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Tobacco companies sued by the province of B.C. for the health related costs of smoking have no reasonable third party cause of action against the federal government according to the Supreme Court of Canada in [R. v. Imperial Tobacco Canada Ltd.](#), 2011 SCC 42. The court unanimously concluded it was plain and obvious that the companies' claims for negligent misrepresentation, negligent design and failure to warn, as well as at equity, had no reasonable chance of success. This decision is only one of what will likely be many on this issue, since several other provinces intend to launch similar suits or have already done so.

"Conscience" Alone Cannot Ground Legal Proceeding: MBQB

The court struck the application of a mathematics professor who challenged the University of Manitoba's decision to award a PhD to a student it exempted from writing the candidacy exam in [Lukács v. Doering](#), 2011 MBQB 203. The court found that the applicant, who had no direct connection with the matter but argued that the decision undermined the academic integrity of the university, had neither private nor public interest standing to seek the relief claimed. The applicant failed to establish any direct, legitimate personal or private interest which would warrant standing and had not demonstrated any damages. He also failed to raise an issue regarding the invalidity of the University's governing legislation and thus had not met the first part of the three pronged test to establish public interest standing.

MPI Estopped From Denying Coverage Due to Adjuster's Error: MBQB

Test driving a car on the Gimli Speedway is a speed test within the meaning of regulation P215-M.R. 290/88R and would normally void insurance coverage according to the court in [Paradis v. Manitoba Public Insurance Corporation](#), 2011 MBQB 168. In this case, however, MPI was estopped from denying coverage because the insured, relying on incorrect representations by the adjuster, had started expensive repairs to the vehicle. MPI, said the court, "could easily have protected itself against an adjuster's mistake by giving a clear warning on the estimate sheet that the provision of the estimate sheet should not be construed as an acknowledgment that coverage exists."

Practice Directions and Court Notice: QB

The Court of Queen's Bench has issued Practice Directions providing [Guidelines Regarding Discovery of Electronic Documents](#) and [Guidelines for the Use of Technology in Civil Litigation](#). Both come into effect October 1, 2011.

The former is intended to guide lawyers, parties and the judiciary in the e-discovery process and the latter addresses the problems of the exchange of discoverable documents in incompatible electronic formats and establishes default standards for exchange of electronic documents.

The court also issued a [Notice re Books of Authority](#) on June 30, 2011, requiring all such books to be indexed, bound, and with the authorities separated by numbered tabs.

Online Resources

Court websites can be a great source of scholarly writing on topics related to the justice system. See, for example, the [From the Bench](#) section of the Courts of Nova Scotia website, which assembles edited papers written by the Nova Scotia judiciary and others. These recently posted papers are all by Mr. Justice Jamie W.S. Saunders of the Nova Scotia Court of Appeal:

- [A Series of Reflections on Persuasive Writing](#)
- [Reflections on the Art...and Science of Decision-Making](#)
- [Medical Evidence in General and Experts in Particular](#)

The websites of those who oversee government are another good source for legal materials. [The Office of the Privacy Commissioner of Canada](#), for example, has recently published [PIPEDA and Your Practice - A Privacy Handbook for Lawyers](#). It "is designed to help lawyers maintain best practices in managing their collection, use and disclosure of personal information, and access thereto, in compliance with PIPEDA standards." It also addresses the application of PIPEDA in a civil litigation context.

Some Canadian law societies provide free online access to their educational materials. See, for example, the B.C. Professional Legal Training Course [Practice Materials](#) and selected CLE BC program articles ([Practice Points](#)). Although the [Civil Litigation Practice Materials](#) and the article [Overview of Privilege and Confidentiality](#) are both written from a B.C. perspective, they contain a lot of practical information which Manitoba litigators may find useful.

Litigation Publications

These recent articles deal with litigation topics:

- [Collecting and authenticating online evidence](#) - online postings can be a gold mine for litigators, but standard rules of evidence concerning provenance and authenticity apply when dealing with them. This CBA *Practice Link* article outlines the techniques for collecting online evidence and establishing a chain of custody record. It also reviews how to find online information that has been removed and how to remove offending content from the web.
- [How to choose an e-discovery tool and e-discovery vendor](#) - this [Canadian Lawyer](#) article outlines the questions you need to ask when purchasing e-discovery tools and expertise.
- [Responding effectively to judges in court](#) - this [Canadian Lawyer](#) article from August 22, 2011 addresses the delicate subject of how to stay on your feet when challenged by a judge in court.
- [Can class actions tackle social wrongs?](#) - this [Law Times](#) article explores whether class actions might be more effective than test cases to challenge systemic problems faced by the disempowered.
- [Litigation v. Arbitration](#) - a July 2011 article from [Lexpert](#) magazine discussing the difficult decision of whether to go to court or engage in arbitration.
- [No Harm Done](#) - a [National](#) magazine article concerning the impact of certifying waiver of tort as a common issue on class action certification under Quebec civil law.

Fall CPD Programs: LSM

Be sure to register soon for these continuing professional development programs offered by the Law Society:

- [Preparation for Big Cases](#) - Mr. Justice Jeffrey Oliphant and Richard Wolson, Q.C. will draw on their experiences with the Mulroney-Shreiber Inquiry to take a close look at the issues specific to preparing for big cases. [Register](#) now for this unique program which will be held September 16, 2011, from 12:00 noon to 2:00 p.m. in the Law Society classroom.
- [Succession Planning](#) - this topical program will address what you need to know about retiring or winding down your practice from a variety of perspectives. Presenters include practice advisors from the LSM and Alberta, a Law Society contract custodian, and the lawyers' insurance counsel from Nova Scotia. The program takes place October 6, 2011, from 9:00 a.m. to 12:00 noon, followed by a networking lunch. [Register](#) soon to ensure your spot.
- [How to Work With New Immigrants](#) - this course will help legal professionals who work with new immigrants to become more aware of cultural differences and to learn intercultural communication strategies. It takes place October 14, 2011, from 1:00 to 4:00 p.m. at the Law Society classroom.
- [Advanced Cross-examination Techniques](#) - all who litigate will benefit from the techniques taught in this full day program by internationally acclaimed presenters Larry Pozner and Roger Dodd. The program will be held October 24, 2011 at the Radisson Hotel. [Register](#) by September 15, 2011 to take advantage of the early bird rate.

Back From the Brink - Insolvency in the New Era: 2011 Isaac Pitblado Lectures

The [2011 Isaac Pitblado Lectures](#) will explore the latest developments in bankruptcy and insolvency law. This year's lectures are chaired by Senior Master Rick Lee and David Jackson. Keynote speakers include Professor Janis Sarra, Bob Klotz, Jeff Lee and Frank Bennett. The lectures will be held November 25 and 26 at the Fort Garry Hotel. [Register](#) before October 3 to take advantage of the early bird discount.

CBA Programs

The Canadian Bar Association is rebroadcasting [The Best of the Skilled Lawyer Series I - Litigation Stream](#), its popular online series aimed at young lawyers, this fall. Topics covered include writing for litigators, discoveries, arguing motions and trial evidence.

Opportunities for Mediators

The [Arbitration and Mediation Institute of Manitoba](#) is presenting a program called [New Opportunities for Mediators: AIM The Automobile Injury Mediation Office](#) on September 21, 2011 from 12:00 noon - 2:00 p.m. Dr. Jennifer L. Schulz will discuss how to get on the AIM roster, the nature of the program and the legislation and regulations that apply.

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