

2022 Annual Conference Program

Thursday, September 22, 2022

10:00 am – 5:00 pm **Conference Registration** – *Crush Lobby*

10:30 am – 12:30 pm **Board of Directors Meeting** - *Salon E*

12:45 pm – 1:00 pm **Welcome** – *Salon A*

1:00 pm – 2:05 pm **The Needles and the Damage Done: COVID and Beyond / Les seringues et les dommages subis : la COVID et au-delà** – *Salon A*

Impact on Employment; Impact on Remuneration; Teleworking; Mandatory Vaccine Mandates and Policies; Force Majeure * Include vaccination policies (important to federal employers & inhouse) * class actions in AB * COVID PTI (Pardon the Interruption) * CERB Fallout -- windfall or mitigation * Can you terminate based on government vaccine mandates * Getting ready for the next pandemic.

Chair / *Président*: Henry Dinsdale, Hicks Morley Hamilton Stewart Storie LLP
Chad Sullivan, Stewart McKelvey
Rina Patel, Scotiabank
Jessica Morrison, I.M.P. Group International Inc.

2:05 pm – 3:10 pm **OHS - A Matter of Principle: How Far Does the Duty to take “Reasonable Precautions” to Protect Workers Extend? / Une question de principe : Jusqu’où s’étend l’obligation de prendre des « mesures raisonnables » pour protéger les employés?** – *Salon A*

The COVID-19 pandemic has focused the attention of the legal community on the general duty clause under OHS legislation. The question of whether the actions of an employer were “reasonable” in the circumstances is a frequently litigated issue in both regulatory and administrative proceedings. The pandemic has seen attempts to rely on the “precautionary principle” to lessen the burden of proof required to engage OHS legal protections.

The session will cover:

- What is the general duty clause anyways? A review of the latest caselaw dealing with the general duty clause and a practical discussion of how the general duty clause operates in both regulatory and administrative proceedings.
- Do they need to prove it? A discussion about whether the “precautionary principle” allows enforcement of OHS laws where the cause and effect relationship between the activity and the harm cannot be established.
- Battle of the Experts? Strategies for putting your client’s best foot forward in general duty clause cases.

Chair / Président: Jamie Jurczak, Taylor McCaffrey LLP
 Deanah Shelley, Mathews Dinsdale & Clark LLP
 Éric Thibaudeau, Lavery de Billy LLP
 David Eaton, Q.C., McInnes Cooper

3:10 pm – 3:30 pm **Break / Pause** – Crush Lobby

3:30 pm – 4:30 pm **Get Off My Cloud: Multi-Jurisdictional Issues / Get Off My Cloud : Enjeux multi-juridictionnels** – *Salon A*

With access to multiple forums of redress and greater opportunities for employees to work inter-provincially, appropriate jurisdiction is now, more than ever, a fundamental employment and labour law issue. Our experienced, cross-Canada panel will discuss the most up-to-date and frequently addressed jurisdictional issues and provide commentary on practical considerations and best practices. The discussion will explore common intersections of grievances and labour arbitrations, workers' compensation claims and related decisions, human rights claims and more. Specific topics will include:

- Overlapping provincial employment standards and choice of laws
- Labour arbitrations and exclusive jurisdiction
- Union representation and alternatives
- Duplicative proceedings in multiple forums, res judicata and issue estoppel (Northern Regional Health Authority v Horrocks, 2021 SCC 423 and more)
- The necessity for a cohesive litigation strategy

Chair / Président: Carissa Tanzola, Filion Wakely Thorup Angeletti LLP
 Gradin Tyler, Mathews Dinsdale & Clark LLP
 Jessica Bungay, Cox & Palmer
 Melissa Beaumont, Thompson Dorfman Sweatman LLP

4:30 pm – 5:00 pm **Annual General Meeting (all members welcome) / Réunion générale annuelle (tous les membres sont bienvenus)** – *Salon A*

5:45 pm – 6:30 pm **Corporate Counsel Only - Private Networking Reception / Conseillers juridiques internes seulement – Réception de réseautage privé** – *Harbour View Ballroom*

6:30 pm – 7 :45 pm **“Meet & Greet” Reception - All Welcome – cocktails and hors d'oeuvres (dinner on own) / Réception bienvenue - Bienvenue à tous – Cocktails et hors d'œuvres (souper libre)** – *Harbour View Ballroom*

8 :00 pm – 10:00 pm **Thirsty Thursday Social / Jeudi social** – *Merchant Tavern – 291 Water Street*

Friday, September 23, 2022

7:30 am – 8:30 am **Continental Breakfast and Registration / Petit déjeuner continental et Inscription** – *Crush Lobby*

8:30 am – 9 :45 am **Cross-Canada Labour Law Topics of Interest / Points d'intérêt pancanadiens en droit du travail** – *Salon A*

This Experienced labour law panelists from across the country will discuss trending and pressing labour law issues. You will hear about issues faced by the panelists in their practices and what they see on the horizon. The focus of this panel will be on the issues and trends that are or may become of national importance. This interactive panel will leave you with strategic input and practical labour law takeaways. This panel is not to be missed!

Chair / **Président**: Jana Linner, MLT Aikins LLP
 Marcia McNeil, Pulver Crawford Munroe LLP
 Tom Ross, Q.C., McLennan Ross LLP
 Susan Barber, Q.C., McDougall Gauley LLP
 Daryn Jeffries, Rae Christian Jeffries LLP
 Ryan Schwartz, Loranger Marcoux
 Chris Montigny, HR Atlantic
 Sundeep Gokhale, Sherrard Kuzz LLP

9:45 am – 10:50 am **Privacy - Data Breaches: How to Prepare for the Worst and Get Through the Rest / Vie privée- Violations de données: comment se préparer au pire et surmonter le reste** – *Salon A*

Topics to include: (i) pre-breach preparedness and mitigation measures (ii) managing the risk and fall-out from a breach; (iii) new and expanded threats (iv) regulatory obligations (including recent changes); (v) employee issues (employee information as the subject of the breach/employee as the cause of the breach).

Chair / **Président**: Keri Bennett, Roper Greyell LLP
 Lyndsay Wasser, McMillan LLP
 David Fraser, McInnes Cooper
 Guillaume Laberge, Lavery de Billy LLP

10:50 am – 11:10 am **Break / Pause** – *Crush Lobby*

11:10 pm – 12:15 am **Inflation Strikes Back: Modern Bargaining Trends / L'inflation contre-attaque : tendances de négociation modernes** – *Salon A*

- Bargaining in inflationary times
- COLA clauses are back and as confusing as ever
- Strategies for binding collective agreement arbitrations
- Private sector vs. Broader Public Sector
- New Trends

This session will bring together observations and trends from the bargaining table, from both the public and private sector. Broader policy-based perspectives will be considered. Panelists will bring their experience to examine trends in settlements, common issues advanced by labour, hot topics, and the economic and social pressures imposed by a post-COVID re-start. Panelists will share some tools and tricks based on their time leading negotiations at the table and counselling clients in caucus rooms.

Chair / Président: Jamie Knight, Filion Wakely Thorup Angeletti LLP
Michael Horvat, Aird & Berlis LLP
Michael Grodinsky, Borden Ladner Gervais
Stephanie Jeronimo, Hicks Morley

12:15 pm – 1:45 pm

Lunch / Déjeuner – *Salon BCD*

1:45 pm – 2:55 pm

Human Rights - Everybody Hurts – But When is it REM (Requiring Exceptional Measures) / Droits de la personne – Everybody Hurts – Mais quand est-ce que c'est REM (Réquisition exceptionnelle de mesures)? – *Salon A*

The majority of individuals at some point experience some form of stress or anxiety, and COVID-19 has exacerbated that for many. When does that stress become a medical condition that requires accommodation? How should an employer address those situations where an employee claims that stress or anxiety precludes them from attending the workplace or properly performing their duties? In those cases of a more easily recognizable disability, it is often challenging to obtain appropriate information from health care providers. Obtaining medical information in the context of claims of stress or anxiety can be even more challenging. What practical approaches can an employer take to obtain useful information in a timely manner? What interim approaches should an employer take while awaiting such information? Once meaningful information is obtained, what does accommodation of the associated restrictions look like for stress and anxiety-related conditions?

Chair / Président: Katherine Ford, Sherrard Kuzz LLP
Dr. Jasbir Gill, MD, FRCPC
Ruth Trask, Stewart McKelvey
Jeff Palamar, Taylor McCaffrey LLP

2:55 pm – 3:45 pm

I Can't Get No Satisfaction: Labour Shortage in Canada / I Can't Get No Satisfaction: Pénurie de main-d'œuvre au Canada – *Salon A*

We have been hearing for many years of an impending labour shortage, and those predictions appear to have been accurate. We will provide practical tips on how employment lawyers can support company human resources efforts to attract and to retain talent. Lawyers are increasingly being called upon to support recruiting and retention strategies, which differ widely depending on the types of roles (e.g., front-line vs. back office) while also recognizing that employees of different generations are motivated by different incentives. The last two-and-one-half years of mostly remote work has also fundamentally changed employees' expectations regarding flexibility of where and when they will perform their work. Our panel includes in-house counsel from two large employers with very diverse workforces, and a practitioner from France

who will share some of the ways that regulation and emerging practices have contributed to addressing labour shortages and the need for skilled workers and to creating environments that can contribute to attracting and retaining employees.

Chair / **Président**: Mark Crestohl, Accenture Inc.
Sophie Pelicier-Loewenburk, Fromont Briens
Tara Hammer, Lordco Auto Parts
Christina Hall, Wal-Mart Canada Corp.

3:45 pm – 4:05 pm **Break / Pause** – *Crush Lobby*

4:05 pm – 5:10 pm **I Said What??: An end to Shop Talk - A Movement Towards Cultural and Societal Awareness in the Workplace / Vous avez dit quoi? La fin de l'utilisation d'un langage grossier - un mouvement vers la sensibilisation culturelle et sociétale sur le lieu de travail** – *Salon A*

Reframing the Workplace: Addressing Workplace conduct relating to racist, sexist, homophobic, transphobic comments; Practical steps to implementing and living with diversity and inclusion in the employment setting; corporate strategies to changing the culture.

Chair / **Président**: Lorenzo Lisi, Aird & Berlis LLP
Steve Penney, Stewart McKelvey
Caroline Richard, Bird Richard

6:30 pm - 7:30 pm **Reception / Réception** – *Lobby St. John's Convention Centre*

7:45 pm – 10:00 pm **Dinner / Souper** – *Bowring 1 & 2, St. John's Convention Centre*

Saturday, September 24, 2022

8:00 am – 9:00 am **Breakfast / Déjeuner** – *Salon BCD*

9:00 am – 10:15 am **Cross-Canada Topics in Employment Law / Points d'intérêt pancanadiens en droit de l'emploi** – *Salon A*

Panelists on this interactive panel will discuss trending/pressing employment law issues from across the country. You will hear about key issues faced by the panelists in their practices and in their jurisdictions. The focus of this interactive panel will be on major issues/trends that are or anticipated to be of national importance. The panel will also provide strategic input and practical takeaways.

Chair / **Président**: Michael Richards, DLA Piper (Canada) LLP
Matthew Cooperwilliams, Cooperwilliams Law
Shana Wolch, McCarthy Tétrualt LLP
Shandra Czarnecki, MLT Aikins LLP
Jeff Murray, Stringer LLP
Hélène Bussièrès, Davies

Geoff Breen, Cox & Palmer
Trisha Gain, Canadian Pacific Railway

10:15 am – 10:35 am **Break / Pause** – *Crush Lobby*

10:35 am – 11:50 am **Ethics - Post-Pandemic Realities: The Rise of Self-Represented Litigants and Generalists / Réalités post-pandémie: la montée en puissance des plaideurs non représentés et des généralistes** – *Salon A*

This interactive panel session will explore the increase in self-represented litigants and general practitioners, provide strategic and practical takeaways, and discuss the following issues:

- best practices and strategies when dealing with self-represented litigants, as well as the required balance between client advocacy and your ethical and professional obligations toward them; and
- best practices and strategies when dealing with generalists or other non-employment / labour legal practitioners and your ethical and professional obligations toward them.

Chair / **Président**: Martin Thompson, McMillan LLP
Brittany Carson, Lavery de Billy LLP
Greg Anthony, Cox & Palmer
Lynn Poirier, Poirier ADR Inc.

11:50 am – 12:00 pm **Closing Remarks / Remarques de clôture** – *Salon A*