

# INDEX



DE GRANDPRÉ CHAIT S.E.N.C.  
LAWYERS

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## Notes of the month

### Construction

#### The client's right to terminate a contract of enterprise

The resiliation of a contract - its definitive termination - gives the client an extraordinary means to release himself from a significant part of contractual obligations or difficulties encountered while a contract is in progress. Given the extreme nature of the solution provided by the right of resiliation, we believe that clients should have a greater understanding of this interesting tool in order to take full advantage of its effects, especially as a strategy to be used in negotiations. Contractors have to now become more sensitized to this overriding right that allows the client to unilaterally resiliate the contract, in order to take preventive action. By [Jasmin Lefebvre](#) – [Complete text](#)

## Important Judgment

### Insurance

#### The Court of Appeal overturns a seizure order issued against an insurer

In a unanimous judgment rendered on April 9, 2003, the Québec Court of Appeal reversed the conclusions of a seizure order that had been issued against property obtained using allegedly illegal proceeds. The Criminal Code was amended in 1998 to allow for the seizure of such property. For instance, these provisions were used in the Hell's Angels case. One of the conclusions set out in the order required that the insurer of a real estate property continue to insure such property while the seizure was in effect without being able to invoke the clauses of the insurance contract with respect to an increased risk.

[Denis Boudrias](#), who represented [L'Union Canadienne](#) in this test case supported by the Insurance Bureau of Canada, sees this as a landmark decision which will be cited as a precedent across Canada. He added: "The principle underlying the freeze or attachment order and the purpose sought by the legislator which is seeking to fight organized crime are upheld; however, insurers may no longer be impacted by such an order and may continue to exercise their rights as provided for in the contract".

[Press Release](#)

### Litigation

#### Reforming civil procedure – For better or for worse

Six months have now passed since *An act to reform the Code of Civil Procedure* (S.Q. 2002, c. 7) (hereafter referred to as "Bill 54") came into force on January 1, 2003. This important legislation has effectively "revolutionized" the way in which civil litigation is conducted before the courts and how cases are handled in order to allow for a quicker resolution. The objectives of Bill 54 are aimed at simplifying civil procedure, cutting litigation costs, favouring out-of-court settlements, accelerating proceedings and increasing access to justice. To achieve these objectives, several important innovations have been introduced by law. By [Christian M. Tremblay](#) - [Complete text](#)

## Highlights

### Real Estate

DE GRANDPRÉ CHAIT was actively involved in a recent financing of the [Bell Tower](#) (\$14.5 million). The lawyers acting for the owner of the building, a subsidiary of Delek-Belron International Inc., were [Marc Rubin](#), [Frederica Jacobs](#), [Christiane Alary](#) and [Mylène Henrie](#).

### Labour and Employment

With the coming into force of new provisions of the [Act respecting Labour Standards](#) on May 1, 2003, changes have been made to the regulations governing some 17,7 million Quebec workers and their employers. More particularly, these new provisions concern the right to be paid the minimum wage, paid statutory holidays, conditions where the employee is presumed to be at work, absences due to illness or accident, family or parental leave and absences, paid annual leave, and the notice of group termination. The Act respecting Labour Standards sets out the rules governing minimum work conditions in the absence of more favourable conditions provided by a collective agreement, a contract of employment or a government order. For more information, please contact one of the lawyers in the Labour and Employment practice group or refer to the [January 2003 Index](#).

## Conferences

To attend one of these conferences, please contact us.

### Litigation / Class Action

**Marc Beauchemin** is involved in numerous class action files, both for the plaintiff and the defendant. He is presently leading the legal team assigned to a class action taken against the three largest Canadian tobacco companies. On September 30th, 2003, Mr. Beauchemin will give a seminar on "**The new federal procedure in class actions**" at the 2nd conference on class actions organised by *Insight Information Co.*, to be held at the Inter-Continental Hotel in Montréal.

### Labour and Employment

On October 2, 2003, at the Crowne Plaza Hotel in Montréal, **Andrée Gosselin** will be speaking on **chronic absenteeism and problem employees**. She will focus on the issues of developing policies and programmes aimed at reducing chronic absenteeism, the concept of absenteeism where the cause is stress or depression, specific considerations where there is a union, and the recommended procedure for a termination of employment.

## Publications

### Construction

**David H. Kauffman** is the author of the "History of the Canadian College of Construction Lawyers", which gives the history of the College since its inception in 1996. A copy of this limited edition was given to all members of the **Canadian College of Construction Lawyers** at the annual convention which took place in Whistler, on June 1st, 2003. Three members of our firm (David H. Kauffman, Sandor Klein and Yves Poirier) are Fellows of this prestigious College, which includes some 65 lawyers and judges from trial and appellate courts from across Canada as well as two justices of the Supreme Court of Canada, all of whom are recognized experts in the area of construction law.

## Appointments

### Business

The **Honourable Irving J. Halperin**, Q.C. has joined our Business Group, where he will concentrate his practice on arbitration and mediation. As a Superior Court of Québec judge for 20 years, he is well-respected for his legal acumen as well as for the depth and soundness of his decisions in many areas of law, especially in commercial and bankruptcy matters.

### Real Estate

**Gilles Lareau** has joined our Real Estate Group. A specialist in municipal law and litigation, Mr. Lareau's expertise is in the real estate evaluation. In addition to his various publications on municipal tax law, he also acts as speaker for various organizations, namely the *Barreau du Québec*, the Appraisal Institute of Canada and the Canadian Property Tax Association, Inc. (CPTA). He is also a member of the Strategies and Communications Committee, *Public Finance and Taxation*, and *Economic Development*, of the Board of Trade of Metropolitan Montréal.

We also welcome **Vincent Piazza** to our Real Estate Group. Admitted to the Bar of Quebec in 1996, Mr. Piazza was previously with the law firm of Lareau Piazza. His specialty is Litigation and Administrative Law.

## DGC Conference

### Corporate Financing

**Claude Désy** hosted the most recent DGC Breakfast Conference, together with Louis Doyle, Vice-President of the **Toronto Stock Exchange**, and Richard T. Groome, Senior Vice-President, **Strategic Capital, Desjardins Securities**, that drew 150 participants to the Sofitel Hotel on May 28, 2003. This event was a great success!

Look for the next scheduled DGC Breakfast Conference in the *DGC Index*.



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