

REVISED/MODIFIÉ 02/05/2010
NUMBER/NUMÉRO 8

COURT OF APPEAL

COUR D'APPEL

OF

DU

NEW BRUNSWICK

NOUVEAU-BRUNSWICK



***List of Cases for the
January 2010 sitting***

***Le rôle pour la session du mois
de janvier 2010***

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

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

TUESDAY, JANUARY 12 / LE MARDI 12 JANVIER
9:30 a.m. / 9h30

COURTROOM / SALLE #6

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

BAR ADMISSION / ADMISSION AU BARREAU

10:00 a.m. / 10h

COURTROOM / SALLE #6

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

No. 1 Removed pursuant to directions of the Honourable Chief Justice Drapeau /l'audience est annulée, en vertu de la directive de l'honorable juge en chef

27. 148-09-CA

Minister of Social Development	)	Joanne Durette,
- and -	)	for the Minister of
Brian George Parker	)	Social Development
	)	Bryan George Parker,
	)	per se

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

76-08-CA

2. Fred Lee Metallic	)	Fred Lee Metallic,
- and -	)	per se
Her Majesty The Queen	)	François T. Doucet,
	)	for the Respondent

72-09-CA

3. Jonathan S. Staples	)	Edward L. Derrah,
- and -	)	for the Appellant
Her Majesty The Queen	)	Cameron H. Gunn,
	)	for the Respondent

2:00 p.m. / 14h

COURTROOM / SALLE #6

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

108-09-CA

- | | | | |
|----|-----------------------|---|-----------------------------|
| 4. | Kristopher Mallet |) | Kristopher Mallet, |
| | - and - |) | per se |
| | Her Majesty The Queen |) | M.-C. Nicole Angers, |
| | |) | for the Respondent |

No. 5 Removed and set over to March 16, 2010, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 16 mars 2010, en vertu de la directive de l'Honorable juge en chef.

87-09-CA

- | | | | |
|----|-----------------------|---|---------------------------|
| 5. | James Ian Gardiner |) | Marc A. Bourgeois, |
| | - and - |) | for the Appellant |
| | Her Majesty The Queen |) | Cameron H. Gunn, |
| | |) | for the Respondent |

**WEDNESDAY, JANUARY 13 / LE MERCREDI 13 JANVIER
10:00 a.m. / 10h**

COURTROOM / SALLE #6

(TURNBULL, *BELL AND/ET GREEN, J.J.A.)

36-09-CA

- | | | | |
|----|-----------------------|---|------------------------------|
| 6. | Lee Terry Walczak |) | Lee Terry Walczak, |
| | - and - |) | per se |
| | Her Majesty The Queen |) | Anthony Allman, Q.C., |
| | |) | for the Respondent |
- (on appeal from 2009 NBQB 42 / en appel de 2009 NBBR 42)*

No. 14 Adjourned and set over to February 9, 2010, pursuant to directions of The Court/La date de l'audience est remise au 9 février 2010, en vertu de la directive de la cour.

56-09-CA

- | | | | |
|----|-----------------------|---|---------------------------|
| 7. | Steven John Tower |) | Steven John Tower, |
| | - and - |) | per se |
| | Her Majesty The Queen |) | Lucie N. Mathurin, |
| | |) | for the Respondent |

2:00 p.m. / 14h

COURTROOM / SALLE #6

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

No. 8 Adjourned and set over to March 16, 2010, pursuant to directions of The Court/La date de l'audience est remise au 16 mars 2010, en vertu de la directive de la cour.

107-09-CA

8.	N., H.J.P.	)	Joseph W. J. FitzPatrick,
	- and -	)	for the Appellant
	Her Majesty The Queen	)	Paul L. Hawkins,
		)	for the Respondent

THURSDAY, JANUARY 14 / LE JEUDI 14 JANVIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

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

No. 9 & 10 Adjourned and set over to June 15, 2010, pursuant to directions of The Court/La date de l'audience est remise au 15 juin 2010, en vertu de la directive de la cour.

143/07/CA

9.	Roy Murray	)	Roy Murray,
	- and -	)	per se
	Her Majesty The Queen	)	Jeffrey L. Mockler, Q.C.,
		)	for the Respondent
	<i>(on appeal from 2007 NBQB 214 / en appel de 2007 NBBR 214)</i>		

62/06/CA

10.	Roy Murray	)	Roy Murray,
	- and -	)	per se
	Her Majesty The Queen	)	Jeffrey L. Mockler, Q.C.,
		)	for the Respondent
	<i>(on appeal from 2007 NBQB 306 / en appel de 2007 NBBR 306)</i>		

MONDAY, JANUARY 18 / LE LUNDI 18 JANVIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

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

No. 11 Removed and set over to February 12, 2010, pursuant to directions of The Court/La date de l'audience est remise au 12 février 2010, en vertu de la directive de la cour.

55-09-CA

11.	Kenneth Larry Sheehan	)	Allen G. Doyle,
	- and -	)	for the Appellant
	Her Majesty The Queen	)	Lucie N. Mathurin,
		)	for the Respondent
	(on appeal from 2008 NBQB 268 / en appel de 2008 NBBR 268)		

TUESDAY, JANUARY 19 / LE MARDI 19 JANVIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

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

25-09-CA

12.	Her Majesty The Queen	)	David W. Schermbrucker,
	- and -	)	for the Appellant
	Patrice Jean Noel	)	James J. Matheson,
		)	for the Respondent

2:00 p.m. / 14h

COURTROOM / SALLE #6

(*RICHARD, QUIGG AND/ET GREEN, J.J.A.)

18-09-CA

13.	Her Majesty The Queen	)	Cameron H. Gunn,
	- and -	)	for the Appellant
	K.D.S.A.	)	Sylvain Pelletier,
		)	for the Respondent
	(on appeal from 2009 NBPC 4 / en appel de 2009 NBCP 4)		

WEDNESDAY, JANUARY 20 / LE MERCREDI 20 JANVIER
10:00 a.m. / 10h

COURTROOM / SALLE #8

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

42-09-CA

- | | | | |
|-----|--|---|----------------------------|
| 14. | J.D. Irving, Limited |) | Catherine A. Lahey, |
| | - and - |) | for the Appellant |
| | Dylan Hughes |) | A. Gordon Shepard, |
| | - and - |) | for the Respondent, |
| | Reuben Astle |) | Dylan Hughes |
| | (on appeal from 2009 NBQB 79 / en appel de 2009 NBBR 79) | | |

COURTROOM / SALLE #6

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

11-09-CA

- | | | | |
|-----|----------------------------|---|----------------------------------|
| 15. | Philip Joseph Dalton Penny |) | Margaret Gallagher, |
| | - and - |) | for the Appellant |
| | Her Majesty The Queen |) | Jeffrey L. Mockler, Q.C., |
| | |) | for the Respondent |

COURTROOM / SALLE #6

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

63-09-CA

- | | | | |
|-----|-----------------------------|---|---------------------------|
| 16. | Trych Margaret-Anne Herbert |) | Claude R. Losier, |
| | - and - |) | for the Appellant |
| | Jacques Joseph Gaudet |) | Chantal M. Landry, |
| | |) | for the Respondent |

THURSDAY, JANUARY 21 / LE JEUDI 21 JANVIER
10:00 a.m. / 10h

COURTROOM / SALLE #8

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

71-09-CA

17. Victoria Oland Mills) **Howard T. Myatt,**
- and -) **for the Appellant**
Roy Alex Alan Mills) **Allison Whitehead, Q.C.,**
) **for the Respondent**
(on appeal from 2009 NBQB 136 / en appel de 2009 NBBR 136)

2:00 p.m. / 14h

COURTROOM / SALLE #8

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

No.18 Removed pursuant to Notice of Abandonment dated December 12, 2009 / Un avis d'abandon en date du 12 décembre, 2009.

No.19 Removed pursuant to Notice of Discontinuance dated January 19, 2010 / Un avis de désistement a été émis le 19 janvier, 2010.

**THURSDAY AND FRIDAY, JANUARY 21 & 22 /
LE JEUDI ET VENDREDI 21 ET 22 JANVIER
10:00 a.m. / 10h**

COURTROOM / SALLE #6

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

93-09-CA

20. Imperial Tobacco Canada Limited) **Thomas G. O’Neil, Q.C.,**
 - and -) **Deborah Glendinning and**
 Her Majesty The Queen in right of) **Mahmud Jamal,**
 the Province of New Brunswick) for the Appellant
) **Philippe J. Eddie, Q.C. and**
) **Robyn Ryan Bell,**
) for the Respondent
 (on appeal from 2009 NBQB 198 / en appel de 2009 NBBR 198)

97-09-CA

21. Rothmans Inc., Rothmans,) **David T. Hashey, Q.C. and**
 Benson & Hedges Inc., Altria) **Charles D. Whelley, Q.C.,**
 Group Inc., Philip Morris U.S.A.) for the Appellants,
 Inc., and Philip Morris) Rothmans Inc. and Rothmans,
 International Inc.) Benson & Hedges Inc.
 - and -) **Rodney J. Gillis, Q.C.,**
 Her Majesty The Queen in right of) for the Appellants,
 the Province of New Brunswick) Philip Morris U.S.A. Inc. &
) Altria Group Inc.
) **G. Robert Basque, Q.C.,**
) for the Appellant,
) Philip Morris International Inc.
) **Philippe J. Eddie, Q.C. and**
) **Robyn Ryan Bell,**
) for the Respondent
 (on appeal from 2009 NBQB 198 / en appel de 2009 NBBR 198)

TUESDAY, JANUARY 26 / LE MARDI 26 JANVIER
10:00 a.m. / 10h

COURTROOM / SALLE #6

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

76-09-CA

22. Armand Doucet and Société) **Henry J. Murphy, Q.C.,**
Énergie Nouveau-Brunswick) for the Appellants
- and -) **Maurice F. Bourque, Q.C.,**
Francis LeBlanc) for the Respondent
(on appeal from 2009 NBQB 140 / en appel de 2009 NBBR 140)