

**IN THE SUPREME COURT OF CANADA**  
(ON APPEAL FROM THE COURT OF APPEAL FOR BRITISH COLUMBIA)

BETWEEN:

THE ATTORNEY GENERAL OF CANADA

APPELLANT/  
RESPONDENT ON CROSS-APPEAL  
(Third Party)

AND:

HER MAJESTY THE QUEEN IN RIGHT OF BRITISH COLUMBIA

RESPONDENT  
(Respondent)

AND:

IMPERIAL TOBACCO CANADA LIMITED, ROTHMANS, BENSON &  
HEDGES INC., ROTHMANS INC., JTI-MACDONALD CORP., B.A.T  
INDUSTRIES P.L.C., BRITISH AMERICAN TOBACCO (INVESTMENTS)  
LIMITED, CARRERAS ROTHMANS LIMITED, R.J. REYNOLDS TOBACCO  
COMPANY AND R.J. REYNOLDS TOBACCO INTERNATIONAL, INC.

RESPONDENTS/  
APPELLANTS ON CROSS-APPEAL  
(Appellants)

AND:

ATTORNEY GENERAL OF BRITISH COLUMBIA AND ATTORNEY  
GENERAL OF NEW BRUNSWICK

INTERVENERS

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**FACTUM ON APPEAL AND CROSS-APPEAL**  
**OF CARRERAS ROTHMANS LIMITED**  
**(RESPONDENT/APPELLANT ON CROSS-APPEAL)**  
*(Rules 42 and 43 of the Rules of the Supreme Court of Canada)*

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**FACTUM OF THE RESPONDENT  
CARRERAS ROTHMANS LIMITED ON APPEAL**

**PART I**

**STATEMENT OF FACTS**

1. This appeal concerns notices of motion brought by the Attorney General of Canada (“Canada”) to strike, as disclosing no reasonable claim, third party notices issued against Canada by defendants in a statutory action brought by British Columbia pursuant to the *Tobacco Damages and Health Care Costs Recovery Act*, S.B.C. 2000, c. 30.
2. Carreras Rothmans Limited (“CRL”) filed its amended third party notice against Canada on December 28, 2007. CRL’s amended third party notice is identical in substance to the amended third party notice of respondents B.A.T Industries, p.l.c. and British American Tobacco (Investments) Limited (collectively hereinafter the “BAT Respondents”).
3. In order to avoid duplication, CRL adopts the Statement of Facts set out in the Factum of the BAT Respondents filed in response to the appeal of Canada.

**PART II**

**QUESTIONS IN ISSUE ON APPEAL**

4. CRL adopts the points in issue set out by the BAT Respondents.

**PART III  
ARGUMENT**

5. CRL adopts the submissions made to the Court by the BAT Respondents.

**PART IV  
COSTS**

6. In accordance with the usual rule, costs should follow the event.

**PART V  
NATURE OF ORDER SOUGHT**

7. The respondent seeks an order dismissing the appeal, with costs.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.



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Vancouver, B.C.  
January 7, 2011



**FACTUM OF THE APPELLANT  
CARRERAS ROTHMANS LIMITED ON CROSS-APPEAL**

**PART I**

**STATEMENT OF FACTS**

1. This cross-appeal concerns notices of motion brought by the Attorney General of Canada (“Canada”) to strike, as disclosing no reasonable claim, third party notices issued against Canada by defendants in a statutory action brought by British Columbia pursuant to the *Tobacco Damages and Health Care Costs Recovery Act*, S.B.C. 2000, c. 30.
2. Carreras Rothmans Limited (“CRL”) filed its amended third party notice against Canada on December 28, 2007. CRL’s amended third party notice is identical in substance to the amended third party notice of appellants B.A.T Industries, p.l.c. and British American Tobacco (Investments) Limited (collectively hereinafter the “BAT Appellants”).
3. In order to avoid duplication, CRL adopts the Statement of Facts set out in the Factum of the BAT Appellants on cross-appeal.

**PART II**

**QUESTIONS IN ISSUE ON CROSS-APPEAL**

4. CRL adopts the points in issue set out by the BAT Appellants.

**PART III  
ARGUMENT**

5. CRL adopts the submissions made to the Court by the BAT Appellants.

**PART IV  
COSTS**

6. In accordance with the usual rule, costs should follow the event.

**PART V  
NATURE OF ORDER REQUESTED**

7. The appellant seeks an order granting the cross-appeal, with costs. The portion of the Court of Appeal's order that strikes claims by the defendants against Canada should be set aside with no order made in substitution for it.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.



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January 7, 2011