

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

G.M., et al.

Dawna J. Ring, Q.C.
Ringlaw

v. (30071)

The Canadian Red Cross Society, et al. (Ont.)

FILING DATE : 24.11.2003

Terry Lee May

Ann H. Pollack

v. (30083)

Warden of Ferndale Institution, et al. (B.C.)

Curtis S. Workun
A.G. of Canada

- and between -

David Edward Owen

Ann H. Pollack

v. (30083)

Warden of Ferndale Institution, et al. (B.C.)

Curtis S. Workun
A.G. of Canada

- and between -

Maurice Yvon Roy, et al.

Donna M. Turko

v. (30083)

Warden of Ferndale Institution, et al. (B.C.)

Curtis S. Workun
A.G. of Canada

FILING DATE : 8.12.2003

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

Einar Bjellebo (A.K.A. Bellfield)

Howard W. Winkler
Aird & Berlis

v. (30028)

Her Majesty the Queen (Ont.)

David Littlefield
A.G. of Canada

FILING DATE : 15.12.2003

Daniel Ménard

Daniel Royer
Labelle, Boudrault, Côté & Associés

c. (30089)

Sa Majesté la Reine (Qc)

Raynald Savage
P.G. du Québec

DATE DE PRODUCTION : 18.12.2003

Jean (Guy) Tremblay

Jean (Guy) Tremblay

v. (29982)

Calgary Herald Group Inc. (Alta.)

G. Scott Watson
Parlee McLaws

FILING DATE : 19.12.2003

Her Majesty the Queen *ex rel* Linda Merk

Roger J.F. Lepage
Balfour, Moss

v. (30090)

**International Association of Bridge, Structural,
Ornamental and Reinforcing Iron Workers,
Local 771 (Sask.)**

Roderick M. Gillies
Walker, Plaxton & Company

FILING DATE : 19.12.2003

Solomon Windheim

Pierre A. Fournier
Fournier et Associés

c. (30094)

Banque Toronto Dominion, et autres (Qc)

Annie Galarneau
Woods & Associés

DATE DE PRODUCTION : 22.12.2003

**Raymond Chabot Inc., ès qualité de syndic à la
faillite de D.I.M.S. Construction Inc.**

Bernard Boucher
Blake, Cassels & Graydon

c. (30091)

Le Procureur général du Québec (Qc)

Marc Dion
Bernard, Roy & Associés

DATE DE PRODUCTION : 19.12.2003

Arthur Webster

D. Laurence Armstrong
Armstrong, Nikolich

v. (30095)

Attorney General of Canada (F.C.)

Lisa M. Macdonell
A.G. of Canada

FILING DATE : 19.12.2003

Ville de Québec

Richard Grondin
Boutin & Associés

c. (30101)

Hudson's Bay Company (Qc)

Gilles Lareau
De Grandpré, Chait

DATE DE PRODUCTION : 19.12.2003

DECEMBER 22, 2003 / LE 22 DÉCEMBRE 2003

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

Andreas Alexander Meyn

v. (30017)

Her Majesty the Queen (Crim.) (B.C.)

NATURE OF THE CASE

Criminal law (Non *Charter*) - Trial - Jury trial - Charge to the jury - Reasonable doubt - Credibility - In the charge to the jury, the jury was told that the standard was not one of absolute certainty and was only a standard of proof beyond a reasonable doubt - Whether the jury instructions in this case diminished the criminal standard of proof to something less than proof beyond a reasonable doubt - Whether, in context, the charge placed the burden closer to the civil burden than to near certainty - Whether the trial judge failed to charge the jury on the second step in *R. v. W.(D.)*, [1991] 1 S.C.R. 742. - If he did so fail, whether that failure was sufficient to require a new trial.

PROCEDURAL HISTORY

March 27, 2001 Supreme Court of British Columbia (Ralph J.)	Applicant convicted, by a jury, on two counts of sexual assault
July 4, 2003 Court of Appeal for British Columbia (Finch C.J.B.C., Ryan and Mackenzie JJ.A.)	Applicant's appeal dismissed, conviction upheld
October 29, 2003 Supreme Court of Canada	Motion to extend time and application for leave to appeal filed

Greg Takung Chao

v. (29944)

United States of America and The Minister of Justice for Canada (Crim.) (B.C.)

NATURE OF THE CASE

Criminal law - Extradition - Whether delay caused by waiting for the decision of Supreme Court of Canada in *Minister of Justice v. Burns and Rafay* is a "neutral" factor - Application of *Charter* s. 11 (b) reasoning to a *Charter* s. 7 issue - Whether failure to comply with s. 19 of the *Extradition Act* R.S.C. 1985, c. E-23 was an error of law by the Minister of Justice denying the Applicant procedural fairness in his extradition proceedings - Whether Court of Appeal erred in refusing to require the Minister of Justice to make the Applicant's surrender conditional on the Applicant's evidence on the *voir dire* not being available to the requesting state.

PROCEDURAL HISTORY

February 24, 1999 Supreme Court of British Columbia (Wong J.)	Ruling: Applicant ordered to be extradited to the United States
August 15, 2003 Court of Appeal of British Columbia (Low, Levine and Hollinrake JJ.A.)	Application for judicial review dismissed
September 22, 2003 Supreme Court of Canada	Application for leave to appeal filed

Walter Theodor Bartel

v. (29694)

The Manitoba Securities Commission (Man.)

NATURE OF THE CASE

Administrative law - Appeal - Property law - Real property - What is the standard degree of deference to be given to a decision of the Commission in a hearing pursuant s. 11(1) of the *Real Estate Brokers Act*, R.S.M. 1987, c.R20? - What are the meanings of “for cause” and “public interest” used in s. 11(1) of the Act? - What is the degree of detail and disclosure that must be included in the statement of allegations when prosecuted pursuant s. 11(1) of the Act? - Is a person accused pursuant s. 11(1) of the Act entitled to the protection of the *Charter*? - In cases involving the disciplining of professionals, and where their licences can be revoked, are they entitled to be represented by legal counsel? - What authority does the Commission have in cases requiring adjudication on points of law? - What are the tests for independence and competence that can be applied to a tribunal in a disciplinary hearing?

PROCEDURAL HISTORY

January 24, 2001 Manitoba Securities Commission (Bergman, McEwen and Bulman, Members)	Applicant’s registration as a real estate salesperson suspended for 90 days; Applicant required to enroll in specific real estate courses
September 24, 2001 Court of Queen’s Bench of Manitoba (Schulman J.)	Applicant’s appeal allowed; dismissal of charges ordered
February 21, 2003 Court of Appeal of Manitoba (Huband, Steel and Hamilton JJ.A)	Respondent’s appeal allowed in part; matter remitted back to the Respondent Commission for consideration of Applicant’s penalty regarding the Heywood Property
May 13, 2003 Supreme Court of Canada (Major J.)	Application for an order extending the time to serve and file the application for leave is granted to July 31, 2003
July 31, 2003 Supreme Court of Canada	Application for leave to appeal filed

Falconbridge Limited, Noranda Inc., Noranda Dupont of Canada Inc. and Noranda Metallurgy Inc.

v. (29845)

Commissioner of Competition (Ont.)

NATURE OF THE CASE

Statutes - Statutory instruments - Interpretation - International mutual legal assistance - Whether the judiciary has a role in determining if particular conduct constitutes an offence within the meaning of the *Mutual Legal Assistance in Criminal Matters Act* - Whether antitrust offences under United States law are “offences” within the meaning of the *Treaty Between the Government of Canada and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters* - Whether the *Mutual Legal Assistance in Criminal Matters Act* contains a reciprocal offence requirement that has not been met in this case.

PROCEDURAL HISTORY

October 1, 2002
Ontario Superior Court of Justice
(Ratushny J.)

Respondents’ application for sending order under s.15 of *Mutual Legal Assistance in Criminal Matters Act* granted; Applicants’ applications to set aside warrants and evidence-gathering order and for return of seized records dismissed, Applicants’ application for declarations dismissed; Application to continue sealing orders granted in part and sealing orders dated September 30, 1999 and January 13, 2000 continued

May 1, 2003
Court of Appeal for Ontario
(Rosenberg, Moldaver and Simmons JJ.A.)

Appeal dismissed; Matter remitted to applications judge to determine if terms and conditions should be included in sending order

June 27, 2003
Supreme Court of Canada

Application for leave to appeal filed

John Thiessen and Suzanne Thiessen

v. (30011)

Her Majesty the Queen (Man.)

NATURE OF THE CASE

Procedural Law - Administrative Law - Appeal - Judicial review - Civil procedure - Whether the Associate Chief Judge erred in ordering a stay of proceedings on the charges under the *Income Tax Act*? - Whether the Crown Prosecutor improperly exercised his prosecutorial discretion by entering a stay of proceedings of the *Criminal Code* charges? - Whether the Crown Prosecutor or the Department of Justice (Manitoba) were in a conflict of interest? - Whether the Court of Appeal erred in not granting the motion for fresh evidence?

PROCEDURAL HISTORY

May 8, 2002
Court of Queen’s Bench of Manitoba
(Beard J.)

Applicants’ application for orders of *mandamus*, *certiorari* and prohibition dismissed

September 19, 2003
Court of Appeal of Manitoba
(Scott C.J.M., Monnin and Steel JJ.A.)

Appeal dismissed

October 22, 2003
Supreme Court of Canada

Application for leave to appeal filed

CORAM: Iacobucci, Binnie and Arbour JJ.
Les juges Iacobucci, Binnie et Arbour

Keneeth Dean Peepeetch

v. (29991)

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

NATURE OF THE CASE

Criminal Law (Non-Charter)- Trial - Self Representation - Is there an obligation on a trial judge to assess an accused's competence to represent himself? - Is the limited cognitive capacity test the standard to apply to assess competency for self representation?

PROCEDURAL HISTORY

October 9, 1998
Provincial Court of Saskatchewan

Applicant convicted by a jury of first degree murder

August 19, 2003
Court of Appeal for Saskatchewan
(Vancise, Sherstobitoff and Jackson JJ.A.)

Applicant's appeal dismissed

October 14, 2003
Supreme Court of Canada

Application for leave to appeal filed

Yahong Bai, Shuhuan Qu, Lan Sing Cheng, Dongfeng Yang, Dong Xu, Li Zheng, Suzhen Li, Jin Xiao, Lingyi Zhang, Susan Mitchell, Dan Di Pasquale, Michael Koo, Mary Koo, Jane Hu, Zhilan Guo, Benda Liu, Zhenhua He, Fenhua Feng, Ning Bai, Yue Wei, Jinan Liu, Chunling Yang, Qian Guo, Zhujie Tang, Ming-fu Chen, Rose Jen Chen, Janet Yuen, Pianpian Li, Gordon Yu, Sheree Wong, Ying Gao, Zhuofu Li, Jane Yu, Zhuoying Huang, Wen Wang, Donghui Ren, Zheng Wang, Enkai Liu, Youmin Qian, Mei Wu, Yun Huang, Manjing Liu, Nianzeng Shou, Xianling Chen, Yongzhen Liu, Zhibo Wang, Qi Liu, Fan Wang, Wen-chen Shadbolt, Barbara Qui, Thi Keo Duong, Rongtian Qi, Johnny Wu, Li Wang, Hong Ji, Fengying Mao, Tonggui Ye, Tony Chung Wong, Yunqin Huang, Sui-lan Lo, Gordon Lo, Ming Ye, Qili Zhang, Xi Ming Liu, Tian Ying Peng, Fuzhen Xu, Feili Zhang, Yushan Zhi, Xiaojun Yang, Qiu Mei Hou, Anthony Tin Cheung Yeung, Huizhen Liu, Tongjin Zhang, Hong Wang, Wen Ying Li, Shaoxu Li, Tian Fu, Fang Wu, Yong Xin Jackie Chen, Chi Shu Lee, Gang Liang, Chris Trottier, Xiaolei Wu, Yanyan Cai, Bing Lu, Tanya Ma, Sam Chu, Yong Sun, Hock Tung Hui, Sheila Hui, Chao Wen, Ying Li, Louis Yip, Sophia Sun, Shaojiu Wang, Jijun Wang, Wenli Chang, Tiejun Zhang, Christine Loftus, Yufang Zhang, Lanlan Liu, Michael Mahonen, Zoe Ackah, Zenon Dolnyckyj, Wai-kwan Cheung, Jin Mei, Qinxin Yu, Ruoyu Lan, Jack Fan, Mingda Ni, Qiang Zhou, May Peng, Christine Marsh, Hui Yang, Ziyu Fan, Xueye Zhu, Xiaoyan Sun, Ying Zhu, R. Chen, Yunping Cheng, Litian Zhou, Zhili Li, Huiying Chen, Ling Li, Xiaoe Hu, Weicai Li, Ningxu Zhao, Dongdong Yang, Xiaomei Gao, Zhu Wu, Kun Lun Zhang, Zhong, Gerry M. Smith, Yongtao Huang, Min Liu, Gang Chen, Diane Shi, Cindy K. Y. Chan,

Kathy Gillis, Xiaoyang Gao, Shizhong Lei Hong Yu, Jie He, Jie Li, Huaiwen Chan, Lingdi Zhang, Yang Wang, Hua Gao, Mary Zhu, Annie Wu, Changgeng Xi, Hong Li, Jing Zhi, Daiming Huang, Rose Chan, Donna He, Yee Hwa Shin, Ling Zhang, Qiao Ying Nie, Zhenkun Xie

v. (29897)

Sing Tao Daily Limited (Ontario Corporation #1287844), Sing Tao Daily (Canada) Limited (Ontario Corporation #313470), Sing Tao Newspapers (Toronto) Limited, John and Jane Doe(s), yet unidentified defendants responsible for the actions, of the Defendant Corporation(s) to be identified and added as parties (Ont.)

NATURE OF THE CASE

Torts - Libel and slander - Alleged defamatory statements made against a group - Whether it is arguable that the publication was reasonably capable of being defamatory of the Applicants, given the content of the publication and the extrinsic circumstances, including the distinctive circumstances identifying the Applicants in their communities as Falun Gong practitioners - Whether the lower courts erred in principle in their approach to this question and to the substantive adequacy of the Applicants' statement of claim - Whether the decisions of the lower courts privileged formalism over substance - Whether fundamental values of freedom of conscience, belief and association were violated in the present instance

PROCEDURAL HISTORY

June 20, 2002 Ontario Superior Court of Justice (Backhouse J.)	Applicants' claim in libel and accessory claims, struck out
May 20, 2003 Court of Appeal for Ontario (McMurtry C.J.O., Doherty and Gillese JJ.A.)	Appeal dismissed
August 18, 2003 Supreme Court of Canada	Application for leave to appeal filed
November 5, 2003 Supreme Court of Canada (Major J.)	Motion for leave to intervene of Friends of Falun Gong Association, dismissed

Narine Loojune

v. (29935)

Gary N. Holmes (Ont.)

NATURE OF THE CASE

Procedural Law - Civil procedure - Appeal - Judgments and orders - Whether the Court erred in striking Applicant's motion with respect to disclosure of documents pursuant to the *Rules of Civil Procedure*?

PROCEDURAL HISTORY

August 20, 2002 (Abrams, Master)	Applicant's motion to order the Respondent to disclose documents and the identity of persons pursuant to rule 30.02(1) and 31.06(2) of the <i>Rules of Civil Procedure</i> , dismissed
November 14, 2002 Ontario Superior Court of Justice (Wright J.)	Appeal dismissed
January 14, 2003 Ontario Superior Court of Justice (Divisional Court) (Campbell J.)	Motion for Leave to Appeal dismissed
June 12, 2003 Court of Appeal for Ontario (Abella, Moldaver and Feldman JJ.A.)	Motion for Leave to Appeal dismissed
September 8, 2003 Supreme Court of Canada	Application for leave to appeal filed

**Grain Services Union, Local 3000 (I.L.W.U - Canada) and United Food and Commercial Workers
International Union, Local 342P-2 (AFL-CIO-CLC)**

v. (29885)

**Saskatchewan Wheat Pool, operating as CSP Foods and Dawn Food Products (Canada) Ltd. and an
Arbitration Board chaired by William F.J. Hood (Sask.)**

NATURE OF THE CASE

Labour law - Collective agreement - Arbitration - Jurisdiction - Whether the lower courts properly applied the exclusive arbitral jurisdiction model in a matter arising out of collective bargaining agreements - Whether the essential character of this dispute arose under the collective agreement - Whether the pension plan was incorporated into the collective agreement such that disputes concerning the pension plan were disputes under the collective agreement.

PROCEDURAL HISTORY

January 21, 2003 Court of Queen's Bench of Saskatchewan (McIntyre J.)	Applicants' application for judicial review dismissed
May 15, 2003 Court of Appeal for Saskatchewan (Vancise, Gerwing and Jackson JJ.A.)	Applicants' appeal dismissed
August 8, 2003 Supreme Court of Canada	Application for leave to appeal filed

Peter Brown

v. (29843)

Her Majesty the Queen (F.C.)

NATURE OF THE CASE

Taxation - Assessment - Calculation of income - Partnerships - Deemed limited partners - Non-arm's length transactions - Losses - Whether Court of Appeal erred in finding that a partnership is a taxpayer for all purposes of Division B and s. 69 of the *Income Tax Act*, R.S.C. 1985 (5th Supp.), c.1, as amended, overriding the common law principle that a partnership is not a legal entity - Whether Court of Appeal erred in finding that the at-risk rules in ss. 96 (2.2) and (2.4) of the *Income Tax Act* apply to treat members of general partnerships as having less at risk for tax purposes than identically-placed members of limited partnerships contrary to principles of statutory interpretation

PROCEDURAL HISTORY

March 13, 2002 Tax Court of Canada (Rip J.)	Applicant's appeal of 1993, 1994, 1995 and 1996 income tax re-assessments allowed in part; matter referred back to the Minister of National Revenue
June 4, 2003 Federal Court of Appeal (Rothstein, Sexton and Pelletier JJ.A)	Appeal dismissed; Cross-appeal allowed in part; matter referred back to the Minister of National Revenue
June 23, 2003 Supreme Court of Canada	Application for leave to appeal filed

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

Carl Roy

c. (30037)

Sa Majesté la Reine (Crim.) (Qc)

NATURE DE LA CAUSE

Charte canadienne - Droit criminel - Preuve - Stupéfiants - Autorisation d'écoute électronique - La Cour d'appel a-t-elle commis une erreur de droit en maintenant la déclaration de culpabilité prononcée contre le demandeur malgré l'absence totale de motifs au soutien des demandes d'autorisation d'écoute électronique qui ont constitué la totalité de la preuve invoquée contre le demandeur? - La Cour d'appel a-t-elle commis une erreur en droit en ne rejetant pas la preuve ainsi constituée en vertu de l'article 24(2) de la *Charte*, puisque toute la preuve recueillie l'a été en contravention de l'article 8 de la *Charte*?

HISTORIQUE DES PROCÉDURES

Le 6 septembre 2001 Cour du Québec (Le juge Verdon)	Demandeur déclaré coupable d'avoir fait le trafic de la cocaïne contrairement à l'art. 5(1)(3)a) de la <i>Loi réglementant certaines drogues et autres substances</i>
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Le 11 septembre 2003
Cour d'appel du Québec
(Les juges Otis, Rochette et Morissette)

Appel rejeté

Le 10 novembre 2003
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Michael Barton Fargey

v. (30024)

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

NATURE OF THE CASE

Criminal Law (Non-Charter) - Offences - Care and control of a motor vehicle - Whether the Court of Appeal erred in concluding that the application for leave to appeal from the decision of the Summary Conviction Appeal Justice did not involve a question of law - Whether the Court of Appeal erred in concluding that if it did involve a question of law, it was not an issue of such importance as to warrant granting leave to appeal - Where it is established that the accused did not have the intention to drive, whether the potential that the accused might change his or her mind, can constitute the risk of danger that the vehicle will be put in motion and therefore establish care and control - Whether the offence of care and control can be proven by evidence of previous driving

PROCEDURAL HISTORY

September 23, 2002
Alberta Provincial Court
(Ketchum, P.C.J.)

Applicant was convicted of having care and control of a motor vehicle while impaired by alcohol or a drug contrary to s. 253(a) of the *Criminal Code*

April 30, 2003
Court of Queen's Bench of Alberta
(Lee J.)

Applicant's appeal dismissed

July 15, 2003
Court of Appeal of Alberta
(Russell J.A.)

Application for leave to appeal, dismissed

November 3, 2003
Supreme Court of Canada

Applications for extension of time and leave to appeal filed

Her Majesty the Queen

v. (29965)

Lynn Fice (Crim.) (Ont.)

NATURE OF THE CASE

Criminal Law - Sentencing - Conditional Sentence - Is a conditional sentence available in circumstances where a penitentiary sentence is warranted, before factoring in any credit for pre-sentence custody?

PROCEDURAL HISTORY

June 20, 2002 Superior Court of Justice (McLean J.)	Respondent pleaded guilty to aggravated assault, fraud over \$5,000, personation, forgery and breach of recognizance; conditional 14 months sentence imposed in addition to the 16 months pre-sentence custody
June 30, 2003 Court of Appeal for Ontario (Charron, Moldaver and Feldman JJ.A.)	Appeal dismissed
September 25, 2003 Supreme Court of Canada	Application for leave to appeal filed

Mike Barker carrying on business as Mike Barker Auto Sales

v. (29996)

Zurich Insurance Company (Ont.)

NATURE OF THE CASE

Commercial law - Damages - Evidence - Insurance - Claim refused - Verdict by jury - Insurer found liable - Punitive damages awarded - Court of Appeal finds jury's award of punitive damages unfounded - Punitive damages set aside - Does a Court of Appeal have power to set aside a verdict of a jury when the verdict found is undeniably founded and could not be founded otherwise than solely by reason that the jury refused to accord any credibility whatsoever to the witnesses for the defendant?

PROCEDURAL HISTORY

September 30, 1998 Ontario Court of Justice (Crane J.)	Applicant's action for refusal of insurance claim under his automobile insurance policy, granted; Applicant awarded \$200,000 in punitive damages
February 7, 2001 Court of Appeal for Ontario (Charron, Carthy and Sharpe JJ.A.)	Appeal allowed
October 3, 2003 Supreme Court of Canada	Application for leave to appeal and motion to extend time filed

Michel Drapeau

c. (30053)

François Girard, Gaétan Gravel, Niv Fichman, Rhombus Média Inc., Carbone 14, Gilles Maheu et Danièle de Fontenay (Qc)

NATURE DE LA CAUSE

Droit des biens - Droit d'auteur - Législation - Interprétation - "Oeuvre créée en collaboration" au sens de l'art. 2 de la *Loi sur le droit d'auteur*, L.R.C. 1985, ch. C-42 - Quelle est la nature de la contribution du demandeur à l'oeuvre "Le

Dortoir"? - La contribution fournie par le demandeur est-elle, en soi, suffisante pour lui conférer le statut de coauteur de l'oeuvre considérée dans son ensemble, à la lumière des dispositions législatives applicables et de leur interprétation par les tribunaux? - Dans l'affirmative, quelle est la nature du préjudice subi par le demandeur en raison de la mutilation, l'adaptation, la diffusion, la reproduction et la représentation en public non autorisée de son oeuvre, et quelle serait la réparation monétaire appropriée que le tribunal devrait accorder le cas échéant?

HISTORIQUE DES PROCÉDURES

Le 5 avril 2000 Cour supérieure du Québec (Le juge Guthrie)	Action du demandeur en injonction, en reddition de compte et en dommages-intérêts rejetée
Le 19 septembre 2003 Cour d'appel du Québec (Les juges Baudouin, Forget et Morin)	Appel du demandeur rejeté
Le 17 novembre 2003 Cour suprême du Canada	Demande d'autorisation d'appel déposée

DECEMBER 31, 2003 / LE 31 DÉCEMBRE 2003

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

Reynolds John Bonneau, Mildred Rose Bonneau and Wallace Stephen Parker

v. (29899)

Chief Dan Wilson, on his own behalf and on behalf of all members of the Okanagan Indian Band and The Attorney General of Canada (B.C.)

NATURE OF THE CASE

Native law - *Indian Act*, R.S.C. 1985, c. I-5 - Statutes - Interpretation - Property law - Estates - Intestacy - Real property - When an Indian dies intestate and his closest living relatives at the time of his death are nieces and nephews, does any right of possession to land in a reserve held by that Indian pursuant to the *Indian Act* go to those nieces and nephews pursuant to section 48(6) of the *Indian Act*, or does it vest in Her Majesty for the benefit of the band pursuant to section 48(8) of the *Indian Act*?

PROCEDURAL HISTORY

August 6, 2002 Supreme Court of British Columbia (Taylor J.)	Determination on point of law: right of possession in land in reserve held by an Indian dying intestate vests in the Queen for benefit of the band pursuant to s. 48(8) of the <i>Indian Act</i>
May 16, 2003 Court of Appeal for British Columbia (Rowles, Newbury and Smith JJ.A.)	Appeal dismissed
August 15, 2003 Supreme Court of Canada	Application for leave to appeal filed

Mervat S.A. Rashwan and Magdy A. Rashwan

v. (30050)

Joseph S. Farkas (Ont.)

NATURE OF THE CASE

Procedural law - Costs - Summary judgment dismissing action for damages - Appeal against the cost order - Whether the Court of Appeal erred in dismissing the appeal due to the fact that the Applicants had not contested the cost order in the context of their previous appeal - Whether a court of appeal may dismiss an appeal without giving reasons - Whether bias and impartiality on the part of the judges taint the decisions in this case

PROCEDURAL HISTORY

December 20, 2001 Ontario Superior Court of Justice (Boyko J.)	Respondent's motion for assessment of costs, allowed; Applicants ordered to pay \$10,280.22 and postjudgment interest
February 19, 2003 Court of Appeal for Ontario (Labrosse J.A.)	Applicants' motion to extend time to serve and file documents dismissed
September 19, 2003 Court of Appeal for Ontario (Doherty, Weiler and Feldman JJ.A.)	Applicants' motion to set aside order of Labrosse J. and to extend time to serve and file documents dismissed
November 18, 2003 Supreme Court of Canada	Application for leave to appeal filed

S. Paul Mantini

v. (29893)

Smith Lyons LLP, John R. Finley (Ont.)

NATURE OF THE CASE

Commercial law - Contracts - Rules of construction - Intention of the parties - Partnership agreement - Breach of fiduciary duty - Arbitration - *Arbitration Act, 1991*, S.O. 1991, c. 17 - Appropriate standard of appellate review for a lower court's interpretation of a contract - Whether parties to a contract should be able to exclude access to the court for claims of breach of fiduciary duty and bad faith - Whether parties to a contract should be required to state their agreement in express language before the exclusion will be enforced.

PROCEDURAL HISTORY

February 27, 2002 Ontario Superior Court of Justice (Coo J.)	Respondents' motion for dismissal of action allowed in part; Applicant's claim for defamation dismissed and Respondents' motion <i>inter alia</i> for an order to have remainder of claims referred to arbitration dismissed
May 14, 2003 Court of Appeal for Ontario (Catzman, Goudge and Feldman JJ.A.)	Appeal allowed: Order of motions judge set aside: Applicant's action stayed and claims, with one exception, referred to arbitration

August 13, 2003
Supreme Court of Canada

Application for leave to appeal filed

CORAM: Iacobucci, Binnie and Arbour JJ.
Les juges Iacobucci, Binnie et Arbour

**Estate of Farida Shah by her Executrix Ammina Pharwala and Estate of
Jennifer Dawson by her Executor Patrick Dawson**

v. (29875)

J.A.M and D.L.M. (Ont.)

NATURE OF THE CASE

Torts- Property law - Estates - Limitations - *Limitations Act, 2002*, S.O. 2002, c. 24 - *Trustee Act*, R.S.O. 1990, c. T.23 - Survival of actions law - Discoverability - whether an Ontario estate can rely on the pre-*Baker v. Bolton* (1808) 1 Camp. 493, 170 Eng. Rep 1033, common law action for tortious homicide, or whether a wrongful death gives rise solely to a statutory action- Whether discoverability is available per 38(1) and (3) of the *Trustee Act* to allow a claim to go forward on behalf of an estate where personal representative unable to discover the material facts before limitation period expires - Whether this Court's prior rulings on the discoverability is of general application to plaintiffs in Canada - Whether the discoverability principle extends the time until there is knowledge of the material circumstances of the tort for plaintiffs' estates to sue for wrongful death - Is discoverability principle limited to two years from the date of death under the *Trustee Act*?

PROCEDURAL HISTORY

November 13, 2002
Superior Court of Justice for Ontario
(Blair J.)

Applicant's appeal from decision of Arbitrator that action is barred by application of limitation period dismissed

January 8, 2003
Court of Appeal for Ontario
(MacPherson J.A.)

Application for leave to appeal dismissed

May 2, 2003
Court of Appeal for Ontario
(Carthy, Rosenberg and Cronk JJ.A.)

Applicants' motion for reconsideration and for leave to appeal dismissed

July 29, 2003
Supreme Court of Canada

Application for leave to appeal filed

Edward Andrew Kruk

v. (30046)

Elizabeth Jane Pulkingham (B.C.)

NATURE OF THE CASE

Family Law - Access - Custody - What are the state's legal obligations to the children of Canada and their parents? - What are the state's legal obligations to ensure fair jurisprudence to those who are not "wealthy and well-heeled"? - What are the "best interests of children" in Canada? - What are the "best interests" of the one child who is the subject of this

enduring custody litigation? - Is there a rebuttable presumption of equal parenting time for divorcing families when both parents want to have at least equal parenting time and have shared care of the child in the past?

PROCEDURAL HISTORY

March 10, 2003
Supreme Court of British Columbia
(Hood J.)

Order dated December 12, 2000 ordered vacated; Applicant denied overnight access to the parties' son; Applicant allowed only supervised access to parties' son with arrangements for supervised access to be made at the sole discretion of the Respondent

September 25, 2003
Court of Appeal for British Columbia
(Southin, Rowles and Smith JJ.A.)

Appeal dismissed

November 14, 2003
Supreme Court of Canada

Application for leave to appeal filed

The Information Commissioner of Canada

v. (29892)

The Attorney General of Canada and Janice Cochrane (F.C.)

NATURE OF THE CASE

Administrative law - Judicial review - Access to information - Powers of Information Commissioner in carrying out investigations - Access to records - Federal Court, Trial Division setting aside two *subpoenas duces tecum* issued by Applicant under *Access to Information Act*, R.S.C. 1985, c. A-1 - Federal Court of Appeal dismissing Applicant's appeal on ground of mootness - Whether Federal Court of Appeal's decision undermines statutory right of appeal - Whether decisions of Trial Division and Court of Appeal undermine right of members of public to administrative and judicial review.

PROCEDURAL HISTORY

February 6, 2002
Federal Court of Canada, Trial Division
(Kelen J.)

Respondents' applications for judicial review granted; two *subpoenas duces tecum* set aside

May 14, 2003
Federal Court of Appeal
(Richard C.J., Noël and Sexton JJ.A.)

Appeal dismissed on the ground of mootness

August 13, 2003
Supreme Court of Canada

Application for leave to appeal filed

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

Sean Miguel Currie

v. (29957)

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

NATURE OF THE CASE

Criminal Law - Defences - Trial - Bias - Whether trial judge erred in refusing to charge the jury on the defence of self-defence - Whether the trial judge's actions in the case at bar give rise to a reasonable apprehension of bias.

PROCEDURAL HISTORY

April 12, 1999
Superior Court of Ontario (General Division)
(Humphrey J.)

Conviction: attempted murder

June 5, 2002
Court of Appeal for Ontario
(Weiler, Charron and Sharpe JJ.A.)

Appeal against conviction dismissed.

September 24, 2003
Supreme Court of Canada

Application for leave to appeal and motion for extension of time filed

Canadian Union of Public Employees, Local 38

v. (29836)

**Enmax Corporation, The Corporation of the City of Calgary,
Alberta Labour Relations Board (Alta.)**

NATURE OF THE CASE

Labour law - Labour and employment - Bargaining rights - Successorship - Successor employer - Common law rights of employees - Transfer of employees without consent - Labour relations - *Labour Relations Code*, R.S.A. 2000, c. L-1 - Statutory interpretation - Whether the successorship provisions in the labour relations statutes have the effect of eliminating the fundamental common law right of unionized workers to choose their employer - Whether the common law has been usurped in a labour law context - Whether a power to transfer employees without their consent can be read into the successorship provisions of the labour relations statutes.

PROCEDURAL HISTORY

April 11, 2001
Alberta Labour Relations Board
(Asbell, Chair; Cooper and Halpen, Members)

Applicant's complaints of illegal lockout and interference with representation rights, dismissed

November 30, 2001
Alberta Labour Relations Board
(Lucas, VChair; Daigle and Wevers, Members)

Application for reconsideration dismissed

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

December 20, 2002
Court of Queen's Bench of Alberta
(Mason J.)

Applicant's request for judicial review granted;
Respondent Board's decisions quashed

April 22, 2003
Court of Appeal of Alberta
(Conrad, Costigan and Wittmann JJ.A.)

Respondent's appeal allowed; judgment set aside;
Respondent Board's Orders restored

June 17, 2003
Supreme Court of Canada

Application for leave to appeal filed

**JUDGMENTS ON APPLICATIONS
FOR LEAVE**

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

JANUARY 8, 2004 / LE 8 JANVIER 2004

29749 **Glenn Gregory Franks v. Her Majesty the Queen** (Sask.) (Criminal) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Saskatchewan, Number 591, dated April 7, 2003, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Saskatchewan, numéro 591, daté du 7 avril 2003, est rejetée.

NATURE OF THE CASE

Criminal Law (Non-Charter) - Evidence - Writ for *certiorari* to quash a committal to stand trial for possession of proceeds of the crime of trafficking in a controlled substance - Whether Court of Appeal erred in holding that there was any evidence in law upon which to commit the applicant for trial.

PROCEDURAL HISTORY

July 11, 2002 Provincial Court of Saskatchewan (Lewchuk J.)	Applicant committed to stand trial on three charges including one that he unlawfully possessed \$2400 knowing all or part thereof was obtained from trafficking in a controlled substance contrary to s. 8(1) of the <i>Controlled Drugs and Substances Act</i>
December 13, 2002 Court of Queen's Bench of Saskatchewan (Wimmer J.)	Applicant's application for writ of <i>certiorari</i> to quash committal on count of possession of proceeds dismissed
April 7, 2003 Court of Appeal for Saskatchewan (Bayda C.J.S., Tallis and Lane JJ.A.)	Appeal dismissed
May 20, 2003 Supreme Court of Canada (Bastarache J.)	Motion to extend time to file and/or serve leave application granted
August 12, 2003 Supreme Court of Canada	Application for leave to appeal filed

29761 **Robert Duff Reilly v. Michael W. Lynn** (B.C.) (Civil) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The applications for an extension of time are granted and the application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Numbers CA026594, CA026922 and CA028565, dated January 24, 2003, is dismissed with costs.

Les demandes de prorogation de délai sont accordées et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéros CA026594, CA026922 et CA028565, daté du 24 janvier 2003, est rejetée avec dépens.

NATURE OF THE CASE

Procedural Law - Evidence - Costs - Appeal - Whether the appropriate test for the admissibility of hearsay evidence imbedded in an expert report needs to be defined - Whether the Court needs to harmonize the law of admissibility of hearsay evidence generally in Canada. - Whether the Court should reconsider the principles expressed in *R. v. Abbey*, [1982] 2 S.C.R. 24 and *R. v. Lavallée*, [1990] 1 S.C.R. 852 in light of its stance on hearsay generally in *R. v. Kahn*, [1990] 2 S.C.R. 531 - Whether the British Columbia Court of Appeal erred by basing their judgment on a new point of law not raised as considered in the courts below - The appropriate test for an appellate court to overturn a trial judge's decision on the applicable scale of costs needs to be defined.

PROCEDURAL HISTORY

November 12, 1999 and February 28, 2000 Supreme Court of British Columbia (Coultras J.)	Applicant's action in negligence allowed; damages for loss of future earning capacity awarded in the amount of \$2,340,000
December 1, 2000 Supreme Court of British Columbia (Coultras J.)	Supplementary reasons of the Court granting management fee and dismissing the plaintiff's claim for increased costs
May 15, 2001 Supreme Court of British Columbia (Coultras J.)	Supplementary reasons granting the Respondent's application that total temporary disability benefits be deducted and granting the Applicant's application for increased costs
January 24, 2003 Court of Appeal of British Columbia (Low, Smith and Southin [<i>dissenting</i>], JJ.A.)	Appeal allowed; damages reduced to \$1,650,000 and costs at trial reduced to scale 5
May 9, 2003 Supreme Court of Canada	Applications for an extension of time and leave to appeal filed
October 29, 2003 Supreme Court of Canada	Application for an extension of time to file the formal order of the Court of Appeal filed

29804 **Steven Fletcher v. Manitoba Public Insurance Corporation and Automobile Injury Compensation Appeal Commission** (Man.) (Civil) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Manitoba, Number AI 02-30-05433, dated April 30, 2003, is dismissed with costs to the respondent, Manitoba Public Insurance Corporation.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Manitoba, numéro AI 02-30-05433, daté du 30 avril 2003, est rejetée avec dépens en faveur de l'intimée, Société d'assurance publique du Manitoba.

NATURE OF THE CASE

Commercial law - Insurance - Canadian Charter - Civil - Civil Rights - Whether the issues raised were questions of law and ought to have been determined by the Manitoba Court of Appeal in accordance with section 187 of *The Manitoba Public Insurance Act*, C.C.S.M., c.P215 - Whether the Manitoba Automobile Injury Compensation Appeal Commission erred in failing to find that the Applicant was entitled to certain rehabilitation expenses within the meaning of s. 138 of *The Manitoba Public Insurance Act*, C.C.S.M., c.P215 and s. 10(1)(e) of Manitoba Regulation 40/94 - Whether the Applicant's rights as guaranteed by sections 6, 7 and 15 of the *Charter of Rights and Freedoms* have been infringed.

PROCEDURAL HISTORY

November 14, 2002 Automobile Injury Compensation Appeal Commission (Tavares, Fréchette and Joubert, Members)	Applicant's appeal of the Internal Review Officer's April 30, 2002 decision refusing him entitlement to reimbursement of expenses, dismissed
April 30, 2003 Court of Appeal of Manitoba (Kroft J.A.)	Applicant's application for leave to appeal the decision of the Commission, denied
June 9, 2003 Supreme Court of Canada	Application for leave to appeal filed

29820 **Marvin W. Henderson and William J. Campbell v. George Hagblom, George Hagblom Masonry Ltd.** (Sask.) (Civil) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Saskatchewan, Number C.A. No. 79, dated April 17, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Saskatchewan, numéro C.A. No. 79, daté du 17 avril 2003, est rejetée avec dépens.

NATURE OF THE CASE

Torts - Negligence - Barristers and solicitors - Standard of care applicable to barrister negligence - Whether standard of egregious error applies to errors in judgment - Whether Court of Appeal erred in ruling that the trial judge misdirected himself on the issue of the standard of proof of causation and on the application of loss of a chance - Procedural law - Evidence - Whether Court of Appeal erred in ruling that the trial judge should not have admitted the expert evidence - Whether Court of Appeal erred in overturning findings of fact made by the trial judge

PROCEDURAL HISTORY

April 6, 2000 Court of Queen's Bench of Saskatchewan (Maurice J.)	Applicants' action in recovery allowed; Respondents' counterclaim in negligence dismissed
April 17, 2003 Court of Appeal for Saskatchewan (Bayda C.J.S., Sherstobitoff and Jackson JJ.A.)	Respondents' appeal allowed
June 13, 2003 Supreme Court of Canada	Application for leave to appeal filed

29855 **Richard Kappo, Councillor of the Sturgeon Lake Cree Nation, on behalf of the Sturgeon Lake Cree Nation v. The Subdivision and Development Appeal Board (Municipal District of Greenview No. 16) and The Municipal District of Greenview No. 16** (Alta.) (Civil) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Edmonton), Number 0303-0022-AC, dated May 1, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Edmonton), numéro 0303-0022-AC, daté du 1 mai 2003, est rejetée avec dépens.

NATURE OF THE CASE

Administrative Law - Native Law- Constitutional Law - Appeal - Jurisdiction - Whether the judgment of the Court of Appeal of Alberta from which leave is sought stands in conflict with the decision of this Honourable Court in *Slaight Communications* concerning the authority and duty of administrative tribunals to act in accordance with the *Constitution of Canada* - Whether the judgment of the Court of Appeal of Alberta from which leave is sought effectively denies First Nations the right to Crown consultation prior to the making of decisions at the tribunal level that allow or authorize infringements of First Nations' Treaty rights - Whether the Court of Appeal of Alberta erred in law by denying the Applicant's application for leave to appeal in this matter

PROCEDURAL HISTORY

December 17, 2002
Subdivision and Development Appeal Board of the
Municipal District of Greenview No. 16
(T. Yelenik, R. Perron, J. Wiens, and D. Harrington)

Appeal of the decision of the Development Authority fo
the Municipal District to grant the development permit,
denied.

May 1, 2003
Court of Appeal of Alberta
(Ritter J.A.)

Applicant's application for leave to appeal from a decision
by the Respondent Subdivision and Development Appeal
Board, dismissed

July 2, 2003
Supreme Court of Canada

Application for leave to appeal filed

July 23, 2003
Supreme Court of Canada
(Iacobucci J.)

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

29894 **Ramarro Resources Inc. v. Pure Energy Marketing Ltd.** (Alta.) (Civil) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Calgary), Number 0201-0228-AC, dated June 25, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Calgary), numéro 0201-0228-AC, daté du 25 juin 2003, est rejetée avec dépens.

NATURE OF THE CASE

Commercial Law - Contracts - Agency - Where an agent has negotiated a contract with a third party, as a result of which the agent is entitled to the payment of commission periodically during the performance of that contract, whether a term will be implied into the agency contract that the principal will not, in a manner not involving breach of the contract with the third party, make a further agreement with the third party which will prevent the contract running its full course and therefore deprive the agent of the commission that would otherwise have been received - Whether Court of Appeal's decision conflicts with other jurisprudence.

PROCEDURAL HISTORY

April 3, 2002 Court of Queen's Bench of Alberta (Cairns J.)	Respondent's action for breach of agency agreement granted; Respondent awarded damages in the amount of \$138,576.40
June 25, 2003 Court of Appeal of Alberta (O'Leary, Hunt and Paperny JJ.A.)	Appeal dismissed
August 13, 2003 Supreme Court of Canada	Application for leave to appeal filed

29898 **Jason George Horse v. Her Majesty the Queen** (Sask.) (Criminal) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Saskatchewan, Number 319, 2003 SKCA 051, dated May 21, 2003, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Saskatchewan, numéro 319, 2003 SKCA 051, daté du 21 mai 2003, est rejetée.

NATURE OF THE CASE

Criminal Law - Jury selection - Pre-screening - Whether the learned trial judge erred in law by failing to inquire into the nature of a prospective juror's relationship with a witness, in accordance with his statutory duty pursuant to section 632 and thereby denied himself the facts required to exercise his discretion in accordance with legal principle - Whether the learned trial judge erred in law in presuming that the challenge for cause hearing conducted under the authority of section 640 effectively superceded his authority and responsibility under section 632 to excuse any juror with a relationship to a witness and superceded all the trial judge's residual authority to take action safeguarding the fairness of the trial after the pre-screening and before the trial judge's authority under section 644 can be invoked - *Criminal Code*, R.S.C. 1985, c. C-46, ss. 632, 640

PROCEDURAL HISTORY

April 12, 2001 Court of Queen's Bench of Saskatchewan (Kovach J.)	Applicant convicted of second degree murder contrary to s. 235(1) of the <i>Criminal Code</i> ; sentenced to life imprisonment without parole eligibility for ten years
May 21, 2003 Court of Appeal for Saskatchewan (Tallis, Cameron and Gerwing JJ.A.)	Appeal dismissed
August 20, 2003 Supreme Court of Canada (Binnie J.)	Motion to extend time to file and/or serve application for leave granted
Supreme Court of Canada September 19, 2003	Application for leave to appeal filed

29937 **Trevor Nicholas Construction Co. Limited v. Her Majesty the Queen as represented by the Minister for Public Works Canada** (F.C.) (Civil) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-723-01, dated June 24, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-723-01, daté du 24 juin 2003, est rejetée avec dépens.

NATURE OF THE CASE

Commercial Law - Procedural Law - Contracts - Breach of contract - Evidence - Trial - Judgments and orders - Whether the Federal Court of Appeal erred in law and on the evidence by affirming the Trial Judge's findings? - Whether the Federal Court of Appeal erred in law and on the evidence by failing to find that no weight can be given to hearsay evidence, in the absence of any exception to the hearsay rule? - Whether the Federal Court of Appeal erred in law and on the evidence by failing to find that the expert report was inadmissible hearsay lacking any exception to the hearsay rule?

PROCEDURAL HISTORY

November 23, 2001 Federal Court of Canada, Trial Division (Simpson J.)	Applicants action for breach of contract dismissed
June 24, 2003 Federal Court of Appeal (Desjardins, Isaac and Malone JJ.A.)	Appeal dismissed
September 10, 2003 Supreme Court of Canada	Application for leave to appeal filed

29998 **Robert Singer v. Betty Davila-Singer** (Ont.) (Civil) (By Leave)

Coram: McLachlin C.J. and Major and Fish JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C39411, dated August 19, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C39411, daté du 19 août 2003, est rejetée avec dépens.

NATURE OF THE CASE

Family Law - Divorce - Custody - Access - Joint Custody - Mobility rights - Mother with primary residence wishing to relocate with children and new spouse to Germany - Father resisting the move and seeking sole custody - How the court interprets the best interests of the children when joint custodial parent states relocation will occur with or without the children.- Relevance of a joint custodial arrangement to prevent a joint custodial parent from moving the children's residence from Ontario to Germany- Interpretation of the test of the best interests of the child as set out in *Gordon v. Goertz*, [1996] 2 S.C.R. 27 to joint custodial arrangements, and where moving party will move regardless of outcome - Whether Court of Appeal erred in giving presumptive deference to a primary residential parent despite substantial of the role of the other joint custodial parent in the lives of the children

PROCEDURAL HISTORY

December 12, 2002 Ontario Superior Court of Justice (Walters J.)	Respondent's action to relocate to Germany with the parties' two children, granted; Applicant's application for sole custody, dismissed
August 19, 2003 Court of Appeal for Ontario (Rosenberg, Goudge and Sharpe JJ.A.)	Appeal dismissed
October 17, 2003 Supreme Court of Canada	Application for leave to appeal filed

29763 **Canadian Waste Services Holdings, Inc., Canadian Waste Services Inc. and Waste Management, Inc. v. Commissioner of Competition** (F.C.) (Civil) (By Leave)

Coram: Iacobucci, Binnie and Arbour JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Numbers A-45-02 and A-644-01, dated March 12, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéros A-45-02 et A-644-01, daté du 12 mars 2003, est rejetée avec dépens.

NATURE OF THE CASE

Administrative Law - Competition Tribunal - Appeals - Judicial Review - Standard of Review - Correct application of the hypothetical monopolist test in geographic market definition - Standard which a trial level tribunal or court ought to apply when predicting the outcome of another statutory decision maker's decision - the obligation on an appeal court to undertake a "somewhat probing examination" in reviewing a Tribunal decision on a standard of reasonableness *simpliciter*

PROCEDURAL HISTORY

March 28, 2001 Competition Tribunal (McKeown J. (presiding); L.P. Schwartz; and G. Solursh)	Respondent's application for an order under s. 92 of the <i>Competition Act</i> , allowed
October 3, 2001 Competition Tribunal (McKeown J. (presiding); L.P. Schwartz; and G. Solursh)	Applicants ordered to divest the Ridge
March 12, 2003 Federal Court of Appeal (Richard C.J., Noël and Sexton JJ.A.)	Appeals dismissed
May 12, 2003 Supreme Court of Canada	Application for leave to appeal filed

May 29, 2003
Supreme Court of Canada
(Bastarache J.)

Application by the Applicants that Volume II of the application for leave to appeal be kept sealed and confidential and that further documentation designated as confidential before the Tribunal be marked as "Confidential" and filed in a sealed envelope allowed

29824 **Rhodie Logistics International Inc. v. Emcea Transport Inc.** (Ont.) (Civil) (By Leave)

Coram: **Iacobucci, Binnie and Arbour JJ.**

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C-39139, dated April 14, 2003, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C-39139, daté du 14 avril 2003, est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Pre-trial - Summary judgment - Contracts - Contract between shipping agent and transportation company - Whether Court of Appeal erred in failing to set aside summary judgment - Whether bankruptcy procedures can or should be used as a means for an individual to escape civil responsibility for criminal actions - Whether Court of Appeal erred in finding that the Applicant was liable to the Respondent even though it was clearly acting as agent for the shipper and receiver with actual or ostensible authority to do so

PROCEDURAL HISTORY

October 15, 2002
Ontario Superior Court of Justice
(Granger J.)

Respondent's motion for summary judgment in the amount of \$ 33,246.00, granted

April 14, 2003
Court of Appeal for Ontario
(Weiler, Abella and Armstrong JJ.A.)

Appeal dismissed

June 12, 2003
Supreme Court of Canada

Application for leave to appeal filed

29912 **Jagrup Singh Baidwan v. Her Majesty the Queen** (B.C.) (Criminal) (By Leave)

Coram: **Iacobucci, Binnie and Arbour JJ.**

The application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA029411, dated June 5, 2003, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA029411, daté du 5 juin 2003, est rejetée.

NATURE OF THE CASE

Canadian Charter - Criminal law - Confession - Right to silence - Right to counsel - Whether the British Columbia Court of Appeal erred in law in affirming the trial judge's decision to admit into evidence statements made by the Applicant to the police - Whether the British Columbia Court of Appeal erred in law in affirming the correctness of the trial judge's decision that various statements of the Applicant made to the police did not offend the law relating to

voluntariness/oppression and the admissibility of confessions - Whether the British Columbia Court of Appeal erred in law in affirming the correctness of the trial judge's decision, that admitting into evidence various statements of the Applicant made to the police, did not offend the law relating to admissibility of statements and the right to counsel - Whether the British Columbia Court of Appeal erred in law in affirming the correctness of the trial judge's decision, that admitting into evidence various statements of the Applicant made to the police, did not offend the law relating to admissibility of statements and the right to silence - Whether the British Columbia Court of Appeal erred in law in affirming the correctness of the trial judge's decision that admitting into evidence statement #3 as not tainted, and therefore, inadmissible, as a result of the improper taking of statements #1 and #2

PROCEDURAL HISTORY

October 12, 2001 Supreme Court of British Columbia (Holmes J.)	Ruling on voir dire : statements made by the Applicant after arrest declared admissible into evidence
November 9, 2001 Supreme Court of British Columbia (Holmes J.)	Applicant convicted of second degree murder contrary to s. 235 of the <i>Criminal Code</i>
January 17, 2002 Supreme Court of British Columbia (Holmes J.)	Applicant sentenced to life imprisonment without parole eligibility for 13 years
June 5, 2003 Court of Appeal of British Columbia (Southin, Newbury and Mackenzie JJ.A.)	Appeal against conviction dismissed
September 2, 2003 Supreme Court of Canada	Application for leave to appeal filed

29989 **Syndicat des infirmières et infirmiers de l'Est du Québec (CSQ) c. Syndicat des infirmières et infirmiers du centre hospitalier de l'Archipel (FIIQ)** (Qc) (Civile) (Autorisation)

Coram: Les juges Iacobucci, Binnie et Arbour

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Québec), numéro 200-09-004387-038, daté du 8 juillet 2003, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Quebec), Number 200-09-004387-038, dated July 8, 2003, is dismissed with costs.

NATURE DE LA CAUSE

Droit du travail - Droit administratif - Contrôle judiciaire - Accréditation - Maraude - Délai - *Loi sur le temps réglementaire*, L.R.Q., c. T-6 - Fuseaux horaires - Les questions que soulève le présent pourvoi sont-elles d'importances au sens de l'art. 40 (1) de la *Loi sur la Cour suprême* ? - La *Loi sur le temps réglementaire*, eu égard aux articles du *Code du travail*, porte-t-elle atteinte à la liberté d'association des salariés domiciliés et résidents aux Îles-de-la-Madeleine ? - La garantie de la liberté d'association comporte-t-elle le droit, pour les salariés appartenant aux secteurs public et parapublic exerçant leur liberté d'association aux Îles-de-la-Madeleine, d'être soumis aux fuseaux horaires applicables au continent ?

HISTORIQUE DES PROCÉDURES

Le 23 juillet, 2002
Bureau du Commissaire Général du Travail
(Le commissaire du travail M^e Marceau)

L'accréditation accordée le 27 juillet 1978 au Syndicat CSQ, annulée; le Syndicat FIIQ accrédité.

Le 10 décembre, 2002
Tribunal du travail
(Le juge Plante)

L'appel du demandeur accueilli; la requête en accréditation du Syndicat FIIQ, trouvée irrecevable, l'accréditation accordée au Syndicat CSQ maintenue.

Le 19 février 2003
Cour supérieure du Québec
(La juge Hardy-Lemieux)

Requête de l'intimé accueillie en partie; décision du juge Plante déclaré manifestement déraisonnable; décision du Commissaire Marceau confirmée.

Le 8 juillet 2003
Cour d'appel du Québec
(Les juges Dussault, Rousseau-Houle et Letarte)

L'appel du demandeur rejeté

Le 29 septembre 2003
Cour suprême du Canada

Demande d'autorisation d'appel déposée

29990 **Éric Bilodeau c. Sa Majesté la Reine** (Qc) (Criminelle) (Autorisation)

Coram: Les juges Iacobucci, Binnie et Arbour

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-10-001896-008, daté du 4 juin 2003, est rejetée.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-10-001896-008, dated June 4, 2003, is dismissed.

NATURE DE LA CAUSE

Droit criminel - Procédure - Contre interrogatoire - Antécédents judiciaires - Directives au jury - La Cour d'appel a-t-elle erré en droit en concluant que le juge du procès n'a pas commis d'erreur de droit en permettant à la poursuite de contre-interroger le demandeur relativement aux détails d'antécédents judiciaires ? - La Cour d'appel du Québec a-t-elle erré en droit en rejetant l'appel du demandeur à l'encontre de sa condamnation en appliquant la disposition réparatrice de l'alinéa 686 (1)b)iii) du *Code criminel*.

HISTORIQUE DES PROCÉDURES

Le 20 juin 2000
Cour supérieure du Québec
(Le juge Paul)

Demandeur reconnu coupable de meurtre au second degré contrairement à l'art. 235 du *Code criminel*

Le 4 juin 2003
Cour d'appel du Québec (Montréal)
(Les juges Rothman, Proulx et Rochette)

Appel rejeté

Le 8 octobre 2003
Cour suprême du Canada

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

29825 **Dimitri Sever, The Board of Directors of the Protection of the Holy Virgin Russian Orthodox Church (Outside of Russia) Ottawa, Incorporated being Antole Jozwiak, Alexandre Frolov, Arkadiusz Rydel, Titiana Pyzhov, Ann Frolov, Lyubov Voskresensky, Iouri Ioganov, Alexander Radstig, Anatoly Iljin, Maria Jozwiak, Yuri Krasnov, Vladimir Litvien and Mark Petrovtsi v. The Montreal and Canadian Diocese of the Russian Orthodox Church Outside of Russia Incorporated, Protection of the Holy Virgin Russian Orthodox Church (Outside of Russia) in Ottawa, Incorporated and St. Vladimir's Russian Residence of Ottawa Inc.** (Ont.) (Civil) (By Leave)

Coram: Iacobucci, Binnie and Arbour JJ.

The application for an extension of time to apply for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C36196, dated December 10, 2002, is dismissed with costs. In any event, had such application been granted, the application for leave to appeal from the said judgment would have been dismissed.

La demande de prorogation du délai pour le dépôt d'une demande d'autorisation d'appel contre l'arrêt de la Cour d'appel de l'Ontario, numéro C36196, daté du 10 décembre 2002, est rejetée avec dépens. Quoiqu'il en soit, même si la demande de prorogation avait été accueillie, la demande d'autorisation d'appel aurait été rejetée.

NATURE OF THE CASE

Commercial law - Corporate By-laws and Letters Patent - Statutory interpretation - *Canada Corporations Act*, 1964-65, c. 52, s. 2 - Whether resolution to amend corporate by-laws of local church passed by church members was invalid - Whether article 54 of the parish by-laws contravenes ss. 154 and 155 of the *Canadian Corporations Act (CCA)* - Whether the Court of Appeal erred in declaring article 54 of "normal" church by-laws enforceable and valid - Whether, under the provisions of the *CCA* and the general principles of Canadian corporate law, an unelected individual may have and exercise veto powers to annul a decision made by a two-thirds majority of members of a corporation voting to amend a by-law.

PROCEDURAL HISTORY

February 5, 2001
Ontario Superior Court of Justice
(Panet J.)

Respondents' application to have by-law amendments made by Applicant Board declared invalid, granted; meeting ordered to elect new Board of Directors

December 10, 2002
Court of Appeal for Ontario
(Carthy, Laskin and Borins JJ.A.)

Appeal allowed in part: Decision of trial judge to declare by-law amendment invalid upheld; Order for meeting to elect new Board set aside

June 9, 2003
Supreme Court of Canada

Application for leave to appeal and motion for extension of time filed

12.12.2003

Before / Devant : THE REGISTRAR

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

Requête en prorogation du délai imparti pour signifier et déposer les mémoire et recueil de jurisprudence et de doctrine de l'intervenant le Procureur général de la Colombie-Britannique

The Minister of Human Resources Development Canada

v. (29351)

Betty Hodge (F.C.)

GRANTED / ACCORDÉE Time extended to December 19, 2003.

15.12.2003

Before / Devant : FISH J.

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

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

Lily Elaine Burnett

v. (29987)

Workers' Compensation Board (B.C.)

GRANTED / ACCORDÉE

UPON APPLICATION by the applicant for an order extending the time to serve and file an application for leave to appeal to October 3, 2003;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The application for an order extending the time to serve and file an application for leave to appeal to October 3, 2003 is granted.

16.12.2003

Before / Devant : FISH J.

Motions for leave to intervene

Requêtes en autorisation d'intervention

BY / PAR : Fédération nationale des conseils scolaires francophones and the Commission nationale des parents francophones
Commissioner of Official Languages of Canada
Association franco-ontarienne des conseils scolaires catholique and the Association des conseillers(ères) des écoles publiques de l'Ontario
Fédération des communautés francophones et acadiennes du Canada and the Fédération des associations de juristes d'expression française de common law inc.

IN / DANS : Edwidge Casimir

v. (29297)

Attorney General of Quebec (Que.)

GRANTED / ACCORDÉE

UPON APPLICATIONS by the Fédération nationale des conseils scolaires francophones and the Commission nationale des parents francophones, the Commissioner of Official Languages of Canada / Commissaire aux langues officielles du Canada, the Association franco-ontarienne des conseils scolaires catholique and the Association des conseillers(ères) des écoles publiques de l'Ontario, the Fédération des communautés francophones et acadiennes du Canada and the Fédération des associations de juristes d'expression française de common law inc. for leave to intervene in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion for leave to intervene of the applicants, the Fédération nationale des conseils scolaires francophones and the Commission nationale des parents francophones, is granted and the applicants shall be entitled to serve and file a factum not to exceed 20 pages.

The motion for leave to intervene of the applicant, the Commissioner of Official Languages of Canada / Commissaire aux langues officielles du Canada, is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages.

The motion for leave to intervene of the applicants, the Association franco-ontarienne des conseils scolaires catholique and the Association des conseillers(ères) des écoles publiques de l'Ontario, is granted and the applicants shall be entitled to serve and file a factum not to exceed 20 pages.

The motion for leave to intervene of the applicants, the Fédération des communautés francophones et acadiennes du Canada and the Fédération des associations de juristes d'expression française de common law inc., is granted and the applicants shall be entitled to serve and file a factum not to exceed 20 pages.

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

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

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

À LA SUITE DES DEMANDES de la Fédération nationale des conseils scolaires francophones et la Commission nationale des parents francophones, la Commissaire aux langues officielles du Canada / Commissioner of Official Languages of Canada, l'Association franco-ontarienne des conseils scolaires catholique et l'Association des conseillers(ères) des écoles publiques de l'Ontario, la Fédération des communautés francophones et acadiennes du Canada et la Fédération des associations de juristes d'expression française de common law inc., visant à obtenir l'autorisation d'intervenir dans l'appel susmentionné;

ET APRÈS AVOIR LU la documentation déposée;

L'ORDONNANCE SUIVANTE EST RENDUE:

La demande d'autorisation d'intervenir présentée par la Fédération nationale des conseils scolaires francophones et la Commission nationale des parents francophones est accordée; les requérantes auront le droit de signifier et déposer un mémoire de 20 pages tout au plus.

La demande d'autorisation d'intervenir présentée par la Commissaire aux langues officielles du Canada / Commissioner of Official Languages of Canada est accordée; la requérante aura le droit de signifier et déposer un mémoire de 20 pages tout au plus.

La demande d'autorisation d'intervenir présentée par l'Association franco-ontarienne des conseils scolaires catholique et l'Association des conseillers(ères) des écoles publiques de l'Ontario est accordée; les requérantes auront le droit de signifier et déposer un mémoire de 20 pages tout au plus.

La demande d'autorisation d'intervenir présentée par la Fédération des communautés francophones et acadiennes du Canada et la Fédération des associations de juristes d'expression française de common law inc. est accordée; les requérantes auront le droit de signifier et déposer un mémoire de 20 pages tout au plus.

La demande visant à présenter une plaidoirie sera examinée après la réception et l'examen de l'argumentation écrite des parties et des intervenantes.

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

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

16.12.2003

Before / Devant : FISH J.

Motion for leave to intervene

Requête en autorisation d'intervention

BY / PAR : Commissioner of Official Languages
of Canada

IN / DANS : Roger Gosselin, et al.

v. (29298)

Attorney General of Quebec (Que.)

GRANTED / ACCORDÉE

UPON APPLICATION by the Commissioner of Official Languages of Canada / Commissaire aux langues officielles du Canada for leave to intervene in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion for leave to intervene of the applicant, the Commissioner of Official Languages of Canada / Commissaire aux langues officielles du Canada, is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages.

The request to present oral argument is deferred to a date following receipt and consideration of the written arguments of the parties and the intervener.

The intervener shall not be entitled to adduce further evidence or otherwise to supplement the record of the parties.

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

À LA SUITE DE LA DEMANDE de la Commissaire aux langues officielles du Canada / Commissioner of Official Languages of Canada visant à obtenir l'autorisation d'intervenir dans l'appel susmentionné;

ET APRÈS AVOIR LU la documentation déposée;

L'ORDONNANCE SUIVANTE EST RENDUE:

La demande d'autorisation d'intervenir présentée par la Commissaire aux langues officielles du Canada / Commissioner of Official Languages of Canada est accordée; la requérante aura le droit de signifier et déposer un mémoire de 20 pages tout au plus.

La demande visant à présenter une plaidoirie sera examinée après la réception et l'examen de l'argumentation écrite des parties et de l'intervenante.

L'intervenante n'aura pas le droit de produire d'autres éléments de preuve ni d'ajouter quoi que ce soit au dossier des parties.

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

17.12.2003

Before / Devant : IACOBUCCI J.

Motion to strike

Requête en radiation

Canada Safeway Limited, et al.

v. (30000)

Alberta Human Rights and Citizenship Commission, et al. (Alta.)

GRANTED WITH COSTS / ACCORDÉE AVEC DÉPENS

UPON APPLICATION by the Respondents for an order striking the affidavits of Pierre Dupuis, Kenneth V. Georgetti, Paul C. Weiler, Michael Lynk and Christian Brunelle from the application for leave to appeal filed by United Food and Commercial Workers Union, Local 401, with costs, and in the alternative, if the motion to strike the affidavit is unsuccessful, an order extending the time to file their response to both applications for leave to appeal, 30 days from the disposition of this motion;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion is granted with costs.

17.12.2003

Before / Devant : IACOBUCCI J.

Motion to expedite the application for leave

Requête visant à accélérer l'audition de la demande d'autorisation d'appel

Government of Saskatchewan

v. (29973)

Rothmans Benson & Hedges Inc. (Sask.)

DISMISSED / REJETÉE

UPON APPLICATION by the applicant for and order: 1) expediting the application for leave to appeal as well as the motion for a stay of proceedings in the following ways: a) requiring the respondent to serve and file its response to the application for leave to appeal by December 19, 2003; b) on condition that (a) as set out above is ordered, further requiring the applicant to serve and file any reply by December 24, 2003; c) expediting the disposition of both the application for leave to appeal and the motion for a stay of proceedings; 2) in the alternative, that the panel order the stay of proceedings alone on an expedited basis until further dealt with by the Court, with the application for leave to appeal be dealt with in the normal course; and 3) costs of this motion;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion is dismissed with no order as to costs.

17.12.2003

Before / Devant : IACOBUCCI J.

Motion for leave to intervene**Requête en autorisation d'intervention**

BY / PAR : Chambre des notaires du Québec

IN / DANS : Société Radio-Canada

c. (29519)

Gilles E. Néron Communication
Marketing Inc., et autre (Qc)

GRANTED / ACCORDÉE

À LA SUITE DE LA DEMANDE de la Chambre des notaires du Québec visant à obtenir l'autorisation d'intervenir dans l'appel susmentionné;

ET APRÈS AVOIR LU la documentation déposée;

L'ORDONNANCE SUIVANTE EST RENDUE;

La demande d'autorisation d'intervenir présentée par la Chambre des notaires du Québec est accordée; la requérante aura le droit de signifier et déposer un mémoire de 20 pages au plus.

La demande visant à présenter une plaidoirie seront examinées après la réception et l'examen de l'argumentation écrite des parties et de l'intervenante.

L'intervenante n'aura pas le droit de produire d'autres éléments de preuve ni d'ajouter quoi que ce soit au dossier des parties.

Conformément au par. 59(1)(a) des Règles de la Cour suprême du Canada, l'intervenante paiera aux appelants et aux intimés tous débours supplémentaires résultant de leur intervention.

17.12.2003

Before / Devant : FISH J.

Motion for directions**Demande pour obtenir des directives**

Percy Schmeiser, et al.

v. (29437)

Monsanto Canada Inc., et al. (F.C.)

DISMISSED WITH COSTS / REJETÉE AVEC DÉPENS

UPON APPLICATION by BIOTECanada Inc. for directions, procedural relief including an extension of time and permission to file a separate 20 page factum in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

On October 23, 2003, I granted the separate applications for leave to intervene of the applicants, Canadian Seed Trade Association (“SCTA”) and BIOTECanada Inc., who were then represented by the same counsel, and authorized the filing of a joint factum not to exceed 20 pages. The applicant, now separately represented, seeks relief from my order of October 23, 2003, on the ground that the applicant and the CSTA have different client bases, “different interest in the appeal” and “divergent directions”.

Nothing in the materials before me, however, suggests that these differences (except, of course, for the change of counsel) have arisen since the applications of the CSTA and BIOTECanada Inc. for leave to intervene were presented to the Court.

The present motion is dismissed with costs.

17.12.2003

Before / Devant : FISH J.

Motion to amend the order and to file a separate factum of 20 pages

Requête pour modifier l'ordonnance et pour déposer un mémoire distinct de 20 pages

Percy Schmeiser, et al.

v. (29437)

Monsanto Canada Inc., et al. (F.C.)

DISMISSED WITH COSTS / REJETÉE AVEC DÉPENS

UPON APPLICATION by the Canadian Seed Trade Association to amend the order dated October 23, 2003, and permission to file a separate factum of 20 pages in the above appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion under Rule 81(1)(a) does not meet the conditions of that sub-paragraph.

Accordingly, the motion is dismissed with costs.

17.12.2003

Before / Devant : FISH J.

Motion to strike

Requête en radiation

Phillip Henry Mann

v. (29477)

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

DISMISSED / REJETÉE

UPON APPLICATION by the respondent for an order striking paragraphs 31 and 32 of the factum of the Intervener Criminal Lawyers' Association (Ontario) and paragraph 30 of the factum of the intervener, Canadian Civil Liberties Association;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion is dismissed.

18.12.2003

Before / Devant : LEBEL J.

Miscellaneous motion

Autre requête

Barreau du Québec

c. (29344)

Christina McCulloch-Finney (Qc)

DISMISSED / REJETÉE

UPON APPLICATION by the respondent for an order clarifying your order dated October 22, 2003: 1) confirming that the appellant has not yet complied with this Court's Order of October 22, 2003, and that the respondent's factum, record and brief of authorities will not be due until 30 days from such compliance; 2) adjourning the hearing of the appeal, if necessary; and 3) alternatively, extending the time for serving and filing of the respondent's factum, record and book of authorities within four (4) days of the Court's order and permission to make oral submission at the hearing of the appeal;

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

I have reviewed the motion and documents filed by the respondent in support of the motion, the appellant's response and the respondent's reply. From a review of the record, it appears that the respondent was granted access to all material which was part of the court record, and which was considered to be under seal. There is no ground for finding that the respondent should not have filed its factum in compliance with the rules of the Court and according to the order dated October 22, 2003.

For these reasons, the respondent's motion is dismissed in respect of the conclusion sought, namely, that the appellant has not yet complied with the October 22, 2003, order of the Court. The respondent's factum, record and book of authorities may be filed and served within 4 days of the date of the present order. The respondent is also permitted to make oral submission at the hearing of the appeal.

The request for an adjournment of the hearing scheduled to be held on January 13, 2004 is referred to the Chief Justice.

À LA SUITE DE LA DEMANDE DE l'intimée de rendre une ordonnance qui apporterait des précisions à l'ordonnance du 22 octobre 2003 ;

1) confirmant que l'appelant ne s'est pas encore conformé à l'ordonnance rendue, le 22 octobre 2003, par la Cour et que les mémoire, dossier et recueil de sources de l'intimée ne sont exigibles que 30 jours de l'exécution par l'appelant des obligations prévues par cette ordonnance ; 2) reportant, si besoin est, l'audition de l'appel; et 3) subsidiairement, en autorisant l'intimée à signifier et déposer ses mémoire, dossier et recueil de sources dans les quatre (4) jours de l'ordonnance que rendra la Cour et autorisant l'intimée à présenter une plaidoirie lors de l'audition de l'appel;

APRÈS AVOIR PRIS CONNAISSANCE des documents soumis par les parties ;

IL EST PAR LA PRÉSENTE ORDONNÉ QUE :

J'ai examiné la requête de l'intimée et les documents qu'elle a déposés à l'appui de sa requête, la réponse de l'appelant et la réplique de l'intimée. Il ressort de l'examen du dossier que l'intimée a eu accès à tous les documents qui faisaient partie du dossier de la cour et qui auraient été sous scellés. Rien ne permet de conclure que l'intimée n'était pas obligée de déposer son mémoire dans le délai imparti par les Règles de la Cour et l'ordonnance du 22 octobre 2003.

La requête de l'intimée est donc rejetée en ce qui a trait à la conclusion voulant que l'appelant ne se soit pas encore conformé à l'ordonnance rendue, le 22 octobre 2003, par la Cour. Les mémoires, dossier et recueil de sources de l'intimée peuvent être signifiés et déposés dans les 4 jours de la présente ordonnance. L'intimée est également autorisée à présenter une plaidoirie lors de l'audition de l'appel.

La demande de report de l'audition de l'appel, prévue pour le 13 janvier 2004, est transmise à la juge en chef.

18.12.2003

Before / Devant : THE CHIEF JUSTICE

Motion to adjourn the hearing of the appeal

Requête pour ajourner l'audition de l'appel

Barreau du Québec

c. (29344)

Christina McCulloch-Finney (Qc)

GRANTED / ACCORDÉE

Following the order dated December 18, 2003 of Justice LeBel, it is further ordered that this appeal be adjourned to February 12, 2004.

30.12.2003

Before / Devant : THE REGISTRAR

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

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

Les Entreprises Sibeca Inc.

c. (29600)

Municipalité de Frelighsburg (Qc)

GRANTED / ACCORDÉE Délai prorogé au 9 janvier 2004.

30.12.2003

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'intimée

W. Garth Fair Holdings Ltd., et al.

v. (30022)

Royal Bank of Canada, et al. (Ont.)

GRANTED / ACCORDÉE Time extended to December 11, 2003.

30.12.2003

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'intimée

Sean Miguel Currie

v. (29957)

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

GRANTED / ACCORDÉE Time extended to November 17, 2003.

30.12.2003

Before / Devant : THE REGISTRAR

**Motion to extend the time in which to serve and file
the appellant's factum**

**Requête en prorogation du délai imparti pour signifier
et déposer le mémoire de l'appelante**

Her Majesty the Queen

v. (29376)

Kenneth Roy Hurrell (Crim.) (Ont.)

GRANTED / ACCORDÉE Time extended to February 15, 2004.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

22.12.2003

Biolyse Pharma Corporation

v. (29823)

Bristol-Myers Squibb Company, et al. (F.C.)

2.1.2004

**Provincial Court Judges' Association of New
Brunswick, et al.**

v. (30006)

**Her Majesty the Queen in Right of the Province of
New Brunswick as represented by the Minister of
Justice (N.B.)**

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

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

22.12.2003

BY / PAR : Attorney General of Canada

IN / DANS : **House of Commons, et al.**

v. (29564)

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

DEADLINES: APPEALS

The Winter Session of the Supreme Court of Canada will commence January 12, 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 d'hiver de la Cour suprême du Canada commencera le 12 janvier 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).

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

Judgments reported in [2003] 1 S.C.R. Part 2

Law Society of New Brunswick *v.* Ryan,
[2003] 1 S.C.R. 247, 2003 SCC 20

Miglin *v.* Miglin,
[2003] 1 S.C.R. 303, 2003 SCC 24

R. *v.* Allen,
[2003] 1 S.C.R. 223, 2003 SCC 18

R. *v.* Arradi,
[2003] 1 S.C.R. 280, 2003 SCC 23

R. *v.* Larue,
[2003] 1 S.C.R. 277, 2003 SCC 22

R. *v.* P.A.,
[2003] 1 S.C.R. 275, 2003 SCC 21

Dr. Q. *v.* College of Physicians and Surgeons of British Columbia,
[2003] 1 S.C.R. 226, 2003 SCC 19

Judgments reported in [2003] 1 S.C.R. Part 3

Barrie Public Utilities *v.* Canadian Cable Television Assn.,
[2003] 1 S.C.R. 476, 2003 SCC 28

Churchland *v.* Gore Mutual Insurance Co.,
[2003] 1 S.C.R. 445, 2003 SCC 26

C.U.P.E. *v.* Ontario (Minister of Labour),
[2003] 1 S.C.R. 539, 2003 SCC 29

KP Pacific Holdings Ltd. *v.* Guardian Insurance Co. of Canada,
[2003] 1 S.C.R. 433, 2003 SCC 25

Z.I. Pompey Industrie *v.* ECU-Line N.V.,
[2003] 1 S.C.R. 450, 2003 SCC 27

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Barreau du Nouveau-Brunswick *c.* Ryan,
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R. *c.* Allen,
[2003] 1 R.C.S. 223, 2003 CSC 18

R. *c.* Arradi,
[2003] 1 R.C.S. 280, 2003 CSC 23

R. *c.* Larue,
[2003] 1 R.C.S. 277, 2003 CSC 22

R. *c.* P.A.,
[2003] 1 R.C.S. 275, 2003 CSC 21

Dr Q *c.* College of Physicians and Surgeons of British Columbia,
[2003] 1 R.C.S. 226, 2003 CSC 19

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[2003] 1 R.C.S. 476, 2003 CSC 28

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KP Pacific Holdings Ltd. *c.* Cie d'assurance Guardian du Canada,
[2003] 1 R.C.S. 433, 2003 CSC 25

Z.I. Pompey Industrie *c.* ECU-Line N.V.,
[2003] 1 R.C.S. 450, 2003 CSC 27

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2003 -

04-07-2002

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

DECEMBER - DECEMBRE						
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	11	12	13
14	15	16	17	18	19	20
21	22	23	24	H 25	H 26	27
28	29	30	31			

- 2004 -

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

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

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

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

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

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

Sittings of the court: 18 sitting weeks/semaines séances de la cour
Séances de la cour: 87 sitting days/journées séances de la cour
Motions: 9 motion and conference days/ journées requêtes.conférences
Requêtes: 3 holidays during sitting days/ jours fériés durant les sessions
Holidays: Jours fériés:

