

**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**

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**A.B.**

A.B.

c. (29570)

**M.G. (Qué.)**

Normand Riendeau

Lalonde Geraghty Riendeau Lapierre

DATE DE PRODUCTION 20.1.2003

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**Régie intermunicipale de gestion des déchets de la  
Mauricie**

Raynold Langlois

Langois Kronström Desjardins

c. (29571)

**Service spécial de vidanges inc. et al. (Qué.)**

Christine Dubreuil Duchaine

Borden Ladner Gervais

DATE DE PRODUCTION 20.1.2003

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**FEBRUARY 3, 2003 / LE 3 FÉVRIER 2003**

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

**Cecil Scott**

**v. (29408)**

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

**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

---

**M.F.**

**v. (29498)**

**N.M.H. (Que.)**

**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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**David John Sharpe**

**v. (29540)**

**Yvette Jacqueline Kirk  
(Formerly Yvette Jacqueline Sharpe) (Man.)**

**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

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**Board of School Trustees of Regional Administrative Unit #3**

**v. (29417)**

**Richard W. Morin (P.E.I.)**

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Civil – Freedom of expression – Constitutional law – Schools – Labour law – Teachers – Principal prohibiting grade nine teacher from showing video entitled “Thy Kingdom Come, Thy Will Be Done” and carrying out related project on “What Religion Means to Different People” – Whether prohibition constitutes infringement of s. 2(b) *Charter* right of freedom of expression – *Canadian Charter of Rights and Freedoms*, s. 2(b).

**PROCEDURAL HISTORY**

September 17, 1999 Supreme Court of Prince Edward Island, Trial Division (DesRoches J.)	Respondent’s claim dismissed in its entirety
May 1, 2002 Supreme Court of Prince Edward Island, Appeal Division (Carruthers, Webber and McQuaid [ <i>dissenting</i> ] JJ.A.)	Appeal allowed with respect to s. 2(b) of the <i>Charter</i> : matter of damages remitted to trial judge; appeal in all other respects, dismissed
October 15, 2002 Supreme Court of Canada	Application for leave to appeal and motion for extension time, filed
November 4, 2002 Supreme Court of Canada (Gonthier, J.S.C.C.)	Motion for extension of time, granted

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**Syndicat des travailleurs et travailleuses des postes et Sylvie Leblanc**

**c. (29158)**

**Société canadienne des postes (Qué.)**

**- et -**

**Diane Sabourin**

**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**

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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

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**T.D.L. Petroleums Inc. and Fast Trucking Service Ltd.**

**v. (29401)**

**Montreal Trust Company (Sask.)**

**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 Inc.**

**v.**

**Montreal Trust Company (Sask.)**

**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

Applicants' appeal dismissed; Applicant T.D.L. Petroleums  
Inc.'s appeal on the crossclaim dismissed

(Vancise, Gerwing and Lane JJ.A.)

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

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**Donald George Bilawchuk and Shirley Bilawchuk**

**v. (29386)**

**Pauline Wawryko and Zurich Insurance Company (Alta.)**

**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

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**Pneu Pro Pose Inc.**

**c. (29170)**

**Oliver Rubber Company (Qué.)**

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

**Phillip Henry Mann**

**v. (29477)**

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

**NATURE OF THE CASE**

*Canadian Charter - Criminal* - Criminal Law - Search and Seizure - Search of detainee's pocket during investigative detention - Scope of warrantless searches of pockets during investigative detentions - Justifiable grounds to search pockets of person detained for inquiry.

**PROCEDURAL HISTORY**

November 22, 2001 Provincial Court of Manitoba (Conner J.)	Marihuana found in applicant's pocket excluded from evidence under s. 24(2) of <i>Charter</i> ; Charge of possession of marihuana for purposes of trafficking dismissed
September 25, 2002 Court of Appeal of Manitoba (Twaddle, Monnin and Steel JJ.A.)	Appeal allowed, new trial ordered
November 19, 2002 Supreme Court of Canada	Application for leave to appeal filed
November 28, 2002 Supreme Court of Canada	Amended application for leave to appeal filed

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**Smithkline Beecham Pharma Inc. and, Smithkline Beecham P.L.C.**

**v. (29328)**

**Apotex Inc. and, The Minister of Health (F.C.A.)**

**NATURE OF THE CASE**

Property law - Patents - Chemical and pharmaceutical inventions - Selection patents - Protection patents - Anticipation - Statutory interpretation - *Patent Act* - Patent medicines (*Notice of Compliance Regulations*) - Whether the Federal Court of Appeal erred in law in upholding the finding that the Applicants' Canadian Letters Patent 2,178,637 was "anticipated" by Canadian Letters Patent 1,287,060 - Whether the Federal Court of Appeal erred in applying the test of "anticipation" in respect of Patent 2,178,637 - Whether, as a consequence of this decision, the Federal Court of Appeal is in conflict with established law on selection patents, commonly granted in respect of chemical and pharmaceutical inventions, and will have the unintended effect of interfering with the scope of protection available in Canada for selection patents - *McPhar Engineering Co. of Canada Ltd. v. Sharpe Instruments Ltd. et al* (1960), 35 C.P.R. 105 (Exch. Ct.) - *Free World Trust v. Électro Santé Inc.*, [2000] 2 S.C.R. 1024.

**PROCEDURAL HISTORY**

July 6, 2001  
Federal Court of Canada, Trial Division  
(Gibson J.)

Applicant's application to issue an order prohibiting the Respondent Minister of Health from issuing a notice of compliance under s.C.08.004 of the *Food and Drug Regulations* to the Respondent Apotex in connection with paroxetine hydrochloride tablets dismissed

May 28, 2002  
Federal Court of Appeal  
(Linden, Evans and Malone JJ.A.)

Appeal dismissed

August 27, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**Russell Deigan**

**v. (29404)**

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

**NATURE OF THE CASE**

Administrative law - Labour law - Adjudication - Judicial review - Applicant grieving his discharge and indefinite suspension - Adjudicator awarding Applicant six months' compensation in lieu of reinstatement - Whether a citizen has the right to inform top officials of events he knows about as a citizen without losing his government job - Whether a public servant has the right to bring harassment and other concerns to the attention of senior officials, on a "confidential basis", without being suspended, dismissed, and having his possessions seized.

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**PROCEDURAL HISTORY**

March 31, 1998 Public Service Staff Relations Board (Vondette Simpson, Member)	Applicant's grievance against his discharge allowed; Applicant's grievance against his indefinite suspension dismissed
March 20, 2001 Federal Court of Canada, Trial Division (Tremblay-Lamer J.)	Applicant's application for judicial review dismissed
June 25, 2002 Federal Court of Appeal (Létourneau, Rothstein and Sharlow JJ.A.)	Appeal dismissed
October 1, 2002 Supreme Court of Canada	Application for leave to appeal filed

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**Municipality of the County of Antigonish**

**v. (29378)**

**Town of Antigonish (N.S.)**

**NATURE OF THE CASE**

Administrative law - Judicial review - Environmental law - Public utilities - Connected water systems - Respondent's water utility supplying all water to Applicant's water utility - Allocation of fire protection charge between Applicant and Respondent - Required fire flows inadequate at some connection points - Whether Applicant received a tangible benefit for the fire protection charge - Whether Board erred in holding that rate could be based what a payor utility required, rather than what was actually available - Whether Court of Appeal erred in failing to address issue of retroactivity

**PROCEDURAL HISTORY**

November 16, 2001 Nova Scotia Utility and Review Board (Morash, Chair, and Harris, Member)	Existing fire protection charge declared unjust and unreasonable; new methodology for determination of total fire protection charge and allocation of charge between the Applicant and the Respondent prescribed
June 26, 2002 Nova Scotia Court of Appeal (Roscoe, Bateman and Hamilton JJ.A.)	Applicant's appeal dismissed
September 25, 2002 Supreme Court of Canada	Application for leave to appeal filed

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**Raymond Gerard Desramaux**

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v. (29429)

**Shirley Anne Desramaux (Ont.)**

**NATURE OF THE CASE**

Family law - Divorce - Maintenance - Separation agreement as bar - Wife releasing right to spousal support following five year term of support - Whether separation agreement resulted in unconscionable circumstances - Whether court in a *Divorce Act* proceeding may apply provincial legislation to set aside a separation agreement - Whether term “unconscionable circumstances” requires clarification - Whether test for setting aside spousal support provisions in separation agreement is “radical unforeseen change in circumstances” or lower threshold - *Family Law Act*, R.S.O. 1990, c. F.3, s. 33(4)(a) - *Divorce Act*, R.S.C., 1985 (2<sup>nd</sup> Supp.), c. 3, s. 15.2

**PROCEDURAL HISTORY**

March 9, 2001  
Ontario Superior Court of Justice  
(Gordon J.)

Divorce granted; Respondent’s claim for support under the *Divorce Act* dismissed; Respondent’s claim to set aside the Separation Agreement, dismissed

August 28, 2002  
Court of Appeal for Ontario  
(Sharpe, Cronk and Gillese JJ.A.)

Respondent’s appeal allowed in part: Respondent awarded spousal support; balance of the appeal dismissed

October 24, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**Syntex (U.S.A) L.L.C., Hoffmann-La Roche Limited, Allergan, Inc. and Allergan Inc.**

v. (29396)

**The Minister of Health and Apotex Inc. (F.C.A.)**

**NATURE OF THE CASE**

Administrative law - Judicial Review - Jurisdiction - Property law - Patents - Applicants submit deceptive or misleading notice of allegation is tantamount to no notice of allegation at all - Order of prohibition must be brought within the forty-five days pursuant to subsection 6(1) of the *Regulations* - After expiration of the forty-five day period, Applicants seeking judicial review under sections 18 and 18.1 of the *Federal Court Act* seeking to prohibit the Minister from issuing a notice of compliance to Apotex - Whether the federal court of appeal erred in holding, as a rule of law, that judicial review is not available in connection with a decision of an administrative tribunal made on the basis of regulatory documents that are deceptive or misleading - Whether the federal court of appeal’s decision conflicts with, and reverses, a decade of jurisprudence interpreting the *Regulations* and thus frustrates the regulatory scheme.

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**PROCEDURAL HISTORY**

November 1, 2001  
Federal Court of Canada (Trial Division)  
(Kelen J.)

Respondent's Apotex Inc. motion to strike Applicants'  
application for judicial review, allowed with costs

July 8, 2002  
Federal Court of Appeal  
(Linden, Rothstein and Sharlow JJ.A.)

Appeal dismissed with costs

September 30, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**Water's Edge Village Estates (Phase II) Ltd.**

**v. (29392)**

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

**AND BETWEEN:**

**James S. Duncan**

**v.**

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

**AND BETWEEN:**

**Anthony R. Young**

**v.**

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

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**AND BETWEEN:**

**Mark Langdon**

v.

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

**AND BETWEEN:**

**Norman Eden**

v.

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

**AND BETWEEN:**

**Twin Oaks Village Estates Ltd.**

v.

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

**NATURE OF THE CASE**

Administrative law - Judicial review - Taxation - Assessment - Appeal from assessment of tax made under the *Income Tax Act* - Partnership - Capital Cost Allowance - General Anti-Avoidance Rule - Whether the Federal Court of Appeal incorrectly applied the anti-avoidance provisions in Section 245 of the *Income Tax Act (Canada)* to a transaction undertaken by the applicants - Whether the Federal Court of Appeal undertook an analysis of the capital costs provisions of the *Income Tax Act (Canada)* which was unsupported by evidence of the clear words of the relevant sections.

**PROCEDURAL HISTORY**

January 8, 2001 Tax Court of Canada (Bowie J.)	Applicants' appeals from the assessment of tax made under the <i>Income Tax Act</i> , dismissed.
July 9, 2002 Federal Court of Appeal (Desjardins, Linden and Noël JJ.A.)	Appeals dismissed
September 27, 2002 Supreme Court of Canada	Application for leave to appeal filed

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**Thomas Gifford**

v. (29416)

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

**NATURE OF THE CASE**

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Administrative law - Judicial review - Taxation - Assessment - Minister of National revenue disallowing deductions - Customer list - Financial advisors - Deductible expense or capital outlay - Whether the Federal Court of Appeal erred in law when it concluded that the jurisprudence of the Supreme Court of Canada established a rule of law that interest was invariably a capital expenditure and that interest payable by a commission salesperson on borrowed money used for the purpose of earning employment income was not deductible in computing that employment income by virtue of s. 8(1)(f)(v) of the *Income Tax Act*, R.S.C. 1985 (5<sup>th</sup> Supp.), c. 1, as amended - Whether the Federal Court of Appeal erred in fact and law when it concluded that a payment by a commission salesperson to a retiring co-employee for an endorsement and other services set out in an agreement described herein for the purpose of earning employment income was a capital expenditure and not deductible in computing that employment income by virtue of s.8(1)(f)(v) of the *Income Tax Act*

**PROCEDURAL HISTORY**

February 15, 2001  
Tax Court of Canada  
(Bowman A.C. J.)

Applicant's appeal from assessment for 1996 taxation year, allowed; assessment referred back to Minister of National Revenue for reconsideration and reassessment

August 12, 2002  
Federal Court of Appeal  
(Stone, Rothstein and Sexton JJ.A.)

Appeal allowed; decision of the Tax Court quashed and assessment from Minister confirmed

October 11, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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

**General Motors Corp.**

**v. (29338)**

**Daryl Oshaneck as representative Plaintiff (B.C.)**

**NATURE OF THE CASE**

Commercial law - Assumption of jurisdiction - Allegations of deceptive trade practices concerning the paint on vehicles manufactured by the Applicants and sold in British Columbia - Whether the proposed interpretation and application of the *Trade Practice Act*, R.S.B.C., c. 457, a) have extraterritorial effect, or b) are inconsistent with provincial heads of power.

**PROCEDURAL HISTORY**

January 5, 2001  
Supreme Court of British Columbia  
(Neilson J.)

Applicant's application to set aside the service of the writ of summons based on the court's lack of jurisdiction as against the Applicant allowed

June 6, 2002  
Court of Appeal of British Columbia

Appeal allowed and applications dismissed.

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(Finch, Mackenzie and Levine JJ.A.)

September 5, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**Daimlerchrysler Corp.**

**v. (29339)**

**Frank Robson and Karen Robson as representative plaintiffs (B.C.)**

**NATURE OF THE CASE**

Commercial law - Assumption of jurisdiction - Allegations of deceptive trade practices concerning the paint on vehicles manufactured by the Applicants and sold in British Columbia - Does *Moran v. Pyle* (1973), [1975] 1 S.C.R. 193, establish the test of jurisdiction *simpliciter* applicable to not only common law, but also statutory torts regardless of territorial limitations otherwise applicable pursuant to the *Constitution Act, 1867*, 30 & 31 Vict., c. 3 (U.K.)? Is the real and substantial connection test established to determine whether jurisdiction *simpliciter* exists in respect of torts (and subsequently extended to contract) applicable to determine the extent of a province's legislative jurisdiction?

**PROCEDURAL HISTORY**

January 5, 2001  
Supreme Court of British Columbia  
(Neilson J.)

Applicant's applications to set aside the *ex juris* service of the writ of summons, granted

June 6, 2002  
Court of Appeal of British Columbia  
(Finch C.J.B.C., Mackenzie and Levine JJ.A.)

Appeal allowed: judgment set aside

September 5, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**James Bradford Medd**

**v. (29414)**

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

**NATURE OF THE CASE**

Taxation – Income Tax – Whether *Income Tax Act* is *ultra vires* the federal government.

**PROCEDURAL HISTORY**

December 17, 1999  
Ontario Court (Provincial Division)  
(Chester J.)

Applicant convicted of failure to file income tax returns for taxation years 1995, 1996 and 1997; sentenced to pay a fine of \$9000.00

June 21, 2001  
Ontario Superior Court of Justice

Appeal dismissed



(McLean J.)

May 21, 2002  
Court of Appeal for Ontario  
(O'Connor A.C.J.O., Cronk and Armstrong  
J.J.A.)

Appeal dismissed

October 11, 2002  
Supreme Court of Canada

Application for leave to appeal and motion to extend time  
to file application for leave, filed

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**Claude Landry**

**c. (29169)**

**La Cour du Québec et la Coopérative d'habitation Jeanne-Mance (Qué.)**

**- et -**

**La Régie du logement**

**NATURE DE LA CAUSE**

Droit administratif - Procédure - Contrôle judiciaire - Tribunaux - Juridiction - La Cour d'appel a-t-elle erré en rejetant la demande de révision judiciaire à l'encontre de la décision de la Cour du Québec qui s'était déclarée sans compétence pour décider de l'existence et de la légalité de l'expulsion du demandeur? - La Cour d'appel a-t-elle erré en ne se prononçant pas sur la clause d'augmentation automatique de loyer en cas de révocation du statut de membre?

**HISTORIQUE PROCÉDURAL**

Le 3 août 1990  
Régie du logement  
(Me Chicoyne, membre)

Demande de la coopérative intimée accueillie; bail du demandeur résilié; éviction du demandeur ordonnée; demandeur condamné à payer la somme de 2 592\$

Le 21 novembre 1991  
Cour du Québec  
(Bilodeau, j.c.q.)

Appel rejeté en partie; la Cour se déclare non compétente pour disposer de la légalité de la résolution d'expulsion du demandeur; la Cour conserve compétence pour disposer des autres questions

Le 5 mai 1995  
Cour supérieure du Québec  
(Nolin j.c.s.)

Requête du demandeur pour révision judiciaire et pour jugement déclaratoire accueillie; résolution d'expulsion annulée; demandeur déclaré membre de l'intimée et locataire de l'immeuble au loyer fixé pour les membres

Le 20 février 2002  
Cour d'appel du Québec  
(Gendreau, Forget et Rochon [*ad hoc*] j.j.c.a.)

Appel de l'intimée accueilli; appel incident du demandeur rejeté; Régie du Logement et Cour du Québec déclarées non compétentes pour disposer de la question de la légalité de la résolution d'expulsion; résolution d'expulsion déclarée illégale; dossier retourné à la Cour du Québec pour qu'elle dispose des seules questions pour lesquelles elle avait conservé compétence

Le 19 avril, 2002

Cour Suprême du Canada

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Demande d'autorisation d'appel déposée

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**Ontario Federation of Anglers & Hunters (O.F.A.H.) and C. Davison Ankney**

**v. (29237)**

**Her Majesty the Queen in Right of Ontario as represented by the Ministry  
of Natural Resources and the Honourable John Snobelen (Ont.)**

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Civil Rights - Administrative law - Jurisdiction - Judicial Review - Whether appellate court erred in quashing examinations of Premier and Minister on issue of whether Minister made own decision in exercising his discretion to pass regulation closing spring bear hunt - Does regulation infringe rights under sections 2(a), 2(b), 7 and 15 of the *Charter - Fish and Wildlife Conservation Act, 1997*, S. O. 1997, c. 41 - Fresh Evidence - Costs.

**PROCEDURAL HISTORY**

March 24, 2000  
Ontario Superior Court of Justice  
(Yates J.)

Applicants' Notice of Examination to the Honourable John Snobelen, Minister of Natural Resources, quashed; Applicants' Summons to Witness to the Honourable Michael Harris, Premier of Ontario, quashed

January 11, 2001  
Ontario Superior Court of Justice  
(Southey, Kozak [*dissenting*], and Lederman JJ.)

Applicants' motion to set aside the Order of Yates J., granted

April 19, 2002  
Court of Appeal for Ontario  
(Abella, MacPherson and Simmons JJ.A.)

Respondents' appeal allowed; Applicants' motion for the introduction of fresh evidence, dismissed

June 27, 2002  
Supreme Court of Canada  
Binnie J.

Applicants' motion for an extension of time to serve and file their leave application to September 10, 2002, granted

September 6, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**Genpharm Inc.**

**v. (29410)**

**The Minister of Health, Procter & Gamble Pharmaceuticals Canada, Inc.  
and The Procter & Gamble Company (F.C.A.)**

**AND BETWEEN:**

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**Genpharm Inc.**

v.

**The Minister of Health, Procter & Gamble Pharmaceuticals Canada, Inc.  
and The Procter & Gamble Company (F.C.A.)**

**NATURE OF THE CASE**

Property law - Patents - Patented medicines - Notice of compliance - Notice of allegation - Whether the Federal Court of Appeal erred in law in holding that the *Patented Medicine (Notice of Compliance) Regulations* must be interpreted such that a generic drug company who seeks approval from the Minister of Health to market a drug for an old or unpatented purpose must allege in its Notice of Allegation and satisfy the Court that no third party would use that drug for another, patented, purpose whether or not that third party is under the generic drug company's influence or control - Whether the Federal Court of Appeal erred in law in holding that a Notice of Allegation served pursuant to the *Patented Medicines (Notice of Compliance) Regulations* could not be subject to being perfected by Court order - *Patented Medicines (Notice of Compliance) Regulations*, SOR/93-133

**PROCEDURAL HISTORY**

April 17, 2000 Federal Court of Canada (Pelletier J.)	Disclosure of portions of Applicant's Abbreviated New Drug Submission for Notices of Compliance, ordered
October 15, 2001 Federal Court of Canada (McKeown J.)	Order of prohibition preventing Minister of Health from issuing a Notice of Compliance to the Applicant, granted.
July 8, 2002 Federal Court of Appeal (Linden, Rothstein, and Sharlow JJ.A.)	Applicant's appeal of the order of McKeown J. in file no. A-615-01, dismissed
July 23, 2002 Federal Court of Appeal (Linden, Rothstein and Sharlow JJ.A.)	Applicant's appeal of the order of McKeown J. in file no. A-616-01, dismissed
September 30, 2002 Supreme Court of Canada	Applications for leave to appeal filed

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**Pierre Lessard**

**c. (29093)**

**Commission scolaire des Mille-Îles (Qué.)**

**NATURE DE LA CAUSE**

Législation - Interprétation - La Cour d'appel a-t-elle erré dans son interprétation du régime législatif mis en place par la *Loi sur l'instruction publique* et relatif à l'organisation du transport scolaire?

**HISTORIQUE PROCÉDURAL**

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Le 3 avril 1997  
Cour supérieure du Québec  
(Trahan j.)

Action du demandeur rejetée

Le 7 janvier 2002  
Cour d'appel du Québec  
(Vallerand, Rothman et Rochon [*ad hoc*] jj.c.a.)

Appel accueilli en partie : remboursement accordé pour l'année scolaire 1991-1992; dossier retourné à la Cour supérieure

Le 20 mars 2002  
Cour suprême du Canada  
(Binnie J.)

Demande en prorogation de délai accordée

Le 10 mai 2002  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**Joseph Remer, Manuel Dalfen et Morris Birenbaum**

**c. (29092)**

**Elizabeth Kraus Remer (Qué.)**

**NATURE DE LA CAUSE**

Droits des biens - Successions - Testaments - Compensation judiciaire - Leg insaisissable - La Cour d'appel du Québec a-t-elle erré en concluant que la compensation judiciaire ne pouvait être ordonnée entre la dette alimentaire des demandeurs à l'intimée ( 375 000 \$ en capital) et l'ordonnance de remboursement de l'intimée aux demandeurs (1 139 581,67\$ en capital) en raison de l'insaisissabilité de la rente viagère.

**HISTORIQUE PROCÉDURALE**

Le 12 octobre 1999  
Cour supérieure du Québec  
(Crépeau j.c.s.)

La Cour conclut que M. Elo Remer, époux de l'intimée, n'avait pas la capacité mentale de signer une autorisation bancaire en faveur de l'intimée.

Le 20 décembre 2001  
Cour d'appel du Québec  
(Deschamps, Robert and Pelletier jjc.a)

La Cour conclut qu'il ne peut y avoir de compensation judiciaire entre la dette de l'intimée et celle des demandeurs car une des deux dettes est insaisissable

Le 18 février 2002  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**FEBRUARY 6, 2003 / LE 6 FÉVRIER 2003**

**29358**                    **Daniel Roy c. Sa Majesté la Reine** (Qué.) (Criminelle) (Autorisation)

Coram: Le 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 du Québec (Montréal), numéro 500-10-001773-009, daté du 7 juin 2002, est rejetée.

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 Quebec (Montreal), Number 500-10-001773-009, dated June 7, 2002, is dismissed.

**NATURE DE LA CAUSE**

Droit criminel - Preuve - Droit à défense pleine et entière - Audition sur détermination de la peine - Équité du procès - Interventions irrégulières du premier juge dans l'interrogatoire des deux témoins experts de la défense - Le juge de première instance a-t-il erré en droit en rejetant la requête en exclusion de la preuve présentée par le demandeur, bien que la preuve ait établi de façon claire et non équivoque que les policiers avaient sciemment induit le juge de paix en erreur dans la dénonciation au soutien de leur demande de mandat de prélèvement d'ADN - Le juge de première instance a-t-il privé le demandeur du droit à un procès juste et équitable et à une défense pleine et entière en lui interdisant de plaider qu'un témoin crucial de la poursuite avait été incapable de le reconnaître sur une parade d'identification où il apparaissait, bien que ce soit pourtant le cas - Le juge de première instance a-t-il privé le demandeur du droit à un procès juste et équitable et à une défense pleine et entière en forçant l'avocat du demandeur à déclarer aux jurés qu'il les avait induit en erreur sur les résultats de cette parade d'identification, alors que ce n'était absolument pas le cas - Le juge de première instance a-t-il ainsi erronément induit le jury à croire que l'avocat du demandeur tentait de leur mentir, alors qu'il tentait plutôt d'établir la faiblesse de la preuve d'identification, une question cruciale et déterminante au présent litige - Le juge de première instance a-t-il privé le demandeur du droit à un procès juste et équitable et à une défense pleine et entière en lui interdisant de mettre en preuve les résultats obtenus à un test de dépistage d'alcool subi le lendemain des événements à l'origine du litige, bien que cette preuve était de nature à contredire la preuve de la poursuite et à corroborer de façon importante son propre témoignage - Le juge de première instance a-t-il privé le demandeur du droit à un procès juste et équitable et à une défense pleine et entière en faisant preuve de partialité dans le déroulement du procès, dans l'administration de la preuve et dans ses directives au jury, considérant notamment les conclusions tirées par la Cour d'appel dans le jugement rendu le 13 juin 2002 et qui annulait la déclaration de délinquant dangereux pour cause de partialité du juge.

**HISTORIQUE PROCÉDURAL**

Le 22 avril 1999  
Cour supérieure du Québec  
(Zigman j.c.s.)

Déclaration de culpabilité: agression sexuelle

Le 17 décembre 1999  
Cour supérieure du Québec  
(Zigman j.c.s.)

Demandeur déclaré délinquant dangereux contrairement aux articles 752.1 et suivants du *Code criminel*

Le 18 avril 1999  
Cour supérieure du Québec  
(Zigman j.c.s.)

Demandeur déclaré coupable par juge et jury d'agression sexuelle contrairement aux articles 271(1)a et 348(1)b(d) du *Code criminel*

Le 1 mai 2002  
Cour d'appel du Québec  
(Proulx, Fish et [*ad hoc*] Letarte jj.c.a.)

Appel contre la déclaration de culpabilité, rejeté

Le 7 juin 2002  
Cour d'appel du Québec  
(Proulx, Fish et Letarte [*ad hoc*] jj.c.a.)

Jugement déclarant le demandeur délinquant dangereux,  
annulé; nouvelle audition ordonnée selon l'article  
759(3)a(iii) du *Code criminel*

Le 12 septembre 2002  
Cour suprême du Canada

Demandes d'autorisation d'appel et en prorogation de  
délai déposées

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**29354**                    **Marco Cacciatore v. Her Majesty the Queen on behalf of the Corporation of the City of Toronto**  
(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 C37369, dated June 19, 2002, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C37369, daté du 19 juin 2002, est rejetée.

**NATURE OF THE CASE**

Municipal Law - By-law of pedlar no licence - Whether a municipality should be entitled to use a by-law that regulates the sale of goods, wares and merchandise through its licensing powers, to curb an activity which is already governed by provincial legislation - Whether a municipality which is granted the power to regulate and prohibit activities on public streets and roads, extend those powers through a licensing by-law that makes no mention of tickets - *The Municipality of Metropolitan Toronto By-Law 20-85*, s. 2(20)

**PROCEDURAL HISTORY**

June 20, 2000  
Ontario Court of Justice  
(McNish J.P.)

Applicant found guilty of the offence of pedlar no licence  
contrary to s. 2(20) of *The Municipality of Metropolitan  
Toronto By-Law No. 20-85*

October 4, 2001  
Ontario Court of Justice  
(Feldman J.)

Appeal from conviction dismissed

June 19, 2002  
Court of Appeal for Ontario  
(O'Connor A.C.J.O., Cronk and Armstrong JJ.A.)

Appeal dismissed

September 13, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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**29349**                    **Paul Martin Conway v. Dr. I. Jacques, Frances Conway** (Ont.) (Civil) (By Leave)

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

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The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C36001, dated June 17, 2002, is dismissed with costs to the Respondent Dr. I. Jacques.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C36001, daté du 17 juin 2002, est rejetée avec dépens en faveur de l'intimé Dr I. Jacques.

**NATURE OF THE CASE**

Administrative law - Judicial review - Decision of Consent and Capacity Board to require substitute decision maker to comply with requirements of the *Health Care Consent Act*, S.O. 1996, c.2 with respect to consent to treatment for incapable person - Whether Court of Appeal erred in upholding decision of the Board.

**PROCEDURAL HISTORY**

February 10, 1997 Consent and Capacity Board (Jones, Presiding Member, Arndt and Mulligan, Members)	Respondent Frances Conway ordered to comply with the principles for substitute decision making set out in the <i>Health Care Consent Act</i> and with the Board's directions
September 18, 1998 Ontario Superior Court of Justice (Gans J.)	Respondent Frances Conway and Applicant's appeal allowed; fresh evidence admitted; Board directed to receive and consider the fresh evidence
March 3, 2000 Consent and Capacity Board (Jones, Presiding Member, Arndt and Mulligan, Members)	Decision of February 10, 1997 reaffirmed; Respondent Frances Conway ordered to comply with the Board's directions
February 20, 2001 Ontario Superior Court of Justice (Spence J.)	Applicant's appeal allowed; Board's order set aside
June 17, 2002 Court of Appeal for Ontario (Sharpe, Cronk and Gillese JJ.A.)	Respondent I. Jacques' appeal allowed; Board's order restored; Respondent Frances Conway required to comply with the Board's directions
September 11, 2002 Supreme Court of Canada	Application for leave to appeal filed

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**29076      David Richan Webster c. Bridget Storey (Qué.) (Civile) (Autorisation)**

Coram: Le 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 500-09-009946-005, daté du 14 décembre 2001, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-009946-005, dated December 14, 2001, is dismissed with costs.

**NATURE DE LA CAUSE**

Droit commercial - Vente - Action en passation de titre - La Cour d'appel a-t-elle violé la règle du *stare decisis*? - La Cour d'appel a-t-elle créé des règles de droit contraires au droit applicable? - La Cour d'appel a-t-elle éludé l'application des

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règles de droit en matière contractuelle en s'appuyant sur l'interrogatoire hors cour d'une partie au litige? - La Cour d'appel pouvait-elle remettre en question l'appréciation des faits par le juge de première instance et intervenir à cet égard?

### **HISTORIQUE PROCÉDURAL**

Le 29 juin 2000 Cour supérieure du Québec (Larouche j.c.s.)	Action en passation de titre de l'intimée rejetée
Le 14 décembre 2001 Cour d'appel du Québec (Gendreau, Robert et Pelletier jj.c.a.)	Appel accueilli
Le 12 février 2002 Cour suprême du Canada	Demande d'autorisation d'appel déposée

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**29356**            **Robert Kreklewetz v. Marian Scopel** (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 C35903, dated June 19, 2002, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C35903, daté du 19 juin 2002, est rejetée.

### **NATURE OF THE CASE**

Statutes – Interpretation – Family law – Infants – Vital Statistics – Birth registration – Parents not married or cohabiting when child born – Mother registered child's birth using her last name as child's last name – Mother did not include information about father on Statement of Live Birth – Mother permitted under s. 10 of *Vital Statistics Act* to give child her surname where father is "unacknowledged by her" – Interpretation of "unacknowledged by" – Whether a mother can acknowledge the identity of a child's father for some purposes while not acknowledging him for the purposes of the registration and naming provisions under the Act – *Vital Statistics Act, R.S.O. 1990, c. V.4, ss. 9, 10.*

### **PROCEDURAL HISTORY**

January 8, 2001 Ontario Superior Court of Justice (Greer J.)	Respondent entitled to give child her own surname; however, in accordance with the willingness of the respondent, child's name amended to include applicant's surname as one of child's forenames; balance of applicant's application, dismissed
June 19, 2002 Court of Appeal for Ontario (Laskin, Feldman and Simmons JJ.A.)	Appeal dismissed
September 16, 2002 Supreme Court of Canada	Application for leave to appeal and motion to expedite application for leave to appeal, filed
October 28, 2002	Motion to expedite application for leave to appeal,

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Supreme Court of Canada  
(Deschamps, J.S.C.C.)

dismissed

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**29133**      **Simeon Hogan v. Her Majesty the Queen AND BETWEEN Kevin Michael Mailman v. Her Majesty the Queen AND BETWEEN Nathan Gionet v. Her Majesty the Queen** (N.B.) (Criminal) (By Leave) (Oral hearing January 13, 2003)

Coram: Gonthier, Major and Arbour JJ.

The application for leave to appeal from the judgment of the Court of Appeal of New Brunswick, Number 16/01/CA, dated January 31, 2002, heard on January 13, 2003, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Nouveau-Brunswick, numéro 16/01/CA, daté du 31 janvier 2002, entendue le 13 janvier 2003, est rejetée.

**NATURE OF THE CASE**

Criminal law - Appeals - Evidence - Estoppel by *res judicata* - Can trial judge consider evidence that could have been called at an earlier stage of a *voir dire*? - Whether Court of Appeal erred in law when it determined it had jurisdiction to hear the appeal - Is the good faith of the police a necessary consideration in determining the admissibility of evidence under s. 24 (2) of the *Canadian Charter of Rights and Freedoms* - Proper procedure to follow when a challenge is raised at trial to the authority of an agent to bring an application - Factors which must be considered in every determination of admissibility of evidence under 24(2) - Standard of appellate review where the Crown decides not to call evidence and invites a directed verdict.

**PROCEDURAL HISTORY**

January 19, 2001  
New Brunswick Court of Queen's Bench  
(McLellan J.)

Acquittal: conspiracy to traffic in cocaine (Applicants Hogan, Mailman and Gionet) Acquittal: conspiracy to traffic in cannabis (Applicants Mailman and Gionet)

January 31, 2002  
Court of Appeal of New Brunswick  
(Deschênes, Ryan and Robertson JJ.A.)

Appeal allowed: acquittals set aside and new trial ordered

March 27, 2002  
Supreme Court of Canada

Application for leave to appeal filed by Simeon Hogan;  
Application for leave to appeal filed by Kevin Michael Mailman

March 28, 2002  
Supreme Court of Canada

Application for leave to appeal filed by Nathan Gionet

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**29039**      **Giles Poirier v. Her Majesty the Queen** (N.S.) (Criminal) (By Leave) (Oral hearing January 13, 2003)

Coram: Gonthier, Major and Arbour JJ.

The application for leave to appeal from the judgment of the Nova Scotia Court of Appeal, Number CAC169169, dated November 27, 2001, heard on January 13, 2003, is dismissed.

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La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Nouvelle-Écosse, numéro CAC169169, daté du 27 novembre 2001, entendue le 13 janvier 2003, est rejetée.

**NATURE OF THE CASE**

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

**PROCEDURAL HISTORY**

April 7, 2000  
Supreme Court of Nova Scotia, Trial Division  
(Boudreau J.)

Applicant’s application for stay of proceedings relating to charge of unlawfully conspiring to traffic in a narcotic contrary to s. 4(1) of the *Narcotic Control Act* and contrary to s. 465(1)(c) of the *Criminal Code* granted

January 4, 2001  
Supreme Court of Nova Scotia, Trial Division  
(Boudreau J.)

Applicant’s request for costs granted in part: Respondent ordered to pay Applicant \$35,000 for costs

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

Respondent’s appeals allowed: stay of proceedings and order for costs set aside, new trial ordered

January 28, 2002  
Supreme Court of Canada

Application for leave to appeal filed

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14.1.2003

Before / Devant: THE REGISTRAR

**Motion on behalf of the respondent to file a supplemental record**

**Requête de l'intimé pour déposer un dossier additionnel**

Fern Tardif, et al.

v. (29261)

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

**GRANTED / ACCORDÉE** The applicants are allowed to file an affidavit evidence in response.

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17.1.2003

Before / Devant: THE REGISTRAR

**Taxation of costs**

**Taxation des dépens**

Servier Canada Inc.

c. (29115)

Yolande Hotte (Qué.)

**GRANTED IN PART / ACCORDÉE EN PARTIE**

La demanderesse, Servier Canada Inc., s'est désistée de sa demande d'autorisation d'appel le 2 mai 2002, après que l'intimée, Yolande Hotte, a déposé, le 12 avril 2002, son mémoire en réponse et une requête en annulation de la demande d'autorisation d'appel. L'intimée demande à la registraire de taxer les dépens sur une base procureur/client, alléguant notamment que les procédures entreprises par la demanderesse "étaient purement dilatoires et vouées à l'échec".

Le paragraphe 25(3) et l'art. 58 des anciennes *Règles de la Cour suprême* prévoient le paiement des dépens en cas de désistement, à moins d'une ordonnance contraire d'un juge, conformément au Tarif des honoraires et débours taxables entre parties devant la Cour suprême du Canada.

Les pouvoirs de la registraire en matière d'adjudication des dépens sont circonscrits par les Règles et le Tarif des honoraires et, à moins d'une ordonnance contraire d'un juge ou de la Cour, les Règles accordent les dépens entre parties. En conséquence, les honoraires sur la base procureur/client (27 084.80 \$) sont radiés. Il ne s'agit pas d'une question que je considère devoir soumettre à un juge.

Le désistement de la demanderesse a eu pour effet de priver la requête en annulation de l'intimée de sa raison d'être et les conclusions en matière de dépens de cette dernière n'ont pas d'existence autonome qui pourrait permettre de les soumettre à un juge. Par contre je ne puis souscrire à l'argument de la demanderesse que l'intimée ne devrait pas avoir droit aux dépens relatifs à la demande d'annulation dûment déposée parce que la Cour ne l'a pas entendue.

Les autres éléments du mémoire de frais sont confirmés et taxés en conséquence.

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The applicant, Servier Canada Inc., discontinued its application for leave to appeal on May 2, 2002, after the respondent, Yolande Hotte, had filed her memorandum in response and a motion to quash the application for leave to appeal on April 12, 2002. The respondent is asking the Registrar to tax the costs on a solicitor and client basis, arguing in particular that the applicant's proceedings [TRANSLATION] "were strictly a delaying tactic and doomed to failure."

Rules 25(3) and 58 of the old *Rules of the Supreme Court of Canada* provide for the payment of costs where an application for leave is discontinued, unless otherwise ordered by a judge. Costs are taxed pursuant to the Tariff of Fees and Disbursements to be Taxed Between Parties in the Supreme Court of Canada.

The powers of the Registrar on an adjudication of costs are set out in the Rules and the Tariff of Fees, and the Rules provide for party and party costs unless otherwise ordered by a judge or the Court. Accordingly, the fees claimed on a solicitor and client basis (\$27,084.80) are struck out. In my view, this is not a question that needs to be submitted to a judge.

The applicant's discontinuance made the respondent's motion to quash unnecessary, and the conclusions regarding the respondent's costs do not have an independent existence that could allow them to be submitted to a judge. On the other hand, I cannot accept the applicant's argument that the respondent should not be entitled to costs on the duly filed motion to quash, because the Court did not hear it.

The other items in the bill of costs are confirmed and taxed accordingly.

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23.1.2003

Before / Devant: MAJOR J.

**Motion to appoint counsel**

**Requête en nomination d'un procureur**

Franklin Godwin

v. (29348)

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

**DISMISSED / REJETÉE**

**UPON APPLICATION** by the applicant for an order pursuant to section 694.1 of the *Criminal Code* for the appointment of counsel;

**AND HAVING READ** the material filed;

**IT IS HEREBY ORDERED THAT:**

The application for the appointment of counsel is dismissed.

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27.1.2003

Before / Devant: MAJOR J.

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

**Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation**

House of Commons, et al.

v. (29564)

Satnam Vaid, et al. (F.C..)

**GRANTED / ACCORDÉE** Time extended to February 3, 2003.

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29.1.2003

Before / Devant: THE REGISTRAR

**Miscellaneous motion**

**Autre requête**

Sa Majesté la Reine

v. (29421)

Denis Bégin (Crim.)(Qué.)

**GRANTED / ACCORDÉE** The motion to file the application for leave to appeal in its actual form is granted.

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30.1.2003

Before / Devant: MAJOR J.

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

**Requête en prorogation du délai imparti pour signifier et déposer la demande d'autorisation**

Chippewas of Nawash First Nation, et al.

v. (29568)

Her Majesty the Queen, as represented by the Minister of Fisheries and Oceans, et al. (F.C..)

**GRANTED / ACCORDÉE** Time extended to March 31, 2003.

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30.1.2003

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the factum of the intervener the Attorney General of Saskatchewan**

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire de l'intervenant le procureur général de la Saskatchewan**

Her Majesty the Queen in Right of Alberta

v. (28261)

Devon Gary Ell, et al. (Alta.)

**GRANTED / ACCORDÉE** Time extended to January 17, 2003.

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30.1.2003

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the factum and book of authorities of the intervener the Attorney General of Saskatchewan**

**Requête en prorogation du délai imparti pour signifier et déposer le mémoire et recueil de jurisprudence et de doctrine de l'intervenant le procureur général de la Saskatchewan**

Ernest Lionel Joseph Blais

v. (28645)

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

**GRANTED / ACCORDÉE** Time extended to December 23, 2002.

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31.1.2003

Before / Devant: IACOBUCCI J.

**Further order on motions for leave to intervene**

**Autre ordonnance sur des requêtes en autorisation d'intervention**

BY/PAR: Federation of Canadian Municipalities;  
Aliant Telecom Inc., AT&T Canada, Bell Canada, Bell West Inc., MTS Communications Inc., Telus Communications Inc.;  
Saskatchewan Power Corporation;  
GT Group Telecom Services

IN/DANS: Canadian Cable Television Association

v. (28826)

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

**UPON APPLICATION** by Federation of Canadian Municipalities, Aliant Telecom Inc., AT&T Canada, Bell Canada, Bell West Inc., MTS Communications Inc., Telus Communications Inc., Saskatchewan Power Corporation and GT Group Telecom Services for leave to intervene in the above appeal and pursuant to the order of October 7, 2002;

**IT IS HEREBY FURTHER ORDERED THAT** the following interveners are granted permission to file the written submissions but are not allotted any time for oral presentation:

- |   |                         |
|---|-------------------------|
| - Federation of Canadian Municipalities   | written submission only |
| - Aliant Telecom Inc., AT&T Canada, Bell Canada, Bell West Inc., MTS Communications Inc., Telus Communications Inc. | written submission only |
| - Saskatchewan Power Corporation  | written submission only |
| - GT Group Telecom Services   | written submission only |

**NOTICE OF APPEAL FILED SINCE  
LAST ISSUE**

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

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28.1.2003

**Michael Garfield Lyttle**

**v. (29412)**

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

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## DEADLINES: APPEALS

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.

## DÉLAIS : APPELS

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
17	18	19	20	21	22	23
24	25	26	27	28	29	30

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

- 2003 -

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

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

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

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

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

Holidays:  
Jours fériés:

H

9 motion and conference days / journées requêtes, conférences

1 holidays during sitting days / jours fériés durant les sessions