

**S.C.C. Court File No. 37896**

**IN THE SUPREME COURT OF CANADA  
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)**

**BETWEEN:**

**BELL CANADA , et al.**

**APPELLANTS (Appellants)**

**-and-**

**ATTORNEY GENERAL OF CANADA**

**RESPONDENT(Respondents)**

**-and-**

**CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION, et  
al.**

**INTERVENERS**

**DANIEL JUTRAS AND AUDREY BOCTOR**

**AMICUS CURIAE**

**S.C.C. Court File No. 37748**

**AND BETWEEN:**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**APPELLANT (Respondent)**

**-and-**

**ALEXANDER VAVILOV**

**RESPONDENT (Appellant)**

**ATTORNEY GENERAL OF ONTARIO, et al.**

**INTERVENERS**

**-and-**

**DANIEL JUTRAS AND AUDREY BOCTOR**

**AMICUS CURIAE**

**S.C.C. Court File No. 37897**

**AND BETWEEN:**

**NATIONAL FOOTBALL LEAGUE, et al.**

**APPELLANTS (Appellants)**

**-and-**

**ATTORNEY GENERAL OF CANADA**

**RESPONDENT (Respondents)**

**-and-**

**CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION, et  
al.**

**INTERVENERS**

**-and-**

**DANIEL JUTRAS AND AUDREY BOCTOR**

**AMICUS CURIAE**

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**FACTUM OF THE INTERVENER, COUNCIL OF CANADIAN ADMINISTRATIVE  
TRIBUNALS.**

*(Pursuant to Rule 42 of the Rules of the Supreme Court of Canada)*

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**LAX O'SULLIVAN LISUS GOTTLIEB  
LLP**

2750 - 145 King St. West  
Toronto, Ontario M5H 1J8

**Terrence J. O'Sullivan**

**Paul Mitchell**

**James Renihan**

Tel: (416) 644-5359

Fax: (416) 598-3730

E-mail: [tosullivan@counsel-toronto.com](mailto:tosullivan@counsel-toronto.com)

**Counsel for the Intervener, Council of  
Canadian Administrative Tribunals.**

**SUPREME ADVOCACY LLP**

340 Gilmour St.  
Ottawa, ON K2P 0R3

**Eugene Meehan, Q.C**

**Marie-France Major**

Tel.: (613) 695-8855

Fax: (613) 695-8580

Email: [emeehan@supremeadvocacy.ca](mailto:emeehan@supremeadvocacy.ca)

[mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Agent for Counsel for the Intervener,  
Council of Canadian Administrative  
Tribunals**

**IN THE SUPREME COURT OF CANADA  
(ON APPEAL FROM THE FEDERAL COURT OF APPEAL)**

**BETWEEN:**

**BELL CANADA and BELL MEDIA INC.**

**APPELLANT (Appellants)**

**-and-**

**ATTORNEY GENERAL OF CANADA**

**RESPONDENT (Respondents)**

**-and-**

**CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION**

**INTERVENER**

**-and-**

**ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL FOR SASKATCHEWAN, ADVOCACY CENTRE FOR TENANTS ONTARIO, ONTARIO SECURITIES COMMISSION, BRITISH COLUMBIA SECURITIES COMMISSION AND ALBERTA SECURITIES COMMISSION, ECOJUSTICE CANADA SOCIETY, WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (ONTARIO), WORKERS' COMPENSATION APPEALS TRIBUNAL (NORTHWEST TERRITORIES AND NUNAVUT), WORKERS' COMPENSATION APPEALS TRIBUNAL (NOVA SCOTIA), APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION AND WORKERS' COMPENSATION APPEALS TRIBUNAL (NEW BRUNSWICK), BRITISH COLUMBIA INTERNATIONAL COMMERCIAL ARBITRATION CENTRE FOUNDATION, COUNCIL OF CANADIAN ADMINISTRATIVE TRIBUNALS, CAMBRIDGE COMPARATIVE ADMINISTRATIVE LAW FORUM, NATIONAL ACADEMY OF ARBITRATORS, ONTARIO LABOUR-MANAGEMENT ARBITRATORS' ASSOCIATION AND CONFÉRENCE DES ARBITRES DU QUÉBEC, CANADIAN LABOUR CONGRESS, NATIONAL ASSOCIATION OF PHARMACY REGULATORY AUTHORITIES, QUEEN'S PRISON LAW CLINIC, ADVOCATES FOR THE RULE OF LAW, SAMUELSON-GLUSHKO CANADIAN INTERNET POLICY AND PUBLIC INTEREST CLINIC, CANADIAN BAR ASSOCIATION, FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA, BLUE ANT MEDIA INC., CANADIAN BROADCASTING CORPORATION, DHX MEDIA LTD., GROUPE V MEDIA INC., INDEPENDENT BROADCAST GROUP, ABORIGINAL PEOPLES TELEVISION NETWORK, ALLARCO ENTERTAINMENT INC., BBC KIDS, CHANNEL ZERO, ETHNIC CHANNELS GROUP LTD., HOLLYWOOD SUITE, OUTTV NETWORK INC., STINGRAY DIGITAL GROUP INC., TV5 QUÉBEC CANADA, ZOOMERMEDIA LTD. AND PELMOREX WEATHER NETWORKS (TELEVISION) INC., TELUS COMMUNICATIONS INC., ASSOCIATION OF CANADIAN ADVERTISERS AND ALLIANCE OF CANADIAN CINEMA, TELEVISION AND RADIO ARTISTS**

**INTERVENERS**

**-and-**

**DANIEL JUTRAS AND AUDREY BOCTOR**

**AMICUS CURIAE**

**S.C.C. Court File No. 37748**

**AND BETWEEN:**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**APPELLANT (Respondent)**

**-and-**

**ALEXANDER VAVILOV**

**RESPONDENT (Appellant)**

**-and-**

**ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL FOR SASKATCHEWAN, CANADIAN COUNCIL FOR REFUGEES, ADVOCACY CENTRE FOR TENANTS ONTARIO, ONTARIO SECURITIES COMMISSION, BRITISH COLUMBIA SECURITIES COMMISSION AND ALBERTA SECURITIES COMMISSION, ECOJUSTICE CANADA SOCIETY, WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (ONTARIO), WORKERS' COMPENSATION APPEALS TRIBUNAL (NORTHWEST TERRITORIES AND NUNAVUT) AND WORKERS' COMPENSATION APPEALS TRIBUNAL (NOVA SCOTIA), APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION AND WORKERS' COMPENSATION APPEALS TRIBUNAL (NEW BRUNSWICK), BRITISH COLUMBIA INTERNATIONAL COMMERCIAL ARBITRATION CENTRE FOUNDATION, COUNCIL OF CANADIAN ADMINISTRATIVE TRIBUNALS, NATIONAL ACADEMY OF ARBITRATORS, ONTARIO LABOUR-MANAGEMENT ARBITRATORS' ASSOCIATION AND CONFÉRENCE DES ARBITRES DU QUÉBEC, CANADIAN LABOUR CONGRESS, NATIONAL ASSOCIATION OF PHARMACY REGULATORY AUTHORITIES, QUEEN'S PRISON LAW CLINIC, ADVOCATES FOR THE RULE OF LAW, PARKDALE COMMUNITY LEGAL SERVICES, CAMBRIDGE COMPARATIVE ADMINISTRATIVE LAW FORUM, SAMUELSON-GLUSHKO CANADIAN INTERNET POLICY AND PUBLIC INTEREST CLINIC, CANADIAN BAR ASSOCIATION, CANADIAN ASSOCIATION OF REFUGEE LAWYERS, COMMUNITY & LEGAL AID SERVICES PROGRAMME, ASSOCIATION QUÉBÉCOISE DES AVOCATS ET AVOCATES EN DROIT DE L'IMMIGRATION, FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA**

**INTERVENERS**

**-and-**

**DANIEL JUTRAS AND AUDREY BOCTOR**

**AMICUS CURIAE**

**S.C.C. Court File No. 37897**

**AND BETWEEN:**

**NATIONAL FOOTBALL LEAGUE, NFL INTERNATIONAL LLC and NFL PRODUCTIONS LLC**

**APPELLANT (Appellants)**

**-and-**

**ATTORNEY GENERAL OF CANADA**

**RESPONDENT (Respondents)**

-and-

**ATTORNEY GENERAL OF ONTARIO, ATTORNEY GENERAL OF QUEBEC, ATTORNEY GENERAL OF BRITISH COLUMBIA, ATTORNEY GENERAL FOR SASKATCHEWAN, ADVOCACY CENTRE FOR TENANTS ONTARIO, ONTARIO SECURITIES COMMISSION, BRITISH COLUMBIA SECURITIES COMMISSION AND ALBERTA SECURITIES COMMISSION, ECOJUSTICE CANADA SOCIETY, WORKPLACE SAFETY AND INSURANCE APPEALS TRIBUNAL (ONTARIO), WORKERS' COMPENSATION APPEALS TRIBUNAL (NORTHWEST TERRITORIES AND NUNAVUT), WORKERS' COMPENSATION APPEALS TRIBUNAL (NOVA SCOTIA), APPEALS COMMISSION FOR ALBERTA WORKERS' COMPENSATION AND WORKERS' COMPENSATION APPEALS TRIBUNAL (NEW BRUNSWICK), BRITISH COLUMBIA INTERNATIONAL COMMERCIAL ARBITRATION CENTRE FOUNDATION, COUNCIL OF CANADIAN ADMINISTRATIVE TRIBUNALS, CAMBRIDGE COMPARATIVE ADMINISTRATIVE LAW FORUM, NATIONAL ACADEMY OF ARBITRATORS, ONTARIO LABOUR-MANAGEMENT ARBITRATORS' ASSOCIATION AND CONFÉRENCE DES ARBITRES DU QUÉBEC, CANADIAN LABOUR CONGRESS, NATIONAL ASSOCIATION OF PHARMACY REGULATORY AUTHORITIES, QUEEN'S PRISON LAW CLINIC, ADVOCATES FOR THE RULE OF LAW, SAMUELSON-GLUSHKO CANADIAN INTERNET POLICY AND PUBLIC INTEREST CLINIC, CANADIAN BAR ASSOCIATION, FIRST NATIONS CHILD AND FAMILY CARING SOCIETY OF CANADA, TELUS COMMUNICATIONS INC., ASSOCIATION OF CANADIAN ADVERTISERS AND ALLIANCE OF CANADIAN CINEMA, TELEVISION AND RADIO ARTISTS**

**INTERVENERS**

-and-

**DANIEL JUTRAS AND AUDREY BOCTOR**

**AMICUS CURIAE**

---

**ATTORNEY GENERAL OF CANADA**

130 King Street West  
Suite 3400, Box 36  
Toronto, Ontario M5X 1K6

**John Provart**

**Marianne Zoric**

Tel: (416) 973-1346

Fax: (416) 954-8982

E-mail: [john.provart@justice.gc.ca](mailto:john.provart@justice.gc.ca)

**Counsel for the Appellant, Minister of  
Citizenship and Immigration (SCC 37748)**

**MCCARTHY TÉTRAULT LLP**

66 Wellington Street West  
Suite 5300, Toronto Dominion Bank Tower  
Toronto, ON M5K 1E6

---

**ATTORNEY GENERAL OF CANADA**

Department of Justice Canada  
50 O'Connor Street, Suite 500, Room 556  
Ottawa, ON K2P 6L2

**Christopher M. Rupar**

Tel.: (613) 941-2351

Fax: (613) 954-1920

Email: [Christopher.rupar@justice.gc.ca](mailto:Christopher.rupar@justice.gc.ca)

**Agent for Counsel for the Appellant,  
Minister of Citizenship and Immigration  
(SCC 37748)**

**GOWLING WLG (CANADA) LLP**

160 Elgin Street, Suite 2600  
Ottawa, Ontario K1P 1C3

**Steven G. Mason**  
**Brandon Kain**  
**Steven Tanner**  
**James S.S Holtom**  
**Richard Lizius**

Tel: (416) 601-8200  
Fax: (416) 868-0673  
E-mail: [smason@mccarthy.ca](mailto:smason@mccarthy.ca)

**Counsel for the Appellant, Bell Canada, and  
Bell Media Inc. (SCC 37896)**

**MCCARTHY TÉTRAULT LLP**  
66 Wellington Street West  
Suite 5300, Toronto Dominion Bank Tower  
Toronto, Ontario M5K 1E6

**Steven G. Mason**  
**Brandon Kain**  
**Richard Lizius**

Tel: (416) 601-8200  
Fax: (416) 868-0673  
E-mail: [smason@mccarthy.ca](mailto:smason@mccarthy.ca)

**Counsel for the Appellant, National Football  
League, NFL International LLC and NFL  
Productions LLC (SCC 37897)**

**ATTORNEY GENERAL OF CANADA**  
Ontario Regional Office  
120 Adelaide Street West, Suite 400  
Toronto, Ontario M5H 1T1

**Michael H. Morris**  
**Roger Flaim**  
**Laura Tausky**

Tel: (647) 256-7539  
FAX: (416) 952-4518  
E-mail: [michael.morris@justice.gc.ca](mailto:michael.morris@justice.gc.ca)

**Counsel for the Respondent, Attorney  
General of Canada (SCC 37896, 37897)**

**JACKMAN NAZAMI & ASSOCIATES**  
596 St. Clair Avenue West, Unit 3  
Toronto, Ontario  
M6C 1A6

**Jeffrey W. Beedell**

Tel: (613) 786-0171  
Fax: (613) 788-3587  
E-mail: [jeff.beedell@gowlingwlg.com](mailto:jeff.beedell@gowlingwlg.com)

**Agent for Counsel for the Appellant, Bell  
Canada, and Bell Media Inc. (SCC 37896)**

**GOWLING WLG (CANADA) LLP**  
160 Elgin Street, Suite 2600  
Ottawa, Ontario K1P 1C3

**Jeffrey W. Beedell**

Tel: (613) 786-0171  
Fax: (613) 788-3587  
E-mail: [jeff.beedell@gowlingwlg.com](mailto:jeff.beedell@gowlingwlg.com)

**Agent for Counsel for the Appellant,  
National Football League , NFL  
International LLC and NFL Productions  
LLC (SCC 37897)**

**ATTORNEY GENERAL OF CANADA**  
Department of Justice Canada  
50 O'Connor Street, Suite 500, Room 556  
Ottawa, ON K2P 6L2

**Christopher M. Rupar**

Tel.: (613) 941-2351  
Fax: (613) 954-1920  
Email: [Christopher.rupar@justice.gc.ca](mailto:Christopher.rupar@justice.gc.ca)

**Agent for Counsel for the Respondent,  
Attorney General of Canada (SCC 37896,  
37897)**

**CHAMP AND ASSOCIATES**  
43 Florence Street  
Ottawa, Ontario  
K2P 0W6

**Hadayt Nazami**

Tel: (416) 653-9964

Fax: (416) 653-1036

E-mail: [hadayt@rogers.com](mailto:hadayt@rogers.com)

**Counsel for the Respondent, Alexander Vavilov**

**Bijon Roy**

Tel: (613) 237-4740

Fax: (613) 232-2680

E-mail: [broy@champlaw.ca](mailto:broy@champlaw.ca)

**Agent for, Counsel for the Respondent, Alexander Vavilov**

**CANADIAN RADIO-TELEVISION AND TELECOMMUNICATIONS COMMISSION**

Les Terrasse de la Chaudière, Central Building  
1 Promenade du Portage  
Gatineau, Quebec J8X 4B1

**Crystal Hulley-Craig**

Tel: (819) 956-2095

Fax: (819) 953-0589

E-mail: [crystal.hulley@crtc.gc.ca](mailto:crystal.hulley@crtc.gc.ca)

**Counsel for the Intervener, Canadian Radio- Television and Telecommunications Commission (SCC 37896, 37897)**

**MCGILL UNIVERSITY**

3644 Peel Room 20  
Old Chancellor Day Hall, Faculty of Law  
Montreal, Quebec H3A 1W9

**Daniel Jutras**

Tel: (514) 398-1453

Fax: (514) 398-4659

E-mail: [daniel.jutras@mcgill.ca](mailto:daniel.jutras@mcgill.ca)

**Amicus Curiae (SCC 37748, 37896, 37897)**

**IMK LLP**

Alexis Nihon Plaza, Tower 2  
3500 De Maisonneuve Blvd. West  
Montreal, Quebec H3Z 3C1

**Audrey Boctor**

Tel: (514) 934-7737

Fax: (514) 935-2999

E-mail: [aboctor@imk.ca](mailto:aboctor@imk.ca)

**Amicus Curiae SCC 37748, 37896, 37897)**

**SUPREME ADVOCACY LLP**

340 Gilmour St.  
Ottawa, ON K2P 0R3

**Marie-France Major**

Tel.: (613) 695-8855 ext 102

Fax: (613) 695-8580

Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Agent for the Amicus Curiae, Daniel Jutras, and Audrey Boctor SCC 37748, 37896, 37897)**

**ATTORNEY GENERAL OF ONTARIO**  
8<sup>th</sup> fl. – 720 Bay Street  
Toronto, Ontario M5G 2K1

**Sara Blake**  
**Judie Im**  
Tel: (416) 326-4155  
Fax: (416) 326-4181  
E-mail: [sara.blake@jus.gov.on.ca](mailto:sara.blake@jus.gov.on.ca)

**Counsel for the Intervener, Attorney  
General of Ontario.**

**NELLIGAN O'BRIEN PAYNE LLP**  
300 - 50 O'Connor Street  
Ottawa, Ontario  
K1P 6L2

**Christopher Rootham**  
**Michael Ryan**  
Tel: (613) 231-8311  
Fax: (613) 788-3667  
E-mail: [christopher.rootham@nelligan.ca](mailto:christopher.rootham@nelligan.ca)

**Counsel for the Intervener, Telus  
Communications Inc.**

**THE LAW OFFICE OF JAMIE LIEW**  
39 Fern Avenue  
Ottawa, Ontario K1Y 3S2

**Jamie Liew**  
**Gerald Heckman**  
**Jean Lash**  
Tel: (613) 808-5592  
Fax: (888) 843-3413  
E-mail: [jamie.liew@uottawa.ca](mailto:jamie.liew@uottawa.ca)

**Counsel for the Intervener, Canadian  
Council for Refugees.**

**SUPREME ADVOCACY LLP**  
340 Gilmour St.  
Ottawa, ON K2P 0R3

**Marie-France Major**  
Tel.: (613) 695-8855  
Fax: (613) 695-8580  
Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Agent for Counsel for the Intervener,  
Attorney General of Ontario**

**COMMUNITY LEGAL SERVICES OF  
OTTAWA-SOUTH OFFICE**  
1355 Bank Street Suite 406  
Ottawa, Ontario K1H 8K7

**Jaime Lefebvre**  
Tel: (613) 733-0140 Ext: 6027  
E-mail: [lefebvj@lao.on.ca](mailto:lefebvj@lao.on.ca)

**Agent for Counsel for the Intervener,  
Canadian Council for Refugees**



**ADVOCACY CENTRE FOR TENANTS  
ONTARIO**

1500 - 55 University Avenue  
Toronto, Ontario  
M5J 2H7

**Karen Andrews**

Tel: (416) 597-5855  
Fax: (416) 597-5821  
E-mail: [andrews@lao.on.ca](mailto:andrews@lao.on.ca)

**Counsel for the Intervener, Advocacy  
Centre for Tenants (Ontario)**

**ONTARIO SECURITIES COMMISSION**

2200 - 20 Queen Street West  
Toronto, Ontario M5H 3S8

**Matthew H. Britton**

**Jennifer M. Lynch**

**Paloma Ellard**

**David Hainey**

**Don Young**

Tel: (416) 593-8294  
Fax: (416) 593-2319  
E-mail: [mbritton@osc.gov.on.ca](mailto:mbritton@osc.gov.on.ca)

**Counsel for the Interveners, Ontario  
Securities Commission, BC Securities  
Commission and Alberta Securities  
Commission.**

**ECOJUSTICE CANADA SOCIETY**

1910 - 777 Bay Street  
PO BOX 106  
Toronto, Ontario M5G 2C8

**Laura Bowman**

**Bronwyn Roe**

Tel: (416) 368-7533  
Fax: (416) 363-2746  
E-mail: [lbowman@ecojustice.ca](mailto:lbowman@ecojustice.ca)

**Counsel for the Intervener, Ecojustice  
Canada Society**

**SUPREME ADVOCACY LLP**

340 Gilmour St.  
Ottawa, ON K2P 0R3

**Marie-France Major**

Tel.: (613) 695-8855  
Fax: (613) 695-8580  
Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Agent for Counsel for the Intervener,  
Advocacy Centre for Tenants (Ontario)**

**CONWAY BAXTER WILSON LLP**

400-411 Roosevelt Avenue  
Ottawa, Ontario K2A 3X9

**Benjamin Grant**

Tel: (613) 780-2008  
Fax: (613) 688-0271  
E-mail: [bgrant@conway.pro](mailto:bgrant@conway.pro)

**Agent for Counsel for the Interveners,  
Ontario Securities Commission, BC  
Securities Commission and Alberta  
Securities Commission.**

**SUPREME LAW GROUP**

900 - 275 Slater Street  
Ottawa, ON K1P 5H9

**Maira Dillon**

Tel.: (613) 691-1224  
Fax: (613) 691-1338  
Email: [mdillon@supremelawgroup.ca](mailto:mdillon@supremelawgroup.ca)

**Agent for Counsel for the Intervener,  
Ecojustice Canada Society**

**SHORES JARDINE LLP**

10104 - 103 Avenue  
Suite 2250  
Edmonton, Alberta T5J 0H8

**William W. Shores, Q.C.**

**Kirk N. Lambrecht, Q.C.**

Tel: (780) 448-9275

Fax: (780) 423-0163

E-mail: [bill@shoresjardine.com](mailto:bill@shoresjardine.com)

**Counsel for the Intervener, National  
Association of Pharmacy Regulatory  
Authorities**

**ATTORNEY GENERAL FOR  
SASKATCHEWAN**

900 - 1874 Scarth Street  
Regina, Saskatchewan S4P 4B3

**Laura Mazenc**

Tel: (306) 787-6272

Fax: (306) 787-0581

E-mail: [laura.mazenc@gov.sk.ca](mailto:laura.mazenc@gov.sk.ca)

**Counsel for the Intervener, AG of  
Saskatchewan**

**FASKEN MARTINEAU DUMOULIN LLP**

2900 - 550 Burrard Street  
Vancouver, British Columbia V6C 0A3

**Gavin R. Cameron**

**Tom Posyniak**

Telephone: (604) 631-4756

FAX: (604) 631-3232

E-mail: [gcameron@fasken.com](mailto:gcameron@fasken.com)

**Counsel for the Intervener, BC  
International Commercial Arbitration  
Centre Foundation**

**SUPREME ADVOCACY LLP**

340 Gilmour St., Suite 100  
Ottawa, ON K2P 0R3

**Marie-France Major**

Tel.: (613) 695-8855 ext 102

Fax: (613) 695-8580

Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Agent for Counsel for the Intervener,  
National Association of Pharmacy  
Regulatory Authorities**

**GOWLING WLG (Canada) LLP**

2600 - 160 Elgin St  
Ottawa, ON K1P 1C3

**D. Lynne Watt**

Tel.: (613) 786-8695

Fax: (613) 563-9869

Email: [lynne.watt@gowlingwlg.com](mailto:lynne.watt@gowlingwlg.com)

**Agent for Counsel for the AG of  
Saskatchewan**

**FASKEN MARTINEAU DuMOULIN LLP**

55 Metcalfe Street, Suite 1300  
Ottawa ON, K1P 6L5

**Sophie Arseneault**

Tel.: (613) 696-6904

Fax: (613) 230-6423

Email: [sarseneault@fasken.com](mailto:sarseneault@fasken.com)

**Agent for Counsel for the Intervener, BC  
International Commercial Arbitration  
Centre Foundation**

**WORKPLACE SAFETY AND  
INSURANCE APPEALS TRIBUNAL**  
7<sup>th</sup> Fl. – 505 University Avenue  
Toronto, ON M5G 2P2

**Michelle Alton  
David Corbett  
Kayla Seyler  
Ana Rodriguez**

Tel: (416) 314-8800  
Fax: (416) 326-5164  
E-mail: [Michelle.Alton@wst.gov.on.ca](mailto:Michelle.Alton@wst.gov.on.ca)

**Counsel for the Interveners, Workplace  
Safety and Insurance Appeals Tribunal  
(Ontario), Counsel for the Interveners,  
Workers' Compensation Appeals Tribunal  
(Northwest Territories and Nunavut),  
Workers' Compensation Appeals Tribunal  
(Nova Scotia), Appeals Commission for  
Alberta Workers' Compensation and  
Workers' Compensation Appeals Tribunal  
(New Brunswick)**

**PALIARE ROLAND ROSENBERG  
ROTHSTEIN LLP**  
155 Wellington Street  
35th floor  
Toronto, Ontario M5V 3H1

**Linda R. Rothstein  
Michael Fenrick  
Angela E. Rae**

**Anne Marie Heenan**  
Tel: (416) 646-4300  
Fax: (416) 646-4301  
E-mail: [linda.rothstein@paliareroland.com](mailto:linda.rothstein@paliareroland.com)

**Counsel for the Interveners, Ontario  
Labour- Management Arbitrators'  
Association and Conférence des arbitres du  
Québec**

**SUPREME ADVOCACY LLP**  
340 Gilmour St., Suite 100  
Ottawa, ON K2P 0R3

**Marie-France Major**  
Tel.: (613) 695-8855  
Fax: (613) 695-8580  
Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Agent for Counsel for the Interveners,  
Workplace Safety and Insurance Appeals  
Tribunal (Ontario), Counsel for the  
Interveners, Workers' Compensation  
Appeals Tribunal (Northwest Territories  
and Nunavut), Workers' Compensation  
Appeals Tribunal (Nova Scotia), Appeals  
Commission for Alberta Workers'  
Compensation and Workers' Compensation  
Appeals Tribunal (New Brunswick)**

**CAZASAIKALEY LLP**  
220 avenue Laurier Ouest  
Ottawa, Ontario K1P 5Z9

**Alyssa Tomkins**  
Tel: (613) 565-2292  
Fax: (613) 565-2087  
E-mail: [atomkins@plaideurs.ca](mailto:atomkins@plaideurs.ca)

**Agent for Counsel for the Interveners,  
Ontario Labour- Management Arbitrators'  
Association and Conférence des arbitres du  
Québec**

**SUSAN L. STEWART**  
7 L'Estrange Place  
Toronto, Ontario M6S 4S6

Tel: (416) 531-3736  
Fax: (416) 604-2897  
E-mail: [ssewart@idirect.ca](mailto:ssewart@idirect.ca)

**Counsel for the Intervener, National  
Academy of Arbitrators  
GOLDBLATT PARTNERS LLP**  
20 Dundas Street West, Suite 1100  
Toronto, Ontario  
M5G 2G8

**Steven Barrett**  
Tel: (416) 979-6422  
Fax: (416) 591-7333  
E-mail: [sbarrett@goldblattpartners.com](mailto:sbarrett@goldblattpartners.com)

**Counsel for the Intervener, Canadian  
Labour Congress**

**PROCUREURE GÉNÉRALE DU  
QUÉBEC**  
1200, Route de l'Église  
3e étage  
Québec, Quebec G1V 4M1

**Stéphane Rochette**  
Tel: (418) 643-6552  
Fax: (418) 643-9749  
E-mail: [stephane.rochette@justice.gouv.qc.ca](mailto:stephane.rochette@justice.gouv.qc.ca)

**Counsel for the Intervener, AG Quebec**

**STOCKWOODS LLP**  
77 King Street West, Suite 4130  
P.O. Box 140  
Toronto, Ontario M5K 1H1

**Brendan Van Niejenhuis  
Andrea Gonslaves**  
Tel: (416) 593-7200  
Fax: (416) 593-9345  
E-mail: [brendanvn@stockwoods.ca](mailto:brendanvn@stockwoods.ca)

**CAZASAIKALEY LLP**  
220 avenue Laurier Ouest  
Ottawa, Ontario K1P 5Z9

**Alyssa Tomkins**  
Tel: (613) 565-2292  
Fax: (613) 565-2087  
E-mail: [atomkins@plaideurs.ca](mailto:atomkins@plaideurs.ca)

**Agent for Counsel for the Intervener,  
National Academy of Arbitrators  
GOLDBLATT PARTNERS LLP**  
500-30 Metcalfe St.  
Ottawa, Ontario  
K1P 5L4

**Colleen Bauman**  
Tel: (613) 482-2463  
Fax: (613) 235-3041  
E-mail: [cbauman@goldblattpartners.com](mailto:cbauman@goldblattpartners.com)

**Agent for counsel for the Intervener,  
Canadian Labour Congress**

**NOËL & ASSOCIÉS**  
111 rue Champlain  
Gatineau, Quebec J8X 3R1

**Sylvie Labbé**  
Tel: (819) 771-7393  
Fax: (819) 771-5397  
E-mail: [s.labbe@noelassociés.com](mailto:s.labbe@noelassociés.com)

**Agent for Counsel for the Intervener, AG  
Quebec**

**POWER LAW**  
130 Albert Street  
Suite 1103  
Ottawa, Ontario K1P 5G4

**Maxine Vincelette**  
Tel : (613) 702-5561  
Fax : (613) 702-5561  
E-mail : [mvincelette@powerlaw.ca](mailto:mvincelette@powerlaw.ca)

**Agent for Counsel for the Intervener,**

**Counsel for the Intervener, Queen's Prison  
Law Clinic**

**ATTORNEY GENERAL OF BRITISH  
COLUMBIA**

PO Box 9280 Stn Prov Govt  
Victoria, British Columbia  
V8W 9J7

**Leah Greathead**

**Micah Rankin**

Tel: (250) 356-8892

Fax: (250) 356-9154

E-mail: [leah.greathead@gov.bc.ca](mailto:leah.greathead@gov.bc.ca)

**Counsel for the Intervener, AG British  
Columbia**

**MCCARTHY TÉTRAULT LLP**

745 Thurlow Street, Suite 2400  
Vancouver, British Columbia  
V6E 0C5

**Adam Goldenberg**

**Robyn Gifford**

**Asher Honickman**

Tel: (604) 643-7100

Fax: (604) 643-7900

E-mail: [agoldenberg@mccarthy.ca](mailto:agoldenberg@mccarthy.ca)

**Counsel for the Intervener, Advocates for  
the Rule of Law**

**PARKDALE COMMUNITY LEGAL  
SERVICES**

1266 Queen Street West  
Toronto, Ontario M6K 1L3

**Toni Schweitzer**

**Ronald Poulton**

Tel: (416) 531-2411

Fax: (416) 531-0885

E-mail: [schweit@lao.on.ca](mailto:schweit@lao.on.ca)

**Counsel for the Intervener, Parkdale  
Community Legal Services**

**Queen's Prison Law Clinic**

**MICHAEL J. SOBKIN**

331 Somerset Street West  
Ottawa, Ontario  
K2P 0J8

Tel: (613) 282-1712

Fax: (613) 288-2896

E-mail: [msobkin@sympatico.ca](mailto:msobkin@sympatico.ca)

**Agent for Counsel for the Intervener, AG  
British Columbia**

**POWER LAW**

130 Albert Street  
Suite 1103  
Ottawa, Ontario  
K1P 5G4

**Darius Bossé**

Tel: (613) 702-5566

Fax: (613) 702-5566

E-mail: [DBosse@juristespower.ca](mailto:DBosse@juristespower.ca)

**Agent for Counsel for the Intervener,  
Advocates for the Rule of Law**

**COMMUNITY LEGAL SERVICES OF  
OTTAWA-SOUTH OFFICE**

406 - 1355 Bank Street  
Ottawa, Ontario K1H 8K7

**Elaine Simon**

Tel: (613) 733-0140

Fax: (613) 733-0401

E-mail: [simone@lao.on.ca](mailto:simone@lao.on.ca)

**Agent for Counsel for the Intervener,  
Parkdale Community Legal Services**

**CAMBRIDGE COMPARATIVE  
ADMINISTRATIVE LAW FORUM**  
Cambridge University - The Faculty of Law  
The David Williams Building - 10 West Road  
Cambridge, United Kingdom CB3 9DZ

**Bruno Gélinas-Faucher**

Tel: (737) 838-3023 Ext: 44

Fax: (514) 565-9877

E-mail: [bruno.gelinas.faucher@gmail.com](mailto:bruno.gelinas.faucher@gmail.com)

**Counsel for the Intervener, Cambridge  
Comparative Administrative Law Forum**

**LENCZNER SLAGHT ROYCE SMITH  
GRIFFIN LLP**

Suite 2600 130 Adelaide Street West  
Toronto, Ontario M5H 3P5

**J. Thomas Curry**

**Sam Johansen**

Tel: (416) 865-3096

Fax: (416) 865-9010

E-mail: [tcurry@litigate.com](mailto:tcurry@litigate.com)

**Counsel for the Interveners, Association of  
Canadian Advertisers and the Alliance of  
Canadian Cinema, Television and Radio  
Artists**

**CAZASAIKALEY LLP**

220 avenue Laurier Ouest  
Ottawa, Ontario  
K1P 5Z9

**Alyssa Tomkins**

**James Plotkin**

**Michel Bastarache**

Tel: (613) 565-2292

Fax: (613) 565-2087

E-mail: [atomkins@plaideurs.ca](mailto:atomkins@plaideurs.ca)

**Counsel for the Interveners, Samuelson-  
Glushko Canadian Internet Policy and  
Public Interest Clinic**

**POWER LAW**

130 Albert Street  
Suite 1103  
Ottawa, Ontario K1P 5G4

**Maxine Vincelette**

Tel: (613) 702-5561

Fax: (613) 702-5561

E-mail: [mvincelette@powerlaw.ca](mailto:mvincelette@powerlaw.ca)

**Agent for Counsel for the Intervener,  
Cambridge Comparative Administrative  
Law Forum**

**POWER LAW**

130 Albert Street  
Suite 1103  
Ottawa, Ontario  
K1P 5G4

**Maxine Vincelette**

Tel: (613) 702-5561

Fax: (613) 702-5561

E-mail: [mvincelette@powerlaw.ca](mailto:mvincelette@powerlaw.ca)

**Agent for Counsel for the Interveners,  
Association of Canadian Advertisers and the  
Alliance of Canadian Cinema, Television  
and Radio Artists**

**UNIVERSITÉ D'OTTAWA**

Common Law Section  
57 Louis Pasteur St.  
Ottawa, Ontario  
K1N 6N5

**David Fewer**

Tel: (613) 562-5800 Ext: 2558

Fax: (613) 562-5417

E-mail: [david.fewer@uottawa.ca](mailto:david.fewer@uottawa.ca)

**Agent for Counsel for the Interveners,  
Samuelson-Glushko Canadian Internet  
Policy and Public Interest Clinic**

**FASKEN MARTINEAU DUMOULIN LLP**  
Bureau 3700, C.P. 242  
800, Place Victoria  
Montréal, Quebec H4Z 1E9

**Christian Leblanc**

**Michael Shortt**

Tel: (514) 397-7545

Fax: (514) 397-7600

E-mail: [cleblanc@fasken.com](mailto:cleblanc@fasken.com)

**Counsel for the Interveners, Blue Ant Media Inc., Canadian Broadcasting Corporation, DHX Media Lts., Groupe V Media Inc., Independent Broadcast Group, Aboriginal Peoples Television Network, Allarco Entertainment Inc., BBC Kids, Chanel Zero, Ethnic Channels Group Ltd., Hollywood Suite, OUTtv Network Inc., Stingray Digital Group Inc., TV5 Québec Canada, Zoomermedia LTd. and Pelmorex Weather Networks (Television) Inc.**

**STEWART MCKELVEY**

65 Grafton Street

P.O. Box 2140, Station Central

Charlottetown, Prince Edward Island  
C1A 8B9

**Jonathan M. Coady**

**Justin L. Milne**

Tel: (902) 629-4520

Fax: (902) 566-5283

E-mail: [jcoady@stewartmckelvey.com](mailto:jcoady@stewartmckelvey.com)

**Counsel for the Intervener, Canadian Bar Association**

**LEGAL AID ONTARIO**

Refugee Law Office

20 Dundas Street West

Toronto, Ontario M5G 2H1

**Anthony Navaneelan**

**Audrey Macklin**

Tel: (416) 977-8111 Ext: 7181

Fax: (416) 977-5567

**FASKEN MARTINEAU DUMOULIN LLP**  
1300 – 55 rue Metcalfe  
Ottawa, Ontario K1P 6L5

**Sophie Arseneault**

Tel: (613) 236-3882

Fax: (613) 230-6423

E-mail: [sarseneault@fasken.com](mailto:sarseneault@fasken.com)

**Agent for Counsel for the Interveners, Blue Ant Media Inc., Canadian Broadcasting Corporation, DHX Media Lts., Groupe V Media Inc., Independent Broadcast Group, Aboriginal Peoples Television Network, Allarco Entertainment Inc., BBC Kids, Chanel Zero, Ethnic Channels Group Ltd., Hollywood Suite, OUTtv Network Inc., Stingray Digital Group Inc., TV5 Québec Canada, Zoomermedia LTd. and Pelmorex Weather Networks (Television) Inc.**

**GOWLING WLG (CANADA) LLP**

160 Elgin Street

Suite 2600

Ottawa, Ontario K1P 1C3

**Guy Régimbald**

Tel: (613) 786-0197

Fax: (613) 563-9869

E-mail: [guy.regimbald@gowlingwlg.com](mailto:guy.regimbald@gowlingwlg.com)

**Agent for Counsel for the Intervener, Canadian Bar Association**

**COMMUNITY LEGAL SERVICES  
OTTAWA**

1301 Richmond Road

Ottawa, Ontario K2B 7Y4

**Nicholas Hersh**

Tel: (613) 596-1641

Fax: (613) 596-3364

E-mail: [hershni@lao.on.ca](mailto:hershni@lao.on.ca)

E-mail: [navanea@lao.on.ca](mailto:navanea@lao.on.ca)

**Counsel for the Intervener, Canadian  
Association of Refugee Lawyers**

**COMMUNITY & LEGAL AID SERVICES  
PROGRAMME**

York University, Osgoode Hall Law School  
Ignat Kaneff Build  
4700 Keele Street  
Toronto, Ontario M3J 1P3

**Subodh Bharati**

Tel: (416) 736-5029  
Fax: (416) 736-5564  
E-mail: [sbharati@osgoode.yorku.ca](mailto:sbharati@osgoode.yorku.ca)

**Counsel for the Intervener, Community and  
Legal Aid Service Programme**

**HADEKEL SHAMS S.E.N.C.R.L.**  
305, rue Bellechasse est, bureau 400A  
Montréal, Quebec  
H2S 1W9

**Peter Shams**

**Claudia Andrea Molina**  
**Guillaume Cliche-Rivard**

**David Berger**

Tel: (514) 439-0800  
Fax: (514) 439-0798  
E-mail: [peter@hadekelshams.ca](mailto:peter@hadekelshams.ca)

**Counsel for the Interveners, Association  
Québécoise des avocats et avocates en droit  
de l'immigration**

**CONWAY BAXTER WILSON LLP**

400 - 411 Roosevelt Avenue  
Ottawa, Ontario  
K2A 3X9

**David P. Taylor**

**Sarah Clarke**

Tel: (613) 691-0368  
Fax: (613) 688-0271  
E-mail: [dtaylor@conway.pro](mailto:dtaylor@conway.pro)

**Agent for Counsel for the Intervener,  
Canadian Association of Refugee Lawyers**

**SUPREME ADVOCACY LLP**

340 Gilmour St., Suite 100  
Ottawa, ON K2P 0R3

**Marie-France Major**

Tel.: (613) 695-8855 ext 102  
Fax: (613) 695-8580  
Email: [mfmajor@supremeadvocacy.ca](mailto:mfmajor@supremeadvocacy.ca)

**Agent for Counsel for the Intervener,  
Community and Legal Aid Service  
Programme**

**HAMEED LAW**

43 Florence Street  
Ottawa, ON K2P 0W6

**Yavar Hameed**

Tel: 613-232-2688  
Fax: 613-232-2680  
Email: [yhameed@hameedlaw.ca](mailto:yhameed@hameedlaw.ca)

**Agent for Counsel for the Interveners,  
Association Québécoise des avocats et  
avocates en droit de l'immigration**

**STIKEMAN ELLIOTT LLP**

1600 - 50 O'Connor Street  
Ottawa, Ontario  
K1P 6L2

**Nicholas Peter McHaffie**

Tel: (613) 566-0546  
Fax: (613) 230-8877  
E-mail: [nmchaffie@stikeman.com](mailto:nmchaffie@stikeman.com)



**Counsel for the Intervener, First Nations  
Child and Family Caring Society of Canada**

**Agent for counsel for the Intervener, First  
Nations Child and Family Caring Society of  
Canada**

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## **PART I - OVERVIEW AND STATEMENT OF FACTS**

1. Administrative tribunals play a central role in Canadian society. The Canadian administrative justice sector includes a diverse array of tribunals dealing with a variety of specialized matters assigned to them by legislatures. These tribunals have varying procedures, resources and policies to carry out their statutory mandates. But they are unified by a common thread: the application of specialized expertise to their respective subject matters. That specialized expertise is held by both individual tribunal members and by institutions as a whole.

2. Expertise, and the intention of legislators in assigning this work to tribunals rather than courts, warrants respect in the form of deference when judicial review is sought of tribunal decisions. In support of this broad principle, the Council of Canadian Administrative Tribunals (“CCAT”) makes the following submissions.

3. First, any standard of review analysis must prioritize deference as its guiding principle and extend it to all issues of fact, law or procedure. Regardless of what approach the Court adopts, administrative decisions ought to be entitled to broad deference as a general rule.

4. Second, to ensure that this deference is properly applied in practice, CCAT urges the Court to provide further guidance as to what it means for a tribunal decision to be “reasonable”. This will assist reviewing courts in applying the reasonableness standard. It will also provide guidance to administrative tribunals to ensure that their decision-making processes meet the reasonableness standard. This Court has noted the problem of disguised correctness review, where deference is given lip service, but in reality a correctness standard is applied. CCAT submits that disguised correctness review must be resisted. In determining whether a decision is reasonable, reviewing courts ought to ask whether the result or a particular holding cannot be justified given the tribunal’s reasoning, the evidence and the applicable law.

5. Third, CCAT argues that reviewing courts should exercise caution when asked to supplement or rely on reasons that the administrative tribunal itself did not put forth as a basis on which to uphold tribunal decisions. Doing so may undermine tribunal autonomy and runs afoul of the legislature’s allocation of decision-making authority to the tribunal.

## PART II - QUESTIONS IN ISSUE

6. Given its composition, background and expertise, CCAT focuses on three key issues arising out of these appeals:

- (a) what is the role and scope of deference in judicial review?;
- (b) how are reviewing courts to apply deference in practice?; and
- (c) should courts be permitted to uphold decisions of administrative tribunals for reasons other than those that the tribunal itself relied on?

7. CCAT addresses these questions below. Several commentators have observed that a key flaw of the *Dunsmuir* framework was that it emerged spontaneously without input from administrative tribunals, or indeed discussion of their role in Canada’s system of administrative justice and standard of review issues.<sup>1</sup> CCAT, as an organization with a broad national membership of regulators, rights adjudicators, and tribunals dealing with benefits and compensation regimes, a long history, and extensive involvement in training and networking in the administrative sector, is uniquely placed to provide that input to this Court.

8. CCAT takes no position on the merits of these appeals.

## PART III - STATEMENT OF ARGUMENT

### A. Deference Ought to be the Key Feature of Judicial Review

#### 1. Administrative tribunals’ expertise warrants deference as a general rule

9. Administrative tribunals deal with a wide range of legal and policy matters under specific statutory mandates. “Vast swaths of the rule of law are dealt with by commissions and tribunals.”<sup>2</sup> They offer efficient, inexpensive and specialized forums to determine people’s rights and resolve their disputes. Tribunals are critical to the operation of public administration and the legal system.

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<sup>1</sup> e.g., Lorne Sossin, “[\*Dunsmuir\* – Plus ça change redux](#)” (March 7, 2018).

<sup>2</sup> Beverley McLachlin, P.C., “[Administrative Tribunals and the Courts: An Evolutionary Relationship](#)”, Remarks, 6th Annual Conference of the Council of Canadian Administrative Tribunals, May 27, 2013.

10. The hallmark of administrative tribunals is their expertise. Unlike superior courts, which deal with different types of disputes arising out of varying legal frameworks, administrative tribunals specialize in certain subject matters. They are structured to be experts in particular fields, alive to relevant law, public policy and the particular dynamics of making adjudicative decisions in those fields. They are attuned to the needs of the parties who appear before them.

11. This specialized expertise entitles the decisions of administrative tribunals to deference on judicial review as a general rule.<sup>3</sup> Deference recognizes that administrative tribunals have and develop expertise that the courts do not possess, and that the legislature has allocated certain issues to administrative tribunals for resolution. Deference provides tribunals with the autonomy to develop jurisprudence and procedures without intrusive review from courts exercising a general jurisdiction.

12. The principle of broad deference to tribunals has sometimes been attacked on the basis that some tribunals' members are said not to possess sufficient expertise to warrant deference. These attacks are misguided. As a majority of this Court held in *Edmonton East*, expertise “inheres in a tribunal itself as an institution.”<sup>4</sup> The expertise of the members is presumed or assumed.<sup>5</sup> This expertise stems not just from specialization. It also arises from the fact that tribunals train members through comprehensive programs, encourage a collegial sharing of expertise among members, and develop policies and practices that respond to the needs of those who use the tribunals and that reflect the mandates provided to them by statute. This expertise is then reflected in the jurisprudence created by the tribunals.

13. As expertise inheres in the institution, it applies to *all* aspects of a tribunal's decision-making function. Issues of fact, law and procedure should all be entitled to deference on judicial review unless a statute specifically provides that a court may substitute its view for that of the tribunal. The long-standing principle that a tribunal is entitled to deference when interpreting its

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<sup>3</sup> *Alberta (Information and Privacy Commissioner) v. Alberta Teachers' Association*, 2011 SCC 61, [2011] 3 S.C.R. 654, at para. 1; *Tervita Corp. v. Canada (Commissioner of Competition)*, 2015 SCC 3, [2015] 1 S.C.R. 161, at paras. 169-172.

<sup>4</sup> *Edmonton (City) v. Edmonton East (Capilano) Shopping Centres Ltd.*, 2016 SCC 47, [2016] 2 S.C.R. 293, at para. 33.

<sup>5</sup> *Edmonton East*, *supra* at para. 33; *Alberta Teachers*, *supra* at para. 1.

home statute, or statutes closely connected to its function, ought to continue.<sup>6</sup> The mere fact that when a tribunal interprets its home statute, it may also touch on broader legal issues does not change the reality that the tribunal considers and applies those issues to a specialized context. Deference ought still to apply.<sup>7</sup>

14. This principle that expertise inheres in the institution has been the subject of some debate at this Court. In *Edmonton East*, the dissent opined that the principle risked transforming the “presumption of deference into an irrebuttable rule.”<sup>8</sup> With respect, this concern is misplaced. There is nothing problematic about extending deference to all situations. Deference does not immunize a decision from review. It has its limits. An unreasonable decision exceeds the boundaries of deference and may properly be set aside. Extending deference to tribunal decisions as a general rule rather than a mere presumption does not change that. Even for questions of law that only have one acceptable answer, the reasonableness standard is sufficient to allow a court to intervene without resorting to a less-deferential “correctness” standard.

15. To follow the path of the dissent in *Edmonton East* and make the application of deference depend on the actual expertise of the membership of a given tribunal would disregard legislative intent and unnecessarily complicate the law of judicial review. It would also enshrine a narrow understanding of expertise that would not recognize the rich ways in which tribunals as institutions ensure quality processes and decision-making.

16. A core component of establishing a tribunal is identifying and appointing its members. The legislature identifies the type of individuals best suited to sit on the tribunal, having regard to its subject matter, statutory mandate and interaction with issues of public policy. The executive selects the members, often with input from the tribunal.<sup>9</sup> These choices should not be

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<sup>6</sup> *Alberta Teachers*, *supra* at paras. 34, 39; *Commission scolaire de Laval v. Syndicat de l’enseignement de la région de Laval*, 2016 SCC 8, [2016] 1 S.C.R. 29, at para. 32.

<sup>7</sup> *Alberta (Information and Privacy Commissioner) v. University of Calgary*, 2016 SCC 53, [2016] 2 S.C.R. 555, at paras. 130-134; *Canadian Broadcasting Corp. v. SODRAC 2003 Inc.*, 2015 SCC 57, [2015] 3 S.C.R. 615, at paras. 185-191.

<sup>8</sup> *Edmonton East*, *supra* at para. 85.

<sup>9</sup> In some provinces the process is governed by statute: *e.g.*, *Adjudicative Tribunals Accountability, Governance and Appointments Act*, S.O. 2009, c. 33, s. 14 (requiring a competitive, public merit-based process with established criteria to appoint members, and

indirectly second-guessed by the courts. Applying a different standard of review to tribunals based on a court's assessment of the capabilities of its individual members would do just that.

17. Doing so would also introduce an additional, unnecessary issue into judicial review. If the application of deference depends on the actual expertise of the decision-makers, the parties would need to advance evidence of that expertise. They would need to argue whether the expertise is sufficient to attract deference. The parties would need to focus on the *particular* decision-maker(s) involved, not the body of available decision-makers and the practices of the institution as a whole. This would make consistency in judicial review impossible. Litigants should not have a different standard of review applied depending on how many years their adjudicator has served on the tribunal or her educational or professional background.

## **2. A deferential standard of review strengthens administrative tribunals**

18. Administrative tribunals must have the confidence of the public to be effective. They must be seen to be authoritative and binding. A deferential approach to judicial review fosters this confidence, and promotes the autonomy of administrative tribunals.

19. Even in the context of traditional litigation, this Court has emphasized that decisions of superior courts ought generally to be seen as final, with appellate courts serving only to ensure consistency in the law, not providing a new forum for a continued fight.<sup>10</sup> Deference to the superior courts helps to “promote the autonomy and integrity of the trial or motion court proceedings on which substantial resources have been expended, to preserve the confidence of litigants in those proceedings”.<sup>11</sup>

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recommendation of the chair); *Administrative Tribunals Act*, S.B.C. 2004, c. 45, s. 3 (providing for merit-based appointment process and consultation with chair); *Energy and Utilities Board Act*, R.S.N.B., c. E-9.18, s. 4 (outlining a comprehensive, merit-based approach for appointments, including that appointments may be made only of candidates nominated by a committee comprised of the incumbent chair, vice-chair, and two deputy ministers).

<sup>10</sup> *Sattva Capital Corp. v. Creston Moly Corp.*, 2014 SCC 53, [2014] 2 S.C.R. 633, at paras. 51-52.

<sup>11</sup> *Housen v. Nikolaisen*, 2002 SCC 33, [2002] 2 S.C.R. 235, at para. 12.

20. These principles are even more applicable in the administrative context, where the legislature has specifically directed that certain issues be addressed outside the judicial system. If courts can readily substitute their own views for those of administrative tribunals, the tribunals will come to be seen as mere stepping stones to the “real” decision makers. A non-deferential standard of review invites applications for judicial review and calls the legitimacy of the administrative justice system into question. It also frustrates legislative intent.

21. An interventionist standard of review also undermines the efficiency goals of administrative tribunals, which promote access to justice. The formal litigation process is expensive and time-consuming. Judicial review applications bring parties into that arena, imposing further cost and delay. As important a safeguard as the courts play in the administrative law context, their intervention should be limited to cases where the tribunal arrived at an unreasonable result.

22. Even where judicial review is sought, a deferential standard reduces the cost and complexity of such applications. On several occasions, this Court has lamented the resources parties expended in arguing about the standard of review.<sup>12</sup> An emphasis on deference largely bypasses this debate, allowing the parties to focus their energies where they should be: on the merits of the challenge.

## **B. The Reasonableness Standard Must Be Clearly Defined**

23. Courts must do more than simply purport to defer to the decisions of administrative tribunals. They must actually apply that deference for the benefits described above to be realized. Deferential review – the reasonableness standard – must be sufficiently defined to prevent “disguised correctness” review.<sup>13</sup> It must also provide guidance to administrative tribunals themselves to ensure that their decision-making processes satisfy the reasonableness standard.

24. In *Dunsmuir*, this Court described the reasonableness standard as requiring reviewing courts to accord “respectful attention” to the decision of the tribunal, permitting the tribunal a

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<sup>12</sup> See, e.g., *Canada (Canadian Human Rights Commission) v. Canada (Attorney General)*, 2018 SCC 31, at para. 27; *Edmonton East*, *supra* at para. 20; *Wilson v. Atomic Energy of Canada Ltd.*, 2016 SCC 29, [2016] 1 S.C.R. 770 at para. 20.

<sup>13</sup> *Teal Cedar Products Ltd. v. British Columbia*, 2017 SCC 32, [2017] 1 S.C.R. 688 at para. 99; *Wilson*, *supra* at para. 27.



“margin of appreciation” to render a decision falling within a range of “acceptable and rational” solutions.<sup>14</sup> But this language is pitched at a level of abstraction. It does not sufficiently emphasize the primacy of the tribunal’s decision-making role, and fails to provide much concrete guidance to reviewing courts or to tribunals themselves. A reviewing court should not merely pay respectful attention to a tribunal’s decision: it ought to *defer* to its decision and the reasoning behind it unless it simply cannot be supported on the record.

25. One potential source of difficulty has been that the term “reasonableness” can be misinterpreted as an invitation to judges to evaluate the merits of the tribunal’s decision. While CCAT does not advocate for a standard of review name change, Binnie J.’s caution in *Dunsmuir* about possible misinterpretation of the reasonableness standard bears consideration ten years on:

The danger of labelling the most “deferential” standard as “reasonableness” is that it may be taken (wrongly) as an invitation to reviewing judges not simply to identify the usual issues, such as whether irrelevant matters were taken into consideration, or relevant matters were not taken into consideration, but to reweigh the input that resulted in the administrator’s decision as if it were the judge’s view of “reasonableness” that counts. At this point, the judge’s role is to identify the outer boundaries of reasonable outcomes within which the administrative decision maker is free to choose.<sup>15</sup>

26. A decade after *Dunsmuir*, there is a need to reinforce judicial understanding of and commitment to both an attitude of deference and the proper approach to deferential review. The attitude of deference must be grounded in an appreciation that the need for deference in judicial review goes beyond the traditional justifications for deferential review in the appellate context. Administrative tribunals are in the privileged position of hearing the evidence first-hand and, limiting judicial review conserves scarce judicial resources and promotes the autonomy of administrative proceedings. But administrative tribunals have the added feature of being specialized forums for particular issues assigned to them by the legislature, and this gives them expertise in law, policy and procedure in that area. Reviewing courts must approach their task with the understanding they are entering an area of specialized expertise, and must therefore tread lightly.

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<sup>14</sup> *Dunsmuir v. New Brunswick*, 2008 SCC 9, [2008] 1 S.C.R. 190, at paras. 46-49.

<sup>15</sup> *Dunsmuir v. New Brunswick*, *supra* at para. 141.

27. The standard of review ought to be deferential no matter how it is defined. Any definition must be founded on the primacy of the tribunal’s decision-making role. If a decision was available on the record before the decision-maker and the tribunal’s reasoning cannot be shown to be unreasonable, it should stand. The fact that the reviewing court might have come to a different conclusion on the merits if (contrary to the statutory mandate of the tribunal) it were the decision-maker is of no moment. Judicial review on a reasonableness standard must start with an evaluation of the reasons for decision of the tribunal—not a *de novo* analysis by the reviewing court of the issue that the legislature assigned to the tribunal for decision.<sup>16</sup>

28. A deferential standard of reasonableness must extend to administrative tribunals’ decisions on questions of law. This respects the intention of the legislator that tribunals apply their specialized expertise to the policy and legal issues that come before them, not just the factual ones. Deference on legal issues:

- (a) limits the number, length and cost of judicial reviews, an even more pressing goal than limiting the number, length and cost of appeals from lower courts;
- (b) promotes the autonomy and integrity of administrative proceedings; and
- (c) recognizes the specialized expertise of decision-makers the legislature designates to hear specific matters, which often intersect with public policy issues.<sup>17</sup>

29. Adopting a reasonableness standard to all situations except where a legislature specifically provides that a court should substitute its view for that of the tribunal would help bring consistency to the application of deference to administrative tribunals. Applying a deferential approach of reasonableness in practice would also eliminate “disguised correctness” review and ensure that deference is actually extended to administrative tribunals in practice.

### **C. Courts Should Not Refashion the Tribunal’s Reasons or Supply Their Own Reasons**

30. The third issue concerns what courts should do in the face of tribunal reasons they consider to be inadequate. According to *Dunsmuir*,<sup>18</sup> as modified in *Newfoundland Nurses*,<sup>19</sup>

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<sup>16</sup> *Delta Airlines Inc. v. Lukács*, 2018 SCC 2 at para. 24.

<sup>17</sup> *Housen v. Nikolaisen*, *supra* at paras. 15-18.

<sup>18</sup> *Dunsmuir v. New Brunswick*, *supra* at para. 48.

courts may uphold a tribunal's decision not only for the reasons that the tribunal actually gave, but also for reasons that the court anticipates that the tribunal *could* have given, based on its review of the record.<sup>20</sup> The Court continues to adhere to this rule, although it recognizes that reviewing courts cannot simply ignore the tribunal's reasons and fashion their own.<sup>21</sup>

31. At first blush, this rule seems to support tribunal autonomy, in that it enables courts on review to uphold tribunal decisions even for reasons that the tribunal itself did not advance. And it is of course desirable and appropriate for reviewing courts to consider a tribunal's reasons in the broader context of the evidence that was before the tribunal and the parties' submissions.<sup>22</sup> But on reflection, a rule that permits reviewing courts to uphold tribunal decisions for reasons that the tribunal itself never relied on and may never have agreed with may actually undermine tribunal autonomy and run afoul of the legislative mandate that the tribunal—not the courts—decide the matters referred to it. Court should exercise great caution here.

32. When courts rely on reasons that are not set out in the tribunal's decision, they risk denigrating the autonomy of administrative tribunals in a different way: by undermining the tribunal's good faith efforts to justify their decisions according to the requirements of reasonableness by allowing a reviewing court to simply substitute its own view of the reasons that justify the outcome reached by the tribunal.<sup>23</sup> That is hardly conducive to the development and maintenance of tribunal autonomy and a respectful relationship between courts and tribunals.

33. Rather than supplementing reasons with its own, courts should, first, seek to situate the reasons in the jurisprudence and policies of the tribunal. Reasons that may appear deficient on their own, may, when read in the full context of how the tribunal makes decisions, give a more persuasive explanation. Second, in evaluating reasons, courts must take into account that tribunals' reasons may appropriately look very different from that of courts, given volumes of

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<sup>19</sup> *Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)*, 2011 SCC 62, [2011] 3 S.C.R. 708 at para. 12; *Alberta Teachers*, *supra* at para. 53.

<sup>20</sup> As the Federal Court of Appeal noted below in *Vavilov*, at para. 49.

<sup>21</sup> *Delta Airlines Inc. v. Lukács*, *supra* at paras. 12, 24.

<sup>22</sup> *Williams Lake Indian Band v. Canada (Aboriginal Affairs and Northern Development)*, 2018 SCC 4 at para. 37.

<sup>23</sup> *Delta Airlines Inc. v. Lukács*, *supra* at paras. 27-28.

work and the audiences to whom the tribunal is speaking.<sup>24</sup> So long as the tribunal's reasoning is clear taking into account the entire context of the decision, a court should neither supplement nor overturn a decision as unreasonable because the reasoning was insufficient.

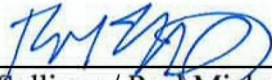
#### **PART IV - SUBMISSIONS ON COSTS**

34. CCAT's intervention is on a no-costs basis, as ordered by this Court.

#### **PART V - ORDER SOUGHT**

35. CCAT respectfully requests leave to present oral submissions at the hearing of these appeals. This will enable the Court to ask questions of CCAT, and provide CCAT with the opportunity to focus its submissions in light of the submissions of the other interveners in this important case in order to be useful to the Court and distinct.

Dated at Toronto, Ontario this 26th day of October, 2018.



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Terrence J. O'Sullivan / Paul Michell / James Renihan

**Counsel for the Intervener,  
Council of Canadian Administrative Tribunals**

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<sup>24</sup> *Baker v. Canada (Minister of Citizenship and Immigration)*, [1999] 2 S.C.R. 817, at paras. 40, 44.

## PART VI - TABLE OF AUTHORITIES

Authority	Para
<b><i>Caselaw</i></b>	
<i>Alberta (Information and Privacy Commissioner) v. Alberta Teachers' Association</i> , <a href="#">2011 SCC 61</a> , <a href="#">[2011] 3 S.C.R. 654</a>	11, 12, 13, 30
<i>Baker v. Canada (Minister of Citizenship and Immigration)</i> , <a href="#">[1999] 2 S.C.R. 817</a>	33
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<i>Commission scolaire de Laval v. Syndicat de l'enseignement de la région de Laval</i> , <a href="#">2016 SCC 8</a> , <a href="#">[2016] 1 S.C.R. 29</a>	13
<i>Delta Airlines Inc. v. Lukács</i> , <a href="#">2018 SCC 2</a>	27, 30, 32
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<i>Housen v. Nikolaisen</i> , <a href="#">2002 SCC 33</a> , <a href="#">[2002] 2 S.C.R. 235</a>	19, 28
<i>Newfoundland and Labrador Nurses' Union v. Newfoundland and Labrador (Treasury Board)</i> , <a href="#">2011 SCC 62</a> , <a href="#">[2011] 3 S.C.R. 708</a>	30
<i>Sattva Capital Corp. v. Creston Moly Corp.</i> , <a href="#">2014 SCC 53</a> , <a href="#">[2014] 2 S.C.R. 633</a>	19
<i>Teal Cedar Products Ltd. v. British Columbia</i> , <a href="#">2017 SCC 32</a> , <a href="#">[2017] 1 S.C.R. 688</a>	23
<i>Tervita Corp. v. Canada (Commissioner of Competition)</i> , <a href="#">2015 SCC 3</a> , <a href="#">[2015] 1 S.C.R. 161</a>	11
<i>Williams Lake Indian Band v. Canada (Aboriginal Affairs and Northern Development)</i> , <a href="#">2018 SCC 4</a>	31
<i>Wilson v. Atomic Energy of Canada Ltd.</i> , <a href="#">2016 SCC 29</a> , <a href="#">[2016] 1 S.C.R. 770</a>	22
<b><i>Secondary authorities</i></b>	
Beverley McLachlin, P.C., " <a href="#">Administrative Tribunals and the Courts: An Evolutionary Relationship</a> ", Remarks, 6th Annual Conference of the Council of Canadian Administrative Tribunals, May 27, 2013	7
Lorne Sossin, " <a href="#">Dunsmuir – Plus ça change redux</a> " (March 7, 2018) at	9

**STATUTORY PROVISIONS**

*Adjudicative Tribunals Accountability, Governance and Appointments Act*, S.O. 2009, c. 33, [s. 14](#)

*Loi de 2009 sur la responsabilisation et la gouvernance des tribunaux décisionnels et les nominations à ces tribunaux*, LO 2009, c 33, ann 5, [s. 14](#)

*Administrative Tribunals Act*, S.B.C. 2004, c. 45, [s. 3](#)

*Energy and Utilities Board Act*, R.S.N.B., c. E-9.18, [s. 4](#)