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UNIFORM LAW CONFERENCE OF CANADA

REVIEW OF JUDGMENTS AND JOURNALS

Presented by

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REVIEW OF JUDGMENTS AND JOURNALS:
Judgments, Journals, and Media referencing ULCC, 2024-2025

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

L’Anton v. Mackenzie Financial Corporation, 2025 BCSC 1136 – Decision on two applications for stays of proceedings of a multi-jurisdictional class action as an abuse of process as well as a cross-application for directions on procedural matters. The stay applications came before a certification hearing. The court finds that if there exists a legitimate purpose for a duplicative action, a subsequent amendment to the pleadings in the first jurisdiction to adopt the same allegations as the second does not have the effect of turning a legitimate parallel action into an abuse of process. The Court refers to changes made to the British Columbia *Class Proceedings Act* following recommendations by the ULCC in the *Report of the Uniform Law Conference of Canada’s Committee on the National Class and Related Interjurisdictional Issues*, respecting conflicts between competing class actions at ¶4 and ¶15. A stay was not granted, and case management directions were issued. (Supreme Court of British Columbia, June 13, 2024)

R. v. Blanchard, 2024 NLSC 85 – The Court of Appeal set aside the Accused’s acquittal on a charge of dangerous driving causing death and ordered a new trial. At the original trial, the Accused had elected to be tried by a court composed of a judge alone. The Accused sought to re-elect a trial by judge and jury at the new trial. The Crown did not consent. The provisions of the *Criminal Code* do not confer a right or opportunity of re-election in these circumstances and the Court found that it did not have the jurisdiction to otherwise permit the re-election. In discussing the right to re-elect, the Court discusses at ¶69 the *Criminal Law Improvement Act, 1996*, which was enacted from proposals of the ULCC’s Criminal Section. (Supreme Court of Newfoundland and Labrador, June 13, 2024)

H2 Canmore Apartments LP v. Cormode & Dickson Construction Edmonton Ltd., 2024 ABKB 424 – In a case-managed action involving the construction of an apartment building, the parties could not agree on an email discovery plan for producing emails requested by one of the parties. The Court cites the ULCC’s *Uniform Electronic Documents Rules* at ¶30 in setting out the applicable principles. This case also involves a discussion of the procedure to be followed when one party is not providing sufficient disclosure. (Court of King’s Bench of Alberta, July 15, 2024)

Mian v. Expro Group Canada Inc., 2024 NSSC 218 – The Applicant was employed in November 2019 as a Product Line Director with Expro Canada. His employment was terminated in October 2022. He sued Expro for wrongful dismissal and negligent misrepresentation. The respondents argued that the action could not be heard in Nova Scotia as there was not a substantial connection to the Nova Scotia Court. They argued that because the company was based in Houston, this was the appropriate forum. The Court found that, because the applicant worked from Nova Scotia, there was a real and substantial connection to the province. The Court cites *Club Resorts Ltd v. Van Breda*, 2012 SCC 17 at ¶45, which cites the ULCC’s *Uniform Court Jurisdiction and Proceedings Transfer Act*. (Supreme Court of Nova Scotia, July 21, 2024)

Ke v. Cooper, et al., 2024 ONSC 5532 – Anti-SLAPP application for the dismissal of an action for libel. Wenbin Ke was the Progressive-Conservative MPP for Don Valley North in Ontario. He was elected in 2018 as the first Ontario MPP born in Mainland China. He was the Parliamentary Assistant to the Minister of Public and Business Service Delivery and a member of the PC caucus. In December 2018, China detained Canadians Michael Spavor and Michael Kovrig. Media coverage of the detainees included coverage of attempts by the Chinese government to influence Canadian political affairs. CSIS agents leaked stories to several news outlets, but only Global News’ pieces identified Mr. Ke as the Ontario MPP involved in the interference scheme. Mr. Ke brought a libel suit against Global News. The Court dismissed the application, referring at ¶51 to the ULCC’s *Strategic Lawsuits Against Public Participation (SLAPPs) Working Group Report*, 2008, describing the emergence of anti-SLAPP legislation because of “attempts by vested interests to silence groups or citizens speaking out about environmental and other emerging concerns” and finding that this libel suit does not appear to be the kind of strategic suit s. 137.1 of the *Courts of Justice Act* was intended to stop. As provided in the legislation, costs were awarded against Global News and Mr. Ke’s action will continue. (Superior Court of Justice, Ontario, October 17, 2024)

Fan Yang v. McInnes Cooper, 2024 NSSC 308 – Dispute arising from the sale of commercial property. An investment company agreed to buy property from a restaurant franchising company that included a residence and a restaurant. There was a ten-year lease in place for the restaurant. The seller told the realtor that they required that the restaurant lease remain intact after the sale. When the property was sold, the contract of sale referred to “vacant possession” of the property. The real estate agent, Fan Yang, believed that this meant vacant possession of the residential property, while the restaurant would continue its lease. This was not communicated to the purchaser, as the realtor believed this was understood. After the date for contract review had passed, the buyer asked whether the restaurant would like to remain as a month-to-month tenant, at which point the misunderstanding became clear. By that time, the agreement had become binding and could not be amended. The seller tried to terminate the contract. The buyer demanded that the transaction close. The parties agreed to settle the dispute. The sale closed and vacant possession was turned over to the buyer. The realtor paid \$340,000 to the restaurant and franchisor as compensation. The realtor then sued the seller’s lawyer for contribution and indemnity for failing to catch the error during the review period. In discussing contributory negligence, the Court refers to the ULCC’s *Uniform Contributory Fault Act* and its predecessor

the *Uniform Contributory Negligence Act*, as well as resolutions made at the [1929](#), [1935](#) and [1953](#) annual meetings at ¶51. The Court found that the law does not preclude an action seeking damages in these circumstances, but that there was no negligence on the part of counsel in this case. The application was dismissed. (Supreme Court of Nova Scotia, October 23, 2024)

VM Agritech Limited v. Smith, 2024 BCCA 360 – Action for debt brought by a plaintiff resident in B.C. against U.K. defendants. The Court below found it had jurisdiction under [ss. 3](#) and [10](#) of the *Court Jurisdiction and Proceedings Transfer Act* and that defendants had attorned by applying under R. [21](#)-8 to have the plaintiff’s claim struck out. This occurred after the 30-day period in subrule (5) had expired. The defendants appealed. The Court of Appeal held that the British Columbia Supreme Court had jurisdiction due to various connections between British Columbia and the facts of the case but had erred in finding that the defendants had attorned. Their jurisdictional response had not sought any determination on the merits, but only a determination of jurisdiction. Attornment was irrelevant given that the presumption of territorial competence had not been rebutted by the defendants’ jurisdictional response. At ¶4, the Court cites the B.C. *Court Jurisdiction and Proceedings Transfer Act*, which is based on the ULCC’s *Uniform Court Jurisdiction and Proceedings Transfer Act*. (Court of Appeal for British Columbia, October 23, 2024)

K.A.D. v K.M.M., 2024 SKKB 197 – K.A.D. is the mother and K.M.M. is the father of a child. K.A.D. lived in Alberta for nearly 10 years before her relationship with K.M.M., who moved there to be with her. K.A.D. moved to Regina, Saskatchewan, without K.M.M. before the birth of their child. K.A.D. filed a petition for custody and child support in Regina. The father filed an application to have the proceedings transferred to Alberta. The Court found that the Saskatchewan Court had jurisdiction to make parenting, child support and spousal support orders, and declined to exercise discretion to transfer the proceeding to Alberta. The Court considers at ¶16 the applicability of the Saskatchewan *Court Jurisdiction and Proceedings Transfer Act*, noting that it is based on the ULCC’s *Uniform Court Jurisdiction and Proceedings Transfer Act*. (Saskatchewan Court of King’s Bench, November 8, 2024)

Achter Land & Cattle Ltd. v South West Terminal Ltd., 2024 SKCA 115 – Dispute over the sale of grain. An employee of Southwest Terminal Ltd. sent a text message to Mr. Achter, the principal of ALC, with a picture of the first page of a proposed agreement and the words “please confirm flax contract”. Mr. Achter replied with a thumb’s up emoji but no other accompanying words or symbols. SWT sued to enforce the contract. ALC asserted that there was no agreement, but if there was it would be unenforceable because of s. 6 of the *Sale of Goods Act*. The Court of King’s Bench found in favour of SWT. The Saskatchewan Court of Appeal agreed. The decision refers to the *Electronic Information and Documents Act* (2000), which is based on the ULCC’s *Uniform Electronic Commerce Act*, in concluding that the emoji and metadata in this case constituted a signature under the common law. (Court of Appeal for Saskatchewan, December 16, 2024)

Bakali v Mak, 2024 BCSC 2345 – Application under the *Court Jurisdiction and Proceedings Transfer Act* for non-payment of funds for the delivery of fish products sold in Hong Kong by Mr. Bakali's company, H.P. Enterprises, to Ricky Trading Limited. H.P. Enterprises is incorporated in Mumbai, India. Ricky Trading is incorporated in Hong Kong and was involved in liquidation proceedings in 2021. The corporation had no facilities in Canada. The plaintiff argued that Ricky Trading made misrepresentations and never intended to pay in respect of this deal, and that with the help of his wife and son, who owned a home in Richmond, B.C., Ricky Trading misappropriated funds for the upkeep and maintenance of a property in Richmond owned by Ho, the son of Ricky. The Court found that it did have jurisdiction over Ho, a corporation owned by Ho and incorporated in Hong Kong, and Ricky's wife, but did not have jurisdiction over Ricky Trading. The claims against Ricky Trading were dismissed on that basis and the Court declined to exercise jurisdiction over the claims against Ricky's wife and son as Hong Kong is clearly the more appropriate forum for the resolution of these claims. The Court considered the *Court Jurisdiction and Proceedings Transfer Act*, which is based on the ULCC's *Uniform Court Jurisdiction and Proceedings Transfer Act*. (Supreme Court of British Columbia, December 20, 2024)

InvestorCOM Inc. v. L'Anton, 2025 BCCA 40 – Appeal from *L'Anton v. Mackenzie Financial Corporation*, above – Appellants were defending a proposed class action related to a data breach of customer information. They applied to strike the claim as an abuse of process prior to certification. That application was denied, and the defendants appealed the denial. The Court of Appeal held that the chambers judge did not err in refusing to strike the claim. There were legitimate reasons to sue in British Columbia, and the facts did not suggest that the action was brought or continued for an improper purpose. The question of what jurisdiction would be preferable should be addressed at the certification stage. The Court refers to the British Columbia *Class Proceedings Act*, which incorporates recommendations of the *Report of the Uniform Law Conference of Canada's Committee on the National Class and Related Interjurisdictional Issues* at ¶13. (Court of Appeal for British Columbia, January 27, 2025)

Canada Mortgage and Housing Corporation v. Gravelle, 2025 NSSC 53 – Application for a stay of enforcement for judgments issued in Alberta and registered in Nova Scotia pursuant to the terms of the *Enforcement of Canadian Judgments and Decrees Act*. Orders from the Alberta Court of Queen's Bench dated 2010 and 2019 were registered in Nova Scotia in February 2020. The originating judgments from Alberta had expired, so Mr. Gravelle was seeking a finding that enforcement of the judgments in Nova Scotia was barred by virtue of section 7(1)(a) of the *Enforcement of Canadian Judgments and Decrees Act*. The Alberta *Limitations Act* sets the limitation for the enforcement of an Alberta judgment at ten years. The judgments had not been renewed. Once the time for enforcement of a judgment has expired in the province in which it was made, it cannot be enforced in a different province under the Act. In making this finding, the Court refers at ¶20-21 to the commentary to the ULCC *Uniform Enforcement of Canadian Judgments and Decrees Act*. (Supreme Court of Nova Scotia, February 14, 2025)

Application (Ex Parte) to Extend Period of Detention of Items Seized, 2025 NSSC 72 – Application by the Crown to proceed ex parte on an application under s.490 of the [Criminal Code](#) for the continued detention of evidence seized during a homicide investigation. The application required that the owner of the seized property be given notice, but the Crown argued that in this case if notice was given, the investigation would be materially harmed because aspects of the investigation depended on it being covert and the suspect was not aware that the RCMP had seized their property or that they were a target of the investigation. The Court found that it does, in limited circumstances, possess the residual authority to waive the notice requirement where the notice itself would do material harm to an active homicide investigation. The Court considered the [Final Report of the Working Group on Section 490 of the Criminal Code](#), which recognizes a gap in the legislation and recommends reform of s.490 to permit applications to proceed in camera and ex parte if to do so would be in the interests of justice. (Supreme Court of Nova Scotia, February 21, 2025)

2. ULCC in Academic Journals

Singer, Samuel, “[Modernizing Non-Profit Law in Canada](#)” (2023) 68:4 MLJ 407–448 (Listed here as this article was missed in the 2023-2024 review) – Discussion of recent legislative reforms in Canada that have sought to modernize non-profit statutes to reflect the changing non-profit sector with a focus on increasing accountability and fairness. The article compares non-profit rules about directors and financial review in Alberta, British Columbia, Ontario, and federally, then uses tax expenditure analysis to argue for a national perspective that considers the different regulatory burdens facing non-profits receiving the same federal tax subsidies. The article argues that increased harmonization across Canada is key to continuing the work of modernizing non-profit law. It concludes by identifying potential law reforms and their limitations. Refers at ¶81 to the ULCC’s [Uniform Charitable Fundraising Act](#).

Penney, Steven, Peter Sankoff & Nicole Pecharsky, “[Reversing the Presumption: Admitting Prior Inconsistent Statements for Their Truth](#)” (30 August 2024) Rochester, NY - Discussion of the use of prior inconsistent statements at trial. These are traditionally presumptively inadmissible, though they may be entered into evidence following a voir dire pursuant to the principled approach to hearsay. The authors argue that this presumption should be reversed as an analysis of Canadian cases shows that in practice prior inconsistent statements are admitted more often than they are excluded. The article refers at p. 5 to the Uniform Law Conference of Canada’s *Report of the Federal/Provincial Task Force on the Uniform Rules of Evidence*¹ in arguing that Canada should make prior inconsistent statements presumptively admissible as non-hearsay. This presumption would be rebutted only when meaningful cross-examination is impossible.

Ebner, Noam, “[Online Dispute Resolution \(ODR\) Bibliography](#)” (14 November 2024) Rochester, NY - Bibliography, curated by Noam Ebner and archived by the National Center for Technology

¹ *Report of the Federal/Provincial Task Force on the Uniform Rules of Evidence* (Toronto: Carswell, 1982) at 315–16.

and Dispute Resolution, to provide a comprehensive listing of publications on Online Dispute Resolution (ODR). ULCC's [*Online Dispute Resolution and Avoidance in Electronic Commerce*](#) report is cited at p. 75.

Chasse, Ken, "[Codifying the Law of Evidence—From Stare Decisis Domination To Codification's Innovation](#)" (6 January 2025), 2025 CanLIIDocs 1197, Rochester, NY. – Article advocating for the codification of the law of evidence in Canada so as to limit dependence upon case law, which increases the time, complexity and cost of legal proceedings. The article discusses at p. 29 the [Federal/Provincial Task Force on Uniform Rules of Evidence](#) (see annual meeting proceedings page 283), created in 1977, which led to the creation of the ULCC's [Uniform Evidence Act](#).

3. ULCC in Books

Tamaruya, Masayuki, "[Trust Law and Colonialism](#)" (September 01, 2024) in Adam S. Hofri-Winograd et al eds, *The Oxford Handbook of Comparative Trust Laws* (forthcoming) – Discussion of the multiple factors and local conditions that influence trust laws and the colonial history, which is often intertwined with these factors. The chapter argues that despite its significance, the colonial influence on trust law has often been assumed rather than examined in detail. This chapter uses colonial perspectives to explore important connections and patterns of trust law evolution that may have been overlooked in traditional comparative trust law studies. The ULCC's [Uniform Trustee Act](#) is cited at p. 8 as an example of Canadian trust law reform, which is described as "more enabling and supplementary to the general non statutory laws of trust" as compared to more comprehensive codifications.

4. ULCC In Media, Blogs and Other

Marrocco, Andrae, Brad Hanna & Paola Ramirez, "[Building Uniformity: Saskatchewan's Franchise Disclosure Act Receives Royal Assent](#)" (4 June 2024) – Discussion of Saskatchewan's [Franchise Disclosure Act](#), which received royal assent May 8, 2024. The article refers to the ULCC's [Uniform Franchise Act and Regulations](#) in discussing the content of the legislation.

Anggadol, Kairos, "[Liability and apology: Canada's Apology Act explained](#)" (December 3, 2024) – The article discusses the scope and limitations of apology legislation across Canada, referring to the ULCC's [Uniform Apology Act](#), modeled on legislation enacted in British Columbia and Saskatchewan, as the basis for most provincial and territorial apology statutes.

Young, Joan M., "[Double the Trouble: The BCCA Refuses to Strike Duplicative Class Actions Before Certification](#)" (13 February 2025), *McMillan LLP* – Discussion of the decision in

InvestorCOM Inc. v. L'Anton which refers to the ULCC's recommended amendments to existing class proceedings legislation in the Report of the Uniform Law Conference of Canada's Committee on the National Class and Related Interjurisdictional Issues. The article discusses that many of these amendments, which include procedural mechanisms to manage overlapping class actions, have been incorporated into provincial legislation, including British Columbia's *Class Proceedings Act*.

Singh, Karunjit, "B.C. Court of Appeal: Parallel class actions not abuse of process before certification - Law360 Canada" – Article discussing the decision in *InvestorCOM Inc. v. L'Anton* which refers to the ULCC's recommended amendments to existing class proceedings legislation in the Report of the Uniform Law Conference of Canada's Committee on the National Class and Related Interjurisdictional Issues. The article discusses that many of these amendments, which include procedural mechanisms to manage overlapping class actions, are included in British Columbia's *Class Proceedings Act*.

Horton, William G, Lisa C Munro, & Emily McMurtry, "The New ADRIC Arbitration Rules: An Updated Approach to Commercial Arbitration in Canada - Part 2" (6 March 2025), *ADR Institute of Canada - ADR Perspectives* – The article provides an overview of new ADR Institute of Canada Arbitration Rules, and refers to the ULCC's *Uniform Arbitration Act* and recommendations.

Daniel W. Burnett, KC and Hilary Young, "Defamation Law Reform in Canada and Elsewhere: Uniform Law Conference" (March 13, 2025), *Defamation, Privacy and Media Law 2025*, Continuing Legal Education Society of British Columbia – Presentation as part of a continuing education course discussing the ULCC's Defamation Working Group.