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Employment Law: Staying Current in Critical Times

Chaired by
Randy J. Kaardal
Hunter Litigation Chambers

June 25th, 2009 • UBC Robson Square • Vancouver, BC

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CHAIR



Randy J. Kaardal, Partner, Hunter Litigation Chambers, Vancouver, BC. Mr. Kaardal is a senior litigator and has conducted hearings before all levels of court in Canada, including the Supreme Court of British Columbia, the British Columbia Court of Appeal and the Supreme Court of Canada. He regularly appears before various administrative tribunals including the BC Securities Commission, the Federal and Provincial Human Rights Tribunals and the Environmental Appeal Tribunal. He represents a wide range of clients that vary in size and operate in the natural resource, manufacturing, service and public sectors. In addition, Mr. Kaardal maintains a labour and employment practice representing both employers and employees and has appeared in arbitration hearings before both the Federal and Provincial Labour Relations Boards.

FACULTY



Susan P. Arnold, Partner, Heenan Blaikie, Vancouver, BC. Ms. Arnold is an expert in administrative, labour and employment law. She acts for public and private sector employers under provincial and federal jurisdiction. She has considerable experience before the Canada Industrial Relations Board, the British Columbia Labour Relations Board, the British Columbia Human Rights Tribunal and arbitration boards on labour and employment matters. Ms. Arnold sat on the Committee of Special Advisors to the Government of British Columbia for the *Review of the Employment Standards Act*. She is a former adjunct professor in the Faculty of Law, University of British Columbia, where she taught labour, employment and human rights.



Michael Howcroft, Partner, Blakes LLP, Vancouver, BC. Mr. Howcroft is a partner in the Labour & Employment Group. His practice includes advising clients on a wide range of labour and employment law matters, including: wrongful dismissal; post-employment competition by former employees; labour relations; human rights; employment standards; and occupational health and safety. He also has provided employment advice in relation to a number of commercial transactions and has assisted clients in preparing both employment policies and written employment contracts. Mr. Howcroft has appeared before all levels of courts in BC as well as the Labour Relations Board, the Human Rights Tribunal and the Employment Standards Tribunal. He has written several articles on matters pertaining to employment law. Mr. Howcroft is a member of the British Columbia Employment Law, Labour Law and Human Rights Subsections of the Canadian Bar Association. He is also a member of the BC Human Resources Management Association.



Derek Knoechel, Associate, Fasken Martineau, Vancouver, BC. Mr. Knoechel practises in the Labour, Employment and Human Rights Group. His focus is on providing employers with strategic advice to minimize risk of litigation. He has advised on: collective bargaining; the introduction of pre-employment aptitude testing; the revision of drug and alcohol policies; and the drafting of employment agreements. Mr. Knoechel has experience with disputes arising from claims of wrongful dismissal and wrongful resignation, enforcement of post-employment contractual and common law obligations, grievance arbitrations, as well as employment standards and human rights claims. He has appeared as counsel at mediations, arbitrations and in the British Columbia Provincial and Supreme Courts. His practice also involves applications for injunctive relief in both labour and employment disputes. Mr. Knoechel has a particular professional interest in the protection of confidential information, trade secrets and other intellectual property, participating in the 2005 International IP Program at St. Peter's College at the University of Oxford. Mr. Knoechel is a member of the British Columbia Employment Law and Labour Law Subsections of the Canadian Bar Association. He is also a member of the BC Human Resources Management Association.



Murray Tevlin, Partner, TevlinGleadle Employment Law Strategies, Vancouver, BC. Mr. Tevlin began his career in 1979 as Crown Counsel prosecuting criminal cases in Vancouver trial courts. He later joined what is now Fasken Martineau and became a partner in the labour department. In 1992, he became a founding partner of the employment and labour law firm, Harris and Company, specializing in trial and appeal work, arbitration and mediation and employment related disputes. In 2000, he co-founded TevlinGleadle Employment Law Strategies, a law practice focusing exclusively on legal and strategic issues arising out of the employment relationship. Mr. Tevlin has been successful counsel on many of the leading cases in British Columbia employment law, as well as several nationally significant cases. However, the majority of the outstanding practical results achieved for clients is arrived at through planning, negotiation and, where necessary, dispute resolution. Mr. Tevlin is noted in the *Lexpert Employment Law Guide* as "Consistently Recommended" by peers and clients and is also recognized in the *Legal Media Group - Guide to the World's Leading Labour and Employment Lawyers* as a leader in Canada.

EMPLOYMENT LAW: STAYING CURRENT IN CRITICAL TIMES

In times of economic uncertainty, employment law develops at a rapid pace. Significant legal decisions from the past year have impacted human rights practices and employment law. As the recession intensifies, the need to stay on top of legal changes and best practices is essential.

This focused one-day course provides an in-depth look at the top five areas in employment law in today's challenging market. Experienced leaders in employment law will provide you with the most up-to-date legal developments and best practices for achieving practical results, minimizing litigation risk and – where necessary – navigating ADR processes and litigation.

YOU WILL LEARN:

- 1. How to handle terminations** — What are the current case law and statutory requirements? How do obligations owed to employees differ from those owed to independent contractors? What are valid causes for termination? How do you calculate buy-outs in times of economic contraction? What are the best practices that will avoid liability and keep business running smoothly?
- 2. What the new face of accommodation and discrimination looks like** — What is required by current case law? What are the benchmarks for disability leaves and accommodation? This topic will offer practical solutions to special situations, such as: When the duty to accommodate arises; how an employer can respond to absenteeism on the part of an employee being accommodated; and how an employer controls performance management while accommodating an employee.
- 3. How to create and execute policies that comply with legislation and minimize employer risk** — What are the legislative obligations? What are the key considerations for developing workplace policies? What are the essential elements of a successful program?
- 4. The latest developments on class actions** — What are the most recent developments? What are their practical implications?
- 5. What the current requirements and expectations are in terms of damages and remedies** — What have the courts said about damages for manner of dismissal, lack of accommodation, human rights violations and ineffective workplace policies? What are the courts ordering in terms of remedies?

THIS COURSE IS INTENDED FOR:

- Employment lawyers
- In house counsel
- Human resource consultants & policy analysts
- Arbitrators & mediators
- Vice-presidents, directors & managers of all of the following:
 - Human resources
 - Training & development
 - Labour & employee relations
 - Organizational effectiveness

EMPLOYMENT LAW: STAYING CURRENT IN CRITICAL TIMES

THE AGENDA

9:00 Welcome and Introduction

Randy J. Kaardal
Hunter Litigation Chambers

TERMINATING THE EMPLOYMENT RELATIONSHIP

9:10 Handling Terminations after the Meltdown – Business as Usual?

Murray Tevlin
TevlinGleadle Employment Law Strategies

- New case law
- Statutory obligations
- Obligations to employees versus independent contractors
- Causes for termination: Breach of duty of loyalty to employer
- Best practices for termination: Avoiding liability
- Calculation of buy-outs – notice, perks and bonuses – in times of economic contraction

10:10 Questions and Discussion

10:25 Refreshment Adjournment

ACCOMMODATION AND DISCRIMINATION

10:45 The New Face of Accommodation and Discrimination

Michael Howcroft
Blakes LLP

- New case law from the Supreme Court of Canada (*Honda Canada Inc v. Keays*)
- What is now required in terms of accommodating disabilities (including addictions and chronic pain)?
- What are the new legal benchmarks for accommodation and disability leaves?
- What are the human rights responsibilities of the employer?
- Practical considerations and special situations: When does the duty to accommodate arise?
- How can an employer respond to absenteeism by an employee who is being accommodated?
- How does an employer control the performance management process while accommodating an employee?

11:45 Questions and Discussion

12:00 Luncheon Adjournment

NEW HEALTH AND SAFETY STANDARDS

1:30 Creating and Executing Policies that Comply with Legislation and Minimize Your Risk

Susan P. Arnold
Heenan Blaikie

- Summary of legislative obligations
- Key considerations
- Essential elements of a successful program

2:15 Questions and Discussion

2:25 Refreshment Adjournment

CLASS ACTIONS

2:40 Class Action Update

Randy J. Kaardal
Hunter Litigation Chambers

- The most recent word on class actions
- What does this mean in practical terms
- Directions for the future

3:25 Questions and Discussion

DAMAGES

3:35 An In-Depth Look At Damages and Remedies

Derek Knoechel
Fasken Martineau

- The current requirements/expectations for damages related to:
 - Manner of dismissal
 - Lack of accommodation
 - Human rights violations
 - Ineffective workplace policies
- Remedies update

4:20 Questions and Discussion

4:30 Chair’s Closing Comments and Conference Concludes

Information

Four Ways to Register:

1. Telephone us: 604-730-2500 or toll free 877-730-2555
2. Fax us: 604-730-5085 or toll free 866-730-5085
3. Mail your registration form with payment
4. Register at www.pbli.com/795

Registration: The registration fee is \$650.00 plus GST (R122967011) of \$32.50 totalling \$682.50 covering your attendance at the conference, written materials, a light breakfast and refreshments during the day.

Payment: You may pay by VISA, MasterCard or cheque. Cheques should be made payable to the Pacific Business & Law Institute. Registration fees must be paid prior to the conference.

When & Where: Check-in begins at 8:30 a.m. The conference starts at 9:00 a.m. UBC Robson Square is located at 800 Robson Street, Vancouver, BC. Please visit www.robsonsquare.ubc.ca for directions.

Materials: The faculty will prepare papers and other materials explaining many of the points raised during this conference. Please contact us if you are unable to attend the conference and wish to purchase a set of materials.

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Cancellations: Full refunds will be given for cancellations if notice is received in writing five full business days prior to the conference (June 18th, 2009). Unfortunately, after that time we are unable to refund registration fees, however substitutions will be permitted. We reserve the right to cancel, change or revise the date, faculty, content or venue of this event.

Your Privacy: We will keep all information that you provide to us in strict confidence, other than to prepare a delegate list containing your name, title, firm and city for our faculty and the conference delegates. We do not share our mailing lists with any non-affiliated organization.

Removal of Your Name from Our Announcement List: If you do not wish to receive announcements of future events on this or any other topic, please call 604-730-2500 or e-mail remove@pbli.com and we will permanently delete you from our mailing list.

Registration Form

Pacific Business & Law Institute

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