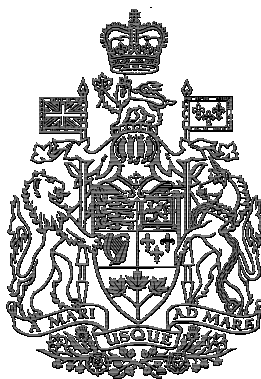


**SUPREME COURT
OF CANADA**



**COUR SUPRÊME
DU CANADA**

**BULLETIN OF
PROCEEDINGS**

**BULLETIN DES
PROCÉDURES**

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July 26, 1996

1243 - 1284

le 26 juillet 1996

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FILING DATE 8.7.1996

Joseph Reed

Joseph Reed

v. (25420)

Her Majesty The Queen (B.C.)

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Min. of the A.G.

FILING DATE 2.7.1996

Leonard Lyle Reynolds

Leonard Lyle Reynolds

v. (25423)

The Minister of Foreign Affairs et al. (F.C.A.)

Brian J. Saunders
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FILING DATE 4.7.1996

Derrick Concrete Cutting & Coring Ltd.

Dawn L. Pentelechuk
Duncan & Craig

v. (25425)

Central Oilfield Service Ltd. (Alta.)

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FILING DATE 4.7.1996

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Goodman Phillips & Vineberg

c. (25426)

Ross Clarkson et al. (Qué.)

Robert Langlois
Raynold Langlois

DATE DE PRODUCTION 9.7.1996

James Lawson Mattatall et al.

Pierre T. Tremblay, Q.C.
Tremblay & Assoc.

v. (25392)

Eric T. Hill (N.B.)

John P. Barry, Q.C.
Barry & O'Neill

FILING DATE 15.7.1996

**The Minister of Finance for the Province of New
Brunswick et al.**

Bruce Judah, Q.C.
Office of the A.G.

v. (25427)

Union of New Brunswick Indians et al. (N.B.)

P. John Landry
Davis & Co.

FILING DATE 9.7.1996

The Continental Insurance Co.

J. Gordon MacKay, Q.C.
Carr, Stevenson & MacKay

v. (25428)

Dyne Holdings Ltd. et al. (P.E.I.)

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FILING DATE 11.7.1996

Richard Bruce Watson

David A. Grant

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Nova Scotia Human Rights Commission (N.S.)

Randall R. Duplak, Q.C.
Dept. of Municipal Affairs

FILING DATE 12.7.1996

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Shaun Nakatsuru
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Her Majesty The Queen (Ont.)

Elaine Krivel
Dept. of Justice

FILING DATE 18.7.1996

Richard Joanisse

Edward L. Greenspan, Q.C.
Greenspan and Associates

v. (25430)

Her Majesty The Queen (N.W.T.)

David Butt
Min. of the A.G.

FILING DATE 17.7.1996

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

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

JULY 5, 1996 / LE 5 JUILLET 1996

**CORAM: Chief Justice Lamer and Gonthier and Iacobucci JJ. /
Le juge en chef Lamer et les juges Gonthier et Iacobucci**

Gerald Raymond Vader

v. (25265)

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

NATURE OF THE CASE

Criminal law - Sexual assault - Indecent assault - Evidence - Expert evidence - Whether the Respondent was required to call expert evidence to explain the complainant's behavioural changes that she attributed to her allegations of sexual abuse in order to give probative value to that evidence.

PROCEDURAL HISTORY

February 8, 1995
Supreme Court of British Columbia (Meredith J.)

Convictions: sexual intercourse with a person under the
age of fourteen, indecent assault and rape.

April 3, 1995
Court of Appeal for British Columbia
(McEachern C.J.B.C., Newbury and Huddart JJ.A)

Appeal dismissed

May 30, 1996
Supreme Court of Canada

Application for leave to appeal filed

Martin Omke Bakker

v. (25358)

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

NATURE OF THE CASE

Criminal law - Whether the Court of Appeal erred in dismissing the Applicant's application for the assignment of counsel pursuant to section 684 of the *Criminal Code*.

PROCEDURAL HISTORY

June 8, 1995
Supreme Court of British Columbia (Paris J.)

Convictions: 23 counts including buggery, sexual assault
and indecent assault

April 26, 1996
Court of Appeal for British Columbia (McEachern
C.J.B.C., and Hollinrake and Proudfoot JJ.A)

Application for the appointment of counsel under s. 684
of the *Criminal Code* denied

May 23, 1996
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: Chief Justice Lamer and L'Heureux-Dubé and Gonthier JJ. /
Le juge en chef Lamer et les juges L'Heureux-Dubé et Gonthier**

Syndicat du Transport de Montréal

c. (25226)

Raymond Leboeuf, ès qualités d'arbitre de griefs

et

Société de transport de la Communauté urbaine de Montréal et Paul Schoocraft (Qué.)

NATURE DE LA CAUSE

Droit du travail - Accidents du travail - Indemnisation - Arbitrage - Droit administratif - Contrôle judiciaire - Compétence - Compétence de l'arbitre de grief en regard de celle de la C.S.S.T. - L'arbitre intimé était-il juridiquement lié par les décisions rendues par la C.S.S.T. à l'intérieur de sa juridiction exclusive concernant le dossier du mis en cause? - Dans l'affirmative, l'arbitre intimé a-t-il excédé sa compétence en statuant sur la capacité du mis en cause à exercer son emploi, question qui relève de la compétence exclusive de la C.S.S.T., justifiant ainsi l'intervention des tribunaux supérieurs? - Application de l'arrêt *Domtar Inc. c. Québec (C.A.L.P.)*, [1993] 2 R.C.S. 756.

HISTORIQUE PROCÉDURAL

Le 30 juillet 1993
Tribunal d'arbitrage (Leboeuf, arbitre)

Grief rejeté

Le 2 décembre 1993
Cour supérieure du Québec (Marquis, J.C.S.)

Demande de révision judiciaire rejetée

Le 31 janvier 1996
Cour d'appel du Québec (Baudouin, Fish et
Forget [suppléant] JJ.C.A.)

Appel rejeté

Le 25 mars 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Micheline Granger

c. (25196)

Sous-Ministre du Revenu du Québec

et

Régie de l'assurance-maladie du Québec (Qué.)

NATURE DE LA CAUSE

Procédure - Procédure civile - Jugements et ordonnances - Rétractation - Cour supérieure concluant que les honoraires professionnels de la demanderesse sont saisissables en totalité - Permission d'appel accordée par la Cour d'appel - Intimé produisant une mainlevée de la saisie-arrêt - Requête de la demanderesse pour mise au rôle rejetée par le greffier au motif que l'appel n'avait plus d'objet - Requête en rétractation de la décision du greffier déposée par la demanderesse - La Cour d'appel a-t-elle erré en rejetant la requête en rétractation?

HISTORIQUE PROCÉDURAL

Le 24 mars 1994 Cour supérieure du Québec (Trudel j.c.s.)	Contestation par l'intimé de la déclaration négative de la Régie, tierce-saisie, accueillie en partie
Le 28 avril 1994 Cour d'appel du Québec (Steinberg j.c.a.)	Requête pour permission d'appel accueillie
Le 7 novembre 1995 Cour d'appel du Québec (Legault, greffier)	Requête pour mise au rôle rejetée
Le 11 janvier 1996 Cour d'appel du Québec (Proulx, Otis et Biron jj.c.a.)	Requête en rétractation rejetée
Le 11 mars 1996 Cour suprême du Canada	Demande d'autorisation d'appel déposée

Neville Barrington

c. (25139)

**Commission d'appel en matière de lésions professionnelles
et Réal Brassard et Canadian Airlines International
et Commission de la santé et de la sécurité du travail (Qué.)**

NATURE DE LA CAUSE

Procédure - Procédure civile - Appel - Certificat d'appel déserté - Article 503.1 du *Code de procédure civile*, L.R.Q., c. C-25 - Défaut de produire un mémoire d'appel dans le délai imparti - Raisons de santé et motifs d'ordre économique - Exercice du pouvoir discrétionnaire de la Cour d'appel aux termes de l'article 523 *C.p.c.* - La Cour d'appel a-t-elle erré en refusant de proroger les délais de production du mémoire du demandeur ainsi qu'en refusant la production d'un mémoire hors délai et la révocation d'un certificat d'appel déserté?

HISTORIQUE PROCÉDURAL

Le 6 février 1992 Commission de la santé et de la sécurité du travail, Bureau de révision (Senay, Président, et McDonald et Brousseau, membres)	Demande de révision du travailleur rejetée: Le demandeur n'a pas été victime le 28 novembre 1990 d'une lésion professionnelle
Le 6 février 1992 Commission de la santé et de la sécurité du travail, Bureau de révision (Senay, Président, et McDonald et Brousseau, membres)	Demande de révision du travailleur rejetée: Le demandeur n'a pas été victime le 15 octobre 1989 d'une rechute
Le 16 janvier 1995 Commission d'appel en matière de lésions professionnelles (Brassard, commissaire)	Appels du demandeur rejetés
Le 4 avril 1995 Cour supérieure du Québec (Denis j.c.s.)	Requête en évocation du demandeur rejetée
Le 6 décembre 1995 Cour d'appel du Québec (Mailhot, Tourigny et Fish jj.c.a.)	Requête en prorogation du délai de production du mémoire, requête pour permission de produire un mémoire hors délai et requête en révocation d'un certificat d'appel déserté rejetées
Le 24 mai 1996 Cour suprême du Canada	Troisième requête en prorogation de délai et demande en autorisation d'appel déposées

**CORAM: La Forest, Cory and Major JJ. /
Les juges La Forest, Cory et Major**

Luigi Gino Pascale

v. (25300)

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

NATURE OF THE CASE

Criminal law - Sexual assault - Credibility - Whether trial judge employed "reverse gender-related stereotypical thinking" in assessing credibility of complainant and Applicant - Judicial notice - Whether trial judge wrongly took judicial notice of the life of an abused woman.

PROCEDURAL HISTORY

December 15, 1994 Court of Queen's Bench of Alberta (Hembroff J.)	Conviction: sexual assault
September 18, 1995 Court of Appeal of Alberta (Kerans, Bracco and Conrad JJ.A.)	Appeal dismissed
May 3, 1996 Supreme Court of Canada	Application for leave to appeal filed

Edward Pokonzie

v. (25282)

Ontario Human Rights Commission (Ont.)

NATURE OF THE CASE

Administrative law - Judicial review - Ontario Human Rights Commission - Exercise of discretion to not deal with the complaint - *Ontario Human Rights Code*, s. 34(1)(a).

PROCEDURAL HISTORY

October 29, 1993 Ontario Human Rights Commission	Exercise of discretion not to deal with the complaint pursuant to s. 34(1)(a) of the <i>Code</i>
October 6, 1995 Divisional Court of Ontario (McCrear, Pardu and Dunnet JJ.)	Application for judicial review dismissed
January 29, 1996 Court of Appeal for Ontario (Catzman, Laskin and Charron JJ.A.)	Application dismissed
April 4, 1996 Supreme Court of Canada	Application for leave to appeal filed

**CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ./
Les juges L'Heureux-Dubé, Sopinka et McLachlin**

Garry Hayes

v. (25297)

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

NATURE OF THE CASE

Criminal law - Narcotics - Procedure - Jurisdiction - Whether Manitoba courts had jurisdiction over charge of importing narcotics when narcotics entered Canada at port outside of Manitoba - Whether offence of importing a narcotic occurred in Manitoba - *R. v. Bell*, [1983] 2 S.C.R. 471 - Sentencing - Whether Court of Appeal erred in offering Applicant option of choosing life imprisonment over 20 year prison term to benefit from earlier parole eligibility.

PROCEDURAL HISTORY

July 19, 1992 Manitoba Court of Queen's Bench (De Graves J.)	Conviction: Importation of heroin
March 7, 1996 Court of Appeal of Manitoba (Huband, Kroft and Monnin JJ.A.)	Appeal dismissed
May 3, 1996 Supreme Court of Canada	Application for leave to appeal filed

Paul Ellis Millar

v. (25307)

Laura Elaine Millar (Alta.)

NATURE OF THE CASE

Family law - Divorce - Custody - Evidence - Inconclusive evidence of sexual abuse of three children of the marriage by mother - Custody awarded to mother at second trial - Applicant and paternal grandmother convinced that sexual abuse had occurred - Children living with mother for last four years - Whether Court of Appeal erred in upholding trial judge's

ruling that hearsay evidence of sexual abuse inadmissible - Whether Court of Appeal erred in upholding rulings of trial judge regarding testimony of witnesses.

PROCEDURAL HISTORY

August 2, 1988 Court of Queen's Bench (Quigley, J.)	Interim custody of children awarded to Respondent
August 22, 1990 Court of Queen's Bench (Dixon, J.)	Divorce judgment rendered and custody of children awarded to Applicant
June 16, 1992 Court of Appeal of Alberta (Fraser, C.J.A., Kerans and Stratton, JJ.A.)	New trial ordered and interim custody order of Quigley, J. reinstated
January 21, 1993 Supreme Court of Canada (La Forest, Sopinka and Cory, JJ.)	Application for leave to appeal direction for re-trial dismissed
February 11, 1994 Court of Queen's Bench (Fraser, J.)	Custody of children awarded to Respondent at trial
March 5, 1996 Court of Appeal of Alberta (Heatherington, Conrad and Russell, JJ.A.)	Applicant's appeal dismissed
May 3, 1996 Supreme Court of Canada	Application for leave to appeal filed

JULY 15, 1996 / LE 15 JUILLET 1996

**CORAM: Chief Justice Lamer and Gonthier and Iacobucci JJ. /
Le juge en chef Lamer et les juges Gonthier et Iacobucci**

Peter Fallon Sr. and Peter Fallon Jr.

v. (25164)

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

NATURE OF THE CASE

Criminal law - Committal to stand trial - Whether Court of Appeal erred in holding that there was some evidence upon which the Applicants could be committed to stand trial on the charges of fraud, conspiracy to commit fraud and receiving secret commissions - Whether Court of Appeal erred in their definition of what constitutes an agency relationship; finding that the Applicant's behaviour could amount to fraud; and that cooperation among parties was evidence of a conspiracy upon which a reasonably instructed jury could commit.

PROCEDURAL HISTORY

February 10, 1994 Ontario Court (Provincial Division) (Martin J.)	Applicants committed to stand trial on charges of theft, fraud, and conspiracy to commit theft and fraud
September 5, 1995 Ontario Court of Justice (General Division) (Forestell J.)	Application to quash order to stand trial dismissed
February 14, 1996 Court of Appeal for Ontario (Austin, Osborne and Rosenberg JJ.A.)	Appeal allowed in part: order to stand trial on the charges of theft and conspiracy to commit theft quashed
April 15, 1996 Supreme Court of Canada	Application for leave to appeal filed

Harvey Kalef

v. (25290)

Her Majesty The Queen (F.C.A.)(Ont.)

NATURE OF THE CASE

Commercial law - Taxation - Statutes - Company law - Bankruptcy - Interpretation - Directors' liability to withhold and pay amounts due by a corporation under the *Income Tax Act*, R.S.C. 1952, c. 48, as amended - Does the director of a corporation cease to be a director for the purposes of section 227.1(4) of the *Income Tax Act*, when a trustee in bankruptcy is appointed?

PROCEDURAL HISTORY

December 14, 1994 Tax Court of Canada (Beaubier J.)	Appeal from the assessment made under subsection 227.1 of the <i>Income Tax Act</i> , allowed
March 1, 1996 Federal Court of Appeal (Stone, Linden and McDonald JJ.A.)	Appeal allowed
April 26, 1996 Supreme Court of Canada	Application for leave to appeal filed

**Delwin Vriend and Gala-Gay and Lesbian Awareness, Society of Edmonton
and Gay and Lesbian Community, Centre de Edmonton Society and
Dignity Canada Dignite for gay catholics and supporters**

v. (25285)

**Her Majesty The Queen in Right of Alberta and her
Majesty's Attorney General in and for the Province of Alberta (Alta.)**

NATURE OF THE CASE

Canadian Charter of Rights and Freedoms - Civil - Civil rights - Human rights legislation - Does the failure of the legislature to include homosexuals as a protected group amount to the drawing of a distinction between that group and other victims of discrimination who have been afforded protection under the *Individual Rights Protection Act*, S.A. 1980, c.I-2? - If yes, does that distinction constitute a violation of s.15(1) of the *Charter*? - If yes, what is the appropriate remedy?

PROCEDURAL HISTORY

April 12, 1994 Court of Queen's Bench (Russell, J.)	Declaration that ss.2(1), 3, 4, 7(1), 8(1) and 10 of the <i>Individual Rights Protection Act</i> infringe s.15(1) of the Charter and are to be interpreted, applied and administered as though they contained the words "sexual orientation"; declaration stayed for 30 days; specific remedy for Applicant Vriend denied.
February 23, 1996 Court of Appeal of Alberta (McClung, O'Leary and Hunt, JJ.A.)	Appeal allowed
April 22, 1996 Supreme Court of Canada	Application for leave to appeal filed

**CORAM: La Forest, Cory and Major JJ. /
Les juges La Forest, Cory et Major**

Allain Joseph Lebras

v. (25316)

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

NATURE OF THE CASE

Criminal law - Narcotics - Trafficking in a narcotic - Conspiracy to traffic in a narcotic - Whether the Court of Appeal erred in ordering a new trial for one co-accused and not the other - Whether the Court of Appeal erred when it found that in the joint trial of two alleged co-conspirators it is open to a jury to convict one but not the other - Evidence - Whether

the trial judge erred in admitting evidence found after the dates of the conspiracy set out in the indictment - Sentencing - Whether the trial judge erred in making an order under s. 741.2 of the *Criminal Code* requiring the Applicant to serve one-half of his sentence before being eligible for parole.

PROCEDURAL HISTORY

June 29, 1994 Manitoba Court of Queen's Bench (Morse J.)	Conviction: traffic in a narcotic (3 counts); conspiracy to traffic in a narcotic
June 28, 1995 Court of Appeal of Manitoba (Scott C.J.M., Huband and Kroft JJ.A.)	Appeal against conviction dismissed
March 11, 1996 Court of Appeal for Manitoba (Scott C.J.M., Huband and Kroft JJ.A.)	Appeal against sentence dismissed
May 9, 1996 Supreme Court of Canada	Application for leave to appeal filed

The Manitoba Labour Board

v. (25279)

**Wayne Radlinsky, and Local Union 511
Sheeters, Deckers & Cladders Section of the
Sheet Metal Workers' International Association (Man.)**

NATURE OF THE CASE

Administrative law - Statutes - Jurisdiction - Judicial review - Interpretation - Whether section 143(3) of *The Labour Relations Act*, R.S.M. 1987 c. L10 empowers one panel of the Labour Relations Board to review and/or rescind the decision of another panel - Whether section 143(6) of *The Labour Relations Act*, requiring a request for a Board or panel review of a decision as a precondition to judicial review, applies only to final decisions or orders of the Board or a panel, or also to an order alleged to be a nullity.

PROCEDURAL HISTORY

December 21, 1994 Manitoba Labour Board	Application dismissed (dismissal order no. 985)
March 15, 1995 Manitoba Labour Board	Review of dismissal no. 985 declined
September 22, 1995 Manitoba Labour Board	Dismissal order no. 985 rescinded
October 27, 1995 Manitoba Court of Queen's Bench (Morse J.)	Application to quash dismissal order no. 985 dismissed
February 13, 1996 Court of Appeal for Manitoba (Huband, Twaddle and Monnin JJ.A)	Appeal allowed
April 12, 1996 Supreme Court of Canada	Application for leave to appeal filed

**Asset Management Corporation (1039698 Ontario Limited)
and Albion Place Limited (515703 Ontario Limited)**

v. (25274)

The Director (Employment Practices Branch, Ministry of Labour) (Ont.)

NATURE OF THE CASE

Administrative Law - Judicial Review - Liability of related employers for unpaid termination pay, severance pay, vacation pay and wages - Whether Natural Justice was denied in decision to include related employers in an Order to Pay issued pursuant to the *Employment Standards Act*, R.S.O. 1990, c. E-14 - Whether principle of *audi alteram partem* denied - Whether right to a review hearing in *Employment Standards Act* constitutes adequate alternative remedy to judicial review.

PROCEDURAL HISTORY

November 30, 1995
Ontario Court of Justice (Divisional Court)
(Saunders, O'Brien and MacLeod JJ.)

Application for judicial review quashed

February 13, 1996
Court of Appeal for Ontario
(Houlden, Carthy and Charron JJ.A)

Application for leave to appeal dismissed

April 12, 1996
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ. /
Les juges L'Heureux-Dubé, Sopinka et McLachlin**

A.D.M.

v. (25209)

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

NATURE OF THE CASE

Criminal law - Evidence - Fresh evidence - Medical records - Applicant suspects that medical record exists that would contradict complainant's testimony - Whether Applicant can adduce purported medical report as fresh evidence.

PROCEDURAL HISTORY

January 14, 1993
Ontario Court (General Division) (Bolan J.)

Conviction: sexual intercourse with a person under the age of fourteen years

September 13, 1994
Court of Appeal for Ontario
(Osborne, Laskin and Doherty JJ.A.)

Appeal against conviction and sentence dismissed

March 19, 1996
Supreme Court of Canada

Application for leave to appeal filed

Raynald Brochu

c. (25342)

Sa Majesté la Reine (Crim.)(Qué.)

NATURE DE LA CAUSE

Charte canadienne des droits et libertés - Droit criminel - Preuve - Droit à une défense pleine et entière - Choix de la poursuite de ne pas faire entendre le témoin expert - Le juge du procès a-t-il erré en rejetant la requête pour arrêt des procédures présentée par le procureur du demandeur à la clôture de la preuve de la poursuite? - Le juge du procès a-t-il erré en n'appelant pas lui-même le témoin expert par suite de la requête du procureur du demandeur qui voulait conserver son droit au contre-interrogatoire de l'expert? - La Cour d'appel a-t-elle erré en rejetant la requête pour preuve nouvelle et l'appel du demandeur? Application de l'arrêt *R. c. Stinchcombe*, [1991] 3 R.C.S. 376.

HISTORIQUE PROCÉDURAL

Le 13 janvier 1992
Cour du Québec, chambre criminelle et pénale
(Millette J.C.Q.)

Déclaration de culpabilité : menaces de causer la mort,
agression sexuelle et séquestration

Le 8 mars 1996
Cour d'appel du Québec
(Rothman, Proulx et Robert J.J.C.A.)

Requête pour nouvelle preuve rejetée;
appel rejeté

Le 28 mai 1996
Cour suprême du Canada

Demande d'autorisation d'appel et de prorogation de
délai déposée

**M. André Côté M. Fernand Côté, M. Denis Côté, Mme Gaétane Labrie,
M. Jean Soucy, M. Gaétan Bouchard, M. Laval Desbiens, M. René Michel Ouellet,
Mme Sandra Thériault, Mme Dorisse St-Pierre, Mme Line St-Pierre, M. Richard Thivierge,
M. Claude Lajoie, M. Yvon Lemieux, Mme Marie-Josée Raymond, Mme Aline Rouleau,
M. André Legacé, Mme Louise Jean, Mr. Jean-Jacques Vien et M. Gaston Michaud**

c. (25262)

**M. George Addy, directeur des enquêtes et recherches nommé en vertu de la
*Loi sur la concurrence, L.R.C. (1985), ch. C-34 (C.A.F.)(Qué.)***

NATURE DE LA CAUSE

Procédures - Tribunaux - Appel - Compétence - Contrôle judiciaire - Législation - Interprétation - *Charte canadienne des droits et libertés* - Perquisitions - Saisie - Mandats de perquisition décernés en application de l'art. 15 de la *Loi sur la concurrence, L.R.C. (1985), ch. C-34* - Requête en annulation des mandats de perquisition fondée *inter alia* sur les art. 7 et 8 de la *Charte canadienne* - Requête rejetée en Section de première instance - Arguments fondés sur les art. 7 et 8 de la *Charte canadienne* jugés prématurés - Appel à la Cour d'appel fédérale rejeté, faute de compétence - Inexistence du droit d'appel - La Cour d'appel fédérale, à la majorité, a-t-elle erré en concluant qu'elle n'a pas compétence pour vérifier le bien-fondé d'un jugement en révision d'une ordonnance portant délivrance de mandats de perquisition? - Application du par. 27(1) de la *Loi sur la Cour fédérale, L.R.C. (1985), chap. F-7* - Arrêts examinés: *Knox Contracting Ltd. c. Canada*, [1990] 2 R.C.S. 338, *Kourteassis c. MNR*, [1993] 2 R.C.S. 53, et *Baron c. Canada*, [1993] 1 R.C.S. 416.

HISTORIQUE PROCÉDURAL

Le 10 octobre 1995
Section de première instance de la
Cour fédérale du Canada
(Richard J.C.F.)

Requête des demandeurs visant à faire annuler les
ordonnances rendues *ex parte* et à ordonner le retour des
effets saisis ainsi que toutes copies et extraits de ceux-ci
rejetée

Le 5 février 1996
Cour d'appel fédérale (Marceau, MacGuigan et
Décary [dissident] J.J.C.A.)

Appel rejeté, faute de compétence

Le 9 avril 1996
Cour suprême du Canada

Demande d'autorisation déposée

JULY 22, 1996 / LE 22 JUILLET 1996

**CORAM: Chief Justice Lamer and Gonthier and Iacobucci JJ. /
Le juge en chef Lamer et les juges Gonthier et Iacobucci**

Pascal Pierre Bellon

c. (25308)

Le Procureur général du Québec (Crim.)(Qué.)

NATURE DE LA CAUSE

Droit criminel - Procédure - Procédure préalable au procès - Tribunaux - Compétence - Ordonnance de blocage de biens en vertu de l'art. 462.33 du *Code criminel*, L.R.C. 1985, ch. C-46, rendue par la Cour du Québec, chambre criminelle, à la demande de l'intimé - Affidavit et documents déposés au soutien de la demande de l'intimé mis sous scellé - Requête du demandeur pour obtenir l'accès au paquet scellé afin de préparer sa requête en restitution des biens ou en modification de l'ordonnance de blocage aux termes des art. 462.34(1) et 462.34(4) du *Code* - La Cour du Québec a-t-elle erré en concluant que même si les principes de transparence de la justice et d'accessibilité aux documents judiciaires s'appliquent dans les circonstances de cette affaire, la requête du demandeur pour l'ouverture du paquet scellé devrait être présentée, dans l'éventualité d'un procès, au juge du procès? - La Cour suprême a-t-elle compétence pour disposer de la présente demande d'autorisation déposée à l'encontre de la décision de la Cour du Québec?

HISTORIQUE PROCÉDURAL

Le 31 janvier 1996
Cour du Québec, chambre criminelle
(Lagacé j.c.q.)

Requête du demandeur pour l'ouverture du paquet scellé
rejetée

Le 2 mai 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Le 27 mai 1996
Cour suprême du Canada

Requête en prorogation de délai déposée

Gordon Stephen Watson

v. (25332)

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

NATURE OF THE CASE

Criminal law - Criminal contempt of court - Whether order made by court in civil dispute not involving Applicant but applying to everyone who has notice of order can give rise to criminal contempt charges - Whether defences of necessity and justification apply - Whether Applicant was denied the right to make full answer and defence because Respondent did not disclose name of potential witness.

PROCEDURAL HISTORY

October 13, 1994 Supreme Court of British Columbia (Mackenzie J.)	Conviction: criminal contempt of court
April 10, 1996 Court of Appeal for British Columbia (Lambert, Rowles and Prowse JJ.A.)	Appeal dismissed
May 15, 1996 Supreme Court of Canada	Application for leave to appeal filed

Marc-André Bouliane

c. (25328)

**L'Honorable Juge Albert Gobeil, en sa qualité de juge enquêteur
Ministre de la sécurité publique, le Procureur général du Québec**

- et -

Société Radio-Canada, Journal du Québec et Le Soleil (Qué.)

NATURE DE LA CAUSE

Procédure - Procès - Interdiction de publication - Ministre de la Sécurité publique demandant au juge intimé de mener une enquête sur la conduite du demandeur, coroner pour le Gouvernement du Québec, et de soumettre un rapport en vertu de l'art. 14 de la *Loi sur la recherche des causes et des circonstances des décès*, L.R.Q. 1977, ch. R-0.2 - Requête en évocation et en jugement déclaratoire du demandeur visant à faire déclarer nuls l'enquête du juge intimé ainsi que le rapport rédigé par ce dernier - Demandeur requérant la mise sous scellé du rapport d'enquête jusqu'au prononcé du jugement ainsi qu'une ordonnance accessoire de non-publication des extraits de ce rapport qui seront cités pendant l'audition - La Cour d'appel a-t-elle erré en ne concluant pas à l'exercice erroné de la discrétion judiciaire par le juge de première instance et en refusant en conséquence de rescinder le jugement refusant l'ordonnance de mise sous scellé et l'ordonnance de non-publication? - *Dagenais c. Société Radio-Canada*, [1994] 3 R.C.S. 835.

HISTORIQUE PROCÉDURAL

Le 18 décembre 1995
Cour supérieure du Québec
(Lebel j.c.s.)

Requêtes pour la mise sous scellé du rapport d'enquête
du juge Gobeil et pour une ordonnance accessoire de
non-publication rejetées

Le 21 mars 1996
Cour d'appel du Québec
(Gendreau, Baudouin et Forget jj.c.a.)

Appel rejeté

Le 22 mars 1996
Cour d'appel du Québec (Delisle j.c.a.)

Requête en sursis d'exécution du jugement de la Cour
d'appel accueillie

Le 21 mai 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

Frank D. D'Andrade, Certified Management Accountant CMA; ACIS

v. (25310)

Her Majesty The Queen, Government of Canada et al. (Ont.)

NATURE OF THE CASE

Administrative Law - Judicial Review - Application for extension of time in which to apply for judicial review dismissed -
Whether discretion to refuse application properly exercised.

PROCEDURAL HISTORY

January 26, 1995
Federal Court (Trial Division) (McGillis J.)

Motion for an extension of time dismissed

January 30, 1996
Federal Court of Appeal
(Stone, Strayer and Décary JJ.A.)

Appeal dismissed

April 25, 1996
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: La Forest, Cory and Major JJ. /
Les juges La Forest, Cory et Major**

Air Canada

v. (25295)

**The Minister of Revenue and The Attorney General
of Ontario**

AND BETWEEN:

Canadian Airlines International Limited

v.

**The Minister of Revenue and The Attorney General
of Ontario (Ont.)**

NATURE OF THE CASE

Constitutional law - Taxation - Statutes - Division of powers - Interpretation - Whether a tax imposed by the *Gasoline Tax Act*, R.S.O. 1990 c. G 5, as amended (the “*Act*”), upon the transfer of aviation fuel into the fuel tanks of an aircraft is “within the province” as required by section 92(2) of the *Constitution Act, 1867*, where: a) the transfer of possession and title of the fuel occur outside the province; b) the fuel has only a transitory physical presence within the province; and c) the fuel is consumed outside the province - Whether amendments to the *Act* imposed a retroactive tax on gasoline purchases made prior to their royal assent - Whether the definitions of “purchaser” and “delivery” under the *Act* are *intra vires* the Province of Ontario - How the “substantial presence” test adopted in *Manitoba v. Air Canada*, [1980] 2 S.C.R. 303, applies in the context of a transaction tax.

PROCEDURAL HISTORY

March 21, 1995
Ontario Court (General Division) (Winkler J.)

Appeal dismissed and the notices of assessment under
the *Gasoline Tax Act*, R.S.O. 1990, c. G.5., confirmed

March 8, 1996
Court of Appeal for Ontario (Morden A.C.J.O.,
Goodman and Weiler JJ.A.)

Appeal dismissed

May 3, 1996
Supreme Court of Canada

Application for leave to appeal filed

**Westmorland Fisheries Ltd. 049575 N.B. Ltd., E & Y Properties Ltd.,
Shediac Lobster Suppers Ltd., Yvon Gaudet Enterprises Ltd.,
Yvon Gaudet, Rose-Marie Gaudet, and French River Cannery Ltd.**

v. (25284)

Her Majesty The Queen (Crim.)(N.B.)

NATURE OF THE CASE

Criminal law - Procedural law - Appeal - Search warrant - Business records - Application for further detention of documents - *Criminal Code*, R.S.C. 1985, c. C-46, s. 490(3) - Does the Court of Appeal possess jurisdiction to hear an appeal from an order for further detention of documents on the grounds of an appeal of constitutional issues or a common law jurisdictional appeal - Whether Her Majesty the Queen has the status and capacity to be granted custody of the documents.

PROCEDURAL HISTORY

October 23, 1995
Court of Queen's Bench (Higgins J.)

Application for further detention of documents seized
pursuant to search warrant granted

February 29, 1996
Court of Appeal of New Brunswick
(Hoyt C.J.N.B. and Ayles and Ryan JJ.A.)

Appeal dismissed

April 22, 1996
Supreme Court of Canada

Application for leave to appeal filed

Linda Ann Terris

v. (25294)

Ronald Crossman and Dale Crossman (P.E.I.)

NATURE OF THE CASE

Torts - Negligence - Damages - Procedural Law - Evidence - Standard of proof of causation - Proper treatment of psychiatric disposition when assessing causation and credibility of medical evidence - Medical evidence of victim's damages questioned because of perceived lack of disclosure of health condition before negligent act occurred.

PROCEDURAL HISTORY

March 30, 1995
Prince Edward Island Supreme Court -
Trial Division (Jenkins J.)

Damages awarded

March 13, 1996
Prince Edward Island Supreme Court -
Appeal Division (Carruthers C.J.P.E.I., Mitchell and
McQuaid J.J.A.)

Appeal of damages dismissed

May 6, 1996
Supreme Court of Canada

Application for leave to appeal filed

Leo P. Abrams & Son Ltd.

v. (25280)

**Peat Marwick Thorne Inc., in its capacity as Trustee
in the Estate of MacDonald Homes Inc. (Ont.)**

NATURE OF THE CASE

Commercial law - Contracts - Bankruptcy - Fraudulent preferences - Whether the Court of Appeal erred in finding the date of the subject transaction - Whether the Court of Appeal erred in finding that the conveyance in question was a fraudulent preference - Whether the Court of Appeal erred in stating that the debtor had the onus to rebut the presumption created by s. 95 of the *Bankruptcy and Insolvency Act*, R.S.C. 1985, c. B.3.

PROCEDURAL HISTORY

September 8, 1995
Ontario Court of Justice (General Division)
(Roy J.)

Action dismissed

February 26, 1996
Court for Appeal for Ontario
(Finlayson, Laskin and Austin, J.J.A.)

Appeal dismissed

April 19, 1996
Supreme Court of Canada

Application for leave to appeal filed

595997 Ontario Inc., c.o.b. as Parkway Landscaping

v. (25286)

**Peat Marwick Thorne Inc., in its capacity as Trustee in the
Estate of MacDonald Homes Inc., Raymond Steel Ltd. (Ont.)**

NATURE OF THE CASE

Commercial law - Contracts - Creditor & debtor - Statutes - Interpretation - *Construction Lien Act*, R.S.O. 1990, c.30, s. 20 - Whether there was a fundamental breach of contract - Whether the Court of Appeal for Ontario erred in law in determining that an invalid general lien could not be considered as a valid lien against a particular property.

PROCEDURAL HISTORY

September 8, 1995
Ontario Court (General Division) (Roy J.)

Action dismissed

February 26, 1996
Court of Appeal for Ontario
(Finlayson and Laskin and Austin, JJ.A.)

Appeal dismissed

April 23, 1996
Supreme Court of Canada

Application for leave to appeal filed

**CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ. /
Les juges L'Heureux-Dubé, Sopinka et McLachlin**

Victor Daniel Williams

v. (25375)

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

NATURE OF THE CASE

Criminal law - Trial - Procedure - Juries - Jury selection - Challenge for cause - Whether prospective jurors can be questioned with respect to racial bias against aboriginal persons - *R. v. Parks* (1993), 84 C.C.C. (3d) 353 (Ont. C.A.)

PROCEDURAL HISTORY

June 9, 1994
Supreme Court of British Columbia (Vickers J.)

Conviction : Robbery

April 29, 1996
Court of Appeal of British Columbia
(Macfarlane, Legg and Newbury JJ.A.)

Appeal dismissed

June 21, 1996
Supreme Court of Canada

Application for leave to appeal filed

Parks West Mall Ltd.

v. (25275)

Terry Jennett, Steve Slavik

- and -

Mark's Work Wearhouse Ltd. (Alta.)

NATURE OF THE CASE

Commercial law - Contracts - Damages - Breach of shopping centre lease - Damages for inducing breach of lease - Mitigation of damages - Reletting of premises to new tenants - Whether Court of Appeal erred in reaching different findings of fact from those of the trial judge - Whether Court of Appeal erred in applying principles of mitigation in quantification of damages - Whether third party liable for inducing breach of lease in providing advice to party to contract.

PROCEDURAL HISTORY

June 29, 1994
Court of Queen's Bench of Alberta (Perras J.)

Judgment for Applicant

December 12, 1994
Court of Appeal of Alberta
(Lieberman, Foisy and Picard JJ.A.)

Appeal allowed in part; damages reduced

March 26, 1996
Court of Appeal of Alberta
(Lieberman, Foisy and Picard JJ.A.)

Judgment confirmed at rehearing

April 12, 1996
Supreme Court of Canada

Application for leave to appeal filed

The British Columbia Utilities Commission

v. (25278)

British Columbia Hydro & Power Authority

and

**British Columbia Energy Coalition, Consumer's Association of Canada (B.C. Branch) et al.,
Council of Forest Industries et al., West Kootenay Power Ltd., B.C. Gas
Utility Ltd., ISCA Management Ltd., and Rick Berry (B.C.)**

NATURE OF THE CASE

Administrative law - Jurisdiction - Judicial review - Standard of review - *Utilities Commission Act*, S.B.C. 1980, c.60 - Jurisdiction of the British Columbia Utilities Commission to issue directions regarding Integrated Resource Plan and Guidelines.

PROCEDURAL HISTORY

November 24, 1994
British Columbia Utilities Commission

B.C. Hydro's rate increase denied; Integrated Resource Plan and Action Plan to be filed; rate design changes to be implemented; ordered to comply with all other directions in the decision

October 17, 1995
British Columbia Utilities Commission

Application for reconsideration denied

February 23, 1996
Court of Appeal for British Columbia
(Goldie, Prowse and Newbury, JJ.A)

Declaration that the directions are unenforceable for being beyond the statutory powers of the Commission

April 19, 1996
Supreme Court of Canada

Application for leave to appeal filed

**L'Association des brasseurs du Québec, La brasserie Molson-O'Keefe
La brasserie Labatt Limitée**

c. (25272)

**Épiciers Unis Métro-Richelieu Inc. La Régie des alcools, des courses et des jeux,
Me Richard Roy, ès-qualité de régisseur de la Régie des alcools, des courses et des jeux;
Me Albert Raymond, ès-qualité de régisseur de la Régie des alcools, des courses et des jeux**

et

Corporation Brasserie Lakeport, Le procureur général du Québec (Qué.)

ET ENTRE:

**L'Association des brasseurs du Québec, La brasserie Molson-O'Keefe
La brasserie Labatt Limitée**

c.

**Corporation Brasserie Lakeport, La Régie des alcools, des courses et des jeux,
Me Richard Roy, ès-qualité de régisseur de la Régie des alcools, des courses et des jeux;
Me Albert Raymond, ès-qualité de régisseur de la Régie des alcools, des courses et des jeux**

et

Épiciers Unis Métro-Richelieu Inc. Le procureur général du Québec (Qué.)

NATURE DE LA CAUSE

Droit administratif - Compétence - Contrôle judiciaire - Nature et portée du pouvoir de révision de la Régie des alcools, des jeux et des courses de réviser et révoquer ses propres décisions en application de l'article 37 de la *Loi sur la Régie des alcools, des courses et des jeux*, L.R.Q., chap. R-61 - Pouvoir de révision pour vice de fond et pour fait nouveau - Norme de contrôle - La Cour supérieure a-t-elle erré en refusant de conclure que la Régie s'est arrogée les pouvoirs d'une cour d'appel et a excédé sa compétence? - La Cour d'appel du Québec a-t-elle commis une erreur en accueillant les appels de Épiciers Unis de Métro-Richelieu et de la Corporation Brasserie Lakeport?

HISTORIQUE PROCÉDURAL

Le 22 juin 1994
Régie des alcools, des courses et des jeux
(Bilodeau et Harvey, régisseurs)

Requête de la Corporation Brasserie Lakeport pour
fabriquer et distribuer de la bière dans des chaînes
alimentaires au Québec accueillie

Le 29 juin 1994
Régie des alcools, des courses et des jeux
(Régisseurs non mentionnés)

Demande d'approbation de la publicité proposée par
É.U.M.R rejetée

Le 14 juillet 1994
Régie des alcools, des courses et des jeux
(Bilodeau et Mercier, régisseurs)

Requête de É.U.M.R. en révision de la décision de la
Régie du 29 juin 1994 sur la publicité proposée
accueillie

Le 25 avril 1995
Régie des alcools, des courses et des jeux
(Roy et Raymond, régisseurs)

Requête de l' Ass. des brasseurs du Québec, de Molson
O'Keefe et de Labatt en révocation de la décision de la
Régie du 22 juin 1994 accueillie

Le 5 juin 1995
Cour supérieure du Québec
(Denis, J.C.S.)

Requêtes en révision judiciaire présentées par É.U.M.R.
et Lakeport Inc. rejetées

Le 20 février 1996
Cour d'appel du Québec
(Vallerand, Rothman et Nuss J.J.C.A.)

Appels de É.U.M.R. et de Lakeport Inc. accueillis

Le 19 avril 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

JULY 18, 1996 / LE 18 JUILLET 1996

**25148 PHILIPS ELECTRONICS N.V. - v. - REMINGTON RAND CORPORATION AND
REMINGTON PRODUCTS (CANADA) INC. (F.C.A.)**

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d' appel est rejetée avec dépens.

NATURE OF THE CASE

Property law - Trade-marks - distinguishing guise - Whether functionality is a relevant factor in considering the validity of a distinguishing guise trade-mark or a design mark under the *Trade-marks Act*, R.S.C. 1985, c.T-10 - What is the proper test for functionality?

PROCEDURAL HISTORY

October 8, 1993 Federal Court of Canada (McGillis J.)	Application to expunge four trade marks dismissed
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December 12, 1995 Federal Court of Canada (Strayer, MacGuigan and Décary JJ.A.)	Appeal allowed; Trade-mark Registration Nos. 283,451 and 286,487 ordered expunged
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February 12, 1996 Supreme Court of Canada	Application for leave to appeal filed
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25269 CASIMIR GADZELLA - v. - KATHY (KATHLEEN) WONG (Sask.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for extension of time is dismissed.

La demande de prorogation de délai est rejetée.

NATURE OF THE CASE

Property Law - Real Property - Landlord tenant - Remedies - Tenant claiming builders' lien for materials and work not authorized by the landlord - Tenant raising quantum meruit claim for work done to rented premises.

PROCEDURAL HISTORY

June 7, 1994 Court of Queen's Bench (Schiebel J.)	Applicant's claim allowed in part; Respondent's cross- claim allowed
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October 11, 1995 Court of Appeal (Vancise, Gerwing and Jackson, JJA.)	Applicant's appeal allowed in part
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April 4, 1996 Supreme Court of Canada	
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Application for leave to appeal filed

25270 CASIMIR GADZELLA - v. - KATHY (KATHLEEN) WONG (Sask.)

CORAM: The Chief Justice and Gonthier and Iacobucci JJ.

The application for extension of time is dismissed.

La demande de prorogation de délai est rejetée.

NATURE OF THE CASE

Procedural Law - Civil Procedure - Saskatchewan Rules of Court of Queen's Bench, Rule 231 - Striking a claim for failure to comply with undertakings.

PROCEDURAL HISTORY

December 6, 1994 Court of Queen's Bench (Armstrong J.)	Order that Applicant provide responses to undertakings
March 8, 1995 Court of Queen's Bench (Barclay J.)	Fiat dismissing Applicant's action
September 6, 1995 Court of Appeal for Saskatchewan (Cameron, Schertobitoff and Lane JJ.A)	Appeal dismissed
April 4, 1996 Supreme Court of Canada	Application for leave to appeal filed

JULY 25, 1996 / LE 25 JUILLET 1996

25104 **PUBLIC UTILITIES COMMISSION OF THE CITY OF SCARBOROUGH v. UTILITY WORKERS OF CANADA, PETER WARRIAN, JANE GRIMWOOD AND JUDITH RUNDLE**
(Ont.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Administrative law - Judicial review - Remedies - Procedural law - Evidence - Whether a Board of Arbitration made a finding of fact with a complete absence of evidence to support that finding - Whether a Board of Arbitration breached the rules of natural justice by denying the right to adduce certain evidence in support of an estoppel argument - Whether the doctrine of estoppel was misapplied.

PROCEDURAL HISTORY

September 14, 1995 Ontario Court (General Division) (Divisional Court) (Steele, Boland, and Saunders JJ.)	Application for judicial review of Arbitration Board's order that Applicant pay long term disability benefits without deducting other benefits dismissed
December 21, 1995 Court of Appeal for Ontario (Houlden, McKinlay and Weiler JJ.A.)	Application for leave to appeal dismissed
January 18, 1996 Supreme Court of Canada	Application for leave to appeal filed

25112 **RODELIO PARAISO AND WESLEY HART v. GORDON PAULUIK** (Man.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Torts - Negligence - Causation - Labour law - Workers' compensation - Whether the Court of Appeal erred in applying the law of causation - Whether the Court of Appeal erred in applying the law respecting *novus actus interveniens* - Whether the Court of Appeal erred in holding that the Court of Queen's Bench retained jurisdiction to award damages when the Workers Compensation Board had already determined, within its jurisdiction, that the disability following that accident was covered under the *Workers' Compensation Act*.

PROCEDURAL HISTORY

JUDGMENTS ON APPLICATIONS
FOR LEAVE

JUGEMENTS RENDUS SUR LES DEMANDES
D'AUTORISATION

January 16, 1995
Court of Queen's Bench of Manitoba
(Beard J.)

Applicants found liable for injuries suffered by
Respondent in 1984 and 1988 accidents

November 29, 1995
Court of Appeal for Manitoba
(Helper, Kroft and Monnin, J.J.A.)

Applicants' appeal dismissed

January 23, 1996
Supreme Court of Canada

Application for leave to appeal filed

25206 **CRAIG WILLIAM RYBACK v. HER MAJESTY THE QUEEN** (Crim.)(B.C.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed.

La demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Criminal law - Offences - Harassment - Whether Applicant denied effective counsel at trial.

PROCEDURAL HISTORY

January 4, 1995 Provincial Court (British Columbia) (Devitt J.)	Conviction: criminal harassment
March 23, 1995 Supreme Court of British Columbia (Lander J.)	Summary conviction appeal dismissed
February 15, 1996 British Columbia Court of Appeal (Legg, Finch and Newbury JJ.A.)	Appeal dismissed
March 20, 1996 Supreme Court of Canada	Application for leave to appeal filed

25082 **FIRST ROYAL ENTERPRISES AND 351726 B.C. LTD. v. WING LEE CHEONG** (B.C.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The motion to extend the time to file the reply factum is granted and the application for leave to appeal is dismissed.

La requête en prorogation du délai pour le dépôt du mémoire en réplique est accordée et la demande d'autorisation d'appel est rejetée.

NATURE OF THE CASE

Commercial law - Fraudulent preferences and conveyances - Grant of general security agreement over assets of company to one creditor who is also majority shareholder in the company at a time company unable to meet financial obligations - Claims of other unsecured creditors effectively foreclosed by the transaction - Was the grant of the general security agreement a fraudulent conveyance ?- Is the intent to prefer one creditor over another inconsistent with actual intent to defraud?

PROCEDURAL HISTORY

July 26, 1994 Supreme Court of British Columbia (Saunders J.)	Judgment for Applicants
November 10, 1995 Court of Appeal for British Columbia (Lambert, Cumming, and Finch JJ.A.)	Appeal allowed; judgment varied
January 8, 1996 Supreme Court of Canada	Application for leave to appeal filed

25263 **GORDON LONNY JACOBS v. CAROLE FRANCIS JACOBS** (Ont.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for leave to appeal is dismissed with costs.

La demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Family law - Maintenance - Dependant wife and two children - Husband claiming inability to pay support as ordered - Order striking his pleadings for failure to comply with interim support order - Whether partial compliance with interim order sufficient to ensure that Applicant has the right to participate in trial on the merits - Whether order striking pleadings is constitutionally valid - Whether Toronto Family Case Management Rules violate *Charter* and principles of natural justice - Whether objectives of ss. 15(5) and (7) of the *Divorce Act* require reinforcement - Whether an upper limit on child and spousal support should be established under the *Divorce Act*.

PROCEDURAL HISTORY

April 27, 1995 Ontario Court (General Division) (Walsh J.)	Respondent's motion for interim spousal and child support granted with costs
August 30, 1995 Ontario Court (General Division) (Walsh J.)	Applicant's motion for review of interim order denied; Respondent's motion to strike Applicant's pleadings adjourned
October 17, 1995 Ontario Court (General Division) (Walsh J.)	Respondent's motion to strike out Applicant's pleadings granted with costs
February 13, 1996 Court of Appeal for Ontario (Finlayson, Abella, and Rosenberg JJ.A.)	Applicant's appeal from judgment striking out pleadings dismissed with costs
April 10, 1996 Supreme Court of Canada	Application for leave to appeal filed
May 9, 1996 Supreme Court of Canada (Sopinka, J.)	Motion for stay of proceedings dismissed

25171 **KEYVAN NOURHAGHIGHI v. THE TORONTO HOSPITAL, JOHN JAMAL, COLIN R. VOORNEVELD, NADER RAFFI, SHAFIQ QAADRI, THE COLLEGE OF PHYSICIANS AND SURGEONS OF ONTARIO, STUART PARSONS, BRIAN PINCHIN, KEITH HAINES, ROBERT KERR, DAVID BOOTHBY, METROPOLITAN TORONTO POLICE,**

DEBBER SILIVER, PAUL NORMANDEAU, ALLAN SCOTT, ROBERT LEWIN, IAN McNISH, RICH ROMAIN, AZIZ SHAMS, SARAH YANOFKY, JUNE FRASER, CHARLOTTE PETERS, MARILYN JAKUBOWICZ, ISABELLE MORIN, JAKES DEBLES, JUNE McCARTHY, JUDDY CRAWFORD, THE CROWN ON THE RIGHT OF ONTARIO, RAIBALHAR SINGH, ANGELO SCHETAKIS, BOB MILKOVICH, SPOTLIGHT SERVICE CENTRE, ALFRED M. KWINTER, ADJUSTERS CANADA, ONTARIO INSURANCE COMMISSION, MALGORZATA K. LOWCZYK, ERNEST G. TOOMATH, ROSANNE M. GIULETTI, TIM PORTER, DENNIS Y. PERLIN, HARLEY R. NOTT, GARY STEINBERG, HENRY G. GERTNER, ANDREW M. CZERNICK, ANDREW S. TYRRELL, THE LAW SOCIETY OF UPPER CANADA, MINISTRY OF TRANSPORTATION LICENSING CONTROL BRANCH, TORONTO JAIL, SOCILITOR GENERAL OF ONTARIO, HER MAJESTY THE QUEEN ON THE RIGHT OF ONTARIO, METROPOLITAN TORONTO CONDOMINIUM CORPORATION NO. 935, JOSEPH VERO, STEPHEN B. McCANN (Ont.)

CORAM: L'Heureux-Dubé, Sopinka and McLachlin JJ.

The application for an extension of time is granted and the application for leave to appeal is dismissed with costs.

La demande de prorogation de délai est accordée et la demande d'autorisation d'appel est rejetée avec dépens.

NATURE OF THE CASE

Procedural law - Whether the Court of Appeal erred in dismissing a motion for an extension of time to appeal.

PROCEDURAL HISTORY

June 16, 1995
Ontario Court of Justice (General Division)
(Coo J.)

Applicant's statement of claim struck out

December 11, 1995
Court of Appeal for Ontario (Labrosse J.A.)

Appeal dismissed

February 19, 1996
Supreme Court of Canada

Application for leave to appeal filed

25123 WILHELM HALWACHS, LES AMUSEMENTS WILTRON INC., LES AMUSEMENTS GAMETRONIC INC., 2548-9089 QUÉBEC INC., ENTREPRISES GAME MASTER SYSTEMES INC., LES MACHINES AUTOMATIQUES DU NORD INC., 2617-3815 QUÉBEC INC., 2629-0783 QUÉBEC INC., 2631-9319 QUÉBEC INC. ET 2633-3922 QUÉBEC INC, v. LE SOUS-MINISTRE DU REVENU DU QUÉBEC, LE PROCUREUR GÉNÉRAL DU QUÉBEC, LE MINISTÈRE DU REVENU DU QUÉBEC ET DENIS DUMOUCHEL et L'HONORABLE JUGE MICHELINE DUFOUR et SA MAJESTÉ LA REINE DU CANADA, LE PROCUREUR GÉNÉRAL DU CANADA, RAYMOND DUGRÉ ET L'HONORABLE DAVID ANDERSON
(Qué.)

CORAM: Les juges L'Heureux-Dubé, Sopinka et McLachlin

La demande d'autorisation d'appel est rejetée avec dépens.

The application for leave to appeal is dismissed with costs.

NATURE DE LA CAUSE

Droit constitutionnel - *Charte canadienne des droits et libertés* - Libertés publiques - Fouilles, perquisitions et saisies abusives - Droit criminel - Examen par le Ministère du Revenu du Québec de documents saisis par le Ministère du Revenu national - Application du paragraphe 490(15) du *Code criminel* - Intérêt requis - Le Ministère du Revenu du Québec peut-il, dans le cadre de son enquête, examiner des documents saisis par le Ministère du Revenu national sans le consentement des demandeurs si son intention est de recueillir des éléments de preuve en vue de poursuivre les demandeurs pour des violations relatives au paiement de la taxe de vente du Québec et de la taxe de vente fédérale? - Les droits des demandeurs à la protection contre les fouilles, saisies et perquisitions abusives ont-ils été violés?

HISTORIQUE PROCÉDURAL

Le 2 juin 1994
Cour du Québec (Dufour J.C.Q.)

Requête des intimés en vue d'obtenir la permission d'examiner des choses détenues par suite d'une saisie (art. 490(15) *C.cr.*) accueillie

Le 30 août 1994
Cour supérieure du Québec (Downs J.C.S.)

Requête des demandeurs en vue d'obtenir un bref de *certiorari* visant à annuler l'ordonnance permettant d'examiner et de prendre copie des choses saisies rejetée

Le 29 novembre 1995
Cour d'appel du Québec (Baudouin, Proulx et Forget [suppléant] J.J.C.A.)

Appel accueilli en partie aux seules fins d'annuler les conclusions de l'ordonnance accordant le droit de prendre copie des choses saisies

Le 29 janvier 1996
Cour suprême du Canada

Demande d'autorisation d'appel déposée

8.7.1996

Before / Devant: MAJOR J.

Motion for an order that this appeal is to be not deemed abandoned

Armada Lines Ltd.

v. (24351)

Chaleur Fertilizers Ltd. (Ont.)

GRANTED / ACCORDÉE

Requête en déclaration que le présent appel est censé ne pas avoir été abandonné

With the consent of the parties.

8.7.1996

Before / Devant: MAJOR J.

Motion to extend the time in which to file the case on appeal and the appellants factum

Armada Lines Ltd.

v. (24351)

Chaleur Fertilizers Ltd. (Ont.)

GRANTED / ACCORDÉE Time extended to July 31, 1996 for the case on appeal and time extended to August 31, 1996 for the appellants factum.

Requête en prorogation du délai imparti pour déposer le dossier d'appel et le mémoire de l'appelante

With the consent of the parties.

9.7.1996

Before / Devant: LE JUGE McLACHLIN

Requête en dispense de signification

Sa Majesté La Reine

c. (25215)

Terry C. Cobb et al. (Qué.)

ACCORDÉE / GRANTED

IL EST ORDONNÉ:

1. Que ladite requête en prorogation de délai soit accordée et que le délai pour signifier la demande d'autorisation à l'égard du deuxième intimé, Mark Cunningham soit prorogé au 8 juillet 1996;
2. Que lui soit permis la signification au greffe de cette Cour de la demande d'autorisation au deuxième intimé, Mark Cunningham;
3. Que dispense de signification de la présente requête soit accordée.

9.7.1996

Before / Devant: CORY J.

Motion to dispense with service

Motion to dismiss the application for leave for non compliance with order

Miriam Fox et al.

v. (25314)

Walter Fox (Ont.)

Requête en rejet de l'autorisation d'appel pour non respect d'une ordonnance

Henry S. Brown, Q.C., for the applicants.

Bernard L. Eastman, Q.C., for the respondent.

DISMISSED / REJETÉE

Compliance with Order of Houlden, J.A. was made a condition of extending the time for applying for leave to appeal. The time for compliance with that Order was extended to 13 June 1996 as a matter of special courtesy to the applicants.

The history of these proceedings indicates an unfortunate recalcitrance on the part of the applicants to comply with Orders of the Courts. This undoubtedly explains the desire of Walter Fox to ensure compliance with the Order of Houlden, J.A.

Counsel for the applicants appears to have truly attempted to comply with the Order of Houlden, J.A. and of the Court. However due to an error which he very frankly admits, he did not complete compliance by the 13 June 1996 as required by the Order of this Court. However it appears that the first 5 directions of the Order of Houlden, J.A. have now been complied with. There may be a minor technical error in the execution of the deed to the Palmerston property which counsel for the applicants has specifically undertaken to rectify. That must be done as soon as possible.

In the circumstances the application brought on behalf of Walter Fox is dismissed but because of the errors and delays in compliance with the Order of Houlden, J.A. Walter Fox will have his costs of this motion in any event.

Although there may be a cross-examination of Mr. Levine it would not change the result of this application.

The application for leave to appeal may proceed. The Respondent is to file his Response by the 3 September 1996 and the Reply of the Applicants if any as required by the Rules of this Court.

10.7.1996

Before / Devant: SOPINKA J.

Motion for an order permitting to file a supplementary book of authorities

Requête en obtention d'une ordonnance autorisant le dépôt d'un cahier supplémentaire de jurisprudence et de doctrine

Claude Morin

v. (24634)

Her Majesty The Queen (Ont.)

and

Kevin Roy Hawkins

v. (24633)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

Leave granted to file a supplementary book of authorities. Appellants Hawkins & Morin may file additional submissions relating to the cases contained in the new material. Such additional submissions to be filed within 30 days.

16.7.1996

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to file the case on appeal and the appellant's factum

Requête en prorogation du délai imparti pour déposer le dossier d'appel et le mémoire de l'appellant

Michael A. Dagg

v. (24786)

The Minister of Finance (Ont.)

With the consent of the parties.

GRANTED / ACCORDÉE Time extended to August 30, 1996 *nunc pro tunc*.

16.7.1996

Before / Devant: THE DEPUTY REGISTRAR

Motion to extend the time in which to file the case on appeal

Terry McDonnell

v. (24814)

Her Majesty The Queen (Alta.)

GRANTED / ACCORDÉE Time extended to June 28, 1996.

Requête en prorogation du délai imparti pour déposer un dossier d'appel

With the consent of the parties.

17.7.1996

Before / Devant: MAJOR J.

Motion for leave to intervene

BY/PAR: Labour Relations Board of British Columbia

IN/DANS: Pacific Press Ltd.

v. (25364)

Communications, Energy and Paperworkers Union of Canada, Local 226 et al. (B.C.)

GRANTED / ACCORDÉE

Requête en autorisation d'intervention

17.7.1996

Before / Devant: CHIEF JUSTICE LAMER

Motion to state a constitutional question

Percival Dean Lowther

v. (24735)

Her Majesty The Queen (P.E.I.)

GRANTED / ACCORDÉE

1. Do sections 10 and 13 of the *Public Sector Pay Reduction Act*, S.P.E.I. 1994, c. 51, legislating a
1. Les articles 10 et 13 de la *Public Sector Pay Reduction Act*, S.P.E.I. 1994, ch. 51, qui prévoient une réduction in the amount of remuneration for Judges of the Provincial Court of Prince Edward Island, infringe the independence of the said Judges as guaranteed by s. 11(d) of the *Canadian Charter of Rights and Freedoms*?

2. If so, can those provisions be justified under s. 1 of the *Canadian Charter of Rights and Freedoms*?

réduction de la rémunération des juges de la Cour provinciale de l'Île-du-Prince-Édouard, portent-ils atteinte à l'indépendance desdits juges, garantie par l'al. 11d) de la *Charte canadienne des droits et libertés*?

2. Dans l'affirmative, ces dispositions sont-elles justifiées en vertu de l'article premier de la *Charte canadienne des droits et libertés*?

19.7.1996

Before / Devant: THE DEPUTY REGISTRAR

**Motion for acceptance of memorandum of argument
on leave to appeal of over 20 pages**

**Requête en acceptation d'un mémoire de demande
d'autorisation de plus de 20 pages**

Robert Douglas Worth

With the consent of the parties.

v. (25382)

Her Majesty The Queen (Ont.)

GRANTED / ACCORDÉE

4.7.1996

Ian Bernard Gallimet Doliente

v. (25417)

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

AS OF RIGHT

**NOTICES OF INTERVENTION FILED
SINCE LAST ISSUE**

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

BY/PAR: Attorney General of Canada
Attorney General of Saskatchewan
Attorney General for New Brunswick
Attorney General of Ontario
Attorney General of P.E.I.

IN/DANS: **The Judges of the Provincial Court of Manitoba et al.**
v. (24846)

Her Majesty The Queen in right of the Province of Manitoba et al. (Man.)

BY/PAR: Attorney General for New Brunswick
Attorney General of Saskatchewan
Attorney General of Canada
Attorney General of Ontario
Attorney General of Manitoba
Attorney General of P.E.I.

IN/DANS: **Her Majesty The Queen**
v. (24831)

Shawn Carl Campbell et al. (Alta.)

BY/PAR: Attorney General of Canada

IN/DANS: **Patrick Mara et al.**
v. (25159)

Her Majesty The Queen (Ont.)

**NOTICE OF DISCONTINUANCE
FILED SINCE LAST ISSUE**

**AVIS DE DÉSISTEMENT DÉPOSÉS
DEPUIS LA DERNIÈRE PARUTION**

18.7.1996

**Price Waterhouse Ltd., Trustee of the Estate of
Standard Trustco Ltd., a bankrupt**

v. (25050)

Standard Trust Co. et al. (Ont.)

(motion)

The next session of the Supreme Court of Canada commences on September 30, 1996.
La prochaine session de la Cour suprême du Canada débute le 30 septembre 1996.

**The next bulletin of proceedings will be published August 23, 1996. /
Le prochain bulletin des procédures sera publié le 23 août 1996.**

BEFORE THE COURT:

Pursuant to Rule 23.1 of the *Rules of the Supreme Court of Canada*, the following deadlines must be met before a motion before the Court can be heard:

Motion day : September 30, 1996

Service : September 9, 1996
Filing : September 16, 1996
Respondent : September 23, 1996

Motion day : November 4, 1996

Service : October 28, 1996
Filing : October 21, 1996
Respondent : October 14, 1996

Motion day : December 2, 1996

Service : November 25, 1996
Filing : November 18, 1996
Respondent : November 11, 1996

DEVANT LA COUR:

Conformément à l'article 23.1 des *Règles de la Cour suprême du Canada*, les délais suivants doivent être respectés pour qu'une requête soit entendue par la Cour:

Audience du : 30 septembre 1996

Signification : 9 septembre 1996
Dépôt : 16 septembre 1996
Intimé : 23 septembre 1996

Audience du : 4 novembre 1996

Signification : 28 octobre 1996
Dépôt : 21 octobre 1996
Intimé : 14 octobre 1996

Audience du : 2 décembre 1996

Signification : 25 novembre 1996
Dépôt : 18 novembre 1996
Intimé : 11 novembre 1996

The winter session of the Supreme Court of Canada will commence September 30, 1996.

Pursuant to the *Supreme Court Act* and *Rules*, the following requirements for filing must be complied with before an appeal will be inscribed and set down for hearing:

Case on appeal must be filed within three months of the filing of the notice of appeal.

Appellant's factum must be filed within four months of the filing of the notice of appeal.

Respondent's factum must be filed within eight weeks of the date of service of the appellant's factum.

Intervener's factum must be filed within four weeks of the date of service of the respondent's factum.

The Registrar shall inscribe the appeal for hearing upon the filing of the respondent's factum or after the expiry of the time for filing the respondent's factum

La session d'hiver de la Cour suprême du Canada commencera le 30 septembre 1996.

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

Le dossier d'appel doit être déposé dans les trois mois du dépôt de l'avis d'appel.

Le mémoire de l'appelant doit être déposé dans les quatre mois du dépôt de l'avis d'appel.

Le mémoire de l'intimé doit être déposé dans les huit semaines suivant la signification de celui de l'appelant.

Le mémoire de l'intervenant doit être déposé dans les quatre semaines suivant la signification de celui de l'intimé.

Le registraire inscrit l'appel pour audition après le dépôt du mémoire de l'intimé ou à l'expiration du délai de signification du mémoire de l'intimé.

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 [1996] 1 S.C.R. Part 5

Coopérants, Mutual Life Insurance Society (Liquidator of) *v.* Dubois, [1996] 1 S.C.R. 900

D. (J.L.) *v.* Vallée, [1996] 1 S.C.R. 893

Martin *v.* Beaudry, [1996] 1 S.C.R. 898

R. *v.* Badger, [1996] 1 S.C.R. 771

R. *v.* Lewis, [1996] 1 S.C.R. 921

R. *v.* Richard, [1996] 1 S.C.R. 896

Ross *v.* New Brunswick School District No. 15, [1996] 1 S.C.R. 825

United States of America *v.* Léon, [1996] 1 S.C.R. 888

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

Jugements publiés dans [1996] 1 R.C.S. Partie 5

Coopérants (Les), Société mutuelle d'assurance-vie (Liquidateur de) *c.* Dubois, [1996] 1 R.C.S. 900

D. (J.L.) *c.* Vallée, [1996] 1 R.C.S. 893

États-Unis d'Amérique *c.* Léon, [1996] 1 R.C.S. 888

Martin *c.* Beaudry, [1996] 1 R.C.S. 898

R. *c.* Badger, [1996] 1 R.C.S. 771

R. *c.* Lewis, [1996] 1 R.C.S. 921

R. *c.* Richard, [1996] 1 R.C.S. 896

Ross *c.* Conseil scolaire du district n° 15 du Nouveau-Brunswick, [1996] 1 R.C.S. 825

SUPREME COURT OF CANADA SCHEDULE
CALENDRIER DE LA COUR SUPREME

- 1996 -

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

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

- 1997 -

JANUARY - JANVIER						
S	M	T	W	T	F	S
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5	6	7	8	9	10	11
12	13	14	15	16	17	18
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FEBRUARY - FÉVRIER						
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MARCH - MARS						
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30	H 31					

APRIL - AVRIL						
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30						

MAY - MAI						
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JUNE - JUIN						
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D	L	M	M	J	V	S
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22	23	24	25	26	27	28
29	30					

Sittings of the court:
Séances de la cour:

Motions:
Requêtes:

Holidays:
Jours fériés:



18 sitting weeks / semaines séances de la cour
83 sitting days / journées séances de la cour
8 motion and conference days / journées requêtes, conférences
1 holidays during sitting days / jours fériés durant les sessions