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UNIFORM LAW CONFERENCE OF CANADA

REVIEW OF JUDGMENTS AND JOURNALS

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UNIFORM LAW CONFERENCE OF CANADA
CONFÉRENCE POUR L'HARMONISATION DES LOIS AU CANADA

REVIEW OF JUDGMENTS AND JOURNALS

Review of Judgments, Journals, and Media referencing ULCC, 2023/2024

1. ULCC in the Courts - Citations at Superior Court Level or Above

Zhang v Wehner, 2023 SKCA 22 – Appeal of a decision dismissing an action for assault and battery on the basis that the limitation period had expired, citing the [Uniform Limitations Act](#) at ¶27-29. (Saskatchewan Court of Appeal, February 8, 2023)

Black & McDonald Limited v. Eiffage Innovative Canada Inc., 2023 ONCA 91 - Appeal from the decision of a motions judge who stayed proceedings instituted in Ontario regarding a construction project in British Columbia on the basis that British Columbia was the more convenient jurisdiction, citing the [Uniform Court Jurisdiction and Proceedings Transfer Act](#) at ¶17. (Ontario Court of Appeal, February 9, 2023)

Hansman v. Neufeld, 2023 SCC 14 – N, a public school board trustee made online posts criticizing a provincial government initiative. Many considered his comments to be derogatory of transgender and other 2SLGBTQ+ individuals. H, a gay man, teacher, and former president of a large teachers' union in the province, was prominent among the dissenting voices and made statements to media. H called N's views bigoted, transphobic, and hateful; accused him of undermining safety and inclusivity for transgender and other 2SLGBTQ+ students in schools; and questioned whether he was suitable to hold elected office. N sued H for defamation. H then applied to have N's defamation action dismissed as a strategic lawsuit against public participation ("SLAPP") under s. 4 of British Columbia's [Protection of Public Participation Act](#) ("PPPA"). The chambers judge allowed the application and dismissed the action. He held both that H had a valid fair comment defence and that the value in protecting his expression outweighed the resulting harm done to N. The Court of Appeal disagreed on both counts and reinstated the action. The SCC reinstated the order dismissing the application, citing the [Uniform Protection of Public Participation Act](#) at ¶50. (Supreme Court of Canada, May 19, 2023)

Larocque v Yahoo! Inc., 2023 SKCA 62 - Appeal of a decision by a court of Queen's bench judge to adjourn an application to certify a class action until after the Ontario Superior Court of Justice has rendered a final decision whether to approve a settlement agreement in a similar Ontario action, citing a [ULCC report on the Class Actions Statute 1995](#) which referred to the [Class Actions Act](#) at ¶55. (Saskatchewan Court of Appeal, May 25, 2023)

Larocque v Yahoo! Inc., 2023 SKCA 63 - Appeal of a decision granting a permanent stay of a class action because the claims it makes have been settled through a certified Ontario class proceeding, citing The *Class Actions Amendment Act 2007* and the *Report of the Uniform Law Conference of Canada's Committee on the National Class and Related Interjurisdictional Issues: Background, Analysis, and Recommendations* at ¶39. (Saskatchewan Court of Appeal, May 25, 2023)

R v Fraser, 2023 MBCA 49 - Crown appeal of an application judge's dismissal of its application for certiorari to quash the order of the provincial court judge deeming an arrest warrant to be executed under section 511(4) of the Criminal Code (the Code). The result of the appeal turns on the correct interpretation of section 511(4) of the Code and the circumstances in which a provincial court judge has jurisdiction under section 511(4) to deem a warrant to be executed, citing CAPCJ2022-02, a ULCC Criminal Section Resolution recommending that s.511 be reviewed, at ¶60. (Manitoba Court of Appeal, May 25, 2023)

Hoellwarth v Vital Statistics Alberta, 2023 ABKB 339 – Application pursuant to the *Family Law Act* to direct the Registrar of Vital Statistics to add the father's name to a child's birth certificate where the child was conceived through in-vitro fertilization and the father was deceased prior to the application, citing a ULCC report on the *Uniform Child Status Act* at ¶10. (Alberta Court of King's Bench, June 5, 2025)

Sandoz Canada Inc. v. British Columbia, 2023 BCCA 306 – Court of Appeal decision on the constitutional validity of 'multi-Crown' class actions contemplated by s. 11 of the *Opioid Damages and Health Care Costs Recovery Act*, citing the *Report of the Uniform Law Conference of Canada's Committee on the National Class and Related Inter-Jurisdictional Issues: Background, Analysis and Recommendations* at ¶9, 24. (British Columbia Court of Appeal, July 28, 2023)

Re Culleton, 2023 CarswellOnt 13966 – Judgment on an inquiry into the femicides of Carol Culleton, Anastasia Kuzyk, and Nathalie Warmerdam, three women killed due to intimate partner violence. The judgment refers to the *2022 ULCC Criminal Section resolution BC2022-02* calling for review of the criminal harassment provisions in section 264 of the Criminal Code in making a similar recommendation. (Ontario Coroner, August 14, 2023)

Judas (Re), 2023 BCORL 7 – Mr. Judas worked for the Tourism Industry Association of British Columbia. He promised a gift to three public office holders and subsequently gave the promised gift to one of those public office holders in contravention of section 2.4 of the *Lobbyists Transparency Act (LTA)*. The organization was assessed an administrative penalty of \$2,200 for these contraventions. The tribunal cites the ULCC's *Drafting Conventions* in their previous version at ¶40 as a guide to statutory interpretation. (Office of the Registrar of Lobbyists, British Columbia, September 7, 2023)

Pereira v Klonarakis, 2023 BCSC 1760 - Application for dismissal of the plaintiff's claim for defamation pursuant to s. 4 of the *Protection of Public Participation Act* and for costs, citing *Uniform Protection of Public Participation Act* at ¶25. (Supreme Court of British Columbia, October 11, 2023)

Zurich Insurance Company Ltd. v. 2442931 Ontario Inc., 2023 ONSC 6510 – Endorsement on an application for production of a Crown brief for use in a civil proceeding. Production was declined as criminal proceedings were ongoing, citing Progress Report of the Working Group on The Collateral Use of Crown Brief Disclosure at ¶84. (Superior Court of Justice Ontario, November 17, 2023)

De Guzman v De Guzman, 2023 ABKB 624 – Decision regarding divorce proceedings and the complexities of service and child support over international borders, citing Uniform Rules on Service in a Contracting State to the Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters at ¶50. (Alberta King’s Bench, November 6, 2023)

Pentacap LLC v. ACI Capital Partners Inc., 2024 NSSC 5 – Motion for an order against the plaintiff dismissing the action against them for want of jurisdiction. Pentacap is a company with a corporate mandate to purchase housing. It is incorporated in Omaha, Nebraska. Pentacap alleges that ACI Capital Partners holds itself out as a company incorporated in Florida, while it is actually incorporated in Nova Scotia. Pentacap retained ACI to assist with raising capital to purchase an apartment complex in Texas and alleges it did not fulfill those obligations and negligently and/or fraudulently misrepresented its ability to do so. Rather than defending the Action, ACI brings a motion pursuant to Civil Procedure Rule 4.07 to dismiss the Action for want of jurisdiction. The court cites the commentary to the Uniform Court Jurisdiction and Proceedings Transfer Act at ¶20 as the basis for the Nova Scotia Court Jurisdiction and Proceedings Transfer Act, but ultimately grants a stay on the basis that Illinois, which was named in a forum selection clause, is the more appropriate forum. (Supreme Court of Nova Scotia, January 5, 2024)

Zbitnew Estate v Park, 2024 SKCA 4 – Appellants, James and Susan Park, made an offer to purchase a parcel of land which was accepted by Wallis Zbitnew. The deal fell through and the Parks sued Ms. Zbitnew, seeking the return of their deposit. When Ms. Zbitnew did not defend, the Parks obtained a default judgment against her. Many years later, Ms. Zbitnew passed away, and her Estate applied to have the default judgment set aside so that it could defend the action. Relying on The Survival of Actions Act, a Chambers judge dismissed the Estate’s application on the ground that the right to bring such an application did not survive Ms. Zbitnew’s death. The court of appeal for Saskatchewan decided that the Chambers judge erred in his determination and found that the Estate was entitled to have its application considered on its merits, citing the Uniform Survival of Actions Act at ¶29. (Court of Appeal for Saskatchewan, January 8, 2024)

Desert Properties Inc. v. G&T Martini Holdings Ltd., 2024 BCCA 24 - Appeal from the award of an arbitrator under the Arbitration Act relating to the statutory interpretation of the 30 day period for application for leave appeal from the award of an arbitrator. The court cites the Uniform Arbitration Act at ¶1 as the basis for the BC legislation. (Court of Appeal for British Columbia, January 23, 2024)

Viking Air Ltd. v. Aevex Aerospace, LLC, 2024 BCSC 502 - Dispute over jurisdiction in an action concerning modifications to Twin Otter 4900 series aircraft. Viking claimed that these modifications were in violation of a data and royalty license agreement. This agreement contained a choice-of-law clause designating New York law as applicable, but no choice-of-court clause. The amendments were also alleged to violate another agreement between Viking and the Ikhana group, which had a choice-of-law and choice-of-court clause indicating British Columbia. Aevex and Ikhana Canada were not parties to the agreement containing the choice of court clause. Ikhana commenced court proceedings in Southern California. Viking responded to these proceedings, filed a counterclaim and commenced proceedings in British Columbia. The defendants asserted that the British Columbia court lacked territorial jurisdiction, and in any event that the court should exercise its discretion in favor of the Southern California court, which is the preferable forum. Viking asserted that, because of the forum selection clause, the defendants must show that they had good reason not to settle the dispute in this court. All parties agreed that the litigation would take place in California, regardless of the resolution of the proceedings in British Columbia. At ¶19, the court cites the commentary to the ULCC's [Uniform Court Jurisdiction and Proceedings Transfer Act](#), which is the basis for British Columbia's [Court Jurisdiction and Proceedings Transfer Act](#), in coming to the conclusion that Southern California was the most appropriate forum. (Supreme Court of British Columbia, March 26, 2024)

2. ULCC In Academic Journals

Guillaume Laganière, "[Choice of Law Issues in Tort-Based Climate Change Litigation](#)", 74 U.N.B. L.J. 33 – (University of New Brunswick Law Journal, 2023) – The article discusses choice law legislation in the context of climate change. The nature of climate change makes it difficult to locate the tort in a single place and to identify the applicable law. The article suggests that the law of the place of injury will normally apply. The author refers to the [Uniform Transboundary Pollution Reciprocal Access Act](#), which was implemented in Ontario, Manitoba, Nova Scotia, and Prince Edward Island.

Suominen, Kati. “The Implementation of the CPTPP’s E-Commerce Chapter in 2023 and toward CPTPP 2.0.” Center for Strategic and International Studies (CSIS), 2024. <http://www.jstor.org/stable/resrep57763>. – ULCC’s [Uniform Electronic Commerce Act](#) (UECA) is cited as a Canadian framework for electronic transactions in an international implementation study of the [Comprehensive and Progressive Agreement for Trans-Pacific Partnership \(CPTPP\)](#). Reference is in “Appendix II: Country Assessments” at p.47.

3. ULCC in Law Reform Agency Publications

[Alberta Law Reform Institute, Access to Digital Assets, Final Report 121](#), (Alberta Law reform Institute, 2024). – Report by ALRI which recommends that the ULCC’s [Uniform Access to Digital Assets by Fiduciaries Act](#) be implemented in Alberta with amendments. The report suggests that in the eight years since the ULCC adopted the Uniform Act IN 2016t, there have been developments that necessitate its modernization in some respects. These include adding definitions for the terms “record” and “online tool”, explicitly binding the Crown where it is the

custodian of a digital record, and including a paramountcy clause. The report also recommends that the category of “fiduciary” be expanded to include agents appointed under the [Alberta Personal Directives Act](#) and the Public Guardian and Trustee, and advocates for different approaches to priority of instructions for digital assets and territoriality. Finally, there is a discussion of circumstances that have arisen since the adoption of the Uniform Act in 2016 and are therefore not addressed by it; the increased prevalence of non-custodial digital assets such as cryptocurrency, password managers and after-death planning tools.

4. ULCC In Media

[Investment Powers for Charities in Canada](#) – Discussion of legal issues in Charity Law reform. The article discusses the ULCC’s [Uniform Trustee Act](#) and that it would be beneficial to have an update of this uniform Act. (The Philanthropist Journal, February 28, 2023)

[Volunteering for law reform](#) – Discussion of volunteer activities undertaken by the Canadian Bar Association’s Criminal Law Section. The article discusses the CBA’s participation in ULCC activities including advocacy surrounding bill C-5 and mandatory minimum sentences. (Canadian Bar Association National Magazine, April 20, 2023)

[Uniform Law Conference criminal section asks feds to examine intimate-partner homicide penalties](#) – Discusses the 2023 ULCC annual meeting and includes an interview with Anny Bernier, Criminal Section Chair, about ULCC Criminal section activities (Canadian Lawyer Magazine, September 7, 2023)

[Uniform Law Conference OKs model law to reduce barriers to interprovincial judgment enforcement](#) – Discusses the 2023 ULCC annual meeting and includes an interview with Christine Badcock, Civil Section Chair, about ULCC Civil section activities (Canadian Lawyer Magazine, September 18, 2023)

[Thursday Thinkpiece: Drafting, Interpreting, and Applying Legislation](#) – This is an excerpt from the book “Drafting, Interpreting and Applying Legislation” by J.M. Keyes and Wendy Gordon, which includes a discussion of the Uniform Law Conference of Canada’s history and work, particularly as it relates to the ULCC’s [Drafting Conventions](#). (Slaw.com, October 19, 2023)

[Legislative Update: Introduction of the Money Judgment Enforcement Act](#) – Discussion of the [Money Judgment Enforcement Act](#) in British Columbia, which reflects Canadian Bar Association British Columbia recommendations to replace the *Court Order Enforcement Act* with the [Uniform Civil Enforcement of Money Judgments Act](#) as recommended by the BC Law Institute and as produced by the Uniform Law Conference of Canada. (Canadian Bar Association, British Columbia, November 2, 2023)

[BCLI welcomes updates to money judgments enforcement legislation](#) – Article by the British Columbia Law Institute discussing their work on the BC [Money Judgment Enforcement Act](#), which is based on the ULCC [Civil Enforcement of Money Judgments Act](#). (British Columbia Law Institute, November 6, 2023)

Revised Canadian Statute on Judgment Enforcement – Article by Stephen Pitel, lead researcher and member of the working group, discussing the *Enforcement of Canadian Judgments Act (ECJA)*. (Conflict of Laws.net, November 13, 2023)

The 'internationalization of domestic arbitration' continuing, says BLG's Hugh Meighen | Canadian Lawyer (canadianlawyermag.com) – Refers to the Uniform Law Conference of Canada's *Uniform Arbitration Act*.

“Épisode du mardi 19 mars 2024 | La facture.” Radio-Canada. CBC/Radio-Canada, March 19, 2024. <https://ici.radio-canada.ca/tele/la-facture/site/episodes/871986/apple-nuage-patio-design-retraite-quebec-penalite> - Discussion of the *Uniform Access to Digital Assets by Fiduciaries Act* as part of a news story about a family attempting to access the Apple account of a deceased loved one.