

**COURT OF APPEAL
OF
NEW BRUNSWICK**

**COUR D'APPEL
DU
NOUVEAU-BRUNSWICK**



***List of Cases for the
February 2009 sitting***

***Le rôle pour la session du mois
de février 2009***

***Court of Appeal
P.O. Box 6000
Fredericton, NB
E3B 5H1***

***Cour d'appel
C.P. 6000
Fredericton, (N.-B.)
E3B 5H1***

TUESDAY, FEBRUARY 10 / LE MARDI 10 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

(*DRAPEAU, C.J.N.B./J.C.N.-B., LARLEE AND/ET BELL, J.J.A.)

- 113-08-CA**
1. Her Majesty The Queen) **Hilary J.A. Drain, Q.C.,**
- and -) for the Appellant
Dale Joseph Latour) **Joseph W.J. FitzPatrick III,**
) for the Respondent

(*DRAPEAU, C.J.N.B./J.C.N.-B., LARLEE AND/ET QUIGG, J.J.A.)

- 119-08-CA**
2. Her Majesty The Queen) **Cameron H. Gunn,**
- and -) for the Appellant
Samantha Shianne Waugh) **David M. Hitchcock,**
) for the Respondent

2:00 p.m. / 14h

COURTROOM / SALLE #8

(TURNBULL, DAIGLE AND/ET *ROBERTSON, J.J.A.)

- 70-08-CA**
3. Edward Richard ("Neville")) **Glen S. Gallant,**
Tompkins) for the Appellant
- and -) **D. Ann Whiteway Brown,**
John Robert Kirk, Executor of the) for the Respondent
Estate of Edna Evelyn Tompkins)
(on appeal from 2008 NBQB 187 / en appel de 2008 NBBR 187)

WEDNESDAY, FEBRUARY 11 / LE MERCREDI 11 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

(DAIGLE, *RICHARD AND/ET BELL, J.J.A.)

- 59-08-CA**
4. Alvery Paul) **Ronald E. Gaffney, Q.C.**
- and -) **and Jayme L.J. O'Donnell,**
Her Majesty The Queen) **for the Appellant**
) **Pierre R. Castonguay,**
) **for the Respondent**
- 89-08-CA**
5. Robert Francis and) **Daniel R. Thériault, Q.C.,**
Romeo Francis) **for the Appellants**
- and -) **Pierre R. Castonguay,**
Her Majesty The Queen) **for the Respondent**

THURSDAY, FEBRUARY 12 / LE JEUDI 12 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

(DESCHÊNES, *RICHARD AND/ET BELL, J.J.A.)

- 85-08-CA**
6. Edgar Joseph Arsenault) **Hazen L. Brien,**
- and -) **for the Appellant**
Her Majesty the Queen) **Leonard J. MacKay,**
) **for the Respondent**

COURTROOM / SALLE #8

(DAIGLE, *ROBERTSON AND/ET QUIGG, J.J.A.)

- 42-08-CA**
7. David Breau) **Brian D. Delaney,**
- and -) for the Appellant
The Estate of Ernest St. Onge,) **Donald F. Cullinan,**
deceased, Cecile St. Onge,) for the Respondent
Jacqueline Morrison, and Elaine)
Woodcock, Administrators of the)
Estate of Ernest St. Onge)
(on appeal from 2008 NBQB 117 / en appel de 2008 NBBR 117)

FRIDAY, FEBRUARY 13 / LE VENDREDI 13 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

(*DRAPEAU, C.J.N.B./J.C.N.-B., ROBERTSON AND/ET QUIGG, J.J.A.)

No. 8 Removed and set over to May 20, 2009, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 20 mai 2009, en vertu de la directive de l'Honorable juge en chef.

MONDAY, FEBRUARY 16 / LE LUNDI 16 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #8

(*DRAPEAU, C.J.N.B./J.C.N.-B., TURNBULL AND/ET QUIGG, J.J.A.)

- 91-08-CA**
9. Royal Bank of Canada) **Ryan P. Burgoyne,**
- and -) for the Appellant
Anne Marie Duddock and) **David M. Lutz, Q.C.,**
Marco Horvath) for the Respondents
(on appeal from 2008 NBQB 270 / en appel de 2008 NBBR 270)

TUESDAY, FEBRUARY 17 / LE MARDI 17 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

(DESCHÊNES, *ROBERTSON AND/ET RICHARD, J.J.A.)

- 16-08-CA**
10. Theodore Hachey) **Theodore Hachey,**
- and -) *per se*
Her Majesty The Queen) **Monica G. McQueen,**
) *for the Respondent*
- 17-08-CA**
11. Selena Wiley) **Selena Wiley,**
- and -) *per se*
Her Majesty The Queen) **Monica G. McQueen,**
) *for the Respondent*

WEDNESDAY, FEBRUARY 18 / LE MERCREDI 18 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

(DESCHÊNES, *RICHARD AND/ET BELL, J.J.A.)

- 21-08-CA**
12. Guilman Gauvin) **Graham J. Sleeth, c.r.,**
- et -) *avocat de l'appelant*
Sa Majesté la Reine) **Paul J. Veniot, c.r.,**
) *avocat de l'intimée*
(*on appeal from 2008 NBQB 62 / en appel de 2008 NBBR 62*)

THURSDAY, FEBRUARY 19 / LE JEUDI 19 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

(*DRAPEAU, C.J.N.B./J.C.N.-B., LARLEE AND/ET DESCHÊNES, J.J.A.)

- 49-08-CA**
13. Provincial Court Judges') **J. Gordon Petrie, Q.C.,**
Association of New Brunswick) *for the Appellants*
and The Honourable David C.) **Nancy E. Forbes,**
Walker) *for the Respondent*
- and -)
Her Majesty The Queen in Right)
of the Province of New Brunswick)
as Represented by the Minister of)
Justice and Consumer Affairs)
(on appeal from 2008 NBQB 135 / en appel de 2008 NBBR 135)

FRIDAY, FEBRUARY 20 / LE VENDREDI 20 FÉVRIER
9:00 a.m. / 9h

COURTROOM / SALLE #6

(*DRAPEAU, C.J.N.B./J.C.N.-B., LARLEE AND/ET DESCHÊNES, J.J.A.)

- 49-08-CA**
13. Provincial Court Judges') **J. Gordon Petrie, Q.C.,**
Association of New Brunswick) *for the Appellants*
and The Honourable David C.) **Nancy E. Forbes,**
Walker) *for the Respondent*
- and -)
Her Majesty The Queen in Right)
of the Province of New Brunswick)
as Represented by the Minister of)
Justice and Consumer Affairs)
(on appeal from 2008 NBQB 135 / en appel de 2008 NBBR 135)

COURTROOM / SALLE #6

(*LARLEE, BELL AND/ET QUIGG, J.J.A.)

No. 14 Removed and set over to February 24, 2009, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 24 février 2009, en vertu de la directive de l'Honorable juge en chef.

TUESDAY, FEBRUARY 24 / LE MARDI 24 FÉVRIER
10:00 a.m. / 10h

COURTROOM / SALLE #8

(TURNBULL, *ROBERTSON AND/ET RICHARD, JJ.A.)

114-08-CA

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| 15. | <i>Blue Note Mining Inc. and Blue</i> |) | George L. Cooper, |
| | <i>Note Caribou Mines Inc.</i> |) | <i>for the Appellants</i> |
| | <i>- and -</i> |) | Thomas G. O'Neil, Q.C., |
| | <i>Canzinc Ltd. and Breakwater</i> |) | <i>for the Respondents,</i> |
| | <i>Resources Ltd.</i> |) | <i>Diorite Securities Limited, as</i> |
| | <i>- and -</i> |) | <i>Trustee of the Fern Trust</i> |
| | <i>Diorite Securities Limited as</i> |) | Stephen J. Hutchison, |
| | <i>Trustee of the Fern Trust</i> |) | <i>for the Respondents,</i> |
| | |) | <i>CanZinc Ltd. and Breakwater</i> |
| | |) | <i>Resources Ltd.,</i> |
- (on appeal from 2008 NBQB 310 / en appel de 2008 NBBR 310)*

2:00 p.m. / 14h

COURTROOM / SALLE #6

(*LARLEE, BELL AND/ET QUIGG, JJ.A.)

88-08-CA

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| 14. | <i>Robert Dale Hubbard</i> |) | C. Thomas Prince and |
| | <i>- and -</i> |) | Marc A. Bourgeois |
| | <i>Her Majesty The Queen</i> |) | <i>for the Appellant</i> |
| | |) | Cameron H. Gunn, |
| | |) | <i>for the Respondent</i> |