

**COURT OF APPEAL  
OF  
NEW BRUNSWICK**

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



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

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

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

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

**TUESDAY, MARCH 9 / LE MARDI 9 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**BAR ADMISSION / ADMISSION AU BARREAU**

- 169-09-CA**
1. Gregory Wilson ) **Gregory Wilson,**  
- and - ) *per se*  
Iris Alma Black and Helen ) **Myer Rabin,**  
Arsenault as Executrices in and ) *for the Respondents*  
The Estate of Kathleen Myrthe )  
Gladstone )

**No. 2 Adjourned and set over to March 17, 2010, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 17 mars 2010, en vertu de la directive de l'Honorable juge en chef.**

- 105-09-CA**
2. Jason Lavoie ) **Jason Lavoie,**  
- et - ) *per se*  
Sa Majesté la Reine ) **Pierre F. Roussel, c.r.**  
 ) *avocat de l'intimée*

**2:00 p.m. / 14h**

**COURTROOM / SALLE #6**

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

- 166-09-CA**
3. Sheila Stewart ) **David A. Mombourquette,**  
- and - ) *for the Appellant*  
Workplace Health, Safety and ) **Matthew R. Letson,**  
Compensation Commission ) *for the Respondent*

**WEDNESDAY, MARCH 10 / LE MERCREDI 10 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

**(\*ROBERTSON, QUIGG AND/ET GREEN, JJ.A.)**

**No. 4 Adjourned and set over to May 13, 2010, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 13 mai 2010, en vertu de la directive de l'Honorable juge en chef.**

**163-09-CA**

4.	Fredy Andrade	)	<b>Ben Reentovich,,</b>
	- and -	)	for the Appellant
	Her Majesty The Queen	)	<b>Cameron H. Gunn,</b>
		)	for the Respondent

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

**No. 5 Notice of Abandonment filed February 26, 2010/  
Un avis d'abandon a été émis le 26 février 2010**

**2:00 p.m. / 14h**

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

**No. 6 Adjourned and set over to May 25, 2010, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 25 mai 2010, en vertu de la directive de l'Honorable juge en chef.**

**158-09-CA**

6.	New Brunswick Public Union of	)	<b>Leigh A. Sprague,</b>
	Public and Private Employees,	)	for the Appellants
	Brewery and Soft Drink Workers,	)	<b>William B. Goss, Q.C.,</b>
	Local 362 and Paul Shanks	)	for the Respondent
	- and -	)	
	Moosehead Breweries Ltd.	)	
	<b>(on appeal from 2009 NBQB 293 / en appel de 2009 NBBR 293)</b>		

**THURSDAY, MARCH 11 / LE JEUDI 11 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

- 115-09-CA**
7. *M R Martin Construction Inc.* ) **Edward J. McGrath,**  
- and - ) *for the Appellant*  
*Bryn Holdings Ltd., Joel Kitchen* ) **James L. Mockler,**  
*and Ryan Killam* ) *for the Respondent,*  
 ) *Bryn Holdings Ltd.*  
 ) **Joel Kitchen,**  
 ) *per se*  
 ) **Ryan Killam,**  
 ) *per se*  
*(on appeal from 2009 NBQB 235 / en appel de 2009 NBBR 235)*

**MONDAY, MARCH 15 / LE LUNDI 15 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

- 45-09-CA**
8. *Claude St-Cœur, Roger Dozois* ) **Jean-Marc Gauvin,**  
*et Marie-May Doucet* ) *avocat des appelants*  
- et - ) **José Duguay,**  
*Conseil récréatif de Bois Blanc* ) *avocat de l'intimée*  
*Inc.* )

**COURTROOM / SALLE #8**

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

**No. 9 Notice of Discontinuance filed March 9, 2010/  
Un avis de désistement a été émis le 9 mars 2010**

21. **10-10-CA**  
The Bank of Nova Scotia ) **R. Gary Faloon, Q.C.,**  
- and - ) for the Appellant  
Leby Fixtures and Interiors Ltd. ) **Lee McKeigan-Dempsey,**  
and Yvon LeBlanc ) for the Respondents

**2:00 p.m. / 14h**

**COURTROOM / SALLE #6**

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

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

**TUESDAY, MARCH 16 / LE MARDI 16 MARS  
10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**No. 10 Adjourned and set over to April 12, 2010, pursuant to directions of The Court /  
La date de l'audience est remise au 12 avril 2010, en vertu de la directive de la Cour.**

10. **87-09-CA**  
James Ian Gardiner ) **Marc A. Bourgeois and**  
- and - ) **Gary A. Miller,**  
Her Majesty The Queen ) for the Appellant  
) **Cameron H. Gunn,**  
) for the Respondent

**2:00 p.m. / 14h**

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

**107-09-CA**  
11. H.J.P.N. ) **Joseph W. J. FitzPatrick,**  
- and - ) *for the Appellant*  
Her Majesty The Queen ) **Paul L. Hawkins,**  
 ) *for the Respondent*

**WEDNESDAY, MARCH 17 / LE MERCREDI 17 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**No. 22 Adjourned and set over to April 13, 2010, pursuant to directions of The Court /  
La date de l'audience est remise au 13 avril 2010, en vertu de la directive de la Cour.**

**55-09-CA**  
22. 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)

**2:00 p.m. / 14h**

**COURTROOM / SALLE #6**

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

**No. 2 Adjourned and set over to May 26, 2010, pursuant to directions of The Court /  
La date de l'audience est remise au 26 mai 2010, en vertu de la directive de la Cour.**

**105-09-CA**  
2. Jason Lavoie ) **Jason Lavoie,**  
- et - ) *per se*  
Sa Majesté la Reine ) **Pierre F. Roussel, c.r.**  
 ) *avocat de l'intimée*

**THURSDAY, MARCH 25 / LE JEUDI 25 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

No. 12 Date changed to March 15, 2010 at 2:00p.m., pursuant to directions of The Honourable Chief Justice Drapeau / La date est changer et fixée au 15 mars, 2010 à 14h de la directive de l'Honorable juge en chef.

**FRIDAY, MARCH 26 / LE VENDREDI 26 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

- 164-09-CA**
13. Syndicat canadien des ) **Joël Michaud,**  
communications, de l'énergie ) avocat de l'appelant  
et du papier, section locale 113 ) **James A. Connely,**  
- et - ) avocat de l'intimée  
J.D. Irving Limited )  
(en appel de 2009 NBBR 308 / on appeal from 2009 NBQB 308)

**TUESDAY, MARCH 30 / LE MARDI 30 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

- 120-09-CA**
14. Amanda Sewell ) **George A. McAllister,**  
- and - ) for the Appellant  
Shawn Sewell, Jason Jackson ) **Edwin G. Ehrhardt, Q.C.**  
Carla McCann, Eugene Guitard ) for the Respondent,

Woodstock Trailmakers-	)	Shawn Sewell
Snowmobile Association Inc.,	)	<b>Mark A. Canty,</b>
The New Brunswick Federation	)	for the Respondent,
Of Snowmobile Clubs Inc.,	)	Jason Jackson
ING Insurance Company of Canada	)	<b>Eugene Guitard,</b>
and AXA Insurance (Canada) and	)	per se
The New Brunswick Facility	)	<b>Barry R. Morrison, Q.C.,</b>
Association	)	for the Respondent,
	)	Carla McCann
<b>AND BETWEEN:</b>	)	<b>Catherine M. Bowlen,</b>
Amanda Sewell	)	for the Respondents,
- and -	)	Woodstock Trailmakers-
AXA Insurance (Canada)	)	Snowmobile Association Inc.
	)	and New Brunswick
<b>AND BETWEEN:</b>	)	Federation of Snowmobile
Amanda Sewell	)	Clubs Inc.
- and -	)	<b>J. Charles Foster,</b>
ING Insurance Company of	)	for the Respondent,
Canada	)	ING Insurance Company
	)	of Canada (SEF 44)
<b>AND BETWEEN:</b>	)	<b>Richard J. Scott, Q.C.,</b>
Amanda Sewell	)	for the Respondent,
- and -	)	AXA Insurance (Canada)
Emily B. Runnels and	)	<b>Matthew Williams,</b>
Micah Runnels	)	for the Respondent,
	)	New Brunswick Facility
	)	Association
	)	<b>Charles A. LeBlond, Q.C.,</b>
	)	for the Respondent,
	)	ING Insurance Company
	)	of Canada (Section B)
	)	<b>Steven R. Barnett,</b>
	)	for the Respondents,
	)	Emily B. Runnels and
	)	Micah Runnels
	)	<b>William A. Anderson, Q.C.,</b>
	)	for the Respondent,
	)	The Province of New
	)	Brunswick



**121-09-CA**

15. *Amanda Sewell* )  
       - and - )  
       *Shawn Sewell, Jason Jackson* )  
       *Carla McCann, Eugene Guitard* )  
       *Woodstock Trailmakers-* )  
       *Snowmobile Association Inc.,* )  
       *The New Brunswick Federation* )  
       *Of Snowmobile Clubs Inc., ING* )  
       *Insurance Company of Canada* )  
       *and AXA Insurance (Canada) and* )  
       *The New Brunswick Facility* )  
       *Association* )

**AND BETWEEN:** )  
       *Amanda Sewell* )  
       - and - )  
       *AXA Insurance (Canada)* )

**AND BETWEEN:** )  
       *Amanda Sewell* )  
       - and - )  
       *ING Insurance Company of* )  
       *Canada* )

**AND BETWEEN:** )  
       *Amanda Sewell* )  
       - and - )  
       *Emily B. Runnels and* )  
       *Micah Runnels* )

**George A. McAllister,**  
*for the Appellant*  
**Edwin G. Ehrhardt, Q.C.**  
*for the Respondent,*  
*Shawn Sewell*  
**Mark A. Canty,**  
*for the Respondent,*  
*Jason Jackson*  
**Eugene Guitard,**  
*per se*  
**Barry R. Morrison, Q.C.,**  
*for the Respondent,*  
*Carla McCann*  
**Catherine M. Bowlen,**  
*for the Respondents,*  
*Woodstock Trailmakers-*  
*Snowmobile Association Inc.*  
*and New Brunswick*  
*Federation of Snowmobile*  
*Clubs Inc.*  
**J. Charles Foster,**  
*for the Respondent,*  
*ING Insurance Company*  
*of Canada (SEF 44)*  
**Richard J. Scott, Q.C.,**  
*for the Respondent,*  
*AXA Insurance (Canada)*  
**Matthew Williams,**  
*for the Respondent,*  
*New Brunswick Facility*  
*Association*  
**Charles A. LeBlond, Q.C.,**  
*for the Respondent,*  
*ING Insurance Company*  
*of Canada (Section B)*  
**Steven R. Barnett,**  
*for the Respondents,*  
*Emily B. Runnels and*  
*Micah Runnels*  
**William A. Anderson, Q.C.,**  
*for the Respondent,*  
*The Province of New*  
*Brunswick*

	<b>122-09-CA</b>		
16.	Amanda Sewell	)	<b>George A. McAllister,</b>
	- and -	)	for the Appellant
	Shawn Sewell, Jason Jackson	)	<b>Edwin G. Ehrhardt,</b> Q.C.
	Carla McCann, Eugene Guitard	)	for the Respondent,
	Woodstock Trailmakers-	)	Shawn Sewell
	Snowmobile Association Inc.,	)	<b>Mark A. Canty,</b>
	The New Brunswick Federation	)	for the Respondent,
	Of Snowmobile Clubs Inc., ING	)	Jason Jackson
	Insurance Company of Canada	)	<b>Eugene Guitard,</b>
	and AXA Insurance (Canada) and	)	per se
	The New Brunswick Facility	)	<b>Barry R. Morrison,</b> Q.C.,
	Association	)	for the Respondent,
		)	Carla McCann
	<b>AND BETWEEN:</b>	)	<b>Catherine M. Bowlen,</b>
	Amanda Sewell	)	for the Respondents,
	- and -	)	Woodstock Trailmakers-
	AXA Insurance (Canada)	)	Snowmobile Association Inc.
		)	and New Brunswick
	<b>AND BETWEEN:</b>	)	Federation of Snowmobile
	Amanda Sewell	)	Clubs Inc.
	- and -	)	<b>J. Charles Foster,</b>
	ING Insurance Company of	)	for the Respondent,
	Canada	)	ING Insurance Company
		)	of Canada (SEF 44)
	<b>AND BETWEEN:</b>	)	<b>Richard J. Scott,</b> Q.C.,
	Amanda Sewell	)	for the Respondent,
	- and -	)	AXA Insurance (Canada)
	Emily B. Runnels and	)	<b>Matthew Williams,</b>
	Micah Runnels	)	for the Respondent,
		)	New Brunswick Facility
		)	Association
		)	<b>Charles A. LeBlond,</b> Q.C.,
		)	for the Respondent,
		)	ING Insurance Company
		)	of Canada (Section B)
		)	<b>Steven R. Barnett,</b>
		)	for the Respondents,
		)	Emily B. Runnels and
		)	Micah Runnels
		)	<b>William A. Anderson,</b> Q.C.,
		)	for the Respondent,
		)	The Province of New
		)	Brunswick

**WEDNESDAY, MARCH 31 / LE MERCREDI 31 MARS**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #8**

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

- 157-09-CA**
17. *Economical Mutual Insurance Company* ) **André G. Richard, Q.C.,**  
*- and -* ) *for the Appellant*  
*Ginette Lapalme* ) **Stéphane F. Viola,**  
*(on appeal from 2009 NBQB 312 / en appel de 2009 NBBR 312)* ) *for the Respondent*

**COURTROOM / SALLE #6**

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

- 91-09-CA**
18. *David Mark Black* ) **David Mark Black,**  
*- and -* ) *per se*  
*Her Majesty The Queen* ) **Ann Marie Simmons,**  
 ) *for the Respondent*