

**Federal Court of Appeal**



**Cour d'appel fédérale**

**Date: 20121106**

**Docket: A-338-11**

**Citation: 2012 FCA 281**

**[ENGLISH TRANSLATION]**

**CORAM: NADON J.A.  
GAUTHIER J.A.  
TRUDEL J.A.**

**BETWEEN:**

**PAVAGE ST-EUSTACHE LTÉE**

**Appellant**

**and**

**ATTORNEY GENERAL OF CANADA**

**Respondent**

Heard at Montréal, Quebec, on November 6, 2012.  
Judgment delivered from the Bench at Montréal, Quebec, on November 6, 2012.

**REASONS FOR JUDGMENT OF THE COURT BY:**

**NADON J.A.**

Federal Court of Appeal



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**BETWEEN:**

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**and**

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**REASONS FOR JUDGMENT OF THE COURT**

**(Delivered from the Bench at Montréal, Quebec, on February 5, 2018).**

**NADON J.A.**

[1] This is an appeal from a decision by the Federal Court dated August 21, 2011, 2011 FC 1014, which dismissed the appellant's application for judicial review that was filed regarding a decision by the Canada Revenue Agency (the "Agency"). More specifically, the Agency dismissed the application for interest relief submitted by the appellant under subsection 220(3.1) of the *Income Tax Act*.

[2] The reasons for this decision by the Agency are found in a letter dated February 2, 2010, sent by Ms. Francine Laporte, Team Leader, Revenue Collections, Montréal Tax Services Office, Canada Revenue Agency, to counsel for the appellant.

[3] First, according to Ms. Laporte, the application for interest relief was statute-barred. Second, due to paragraph 18 of an agreement entered into between the parties on November 25, 2002 (“the agreement”), Ms. Laporte said that she believed that the appellant had waived its right to appeal and its right to file a fairness claim.

[4] We are all of the opinion that we must intervene in this case. With regard to the issue of limitation, the parties agree—indeed, that is what the Federal Court also decided—that in the light of our decision in *Bozzer v. Canada (Minister of Revenue)*, on June 2, 2011, 2011 FCA 186, the appellant’s application for interest relief is not statute-barred. As for paragraph 18 of the agreement, in our opinion, Ms. Laporte could not conclude as she did without considering the agreement as a whole; more specifically, paragraphs 8 and 23 of that agreement.

[5] Before concluding, we note that the parties agree that the appellant may file, if it so desires, an application under subsection 152(4.2) of the Act with the understanding that the first date on which the appellant learned of the assessment that is the source of this dispute, and its interest, is May 26, 2004.

[6] For these reasons, the appeal will be allowed, the Federal Court’s decision will be set aside, the application for judicial review will be allowed, and the case will be returned to the

Agency for reconsideration of the application for interest relief in the light of the entire file and the agreement.

"M Nadon"

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J.A.

Certified true translation  
François Brunet, Revisor

**FEDERAL COURT OF APPEAL**

**NAMES OF COUNSEL AND SOLICITORS OF RECORD**

**DOCKET:** A-338-11  
**(STYLE OF CAUSE:** PAVAGE ST-EUSTACHE LTÉE v.  
ATTORNEY GENERAL OF  
CANADA

**PLACE OF HEARING:** Montréal, Quebec

**DATE OF HEARING:** NOVEMBER 6, 2012

**REASONS FOR JUDGMENT OF THE COURT BY:** NADON J.A.  
GAUTHIER J.A.  
TRUDEL J.A.

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

**APPEARANCES:**

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Lise Gagnon

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Valérie Messore

FOR THE RESPONDENT

**SOLICITORS OF RECORD:**

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FOR THE RESPONDENT