

One Firm - Coast to Coast

Labour, Employment and Human Rights National Update

Wednesday, February 22, 2012



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AGENDA

12:00 pm - 12:30 pm	Registration and Lunch
12:30 pm - 12:40 pm	Words of Welcome and Presentation of the Speakers
12:40 pm - 1:05 pm	Violence and harassment in the workplace – Remedies available in Canada Speaker: Julie Cuddihy (Montréal)
1:05 pm - 1:15 pm	Question Period
1:15 pm - 1:40 pm	Termination of employment - Damages facing employers Speaker: Maria Giagilitsis (Toronto)
1:40 pm - 1:50 pm	Question Period
1:50 pm - 2:15 pm	Duty to accommodate in employment - Recent trends in Canada Speaker: David McDonald (Vancouver)
2:15 pm - 2:25 pm	Question Period
2:25 pm - 2:30 pm	Conclusion

Please note that there will be no live questions in the room.

If you wish to ask a question, a laptop will be available in the room to post your questions.

You will also be able to send questions using your smart phone to the following address:

LEHRNationalUpdate@Fasken.com.

One Firm - Coast to Coast

Labour, Employment and Human Rights National Update

Dominique Monet, moderator

February 22, 2012

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Violence and harassment in the workplace - Remedies available in Canada

Julie Cuddihy
Montreal

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The problematic of workplace violence

- Psychological violence and harassment represent threats to most workers.
- Incidents of violence, bullying and sexual harassment in the workplace have increased.
- The International Labour Organization (ILO) has identified bullying as “*one of the fastest growing areas of workplace violence*”.

The legislative response

- In Quebec before 2004
 - *Charter of Human Rights and Freedoms*;
 - *An Act Respecting Occupational Health and Safety*;
 - *Civil Code of Quebec*;
 - Company policies or collective agreements.

The legislative response

- The *Labour Standards Act* was modified in 2002 to create new rights and obligations concerning psychological harassment.
- The new provisions came into effect on June 1st, 2004.

The legislative response

- **Definition of psychological harassment**
 - Any vexatious behaviour;
 - in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures;
 - that affects an employee's dignity or psychological or physical integrity; and
 - that results in a harmful work environment for the employee.

The legislative response

- **Definition of psychological harassment**
 - A single serious incidence of such behaviour that has a lasting harmful effect on an employee may also constitute psychological harassment.

The legislative response

- **Rights and obligations**
 - Every employee has a right to a work environment free from psychological harassment.
 - Employers must take reasonable action to prevent psychological harassment and, whenever they become aware of such behaviour, to put a stop to it.

The legislative response

- **Remedial powers**

- Ordering the employer to reinstate the employee;
- Ordering the employer to pay the employee an indemnity up to a maximum equivalent to wages lost;
- Ordering the employer to take reasonable action to put a stop to the harassment;
- Ordering the employer to pay punitive and moral damages to the employee;

The legislative response

- **Remedial powers**

- Ordering the employer to pay the employee an indemnity for loss of employment;
- Ordering the employer to pay for the psychological support needed by the employee for a reasonable period of time determined by the Commission;
- Ordering the modification of the disciplinary record of the employee.

Examples

- **Conduct that constitutes psychological harassment**
 - Threats of physical violence and aggressive behaviour towards employee;
 - Unjustified refusal to hear employee's version of events, publicly communicated disciplinary measure taken against an employee and repeatedly asking the employee to resign;
 - Name calling;

Examples

- **Conduct that constitutes psychological harassment**
 - Derogatory comments ("*Stop acting like a girl*");
 - Refusal to include an employee in meetings; isolating the employee;
 - Administrative harassment or excessive control over a person's work;
 - Computer-related harassment: threats, obscene or inappropriate emails.

Examples

- **Conduct that does not constitute psychological harassment**
 - Normal exercise of management rights
 - Labour or employment relations conflict
 - Normal work related stress
 - Habitual difficult working conditions or constraints

Examples

- **Conduct that does not constitute psychological harassment**
 - Personality conflict;
 - Word or comment not directed at the employee;
 - Stress or conflict at work caused by financial difficulties of the Company.

Statistics: The first 5 years

- **After 5 years, the Labour Standards Commission had received 10,095 complaints:**
 - 95% of the alleged psychological harassment complaint was for repetitive actions;
 - In 73% of the cases, the respondent was a manager;
 - 63% of the complaints were filed by women;

Statistics: The first 5 years

- **After 5 years, the Labour Standards Commission had received 10,095 complaints**
 - 86% of complaints were settled;
 - 911 complaints were transferred to the Labour Relations Commission for hearing;
 - Out of those 911 complaints, 723 were settled out of court.

Other legislative responses

- Most Canadian jurisdictions have a general duty provision in their occupational health and safety legislation which requires employers to take all reasonable precautions to protect the health and safety of employees.

Federal legislation

- **Definition workplace violence:**
 - Any action, conduct, threat or gesture of a person towards an employee in their work place;
 - That can reasonably be expected to cause harm, injury or illness to that employee.

Federal legislation

- **Employers' responsibilities**

- Develop a workplace violence prevention policy;
- Identify hazards and ensure that controls are in place;
- Provide training to all employees exposed to or at risk of workplace violence.

Federal legislation

- **Employees' recourses**

- Employee must address a complaint to his supervisor and they shall try to resolve it between themselves;
- If the complaint remains unresolved, then the complaint should be referred to a chairperson of the workplace committee or the health and safety representative;
- If the complaint still remains unresolved, then it may be referred to a health and safety officer.

Ontario legislation

- **Definition – workplace harassment**
 - Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.

Ontario legislation

- **Definitions – workplace violence**
 - The exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker;
 - An attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker;
 - A statement or behaviour that is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

Ontario legislation

- **Employers' responsibilities**
 - Prepare a workplace violence prevention policy and a harassment policy;
 - Train workers on such policy;
 - Develop and maintain a program to implement these policies.

Ontario legislation

- **Employees' recourses**
 - A worker may refuse to work if he has reason to believe he is in danger from workplace violence;
 - Ministry of Labour carries out workplace inspections to ensure compliance with Act and regulations but will not resolve allegations of violence or harassment.

British Columbia legislation

- **Definition – violence**

- The attempted or actual exercise by a person, other than a worker, of any physical force so as to cause injury to a worker; and
- Includes any threatening statement or behaviour which gives a worker reasonable cause to believe that he or she is at risk of injury.

British Columbia legislation

- **Definition – Improper activity or behaviour**

- The attempted or actual exercise by a worker towards another worker of any physical force so as to cause injury, and includes any threatening statement or behaviour which gives the worker reasonable cause to believe he or she is at risk of injury;
- Horseplay, practical jokes, unnecessary running or jumping or similar conduct.

British Columbia legislation

- **Employers' responsibilities**

- Perform a risk assessment.
- If there is evidence that a risk of injury from violence does exist, employers must:
 - establish procedures, policies and work environment arrangements to eliminate the risk; and
 - inform workers who may be exposed to the risk of violence of the nature and extent of the risk.

Comparative legislation provisions

Jurisdiction	Types of Protection	Remedies
Federal	Protection against any conduct that can cause harm, injury or illness	<ul style="list-style-type: none"> • Internal process with manager is mandatory • Formal internal investigation • Defer complaint to Health and Safety Officer
Quebec	Protection against psychological harm and may include physical violence	<ul style="list-style-type: none"> • Internal mechanism to resolve issue encouraged • Compliant to Labour Standard Commission and investigation • Complaint adjudicated by Labour Relations Commission • Broad remedial powers of the Commission
Ontario	Protection against a conduct that could cause physical injury . Protection against vexatious comment or conduct that is unwelcome	<ul style="list-style-type: none"> • Internal process and investigation • Work refusals in cases of workplace violence
British Columbia	Protection against improper activity of behaviour and threats which would give rise to physical violence	<ul style="list-style-type: none"> • -----

Questions

- **Dominique Monet, moderator**
- **Julie Cuddihy (Quebec)**
- **Maria Giagilitsis (Ontario)**
- **David McDonald (British Columbia)**

Termination of Employment: Damages Facing Employers

Maria Giagilitsis
Toronto

Topics

- Bad Faith Damages
- Aggravated and Punitive Damages
- Class Actions
- Damages for Human Rights Violations

Bad Faith Damages

- Before *Wallace*, employees were not entitled to compensation for injuries flowing from the fact of the dismissal itself.
- In 1997, in *Wallace*, the SCC opened a new door:
 - Where an employee can establish bad faith conduct or unfair dealing in the course of dismissal, injuries may be worthy of compensation.
 - Emphasis on the employer's dealings with the employee at the time of termination and the impact of those dealings on the employee.

Bad Faith Damages

- Wallace damages in wrongful dismissal litigation:
 - Not a “separate actionable wrong”; rather, employer’s apparent “bad faith” at the time of termination compensated by **extending** the notice period.
 - Became a standard part of wrongful dismissal litigation.

Bad Faith Damages

- Examples:
 - no opportunity to clear personal belongings;
 - internal/external communication explaining employee’s departure;
 - unsubstantiated allegations of just cause; withholding payment of statutory minimum notice/severance;
 - delay in issuing Record of Employment.

Bad Faith Damages

- Threshold for establishing Wallace damages was traditionally low:
 - Evidence of poor conduct by employer but no need to prove *actual damages* suffered by employee.

Bad Faith Damages

- Criticisms of courts' approach:
 - Wide range of extensions to reasonable notice periods.
 - Unpredictable/difficult to quantify claims in advance.
 - Barrier to meaningful settlement/mediation.

Bad Faith Damages

- In 2008, in *Honda*, the SCC shifted the law:
 - SCC held damages available where Wallace circumstances exist (unfair/bad faith conduct at time of termination).
 - However, damages only awarded with proof of loss.
 - No automatic extension of reasonable notice period.

Bad Faith Damages

- **Bad Faith Damages since *Honda***
 - *Slepenkova v. Ivanov*
 - *Brien v. Niagara Motors Ltd*
 - *Pagliaroli v. Rite-Pak Produce Co*
 - *Demers v. Levésque*
 - *Altman v. Steve's Music Store Inc*
 - *Kalen v. Brantford (City)*

Bad Faith Damages - Summary

- Still a live issue in wrongful dismissal litigation.
- Slightly easier to predict because of requirement to demonstrate *real evidence of harm*.
- Damages for mental distress caused by manner of termination must reflect *actual damage* and be compensatory.
- Increased onus on plaintiff/counsel increases effectiveness of settlement discussions.
- Extension of notice period no longer applied.

Aggravated and Punitive Damages

- Often confused with Wallace Damages but legally separate:
 - Wallace damages are *compensatory* (focus on Employee);
 - Punitive damages are *punitive* (focus on Employer).

Aggravated and Punitive Damages

- In 2008, in *Honda*, the SCC developed an onerous test for punitive damages:
 - Employer's conduct so harsh, vindictive, reprehensible and malicious or so malicious, oppressive and high handed that it offends court's sense of decency.
 - Employer committed separate or independent actionable wrong causing employee (quantifiable) damage.
 - Compensatory damages not sufficient to express court's repugnance at employer's conduct, and to punish and deter employer.

Aggravated and Punitive Damages

- *Pate v. Galway-Cavendish and Harvey (Township)*
- *Brito v. Canac Kitchens*
- *Rowley v. High Strength Plates & Profiles Inc*
- *Altman v. Steve's Music Store Inc*

Aggravated and Punitive Damages - Summary

- Higher than in previous years (\$15,000 to \$25,000).
- Often in excess of a few months salary.
- Tend to be awarded with *Wallace* damages, in similar amount.

Class Action Lawsuit

- ***Kafka v. Allstate Insurance Company of Canada***
 - “Similar” consequences and similar claims not sufficient.
 - Former Allstate employees sought class certification re claims for constructive dismissal.
 - In 2007, Allstate revised one of its compensation systems and slowly phased in changes between 2007 and 2009.

Class Action Lawsuit

- ***Kafka v. Allstate Insurance Company of Canada***
 - Plaintiffs alleged new model constituted constructive dismissal.
 - Resigned en masse.
 - Commenced class action on behalf of approx. 100 agents who rejected the change.
 - Sought termination and severance pay under ESA plus *punitive damages*.

Class Action Lawsuit

- ***Kafka v. Allstate Insurance Company of Canada***
 - Court made it clear that class action certification not appropriate in all cases.
 - Constructive dismissal requires a close analysis of each employee's employment situation.
 - Therefore not amenable to class proceedings.
 - Though only one change in policy, each employee not necessarily impacted the same way.

Class Action Lawsuit Update

- ***Kafka v. Allstate Insurance Company of Canada***
 - Decision in *Allstate* could mean that actions regarding termination of employment, including constructive dismissal, are not suitable for class action proceedings.

Class Action Lawsuit - Summary

- Apart from overtime class actions in Canada, hysteria surrounding class actions in employment fuelled by US court decision in *Wal-Mart*.
 - Once thought to be certification of largest-ever employment discrimination case - gender discrimination pay/promotion.
 - BUT in June 2011, Supreme Court denied certification due to variability of employees' circumstances.

Class Action Lawsuit - Summary

- Decision in *Walmart* somewhat similar to *Allstate*.
 - In both cases, courts recognized difficulty in proceeding on a class basis where individual employment circumstances so varied.
- Threat of class action in employment law remains live in Canada.

Class Action Lawsuit - Summary

- BUT until now, threat of exposure has been controlled by courts as evidenced by decisions in the US (*Walmart*) and Canada (*Allstate*)
 - Both decisions illustrate strict application of class certification test especially with respect to the issue of commonality.
 - Because employment relationships so highly dependant on individual circumstances, possible that very few employment-related claims amenable to class action proceedings.

Human Rights Damages in Wrongful Dismissal Claims

- Have you ever thought : well, at least courts don't have the same broad remedial powers as the unpredictable Human Rights Tribunal in Ontario?
- **Think again.** Changes to Ontario's Human Rights Code expanded remedial powers of Ontario courts.

Human Rights Damages in Wrongful Dismissal Claims

- Section 46.1(1) of the *Human Rights Code* states that if there is a violation of Part I of the Code, then Courts may order:
 - Payment of **monetary compensation** for the loss arising out of the infringement, including compensation for injury to dignity, feelings and self-respect; and/or,
 - The infringing party to make **non monetary restitution** for injury to dignity, feelings and self respect.

Human Rights Damages in Wrongful Dismissal Claims

- At first glance, section 46.1 turns upside the basic common law principle that there is no common law action for discrimination in Ontario.
- Only partly true:
 - 46.1(2) does not permit a person to commence a civil action based solely on a Code infringement.
 - Claim for human rights damages must therefore be tied to another claim.

Human Rights Damages in Wrongful Dismissal Claims

- *Aba-Alkhail v. University of Ottawa*
- *Andrachuk v. Bell Globe Media Publishing Inc.,*
- *Stokes and St. Clair College*
- *Anderson v. Tasco Distributors*
- *St. John's Evangelical Lutheran Church of Toronto v. Steers*
- *McMuldroch v. Honda of Canada Manufacturing*
- *Madalinski v. Domtar*

Summary of Trends in Damages

- Going forward:
 - Wallace damages restricted and slightly more quantifiable.
 - Section 46.1 of Code may expand remedial recourse.
 - Section 46.1 of Code introduces question of court's creative powers – *reinstatement*?

Summary of Trends in Damages

- Employment-related class actions limited to truly *common issues*.
- Increased use of Summary Hearing Process at Tribunal has limited employers' exposure to frivolous claims:
 - 2010 - 4 decisions; 3 dismissed.
 - 2011 - 57 decisions; 6 proceeded; 49 dismissed.
 - 2012 - 12 decisions in January alone; 8 dismissed.

Questions

- **Dominique Monet, moderator**
- **Julie Cuddihy (Quebec)**
- **Maria Giagilitsis (Ontario)**
- **David McDonald (British Columbia)**

Duty to Accommodate in Employment - Recent Trends in Canada

David McDonald
Vancouver

The *Meiorin* Approach

Step One:

- The employer adopted the standard for a purpose or goal rationally connected to the performance of the job;

Step Two:

- The employer adopted the particular standard in an honest and good faith belief that it was necessary to the fulfillment of that legitimate work-related purpose; and

The *Meiorin* Approach

Step Three:

- The standard is reasonably necessary to the accomplishment of that legitimate work-related purpose.

Summary:

- To show that the standard is reasonably necessary, it must be demonstrated that it is **impossible** to accommodate individual employees sharing the characteristics of the claimant without imposing **undue hardship** upon the employer.

The Questions

- Were alternative, non-discriminatory approaches investigated?
- If alternative, non-discriminatory approaches were investigated and found to be capable of fulfilling the employer's purpose, why were they not implemented?

The Questions

- Must all employees meet a single standard in order for the employer to accomplish its legitimate purpose or could standards reflecting individual or group differences and capabilities be established?
- Is there a way to do the job that is less discriminatory while still accomplishing the employer's legitimate purpose?

The Questions

- Is the standard properly designed to ensure that the desired qualification is met without placing an undue burden on those to whom the standard applies?
- Have other parties who are obliged to assist in the search for possible accommodation fulfilled their roles?

i.e., the employee(s)? the union?

Duty to Accommodate Process

- All possible accommodations need to be considered and assessed (*Grismer*).
- In *Rozon*, Complainant granted damages of \$800. The Employer failed to consider all possible accommodations although the Tribunal agreed with the Employer's conclusion that accommodation was impossible.

Duty to Accommodate Process

- While the duty to accommodate includes the requirement that all possible accommodations be considered, it does not include a free-standing duty to treat the employee fairly and with respect (*Cassidy*).
- Employee should advise employer of necessity for accommodation; employer does not have to guess.

Duty to Accommodate Process

- Caveat may be in cases where the disability manifests itself in behaviour which is so bizarre that employer will be deemed to have knowledge of disability.
- Employer can require employee to provide detailed medical evidence with respect to the disability, including any and all restrictions.
- Armed with that information, the employer must engage in a thorough investigation of all the possibilities for accommodation.

Duty to Accommodate Process

- Employer must involve the union, if a union exists.
- Employer will not be required to displace other employees, or to create new position, or add staff to the complement.

Duty to Accommodate Process

- Employers may be required to make a considerable financial investment in accommodation on a case-by-case basis;
- Employer must give due consideration to safety issues, to morale issues of fellow workers and to the public in accommodation efforts;
- Accommodation efforts based on impressionistic evidence will not be sustained.

Duty to Accommodate Process

- Employer may want to consider working with other professionals (e.g. health and legal professionals) in determining appropriate accommodation.
- Consider whether the following should be completed:
 - Functional capacity evaluation (FCE);
 - Independent medical examination (IME);
 - Work site occupational assessment;
 - Job demand analysis – collecting and interpreting ergonomic, physical and environmental requirements of a job.

Duty to Accommodate Process

- Common accommodations include:
 - Modification of the current job;
 - Modification of other jobs in the bargaining unit;
 - Assembling a bundle of duties;
 - Providing additional training;
 - Searching for accommodation outside of the bargaining unit;
 - Accepting some absenteeism.

Duty to Accommodate Process

- What the employer ordinarily does NOT have to do:
 - Create a new position;
 - Displace other employees;
 - Remove essential characteristics of the job.

Accommodation in Attendance Management Programs (AMP)

- **Why Have an AMP?**
 - Absenteeism creates:
 - Significant costs;
 - Direct and indirect;
 - Up to \$4,000 per employee per year; 5.6% payroll.
 - Effective management will get results.

Accommodation in AMP

- **Why Have an AMP?**
 - *2009 Statistics Canada;*
 - Rising trend due to:
 - Aging workforce;
 - More women (caring for young children) in workforce;
 - Increasing worker stress;
 - More generous benefits.

Accommodation in AMP

- **Culpable:**
 - Within employee's power to prevent or control;
 - Appropriate response: progressive discipline:
 - Warning, suspension, termination.

Accommodation in AMP

- **Non-Culpable**

- Innocent (not blameworthy):
 - Absence for a *bona fide* reason.
- Appropriate response: Not disciplinary:
 - Principles of contract law;
 - Standard of regular attendance included in promise to pay in exchange for work;
 - Termination only if no reasonable prospect that standard will be met.

Accommodation in AMP

- **Characteristics of an AMP**

- Set of policies:
 - Address non-culpable absence.
- Process of steps:
 - Interview, medical evaluation, accommodation, termination.

Accommodation in AMP

- **Characteristics of an AMP**

- Non-disciplinary:
 - Principles of contract law;
 - Standard of regular attendance included in promise to pay in exchange for work;
 - Termination only if no reasonable prospect that standard will be met.

Accommodation in AMP

- **Goals**

- Maximize attendance;
- Minimize absenteeism;
- Deal proactively with individual absences;
- Good communication improves results.

Accommodation in AMP

- **Pitfalls**

- Human rights legislation;
- Employer's duty to accommodate.

- **2 questions**

- Does AMP discriminate against employees with disabilities?
- Is AMP consistent with employer's duty to accommodate?

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- **Background**

- Complaint is of systemic discrimination, not individual discrimination.
- Issue: Whether plan itself is discriminatory, not whether it is discriminatory as applied to an individual.

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- **History**

- 20-25% of operators with chronic absenteeism;
- 2x North America average;
- \$8 million direct costs.

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The AMP: 5 steps

- **Identification of employees with high rates of absence**
 - Informal interview – opportunity to explain;
 - Advised to take all reasonable steps to minimize absences.
- **Level 1 interview**
 - Employer expresses concern, offers assistance;
 - Employee asked to provide medical information to OHN.

Coast Mountain Bus

The AMP: 5 steps:

- **Level 2 interview**
 - Employee asked to obtain medical assessment;
 - Possible accommodation if chronic illness identified.
- **Level 3 interview**
 - Consideration of medical assessment;
 - Communication of attendance parameters;
 - Warning: termination may result if absences higher than average.

Coast Mountain Bus

The AMP: 5 steps:

- **Employment Status Review**
 - Decision regarding termination.
- **Effect**
 - Reduction of rate of absenteeism;
 - Significant cost savings.

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BCHRT

- AMP amounts to systemic discrimination:
 - Insufficient coordination, communication;
 - Narrow view of accommodation;
 - Too little too late.
 - Level 3 parameters based on operator average;
 - No consideration of individual circumstances.
 - Inclusion of all absences in calculation of average.

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BCHRT

- No *BFOR*:
 - No evidence of undue hardship.
- Employees treated as “attendance problem”:
 - Forced into AMP;
 - Standard impossible to reach;
 - Increased stress and anxiety.

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BCSC

- Overturns Tribunal decision:
 - Application of AMP not discriminatory;
 - Early placement in program not discriminatory;
 - Employer did not fail to accommodate;
 - Employer did not fail to demonstrate BFOR.

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BCCA

- Level 1 not discriminatory:
 - No adverse treatment;
 - Purpose to make employee aware.
- Level 2 not discriminatory:
 - Purpose is to obtain medical assessment in order to determine if employee has disability.

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BCCA

- AMP as applied to disabled employees is discriminatory:
 - Average attendance parameters set without regard to disability;
 - Inclusion of partial day absences on GRTW in calculation.
- BFOR not established.

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Impact

- AMP itself not discriminatory:
 - Mere application not discriminatory;
 - Levels 1 & 2 not discriminatory.
- Finding of systemic discrimination based on the particular way the AMP was applied to disabled employees.

Coast Mountain Bus

- **Impact**

- No impact on application of AMP to employees without disability.
- But AMP must account for and accommodate employees with disabilities that affect their ability to attend work.

Questions

- **Dominique Monet, moderator**
- **Julie Cuddihy (Quebec)**
- **Maria Giagilitsis (Ontario)**
- **David McDonald (British Columbia)**



BIOGRAPHIES



Julie Cuddihy

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Julie Cuddihy specializes in labour, employment and human rights law. She assists employers and represents businesses in all sectors of economic activity, with some of her frequent clients operating in the pharmaceutical industry and the financial sector. Mtre Cuddihy provides legal counsel on all matters relating to employment and dismissals, including non-competition agreements and illegal appropriation by employees of confidential information or intellectual property. She also provides advice on all issues affecting employees and executives in the sale or purchase of a business, and plays an active role in negotiating and drafting all the agreements required in that context.

Mtre Cuddihy has a thorough knowledge of labour standards, including those related to psychological harassment, illegal dismissal and termination without good cause. She has worked on a number of cases involving personal information protection of both employees and clients. Furthermore, as part of her practice, she represents businesses before civil courts as well as administrative tribunals and appears regularly before specialized tribunals and grievance arbitrators.

Areas of Practice

Labour, Employment and Human Rights

Privacy and Information Protection

Litigation and Dispute Resolution

Collective Bargaining

Employment Standards

Human Rights

Labour Relations

Alternative Dispute Resolution

Life Sciences

Education

BAA,
Université du Québec à Montréal, 1992

LL.B.,
University of Montréal, 1995

Year of Call

Québec, 1996

Languages

French

English

Representative Experience

- *CGI divests Canadian business processing unit to The Shumka Group*
Advised CGI Group Inc.
- *Rio Tinto acquires Alcan in \$38 billion deal to form world's leader in aluminum*
Advised the special committee of Alcan Inc.
- *Esterline Technologies buys CMC Electronics for \$392 million from Onex*
Advised Esterline Technologies Corporation
- *IGN Entertainment, Inc. acquires "www.AskMen.com"*
Advised IGN Entertainment, Inc. (part of the Fox Interactive Media portfolio)
- *Took part in negotiating the master collective agreement for the janitorial services industry*
- *Successfully represented various employers in the context of disciplinary dismissals, notably for theft, breach of company policy, fraud and other matters*
Counsel to various employers
- *Has intervened on a number of occasions on behalf of her clients in the context of internal dispute resolution processes, performing at their request either the role of investigator or mediator*
She has intervened on a number of occasions on behalf of her clients in the context of internal dispute resolution processes, performing at their request either the role of investigator or mediator. She has thus gained expertise in such cases, especially after having practiced in this field in the United States when she worked in the legal department of a business operating in the financial sector. At the time, she was directly involved in the company's internal dispute resolution process.

- *Successfully represented several businesses before civil courts in unfair competition cases brought against former employees*
Counsel to several businesses
- *Represented the City of Montréal when the bargaining units for its professional and white collar workers were being redefined during the municipal mergers*
Counsel to City of Montréal

Presentations

- Labour, Employment and Human Rights National Update, Labour, Employment and Human Rights Group Seminar, February 22, 2012
- Flash Trainings 2011-2012, Novembre 22, 2011
- Fasken Martineau Flash Training 2009 Fall Session - Focus on Case Law 2009, Labour, Employment, Human Rights, and Public Law seminar, Montréal, October 29, 2009
- 2009 Fasken Martineau Symposium, Nine workshops covering the latest legal developments in seven areas of practice, May 12, 2009
- Quick training - 8:00 a.m. to 10:00 a.m., The Labour, Employment, Human Rights, and Public Law Practice Group, December 2008 to May 2009
- Annual Seminar on Labour Law, November 6 and November 13, 2007
- The evolution of cross-border data flow : emerging business and privacy issues, ABA Section of International Law, Fall meeting, November 8, 2006
- La gestion de l'absentéisme, Speaker, Insight Conference, May 2005
- "Customized" presentations and training sessions

Publications

- "Facebook is in breach of several provisions of the Personal Information Protection and Electronic Documents Act ", Privacy and Information Protection Bulletin, August 4, 2009
- "A Few Words on Psychological Harassment", Labour, Employment and Human Rights Bulletin, January 2005
- "The Evolution of Cross-Border Data Flow: Emerging Business and Privacy Issues", Co-author, American Bar Association, 2002

Memberships and Affiliations

- Member of the Québec Bar
- Member of the Canadian Bar Association



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Maria Giagilitsis has a specialized practice, which focuses on all aspects of human rights, labour and employment law. Maria works closely with human resource professionals and in-house legal counsel, providing both emergent and long-term strategic advice in connection with a broad range of complex matters. Maria's main focus includes the duty to accommodate, wrongful dismissal, employment agreements and severance agreements.

In addition to providing strategic advice, Maria's representative experience includes civil actions for wrongful dismissal as well as proceedings before administrative tribunals including Ontario's Labour Relations Board, Ontario's Employment Standards Branch, the Ontario Human Rights Commission, the Workplace Safety and Insurance Appeals Tribunal and labour arbitrators.

The most unique part of Maria's practice is her experience in corporate training. Maria regularly leads educational and training sessions for all levels of management and employees on virtually all aspects of human rights law and employment law. From time to time, Maria also acts as a part-time professor of Human Rights and Employment Law at George Brown College.

Representative Experience

- *United Rentals acquires Venetor Group*
Counsel to United Rentals
- *Travelzest acquires The Cruise Professionals for \$13 million*
Advised Travelzest plc
- *Parker Hannifin Corporation acquires Vansco Electronics*
Advised Parker Hannifin Corporation
- *ING Canada acquires Allianz of Canada*
Advised ING Canada

Presentations

- Labour, Employment and Human Rights National Update, Labour, Employment and Human Rights Group Seminar, February 22, 2012
- Employee Privacy Rights: New Limits on Employer's Ability to Monitor Employee Computer Usage?, Labour, Employment and Human Rights Group Seminar, June 8, 2011
- 26th Fasken Forum, Labour, Employment, Human Rights, Pensions & Benefits Conference, April 1, 2011
- Wrongful Dismissal - New Issues and Recent Cases, Labour, Employment and Human Rights Group Seminar, November 24, 2010
- National Human Rights Seminar, Toronto, June 3, 2008

Areas of Practice

Labour, Employment and Human Rights
 Collective Bargaining
 Employment Equity
 Employment Law Advice
 Employment Standards
 Human Rights
 Labour Relations
 Pay Equity
 Workers' Compensation / Occupational Health and Safety
 Research

Education

BA (Hons),
 University of Western Ontario,
 1998
 LLB,
 University of Western Ontario,
 2001

Year of Call

Ontario, 2002

Languages

English
 Greek

- Ontario's Employment Standards Act, 2000: Complaints, Investigations and Enforcement, Speaker, Lorman Education Services Seminar: Employment Standards Act, July 31, 2007
- Fasken Martineau National Human Rights Seminar, May 25, 2007
- Bridging the Gap: Human Rights and Workers Compensation, Speaker, Lorman Education Services Seminar: Workplace Safety and Insurance, March 30, 2007
- 22nd Labour, Employment, Human Rights, Pension & Benefits Conference, February 8, 2007
- Facing Harassment and Discrimination in Civil Actions, Fasken Martineau Annual Labour and Employment Seminar, 2005
- The Expanding Definition of Marital Status and Family Status, Faskem Martineau Annual Human Rights Conference, 2004
- Appealing WSIB Decisions: Exploring WSIAT, Workplace Safety and Insurance, Lorman Education Services, 2004
- Gambling, Smoking and Alcohol Addiction in the Workplace, Fasken Martineau Annual Human Rights Conference, 2003

Publications

- "Canada's Ontario Court of Appeal's Ruling Muddies the Waters as to Employee Privacy Rights Regarding Use of Workplace Computers", World Data Protection Report, BNA International, Vol.11, No.6, June 2011
- "The HR Space: Love Lost: Court Refuses to Defer Buyback of Employee's Shares to End of Notice Period", Labour, Employment and Human Rights Bulletin, May 10, 2011
- "The HR Space - Special Bulletin - Workplace Computer Pornography Ruling: Police Need Search Warrant; Employer Has Latitude", Labour, Employment and Human Rights Bulletin, March 24, 2011
- "Employees Fired for Facebook Postings", Internet and E-Commerce Law in Canada, LexisNexis Canada Inc., February 2011
- "Arbitrators Uphold Distinction Between Workplace and Living Room", Ultimate HR Manual, CCH Canadian Limited, February 2011
- "The HR Space: Tech Employee Fired for Egregious Computer Use – Termination Justified", Labour, Employment and Human Rights Bulletin, January 18, 2011
- "The HR Space: Employees Fired for Facebook Postings", Labour, Employment and Human Rights Bulletin, November 17, 2010
- "Landmark Supreme Court of Canada Decision Significantly Alters the Law Regarding Damages in Wrongful Dismissal Cases", Labour, Employment and Human Rights Law Bulletin, July 2008
- "Arbitrator Affirms Prohibition against Random Drug Testing", Beyond Results Bulletin, August 2007
- "Hours of Work and Overtime Litigation on the Rise", Labour, Employment and Human Rights Bulletin by Maria Giagilitsis and Ian Campbell, June 2007
- "Arbitrator Affirms Prohibition Against Random Drug Testing", Labour, Employment and Human Rights Bulletin by Maria Giagilitsis and Ralph Nero, April 2007
- "The End of Mandatory Retirement in Ontario", Labour, Employment and Human Rights Bulletin, January 2007
- "Human Rights Reform is Coming to Ontario", Labour, Employment and Human Rights Bulletin by Maria Giagilitsis and Ralph Nero, December 2006

- "Changes to Family Medical Leave in Ontario", Labour, Employment and Human Rights Bulletin by Martin Denyes and Maria Giagilitsis, October 2006
- "Superior Court Affirms Limitations Upon Employers' and Unions' Duty to Accommodate Religious Beliefs", Labour, Employment and Human Rights Bulletin by Ralph N. Nero and Maria Giagilitsis, November 2002
- "Alberta Court: Proceeds on Demutualization of Insurance Carrier Belong to Employees", Labour, Employment and Human Rights Bulletin by Ralph Nero and Maria Giagilitsis, October 2002

Memberships and Affiliations

- Member, Canadian Bar Association
- Member, Hellenic Canadian Lawyers' Association

Community Involvement

- CHILD YOUTH ADVOCACY PROGRAM, PRO BONO COUNSEL (2003 - PRESENT)
Maria has been retained as pro-bono counsel and has provided legal advice for numerous clients of this leading provider of legal advocacy services for underprivileged children in Toronto
- LORMAN EDUCATION SERVICES, VOLUNTEER EDUCATOR (2004 - PRESENT)
Maria has been invited to lead various continuing education seminars for this organization's members, consisting of human resource professionals from various industries across Ontario.



David T. McDonald

Partner

Vancouver

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David McDonald conducts a law practice that includes representing employers as counsel before the Canada Industrial Relations Board, the B.C. Labour Relations Board, at labour arbitrations, at all levels of court and at administrative tribunals. He regularly acts as the spokesman for employers in collective bargaining, whether it is a first collective agreement or the renewal of an existing collective agreement. David assists clients by seeking court injunctions during labour disputes. He regularly advises clients on all aspects of labour relations and employment law and provides seminars on labour relations and employment law to clients and professional organizations.

David provides legal services through David T. McDonald Law Corporation.

Areas of Practice

Labour, Employment and Human Rights

Alternative Dispute Resolution

Collective Bargaining

Employment Law Advice

Employment Standards

Human Rights

Labour Relations

Education

LLB,
University of British Columbia,
1997

BA,
McGill University, 1994

Year of Call

British Columbia, 1998

Presentations

- Labour, Employment and Human Rights National Update, Labour, Employment and Human Rights Group Seminar, February 22, 2012
- ForeFront: Labour, Employment and Human Rights Training Workshops, Labour, Employment and Human Rights For Pay Seminar Series
- Municipal Client Seminar, Fasken Martineau Seminar, September 24, 2008
- Update on Labour Board, Labour Arbitration and Labour Relations Conference, Continuing Legal Education Society of British Columbia, May 30, 2007
- Legal Update - Latest on All Fronts, 2007 Annual Conference, Human Resources Management Association of British Columbia, May 2007
- Impact of the Charter of Rights, the Human Rights Code and the ESA on the Collective Agreement, Lancaster House Labour Arbitration Conference, December 2006
- Legal Potpourri of Recent Developments in Privacy, Human Rights, Employments and Labour Relations, 2006 Annual Conference, Human Resources Management Association of British Columbia, April 19-21, 2006
- Legal Developments in Labour Relations: Union & Employer Strategies and Tactics in an Organizing Campaign in the Age of Technology, Western Canada Labour & Employee Relations, Insight Information, January 2006

Publications

- "The HR Space: Demotion Inappropriate Response to Poor Performance", Labour, Employment and Human Rights Bulletin, January 25, 2012
- "The HR Space: The Ghost of Christmas Past: Firing Union Supporters Can Come Back to Haunt You", Labour, Employment and Human Rights Bulletin, January 5, 2011
- "CLE Annual Review of Law and Practice, Labour Relations Board Update", by Gavin Hume, Q.C. and David McDonald, 2000-2009

Memberships and Affiliations

- Labour Law and Employment Law Sections, Canadian Bar Association (BC Branch)
- British Columbia Industrial Relations Association
- Canadian Association of Counsel to Employers

Community Involvement

- President and Board member, Endeavour for the Benefit of the Arts, Sciences and Health
- Member, Seaforth Highlanders Regimental Association



Dominique Monet

Partner

Montréal

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Areas of Practice

Labour, Employment and Human Rights

Pensions and Benefits

Human Rights

Collective Bargaining

Education

B.C.L.,
McGill University, 1983

LLB (Hons),
McGill University, 1984

Year of Call

Québec, 1985

Ontario, 2009

Languages

French

English

Dominique Monet is leader of the National Labour, Employment and Human Rights practice group which is comprised of almost 90 lawyers in offices located in Quebec City, Montreal, Ottawa, Toronto, Calgary and Vancouver. He practices labour and employment law and has acquired particular expertise in the area of pensions and benefits. He represents a wide array of clients from various economic sectors such as high technology, consulting engineering, print media, financial services, food and beverages, heavy equipment and restaurants. Dominique is well experienced in both the conciliatory and contentious aspects of legal work.

In the area of pension plans, Dominique regularly advises his clients on pension fund management, corporate governance, plan content and amendment, issues related to surpluses, deficits and contribution waivers and, in general, all legal issues related to pension funds and other group retirement savings plans. He handles many inter-provincial cases and represents employers in this sector before arbitrators and courts, mainly in class actions and extraordinary remedies.

Representative Experience

- *Canadian publisher concludes renewed and increased credit facilities*
Advised the syndicate of lenders
- *AECOM completes cross-border acquisition of RSW*
Advised the principal shareholders of RSW Inc.
- *FCI sells North American-based electrical division to Hubbell for US\$360 million*
Advised FCI S.A.
- *Southfield Capital Advisors invests in Reinforced Plastics Systems*
Advised Southfield Capital Advisors
- *International Automotive Components completes Collins & Aikman soft trim acquisition*
Advised International Automotive Components Group North America
- *Association des Policiers provinciaux du Québec v. Sûreté du Québec*
Successfully represented the Sûreté du Québec before the Superior Court and the Court of Appeal of Québec
- *Marek Kopczynski v. RSW inc.*
Successfully represented the consulting engineering firm RSW Inc. before the Superior Court and the Court of Appeal of Québec
- *Dale-Parizeau LM and Morris & Mackenzie merge - Hunter Keilty Muntz & Beatty acquires part of Morris & Mackenzie's business*
Advised Dale-Parizeau LM Inc.
- *MAAX acquired by investor group for \$640 million*
Advised the investor group
- *Kerry (Canada) acquires Metarom Canada*
Advised Kerry (Canada) Inc.

Presentations

- Labour, Employment and Human Rights National Update, Labour, Employment and Human Rights Group Seminar, February 22, 2012
- 26th Fasken Forum, Labour, Employment, Human Rights, Pensions & Benefits Conference, April 1, 2011
- Flash Training 2009 Fall Session - Pension Plans: Challenges and New Trends, Labour, Employment, Human Rights, and Public Law Group, December 2, 2009
- 2009 Labour, Employment and Human Rights Update, Fasken Martineau Labour, Employment and Human Rights Seminar, October 30, 2009
- Landmark Pension Decision - What the Kerry Canada Decision Means to You, Seminar discussing the landmark pension decision in *Nolan v. Kerry (Canada) Inc.*, August 20, 2009
- Fourth Edition – Duty to Accommodate, Insight Information, February 24-25, 2009
- Quick training - 8:00 a.m. to 10:00 a.m., The Labour, Employment, Human Rights, and Public Law Practice Group, December 2008 to May 2009
- Labour-Management Relations, September 26-27, 2006
- Psychological Harassment and Mental Health, June 6-7, 2006
- National Human Rights Seminar, May 26, 2006
- 2nd Conference on Pension Plans, Presented by Insight Information, November 16-17, 2005
- How to Minimize the Risk of Pension Litigation, September 23, 2005
- Second Conference on Dismissals in Québec, September 19-20, 2005
- Enjeux à considérer pour les Régimes de retraite lors de fusion et acquisition, Canadian Institute, 14th forum on pension fund management, November 8, 2004

Publications

- "The HR Space: Blowing Holes in Collective Agreements", Labour, Employment and Human Rights Bulletin, October 5, 2010
- "Accommodements raisonnables : jusqu'où l'employeur doit-il aller? (Reasonable Accommodations: How Far Must Employers Go?)", Avantages - Tribune libre, April 2009
- "Special Parliamentary Proceedings in Quebec to Address Pension Shortfalls", Pensions and Benefits Bulletin, January 2009
- "The Hydro-Quebec Case: An Important Update On The Duty To Accommodate", Labour, Employment and Human Rights Law Bulletin, July 2008
- "Bill 30 has been adopted", by Dominique Monet, Lyne Duhaime and Pierre-Yves Châtillon, December 2006
- "Beyond Results", Fall-Winter 2005
- "Class actions, pension funds and actuarial surpluses: the Hydro-Québec case", April 22, 2005
- "The proposal for a model pension law in Canada", by Dominique Monet, April 2005
- "Québec pension plan administrator sued in class action", January 12, 2005
- "L'application de l'arrêt Wallace c. United Grain Growers au Québec", Développements récents en droit du travail, Les Éditions Yvon Blais, 1999

- "La réforme du Code canadien", Développements récents en droit du travail, Les Éditions Yvon Blais, 1997
- "Qui a la compétence sur le harcèlement au travail?", Développements récents en droit du travail, Les Éditions Yvon Blais, 1995

Memberships and Affiliations

- Member, Barreau du Québec
- Member, Law Society of Upper Canada (Ontario)
- Member, Bar of Montréal
- Member, Canadian Bar Association
- Member, International Pension and Employee Benefits Lawyers Association (IPEBLA)
- Member, Advisory Committee of la Régie des rentes du Québec
- Member, Canadian Pension & Benefits Institute
- Member of the Board, The Canadian Club of Montréal (2002-2007)
- Member of the Editorial Board of the McGill Law Journal (1982-1984)

**FACT SHEET
LABOUR, EMPLOYMENT & HUMAN RIGHTS GROUP**

FACTS

Chambers Global (2011) ranks our team in Employment, Labour and Pensions and ranks two of our lawyers as leaders in this field

Best Lawyers in Canada (2011) recognizes 13 of our lawyers in the area of Labour & Employment

Legal Media Group's Expert Guide to the World's Leading Labour and Employment Lawyers (2009) recognizes our Labour & Employment practice

Canadian Legal Lexpert Directory (2010) recognizes Fasken Martineau's Labour Relations expertise across our major Canadian regions as "Most Frequently", "Consistently" or "Repeatedly" recommended, and individually recognizes six of our lawyers

Labour, Employment & Human Rights

Keeping good employees happily motivated and engaged in their work is an ongoing challenge for employers. With the right legal advice, you can maintain an efficient workplace and stay focused on achieving your business objectives. Fasken Martineau's Labour, Employment & Human Rights Group provides creative business solutions to the issues you face. We have one of Canada's largest national practices, with offices in each of the major cities across Canada, and a growing European practice with employment specialists in London and Paris supported by a network of international contacts. We are ready to advise you on all areas of labour, employment, pensions and benefits and human rights law.

Our Clients

We have a long history of representing employers in all aspects of labour law. This service includes offering strategic and tactical advice as well as representing employers before arbitration boards, provincial labour boards, the Canada Industrial Relations Board, various other administrative tribunals and all levels of Court in each of the provinces and countries in which we operate. Clients benefit from our:

- **Strategic mindset** – Our approach is to emphasize advice and planning to minimize time and costs associated with litigation.
- **Network of contacts** – Our team is comprised of recognized leaders in the field who represent employers from all facets of industry and government. We have in-depth and up-to-date knowledge of all federal, provincial and local legislation affecting employers.
- **Prudent approach to litigation** – We have a solid track record of successfully representing our clients in the courts and before federal and provincial administrative boards. But in many situations, we are able to defuse tensions by providing practical, innovative business solutions and timely advice.

Our Expertise

Labour matters, including:

- Certification and decertification applications
- Collective agreement interpretation
- Collective bargaining
- Common employer and successorship applications
- Contracting out disputes
- Discipline and discharge cases
- Grievance arbitration
- Organizing campaigns
- Strike, picketing and replacement worker applications
- Unfair labour practice complaints and proceedings.

Human rights and related laws, including:

- Discrimination and harassment
- Accommodations from defined disabilities
- Draft human rights, diversity/equal opportunities and drug and alcohol policies
- Act as counsel at tribunal and court hearings and judicial reviews.

Employment matters, including:

- Business mergers and acquisitions
- Employment and pay equity
- Employment standards
- Hiring and termination advice, including drafting employment contracts
- Immigration
- Investigations
- Employee privacy and data protection
- Workers' Compensation and Occupational Health and Safety
- Wrongful and unfair dismissal litigation.

Pension and benefits advice, including:

- Pension plan funding, investment, governance, termination and wind up
- Pension litigation and class action claims
- Post-retirement benefits and supplementary pensions
- Health and welfare benefit plans
- Profit sharing, share option and incentive schemes.

FACT SHEET

Selected Experience

Counsel to **Kerry (Canada) Inc.** before the Supreme Court of Canada in the successful resolution of a landmark pensions case regarding use of surplus assets and payment of plan expenses.

Counsel for the last twelve years to **The Gazette**, a daily newspaper belonging to the Postmedia media group, in a major dispute involving the scope of job security provisions involving technological change that were negotiated in the 1980s with various Typographical Unions across North America.

Counsel to a leading Canadian petroleum business, **Suncor** (previously **Petro Canada**), in all aspects of a major labour dispute between 2007 and 2009 and included collective bargaining, strategic advice and representation before the Labour Board and arbitrators and negotiation of a final settlement.

Counsel to **Desjardins Credit Union** on employment matters in relation to its amalgamation with Meridian Credit Union to create the largest credit union in Ontario with 263,000 members and \$8 billion in assets under administration.

Counsel to **DundeeWealth** on employment and equity incentive plans with regard to its \$2.3 billion acquisition by Scotiabank.

Counsel to **MTS Allstream** in a dispute with a former employee before the Federal Court of Canada in which the court confirmed limitations on the employer's duty to accommodate.

Counsel to UK-based **Diploma PLC** on employment matters in connection with its cross-border acquisition of Carsen Medical Inc. of Canada, a leading distributor of medical devices and services to hospitals and clinics across the country.

Counsel to **GS Engineering & Construction Ltd.** of South Korea on employment aspects of its \$310 million contract with Korea National Oil Corp. to build an oilsands project in northern Alberta.

Counsel to **PricewaterhouseCoopers LLP** on employment aspects of the sale of its personal insolvency practice in various provinces across Canada to Meyers Norris Penny LLP.

Counsel to **Daimler AG** in the reorganization of the Chrysler manufacturing and financial services businesses.

Counsel to **York University** in renewing a three-year collective agreement with York University Staff Association, bringing to a successful conclusion three months of negotiations.

Counsel to logistics company **Progistix-Solutions Inc.** in a leading arbitration case regarding the right to search employees' belongings upon exiting work.

Counsel to **participating employers** in a landmark settlement of court and regulatory actions regarding deficits upon wind up of insolvent multi-employer pension plan.

Counsel to **Yildiz Holding A.S.** in the US\$850 million acquisition of the Godiva Chocolatier business from Campbell Soup Co.

Counsel to both **Rio Tinto Alcan Inc. and Bechtel Canada Holdings Inc.** in respect of the \$2.6 billion expansion/rebuild of the Aluminum Smelter in Kitimat, British Columbia.

Counsel to the **City of Vancouver** in a recent leading arbitration dealing with enhanced security and police record checks of unionized employees.

Counsel to **Hilton Canada Co.** in the sale of its last five Canadian hotels for approximately \$243 million.

Counsel to **Molson Inc. and Adolph Coors Co.** in a transaction to combine Molson and Coors in a merger of equals. The deal, valued at approximately \$7.7 billion, created the world's fifth largest brewer by volume.

Counsel to the **Government of Québec** before the Courts and Labour Relations Board in defending the Government's negotiations and subsequent special public sector legislation, enacted in December of 2005.

Our Paris office has advised on a broad range of employment matters, including employment litigation (collective and individual), the transfer of employees and sales of assets and going concerns, and employee shareholding for clients in a range of industries including: aeronautics, animal foods, chemical manufacturing, cigarettes and alcohol manufacturing, cosmetics, investment funds, shipyards, tooling equipment, toys and the theatrical industry.

Counsel to **Curtis Products Corporation** in leading arbitration case regarding employment standards claims under union agreement.

Counsel to **Sunnybrook Health Sciences Centre** at arbitration regarding alleged change of grounds for termination.

Counsel to **GlobeGround North America Inc.** before Canada Industrial Relations Board in sale of business application.

Counsel to **St. Michael's Hospital** in judicial review of Human Rights Commission decision.

Counsel to **Host Marriot Corporation** on its acquisition of 38 luxury hotels from Starwood Hotels and Resorts Worldwide Inc valued at approximately US\$4 billion.

Counsel to **MessageLabs** on the UK and worldwide aspects of its acquisition by Symantec for US\$695 million.

Counsel to an **international mining company** in relation to a religious discrimination claim brought by a UK employee, valued at approximately GBP£50 million.

