

# Labour and Employment

## SUMMARY

Whether you need proactive advice on the legal impacts of proposed workplace changes or you need effective litigators to handle labour/employment disputes, BLG's Labour and Employment Group will work with you to drive results.

Our Labour and Employment Group offers the right advice as it applies to:

- Human resources, including drafting and litigating employment contracts, restrictive covenants, compensation, severance and stock option agreements, human rights/accommodation, attendance management, employment policy manuals, health and safety standards, health and welfare plans, pension and benefits and business immigration
- Conducting training and investigations, including in the areas of harassment, human rights or fraud allegations
- Labour relations advice and litigation services, including defending unionization claims, collective bargaining representation, unfair labour practice and bad-faith bargaining complaints, strikes, lockouts and picketing injunctions, successorships, common employer applications, grievances and arbitration
- Litigating cases at all levels of Court in the areas of wrongful dismissal, constructive dismissal, just cause dismissal and other civil litigation, as well as litigating before administrative tribunals such as human rights tribunals, labour relations boards, employment standards adjudicators, workers compensation boards, pay equity tribunals and occupational health and safety adjudicators
- Advising on and litigating cases resulting from mergers, acquisitions, outsourcing transactions, relocations and closures

To give you the full breadth of BLG's expertise, members of the Labour and Employment Group work closely with our lawyers in other specialized areas, including lawyers in the fraud group, the mergers and acquisitions group and the bankruptcy and insolvency group. No matter what industry you work in, we can quickly assemble a team to handle your labour and employment needs.

Because we have Labour and Employment specialists in all of BLG's offices, we are well-positioned to provide you with timely, effective strategies to deal with national labour and employment issues. Whether you are concerned with issues on a local level or Canada-wide, BLG's Labour and Employment Group can partner with you to design a solution that accomplishes your business needs.

## PUBLICATIONS

### Publications

- Georges Audet, Robert Bonhomme, Clément Gascon, Myriane Le François, "Le congédiement en droit québécois en matière de contrat individuel de travail," Third Edition., Cowansville, Québec: Éditions Yvon Blais (loose-leaf, updated three times a year), 1991.
- Eric Roher and Maciej Lipinski, "Ontario Employment Standards Act: Quick Reference," (first published in 2000; updated annually through and including 2018).

- Matthew L.O. Certosimo, Michelle S. Henry, "Canadian Labour Reporter Special Report: Dismissals in the Unionized Workplace," Third Edition, Carswell, 2015.
- Didier Dubois, Émilie Pelletier, Katherine Poirier, "Comment bâtir une politique d'utilisation des médias sociaux," Thomson Reuters, 2011.
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- Matthew L.O. Certosimo, "Just Cause: The Law of Summary Dismissal in Canada," Canada Law Book, 1998.

#### Recent Client Bulletins

- ["Non-Disparagement Clauses in Québec: A Case Study,"](#) December 2018.
- ["New Pay Equity Obligations on the Horizon for Federally Regulated Employers,"](#) December 2018.
- ["Employers, Time to Rethink Your Releases!,"](#) December 2018.
- ["Reasonable Notice of Resignation Given by an Employee to His Employer: Where Do We Stand Today?,"](#) December 2018.
- ["Holiday Parties in the Cannabis Age,"](#) December 2018.
- ["The End of Round Two in the Dispute over the Right of Managers to Unionize,"](#) December 2018.
- ["Labour & Employment Law in Canada,"](#) November 2018.
- ["What's Old is New: Government Passes Bill 47 and May Delay the Pay Transparency Act,"](#) November 2018.
- ["Bill C-86: Federal Government Proposes Significant Changes to Minimum Labour Standards of Canada Labour Code,"](#) November 2018.
- ["Possible Changes to Long-term Care Home Regulations Regarding Cannabis,"](#) November 2018.
- ["You Can Go Your Own Way: Notice Periods and the Aging Workforce in Ontario,"](#) November 2018.
- ["Volunteer Firefighter Leave Hosed Down in Alberta,"](#) November 2018.
- ["Swift Termination: Is Protecting a Company's Reputation at All Costs the Endgame in the #MeToo Era?,"](#) November 2018.

- ["Court of Appeal Holds: Senior Manager Negligent in Performing His Leadership Duties Entitled to No Indemnity in Lieu of Prior Notice,"](#) November 2018.
- ["Making Ontario Open For Business Act, 2018 Could Close the Door on Bill 148,"](#) October 2018.
- ["Impact of the New Mandatory Breach Notification Requirements under PIPEDA on Pension Plan Administration,"](#) October 2018.
- ["Legalization of Cannabis — What Employers Should Know,"](#) October 2018.
- ["The Supreme Court Rules: Parliamentary Privilege Not a Carte Blanche for Termination,"](#) October 2018.
- ["Ontario Government Proposes to Allow Cannabis Smoking and Vaping in Public Places,"](#) October 2018.
- ["Ontario Court of Appeal Examines Mass Termination Requirements,"](#) October 2018.
- ["Court of Appeal Affirms Exercise of Good Faith Requirement in Terminating Contractor Agreement,"](#) October 2018.
- ["The Court of Appeal Rules on an Action for Damages for Breach \(or Not!\) of a Non-Solicitation Covenant,"](#) October 2018.
- ["Saddled with an Incompetent Employee? Are you Really Obligated to Reassign him to Another Job before Terminating his Employment?,"](#) October 2018.
- ["Are Canadian Employees Concerned about the Right to Disconnect?,"](#) October 2018.
- ["Canada's Labour Market: The True North, Strong and Free,"](#) September 2018.
- ["New Funding Rules for Ontario Pension Plans,"](#) September 2018.
- ["Cannabis: Transitional Period Granted to Prohibit Smoking under Leases,"](#) September 2018.
- ["Employers Experiencing Increased Enforcement in Response to Audit of Temporary Foreign Worker Program,"](#) September 2018.
- ["The New BC Employer Health Tax and Its Intersection with Medical Services Plan Premium,"](#) September 2018.
- ["What's the Origin of Your Name?" – A Discriminatory Question or Not?,"](#) September 2018.
- ["Executive Compensation Freeze Returns to the Broader Public Sector,"](#) August 2018.
- ["Game, Set, Equality! The Human Rights Tribunal's Decision on Gender Equality in Recreational Tennis,"](#) August 2018.
- ["The Socially Unacceptable Nature of a Criminal Offence Does Not Automatically Justify the Dismissal of the Convicted Employee,"](#) August 2018.
- ["Loyalty vs. Freedom of Expression: Who Wins the Battle in the Social Media Ring,"](#) August 2018.
- ["AODA Compliance Update,"](#) August 2018.
- ["BLG Podcast,"](#) July 2018.
- ["Legislated Drug Testing in the Workplace,"](#) July 2018.
- ["B.C. Court of Appeal Adopts a New Approach to Contractual Amendments,"](#) July 2018.

- ["Don't Go Out of Bounds! A Commentary on the Supreme Court of Canada's Decision in Bruce V. Cohon," July 2018.](#)
- ["Temporary Layoffs of Professionals Hired on a Yearly Basis May Terminate their Employment Contracts," July 2018.](#)
- ["Canada's Expanded Biometrics Program to Take Effect on July 31, 2018," June 2018.](#)
- ["The New Provincial Government has Postponed the Implementation of the SFOA Indefinitely," June 2018.](#)
- ["Significant Changes to the Act Respecting Labour Standards Now In Effect," June 2018.](#)
- ["Time Limit for Filing a Complaint of Psychological Harassment Increased from 90 Days to Two Years," June 2018.](#)
- ["Changes to Alberta's Occupational Health and Safety Legislation Take Effect on June 1, 2018," June 2018.](#)
- ["Arbitrator Finds Employer Sick Leave Plan a "Greater Benefit" Than New Paid Personal Emergency Leave," June 2018.](#)
- ["Court of Appeal Overturns Ruling That Denying Coverage for Medical Cannabis Constitutes Discrimination," June 2018.](#)
- ["Powering Down: Employees and the Legal Right to Disconnect," June 2018.](#)
- ["What is Happening with the New Labour Reality in Alberta?," June 2018.](#)
- ["Is Your Default Investment Option Appropriate for Your Employees?," June 2018.](#)
- ["Supreme Court of Canada Confirms Fine Against Company in Forest Worker's Death," June 2018.](#)
- ["Ontario Police Record Checks Reform Act, 2015 to Come into Force on November 1, 2018," May 2018.](#)
- ["Salaries Paid To Student Employees: An Important Decision by the Québec Human Rights Tribunal Regarding Discrimination Based on Social Condition and Age," May 2018.](#)
- ["Get Your Calculators Out: Ontario Government Reverses Public Holiday Pay Formula Imposed by Bill 148," May 2018.](#)
- ["Arbitrator Allows Video Surveillance of Employees Where Viability of Company at Stake," May 2018.](#)
- ["Breaking Up Is Hard to Do: Dealing With Departing Employees," May 2018.](#)
- ["Ontario Superior Court Upholds Principles of New Employment Agreement for Existing Employee," May 2018.](#)
- ["Ontario Passes The Pay Transparency Act, 2018, Setting Out New Obligations for Employers," April 2018.](#)
- ["Drinking and Driving While Off Duty? Not Always Sufficient Cause for Termination," April 2018.](#)
- ["Commission des normes du travail v. 1845 William Commandité: Employee Status and the Gig Economy," April 2018.](#)
- ["Contentious Labour Relations a Factor in Evaluating Employer Decisions During a Strike," April 2018.](#)

- ["Closing the Gender Pay Gap: Ontario's proposed Pay Transparency Act, 2018,"](#) April 2018.
- ["Introducing the Québec Labour Standards Reform Bill,"](#) March 2018.
- ["The Employer's Obligation to Make Reasonable Efforts to Reassign an Employee Prior to Dismissal for Incompetence,"](#) March 2018.
- ["Teck Coal v United Steelworkers: Yet Another Unjustifiable Random Drug and Alcohol Testing Policy,"](#) March 2018.
- ["Ontario Employment Offers in Asset Transactions — Truly New Employment or Not?,"](#) March 2018.
- ["Clear as Mud: Minimum Entitlements and Termination Clauses — Yet Another Ontario Court of Appeal Decision,"](#) March 2018.
- ["Supreme Court of Canada Adopts a Broad Interpretation of Discrimination "Regarding Employment" under the B.C. Human Rights Code,"](#) March 2018.
- ["The Impact of Dismissal on Cost Sharing and Transfer Procedures Available to Employers: Tightening Up the Criteria,"](#) March 2018.
- ["A Fatal Workplace Accident: A Company President Convicted of Manslaughter,"](#) March 2018.
- ["Recent Employment Law Amendments in Ontario: What Do They Mean for Employers Going Forward?,"](#) February 2018.
- ["Alberta Employer Alert: New Employment Leaves and Where to Find Them,"](#) February 2018.
- ["Supreme Court of Canada Confirms That the Duty to Accommodate Applies to Workers Injured at their Workplace,"](#) February 2018.
- ["The Supervac Decision: The Court of Appeal Ruling,"](#) February 2018.
- ["Employment Law: Key Decisions From 2017,"](#) February 2018.
- ["Business Immigration Update: Citizenship Eligibility, AINP Changes, National Immigration Levels and NAFTA,"](#) February 2018.
- ["Bill C-63 Drives Modernization of the Canada Labour Code.,"](#) February 2018.
- ["Proof and Personal Emergency Leave: Determining what Evidence is "Reasonable in the Circumstances","](#) February 2018.
- ["What to Expect in 2018: New Ontario Employment Standards Announcements You May Have Missed Over the Holidays.,"](#) February 2018.
- ["Proposed Regulations for Discharge of Pension Plan Administrator Regarding Purchase of Annuities,"](#) January 2018.
- ["Human Rights Law: 2017 In Review,"](#) January 2018.
- ["Top 10 Legal Risks for Business in 2018,"](#) January 2018.
- ["New Funding Rules for Defined Benefit Pension Plans in Ontario,"](#) December 2017.
- ["Can a Severability Clause Save You? Ontario's Top Court Weighs in on Termination Provisions, Again,"](#) December 2017.
- ["A Cautionary Tale for Employers Drafting Discretionary Bonus Plans,"](#) December 2017.

- ["Is an Employer Legally Bound to Accept an Employee's Notice of Resignation, No Matter How Early it is Given?,"](#) December 2017.
- ["Deconstructing Industry-Based Prejudices: Sexual Harassment in 2017,"](#) November 2017.
- ["Ontario Passes Game Changing Amendments to Workplace Laws,"](#) November 2017.
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- ["Federal Government Announces Expansion of Parental Benefits and Other Leave-Related Changes Under EI,"](#) November 2017.
- ["The Consequences of Fixed-Term Employment Contracts: A Reminder – Vissa c AECOM Consultants Inc.,"](#) November 2017.
- ["The Superior Court Applies a Penal Clause to Sanction an Employee's Solicitation: The Ex-employee and the Customer Held Jointly and Severally Liable for the Payment Two Years' Salary,"](#) November 2017.
- ["New WSIB Policies on Chronic and Traumatic Mental Stress Coming Into Effect,"](#) November 2017.
- ["Alberta Court of Appeal Rejects Narrow Interpretation of the Irving Test Justifying Random Drug and Alcohol Testing,"](#) November 2017.
- ["Canada Revenue Agency Proposed Change to Tax Employee Benefits,"](#) November 2017.
- ["The 2.0 Approach to Sexual Harassment,"](#) November 2017.
- ["Deadline for 2017 AODA Compliance Report is Coming Up,"](#) October 2017.
- ["You're So Vain, You Probably Think This Song Is... About You?,"](#) October 2017.
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- ["Delgadillo c. Blinds To Go, 2017 QCCA 818: The Concept of "Senior Managerial Personnel" Revisited by the Court of Appeal,"](#) September 2017.
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- ["What do the Big Data Guidelines Mean for Employers?,"](#) August 2017.

- ["B.C. Court of Appeal Overturns Award of 18-Month Severance Package based on an Oral Promise," August 2017.](#)
- ["Can Employers Be Liable for Employees' Loss of Disability Benefits Coverage?," August 2017.](#)
- ["Alberta Employers Cannot Claim "Blanket" Privilege on Materials Following a Workplace Accident," August 2017.](#)
- ["BLG Named a 2017 Canadian HR Reporter Readers' Choice Winner," July 2017.](#)
- ["British Columbia Social Media Update," July 2017.](#)
- ["Mitigation: to Deduct or Not to Deduct Earnings? That Is the Question," July 2017.](#)
- ["'Seriously — this is your last chance!'," July 2017.](#)
- ["Physician with privileges unsuccessful in allegations that Hospital breached Ontario Human Rights Code," July 2017.](#)
- ["Ratification of the International Convention on the Right to Organise and Bargain Collectively," June 2017.](#)
- ["Two BLG Partners Honoured at Lexpert® Zenith Awards," June 2017.](#)
- ["Changes to Broader Public Sector Executive Compensation Framework," June 2017.](#)
- ["Ontario Government Announces Public Hearings on Bill 148," June 2017.](#)
- ["Bill 148: What Could It Mean to the Retail, Service and Hospitality Sectors," June 2017.](#)
- ["Coming into force of the Rules of evidence and procedure of the Administrative Labour Tribunal," June 2017.](#)
- ["Assuming an Employee Has Resigned Can Be Costly for Employers," June 2017.](#)
- ["Don't Just Sleep on It — Sleep Deprivation Can be a Serious Problem for Employees and Employers," June 2017.](#)
- ["Harassment as an Independent Cause of Action," June 2017.](#)
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- ["Labour Dispute at the Société de transport de l'Outaouais: No Essential Services and a Valid Strike Notice," May 2017.](#)
- ["Termination Clause Enforceability: Ontario Court of Appeal attempts to clarify enforceable termination clauses in employment contracts," May 2017.](#)
- ["If You Cannot Say Anything Nice, That May Just Be OK," May 2017.](#)
- ["No Stepping Around It! B.C. Ends Mandatory High Heels in the Workplace," May 2017.](#)
- ["Court Dismisses Union's Application for an Injunction Restraining Random Drug/Alcohol Testing," May 2017.](#)
- ["Does an Employee Have a Reasonable Expectation of Privacy When Using Their Work Computer to Run a Charity?," April 2017.](#)

- ["The 2017 Federal Budget: What Employers Need to Know,"](#) April 2017.
- ["The Legality of Temporary Layoffs in Light of Decisions Recently Rendered in Québec and in Ontario,"](#) April 2017.
- ["The Utility of Probationary Periods Called into Question by Recent BCSC Decision,"](#) April 2017.
- ["Alberta's Labour and Employment Legislation under Review,"](#) April 2017.
- ["Court of Appeal Affirms that Moral Damages May Be Awarded for Employer Misconduct Causing Mental Distress,"](#) April 2017.
- ["How Long and How Much?: Figuring Out Notice Periods and Damages Where an Employee Leaves Without proper Notice,"](#) March 2017.
- ["Alberta Court of Queen's Bench Reigns in Director Liability for Injured Employees,"](#) March 2017.
- ["The Impact of a Dismissal on the Costs of a Workplace Injury in Québec,"](#) March 2017.
- ["Disabled Worker Wins Discrimination Claim After He Was Denied Coverage for Medical Marijuana,"](#) March 2017.
- ["The Impact of the Supreme Court of Canada's Decision in the Case of Gabriel Nadeau-Dubois in the Context of Individual and Collective Labour Relations,"](#) March 2017.
- ["Immigration Update: Changes to the Express Entry System and Electronic Travel Authorization Reminder,"](#) February 2017.
- ["Damages for Human Rights Breaches in Court Cases and Comparison to Human Rights Tribunal Decisions,"](#) February 2017.
- ["What the Report of the Federal Task Force on Cannabis Legalization and Regulation Means for Employers,"](#) February 2017.
- ["Bill 87 and the Disclosure of Wrongdoings Relating to Public Bodies,"](#) January 2017.
- ["Top 10 Employment Cases of 2016,"](#) January 2017.
- ["2017: Looking Ahead,"](#) January 2017.
- ["Case Law Update: Brown v. University of Windsor \(2016 ONCA 431\),"](#) January 2017.
- ["Top 10 Legal Risks for Business in 2017,"](#) January 2017.
- ["A First Step on the Road to Unionizing Managers?,"](#) December 2016.
- ["From the "Bagel Incident" to "Butt-Dialed" Revelations, Context Matters — The Annual Just Cause,"](#) December 2016.
- ["Increasing Damage Awards in Human Rights Cases,"](#) December 2016.
- ["Office Parties: Some Recommendations to Avoid Unwanted Consequences,"](#) December 2016.
- ["A Flurry of Activity: PRPP Act in Force Today and A Trio of Other New Regulations for Employer Consideration,"](#) November 2016.
- ["What is the Test for Family Status Discrimination? The Saga Continues,"](#) November 2016.
- ["Are You Prepared? New Ontario Human Rights Commission Policies Suggest Employers Review Internal Practices,"](#) November 2016.



- ["Expanding the Meaning of Employer/Employee Relationships in the "Modern Workplace",](#) November 2016.
- ["The Limited Rights of Unionized Employees to sue without the consent of the Union that has breached its obligation of representation,](#) November 2016.
- ["A New Québec Regulation on the Use of Ladders and Stepladders,](#) November 2016.
- ["Employers Beware! Significant Fines for Breach of Obligations relating to Workplace Violence,](#) October 2016.
- ["Inappropriate statements posted on Facebook by employees can lead to much more than their dismissal,](#) October 2016.
- ["Health and Safety Trump Religious Freedom,](#) September 2016.
- ["New Framework Regulation: Ontario Capping Salary & Performance Pay for Broader Public Sector Organizations,](#) September 2016.
- ["Ontario Court of Appeal Holds "Active Employment" Requirements Insufficient to Displace Entitlements to a Bonus,](#) September 2016.
- ["Social Media Account is a "Workplace",](#) September 2016.
- ["Stand Up Now If You Want to Be Heard – Ontario "Pension Advisory Committees",](#) September 2016.
- ["Pension Risk Management: Administration Risks,](#) September 2016.
- ["B.C. Court of Appeal Reduces Notice Period for Short Service Employee,](#) September 2016.
- ["Compliance with the Temporary Layoff Provisions of the ESA Does Not Insulate Employers from Constructive Dismissal Claims,](#) August 2016.
- ["BLG Wins Appeal for Employer in Contract Enforceability Case,](#) August 2016.
- ["Deterioration of the relationship between employees: Just cause for dismissal?,"](#) August 2016.
- ["Ontario's Changing Workplaces Review: Interim Report Released,](#) August 2016.
- ["The Tribunal administratif du travail Rules on the Application of a CNESST Policy,](#) July 2016.
- ["Wilson v. Atomic Energy of Canada Limited: No Right to Dismiss Non-Unionized Employees Without Cause for Federally-Regulated Employers,](#) July 2016.
- ["May a Québec Employer Require that a Candidate Undergo a Pre-Hiring Medical Examination Without Making a Conditional Offer of Employment?,"](#) July 2016.
- ["Workplace computers and electronic devices: protecting confidential information and preserving evidence,"](#) July 2016.
- ["Ontario's Court of Appeal Examines Fixed-Term Contracts,"](#) July 2016.
- ["Changes to Accessible Customer Service Standards Took Effect July 1, 2016,"](#) July 2016.
- ["Update: B.C. Court of Appeal Restores Largest Award for Injury to Dignity,"](#) July 2016.
- ["Alberta Court quashes decision of Alberta Labour Board panel rejecting random drug testing at oil sands site,"](#) June 2016.

- ["Measuring the level of independence of your independent contractors beyond the written contract,"](#) June 2016.
- ["Sexual Violence and Harassment Act in Force in Ontario,"](#) June 2016.
- ["Can I Record A Meeting With My Boss? Do I Have To Tell Her That I Am Recording Her?,"](#) June 2016.
- ["Workplace computers and electronic devices: protecting confidential information and preserving evidence,"](#) June 2016.
- ["Pension Alert – ORPP Update: Ontario Retirement Pension Plan Act \(Strengthening Retirement Security for Ontarians\), 2016,"](#) May 2016.
- ["Fixed Term Contracts: How Two Weeks' Pay Became over 27 Months,"](#) May 2016.
- ["Recent Human Rights Tribunal of Ontario Decision Recognizes Miscarriage as a "Disability": What does this mean for Employers?,"](#) May 2016.
- ["The Potential Impact of Brown v. Canada on Ownership of Intellectual Property by Employers,"](#) May 2016.
- ["Employee seeks Provisional Order ahead of Harassment Hearing,"](#) May 2016.
- ["No Power or Control? Discrimination against an Employee by a Subordinate May Not Be Captured by the British Columbia Human Rights Code,"](#) May 2016.
- ["The NFL Deflategate Scandal — The Second Half,"](#) April 2016.
- ["Industry Paper Urges Employers To Address Pay Equity Gaps Among Canadian Businesses,"](#) April 2016.
- ["Case Note: Maison St-Patrice inc. v Cusson, 2016 QCTAT 482: Exclusion of Facebook Snooping Evidence in Québec — a minority view,"](#) March 2016.
- ["Immigration Update — New Labour Market Impact Assessment Exemption,"](#) March 2016.
- ["Restrictive Covenant Update,"](#) March 2016.
- ["Federal Court Limits Definition of "Workplace" Under Part II of the Canada Labour Code to Workplaces Controlled by Employer,"](#) March 2016.
- ["Think Before You Write — The Importance Of A Well-Drafted Discipline Letter,"](#) March 2016.
- ["Confirmatory Exams for Foreign-Trained Engineers is not Discriminatory: Engineering Regulator Successfully Appeals Alberta Human Rights Tribunal Decision,"](#) March 2016.
- ["Federal Budget 2016 — Impacts on Corporation and Partnership Tax Planning Structures,"](#) March 2016.
- ["Employee Stock Options: Canadian Tax Changes Coming in March?,"](#) March 2016.
- ["A Hard Rain's a-Gonna Fall: How Employers Pay for Not Having a Bullying and Harassment Policy,"](#) March 2016.
- ["Veganism as a Human Right? Ontario's Expanded Definition of "Creed","](#) March 2016.
- ["False Allegations of Cause Prove Costly for Employer,"](#) March 2016.
- ["A "Dependent Contractor" got what...??,"](#) March 2016.
- ["Pension Alert — ORPP Update: New Key Developments on the Ontario Retirement Pension Plan,"](#) February 2016.

- ["Update on Wilson v. Atomic Energy of Canada Limited : Supreme Court of Canada Heard Appeal on January 19, 2016,"](#) February 2016.
- ["Summary Judgment: Approaches to Mitigation Where Judgment is Granted Prior to the Expiry of the Reasonable Notice Period,"](#) February 2016.
- ["Violation of Workplace Safety Can Lead to Jail Time,"](#) February 2016.
- ["No drug or alcohol testing after employee hits parked car,"](#) February 2016.
- ["Workplace Violence Under Federal Law: The Employer's Duty To Appoint A Competent Person To Investigate,"](#) February 2016.
- ["Pornography in the Workplace: Trends and Developments,"](#) January 2016.
- ["Nova Scotia Court Strikes Down Cyber-Bullying Legislation,"](#) January 2016.
- ["It's Never Okay: Ontario Government Releases an Action Plan to Combat Sexual Violence and Harassment,"](#) January 2016.
- ["Are You Compliant With AODA Standards Effective January 1, 2016?,"](#) January 2016.
- ["Ontario Passes the Employment and Labour Statute Law Amendment Act, 2015,"](#) December 2015.

## REPRESENTATIVE WORK

- *Communications v. IKO Industries, 2012 Ontario Superior Court of Justice (Divisional Court)* – The Court looked at the issue of whether an employer was entitled to count days of paid bereavement leave as part of the minimum 10 days emergency leave granted by section 50 of the Employment Standards Act. The Court found in favour of the Firm's client, IKO Industries Inc. despite the opposing party's argument that such a finding would result in different outcomes for different employees, depending upon when emergency leave is taken and whether a bereavement day is needed after the use of all emergency days. The Court found that the possibility of different outcomes is not unreasonable, finding the decision logical considered, and intelligible.
- Acting for an employer regarding an Employment Standards Act issue regarding the use of bereavement entitlement v. emergency days.
- *Zholudev v. EMC Corp. of Canada, 2012 Ontario Human Rights Tribunal* – An employee alleged discrimination in employment on the basis of age. The human rights complaint alleged that the employee was discriminated against in seven "events" where he was not promoted to a job nor assigned to an employment opportunity while employed with EMC. Borden Ladner Gervais LLP ("The Firm") obtained dismissal of the employee's claim. The Adjudicator concluded that the employee has no reasonable prospect of establishing that his age was a factor and/or that he was reprisal against for enforcing his rights under the Human Rights Code. The Adjudicator found that there was no link between the employee's age and the specific seven events in question.
- Acted for an employer with respect to a human rights complaint alleging age discrimination.
- *Mocle v. Oracle Corporation of Canada Inc., 2010 Ontario Superior Court of Justice* –The Firm represented Oracle in a constructive dismissal action. The plaintiff claimed that following Oracle's acquisition of his former employer, it was an implied term of his employment contract to receive written terms of his variable compensation. When those terms failed to come in what he believed to be a timely manner, he resigned and claimed constructive dismissal. Madam Justice Hoy, relying on the entire agreement clause in

the plaintiff's employment offer, found that written terms of variable compensation were not an implied term of the plaintiff's employment.

- Acted for a major technology company in an Ontario Superior Court constructive dismissal action.
- Advise large national employers on restructuring and mass lay-offs.
- *Lakeridge Health Corporation v. Ontario Public Service Employees Union, 2012 Ontario Labour Arbitration* – The Firm was successful in defending Lakeridge Health Corporation's interests in arbitration, where an employee was alleging unjust termination. The employee was terminated for falsifying overtime claims and insubordinate behaviour. Based on the evidence and arguments presented by the Firm, the Arbitrator found in favour of the Firm's client. The Arbitrator found that the employee did indeed claim overtime hours, engage in inappropriate conduct on several occasions and that reinstatement would not be just and reasonable in the circumstances. The Arbitrator upheld the termination and dismissed the grievance.
- Successfully defended a major health entity in an arbitration involving a termination grievance.
- *Zehrs Markets/Real Canadian Superstore v. United Food and Commercial Workers International Union, Local 1977 (8494 Grievance), 2010 Ontario Labour Arbitration* – In this arbitration, the Firm represented Zehrs Markets and defended the employee discharge contested before the Arbitrator. The employer had discharged the grievor after investigating the complaint of a co-worker that the grievor had sexually harassed another employee. The grievor employee had eight years of seniority and a clean discipline record. The Arbitrator upheld the employee discharge in favour of the employer.
- Represented a major retailer in an arbitration regarding a termination based on a claim of sexual harassment.
- Acted for a national employer in preparing defined benefit pension plans and defined contribution pension plans.
- Advised a plan administrator regarding the design and implementation of a governance structure, including consolidation of the administration of several pension plans and delegation to affiliates.
- Acted for an employer in the consolidation of the investment of the pension funds of different pension plans.
- Advised large entertainment companies on immigration implications of Canadian productions and assisted in obtaining necessary work permits.
- Acted as Canadian immigration advisor for large financial institutions seeking to employ highly-specialized workers from around the world.
- Advised multinational consumer goods clients on migration strategies to assist with employee transfers and secondments from other regions of the world.

## RANKINGS & RECOGNITIONS

- Named the 2018 *Best Lawyers in Canada*®'s "Law Firm of the Year" for Labour and Employment Law
- Named Employment & Labour Law Firm of the Year at the *Chambers Canada Awards* 2017

- Winner of the 2018 *Canadian HR Reporter* Readers' Choice Award for Employment & Labour Law — Full Service Firm

In addition to the recognitions listed above, the Labour and Employment Group or its members are recognized in:

- The 2019 (and since 2018) edition of *The Best Lawyers in Canada*®
- The 2019 and 2018 edition of *Chambers Canada — Canada's Leading Lawyers for Business*
- The 2019 (and since 2017) edition of *The Legal 500 Canada*
- The 2018 (and since 2017) edition of *The Lexpert®/American Lawyer Guide to the Leading 500 Lawyers in Canada*
- The 2018 edition of *Chambers Global — The World's Leading Lawyers for Business*
- The 2018 edition of *The Lexpert® Guide to the Leading US/Canada Cross-Border Litigation Lawyers in Canada*
- The 2018 edition of *The Canadian Legal Lexpert® Directory*
- The 2017 edition of *Benchmark Canada – The Definitive Guide to Canada's Leading Litigation Firms & Attorneys*
- The 2017 edition of *Who's Who Legal: Canada*
- The 2017 edition of *Who's Who Legal: The International Who's Who of Business Lawyers*