

The Theratechnologies Case

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On February 20, 2014, the Supreme Court of Canada allowed the motion for leave to appeal the judgment of the Court of Appeal of Québec rendered in the case of *Theratechnologies inc. v. 121851 Canada Inc.*¹. In this unanimous judgment, the Court of Appeal decided that a judgment authorizing a class action based on section 225.3 of the *Securities Act* (Quebec)² may be appealed, contrary to the current rules under the *Code of Civil Procedure* (hereinafter, the “CCP”), which does not authorize the appeal of a judgment allowing a motion to institute a class action.

More details on this judgment of the Court of Appeal are available in our newsletter *In Fact and In Law Express* entitled “[An unprecedented decision of the Court of Appeal: a judgment authorizing a class action under the SA may be appealed](#)” authored by [Sophie de Saussure](#), [Josianne Beaudry](#) and Jean-Philippe Lincourt.

The upcoming judgment of the Supreme Court of Canada will be all the more interesting since the *Act to establish the new Code of Civil Procedure* was assented to on February 21, 2014 and makes some changes respecting class actions, including that to allow the appeal with leave of a judgment allowing a motion to institute a class action. Lavery will shortly publish a bulletin discussing these modifications.

¹ 2013 QCCA 1256.

² R.S.Q., c. V-1.1.