

**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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TRIBUNALS.**

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

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**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**

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

**AND BETWEEN:**

**THE MINISTER OF CITIZENSHIP AND IMMIGRATION**

**APPELLANT (Respondent)**

**-and-**

**ALEXANDER VAVILOV**

**RESPONDENT (Appellant)**

**-and-**

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

**AND BETWEEN:**

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

**APPELLANT (Appellants)**

**-and-**

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## TABLE OF CONTENTS

	<u>PAGE</u>
<b>PART I - OVERVIEW AND STATEMENT OF FACTS</b> .....	1
<b>PART II - QUESTIONS IN ISSUE</b> .....	2
<b>PART III - STATEMENT OF ARGUMENT</b> .....	2
A. Deference Ought to be the Key Feature of Judicial Review .....	2
1. Administrative tribunals' expertise warrants deference as a general rule.....	2
2. A deferential standard of review strengthens administrative tribunals .....	5
B. The Reasonableness Standard Must Be Clearly Defined .....	6
C. Courts Should Not Refashion the Tribunal's Reasons or Supply Their Own Reasons .....	8
<b>PART IV - SUBMISSIONS ON COSTS</b> .....	10
<b>PART V - ORDER SOUGHT</b> .....	10
<b>PART VI - TABLE OF AUTHORITIES</b> .....	11
STATUTORY PROVISIONS .....	12

## **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.

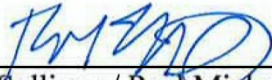
#### **PART IV - SUBMISSIONS ON COSTS**

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>Caselaw</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
<i>Canada (Canadian Human Rights Commission) v. Canada (Attorney General)</i> , <a href="#">2018 SCC 31</a>	22
<i>Canadian Broadcasting Corp. v. SODRAC 2003 Inc.</i> , <a href="#">2015 SCC 57</a> , <a href="#">[2015] 3 S.C.R. 615</a>	13
<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
<i>Dunsmuir v. New Brunswick</i> , <a href="#">2008 SCC 9</a> , <a href="#">[2008] 1 S.C.R. 190</a>	24, 25, 30
<i>Edmonton (City) v. Edmonton East (Capilano) Shopping Centres Ltd.</i> , <a href="#">2016 SCC 47</a> , <a href="#">[2016] 2 S.C.R. 293</a>	12, 14, 15, 22
<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>Secondary authorities</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](#)