

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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

CONTENTS**TABLE DES MATIÈRES**

Applications for leave to appeal filed	1310	Demandes d'autorisation d'appel déposées
Applications for leave submitted to Court since last issue	1311 - 1316	Demandes soumises à la Cour depuis la dernière parution
Oral hearing ordered	-	Audience ordonnée
Oral hearing on applications for leave	-	Audience sur les demandes d'autorisation
Judgments on applications for leave	1317 - 1321	Jugements rendus sur les demandes d'autorisation
Judgment on motion	-	Jugement sur requête
Motions	1322 - 1327	Requêtes
Notice of reference	-	Avis de renvoi
Notices of appeal filed since last issue	1328	Avis d'appel déposés depuis la dernière parution
Notices of intervention filed since last issue	1329	Avis d'intervention déposés depuis la dernière parution
Notices of discontinuance filed since last issue	1330	Avis de désistement déposés depuis la dernière parution
Appeals heard since last issue and disposition	-	Appels entendus depuis la dernière parution et résultat
Pronouncements of appeals reserved	-	Jugements rendus sur les appels en délibéré
Rehearing	-	Nouvelle audition
Headnotes of recent judgments	-	Sommaires des arrêts récents
Agenda	-	Calendrier
Summaries of the cases	-	Résumés des affaires
Notices to the Profession and Press Release	-	Avis aux avocats et communiqué de presse
Deadlines: Appeals	1331	Délais: Appels
Judgments reported in S.C.R.	1332 - 1333	Jugements publiés au R.C.S.

**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Zoe Childs, et al.
Barry D. Laushway
Laushway Law Office

v. (30472)

Desmond Desormeaux, et al. (Ont.)
Helmut R. Brodmann
Bell Baker

FILING DATE: 16.8.2004

Monique Marie Turenne
G. Greg Brodsky, Q.C.
Brodsky & Company

v. (30478)

The Minister of Justice, et al. (Man.)
David G. Frayer, Q.C.
Attorney General of Canada

FILING DATE: 23.8.2004

Développements de Normandie Inc.
Emil Vidrascu
Lavery, de Billy

c. (30476)

André Delorme (Qc)
Patrick Choquette
Prévost, Auclair, Fortin et D'Aoust

DATE DE PRODUCTION: 24.8.2004

David James Sneddon, et al.
John N. Laxton, Q.C.
Laxton & Company

v. (30487)

**British Columbia Hydro and Power Authority, et
al. (B.C.)**
D.W. Yule
Guild, Yule & Company

FILING DATE: 24.8.2004

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

Her Majesty the Queen
John S. McInnes
Attorney General of Ontario

v. (30480)

S.J.D. (Ont.)
Gregory Lafontaine
Lafontaine & Associate

FILING DATE: 25.8.2004

John Beazley, et al.
Michael P. Ragona, Q.C.
Alexander, Holburn, Beaudin & Lang

v. (30484)

**Natalia Spehar, an infant by her Guardian Ad
Litem, Ann Spehar (B.C.)**
Michael J. Slater, Q.C.
Slater Vecchio

FILING DATE: 25.8.2004

Timothy Lincoln
Colin D. Bryson
Blois Nickerson Bryson

v. (30482)

Bay Ferries Ltd. (FC)
John K. Mitchell, Q.C.
Stewart McKelvey Stirling Scales

FILING DATE: 26.8.2004

Daniel Martin Younger
Martin D. Glazer

v. (30483)

Her Majesty the Queen (Man.)
Richard A. Saull
Attorney General of Manitoba

FILING DATE: 26.8.2004

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

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

AUGUST 30, 2004 / LE 30 AOÛT 2004

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

Great Pacific Management Co. Ltd.

v. (30301)

**Guy J. Collette, Sector Financial Services Ltd. and Sector Securities Inc., Multimetro Mortgage Corporation
and Ken Megale (B.C.)**

NATURE OF THE CASE

Procedural law - Civil Procedure - Actions - Class actions - Class proceedings - Certification - Common issues - Preferable procedure - *Class Proceedings Act*, R.S.B.C. 1996, c. 50 s. 4 - Commercial law - Contracts - Agency - mandate - Torts - Negligence - Appellate court reversing lower court dismissal of application for certification of class action - Can there be any obligation at law arising *per se* from the relationship of investment broker and client other than the obligation of any agent to carry out the instructions of its principal - Does any implied warranty of fitness or quality arise from the sale of an investment product by an investment broker, either under the law of contract or under the law of tort.

PROCEDURAL HISTORY

March 5, 2003
Supreme Court of British Columbia
(Macaulay J.)

Respondent Collette's second application to certify the action as a class proceeding, dismissed

March 1, 2004
Court of Appeal for British Columbia
(Braidwood, Mackenzie, Low JJ.A.)

Appeal allowed; Order that action be certified as class proceeding

April 29, 2004
Supreme Court of Canada

Application for leave to appeal filed

John Susin

v. (30366)

Howard Swartz (Ont.)

NATURE OF THE CASE

Torts - Negligence - Damages - Mechanics' Liens - Estoppel - Whether the Court of Appeal or the trial judge erred in overlooking or excusing the Respondent's submissions as to the validity of the lien claims - Whether the Court of Appeal or the trial judge erred in overlooking or excusing the fact that estoppel by conduct or estoppel by convention had been established - Whether the Court of Appeal or the trial judge erred in overlooking or excusing the fact that there was an abuse of power by the Respondent solicitor by arguing that any of the liens were valid, and adjudged accordingly, in the judgment negotiated by the Respondent were invalid - Whether the Court of Appeal or the trial judge erred in overlooking or excusing the fact that the improper withdrawal of funds from the special account by the bank led to default on the

project and the filing of liens - Whether the Court of Appeal or the trial judge erred in overlooking or excusing the fact that the plaintiffs had met the test required in law to establish damages after negligence was proven - Whether the Court of Appeal or the trial judge erred in making no order to grant compensation for unauthorized use of retainer money - Whether the Court of Appeal or the trial judge erred in overlooking or excusing the fact that the Respondent solicitor was a privy of QDL or the plaintiffs in the consent judgment negotiated by him on February 16, 1982?

PROCEDURAL HISTORY

December 21, 2001 Ontario Superior Court of Justice (Seppi J.)	Applicants' action for negligence in the performance of professional services, dismissed
May 23, 2003 Court of Appeal for Ontario (Moldaver, Goudge and Cronk JJ.A.)	Appeal dismissed
April 7, 2004 Court of Appeal for Ontario (Moldaver, Goudge and Cronk JJ.A.)	Applicants' motion for order setting aside decision, dismissed
June 3, 2004 Supreme Court of Canada	Application for leave to appeal and motion to extend time filed

Kenneth Hugo Wenzel, Kenneth H. Wenzel Oilfield Consulting Inc., KW Downhole Tools Inc.

v. (30316)

Dreco Energy Services Ltd., Vector Oil Tool Ltd. (Alta.)

NATURE OF THE CASE

Commercial Law - Contracts - Remedies - Injunctions - Interpretation of contract provisions - Restrictive covenants - Whether it is the court's function to define the rights and obligations of contracting parties by severing the overly-broad portions of severance provisions contained in restrictive covenants, and enforcing what is left - What is the standard of proof required of the Plaintiff for the first branch of the tripartite test for an interlocutory injunction.

PROCEDURAL HISTORY

February 6, 2003 Court of Queen's Bench of Alberta (Hembroff J.)	Respondents' application for an interlocutory injunction, dismissed
February 26, 2004 Court of Appeal of Alberta (Côté, Russell and Fruman JJ.A.)	Appeal allowed; order dismissing interlocutory injunction application set aside and interlocutory injunction entered
April 26, 2004 Supreme Court of Canada	Application for leave to appeal filed

Trojan Technologies Inc.

v. (30235)

Suntec Environmental Inc. (FC)

NATURE OF THE CASE

Procedural law – Summary judgment – Property law – Patents – Summary judgment given in patents claim where experts evidence in conflict – Motions judge finding no serious issues of credibility arising but preferring evidence of one expert – Court of Appeal setting aside summary judgment, concluding motions judge repeatedly called upon to make determinations based upon assessment of credibility of expert witnesses such that serious issues of credibility did arise and matter should have been sent on to trial – Whether need to clarify contradictory decisions from Federal Court concerning the availability of summary judgment under Rule 216 of *Federal Court Rules, 1998*, particularly where only contest between expert witnesses.

PROCEDURAL HISTORY

July 3, 2003
Federal Court of Canada, Trial Division
(Gibson J.)

Applicant's motion for summary judgment granted;
Applicant's patent claims valid and subsisting

April 5, 2004
Federal Court of Appeal
(Rothstein, Sexton and Pelletier JJ.A.)

Appeal allowed; motions judge's order set aside

June 18, 2004
Supreme Court of Canada

Application for leave to appeal and motion to extend time
filed

**CORAM: Bastarache, LeBel, Deschamps JJ.
Les juges Bastarache, LeBel et Deschamps**

Christopher Pickering

v. (30414)

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

NATURE OF THE CASE

Criminal law - Evidence - Credibility - Similar fact evidence - Sentencing - Whether the lower courts failed to consider whether the evidence spoke to the credibility of witnesses or complainants at the time of the alleged offences - Whether the Court of Appeal erred in law in its treatment of and characterization of certain evidence as similar fact evidence - Whether the Court of Appeal erred in determining what constitutes credibility - Whether the Court of Appeal properly distinguished credibility and admissibility - Whether the Court of Appeal considered the credibility of each witness individually by evaluating all aspects of the evidence - Whether the Court of Appeal erred in finding that the trial judge had carefully assessed the complainants' evidence - Whether the lower courts inappropriately classified the complaints as 'recovery memory' rather than applying the doctrine of laches - Whether the Court of Appeal considered the consistency of the three complainants' testimony on issues where collusion was less likely - Whether the Court of Appeal considered the appropriate test for the application of a conditional sentence - Whether, when sentencing for historical crimes, it is appropriate to consider the accused's conduct since the commission of the crimes - Whether the lower courts erred in failing to consider whether incarceration of aged persons for historical crimes has individual or general deterrent value.

PROCEDURAL HISTORY

August 6, 2002 Ontario Superior Court of Justice (Gordon J.)	Applicant convicted of indecent assault and sexual assault and sentenced to 18 months imprisonment and three years probation
May 8, 2003 Ontario Court of Appeal (Goudge, MacPherson and Cronk JJ.A.)	Appeal dismissed
June 15, 2004 Supreme Court of Canada	Application for leave to appeal filed

Ernst Zundel

v. (30360)

Minister of Citizenship and Immigration and Solicitor General of Canada (FC)

NATURE OF THE CASE

Immigration Law - Security certificate - Right to appeal interlocutory order - Whether there is there any right to appeal interlocutory orders pursuant to s. 27(1)(c) of the *Federal Court Act*, in a security certificate review mandated pursuant to ss. 76-83 of *IRPA*. If so, what is the scope of the right and is there any limitation to that right - Whether the most basic freedoms accorded to persons in Canada are trumped by “national security” - *Immigration and Refugee Protection Act*, S.C. 2001, c. 27.

PROCEDURAL HISTORY

January 6, 2004 Federal Court of Canada, Trial Division (Blais J.)	Applicant’s motion for disclosure, dismissed
April 1, 2004 Federal Court of Appeal (Strayer, Evans and Sexton JJ.A.)	Respondents’ motion to quash appeal from decision not to disclose additional information, granted; Applicant’s motion to stay the review of the certificate pending his appeals at the Court of Appeal for Ontario and the Federal Court of Appeal, dismissed
May 28, 2004 Supreme Court of Canada	Application for leave to appeal filed
July 27, 2004 Supreme Court of Canada (Bastarache J.)	Applicant’s application for stay and consolidation with file no. 30427, dismissed

Her Majesty the Queen

v. (30178)

Sharon Lorraine Zwicker (N.S.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Fundamental rights - Self-incrimination - Whether admission into evidence of the Respondent's statement compelled pursuant to the *Motor Vehicles Act*, R.S.N.S. 1989, c. 293 would breach her rights under s. 7 of the *Charter* - Whether the mere possibility of the imposition of a period of imprisonment in default of payment of a fine constitutes a real or imminent deprivation of liberty so as to infringe s.7 of the *Charter* - Does the decision of the Supreme Court in *R. v. White*, [1999] 2 S.C.R. 417 apply in a regulatory context where factors relating to the existence of coercion, potential abuse of power and the existence of an adversarial relationship differ significantly from those found in *R. v. White* - Does the fact that a *Charter* remedy is sought without a challenge to the constitutionality of legislation or regulations permit a Court to dismiss consideration of the application of s.1 of the *Charter* - If it is possible for a Court, pursuant to s.24(1) of the *Charter*, to structure a remedy which would obviate any possibility of a breach of *Charter* rights while permitting a determination of the case on the merits, is the granting of a remedy which precludes a determination of the case on the merit appropriate and just in the circumstances.

PROCEDURAL HISTORY

January 16, 2003 Provincial Court of Nova Scotia (MacDonald J.)	Respondent acquitted of failing to stop at the scene of an accident and failing to yield a right-of-way: admission of Respondent's statutorily compelled statement would be a breach of Respondent's s.7 <i>Charter</i> rights
December 12, 2003 Nova Scotia Court of Appeal (Glube C.J.N.S., Saunders and Hamilton JJ.A.)	Appeal dismissed
February 10, 2004 Supreme Court of Canada	Application for leave to appeal filed
April 13, 2004 Supreme Court of Canada (Deschamps J.)	Motion to extend time to file and/or serve leave application to March 1, 2004, granted

Andrew Pinkerton and Laura Pinkerton

v. (30431)

Attorney General of Canada (FC)

NATURE OF THE CASE

Procedural law - Evidence - Reconsideration - Employment Insurance benefits - Volunteer work - Reliability of facts underpinning search warrant - Whether the Applicants meet the "new facts" test for reconsideration of an Umpire's decision - Whether the Applicants meet the test of due diligence in the submission of new facts - Whether the Federal Court of Appeal made any reviewable errors.

PROCEDURAL HISTORY

January 16, 2002 Board of Referees, Employment Insurance	Disentitlement to benefits pursuant to ss. 8 and 10 of the <i>Unemployment Insurance Act</i> upheld
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APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

(Vallée, Chairperson, Joly and McArthur, Members)

September 23, 2002
Office of the Umpire
(Forget, Umpire)

Appeal dismissed

April 11, 2003
Office of the Umpire
(Forget, Umpire)

Applicants' application for reconsideration, denied

May 12, 2004
Federal Court of Appeal
(Stone, Nadon, and Sharlow JJ.A)

Applications for judicial review dismissed

July 8, 2004
Supreme Court of Canada

Application for leave to appeal filed

SEPTEMBER 2, 2004 / LE 2 SEPTEMBRE 2004

30297 **Robert H. Nelson, Founder President of Public Defenders for himself and as representative of all those also improperly denied benefits v. Her Majesty the Queen as represented by the Right Honourable Paul Martin** (FC) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Federal Court of Canada, Trial Division, Number 04-T-9, dated April 14, 2004, is quashed for want of jurisdiction.

La demande d'autorisation d'appel de l'arrêt de la Cour fédérale du Canada, Section de première instance, numéro 04-T-9, daté du 14 avril 2004, est cassée vue l'absence de juridiction.

NATURE OF THE CASE

Procedural law - Did lower court err in disposition of case?

PROCEDURAL HISTORY

April 14, 2004 Federal Court of Canada (Tremblay-Lamer J.)	Applicant's motion dismissed
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April 20, 2004 Supreme Court of Canada	Application for leave to appeal filed
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30315 **Robert H. Nelson, Founder President of Public Defenders for himself and as representative of all those also improperly denied benefits v. Her Majesty the Queen as represented by the Right Honourable Paul Martin** (FC) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Federal Court of Canada, Trial Division, Number 04-T-12, dated April 28, 2004, is quashed for want of jurisdiction.

La demande d'autorisation d'appel de l'arrêt de la Cour fédérale du Canada, Section de première instance, numéro 04-T-12, daté du 28 avril 2004, est cassée vue l'absence de juridiction.

NATURE OF THE CASE

Procedural law - Did lower court err in disposition of case?

PROCEDURAL HISTORY

April 28, 2004 Federal Court of Canada (Martineau J.)	Applicant's motion for leave to commence proceedings denied
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May 14, 2004
Supreme Court of Canada

Application for leave to appeal filed

30259 **Doug Collins v. Attorney General of British Columbia** (B.C.) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA030510, dated February 13, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA030510, daté du 13 février 2004, est rejetée.

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil rights - Human rights - Procedural law - Standing - Mootness - Whether executor and beneficiary can continue her deceased husband's constitutional challenge - Whether the lower court decisions are in error on the issue of mootness regarding the constitutional challenge to the enabling legislation of section 7, subsection 1(b) of the *Human Rights Code*, R.S.B.C. 1996, c. 210.

PROCEDURAL HISTORY

December 20, 2002
Supreme Court of British Columbia
Smith J.

Respondent's order granted: Applicant's application for judicial review dismissed

February 13, 2004
Court of Appeal for British Columbia
(Finch C.J.B.C., Lambert and Hollinrake JJ.A.)

Appeal dismissed

April 2, 2004
Supreme Court of Canada

Application for leave to appeal filed

30267 **The Rose Corporation, Toronto Film Studios Inc., Bluefield Development Inc., 1450755 Ontario Inc., and 1450756 Ontario Onc. v. American Home Assurance Company** (Ont.) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C40059, dated February 6, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C40059, daté du 6 février 2004, est rejetée avec dépens.

NATURE OF THE CASE

Property law - Real property - Commercial law - Insurance - Does the absence of an equitable interest in premises negate the ability of a purchaser under binding agreement of purchase and sale to be an "owner" under a policy of insurance, pending closing of the transaction?

PROCEDURAL HISTORY

April 29, 2003 Ontario Superior Court of Justice (Benotto J.)	Applicants' application for a declaration of the extent of insurance coverage provided by an insurance policy, allowed
February 6, 2004 Court of Appeal for Ontario (Moldaver, MacPherson and Simmons JJ.A.)	Appeal allowed
April 6, 2004 Supreme Court of Canada	Application for leave to appeal filed

30333 **Cadnet Productions Inc. A Canadian Incorporated Company, William Robert Bell v. Her Majesty the Queen** (FC) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for extension of time is granted and the application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-5-03, dated February 27, 2004, is dismissed with costs.

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-5-03, daté du 27 février 2004, est rejetée avec dépens.

NATURE OF THE CASE

Canadian Charter (civil) - Torts - Taxation - Evidence - Crown - Torts by and against Crown - Tort of Misfeasance in Public Office - Negligence - Assessment - Whether the lower courts erred in its findings on the issue of misfeasance in a public office? - Whether the Respondent was negligent in its attempts to recover an overpayment of employment insurance benefits?

PROCEDURAL HISTORY

December 9, 2002 Federal Court of Canada, Trial Division (Hansen J.)	Applicant Cadnet claim for damages for alleged illegal action in attempting to recover an overpayment of employment insurance benefits made to its president, dismissed; Applicant Bell was awarded \$750 in general damages to compensate for additional stress
February 27, 2004 Federal Court of Appeal (Décary, Létourneau and Evans JJ.A.)	Appeal dismissed; Respondent's cross-appeal dismissed
April 30, 2004 Supreme Court of Canada	Applications for an extension of time and leave to appeal filed

30245 **Canadian Union of Public Employees, Local 3373 v. Queen's County Residential Services Inc.**
(P.E.I.) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Supreme Court of Prince Edward Island, Appeal Division, Number S1-AD-0997, dated January 28, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour suprême de l'Île-du-Prince-Édouard, Cour d'appel, numéro S1-AD-0997, daté du 28 janvier 2004, est rejetée.

NATURE OF THE CASE

Administrative law - Judicial review - Standard of review - Arbitration - Arbitrability under collective agreement - Time limitation for referring a grievance to arbitration - Whether the majority of the Court of Appeal erred in applying a correctness standard rather than the standard of patent unreasonableness?

PROCEDURAL HISTORY

November 15, 2002
Supreme Court of Prince Edward Island, Trial Division
(Jenkins J.)

Respondent's application for judicial review of labour arbitration board's dismissal of its preliminary objection that Applicant's grievance was out of time allowed; Board decision set aside and declared a nullity.

January 28, 2004
Supreme Court of Prince Edward Island, Appeal Division
(Mitchell C.J.P.E.I., McQuaid [*dissenting*] and Webber J.J.A.)

Appeal dismissed

March 29, 2004
Supreme Court of Canada

Application for leave to appeal filed

30371 **Gregory Scott Hennick v. Children's Aid Society of Cape Breton** (N.S.) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Nova Scotia Court of Appeal, Number CA 205158, dated March 31, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Nouvelle-Écosse, numéro CA 205158, daté du 31 mars 2004, est rejetée.

NATURE OF THE CASE

Family law - Procedure - Whether an individual has the right to choose whom ever he chooses to represent him in a court of law? - Whether the Applicant had arguable issues for the Court of Appeal is leave to appeal was granted? - Whether the Applicant has the right to challenge the change of legislation concerning *Civil Procedure Rule 5.17(2)ii*.

PROCEDURAL HISTORY

June 17, 2003
Supreme Court of Nova Scotia, Trial Division
(Oland J.)

Applicant's application for extension of time to file notice of appeal granted, subject to conditions, and application to set a date for the hearing dismissed.

March 31, 2004
Nova Scotia Court of Appeal
(Fichaud, Freeman and Saunders JJ.A.)

Application for leave to appeal dismissed

May 27, 2004
Supreme Court of Canada

Application for leave to appeal filed

16.8.2004

Before / Devant : THE REGISTRAR

Motion to extend the time in which to serve and file the respondent's record, factum and book of authorities

Requête en prorogation du délai imparti pour signifier et déposer les dossier, mémoire et recueil de sources de l'intimé

Joanne Leonelli-Contino

v. (30100)

Joseph Contino (Ont.)

GRANTED / ACCORDÉE Time extended to October 29, 2004.

16.8.2004

Before / Devant : THE REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et déposer la réponse de l'intimé

Her Majesty the Queen

v. (30349)

Thomas Turcotte (B.C.) (Crim.)

GRANTED / ACCORDÉE Time extended to July 19, 2004.

17.8.2004

Before / Devant : MAJOR J.

Motion to extend the time in which to serve and file the factum, affidavit and book of authorities of the intervener the Canadian Generic Pharmaceutical Association and to present oral argument

Requête en prorogation du délai imparti pour signifier et déposer les mémoire, affidavit et recueil de sources de l'intervenante l'Association canadienne du médicament générique, et pour présenter une plaidoirie

Biolyse Pharma Corporation

v. (29823)

Bristol-Myers Squibb Company, et al. (FC)

GRANTED IN PART / ACCORDÉE EN PARTIE

UPON APPLICATION by the intervener, Canadian Generic Pharmaceutical Association, for an order extending the time to serve and file its factum, affidavit and book of authorities to August 20, 2004 and for an order permitting the Canadian Generic Pharmaceutical Association to present oral argument at the hearing of this appeal.

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

- 1) The motion to extend the time to serve and file the factum, affidavit and book of authorities of the Canadian Generic Pharmaceutical Association to August 20, 2004 is granted.
- 2) The request to present oral argument is dismissed.
- 3) Costs of this application are awarded to the respondents to be paid by the intervener Canadian Generic Pharmaceutical Association.

20.8.2004

Before / Devant : THE REGISTRAR

**Motion to withdraw as solicitor for the respondent
(Daniel Paquin)**

**Requête visant à cesser de représenter l'intimée
(Daniel Paquin)**

Ville de Montréal

c. (29413)

2952-1366 Québec Inc. (Qc)

GRANTED / ACCORDÉE

25.8.2004

Before / Devant : THE REGISTRAR

Motion to reimburse the security deposit

**Requête en vue d'obtenir le remboursement du
cautionnement**

Maurice Chevette

c. (21697)

Paul Émile Lapointe, et al. (Qc)

GRANTED / ACCORDÉE The motion for the reimbursement of the \$500 security deposit is granted.

25.8.2004

Before / Devant : THE REGISTRAR

Motion to adduce new evidence

**Requête visant à produire de nouveaux éléments de
preuve**

Muhammad Qureshi

v. (29938)

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

DISMISSED / REJETÉE

25.8.2004

Before / Devant : DESCHAMPS J.

Motions for leave to intervene

Requêtes en autorisation d'intervention

BY/PAR: Ligue des droits de la personne de
B'nai Brith Canada, PAGE
RWANDA et Canadian Centre for
International Justice,
Congrès juif canadien,
University of Toronto,
Faculty of Law -
International Human Rights
Clinic (IHRC) and Human
Rights Watch (HRW)

IN/DANS: Le ministre de la Citoyenneté et de
l'Immigration

c. (30025)

Léon Mugesera, et al. (CF)

GRANTED / ACCORDÉES

UPON APPLICATIONS by the League for Human Rights of B'nai Brith Canada, Page Rwanda, the Canadian Centre for International Justice and the Canadian Jewish Congress, the University of Toronto, Faculty of Law - International Human Rights Clinic and Human Rights Watch, for leave to intervene in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion for leave to intervene of the applicants, the League for Human Rights of B'nai Brith Canada, Page Rwanda, the Canadian Centre for International Justice, is granted and the applicants shall be entitled to serve and file a joint factum not to exceed 20 pages in length.

The motion for leave to intervene of the applicants, the Canadian Jewish Congress, the University of Toronto, Faculty of Law - International Human Rights Clinic and Human Rights Watch, is granted and the applicants shall be entitled to serve and file a joint factum not to exceed 20 pages.

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

The interveners shall not be entitled to raise new issues or to adduce further evidence or otherwise to supplement the record of the parties.

Pursuant to Rule 59(1)(a) the interveners shall pay to the appellant and respondents any additional disbursements occasioned to the appellant and respondent by their intervention.

IT IS HEREBY FURTHER ORDERED THAT:

The appellant is granted leave to file a single 20 pages reply factum within 20 days of the service of the interveners factum.

La demande d'autorisation d'intervenir présentée par la Ligue des droits de la personne de B'nai Brith Canada, Page Rwanda, Canadian Centre for International Justice est accordée; les requérantes auront le droit de signifier et déposer un mémoire conjoint de 20 pages.

La demande d'autorisation d'intervenir présentée par le Congrès juif canadien, University of Toronto, Faculty of Law - International Human Rights Clinic et Human Rights Watch est accordée; les requérantes auront le droit de signifier et déposer un mémoire conjoint de 20 pages.

Les demandes visant à présenter une plaidoirie seront examinées après la réception et l'examen de l'argumentation écrite des parties et des intervenants.

Les intervenants n'auront pas le droit de produire d'autres éléments de preuve ni d'ajouter quoi que ce soit au dossier des parties.

Conformément au par. 59(1)(a) des Règles de la Cour suprême du Canada, les intervenants paieront à l'appelant et aux intimés tous débours supplémentaires résultant de leur intervention.

IL EST EN OUTRE ORDONNÉ:

L'appelant est accordé le droit de signifier et de déposer un mémoire en réplique d'au plus de 20 pages au plus tard 20 jours de la signification des mémoires des intervenants.

25.8.2004

Before / Devant : THE REGISTRAR

Motion by the appellant to file lengthy factum

Requête visant le dépôt d'un long mémoire par l'appelant

Her Majesty the Queen

v. (30063)

Stephen Frederick Marshall, et al. (N.S.)

GRANTED IN PART / ACCORDÉE EN PARTIE

UPON APPLICATION by the appellant for an order permitting the filing of a lengthy factum, namely 75 pages;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

- 1) The motion is granted in part. The appellant shall be permitted to serve and file a factum not exceeding 60 pages in length.
- 2) The respondent shall be permitted to serve and file a factum not exceeding 60 pages in length.

25.8.2004

Before / Devant : THE REGISTRAR

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

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

Her Majesty the Queen

v. (30113)

Toronto Star Newspapers Limited, et al. (Ont.)

GRANTED / ACCORDÉE Time to serve and file the factum extended to August 16, 2004. Time to serve and file the book of authorities extended to August 18, 2004.

26.8.2004

Before / Devant : DESCHAMPS J.

Motion to extend the time in which to serve and file the respondent's record, factum and book of authorities and to present oral argument at the hearing of the appeal

Requête en prorogation du délai imparti pour signifier et déposer les dossier, mémoire et recueil de sources de l'intimée et pour présenter une plaidoirie lors de l'audition de l'appel

Her Majesty the Queen

v. (29965)

Lynn Fice (Ont.) (Crim.)

GRANTED / ACCORDÉE

UPON APPLICATION by the respondent for an order extending the time to serve and file its factum, record and book of authorities to August 10, 2004, and for an order permitting the respondent to present oral argument at the hearing of this appeal.

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion is granted.

26.8.2004

Before / Devant : DESCHAMPS J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY/PAR: Fédération des producteurs de bois du Québec et Fédération canadienne des propriétaires de boisés

IN/DANS: Raynald Grenier

c. (30194)

Sa Majesté la Reine (CF)

DISMISSED / REJETÉE

À LA SUITE DE LA DEMANDE de la Fédération des producteurs de bois du Québec et la Fédération canadienne des propriétaires de boisés visant à obtenir l'autorisation d'intervenir dans la demande d'autorisation d'appel susmentionné;

ET APRÈS AVOIR LU la documentation déposée;

L'ORDONNANCE SUIVANTE EST RENDUE;

La demande d'autorisation d'intervenir présentée par la Fédération des producteurs de bois du Québec et la Fédération canadienne des propriétaires de boisés est rejetée (*Balvir Singh Multani c. Commission scolaire Marguerite-Bourgeoys, et al.*(30322) (22 juin 2004); *ING Canada Inc. c. Aegon Canada Inc., et al* (30170) (29 mars 2004); *Les Constructions du Saint-Laurent Ltée c. Aluminerie Alouette Inc.* (30056) (22 janvier 2004) et *R. c. Krystopher Krymowski, et al.* (29865) (23 septembre 2003)) sans préjudice du droit de la demanderesse de demander l'autorisation d'intervenir à l'appel, si l'autorisation d'appel est accordée.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

26.8.2004

Francisco Batista Pires

v. (30151)

Her Majesty the Queen (B.C.)

(By leave and As of Right)

26.8.2004

Martin Jacques Dionne

v. (30488)

Her Majesty the Queen (B.C.)

(As of Right)

27.8.2004

Mikisew Cree First Nation

v. (30246)

Sheila Copps, Minister of Canadian Heritage (FC)

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

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

23.8.2004

BY/PAR: Procureur général du Québec

IN/DANS: **Her Majesty the Queen**

v. (30063)

**Stephen Frederick
Marshal, et al.**

23.8.2004

BY/PAR: Procureur général du Québec

IN/DANS: **Her Majesty the Queen**

v. (30005)

Joshua Bernard

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

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

1.09.2004

**Director, Income Maintenance Branch, Ministry of
Community and Social Services, et al.**

v. (29294)

Sandra Falkiner, et al. (Ont.)

(Appeal)

DEADLINES: APPEALS

DÉLAIS : APPELS

The Fall Session of the Supreme Court of Canada will start October 4, 2004.

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

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.

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'automne de la Cour suprême du Canada commencera le 4 octobre 2004.

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:

Le dossier de l'appellant, 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'appellant.

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.

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.

THE STYLES OF CAUSE IN THE PRESENT TABLE ARE THE STANDARDIZED STYLES OF CAUSE (AS EXPRESSED UNDER THE "INDEXED AS" ENTRY IN EACH CASE).

Judgments reported in [2004] 1 S.C.R. Part 3

Foster Wheeler Power Co. v. Société intermunicipale de gestion et d'élimination des déchets (SIGED) inc., [2004] 1 S.C.R. 456, 2004 SCC 18

Gifford v. Canada, [2004] 1 S.C.R. 411, 2004 SCC 15

Hartshorne v. Hartshorne, [2004] 1 S.C.R. 550, 2004 SCC 22

John Doe v. Bennett, [2004] 1 S.C.R. 436, 2004 SCC 17

Penetanguishene Mental Health Centre v. Ontario (Attorney General), [2004] 1 S.C.R. 498, 2004 SCC 20

Pinet v. St. Thomas Psychiatric Hospital, [2004] 1 S.C.R. 528, 2004 SCC 21

R. v. Cheddesingh, [2004] 1 S.C.R. 433, 2004 SCC 16

United Taxi Drivers' Fellowship of Southern Alberta v. Calgary (City), [2004] 1 S.C.R. 485, 2004 SCC 19

Judgments reported in [2004] 1 S.C.R. Part 4

Alberta Union of Provincial Employees v. Lethbridge Community College, [2004] 1 S.C.R. 727, 2004 SCC 28

Bank of Nova Scotia v. Thibault, [2004] 1 S.C.R. 758, 2004 SCC 29

Cartaway Resources Corp. (Re), [2004] 1 S.C.R. 672, 2004 SCC 26

Garland v. Consumers' Gas Co., [2004] 1 S.C.R. 629, 2004 SCC 25

Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Communauté urbaine de Montréal, [2004] 1 S.C.R. 789, 2004 SCC 30

LES INTITULÉS UTILISÉS DANS CETTE TABLE SONT LES INTITULÉS NORMALISÉS DE LA RUBRIQUE "RÉPERTORIÉ" DANS CHAQUE ARRÊT.

Jugements publiés dans [2004] 1 R.C.S. Partie 3

Centre de santé mentale de Penetanguishene c. Ontario (Procureur général), [2004] 1 R.C.S. 498, 2004 CSC 20

Gifford c. Canada, [2004] 1 R.C.S. 411, 2004 CSC 15

Hartshorne c. Hartshorne, [2004] 1 R.C.S. 550, 2004 CSC 22

Pinet c. St. Thomas Psychiatric Hospital, [2004] 1 R.C.S. 528, 2004 CSC 21

R. c. Cheddesingh, [2004] R.C.S. 433, 2004 CSC 16

Société d'énergie Foster Wheeler ltée c. Société intermunicipale de gestion et d'élimination des déchets (SIGED) inc., [2004] 1 R.C.S. 456, 2004 CSC 18

United Taxi Drivers' Fellowship of Southern Alberta c. Calgary (Ville), [2004] 1 R.C.S. 485, 2004 CSC 19

Untel c. Bennett, [2004] 1 R.C.S. 436, 2004 CSC 17

Jugements publiés dans [2004] 1 R.C.S. Partie 4

Alberta Union of Provincial Employees c. Lethbridge Community College, [2004] 1 R.C.S. 727, 2004 CSC 28

Banque de Nouvelle-Écosse c. Thibault, [2004] 1 R.C.S. 758, 2004 CSC 29

Cartaway Resources Corp. (Re), [2004] 1 R.C.S. 672, 2004 CSC 26

Garland c. Consumers' Gas Co., [2004] 1 R.C.S. 629, 2004 CSC 25

Québec (Commission des droits de la personne et des droits de la jeunesse) c. Communauté urbaine de Montréal, [2004] 1 R.C.S. 789, 2004 CSC 30

R. v. Fontaine,
[2004] 1 S.C.R. 702, 2004 SCC 27

R. c. Fontaine,
[2004] 1 R.C.S. 702, 2004 CSC 27

R. v. Lohrer,
[2004] 1 S.C.R. 627, 2004 SCC 24

R. c. Lohrer,
[2004] 1 R.C.S. 627, 2004 CSC 24

Voice Construction Ltd. v. Construction & General
Workers' Union, Local 92,
[2004] 1 S.C.R. 609, 2004 SCC 23

Voice Construction Ltd. c. Construction & General
Workers' Union, Local 92,
[2004] 1 R.C.S. 609, 2004 CSC 23

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2004 -

10/06/04

OCTOBER - OCTOBRE						
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 31	25	26	27	28	29	30

NOVEMBER - NOVEMBRE						
S D	M L	T M	W M	T J	F V	S S
	M 1	2	3	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	2	3	4
5	M 6	7	8	9	10	11
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26	H 27	H 28	29	30	31	

- 2005 -

JANUARY - JANVIER						
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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30	31					

FEBRUARY - FÉVRIER						
S D	M L	T M	W M	T J	F V	S S
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MARCH - MARS						
S D	M L	T M	W M	T J	F V	S S
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6	M 7	8	9	10	11	12
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27	H 28	29	30	31		

APRIL - AVRIL						
S D	M L	T M	W M	T J	F V	S S
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10	M 11	12	13	14	15	16
17	18	19	20	21	22	23
24	25	26	27	28	29	30

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

JUNE - JUIN						
S D	M L	T M	W M	T J	F V	S S
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5	M 6	7	8	9	10	11
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19	20	21	22	23	24	
25	26	27	28	29	30	

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

M
H

18 sitting weeks/semaines séances de la cour

88 sitting days/journées séances de la cour

9 motion and conference days/ journées
requêtes.conférences

2 holidays during sitting days/ jours fériés
durant les sessions

