

**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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

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**APPLICATIONS FOR LEAVE TO
APPEAL FILED**

W.S.

Gregory Lafontaine
Lafontaine & Associates

v. (30672)

Her Majesty the Queen (Ont.)

Scott C. Hutchison
A.G. of Ontario

FILING DATE: 20.12.2004

NLK-Celpac Canada (Montreal) Inc.

Alain Létourneau
Cain, Lamarre, Casgrain, Wells

c. (30688)

Canadian Industrial Risks Insurers, et autre (Qc)

Pierre Boivin
Kugler Kandestin

DATE DE PRODUCTION: 22.12.2004

Robert Stewart Cairns

D. Mayland McKimm, Q.C.
McKimm and Wishart

v. (30689)

Her Majesty the Queen (B.C.)

M. Joyce DeWitt-Van Oosten
A.G. of British Columbia

FILING DATE: 22.12.2004

Claude Hernandez, et autre

Daniel Royer
Labelle, Boudrault, Côté et Associés

c. (30640)

Sa Majesté la Reine (Qc)

Chantal Grégoire
P.G. du Québec

DATE DE PRODUCTION: 23.12.2004

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

Telus Communications Inc.

John F. Rook, Q.C.
Bennett, Jones

v. (30698)

**Delta Cable Communications Ltd., on behalf of
itself and Coast Cable Communications Ltd., et
al. (F.C.)**

C.C. Johnston, Q.C.
Johnston & Buchan

FILING DATE: 23.12.2004

George Maniatakos

Simon Lahaie
Pepper et Associés

c. (30691)

Paul Morin, et autre (Qc)

Pierre R. Sicotte
Tremblay, Brosseau, Fleury, Savoie

DATE DE PRODUCTION: 23.12.2004

Eli Lilly and Company

Anthony G. Creber
Gowling, Lafleur, Henderson

v. (30693)

Apotex Inc. (F.C.)

Harry Radomski
Goodmans

FILING DATE: 24.12.2004

Her Majesty the Queen

John H. Sims, Q.C.
A.G. of Canada

v. (30695)

Imperial Oil Limited (F.C.)

Al Meghji
Osler, Hoskin & Harcourt

FILING DATE: 29.12.2004

The Corporation of the City of Surrey

Craig MacFarlane
Legal Services Division

v. (30696)

Canada Safeway Limited (B.C.)

Robert V. Wickett
MacKenzie Fujisawa

- and between -

City of Surrey

v. (30696)

Canada Safeway Limited

Robert V. Wickett
MacKenzie Fujisawa

FILING DATE: 29.12.2004

**The Diocese of Toronto Camps, (Anglican Church
of Canada)**

Yvonne J. Hamlin
Borden, Ladner, Gervais

v. (30697)

**Municipal Property Assessment Corporation
(Ont.)**

Chris Schulze
Davis, Webb, Schulze & Moon

FILING DATE: 29.12.2004

Leon Grinshpun

Leon Grinshpun

v. (30700)

Her Majesty the Queen (B.C.)

W.J. Scott Bell
A.G. of British Columbia

FILING DATE: 29.12.2004

Kristoffer Wang

Sergio Grillone
Will Barristers

v. (30584)

Metropolitan Life Insurance Company (Ont.)

Elisa A. Scali
Gowling, Lafleur, Henderson

FILING DATE: 30.12.2004

**Adela Turczinski, in her personal capacity and as
executor for the estate of Maria Domicela
Turczinski**

J. Gardner Hodder
Polten & Hodder

v. (30701)

**Dupont Heating & Air Conditionning Limited
(Ont.)**

John M. Burnes
Brown & Burnes

FILING DATE: 30.12.2004

Anahit Cilinger

Michel Savonitto
Marchand, Melançon, Forget

c. (30703)

Procureur général du Québec, et autres (Qc)

Robert Monette
Bernard, Roy & Associés

DATE DE PRODUCTION: 31.12.2004

Conquest Vacations Company

Christopher Ashby

v. (30704)

**T-Comm/A Travel Communication Association
Inc. (Ont.)**

Timothy J. Law
Heifetz, Crozier, Law

FILING DATE: 04.01.2005

Gabor L. Zsoldos

Gabor Zsoldos

v. (30705)

Ontario Association of Architects, et al. (Ont.)

P. John Brunner
Brunner and Lundy

FILING DATE: 05.01.2005

JANUARY 10, 2005 / LE 10 JANVIER 2005

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

M.W.F.

v. (30575)

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

NATURE OF THE CASE

Criminal law (Non *Charter*) - Young offenders - Right to counsel - Waiver - Whether the Court of Appeal erred in law in failing to apply the decision of this court in *R. v. Prosper* - Whether the Court of Appeal erred in law misinterpreting the provisions of section 56 of the *Young Offenders Act* - Whether the Court of Appeal erred in law in misinterpreting section 11 of the *Young Offenders Act* - Whether the Court of Appeal erred in law by misapplying and misinterpreting the law in finding that the inculpatory statement made by the Applicant, to a police officer, was admissible as evidence - Whether the Court of Appeal erred in law by misapplying and misinterpreting the law with respect to the waiver given by the Applicant - *R. v. Prosper*, [1994] 3 S.C.R. 236 - *Young Offenders Act*, R.S.C. 1985, c. Y-1

PROCEDURAL HISTORY

June 26, 2003 Provincial Court of British Columbia (Lazar J.)	Statement made by Applicant during videotaped interview deemed admissible on voir dire; Applicant found guilty of sexual assault causing bodily harm
July 28, 2003 Provincial Court of British Columbia (Lazar, J.)	Applicant sentenced to 24 months conditional probation for sexual assault conviction, and 3 months conditional probation for breach of probation
August 19, 2004 Court of Appeal for British Columbia (Finch C.J. [<i>dissenting</i>], Lowry and Huddart JJ.A.)	Appeal dismissed
October 18, 2004 Supreme Court of Canada	Application for leave to appeal filed

Canutilities Holdings Ltd.

v. (30492)

Her Majesty the Queen (F.C.)

NATURE OF THE CASE

Taxation - Assessment - Dividends - Capital gains - Whether the Federal Court of Appeal erred in law in determining what constitutes a “series of transactions or events” for the purposes of the *Income Tax Act* and specifically subsection 55(2) of the Act - Whether the Federal Court of Appeal erred in law in holding that pre-ordination is the sole and proper test in determining what constitutes a “series of transactions or events” at common law - Whether the Federal Court of Appeal

erred in law in holding that tax planning and the achievement of tax avoidance is a sufficient nexus or connection to cause independent transactions carried out for their own *bona fide* commercial purposes to constitute a “series of transactions or events” at common law - *Income Tax Act*, R.S.C. 1985, c. 1 (5th Supp.), s. 55(2)

PROCEDURAL HISTORY

August 28, 2003 Tax Court of Canada (Hershfield J.)	Applicant’s appeal from the assessment made under the <i>Income Tax Act</i> for the 1996 and 1997 taxation years allowed; referred back to the Minister of National Revenue for reconsideration and reassessment
July 19, 2004 Federal Court of Appeal (Rothstein, Noël, and Evans JJ.A.)	Appeal allowed
August 30, 2004 Supreme Court of Canada	Application for leave to appeal filed

Her Majesty the Queen in Right of Ontario

v. (30521)

Granite Power Corporation (Ont.)

NATURE OF THE CASE

Procedural law - Civil procedure - Motion to strike - Torts - Misfeasance in public office - Private utility company bringing action against Crown after electricity market opened to competition - Court of Appeal allowing action to continue in respect of claim for misfeasance in public office only - Whether claim for misfeasance in public office should be struck out - *Rules of Civil Procedure*, R.R.O. 1990, Reg. 194, Rule 21.01(1)(b).

PROCEDURAL HISTORY

May 27, 2002 Superior Court of Justice (Chadwick J.)	Parts of Respondent’s statement of claim struck out
September 11, 2003 Divisional Court, Superior Court of Justice (O’Driscoll, Cusinato and Howden JJ.)	Appeal dismissed.
August 3, 2004 Court of Appeal for Ontario (Catzman, Moldaver and Goudge JJ.A.)	Appeal allowed in part; action allowed to continue in respect of the claim for misfeasance in public office only
September 23, 2004 Supreme Court of Canada	Application for leave to appeal filed
October 27, 2004 Supreme Court of Canada	Conditional application for leave to cross-appeal filed

Synchronics and Ian Brown

v. (30612)

Synchronics, Incorporated (F.C.)

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms (civil) - Procedural law - Federal Court Rules - Personal Applicant attempting to represent Applicant company - Can a court lawfully use minor procedural rules to defeat statutory protections and fundamental principles of justice?

PROCEDURAL HISTORY

March 23, 1999 Federal Court of Canada (Teitelbaum J.)	Applicant's motion requesting leave for Synchronics to be represented by Ian Brown under Rule 120 of the <i>Federal Court Rules</i> , dismissed
May 7, 1999 Federal Court of Canada (Teitelbaum J.)	Motion for reconsideration dismissed
May 14, 2004 Federal Court of Appeal (Evans J.A.)	Appeal dismissed
July 14, 2004 Federal Court of Appeal (Evans, Sharlow and Malone JJ.A.)	Appeal dismissed
September 30, 2004 Supreme Court of Canada	Applications for leave to appeal and to extend time filed

Marc-André Bouliane

c. (30401)

Procureur général du Québec et le ministre de la Sécurité publique du Québec (Qc)

NATURE DE LA CAUSE

Droit administratif — Tribunaux — Appel — Contrôle judiciaire — Norme de retenue judiciaire — Crainte raisonnable de partialité — Équité procédurale — Enquête sur la conduite d'un coroner — La Cour d'appel a-t-elle commis une erreur en statuant qu'elle n'est pas tenue à la règle usuelle de retenue judiciaire lorsqu'elle examine une conclusion en matière de partialité d'un décideur? — Art. 14 de la *Loi sur la recherche des causes et circonstances des décès*, L.R.Q. ch. R-0.2 — L'enquête tenue en vertu de l'art. 14 comporte-t-elle un caractère décisionnel demandant une application plus rigoureuse des règles d'équité procédurale quant à la divulgation de la preuve et au rôle du procureur désigné pour assister le juge enquêteur?

HISTORIQUE PROCÉDURAL

Le 1^{er} octobre 2002
Cour supérieure du Québec
(Le juge Corriveau)

Requête du demandeur en révision judiciaire, jugement déclaratoire et arrêt des procédures accueillie. Annulation de l'enquête pour crainte raisonnable de partialité et arrêt des procédures.

Le 28 avril 2004
Cour d'appel du Québec
(Les juges Gendreau, Forget et Morissette)

Appel des intimés accueilli. Conclusion de crainte raisonnable de partialité infirmée, arrêt des procédures annulé, requêtes en révision judiciaire rejetées.

Le 22 juin 2004
Cour d'appel du Québec
(Le juge Delisle)

Requête en suspension d'exécution du jugement rendu le 28 avril 2004 rejetée

Le 22 juin 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée.

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

Amherst Crane Rentals Limited

v. (30507)

Arlene Clare Perring, personally and as a Trustee of the estate of Ashley Perring, Deceased (Ont.)

NATURE OF THE CASE

Commercial law – Creditor and debtor – Property law – Estates – Executors and administrators – Statutes – Interpretation – Registered Retirement Savings Plans (RRSPs) – Designation of beneficiary – Deceased having designated spouse as beneficiary of RRSP's – Spouse receiving proceeds from plan administrator – Spouse also named as executrix in will – Executrix filing voluntary assignment in bankruptcy in respect of estate – Executrix treating RRSP proceeds as falling outside estate and refusing to pay proceeds to trustee in bankruptcy – Estate creditor making claim against estate for indebtedness of deceased's liability as director of contractor under the *Construction Lien Act* – Estate creditor seeking order that estate trustee holding proceeds of RRSPs in trust for them – Whether Court of Appeal erred in concluding proceeds of RRSP's not assets of deceased's estate and exempt from claims of creditors where beneficiary designated – Whether Court of Appeal erred in interpreting s. 53 of *Succession Law Reform Act*, R.S.O. 1990, c. S-26 ("SLRA") as operating as exception to s. 2(1) *Estates Administration Act*, R.S.O. 1990, c. E-22 ("ESA"), and shielding RRSP proceeds from claims of estate creditors directly against executors – *Succession Law Reform Act*, R.S.O. 1990, c. S-26, s. 53 – *Estates Administration Act*, R.S.O. 1990, c. E-22, s. 2(1).

PROCEDURAL HISTORY

July 12, 2002
Ontario Superior Court of Justice
(Cameron J.)

Applicant's application dismissed; Applicant ordered to pay costs, fixed at \$30,000

June 16, 2004
Court of Appeal for Ontario
(Laskin, Goudge and Feldman JJ.A.)

Applicant's appeal on the merits dismissed; Applicant's appeal on costs granted, amount reduced to \$15,000.00

September 30, 2004
Supreme Court of Canada

Application for leave to appeal filed

Rogers Communications Incorporated

v. (30462)

Sandra Buschau, Sharon M. Parent, Albert Poy, David Allen, Eileen Anderson, Christine Ash, Frederick Scott Atkinson, Jaspal Badyal, Mary Balfry, Carolyn Louise Barry, Raj Bhamber, Evelyn Bishop, Deborah Louise Bissonnette, George Boshko, Colleen Burke, Brian Carroll, Lynn Cassidy, Florence K. Colbeck, Peter Colistro, Ernest A. Cottle, Ken Dann, Donna De Freitas, Terry Dewell, Katrin Dolemeyer, Elizabeth Engel, Karen Engleson, George Fierheller, Joan Fisher, Gwen Ford, Don R. Fraser, Mabel Garwood, Cheryl Gervais, Rose Gibb, Roger Gilodo, Murray Gjernes, Daphne Goode, Karen L. Gould, Peter James Hadikin, Marian Heibloem-Reeves, Thomas Hobley, John Iannantuoni, Vincent A. Iannantuoni, Ron Inglis, Mehroon Janmohamed, Michael J. Jervis, Marlyn Kellner, Karen Kilba, Douglas James Kilgour, Yoshinori Koga, Martin Kosuljandic, Ursula M. Kreiger, Wing Lee, Robert Leslie, Thomas A. Lewthwaite, Holly LEGO indicia, David Liddell, Rita Lim, Betty C. Lloyd, Rob Lowrie, Che-Chung Ma, Jennifer MacDonald, Robert John MacLeod, Sherry M. Madden, Tom Makortoff, Fatima Manji, Edward B. Mason, Glenn A. McFarlane, Onagh Metcalfe, Dorothy Mitchell, Shirley C.T. Mui, William Neal, Katherine Sheila Nimmo, Gloria Paiement, Lynda Pasacreta, Barbara Peake, Vera Piccini, Inez Pinkerton, Dave Podworny, Doug Pontifex, Victoria Prochaska, Frank Radelja, Gale Rauk, Ruth Roberts, Ann Louise Rodgers, Clifford James Roe, Pamela Mamon Roe, Delores Rose, Sabrina Roza-Pereira, Sandra Rybchinsky, Kenneth T. Salmond, Marie Schneider, Alexander C. Scott, Inderjeet Sharma, Hugh Donald Shiel, Michael Shirley, George Allen Short, Glenda Simoncioni, Norm Smallwood, Gilles A. St. Dennis, Geri Stephen, Grace Isobel Stone, Mari Tsang, Carmen Tuvera, Sheera Waisman, Margaret Watson, Gertrude Westlake, Robert E. White, Patricia Jane Whitehead, Aileen Wilson, Elaine Wirtz, Joe Wuychuk, Zlatka Young and National Trust Company

- and between -

National Trust Company

v. (30462)

Sandra Buschau, Sharon M. Parent, Albert Poy, David Allen, Eileen Anderson, Christine Ash, Frederick Scott Atkinson, Jaspal Badyal, Mary Balfry, Carolyn Louise Barry, Raj Bhamber, Evelyn Bishop, Deborah Louise Bissonnette, George Boshko, Colleen Burke, Brian Carroll, Lynn Cassidy, Florence K. Colbeck, Peter Colistro, Ernest A. Cottle, Ken Dann, Donna De Freitas, Terry Dewell, Katrin Dolemeyer, Elizabeth Engel, Karen Engleson, George Fierheller, Joan Fisher, Gwen Ford, Don R. Fraser, Mabel Garwood, Cheryl Gervais, Rose Gibb, Roger Gilodo, Murray Gjernes, Daphne Goode, Karen L. Gould, Peter James Hadikin, Marian Heibloem-Reeves, Thomas Hobley, John Iannantuoni, Vincent A. Iannantuoni, Ron Inglis, Mehroon Janmohamed, Michael J. Jervis, Marlyn Kellner, Karen Kilba, Douglas James Kilgour, Yoshinori Koga, Martin Kosuljandic, Ursula M. Kreiger, Wing Lee, Robert Leslie, Thomas A. Lewthwaite, Holly LEGO indicia, David Liddell, Rita Lim, Betty C. Lloyd, Rob Lowrie, Che-Chung Ma, Jennifer MacDonald, Robert John MacLeod, Sherry M. Madden, Tom Makortoff, Fatima Manji, Edward B. Mason, Glenn A. McFarlane, Onagh Metcalfe, Dorothy Mitchell, Shirley C.T. Mui, William Neal, Katherine Sheila Nimmo, Gloria Paiement, Lynda Pasacreta, Barbara Peake, Vera Piccini, Inez Pinkerton, Dave Podworny, Doug Pontifex, Victoria Prochaska, Frank Radelja, Gale Rauk, Ruth Roberts, Ann Louise Rodgers, Clifford James Roe, Pamela Mamon Roe, Delores Rose, Sabrina Roza-Pereira, Sandra Rybchinsky, Kenneth T. Salmond, Marie Schneider, Alexander C. Scott, Inderjeet Sharma, Hugh Donald Shiel, Michael Shirley, George Allen Short, Glenda Simoncioni, Norm Smallwood, Gilles A.

**St. Dennis, Geri Stephen, Grace Isobel Stone, Mari Tsang, Carmen Tuvera, Sheera Waisman,
Margaret Watson, Gertrude Westlake, Robert E. White, Patricia Jane Whitehead, Aileen Wilson,
Elaine Wirtz, Joe Wuychuk, Zlatka Young and Rogers Communications Incorporated (B.C.)**

NATURE OF THE CASE

Labour law - Pensions - Was the British Columbia Court of Appeal correct in finding that the rule in *Saunders v. Vautier* (1841), 4 Beav. 115, (1841), 49 E.R. 282, aff'd (1841) 41 E.R. 482 (Ch.), permits the termination of a modern pension trust without the intervention of the court - If so, does the employer have an interest in respect of the trust - What is the nature and scope of an employer's obligation to act in good faith in the administration of a pension plan.

PROCEDURAL HISTORY (First Application)

April 25, 2002 Supreme Court of British Columbia (Loo J.)	Respondent's application for an order requiring the Applicant to produce pension plan-related documents, granted
May 1, 2003 Supreme Court of British Columbia (Loo J.)	Respondents' application for termination of the pension plan granted
February 20, 2004 Court of Appeal for British Columbia (Newbury, Low and Thackray JJ.A.)	Petitioners given three months to make further submissions
May 18, 2004 Court of Appeal for British Columbia (Newbury, Low and Thackray JJ.A.)	Appeal allowed; order terminating pension plan set aside; petition brought under <i>Trust and Settlement Variation Act</i> dismissed; Applicant declared without interest in trust ²
June 29, 2004 Court of Appeal for British Columbia (Newbury, Low and Thackray, JJ.A.)	Costs of the appeal awarded to Respondents
August 10, 2004 Supreme Court of Canada	Application for leave to appeal filed

PROCEDURAL HISTORY (Second Application)

April 25, 2002 Supreme Court of British Columbia (Loo J.)	Application for an order requiring the Respondent to produce pension plan-related documents, granted
May 1, 2003 Supreme Court of British Columbia (Loo J.)	Application for termination of pension plan, granted
February 20, 2004 Court of Appeal for British Columbia (Newbury, Low and Thackray JJ.A.)	<i>Saunders v. Vautier</i> applies; employer's consent not required; petitioners given three months to make further submissions

May 18, 2004
Court of Appeal for British Columbia
(Newbury, Low and Thackray JJ.A.)

Appeal allowed; order terminating pension plan set aside; petition brought under *Trust and Settlement Variation Act* dismissed; Respondent declared without interest in trust

June 29, 2004
Court of Appeal for British Columbia
(Newbury, Low and Thackray, JJ.A.)

Costs of the appeal awarded to Respondents

August 16, 2004
Supreme Court of Canada

Application for leave to appeal filed

Bank of Montreal

v. (30527)

Deborah Jean Collum (B.C.)

NATURE OF THE CASE

Commercial law - Guaranty - Suretyship - Banks - Banking operations - Disclosure - Spousal guarantee for line of credit for husband's firm - Duty on part of lending institution to disclose - Does a creditor have a positive duty to disclose information to a proposed spousal guarantor in advance of the contract of guarantee? - Is the Court of Appeal's formulation of that duty too broad? - Is it consistent with previous authority? - What effect does the existence of independent legal advice have on the enforceability of a spousal guarantee? - Did the Court of Appeal improperly disregard the fact of independent legal advice in determining whether the creditor's duty to disclose had been satisfied? - Are the decisions of the House of Lords in *Barclays Bank v. O'Brien*, [1993] 4 All E.R. 417, and *Barclays Bank plc v. Coleman*, [2001] 4 All E.R. 449, the law in Canada? - Did the Court of Appeal properly interpret and apply the principles set out in those decisions?

PROCEDURAL HISTORY

March 3, 2003
Supreme Court of British Columbia
(Burnyeat J.)

Applicant's mortgage action allowed: judgment for \$87,377.77 plus interest and order *nisi* of foreclosure granted.

June 28, 2004
Court of Appeal for British Columbia (Vancouver)
(Southin, Newbury, Saunders JJ.A.)

Appeal allowed.

September 27, 2004
Supreme Court of Canada

Application for leave to appeal filed

Andrea Lori Torchia

v. (30577)

Royal & SunAlliance Insurance Company of Canada (Ont.)

NATURE OF THE CASE

Commercial law - Insurance - Exclusions - Arson - Applicant's husband convicted of arson after her property was destroyed by fire - Applicant's action for indemnity under her insurance policy dismissed - Whether courts below erred in holding that exclusion clause was not ambiguous - Whether courts below erred in failing to apply *contra proferentum* rule of contract interpretation - Whether courts below failed to apply modern approach to insurance contract interpretation.

PROCEDURAL HISTORY

May 26, 2003 Ontario Superior Court of Justice (Sanderson J.)	Applicant's action for indemnity under insurance policy against Respondent dismissed
June 3, 2004 Court of Appeal for Ontario (Doherty, Goudge and Simmons JJ.A.)	Appeal dismissed
September 29, 2004 Supreme Court of Canada	Application for leave to appeal filed
September 29, 2004 Supreme Court of Canada	Motion for extension of time filed

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

Nicole Mackenzie

c. (30359)

Sa Majesté la Reine (Crim.) (N.-É.)

NATURE DE LA CAUSE

Charte canadienne (criminel), art. 15, 16, 19, 24 - Droit criminel - Infractions – Infraction punissable par voie de déclaration sommaire de culpabilité - Procédure préalable au procès - Langue du procès - Droit de l'accusé d'obtenir un procès dans sa langue – Obligation du juge d'informer l'accusé - Réparation – *Code criminel*, L.R.C. 1985, ch. C-46, art. 530 (3), 686 - *Motor Vehicle Act*, R.S.N.S.1989, c.293 - *Summary Proceedings Act*, R.S.N.S. 1989, c. 450 – *Provincial Court Act*, R.S.N.S. 1989, c.238. - Accusée non informée de son droit par le juge lors de sa comparution sans procureur en Cour provinciale – Arrêt des procédures décrété par la Cour supérieure – Nouveau procès ordonné par la Cour d'appel - La Cour d'appel a-t-elle commis une erreur de droit dans son analyse de l'opportunité de recourir à l'arrêt des procédures en l'espèce?

HISTORIQUE DES PROCÉDURES

Le 5 juin 2002 Cour provinciale	Comparution de la demanderesse, en tant qu'accusée, pour une infraction au <i>Motor Vehicle Act</i> (avoir dépassé la limite de vitesse permise)
Le 10 avril 2003 Cour supérieure (N.S. Supreme Court) (Le juge Edwards)	Appel accueilli; arrêt des procédures décrété
Le 27 janvier 2004 Cour d'appel (Les juges Fichaud, Saunders et Chipman)	Appel accueilli; nouveau procès ordonné
Le 28 mai 2004 Cour suprême du Canada	Demandes d'autorisation d'appel et de prorogation de délai déposées

Michel Morel et Linda Rivet

c. (30586)

Société canadienne des postes (Qc)

NATURE DE LA CAUSE

Droit civil – Contrat – Nature du contrat – Contrat d'entreprise ou de service – Résiliation unilatérale – Motif de résiliation - Faute – Bonne foi - Dommages-intérêts – *Charte des droits et libertés de la personne*, L.R.Q. ch. C-12, art. 4, 5, 49 - *Code civil du Québec*, art. 35, 2125 - Résiliation par l'intimée du contrat du demandeur à la suite d'une enquête pour fraude – Accusation et acquittement subséquents – Quel était le statut du demandeur et la décision du premier juge sur ce point était-elle révisable par la Cour d'appel? - La Société canadienne des postes pouvait-elle se prévaloir de l'article 2125 du *Code civil du Québec*? - La Société canadienne des postes avait-elle un motif de mettre fin à son contrat avec le demandeur? - Les droits fondamentaux du demandeur ont-ils été bafoués?

HISTORIQUE DES PROCÉDURES

Le 2 décembre 2003 Cour supérieure du Québec (Le juge Fréchette)	Demande accueillie en partie; octroi de dommages-intérêts; déclaration d'exécution nonobstant appel pour une partie des dommages.
Le 30 août 2004 Cour d'appel du Québec (Montréal) (Les juges Mailhot, Chamberland et Forget)	Appel accueilli; jugement de première instance infirmé; action des demandeurs rejetée.
Le 29 octobre 2004 Cour suprême du Canada	Demande d'autorisation d'appel déposée.

Mehrdad Golzarian

c. (30618)

Le Procureur général du Québec et Sûreté du Québec (Qc)

NATURE DE LA CAUSE

Procédure - Appel - Action personnelle du demandeur intentée devant le Tribunal des droits de la personne du Québec déclarée irrecevable - Requête pour permission d'appel rejetée - La Cour d'appel a-t-elle erré en se basant sur la décision du Tribunal des droits de la personne, alors qu'il avait erré quant à l'application de l'art. 77 de la *Charte des droits et libertés de la personne*, L.R.Q., ch. C-12? - La Cour d'appel a-t-elle erré en refusant de considérer et d'appliquer l'art. 2895 du *Code civil du Québec*, L.Q. 1991, ch. 64? - La Cour d'appel a-t-elle erré en se basant sur les jugements rendus le 19 mars 2003 et en février 2002? - La Cour d'appel a-t-elle erré en écartant de façon prématurée le présent dossier et en concluant que le litige entre les parties relève des relations de travail?

HISTORIQUE DES PROCÉDURES

Le 2 juillet 2004
Tribunal des droit de la personne
(La juge Pauzé)

Requête en irrecevabilité de l'intimé Procureur général du Québec accueillie : le Tribunal décline sa compétence à l'égard de la requête introductive d'instance du demandeur

Le 25 août 2004
Cour d'appel du Québec
(Le juge Rochon)

Requête pour permission d'appel rejetée

Le 21 octobre 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Frank Comeau and Memramcook Valley Take-Out Ltd.

v. (30639)

Daniel G. Pole and Brewer MacPherson Quinn

- and between -

Frank Comeau

v. (30639)

Kenneth Martin (N.B.)

NATURE OF THE CASE

Torts - Libel and slander - Professional negligence - Statements made in the course of judicial proceedings - Whether the Applicants were denied a fair trial because of bias on the part of the learned trial judge? - Whether the Applicants were denied a fair trial because of excessive interventions on the part of the learned trial judge? - Whether the Applicants were denied a fair trial because of witness tampering on the part of counsel for the Respondents, or by reason of unfair actions on the part of the Law Society of New Brunswick? - Whether the learned trial judge erred in his appreciation of the evidence?

PROCEDURAL HISTORY

July 10, 2003
Court of Queen's Bench of New Brunswick
(Guerette J.)

Applicant Comeau's action against the Respondent Matin for failing to properly represent him in a contract dispute, dismissed; Applicant Comeau's action against the Respondents Pole and Brewer for inducing a breach of contract, dismissed; Applicant Comeau's action against the Respondent Pole for fraud, dismissed

September 28, 2004
Court of Appeal of New Brunswick
(Drapeau C.J.N.B., Deschênes and Robertson JJ.A.)

Appeal dismissed

November 16, 2004
Supreme Court of Canada

Application for leave to appeal filed

Guy Lavoie

c. (30583)

Bon L Canada Inc. (Qc)

NATURE DE LA CAUSE

Droit administratif - Droit du travail - Contrôle judiciaire - Employeur et employé - Indemnisation - Congédiement - La Cour d'appel a-t-elle erré en concluant que le cumul des indemnités donnait lieu à une décision manifestement déraisonnable? - La Cour d'appel a-t-elle erré de façon manifeste dans son application de la norme d'intervention? - La Cour d'appel a-t-elle erré en décidant qu'il n'y avait pas chose jugée dans cette cause? - La Cour d'appel a-t-elle erré en concluant que la perte d'emploi implique automatiquement la cessation du bénéfice des avantages sociaux tributaires du lien d'emploi? - Article 128 de la *Loi sur les normes du travail*, L.R.Q., ch. N-1.1.

HISTORIQUE DES PROCÉDURES

Le 23 mars 2001
Bureau du Commissaire général du travail
(La commissaire Béchara)

Plainte en vertu de l'art. 124 de la *Loi sur les normes du travail* pour congédiement sans cause juste et suffisante accueillie; intimée condamnée à payer au demandeur, à titre d'indemnité, l'équivalent du salaire et des autres avantages dont l'a privé le congédiement, ainsi qu'une somme à être déterminée à titre d'indemnité de perte d'emploi, de dommages moraux et de remboursement d'honoraires d'avocat; compétence réservée pour établir le quantum en cas de mésentente entre les parties

Le 13 septembre 2001
Cour supérieure du Québec
(Le juge Viau)

Requête en révision judiciaire et en sursis de procédures de l'intimée rejetée

Le 27 septembre 2001
Cour d'appel du Québec
(Le juge Baudouin)

Requête pour permission d'appel de l'intimée rejetée

APPLICATIONS FOR LEAVE
SUBMITTED TO COURT SINCE LAST ISSUE

DEMANDES SOUMISES À LA COUR DEPUIS
LA DERNIÈRE PARUTION

Le 2 août 2002
Bureau du Commissaire général du travail
(La commissaire Béchara)

Requête du demandeur portant sur la fixation du
quantum accueillie

Le 6 janvier 2003
Cour supérieure du Québec
(La juge Picard)

Requête en révision judiciaire de l'intimée rejetée

Le 23 août 2004
Cour d'appel du Québec
(Les juges Gendreau, Rochette et Rayle)

Appel de l'intimée accueilli

Le 22 octobre 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

JANUARY 13, 2005 / LE 13 JANVIER 2005

30405 **Jonathan H. Marler v. Andre Boudreau** (Ont.) (Civil) (By Leave)

Coram: **McLachlin C.J. and Major and Charron JJ.**

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C38201, dated April 19, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C38201, daté du 19 avril 2004, est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Civil procedure - Counsel of choice - Evidence - Appeal - Disqualification of counsel - Right to self-representation - Proof of fraudulent conveyance or unlawful preference - Whether a decision that the question of whether a competent civil litigant can be self-represented is a matter of judicial discretion and not an absolute right is in conflict with established jurisprudence and a constitutional right - Whether Courts below ignored established precedent on the proof required to establish fraud and in particular a fraudulent conveyance or preference - Whether Court of Appeal misinterpreted jurisprudence and whether upholding the trial decision to disqualify counsel will lower standard for disqualification of counsel - Whether courts below bolstered their decisions by a multiplicity of legal and factual errors.

PROCEDURAL HISTORY

April 10, 2002
Ontario Superior Court of Justice
(Nadeau J.)

Application by applicant to change counsel or to represent himself dismissed; Assignment of mortgage to applicant declared a fraudulent conveyance, an unlawful preference and void.

April 19, 2004
Court of Appeal for Ontario
(Abella, Cronk and Juriansz, [Adhoc] JJ.A.)

Appeal dismissed

June 16, 2004
Supreme Court of Canada

Application for leave to appeal filed

30455 **Iris Plamondon, Gladys Wacowich v. Russel Czaban** (Alta.) (Civil) (By Leave)

Coram: **McLachlin C.J. and Binnie and Charron JJ.**

The application for leave to appeal from the judgment of the Court of Appeal of Alberta (Edmonton), Number 0203-0277-AC, dated May 11, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Alberta (Edmonton), numéro 0203-0277-AC, daté du 11 mai 2004, est rejetée avec dépens.

NATURE OF THE CASE

Canadian Charter - Civil - Civil rights - Property law - Estates - Jointly held assets - Survivorship - When does the death of a joint holder of title lead to the subject property being held on a constructive trust for the estate of the deceased - Whether the rule of advancement is limited to fathers passing property to children - Whether supporting the finding that there is a gift to the surviving child by using the rule of advancement offends equality under the *Charter*?

PROCEDURAL HISTORY

June 28, 2002 Court of Queen's Bench of Alberta (Lewis J.)	Applicants' action dismissed; transfer of assets allowed
May 11, 2004 Court of Appeal of Alberta (Côté, Russell and Clackson JJ.A.)	Appeal dismissed
August 9, 2004 Supreme Court of Canada	Application for leave to appeal filed

30465 **Sharon Ann Mariani v. John Adrian Lemstra, Anne Lemstra** (Ont.) (Civil) (By Leave)

Coram: McLachlin C.J. and Binnie and Charron JJ.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C39746, dated May 12, 2004, is dismissed with costs. The application for leave to cross-appeal is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C39746, daté du 12 mai 2004, est rejetée avec dépens. La demande d'autorisation d'appel incident est rejetée avec dépens.

NATURE OF THE CASE

Property law - Real property - Agreement of Purchase and Sale - Remedies - Torts - Negligent misrepresentation - Purchaser discovering latent defects in construction of home rendering it dangerous to occupy - Relationship between the minimum standards for safe construction set out in Building Code legislation and the "dangerous defects" threshold in *Winnipeg Condominium Corporation No. 36 v. Bird Construction Co.* - Whether builders that fail to meet Building Code standards may use "dangerous defects" threshold to shield themselves from liability for costs of repairing Building Code defects - If dangerous defects in a dwelling cause damage to other elements of the structure, should a builder's liability be limited to the cost of repairing only the dangerous defects or extend to cover the costs of repairing the damaged elements that are related or causally connected to the negligence of the builder and/or the dangerous defects?

PROCEDURAL HISTORY

February 14, 2003 Ontario Superior Court of Justice (Dunn J.)	Applicant awarded damages of \$299,610 for non - disclosure of latent defects in house construction
May 12, 2004 Court of Appeal for Ontario (Sharpe, Catzman and Goudge JJ.A.)	Appeal allowed in part; Applicant awarded damages of \$100,657
August 13, 2004 Supreme Court of Canada	Application for leave to appeal filed

September 10, 2004
Supreme Court of Canada

Application for leave to cross-appeal filed.

30351 **Ville de Québec c. André Beaurivage, Roy, Métivier, Roberge Inc., en sa qualité de syndic de l'actif du débiteur André Beaurivage, Gérald Robitaille & Associés Ltée** (Qc) (Civile)
(Autorisation)

Coram: La juge en chef McLachlin et les juges Binnie et Charron

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Québec), numéro 200-09-004329-030, daté du 15 mars 2004, est rejetée avec dépens en faveur de l'intimée Roy, Métivier, Roberge Inc, en sa qualité de syndic de l'actif du débiteur André Beaurivage.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Quebec), Number 200-09-004329-030, dated March 15, 2004, is dismissed with costs to the respondent Roy, Métivier, Robert Inc., en sa qualité de syndic de l'actif du débiteur André Beaurivage.

NATURE DE LA CAUSE

Droit municipal - Renouvellement d'un permis - Pouvoir de limiter le nombre de permis - Indemnisation - Le droit au renouvellement d'un permis et d'une licence annuelle de véhicule hippomobile est-il un droit essentiellement précaire? - Le pouvoir de la demanderesse de limiter le nombre de permis et licences prévu à sa Charte inclut-il celui de réduire ou révoquer le nombre de permis et licences existant sans indemnité?

HISTORIQUE DES PROCÉDURES

Le 17 décembre 2002
Cour supérieure du Québec
(Le juge Moulin)

Requête de l'intimé, André Beaurivage, pour jugement déclaratoire, accueillie;

Le 15 mars 2004
Cour d'appel du Québec
(Les juges Rothman, Thibault et Rochon)

Appel accueilli en partie

Le 13 mai 2004
Cour suprême du Canada

Demande d'autorisation d'appel déposée

30404 **Jonathan Marler v. Robert Platt AND BETWEEN 798839 Ontario Ltd. v. Robert Platt, Kaarina Malmstrom, Murrayfield Corp., Jonathan Marler, Scott & Pichelli Ltd.** (Ont.) (Civil) (By Leave)

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

The applications for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C37583, dated April 19, 2004, are dismissed with costs.

Les demandes d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C37583, daté du 19 avril 2004, sont rejetées avec dépens.

NATURE OF THE CASE

Procedural Law - Evidence - Fresh Evidence - Appeal - Reliance on Reasons for Judgment in separate proceedings - What are the minimum procedural and evidentiary standards required of an appellate court conducting a trial *de novo* on fresh evidence - Can an appellate court rely upon findings of fact and credibility of a trial judge in a separate proceeding than the one appealed from - Under what circumstances should an appellate court hearing an appeal concerning fresh evidence decide the issue rather than sending the matter back for a new trial - What are the rules for determining whether fresh evidence should be admitted at the hearing of a civil appeal - Should fresh evidence be admitted on a civil appeal before the appellate court considers the appeal on its merits - Should respondents be afforded the opportunity to rebut or explain the fresh evidence - What is the impact on a fresh evidence application of the filing of responding material - When should the appellate court direct a new trial or make findings of fact and credibility based upon fresh evidence - Is the appellate court required to give reasons for the admission of fresh evidence.

PROCEDURAL HISTORY

February 7, 2000 Ontario Superior Court of Justice (Farley J.)	Respondent Platt declared bankrupt pursuant to s. 43(6) of the <i>Bankruptcy and Insolvency Act</i> ; Receiving Order granted
March 23, 2001 Court of Appeal for Ontario (Finlayson, Labrosse and MacPherson JJ.A.)	Appeal dismissed
July 2, 2001 Ontario Superior Court of Justice (Farley J.)	Further hearing ordered of respondent Platt's motion to annul the Receiving Order pursuant to s. 187(9) of the <i>Bankruptcy and Insolvency Act</i> ,
November 28, 2001 Ontario Superior Court of Justice (Farley J.)	Respondent Platt's motion to annul the Receiving Order pursuant to s. 187(9) of the <i>Bankruptcy and Insolvency Act</i> dismissed
April 19, 2004 Court of Appeal for Ontario (Abella, Cronk and Juriansz [<i>ad hoc</i>])	Appeal granted; Receiving Order and Judgements set aside
June 17, 2004 Supreme Court of Canada	First application for leave to appeal filed
June 18, 2004 Supreme Court of Canada	Second application for leave to appeal filed

30483 **Daniel Martin Younger v. Her Majesty the Queen** (Man.) (Criminal) (By Leave)

Coram: McLachlin C.J. and Binnie and Charron JJ.

The application for leave to appeal from the judgment of the Court of Appeal of Manitoba, Number AR01-30-04966, dated June 29, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Manitoba, numéro AR01-30-04966, daté du 29 juin 2004, est rejetée.

NATURE OF THE CASE

Criminal law - Evidence - Procedural law - Trial - Effect of jury member contravening instruction by the trial judge not to attend the crime scene or personally investigate the case by doing both and sharing her findings with other jurors - Whether trial judge erred by not discharging the juror who accidentally encountered the Applicant in handcuffs and shackles - Whether trial judge erred in his instructions to the jury on the issue of post-offence conduct - Whether demeanour evidence and silence in response to police questioning was wrongly admitted into evidence at the trial - Whether cold weather exposure constitutes bodily harm under section 229(a)(ii) of the *Criminal Code* - Whether trial judge misdirected the jury by instructing it that it could convict of first degree murder if it was satisfied that the Applicant intended to kill or intended to cause bodily harm with the knowledge that death was likely at some point during the kidnapping or unlawful confinement - Whether the Court of Appeal erred in law by failing to find reversible error in the trial judge's instruction on reasonable doubt - Whether reversible error in the trial judge's refusal to issue a *Vetrovec* warning to the jury respecting Diane Grisdale's evidence - Whether reversible error in the trial judge's decision to prohibit defence counsel from cross-examining Ericka Grisdale as to whether she worked as a prostitute - Whether the verdict was reasonable.

PROCEDURAL HISTORY

September 1, 1999
Court of Queen's Bench of Manitoba
(MacInnes, J.)

Conviction: first-degree murder

June 29, 2004
Court of Appeal of Manitoba
(Huband, Twaddle and Steel JJ.A.)

Appeal dismissed

August 26, 2004
Supreme Court of Canada

Application for leave to appeal filed

30556 **Wilfred Dwayne Johnson v. Her Majesty the Queen** (N.S.) (Criminal) (By Leave)

Coram: **McLachlin C.J. and Binnie and Charron JJ.**

The application for leave to appeal from the judgment of the Nova Scotia Court of Appeal, Number CAC 173767, dated July 14, 2004, is dismissed.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Nouvelle-Écosse, numéro CAC 173767, daté du 14 juillet 2004, est rejetée.

NATURE OF THE CASE

Criminal law (Non Charter) - Offences - Murder - Evidence - Sentencing - Out-of-court statements - Whether the Court of Appeal erred in law in holding that the statements of the deceased relating to prior incidents between the Applicant and the deceased were properly admissible at trial - whether the Court of Appeal erred in law in allowing a conviction to be sustained regarding the infant deceased where not supported by the evidence - whether the Court of Appeal erred in law in sustaining a sentence that was excessively harsh.

PROCEDURAL HISTORY

August 31, 2001 Supreme Court of Nova Scotia (Wright J.)	Applicant convicted of two counts of second degree murder; Court ordered that the Applicant serve a sentence of life imprisonment and be ineligible for parole for 21 years
July 14, 2004 Nova Scotia Court of Appeal (Bateman, Oland and Fichaud JJ.A.)	Appeal from conviction and sentence dismissed
September 29, 2004 Supreme Court of Canada	Application for leave to appeal filed

30485 **Jodi Edell, Cara Edell and Hayden Edell, Samantha Edell, Marek Edell and Mayson Edell by their Litigation Guardian, Jodi Edell v. Paul Sitzer in all of his capacities, Michael Sitzer, Paul Sitzer Holdings Limited, and Geraldine Sitzer Holdings Ltd.** (Ont.) (Civil) (By Leave)

Coram: McLachlin C.J. and Binnie and Charron JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C36820, dated June 3, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C36820, daté du 3 juin 2004, est rejetée avec dépens.

NATURE OF THE CASE

Property Law - Estates - Mutual wills - Constructive trusts - Whether the Court of Appeal erred in not addressing the legal issues involved in this case which are of significant national importance as a result of the evolution of laws dealing with matrimonial, dependants' support, and trust matters - Whether the Court of Appeal erred in not adopting the approach taken by decisions of the Supreme Court of Canada and other decisions of the Ontario Court of Appeal dealing with similar issues that are of great impact on the continuing evolution of the laws in the aforementioned areas - Whether the Court of Appeal erred in basing its decision exclusively on the findings of fact made by the trial judge.

PROCEDURAL HISTORY

November 5, 2001 Ontario Superior Court of Justice (Cullity J.)	Applicants' claim to have Paul Sitzer pass his accounts granted; all other claims dismissed
June 3, 2004 Court of Appeal for Ontario (Labrosse, MacPherson, and Juriansz JJ.A.)	Appeal dismissed
August 27, 2004 Supreme Court of Canada	Application for leave to appeal filed

30487 **David James Sneddon, Kirpal Singh Bains, Balbir Singh Bhate, Douglas Wallace Platt, suing on their own behalf and in a representative capacity on behalf of all persons who were members of the British Columbia Hydro and Power Authority Pension Plan in 1980, and received a refund of pension Contributions when transferred to the Metro Transit Operating Company v. British Columbia Hydro and Power Authority, Her Majesty the Queen in Right of the Province of British Columbia (Minister of Finance, Corporate Relations), Superannuation Commissioner, Trustee of the Public Service Pension Plan also known as Public Service Board of Trustees, British Columbia Pension Corporation** (B.C.) (Civil) (By Leave)

Coram: McLachlin C.J. and Binnie and Charron JJ.

The application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA31104, dated May 26, 2004, is dismissed with costs to the respondents, Her Majesty the Queen in Right of the Province of British Columbia (Minister of Finance, Corporate Relations), Superannuation Commissioner, Trustee of the Public Service Pension Plan also known as Public Service Board of Trustees .

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA31104, daté du 26 mai 2004, est rejetée avec dépens en faveur des intimés, Her Majesty the Queen in Right of the Province of British Columbia (Minister of Finance, Corporate Relations), Superannuation Commissioner, Trustee of the Public Service Pension Plan also known as Public Service Board of Trustees .

NATURE OF THE CASE

Labour law - Pensions - Termination of employment - Refund of contributions - Public transit employees being transferred to new corporation - Certain employees opting to receive refunds of their pension contributions instead of transferring their pensions - Whether s. 7 of *Metro Transit Operating Company Act*, S.B.C. 1979, c. 257, should be interpreted as prohibition against refund of contributions.

PROCEDURAL HISTORY

July 30, 2003 Supreme Court of British Columbia (Warren J.)	Applicants' claims of breach of trust and entitlement to pension contributions dismissed
May 26, 2004 Court of Appeal for British Columbia (Prowse, Low and Thackray JJ.A.)	Appeal dismissed
August 24, 2004 Supreme Court of Canada	Application for leave to appeal filed

30518 **Yvan Duhamel c. Sa Majesté la Reine** (Qc) (Criminelle) (Autorisation)

Coram: La juge en chef McLachlin et les juges Binnie et Charron

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-10-002388-021, daté du 23 juin 2004, est rejetée.

The application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-10-002388-021, dated June 23, 2004, is dismissed.

NATURE DE LA CAUSE

Droit criminel - Preuve - La Cour d'appel a-t-elle erré en droit en décidant implicitement que la délivrance d'un mandat ADN en vertu de motifs obtenus par processus d'élimination ne viole pas le principe interdisant l'auto-incrimination? - La Cour d'appel a-t-elle erré en droit en décidant implicitement que la délivrance d'un mandat ADN en vertu de motifs obtenus par processus d'élimination en l'absence de nécessité sert au mieux l'administration de la justice?

HISTORIQUE DES PROCÉDURES

Le 29 mai 2002 Cour du Québec, chambre criminelle et pénale (Le juge Polak)	Demandeur trouvé coupable d'agression sexuelle (art. 271(1)a) du <i>Code criminel</i>)
Le 23 juin 2004 Cour d'appel du Québec (Les juges Thibault, Rochon et Hilton)	Appel rejeté
Le 21 septembre 2004 Cour suprême du Canada	Demande d'autorisation d'appel déposée

30450 **Estela de Araujo v. Kenneth C. Read** (B.C.) (Civil) (By Leave)

Coram: McLachlin C.J. and Binnie and Charron JJ.

The application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA29268, dated May 13, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA29268, daté du 13 mai 2004, est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Appeal - Trial - Jury trial - Appellate court granting an appeal from a jury verdict and ordering a new trial - What is the test for a new civil trial after a jury verdict.

PROCEDURAL HISTORY

November 21, 2001 Supreme Court of British Columbia (Clancy J.)	Applicant awarded damages by jury of \$162, 000; Application for the discharge of the jury dismissed; Application for mistrial dismissed
May 13, 2004 Court of Appeal for British Columbia (Low, Thackray and Smith [<i>dissenting</i>] JJ.A.)	Appeal allowed; New trial ordered
August 5, 2004 Supreme Court of Canada	Application for leave to appeal filed

HISTORIQUE DES PROCÉDURES

Le 13 mars 2002 Cour supérieure du Québec (Le juge Champagne)	Requête pour jugement déclaratoire du demandeur; rejetée
Le 10 août 2004 Cour d'appel du Québec (Les juges Gendreau, Rochette et Rayle)	Appel rejeté
Le 8 octobre 2004 Cour suprême du Canada	Demande d'autorisation d'appel déposée

30470 **Gina Zanetti, Tina Zanetti v. Bonniehon Entreprises Ltd., Bonniehon Management Inc., Paul H. Cody, Andrew James Baillargeon** (B.C.) (Civil) (By Leave)

Coram: McLachlin C.J. and Binnie and Charron JJ.

The application for leave to appeal from the judgment of the Court of Appeal for British Columbia (Vancouver), Number CA031657, dated May 18, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de la Colombie-Britannique (Vancouver), numéro CA031657, daté du 18 mai 2004, est rejetée avec dépens.

NATURE OF THE CASE

Administrative law-Appeal-Judicial review- Is the failure from the Chief Justice of the Appeal Court to recuse himself a violation of principles of procedural fairness and gives rise to a reasonable apprehension of bias? - Is the issue of failing to apply the principles of procedural fairness infringing upon Canadians right to fair hearings and access to justice?

PROCEDURAL HISTORY

October 21, 2003 Supreme Court of British Columbia (Brenner C.J.B.C.)	Respondents' application for an order for security costs, allowed
February 25, 2004 Supreme Court of British Columbia (Brenner C.J.B.C.)	Applicants' application for an order for an investigation of audiotapes for the proceedings of October 20 and 21, 2003, dismissed; Applicants' application for reconsideration, dismissed; Applicants' application for recusation, dismissed
March 31, 2004 Court of Appeal for British Columbia (Lowry J.A.)	Applicants' applications for indigent status and for extension of time, dismissed
May 18, 2004 Court of Appeal for British Columbia (Finch C.J.B.C., Donald and Low J.J.A.)	Applicants' application to discharge or vary the order of Lowry J., dismissed

August 17, 2004
Supreme Court of Canada

Application for leave to appeal filed

30607 **D.L. c. A.L., P.M.** (Qc) (Civile) (Autorisation)

Coram: La juge en chef McLachlin et les juges Binnie et Charron

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel de l'arrêt de la Cour d'appel du Québec (Montréal), numéro 500-09-014498-042, daté du 12 juillet 2004, est rejetée avec dépens.

The application for an extension of time is granted and the application for leave to appeal from the judgment of the Court of Appeal of Quebec (Montreal), Number 500-09-014498-042, dated July 12, 2004, is dismissed with costs.

NATURE DE LA CAUSE

Procédure - Procédure civile - Actions - Exception déclinatoire - Droit de la famille - Garde - Aliments - Responsabilité civile - Dommages-intérêts - Requête introductive d'instance du demandeur contre les intimés pour garde d'enfants, fixation de pension alimentaire et dommages-intérêts - La Cour d'appel a-t-elle erré en droit en confirmant le jugement de la Cour supérieure suivant lequel il n'y a pas de fondement juridique pour poursuivre l'intimé parce qu'il n'assume pas les obligations parentales du demandeur et que les conditions ayant trait à la faute, au préjudice et au lien de causalité ne sont pas remplies envers lui?

HISTORIQUE DES PROCÉDURES

Le 28 avril 2004
Cour supérieure du Québec
(La juge Monast)

Requête en irrecevabilité de l'intimé à l'encontre de la requête du demandeur accueillie

Le 12 juillet 2004
Cour d'appel du Québec
(Les juges Rayle, Morissette et Lemelin [*ad hoc*])

Requête en rejet d'appel de l'intimé accueillie et appel du demandeur rejeté

Le 2 novembre 2004
Cour suprême du Canada

Demande d'autorisation d'appel et requête en prorogation de délai déposées

30513 **The Neighbourhoods of Cornell Inc. v. 1440106 Ontario Inc., Samuel Lam and Peter Wong** (Ont.)
(Civil) (By Leave)

Coram: McLachlin C.J. and Binnie and Charron JJ.

The application for leave to appeal from the judgment of the Court of Appeal for Ontario, Number C40522, dated June 8, 2004, is dismissed with costs.

La demande d'autorisation d'appel de l'arrêt de la Cour d'appel de l'Ontario, numéro C40522, daté du 8 juin 2004, est rejetée avec dépens.

NATURE OF THE CASE

Property law - Real property - Remedies - Specific performance - Procedural law - Motion for summary judgment - Respondents' motion for summary judgment dismissing Applicant's action for specific performance of alleged oral

agreement for purchase of land granted - Court of Appeal affirming decision - Appropriate test for disregarding a party's evidence on a summary judgment motion as "self-serving" to ensure that such motions do not become paper trials - Use courts should make of drafts of agreements proffered by one party in the course of memorializing an alleged oral agreement in determining whether essential terms of a contract have been agreed to orally - What constitutes part performance of an oral agreement for the purchase and sale of land so as to take the agreement out of the *Statute of Frauds*, R.S.O. 1990, c. S.19?

PROCEDURAL HISTORY

July 16, 2003
Ontario Superior Court of Justice
(Spiegel J.)

Motion for summary judgment dismissing Applicant's action for specific performance of an oral agreement for the purchase of land granted

June 8, 2004
Court of Appeal for Ontario
(Weiler, Abella and Armstrong JJ.A.)

Appeal dismissed

September 3, 2004
Supreme Court of Canada

Application for leave to appeal filed

4.1.2005

Before / Devant: MAJOR J.

Further order on motion for leave to intervene

Autre ordonnance relative à une requête en autorisation d'intervention

BY/PAR: Canadian Association for Community Living and the Ethno-Racial People with Disabilities Coalition of Ontario

IN / DANS: David Hilewitz

v. (30125)

The Minister of Citizenship and Immigration (FC)

and between

Dirk de Jong

v. (30127)

The Minister of Citizenship and Immigration (FC)

UPON APPLICATION by the Canadian Association for Community Living and the Ethno-Racial People with Disabilities Coalition of Ontario for leave to intervene in the above appeal and pursuant to the order of November 2, 2004;

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

4.1.2005

Before / Devant: MAJOR 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

General Motors of Canada Ltd.

v. (30668)

Her Majesty the Queen (FC)

GRANTED / ACCORDÉE Time extended to February 1, 2005.

4.1.2005

Before / Devant: DESCHAMPS J.

Further order on motion for leave to intervene

Autre ordonnance relative à une requête en autorisation d'intervention

BY / PAR: Canadian Association of Journalists

IN / DANS: Her Majesty the Queen

v. (30113)

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

DISMISSED / REJETÉE

UPON APPLICATION by the Canadian Association of Journalists for leave to intervene in the above appeal and pursuant to the order of October 22, 2004;

IT IS HEREBY FURTHER ORDERED THAT the said intervener is denied permission to present oral argument at the hearing of the appeal.

5.1.2005

Before / Devant: MAJOR J.

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener Attorney General of Canada and to present 15 minutes of oral argument

Requête de l'intervenant le procureur général du Canada en prorogation du délai de signification et de dépôt de ses mémoire et recueil de sources, et en vue de présenter une plaidoirie orale de 15 minutes

Government of Saskatchewan

v. (29973)

Rothmans, Benson & Hedges Inc. (Sask.)

GRANTED / ACCORDÉE Time extended to November 30, 2004.

5.1.2005

Before / Devant: MAJOR J.

Motion to extend the time in which to serve and file the factum and book of authorities of the intervener Attorney General of British Columbia and to present 15 minutes of oral argument

Government of Saskatchewan

v. (29973)

Rothmans, Benson & Hedges Inc. (Sask.)

Requête de l'intervenant le procureur général de la Colombie-Britannique en prorogation du délai de signification et de dépôt de ses mémoire et recueil de sources, et en vue de présenter une plaidoirie orale de 15 minutes

GRANTED / ACCORDÉE Time extended to December 2, 2004.

6.1.2005

Before / Devant: MAJOR J.

Further order on motions for leave to intervene

Autre ordonnance relative aux requêtes en autorisation d'intervention

BY / PAR: Congress of Aboriginal Peoples
 Assembly of First Nations
 Songhees Indian Band, Malahot First Nation, T'Sou-Ke First Nation, Snaw-naw-as (Nanoose) First Nation and the Beecher Bay Indian Band (collectively the "Te'mexw Nations")
 Forest Products Association of Nova Scotia
 New Brunswick Forest Products Association
 Union of New Brunswick Indians

IN / DANS: Her Majesty the Queen

v. (30005)

Joshua Bernard (N.B.)

and between

Her Majesty the Queen

v. (30063)

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

UPON APPLICATIONS by the Congress of Aboriginal Peoples, the Assembly of First Nations, Songhees Indian Band, Malahot First Nation, T'Sou-Ke First Nation, Snaw-naw-as (Nanoose) First Nation and the Beecher Bay Indian Band (collectively the "Te'mexw Nations"), Forest Products Association of Nova Scotia, New Brunswick Forest Products

Association and Union of New Brunswick Indians for leave to intervene in the above appeals and pursuant to the orders of November 18, 2004;

IT IS HEREBY FURTHER ORDERED THAT the said interveners, New Brunswick Forest Products Association and Union of New Brunswick Indians are each granted permission to present oral argument not exceeding ten (10) minutes at the hearing of the appeal in *Her Majesty the Queen v. Joshua Bernard* (30005).

IT IS HEREBY FURTHER ORDERED THAT the said intervener, Forest Products Association of Nova Scotia is granted permission to present oral argument not exceeding ten (10) minutes at the hearing of the appeal in *Her Majesty the Queen v. Stephen Frederick Marshall* (30063).

IT IS HEREBY FURTHER ORDERED THAT the said interveners, Congress of Aboriginal Peoples, the Assembly of First Nations and Songhees Indian Band, Malahot First Nation, T'Sou-Ke First Nation, Snaw-naw-as (Nanoose) First Nation and the Beecher Bay Indian Band (collectively the "Te'mexw Nations") are each granted permission to present one oral argument not exceeding ten (10) minutes at the hearing of the appeals in *Her Majesty the Queen v. Joshua Bernard* (30005) and *Her Majesty the Queen v. Stephen Frederick Marshall* (30063).

6.1.2005

Before / Devant: MAJOR J.

Further order on motion for leave to intervene and motion to file an amended factum

Autre ordonnance relative à une requête en autorisation d'intervention et requête en vue de déposer un mémoire modifié

BY / PAR: Keptin John Joe Sark and Keptin Frank Nevin of the Mi'Kmaq Grand Council, the Native Council of Nova Scotia and the New Brunswick Aboriginal Peoples Council

IN / DANS: Her Majesty the Queen
v. (30005)
Joshua Bernard (N.B.)

and between

Her Majesty the Queen
v. (30063)

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

GRANTED / ACCORDÉE

UPON APPLICATION by the interveners, Keptin John Joe Sark and Keptin Frank Nevin of the Mi'Kmaq Grand Council, the Native Council of Nova Scotia and the New Brunswick Aboriginal Peoples Council, for an order permitting the filing of an amended single 15-page factum in both above mentioned appeals and for an order permitting the said intervener to present oral argument at the hearing of these appeals.

AND HAVING READ the material filed;

IT IS HEREBY ORDERED THAT:

The motion of the interveners, John Joe Sark and Keptin Frank Nevin of the Mi'Kmaq Grand Council, the Native Council of Nova Scotia and the New Brunswick Aboriginal Peoples Council, for an order permitting the filing of an amended single 15-page factum in both above mentioned appeals is granted.

The said interveners are granted permission to present one oral argument not exceeding ten (10) minutes at the hearing of these appeals.

6.1.2005

Before / Devant: MAJOR J.

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

Requête de l'intimée en prorogation du délai de signification et de dépôt de ses dossier, mémoire et recueil de sources, et en vue de présenter une plaidoirie orale lors de l'audition de l'appel

Jody James Gunning

v. (30161)

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

GRANTED / ACCORDÉE Time extended to January 14, 2005.

7.1.2005

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to file the respondent's response on the cross-appeal

Requête en prorogation du délai imparti à l'intimée pour déposer une réponse relativement à l'appel incident

Heather Robertson

v. (30644)

The Thomson Corporation, et al. (Ont.)

and between

The Thomson Corporation, et al.

v. (30644)

Heather Robertson (Ont.)

GRANTED / ACCORDÉE Time extended to January 17, 2005.

**NOTICE OF APPEAL FILED SINCE
LAST ISSUE**

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

1.12.2004

Her Majesty the Queen

v. (30642)

Sean Spence (Ont.)

(As of right)

6.1.2005

Rainer Zenner

v. (30422)

**Prince Edward Island College of Optometrists
(P.E.I.)**

**APPEALS HEARD SINCE LAST ISSUE
AND DISPOSITION**

**APPELS ENTENDUS DEPUIS LA
DERNIÈRE PARUTION ET
RÉSULTAT**

11.1.2005

CORAM: La juge en chef McLachlin et les juges Binnie, LeBel, Deschamps, Fish, Abella et Charron

Procureur général du Canada

c. (30187)

Procureur général du Québec (Qc) (Civile) (De plein droit)

Claude Joyal et René Leblanc pour l'appelant.

Dominique Rousseau et Pierre Christian Labeau pour l'intimé.

Steven M. Barrett and Charlene Wiseman for the intervener Canadian Labour Congress.

Soumission écrite seulement pour l'intervenant Procureur général du Nouveau-Brunswick.

Written submission only for the intervener Attorney General of Newfoundland and Labrador.

EN DÉLIBÉRÉ / RESERVED

Nature de la cause:

Droit constitutionnel - Partage des compétences - Prestations de maternité - Prestations parentales - Assurance-emploi - L'article 22 de la *Loi sur l'assurance-emploi* empiète-t-il sur la compétence des provinces, plus particulièrement la compétence relative à la propriété et aux droits civils ou aux matières d'une nature purement locale ou privée en vertu des par. 92(13) et 92(16) de la *Loi constitutionnelle de 1867*? - L'article 23 de la *Loi sur l'assurance-emploi* empiète-t-il sur la compétence des provinces, plus particulièrement la compétence relative à la propriété et aux droits civils ou aux matières d'une nature purement locale ou privée en vertu des par. 92(13) et 92(16) de la *Loi constitutionnelle de 1867*? - L'article 22 de la *Loi sur l'assurance-emploi* excède-t-il la compétence du Parlement du Canada, plus particulièrement la compétence relative à l'assurance-chômage en vertu du par. 91(2A) de la *Loi constitutionnelle de 1867*? - L'art. 23 de la *Loi sur l'assurance-emploi* excède-t-il la compétence du Parlement du Canada, plus particulièrement la compétence relative à l'assurance-chômage en vertu du par. 91(2A) de la *Loi constitutionnelle de 1867*?

Nature of the case:

Constitutional law - Division of powers- Maternity benefits - Parental benefits - Employment insurance - Whether s. 22 of the *Employment Insurance Act* encroaches upon provincial legislative competence and, more particularly, provincial legislative competence over property and civil rights and matters of a merely local or private nature under ss. 92(13) and 92(16) of the *Constitution Act, 1867* - Whether s. 23 of the *Employment Insurance Act* encroaches upon provincial legislative competence and, more particularly, provincial legislative competence over property and civil rights and matters of a merely local or private nature under ss. 92(13) and 92(16) of the *Constitution Act, 1867* - Whether s. 22 of the *Employment Insurance Act* is *ultra vires* the Parliament of Canada and, more particularly, whether it exceeds the Parliament of Canada's legislative competence over unemployment insurance under s. 91(2A) of the *Constitution Act, 1867* - Whether s. 23 of the *Employment Insurance Act* is *ultra vires* the Parliament of Canada and, more particularly, whether it exceeds the Parliament of Canada's legislative competence over unemployment insurance under s. 91(2A) of the *Constitution Act, 1867*.

12.1.2005

CORAM: Chief Justice McLachlin and Major, Bastarache, Binnie, LeBel, Deschamps, Fish, Abella and Charron JJ.

David Brock Henry

v. (29952)

Her Majesty the Queen

AND

Barry Wayne Riley

v. (29953)

Her Majesty the Queen (B.C.) (Criminal) (As of Right)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

Canadian Charter of Rights and Freedoms - Criminal law - First degree murder - Second Trial - Cross-examination - Whether the majority of the British Columbia Court of Appeal erred in law in holding that the trial judge did not commit reversible error in permitting Crown counsel to cross-examine the Appellant on statements he made in prior testimony at his first trial: R. v. Noël, [2002] 3 S.C.R. 433 - Whether there was a realistic danger that the Crown's cross examination of each Appellant on his prior testimony was used to incriminate him - Whether the conduct of the Appellant or his counsel entitled the Crown to cross-examine him on his prior testimony in a way that infringed s. 13 of the Charter of Rights.

Gil D. McKinnon, Q.C., and Lisa Sturgess for the appellants (joint).

Alexander Budlovsky and Nikos Harris for the respondent (joint).

Kenneth J. Yule, Q.C., and Ron Reimer for the intervener Attorney General of Canada (joint).

David Lepofsky for the intervener Attorney General of Ontario (joint).

Nature de la cause:

Charte canadienne des droits et libertés - Droit criminel - Meurtre au premier degré - Deuxième procès - Contre-interrogatoire - La majorité de la Cour d'appel de la Colombie-Britannique a-t-elle erré en droit en statuant que le juge de première instance n'avait pas commis d'erreur de droit donnant ouverture à révision en permettant au procureur de la Couronne de contre-interroger l'appelant relativement à des déclarations qu'il avait, à son premier procès, faites lors de sa déposition : R. c. Noël, [2002] 3 R.C.S. 433 ? - Existe-t-il un risque réaliste que le contre-interrogatoire de chacun des deux appelants qu'a mené le procureur de la Couronne ait pu servir à incriminer l'appelant ? - La conduite de l'appelant ou celle de son avocat donnait-elle droit au ministère public de contre-interroger l'appelant quant au témoignage que ce dernier avait rendu antérieurement d'une façon contraire à l'article 13 de la Charte des droits et libertés ?

13.1.2005

CORAM: Les juges Bastarache, Binnie, LeBel, Deschamps, Fish, Abella et Charron

Christopher Carter, et al.

c. (30060)

Louise Glegg (Qc) (Civile) (Autorisation)

Gerald R. Tremblay, c.r., Catherine Mandeville et Mélanie Dugré pour les appelants Christopher Carter et Gilles Dextrateur.

Odette Jobin-Laberge pour l'appelant Smith et Nephew Inc.

Dominic Desjarlais pour l'intimée.

EN DÉLIBÉRÉ / RESERVED

Nature de la cause:

Libertés publiques - Responsabilité civile - Secret professionnel - Droit au respect de la vie privée - Accès au dossier psychiatrique dans le cadre d'une poursuite en responsabilité civile alors que des dommages au titre d'un préjudice psychologique sont réclamés - Une fois que le tribunal constate que la patiente a clairement renoncé à la confidentialité d'un dossier, ce dernier conserve-t-il une discrétion, au stade préliminaire des procédures, pour analyser le contenu de ce dossier et en restreindre l'accès en fonction d'un critère de nécessité? - La Cour d'appel a-t-elle raison de conclure que, dans *M. (A.) c. Ryan*, [1997] 1 R.C.S. 157, la Cour a modifié les principes énoncés dans *Frenette c. Métropolitaine (La), Cie d'assurance-vie*, [1992] 1 R.C.S. 647? - Lorsque la portée de la renonciation du patient à son droit à la confidentialité n'est pas claire, le tribunal peut-il la déterminer? Le cas échéant, comment?

Nature of the case:

Civil rights - Civil liability - Doctor-patient privilege - Right to privacy - Access to psychiatric file in an action for civil liability in which damages are claimed in respect of psychological harm - Whether a court, on finding that a patient has clearly waived confidentiality in respect of a file, retains discretion at the preliminary stage of a proceeding to review the content of the file and restrict access to it on the basis of necessity - Whether the Court of Appeal was right in holding that, in *M. (A.) v. Ryan*, [1997] 1 S.C.R. 157, the Supreme Court modified the principles set out in *Frenette v. Metropolitan Life Insurance Co.*, [1992] 1 S.C.R. 647 - Whether a court may determine the scope of a patient's waiver of confidentiality when the scope is not clear - If so, how should the court proceed in this determination?

13.1.2005

CORAM: Chief Justice McLachlin and Major, Bastarache, Binnie, Deschamps, Fish and Abella JJ.

Her Majesty the Queen

Philip Perlmutter for the appellant.

v. (29965)

D. Edwin Boeve for the respondent.

Lynn Fice (Ont.) (Criminal) (By Leave)

RESERVED / EN DÉLIBÉRÉ

Nature of the case:

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

Nature de la cause:

Droit criminel - Détermination de la peine - Emprisonnement avec sursis - L'emprisonnement avec sursis peut-il, en droit, être ordonné lorsqu'une peine d'incarcération dans un pénitencier est justifiée indépendamment de la période de détention préalable au prononcé de la peine?

DEADLINES: APPEALS

The Winter Session of the Supreme Court of Canada started January 10, 2005.

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 a commencé le 10 janvier 2005.

Conformément à la *Loi sur la Cour suprême* et aux *Règles*, il faut se conformer aux exigences suivantes avant qu'un appel puisse être entendu:

Le dossier de l'appelant, son mémoire et son recueil de jurisprudence et de doctrine doivent être déposés dans les douze semaines du dépôt de l'avis d'appel ou douze semaines de la décision de la requête pour formulation d'une question constitutionnelle.

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

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

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

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai de huit semaines prévu à la règle 36.

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

Judgments reported in [2004] 2 S.C.R. Part 3

R. v. Demers, [2004] 2 S.C.R. 489, 2004 SCC 46

R. v. Kerr, [2004] 2 S.C.R. 371, 2004 SCC 44

Society of Composers, Authors and Music Publishers of Canada v. Canadian Assn. of Internet Providers, [2004] 2 S.C.R. 427, 2004 SCC 45

Judgments reported in [2004] 2 S.C.R. Part 4

Congrégation des témoins de Jéhovah de St-Jérôme-Lafontaine v. Lafontaine (Village), [2004] 2 S.C.R. 650, 2004 SCC 48

Syndicat Northcrest v. Amselem, [2004] 2 S.C.R. 551, 2004 SCC 47

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

Jugements publiés dans [2004] 2 R.C.S. Partie 3

R. c. Demers, [2004] 2 R.C.S. 489, 2004 CSC 46

R. c. Kerr, [2004] 2 R.C.S. 371, 2004 CSC 44

Société canadienne des auteurs, compositeurs et éditeurs de musique c. Assoc. canadienne des fournisseurs Internet, [2004] 2 R.C.S. 427, 2004 CSC 45

Jugements publiés dans [2004] 2 R.C.S. Partie 4

Congrégation des témoins de Jéhovah de St-Jérôme-Lafontaine c. Lafontaine (Village), [2004] 2 R.C.S. 650, 2004 CSC 48

Syndicat Northcrest c. Amselem, [2004] 2 R.C.S. 551, 2004 CSC 47

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 2004 -

10/06/04

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

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

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

- 2005 -

JANUARY - JANVIER						
S D	M L	T M	W M	T J	F V	S S
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9	M 10	11	12	13	14	15
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30	31					

FEBRUARY - FÉVRIER						
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27	28					

MARCH - MARS						
S D	M L	T M	W M	T J	F V	S S
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20	21	22	23	24	H 25	26
27	H 28	29	30	31		

APRIL - AVRIL						
S D	M L	T M	W M	T J	F V	S S
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MAY - MAI						
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8	M 9	10	11	12	13	14
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22	H 23	24	25	26	27	28
29	30	31				

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

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:

M
H

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