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The Law and Practice Regarding Pickets, Strikes and Injunctions

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The "Blunt Instrument" of Labour Injunctions: the Law and the Practice in Ontario

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PART I: Overview

Picketing is a constitutionally protected activity: the Supreme Court of Canada has repeatedly said that free expression in a labour dispute is a significant constitutionally protected right, which includes the right to strike and to participate in concerted action in the context of labour disputes.

Given this constitutional context, how do courts in practice address the applications that arise in a labour context for injunctions against picketing? In this paper, we will explore the realities and legal requirements of injunctions in Ontario in the labour context. We will address:

A. Picketing as a "constitutionally protected activity" – how does that affect injunctions?

B. The statutory provisions, namely the *Courts of Justice Act*;

C. The "three fold" legal test for an injunction used by the courts; and

D. how the courts apply these requirements in considering an injunction in a legal strike situation.

PART II: Picketing is the "constitutionally protected activity" – how does that affect injunctions?

The Supreme Court has underscored the importance of peaceful picketing as a fundamental exercise of employees' Charter-protected freedom of expression:

> Picketing, however defined, always involves expressive action. As such, it engages one of the highest constitutional values: freedom of expression, enshrined in section 2 (b) of the Charter. This Court's jurisprudence establishes that both primary and secondary picketing are forms of expression, even when associated with tortious acts: *Dolphin Delivery*, supra. The Court, moreover, has repeatedly reaffirmed the importance of freedom of expression. It is the foundation of a democratic society. The core values which free expression promotes include self-fulfillment, participation in social and political decision-making, and the communal exchange of ideas. Free speech protects human dignity and the right to think and reflect freely on one's circumstances and condition. It allows a person to speak not only for the sake of expression itself, but also to advocate change, attempting to persuade others in the hope of improving one's life and perhaps the wider social, political, and economical environment.[2]

The Court went on to stress that free expression is particularly critical in the labour context:

> As Cory J. observed for the Court in *UFCW, Local 1518 v. Kmart Canada Ltd.*, [1992] 2. S.C.R. 1083, "[f]or employees, freedom of expression becomes not only an important but an essential component of labour relations" (para. 25). The values associated with free expression relate directly to one's work. A person's employment, and the conditions of their workplace, inform one's identity, emotional health, and sense of self-worth.[3]

The Supreme Court also specifically recognized the significance of the role that picketing as an act of free expression plays in the resolution of labour disputes:

> Picketing is an important form of expression in our society and one that is constitutionally protected. In *BCGEU*, Dickson C.J. held that picketing is an "essential component of a labour relations regime founded on the right to bargain collectively and to take collective action".[4]

Dickson C.J. referred to *Harrison v. Carswell* [1976] 2 S.C.R. 200, 62 D.L.R. (3d) 68, where a majority of this Court stated at p. 219:

> Society has long since acknowledged that a public interest is served by permitting union members to bring economic pressure to bear upon their respective employers through peaceful picketing…[5]

These cases set out that picketing activities are not merely something to be tolerated out of practical necessity, but rather they are fundamental aspects of Canadian democracy protected by the *Charter of Rights and Freedoms*. This means that while courts have inherent jurisdiction to grant injunctions to, for example, prevent picketers from engaging in unlawful conduct, they do so while recognizing that concerted action by working people is an intrinsically valuable social practice of a collective expression of human dignity and autonomy.

In the leading *R.W.D.S.U., Local 558 v. Pepsi-Cola Canada Beverages (West) Ltd.* 2002 decision[6], the Supreme Court of Canada set out the law of picketing in relation to the *Charter*, and clarified under what circumstances such activity may be restricted. The Supreme Court described the activity of picketing as an "organized effort of people carrying placards in a public place at or near business premises." The Court emphasized picketing's expressive component by identifying two principal purposes underlying such activity:

> first, to convey information about a labour dispute in order to gain support for its cause from other workers, clients of the struck employer, or the general public, and second, to put social and economic pressure on the employer and, often by extension, on its suppliers and clients.[7]

The Court further emphasized the critical importance of freedom of expression in the labour context. Recognizing that "a person's employment, and the conditions of

their workplace, inform one's identity, emotional health, and sense of self-worth," the Court wrote in an important passage:

> Working conditions, like the duration and location of work, parental leave, health benefits, severance and retirement schemes, may impact on the personal lives of workers even outside their working hours. Expression on these issues contributes to self-understanding, as well as to the ability to influence one's working and non-working life. Moreover, the imbalance between the employer's economic power and the relative vulnerability of the individual worker informs virtually all aspects of the employment relationship […]. Free expression in the labour context thus plays a significant role in redressing or alleviating this imbalance. It is through free expression that employees are able to define and articulate their common interests and, in the event of a labour dispute, elicit the support of the general public in the furtherance of their cause […]. (para 34)

Finally, the Court also recognized that all forms of picketing – both primary and secondary – fall under the protection of s. 2(b) because "free expression in the labour context benefits not only individual workers and unions, but also society as a whole."

The *Pepsi-Cola* decision is also crucial for the law of injunctions because there the Court adopted the "wrongful action" approach to the regulation of picketing activity. Under this approach, in light of the constitutionally-protected social value of the expressive activity of picketing, courts may only restrain such activity to the extent necessary to stop or prevent tortious or criminal conduct. The Court accepted that some economic harm may be legitimately inflicted on an employer during the course of a lawful strike.

The relationship between picketing and the fundamental freedom of expression set out in section 2(b) of the *Charter* came again to the foreground in a recent decision of the Supreme Court. In *Alberta (Information and Privacy Commissioner) v. United*

Food and Commercial Workers, Local 401[8], the Court considered the social importance of picketing. This case did not involve an application for an injunction, but it makes it clear that Canadian courts continue to recognize the fundamental importance and social value of picketing, in particular its expressive component. In that case, the Union had posted signs in the area of the picketing, stating that images of persons crossing the picket line might be placed online. Several individuals who were recorded crossing the picket line filed complaints with the Alberta Information and Privacy Commissioner, alleging that the Union had breached that province's *Personal Information Protection Act*.

The Supreme Court of Canada struck down Alberta's privacy legislation, again emphasizing the importance of picketing as a form of expression with strong historical roots. It found that, to the extent that Alberta's privacy legislation restricts collection for legitimate labour relations purposes, it is in breach of s. 2(*b*) of the *Charter* and cannot be justified under s. 1.

It is noteworthy that in addition to the constitutional right to expression there is the constitutional right to association found in s. 2(d) of the *Charter*. In recent years, the Supreme Court has taken a more expansive interpretation of section 2(d) — the right to association – of the *Charter* than it did in the *Charter*'s early days. In *Health Services and Support - Facilities Subsector Bargaining Assn. v. British Columbia*[9], the Court decided that the guarantee of freedom of association "protects the capacity of members of labour unions to engage in collective bargaining on workplace issues" and a further s. 2(d) case was recently argued at the Supreme Court of Canada arising out of essential

services legislation in Saskatchewan. Among other things, the courts were asked to apply the Supreme Court's current, wider interpretation of s. 2(d) to the right to *strike*, a right that is strongly limited by the impugned legislation[10].

PART III: The Statutory Requirements: The *Courts of Justice Act*, R.S.O. 1990, C 43

When faced with the bringing or responding to an injunction in a labour context, the first thing one must consider is the provisions of the *Courts of Justice Act* which governs injunctions in labour disputes. This Act in section 102 defines a labour dispute as a:

> dispute or difference concerning terms, tenure or conditions of employment or concerning the association or representation of persons in negotiating, fixing, maintaining, changing or seeking to arrange terms or conditions of employment, regardless of whether the disputants stand in the proximate relation of employer or employee.[11]

As a result of this Act, there are a number of conditions precedents that the court must be satisfied are met before an injunction will be granted in a labour dispute as set out in section 102 including:

i) there must be notice: section 102 (2) or, in the case of interim injunctions, strict conditions must be met: section 102 (8);

ii) the court must be satisfied that "reasonable efforts to obtain police assistance" have been unsuccessful; section 102(3)[12]; and,

iii) affidavits in support of an injunction "in a labour dispute shall be confined to statements of fact within the knowledge of the deponent": section 102 (4).

Section 102(3) raises a jurisdictional hurdle to injunction applications in a labour dispute. Unless its preconditions are met, the court is without jurisdiction to issue an injunction.[13]

Section 102(3) and its condition precedents to obtaining an injunction is designed to prevent the use of injunctions in a labour dispute being used as a "weapon" or as a way to end a strike instead of collective bargaining[14].

Once these conditions precedents have been established, the courts then have to consider whether to exercise their discretion to grant the injunction. The courts have repeatedly said that their power to grant an injunction in a labour dispute must be used "sparingly", for an injunction has the effect of significantly impacting a legal strike.

PART IV: The "three fold" legal test for an injunction used by the courts

The "test" for whether or not to grant an injunction remains the well-known three-part test set out by the Supreme Court of Canada in *RJR MacDonald*.[15] In order to obtain an injunction from the courts, a plaintiff must show:

i) that there is a serious issue to be tried;

ii) that they will suffer irreparable harm which cannot be adequately compensated by damages, and

iii) that the balance of convenience is in favour of granting the injunction.

While this general injunction test is also used in picketing injunctions in labour disputes, the courts in Ontario also have to apply the *Courts of Justice Act* and interpret the test in the context of a labour dispute. One court recently described the three fold

RJR MacDonald case as being applied in Ontario labour disputes with "refinements". In the 2013 case, *Sobeys v. UFCW*, the Court stated:

> [33] In the context of a picketing injunction, there are three factors that serve as refinements to these tests. They are:
>
> (a) since, as a practical matter, the interlocutory motion will finally resolve the matter, the plaintiff must show that it has a strong *prima facie* case, instead of a serious question to be tried: see *RJR MacDonald*, at para. 51;
>
> (b) because the issue involves access to property, the plaintiff will more easily be able to demonstrate irreparable harm;
>
> (c) the plaintiff must comply with s. 102(3) of the *Courts of Justice Act*, and must demonstrate that reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry or exit from the premises in question or breach of the peace have been unsuccessful. [16]

PART V: Refined, or not, the moving party must meet all these parts of the injunction test to be successful.

A. How the courts apply these requirements in considering an injunction in a legal strike situation:

1. Discretionary remedy: weapon to be used sparingly

The courts have long held that injunctions in a labour dispute should be used "sparingly" and as a "last resort"[17]. The reality is if an applicant runs to the court without the circumstances warranting the court's intervention (e.g. the conduct is not serious enough, the delays or problems are not unusual, there are no safety concerns / peaceful picketing, the evidence is not before the court as direct evidence, the applicant does not have "clean hands", etc.), the courts will not usually grant the application. Most of these cases are not reported and are often resolved by the court demanding the

parties work out a protocol or otherwise resolve their issues without the intervention of the court.

2. "Strike is not a tea party"

In considering injunctions in labour disputes, the courts have repeatedly made it clear that employers are not to run to them for this discretionary help of the courts unless the facts warrant intervention ("last resort"). As the courts have said often in decisions (and more often orally in courts), "a strike is not a tea party"[18]. As Mr. Justice Gray recently stated:

> "A strike is the culmination of a failed negotiation. After a failed negotiation, emotions are often high. What ensures is an economic struggle". Courts accept the reality of this emotionally charged situation and have recognized that "the court must be sensitive to the interests of both parties in formulating an appropriate remedial order".[19]

3. Onus on the moving party to satisfy the courts that reasonable efforts to obtain police assistance has not resulted in an acceptable degree of control

This is a key precondition set out in the *Courts of Justice Act* set out above. In *Industrial Hardwood Products Ltd.*, the Ontario Court of Appeal stated:

> Absent question of property damage or personal injury, a robust society can accommodate some inconvenience as a corollary of the right to picket in a labour dispute before the court will conclude that police assistance has failed and that it has jurisdiction to intervene with injunction relief[20]

In the *Industrial Hardwood* case, the Ontario Court of Appeal was asked to interpret the necessary precondition in Ontario found in s.102 of the *Courts of Justice Act* of "police assistance" being unsuccessful. After three months of considerable delay and blockades on the picket line the court granted an injunction, in part. Picketers were still able to delay entrance to the facility for the purpose of communicating information to those who wanted it.

In this case, the Court of Appeal adopted a purposive interpretation of section 102(3) and was clear that the section places an onus on the applicant to satisfy the court that the applicant has made reasonable efforts to obtain police assistance and that those efforts have not resulted in an acceptable degree of control. The factors courts look at are the length of the strike, the risks of property damage, personal injury and lengths of the delay. It emphasized that only where "flexible and even-handed policing" fails to control illegal picketing activity should the courts resort to the "blunt instrument" of the injunction[21]. The Court of Appeal also removed the restriction on the number of picketers that had been imposed by the Superior Court, because it found that it was not necessary to prevent the alleged harm and there was an unjustified infringement of union members' rights of freedom of expression under s. 2(b) of the Charter.

Where the employer alleges that the police have not co-operated and refused to provide it with assistance, the court will require clear and convincing evidence. An injunction should not be granted where the evidence indicates that police assistance was unnecessary, or was forthcoming and helped resolve problems[22].

It is usually not enough to say that the police have been uncooperative because of the policy of non-interference they have adopted. In *Cancoil*, the Court held that, where police rely on a policy of non-intervention but are asked to assist to prevent interference with entry or exit from an employer's premises, s. 102(3) is *not* met unless the employer can show a "serious ongoing obstruction" by picketers. This obstruction is measured by the degree of obstruction, its duration on each occasion, and how many days it has gone on. The presence of some degree of delay or obstruction and a police

policy of non-intervention with access to property in a labour dispute do not usually on their own satisfy the test, absent a serious degree of non-consensual obstruction of long duration[23]. Courts have usually found the police to have an acceptable degree of control if, despite some degree of delay and obstruction, picketing is peaceful, access to the property is permitted, and the police have responded to assist in managing the situation. This is so even when the police state they have a policy of neutrality in labour relations matters[24].

4. Delay on the Picket Line

Delay of persons seeking to cross the picket line is often the issue in these injunctions; picketers can delay lines of cars or individuals attempting to cross a picket line for considerable periods of time. Applicants come to the courts claiming delays are "blockades" or "obstruction to ingress and egress". There have been many labour injunction cases on delay with conflicting results. Mr. Justice Gray in a 2013 decision reviewed some of them. He noted that, for example, in a 1991 case Mr. Justice Montgomery did not allow any delay to members of the public in a picketing situation[25] yet these are also cases where the courts have not granted injunctive relief even in the case of delays up to one hour, accompanied by violence, threats or intimidation: see *Trailmobile Canada v. Merrill*[26]. Each case will be considered on its merits, but the *Sobeys v. U.F.C.W.* case illustrates the balancing of interests approach the courts take in considering injunctions in labour matters. Mr. Justice Gray stated:

> [38] Picketing usually occurs on public streets and sidewalks, and accordingly there is usually no trespass involved. However, a deprivation of access to property is a nuisance, and injunctive relief is the normal remedy. Accordingly, in the case of deprivation

> of access to property, the plaintiff in a picketing situation will usually have little difficulty demonstrating irreparable harm.
>
> [39] However, in the context of a lawful strike, it is not enough to say that the employer has the right to access its property and thus must be granted an injunction to prohibit any delay in accessing the property. To take that approach, as some courts have done, would inadequately take account of the dynamics of a strike.
>
> [40] I reviewed those dynamics earlier. What is on foot is an economic struggle. To permit the employer unfettered access to its property, without any delay, would swing the pendulum too far in one direction. However, to permit delays that are extreme would swing the pendulum too far in the other direction. In my view, while the employer must be permitted access to its property, and to carry on business if it can, it is not entitled to conduct its business with no inconvenience. As noted by Goudge J.A. in *Industrial Hardwood*, supra, "A robust society can accommodate some inconvenience as a corollary of the right to picket in a labour dispute". In my view, that reflects the appropriate balance.
>
> [41] Some have sought to support a measure of delay in accessing the employer's property as a corollary of the constitutional right to convey information through picketing. In order to convey information adequately, so the argument goes, the person who wishes to convey that information must have an opportunity to do so. Thus, a reasonable amount of delay must be allowed so that the message can be communicated. Indeed, that was effectively the argument made before me by counsel for the defendants.[27]

It is clear that the majority of cases some delay is tolerated but in some cases, depending on the circumstances, delay is not allowed. *Ontario Power Generation v. Society of Energy Professionals*[28] is an example that is often cited as the a case that due to "sheer volume of traffic" the court ordered the injunction. In that strike, however, this was the third attempt to obtain an injunction and was in the context of the prospect of power plants being shut down in the middle of a very hot summer. The courts did not order the injunction until well into the strike when the delays were very lengthy, essentially shutting down the 401 for miles. Similarly, in *Ogden Entertainment Services v. Retail, Wholesale/Canada Canadian Service Sector Division of the United*

Steelworkers of America, Local 440[29], an injunction was granted and upheld by the Court of Appeal in the circumstances of the effect a picket line would have regarding the safety of a very large crowd of people; namely, hockey fans going to a hockey game.

The courts often step in and set up defined maximum times for delay of each person crossing a picket line. Mr. Justice Warren Winkler (as he was at that time), for instance, imposed a ten minutes delay in the first injunction brought in the 2002 Ontario Public Services strike. This same timeline has appeared in each injunction subsequently brought across the Province in this long OPS strike with many injunctions for different locations throughout the Province.

These cases clearly illustrate that the delay of persons or vehicles *per se* unaccompanied by breaches of the peace does not necessarily constitute an interference or obstruction with property. This activity is not automatically a "nuisance" or mischief which will be enjoined. When assessing what constitutes wrongful action one must balance and compare the competing interests of the employer or other entity being picketed and the strikers picketing it. The location of the picketing, the length of the delay, degree of obstruction, and length of time it has continued are relevant considerations as to whether wrongful action requiring the Court's intervention is present[30].

Issues of health and safety will however usually end up in an injunction case. For instance, in a 2014 B.C. case, the court granted an injunction due to the concerns of the health and safety of the workers.[31] In that case, the health and safety concern was caused by the delays created by the picketing. Similarly, Ontario courts will not tolerate

any delays regarding the crossing of picket lines by medical personnel, and most unions include an express exemption for medical personnel and ambulances in their picketing protocols.

5. Protocols

Picketing protocols often set out agreements which permit a certain period of delay. These protocols often arise in the injunction, and the parties are directed by the court to negotiate a protocol instead of receiving a court order.

In *Cancoil Thermal Corp. v Abbott*,[32] picketers were delaying entry of each employee by fifteen minutes, and the police refused to intervene because there was no public safety concern. The court found that time is a breach of s. 102(3), but the Court declined to exercise its discretion to grant the injunction because the employer had not accepted the union's good faith offer to negotiate a picket line protocol.

Courts will issue injunctions with restraint and only where, and to the extent that, an infringement of union members' rights is justified to prevent wrongful or harmful activity. The courts in this, and in many other unrepresented cases, have found that employers and unions must make reasonable efforts to privately negotiate suitable picketing protocols before resorting to the courts and attempting to obtain what the courts have called the "blunt instrument" of an injunction.

Appendix / Endnotes

[1] Kate Hughes is a senior partner at Cavalluzzo Shilton McIntyre Cornish LLP. Daniel Wilband was a summer student in 2014 and will be returning as an articling student in 2015.

[2] *Retail, Wholesale and Department Store Union, Local 558 v. Pepsi-Cola Canada Beverages (West) Ltd.,* [2002] S.C.J. No 7 *(Pepsi-Cola Canada)*, at para. 32
http://scc-csc.lexum.com/scc-csc/scc-csc/en/1945/1/document.do
[3] *Ibid*. at para. 33
http://scc-csc.lexum.com/scc-csc/scc-csc/en/1945/1/document.do
[4] *B.C.G.E.U. v. British Columbia (Attorney General),* [1988] 2 SCR 214, at para. 27.
http://www.canlii.org/en/ca/scc/doc/1988/1988canlii3/1988canlii3.html
[5] *United Food and Commercial Workers, Local 1518 (U.F.C.W.) v. KMart Canada Ltd.,* [1999] 2 S.C.R. 1083, at para. 39
https://scc-csc.lexum.com/scc-csc/scc-csc/en/1722/1/document.do
[6] *Pepsi-Cola Canada*, *supra*
http://scc-csc.lexum.com/scc-csc/scc-csc/en/1945/1/document.do
[7] *Pepsi-Cola Canada, supra*, at para 7
[8] *Alberta (Information and Privacy Commissioner) v. United Food and Commercial Workers, Local 401*, [2013] 3 SCR 733
http://scc-csc.lexum.com/scc-csc/scc-csc/en/13334/1/document.do
[9] *Health Services and Support - Facilities Subsector Bargaining Assn. v. British Columbia*, 2007 SCC 27 at para 35
http://scc-csc.lexum.com/scc-csc/scc-csc/en/2366/1/document.do
[10] *Saskatchewan Federation of Labour (in its own right and on behalf of the unions and workers in the Province of Saskatchewan), et al. v. Her Majesty the Queen, in Right of the Province of Saskatchewan*, 2013 CanLII 65412 (SCC)
http://canlii.ca/t/g11h9
[11] *Courts of Justice Act* R.S.O. 1990,. C43 , s. 102
http://www.e-laws.gov.on.ca/html/statutes/english/elaws_statutes_90c43_e.htm
[12] The provision states in full in section 102 (3) of the *Courts of Justice Act*, *ibid*, "reasonable efforts to obtain police assistance, protection and action to prevent or remove any alleged danger of damage to property, injury to persons, obstruction of or interference with lawful entry or exit from the premises in question or breach of the peace have been unsuccessful".
[13] *Hydro One Inc. v. Rattal,* [2005] O.J. No. 2998 *(Hydro One v. Rattal),* at paras. 24 - 25 (S.C.J.);
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4JJD-JNS0-TWVB-306P&csi=280717&oc=00240&perma=true; or
Jayden v. Pointon, [1986] O.J. No. 1512 *(Jayden v. Pointon)*, at pp. 2 - 3 (S.C.) (QL)
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4JJD-NPH0-TWVB-3074&csi=280717&oc=00240&perma=true
[14] *Board of Education for the City of Windsor v. Ontario Secondary Teachers' Federation* (1975), 7 O.R. (2d) 26 *(Windsor v. OSTF)* at p. 4 (H.C.J.) (QL)
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4HYN-BTT0-TWVB-50PB&csi=280675&oc=00240&perma=true; or
Blackstone Industrial Products Ltd. v. Parsons (1979), 23 O.R. (2d) 529 (Blackstone v. Parsons), at p. 3 (H.C.J) (QL)
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4HYN-BTS0-TWVB-51HN&csi=280675&oc=00240&perma=true; or
Hydro One Inc. v. Rattal, supra at para. 25
[15] *RJR-MacDonald Inc. v Canada (Attorney General),* [1994] 1 SCR 311
http://scc-csc.lexum.com/scc-csc/scc-csc/en/1111/1/document.do
[16] *Sobeys Inc. v. UFCW local 175,* 2013 ONSC 1207 *(Sobeys)*, at para 33.
https://www.canlii.org/en/on/onsc/doc/2013/2013onsc1207/2013onsc1207.pdf
[17] *Windsor v. OSTF, supra* at page 4; or
Blackstone v. Parsons, supra, at p.3
[18] See perhaps the first reference in *A.L. Patchett & Sons v. Pacific Great Eastern Railway* [1959] S.C.R. 271 at 276, quoted again in *Pepsi-Cola,* supra, at paragraph 90; and most recently stated *Sobeys, supra,* at paragraph 21.
http://scc-csc.lexum.com/scc-csc/scc-csc/en/7267/1/document.do

[19] *Sobey's*, *supra,* at paras 21 and 45.
[20] *Industrial Hardwood Products v. Industrial Wood and Allied Workers of Canada* (2001) 52 OR (3d) 694 (C.A.) *(Industrial)*, at para. 21
https://www.canlii.org/en/on/onca/doc/2001/2001canlii24071/2001canlii24071.pdf
[21] *Ibid*, para. 16
[22] *Nedco Limited v. Nichols, supra (Nedco v. Nichols)* at p. 6 (QL)
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4HYN-BTT0-TWVB-50TW&csi=280675&oc=00240&perma=true; or
Westin Harbour Castle Hotel v. Textile Processors, [1996] O.J. No. 2614 at para. 16 (Gen. Div.)
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4JJD-J4C0-TWVB-31DY&csi=280717&oc=00240&perma=true
[23] *Cancoil Thermal Corp. v. Abbott, supra (Cancoil Thermal Corp. v. Abbott)* at paras. 17-18, relying on *Industrial, supra*, at 702
https://www.canlii.org/en/on/onca/doc/2001/2001canlii24071/2001canlii24071.pdf
[24] *Nedco Ltd. v. Nichols, supra* at p. 6.; or
Blackstone v. Parsons, supra, at p.3 (H.C.J); or
Trailmobile Canada Ltd. v. Ballard, supra at paras. 6-8
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4JJ9-FHG0-TWVB-30BB&csi=280717&oc=00240&perma=true; or
Jayden v. Pointon, supra at p.5; or
Cancoil Thermal Corp. v. Abbott, supra, at paras. 12-18
[25] *Sobey's, supra,* at para. 27 discussion of the example of *Canada (AG) v. Gillehan* [1991] O.J. No 2617 (Gen. Div).
[26] *Supra,* at para. 29, citing *Trailmobile Canada v. Merrille* [1983] O.J. no. 1123 (HCJ).
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4JJ9-HH30-TWVB-31HT&csi=280717&oc=00240&perma=true
[27] *Sobeys*, *supra*, at paras 38-41
[28] *Ontario Power Generation v. Society of Energy Professionals* [2005] O.J. no 5817 (SCJ)
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4JJD-JNR0-TWVB-314B&csi=280717&oc=00240&perma=true
[29] *Ogden Entertainment Services v. Retail, Wholesale/Canada Canadian Service Sector Division of the United Steelworkers of America, Local 440*, [1998] O.J. No. 1824,
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4JJG-46G0-TWVB-31KY&csi=280717&oc=00240&perma=true
[30] *Urban Parcel Services v. CUPW,* [1991] N.S.J. No. 427 at pp.5-6(S.C.), or
http://www.lexisnexis.com/ca/legal/docview/getDocForCuiReq?lni=4JH4-DCD0-TWVB-01CS&csi=281019&oc=00240&perma=true
Industrial, supra, at para. 23; or
Cancoil Thermal Corp. v. Abbott, supra, at paras. 5-18, 20-22
https://www.canlii.org/en/on/onsc/doc/2004/2004canlii2565/2004canlii2565.pdf; or
Hydro One Inc. v. Rattal, supra, at paras. 18, 24-25
[31] *Cascade Aerospace Inc. v. Unifor (Local 114)*, [2014] B.C.J. No. 2011
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[32] *Cancoil Thermal Corp. v Abbott, supra*