considerations and erroneously substituted its own reasons for the chambers judge's decision.

PROCEDURAL HISTORY

August 24, 2000 Court of Queen's Bench of Alberta (Alberstat, Master)	Examinations for Discovery of the Applicant Donald George Bilawchuk and the Respondent Pauline Wawryko, ordered
December 20, 2000 Court of Queen's Bench of Alberta (Feehan J.)	Examinations for Discovery of the Applicant Donald George Bilawchuk to be concluded before the matter can be set for trial
July 25, 2002 Court of Appeal of Alberta (Côté, Russell and, Berger [dissenting] JJ.A.)	Applicants' appeal dismissed
September 27, 2002 Supreme Court of Canada	Application for leave to appeal filed
January 27, 2003 Supreme Court of Canada	Motion to extend the time for late service filed

29170 **Pneu Pro Pose Inc. c. Oliver Rubber Company** (Qué.) (Civile) (Autorisation)

Coram: La juge en chef McLachlin et les juges Bastarache et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Québec), numéro 200-09-003132-005, daté du 3 avril 2002, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Quebec), Number 200-09-003132-005, dated April 3, 2002, is dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Contrats - Résiliation - Contrat subséquent à la résiliation - Retour de marchandises - Le contrat intitulé « politique de mise en marché » doit-il trouver application et continuer à produire ses effets à la fin des relations

contractuelles entre les parties ? - Conformément aux dispositions de l'article 1375 du *Code civil du Québec*, l'attitude de mauvaise foi de l'intimée doit-elle être sanctionnée afin qu'il n'y ait pas abus de droits contractuels ?

HISTORIQUE PROCÉDURAL

Le 17 avril 2000 Cour supérieure du Québec (Taschereau j.c.s.)	Action de l'intimée réclamant la somme de 84 653,37 $ avec intérêts pour marchandises vendues et livrées accueillie
Le 3 avril 2002 Cour d'appel du Québec (Québec) (Robert, Forget et Rochette jj.c.a.)	Appel rejeté
Le 28 mai 2002 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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29460 **Steve Brian Ewanchuk v. Her Majesty the Queen** (Alta.) (Criminal) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal of Alberta (Edmonton), Numbers 0003-0483-A and 0003-0516-A, dated April 19, 2002, is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Edmonton), numéros 0003-0483-A et 0003-0516-A, daté du 19 avril 2002, est rejetée.

NATURE OF THE CASE

Criminal Law (Non Charter) - Sentencing - Whether Court of Appeal erred in assessing fitness of the sentence - Whether courts below failed to take into account and give appropriate weight to the unique circumstances particular to this case - Whether courts below erred in refusing a conditional sentence.

PROCEDURAL HISTORY

October 20, 2000 Court of Queen's Bench of Alberta (Moore J.C.Q.B.A.)	Applicant sentenced to one year imprisonment
April 19, 2002 Court of Appeal of Alberta (Russell J.A., Rawlins J. *[ad hoc]* and Verville J. *[ad hoc]*)	Respondent's appeal allowed: Applicant sentenced to two years less a day imprisonment; Applicant's cross-appeal dismissed
November 18, 2002 Supreme Court of Canada	Application for leave to appeal filed

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29459 **Deloitte & Touche Inc. (formerly Arthur Andersen Inc.) v. Artisan Corporation** (Sask.) (Civil) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Saskatchewan, Number 2002 SKCA 105 - 443 dated September 18, 2002, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Saskatchewan, numéro 2002 SKCA 105 - 443 daté du 18 septembre 2002, est rejetée avec dépens.

NATURE OF THE CASE

Commercial law - Mechanics' liens - General liens - Statutes - Interpretation - Respondent registering builders' lien pursuant to *The Builders' Lien Act*, S.S. 1984-85-86, c. B-7.1 - Whether chambers judge erred in holding that Respondent had a valid general lien pursuant to s. 29 of Act - Whether a general lien can attach the property of third parties who do not have an interest in all improved properties covered by the lien - Whether the question of entitlement to a general lien is a threshold determination for application of the relevant lien legislation, thereby requiring a strict statutory interpretation.

PROCEDURAL HISTORY

November 7, 2001 Court of Queen's Bench of Saskatchewan (Kraus J.)	Respondent's lien declared valid
September 18, 2002 Court of Appeal for Saskatchewan (Vancise, Gerwing and Jackson JJ.A.)	Appeal dismissed
November 18, 2002 Supreme Court of Canada	Application for leave to appeal filed

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29395 **Cumberland Asset Management, Berner & Company Inc., Global Securities Corporation, Peel Brooke Inc., Inukshuk Resources Inc., Robert N. Granger and Adrian M.S. White v. Deloitte & Touche Inc., Interim Receiver of Anvil Range Mining Corporation and Anvil Mining Properties Inc., Cominco Ltd., Department of Indian Affairs and Northern Development, Yukon Territorial Government, and Ross River Dena Council** (Ont.) (Civil) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C36919, dated November 4, 2002, is dismissed with costs to the Respondents.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C36919, daté du 4 novembre 2002, est rejetée avec dépens en faveur des intimés.

NATURE OF THE CASE

Commercial Law - Receivership - Insolvency - Procedural Law - Costs - Whether *Companies Creditors Arrangement Act* can be used to approve liquidation of the assets of an insolvent company on behalf of only secured creditors - How federal government department's secured claim against assets of insolvent company should be affected by federal government's right to recover environmental remediation funds from other sources - How unsecured creditors' alternate plan of arrangement to maintain and protect corporation should have had been valued - Whether costs award an error.

PROCEDURAL HISTORY

May 7, 2001 Ontario Superior Court of Justice (Farley J.)	Secured creditors' motion to approve Plan of Arrangement granted
July 5, 2002 Court of Appeal for Ontario (Morden, Borins and Feldman J.)	Appeal by unsecured creditors dismissed
September 30, 2002 Supreme Court of Canada	Application for leave to appeal filed

29350 **Normand Cléroux c. Procureur général du Canada** (CF) (Civile) (Autorisation)

Coram: La juge en chef McLachlin et les juges Bastarache et Deschamps

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-271-01, daté du 10 juin 2002, est rejetée avec dépens.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-271-01, dated June 10, 2002, is dismissed with costs.

NATURE DE LA CAUSE

Droit administratif - Compétence - Contrôle judiciaire - Recours - Griefs accusant l'intimé de harcèlement, complot, traitement préférentiel, bris de carrière, d'avoir imposé des audiences de genre militaires et injustes et d'abus de pouvoir - Compétence des tribunaux sur griefs réglés à l'arbitrage selon convention collective.

HISTORIQUE PROCÉDURAL

Le 20 avril 2001 Cour fédérale du Canada (Pinard j.)	Requête pour radier déclaration du demandeur accordée: tribunal n'a pas compétence.
Le 10 juin 2002 Cour d'appel fédérale (Décary, Isaac and Evans jj.a.)	Appel rejeté
Le 12 septembre 2002 Cour suprême du Canada	Demandes d'autorisation d'appel et prorogation de délai déposées

29423 **Elizabeth Balanyk v. The Greater Niagara General Hospital, Ontario Nurses' Association, The Ontario Labour Relations Board** (Ont.) (Civil) (By Leave)

Coram: McLachlin C.J. and Bastarache and Deschamps JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number M28482, dated August 14, 2002, is dismissed with costs to the Respondents, The Greater Niagara General Hospital and Ontario Nurses' Association.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro M28482, daté du 14 août 2002, est rejetée avec dépens en faveur des intimés, The Greater Niagara General Hospital et Association des infirmières de l'Ontario.

NATURE OF THE CASE

Administrative law - Judicial review - Standard of review - Decision of Labour Relations Board - Labour law - Labour relations - Parties signing Minutes of Settlement to settle Applicant's grievance - Applicant repudiating Minutes of Settlement and taking legal actions against Respondents for 11 years - Applicant then seeking to enforce settlement - Whether Board properly exercised its discretion in refusing to enforce settlement - Whether Board considered proper factors in exercising its discretion

PROCEDURAL HISTORY

December 6, 1999 Ontario Labour Relations Board (Cummings, Alternate Chair)	Applicant's application for an order enforcing a settlement entered into by her and the Respondents, the Hospital and the Association dismissed
March 25, 2002 Ontario Superior Court of Justice (Farley, Haines and Epstein JJ.)	Application for judicial review dismissed
August 14, 2002 Court of Appeal for Ontario (Carty, Larkin and Sharpe)	Application for leave to appeal dismissed
October 16, 2002 Supreme Court of Canada	Application for leave to appeal filed

26.2.2003

Before / Devant: BASTARACHE J.

Motion to adduce new evidence

Requête visant à produire de nouveaux éléments de preuve

Serge Giguère, ès qualités

c. (28901)

La Chambre des notaires du Québec (Qué.)

GRANTED / ACCORDÉE

26.2.2003

Before / Devant: THE REGISTRAR

Motion to extend the time in which to serve and file the applicant's reply

Requête en prorogation du délai imparti pour signifier et déposer la réplique de la demanderesse

Her Majesty the Queen

v. (29526)

Keith Holmes (Crim.)(Ont.)

GRANTED / ACCORDÉE Time extended to February 20, 2003.

26.2.2003

Before / Devant: THE REGISTRAR

Miscellaneous motion

Autre requête

Sa Majesté la Reine

c. (29530)

Louise Lortie (Crim.)(Qué.)

GRANTED / ACCORDÉE La requête en acceptation de la demande telle que déposée est accordée.

26.2.2003

Before / Devant: THE REGISTRAR

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

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

Her Majesty the Queen

v. (28533)

Steve Powley, et al. (Crim.)(Ont.)

GRANTED / ACCORDÉE Time extended to January 30, 2003.

26.2.2003

Before / Devant: THE REGISTRAR

Motion to reduce the number of copies of the respondents' record to 12

Requête en réduction du nombre d'exemplaires du dossier conjoint des intimés à 12

Her Maejsty the Queen

v. (28533)

Steve Powley, et al. (Crim.)(Ont.)

GRANTED / ACCORDÉE

27.2.2003

Before / Devant: THE REGISTRAR

Miscellaneous motion

Autre requête

Earl Cameron Creighton

v. (29558)

Charlotte Bjornson (Ont.)

GRANTED / ACCORDÉE The motion to accept the leave application as filed, is granted.

3.3.2003

Jane Hamilton

v. (29225)

Open Window Bakery Limited and Gail Agasi (Ont.)

3.3.2003

Le Jean Bleu Inc.

c. (29612)

Nathalie Carignan (Qué.)

(demande)

MARCH 6, 2003 / LE 6 MARS FÉVRIER 2003

28601 **Information Commissioner of Canada - v. - Commissioner of the Royal Canadian Mounted Police - and - Privacy Commissioner of Canada** (F.C.) **2003 SCC 8 / 2003 CSC 8**

Coram: McLachlin C.J. and Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour, LeBel and Deschamps JJ.

The appeal from the judgment of the Federal Court of Appeal, Number A-820-99, dated March 13, 2001, heard on October 29, 2002 is allowed, the judgments below are set aside and the RCMP Commissioner is ordered to disclose to the appellant the following information with respect to the four RCMP officers, Robert Shedden, Kenneth Craig, Bob Zimmerman and Larry Ronald Wendell:

(1) the list of historical postings, their status and date;
(2) the list of ranks, and the dates they achieved those ranks;
(3) their years of service; and
(4) their anniversary date of service.

Costs are awarded to the appellant throughout.

L'appel contre l'arrêt de la Cour d'appel fédérale, numéro A-820-99, en date du 13 mars 2001, entendu le 29 octobre 2002 est accueilli et les jugements des instances inférieures sont annulés. La Cour ordonne au Commissaire de la GRC de communiquer à l'appelant les renseignements suivants au sujet des quatre agents de la GRC, Robert Shedden, Kenneth Craig, Bob Zimmerman et Larry Ronald Wendell :

(1) la liste de leurs affectations antérieures, leur statut et les dates y afférentes;
(2) la liste de leurs grades et les dates auxquelles ils les ont obtenus;
(3) leurs années de service;
(4) la date anniversaire de leur entrée en service.

L'appelant a droit à ses dépens devant toutes les cours.

28717 **Her Majesty the Queen - v. - Joe Markevich - and - Teck Cominco Metals Ltd.** (F.C.) **2003 SCC 9 / 2003 CSC 9**

Coram: McLachlin C.J. and Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour, LeBel and Deschamps JJ.

The appeal from the judgment of the Federal Court of Appeal, Number A-174-99, dated May 7, 2001, heard on December 4, 2002 is dismissed with costs.

L'appel contre l'arrêt de la Cour d'appel fédérale, numéro A-174-99, en date du 7 mai 2001, entendu le 4 décembre 2002 est rejeté avec dépens.

Information Commissioner of Canada - v. - Commissioner of the Royal Canadian Mounted Police - and - Privacy Commissioner of Canada (F.C.) (28601)

Indexed as: Canada (Information Commissioner) *v.* Canada (Commissioner of the Royal Canadian Mounted Police) / Répertorié : Canada (Commissaire à l'information) *c.* Canada (Commissaire de la Gendarmerie royale du Canada)

Neutral citation: 2003 SCC 8. / Référence neutre : 2003 CSC 8.

Judgment rendered March 6, 2003 / Jugement rendu le 6 mars 2003

Present: McLachlin C.J. and Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour, LeBel and Deschamps JJ.

Access to information — Privacy — Personal information — Exception — Position or functions of individual — Request made for information concerning four members of RCMP under Access to Information Act — Whether requested information constitutes "personal information" as defined in s. 3 of Privacy Act — If so, whether information should be disclosed because it falls within "position or functions of the individual" exception — Access to Information Act, R.S.C. 1985, c. A-1, s. 19(1) — Privacy Act, R.S.C. 1985, c. P-21, s. 3 "personal information" (b), (j).

An individual requested certain information from the RCMP pertaining to four of its officers. The RCMP refused to disclose the information on the grounds that the records contained "personal information", as defined by s. 3 of the *Privacy Act*, and therefore were exempt from disclosure pursuant to s. 19(1) of the *Access to Information Act*. A complaint was made to the Information Commissioner, who undertook an investigation. During that investigation, the RCMP informed the Information Commissioner that it would release the current postings and positions of the four serving RCMP members and the last posting and position of the one retired RCMP member. However, the RCMP maintained its position that the remaining information was "personal information" and thus exempt from the disclosure requirements. The Information Commissioner found that the information relating to the previous RCMP postings of the four officers, as well as certain other job-related information contained in the relevant records, did not constitute "personal information". He recommended that the RCMP disclose the list of the officers' historical postings, their status and date; the list of ranks and the dates they achieved those ranks; their years of service; and their anniversary date of service. The RCMP indicated that it would not follow the Information Commissioner's recommendation. The Information Commissioner applied to the Federal Court, Trial Division, for an order directing the RCMP to disclose the records or portions thereof which do not qualify for exemption from disclosure under s. 19(1) of the *Access to Information Act*. The Trial Division held that only information related to a public servant's current position or a former public servant's last position needed to be released. The Federal Court of Appeal upheld that decision.

Held: The appeal should be allowed.

The RCMP Commissioner should be ordered to disclose the list of the RCMP members' historical postings, their status and date; the list of ranks and the dates they achieved those ranks; their years of service; and their anniversary dates of service. These are all elements that relate to the general characteristics associated with the position or functions of an RCMP member. They do not reveal anything about their competence or divulge any personal opinion given outside the course of employment — rather, they provide information relevant to understanding the functions they perform.

In this case, application of the functional and pragmatic approach indicates that deference to the RCMP Commissioner would be unjustified and his decision ought to be reviewed on a standard of correctness. The information sought regarding the four RCMP members is "information about an identifiable individual", and therefore "personal information" within the meaning of s. 3 of the *Privacy Act*. There is also no doubt that the requested information relates to employment history and falls within the scope of s. 3 "personal information" (*b*). The information requested is exactly the type of information that a reasonable person in a working environment would likely characterize as employment history. However, the information falls under the exemption provided in s. 3 "personal information"(*j*) of the *Privacy Act*. Section 3(*j*) is retroactive in nature and there is no reason to impose a time restriction on its scope. The list of examples provided in s. 3(*j*) is not exhaustive and certainly does not limit the application of the introductory paragraph to the current position held by an employee or to the last position occupied by an employee now retired. Nevertheless, s. 3(*j*) does have a specified scope, as the information must be related to the position or functions held by a federal employee. This will exclude information relating, for example, to the competence and characteristics of the employee. Section 3(*j*) should apply only when the information requested is sufficiently related to the general characteristics associated with the positions

or functions held by an officer or employee of a federal institution. It is both artificial and unhelpful to attempt to distinguish between "information about a person" and "information about the position or functions." Section 3(j) applies when the information — which is always linked to the individual — is directly related to the general characteristics associated with the position or functions held by an employee, without the objective or subjective nature of that information being determinative.

APPEAL from a judgment of the Federal Court of Appeal, [2001] 3 F.C. 70, 199 D.L.R. (4th) 309, 267 N.R. 163, 29 Admin. L.R. (3d) 193, 11 C.P.R. (4th) 336, [2001] F.C.J. No. 344 (QL), 2001 FCA 56, dismissing the appellant's appeal from the decision of the Trial Division (1999), 179 F.T.R. 75, 29 Admin. L.R. (3d) 177, [1999] F.C.J. No. 1860 (QL). Appeal allowed.

Clayton Ruby and *Daniel Brunet*, for the appellant.

Brian J. Saunders and *Christopher Rupar*, for the respondent.

Dougald E. Brown and *Steven Welchner*, for the intervener.

Solicitor for the appellant: The Office of the Information Commissioner of Canada, Ottawa.

Solicitor for the respondent: The Deputy Attorney General of Canada, Ottawa.

Solicitors for the intervener: Nelligan O'Brien Payne, Ottawa.

Présents : La juge en chef McLachlin et les juges Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour, LeBel et Deschamps.

Accès à l'information – Droit au respect de la vie privée – Renseignements personnels – Exception – Poste ou fonctions d'un individu – Demande de renseignements au sujet de quatre agents de la GRC présentée en vertu de la Loi sur l'accès à l'information – Les renseignements demandés constituent-ils des « renseignements personnels » au sens de l'art. 3 de la Loi sur la protection des renseignements personnels? – Dans l'affirmative, ces renseignements doivent-ils être communiqués par application de l'exception relative au « poste ou fonctions » d'un individu? – Loi sur l'accès à l'information, L.R.C. 1985, ch. A-1, par. 19(1) – Loi sur la protection des renseignements personnels, L.R.C. 1985, ch. P-21, art. 3 « renseignements personnels » b), j).

Une personne demande certains renseignements à la GRC concernant quatre de ses agents. La GRC refuse de communiquer les documents demandés parce qu'ils contiennent des « renseignements personnels » visés à l'art. 3 de la *Loi sur la protection des renseignements personnels* et qu'ils échappent de ce fait à la communication par application du par. 19(1) de la *Loi sur l'accès à l'information.* Une plainte est déposée auprès du Commissaire à l'information, qui entreprend une enquête. Au cours de cette enquête, la GRC informe le Commissaire à l'information qu'il communiquera les affectations et postes actuels des quatre membres de la GRC en service actif ainsi que le dernier poste et la dernière affectation de l'agent à la retraite. Cependant, la GRC maintient sa position selon laquelle les autres renseignements sont des « renseignements personnels » et échappent donc aux exigences de communication. Le Commissaire à l'information conclut que les renseignements se rapportant aux anciennes affectations des quatre agents de la GRC, ainsi que certains autres renseignements liés à l'emploi contenus dans les documents pertinents ne sont pas des « renseignements personnels ». Il recommande donc que la GRC communique la liste des affectations antérieures des agents, leur statut et les dates y afférentes; la liste de leurs grades et les dates auxquelles il les ont obtenus; leurs années de service; et la date anniversaire de leur entrée en service. La GRC déclare qu'elle ne suivra pas la recommandation du Commissaire à l'information. Le Commissaire à l'information demande à la Cour fédérale (Section de première instance) d'ordonner à la GRC de communiquer les documents ou les parties de documents qui n'échappent pas à la communication par application du par. 19(1) de la *Loi sur l'accès à l'information*. La Section de première instance conclut que seuls les renseignements relatifs au poste qu'un fonctionnaire occupe au moment de la demande ou au dernier poste qu'un ancien fonctionnaire a occupé doivent être communiqués. La Cour d'appel fédérale confirme cette décision.

Arrêt : L'appel est accueilli.

Il faut ordonner au commissaire de la GRC de communiquer la liste des affectations antérieures des membres de la GRC, leur statut et les dates y afférentes; la liste de leurs grades et les dates auxquelles ils les ont obtenus; leurs années de service; et la date anniversaire de leur entrée en service. Ce sont tous des éléments portant sur les caractéristiques générales rattachées au poste ou aux fonctions d'un agent de la GRC. Ils ne révèlent rien sur leur compétence et ni aucune opinion personnelle qu'ils auraient exprimée autrement qu'au cours de leur emploi – ils donnent plutôt des renseignements pertinents pour comprendre les fonctions qu'ils exercent.

En l'espèce, l'application de l'approche pragmatique et fonctionnelle révèle qu'il serait injustifié de faire preuve de retenue à l'égard du commissaire de la GRC et la Cour devrait contrôler sa décision selon la norme de la décision correcte. Les renseignements demandés concernant les quatre membres de la GRC constituent des renseignements « concernant un individu identifiable » et, partant, des « renseignements personnels » au sens de l'art. 3 de la *Loi sur la protection des renseignements personnels*. De plus, il ne fait aucun doute que les renseignements demandés sont relatifs aux antécédents professionnels et relèvent de l'al. *b*) de la définition des « renseignements personnels » énoncée à l'art. 3. Les renseignements demandés correspondent exactement au genre de renseignements qu'une personne raisonnable dans un milieu de travail qualifierait vraisemblablement d'« antécédents professionnels ». Toutefois, ils sont visés par l'exception prévue à l'al. *j*) de la définition des « renseignements personnels » énoncée à l'art. 3 de la *Loi sur la protection des renseignements personnels*. L'alinéa 3*j*) a un caractère rétroactif et il n'existe aucune raison d'en restreindre la portée temporelle. La liste d'exemples figurant à l'al. 3*j*) n'est pas exhaustive et ne limite certainement pas l'application de la disposition introductive au poste actuel d'un employé ou au dernier poste d'un employé maintenant à la retraite. L'alinéa 3*j*) a néanmoins une portée déterminée, car les renseignements doivent porter sur le poste ou les fonctions d'un employé de l'administration fédérale. Sont exclus les renseignements qui touchent notamment la compétence et les caractéristiques de l'employé. L'alinéa 3*j*) ne doit s'appliquer que lorsque les renseignements demandés ont un lien suffisant avec les caractéristiques générales rattachées au poste ou aux fonctions d'un cadre ou employé d'une institution fédérale. Il est à la fois artificiel et vain d'essayer de faire une distinction entre les renseignements « concernant un individu » et les renseignements « portant sur son poste ou ses fonctions ». L'alinéa 3*j*) s'applique lorsque les renseignements – toujours liés à un individu – portent directement sur les caractéristiques générales rattachées au poste ou aux fonctions d'un employé, sans que la nature objective ou subjective de ces renseignements soit déterminante.

POURVOI contre un arrêt de la Cour d'appel fédérale, [2001] 3 C.F. 70, 199 D.L.R. (4th) 309, 267 N.R. 163, 29 Admin. L.R. (3d) 193, 11 C.P.R. (4th) 336, [2001] A.C.F. nº 344 (QL), 2001 CAF 56, rejetant l'appel interjeté par l'appelant à l'encontre de la décision de la Section de première instance (1999), 179 F.T.R. 75, 29 Admin. L.R. (3d) 177, [1999] A.C.F. nº 1860 (QL). Pourvoi accueilli.

Clayton Ruby et *Daniel Brunet*, pour l'appelant.

Brian J. Saunders et *Christopher Rupar*, pour l'intimé.

Dougald E. Brown et *Steven Welchner*, pour l'intervenant.

Procureur de l'appelant : Le Commissariat à l'information du Canada, Ottawa.

Procureur de l'intimé : Le sous-procureur général du Canada, Ottawa.

Procureurs de l'intervenant : Nelligan O'Brien Payne, Ottawa.

Her Majesty the Queen - v. - Joe Markevich - and - Teck Cominco Metals Ltd. (F.C.) (28717)
Indexed as: Markevich *v.* Canada / Répertorié : Markevich *c.* Canada
Neutral citation: 2003 SCC 9. / Référence neutre : 2003 CSC 9.
Judgment rendered March 6, 2003 / Jugement rendu le 6 mars 2003

Present: McLachlin C.J. and Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour, LeBel and Deschamps JJ.

Income tax — Collection — Limitation of actions — Taxpayer failing to pay federal and provincial taxes for 1980 to 1985 taxation years as assessed by Revenue Canada in 1986 — Revenue Canada taking no collection action until 1998 — Whether federal and provincial limitation periods bar Revenue Canada from collecting taxpayer's federal and provincial tax debts — Crown Liability and Proceedings Act, R.S.C. 1985, c. C-50, s. 32 — British Columbia Limitation Act, R.S.B.C. 1996, c. 266, ss. 1, 3(5).

Crown liability — Prescription and limitation — Collection of federal tax debt — Whether term "proceedings" in federal limitation provision encompasses collection procedures available under Income Tax Act — Whether cause of action arose "otherwise than in a province" — Whether Income Tax Act complete code excluding application of federal limitation period to collection procedures — Crown Liability and Proceedings Act, R.S.C. 1985, c. C-50, s. 32.

Limitation of actions — Collection of provincial tax debt — Definition of action — Whether phrase "self help remedy" in definition of ''action" in provincial limitation legislation encompasses collection procedures available under provincial Income Tax Act — British Columbia Limitation Act, R.S.B.C. 1996, c. 266, ss. 1, 3(5).

In 1986, the respondent, a resident of British Columbia, received a Notice of Assessment from the Minister of National Revenue that indicated a federal and provincial tax liability of $234,136 arising from a series of assessments and unpaid taxes in respect of his 1980 to 1985 taxation years. The respondent did not challenge this assessment, and paid nothing on the outstanding amount. From 1987 to 1998, Revenue Canada made no effort to collect the debt, and statements issued to the respondent during that period did not reflect the 1986 balance. In 1998, Revenue Canada sent a statement of account to the respondent that indicated a balance of $770,583, which included the amount owing as of 1986 and accrued interest. The respondent applied to the Federal Court, Trial Division, for judicial review of the 1998 claim, and sought a declaration that the Crown was prohibited from taking any steps to collect his tax debts for 1990 and prior years. The motions judge dismissed the application. The Federal Court of Appeal set aside that decision and held that the Crown was, pursuant to s. 32 of the *Crown Liability and Proceedings Act* ("*CLPA*") and s. 3(5) of the B.C. *Limitation Act*, statute-barred from collecting the respondent's federal and provincial tax debt.

Held: The appeal should be dismissed.

Per McLachlin C.J. and Iacobucci, **Major**, Bastarache, Binnie, Arbour and LeBel JJ.: The six-year limitation period prescribed by s. 32 of the *CLPA* bars the Crown from collecting the respondent's federal tax debt. First, as a law of general application, s. 32 presumptively applies on a residual basis to all Crown proceedings. The breadth of the provision's application can be narrowed only by an Act of Parliament that has "otherwise provided", either expressly or impliedly, for limitation periods. The *Income Tax Act* ("*ITA*") does not provide for limitation periods within its collection provisions, and the legislative silence with regard to prescription in these provisions, interpreted in conjunction with the express language used in the *ITA*'s assessment provisions, supports the finding that Parliament intended that limitation provisions of general application apply to the Minister's collection of tax debts. A purposive interpretation of the *ITA* confirms this conclusion. Furthermore, the certainty, evidentiary and diligence rationales for limitation periods do not offend the principles of horizontal and vertical equity that should in part govern the *ITA* and are directly applicable to the collection of tax debts. Second, the ordinary meaning of the phrase "proceedings...in respect of a cause of action" in s. 32 encompasses the statutory collection procedures of the Minister. It would be incongruous to find that s. 32 was intended to apply to the court action but not to the statutory collection procedures that serve the identical purpose. The rationales that support the application of limitation provisions to Crown proceedings apply equally to both the court and non-court proceedings at issue here. To exclude s. 32's application to proceedings that are equivalent in purpose and effect to a court action would frustrate the object and aim of the provision. The legislative history of s. 32 also supports the inference that Parliament intended its application to extend beyond proceedings in court. Third, on both a plain and purposive reading of s. 32, the cause of action in this case arose "otherwise than in a province". Tax debts created under the *ITA* arise pursuant to federal legislation and create rights and duties between the federal Crown and residents of Canada or those who have earned income within Canada. The debt may arise from income earned in a combination of provinces or in a foreign jurisdiction. The debt is owed to the federal Crown, which is not located in any particular province and does not assume a provincial locale in its assessment of taxes.

The Minister, in its role as agent of the province of British Columbia, is also barred by s. 3(5) of the B.C. *Limitation Act* from collecting the respondent's provincial tax debt arising under the British Columbia *Income Tax Act* ("B.C. *ITA*"). Section 3(5) applies a limitation period of six years to actions for which prescription is not "specifically provided for" in another Act. Under s. 1 of the B.C. *Limitation Act*, an action is defined as including "any proceeding in a court and any exercise of a self help remedy." The term "self help remedy" encompasses the statutory collection procedures available under the B.C. *ITA*. A statutory collection procedure is a self help mechanism by which the Minister is able to effect a result that could otherwise be achieved only through an action in court. As well, the B.C. *ITA* does not specifically provide for limitation periods in its collection provisions. Since the province's collection rights are subject to expiry six years after the underlying cause of action arose, so too are the collection rights of the federal Crown as its agent.

Per Gonthier and **Deschamps** JJ.: The conclusion that the cause of action arises "otherwise than in a province" is inappropriate in two ways. First, it emphasises the residence of the creditor instead of relying on the connecting factors of the cause of action. Second, it means that the federal government is not located anywhere in Canada. Common sense dictates that the federal Crown is located in every province. Since the federal government is, by virtue of its agreement with all of the provinces (except Quebec), responsible for collecting all provincial income taxes, it is sensible to bind its federal tax claim to the limits available on the provincial one. Efficiency is thus preserved by invoking one limitation for both the federal and provincial income tax debts arising in each province other than Quebec. Here, all of the connecting factors point to British Columbia. Consequently, the British Columbia six-year limitation period should apply.

APPEAL from a judgment of the Federal Court of Appeal, [2001] 3 F.C. 449, 199 D.L.R. (4th) 255, 270 N.R. 275, 2001 D.T.C. 5305, [2001] 3 C.T.C. 39, [2001] F.C.J. No. 696 (QL), 2001 FCA 144, reversing a judgment of the Trial Division, [1999] 3 F.C. 28, 163 F.T.R. 209, 172 D.L.R. (4th) 164, 99 D.T.C. 5136, [1999] 2 C.T.C. 104, [1999] F.C.J. No. 250 (QL). Appeal dismissed.

Graham R. Garton, Q.C., and *Carl Januszczak*, for the appellant.

Ian Worland, for the respondent.

Edwin G. Kroft, and *Geoffrey T. Loomer*, for the intervener.

Solicitor for the appellant: The Department of Justice, Vancouver.

Solicitors for the respondent: Legacy Tax & Trust Lawyers, Vancouver.

Solicitors for the intervener: McCarthy Tétrault, Vancouver.

Présents : La juge en chef McLachlin et les juges Gonthier, Iacobucci, Major, Bastarache, Binnie, Arbour, LeBel et Deschamps.

Impôt sur le revenu — Recouvrement — Prescription — Contribuable ayant omis de payer des impôts fédéral et provincial pour les années d'imposition 1980 à 1985 selon les cotisation établies par Revenu Canada en 1986 — Aucune mesure de recouvrement de la part de Revenu Canada jusqu'en 1998 — Est-ce que les délais de prescription fédéral et provincial empêchent Revenu Canada de recouvrer auprès du contribuable des créances fiscales fédérales et provinciales? — Loi sur la responsabilité civile de l'État et le contentieux administratif, L.R.C. 1985, ch. C-50, art. 32 — Limitation Act de la Colombie-Britannique, R.S.B.C. 1996, ch. 266, art. 1, par 3(5).

Responsabilité civile de l'État — Prescription — Recouvrement de créances fiscales fédérales — Est-ce que le terme « poursuites » dans la disposition fédérale sur la prescription englobe les mesures de recouvrement prévues dans la Loi de l'impôt sur le revenu — Est-ce que le fait générateur est survenu « ailleurs que dans une province »? — Est-ce que la Loi de l'impôt sur le revenu est un code complet qui exclut l'application du délai de prescription fédéral aux mesures de recouvrement? — Loi sur la responsabilité civile de l'État et le contentieux administratif, L.R.C. 1985, ch. C-50, art. 32.

Prescription — Recouvrement de créances fiscales provinciales — Définition du mot « action »— L'expression « voie de droit extrajudiciaire » dans la définition du mot « action » de la loi provinciale sur la prescription englobe t-elle les mesures de recouvrement prévues par la loi provinciale de l'impôt sur le revenu? — Limitation Act de la Colombie-Britannique, R.S.B.C. 1996, ch. 266, art. 1, par 3(5).

En 1986, l'intimé, qui résidait en Colombie-Britannique, a reçu un avis de cotisation du ministre du Revenu national indiquant qu'il devait 234 136 $ en impôts fédéral et provincial par suite de cotisations et d'impôts non payés pour les années d'imposition 1980 à 1985. L'intimé n'a pas contesté cet avis et n'a rien payé de l'impôt en souffrance. De 1987 à 1998, Revenu Canada n'a fait aucun effort pour recouvrer la créance, et les relevés de compte envoyés à l'intimé au cours de cette période ne faisaient pas état du solde de 1986. En 1998, Revenu Canada a envoyé à l'intimé un relevé de compte indiquant un solde de 770 583 $. Cette somme représentait le montant dû jusqu'en 1986 et les intérêts courus. L'intimé a présenté à la Section de première instance de la Cour fédérale une demande de contrôle judiciaire de la réclamation de 1998 et a demandé un jugement déclaratoire selon lequel l'État n'était pas autorisé à prendre quelque mesure que ce soit pour recouvrer les créances fiscales de 1990 et des années antérieures. Le juge des requêtes a rejeté la demande. La Cour d'appel fédérale a annulé cette décision et a conclu que, selon l'art. 32 de la *Loi sur la responsabilité civile de l'État et le contentieux administratif* (la « *LRCÉCA* ») et le par. 3(5) de la *Limitation Act* de la Colombie-Britannique, l'État ne pouvait plus exiger de l'intimé le remboursement des dettes fiscales fédérale et provinciale, celles-ci étant prescrites.

Arrêt : Le pourvoi est rejeté.

La juge en chef McLachlin et les juges Iacobucci, **Major**, Bastarache, Binnie, Arbour et LeBel : Le délai de prescription de six ans prévu à l'art. 32 de la *LRCÉCA* empêche l'État de recouvrer la créance fiscale fédérale auprès de l'intimé. Premièrement, comme il s'agit d'une disposition d'application générale, il faut présumer que l'art. 32 s'applique par défaut à toutes les poursuites auxquelles l'État est partie. Seule une disposition expresse ou implicite « contraire » d'une loi fédérale peut en restreindre l'application pour ce qui est des délais de prescription. Les dispositions sur le recouvrement de la *Loi de l'impôt sur le revenu* (la « *LIR* ») ne fixent aucun délai de prescription. Le silence du législateur dans ces dispositions en ce qui touche la prescription, si on l'interprète conjointement avec les termes explicites employés dans les dispositions de la *LIR* sur les cotisations, appuie la conclusion que le législateur veut que les dispositions d'application générale en matière de prescription s'appliquent au recouvrement par le ministre de créances fiscales. Une interprétation téléologique de la *LIR* confirme cette conclusion. Par ailleurs, les justifications relatives à la certitude, à la preuve et à la diligence en matière de prescription ne portent pas atteinte aux principes d'équité horizontale et d'équité verticale qui devraient régir en partie l'interprétation de la *LIR* et sont directement applicables au recouvrement de créances fiscales. Deuxièmement, le membre de phrase dans le texte anglais « proceedings [. . .] in respect of a cause of action », à l'art. 32, selon son sens ordinaire, vise aussi les mesures de recouvrement prises par le ministre en application de la loi. Il serait absurde de conclure que le législateur veuille que cette disposition s'applique aux actions en justice et

non aux mesures de recouvrement prévues par la loi, qui servent la même fin. Les justifications qui sous-tendent l'application des dispositions en matière de prescription aux procédures auxquelles l'État est partie s'appliquent tant aux procédures judiciaires qu'aux procédures non judiciaires en cause en l'espèce. Ne pas appliquer l'art. 32 aux procédures qui équivalent par leur objet et par leur effet à une action en justice ferait obstacle à l'objectif de cette disposition. L'historique législatif de l'art. 32 appuie aussi l'inférence que le législateur veut que cette disposition s'applique également aux procédures non judiciaires. Troisièmement, selon le sens clair et l'interprétation téléologique de l'art. 32, le fait générateur en l'espèce est survenu « ailleurs que dans une province ». Les dettes fiscales contractées en vertu de la *LIR* découlent d'une loi fédérale et créent des droits et des obligations entre l'État fédéral et les résidants du Canada ou les personnes qui ont gagné un revenu au Canada. La dette peut découler d'un revenu gagné dans plusieurs provinces ou dans un autre pays. Il s'agit d'une dette envers le gouvernement fédéral, qui n'est situé dans aucune province et qui ne prend pas de province particulière comme point de repère pour l'établissement de ses cotisations.

Le par. 3(5) de la *Limitation Act* de la Colombie-Britannique empêche également le ministre, en tant que mandataire de la Colombie-Britannique, de demander à l'intimé le remboursement de sa dette fiscale provinciale découlant de l'*Income Tax Act* de la Colombie-Britannique (l'« *ITA* »). Le paragraphe 3(5) dispose que les actions pour lesquelles un délai de prescription n'a pas été [TRADUCTION] « expressément prévu » par une autre loi se prescrivent par six ans. En vertu de l'article premier de la *Limitation Act* de la Colombie-Britannique, une action s'entend notamment [TRADUCTION] « de toute procédure judiciaire et de l'exercice de toute voie de droit extrajudiciaire ». L'expression « voie de droit extrajudiciaire » comprend les mesures de recouvrement prévues dans l'*ITA*. Une mesure de recouvrement prévue par la loi est un mécanisme extrajudiciaire par lequel le ministre peut atteindre un résultat qui ne pourrait autrement être atteint que par action en justice. En outre, l'*ITA* ne prévoit pas expressément de délais de prescription dans ses dispositions sur le recouvrement. Comme les droits de recouvrement de la province se prescrivent par six ans suivant la naissance du fait générateur, il en est de même pour les droits de recouvrement du gouvernement fédéral, qui est son mandataire.

Les juges Gonthier et **Deschamps** : La conclusion que le fait générateur survient « ailleurs que dans une province » est, à mon avis, inappropriée pour deux raisons. D'abord, elle met l'accent sur la résidence du créancier au lieu de tenir compte des facteurs de rattachement du fait générateur et, de plus, elle implique que le gouvernement fédéral n'est situé nulle part au Canada. Le bon sens dicte plutôt que le gouvernement fédéral soit situé dans chaque province. Puisque le gouvernement fédéral est, par suite d'une entente avec toutes les provinces (à l'exception du Québec), responsable de la perception des impôts provinciaux sur le revenu, il est logique que le recouvrement des créances fiscales fédérales soit assujetti aux délais de prescription prévus pour le recouvrement des créances fiscales provinciales. Il en résulte un seul délai de prescription pour les créances fiscales fédérales et provinciales recouvrées dans chacune des provinces, sauf au Québec. L'efficacité est ainsi préservée. En l'espèce, tous les facteurs de rattachement indiquent que le fait générateur est survenu en Colombie-Britannique. La prescription applicable est donc celle de la Colombie-Britannique, soit six ans.

POURVOI contre un arrêt de la Cour d'appel fédérale, [2001] 3 C.F. 449, 199 D.L.R. (4th) 255, 270 N.R. 275, 2001 D.T.C. 5305, [2001] 3 C.T.C. 39, [2001] A.C.F. n° 696 (QL), 2001 CAF 144, qui a infirmé une décision de la Section de première instance, [1999] 3 C.F. 28, 163 F.T.R. 209, 172 D.L.R. (4th) 164, 99 D.T.C. 5136, [1999] 2 C.T.C. 104, [1999] A.C.F. n° 250 (QL). Pourvoi rejeté.

Graham R. Garton, c.r., et *Carl Januszczak*, pour l'appelante.

Ian Worland, pour l'intimé.

Edwin G. Kroft, et *Geoffrey T. Loomer*, pour l'intervenante.

Procureur de l'appelante : Le ministère de la Justice, Vancouver.

Procureurs de l'intimé : Legacy Tax & Trust Lawyers, Vancouver.

Procureurs de l'intervenante : McCarthy Tétrault, Vancouver.

The Winter Session of the Supreme Court of Canada started January 13, 2003.

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

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

1) For notices of appeal filed on and after June 28, 2002

Appellant's record; appellant's factum; and appellant's book(s) of authorities must be filed within 12 weeks of the filing of the notice of appeal or 12 weeks from decision on the motion to state a constitutional question.

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

Intervener's factum and intervener's book(s) of authorities, (if any), must be filed within eight weeks of the order granting leave to intervene or within 20 weeks of the filing of a notice of intervention under subrule 61(4).

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

2) For notices of appeal filed before June 28, 2002

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 documents.

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 Registrar shall enter the appeal on a list of cases to be heard after the respondent's factum is filed or at the end of the eight-week period referred to in Rule 36.

La session d'hiver de la Cour suprême du Canada a commencé le 13 janvier 2003.

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

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

1) Pour les avis d'appel déposés le ou après le 28 juin 2002

Le dossier de l'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les douze semaines du dépôt de l'avis d'appel ou douze semaines de la décision de la requête pour formulation d'une question constitutionnelle.

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 des documents de l'appelant.

Le mémoire de l'intervenant et son recueil de jurisprudence et de doctrine, le cas échéant, doivent être déposés dans les huit semaines suivant l'ordonnance autorisant l'intervention ou dans les vingt semaines suivant le dépôt de l'avis d'intervention visé au paragraphe 61(4).

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

2) Pour les avis d'appel déposés avant le 28 juin 2002

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

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

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

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

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai de huit semaines prévu à la règle 36.

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2002 -

OCTOBER - OCTOBRE

S D	M L	T M	W M	T J	F V	S S
	M 30	**1**	**2**	**3**	**4**	5
6	**7**	**8**	**9**	**10**	**11**	12
13	H 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	**M 4**	**5**	**6**	**7**	**8**	9
10	H 11	12	13	14	15	16
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24	25	26	27	28	29	30

DECEMBER - DECEMBRE

S D	M L	T M	W M	T J	F V	S S
1	**M 2**	**3**	**4**	**5**	**6**	7
8	**9**	**10**	**11**	**12**	**13**	14
15	16	17	18	19	20	21
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- 2003 -

JANUARY - JANVIER

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
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FEBRUARY - FÉVRIER

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MARCH - MARS

S D	M L	T M	W M	T J	F V	S S
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9	**M 10**	**11**	**12**	**13**	**14**	15
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APRIL - AVRIL

S D	M L	T M	W M	T J	F V	S S
		1	2	3	4	5
6	**M 7**	**8**	**9**	**10**	**11**	12
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MAY - MAI

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
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18	H 19	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
1	**M 2**	**3**	**4**	**5**	**6**	7
8	**9**	**10**	**11**	**12**	**13**	14
15	16	17	18	19	20	21
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Sittings of the court: / Séances de la cour: — 18 sitting weeks / semaines séances de la cour

Motions: / Requêtes: — M — 80 sitting days / journées séances de la cour

9 motion and conference days / journées requêtes, conférences

Holidays: / Jours fériés: — H — 1 holidays during sitting days / jours fériés durant les sessions