

Federal Court of Appeal



Cour d'appel fédérale

Date: 20181210

**Dockets: A-426-17
A-427-17
A-428-17**

Citation: 2018 FCA 225

[ENGLISH TRANSLATION]

**CORAM: NADON J.A.
DE MONTIGNY J.A.
GLEASON J.A.**

Docket: A-426-17

BETWEEN:

THE MINISTER OF NATIONAL REVENUE

Appellant

and

**ÉRIC LALANCETTE
AND
ARCI CABINET COMPTABLE INC.**

Respondents

Docket: A-427-17

BETWEEN:

THE MINISTER OF NATIONAL REVENUE

Appellant

and

**DANNY ALLAIRE
AND
ARCI CABINET COMPTABLE INC.**

Respondents

Docket: A-428-17

BETWEEN:

THE MINISTER OF NATIONAL REVENUE

Appellant

and

**CHRISTIAN MARTEL
AND
ARCI CABINET COMPTABLE INC.**

Respondents

Heard at Montreal, Quebec, on December 10, 2018.

Judgment delivered from the bench at Montreal, Quebec, on December 10, 2018.

REASONS FOR JUDGMENT BY:

THE COURT

Federal Court of Appeal



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REASONS FOR JUDGMENT OF THE COURT

(Delivered from the bench at Montreal, Quebec, on December 10, 2018.)

[1] Notwithstanding Mr. Petit's very able arguments, we are of the opinion that there is no reason to intervene.

[2] Even accepting that the Tax Court of Canada (the TCC) erred in respect of the test applicable to the concept of non-arm's length, we are not satisfied that the conclusion reached by the TCC, in light of the particular facts of the case, is erroneous.

[3] Our decision to dismiss the appeal must not be interpreted as an endorsement of the TCC’s analysis, especially regarding the test applicable to determining the existence of a non-arm’s length relationship.

[4] Given that the respondents did not participate in the appeal and that they defer to the judgment of this Court, and given the importance of the issue raised by the appeal, we believe that it is desirable, under the circumstances, for the issue to be debated in another case.

[5] For these reasons, the appeal will be dismissed without costs.

“Marc Nadon”

J.A.

“Yves de Montigny”

J.A.

“Mary J.L. Gleason”

J.A.

Certified true translation
Janine Anderson, Revisor

FEDERAL COURT OF APPEAL

SOLICITORS OF RECORD

DOCKETS: A-426-17, A-427-17, A-428-17

STYLE OF CAUSE: THE MINISTER OF NATIONAL
REVENUE v. ÉRIC
LALANCETTE AND ARCI
CABINET COMPTABLE INC.
THE MINISTER OF NATIONAL
REVENUE v. DANNY ALLAIRE
AND ARCI CABINET
COMPTABLE INC.
THE MINISTER OF NATIONAL
REVENUE v. CHRISTIAN
MARTEL AND ARCI CABINET
COMPTABLE INC.

PLACE OF HEARING: MONTREAL, QUEBEC

DATE OF HEARING: DECEMBER 10, 2018

**REASONS FOR JUDGMENT OF THE COURT
BY:** NADON J.A
DE MONTIGNY J.A.
GLEASON J.A.

DELIVERED FROM THE BENCH BY: THE COURT

APPEARANCES:

Simon Petit FOR THE APPELLANT

SOLICITORS OF RECORD:

Nathalie G. Drouin FOR THE APPELLANT
Deputy Attorney General of Canada