

**COURT OF APPEAL**

**COUR D'APPEL**

**OF**

**DU**

**NEW BRUNSWICK**

**NOUVEAU-BRUNSWICK**



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

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

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

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

**TUESDAY, NOVEMBER 9 / LE MARDI 9 NOVEMBRE**  
**9:30 a.m. / 9h30**

**COURTROOM / SALLE #6**

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

**120-10-CA**

25.	Rodney Tingley, Roger Tingley, )	<b>Alison J. Ménard,</b>
	Michael Tingley and )	for the Appellant
	Christopher Tingley )	Rodney Tingley
	- and - )	<b>Graham J. Sleeth, Q.C.,</b>
	Her Majesty The Queen )	for the Respondent
	)	Roger Tingley
	)	<b>David M. LeBlanc,</b>
	)	for the Appellant,
	)	Michael Tingley
	)	<b>Brian D. Munro,</b>
	)	for the Appellant,
	)	Christopher Tingley
	)	<b>Kathryn Gregory and</b>
	)	<b>Michel J. Bertrand,</b>
	)	for the Respondent

**121-10-CA**

26.	Rodney Tingley, Roger Tingley, )	<b>Alison J. Ménard,</b>
	Michael Tingley and )	for the Appellant,
	Christopher Tingley )	Rodney Tingley
	- and - )	<b>Graham J. Sleeth, Q.C.,</b>
	Her Majesty The Queen )	for the Appellant,
	)	Roger Tingley
	)	<b>David M. LeBlanc,</b>
	)	for the Appellant,
	)	Michael Tingley
	)	<b>Brian D. Munro,</b>
	)	for the Appellant,
	)	Christopher Tingley
	)	<b>Kathryn Gregory and</b>
	)	<b>Michel J. Bertrand,</b>
	)	for the Respondent

**10:00 a.m. / 10h**

**COURTROOM / SALLE #8**

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

**65-10-CA**

- |    |  |   |                              |
|----|--|---|------------------------------|
| 1. | Bowater Maritimes Inc.                                     | ) | <b>Richard G. Petrie and</b> |
|    | - and -  | ) | <b>Peter McLellan, Q.C.,</b> |
|    | Communications, Energy and                                 | ) | for the Appellant            |
|    | Paperworkers Union, Locals 117                             | ) | <b>Joël Michaud and</b>      |
|    | 146, 164 and 263 and                                       | ) | <b>Daniel P.L. Leger,</b>    |
|    | International Longshoreman's                               | ) | for the Respondents          |
|    | Association, Local 1433                                    | ) |                              |
|    | (on appeal from 2010 NBQB 134 / en appel de 2010 NBBR 134) |   |                              |

**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**82-10-CA**

- |    |                      |   |                                  |
|----|----------------------|---|----------------------------------|
| 2. | André Murray         | ) | <b>André Murray,</b>             |
|    | - and -              | ) | per se                           |
|    | Betty Rose Danielski | ) | <b>E. Thomas Christie, Q.C.,</b> |
|    |                      | ) | for the Respondent               |

**WEDNESDAY, NOVEMBER 10 /LE MERCREDI 10 NOVEMBRE**

**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**73-10-CA**

- |    |  |   |                           |
|----|--|---|---------------------------|
| 3. | The City of Saint John                                     | ) | <b>John L. Nugent and</b> |
|    | - and -  | ) | <b>Scott A. Brittain,</b> |
|    | Saint John Firefighters'                                   | ) | for the Appellant         |
|    | Association, International                                 | ) | <b>Joël Michaud and</b>   |
|    | Association of Fire Fighters,                              | ) | <b>Daniel P.L. Leger,</b> |
|    | Local 771  | ) | for the Respondent        |
|    | (on appeal from 2010 NBQB 159 / en appel de 2010 NBBR 159) |   |                           |

**TUESDAY, NOVEMBER 16 / LE MARDI 16 NOVEMBRE**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**25-10-CA**

4. 051766 N.B. Ltd., a body ) **James L. Mockler,**  
corporate ) *for the Appellant*  
- and - ) **Ronald J. Ashfield, Q.C.,**  
Elizabeth Wilbur, Stephen Wilbur ) *for the Respondents*  
Harold Grew and Wilbur Grew )  
(on appeal from 2010 NBQB 34 / en appel de 2010 NBBR 34)

**WEDNESDAY, NOVEMBER 17 / LE MERCREDI 17 NOVEMBRE**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**21-10-CA**

5. Certainteed Gypsum Canada Inc.) **Richard G. Petrie,**  
- and - ) *for the Appellant*  
Workplace Health Safety and ) **Matthew R. Letson,**  
Compensation Commission and ) *for the Respondent,*  
Richard Dyer ) *Workplace Health Safety*  
) *and Compensation Commission*  
) **Richard Dyer,**  
) *per se*

**MONDAY, NOVEMBER 22 / LE LUNDI 22 NOVEMBRE**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #8**

**VIDEO CONFERENCE / VIDÉO CONFÉRENCE**

**Bathurst Courthouse, 254 St Patrick Street, 2<sup>nd</sup> Floor, Courtroom "A" /  
Palais de Justice – Bathurst, 254 rue St. Patrick, 2<sup>ième</sup> étage, Salle « A »**

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

**97-10-CA**

6. *Port of Dalhousie, Inc., a body )* **Basile Chiasson, Q.C.,**  
*corporate incorporated pursuant )* *for the Appellant*  
*to the provisions of the )* **Harold L. Doherty,**  
*Companies Act, Chapter c-13, )* *for the Respondent*  
*R.S.N.B., 1973 )*  
*- and - )*  
*Denis Maltais )*  
*(on appeal from 2010 NBQB 226/en appel de 2010 NBBR 226)*

**TUESDAY, NOVEMBER 23 / LE MARDI 23 NOVEMBRE**  
**9:00 a.m. / 9h**

**COURTROOM / SALLE #6**

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

8. **Adjourned to a date to be set, pursuant to the directions of the Court/  
Remise à une date ultérieure, en vertu de la directive de la cour.**

**64-09-CA**

**IN THE MATTER OF:**

8. *Donald Hovey )* **Donald Hovey,**  
*- and - )* *per se*  
*Doreen Pond )* **David T. Hashey, Q.C. and**  
**AND IN THE MATTER OF a )** **Aaron M. Savage,**  
*motion for directions brought by )* *for the moving party*  
*643589 N.B. Ltd., an incorporated )*  
*body under and by virtue of the )*  
*laws of the Province of New )*  
*Brunswick )*

**10:00 a.m. / 10h**

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

- 75-09-CA**
7. Her Majesty The Queen ) **Robert A. Murray, Q.C.,**  
- and - ) **for the Appellant**  
Shawn Robert Burke ) **Ronald E. Morris, Q.C.,**  
 ) **for the Respondent**

**WEDNESDAY, NOVEMBER 24 / LE MERCREDI 24 NOVEMBRE**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

- 59-10-CA**
9. Crystal Ann Emmerson ) **Monica L. Johnson,**  
- and - ) **for the Appellant**  
Marc DeBellefeuille ) **Marylène Pilote,**  
 ) **for the Respondent**

- 46-10-CA**
10. Paul Boudreau ) **Terrence P. Lenihan,**  
- and - ) **for the Appellant**  
Cindy Boudreau ) **Kenneth W. Martin,**  
 ) **for the Respondent**

**THURSDAY, NOVEMBER 25 / LE JEUDI 25 NOVEMBRE**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

- 80-10-CA**
11. SNC-SNAM G.P., a partnership ) **David M. Norman, Q.C. and**  
between SNC-Lavalin Inc. and ) **Rodney E. Larsen,**  
SNAMPROGETTI Canada Inc. ) **for the Appellants**  
- and - ) **David N. Rogers and**  
Opron Maritimes Construction ) **Catherine A. Fawcett,**



**FRIDAY, NOVEMBER 26 / LE VENDREDI 26 NOVEMBRE**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #8**

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

**No. 13 Notice of Discontinuance filed November 23, 2010/  
Un avis de désistement a été émis le 23 novembre 2010**

**115-10-CA**

13.	Yvon Vautour	)	<b>Brian F.P. Murphy,</b>
	- and -	)	for the Appellant
	Workplace Health Safety and	)	<b>Charles A. LeBlond, Q.C.,</b>
	Compensation Commission of	)	for the Respondent
	New Brunswick	)	

**SATURDAY, NOVEMBER 27 / LE SAMEDI 27 NOVEMBRE**  
**10:00 a.m. / 10h**

**Legislative Assembly / Assemblée législative**

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

**Queen's Counsel Ceremony /  
Cérémonie d'attribution du titre de conseil de la Reine**



**MONDAY, NOVEMBER 29 / LE LUNDI 29 NOVEMBRE**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**No. 14 Adjourned and set over to January 20, 2011, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 20 janvier 2011, en vertu de la directive de l'Honorable juge en chef.**

**63-10-CA**

14.	Jason Peter Mollins	)	<b>Jason Peter Mollins,</b>
	- and -	)	per se
	Her Majesty The Queen	)	<b>Cameron H. Gunn,</b>
		)	for the Respondent

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

**No. 15 Removed pursuant to the decision dated October 13, 2010 / Radié suite à la décision au date du 13 octobre 2010.**

**87-10-CA**

15.	Lindsay MacLean Lavigne	)	<b>Lindsay MacLean Lavigne,</b>
	- and -	)	per se
	Her Majesty The Queen	)	<b>Guylaine Basque,</b>
		)	for the Respondent

**16. Adjourned to a date to be set, pursuant to the directions of The Honourable Chief Justice Drapeau/Remise à une date ultérieure, en vertu de la directive de l'Honorable juge en chef.**

**74-10-CA**

16.	Valmont Michaud	)	<b>Jean A. Cormier,</b>
	- et -	)	avocat de l'appelant
	Sa Majesté la Reine	)	<b>Pierre F. Roussel, c.r.</b>
		)	avocat de l'intimée

**TUESDAY, NOVEMBER 30 / LE MARDI 30 NOVEMBRE**  
**9:00 a.m. / 9h**

**COURTROOM / SALLE #6**

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

**104-10-CA**

17.	<i>Her Majesty The Queen</i>	)	<b>Christopher R. Lavigne,</b>
	<i>- and -</i>	)	<i>for the Appellant</i>
	<i>Thomas Ross Corey</i>	)	<b>James C. Crocco,</b>
		)	<i>for the Respondent</i>

**No. 18 Adjourned and set over to February 16, 2011, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 16 février 2011, en vertu de la directive de l'Honorable juge en chef.**

**44-10-CA**

18.	<i>Michael Shane Ward</i>	)	<b>Jacqueline Gallant,</b>
	<i>- and -</i>	)	<i>for the Appellant</i>
	<i>Her Majesty The Queen</i>	)	<b>B. Bannon Morrissy,</b>
		)	<i>for the Respondent</i>

**No. 18.1 Adjourned and set over to February 16, 2011, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 16 février 2011, en vertu de la directive de l'Honorable juge en chef.**

**50-10-CA**

18.1.	<i>Trevor Damelon Lambert</i>	)	<b>Howard M. Peters,</b>
	<i>- and -</i>	)	<i>for the Appellant</i>
	<i>Her Majesty The Queen</i>	)	<b>B. Bannon Morrissy,</b>
		)	<i>for the Respondent</i>

**103-10-CA**

19.	<i>John J. Trail</i>	)	<b>John J. Trail,</b>
	<i>- and -</i>	)	<i>per se</i>
	<i>Her Majesty The Queen</i>	)	<b>Lindsay J. Schriver,</b>
		)	<i>for the Respondent</i>

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

**COURTROOM / SALLE #6**

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

**No. 20 Adjourned and set over to January 24, 2011, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 24 janvier 2011, en vertu de la directive de l'Honorable juge en chef.**

**100-10-CA**

20.	Her Majesty The Queen	)	<b>M.-C. Nicole Angers,</b>
	- and -	)	for the Appellant
	Marc Daniel LeBlanc	)	<b>Marc Daniel LeBlanc,</b>
		)	per se

**No. 21. Adjourned to a date to be set, pursuant to the directions of The Honourable Chief Justice Drapeau/Remise à une date ultérieure, en vertu de la directive de l'Honorable juge en chef.**

**67-10-CA**

21.	Her Majesty The Queen	)	<b>Annie St-Jacques and</b>
	- and -	)	<b>M.-C. Nicole Angers,</b>
	C.L.W.	)	for the Appellant
		)	<b>James J. Matheson,</b>
		)	for the Respondent

**WEDNESDAY, DECEMBER 1/ LE MERCREDI 1 DÉCEMBRE**  
**2:00 p.m. / 14h**

**COURTROOM / SALLE #6**

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

**BAR ADMISSION / ADMISSION AU BARREAU**

**WEDNESDAY, DECEMBER 15/ LE MERCREDI 15 DÉCEMBRE**  
**10:00 a.m. / 10h**

**COURTROOM / SALLE #6**

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

**No. 27 Adjourned and set over to February 17, 2011, pursuant to directions of The Honourable Chief Justice Drapeau/La date de l'audience est remise au 17 février 2011, en vertu de la directive de l'Honorable juge en chef.**

**69-10-CA & 70-10-CA**

27.	Rodrigue Levesque and	)	<b>Lucie LaBoissonnière,</b>
	Suzanne Levesque and	)	for the Appellants
	B.M.G. Farming Ltd.	)	<b>Pierre R. Ouellette,</b>
	- and -	)	for the Respondents
	The Province of New Brunswick	)	
	and The New Brunswick Crop	)	
	Insurance Commission	)	
	(on appeal from 2010 NBQB 150 / en appel de 2010 NBBR 150)		