

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

Stephen Fazekas
Stephen Fazekas

v. (30121)

Her Majesty the Queen (Ont.)
John Norris
Attorney General of Ontario

FILING DATE: 29.12.2003

Osvaldo Minchella
David E. Harris

v. (30014)

Her Majesty the Queen (Ont.)
David Littlefield
Attorney General of Canada

FILING DATE: 25.2.2004

Shawna Prebushewski
Ronald J. Balacko
Rusnak, Balacko, Kachur & Rusnak

v. (30189)

Dodge City Auto (1984) Ltd., et al. (Sask.)
Kenneth A. Ready, Q.C.
McDougall, Gauley

FILING DATE: 26.2.2004

Pharmascience Inc., et autre
Guy Du Pont
Davies, Ward, Phillips & Vineberg

c. (30188)

Jocelyn Binet, et autre (Qc)
Philippe Frère
Lavery, de Billy

DATE DE PRODUCTION : 26.2.2004

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

Greater Vancouver Water District
Guy E. McDannold
Staples, McDannold, Stewart

v. (30190)

Graham Industrial Services Ltd. (B.C.)
Christopher J. O'Connor
Borden, Ladner, Gervais

FILING DATE: 27.2.2004

Kevin James Millership
Kevin James Millership

v. (30197)

**Her Majesty the Queen, in Right of the
Attorney General of Canada, et al. (B.C.)**
Sean Gaudet
A.G. of Canada

FILING DATE: 3.3.2004

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

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

MARCH 8, 2004 / LE 8 MARS 2004

**CORAM: Chief Justice McLachlin and Major and Fish JJ.
La juge en chef McLachlin et les juges Major et Fish**

Elliott Neal Pawliuk Brito, an infant by his Guardian Ad Litem, Rosemary Pawliuk, and Rosemary Pawliuk

v. (29967)

Harold Ewart Woolley and Shelley Ross (B.C.)

NATURE OF THE CASE

Torts - Negligence - Physicians and surgeons - Informed consent - Duty to inform - Plaintiff bringing action for damages against doctors, nurses and hospital after second twin suffered brain injury at birth - Appropriate scope of disclosure in the law of informed consent - Whether plaintiff must prove the specific risk arose or merely that the medical procedure would have been avoided had proper disclosure occurred.

PROCEDURAL HISTORY

August 17, 2001 Supreme Court of British Columbia (Sinclair Prowse J.)	Applicants' action for damages dismissed
July 3, 2003 Court of Appeal for British Columbia (Esson, Rowles and Donald JJ.A.)	Appeal dismissed
September 26, 2003 Supreme Court of Canada	Application for leave to appeal filed

A. Melville Hunt, Marion M. Hunt

v. (30026)

TD Securities Inc. c.o.b. as TD Evergreen, TD Financial Services and Mark Schram (Ont.)

NATURE OF THE CASE

Commercial law - Securities - Stockbrokers - Fiduciary duty - Sale of shares - Whether an independent doctrine of good faith in the performance of a contract arises in a financial advisory relationship as an implied term of the contract or in equity - Whether duty of care in negligence gives rise to an independent doctrine of good faith in a financial advisory relationship - Whether judicial recognition should be given to a tort of good faith - Whether the appellate court's effective closing of a category of fiduciary in the context of a financial advisory relationship nullified this Court's articulation of the policy considerations that support the imposition of fiduciary obligations and equitable compensation and resulted in persons in such relationships in Ontario being treated differently than in other parts of Canada - Whether autonomy and integrity of the trial process has been eroded by the appellate court's intervention in the findings of fact made by the trial court

PROCEDURAL HISTORY

September 4, 2002 Ontario Superior Court of Justice (Hambly J.)	Applicants' action against Respondents allowed: judgement in the amount of \$59,329 and \$156,935.47 in solicitor and client costs.
August 26, 2003 Court of Appeal for Ontario (Simmons, Gillese and Armstrong JJ.A.)	Respondents' appeal allowed regarding quantum of damages; costs award set aside; Applicants' cross-appeal dismissed
November 3, 2003 Supreme Court of Canada	Application for leave to appeal filed
November 14, 2003 Supreme Court of Canada (Major J.)	Motion to extend time to file and/or serve leave application granted

Scott Edgelow and Top Edge Investments Ltd.

v. (29943)

**John Hooks, Challenger Global Trading Ltd., 749640 Alberta Ltd., and Phoenix Technology Services Ltd.
(Alta.)**

NATURE OF THE CASE

Procedural law - Motion for summary judgment - Security for costs - Appeals struck - Commercial law - Breach of agreement - Breach of fiduciary duty - Insider trading breaches - Oppression remedies - Whether a palpable and overriding error denies a person justice - Whether shareholders and investors are ensured of transparency in corporate law - Whether a matrimonial matter denies a person justice in other unrelated matters - Whether a person's right to justice is denied by access to money, or lack thereof

PROCEDURAL HISTORY

September 1 st , 2000 Court of Queen's Bench of Alberta (Laycock, Master)	Respondents Hooks and Challenger's motion for summary judgment granted in part; Applicant Edgelow's claims dismissed; Applicant Top Edge's claims for breach of fiduciary duty, insider trading breaches and breach of oppression remedies permitted to be pursued; Applicant Top Edge ordered to pay \$42,500 in security for costs
April 1 st , 2003 Court of Appeal of Alberta (McFadyen, O'Leary and Paperny JJ.A.)	Appeal dismissed
September 17, 2003 Supreme Court of Canada	Application for leave to appeal filed
January 22, 2004 Supreme Court of Canada (Major J.)	Applicant's motion for extension of time, granted

G.M., and M.D.

v. (30071)

The Canadian Red Cross Society, Dawson, Jones, Singh/Shah, Vos; Yang and Kerekes Families; J.A.M. and D.L.M.; and Trustee under the Plan (Ont.)

NATURE OF THE CASE

Commercial law - Bankruptcy - Amended Plan of Compromise and Arrangement - Governing law - Members of one class of creditors resident in eight provinces - Limitation period - Whether, in a Canada-wide mass tort resolution under the *Companies' Creditors Arrangement Act*, R.S.C. 1985, c. C-36 ("CCAA"), a court may, retroactive to a date before insolvency, impose the time limitation periods of one provincial jurisdiction on every other jurisdiction in Canada - Whether the principles of the minimal impairment of the rights of creditors and their equality of treatment under CCAA proceedings are altered in cases resolving Canada-wide mass tort claims - Whether a plan under the CCAA, resolving nation-wide mass torts, must "speak for itself" and be interpreted by giving the words their plain ordinary meaning as read by the creditors who received it and voted upon it, or whether a court may take into consideration policy issues not disclosed to the creditors and not before the court - What is the standard of review for appeals of a final order on questions of errors of law, in Canada-wide mass tort resolutions under the CCAA?

PROCEDURAL HISTORY

June 28, 2002
Ontario Superior Court of Justice
(Blair J.)

Respondents' motion granted; law of Ontario declared governing law respecting eligibility of persons to claim under the HIV Fund

September 23, 2003
Court of Appeal for Ontario
(Abella, Moldaver and Sharpe JJ.A.)

Appeal dismissed

November 24, 2003
Supreme Court of Canada

Application for leave to appeal filed

Mark Cole and Alberton Properties Inc.

v. (29968)

The Corporation of the City of Hamilton, Mary Kiss, Marvin Caplan, Robert Morrow, Geraldine Copps, Len King and Peter Lampman (Ont.)

NATURE OF THE CASE

Procedural law - Summary Judgment - Torts - Damages - Appropriate standard of appellate review applicable to summary judgments - What is the proper scope of the tort of abuse of public office - Did the Court of Appeal err in failing to review the motion judge's decision in respect of the elements of the tort of conspiracy to a standard of correctness - Appellate court's failure to overturn motion judge's decision to exclude various evidence, including expert evidence.

PROCEDURAL HISTORY

March 22, 2002
Ontario Superior Court of Justice

Respondents' motion for summary judgment granted;
Applicants' motion for summary judgment dismissed;

(Borkovich J.)

Applicants' action in damages for abuse of public office
and conspiracy to injure dismissed

July 14, 2003

Court of Appeal for Ontario

(Catzman, Feldman and Gillese JJ.A.)

Applicants' appeal dismissed

September 26, 2003

Supreme Court of Canada

Application for leave to appeal filed

CORAM: Iacobucci, Binnie and Arbour JJ.

Les juges Iacobucci, Binnie et Arbour

Her Majesty the Queen

v. (30063)

Stephen Frederick Marshall, Keith Lawrence Julien, Christopher James Paul, Jason Wayne Marr, Simon Joseph Wilmot, Donald Thomas Peterson, Stephen John Knockwood, Ivan Alexander Knockwood, Leander Philip Paul, William John Nevin, Roger Allan Ward, Mike Gordon Peter-Paul, John Michael Marr, Carl Joseph Sack, Matthew Emmett Peters, Stephen John Bernard, William Gould, Camillus Alex Jr., John Allan Bernard, Peter Alexander Bernard, Eric Stephen Knockwood, Gary Hirtle, Jerry Wayne Hirtle, Edward Joseph Peter-Paul, Angus Michael Googoo, Lawrence Eric Hammond, Thomas M. Howe, Daniel Joseph Johnson, Dominic George Johnson, James Bernard Johnson, Preston Macdonald, Kenneth M. Marshall, Stephen Maurice Peter-Paul, Leon R. Robinson, Phillip F. Young (N.S.)

NATURE OF THE CASE

Constitutional Law - Native Law - Treaty Rights - Aboriginal Title - To what extent, if at all, does the question of what was reasonably in the contemplation of the parties to one of the Halifax treaties of 1760-61 enter into the test to determine whether a particular resource gathering activity falls within the terms of that treaty? - Must a beneficiary of a right under one of the Halifax treaties of 1760-61 establish that (s)he exercised that right with community authority and within that community's traditional territory? - Did the Nova Scotia Court of Appeal err in law in allowing the appeals and setting aside the convictions entered at trial without clearly identifying an error of law by the Summary Conviction Appeal Court? - Did the Nova Scotia Court of Appeal err in stating the test for occupation of lands for the purpose of establishing aboriginal title? - Did the Nova Scotia Court of Appeal err in failing to properly identify an error of law in the Summary Conviction Appeal Court Judge's analysis of the scope of lands subject to the aboriginal title claim? - Did the Nova Scotia Court of Appeal err in applying the Mi'kmaq "Aboriginal perspective" to shape the test for occupation of lands for the purpose of establishing aboriginal title? - Did the Nova Scotia Court of Appeal err in rejecting the requirement of continuity of occupation for the purpose of establishing aboriginal title? - Did the Nova Scotia Court of Appeal err in stating the standard by which occupation adverse to exclusive native occupation is assessed? - Did the Nova Scotia Court of Appeal err in failing to characterize the Halifax treaties of 1760-1761 as land cession treaties? - Did the Nova Scotia Court of Appeal err in failing to find that any aboriginal title to, or treaty rights respecting the cutting sites were extinguished by Crown grant? - Did the Nova Scotia Court of Appeal err in deciding that aboriginal title cannot be lost through dispossession or abandonment, or by acceptance of reservations? - Did the Nova Scotia Court of Appeal err in law in the test it adopted to determine if trees are a resource included in the right of the Mi'kmaq under the treaties of 1760-61 to harvest from Crown lands and trade for a moderate livelihood? - Did the Nova Scotia Court of Appeal err in law in its determination that the Indian rights provision of the *Royal Proclamation of 1763* did not apply to Nova Scotia and did not protect the Aboriginal title of the Mi'kmaq? - Did the Nova Scotia Court of Appeal err in law in not applying proper tests for treaty rights and Aboriginal title, and in not applying the proper tests, or the tests it adopted, to the facts of the case and acquitting the Respondents, or one or more of them, on all counts, or on one or more counts? - Did the Nova Scotia Court of Appeal err in ordering a new trial on all counts and therefore the Respondents seek to set aside or

vary that part of the disposition of the judgment from in which the Court of Appeal ordered a new trial on all counts? - Did the Nova Scotia Court of Appeal err in not acquitting all, or one or more Respondents, on all or some of the charges against them, and therefore the Respondents seek an order acquitting all of them on all counts, or, in the alternative, an order acquitting some one or more of them on all or some of the charges?

PROCEDURAL HISTORY

March 8, 2001 Provincial Court (Curran J.P.C.)	Respondents found guilty of cutting or removing timber from Crown land without authorization contrary to s.29(1) of the <i>Crown Lands Act</i>
March 1, 2002 Nova Scotia Supreme Court, Trial Division (Scanlan J.)	Summary conviction appeals dismissed
October 10, 2003 Nova Scotia Court of Appeal (Cromwell, Saunders and Oland JJ.A.)	Appeals allowed; convictions set aside; new trials ordered on all counts
November 27, 2003 Supreme Court of Canada	Application for leave to appeal filed
December 17, 2003 Supreme Court of Canada	Application for leave to cross-appeal filed

Canadian Union of Public Employees, Local 1560

v. (30059)

Avalon East School Board (N.L.)

NATURE OF THE CASE

Administrative law – Judicial review – Standard of review – Labour law – Labour relations – School Board deciding upon level of service to be maintained during impending teacher strike – Union disagreeing with number of non-teacher employees designated essential by School Board – Newfoundland and Labrador Labour Relations Board (LRB) finding employer School Board solely responsible for setting level of public service to be maintained during strike – LRB deciding approximately one-half of those designated by School Board met definition of essential employees under *Public Service Collective Bargaining Act*, R.S.N. 1990, c. P-42 s. 10(13), as duties were “necessary for the health, safety or security of the public” – Non-teacher employees occupying positions as cleaners, custodians, program assistants for students with disabilities, and various maintenance workers – Whether courts below erred in upholding decision of LRB – What standard of review applies to the legal question whether the doctrine of *stare decisis* applies to the interpretation by an administrative tribunal of statutory provisions previously considered by a court on an earlier application for judicial review – In what circumstances, if any, are administrative tribunals bound by prior judicial consideration of statutory provisions made by a court in the context of prior applications for judicial review – To what extent should public service essential services provisions be interpreted to require that a labour relations board determine which positions are essential to health, safety or security of the public based on the level of service an employer unilaterally decides it wishes to maintain during a labour dispute – *Public Service Collective Bargaining Act*, R.S.N. 1990, c. P-42, s. 10(13)

PROCEDURAL HISTORY

August 30, 2001	Newfoundland and Labrador Labour Relations Board
-----------------	--

(O'Brien, St. Aubin [<i>dissenting</i>] and Alcock, Members)	Respondent's request to have 141 employees declared essential pursuant s. 10 of the <i>Public Service Collective Bargaining Act</i> , granted in part (75 employees declared essential)
July 29, 2002 Supreme Court of Newfoundland & Labrador Trial Division (Barry J.)	Applicant's application for judicial review dismissed
September 22, 2003 Supreme Court of Newfoundland and Labrador Court of Appeal (Roberts, Welsh and Rowe JJ.A.)	Appeal dismissed
November 21, 2003 Supreme Court of Canada	Application for leave to appeal filed

Réjeanne Gagnon

c. (30146)

Ville de Montréal (Qc)

NATURE DE LA CAUSE

Responsabilité civile - Droit municipal - Municipalité - Négligence - Dommages intérêts - Chute sur le trottoir de la ville - Piège - Danger inhérent - Les instances inférieures ont-elles commis une erreur dans l'interprétation de la notion de piège, de «dangerosité intrinsèque» et de «connotation d'anormalité et de surprise» tel qu'énoncé dans l'arrêt *Rubis c. Grey Rocks Inn Ltd.*, [1982] 1 R.C.S. 452 ? - Les instances inférieures ont-elles commis une erreur en n'appliquant pas la norme de diligence ? - La Cour d'appel a-t-elle commis une erreur en concluant qu'il était impossible de déterminer si la plainte de la commerçante avait été transmise à l'intimée ? - Les instances inférieures ont-elles mal évalué la preuve ? - Les instances inférieures ont-elles commis une erreur relative au lien de causalité entre la négligence ou la faute de la Ville et la chute de la demanderesse?

HISTORIQUE DES PROCÉDURES

Le 14 mars 2002 Cour supérieure du Québec (La juge Rayle)	Action de la demanderesse en dommages intérêts, rejetée
Le 19 novembre 2003 Cour d'appel du Québec (Les juges Brossard, Morissette et, Lemelin [<i>ad hoc</i>])	Appel rejeté
Le 19 janvier 2004 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Solomon Windheim

c. (30094)

Banque Toronto Dominion, Miriam Windheim, Ellen Windheim et les Promotions Taillon Ltée. (Qc)

NATURE DE LA CAUSE

Droit administratif - Contrôle judiciaire - Compétence des tribunaux d'appel - La Cour d'appel du Québec a-t-elle erré en déclarant que le jugement de première instance contenait des erreurs manifestes et dominantes au sens de l'arrêt *Housen c. Nikolaisen*, [2002] 2 R.C.S. 235? - La Cour d'appel du Québec a-t-elle erré en ne respectant pas la règle fondamentale *audi alteram partem*?

HISTORIQUE DES PROCÉDURES

Le 3 juillet 2001
Cour supérieure du Québec
(Le juge Kennedy)

Intimée Banque Toronto Dominion condamnée à payer la somme de 221 214,69\$ au demandeur; action en garantie de l'intimée Banque Toronto Dominion, accueillie : intimées Miriam et Ellen Windheim et Promotions Taillon Ltée condamnées à rembourser à l'intimée Banque Toronto Dominion la somme payée par celle-ci au demandeur

Le 7 novembre 2003
Cour d'appel du Québec
(Les juges Baudouin, Dalphond et Morissette)

Appel des intimées Miriam et Ellen Windheim et Promotions Taillon Ltée accueilli; jugement de la Cour supérieure infirmé; action principale du demandeur rejetée; action en garantie de l'intimée Banque Toronto Dominion rejetée

Le 22 décembre 2003
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Abattoir A. Trahan Transformation inc. et Abattoir St-Alexandre (1982) inc.

c. (30114)

**Fédération des producteurs de porcs du Québec et
Régie des marchés agricoles et alimentaires du Québec (Qc)**

NATURE DE LA CAUSE

Droit administratif - Contrôle judiciaire - Définition de la norme de contrôle de l'erreur manifestement déraisonnable - Décision de la Régie intimée à l'effet que la Fédération intimée a le pouvoir de modifier unilatéralement l'équation de rendement de l'appareil électronique utilisé par les demandereses pour mesurer le poids des carcasses de porcs et leur classe de rendement - La Cour d'appel, à la majorité, a-t-elle erré en déclarant que la décision de la Régie n'était affectée d'aucune erreur de compétence ni d'aucune erreur manifestement déraisonnable justifiant l'exercice du pouvoir de révision judiciaire ?

HISTORIQUE DES PROCÉDURES

Le 1^{er} décembre 2000
Régie des marchés agricoles et alimentaires
(Busque, Bergeron et Hovington)

Demanderesses condamnées à payer à la Fédération
intimée 440 685\$ et 483 097\$ respectivement

Le 5 juin 2001
Cour supérieure du Québec
(La juge Richer)

Requête en révision judiciaire accueillie

Le 5 novembre 2003
Cour d'appel du Québec
(Les juges Rousseau-Houle, Delisle et Rayle
[*dissidente*])

Appel principal de la Fédération intimée accueilli, appel
incident des demanderesse rejeté, jugement de la Cour
supérieure infirmé et requête en révision judiciaire
rejetée

Le 31 décembre 2003
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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

Ferme Geléry inc.

v. (30116)

**Municipalité de Laverlochère et Monique Rivest, ès qualités de secrétaire-trésorière de la Municipalité de
Laverlochère (Qc)**

NATURE DE LA CAUSE

Droit municipal – Législation – Textes réglementaires – Interprétation – Le règlement relatif au plan d'implantation et
d'intégration architecturale de la municipalité intimée est-il *ultra vires* ou inopérant? – Le règlement est-il inconciliable
avec la *Loi sur la protection du territoire et des activités agricoles*, L.R.Q., ch. P-41.1?

HISTORIQUE PROCÉDURAL

Le 27 novembre 2001
Cour supérieure du Québec
(Le juge Guertin)

Requête en mandamus de la demanderesse, accueillie;
émission du certificat de conformité ordonnée

Le 5 novembre 2003
Cour d'appel du Québec
(Les juges Beauregard [*dissident*], Morin et Rayle)

Appel accueilli; jugement infirmé; requête en mandamus
rejetée

Le 30 décembre 2003
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Canadian Broadcasting Corporation and Montreal Gazette Group Inc.

v. (29964)

Her Majesty the Queen in Right of Ontario and the Attorney General of Ontario (Ont.)

NATURE OF THE CASE

Statutes – Interpretation – Criminal Law – Procedural law – Whether the disclosure of a search warrant containing wiretap evidence constitutes an unlawful disclosure of such evidence pursuant to section 193 of the *Criminal Code* – If the public is given access to search warrants, whether the media are entitled to publish their contents, whether or not charges have been laid.

PROCEDURAL HISTORY

June 5, 2003 Ontario Superior Court of Justice (McKinnon J.)	Applicants' application for an order to vary or terminate a sealing order, granted
September 25, 2003 Supreme Court of Canada	Applications for leave to appeal and to extend time to file and/or serve the leave application filed

Cité de Dorval

c. (30076)

Gaz Métropolitain Inc. et Société nationale d'assurance Inc., Les Clairvoyants, Compagnie d'assurance générale, Compagnie d'assurance commerce et industrie du Canada, Compagnie d'assurance canadienne générale, Zurich Compagnie d'assurance, Boréal Assurances Inc., Simcoe & Erié, Cie d'assurance générale et Reliance Insurance Company (Qc)

NATURE DE LA CAUSE

Responsabilité civile - Négligence - Dommages-intérêts - Évaluation - Les directives de Gaz Métropolitain inc. sont-elles inadéquates et insuffisantes pour assurer la sécurité du public? - Les employés de Gaz Métropolitain inc. ont-ils fait preuve d'insouciance et de grossière négligence? - La Cour supérieure et la Cour d'appel ont-elles omis à tort d'appliquer la théorie du « *novus actus interveniens* » et du « last responsible agent » à l'égard des fautes commises par les préposés de Gaz Métropolitain inc.? - Gaz Métropolitain peut-elle être tenue responsable si ses préposés ont suivi les directives de l'officier du service des incendies de la Cité de Dorval en charge de la situation d'urgence? - Lorsque deux défendeurs sont tenus responsables d'un manque de communication, le co-défendeur en situation d'autorité devrait-il assumer une plus grande part de responsabilité?

HISTORIQUE DES PROCÉDURES

Le 26 avril 2001 Cour supérieure du Québec (La juge Duval Hesler)	Action des compagnies d'assurance intimées accueillie; Cité de Dorval et Gaz Métropolitain Inc. condamnées à payer, conjointement et solidairement, un montant de 1 680 083,41\$ à titre de dommages-intérêts, leur part de responsabilité étant établie à 50% chacune
Le 2 octobre 2003 Cour d'appel du Québec (Les juges Baudouin, Dalphond et Morissette)	Appel rejeté
Le 28 novembre 2003 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Le 24 décembre 2003
Cour suprême du Canada

Demande d'autorisation d'appel incident déposée

Industries de maintenance Empire Inc.

c. (30131)

Commission de la construction du Québec (Qc)

NATURE DE LA CAUSE

Droit administratif - Droit du travail - Contrôle judiciaire - Relations de travail - Législation - Interprétation - Travaux de construction - Exemption - Employeur non professionnel - Les travaux effectués par les employés de la demanderesse constituent-ils des travaux d'entretien et de réparation au sens de la *Loi sur les relations du travail dans l'industrie de la construction*, L.R.Q. c. R-20 ?

HISTORIQUE DES PROCÉDURES

Le 31 mars 2003
Commissaire de l'industrie de la construction
(La commissaire Josette Béliveau)

Travaux exécutés par les salariés de la demanderesse constituent des travaux de construction au sens de la *Loi sur les relations du travail dans l'industrie de la construction*.

Le 4 juillet 2003
Cour supérieure du Québec
(Le juge Cohen)

Requête en révision judiciaire accueillie; demanderesse bénéficie de l'exemption prévue à l'article 19(2) de la *Loi sur les relations du travail dans l'industrie de la construction*.

Le 14 novembre 2003
Cour d'appel du Québec
(Les juges Proulx, Otis et Dalphond)

Appel accueilli

Le 13 janvier 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

**Darlene Cottrelle, Lynwood Cottrelle, Brenda Cottrelle, William Cottrelle
and William George**

v. (30109)

Alexander B. Gerrard (Ont.)

NATURE OF THE CASE

Torts - Negligence - Liability - Damages - Recovery in tort - Causation - Loss of chance - Whether the causation principles enunciated in *Athey v. Leonati*, [1996] 3 S.C.R. 541, interact with this Court's decision to preclude recovery in tort for loss of chance in *Laferrrière v. Lawson*, [1991] 1 S.C.R. 458 - Whether this Court's decision in *Laferrrière, supra.*, is applicable to common law provinces - Whether the rule precluding recovery in tort for loss of chance can be reconciled with the principle of concurrent liability of professionals.

PROCEDURAL HISTORY

December 7, 2001
Ontario Superior Court of Justice
(Leitch J.)

Applicant Darlene Cottrelle's action for negligence arising from the amputation of her left leg below the knee, granted; \$125,000 in non-pecuniary damages awarded; between \$1K and \$5K awarded to each of the four Applicant children for loss of care and guidance

October 31, 2003
Court of Appeal for Ontario
(Abella, Moldaver and Sharpe JJ.A.)

Appeal allowed; trial judgment set aside

December 23, 2003
Supreme Court of Canada

Application for leave to appeal filed

01.03.2004

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

James Edward Brandon, Sr, et al.

v. (30162)

Gordon Peter Brandon, Jr., in his personal capacity (Ont.)

GRANTED / ACCORDÉE Time extended to March 23, 2004.

01.03.2004

Before / Devant : THE CHIEF JUSTICE

Motion to state a constitutional question

Requête pour formulation d'une question constitutionnelle

Stewart Roy Smith

v. (30049)

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

DISMISSED / REJETÉE

UPON APPLICATION by the appellant for an order stating a constitutional question in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The application to state a constitutional question is dismissed.

01.03.2004

Before / Devant : ARBOUR J.

Motion to extend the time in which to serve and file the factum and book of authorities of the Attorney General of Ontario and to present oral argument at the hearing of the appeal

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de sources et de doctrine du Procureur général de l'Ontario et pour présenter une plaidoirie lors de l'audition de l'appel

Jacques Chaoulli, et al.

v. (29272)

Attorney General of Quebec, et al. (Que.)

GRANTED / ACCORDÉE

UPON APPLICATION by the intervener, the Attorney General of Ontario, for an order extending the time to serve and file its factum and book of authorities to February 16, 2004, and for an order permitting the Attorney General of Ontario 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 Attorney General of Ontario's factum and book of authorities to February 16, 2004, is granted.
- 2) The Attorney General of Ontario is granted permission to present oral argument not exceeding fifteen (15) minutes at the hearing of the appeal.

01.03.2004

Before / Devant : THE REGISTRAR

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

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

William Assaf

v. (30139)

Henry Koury, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to 30 days from this decision.

02.03.2004

Before / Devant : IACOBUCCI J.

Further order on motion for leave to intervene

Autre ordonnance sur une requête en autorisation d'intervention

BY / PAR : Village of Port Clements

IN / DANS : The Minister of Forests, et al.

v. (29419)

Council of the Haida Nation and
Guujaaw, on their own behalf and on
behalf of all members of the Haida
Nation, et al. (B.C.)

UPON APPLICATION by the Village of Port Clements for leave to intervene in the above appeal and pursuant to the order of January 20, 2004;

IT IS HEREBY FURTHER ORDERED THAT the said intervener, Village of Port Clements, is granted permission to present oral argument not exceeding ten (10) minutes at the hearing of the appeal.

01.03.2004

Before / Devant : THE CHIEF JUSTICE

Motion to adjourn the hearing of the appeal

Requête pour ajourner l'audition de l'appel

Her Majesty the Queen

v. (29376)

Kenneth Roy Hurrell (Ont.) (Crim.)

GRANTED / ACCORDÉE

UPON APPLICATION by the appellant for an order adjourning the hearing of the appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

This appeal, now tentatively scheduled to be heard on May 17, 2004, shall be adjourned to a date to be set by the Registrar which date shall be subsequent to October 1, 2004.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

23.2.2004

Pierre Rémillard

c. (29833)

Sa Majesté la Reine (Qc)

27.2.2004

Her Majesty the Queen

v. (29920)

David Jeff Elias (Man.)

DEADLINES: APPEALS

The Spring Session of the Supreme Court of Canada will start April 13, 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.

DÉLAIS : APPELS

La session du printemps de la Cour suprême du Canada commencera le 13 avril 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'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les douze semaines du dépôt de l'avis d'appel ou douze semaines de la décision de la requête pour formulation d'une question constitutionnelle.

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

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

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

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 [2003] 2 S.C.R. Part 3

E.D.G. v. Hammer,
[2003] 2 S.C.R. 459, 2003 SCC 52

K.L.B. v. British Columbia,
[2003] 2 S.C.R. 403, 2003 SCC 51

M.B. v. British Columbia,
[2003] 2 S.C.R. 477, 2003 SCC 53

Nova Scotia (Workers' Compensation Board) v. Martin; Nova Scotia (Workers' Compensation Board) v. Laseur [2003] 2 S.C.R. 504, 2003 SCC 54

Paul v. British Columbia (Forest Appeals Commission),
[2003] 2 S.C.R. 585, 2003 SCC 55

Judgments reported in [2003] 2 S.C.R. Part 4

Deloitte & Touche LLP v. Ontario (Securities Commission),
[2003] 2 S.C.R. 713, 2003 SCC 61

Gurniak v. Nordquist,
[2003] 2 S.C.R. 652, 2003 SCC 59

Imperial Oil Ltd. v. Quebec (Minister of the Environment), [2003] 2 S.C.R. 624, 2003 SCC 58

R. v. Bédard,
[2003] 2 S.C.R. 621, 2003 SCC 56

R. v. Phillips,
[2003] 2 S.C.R. 623, 2003 SCC 57

R. v. S.A.B.,
[2003] 2 S.C.R. 678, 2003 SCC 60

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

Jugements publiés dans [2003] 2 R.C.S. Partie 3

E.D.G. c. Hammer,
[2003] 2 R.C.S. 459, 2003 CSC 52

K.L.B. c. Colombie-Britannique,
[2003] 2 R.C.S. 403, 2003 CSC 51

M.B. c. Colombie-Britannique,
[2003] 2 R.C.S. 477, 2003 CSC 53

Nouvelle-Écosse (Workers' Compensation Board) c. Martin; Nouvelle-Écosse (Workers' Compensation Board) c. Laseur [2003] 2 R.C.S. 504, 2003 CSC 54

Paul c. Colombie-Britannique (Forest Appeals Commission),
[2003] 2 R.C.S. 585, 2003 CSC 55

Jugements publiés dans [2003] 2 R.C.S. Partie 4

Cie pétrolière Impériale ltée c. Québec (Ministre de l'Environnement),
[2003] 2 R.C.S. 624, 2003 CSC 58

Deloitte & Touche LLP c. Ontario (Commission des valeurs mobilières),
[2003] 2 R.C.S. 713, 2003 CSC 61

Gurniak c. Nordquist,
[2003] 2 R.C.S. 652, 2003 CSC 59

R. c. Bédard,
[2003] 2 R.C.S. 621, 2003 CSC 56

R. c. Phillips,
[2003] 2 R.C.S. 623, 2003 CSC 57

R. c. S.A.B.,
[2003] 2 R.C.S. 678, 2003 CSC 60

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2003 -

OCTOBER - OCTOBRE						
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	H 13	14	15	16	17	18
19	20	21	22	23	24	25
26	27	28	29	30	31	

NOVEMBER - NOVEMBRE						
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04-07-2002

DECEMBER - DECEMBRE						
S D	M L	T M	W M	T J	F V	S S
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- 2004 -

JANUARY - JANVIER						
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FEBRUARY - FÉVRIER						
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MARCH - MARS						
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APRIL - AVRIL						
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MAY - MAI						
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JUNE - JUIN						
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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
87 sitting days/journées séances de la cour
9 motion and conference days/ journées requêtes.conférences
3 holidays during sitting days/ jours fériés durant les sessions

