

**SUPREME COURT  
OF CANADA**



**COUR SUPRÊME  
DU CANADA**

**BULLETIN OF  
PROCEEDINGS**

**BULLETIN DES  
PROCÉDURES**

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Marie Crowley  
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FILING DATE: 21.01.2005

**Her Majesty the Queen in Right of Ontario, as  
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Leslie McIntosh  
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**Tom Mitchinson, Assistant Commissioner,  
Information and Privacy Commissioner/Ontario,  
et al. (Ont.)**

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Information and Privacy Commissioner /  
Ontario

FILING DATE: 26.01.2005

**Adam Ezer**

Adam J. Ezer

v. (30724)

**Yorkton Securities Inc., et al. (B.C.)**

H. Roderick Anderson  
Anderson & Galati

FILING DATE: 08.03.2005

**Patricia Aboud**

Henri Simon  
Simon & Associés

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**Eplus Technology Inc. (Qc)**

François D. Gagnon  
Kaufman, Laramée

DATE DE PRODUCTION: 08.03.2005

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**Her Majesty the Queen**

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A.G. of Canada

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**Public Service Alliance of Canada (F.C.)**

David Yazbeck  
Raven, Allen, Cameron & Ballantyne

FILING DATE: 08.03.2005

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v. (30806)

**Her Majesty the Queen (N.S.)**

Kenneth W.F. Fisk, Q.C.  
A.G. of Nova Scotia

FILING DATE: 08.03.2005

**D.B.S.**

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MacDonald & Partners

v. (30808)

**S.R.G. (Alta.)**

Gordon H. Andreiuk  
Laurier Law Office

FILING DATE: 08.03.2005

**T.A.R.**

D. Smith  
MacDonald & Partners

v. (30809)

**L.J.W. (Alta.)**

Gordon H. Andreiuk  
Laurier Law Office

FILING DATE: 08.03.2005

**Her Majesty the Queen**

Jamie C. Klukach  
A.G. of Ontario

v. (30812)

**Douglas Randolph Crosby (P.E.I.)**

Joel E. Pink, Q.C.  
Joel E. Pink, Q.C. & Associates

FILING DATE: 10.03.2005

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**Barry Thomas Niedermier**

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A.G. of British Columbia

FILING DATE: 10.03.2005

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Pierre-Gilles Tremblay

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**Feu André Charest (Qc)**

Éric Hardy  
Ogilvy, Renault

DATE DE PRODUCTION: 10.03.2005

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**Monique Gadoury**

Gilbert Nadon  
Ouellet, Nadon & Associés

c. (30815)

**Le procureur général du Canada (C.F.)**

Pauline Leroux  
P.G. du Canada

DATE DE PRODUCTION: 11.03.2005

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**John Major**

Fergus J. O'Connor

v. (30817)

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

Suzanne Boucher  
A.G. of Canada

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**Jack Chamberlain**

Jack Chamberlain

v. (30819)

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

Ian McTavish  
A.G. of Canada

FILING DATE: 11.03.2005

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**Karl E. Weselan**

Catherine M. Patterson  
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v. (30816)

**Totten Sims Hubicki Associates (1997) Limited (Ont.)**

John W. Montgomery  
Johnston, Montgomery

FILING DATE: 14.03.2005

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**Ministry of Correctional Services**

Sara Blake  
A.G. of Ontario

v. (30820)

**David Goodis, Senior Adjudicator, et al. (Ont.)**

William S. Challis  
Information and Privacy Commissioner /  
Ontario

FILING DATE: 14.03.2005

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**Paul Houweling**  
Paul Houweling

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Norton, Stewart

FILING DATE: 14.03.2005

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**Navigation Madeleine Inc.**  
Francis Gervais  
Deveau, Lavoie, Bourgeois, Lalande &  
Associés

c. (30821)

**Administration de pilotage des Laurentides, et  
autre (C.F.)**  
Guy P. Major  
Saint-Pierre & Major

DATE DE PRODUCTION: 15.03.2005

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**Emilia M. Collins**  
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v. (30822)

**Director of Assessment, et al (N.S.)**  
Randall R. Duplak, Q.C.  
A.G. of Nova Scotia

FILING DATE: 15.03.2005

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**Restaurant Buonanotte Inc., et autres.**  
Jean Groleau  
Fraser, Milner, Casgrain

c. (30824)

**L'Honorable juge Guy Lecompte, J.C.Q., et autres  
(Qc)**

L'Honorable juge Guy Lecompte, J.C.Q.

DATE DE PRODUCTION: 15.03.2005

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**9047-2713 Québec Inc., et autres.**  
Jean Groleau  
Fraser, Milner, Casgrain

c. (30825)

**L'Honorable juge Guy Lecompte, J.C.Q. et  
autres (Qc)**  
L'Honorable juge Guy Lecompte, J.C.Q.

DATE DE PRODUCTION: 15.03.2005

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**Antony Tsai**  
Antony Tsai

v. (30834)

**Julian Fantino, et al. (Ont.)**  
Robert J. Baldwin  
City of Toronto

FILING DATE: 15.03.2005

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**MARCH 21, 2005 / LE 21 MARS 2005**

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

**Marc Racicot**

**c. (30787)**

**Sa Majesté la Reine (Crim.) (Qc)**

**NATURE DE LA CAUSE**

Droit criminel - Preuve - Ouï-dire - Agression sexuelle - La Cour d'appel a-t-elle erré sur la question de l'identité? - La Cour d'appel a-t-elle erré en statuant que l'erreur du juge de 1<sup>ère</sup> instance sur la crédibilité de l'appelant n'était pas dominante? - Le tribunal peut-il rejeter en bloc tous les témoignages de la défense alors que la preuve démontre qu'il n'a pas examiné certains témoignages?

**HISTORIQUE DES PROCÉDURES**

Le 22 février 2002  
Cour du Québec  
(Le juge Mercier)

Demandeur déclaré coupable d'agression sexuelle en vertu de l'article 271(1) a) du *Code criminel*

Le 1<sup>er</sup> septembre 2004  
Cour d'appel du Québec  
(Les juges Chamberland, Rochette et Rayle)

Pourvoi rejeté

Le 26 janvier 2005  
Cour suprême du Canada

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

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**The Health Services and Support - Facilities Subsector Bargaining Association, The Health Services and Support - Community Subsector Bargaining Association, The Nurses' Bargaining Association, The Hospital Employees' Union, The B.C. Government and Service Employees' Union, The British Columbia Nurses' Union, Heather Caroline Birkett, Janine Brooker, Amaljeet Kaur Jhand, Leona Mary Fraser, Pamela Jean Sankey-Kilduff, Sally Lorraine Stevenson, Sharleen G.V. Decillia and Harjeet Dhani**

**v. (30554)**

**Her Majesty the Queen in Right of the Province of British Columbia (B.C.)**

**NATURE OF THE CASE**

*Canadian Charter* - Civil - Labour Law - Collective Agreement - Labour Relations - *Health and Social Services Delivery Improvement Act*, S.B.C. 2002, c. 2 - Whether legislation which voids essential terms of a concluded collective agreement during the life of that agreement, and which prohibits the renegotiation of such terms, violates s. 2(d) of the *Charter* - Whether certain aspects of collective bargaining are protected by s. 2(d) of the *Charter* - Whether legislation which targets

the collective agreements of the most female dominated sector of the economy constitutes a violation of s. 15 of the *Charter*, when that legislation is aimed at depressing wages which have been subject to pay equity processes?

**PROCEDURAL HISTORY**

September 11, 2003 Supreme Court of British Columbia (Garson J.)	Applicants' action concerning the constitutionality of British Columbia's <i>Health and Social Services Delivery Improvement Act</i> dismissed
July 5, 2004 Court of Appeal for British Columbia (Esson, Low and Thackray JJ.A.)	Appeal dismissed
September 29, 2004 Supreme Court of Canada	Application for leave to appeal filed

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**The Halifax Insurance Company of Canada**

**v. (30671)**

**Innopex Limited, Aaron Wexel and Joshua Frankel (Ont.)**

Sealed by order of Bastarache J. on January 26, 2005.

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**Teck Corporation**

**v. (30659)**

**Her Majesty the Queen in Right of the Province of British Columbia (B.C.)**

**NATURE OF THE CASE**

Taxation - Statutes - Assessment - Interpretation - Whether the Court of Appeal erred in holding that the Legislature of British Columbia "cannot change the meaning" of the federal *Income Tax Act*, R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.) in applying the provisions of the B.C. Act - Whether the Court of Appeal erred by holding that the legislative intent was not relevant since s. 8(1) of the *Income Tax Act*, R.S.B.C. 1979, c. 19 was clear and unambiguous - Whether the Court of Appeal erred in holding that business taxes computed by reference to income were non-deductible "income taxes" irrespective of the purpose, history or operation of those taxes.

**PROCEDURAL HISTORY**

October 17, 2002 Supreme Court of British Columbia (Lowry J.)	Applicant's appeal of the Minister of National Revenue decision's denying a request for the revision of its income of the years 1985 to 1992 paid under s. 8 of the <i>Income Tax Act</i> , dismissed
October 6, 2004 Court of Appeal for British Columbia (Rowles, Hall and Levine JJ.A.)	Appeal dismissed
December 6, 2004 Supreme Court of Canada	Application for leave to appeal filed

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

**Sang Que Luc**

**v. (30600)**

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

**NATURE OF THE CASE**

*Canadian Charter of Rights and Freedoms* - Criminal law - Evidence - Search - Whether Court of Appeal erred in law by taking into consideration evidence on the trial proper, evidence which was not before the trial judge on the voir dire and was not relied upon by the Crown in their submissions - Whether Court of Appeal erred in law in deciding that even though the Applicant's rights under s.8 of the *Charter of Rights and Freedoms* were violated the evidence so obtained was still admissible - Whether Court of Appeal erred in law in not finding that there was a breach of s.9 of the *Charter*.

**PROCEDURAL HISTORY**

June 13, 2003 Court of Queen's Bench for Saskatchewan (McLellan J.)	Conviction: possession of and trafficking in marijuana
September 3, 2004 Court of Appeal for Saskatchewan (Bayda C.J.S., Sherstobitoff and Lane JJ.A.)	Appeal against conviction dismissed
November 1, 2004 Supreme Court of Canada	Application for leave to appeal filed

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**Kenneth David MacKay**

**v. (30643)**

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

**NATURE OF THE CASE**

Criminal Law (Non Charter) - First degree murder - Jury instructions - Whether the Saskatchewan Court of Appeal erred in ruling that the jury was properly and adequately instructed - Whether the Saskatchewan Court of Appeal erred in ruling that there was sufficient evidence for the jury to consider the charge of first degree murder.

**PROCEDURAL HISTORY**

February 11, 2002 Court of Queen's Bench of Saskatchewan (Goldenberg J.)	Applicant convicted of first degree murder contrary to section 235(1) of the <i>Criminal Code</i>
June 18, 2002 Court of Queen's Bench of Saskatchewan (Goldenberg J.)	Applicant sentenced to life in prison with no eligibility for parole for 25 years

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February 18, 2004  
Court of Appeal for Saskatchewan  
(Tallis, Cameron and Gerwing JJ.A.)

Appeal from conviction dismissed

December 1, 2004  
Supreme Court of Canada

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

March 17, 2005  
Supreme Court of Canada

Motions to file amended notice of application and  
extension of time filed

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**Gary Garnet Graham and Linda Lucille Gordon**

**v. (30626)**

**Heather M. Bonnycastle and Lana G. Lien (Alta.)**

**NATURE OF THE CASE**

Torts - Negligence - Property law - Wills - Testamentary capacity - Whether a solicitor owes a duty of care to a third party beneficiary who is within the solicitor's reasonable contemplation as a party who will be adversely affected by the solicitor's negligence in the preparation of a will, particularly where the testator does not have testamentary capacity and/or is under undue influence.

**PROCEDURAL HISTORY**

October 10, 2002  
Court of Queen's Bench of Alberta  
(Fraser J.)

Respondents' application for judgment pursuant to  
summary trial procedure granted; Respondents' application  
for order dismissing the action on basis that solicitors owe  
no duty of care to beneficiaries under a previous will in the  
preparation of a new will, granted

August 30, 2004  
Court of Appeal of Alberta  
(McFadyen, Berger and Ritter JJ.A.)

Appeal dismissed

October 29, 2004  
Supreme Court of Canada

Application for leave to appeal filed

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**Louise Helen Hockey-Sweeney, by her Litigation Guardian, the Public Guardian and Trustee**

**v. (30707)**

**Lawrence Percival Sweeney (Ont.)**

**NATURE OF THE CASE**

Procedural law - Civil procedure - Pre-trial procedure - Evidence - Disclosure - Production of documents - Unrepresented litigants - When is it appropriate for trial courts in Canada to proceed to trial where one side has not been able to obtain documents that are needed to prove elements of the case? - What recourse do the parties, and trial judges, have when a trial is imminent and document production is still inadequate? - To what extent should judges give legal advice, guidance or assistance to unrepresented litigants?

**PROCEDURAL HISTORY**

July 8, 2002 Ontario Superior Court of Justice (Hambly J.)	Counterpetition for divorce granted: Applicant's claim for damages for assault and for intentional infliction of mental suffering dismissed
November 2, 2004 Court of Appeal for Ontario (Doherty, Laskin and Juriansz JJ.A.)	Appeal allowed in part by varying amount of spousal support; Applicant's motion to introduce fresh evidence dismissed
January 4, 2005 Supreme Court of Canada	Application for leave to appeal filed

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

**Standard Life Assurance Company**

**c. (30773)**

**Famous Players Inc. (Qc)**

**NATURE DE LA CAUSE**

Responsabilité civile - Obligation de bonne foi - Droit des biens - Hypothèques - Hypothèque immobilière - Cession de bail et de loyers - Transaction entre un débiteur hypothécaire et son locataire pour mettre fin au bail intervenue à l'insu du créancier hypothécaire - Quelles sont les conditions pour qu'un tiers, en l'occurrence le locataire, ayant connaissance d'un contrat entre deux parties, engage sa responsabilité à l'égard de l'une d'elles en cas de contravention? - Quelle est l'étendue du fardeau de la partie qui veut établir la responsabilité d'un tiers? - L'existence d'un contrat antérieur permet-il à un tiers d'échapper au principe établi par cette Cour dans *Trudel c. Clairol Inc. of Canada*, [1975] 2 R.C.S. 236?

**HISTORIQUE DES PROCÉDURES**

Le 12 novembre 2002 (rectifié le 20) Cour supérieure du Québec (Le juge Beaudoin)	Action de la demanderesse pour faute extra-contractuelle accueillie : intimée condamné à payer la somme de 850 426,29\$ avec intérêts
Le 3 décembre 2004 Cour d'appel du Québec (Les juges Otis, Rochette et Morissette)	Appel accueilli et action rejetée
Le 2 février 2005 Cour suprême du Canada	Demande d'autorisation d'appel déposée
Le 4 février 2005 Cour suprême du Canada	Requête en prorogation de délai déposée

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**Peter Cross**

**v. (30699)**

**Roger Madore, Lucie Morissette (Que.)**

**NATURE OF THE CASE**

Procedural Law - Municipal Law - Appeal - Evidence - Council members - Disqualifications or removal - *Act respecting Elections and Referendums in Municipalities*, L.R.Q. c. E-2.2 - Whether the Respondents committed an act of misconduct justifying a declaration of inability pursuant to s. 306 of the *Act*? - Whether the Court of Appeal erred in fact and law in rejecting the Applicant's appeal?

**PROCEDURAL HISTORY**

May 5, 2004 Superior Court of Quebec (Landry J.)	Applicant's application for acts of misconduct pursuant to s. 306 of the <i>Act</i> , dismissed
October 4, 2004 Court of Appeal of Quebec (Robert C.J.Q., Dussault and Morissette JJ.A.)	Appeal dismissed
December 3, 2004 Supreme Court of Canada	Application for leave to appeal filed

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**Michael Divito**

**c. (30679)**

**Le ministre de la Justice du Canada et Les États-Unis d'Amérique, représentés par le  
Procureur général du Canada**

**- et entre -**

**Michael Divito et Pierino Divito**

**c. (30679)**

**Procureur général du Canada, Le ministre de la Justice du Canada et  
Les États-Unis d'Amérique, représentés par le Procureur général du Canada (Crim.) (Qc)**

**NATURE DE LA CAUSE**

Droit criminel - Extradition - Détention - Demande de mise en liberté en attendant la décision de l'appel - Le juge en chef d'une province est-il compétent en vertu de l'art. 680 du *Code criminel* pour ordonner la constitution d'un banc de trois juges afin de réviser une décision rendue en vertu de l'art. 679 du *Code* par un juge unique ? - La notion d'intérêt public à l'art. 679(3) du *Code* est-elle à ce point vague et imprécise qu'elle ne peut orienter un débat judiciaire ni servir de base pour détenir un individu ?

**HISTORIQUE DES PROCÉDURES**

Le 27 juillet 2004 Cour supérieure du Québec (Le juge Côté)	Requête du demandeur en <i>habeas corpus</i> refusée
Le 14 octobre 2004 Cour d'appel du Québec (Le juge Dalphond)	Demande de remise en liberté provisoire rejetée
Le 8 décembre 2004 Cour d'appel du Québec (Le juge en chef Robert)	Requête pour permission de se pourvoir en révision du rejet d'une demande de remise en liberté provisoire refusée
Le 21 janvier 2005 Cour d'appel du Québec (Les juges Rayle, Doyon et Dutil)	Requête en révision judiciaire à l'encontre de la décision du ministre de la Justice refusée
Le 15 décembre 2004 Cour suprême du Canada	Première demande d'autorisation d'appel déposée
Le 18 février 2005 Cour suprême du Canada	Deuxième demande d'autorisation d'appel déposée

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**The Jesuit Fathers of Upper Canada**

v. (30709)

**Guardian Insurance Company of Canada and ING Insurance Company of Canada (Ont.)**

**NATURE OF THE CASE**

Commercial law - Insurance - Duty to defend - Applicant seeking declaration that Respondent insurers are required to defend and indemnify it for certain claims arising out of operation of residential school - Whether courts should broadly interpret meaning of word 'claim' - Information and detail to be brought to insured's attention in order to engage insurer's duty to defend and indemnify - Whether names of alleged victims have to be identified to insured during policy period.

**PROCEDURAL HISTORY**

October 27, 2003 Ontario Superior Court of Justice (Whitten J.)	Respondents held to have no duty to defend claims arising after the expiry of the policy period
November 12, 2004 Court of Appeal for Ontario (Doherty, Moldaver and Gillese JJ.A.)	Appeal dismissed
January 11, 2005 Supreme Court of Canada	Application for leave to appeal filed

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**Huguette Cousineau**

**v. (30694)**

**Jean-Charles Perrier, JC Perrier et Assoc. Inc., Jacques A. Côté and Paul F. Lalonde (Ont.)**

**NATURE OF THE CASE**

Procedural law - Civil procedure - Application of the *res judicata* doctrine - Whether the Applicant was barred by the doctrine of *res judicata* from raising allegations of fraud in her statement of claim - Whether the judgments rendered in the Superior Court of Justice and in the Court of Appeal constitute a denial of natural justice and evidence a lack of impartiality unduly favouring the interests of a judge of the Superior Court - Whether the Court of Appeal was impartial or unbiased in this case when one of the Respondents is a judge of the Superior Court of Justice.

**PROCEDURAL HISTORY**

April 4, 2003  
Ontario Superior Court of Justice  
(Carnwath J.)

Respondents' motion to strike Applicant's Statement of Claim, granted; Applicant's action, dismissed

November 9, 2004  
Court of Appeal for Ontario  
(Weiler, Sharpe and Blair JJ.A.)

Appeal dismissed

December 2, 2004  
Supreme Court of Canada

Application for leave to appeal filed

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**JUDGMENTS ON APPLICATIONS  
FOR LEAVE**

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

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**MARCH 24, 2005 / LE 24 MARS 2005**

**30489**      **Marilyn Ortega, Lynn Dianne Russell, Sean Telesford Greaves, Shirwyn Victor Greaves, Rhonda Greaves and Jillisa Ortega, by her Litigation Guardian, Marilyn Ortega, and Nathaniel Russell, by his Litigation Guardian, Marilyn Ortega v. 1005640 Ontario Inc. carrying on business under the name and style of Calypso Hut 3, 1230 Sheppard Centre Inc., John Doe** (Ont.) (Civil) (By Leave)

Coram:      Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C38092, dated June 11, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C38092, daté du 11 juin 2004, est rejetée avec dépens.

**NATURE OF THE CASE**

Torts - Negligence - Occupiers' liability - Duty of care - Negligence - Causation - Murder committed in a parking lot of a nightclub located in a strip mall - Action in tort by family members of deceased alleging a breach of the *Occupier's Liability Act*, R.S.O. 1990, c. O.2, s. 3(1) - The issue of the standard of care for the provision of security by occupiers and the relationship between deterrence and causation are issues of public importance and ought to be reviewed by this Court.

**PROCEDURAL HISTORY**

March 11, 2003 Ontario Superior Court of Justice (Marchand J.)	Applicants' action in negligence dismissed, costs awarded to Respondents on a partial indemnity basis
June 11, 2004 Court of Appeal for Ontario (Labrosse, Laskin, and Goudge JJ.A.)	Appeal dismissed with costs fixed at \$10,000.00
August 31, 2004 Supreme Court of Canada	Application for leave to appeal filed
February 4, 2005 Supreme Court of Canada	Respondents' motion for an extension of time granted

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**30510**      **Inter-Church Uranium Committee Educational Co-Operative, of the City of Saskatoon, in the Province of Saskatchewan v. Atomic Energy Control Board, Cogema Resources Inc.** (FC) (Civil) (By Leave)

Coram:      Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Numbers A-528-02 and A-549-02, dated June 4, 2004, is dismissed with costs to the respondent Cogema Resources Inc.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéros A-528-02 et A-549-02, daté du 4 juin 2004, est rejetée avec dépens en faveur de l'intimée Cogema Resources Inc.

**NATURE OF THE CASE**

Statutes - Interpretation - Environmental law - Did the Federal Court of Appeal err in its interpretation of section 74 of the *Canadian Environmental Assessment Act*, S.C. 1992, c. 37 by ruling that its provisions excluded the McClean Lake Project facilities from a mandatory environmental assessment under the *Act*.

**PROCEDURAL HISTORY**

September 23, 2002  
Federal Court of Canada, Trial Division  
(Campbell J.)

Applicant's application for judicial review of the Respondent Board's decision to issue an operating licence to Respondent Cogema allowed; Applicant's application for an order quashing the operating licence granted; licence quashed

June 4, 2004  
Federal Court of Appeal  
(Richard C.J., Rothstein and Sharlow, JJ.A.)

Appeals allowed; order made by Campbell J. set aside; Respondent's application for judicial review dismissed

September 3, 2004  
Supreme Court of Canada

Application for leave to appeal filed

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**30550**            **Rou Lan Xie v. The Minister of Citizenship and Immigration** (FC) (Civil) (By Leave)

Coram:            Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Federal Court of Appeal, Number A-422-03, dated June 30, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel fédérale, numéro A-422-03, daté du 30 juin 2004, est rejetée avec dépens.

**NATURE OF THE CASE**

Immigration Law - Whether the Refugee Protection Division can deny a person who faces torture refugee protection on the basis that the person has committed an economic crime - Whether the existence of a warrant for arrest for embezzlement for a sum of money issued by a country with a poor human rights record plus the possession by a person of money of a comparable amount, without more, amount to a serious reason to believe that the person has committed the crime of embezzlement - Whether this application for leave involves questions that by reason of their public importance and by reason of the importance of issues of law and mixed law and fact involved, ought to be decided by this Court.

**PROCEDURAL HISTORY**

January 17, 2003  
Immigration and Refugee Board  
(Neuenfeldt, Member)

Applicant's claim for Convention refugee status denied

September 4, 2003  
Federal Court of Canada, Trial Division  
(Kelen J.)

Applicant's application for judicial review dismissed

June 30, 2004  
Federal Court of Appeal

Appeal dismissed

(Décary, Létourneau and Pelletier JJ.A.)

September 28, 2004  
Supreme Court of Canada

Application for leave to appeal filed

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**30567**      **Donald Williams v. Debbie White, Lynne Kantautas and the Durham Region Police Services Board, The Children's Aid Society of Durham Region and Maria D'Assisi, Irene Johnson** (Ont.) (Civil) (By Leave)

Coram:      Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C36974, dated August 23, 2004, is dismissed with costs to the respondents Debbie White, Lynn Kantautas, the Durham Regional Police Services Board, The Children's Aid Society of Durham Region, Maria D'Assisi and Irene Johnson

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C36974, daté du 23 août 2004, est rejetée avec dépens en faveur des intimés Debbie White, Lynne Kantautas, le Comité des services policiers de la région de Durham, La Société de l'aide à l'enfance de la région de Durham, Maria D'Assisi et Irene Johnson.

**NATURE OF THE CASE**

Procedural law - Trial - Appeal - Mistrial - Abuse of process - Whether, where a party to a civil action receives ineffective assistance from their trial counsel, a miscarriage of justice has occurred, necessitating the ordering of a new trial - In what circumstances should a mistrial can be declared based upon a breakdown in the relationship between counsel - Whether it is an abuse of the court's process to permit a party to a civil appeal to argue ineffectiveness of trial counsel as a ground of appeal where that party has exercised a direct right of action against trial counsel for negligence and that action has been settled, but no determination on the merits of that case against counsel has been made.

**PROCEDURAL HISTORY**

September 5, 2001  
Ontario Superior Court of Justice  
(Macdonald J.)

Applicant's action for general, special, punitive, exemplary and aggravated damages totalling \$15,500,000 for various claims, dismissed

August 23, 2004  
Court of Appeal for Ontario  
(Catzman, Moldaver and Goudge JJ.A.)

Appeal dismissed

October 21, 2004  
Supreme Court of Canada

Application for leave to appeal filed

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**30593**      **Zbigniew Belz, Gazeta Inc., Gazeta Magazine, Alicja Gettlich v. Elizabeth Rogacki** (Ont.) (Civil) (By Leave)

Coram:      Major, Fish and Charron JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C39359, dated September 1, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C39359, daté du 1 septembre 2004, est rejetée avec dépens.



**NATURE OF THE CASE**

Torts - Libel and slander - Whether an appellate court in a libel case used a strict literalist reinterpretation of the words to characterize them as facts, notwithstanding an unchallenged determination by the jury they are opinions, resulting in the comments not being viewed in context, and thereby causing a serious upset to the appropriate balance between free speech and reputation values - Whether there should be a special rule for the fair comment defence where there are allegations of corrupt or dishonourable conduct, or of criminal matters.

**PROCEDURAL HISTORY**

December 4, 2002 Ontario Superior Court of Justice (Dyson J.)	Respondent's action in defamation granted; Respondent awarded general damages of \$150,000 and aggravated damages of \$100,000
September 1, 2004 Court of Appeal for Ontario (Doherty, Moldaver, and Feldman JJ.A.)	Appeal dismissed
November 1, 2004 Supreme Court of Canada	Application for leave to appeal filed

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**30616**      **The Attorney General of Nova Scotia representing Her Majesty the Queen in Right of the Province of Nova Scotia v. Terrance L. Smith** (N.S.) (Civil) (By Leave)

Coram:      Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Nova Scotia Court of Appeal, Number CA 202492, 2004 NSCA 106, dated September 15, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Nouvelle-Écosse, numéro CA 202492, 2004 NSCA 106, daté du 15 septembre 2004, est rejetée avec dépens.

**NATURE OF THE CASE**

Crown law - Injunction - Interlocutory injunction - Statutes - Interpretation - *Proceedings Against the Crown Act*, R.S.N.S. 1989, c. 360, s. 16 - Employment law - Availability of interlocutory injunction against Crown officer - Characterization of injunction as mandatory or prohibitory - Jurisdiction - In conducting the preliminary assessment of the merits of the case for an injunction to mandate that an agreement be adhered to, should a court apply the lower threshold of the merits of the case typically applied in non-mandatory injunction cases to those applications for interlocutory mandatory injunctions in which the higher onus would otherwise apply - Whether dispute should have been resolved pursuant to the dispute resolution provisions specified in memorandum of agreement - Whether the lower courts could rely upon the dispute resolution procedures specified in memorandum of agreement to establish an illegal act on the part of the employer - Whether the 'irreparable harm' threshold for an interlocutory injunction should include an examination of the economic impact the loss of employment or income or benefits will have on an individual and his family - Whether interlocutory injunctive relief is available against the Crown or an officer of the Crown - If so, under what circumstances - Whether interlocutory injunctive relief is available to restrain the commission or continuation of an illegal act committed or threatened to be committed by an officer of the Crown - If so, whether an alleged breach of contract is such an illegal act.

**PROCEDURAL HISTORY**

June 6, 2003 Supreme Court of Nova Scotia, Trial Division (Moir J.)	Interlocutory injunction restraining Deputy Minister of Justice from terminating Respondent's employment, granted
September 15, 2004 Nova Scotia Court of Appeal (Roscoe, Freeman and Cromwell JJ.A.)	Leave to appeal granted; appeal dismissed
November 15, 2004 Supreme Court of Canada	Application for leave to appeal filed

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**30617**      **The Attorney General of Nova Scotia representing Her Majesty the Queen in Right of the Province of Nova Scotia v. Dennis Connolly** (N.S.) (Civil) (By Leave)

Coram:      Major, Fish and Abella JJ.

The application for leave to appeal from the judgment of the Nova Scotia Court of Appeal, Number CA 208848, 2004 NSCA 107, dated September 15, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Nouvelle-Écosse, numéro CA 208848, 2004 NSCA 107, daté du 15 septembre 2004, est rejetée avec dépens.

**NATURE OF THE CASE**

Crown law - Injunction - Interlocutory injunction - Statutes - Interpretation - *Proceedings Against the Crown Act*, R.S.N.S. 1989, c. 360, s. 16 - Employment law - Availability of interlocutory injunction against Crown officer - Characterization of injunction as mandatory or prohibitory - Jurisdiction - In conducting the preliminary assessment of the merits of the case for an injunction to mandate that an agreement be adhered to, should a court apply the lower threshold of the merits of the case typically applied in non-mandatory injunction cases to those applications for interlocutory mandatory injunctions in which the higher onus would otherwise apply - Whether dispute should have been resolved pursuant to the dispute resolution provisions specified in memorandum of agreement - Whether the lower courts could rely upon the dispute resolution procedures specified in memorandum of agreement to establish an illegal act on the part of the employer - Whether the 'irreparable harm' threshold for an interlocutory injunction should include an examination of the economic impact the loss of employment or income or benefits will have on an individual and his family - Whether interlocutory injunctive relief is available against the Crown or an officer of the Crown - If so, under what circumstances - Whether interlocutory injunctive relief is available to restrain the commission or continuation of an illegal act committed or threatened to be committed by an officer of the Crown - If so, whether an alleged breach of contract is such an illegal act.

**PROCEDURAL HISTORY**

October 6, 2003 Supreme Court of Nova Scotia (Kennedy C.J.S.C.)	Interlocutory injunction to prohibit the Applicant from terminating his employment or discontinuing his salary, granted
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September 15, 2004  
Nova Scotia Court of Appeal  
(Roscoe, Freeman and Cromwell JJ.A.)

Leave to appeal granted; Appeal dismissed

November 15, 2004  
Supreme Court of Canada

Application for leave to appeal filed

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**29776**            **Frederick McLaughlin v. Air Canada** (Ont.) (Civil) (By Leave)

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

The motion to quash the application for leave to appeal and the application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C37835, dated March 5, 2003, are dismissed without costs.

La demande en annulation de la demande d'autorisation d'appel et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C37835, daté du 5 mars 2003, sont rejetées sans dépens.

**NATURE OF THE CASE**

Labour law - Pensions - Arrears - Interest - Applicant's action for interest on disability pay retroactive to date of entitlement dismissed - Court of Appeal affirming decision - Whether Court of Appeal erred in law when it failed to find that the Respondent owed a fiduciary duty to the Applicant insofar as the Respondent was in possession of the Applicant's property - Whether Court of Appeal erred in fact and law when it did not find that the Respondent's pension plan created a trust relationship between the Respondent and the Applicant.

**PROCEDURAL HISTORY**

January 29, 2002  
Ontario Superior Court of Justice  
(Kerr J.)

Applicant's action for interest on disability pay retroactive to the date of his entitlement to such pay dismissed

March 5, 2003  
Court of Appeal for Ontario  
(Weiler, Rosenberg and Feldman JJ.A)

Appeal dismissed

May 5, 2003  
Supreme Court of Canada

Application for leave to appeal filed

December 14, 2004  
Supreme Court of Canada

Motion to quash application for leave to appeal filed

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**30578**            **Jack Klundert v. Her Majesty the Queen** (Ont.) (Civil) (By Leave)

Coram:            Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Numbers C38037 and C38044, dated August 30, 2004, is dismissed without costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéros C38037 et C38044, daté du 30 août 2004, est rejetée sans dépens.

**NATURE OF THE CASE**

Taxation - Statutes - Assessment - Interpretation - Whether the Court of Appeal erred in law by removing the burden of proof of intent from the Crown in s. 239 of the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.) - Whether the law on the level of *mens rea* in regard to section 239 under the *Income Tax Act* is sufficiently settled since *R. v. Paveley* (1976), 30 C.C.C. (2d) 483 (Sask. C.A.) - Whether an honest, but mistaken, belief about invalidity should have a different effect than a mistaken belief about applicability of the *Income Tax Act* - Whether a belief of invalidity or applicability, if honestly held and proven so to the satisfaction of a jury, should have the same effect on state of mind no matter how arrived at - Whether the Court of Appeal confused reasonableness of the belief of the accused and availability of alternate legal remedies with the necessary intent, thereby setting-up a reasonableness test of a belief imposing a burden of proof upon the accused, which at criminal law can never be imposed in a complex statute like the *Income Tax Act* where the issue is knowing by making a false statement.

**PROCEDURAL HISTORY**

<b>March 14, 2002</b> <b>Ontario Superior Court of Justice</b> <b>(Rogin J.)</b>	<b>Applicant convicted of making a false statement in his tax return contrary to s. 239(1)(a) of the <i>Income Tax Act</i></b>
<b>August 30, 2004</b> <b>Court of Appeal for Ontario</b> <b>(Doherty, Goudge JJ.A. and Cavarzan J. [<i>ad hoc</i>])</b>	<b>Appeal allowed</b>
<b>October 26, 2004</b> <b>Supreme Court of Canada</b>	<b>Application for leave to appeal filed</b>

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**30585**            **Alexander Szabo c. Sa Majesté la Reine** (Qc) (Criminelle) (Autorisation)

Coram:            Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-10-002382-024, daté du 3 septembre 2004, est rejetée.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-10-002382-024, dated September 3, 2004, is dismissed.

**NATURE DE LA CAUSE**

Droit criminel - Preuve - Admissibilité - Exception au oui-dire - *Res gestae* - Preuve d'identification - La Cour d'appel a-t-elle commis une erreur en statuant que la fiabilité d'une preuve d'identification sous forme de oui-dire n'est pas une condition de son admissibilité? - La déclaration proposée comme preuve d'identification et admissible en vertu de l'exception de *res gestae* à la règle interdisant l'admission de la preuve par oui-dire est-elle assujettie à l'application de

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l'exigence de fiabilité de la méthode fondée sur des principes? - Si oui, pour satisfaire l'exigence de fiabilité, la poursuite doit-elle établir par une preuve prépondérante que la déclaration ou les paroles proposées comme preuve d'identification ont une valeur probante minimale en tant que preuve d'identification?

### **HISTORIQUE DES PROCÉDURES**

Le 21 mai 2002  
Cour supérieure du Québec  
(La juge Côté)

Demandeur déclaré coupable de meurtre au deuxième degré en vertu de l'article 235 du *Code criminel* et de tentative de meurtre avec usage d'une arme à feu lors de la perpétration de l'infraction en vertu de l'alinéa 239a) du *Code criminel*

Le 3 septembre 2004  
Cour d'appel du Québec  
(Les juges Thibault, Rochon et Hilton)

Appel rejeté

Le 1<sup>er</sup> novembre 2004  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**30598**      **Abattoir Saint-Alexandre (1982) Inc. c. Travailleurs et travailleuses unis de l'alimentation et du commerce, section locale 503** (Qc) (Civile) (Autorisation)

Coram:      Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Québec), numéro 200-09-004792-047, daté du 29 octobre 2004, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Quebec), Number 200-09-004792-047, dated October 29, 2004, is dismissed with costs.

### **NATURE DE LA CAUSE**

Droit du travail - Accréditation - Droit administratif - Contrôle judiciaire - Est-il manifestement déraisonnable pour un commissaire du travail du Québec de permettre une accréditation par quart de travail dans une entreprise? - La Cour d'appel a-t-elle erré en concluant que les décisions de la Commission des relations du travail sont suffisamment motivées et que l'équité procédurale est satisfaite?

### **HISTORIQUE DES PROCÉDURES**

Le 24 janvier 2003  
Commission des relations du travail  
(Le commissaire Bélanger)

Requête en accréditation de l'intimé déposée en vertu de l'art. 25 du *Code du travail* visant l'inclusion de certaines fonctions dans l'unité de négociation accueillie en partie

Le 27 juin 2003  
Commission des relations du travail  
(Les commissaires Côté, Garant et Lefebvre)

Demande de révision de la demanderesse accueillie en partie aux seules fins de corriger une erreur d'écriture et de retourner le dossier au commissaire afin qu'il détermine si un employé est visé par l'unité de négociation

Le 8 mars 2004  
Cour supérieure du Québec  
(Le juge Godbout)

Requête en révision judiciaire de la demanderesse accueillie, décisions de la Commission annulées et dossier déferé à cette dernière afin qu'elle décide de l'unité de négociation selon la loi, la preuve et la jurisprudence

Le 29 octobre 2004  
Cour d'appel du Québec  
(Les juges Gendreau, Thibault et Morin)

Appel accueilli

Le 21 décembre 2004  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**30678**                    **Jean-Pierre Jolicoeur c. Monique Dussault** (Qc) (Civile) (Autorisation)

Coram:                    Les juges Bastarache, LeBel et Deschamps

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-013299-037, daté du 22 octobre 2004, est rejetée avec dépens.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-013299-037, dated October 22, 2004, is dismissed with costs.

**NATURE DE LA CAUSE**

Code civil (Interprétation) - Enrichissement injustifié - Don par un conjoint de fait à l'autre conjoint durant l'union - Rupture subséquente de l'union de fait - *Code civil du Québec*, L.Q. 1991, ch.64, art. 1493 et ss; art. 1806 et ss - La Cour d'appel du Québec a-t-elle erré en utilisant une approche restrictive des conditions d'application de l'enrichissement injustifié? - La Cour d'appel du Québec a-t-elle utilisé à tort une méthode de qualification du don qui en fait un acte juridique de donation, excluant ainsi tout recours pour enrichissement injustifié dans les cas de contributions en capital entre conjoints de fait?

**HISTORIQUE DES PROCÉDURES**

Le 7 mars 2003  
Cour supérieure du Québec  
(Le juge Landry )

Action du demandeur accueillie; intimée condamnée à payer 35 012,38\$ au demandeur pour enrichissement injustifié.

Le 22 octobre 2004  
Cour d'appel du Québec  
(Les juges Beauregard, Delisle et Hilton )

Appel de l'intimée accueilli et action du demandeur rejetée.

Le 17 décembre 2004  
Cour suprême du Canada

Demande d'autorisation d'appel déposée

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**30684**            **Paul Joseph Ricci v. Her Majesty the Queen** (Ont.) (Civil) (By Leave)

Coram:            Bastarache, LeBel and Deschamps JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C40752, dated October 14, 2004, is dismissed without costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C40752, daté du 14 octobre 2004, est rejetée sans dépens.

**NATURE OF THE CASE**

Taxation - Statutes - Income tax - Assessment - Interpretation - Whether the Court of Appeal erred in law by removing the burden of proof of intent from the Crown in s. 239 of the *Income Tax Act*, R.S.C. 1985, c.1 (5th Supp.) - Whether the law is sufficiently settled on the level of *mens rea* in regard to s. 239 under the *Income Tax Act* - Whether there is any logical reason why an honest, but mistaken, belief should not negative the necessary specific intent under s. 239(1)(a) and (d) of the *Income Tax Act* - Whether the Court of Appeal confused the reasonableness of the belief of the accused and availability of alternate legal remedies with the necessary intent.

**PROCEDURAL HISTORY**

May 27, 2002 Ontario Court of Justice (Vaillancourt J.)	Applicant found guilty and convicted on three counts of tax evasion pursuant to s. 239(1)(d) of the <i>Income Tax Act</i>
September 22, 2003 Ontario Superior Court of Justice (O'Connor J.)	Appeal dismissed
October 14, 2004 Court of Appeal for Ontario (Weiler, Rosenberg JJ.A. and Pardu J. [ <i>ad hoc</i> ])	Appeal dismissed
December 10, 2004 Supreme Court of Canada	Application for leave to appeal filed

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14.03.2005

Before / Devant: THE DEPUTY REGISTRAR

**Motion to extend the time in which to serve and file the notice of intervention of Attorney General of British Columbia**

**Requête en prorogation du délai de signification et de dépôt de l'avis d'intervention du procureur général de la Colombie-Britannique**

Her Majesty the Queen

v. (30319)

Dennis Rodgers (Crim.) (Ont.)

**GRANTED / ACCORDÉE** Time extended to March 8, 2005.

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14.03.2005

Before / Devant: THE REGISTRAR

**Motion to extend the time in which to serve and file the respondents' response**

**Requête en prorogation du délai de signification et de dépôt de la réponse des intimés**

The Regional Municipality of Halifax, et al.

v. (30719)

Marty David, et al. (N.S.)

**GRANTED / ACCORDÉE** Time extended to March 8, 2005.

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14.03.2005

Before / Devant: BASTARACHE J.

**Motion for leave to intervene**

**Requête en autorisation d'intervenir**

BY / PAR: British Columbia Civil Liberties Association

IN / DANS: Sa Majesté la Reine

c. (30588)

James Kouri (Crim.) (Qc)

**DISMISSED / REJETÉE**

**À LA SUITE D'UNE DEMANDE** de la British Columbia Civil Liberties Association visant à obtenir l'autorisation d'intervenir dans l'appel susmentionné;

**ET APRÈS AVOIR LU** la documentation déposée;

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**L'ORDONNANCE SUIVANTE EST RENDUE;**

La demande d'autorisation d'intervenir présentée par la British Columbia Civil Liberties Association est rejetée.

**UPON APPLICATION** by the British Columbia Civil Liberties Association 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 British Columbia Civil Liberties Association, is dismissed.

15.03.2005

Before / Devant: BINNIE J.

**Motions for leave to intervene****Requêtes en autorisation d'intervenir**

BY / PAR: Attorney General of Ontario  
 Attorney General of British Columbia  
 Attorney General of Manitoba  
 Canadian Foundation for Children,  
 Youth and the Law

IN / DANS: C.D.

v. (30254)

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

- and between -

C.D.K.

v. (30314)

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

**GRANTED / ACCORDÉES**

**UPON APPLICATIONS** by the Attorney General of Ontario, the Attorney General of British Columbia, the Attorney General of Manitoba and the Canadian Foundation for Children, Youth and the Law 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, Attorney General of Ontario, is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length on or before March 29, 2005.

The motion for leave to intervene of the applicant, Attorney General of British Columbia, is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length on or before March 29, 2005.

The motion for leave to intervene of the applicant, Attorney General of Manitoba, is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length on or before March 29, 2005.

The motion to extend the time to apply for leave to intervene and for leave to intervene of the applicant, Canadian Foundation for Children, Youth and the Law, is granted and the applicant shall be entitled to serve and file a factum not to exceed 20 pages in length on or before March 29, 2005.

The request to present oral argument is deferred to a date following the perfecting of the appeal.

The interveners shall not be entitled to raise new issues or 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 respondent any additional disbursements occasioned to the appellants and respondent by their intervention.

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15.03.2005

Before / Devant: BINNIE J.

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

**Requête en prorogation du délai de signification et de dépôt de la demande d'autorisation d'appel**

Rose Marie Watts, et al.

v. (30605)

Michael Wakerich and the firm Wakerich & Head, The Estate of Webster Macdonald Sr., deceased, Robert Calvert and the firm Dunphy Calvert & Walker, Greg Butler and the firm Vogel Butler Kazakoff (Alta.)

**DISMISSED / REJETÉE**

1. This is an application by Rose Marie Watts, Contact Canada Tourism Services Ltd. and Contact Canada Tours Ltd. (the applicants) pursuant to Rule 64, for an order extending the time to serve and file a complete application for leave to appeal to February 24, 2005.
2. On September 29, 2004, a notice of application for leave to appeal was filed from the judgment of the Court of Appeal of Alberta rendered on July 14, 2004.
3. On January 6, 2005, a notice from the Registrar of intention to dismiss the application for leave for delay pursuant to Rule 64 was sent to the applicants noting that they had failed to serve and file all the documents required under Rule 25 of the Rules of the Supreme Court of Canada for the application for leave to appeal.
4. The applicants were advised that the Registrar may dismiss the application for leave to appeal as abandoned if the time for serving and filing the materials is not extended by a judge on motion.
5. The applicants have offered no persuasive reason for the delay.

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6. **IT IS HEREBY ORDERED THAT:**

The motion of the applicants is dismissed and the application for leave to appeal is dismissed as abandoned.

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16.03.2005

Before / Devant: BINNIE J.

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

**Autre ordonnance relative aux requêtes en autorisation d'intervenir**

BY / PAR: Attorney General of Ontario  
Attorney General of British Columbia  
Attorney General of Manitoba  
Canadian Foundation for Children,  
Youth and the Law

IN / DANS: C.D.

v. (30254)

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

- and between -

C.D.K.

v. (30314)

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

**FURTHER TO THE ORDER** of Binnie J. dated March 15, 2005, granting leave to intervene to the Attorney General of Ontario, the Attorney General of British Columbia, the Attorney General of Manitoba and the Canadian Foundation for Children, Youth and the Law, and having regard to the shortness of time before the hearing of this appeal;

**IT IS HEREBY FURTHER ORDERED THAT** the said interveners are each granted permission to present oral argument not exceeding ten (10) minutes at the hearing of these appeals.

**IT IS HEREBY FURTHER ORDERED THAT** the respondent is granted leave to file a reply factum not to exceed 5 pages in length on or before April 4, 2005.

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17.03.2005

Before / Devant: THE CHIEF JUSTICE

**Motion to state a constitutional question**

**Requête en formulation d'une question constitutionnelle**

Mirabel Anaya Castillo

v. (30534)

Antonio Munoz Castillo (Alta.)

**GRANTED / ACCORDÉE**

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

**AND HAVING READ** the material filed;

**IT IS HEREBY ORDERED THAT THE CONSTITUTIONAL QUESTION BE STATED AS FOLLOWS:**

1. Does s. 12 of the *Limitations Act*, R.S.A. 2000, c. L-12, exceed the legislative competence of the Alberta Legislature to the extent that it purports to apply the law of Alberta to an accident that occurred outside of the province of Alberta, contrary to the territorial limits on provincial jurisdiction?
  1. L'article 12 de la *Limitations Act*, R.S.A. 2000, ch. L-12, excède-t-il la compétence législative de la législature de l'Alberta dans la mesure où il assujettit au droit albertain un accident survenu à l'extérieur de la province, contrairement à la limitation territoriale de la compétence provinciale?
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**NOTICE OF APPEAL FILED SINCE  
LAST ISSUE**

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

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14.03.2005

**Sa Majesté la Reine**

**c. (30508)**

**Richard Lavigne (Qc)**  
\_\_\_\_\_

17.03.2005

**National Trust Company**

**v. (30462)**

**Sandra Buschau, et al. (B.C.)**  
\_\_\_\_\_

17.03.2005

**Le Forum des Maires de la Péninsule Acadienne et  
la Société des Acadiens et Acadiennes du Nouveau-  
Brunswick**

**c. (30545)**

**L'Agence canadienne de l'inspection des aliments**  
\_\_\_\_\_

18.03.2005

**Rogers Communications Incorporated**

**v. (30462)**

**Sandra Buschau, et al.**  
\_\_\_\_\_

**NOTICES OF INTERVENTION FILED  
SINCE LAST ISSUE**

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

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16.03.2005

BY/PAR: Attorney General of Alberta

IN/DANS: **Ivan Morris, et al.**

**v. (30328)**

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

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**MARCH 24, 2005 / LE 24 MARS 2005****29759                    Pacific National Investments Ltd. v. Corporation of the City of Victoria (B.C.)**Coram:                    McLachlin C.J. and Major, Bastarache, Binnie, LeBel, Deschamps and Fish JJ.

The motion to extend the time to apply for a re-hearing is allowed and the motion for a re-hearing is dismissed without costs. The issue sought to be clarified by re-hearing is conclusively addressed by s. 50 of the *Supreme Court Act*, R.S.C. 1985, c. S-26. In accordance with that section, interest at post-judgment rates accrues from the time of the trial judgment through to the judgment of this Court and beyond until paid.

La requête en prorogation du délai imparti pour présenter une demande de nouvelle audition est accueillie et la demande de nouvelle audition est rejetée, sans dépens. L'article 50 de la *Loi sur la Cour suprême*, L.R.C. 1985, ch. S-26, répond de façon concluante à la question visée par la demande de nouvelle audition. Conformément à cette disposition, l'intérêt court, au taux postérieur au jugement, de la date du jugement de première instance, jusqu'au jugement de la Cour, et par la suite jusqu'à la date du paiement.

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SUPREME COURT OF CANADA SCHEDULE  
CALENDRIER DE LA COUR SUPREME

- 2004 -

10/06/04

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

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

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

- 2005 -

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

FEBRUARY - FÉVRIER						
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					

MARCH - MARS						
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	H 25	26
27	H 28	29	30	31		

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

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

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

Sittings of the court:  
Séances de la cour:

Motions:  
Requêtes:

Holidays:  
Jours fériés:

18
M
H

**18 sitting weeks/semaines séances de la cour**  
**88 sitting days/journées séances de la cour**  
**9 motion and conference days/ journées requêtes.conférences**  
**2 holidays during sitting days/ jours fériés durant les sessions**