

Supreme Court of Canada to Hear Jurisdiction Appeal

The Supreme Court of Canada has granted leave to appeal in *Sinclair v Venezia Turismo*. In light of the test for obtaining leave and the relatively low number of cases in which leave is granted, this offers at least some suggestion that the top court is interested in considering the legal issues raised in the case.

The case has factual similarities to the *Brownlie* litigation in England. The plaintiffs, residents of Ontario, were injured on a gondola ride in Venice, Italy. They are suing in tort in Ontario. Three Italian corporations challenged the Ontario court's jurisdiction. At first instance the judge held Ontario had jurisdiction but on appeal the Court of Appeal for Ontario held that it did not. The key issues, at least thus far, have been whether the plaintiffs could establish a "presumptive connecting factor" (PCF) between those corporations and Ontario and if so, whether that presumption had been rebutted. Common law Canada considers that a contract made in the forum that is connected to a tort that happens elsewhere is a PCF to the forum. It is relevant here because the plaintiffs made some of the arrangements for their trip to Italy with other parties through contracts made in Ontario. In the Court of Appeal, two judges found the PCF was not established while the third found that it was. All three found that if it was established, it had been rebutted by the corporations: the connection to Ontario was insufficient.

More information is available [here](#). The written legal arguments by the parties for and against leave should end up posted on that site and they should be an interesting read. As is the practice in Canada, no reasons are provided by the court for the granting of leave. The decision below is [here](#). It contains discussion of the key precedents on jurisdiction.