

Docket: 2007-4956(IT)G

BETWEEN:

JERRETT MCDONALD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Kenneth White 2007-4958(IT)G; *Darrell Hinks* 2007-4975(IT)G;
Jeremy John 2007-4959(IT)G; *Gary Drew* 2007-4960(IT)G;
Cory Jeddore 2007-4962(IT)G; *Patrick Hinks* 2007-4963(IT)G;
Barry Benoit 2007-4964(IT)G; *Howard Benoit* 2007-4965(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The*
Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4958(IT)G

BETWEEN:

KENNETH WHITE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Darrell Hinks* 2007-4975(IT)G;
Jeremy John 2007-4959(IT)G; *Gary Drew* 2007-4960(IT)G;
Cory Jeddore 2007-4962(IT)G; *Patrick Hinks* 2007-4963(IT)G;
Barry Benoit 2007-4964(IT)G; *Howard Benoit* 2007-4965(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The*
Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4975(IT)G

BETWEEN:

DARRELL HINKS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Jeremy John 2007-4959(IT)G; *Gary Drew* 2007-4960(IT)G;
Cory Jeddore 2007-4962(IT)G; *Patrick Hinks* 2007-4963(IT)G;
Barry Benoit 2007-4964(IT)G; *Howard Benoit* 2007-4965(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The*
Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4959(IT)G

BETWEEN:

JEREMY JOHN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Gary Drew* 2007-4960(IT)G;
Cory Jeddore 2007-4962(IT)G; *Patrick Hinks* 2007-4963(IT)G;
Barry Benoit 2007-4964(IT)G; *Howard Benoit* 2007-4965(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The*
Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4960(IT)G

BETWEEN:

GARY DREW,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Cory Jeddore 2007-4962(IT)G; *Patrick Hinks* 2007-4963(IT)G;
Barry Benoit 2007-4964(IT)G; *Howard Benoit* 2007-4965(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The
Estate of Yvon John* 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4962(IT)G

BETWEEN:

CORY JEDDORE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Patrick Hinks* 2007-4963(IT)G;
Barry Benoit 2007-4964(IT)G; *Howard Benoit* 2007-4965(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The
Estate of Yvon John* 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4963(IT)G

BETWEEN:

PATRICK HINKS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Barry Benoit 2007-4964(IT)G; *Howard Benoit* 2007-4965(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The*
Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4964(IT)G

BETWEEN:

BARRY BENOIT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Howard Benoit* 2007-4965(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The
Estate of Yvon John* 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant as a consequence of the qualifying fishing income in 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4965(IT)G

BETWEEN:

HOWARD BENOIT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Barry Benoit* 2007-4964(IT)G;
Adam Drake 2007-4966(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The
Estate of Yvon John* 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4966(IT)G

BETWEEN:

ADAM DRAKE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Barry Benoit* 2007-4964(IT)G;
Howard Benoit 2007-4965(IT)G; *Thierry McDonald* 2007-4967(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The*
Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4967(IT)G

BETWEEN:

THIERRY MCDONALD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Barry Benoit* 2007-4964(IT)G;
Howard Benoit 2007-4965(IT)G; *Adam Drake* 2007-4966(IT)G;
John Quann 2007-4968(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The*
Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant as a consequence of the qualifying fishing income in 2003 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4968(IT)G

BETWEEN:

JOHN QUANN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Barry Benoit* 2007-4964(IT)G;
Howard Benoit 2007-4965(IT)G; *Adam Drake* 2007-4966(IT)G;
Thierry McDonald 2007-4967(IT)G; *Sean Ford* 2007-4970(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The
Estate of Yvon John* 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessment is referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant as a consequence of the qualifying fishing income in 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4970(IT)G

BETWEEN:

SEAN FORD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Barry Benoit* 2007-4964(IT)G;
Howard Benoit 2007-4965(IT)G; *Adam Drake* 2007-4966(IT)G;
Thierry McDonald 2007-4967(IT)G; *John Quann* 2007-4968(IT)G;
Dean McDonald 2007-4972(IT)G; *Dennis Hinks* 2007-4973(IT)G; and *The*
Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4972(IT)G

BETWEEN:

DEAN MCDONALD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Barry Benoit* 2007-4964(IT)G;
Howard Benoit 2007-4965(IT)G; *Adam Drake* 2007-4966(IT)G;
Thierry McDonald 2007-4967(IT)G; *John Quann* 2007-4968(IT)G;
Sean Ford 2007-4970(IT)G; *Dennis Hinks* 2007-4973(IT)G; and
The Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4973(IT)G

BETWEEN:

DENNIS HINKS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Barry Benoit* 2007-4964(IT)G;
Howard Benoit 2007-4965(IT)G; *Adam Drake* 2007-4966(IT)G;
Thierry McDonald 2007-4967(IT)G; *John Quann* 2007-4968(IT)G;
Sean Ford 2007-4970(IT)G; *Dean McDonald* 2007-4972(IT)G; and
The Estate of Yvon John 2007-4974(IT)G
on March 30 - 31, 2011,
at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Docket: 2007-4974(IT)G

BETWEEN:

THE ESTATE OF YVON JOHN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

Appeal heard together on common evidence with the appeals of
Jerrett McDonald 2007-4956(IT)G; *Kenneth White* 2007-4958(IT)G;
Darrell Hinks 2007-4975(IT)G; *Jeremy John* 2007-4959(IT)G;
Gary Drew 2007-4960(IT)G; *Cory Jeddore* 2007-4962(IT)G;
Patrick Hinks 2007-4963(IT)G; *Barry Benoit* 2007-4964(IT)G;
Howard Benoit 2007-4965(IT)G; *Adam Drake* 2007-4966(IT)G;
Thierry McDonald 2007-4967(IT)G; *John Quann* 2007-4968(IT)G;
Sean Ford 2007-4970(IT)G; *Dean McDonald* 2007-4972(IT)G; and
Dennis Hinks 2007-4973(IT)G

on March 30 - 31, 2011,

at St. John's, Newfoundland and Labrador

Before: The Honourable Justice Valerie Miller

Appearances:

Counsel for the Appellant: Keri-Lynn Power
Counsel for the Respondent: Catherine McIntyre

JUDGMENT

The appeal is allowed and the assessments are referred back to the Minister of National Revenue for reconsideration and reassessment on the basis that the fishing income and employment insurance benefits received by the Appellant in 2003 and 2004 are exempt from taxation.

The Appellants are entitled to one set of costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

“V.A. Miller”

V.A. Miller J.

Citation: 2011TCC437
Date: 20110920
Docket: 2007-4956(IT)G

BETWEEN:

JERRETT MCDONALD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4958(IT)G

ABD BETWEEN:

KENNETH WHITE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4975(IT)G

AND BETWEEN:

DARRELL HINKS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4959(IT)G

AND BETWEEN:

JEREMY JOHN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4960(IT)G

AND BETWEEN:

GARY DREW,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4962(IT)G

AND BETWEEN:

CORY JEDDORE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4963(IT)G

AND BETWEEN:

PATRICK HINKS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4964(IT)G

AND BETWEEN:

BARRY BENOIT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4965(IT)G

AND BETWEEN:

HOWARD BENOIT,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4966(IT)G

AND BETWEEN:

ADAM DRAKE,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4967(IT)G

AND BETWEEN:

THIERRY MCDONALD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4968(IT)G

AND BETWEEN:

JOHN QUANN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4970(IT)G

AND BETWEEN:

SEAN FORD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4972(IT)G

AND BETWEEN:

DEAN MCDONALD,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4973(IT)G

AND BETWEEN:

DENNIS HINKS,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent,

Docket: 2007-4974(IT)G

AND BETWEEN:

THE ESTATE OF YVON JOHN,

Appellant,

and

HER MAJESTY THE QUEEN,

Respondent.

REASONS FOR JUDGMENT

V.A. Miller J.

[1] The issue in these appeals is whether the fishing income and employment insurance benefits received by the Appellants in 2003 and 2004 are exempt from taxation because they were personal property situated on a reserve within the meaning of paragraph 87(1)(b) of the *Indian Act*¹.

[2] Paragraph 87(1)(b) of the *Indian Act* provides that:

87. (1) Notwithstanding any other Act of Parliament or any Act of the legislature of a province, but subject to section 83, the following property is exempt from taxation, namely,

(b) the personal property of an Indian or a band situated on a reserve.

[3] The exemption in the *Indian Act* is incorporated into the *Income Tax Act* (the “Act”) by paragraph 81(1)(a). The relevant portion of that paragraph reads:

81. (1) There shall not be included in computing the income of a taxpayer for a taxation year,

(a) an amount that is declared to be exempt from income tax by any other enactment of Parliament, ...

...

[4] The parties submitted a Partial Agreed Statement of Fact which provides:

(a) The issue in these appeals is whether the Appellants’ fishing income and EI benefits for the 2003 and 2004 taxation years are exempt from taxation pursuant to section 87 of the *Indian Act* and paragraph 81(1)(a) of the *Income Tax Act*;

(b) The Appellants, Jerrett McDonald and Darrell Hinks, are Indians as defined in section 2 of the *Indian Act*;

(c) The Appellants are members of the Miawpukek First Nations (the “Band”);

- (d) At all material times, the Appellants were residents of the reserve at Conne River, Newfoundland (the “Reserve”);
- (e) During the years at issue, the Department of Fisheries and Oceans (the “DFO”) issued communal commercial fishing licenses [*sic*] to the Band pursuant to its Allocation Transfer Program (“ATP”);
- (f) The communal commercial fishing licenses [*sic*] are the collective property of the Band;
- (g) At all material times, the Band also owned the fishing vessels (the “Vessels”) and equipment used in their commercial fishing enterprise;
- (h) The Vessels, licenses [*sic*] and equipment were all acquired through assistance provided under the ATP;
- (i) On December 31, 2001, the band incorporated Netukulimk Fisheries Ltd. (the “NFL”) under the *Corporations Act* of Newfoundland and Labrador;
- (j) NFL’s office and place of business is on reserve;
- (k) When not in use, the Vessels are kept at the wharf facilities on reserve and equipment is stored at NFL buildings on reserve;
- (l) At all material times, the Band owned all of the shares of NFL and appointed its board of directors comprised of members of the Band;
- (m) NFL was responsible for operating the fishing enterprise. NFL hired the crews for the Vessels and maintained the Vessels;
- (n) At all material times, the fishing crews were comprised of both status Indians and persons who were not status Indians;
- (o) The Appellants fished cod and crab in the area designated by DFO as the 3Ps zone;
- (p) All of the crew members on a fishing vessel were paid by NFL based on a share of the catch;
- (q) Harbour Breton is situated 90 km. from the Reserve and is not part of the Reserve;
- (r) The Vessels unloaded their catch in Harbour Breton and got ice there; and,
- (s) The Appellants were paid by cheque issued by NFL.

[5] These appeals were heard on common evidence. The witnesses at the hearing were the Appellants, Jerrett McDonald and Darrell Hinks; Shayne McDonald, the Executive Director of Netukulimk Fisheries Limited and the legal advisor for the Miawpukek First Nation; and, Patricia Williams, a resource manager with the Department of Fisheries and Oceans.

Background

[6] According to Patricia Williams, the Department of Fisheries and Oceans (“DFO”) created an Allocation Transfer Program (“ATP”) whose mandate is to provide economic opportunities for aboriginal communities without increasing the overall pressure on the fishery resources. It does this by purchasing commercial licences from fishermen who wish to retire and it reissues the commercial licences to aboriginal communities.

[7] The licences are called “communal commercial licences” and they are issued to a Band and not the individual members of the Band. As their name denotes, the licences allow a Band to enter the commercial fishery.

[8] In these appeals, the communal commercial licences were held by the Miawpukek First Nation (the “Band”). The Band first entered the commercial fishery in either 1999 or 2000. According to Shayne McDonald, the Band entered the commercial fishery to obtain revenue and to create employment for community members.

[9] Pursuant to the ATP, the Band also applied to receive funding for the purchase of its Vessels and equipment. This funding was limited and priority was given to those aboriginal groups who would contribute to long-term aboriginal employment and community economic development, as well as increased participation of aboriginal people in the fisheries². When an application was accepted and funding was provided by DFO, it was reflected in a Contribution Agreement for Funding. As this funding was limited, it was also necessary for the Band to borrow money to complete its acquisition of Vessels and equipment.

[10] In 2001, the Band had Netukulimk Fisheries Ltd. (the “NFL”) incorporated so that NFL could borrow the necessary funds for the Band to finance its commercial fishery³. The Band also entrusted NFL with the authority to operate the Band’s licences and Vessels. NFL hired the crew for the Vessels and developed personnel policies for the management of the Band’s fishing business.

[11] When the Band entered the commercial fishery, the majority of the Appellants had no prior experience in that fishery. Each of the Appellants was required to take

various marine courses. The Band paid for these courses. Dean McDonald was the only Appellant who was initially hired as a skipper. All other skippers were non-Indians. The non-Indian fishers who were hired by NFL were required to teach the Appellants their trade. The first position held by most Appellants was that of deckhand. When they learned the job of deckhand, some of the Appellants were promoted to first mate and then to skipper.

[12] Shayne McDonald estimated that in 2003/2004, the ratio of Indian to non-Indian crew members was 50/50.

First Issue Raised by the Appellants

[13] In her written submissions, the first issue raised by counsel for the Appellants relates to subsection 90(1) of the *Indian Act*. She wrote the following:

... the vessels, licences and equipment purchased were done so with debt financing arranged by the Band, as Shayne McDonald testified, and with funds provided from DFO, which comes from the Government under the AFS and ATP programs specifically for the use and benefit of Indians and therefore pursuant to section 90(1)(a) is situated on a reserve. Furthermore we submit that the same was given to the Band under the Agreement between the Band and DFO and as per section 90(1)(b) is situated on a reserve, there it is exempt from taxation and the appeal should succeed.

[14] Subsection 90(1) of the *Indian Act* reads:

90. (1) For the purposes of sections 87 and 89, personal property that was

(a) purchased by Her Majesty with Indian moneys or moneys appropriated by Parliament for the use and benefit of Indians or bands, or

(b) given to Indians or to a band under a treaty or agreement between a band and Her Majesty,

shall be deemed always to be situated on a reserve.

[15] Although I believe that the facts in these appeals do not support the application of subsection 90(1), I will not address this issue as it was not raised by the Appellants in their pleadings or at the hearing of these appeals. The first time this issue was raised by the Appellants was in counsel's written submissions. They cannot now, after the close of the evidence, argue it to support their appeals.

[16] Counsel for the Appellants has argued that because the Canada Revenue Agency ("CRA") considered subsection 90(1) of the *Indian Act* at the objection stage

of these appeals, the Respondent is not prejudiced. I disagree. The Respondent is prejudiced as she did not have the opportunity to examine witnesses on facts which might have been relevant to this argument.

[17] It was necessary for the Appellants to raise section 90 as an issue in their pleadings if they intended to rely on this section in their appeals.

[18] The primary function of pleadings is to define the issues of fact and law raised by the parties. The pleadings give the parties notice of the case they have to meet and they inform the court of the precise matters in issue between the parties.⁴

Second Issue Raised by the Appellants

[19] The Appellants have been assessed on the basis that they were self-employed fishers and their fishing income was business income.

[20] It is the Appellants' position that they are self-employed fishers for the purposes of the *Employment Insurance (Fishing) Regulations* but for the purposes of the *Act*, they are employees and their fishing income is employment income and not business income.

[21] Counsel for the Appellants submitted that for the purposes of the Record of Employment and in fact, NFL was the employer of the Appellants.

[22] I disagree. NFL was the Appellants' employer for the purposes of the Record of Employment because section 153 of the *Employment Insurance Act* ("EI Act") authorized the Canada Employment Insurance Commission (the "Commission") to make regulations which would include, as employer, any person with whom the self-employed fisher had a contractual or commercial relationship.

[23] Section 153 of the *EI Act* reads:

153. (1) Notwithstanding anything in this Act, the Commission may, with the approval of the Governor in Council, make such regulations as it deems necessary respecting the establishment and operation of a scheme of employment insurance for self-employed persons engaged in fishing, including regulations

(a) including as a self-employed person engaged in fishing any person engaged in an activity or occupation related to or incidental to fishing; and

(b) including as an employer of a self-employed person engaged in fishing any person with whom the self-employed person enters into a contractual or other commercial relationship in respect of their occupation as a self-employed person engaged in fishing.

[24] In accordance with section 153 of the *EI Act*, the *Employment Insurance (Fishing) Regulations* were made specifically to include self-employed fishermen as insured persons notwithstanding that they are not employees of any person⁵. Likewise, in accordance with paragraph 153(1)(b), the Commission had the authority to include “as an employer a person with whom the fisherman had a contractual or commercial relationship in respect of his occupation as a fisherman, notwithstanding the fact that the person to be included as an employer is not an employer at all”⁶.

[25] When a person is self-employed, it means that he is in business for himself. Any income that he earns from self-employment is business income and the profit from that business is taxed under section 9 of the *Act*.

[26] The Appellants were eligible for employment insurance benefits because they were found to be self-employed fishers. They cannot be both self-employed and employees at the same time from the same activity.

[27] The employment status of an individual is determined from the analysis of the facts in each case against the factors given in the decision *Wiebe Door Services Ltd.*⁷ and affirmed by *671122 Ontario Ltd. v Sagaz Industries Canada Inc.*⁸ Those factors are the same regardless of the statute at issue.

[28] The Appellants’ employment was established with the intention that they would be self-employed fishers and they would be eligible to receive employment insurance (“EI”) benefits under the *Employment Insurance (Fishing) Regulations*. The Appellants’ remuneration was based on a negotiated percentage of the revenues from the catch less various expenses. One of the expenses paid by the Appellants was a percentage of the operating costs incurred by the Vessel in making the catch.

[29] The pay arrangement provided the Appellants with a chance of profit from their fishing activities. Likewise, the Appellants had a risk of loss. If there was no fish caught, the Appellants received no remuneration but they did not have to pay the costs incurred by the Vessel. Their loss was limited to the costs they incurred to go fishing. According to Shayne McDonald, if the revenue from the catch for a particular fishing trip was insufficient to cover the cost of the Appellants’ gear, the Appellants suffered a loss.

[30] Furthermore, the CRA assessed the employment status of the Appellants by determining the status of one of the Appellants, Howard Benoit. CRA ruled that he was a self-employed fisher. The ruling was not appealed because Howard Benoit, NFL and the Band agreed with the ruling⁹.

[31] On a review of all of the evidence, I conclude that the fishing income earned by the Appellants was business income.

Whether the fishing income was situated on a reserve

[32] Cromwell J. confirmed in *Bastien Estate v. Canada*¹⁰ that in situations such as the present, where one must determine whether the personal property of an Indian is situated on a reserve and that personal property is intangible, a two-step analysis is required. He stated;

First, one identifies potentially relevant factors tending to connect the property to a location and then determines what weight they should be given in identifying the location of the property in light of three considerations: the purpose of the exemption from taxation, the type of property and the nature of the taxation of that property¹¹.

[33] The purpose of the exemption, as discussed by LaForest, J. in *Mitchell v. Peguis Indian Band*¹², is to prevent “one branch of government, through the imposition of taxes, from eroding the benefits given to Indians by that branch of government entrusted with the supervision of Indian Affairs”. In discussing the purpose of the exemption, La Forest added:

The fact that the modern-day legislation, like its historical counterparts, is so careful to underline that exemptions from taxation and distraint apply only in respect of personal property situated on reserves demonstrates that the purpose of the legislation is not to remedy the economically disadvantaged position of Indians by ensuring that Indians may acquire, hold, and deal with property in the commercial mainstream on different terms than their fellow citizens.¹³.

[34] The personal properties in these appeals are intangible. They are business income derived from fishing and employment insurance benefits which resulted from paying employment insurance premiums during the fishing activity.

[35] Both the business income and the employment insurance benefits received by the Appellants are taxable unless they are exempted by the application of section 87 of the *Indian Act*. Pursuant to section 9 of the *Act*, the taxation of a taxpayer’s business income is based on his profit from the business. Subparagraph 56(1)(a)(iv) includes employment insurance benefits in a taxpayer’s income.

[36] Some of the relevant factors which connect business income to a location were identified in *Southwind v. Canada*¹⁴. I will discuss these same factors in the present case while, at the same time, addressing the concerns noted by the SCC in the *Estate of Rolland Bastien* with respect to the term “commercial mainstream”. Those factors are (1) the type of business and the location of the business activities; (2) the location of the customers (debtors) of the business and where payment was made; (3) the residence of the business owners; (4) where decisions affecting the business are made; (5) place where the books for the business are kept; (6) nature of the work and the commercial mainstream.

(1) *Type of business and location of the business activities*

[37] The Appellants fished on Vessels owned by the Band and pursuant to licences owned by the Band. They were engaged by NFL to fish as self-employed fishers.

[38] Prior to the fishing season, the Vessels and gear were stored at the Reserve. During the fishing season, the gear was loaded onto the Vessels at the Reserve in Conne River. The Vessels then sailed to Harbour Breton to dock at its wharf for the fishing season because, in 2003/2004, the Band had only a slipway and floating dock system at the Reserve.

[39] The licences issued to the Band permitted the Appellants to fish only in the area of the Atlantic Ocean called 3Ps.

[40] There was no evidence as to the linear distance from the Reserve to the 3Ps zone. However, the Appellants estimated that it took an hour to drive from the Reserve to Harbour Breton where they docked their Vessels during fishing season. It then took twelve to eighteen hours to sail from Harbour Breton to the area within the 3Ps zone where they fished.

[41] According to Jerrett McDonald, they fished only seven to nine weeks each year. Normally they started to fish for crab in April for approximately five to seven weeks. In the fall, they fished for cod for approximately two weeks. The rest of the year, they repaired the fishing gear and equipment. The repair work was done on the Reserve.

[42] Most of the time, the Appellants landed their catch in Harbour Breton. However, if they were going to immediately return to the 3Ps zone, they landed the catch in St. Lawrence, Newfoundland. Once or twice, they landed the catch in Louisbourg, Nova Scotia.

[43] The only fishing activity that occurred on the Reserve was the mending of gear and the loading of the Vessels for fishing. The location of most of the fishing activities was not on the Reserve nor was it in the inshore area close to the Reserve. However, this factor alone cannot be determinative of the issue. As Bowie J. remarked in *Walkus v. R.*¹⁵, “the work could only be done away from the Reserve, because that is where the fish are.”

(2) *Location of the customers (debtors) of the business and where payment was made*

[44] The factor, location of the debtor, is “traditionally relied on to determine the location of the obligation to pay”¹⁶ the income in question. In these appeals the debtor was NFL. NFL engaged the Appellants in its commercial fishing enterprise. The obligation to pay the fishing income to the Appellants arose from an oral contract between the Appellants and NFL which was entered into on the Reserve. The Appellants were paid by cheque, based on a percentage of the amount received for the catch (minus a deduction for expenses). They were paid on the Reserve where NFL was located.

[45] In 2003, NFL applied to the Province of Newfoundland and Labrador (the “Province”) for a fish buyer licence. Its aim was to be able to purchase fish from any commercial fisher. However, due to a moratorium on the issuance of fish buyer’s licences, the Province issued a restricted fish buyer’s licence to NFL. It was a condition of the fish buyer’s licence that NFL could only purchase fish caught by those fishers using the communal commercial fishing licences issued to the Band.

[46] As I understand the evidence, prior to fishing, the Appellants and NFL agreed on the percentage of the revenue from the catch to be given to the Appellants. While at sea, the skipper of the Vessel called NFL to provide information about the catch. NFL then contracted with the processors to sell the catch. NFL, as buyer, decided which processors would handle the fish caught by the Appellants. NFL sold the majority of the catches to Beothuk Fisheries (“Beothuk”) in Valleyfield, Newfoundland. It was the processor who arranged to have the catch unloaded from the Vessels and transported to its plant.

[47] The Respondent has argued that the true debtor was the processor who paid NFL. It was also the Respondent’s position that it was an “artificial construct” to place NFL as an intermediary buyer between the Appellants and the processor.

[48] I disagree. While the evidence is unclear as to the arrangement between the Band and NFL with respect to the ownership of the catch, the evidence does

demonstrate that the Appellants were not entitled to the catch and could not sell it on their own behalf. They were only entitled to a negotiated percentage of the revenues from the catch¹⁷. The processor was not the true debtor to the Appellants. There was no contractual relationship between the Appellants and the processor. When the Appellants delivered the catch to the wharf, they did so as agent for NFL who had arranged to sell it to the processor. There was no evidence presented at the hearing that would allow me to find that NFL only became a buyer to manipulate and abuse the system. There was no evidence to support the assertion that the connection between the Appellants and NFL as buyer was artificial.

[49] There was evidence from Shayne McDonald that there are other fish buyers in the Province who are not processors and who operate exactly like NFL.

[50] I conclude that in 2003 and 2004, the debtor was NFL and it was located on the Reserve. The Appellants were paid by cheque by NFL on the Reserve.

(3) *Residence of the Appellants*

[51] In 2003 and 2004, the Appellants were members of the Band and they were resident on the Reserve.

(4) *Where decisions affecting the business are made*

[52] The decisions affecting the Appellants' business were made both on the Reserve and off the Reserve. While fishing, the decisions such as where to place the nets or the crab pots were made by the skipper and first mate and were made off Reserve. Prior to fishing, any negotiations with NFL were made on the Reserve.

(5) *Place where the books for the business are kept*

[53] There was no evidence as to whether the Appellants kept records or books.

(6) *Nature of the work and the commercial mainstream*

[54] In the *Estate of Rolland Bastien*, Cromwell J. cautioned about elevating the "commercial mainstream" consideration to one of determinant weight¹⁸. He confirmed the following statement made by Linden J.A. in *Recalma v. Canada* at paragraph 9:

We should indicate that the concept of "commercial mainstream" is not a test for determining whether property is situated on a reserve; it is merely an aid to be used in evaluating the various factors being considered. It is by no means determinative. The primary reasoning exercise is to decide, looking at all the connecting factors and

keeping in mind the purpose of the section, where the property is situated, that is, whether the income earned was "integral to the life of the Reserve", whether it was "intimately connected" to that life, and whether it should be protected to prevent the erosion of the property held by Natives *qua* Natives.

[55] In the present case, the Appellants fished in the commercial fishery in Newfoundland. DFO regulated the fishing activities of the Appellants as well as those of other fishermen who were involved in the commercial fishery.

[56] However, it is my opinion that the Appellants' work was "intimately connected" to the Reserve. The Appellants lived on the Reserve. They fished on Vessels owned by the Band and pursuant to licences owned by the Band. They performed some of their work on the Reserve and they were paid on the Reserve by NFL, a corporation controlled by the Band.

[57] Considering all of these factors, I conclude that the Appellants' fishing income was situated on a reserve and is exempt from taxation.

Employment Insurance Benefits

[58] As I have found that the Appellants' fishing income was located on the Reserve, the employment insurance benefits received as a consequence of that qualifying fishing income, is also located on the Reserve¹⁹.

[59] The appeals are allowed with costs.

Signed at Ottawa, Canada, this 20th day of September 2011.

"V.A. Miller"

V.A. Miller J.

¹ R.S.C. 1985, c. I-5.

² Allocation Transfer Program, Exhibit A-1, tab 6.

³ Evidence of Shayne McDonald, March 30, 2011, page 220.

⁴ *Maglio Industries Ltd. v. School District No. 7*, [1990] B.C.J. No. 442 (BC SC).

⁵ *Vicky E. Silk v. Umpire* constituted under section 92 of the *Unemployment Insurance Act*, [1982] 1 F.C. 795 (FCA) at paragraph 11.

⁶ *Ibid* at paragraph 12.

⁷ [1986] 3 F.C. 553(FCA).

⁸ 2001 SCC 59.

⁹ See Exhibit A-1, tab 44 at page 9.

¹⁰ 2011 SCC 38.

¹¹ *Ibid* at paragraph 2.

¹² [1990] 2 S.C.R. 85.

¹³ *Ibid* at page 131.

¹⁴ [1998] 1 C.T.C. 265 (FCA).

¹⁵ [1998] 4 C.T.C. 2526 (TCC) at paragraph 39.

¹⁶ *Supra*, footnote 10 at paragraph 44.

¹⁷ Exhibit A-1, tab 8, page 4 - Netukulimk Fisheries Limited, Personnel Policies.

¹⁸ *Supra*, footnote 10 at paragraph 52.

¹⁹ *Williams v. R.*, [1992] 1 S.C.R. 877.

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2007-4968(IT)G
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STYLE OF CAUSE: JERRETT MCDONALD AND
HER MAJESTY THE QUEEN

KENNETH WHITE AND
HER MAJESTY THE QUEEN

DARRELL HINKS AND
HER MAJESTY THE QUEEN

JEREMY JOHN AND
HER MAJESTY THE QUEEN

GARY DREW AND
HER MAJESTY THE QUEEN

CORY JEDDORE AND
HER MAJESTY THE QUEEN

PATRICK HINKS AND
HER MAJESTY THE QUEEN

BARRY BENOIT AND
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HOWARD BENOIT AND
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ADAM DRAKE AND
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THIERRY MCDONALD AND
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JOHN QUANN AND
HER MAJESTY THE QUEEN

SEAN FORD AND
HER MAJESTY THE QUEEN

DEAN MCDONALD AND
HER MAJESTY THE QUEEN

DENNIS HINKS AND
HER MAJESTY THE QUEEN

THE ESTATE OF YVON JOHN AND
HER MAJESTY THE QUEEN

PLACE OF HEARING: St. John's, Newfoundland and Labrador

DATE OF HEARING: March 30-31, 2011

REASONS FOR JUDGMENT BY: The Honourable Justice Valerie Miller

DATE OF JUDGMENT: September 20, 2011

APPEARANCES:

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