

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20100420**

**Docket: A-183-09**

**A-184-09**

**A-185-09**

**A-186-09**

**Citation: 2010 FCA 108**

**CORAM: BLAIS C.J.  
NADON J.A.  
SHARLOW J.A.**

**A-183-09**

**BETWEEN:**

**REEMA MCGONAGLE**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**A-184-09**

**BETWEEN:**

**RABINDER PARIHAR**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**A-185-09**

**BETWEEN:**

**AAREMIC TRAVEL CORP.**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**A-186-09**

**BETWEEN:**

**RANDY PARIHAR**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

Heard at Vancouver, British Columbia, on April 20, 2010.

Judgment delivered from the Bench at Vancouver, British Columbia, on April 20, 2010.

REASONS FOR JUDGMENT OF THE COURT BY:

SHARLOW J.A.

Federal Court  
of Appeal



Cour d'appel  
fédérale

**Date: 20100420**

**Docket: A-183-09**

**A-184-09**

**A-185-09**

**A-186-09**

**Citation: 2010 FCA 108**

**CORAM: BLAIS C.J.  
NADON J.A.  
SHARLOW J.A.**

**BETWEEN:**

**REEMA MCGONAGLE**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**A-184-09**

**BETWEEN:**

**RABINDER PARIHAR**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**A-185-09**

**BETWEEN:**

**AAREMIC TRAVEL CORP.**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**A-186-09**

**BETWEEN:**

**RANDY PARIHAR**

**Appellant**

**and**

**HER MAJESTY THE QUEEN**

**Respondent**

**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Vancouver, British Columbia, on April 20, 2010)**

**SHARLOW J.A.**

[1] This is a consolidated appeal of four judgments of the Tax Court of Canada (2009 TCC 168) granting the Crown's motion to quash income tax appeals for 1996, 1997 and 1998 for Reema McGonagle, Rabinder Parihar and Aaremic Travel Corp., and for 1997 and 1998 for Randy Parihar, on the basis that each of the appellants had waived, in writing, the right to appeal the reassessments

for those years. The appellants had argued in the Tax Court that the waivers were invalid by reason of coercion, because the tax auditor threatened to close their files if the waivers were not signed, and did not allow the appellants enough time to consult with their tax adviser.

[2] It is undisputed that the judge cited the applicable jurisprudence, in particular *Smerchanski v. Minister of National Revenue*, [1977] 2 S.C.R. 23, *Nguyen v. Canada*, 2005 TCC 697, and *Anthony v. Canada*, 2007 TCC 606. It is also undisputed that, if the waivers are valid, the appeals are barred by subsection 169(2.2) of the *Income Tax Act*, R.S.C. 1985, c. 1 (5<sup>th</sup> Supp.).

[3] The appellants argue that the judge misapprehended the evidence and therefore misapplied the applicable legal principles when he determined that there was no coercion. This is a challenge to the judge's factual conclusions, which must be reviewed by this Court on the basis of palpable and overriding error.

[4] Despite the able submissions of counsel for the appellants, our review of the record discloses no basis for appellate intervention. In our view, the evidence before the judge supported his findings of fact and his conclusion that the waivers were valid. It follows that these appeals must be dismissed. The respondent is entitled to one set of costs.

---

"K. Sharlow"

J.A.

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-183-09  
A-184-09  
A-185-09  
A-186-09

**APPEAL FROM A JUDGMENT OF THE TAX COURT OF CANADA DATED MARCH 24, 2009, (2009 TCC 168).**

**STYLE OF CAUSE:** Reema McGonagle v. Her Majesty  
the Queen  
Rabinder Parihar v. Her Majesty the  
Queen  
Aaremic Travel Corp. v. Her Majesty  
the Queen  
Randy Parihar v. Her Majesty the  
Queen

**PLACE OF HEARING:** Vancouver, British Columbia

**DATE OF HEARING:** April 20, 2010

**REASONS FOR JUDGMENT OF THE COURT BY:** BLAIS C.J.,  
NADON, SHARLOW J.J.A.

**DELIVERED FROM THE BENCH BY:** SHARLOW J.A.

**APPEARANCES:**

George I. Douvelos

FOR THE APPELLANTS

Bruce Senkpiel  
Selina Sit

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

Davison Wiebe Douvelos LLP  
Vancouver, BC

FOR THE APPELLANTS

Myles Kirvan  
Deputy Attorney General of Canada

FOR THE RESPONDENT