

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

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

Aerotech Herman Nelson Inc., et al.

Richard J. Handlon
Pitblado

v. (30448)

Kellogg Brown & Root Inc. (Man.)

David J. Kroft
Fillmore Riley

FILING DATE: 03.8.2004

Raymond Joseph Morrison

Raymond Joseph Morrison

v. (30461)

Her Majesty the Queen (Man.)

Gregg Lawlor
Attorney General of Manitoba

FILING DATE: 04.8.2004

Estela de Araujo

William S. Berardino, Q.C.
Berardino & Harris

v. (30450)

Kenneth C. Read (B.C.)

Scott B. Stewart
Stewart & Company

FILING DATE: 05.8.2004

The Corporation of the City of Kingston, et al.

Peter K. Doody
Borden Ladner Gervais LLP

v. (30452)

Her Majesty the Queen (Ont.)

Jerry Herlihy
Attorney General of Ontario

FILING DATE: 09.8.2004

Iris Plamondon, et al.

James A. Wachowich
Wachowich & Company

v. (30455)

Russel Czaban (Alta.)

Jerry D. Kiriak

FILING DATE: 09.8.2004

Eryn Fitzgerald, et al.

Charles B. Davison
Abbey Hunter Davison Spencer

v. (30453)

Her Majesty the Queen in Right of Alberta (Alta.)

Margaret Unsworth
Attorney General of Alberta

FILING DATE: 10.8.2004

Rogers Communications Incorporated

Irwin G. Nathanson, Q.C.
Nathanson, Schachter & Thompson

v. (30462)

Sandra Buschau, et al. (B.C.)

John N. Laxton, Q.C.
Laxton & Company

and between

National Trust Company

Jennifer J. Lynch
Blake, Cassels & Grayden LLP

v. (30462)

Sandra Buschau, et al. (B.C.)

John N. Laxton, Q.C.
Laxton & Company

FILING DATE: 10.8.2004

Adrien Paquet, et al.

Marc Boulanger
Tremblay, Bois, Mignault & Lemay

c. (30457)

Alain Tardif, et al. (Qc)

Claude Jarry
McCarthy, Tétrault

DATE DE PRODUCTION: 11.8.2004

Michel Racine

Michel Pelletier

c. (30458)

Sa Majesté la Reine (Qc)

Pierre Beaudet
Procureur général du Québec

DATE DE PRODUCTION: 12.8.2004

Her Majesty the Queen

M. David Lepofsky
Attorney General of Ontario

v. (30459)

James Coultice, et al. (Ont.)

William E.M. Naylor

FILING DATE: 12.8.2004

Bachan Singh Sogi

Lorne Waldman
Waldman & Associates

v. (30469)

The Minister of Citizenship and Immigration (FC)

Ian Hicks
Attorney General of Canada

FILING DATE: 13.8.2004

Sharon Ann Mariani

Anna L. Towlson
Paquette, Travers & Deutschmann

v. (30465)

John Adrian Lemstra, et al. (Ont.)

Timothy P. Bates
Borden Ladner Gervais LLP

FILING DATE: 13.8.2004

Gerald M. Streisfield, et al.

Ronald B. Moldaver, Q.C.
Traub Moldaver

v. (30471)

Marvin Goodman, et al. (Ont.)

Robert A. Watson
Goodman and Carr LLP

FILING DATE: 13.8.2004

Victoria Steffen

E.F. Anthony Merchant, Q.C.
Merchant Law Group

v. (30468)

Rodney Breyer, et al. (Man.)

Michael G. Finlayson
D'Arcy & Deacon

FILING DATE: 16.8.2004

Via Rail Canada Inc.

John A. Campion
Fasken Martineau DuMoulin LLP

v. (30436)

George Cairns, et al. (FC)

Michael A. Church
Caley & Wray

and between

Brotherhood of Locomotive Engineers

James L. Shields
Shields & Hunt

v. (30436)

George Cairns, et al. (FC)

Michael A. Church
Caley & Wray

FILING DATE: 16.8.2004

Jean (Guy) Tremblay

Jean (Guy) Tremblay

v. (30466)

Her Majesty the Queen (Alta.)

Eric Tolppanen
Attorney General of Alberta

FILING DATE: 16.8.2004

Gina Zanetti, et al.

Gina Zanetti

v. (30470)

Bonniehon Enterprises Ltd., et al. (B.C.)

Lana K.L. Li
Kornfield Mackoff Silber

FILING DATE: 17.8.2004

**The Crown in Right of Alberta as represented by the
Minister responsible for Alberta Human Resources
and Employment**

Roderick Wiltshire
Attorney General of Alberta

v. (30449)

**The Director of the Human Rights and Citizenship
Commission (Alta.)**

Audrey Dean
Alberta Human Rights Commission and
Citizenship Commission

FILING DATE: 17.8.2004

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

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

AUGUST 23, 2004 / LE 23 AOÛT 2004

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

Jason Rochon

v. (30368)

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

NATURE OF THE CASE

Criminal Law (Non Charter) - Evidence - Trial - Defences - Jury Charge - Cross-examination - Domestic abuse - Party liability - Self-defence - Whether jury charge erred in suggesting that evidence concerning history of domestic abuse was essentially irrelevant - Whether jury charge erred in failing to adequately relate evidence of domestic abuse to the theory of the defence - Whether jury charge erred regarding defence of self-defence - Whether cross-examination by Crown counsel was abusive and compromised the fairness of the trial - Whether jury charge erred with respect to party liability on the basis of encouragement - Whether jury charge erred in failing to properly limit the use of statements attributed to an accused to implicate a co-accused.

PROCEDURAL HISTORY

December 22, 1995
Ontario Superior Court of Justice
(Chadwick J.)

Applicants convicted of first degree murder

April 8, 2003
Court of Appeal for Ontario
(Gillese, MacPherson and Simmons JJ.A.)

Appeal dismissed

May 10, 2004
Supreme Court of Canada

Applications for leave to appeal, extensions of time and to file a joint Memorandum filed

Bonnie McAuley

v. (30369)

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

NATURE OF THE CASE

Criminal Law (Non Charter) - Evidence - Trial - Defences - Jury Charge - Cross-examination - Domestic abuse - Party liability - Self-defence - Whether jury charge erred in suggesting that evidence concerning history of domestic abuse was essentially irrelevant - Whether jury charge erred in failing to adequately relate evidence of domestic abuse to the theory of the defence - Whether jury charge erred regarding defence of self-defence - Whether cross-examination by Crown counsel was abusive and compromised the fairness of the trial - Whether jury charge erred with respect to party liability on the basis of encouragement - Whether jury charge erred in failing to properly limit the use of statements attributed to an accused to implicate a co-accused.

PROCEDURAL HISTORY

December 22, 1995 Ontario Superior Court of Justice (Chadwick J.)	Applicants convicted of first degree murder
April 8, 2003 Court of Appeal for Ontario (Gillese, MacPherson and Simmons JJ.A.)	Appeal dismissed
May 10, 2004 Supreme Court of Canada	Applications for leave to appeal, extensions of time and to file a joint Memorandum filed

Keith Maydak

v. (30312)

Canada (Minister of Justice) and Canada (Minister of Citizenship and Immigration) (B.C.) (Crim.)

NATURE OF THE CASE

Criminal law (Non Charter) – Extradition – Judicial interim release – Applicant seeking judicial interim release, first, pending appeal of committal order and later, pending judicial review of Minister’s order to surrender, which applications were both denied by Court of Appeal – Whether, relying on s. 20(a) and s. 20(c) of the *Extradition Act*, a person can apply for judicial interim release at each stage listed in the statute, even if an application was made at an earlier stage – Whether, without relying on s. 20 of the *Extradition Act*, a person may apply for judicial interim release when their application arises from clear changes in circumstances, including inter alia, that the time spent in custody awaiting extradition will soon exceed the statutory maximum for the prospective sentence that could be imposed by the requesting state – Whether, if it does not allow for successive bail applications, section 20 of the *Extradition Act* unreasonably infringes upon s. 7 and s. 9 of the *Canadian Charter of Rights and Freedoms* to the extent it allows a person to be detained for longer than the maximum prospective sentence that the requesting state could lawfully impose?

PROCEDURAL HISTORY

November 19, 2002 Supreme Court of British Columbia (Maczko J.)	Applicant’s application for bail pending extradition hearing, dismissed (<i>U.S.A. v. Maydak</i>)
April 30, 2003 Supreme Court of British Columbia (Garson J.)	Motion for extradition granted (<i>U.S.A. v. Maydak</i>); Applicant under order of committal awaiting surrender, in accordance with s. 29(1)(b) of the <i>Extradition Act</i>
July 31, 2003 Court of Appeal for British Columbia (Hall J.A.)	Applicant’s application for judicial interim release pending appeal of committal order, dismissed
November 18, 2003 Minister of Justice	Surrender of Applicant to U.S.A., ordered
February 27, 2004 Court of Appeal for British Columbia (Huddart J.A.)	Applicant’s application for judicial interim release pending judicial review of Minister’s surrender order, dismissed; Respondents’ application for an order declining to hear

	Applicant's judicial review of refugee claim rejection and constitutional challenge, adjourned to panel hearing appeal
April 23, 2004 Supreme Court of Canada	Application for leave to appeal decision of Huddart J.A., filed
May 11, 2004 Court of Appeal for British Columbia	Applicant's appeal from committal order and application for judicial review of Minister's surrender order, heard; decision on reserve

Sandra Buschau, Sharon M. Parent and Albert Poy suing on the behalf and in a Representative capacity on behalf of all persons entitled to be beneficiaries of the Premier Communications Limited Pension Plan

v. (30331)

Rogers Communication Incorporated (formerly known as Rogers Cablesystems Incorporated), Rogers Cable T.V. Ltd. and National Trust Company (B.C.)

NATURE OF THE CASE

Administrative law - Remedies - Commercial Law - Interest - Contracts - Procedural Law - Judgments and orders - Whether the Court of Appeal erred on an important issue of law by overturning the two lower court judges and deciding that an agreement made between counsel many years earlier could be opened up and changed by the court.

PROCEDURAL HISTORY

September 25, 1998 Supreme Court of British Columbia (Lowry J.)	Respondents ordered to pay prejudgment interest at the rate that would have been earned had the amount taken remained in the fund.
June 17, 2003 Supreme Court of British Columbia (Lowry J.)	Respondents' application to amend an order, dismissed
October 7, 2003 Supreme Court of British Columbia (Groberman J.)	Respondents' application to amend an order, dismissed
March 12, 2004 Court of Appeal for British Columbia (Ryan, Newbury and Oppal JJ.A.)	Appeals allowed
May 10, 2004 Supreme Court of Canada	Application for leave to appeal filed

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

Her Majesty the Queen

v. (30349)

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

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Criminal law - Right to silence - Post-offence conduct - Cross-examination - Jury instruction - Does the right to silence extend to a situation when a person who is not detained or under investigation voluntarily elects to seek out and speak to police with respect to crimes of which the police have no knowledge? - Does the right to silence preclude the Crown from asking the trier of fact to draw inferences from what was knowingly omitted or not said by this person about these crimes prior to his detention?

PROCEDURAL HISTORY

August 1, 2001
Supreme Court of British Columbia
(Chamberlist J.)

Respondent convicted by judge and jury of three counts of second degree murder contrary to s. 235 of the *Criminal Code*

March 25, 2004
Court of Appeal for British Columbia
(Finch, Rowles and Huddart JJ.A.)

Appeal against conviction allowed: convictions set aside; new trial ordered

May 20, 2004
Supreme Court of Canada

Application for leave to appeal filed

Steven Carson

v. (30378)

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

NATURE OF THE CASE

Criminal law - Assault - Defences - Necessity - *De minimus non curat lex* - Whether the Court of Appeal erred in law in ruling that the defence of necessity to the charge of Assault was not available to the Applicant - Whether the Court of Appeal erred in law in ruling that the principle of "*de minimis non curat lex*" did not apply to the charge of Assault on which the Applicant was found guilty.

PROCEDURAL HISTORY

December 5, 2002
Ontario Superior Court of Justice
(Valin J.)

Applicant convicted of assault and breach of recognizance and sentenced to ten months incarceration

April 16, 2004
Court of Appeal for Ontario
(Weiler, Cronk and Gillette JJ.A.)

Appeal against conviction dismissed: appeal against sentence allowed and conditional discharge granted

June 10, 2004
Supreme Court of Canada

Application for leave to appeal filed

S.P.

v. (30385)

Director of Child Welfare for the province of Prince Edward Island (P.E.I.)

NATURE OF THE CASE

Family Law - Child protection - Permanent custody and guardianship - Whether the Court of Appeal erred in dismissing appeal granting Respondent permanent custody and guardianship of child

PROCEDURAL HISTORY

June 30, 2003
Supreme Court of Prince Edward Island (Trial Division)
(Matheson J.)

Respondent's application seeking permanent custody and guardianship, granted; Child found to be in need of protection

April 15, 2004
Supreme Court of Prince Edward Island (Appeal Division)
(Mitchell, C.J.P.E.I., McQuaid and Webber JJ.A.)

Appeal dismissed

June 14, 2004
Supreme Court of Canada

Application for leave to appeal and motion for stay filed

June 28, 2004
Supreme Court of Canada

Motion to extend time and motion to file lengthy memorandum filed

David John Sharpe

v. (30406)

Yvette Jacqueline Kirk (Man.)

NATURE OF THE CASE

Family Law - Child support - Imputed income for high income payor - Whether the learned motion's court justice and the majority of the Manitoba Court of Appeal Justices erred in applying the Federal Child Support Guidelines pursuant to the *Divorce Act*, 1985, in imputing income to the paying parent, and in determining that the table amount was appropriate on income over \$ 150,000.00 per year - Whether the learned dissenting Manitoba Court of Appeal Justice also erred in imputing income to the paying parent - Whether the learned Justices aforesaid erred in giving insufficient weight to the statutory objectives of child support - Whether the question involved herein is, by reason of its public importance, one that ought to be decided by the Supreme Court - Whether the question involved herein is of such a nature or significance as to warrant decision by the Supreme Court, in that the Federal Child Support Guidelines form the model for similar Provincial and Territorial enactments - *Federal Child Support Guidelines*, SOR/97-175

PROCEDURAL HISTORY

June 23, 2003
Court of Queen's Bench of Manitoba
(Mykle J.)

Respondent's application for variation of child support, granted; Applicant to pay child support pursuant to Alberta guidelines, in sum of \$2,935.86 per month

February 25, 2004
Court of Appeal of Manitoba
(Philp [dissenting] Freedman, Monnin JJ.A)

Appeal allowed in part; Applicant to pay child support pursuant to Ontario guidelines, in sum of \$2,701.33

June 22, 2004
Supreme Court of Canada

Application for leave to appeal filed

July 28, 2004
Supreme Court of Canada
Bastarache J.

Motion to extend time to file and/or serve the leave application to June 22, 2004, granted

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

AUGUST 26, 2004 / LE 26 AOÛT 2004

30191 **Yvonne Montague, Asquitte Montague, Andrea Montague, Yvette Montague, Bruce Montague, Jahvon Schurton, by his Litigation Guardian, Andrea Montague and Tiana Schurton, by her Litigation Guardian, Andrea Montague v. Bank of Nova Scotia - and between - Bank of Nova Scotia v. Yvonne Montague, Asquitte Montague, Andrea Montague, Yvette Montague, Bruce Montague, Jahvon Schurton, by his Litigation Guardian, Andrea Montague and Tiana Schurton, by her Litigation Guardian, Andrea Montague** (Ont.) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The applications for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C37146, dated January 7, 2004, are dismissed

Les demandes d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C37146, daté du 7 janvier 2004, sont rejetées.

NATURE OF THE CASE

Procedural law – Judgments and orders – Wrongful dismissal – Pay in lieu of notice – Employee wrongfully dismissed following workplace-related injuries and disability – Trial judge increasing award from 12 months pay in lieu of notice to 16 months following disclosure of employer's pre-trial offer of settlement made pursuant to Rule 49 of the *Ontario Rules of Civil Procedure* – Whether 16 months pay in lieu of notice reasonable – Whether Court of Appeal erred in interpreting caselaw as giving trial judge broad discretion to change her decision after considering offer to settle – Whether Court of Appeal decision in conflict with British Columbia Court of Appeal's treatment of a similar case – Whether decision of Court of Appeal will undermine confidence and trust in judges and bring the administration of justice into disrepute.

PROCEDURAL HISTORY

October 19, 2001 Ontario Superior Court of Justice (Chapnik J.)	Applicant Yvonne Montague's action in damages for wrongful dismissal allowed: order for the Respondent Bank of Nova Scotia to pay \$38,139.94 in lieu of 16 months notice, plus interest
January 7, 2004 Court of Appeal for Ontario (Weiler, Laskin and Goudge JJ.A.)	Appeal and cross-appeal dismissed
March 2, 2004 Supreme Court of Canada	First application for leave to appeal filed
March 8, 2004 Supreme Court of Canada	Second application for leave to appeal filed

30197 **Kevin James Millership v. Her Majesty the Queen in Right of the Attorney General of Canada and Her Majesty the Queen in Right of the Province 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 CA30551, dated January 7, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA30551, daté du 7 janvier 2004, est rejetée avec dépens.

NATURE OF THE CASE

Canadian charter- Civil rights - Whether s.523(3) of the *Local Government Act* R.S.B.C. 1996, c. 323, unlawfully and unconstitutionally subjects people in British Columbia to the medical treatment of public water fluoridation - Whether public water fluoridation under s. 523(2) unlawfully and unconstitutionally subjects people in British Columbia to state interference with their bodily integrity, poisons people in British Columbia and Canada with fluoride; subjects them to cruel and unusual treatment; and discriminates against those who (a) already ingest “optimal” daily amounts of fluoride (b) are formula-fed infants; (c) drink more than average amounts of water; (d) have kidney disorders and (e) have immediate side-effects to fluoridated water - Whether Court of Appeal failed to see that the “mainstream view” of public water fluoridation’s safety and effectiveness means little to nothing.

PROCEDURAL HISTORY

January 16, 2003 Supreme Court of British Columbia (Powers J.)	Applicant’s claims for damages for personal injuries and injunctions and declaratory relief to prevent continuing fluoridation of public water dismissed
January 7, 2004 Court of Appeal for British Columbia (Ryan, Donald and Oppal JJ.A.)	Appeal dismissed
March 3, 2004 Supreme Court of Canada	Application for leave to appeal filed

30202 **Janssen-Ortho Inc. v. Minister of Health and Attorney General of Canada** (FC) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-171-03, dated February 9, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-171-03, daté du 9 février 2004, est rejetée avec dépens.

NATURE OF THE CASE

Administrative law - Judicial review - Property law - Patents - *Patented Medicines (Notice of Compliance) Regulations*, SOR 193-133, as amended by SOR/98-66 - Patent register - Decision of Minister to delist Duragesic fentanyl patches - Whether patch should be listed on the patent register and given the same patent protection as other patented drug products.

PROCEDURAL HISTORY

March 7, 2003 Federal Court of Canada, Trial Division (Heneghan J.)	Application for judicial review dismissed
February 9, 2004 Federal Court of Appeal (Rothstein, Evans and Pelletier JJ.A.)	Appeal dismissed
April 13, 2004 Supreme Court of Canada	Application for leave to appeal filed

30228 **Larry Fisher v. Her Majesty the Queen** (Sask.) (Criminal) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal for Saskatchewan, Number 2003 SKCA 90, C.A. 22, dated September 29, 2003, is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Saskatchewan, numéro 2003 SKCA 90, C.A. 22, daté du 29 septembre 2003, est rejetée.

NATURE OF THE CASE

Criminal law (non *Charter*) - Evidence - Whether the Court of Appeal erred by finding the charge to the jury on the DNA evidence satisfactory - Whether the Court of Appeal erred by upholding the trial judge's ruling regarding similar fact evidence.

PROCEDURAL HISTORY

September 29, 2003 Court of Appeal for Saskatchewan (Cameron, Gerwing and Sherstobitoff JJ.A.)	Appeal dismissed
March 24, 2004 Supreme Court of Canada	Applications for leave to appeal filed and for an extension of time

30252 **Faidy Fouad Naguib v. Her Majesty the Queen** (FC) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-138-03, dated January 27, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-138-03, daté du 27 janvier 2004, est rejetée avec dépens.

NATURE OF THE CASE

Taxation - Assessment - Statutes - Interpretation - Did the Respondent have the onus of establishing the facts justifying a reassessment made outside the “normal reassessment period”, even though neither party raised the “normal reassessment period” issue at Tax Court- Did the lower courts err in concluding, for the purposes of section 163(2) penalties under the *Income Tax Act*, R.S.C. 1985, (5th Supp.), c. 1, as amended, that the Applicant had “failed to report his income” - Did the learned Tax Court Judge reverse the onus with respect to proof relating to section 163(2) penalties? - Appellate court review.

PROCEDURAL HISTORY

February 7, 2003 Tax Court of Canada (Bowie J.)	Applicant’s appeals from tax assessments made under the <i>Income Tax Act</i> for the 1992, 1993, 1994 and 1995 taxation years, dismissed
January 27, 2004 Federal Court of Appeal (Strayer, Sexton and Evans JJ.A.)	Appeal dismissed
March 26, 2004 Supreme Court of Canada	Application for leave to appeal filed

30258 **Timothy Wilford v. Her Majesty the Queen** (Ont.) (Criminal) (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 C40169, dated February 2, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C40169, daté du 2 février 2004, est rejetée.

NATURE OF THE CASE

Canadian Charter - Criminal - Impaired driving - Care or control - Whether the Applicant was in care or control of his vehicle so as to be able to cause the vehicle to become a danger whether by putting it in motion or in some other way - Whether the law of right to counsel should be clarified relating to the question and answer period between the first and second breath samples - Whether the Applicant’s arrest was lawful and whether the Crown failed to show the demand for a breath sample of the Applicant was reasonable.

PROCEDURAL HISTORY

April 19, 2002 Ontario Court of Justice (Brophy J.)	Applicant convicted of impaired driving and having care or control of a motor vehicle with more than 80 mg of alcohol per 100 ml of blood contrary to sections 253(a) and (b) of the <i>Criminal Code</i>
May 15, 2003 Ontario Superior Court of Justice (Snowie J.)	Summary conviction appeal dismissed

February 2, 2004
Court of Appeal for Ontario
(Sharpe, Armstrong and Blair JJ.A.)

Appeal dismissed

April 2, 2004
Supreme Court of Canada

Application for leave to appeal filed

30271 **V. (Q.V) v. Her Majesty the Queen** (Ont.) (Criminal) (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 C37694, dated February 10, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C37694, daté du 10 février 2004, est rejetée.

NATURE OF THE CASE

Criminal law - Appeals - Trial - Burden of proof - Whether Court of Appeal for Ontario erred in applying section 686(1)(b)(iii) of the *Criminal Code* to a verdict reached by a trial judge sitting alone where the judge was found by the Court of Appeal to have reversed the burden of proof.

PROCEDURAL HISTORY

October 5, 2001
Ontario Court of Justice
(Rosemay J.)

Conviction: assault with a weapon and wounding

February 10, 2004
Court of Appeal for Ontario
(Rosenberg, Moldaver and Simmons JJ.A.)

Appeal dismissed

April 13, 2004
Supreme Court of Canada

Application for leave to appeal filed

30276 **Ken Pauli, Linda and Keith Barker, Ruth E. Cabrera, Tracey Connatty, Carla Church and David Dressel, Heather Davies (formerly known as Lee), Shawn Eckes, Tanya Ellis, Ellen Evangeliston, Jonathan Helm, Tammy Marie Helwig, Brad Henderson, Grace Lee, Perry Lindberg, Ryan Manson, Ervin Martens, Bill Oldynski, Doug Sandor, Darlene Schile, Wilbert Leslie Short, Bruce F. Smith, Katherine Strugari, Giselle Tetrault, Dawn Titterington and Morley Walbaum v. Ace INA Insurance Company, Ace INA Insurance, Alberta Motor Association Insurance Company, Allianz Insurance Company of Canada, Allstate Insurance Company of Canada, Allstate Insurance Company, American Bankers Insurance Company of Florida, American Home Assurance Company, American Reinsurance Company, American Road Insurance Company, Ascentus Insurance Ltd., AXA Corporate Solutions Assurance, AXA Insurance of Canada, AXA Pacific Insurance Company, Belair Insurance Company Inc., BCCA Insurance Corporation, Canadian Northern Shield Insurance Company, Canadian Petroleum Insurance Exchange, CGU Insurance Company of Canada, CGU International Insurance Company, Centennial Insurance Company, Certas Direct Insurance Company, Chubb Insurance Company of Canada, Citadel General Assurance Company, Commerce and Industry Insurance Company of Canada, The**

Commerce Group Insurance Company, Continental Casualty Company, The Continental Insurance Company, Co-operators General Insurance Company, Commonwealth Insurance Company, Coseco Insurance Company, Cumis General Insurance Company, DaimlerChrysler Insurance Company, The Dominion of Canada General Insurance Company, Economical Mutual Insurance Company, Eagle Star Insurance Company Ltd., Ecclesiastical Insurance Office Public Limited Company, Echelon General Insurance Company, Everest Insurance Company of Canada, Elite Insurance Company, Employers Insurance Company of Wausau, A Mutual Company, Federated Insurance Company of Canada, Federation Insurance Company of Canada, Federal Insurance Company, First North American Insurance Company, Gerling Canada Insurance Company, Gore Mutual Insurance Company, Grain Insurance and Guarantee Company, Great American Insurance Company, Great American Insurance Company of New York, The Guarantee Company of North American, The Halifax Insurance Company, Hartford Fire Insurance Company, ING Novex Insurance Company of Canada, ING Wellington Insurance Company, ING Western Union Insurance Company, Innovative Insurance Corporation, Jevco Insurance Company, Kingsway General Insurance Company, Langdon Insurance Company, Liberty Insurance Company of Canada, Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Lloyd's Underwriters, Lombard General Insurance Company of Canada, Lombard Insurance Company, London and Midland General Insurance Company, London Guarantee Insurance Company, Loyalist Insurance Company, Lumbermans Mutual Casualty Company, Markel Insurance Company of Canada, Mennonite Mutual Insurance Co. (Alberta) Ltd., Millennium Insurance Company, The Missisquoi Insurance Company, Royal & Sun Alliance Insurance Company of Canada, HSBC Canadian Direct Insurance Incorporated, Markham General Insurance Company, Mitsui Marine and Fire Insurance Company Limited, Mitsui Sumitomo Insurance Company Ltd., Motors Insurance Corporation, Nationwide Mutual Insurance Company, New Hampshire Insurance Company, Niagara Fire Insurance Company, The Nippon Fire & Marine Insurance Company Limited, Nipponkoa Insurance Company Ltd., The Nordic Insurance Company of Canada, North Waterloo Farmers Mutual Insurance Company, Old Republic Insurance Company of Canada, Optimum West Insurance Company, Peace Hills General Insurance Company, Pembroke Insurance Company, Peopleplus Insurance Company, The Personal Insurance Company of Canada, Perth Insurance Company, The Phoenix Insurance Company, The Portage la Prairie Mutual Insurance Company, Primmum Insurance Company, Protective Insurance Company, Progressive Casualty Insurance Company, Providence Washington Insurance Company, RBC General Insurance Company, Reliance Insurance Company, Saskatchewan Mutual Insurance Company, Scotia General Insurance Company, Scottish and York Insurance Co. Limited, Security Insurance Company of Hartford, Security National Insurance Company, Security Insurance Company of Hartford, Sentry Insurance a Mutual Company, The Sovereign General Insurance Company, Specialty National Insurance Company, St. Paul Fire and Marine Insurance Company, The State Farm Fire and Casualty Company, State Farm Mutual Automobile Insurance Company, The Sumitomo Marine and Fire Insurance Company Limited, TD General Insurance Company, Temple Insurance Company, Thompson General Insurance Incorporated, TIG Insurance Company, The Tokio Marine and Fire Insurance Company Limited, Traders General Insurance Company, Trafalgar Insurance Company of Canada, Transatlantic Reinsurance Company, Transit Insurance Company, Trans Global Insurance Company, Travelers Casualty and Surety Company of Canada, The Travelers Indemnity Company, Unifund Assurance Company, Utica Mutual Insurance Company, Virginia Surety Company Inc., Waterloo Insurance Company Limited, The Wawanesa Mutual Insurance Company, Western Assurance Company, The Yasuda Fire and Marine Insurance Company Limited, Zenith Insurance Company, XL Reinsurance America Inc., Zurich Insurance Company and John Doe Insurance Company - and between - Susan Reiger, on behalf of herself, and all other members of a class having a claim against the defendant ING Western Union Insurance Company v. ING Western Union Insurance Company (Alta.) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Calgary), Numbers, 0301-0125-AC and 0301-0284-AC, dated February 3, 2004, is dismissed with costs to the respondent The Dominion of Canada General Insurance Company on a party and party basis.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Calgary), numéros, 0301-0125-AC et 0301-0284-AC, datés du 3 février 2004, est rejetée avec dépens en faveur de l'intimée The Dominion of Canada General Insurance Company comme entre parties.

NATURE OF THE CASE

Commercial law - Insurance - Statutes - Interpretation - Deductibles - Salvage - Insured vehicle damaged beyond repair - Insurer pays actual cash value of vehicle before loss less deductible and takes title to salvage - Insured claiming deductible should not have been taken off actual cash value he received - Do the words "actual cash value" contained in Statutory Condition 4(7) of s. 614 of the Alberta *Insurance Act*, R.S.A. 2000, c. I-3 permit an insurance company to charge a deductible against the actual cash value in a total loss situation and keep the salvage - Contradictory interpretations by the Ontario Court of Appeal and the Alberta Court of Appeal.

PROCEDURAL HISTORY

February 7, 2003
Court of Queen's Bench of Alberta
(Rooke J.)

Applicant's application for legal determination : insurance company permitted to charge a deductible against the actual cash value in a total loss situation and keep the salvage pursuant to statutory condition 4(7) of the Alberta *Insurance Act*

February 27, 2004
Court of Appeal of Alberta
(Fruman, Wittmann and Rawlins JJ.A.)

Appeal dismissed

March 30, 2004
Supreme Court of Canada

Application for leave to appeal filed

30284 **Northern Alberta Institute of Technology Academic Staff Association v. Board of Governors of the Northern Alberta Institute of Technology** (Alta.) (Civil) (By Leave)

Coram: Major, Binnie and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Edmonton), Number 0203-0425-AC, dated February 18, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Edmonton), numéro 0203-0425-AC, daté du 18 février 2004, est rejetée.

NATURE OF THE CASE

Commercial Law - Labour Law - Property Law - Insurance - Trusts and trustees - Agency - Fiduciary duties - Collective agreement - Compensation - Insurance policies - Whether employer paid benefits form part of an employee's compensation? - What is the impact of the Court of Appeal's decision on collective bargaining? - What is the role of an employer in obtaining and maintaining an insurance policy? - Whether an employer has a legal interest in a group insurance policy? - Whether the Respondent was acting as an agent or in some other fiduciary capacity?

PROCEDURAL HISTORY

August 19, 2002 Court of Queen's Bench of Alberta (Wilson J.)	Applicant's action for entitlement granted; declaration: Applicant entitled to proceeds in the amount of \$825,837.81 as a result of the demutualization of the Respondent
February 18, 2004 Court of Appeal of Alberta (Côté, McFadyen and Clackson JJ.A.)	Appeal dismissed; question of <i>quantum</i> remitted to Court of Queen's Bench for redetermination
April 15, 2004 Supreme Court of Canada	Application for leave to appeal filed

30286 **Gabor L. Zsoldos v. Ontario Association of Architects, Hillel Roebuck, Brian Watkinson, Paul Martel, Frank Camenzuli, Christopher Shepherd, David Croft and Charles Greenberg** (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 C40306, dated February 9, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C40306, daté du 9 février 2004, est rejetée avec dépens.

NATURE OF THE CASE

Canadian Charter - Civil - Procedural Law - Civil Procedure - Whether the Court of Appeal erred in not allowing enough time for the Applicant to argue his case - Whether there is apprehension of bias created by appointments of judges to panels during the Applicant's previous appeals? - Whether there was a breach of ss. 7, 11(d), 15(1) and 24(1) of the *Charter* - Appearances of prejudgment of issues - *Charter* rights to pursuit of livelihood, fair and impartial court or tribunal, equal benefit of law without discrimination, and *Charter* remedies.

PROCEDURAL HISTORY

October 20, 1993 Discipline Committee of Ontario Association of Architects (Sievenpiper, Tawadros and Goldenberg, Members)	Applicant found guilty of professional misconduct; certificate of practice suspended for four months; Ordered to attend seminars, write exams and pay the sum of \$18,000
February 11, 1997 Ontario Court (General Division), Divisional Court (Southey J.)	Motion for extension of time to appeal order of October 20, 1993, dismissed
September 15, 1998 Discipline Committee of Ontario Association of Architects (Martel, Bacon and Camenzuli, Members)	Applicant's licence and certificate of practice suspended; Applicant ordered to pay the sum of \$20,000 for failure to comply with order of October 20, 1993

February 11, 1999 Ontario Court (General Division), Divisional Court (Rosenberg J.)	Motion to stay decision of September 15, 1998, dismissed
August 12, 1999 Ontario Superior Court, Divisional Court (MacFarland, Ferrier and Wrinkler, JJ.)	Motions to accept fresh evidence, to set aside order of February 11, 1999 and to stay appeal, dismissed; Appeal from decision of September 15, 1998, dismissed
August 27, 1999 Ontario Superior Court, Divisional Court (Nordheimer, J.)	Application for judicial review of decision of August 12, 1999, dismissed
February 22, 2000 Ontario Court of Appeal (Finlayson J.A.)	Motions to adjourn dismissed; Motion to extend time to appeal from decisions of August 12, 1999 and August 27, 1999, dismissed
July 6, 2000 Court of Appeal for Ontario (Finlayson J.A.)	Motion to adjourn re-hearing of decision of February 22, 2000, dismissed
July 6, 2000 Court of Appeal for Ontario (Morden, Catzman and Moldaver JJ.A.)	Motion to refuse adjournment affirmed; Decision of February 22, 2000 refusing extension of time, affirmed
May 31, 2001 Supreme Court of Canada (Gonthier, Major and Binnie JJ.)	Application for motion for extension of time, allowed; Application for leave to appeal, dismissed
May 13, 2002 Ontario Superior Court of Justice (Wright J.)	Applicant's action stayed and dismissed
June 28, 2002 Ontario Superior Court of Justice (Spiegel J.)	Applicant's motion to vary or set aside the order of Wright J., dismissed
June 12, 2003 Ontario Superior Court of Justice (O'Connell J.)	Applicant's motion for permission to examine a witness, dismissed; Applicant's motion for an order setting aside Wright J.'s decision, dismissed
February 9, 2004 Court of Appeal for Ontario (Laskin, Simmons and Armstrong JJ.A.)	Applicant's application to introduce fresh evidence, dismissed; Applicant's appeal dismissed
April 13, 2004 Supreme Court of Canada	Application for leave to appeal filed

30298 **John Susin v. Baker and Baker and Mang & Steinberg** (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 C39888, dated February 25, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C39888, daté du 25 février 2004, est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Action - Trial - *Rules of Civil Procedure* - Whether the motions judge had jurisdiction to dismiss the action for delay under all the circumstances - Whether a judge or, the Court of Appeal, can excuse the defendant's breach of the order of the court which ordered that the examinations for discovery be continued to completion - Whether a judge who hears submissions on the issues relating to a Rule 20 Motion, a Rule 21 Motion and Rule 24.01 Motion, declines to express an opinion on the alternate grounds under Rules 20 and 21, can he afterwards, rely upon grounds that may have been admissible on a Rule 20 Motion or, Rule 21 Motion, as support for his decision on the Rule 24.01 Motion? - Whether the Defendants were required to meet an evidentiary obligation to provide details of prejudice to them if the action were to proceed to trial, and as this onus met? - Whether the grounds for a Rule 24.01 Motion can include alleged adverse inferences drawn from underlying actions? Whether the Court of Appeal had jurisdiction to apply and make a decision on an issue that was not under appeal?

PROCEDURAL HISTORY

March 18, 2003 Ontario Superior Court of Justice (Henderson J.)	Respondents' motion for dismissal of the action, granted; Applicant's action dismissed
February 25, 2004 Court of Appeal for Ontario (Weiler, Sharpe and Blair JJ.A.)	Appeal dismissed
April 20, 2004 Supreme Court of Canada	Application for leave to appeal filed

30345 **Dianne Goulet v. Graham Howard** (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 M30508, dated March 12, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro M30508, daté du 12 mars 2004, est rejetée avec dépens.

NATURE OF THE CASE

Procedural Law - Appeal - Limitation of actions - Prescription - Discoverability - Whether the discoverability rule applies in the circumstances of this case? - Whether the deputy judge erred in not extending the limitation period pursuant to the *Limitations Act*, S.O. 2002, c. 24? - Whether the Respondent examined the condominium declaration? - Whether the

Respondent knew the implication in exchanging a parking space between unit 203 and 603 of the condominium? - Whether there was carelessness on behalf of the Applicant?

PROCEDURAL HISTORY

November 13, 2001 Ontario Superior Court of Justice (Galligan, Deputy Judge)	Applicant's action for damages for breach of contract and professional negligence, dismissed
May 9, 2003 Ontario Superior Court of Justice (Divisional Court) (McWilliam J.)	Appeal dismissed
March 12, 2004 Court of Appeal for Ontario (McMurtry C.J.O., Moldaver and Cronk JJ.A.)	Motion for leave to appeal dismissed
May 11, 2004 Supreme Court of Canada	Application for leave to appeal file

28863 **Mankeshwar Kurichh v. Financial Services Commission of Ontario and Allstate Insurance Company of Canada** (Ont.) (Civil) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number M27177, dated November 21, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro M27177, daté du 21 novembre 2003, est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Judgments and orders - Appeals - Motions for reconsideration - Whether the lower courts erred in refusing to review the Applicant's case in light of the Supreme Court of Canada's decision in *Smith v. Co-operators General Insurance Co.*, [2002] 2 S.C.R. 129.

PROCEDURAL HISTORY

March 16, 2001 Ontario Superior Court of Justice (Divisional Court) (Then, Carnwath and Blair JJ.)	Applicant's application for judicial review dismissed
August 20, 2001 Court of Appeal for Ontario (Laskin, Goudge and Simmons JJ.A.)	Applicant's motion for leave to appeal dismissed
March 14, 2002 Supreme Court of Canada (Gonthier, Major and LeBel JJ.)	Applicant's application for leave to appeal dismissed

November 14, 2002 Supreme Court of Canada	Applicant's motion for reconsideration not accepted for filing
April 9, 2003 Ontario Superior Court of Justice (Blair J.)	Applicant's application for judicial review dismissed
August 27, 2003 Court of Appeal for Ontario (Laskin, Goudge and Simmons JJ.A.)	Applicant's motion for reconsideration dismissed
December 29, 2003 Supreme Court of Canada	Applicant's application for leave to appeal filed

29938 **Muhammad Qureshi v. Her Majesty the Queen** (Que.) (Criminal) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-10-001676-996, dated February 26, 2003, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-10-001676-996, daté du 26 février 2003, est rejetée.

NATURE OF THE CASE

Criminal Law (Non Charter) - Appeal - Evidence - Trial - Curative Proviso - Whether the Court of Appeal erred in applying the *curative proviso* pursuant to s. 686(1)(b)(iii) of the *Criminal Code* R.S.C. c. C-46 ?- Whether irreparable damage was caused to the Applicant when the wrong criminal record was presented at his trial? - Whether the trial judge erred in allowing pending charges from a separate incident to be admitted as evidence for motive? - Whether the trial judge erred in his charge to the jury?

PROCEDURAL HISTORY

August 9, 1999 Superior Court of Québec (Criminal division) (Bellavance J.)	Applicant's request to have a certificate issued under s. 675(1)a(ii) of the Criminal Code, denied; Applicant found guilty of attempted murder and sentenced to 10 years imprisonment
February 26, 2003 Court of Appeal of Quebec (Proulx, Thibault and Rochette JJ.A)	Appeal dismissed; <i>curative proviso</i> applied
November 5, 2003 Supreme Court of Canada (Major J.)	Motion to extend the time to file and/or serve the leave application, granted
February 2, 2004 Supreme Court of Canada	Application for leave to appeal filed

April 20, 2004
Supreme Court of Canada
(Major J.)

Motion to extend the time to file and/or serve the leave
application, granted

30154 **Paramjit Singh Sodhi v. Her Majesty the Queen** (Ont.) (Criminal) (By Leave)

Coram: **Bastarache, LeBel and Deschamps JJ.**

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C28915, dated September 8, 2003, is dismissed.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C28915, daté du 8 septembre 2003, est rejetée.

NATURE OF THE CASE

Canadian Charter - Criminal - Right to counsel - Right to silence - Accused advised of rights under s. 10(b) of the Charter upon arrest and initial detention - Eight days later while in custody of officers en route to courthouse to be remanded and later en route to and from police station officers engage accused in conversations to elicit statements - Police do not give applicant a second s. 10(b) warning - Whether police undermined accused's right to counsel and right to remain silent.

PROCEDURAL HISTORY

December 17, 1997
Ontario Superior Court of Justice
(Morrison J.)

Applicant convicted of second degree murder; sentenced to
life imprisonment

September 8, 2003
Court of Appeal for Ontario
(Carthy, Moldaver and Feldman JJ.A.)

Appeal dismissed

January 30, 2004
Supreme Court of Canada

Application for leave to appeal filed and motion to extend
time

30156 **Allan Arthur Dunbar v. Her Majesty the Queen** (B.C.) (Criminal) (By Leave)

Coram: **Bastarache, LeBel and Deschamps JJ.**

The application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA027861, dated December 9, 2003, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA027861, daté du 9 décembre 2003, est rejetée.

NATURE OF THE CASE

Criminal Law (Non Charter) - Trial - Appeal - Solicitor incompetence - How to resolve factual disputes arising on appeal in affidavits, specifically whether trial counsel ignored instructions to call the accused and others as defence witnesses - Whether Court of Appeal erred by refusing a cross-examination of trial counsel on his affidavit - Whether accused bears an onus to prove trial counsel was unreasonable or caused prejudice - Whether Court of Appeal erred by applying a test

of prejudice to determine whether there was a reasonable probability the verdict would have been different had trial counsel followed instructions to call the accused and other witnesses to testify.

PROCEDURAL HISTORY

October 13, 2000 Supreme Court of British Columbia (Stromberg-Stein J.)	Applicant convicted of first degree, s. 235 of the <i>Criminal Code</i> .
December 9, 2003 Court of Appeal for British Columbia (Finch, Braidwood and Lowry JJ.A.)	Appeal dismissed
January 27, 2004 Supreme Court of Canada	Application for leave to appeal filed

30183 **Timothy Seiler and Sylvia Seiler v. Brouwer Claims Canada & Company Ltd., Martin V. Clingwall and Cromwell Restoration Ltd.** (B.C.) (Civil) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA 31295, dated December 19, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA 31295, daté du 19 décembre 2003, est rejetée avec dépens.

NATURE OF THE CASE

Torts - Negligence - Causation - Whether lower courts erred in holding that establishing a breach of a standard of care of anyone engaged in their occupation is a matter on which expert evidence is required - Is expert evidence necessary to establish causation in a negligence action? - Is the evidence of an expert necessary to determine a standard of care? - Did trial judge err by confusing, or alternatively merging, the scientific test for causation with the legal one - Whether trial judge erred in confusing or failing to distinguish the legal test for a no evidence motion and the legal test for a motion of insufficient evidence.

PROCEDURAL HISTORY

September 16, 2003 Supreme Court of British Columbia (Edwards J.)	Respondents' motion to have the action dismissed under Rule 40(8) <i>Rules of Court</i> granted
December 19, 2003 Court of Appeal for British Columbia (Finch C.J.B.C.)	Motion to extend time for service of the notice of appeal dismissed
February 17, 2004 Supreme Court of Canada	Application for leave to appeal filed

30184 **Issam Al Yamani v. The Minister of Citizenship & Immigration** (FC) (Civil) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-694-02, dated December 19, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-694-02, daté du 19 décembre 2003, est rejetée avec dépens.

NATURE OF THE CASE

Immigration law - Abuse of process - Issue estoppel - Statutory interpretation - Where the Minister has unsuccessfully engaged a permanent resident in removal proceedings for more than eight years, whether it is an abuse of process for the Minister to commence new removal proceedings on a ground which was available to the Minister throughout the eight years - Where a court has concluded that it would be a violation of freedom of association to deport a Palestinian on the basis of membership in a PLO faction, whether issue estoppel applies to prevent the Minister from commencing a new removal proceeding on the basis of membership in the same organization, but under a different provisions of the legislation - Whether a ground which did not exist to bar a permanent resident's admission as the time of landing can be used to deport a permanent resident from Canada.

PROCEDURAL HISTORY

December 5, 2002 Federal Court of Canada, Trial Division (Kelen J.)	Applicant's application for judicial review of a decision of the Immigration and Refugee Board denied
December 19, 2003 Federal Court of Appeal (Rothstein, Sexton and Malone JJ.A.)	Applicant's appeal dismissed
February 19, 2004 Supreme Court of Canada	Application for leave to appeal filed
March 9, 2004 Supreme Court of Canada (Arbour J.)	Motion to extend time to file and/or serve leave application granted

30212 **9117-4912 Québec Inc. et Thérèse Boniferno c. Les Immeubles Dandurand Inc.** (Qc) (Civile)
(Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-013916-036, daté du 16 février 2004, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-013916-036, dated February 16, 2004, is dismissed with costs.

NATURE DE LA CAUSE

Procédure – Preuve – Exception déclinatoire – Règle *audi alteram partem* – Droit d’être représenté par avocat – Entente sur le déroulement de l’instance – Articles 151.1 et 151.6(4) C.p.c. – Les instances inférieures ont-elles nié aux demandeurs leurs droits d’être entendu et d’être représentés par avocat? – La Cour supérieure pouvait-elle fonder son jugement sur la lettre du procureur Gagnon déposée au dossier?

HISTORIQUE DES PROCÉDURES

Le 26 septembre 2003 Cour supérieure du Québec (Le juge Jolin)	Requête de l’intimée en délaissement forcé et vente sous contrôle de la justice d’un immeuble et de biens, accueillie
Le 16 février 2004 Cour d’appel du Québec (Les juges Gendreau, Otis et Rochette)	Requête en rejet d’appel accueillie et appel rejeté
Le 25 mars 2004 Cour d’appel du Québec (Le juge Baudouin)	Requête en sursis d’exécution pour permettre de se pourvoir devant la Cour suprême, accueillie
Le 16 avril 2004 Cour suprême du Canada	Demande d’autorisation d’appel déposée

30213 **Joanna Tang c. David Tsui et 9039-4479 Québec Inc.** (Qc) (Civile) (Autorisation)

Coram: Les juges Bastarache, LeBel 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 500-09-010279-008, daté du 20 janvier 2004, est rejetée avec dépens.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-010279-008, dated January 20, 2004, is dismissed with costs.

NATURE DE LA CAUSE

Droit commercial - Procédure - Prêt - Preuve - Inscription de faux - La Cour d’appel a-t-elle erré en droit en concluant que les intimés n’étaient pas tenus d’inscrire en faux avant de contredire les faits contenus dans les actes notariés? - Vu la preuve documentaire déposée au dossier de première instance, la Cour d’appel a-t-elle erré en droit en concluant que les intimées n’étaient pas endettées envers la demanderesse et en imposant à cette dernière l’obligation de prouver sa réclamation selon un degré de preuve supérieur à celui de la balance des probabilités? - La Cour d’appel a-t-elle erré en droit en s’écartant des conclusions de faits tirées par le juge de première instance, fondées sur son analyse de la preuve et de la crédibilité des témoignages? - La Cour d’appel avait-elle raison d’intervenir dans le jugement de première instance, en concluant que le juge de première instance avait commis une erreur palpable et dominante, en omettant de conclure que le prêt de 200 000\$ était en fait le même prêt que celui attesté par le biais d’une traite bancaire?

HISTORIQUE DES PROCÉDURES

Le 13 octobre 2000
Cour supérieure du Québec
(La juge Morneau)

Intimés condamnés à payer la somme de 240 708, 95\$ en capital et intérêts; intimés condamnés à payer la somme de 15 000\$ pour les honoraires et déboursés extra-judiciaires; demande reconventionnelle des intimés rejetée

Le 20 janvier 2004
Cour d'appel du Québec
(Les juges Beaugard, Nuss et Biron)

Appel accueilli; jugement de la Cour supérieure infirmé; action de la demanderesse rejetée; demande reconventionnelle des intimés accueillie en partie

Le 13 avril 2004
Cour suprême du Canada

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

30242 **AVI Financial Corporation (1985) Inc. v. Norvegaz Inc.** (Que.) (Civil) (By Leave)

Coram: Bastarache, LeBel and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-010778-017, dated January 26, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-010778-017, daté du 26 janvier 2004, est rejetée avec dépens.

NATURE OF THE CASE

Procedural Law - Taxation - Actions - Costs - Assessment - Bill of Costs - Value in dispute - *Tariff of Judicial fees of advocates*, R.S.Q., 1981, c. B-1, r.13 - What is the effect of the unilateral declaration of nullity? - What is the effect of a court declaring a contract valid?

PROCEDURAL HISTORY

March 1, 2001
Superior Court of Quebec
(Gomery J.)

Applicant's motion for revision of a bill of costs, granted in part: bill of costs revised by the addition of \$250 for a total of \$3,755.72

January 26, 2004
Court of Appeal of Quebec
(Dussault, Morissette and Letarte [*ad hoc*] JJ.A.)

Applicant's appeal dismissed

March 26, 2004
Supreme Court of Canada

Application for leave to appeal filed

30257 **Association des professionnels et professionnelles de la vidéo du Québec c. Productions du Petit Bonhomme Inc., Les productions Bibi et Zoé Inc. et Procureur général du Canada** (CF) (Civile)
(Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel des arrêts de la Cour d'appel fédérale, numéros A-674-02, A-675-02, A-676-02 et A-677-02, datés du 4 février 2004, est rejetée avec dépens en raison de l'absence d'intérêt de la demanderesse.

The application for leave to appeal from the judgments of the Federal Court of Appeal, Numbers A-674-02, A-675-02, A-676-02 and A-677-02, dated February 4, 2004, is dismissed with costs on the ground that the applicant has no standing.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Assurance-chômage - Procédure - Révision judiciaire - Employeur et employé - Contrat de louage de services ou contrat d'entreprise? - Requête en intervention de la part d'un tiers qui n'était pas partie aux instances inférieures - La Cour d'appel fédérale a-t-elle commis une erreur de droit et exercé de façon arbitraire sa discrétion en refusant la permission d'intervenir à l'association professionnelle représentant légalement les personnes impliquées au motif qu'elle « n'apporterait pas de contribution utile au débat »? - La Cour d'appel fédérale a-t-elle fait une erreur de droit en interprétant et en appliquant les lois sur le statut de l'artiste de manière à conclure que les artistes et autres techniciens « pigistes » de la télévision étaient tous des « entrepreneurs indépendants » et non des « salariés »? - La Cour d'appel fédérale a-t-elle commis une erreur de droit en confondant l'entente collective, négociée sous l'égide de la *Loi sur le statut professionnel et les conditions d'engagement des artistes de la scène, du disque et du cinéma* et du *Code civil*, avec les contrats individuels, pour conclure qu'on se trouvait en présence d'une « situation contractuelle hybride », inexistante en droit, entre le contrat d'entreprise et le contrat de travail? - Principalement, la Cour d'appel fédérale a-t-elle commis une erreur de droit en adoptant une approche globalisante pour étudier la nature du métier ou de la fonction, au lieu des relations contractuelles individuelles entre les artistes et autres techniciens « pigistes » et le producteur, aux fins de la production d'émissions de télévision, pour conclure, dans tous les cas, qu'il ne s'agissait pas de contrats de travail ni d'« emplois assurables »? - La Cour d'appel fédérale du Canada aurait-elle dû accueillir la requête du demandeur en révision judiciaire de la décision rendue par la Cour canadienne de l'impôt?

HISTORIQUE DES PROCÉDURES

Le 6 novembre 2002
Cour canadienne de l'impôt
(le juge Angers)

Appel des décisions du Ministre du Revenu national à l'effet que les travailleurs des compagnies intimées occupaient un emploi assurable au sens de la *Loi sur l'assurance-emploi*, accueilli; décisions annulées

Le 10 février 2003
Cour d'appel fédérale
(le juge Noël)

Requête de la demanderesse en autorisation d'intervenir devant la Cour fédérale rejetée

Le 4 février 2004
Cour d'appel fédérale
(les juges Décary, Noël et Nadon)

Demandes de contrôle judiciaires rejetées

Le 2 avril 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée par la demanderesse, réclamant le statut d'intervenante

30263 **Régent Millette c. Frank (Francesco) Rodi et Adeline Leduc** (Qc) (Civile) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-013919-030, daté du 5 février 2004, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-013919-030, dated February 5, 2004, is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Procédure civile - Droit commercial - Faillite - Libération des faillis - Droit d'interroger les faillis en vertu de l'art.178 de la *Loi sur la faillite et l'insolvabilité*, L.R.C. (1985), ch. B-3 - La Cour d'appel a-t-elle erré en accueillant la requête en rejet d'appel des intimés et rejetant l'appel du demandeur?

HISTORIQUE DES PROCÉDURES

Le 14 avril 2003
Cour supérieure du Québec
(Létourneau, Registraire)

Libération de l'intimée ordonnée; libération de l'intimé suspendue jusqu'à preuve du paiement au syndic de la somme de 5 000 \$

Le 9 octobre 2003
Cour supérieure du Québec
(Le juge Mongeau)

Requête du demandeur en révision de la décision du registraire rejetée

Le 5 février 2004
Cour d'appel du Québec
(Les juges Mailhot, Rousseau-Houle et Dalphond)

Requête en rejet d'appel des intimés accordée et appel du demandeur rejeté

Le 5 avril 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

30272 **Gary Floyd Guiboche v. Her Majesty the Queen** (Man.) (Criminal) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Manitoba, Number AR02-30-05419, dated February 12, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Manitoba, numéro AR02-30-05419, daté du 12 février 2004, est rejetée.

NATURE OF THE CASE

Criminal Law - Statutes - Interpretation - Private dwelling place - Reasonable expectation of privacy - Third party dwelling places.

PROCEDURAL HISTORY

October 22, 2002 Court of Queen's Bench of Manitoba (Fraser J.)	Convictions: second degree murder and aggravated assault
February 12, 2004 Court of Appeal of Manitoba (Kroft, Monnin and Freedman JJ.A.)	Appeal dismissed
April 7, 2004 Supreme Court of Canada	Application for leave to appeal filed

30288 **Placements Mane Ltée c. Ville de Beaupré** (Qc) (Civile) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Québec), numéro 200-09-004629-033, daté du 6 février 2004, est rejetée sans dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Quebec), Number 200-09-004629-033, dated February 6, 2004, is dismissed without costs.

NATURE DE LA CAUSE

Procédure - Droit municipal - Appel - Critères pour se voir accorder la permission d'en appeler hors délai - Impossibilité d'agir - Évaluation - Vente d'immeubles pour taxes - Art. 3036 du *Code civil du Québec*, L.Q., 1991, c. 64 - Art. 513 et 517 de la *Loi sur les cités et villes*, L.R.Q. c. C-19 - Art. 130 et 134.1 de la *Loi sur la fiscalité municipale*, L.R.Q., c. F-2.1 - Y a-t-il une erreur de droit et une erreur mixte de droit et de faits commandant l'application des articles 40(1), 43(1)a) et (1.1) de la *Loi sur la Cour suprême du Canada*? - La Cour supérieure a-t-elle fait erreur quant à l'exercice de sa juridiction de surveillance sur les tribunaux inférieurs quant aux jugements sur des questions procédurales et non aux jugements définitifs, tel que définis à l'article 2(1) de la *Loi sur la Cour suprême du Canada* et en droit civil? - Y a-t-il eu erreur de droit eu égard aux obligations légales et aux obligations contractuelles d'une municipalité, qui commande la définition de la compétence d'un Tribunal administratif en droit civil? - Y a-t-il eu erreur de droit eu égard à l'application du principe de la chose jugée à des questions procédurales, par opposition à des questions d'obligations légales et d'obligations contractuelles? - Y a-t-il eu erreur de droit eu égard à la preuve au dossier de la Cour supérieure, ce qui commanderait l'intervention de la Cour d'appel en regard des déterminations de fait du juge de première instance? - Les tribunaux inférieurs ont-ils commis une erreur de droit en écartant l'aveu de l'intimée de son erreur (démontrant l'illégalité de la vente pour taxes) soumis en preuve, de façon à commander l'intervention d'une seconde cour d'appel en regard de l'article 2850 du *Code civil du Québec*? - Y a-t-il eu erreur mixte de droit et de faits par les tribunaux inférieurs dans l'application du droit civil quant aux obligations légales et aux obligations contractuelles d'une municipalité? - Les tribunaux inférieurs ont-ils commis une erreur de droit en écartant les illégalités commises par l'intimée lors de la vente pour taxes, de façon à commander l'application stricte des prévisions de la perception de taxes et des procédures à suivre de la *Loi sur les cités et villes* ainsi que de la *Loi sur la fiscalité municipale*? - La demanderesse s'est-elle trouvée dans l'impossibilité relative de déposer son inscription en appel de plein droit à la Cour d'appel du Québec, dans le délai de trente jours du jugement de première instance? - La déontologie professionnelle exige-t-elle du procureur, gardien des droits de son client en toute circonstance, d'inscrire l'appel lorsqu'il n'arrive pas à contacter son client, par simple courtoisie celui-ci afin de conserver ses droits et de lui permettre de se désister, s'il y a lieu? - La Cour d'appel a-t-elle erré dans son application du principe de la sauvegarde des droits des parties, en faisant fi des préjudices et conséquences de la forclusion pour la demanderesse ainsi que de l'absence de préjudices aux autres parties?

HISTORIQUE DES PROCÉDURES

Le 13 juin 2003 Cour supérieure du Québec (La juge Bédard)	Requête de la demanderesse en annulation d'une vente d'immeuble pour taxes, rejetée
Le 6 février 2004 Cour d'appel du Québec (Les juges Chamberland, Rochette et Rayle)	Requête pour permission de se pourvoir en appel hors délai, rejetée
Le 5 avril 2004 Cour suprême du Canada	Demande d'autorisation d'appel déposée

30296 **Paul Martineau c. Sous-Ministre du revenu du Québec** (Qc) (Civile) (Autorisation)

Coram: Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Québec), numéro 200-09-004214-026, daté du 1 mars 2004, est rejetée sans dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Quebec), Number 200-09-004214-026, dated March 1, 2004, is dismissed without costs.

NATURE DE LA CAUSE

Droit fiscal - Cotisation - Appel - Compétence - Responsabilité civile - Dommages-intérêts exemplaires - Est-ce que, dans le cadre d'une loi fiscale, le juge de première instance est tenu d'exercer sa juridiction relativement à une demande de réparation en vertu de l'article 24(1) de la *Charte canadienne des droits et libertés* et ce conformément aux articles 7, 15, 33 et 52 de la *Charte*? - Est-ce que la loi habilitante permet au juge de première instance de statuer sur l'adjudication de dommages exemplaires?

HISTORIQUE DES PROCÉDURES

Le 30 août 2002 Cour du Québec (Le juge Lavergne)	Requête du demandeur pour annulation d'une cotisation émise pour l'année 1994, accordée; demande accessoire du demandeur pour dommages exemplaires, rejetée
Le 1 mars 2004 Cour d'appel du Québec (Les juges Chamberland, Rochette et Rayle)	Appel rejeté
Le 16 avril 2004 Cour suprême du Canada	Demande d'autorisation d'appel déposée

30307 **Antony Tsai v. Theodore Pochwalowski** (Ont.) (Civil) (By Leave)

Coram: Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number M30570, dated March 12, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro M30570, daté du 12 mars 2004, est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Actions - Did lower courts properly decide case?

PROCEDURAL HISTORY

November 20, 2002 Ontario Superior Court of Justice (Small Claims Court) (Winer, Deputy J.)	Applicant's claim struck out; Applicant's action stayed; Applicant given until February 3, 2003 to file amended statement of claim
March 13, 2003 Ontario Superior Court of Justice (Small Claims Court) (Thomson, Deputy J.)	Applicant's action for harassment, intimidation, invasion of privacy and stalking dismissed; Respondent's motion to strike granted
October 27, 2003 Ontario Superior Court of Justice (Divisional Court) (Espein J.)	Appeal dismissed
March 12, 2004 Court of Appeal for Ontario (Labrosse, Laskin and Goudge JJ.A.)	Application for leave to appeal dismissed
April 26, 2004 Supreme Court of Canada	Application for leave to appeal filed

30318 **Antony Tsai v. Theodore Pochwalowski** (Ont.) (Civil) (By Leave)

Coram: **Bastarache, LeBel and Deschamps JJ.**

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number M30693, dated March 12, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro M30693, daté du 12 mars 2004, est rejetée avec dépens.

NATURE OF THE CASE

Torts - Defamation - Did lower courts properly decide case?

PROCEDURAL HISTORY

January 7, 2003 Ontario Superior Court of Justice (Wright J.)	Respondent's action in defamation allowed: Applicant ordered to pay \$3,000 to the Respondent; Applicant's counterclaim dismissed
November 18, 2003 Ontario Superior Court of Justice (Divisional Court) (Cunningham A.C.J., McRae and Archibald JJ.A)	Applicant's motion to introduce fresh evidence, dismissed; Applicant's motion to adjourn appeal, dismissed; Appeal dismissed

March 12, 2004
Court of Appeal for Ontario
(Labrosse, Laskin and Goudge JJ.A.)

Motion for leave to appeal dismissed

April 26, 2004
Supreme Court of Canada

Application for leave to appeal filed

30329 **Gerry Joseph Leiding v. Her Majesty the Queen** (B.C.) (Criminal) (By Leave)

Coram: **Bastarache, LeBel and Deschamps JJ.**

The application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA028736, dated December 9, 2003, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA028736, daté du 9 décembre 2003, est rejetée.

NATURE OF THE CASE

Criminal Law (Non Charter) - Trial - Appeal - Solicitor incompetence - Whether test for ineffective representation is met by establishing that trial counsel is no longer a member in good standing with the Law Society - Whether Court of Appeal erred by refusing a cross-examination of trial counsel on his affidavit - Whether Court of Appeal erred by applying a test of prejudice to determine whether there was a reasonable probability the verdict would have been different had the accused testified.

PROCEDURAL HISTORY

February 19, 2001
Supreme Court of British Columbia
(Bennett J.)

Applicant convicted by jury of second degree murder

December 9, 2003
Court of Appeal for British Columbia
(Finch, Braidwood and Lowry JJ.A.)

Appeal against conviction dismissed

May 19, 2004
Supreme Court of Canada

Application for leave to appeal filed

June 10, 2004
Supreme Court of Canada
(Arbour J.)

Extension of time to file and serve leave application granted

28863 **Mankeshwar Kurichh v. Financial Services Commission of Ontario and Allstate Insurance Company of Canada** (Ont.) (Civil) (By Leave)

Coram: **Bastarache, LeBel and Deschamps JJ.**

The motion for reconsideration of the application for leave to appeal dismissed March 14, 2002, is dismissed with costs.

La requête pour réexamen de la demande d'autorisation d'appel rejetée le 14 mars 2002, est rejetée avec dépens.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

24.8.2004

Shawna Prebushewski

v. (30189)

Dodge City Auto (1984) Ltd., et al. (Sask.)

24.8.2004

Eugene Kaulius, et al.

v. (30067)

Her Majesty the Queen (FC)

24.8.2004

Her Majesty the Queen

v. (30290)

Canada Trustco Mortgage Company (FC)

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

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

19.8.2004

BY/PAR: Attorney General of New Brunswick

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

v. (30063)

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

23.8.2004

BY/PAR: Attorney General of British Columbia

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

v. (30063)

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

23.8.2004

BY/PAR: Attorney General of British Columbia

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

v. (30005)

Joshua Bernard (N.B.)

24.8.2004

BY/PAR: Attorney General of Canada

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

v. (30063)

Stephen Frederick Marshall (N.S.)

24.8.2004

BY/PAR: Attorney General of Canada

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

v. (30005)

Joshua Bernard (N.B.)

DEADLINES: APPEALS

DÉLAIS : APPELS

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

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

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

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:

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.

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.

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.

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.

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).

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).

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

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

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.

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

- 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
12	13	14	15	16	17	18
19	20	21	22	23	24	25
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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30	31					

FEBRUARY - FÉVRIER						
S D	M L	T M	W M	T J	F V	S S
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27	28					

MARCH - MARS						
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20	21	22	23	24	H 25	26
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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MAY - MAI						
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8	M 9	10	11	12	13	14
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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