Chief Justice Chartier’s Civil Procedure
Legacy: Attuned to Access to Justice

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ABSTRACT

This article investigates Chief Justice Chartier’s legacy on civil procedure. Though not the area of law he is most known for, analyzing nineteen notable cases to which he contributed reveals engagement with the principles of civil procedure such as predictability, efficiency, and fairness—and a particular sensitivity to access to justice, largely through seeking to ensure the resolution of civil actions on their merits—in this area of law where chief justices often lead by example.

Keywords: civil procedure; courts; judges; access to justice; Chief Justice Chartier

INTRODUCTION

Across Canada, the chief justices of the provinces have been known to take a lead on “access to justice”. This is often, but by no means exclusively, done through emphasizing how to apply and potentially reform civil procedure, something that Chief Justices Robert...
Bauman, Catherine Fraser, Warren Winkler, and George Strathy have all emphasized.

On first blush, Chief Justice Richard Chartier might not seem to naturally fall into this pattern. During his “[t]en years and one month” in practice, he was a corporate lawyer, not a civil litigator. He then proceeded to spend over a dozen years on the Provincial Court, dealing with criminal and family cases. So upon elevation to the Court of Appeal in 2006, he had only the most passing of experiences with civil procedure despite a very distinguished legal career spanning nearly a quarter-century. Nonetheless, this article demonstrates that he has understood the purposes of procedural law and made an important contribution to it.

This article analyzes nineteen of Chartier CJ’s most notable civil procedure decisions. Part II gives a brief introduction to methodology and terminology to place the rest of the article in context. Part III then looks at

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1 See, e.g., Trial Lawyers Association of British Columbia v British Columbia (Attorney General), 2022 BCCA 163, 62 BCLR (6th) 42 at, e.g., paras 97-100; Robert Bauman, “2022 Access to Justice Week BC is Underway” Access to Justice BC (9 February 2022), online: <url=https://accesstojusticebc.ca/2022/02/2022-access-to-justice-week-bc-is-underway/>.


6 Ibid at 53.
many of Chartier CJ’s decisions that ensured actions are resolved promptly on their merits, particularly through using summary procedures. Part IV then considers his decisions that concerned delay in civil litigation, and the need to balance timeliness with resolution of claims on their merits. Part V investigates Chartier CJ’s attitude toward resolving issues on appeal, which in turn bleeds into Part VI’s consideration of principles of finality and the purposes of appeals. A brief conclusion posits that Chartier CJ is an excellent example of how a judge without significant experience in a particular area of law can contribute positively to it by grounding himself in that area of law’s principles and purposes that facilitate access to justice.

I. TERMINOLOGY AND METHODOLOGY

In August through November 2022, extensive CanLII and Lexis+ searches were undertaken to investigate Manitoba Court of Appeal decisions concerning civil procedure where Chartier CJ (or Chartier JA) sat on the panel. While there are limitations to this methodology, it was by far the simplest way to sort through reported case law. Quantitative analysis of case law frequently uses these databases and their limitations—mostly regarding uncaptured decisions—are less important for this project, which concerns high-profile decisions in any event. Cases were triaged mostly through looking at citation count. However, based on experience with developments in Manitoba procedural law, other decisions that seem interesting and important have been included, even in the absence of significant citations. Cases were also excluded where the overwhelming procedural determination was that of jurisdiction, considering that to be more of an issue of conflicts of law, if contested to another forum, or administrative law, in the event of a jurisdictional dispute with an administrative body. A case where Rule 14 of the Queen’s Bench Rules (as

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8 Ward v Canada (Attorney General), 2007 MBCA 123, 220 ManR (2d) 224.

9 Giesbrecht v McNeilly, 2008 MBCA 22, 225 ManR (2d) 223.
they then were)\textsuperscript{10} was considered, but primarily only insofar as it incorporated fiduciary law, was similarly excluded from the analysis given that it shed little light on an approach to civil procedure \textit{per se}.

Because this analysis includes instances where Chartier CJ sat on appeal panels when he was “Chartier JA”, this article will hereinafter refer to him as “Chartier JA” in all instances prior to his elevation as Chief Justice. In the interest of conciseness, “as he then was” will not be added every time. Similarly, all decisions of the Court of Queen’s Bench of Manitoba will be referred to as the Queen’s Bench without adding “as it then was” on each occasion.

II. CONDEMNING DELAY WHILE ENSURING PROMPT RESOLUTION ON MERITS

Delay is an endemic problem in civil litigation. The phrase “justice delayed is justice denied” is a maxim connected to the rule of law that has existed for centuries.\textsuperscript{12} Accordingly, insofar as procedure can be used to prevent delay—without jeopardizing fair process or resolution on the merits—it should be so used. This was at the core of the Supreme Court’s 2014 decision in \textit{Hryniak v Mauldin}, which called for the broader use of summary judgment powers to resolve more cases on their merits quickly and with less financial expense.\textsuperscript{13} Several of Chartier CJ’s decisions indicate that he is alive to this concern.

For instance, in \textit{Beavis v PricewaterhouseCoopers Inc}, Chartier JA was on a panel that recognized the importance of finality, even when one could have nitpicked with the trial judge’s reasons granting summary judgment due to a limitations period. In the circumstances, the court noted that a single affidavit could resolve the factual issues necessary. Though the chamber judge’s expression of the test for summary judgment left something to be desired, the conclusion that a trial was not necessary warranted upholding, even prior to \textit{Hryniak}.

\textsuperscript{10} Now the Court of King’s Bench Rules, Man Reg 553/88 [“KB Rules”].
\textsuperscript{11} \textit{Filkow Estate v D'Arcy & Deacon LLP}, 2019 MBCA 61, [2019] 9 WWR 271.
\textsuperscript{13} 2014 SCC 7, [2014] 1 SCR 87 [“Hryniak”].
\textsuperscript{14} 2010 MBCA 69, 258 ManR (2d) 15.
In a similar vein, in another pre-\textit{Hryniak} case, \textit{Bodnarchuk v RBC Life Insurance Co},\textsuperscript{15} Chartier JA agreed with Scott CJ that a plaintiff’s claim alleging that his business had been reduced in value due to the defendant’s wrongdoing should be dismissed. There was no “hard evidence”\textsuperscript{16} to support his assertion and he had an obligation to put his best foot forward on a summary judgment motion. A more general claim for damages was allowed to proceed to trial despite the evidence being “demonstrably not strong” but where the chambers judge was owed deference.\textsuperscript{17}

Furthermore, in \textit{Feierstein and Fishman Medical Corp v Costas Ataliotis}, Chartier JA was on a panel that held that a trial judge was well within her discretion to resolve a corporate law dispute on the basis of affidavit evidence, where there were few contested facts.\textsuperscript{18} And most recently, in \textit{Vale Canada Ltd v Schwartz}, he authored a decision emphasizing that granting summary judgment is discretionary, and a Queen’s Bench judge did not commit an error in granting it in a tort case.\textsuperscript{19}

The use of summary procedures extends beyond summary judgment to resolving questions of law on pleadings motions.\textsuperscript{20} This was apparent in \textit{Chrysler Canada Inc v Eastwood Chrysler Dodge Ltd}.\textsuperscript{21} Here, Chartier JA overturned the Queen’s Bench, but in a way that furthered finality, legal certainty, and a better use of judicial resources. Specifically, he held that it was clear on the pleadings that a claim alleging liability for chargebacks on an audit agreement was not tenable because the plaintiff was not a party to the agreement, nor were there any allegations that could lead to an alternative avenue of liability.\textsuperscript{22} He further held that another counterclaim should be stayed pending an arbitration decision, recognizing that this result was mandated by legislation and arbitration should generally be

\textsuperscript{15} 2011 MBCA 18, 262 ManR (2d) 225.
\textsuperscript{16} \textit{Ibid} at para 39.
\textsuperscript{17} \textit{Ibid} at para 38.
\textsuperscript{18} 2007 MBCA 132, 225 ManR (2d) 2.
\textsuperscript{19} 2022 MBCA 18, 467 DLR (4th) 469.
\textsuperscript{21} 2010 MBCA 75, 262 ManR (2d) 1.
\textsuperscript{22} \textit{Ibid} at para 27.
preferred as a faster alternative to litigation in the courts.\textsuperscript{23} As a result of this, the action was resolved on its merits—albeit legal rather than factual—promptly.

However, there are limits to resolving questions of law on pleadings motions. In Driskell \textit{v} Dangerfield,\textsuperscript{24} Chartier JA agreed with Scott CJ in declining to strike a pleading alleging that the police were negligent in failing to make post-conviction disclosure of exculpatory materials to the plaintiff. Emphasizing that the circumstances of the case were unique, with the plaintiff having wrongly spent more than a decade in prison, he declined to strike the pleading, while noting that “[t]here are other procedures that are potentially available at a later stage” to resolve the action.\textsuperscript{25} One wonders whether this would have been decided the same way in the aftermath of Atlantic Lottery Corp \textit{v} Babstock,\textsuperscript{26} which more explicitly called for greater resolution of novel causes of actions on motions to strike.\textsuperscript{27}

III. SKEPTICISM OF “PROCESS-BASED” DISMISSEALS

Summary judgment and motions to strike can be contrasted with “process-based” attempts to resolve actions.\textsuperscript{28} As important as procedure is to facilitating the prompt, efficient, and predictable resolution of claims, it is also important to remember that procedure is not a good in itself but must serve the just resolution of claims on their merits. This in turn results in considering whether granting exceptions from procedural rules will cause prejudice to other parties.

These considerations were apparent in the pleadings case of Britton \textit{v} Manitoba,\textsuperscript{29} which addressed whether adding a claim for punitive damages

\begin{itemize}
  \item \textsuperscript{23} \textit{Ibid} at para 32.
  \item \textsuperscript{24} 2008 MBCA 60, 228 ManR (2d) 116.
  \item \textsuperscript{25} \textit{Ibid} at para 36.
  \item \textsuperscript{26} Atlantic Lottery, \textit{supra} note 20.
  \item \textsuperscript{27} See, \textit{e.g.}, Kennedy Motions to Strike, \textit{supra} note 20.
  \item \textsuperscript{28} See, \textit{e.g.}, Janet Walker, ed, \textit{The Civil Litigation Process: Cases and Materials}, 9th ed (Toronto: Emond Montgomery, 2022), Chapter Eight. “Merits-based” pre-trial resolution, such as summary judgment and determinations of a legal question, can be contrasted from “process-based” resolutions due to a party failing to comply with procedural rules (\textit{e.g.}, default, dismissal for delay, striking of pleadings for non-compliance).
  \item \textsuperscript{29} 2011 MBCA 77, 270 ManR (2d) 43.
\end{itemize}
was a “new cause of action” that could raise issues with respect to a limitations defence. Chartier JA agreed with Hamilton JA’s opinion that it was not, recognizing that the purposes of limitations periods, and restrictions on pleadings amendments, are centred on preventing prejudice, which is manifestly not the case once a defendant knows that an action has been commenced arising from particular facts. Attempting to block an amendment alleging a different type of damages based on the same facts would not assist a defendant in terms of preserving evidence. Nor would it bait-and-switch the defendant regarding whether it was free from obligations arising from particular events when those events were already the subject of a lawsuit. Rather, it would be an example of a “technicality” defeating a potentially meritorious claim.  

Similarly, in Dubois v Manitoba Lotteries Corp (cob Club Regent), Chartier JA agreed with MacInnes JA’s decision that an action should not be dismissed for delay. Though agreeing that the Queen’s Bench erred in not considering whether the defendant was prejudiced by delay, the Court emphasized that the action should not be dismissed for delay in the absence of such prejudice. Even on appeal, it was clear that the defendant could not point to any such prejudice despite the delay being excessive. Prior to the 2018 amendments of the rules on delay, this result further accorded with the language of the Queen’s Bench Rules, as they then were.  

After those amendments, however, Chartier CJ delivered the sensible decision of the Court in Tataskweyak Cree Nation v Intact Insurance Co, agreeing with the motion judge that a consolidation motion constituted a “significant advance” in an action for the purposes of resisting a defendant’s motion for delay (with the defendant being prima facie entitled to move for dismissal for delay if three or more years have passed without a significant advance in the action). Reading Chartier CJ’s reasons, it was clear that he

30 Contrast with the purposes of limitations periods as described in M(K) v M(H), [1992] 3 SCR 6 at 29-31.
31 2009 MBCA 108, 251 ManR (2d) 5.
33 KB Rules, supra note 10, Rule 24, with amendments thereto being discussed in Kennedy Manitoba, ibid.
34 2021 MBCA 91, 73 CPC (8th) 30.
35 KB Rules, supra note 10, Rule 24.02.
was unimpressed with the defendant’s argument, viewing this as a case that clearly deserved to be decided on its merits.

Similarly, Boryskiewich v Stuart was a motion for an extension of time for a family law appeal where Chartier CJ granted the motion. The appellant mother had an intention to appeal a family law decision but, because she was unrepresented, did not realize that the clock had started to tick on the timeline as she thought other matters needed to be completed before she could appeal. Though mistaken, this was an understandable mistake. As her appeal had plausible merit, Chartier CJ considered it inappropriate to deprive her of her right to appeal. This is a good example of giving an indulgence to a self-represented litigant, reflecting civil procedure’s overarching goal of reaching determinations on the merits, while also recognizing that some triage for merit was appropriate. It is notable that this was not a litigant who had been overly indulged, nor was she causing disproportionate expense for the responding father. Moreover, the father


37 KB Rules, supra note 10, Rule 1.04(1), under the heading “General principle”: “These rules shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits.”

was attempting to use process to prevent resolution on the merits—contrasted from procedural mechanisms designed to resolve matters quickly on their merits.

Of course, there are times where delay is so long that it cannot be excused, or where the legislature has clearly barred an action due to a limitation period. Such limitation periods are justifiable to encourage preservation of evidence, ensure defendants know when they are free from ancient obligations, and prevent plaintiffs from sleeping on their rights and using potential litigation illegitimately.\(^{39}\) In *McIntyre v Frohlich*,\(^{40}\) Chartier JA agreed with Hamilton JA’s decision refusing leave to add a new defendant in the face of an expired limitation period. In this case, the defendant had a right to assume it was free from ancient obligations. The emphasis that the information on discovery should have been enough to allow the plaintiff to connect the dots to the prospective new defendant—and it was inappropriate to allow the plaintiff to wait until an expert report had been delivered to claim that it had “discovered” the cause of action—in many ways foreshadowed the Supreme Court’s decision in *Grant Thornton LLP v New Brunswick*.\(^{41}\) Similarly, in *Wilde v Taché (Rural Municipality)*,\(^{42}\) Chartier CJ agreed with Spivak JA in holding that there was no basis to intervene with a Queen’s Bench decision that refused to grant an extension from a limitation period (under now-repealed legislation\(^{43}\)) given that the plaintiffs commenced litigation only after an inspection of their home despite having observed cracking in it for about a decade prior to obtaining the inspection.

### IV. RESOLVING MATTERS ON APPEAL

The desire to resolve matters quickly on their merits poses a difficult conundrum for appellate courts when they are confronted with errors in the court below and are torn between the competing virtues of prompt

\(^{39}\) Supra note 30.

\(^{40}\) 2013 MBCA 20, 288 ManR (2d) 291.

\(^{41}\) 2021 SCC 31, 461 DLR (4th) 613.

\(^{42}\) 2022 MBCA 31, [2022] MJ No 92.

\(^{43}\) After the enactment and coming into force of *The Limitations Act*, SM 2021, c 44, which replaced *The Limitations of Actions Act*, CCSM c L150.
resolution and full consideration, the latter of which can only be given by a trial court. By and large, Chartier CJ has indicated a desire to resolve matters quickly if possible. This was apparent in Johnson Waste Management v BFI Canada Inc, a case where a trial judge had mischaracterized a cause of action and failed to address a defence.44 But Chartier JA concurred with Freedman JA’s holding that sufficient factual determinations had been made in the Queen’s Bench to enable the appellate court to resolve the issue. This encouraged efficient use of judicial resources, in line with Rothstein J’s decision in Madsen Estate v Saylor,45 and ensured finality. Again, Chartier CJ applied procedural rules to advance the resolution of actions on their merits.

At the same time, Chartier CJ also contributed to panels recognizing that not everything can be resolved on appeal. For instance, in 232 Kennedy Street Ltd v King Insurance Brokers (2002) Ltd,46 he agreed with Hamilton JA’s decision that the Queen’s Bench was wrong to deny a plaintiff costs merely because it was self-represented. The Court nonetheless remitted the costs decision to the Queen’s Bench as trial judges are in a uniquely privileged situation to assess and set costs.47 Remitting to the Queen’s Bench also opened up the possibility of settlement, which is to be encouraged, particularly with respect to costs orders.48

V. FINALITY AND GUIDANCE TO LOWER COURTS

Appeals are not a necessary corollary of good decision-making.49 Rather, they have discrete purposes, particularly to: guide lower courts regarding the state of the law; ensure consistent application of the law; and delineate and refine legal rules.50 Finality, on the other hand, encourages respect for first-

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44 2010 MBCA 101, 258 ManR (2d) 268.
46 2009 MBCA 22, 236 ManR (2d) 147 at para 24.
instance decisions and allows parties to order their affairs. Chartier CJ’s appellate jurisprudence has recognized these considerations.

A desire to guide lower courts, while still recognizing the need for finality, was apparent in *Rolling River School Division v Rolling River Teachers’ Assn of the Manitoba Teachers’ Society.* Chartier JA granted leave to appeal a Queen’s Bench decision that set aside an arbitration decision holding that a teacher had been terminated without cause. In deciding whether to grant leave, he purposively compared the leave-to-appeal provisions to the Queen’s Bench to the leave-to-appeal provisions to the Court of Appeal, noting that the latter warrant a higher threshold given interests of finality and the general consideration that appeals are not a necessary corollary of decision-making. Accordingly, leave to appeal to the Court of Appeal should only be granted on pure questions of law (or jurisdiction, to use the language of the time), when there is arguable merit (recognizing that meritless appeals are not in anyone’s interest), and where the issue is of sufficient importance to a party to warrant an appeal to the province’s highest court. This set of considerations accords with the purposes of granting leave in other contexts. He noted that these criteria would rarely be met, and were not for three of four issues raised. But he nonetheless granted leave with

51 2009 MBCA 38, 236 ManR (2d) 249 [“Rolling River”].

52 This was overturned in *Canada (Minister of Citizenship and Immigration) v Vavilov*, 2019 SCC 65, [2019] 4 SCR 653 [“Vavilov”], subject to controversy as noted by, e.g., Léonid Sirota, “Not Good Enough” *Double Aspect* (20 December 2019), online: <url=https://doubleaspect.blog/2019/12/20/not-good-enough/>. 


respect to the administrative actor purportedly losing “jurisdiction”—a conclusion that was profoundly important in the case, and was also an issue of considerable uncertainty in the pre-Vavilov world of administrative law.\

Indeed, that the appeal was allowed on the merits seems to vindicate the granting of leave to appeal on this point.

This encouragement of finality was also apparent in Lukács v United Airlines Inc, a somewhat bizarre case where leave to appeal a Small Claims Court decision was sought. Such appeals are only allowed on questions of law alone, which Chartier JA acknowledged were identified, as the applicant posited that the judge below misinterpreted international treaties related to air travel. However, he held that, while the provisions’ meaning had not been conclusively determined by Manitoba appellate courts, they had been considered throughout Canada and the United States and all decisions reached conclusions contrary to the applicant’s position. There was accordingly neither legal uncertainty nor a reasonable chance of success that would justify granting leave to appeal. Another proposed ground of appeal was likely a question of mixed fact and law but, even if it was not, was similarly bereft of plausible success.

Finality and access to justice were also apparent in Meeking v Cash Store. Chartier CJ concurred with Cameron JA, who upheld the enforcement of an Ontario class proceeding settlement in Manitoba, observing that notice was given to putative class members who had the opportunity to opt-out. Given that the Ontario court had jurisdiction over class members outside Ontario, there was nothing wrong with enforcing the settlement in Manitoba. This furthered class actions’ goal of access to justice. However, insofar as a defendant was not part of the Ontario

56 Ibid at para 23; See the discussion in Vavilov, supra note 52 at paras 65-68.
57 2010 MBCA 32, 251 ManR (2d) 231 at para 35.
58 2009 MBCA 111, 245 ManR (2d) 292 at para 4. This is an unusual case because it was heard by a Queen’s Bench judge at first instance rather than a Small Claims Officer. At the time, there was an automatic right of appeal from hearing officers to the Queen’s Bench, though in this case the appeal had to proceed before the Court of Appeal given that a Queen’s Bench judge heard at first instance.
59 Ibid at para 11.
60 Ibid at para 15.
61 2013 MBCA 81, 299 ManR (2d) 109.
62 See, e.g., Western Canadian Shopping Centres Inc v Dutton, 2001 SCC 46, [2001] 2 SCR 534 at para 28, explored in, e.g., Mathew P Good, "Access to Justice, Judicial Economy,
proceedings, it was unfair to enforce the judgment against it due to basic principles of fairness. Binding a party to the results of a proceeding in which it did not participate is generally anathema to procedural fairness. 63

The need to emphasize finality and the limited role of appellate courts should, of course, not lead to countenancing obvious procedural injustices. And in this vein, in *Interlake Reserves Tribal Council Inc v Manitoba (Minister of Conservation and Climate)*, 64 Chartier CJ was part of a *per curam* panel that set aside interlocutory injunctions enjoining development. Though recognizing the discretionary nature of such injunctions, the Court held the trial judge had manifestly failed to consider the totality of the circumstances when applying the “balance of convenience” from *RJR MacDonald.* 65

To be sure, at times legal principles and values do come into tension, if not conflict. This was the case in *Soldier v Canada*, where Chartier JA concurred with Steel JA’s reasons that upheld a refusal to certify a class proceeding. 66 Steel JA noted that the trial judge erred by concluding that the plaintiffs clearly lacked standing to bring a claim for violations of Aboriginal rights. 67 In many ways, this foreshadowed future Supreme Court decisions in *Canada (Attorney General) v Downtown Eastside Sex Workers United Against Violence Society* 68 and *British Columbia (Attorney General) v Council of Canadians with Disabilities*, 69 which “reopened law’s gate” regarding standing. 70 Nonetheless, given the need for class proceedings to be a “preferable procedure” and the trial judge’s finding of fact that a class proceeding was not preferable in this case, the Court of Appeal had no basis to overturn the decision. Given the need to respect the cumulative


64 2021 MBCA 17, 458 DLR (4th) 16.


66 2009 MBCA 12, 236 ManR (2d) 107.

67 *Ibid* at, in particular, para 59.


69 2022 SCC 27, 62 BCLR (6th) 213 (“CCD”).

certification requirements in The Class Proceedings Act\textsuperscript{71} and binding Supreme Court precedent regarding the limited role for appellate review on findings of fact,\textsuperscript{72} the Court of Appeal could not interfere with the Queen’s Bench decision, and thus privileged the virtue of finality.

VI. CONCLUSION: ACCESS TO JUSTICE-INFUSED APPROACH TO PROCEDURE

Access to justice has varying meanings, as noted by scholars such as Trevor Farrow\textsuperscript{73} and Roderick Macdonald,\textsuperscript{74} and, indeed, the Supreme Court of Canada itself.\textsuperscript{75} Some of these definitions are very broad, incorporating philosophical views about substantive justice,\textsuperscript{76} preventing legal problems from arising in the first place,\textsuperscript{77} and/or analyzing how lawyers practise law.\textsuperscript{78} But irrespective of how broadly or narrowly one defines access to justice, it certainly \textit{includes} litigation being quicker and entailing less financial expense. Using procedure to facilitate the prompt and inexpensive resolution of civil actions on their merits is thus, other things being equal, a boon for access to justice.\textsuperscript{79}

\textsuperscript{71} CCSM, c C130, s 4.
\textsuperscript{72} \textit{Housen}, supra note 50 at paras 10-18.
\textsuperscript{75} CCD, supra note 69 at para 35.
\textsuperscript{77} See, e.g., Rick Craig, “Public legal education and information (PLEI) in a Changing Legal Services Spectrum” (Spring 2009) 12 News & Views on Civil Justice Reform 9 at 10.
\textsuperscript{79} Farrow 2016, supra note 73 at 166; Kennedy Motions to Strike, supra note 20 at 86-87.
Do Chartier CJ’s decisions indicate such an access to justice-centred approach to civil procedure? By and large, the answer seems to be “yes”. The survey of his jurisprudence in this article indicates a willingness to use summary procedures and appellate powers to resolve actions on their merits. At the same time, we also see indication that he does not view the use of procedure to resolve actions on “technicalities” to be a good.

Ultimately, and recognizing that no one will ever agree with any judge’s entire body of decisions, Chartier CJ’s approach to civil procedure and appellate practice indicates that he values: predictability, guiding lower courts; efficiency, in not taking longer than necessary to resolve actions on their merits; and fairness, ensuring procedure facilitates rather than hinders resolution of actions on their merits, barring exceptional circumstances. These purposes of civil procedure\textsuperscript{80} indicate Chartier CJ’s cognizance of why this area of law exists.