

TABLE OF CONTENTS

<i>Dedication</i>	iii
<i>Acknowledgments</i>	v
<i>Summary of Contents</i>	vii
<i>Table of Contents</i>	ix
<i>Foreword by Professor Jasminka Kalajdzic</i>	xlvi
<i>Preface</i>	xlix
<i>About the Author</i>	liii
<i>Table of Cases</i>	lv
CHAPTER I — The Foundation of Environmental Class Actions in Canada	1
1. <i>Introduction</i>	1
2. <i>The Case That Started Environmental Class Actions in Québec: Comité d'environnement de La Baie inc. c. Société d'électrolyse et de chimie Alcan ltée</i>	3
A. Motion for Authorization to Institute a Class Action	3
B. Appeal Before the Court of Appeal	5
C. Motion to Strike the New Allegations and Conclusions	11
D. Appeal Before the Court of Appeal	12
E. Settlement and the Motion for a Stay of the Proceedings	14
3. <i>The Most Important Case of All: Hollick v. Metropolitan Toronto (Municipality)</i>	16
A. Certification Motion Before the Ontario Superior Court of Justice	17
B. Appeal Before the Divisional Court	23
C. Appeal Before the Court of Appeal	25
D. Appeal Before the Supreme Court of Canada	27
CHAPTER II — The Problem of Historical Contamination	33
1. <i>Introduction</i>	33
2. <i>A Nickel Refinery in Port Colborne: Smith v. Inco Limited</i>	34
A. Application by the Plaintiff Under Section 12 of the <i>Class Proceedings Act</i> for an Order Compelling Inco to Produce a List of the Proposed Class Members Who Have Been Provided With a Letter and Attached	

TABLE OF CONTENTS

Consent and Notice Regarding a Proposed Indoor Sampling Program 36

B. Motion by Inco to Strike Out Paragraphs of the Statement of Claim and for the Determination of Points of Law 39

C. Motion by the Crown to Strike Out Paragraphs of the Statement of Claim 43

D. Costs for the Three Previous Motions 46

E. Motion by Inco for an Order Compelling the Plaintiff to Answer Questions Refused During Hearing of the Cross-Examination on His Affidavit 48

F. Application for Leave to Appeal the Decision of Justice Nordheimer Dismissing the Motion for an Order Compelling Inco to Produce a List of the Proposed Class Members Who Have Been Provided With a Letter and Attached Consent and Notice 50

G. Costs Respecting the Motion to Compel Answers From Pearson 51

H. Application to Certify the Action as a Class Proceeding 51

I. Application by Inco and the Other Defendants for Costs 63

J. Appeal by Pearson Before the Divisional Court From the Order of Justice Nordheimer Refusing to Certify the Action as a Class Proceeding and From the Order Awarding Inco Limited and the Other Defendants Their Costs 64

K. Determination of Costs Between the Appellant Pearson and the Respondent Inco 66

L. Application by Pearson for Leave to Appeal to the Court of Appeal 66

M. Motion by the Environmental Commissioner of Ontario for Leave to Intervene as an Added Party on Appeals From the Judgment of the Divisional Court 66

N. Appeal Before the Court of Appeal 67

O. Application for Costs in Appeal 74

P. Pearson’s Motion for an Order Compelling Inco to File a Further and Better Affidavit of Documents 76

Q. Motions by Inco and Pearson to Compel Answers to Numerous Refusals and Undertakings Provided at the Examination for Discovery 77

R. Motion by Inco to Decertify the Class Proceedings 77

S. Trial on the Merits 80

TABLE OF CONTENTS

T.	Motion to Intervene as a Friend of the Court by Friends of the Earth Canada	87
U.	Appeal Before the Court of Appeal	87
V.	Motion by the Parties Respecting the Procedure to be Followed in Determining the Trial Costs Order	94
W.	Application for Leave to Appeal to the Supreme Court of Canada	94
X.	Motion to Strike the Affidavits of the Law Foundation of Ontario	94
Y.	Costs Decision: \$1,760,000 to Inco	97
Z.	Appeal of the Costs Order Before the Court of Appeal.....	101
3.	<i>The Sydney Tar Ponds Class Action: MacQueen v. Canada (Attorney General)</i>	104
A.	Motions to Strike Out Portions of the Statement of Claim	106
B.	Appeal of the Judgment Striking Out Pleadings and Allegations	108
C.	Motions for Discovery of the Plaintiffs by the Attorney General of Canada.....	110
D.	Appeals Before the Nova Scotia Court of Appeal.....	110
E.	Judgment of the Nova Scotia Supreme Court on the Certification Application.....	110
F.	Motion for a Stay of the Class Proceedings by the Attorney General of Nova Scotia	117
G.	Motions for Leave to Appeal to the Court of Appeal by the Sydney Steel Corporation, the Attorney General of Canada, and the Attorney General of Nova Scotia	118
H.	Costs Decision.....	119
I.	Appeal Before the Court of Appeal of the Certification Order	122
J.	Motion for Reconsideration Before the Court of Appeal.....	130
K.	Costs Order	131
L.	Application for Leave to Appeal to the Supreme Court of Canada	134
M.	The March 24, 2004 and August 25, 2015 Press Releases.....	134
CHAPTER III — The Two Cases That Settled the Law on the Neighbourhood Disturbances Doctrine in Québec		139
1.	<i>Introduction</i>	139

TABLE OF CONTENTS

2.	<i>Dust Over the City: Barrette c. Ciment du St-Laurent inc.</i> 141	A.	Motion for Authorization to Institute a Class Action 141	B.	Application for Access to Documents Held by the Minister of the Environment..... 144	C.	Motion by St. Lawrence Cement to Examine a Third Party 145	D.	Motion From the Plaintiffs to Compel St. Lawrence Cement to Disclose Documents 146	E.	Motion From St. Lawrence Cement to Revoke the Judgment Authorizing the Class Action Under Article 1022 of the Code of Civil Procedure 148	F.	Motion by St. Lawrence Cement to Examine Two Experts for the Plaintiffs..... 150	G.	Motion by St. Lawrence Cement Objecting to the Filing of a Redacted Document by the Representative Claude Cochrane..... 150	H.	Motion by the Plaintiffs for Permission to Adduce Additional Evidence 150	I.	Trial on the Merits 151	J.	Appeal Before the Court of Appeal 159	K.	Appeal Before the Supreme Court of Canada 167	L.	The Motion for the Approval of the Attorneys' Fees... 171	M.	Back to the Superior Court: What Is the Starting Date for the Calculation of Interest?..... 171	N.	Judgment on Claim No. 554..... 171	O.	Judgment on Claim No. 774..... 171	P.	Finality at Last (So It Seemed): Declaration of Satisfaction of Judgment..... 171	Q.	Motion for the Approval of a Special Honorarium..... 172
3.	<i>The Sequel of Barrette c. Ciment du St-Laurent inc.: Roy c. Ciment Saint-Laurent inc.</i> 172	A.	Judgment of the Superior Court 172	B.	Motion for Leave to Appeal Before the Court of Appeal..... 173	C.	St. Lawrence Cement Part II: <i>Renaud c. Holcim Canada inc.</i> 173	D.	Motion by Holcim Canada Asking That Justice Martin Dallaire Recuse Himself..... 174	E.	Motion for Leave to Appeal From the Judgment of Justice Dallaire Refusing to Recuse Himself: <i>Renaud c. Holcim Canada inc.</i> 175																								

TABLE OF CONTENTS

F.	Motion to Split the Proceeding to Deal First With the Prescription Issue.....	175
G.	Motion by Holcim Canada to Examine Class Members Before Plea.....	175
H.	Motion by Holcim Canada to Revoke the Authorization Judgment	176
I.	Appeal Before the Court of Appeal of the Judgment Revoking the Authorization to Institute a Class Action	176
J.	Notice to the Class Members.....	176
K.	The Aftermath: <i>Flamand c. 9174-3641 Québec inc.</i>	177
4.	<i>The Other Dust Case: Comité d'environnement de Ville-Émard (C.E.V.E.) c. Domfer Poudres Métalliques ltée</i>	177
A.	Introduction	177
B.	Motion for Authorization to Institute a Class Action	178
C.	Trial on the Merits	180
D.	Appeal Before the Court of Appeal	182
E.	Bankruptcy of Domfer Poudres Métalliques and the Settlement.....	189
5.	<i>The Sequel to Comité d'environnement de Ville-Émard (C.E.V.E.) c. Domfer Poudres Métalliques ltée: Comité d'environnement de Ville-Émard c. Stodola</i>	190
A.	Motion for Authorization to Institute a Class Action	190
B.	Examination Before Plea of the Designated Person and the Objections.....	191
C.	Settlement.....	193
CHAPTER IV — Air Pollution		195
1.	<i>Introduction</i>	195
2.	<i>A Plywood Manufacturer in Longueuil: Association des citoyens et citoyennes pour un environnement sain de Fatima inc. c. Bois & Placages généraux ltée</i>	196
A.	Motion for Permission to Adduce Relevant Evidence at the Authorization Hearing.....	196
B.	Motion for <i>Lis Pendens</i> and Stay of Proceedings	197
C.	Motion for Authorization to Institute a Class Action	197
D.	Motion to Amend the Class Action	199
E.	Motion to Quash the Seizure Before Judgment	199
F.	Settlement.....	200

TABLE OF CONTENTS

3.	<i>An Aluminum Smelter in Baie-Comeau: Regroupement des citoyens du quartier St-Georges inc. c. Alcoa Canada Ltée</i>	201
A.	Motion for Authorization to Institute a Class Action	202
B.	Motion for Particulars	212
C.	Motion to Strike Out Paragraphs	213
D.	Motion by Alcoa to Strike Out Allegations in the Answer of the Representative	213
E.	Motion of the Representative for the Designation of an Independent Expert	214
4.	<i>An Asphalt Plant in the Magdalen Islands: Gaudet c. P. & B. Entreprises Ltée</i>	214
A.	Motion for Authorization to Institute a Class Action	215
B.	Motion to Strike Out Paragraphs and Exhibits	217
C.	Motion to Dismiss	218
D.	Settlement	218
5.	<i>Another Cement Plant Class Action: Kennedy c. Colacem Canada inc.</i>	219
A.	Motion for Permission to Adduce Evidence at the Authorization Hearing	219
B.	Motion for Authorization to Institute a Class Action	220
C.	Settlement	224
6.	<i>A Quarry and Asphalt Plant in New Brunswick: O'Neill v. St-Isidore Asphalte Ltée</i>	226
7.	<i>Paint and Solvent Odours in Cap-Rouge: Arrouart c. Anacolor</i>	230
A.	Motion for Authorization to Institute a Class Action	231
B.	Application for Interlocutory and Permanent Injunction	235
C.	Objections Respecting an Examination	236
D.	Sealing Order From the Tribunal Administratif du Québec	237
E.	Settlement	238
8.	<i>Dieselgate: Association québécoise de lutte contre la pollution atmosphérique c. Volkswagen Group Canada Inc.</i>	238
A.	Motion for Authorization to Institute a Class Action	238
B.	Motion for Leave to Appeal to the Court of Appeal ...	243

TABLE OF CONTENTS

C.	Application for Leave to Appeal and Appeal to the Supreme Court of Canada	243
D.	Motion to Revoke the Judgment Authorizing the Class Action and to Dismiss the Class Action.....	243
9.	<i>Another Class Action Against the Montréal-Trudeau International Airport: Pollués de Montréal c. Aéroports de Montréal (The Nanoparticles Class Action)</i>	247
A.	Motion for Authorization to Institute a Class Action	247
B.	Three Interlocutory Judgments on the Motions for Permissions to Adduce Relevant Evidence From the Defendants	248
CHAPTER V — Climate Change		249
1.	<i>Introduction</i>	249
2.	<i>A Climate Change Class Action Against the Canadian Government in the Superior Court of Québec: ENvironnement JEUnesse c. Attorney General of Canada</i>	250
A.	Motion for Authorization to Institute a Class Action	251
B.	Intervention	251
3.	<i>A Climate Change Action Against the Canadian Government in the Federal Court: La Rose v. Attorney General of Canada</i>	252
4.	<i>A Climate Change Class Action Against the Ontario Government Before the Ontario Superior Court of Justice: Mathur v. Her Majesty the Queen in Right of Ontario</i>	257
5.	<i>A Climate Change Action Against the Federal Government Before the Federal Court: Lho'imggin v. Her Majesty the Queen</i>	269
CHAPTER VI — Trichloroethylene Contamination in Soil and Groundwater		273
1.	<i>Introduction</i>	273
2.	<i>TCE Contamination in the Eastern Townships: Lavoie c. Stanley Canada Corporation</i>	274
A.	Motion for Authorization to Institute a Class Action	275
B.	Settlement.....	275
3.	<i>TCE Contamination in Ogden: Windsor v. Canadian Pacific Railway Company</i>	277

TABLE OF CONTENTS

A.	Motion for Certification of the Action as a Class Proceeding.....	277
B.	Appeal of the Certification Order Before the Court of Appeal	285
C.	Motion for Summary Dismissal.....	288
D.	Appeal Before the Court of Appeal	288
E.	Settlement.....	291
4.	<i>TCE Contamination in Cambridge: Wamboldt v. Northstar Aerospace (Canada) Inc.</i>	291
5.	<i>TCE Contamination in Shannon: Spiesser c. Canada (Procureur général)</i>	295
A.	Motions for Permission to Amend the Allegations and the Conclusions of the Motion for Authorization to Institute a Class Action	297
B.	Motion for Permission to Conduct a Medical Examination	298
C.	Motion for Authorization to Institute a Class Action	298
D.	Motion for a Safeguard Order.....	303
E.	Motion for Substitution and Addition of Parties to the Motion to Institute a Proceeding	303
F.	Motion for Extension of the Delay to Institute the Class Action	304
G.	Motion for Leave to Appeal to the Court of Appeal ...	304
H.	Motion for Particulars.....	304
I.	Motion for a Further Safeguard Order and Filing of the Expert Reports	304
J.	Motion by the Representative for Permission to Re-Amend the Amended and Particularized Motion to Institute a Proceeding and to Amend the Definition of the Class, and Motion by the Defendants to Modify the Authorization Judgment	306
K.	Judgment Respecting an Objection to a Question at an Examination of a Class Member.....	307
L.	Motion to Revoke the Judgment Authorizing the Institution of a Class Action.....	308
M.	Judgment Respecting a Verbal Motion for the Return of a Document Forwarded Inadvertently	310
N.	Judgment Respecting a Motion of the Class Representative for Permission to Adduce an Additional Expert’s Report.....	311

TABLE OF CONTENTS

O.	Judgment Respecting Objections to Questions and Undertakings Contracted at the Examination After Plea of Class Members	313
P.	Motion for Permission to Re-Amend the Motion to Institute a Proceeding	314
Q.	Application by the Director of the Public Health Department of the Québec City Region to Access the Medical Records: <i>Desbiens c. Spieser</i>	315
R.	Trial on the Merits	316
S.	Amended Motion for Permission to Introduce New Evidence Before the Court of Appeal.....	325
T.	Hearing Before the Court of Appeal.....	326
U.	Application for Leave to Appeal and Conditional Application for Leave to Cross-Appeal to the Supreme Court of Canada	330
 CHAPTER VII — Fires, Gas Leaks, and Other Industrial Accidents		331
1.	<i>Introduction</i>	331
2.	<i>The Plastimet Fire in Hamilton: Cotter v. Levy</i>	333
A.	Motion for a Change of Venue.....	334
B.	Motion Respecting the Duty of Plaintiff’s Solicitor in a Class Action to Notify Potential Claimants of the Hearing of a Motion	334
C.	Application by the Plaintiff Cotter for Certification of His Action as a Class Proceeding (The First Attempt); Application by All the Defendants to Dismiss Cotter’s Claim for Punitive and Aggravated Damages, and Application by Defendants Madeline Levy, Monte Levy, and Phoenix International Ltd. to Dismiss the Action Against Them	335
D.	Motion to Certify the Action as a Class Proceeding (The Second Attempt)	337
E.	Motion to Certify the Action as a Class Proceeding (The Third Attempt).....	341
F.	Settlement.....	344
3.	<i>The Kingsville Fire: Ludwig v. 1099029 Ontario Ltd.; Horti-Pak Inc. v. Siemens Canada Ltd.</i>	345
A.	Motion to Certify the Action as a Class Proceeding.....	346
B.	Motion by Some Defendants to Quash the Appeal From the Certification Order.....	349
C.	Defendants’ Appeal to the Divisional Court From the Judgment for Quashing Appeal on the Basis That the Plaintiffs Had Not Received Leave to Appeal	349

TABLE OF CONTENTS

D.	Appeal to the Court of Appeal From the Judgment of the Divisional Court.....	350
E.	Settlement.....	350
4.	<i>A Gas Release in Sudbury: Mangan v. Inco Ltd.</i>	352
A.	Motion for Certification of a Class Proceeding for the Purposes of a Settlement and Motion for Notice of a Proposed Settlement	353
B.	Motion for a Remedy in Respect of an Unauthorized Notice in a Class Proceeding	357
C.	Motion for the Determination of Costs	360
5.	<i>A Release Flare in Corunna: Lewis v. Shell Canada Ltd.</i>	361
A.	Motion of Lewis and Weeke Respecting Pre-Certification Communications of the Defendant With Members of the Class	362
B.	Motion for Certification of the Action as a Class Proceeding and for Approval of the Settlement.....	364
6.	<i>A Gas Release in Valleyfield: Deraspe c. Zinc électrolytique du Canada ltée (CEZinc.)</i>	372
A.	Motion to Compel the Federal Minister of the Environment and Others to Conduct an Investigation and to Disclose a Report and Motion for Declinatory Exception by the Attorney General of Canada	374
B.	Application for Judicial Review Before the Federal Court of Canada	375
C.	Application for Judicial Review Before the Superior Court of Québec of a Decision of the Fonds d'aide aux recours collectifs.....	377
D.	Motion to Amend the Motion for Authorization to Institute a Class Action and to Add the Attorney General of Canada as an Impleaded Party and Motion by the Attorney General of Canada to be Excluded From the Proceedings.....	377
E.	Motion by Zinc électrolytique du Canada ltée for Permission to Examine Deraspe.....	378
F.	Motion by Zinc électrolytique du Canada ltée for Permission to Adduce Evidence at the Hearing of the Motion for Authorization to Institute a Class Action	380
G.	Motion for Authorization to Institute a Class Action (The First Attempt).....	380
H.	Appeal Before the Court of Appeal	385

TABLE OF CONTENTS

I.	Motion for Authorization to Institute a Class Action (The Second Attempt)	386
J.	Motion to Dismiss the Second Motion for Authorization to Institute a Class Action on the Basis of <i>Res Judicata</i> by Zinc électrolytique du Canada.....	388
K.	Motion by Zinc électrolytique du Canada to Adduce Evidence at the Hearing of the Second Motion for Authorization to Institute a Class Action	389
L.	Motion by Zinc électrolytique du Canada for Leave to Appeal From the Judgment on the Motion to Dismiss on the Basis of <i>Res Judicata</i>	389
M.	Motion by Zinc électrolytique for a Stay of the Proceedings in the Superior Court	390
N.	Application for Leave to Appeal to the Supreme Court of Canada	390
O.	Judgment of the Superior Court Granting Deraspe’s Second Motion for Authorization to Institute a Class Action	390
P.	Motion by Deraspe Asking That Justice Eva Petras Recuse Herself	391
Q.	Motion for Leave to Appeal Before the Court of Appeal.....	392
R.	Application for Leave to Appeal Before the Supreme Court of Canada	393
S.	Motion of the Class Representative to Amend the Designation of the Defendant or to Add a Defendant and for a Safeguard Order	393
T.	Motion for a Case Management Conference and for Permission to File a Factum With More Pages Than Allowed by the Rules of the Court of Appeal	395
U.	Appeal Before the Court of Appeal	395
V.	Application for Leave to Appeal to the Supreme Court of Canada	396
W.	Motion to Revoke the Status of Class Representative Deraspe and to Disqualify his Attorney	396
X.	The Aftermath: <i>Barreau du Québec (Syndic Adjoint) c. Desjardins</i>	397
Y.	Appeal Before the Court of Appeal Respecting the Judgment of the Superior Court Revoking the Status of Deraspe as Class Representative	397
Z.	Settlement.....	401

TABLE OF CONTENTS

7.	<i>An Explosion in Toronto: Durling v. Sunrise Propane Energy Group Inc.</i>	401
A.	Motion for an Order Compelling the Ministry of the Environment and Other Regulatory Agencies to Produce the Results of Their Investigation	403
B.	What Comes First, the Plaintiff’s Motion for Certification or the Defendants’ Motion for Summary Judgment?.....	407
C.	Motion by the Plaintiffs for Directions in Advance of a Proposed Motion to Discontinue Separate Actions Commenced as Class Proceedings in Favour of One Consolidated Action	407
D.	Motion for an Order Staying the Individual Actions and for a Costs Order.....	407
E.	Motion for the Approval of a Claims Bar.....	410
F.	Motion for Certification (The First Attempt).....	412
G.	Motion to Restrain Wawanesa and Its Counsel From Communicating With Class Members	420
H.	Motion to Amend the Statement of Claim and for Certification of a Class Action Against the Teskey Defendants.....	422
I.	Motion for Leave to Appeal to the Divisional Court.....	431
J.	Appeal Before the Divisional Court	432
K.	Settlement.....	434
8.	<i>A Spill in the Slocan Valley: Kirk v. Executive Flight Centre Fuel Services</i>	435
A.	Application for Certification.....	436
B.	Appeal Before the Court of Appeal	441
9.	<i>A Pipeline Spill in Central Alberta: Rieger v. Plains Midstream Canada ULC</i>	449
A.	Application to Compel Undertaking Responses Refused by the Defendant	450
B.	Application for Certification.....	451
CHAPTER VIII — Fish Farms		457
1.	<i>Introduction</i>	457
2.	<i>A Fish Farm in Lake Heney: Association pour le lac Heney c. Gestion Serge Lafrenière inc.</i>	458
A.	Motion for Authorization to Institute a Class Action in the Superior Court	460
B.	Injunction Proceedings: <i>Calvé c. Gestion Serge Lafrenière inc.</i>	462

TABLE OF CONTENTS

C.	Appeal Before the Court of Appeal of the Injunction Issued by the Superior Court.....	464
D.	Appeal Before the Court of Appeal of the Judgment of the Superior Court Dismissing the Motion for Authorization to Institute a Class Action.....	468
E.	Settlements and Their Implementation.....	470
3.	<i>Salmon Farms in the Broughton Archipelago: Kwicksutaineuk/Ah-Kwa-Mish First Nation v. British Columbia (Minister of Agriculture and Lands)</i>	471
A.	Applications for Particulars by the Attorneys General of British Columbia and Canada and Application to Strike by the Attorney General of British Columbia	475
B.	Application for Certification of a Class Proceeding.....	479
C.	Application for Intervener Status in the Appeal by the British Columbia Salmon Farmers Association.....	492
D.	Appeal Before the Court of Appeal of the Judgment Rescinding the Certification Order.....	494
CHAPTER IX — Pig Farms and Noxious Odours.....		499
1.	<i>Introduction</i>	499
2.	<i>A Pig Farm in Saint-Didace: Branconnier c. 2848-7395 Québec inc.</i>	500
A.	Motion for Authorization to Institute a Class Action	500
B.	Settlement.....	502
CHAPTER X — Genetically-Modified Crops		505
1.	<i>Introduction</i>	505
2.	<i>Genetically-Modified Canola in Saskatchewan: Hoffman v. Monsanto Canada Inc.</i>	506
A.	Motion by Plaintiffs to Compel the Defendants to File a Statement of Defence Before the Hearing and Determination of the Certification Application Hearing	509
B.	Motion for Leave to Appeal the Order of Justice Smith Requiring the Defendants to File Their Statements of Defence Prior to the Determination of the Certification Application	510
C.	Appeal Before the Court of Appeal Respecting the Order of Justice Smith.....	511

TABLE OF CONTENTS

D.	Application by Monsanto and Aventis CropScience to Strike Portions of the Affidavit Evidence of the Plaintiffs	512
E.	Application by Monsanto to Cross-Examine One Proposed Representative and Other Affiants.....	516
F.	Application for Certification	517
G.	Application for Leave to Appeal to the Court of Appeal.....	543
H.	Friends of the Earth Canada and Saskatchewan Environmental Society Want to Intervene in the Appeal.....	544
I.	Judgment of the Court of Appeal for Saskatchewan	545
J.	Application for Leave to Appeal to the Supreme Court of Canada	547
CHAPTER XI — Mines, Quarries, and Sandpits		549
1.	<i>Introduction</i>	549
2.	<i>A Quarry in a Residential Neighbourhood: Robitaille c. Constructions Désourdy inc.</i>	550
A.	Motion for Authorization to Institute a Class Action	551
B.	Motion to Revoke the Judgment Authorizing the Class Action	553
C.	Appeal Before the Court of Appeal by Construction Désourdy and Motion to Dismiss the Appeal by Robitaille.....	554
D.	Application for an Interlocutory Injunction	554
E.	Appeal Before the Court of Appeal of the Interlocutory Injunction.....	556
F.	Trial on the Merits	556
G.	Appeal Before the Court of Appeal	557
H.	Motion for a Special Honorarium	558
3.	<i>A Sandpit in a Residential Neighbourhood: Langevin c. Bouchard</i>	559
A.	Motion to Amend the Motion for Authorization to Institute a Class Action	560
B.	Motion for Leave to Appeal Before the Court of Appeal.....	561
C.	Motion for Permission to Adduce Relevant Evidence at the Hearing of the Motion for Authorization to Institute a Class Action	561
D.	Motion for Authorization to Institute a Class Action	564

TABLE OF CONTENTS

	E. Trial on the Merits	566
4.	<i>Land Contamination in a Mining Town: Young c. Noranda inc.</i>	571
	A. Motion by Noranda for Permission to Examine the Petitioner	572
	B. Motions by the Attorney General of Québec and Falconbridge ltée for Permission to Adduce Evidence at the Authorization Hearing	572
	C. Motion by Young to Discontinue the Proceedings	573
5.	<i>A Toxic Leak in Guyana: Recherches internationales Québec c. Cambior inc.</i>	573
	A. Motion Asking for Permission to Examine the President of Cambior	577
	B. Motion for Declinatory Exception	578
	C. Motion for a Special Honorarium	580
	D. Representative Actions Against Omai Gold Mines Ltd. in Guyana	581
6.	<i>A Toxic Spill in Spain: Pearson v. Boliden Ltd.</i>	581
	A. Application for Certification of an Action as a Class Proceeding Before the British Columbia Supreme Court [In Chambers]	581
	B. Appeal Before the Court of Appeal	583
	C. Application for Leave to Appeal to the Supreme Court of Canada	583
	D. Settlement Agreement	583
7.	<i>An Open Pit Gold Mine in Malartic: Trottier c. Canadian Malartic GP</i>	584
	A. <i>Sui Generis</i> Plaintiff's Motion to Inform the Class Members of Their Rights	586
	B. Motion for Leave to Appeal	587
	C. Motion for Permission to Adduce Evidence at the Authorization Hearing	587
	D. Motion for Interlocutory Injunction	588
	E. Motion for Authorization to Institute a Class Action	592
	F. Motion for Declaratory Judgment by Canadian Malartic That It Has the Right to Invite Class Members at a Meeting to Make Individual Offers of Settlement	592
	G. Motion for Leave to Appeal to the Court of Appeal	593

TABLE OF CONTENTS

H.	Motion by Canadian Malartic to Allow Its Attorneys to Communicate With Some Class Members in Order to Prepare Its Defence.....	593
I.	Application by Canadian Malartic for a Partial Dismissal of the Originating Application to Institute a Proceeding	594
J.	Appeal Before the Court of Appeal	594
K.	Judgment Respecting the Opt-Out Form and the Determination of the Class Period	600
L.	Motion for Leave to Appeal to the Court of Appeal ...	603
M.	Objections to Questions Asked in Written Interrogatories, and Motion for the Dismissal of Two Expert Reports.....	605
N.	Application for Judicial Review of the Order-in-Council Authorizing the Mine Extension	607
O.	Application by Lemire to Amend the Class Definition and for a Declaration of Abuse of Proceedings.....	609
P.	Motion for Leave to Appeal to the Court of Appeal From the Judgment Dismissing the Application for Judicial Review.....	609
Q.	Settlement.....	610
CHAPTER XII — Harbours		613
1.	<i>Introduction</i>	613
2.	<i>Dust, Noise, and Vibrations in the East End of Montréal: Mayer c. Cast Terminal inc.</i>	614
A.	Motion for Authorization to Institute a Class Action	614
B.	Settlement.....	616
3.	<i>Red Dust Over Limoilou: Lalande c. Compagnie d'arrimage de Québec ltée</i>	617
A.	Motion to Amend the First Motion for Authorization to Institute a Class Action	618
B.	Motion to Dismiss the First Amended Motion for Authorization to Institute a Class Action.....	618
C.	First Motion for Authorization to Institute a Class Action	620
D.	Defendants' Motion for Particulars and for Communication of an Expert Report (The First Motion for Authorization to Institute a Class Action).....	622

TABLE OF CONTENTS

E.	Québec Port Authority’s Motion to Strike Out Paragraphs and Exhibits From the First Motion to Institute a Proceeding.....	625
F.	Second Motion for Authorization to Institute a Class Action	626
G.	Respondents’ Motion to Strike Out Paragraphs and Exhibits of the Second Motion for Authorization to Institute a Class Action	627
H.	Amended Motion for Authorization to Institute a Class Action (The Second Motion).....	628
I.	Defendants’ Motion to Examine Class Members (The First Motion for Authorization to Institute a Class Action).....	629
J.	Motion for Communication of an Additional Expert Report; Motion for Particulars and Communication of Documents; and Motion for Striking Out Allegations and Exhibits (The Second Motion for Authorization to Institute a Class Action)	630
K.	Defendants’ Second Motion for Permission to Examine Class Members (The First Case).....	630
L.	Case Management Order: Communication of Joint Expert Report for the Defendants and Fixation of a Date for the Examination of the Class Members (The First Motion for Authorization to Institute a Class Action).....	633
M.	Second Case Management Order: Request for the Examination of a Representative From Each Defendant (The First Motion for Authorization to Institute a Class Action)	634
N.	Judgment No. 1 Respecting Objections to Questions of the Plaintiffs (The First Motion for Authorization to Institute a Class Action)	636
O.	Judgment No. 2 Respecting Objections to Questions of the Plaintiffs (The First Motion for Authorization to Institute a Class Action).....	638
P.	Motion for Leave to Appeal to the Court of Appeal Respecting the Judgment of June 19, 2017 Upholding Objections (The First Motion for Authorization to Institute a Class Action)	638
Q.	Revision of the Principal Questions of Law or Fact to Be Determined on a Collective Basis (The First Motion for Authorization to Institute a Class Action).....	639
R.	Judgment of the Court of Appeal Granting the Appeal From the Judgment of the Superior Court	

TABLE OF CONTENTS

Upholding the Objection to the Disclosure of an Expert Report (The First Motion for Authorization to Institute a Class Action).....	640
S. The Trial (The First Motion for Authorization to Institute a Class Action)	641
T. Approval of the Distribution Protocol and Fees of Plaintiffs’ Class Counsel	645
U. Application to Quash a Subpoena (The Second Case)	645
V. The Trial (The Second Motion for Authorization to Institute a Class Action)	646
CHAPTER XIII — Railway Nuisances	649
1. <i>Introduction</i>	649
2. <i>A Rail Yard in Outremont: Paquin c. Compagnie de chemin de fer Canadien Pacifique</i>	650
A. Motion for Authorization to Institute a Class Action	651
B. Appeal Before the Court of Appeal	654
C. Settlement.....	655
3. <i>Not In My Backyard Meets a Suburban Train: Les Voisins du train de banlieue de Blainville inc. c. Agence métropolitaine de transport et Compagnie de chemin de fer Canadien Pacifique</i>	656
A. Motion for Authorization to Institute a Class Action	656
B. Appeal Before the Court of Appeal	664
4. <i>A Rail Yard in Charny: Dorion c. Compagnie des chemins de fer nationaux du Canada (CN)</i>	666
5. <i>A Coal Train Between Sparwood and Roberts Bank: Roberts v. Canadian Pacific Railway Company</i>	672
6. <i>Storage Tanks Systems: Bellefeuille v. Canadian Pacific Railway Limited</i>	684
A. Motion by the Plaintiffs to Amend and File Statement of Claim Seeking Relief Under the <i>Class Proceedings Act</i>	684
B. Costs	687
C. Motion for Leave to Appeal.....	687
CHAPTER XIV — Train Derailments and Spills.....	689
1. <i>Introduction</i>	689

TABLE OF CONTENTS

2.	<i>A Derailment in Québec: Dubuc c. Canadian National Railway Company</i>	689
3.	<i>A Derailment in Saskatchewan: Brooks v. Canadian Pacific Railway Limited</i>	690
4.	<i>A Derailment in Alberta: Cuff v. Canadian National Railway Company</i>	699
CHAPTER XV — Aircraft Noise		703
1.	<i>Introduction</i>	703
2.	<i>A Third Runway at the Vancouver International Airport: Sutherland v. Canada (Attorney General)</i>	705
A.	Application for Certification	706
B.	Individual Action in Nuisance Before the Supreme Court of British Columbia	711
C.	Pre-Judgment Interest, Damages Incidental to Moving, and Payment of Hearing Fees	714
D.	Appeal Before the Court of Appeal	716
E.	Supplementary Reasons of the Court of Appeal Respecting Costs	717
F.	Costs for the Trial Before the Supreme Court of British Columbia	718
G.	Interpretation of the Costs Order	720
H.	Application to Vary or Cancel the Costs Order of the Registrar of the Court	721
I.	Appeal of the Costs Order of the Court of Appeal	723
3.	<i>Airport Noise at the Dorval International Airport: Citoyens pour une qualité de vie/Citizens for a quality of life c. Aéroports de Montréal</i>	724
A.	Motion for Authorization to Institute a Class Action	724
B.	Appeal Before the Court of Appeal	728
4.	<i>Floatplanes on Saint-Augustin Lake: Filteau c. Aviation Roger Forgues inc.</i>	731
A.	Motion for Authorization to Institute a Class Action	731
B.	Action in Warranty Brought by Aviation Roger Forgues and Aviation Portneuf Against the Attorney General of Canada and Motions to Dismiss Brought by the Attorney General of Canada	733
C.	Discontinuance	733

TABLE OF CONTENTS

5.	<i>A Flight School on the South Shore of Montréal: Lavoie c. St-Mathieu-de-Beloeil (Municipalité)</i>	734
A.	Motion for Authorization to Institute a Class Action	734
B.	Appeal Before the Court of Appeal	735
6.	<i>A Tale of Two Water Aerodromes on Lac-à-la-Tortue: Coalition contre le bruit c. Shawinigan (Ville)</i>	736
A.	Motions for Permission to Adduce Evidence at the Authorization Hearing.....	737
B.	Motion for Authorization to Institute a Class Action	739
C.	Motion Respecting the Extension of the Opt-out Process	745
D.	Motion by Bel-Air Aviation to Order That the Class Action Be Vacated and the Action Be Continued Under Articles 59 or 67 of the Code of Civil Procedure	746
E.	Motion by the City of Shawinigan to Strike Out Paragraphs of the Motion to Institute Proceedings and Motion for Particulars	747
F.	Examination of the Designated Person	747
G.	Settlement With the City of Shawinigan	747
H.	Objections by Bel-Air to the Communication of Documents, and Motion for Permission to Examine Third Parties	748
I.	Motion by Bel-Air Aviation for an Order of Transmission of Notes and Photographs Taken by Class Members	749
J.	Series of Judgments Rendered Just Before and During the Trial	750
K.	Trial on the Merits	751
L.	Motion for Permission to Adduce New Evidence.....	754
7.	<i>Another Flight School Class Action on the South Shore of Montréal: Comité anti-pollution des avions - Longueuil c. Max Aviation inc.</i>	754
A.	Motions for Permission to Adduce Evidence at the Authorization Hearing.....	758
B.	Settlement.....	760
C.	A New Class Action Against Max Aviation inc., Cargair Ltée, and Aéroclub de Montréal: <i>Nicole c. Max Aviation</i>	760

TABLE OF CONTENTS

8.	<i>Another Noise Class Action Against the Montréal Trudeau Airport: Les Pollués de Montréal-Trudeau c. Aéroports de Montréal</i>	762
A.	Motion for Authorization to Institute a Class Action	762
B.	Motion to Enlarge the Class Definition and to Approve the Notices to the Class Members	769
C.	A Separate but Related Lawsuit: <i>Les Pollués de Montréal-Trudeau (LPDMT) c. Aéroports de Montréal (ADM)</i>	769
D.	Claim for Compensation by Aéroports de Montréal Against Les Pollués de Montréal for Abusive Proceedings	771
CHAPTER XVI — Waste Management Operations		773
1.	<i>Introduction</i>	773
2.	<i>A Municipal Incinerator and a Dump: Dubé c. Ville de St-David de l’Aube-Rivière</i>	776
3.	<i>A Rendering Plant on the South Shore of Québec City: Tremblay c. Alex Couture inc.</i>	777
4.	<i>Beach Pollution in Montréal: Guertin c. Communauté urbaine de Montréal</i>	779
5.	<i>Odours, Noise, and Dust Caused by a Solid Waste Disposal Facility: Archambault c. Construction Bérou inc.</i>	782
A.	Motion for Authorization to Institute a Class Action	782
B.	Discontinuance of the Appeal Before the Court of Appeal.....	784
C.	Motion for a Special Honorarium	784
6.	<i>Methane Gas in Your Basement: Roberge c. Sherbrooke (Ville)</i>	785
A.	Motion for Authorization to Institute a Class Action	786
B.	Trial on the Merits	789
C.	Appeal Before the Court of Appeal	795
7.	<i>Negligent Oversight of a Landfill and the Concept of “Laxness” or “Complacency”: Girard c. 2944-7828 Québec inc.</i>	798
A.	Motion for Authorization to Institute a Class Action	801
B.	Motion for the Permission to Examine 22 Additional Class Members.....	803

TABLE OF CONTENTS

	C. Trial on the Merits	804
	D. Appeal Before the Court of Appeal	809
	E. Motion for Revision of the Costs, Approval of the Attorney's Fees for a Special Honorarium, and Approval of the Settlement	811
	F. Motion for the Approval of the Attorney's Fees	815
8.	<i>Process Water From a Chicken Processing Plant: Therrien c. Compagnie de volailles Maxi ltée</i>	816
9.	<i>A Rendering Plant on the South Shore of Québec City, the Sequel: Regroupement des citoyens contre la pollution c. Alex Couture inc.</i>	817
	A. Motion for Declinatory Exception	817
	B. Motion for Authorization to Institute a Class Action	818
	C. Motions to Dismiss the Appeal of the Regroupement	822
	D. Motion to Strike Out Paragraphs and for Particulars	822
	E. Motion Respecting an Objection to the Filing of an Expert Report and to the Testimony of the President of the Monitoring Committee (The First Attempt)	824
	F. Objection to the Expert's Report (The Second Attempt).....	825
	G. Motion to Amend the Particularized Motion to Institute Proceedings.....	825
	H. Motion to be Excused From Having Failed to Comply With a Peremptory Delay	825
	I. Motion to Dismiss the Class Action	826
	J. Motion to Amend the Motion to Institute Proceedings	828
	K. Settlement.....	829
10.	<i>Another Rendering Plant in a Residential Neighbourhood: Raymond c. Lomex inc.</i>	829
11.	<i>Noxious Odours and Other Nuisances Caused by a Water Purification Plant: Protection environnement Boisbriand c. Boisbriand (Ville)</i>	830
	A. Motion for Authorization to Institute a Class Action	830
	B. Partial Settlement	832
	C. Final Settlement	832

TABLE OF CONTENTS

12.	<i>A Landfill Site on the South Shore of Montréal: Robillard c. Écoservices Tria inc.</i>	832
A.	Motion for Permission to Adduce Evidence	834
B.	Motion for Authorization to Institute a Class Action	835
C.	Application to Lift the Confidentiality Order Respecting the Schedules of the Certificates of Authorization	839
D.	Motion for Particulars and Communication of Documents by Écoservices Tria and Gestion Tria	839
E.	Motion to Dismiss the Expert Report of the Plaintiffs	840
F.	Judgment Respecting 14 Objections	841
13.	<i>Compost Odours on Vancouver Island: Baker v. Rendle</i>	842
A.	Certification Application	845
B.	Appeal Before the Court of Appeal	850
14.	<i>Dust, Noise, and Odours at the Former St. Lawrence Cement Quarry: Flamand c. 9174-3641 Québec inc. (Excavation René St-Pierre)</i>	851
A.	Motion for Authorization to Institute a Class Action	851
B.	Motion to Strike Out Allegations	853
C.	Defendants' Motion to Examine a Class Member and to Rule on Objections	853
D.	Judgment Respecting Objection to Questions Asked by the Defendants to the Plaintiff and Two Other Class Members	854
E.	Motion Respecting a Request for the Communication of Documents in the Possession of Third Parties.....	855
15.	<i>Recycling Facility in Saint-Jean-sur-Richelieu: Boudreau c. 2M ressources inc.</i>	856
A.	Motion to Strike Out Allegations and Exhibits and Motion for Permission to Adduce Relevant Evidence	856
CHAPTER XVII — Cottage Country		859
1.	<i>Introduction</i>	859
2.	<i>Wood Debris on the Beach of Taureau Lake: Association des propriétaires et locataires de Saint-Ignace-du-Lac c. Consolidated-Bathurst</i>	861
A.	Motion for Authorization to Institute a Class Action	861
B.	Settlement.....	863

TABLE OF CONTENTS

	C. Motion for Determination of a Special Honorarium	863
3.	<i>Shore Erosion on Lake Timiskaming: Ouimette c. Canada (Procureur général)</i>	864
	A. Motion for Authorization to Institute a Class Action	864
	B. Trial on the Merits	868
	C. Appeal Before the Court of Appeal	869
4.	<i>Shore Erosion on Wabamum Lake: Paron v. Alberta (Minister of Environmental Protection)</i>	872
	A. Alberta Government’s Motion to Dismiss.....	873
	B. TransAlta’s Motion to Dismiss.....	874
	C. Motion for Case Management Advice and Directives	875
	D. Application for Certification of a Class Proceeding.....	875
5.	<i>Wood Debris on the Beaches of Thurson and Saint-François Xavier Lakes: Clark c. 4107781 Canada inc.</i>	880
	A. Motion for Authorization to Institute a Class Action	881
	B. Motion to Compel the Mutuelle des Municipalités du Québec to Assume Its Duty to Defend the Municipality of Wentworth-Nord	884
	C. Settlement.....	884
6.	<i>Shore Erosion on the La Lièvre River and the Poisson Blanc Reservoir: Association des résidents riverains de La Lièvre inc. c. Canada (Procureur général)</i>	885
	A. Introduction	885
	B. Motion for Authorization to Institute a Class Action	885
	C. Motion to Dismiss the Amended Motion to Institute a Proceeding	889
	D. Trial on the Merits	890
7.	<i>Shore Erosion on Round Lake: Plaunt v. Renfrew Power Generation Inc.</i>	891
	A. Introduction	891
	B. Certification Motion.....	891
	C. Decision Regarding Costs.....	896
	D. Reasons for Decision Respecting the Procedure to Determine the First Common Issue	897
	E. Motion to Decertify the Class Action	898
8.	<i>Lake and River Overflow in the Eastern Townships: Lessard c. Arcand</i>	900

TABLE OF CONTENTS

A.	Motion for Permission to Adduce Relevant Evidence at the Authorization Hearing	901
B.	Motion for Authorization to Institute a Class Action	902
C.	Settlement.....	903
CHAPTER XVIII — Catastrophic Dam Failures.....		905
1.	<i>Introduction</i>	905
2.	<i>Lemay c. Société immobilière du Québec</i>	907
3.	<i>Arseneault c. Société immobilière du Québec</i>	909
4.	<i>The Settlement of the Lemay and Arseneault Class Actions</i>	910
5.	<i>Bouchard c. Corporation Stone Consolidated</i>	912
A.	Motion for Authorization to Institute a Class Action	912
B.	Settlement.....	913
6.	<i>Fournier c. Hydro-Québec</i>	915
A.	Motion for Declaratory Judgment by the City of Saguenay	916
B.	Motion by the City of Saguenay for a Stay of All Proceedings in the Class Action	916
C.	Motion for Authorization to Institute a Class Action	917
7.	<i>The Alouette River Flood: Pausche v. British Columbia Hydro & Power Authority</i>	920
A.	Motion to Dismiss by the District on the Ground That the Claim Was Statute-Barred	920
B.	Settlement.....	921
8.	<i>The 2011 Floods in Manitoba: Anderson v. Manitoba</i>	922
A.	Application for Certification of a Class Action	923
B.	Motion Seeking Leave to Appeal to the Court of Appeal.....	934
C.	Appeal Before the Court of Appeal	937
D.	Settlement.....	939
9.	<i>The 2011 Floods in Manitoba: Pisclevich c. Manitoba</i>	939
A.	The Application for Certification.....	939
B.	The Application for Leave to Appeal Before the Court of Appeal	943
10.	<i>A Flood Caused by a Rainfall in Gaspé: Comité inondation Sunny Bank c. Ministère des Transports du Québec</i>	944
A.	Motion for Authorization to Institute a Class Action	944

TABLE OF CONTENTS

B.	Motion to Amend the Originating Application to Institute a Proceeding	946
CHAPTER XIX — Toxic Mould in Buildings		947
1.	<i>Introduction</i>	947
2.	<i>Toxic Mould in My Condo: Taub v. Manufacturers Life Insurance Co.</i>	948
3.	<i>Toxic Mould on an Indian Reserve: Grant v. Canada (Attorney General)</i>	949
A.	Crown’s Motion to Strike Portions of the Statement of Claim	950
B.	Attorney General of Canada’s Motion to Summon Dr. Hari M. Vijay	954
C.	Motion for Certification	954
D.	Crown’s Application for Leave to Appeal to the Divisional Court	961
E.	Consent Order (Removing the Breach of Fiduciary Duties Common Issues)	962
4.	<i>Toxic Mould in the Court Room: Dumoulin v. Ontario</i>	962
A.	Crown’s Motion for an Order That All Motions in Two Related Proceedings Be Heard by the Same Judge	963
B.	Crown’s Motion to Strike	963
C.	Motion for Certification	964
D.	Supplementary Reasons for Decision: <i>Dumoulin v. Ontario</i>	969
5.	<i>Toxic Mould in the Class Room: MacDonald (Litigation Guardian of) v. Dufferin-Peel Catholic District School Board</i>	971
CHAPTER XX — Municipal Tap Water		973
1.	<i>Introduction</i>	973
2.	<i>The Walkerton Water Contamination Class Action: Smith v. Brockton (Municipality)</i>	975
A.	Certification Motion	976
B.	Walkerton Class Action Settlement	976
3.	<i>Drinking Water in Fort Erie: Grace v. Fort Erie (Town)</i>	981
4.	<i>Water Quality in Sainte-Anne-de-Beaupré: Blouin c. Ville de Sainte-Anne-de-Beaupré</i>	988
A.	Motion for Permission to Require the Presence of Witnesses at the Authorization Hearing	988

TABLE OF CONTENTS

B.	Motion for Authorization to Institute a Class Action	989
C.	Motion of the Town of Sainte-Anne-de-Beaupré to Strike Paragraphs and Obtain Particulars and Documents	990
D.	Motion of the Town to Compel the Class Representative to Disclose the Notes of His Investigation	991
E.	Motion of the Representative to Sever the Trial Into Two Phases	991
F.	Motion of the Representative to Strike Paragraphs of the Town’s Reply	992
G.	Judgment Respecting an Objection to the Testimony of a Witness Respecting the Taste and Odour of a Sample of the Municipal Drinking Water	994
H.	Settlement	995
5.	<i>A Boil-Water Advisory Triggers a Class Action: Bayard c. St-Gabriel (Ville)</i>	995
A.	Motion for Authorization to Institute a Class Action	995
B.	Motion to Amend the Motion to Institute a Proceeding	997
C.	Settlement	997
6.	<i>Racoons in a Municipal Drinking Water Tank: Cyr c. Sainte-Adèle (Ville)</i>	997
7.	<i>Eighty Days Without Drinking Water: Dubois c. St-Esprit (Municipalité)</i>	999
A.	Motion for Authorization to Institute a Class Action	999
B.	Appeal Before the Court of Appeal	1003
8.	<i>Two Days Without Drinking Water in Longueuil: Ouimet c. Ville de Longueuil</i>	1004
A.	Motion for Authorization to Institute a Class Action	1004
B.	Motion for Permission to Allow an Aggressive Intervention	1005
C.	Settlement	1005
	CHAPTER XXI — Sewer Backups and Floods	1007
1.	<i>Introduction</i>	1007
2.	<i>Heavy Rains and Flooding in Montréal: Nagar c. Montréal (Ville)</i>	1009

TABLE OF CONTENTS

A.	Motion for Authorization to Institute a Class Action	1010
B.	Appeal.....	1012
3.	<i>Two Class Actions Arising From the Same Heavy Rains: Larochelle v. Ville de Saint-Hubert and Blanchet c. Ville de Saint-Hubert</i>	1014
A.	Motions for Authorization to Institute a Class Action Arising Out of the Same Event; a Motion for Discontinuance From Larochelle; a Motion to Amend From Blanchette; and a Motion for <i>Lis Pendens</i> From the Town of Saint-Hubert.....	1014
B.	Motion for Authorization to Institute a Class Action	1016
C.	Motion to Divide the Class Into Five Subclasses	1017
D.	Settlement.....	1018
4.	<i>Heavy Rain and Flooding on the South Shore of Montréal: Dicaire c. Chambly (Ville)</i>	1019
A.	Motion for Authorization to Institute a Class Action	1019
B.	Appeal.....	1020
C.	Motion of the Town to Examine Class Members.....	1021
D.	Trial on the Merits	1021
E.	Appeal Before the Court of Appeal	1022
5.	<i>A Flood in Stratford: McLaren v. Stratford (City)</i>	1023
A.	Motion by the Plaintiffs for an Order Directing the Motions in This Class Proceedings Be Heard in Stratford, Ontario.....	1023
B.	Motion for Certification of the Action as a Class Proceeding (The First Attempt)	1024
C.	Amended Motion for Certification of the Action as a Class Proceeding (The Second Attempt)	1026
D.	Settlement.....	1028
6.	<i>A Torrential Rain in August 2008: Rainville c. Montréal (Ville) and Côté c. Montréal (Ville)</i>	1029
A.	Motion by the City of Montréal for Permission to Adduce Evidence at the Authorization Hearing	1029
B.	Motion for Authorization to Institute Class Action (The First Attempt)	1031
C.	Motion for Authorization to Institute a Class Action (The Second Attempt)	1034

TABLE OF CONTENTS

7.	<i>Another Class Action From the Same August 2008 Torrential Rain: Comité des citoyens inondés de Rosemont c. Montréal (Ville)</i>	1036
A.	Motion by the Petitioner Asking the Court to Order the Production of Documents	1037
B.	Motion for Authorization to Institute a Class Action	1038
C.	Motion for Directives and for Striking Out Exhibits	1040
D.	Appeal Before the Court of Appeal	1040
8.	<i>The Richelieu River Floods of 2011: Dupuis c. Canada (Procureur général)</i>	1042
A.	First Motion for Permission to Adduce Evidence at the Authorization Hearing	1043
B.	Second Motion for Permission to Adduce Evidence at the Authorization Hearing.....	1044
C.	Motion for Authorization to Institute a Class Action	1044
9.	<i>Sewer Back-Up in Marieville: Association des résidentes et résidents du Domaine des Ruisseaux de Marieville c. Genivar inc.</i>	1047
A.	Motion for Permission to Adduce Relevant Evidence at the Authorization Hearing	1048
B.	Motion for Authorization to Institute a Class Action	1048
10.	<i>Flooding in the Deux-Montagnes Lake: Lauzon c. Municipalité régionale de comté (MRC) de Deux- Montagnes inc.</i>	1049
A.	Motion to Dismiss by the Town of Sainte- Marthe-sur-le-Lac, and Motion for Permission to Adduce Relevant Evidence by the Three Defendants	1049
B.	Motion for Leave to Appeal to the Court of Appeal.....	1051
11.	<i>A Flood in Mud Lake: Chiasson v. Nalcor Energy</i>	1051
A.	Motion for Certification	1052
B.	Application for Directions	1058
C.	Application for Leave to Appeal.....	1058
CHAPTER XXII — Ragweed Pollen		1061
1.	<i>Introduction</i>	1061
2.	<i>Nadon c. Anjou (Ville)</i>	1061

TABLE OF CONTENTS

A.	Motion for Authorization to Institute a Class Action	1062
B.	Appeal Before the Court of Appeal	1068
C.	Motion to Amend the Declaration, to Amend the Class Definition and Questions of Law or Fact to Be Determined on Collective Basis	1071
D.	Motion for the Immediate Adjudication of a Point of Law.....	1072
E.	Motion to Strike Out a Counter-Claim.....	1073
F.	Motion to Revoke the Judgment Authorizing the Institution of a Class Action.....	1073
G.	Amended Motion to Amend Again the Re-Amended Declaration and to Amend Some Questions of Law or Fact and the Class Definition.....	1074
H.	Action in Nullity of Section 7.03 of By-law 90.....	1074
I.	Appeal Before the Court of Appeal	1076
J.	Trial on the Merits	1078
K.	Appeal Before the Court of Appeal	1093
CHAPTER XXIII — Snowmobile Noise		1095
1.	<i>Introduction</i>	1095
2.	<i>Coalition pour la protection de l'environnement du parc linéaire « Petit Train du Nord » c. Laurentides (Municipalité régionale de comté des)</i>	1095
A.	Motion for Intervention at the Authorization Hearing by Motoneige Tremblay inc.....	1103
B.	Objection to Questions at the Examination of the Two Designated Persons and Another Potential Class Member.....	1103
C.	Motion for Authorization to Institute a Class Action	1104
D.	Insurer's Motion for Particulars, Production of Documents and to Strike Irrelevant Allegations and Exhibits	1106
E.	Coalition's Motion to Add the Attorney General of Québec as a Defendant.....	1110
F.	Coalition's First Motion for Interlocutory Injunction.....	1111
G.	Motoneige Tremblay's Motion for Intervention at Trial	1113
H.	Defendants' Motion for Examination of Class Members Out of Court.....	1113

TABLE OF CONTENTS

I.	Coalition’s Second Motion for Interlocutory Injunction.....	1114
J.	Plaintiffs’ Motion Respecting Objection to Questions to Class Members.....	1114
K.	Appeal to the Court of Appeal From the Judgment of Justice Langlois Dismissing the Second Motion for Interlocutory Injunction.....	1115
L.	Coalition’s Motion to Amend the Safeguard Order....	1115
M.	Confidentiality Order.....	1117
N.	Trial on the Merits.....	1117
O.	Attorney General of Québec’s Motion to Determine the Contents of a Notice of Appeal to the Class Members.....	1126
P.	Bill 90: The Legislative Response to the Judgment of the Superior Court.....	1128
Q.	Motions to Dismiss the Appeals and the Cross-Appeal.....	1128
R.	Settlement.....	1130
S.	Bills 9 and 71: Extension of the Moratorium.....	1131
CHAPTER XXIV — Racetrack Noise		1133
1.	<i>Introduction</i>	1133
2.	<i>Association des résidents de Mont-Tremblant pour la qualité de vie c. Courses automobiles Mont-Tremblant</i>	1133
A.	<i>Introduction</i>	1133
B.	Motion for Authorization to Institute a Class Action	1135
C.	Racetrack Operator’s Motion to Stay the Class Action	1136
D.	Motions to Strike Out Allegations and Exhibits, for Permission to Adduce Relevant Evidence at the Authorization Hearing and Other Preliminary Motions.....	1137
E.	Motion for Authorization to Institute a Class Action	1139
F.	Motion for Permission to Examine the Representatives’ Noise Expert, to Conduct a Survey and to Examine 48 Class Members.....	1140
G.	Motion of the Plaintiff for a Site Visit	1141
H.	Application to Quash a Subpoena	1141
I.	Motion of the Town of Mont-Tremblant to Quash a Subpoena Duces Tecum Respecting Information on the Following List (Schedule B).....	1142

TABLE OF CONTENTS

J.	Trial on the Merits	1142
K.	Motion to Dismiss the Appeal and Motion for a Suretyship.....	1150
CHAPTER XXV — Highway Noise.....		1153
1.	<i>Introduction</i>	1153
2.	<i>Highway Noise in Charlesbourg: Filion c. Québec (Procureure générale)</i>	1154
A.	Motion for Authorization to Institute a Class Action	1154
B.	Motion for Permission to Examine the Three Petitioners and to Adduce Relevant Evidence at the Authorization Hearing.....	1157
C.	Motion for Authorization to Institute a Class Action	1158
D.	Appeal Before the Court of Appeal	1159
E.	Motion for Permission to Examine 38 Class Members	1160
F.	Plaintiff’s Motion to Strike Out an Expert Report.....	1161
G.	Defendant’s Motion to Strike Out an Expert Report.....	1161
H.	Defendant’s Motion Requesting the Names of the Class Members Registered on Class Counsel Website	1161
I.	Appeal Before the Court of Appeal	1162
J.	Trial on the Merits	1163
K.	Appeal Before the Court of Appeal	1169
3.	<i>Highway Noise in Brossard: Belmamoun c. Brossard (Ville)</i>	1169
A.	Motion by the Town of Brossard for Permission to Adduce Evidence at the Authorization Hearing	1170
B.	Motion for Authorization to Institute a Class Action	1171
C.	Appeal Before the Court of Appeal	1172
D.	Application to Amend the Class Definition.....	1172
E.	Objections of the Town of Brossard to an Application for the Production of Four Reports.....	1173
F.	Motion by the Town of Brossard to Declare That the Claim Is Partially Time-Barred.....	1173
G.	Motion for Leave to Appeal to the Court of Appeal.....	1175
H.	Case Management Decision in the Superior Court.....	1175
I.	Appeal Before the Court of Appeal	1175

TABLE OF CONTENTS

4.	<i>Road Noise in Varennes: Dulude c. Ville de Varennes</i>	1178
A.	Motion for Authorization to Institute a Class Action	1178
B.	Motion for the Publication of the Notice.....	1180
CHAPTER XXVI — Wind Farm Noise		1181
1.	<i>Introduction</i>	1181
2.	<i>A Wind Farm in Saskatchewan: McKinnon v. Red Lily Wind Energy Group</i>	1182
A.	Interlocutory Injunction.....	1185
B.	Damages Arising From the Plaintiff Obtaining an <i>Ex Parte</i> Injunction (The Process)	1191
C.	Damages Arising From the Plaintiff Obtaining an <i>Ex Parte</i> Injunction (The Assessment)	1193
D.	Application by Red Lily for an Order Dismissing the Plaintiff’s Claim for Delay	1194
3.	<i>A Wind Farm in Arthabaska: Rivard c. Éoliennes de l’Érable inc.</i>	1195
A.	Motion for Particulars and Motion to Strike Out Allegations; Motion for Permission to Examine the Petitioners; and Motion for Permission to Adduce Evidence at the Authorization Hearing	1196
B.	Motion for Authorization to Institute a Class Action	1200
C.	Motion for Permission to Examine Various Class Members	1202
D.	Motion for Permission to Examine Marie-Ève Maillé.....	1202
E.	Motion by Marie-Ève Maillé to Quash a Subpoena; Motion by Marie-Ève Maillé to Review the Judgment Granting Éoliennes de l’Érable Permission to Examine Her; and Motion by Marie-Ève Maillé to Revoke the Same Judgment.....	1203
F.	Motion to Amend the Originating Application to Institute a Proceeding, and Motion for Particulars	1203
G.	Motion by the Plaintiffs Opposing the Production of the Expert’s Reports of the Defendant.....	1204
H.	Motion by the Attorney General of Québec Opposing the Disclosure of a Confidential Document.....	1204
I.	Motion for Leave to Appeal Before the Court of Appeal.....	1205

TABLE OF CONTENTS

	J. Trial on the Merits	1205
	K. Motion to Dismiss the Appeal Before the Court of Appeal	1208
4.	<i>A Wind Farm in Saint-Ferréol-les-Neiges: Blouin c. Parcs éoliens de la Seigneurie de Beaupré 2 et 3, s.e.n.c.</i>	1208
	A. Motion for Authorization to Institute a Class Action	1208
	B. Judgment of the Court of Appeal	1211
	C. Defendants’ Motion to Examine 14 Class Members	1212
	D. Motion for Leave to Appeal of the Judgment of the Superior Court Dismissing the Defendants’ Motion to Examine 14 Class Members	1213
	E. Settlement.....	1213
5.	<i>A Wind Farm in Thetford Mines: Labranche c. Énergie éolienne des Moulins, s.e.c.</i>	1216
	A. Motion for Permission to Adduce Relevant Evidence at the Authorization Hearing	1218
	B. Motion for Authorization to Institute a Class Action	1219
	C. Appeal Before the Court of Appeal	1220
	D. The Notice to the Class Members.....	1221
	E. Case Management Decision on the Issue of Common Experts (October 26, 2017)	1223
	F. Second Case Management Conference on the Issue of Common Experts (February 7, 2018).....	1224
	G. Motion for Leave to Appeal Before the Court of Appeal.....	1224
	H. Appeal Before the Court of Appeal of the Case Management Decisions of October 26, 2017 and February 7, 2018	1224
	I. Case Management Conference (Substitution of Attorneys)	1225
	J. Motion for Leave to Appeal Before the Court of Appeal	1225
	K. Safeguard Order	1225
	L. Motion to Withdraw by the New Class Counsel	1225
	M. Motion by the Defendants to Dismiss for Abuse of Process or a Declaration of Disqualification of the Plaintiffs to Properly Represent the Class Members and to Withdraw the Status of Class Representatives.....	1226

TABLE OF CONTENTS

N.	Motion for Leave to Appeal to the Court of Appeal.....	1226
CHAPTER XXVII — Hospital Noise		1229
1.	<i>Introduction</i>	<i>1229</i>
2.	<i>Voisins du Campus Glen/Neighbours of the Glen Campus c. Centre universitaire de Santé McGill</i>	<i>1229</i>
A.	Motion for Authorization to Institute a Class Action	1229
B.	Motion for Confirmation That the Goal of the Settlement Has Been Achieved.....	1232
CHAPTER XXVIII — Highway Repairs and Public Works.....		1235
1.	<i>Introduction</i>	<i>1235</i>
2.	<i>The Ville-Marie Expressway in Downtown Montréal: Krantz c. Québec (Procureur général)</i>	<i>1235</i>
A.	Motion for Authorization to Institute a Class Action	1235
B.	Motions to Dismiss the Motion in Warranty of Construction DJL inc.	1238
C.	The Settlements	1239
D.	Motion for an Order to the Québec Health Insurance Board Confirming the Place of Residence of the Claimants	1240
E.	Motion for Revision of the Administrator’s Decision in Respect of a Class Member	1241
F.	Motion for a Closing Judgment	1241
CHAPTER XXIX — The Moose-Car Collision Case in Newfoundland and Labrador		1243
1.	<i>Introduction</i>	<i>1243</i>
2.	<i>George v. Newfoundland and Labrador.....</i>	<i>1244</i>
A.	Certification Consent Order.....	1244
B.	Consent Statement of Facts	1246
C.	Application by the Province for a Pre-trial Determination of the Common Issue of Respecting the Applicability of the Doctrine of Discoverability to the Running of the Limitation Period in this Action	1246
D.	Application to Qualify an Expert Historian at the Trial of the Common Issues.....	1250
E.	Application to Qualify an Expert in the Area of Public Administration at the Common Issues Trial....	1251

TABLE OF CONTENTS

F.	Trial on the Merits	1252
G.	Appeal Before the Court of Appeal	1261
CHAPTER XXX — Agent Orange Class Actions Against the Federal Government and the Herbicides Manufacturers..... 1265		
1.	<i>Introduction</i>	1265
2.	<i>The Federal Court of Canada Case: Dobbie v. Canada (Attorney General)</i>	1267
3.	<i>The Manitoba Case: Ward v. Canada (Attorney General)</i>	1270
A.	Application to Strike or Stay the Plaintiff’s Proposed Class Action in the Court of Queen’s Bench	1270
B.	Appeal Before the Court of Appeal	1272
4.	<i>CFB Gagetown Herbicide Spray Programs 1952-2004 Fact-Finder’s Report, Dr. Dennis Furlong</i>	1274
5.	<i>The Newfoundland and Labrador Case: Ring v. Canada (Attorney General)</i>	1281
A.	Application for Class Certification Before the Trial Division of the Newfoundland and Labrador Supreme Court	1281
B.	Plaintiffs’ Application to Lift the Stay of the Certification Order Before the Trial Division of the Newfoundland and Labrador Supreme Court.....	1294
C.	Application by the Representative Plaintiff for an Order Approving the Manner and Timing of the Publication of a Notice and Requesting That the Defendant Pay the Costs of That Publication	1299
D.	Application by the Attorney General of Canada Seeking Advice and Directions Respecting the Circumstances Under Which a Variance Order of the Implied Undertaking Rule May Be Granted	1300
E.	Application for Leave to Appeal to the Court of Appeal of the Judgment of Justice Adams Refusing to Set Aside His Ruling on the Applicability of the Implied Undertaking Rule	1301
F.	Appeal of the Certification Order Before the Court of Appeal	1302
6.	<i>The New Brunswick Case: Bryson v. Canada (Attorney General)</i>	1310
A.	Plaintiffs’ Motion to Exclude Third Parties.....	1311

TABLE OF CONTENTS

B. Motion for Certification Before the Court of Queen’s Bench of New Brunswick 1312

7. *The Saskatchewan Case: Brooks v. Canada (Attorney General)* 1320

A. Motion for Direction 1320

B. Application for Certification 1322

C. Plaintiff’s Application for Leave to Appeal 1324

D. *Ex Gratia* Payments 1324

CHAPTER XXXI — Electromagnetic Field Pollution 1327

1. Introduction 1327

2. *Durand c. Attorney General of Québec* 1327

A. Motion for Permission to Use Another Mode of Service 1330

B. Application for an Interlocutory Injunction Against Air Canada 1331

C. Motion to Seek Production of the Insurance Policies of the Respondents Other Than the Attorney General 1332

D. Motion to Amend the Motion for Authorization to Institute a Class Action 1332

E. Motion for Authorization to Institute a Class Action 1335

CHAPTER XXXII — Conclusion 1347

INDEX 1359