

5th Annual Western Canada

LABOUR RELATIONS

January 21 – 22, 2010 | The Metropolitan Hotel | Vancouver



PROGRAM CO-CHAIRS

Sandra I. Banister
Banister & Company

Gavin Hume, Q.C.
Fasken Martineau

Leading labour relations experts representing management and unions will provide practical advice and critical insights into key issues, including a roundup of important court cases and arbitration rulings.

KEYNOTE ADDRESSES – THE FUTURE OF THE LABOUR MOVEMENT



Jim Sinclair
President

B.C. Federation of Labour



Doug Alley
Vice President, Human Resources

Business Council of British Columbia

PRACTICAL IN-DEPTH WORKSHOPS | WEDNESDAY, JANUARY 20

NAVIGATING MINEFIELDS WHEN PRIVACY AND TECHNOLOGY INTERSECT:
DEVELOPING ESSENTIAL POLICIES FOR PDA, SOCIAL MEDIA AND E-MAIL

SMART GRIEVANCE MANAGEMENT: FROM INVESTIGATION TO ARBITRATION

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Victory Square Law Office LLP

Workers' Compensation Appeal Tribunal

Dear Colleague:

For union representatives and labour relations professionals, keeping on top of changing legislation and important arbitration and judicial decisions is essential. **Insight Information's 5th Annual LABOUR RELATIONS** agenda addresses key topics which are a "must know" for anyone working in the area of labour relations.

This upcoming conference stands out because of the excellence of the presenters and the relevance of the topics to the challenges arising in the rapidly evolving field of labour relations across Canada. **Rarely are so many leaders, representing labour and management viewpoints respectively, all assembled on the same agenda.**

Union representatives and renowned legal experts who are involved in the action "day in and day out" will point you to recent arbitration and court decisions and give strategic advice to help you manage current issues and prepare for future trends. You will be provided with valuable insights, practical tips, and excellent papers on the various topics.

In addition, we believe you will find the following presentations interesting and highly insightful. **Jim Sinclair**, President of the B.C. Federation of Labour and **Doug Alley**, Vice President, Human Resources at the Business Council of British Columbia will address "The Future of the Labour Movement" from union and management perspectives respectively; **Janice Payne**, counsel to the continuing employees at Nortel, will provide practical insights on employee representation in CCAA proceedings; and **Donald Figol** will highlight recent developments in the area of pensions.

We are very excited about the conference and we believe it offers excellent value as a resource. The presenters have a variety of backgrounds but they share the same qualities – they are all highly qualified, successful, and have a strong dedication to their craft.

All in all, we are sure you will find this conference most worthwhile. We hope you will be able to attend and we look forward to your feedback.

Yours truly,



Sandra I. Banister
Banister & Company



Gavin Hume, Q.C.
Partner, Fasken Martineau

EXPERT FACULTY

Doug Alley
Business Council of British Columbia

Thomas F. Beasley
Coutts Pulver LLP

Donald W. Bobert
Rogers, Bobert, & Burton

Neil Bradbury
CUPE

Mark Brown
British Columbia Labour Relations Board

Trevor Clifford
British Columbia Maritime Employers Association

Donald Figol
Mercer (Calgary)

Peter A. Gall, Q.C.
Heenan Blaikie LLP

Alan J. Hamilton, Q.C.
Farris, Vaughan, Wills & Murphy LLP

David Harrigan
United Nurses of Alberta (Edmonton)

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Fasken Martineau

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Arbitrator/Mediator

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Laughton & Company

Judith Macfarlane
Bull, Housser & Tupper LLP

John L. McConchie
McConchie & Company

Robin N. McFee, Q.C.
Sugden, McFee & Roos LLP

Jeanne Meyers
M. Jeanne Meyers Law

Keith J. Murray
Harris & Company

Lorene A. Novakowski
Fasken Martineau

M.J. (Peggy) O'Brien
Lawson Lundell LLP

Ingrid M. Otto
Davis LLP

Janice B. Payne
Nelligan O'Brien Payne LLP (Ottawa)

Monique Pongracic-Speier
Schroeder Speier

Walter Pylypchuk
Workers' Compensation Appeal Tribunal

Morgan Rea
Hastings Labour Law Office

Carol Reardon
CUPE / Hospital Employees' Union

John Rogers, Q.C.
Victory Square Law Office LLP

Jim Sinclair
B.C. Federation of Labour

Lisa J. Southern
Roper Greyell LLP

Ron Usher
Bell Alliance, Lawyers & Notaries Public

David Vipond
B.C. Government and Service Employees' Union

WHO SHOULD ATTEND

- Vice Presidents, Directors & Managers of Human Resources
- In-house Counsel
- Labour and Industrial Relations Practitioners
- Plant and Department Managers
- Union Presidents, Officials, Business Agents, Stewards and Committee Members
- Labour Relations Lawyers
- Employment Lawyers
- Labour Relations Consultants
- Directors & Managers of Occupational Health, Safety & Environment
- Return to Work Managers
- Mediators, Arbitrators and Conciliators
- Management Consultants
- Government Officials

WORKSHOP A | 8:30 A.M. to NOON

NAVIGATING MINEFIELDS WHEN PRIVACY AND TECHNOLOGY INTERSECT: DEVELOPING ESSENTIAL POLICIES FOR PDA, SOCIAL MEDIA AND E-MAIL USE

Lorene A. Novakowski, *Partner, Fasken Martineau*

The increased use of PDAs (personal digital assistants) and the popularity of social networking sites have created a need for employers to develop concrete, enforceable policies with respect to the terms of their use in the workplace.

- Does your organization have updated policies?
- Would your policies be defensible in Court or at Arbitration?

By working through cases and developing policies for hypothetical companies, attendees will learn how to identify and prioritize the numerous issues that potentially put organizations (Companies and Unions) at risk and understand how privacy rights are intertwined with each issue. Participants will leave knowing how to develop the following essential guidelines:

POLICIES for Social Networking Sites

At Work

- Employer and employee rights and obligations
- Developing guidelines and procedures for use of social networking sites by employees
- What are the risks and liabilities?
- Benefits of including employees in the policy formation
- Brand enthusiasts – maximizing social media to benefit your organization
- Union organizing using social media

Off-duty Conduct

- Dealing with on-line defamation and derogatory or libelous remarks by employees
- What legal recourse do organizations and co-workers have?

POLICIES for PDAs

- Overtime for Blackberry use 24/7 – recent legal decisions
- Payment for personal use on Company-owned PDA
- Payment for company use on personal PDA
- What information can be stored on a PDA?
- PDA Cameras in the workplace – the risk to intellectual property, to co-workers
- Personal information prohibition – FOIPPA compliance

POLICIES for E-mail Use

- What's landing employers, unions and employees in hot water?
- How to effectively communicate the reasons for the policy and the risks to employees if not followed
- How to ensure policies are read and acknowledged
 - Penalties – is zero tolerance too severe?
 - FOIPPA decisions re workplace monitoring through computers

THE PRIVACY CONNECTION

- Understanding the impact of recent court cases requiring disclosure of pages from Facebook and other social networking sites: implications for privacy, disclosure and discovery
- Pragmatic steps and tools to mitigate your organization's risks
- What are other organizations doing to deal with privacy and disclosure issues?
- Requests for access to e-mails sent prior to terminations

12:00 | 1:00 LIGHT LUNCH WILL BE SERVED FOR DELEGATES ATTENDING BOTH WORKSHOPS

WORKSHOP B | 1:00 P.M. to 4:30 P.M.

SMART GRIEVANCE MANAGEMENT – FROM INVESTIGATION TO ARBITRATION

Judith Macfarlane, *Partner, Bull, Housser & Tupper LLP*

Jeanne Meyers, *M. Jeanne Meyers Law*

The grievance process is an essential part of labour relations, yet its importance is often overlooked. However, there are significant tactical and procedural considerations to bear in mind at each stage of the process. This workshop will provide practical advice about conducting each step of the grievance procedure from a management and union point of view. Through instruction and case studies you will gain a greater understanding of the process, and improve your skills in effectively managing grievances.

Topics to be addressed include:

- Investigating the facts and properly framing the issue when initiating a grievance
- Determining the credibility of witnesses at the investigation stage
- Applying the duty of fair representation and determining whether to advance a grievance
- Conducting effective grievance meetings: guidance for management and union representatives, including tips on note taking, topics to cover, and handling some of the problem situations that may arise
- Evaluating the strength of your case – what to consider
- Understanding the “without prejudice” nature of the grievance process
- Crafting a good grievance response letter
- Considering and dealing with procedural issues such as timeliness, scope of the grievance and other potential issues and objections
- Settling grievances: how to structure settlement agreements, and what to include
- Submitting a grievance to arbitration – issues to consider
- Preparing the case for arbitration: an overview of witness preparation, fact gathering and verification and basic legal research

WORKSHOP A | 8:30 A.M. to NOON

**NAVIGATING MINEFIELDS WHEN PRIVACY AND TECHNOLOGY INTERSECT:
DEVELOPING ESSENTIAL POLICIES FOR PDA, SOCIAL MEDIA AND E-MAIL USE**

Lorene A. Novakowski is a partner in the Employment, Labour and Human Rights Practice Group and she is the Regional Chair of the Privacy and Information Practice Group at Fasken Martineau. Lorene assists employers and businesses to implement privacy policies and procedures, assists with access requests, and provides timely and strategic advice in the event of a privacy breach. She has acted as counsel in inquiries before the Office of the Information and Privacy Commissioner; given advice on compliance in cross-border issues involving the B.C. public sector privacy law; assisted clients in negotiating privacy agreements with B.C. public sector bodies; and has assisted multinational internet service providers in respect of their Canadian privacy obligations. Lorene is a Certified Information Privacy Professional/Canada and co-authored the 2004, 2005, 2006, 2007 and 2008 editions of the *Personal Information Protection Act – BC and Alberta: Quick Reference Guide* published by Thomson Carswell.

WORKSHOP B | 1:00 P.M. to 4:30 P.M.

SMART GRIEVANCE MANAGEMENT – FROM INVESTIGATION TO ARBITRATION

Judith Macfarlane is a partner with the labour and employment group at Bull, Housser & Tupper LLP. She has over 13 years' experience representing employers in the public and private sectors in a variety of industries. Judith advises employers with respect to workplace policies, contracts of employment, collective agreement interpretation, and a range of other matters. She brings a practical approach to the prevention, resolution and litigation of labour and employment disputes.

Jeanne Meyers is a sole practitioner specializing in the area of labour/employment law, including human rights. Jeanne has represented clients before numerous Courts and Administrative Tribunals. She has worked extensively with mediators and promotes alternative dispute resolution in suitable circumstances. Formerly the Executive Director for the Health Sciences Association of B.C., Jeanne supervised union advocates and handled a wide variety of arbitration and Labour Relation Board matters for the Union.

THURSDAY | JANUARY 21, 2010

8:15 | 9:00 **Registration and Continental Breakfast**

9:00 | 9:05 **Welcoming Remarks from Insight**

9:05 | 9:15

Co-Chairs' Opening Remarks

Sandra I. Banister
Banister & Company

Gavin Hume, Q.C.
Partner
Fasken Martineau

9:15 | 9:45

Lessons Learned at the Labour Relations Board

Lisa J. Southern

Associate
Roper Greyell LLP
(Former Registrar & Vice-Chair, B.C. Labour Relations Board)

- Effective advocacy: techniques and tools that persuade and compel
- Mediation: a necessary part of every application and hearing
- The appointment process and the downside to the term appointment
- The impact of FOIPPA on Board processes
- The value of civility in advocacy and labour relations

9:45 | 10:00 **Networking Coffee Break**

10:00 | 11:30

**Labour Relations Issues in Bankruptcies
and Insolvencies**

Donald W. Bobert

Partner
Rogers, Bobert, & Burton

Clayton A. Jones

Partner
Fasken Martineau

- Overview of the *Bankruptcy and Insolvency Act* and *Companies' Creditors Arrangement Act*
- Unpaid wages and the *Wage Earner Protection Program*
- Notice to engage in collective bargaining
- Section 64 of the *Employment Standards Act* and Section 54 of the *Labour Relations Code*
- Director liability

Counsel to Continuing Employees at Nortel

Janice B. Payne

Partner
Nelligan O'Brien Payne LLP (Ottawa)

As counsel to Nortel's continuing non-unionized employees, Janice has first-hand knowledge of the employment issues involved when a restructuring takes place under CCAA.

She will provide practical insights and suggestions on employee representation in CCAA proceedings, including statutory and collective agreement rights and other issues of concern to both former and continuing employees.

11:30 | 12:20

Recent Charter and Labour Issues
– *Picketing and Political Advertising*

Keith J. Murray

Partner
Harris & Company

John Rogers, Q.C.

Partner
Victory Square Law Office LLP

- Political protest or illegal strike – defining the boundaries
- Freedom of speech vs. duty of loyalty
- The Charter's impact on "the balance of power"

12:20 | 1:10 **Networking Luncheon**

1:10 | 1:45

KEYNOTE LUNCHEON ADDRESS

The Future of the Labour Movement
– *The Union Perspective*

Jim Sinclair

President
B.C. Federation of Labour



1:45 | 2:45

Recent Developments in Workers' Compensation
– *Judicial Review of WCB Policies?*

Peter A. Gall, Q.C.

Partner
Heenan Blaikie LLP

Monique Pongracic-Speier

Partner
Schroeder Speier

Walter Pylypchuk

Legal Counsel
Workers' Compensation Appeal Tribunal

Recent Court decisions have confirmed that B.C.'s courts are prepared to review, and in some cases overturn, WCB policies. Find out what the new case law means for workers, employers and their respective representatives. This session will focus on new developments in the review of WCB policy, including:

- How the WCB governs rights and obligations by policy
- The relationship between policy and the *Workers' Compensation Act*
- Direct review of policies by the B.C. Supreme Court versus consideration of policy by the WCAT under s. 251 of the *Workers' Compensation Act*
- Standard of review for WCB policies
- Recent case law scrutinizing WCB policies

2:45 | 3:00 **Networking Refreshment Break**

3:00 | 4:00

Damages after Honda/Keays
– *Too Soon for a Funeral for Wallace!*

Robin N. McFee, Q.C.

Partner
Sugden, McFee & Roos LLP

M.J. (Peggy) O'Brien

Partner
Lawson Lundell LLP

- Overview of the *Honda/Keays* decision
- What obligation, if any, do employers post-*Honda v. Keays* owe to their employees in the manner of dismissal?
- Are damages beyond the period of reasonable notice recoverable by an employee post-*Honda v. Keays*? If so, what employer conduct in the manner of dismissal may give rise to a claim for damages beyond the period of reasonable notice?
- What employer conduct and employee circumstances will the Courts take into account in quantifying damages arising from the manner of dismissal?
- Punitive damages – can they still be awarded in consequence of employer misconduct and, if so, in what circumstances?
- How have Canadian Courts applied *Honda/Keays*?
- What can we expect in the future?

4:00 | 5:00

Workforce Restructuring and Reductions – Implications?

Brian J. Kenny, Q.C.

Partner
MacPherson Leslie & Tyerman LLP (Regina)

- Restructuring and reduction options – strategic and legal considerations
- Notice obligations under statute and collective agreements
- Negotiating layoffs with the Union – how much wiggle room is available?
- Constructive dismissal – what weight is given to change in location, duties and/or reporting functions?
- Duty to mitigate – lessons learned from *Evans vs. Teamsters*
- Special obligations related to mass terminations
- Review of worker protections offered
- Government-sponsored programs to facilitate reductions while minimizing financial impact on employees:
The Service Canada Work-Sharing Program

CASE STUDY

Insights into the Alberta Restructuring Experience

David Harrigan

Director of Labour Relations
United Nurses of Alberta (Edmonton)

5:00 **Conference Adjourns for the Day**

8:00 | 8:30 Continental Breakfast**8:30 | 8:35 Co-Chair's Opening Remarks**

8:35 | 9:20

Hot Topics in Pension & Benefits Law**Donald Figol***Principal
Mercer (Calgary)*

- Relief from the solvency rules – the latest developments
- Post-retirement group benefits – when can they be cut?
- Latest developments in pensions case law – the impact of the *Kerry* and *Halliburton* decisions
- Do benefit plans have to pay GST on investment management services?

9:20 | 10:15

Preparation Pointers for Negotiating Agreements in a New Economy**Mark Brown***Associate Chair – Mediation & Registrar
British Columbia Labour Relations Board***Eric J. Harris, Q.C.***Partner
Harris & Company***David Vipond***Director, Negotiations and Human Resources
B.C. Government and Service Employees' Union (BCGEU)*

- Setting bargaining priorities in turbulent times
- How will private sector settlements influence the shape of public sector negotiations?
- What special labour relations challenges do specific sectors face in upcoming negotiations?
- Effect of two-tiered wage systems and benefit costs
- Gainsharing and trade-offs
- Importance of the Health Services cases in the public sector
- The role of third-party involvement
- When is mediation necessary and how to prepare for it
- Incentives for settlement – why would a union settle for nothing?

10:15 | 10:30 Networking Coffee Break

10:30 | 11:30

Blogs, Twitter and Facebook – New Minefields to Navigate**John L. McConchie***Labour Lawyer/Mediator/Arbitrator
McConchie & Company***Ron Usher***Partner
Bell Alliance, Lawyers & Notaries Public*

Social media (and Internet “postings” generally) are generating a number of interesting new legal issues and some refreshed views of some old ones. The speakers will address:

- What is social media? Who is using it and why?
- Social media and defamation: What is the risk?
- Social media and privacy: What privacy?
- Social media and the boss: Insubordination? Let me count the ways ...
- Social media and the respectful workplace: New challenges in hyperspace
- Social media and the grievance/arbitration procedure: Whatever happened to the exclusion of witnesses, and other procedural problems?

11:30 | 12:30

INTERACTIVE SESSION**Privacy Rights – What is a Reasonable Balance? Top Tips for Employers and Unions****Ingrid M. Otto***Lawyer
Davis LLP***Morgan Rea***Partner
Hastings Labour Law Office*

During this interactive session, we will examine and discuss hypothetical fact scenarios (based on real experiences) to identify common issues which employers and unions address. The emphasis will be on practical information designed to assist employers, employees and unions in avoiding common privacy law mistakes and will be on the leading edge of best practices.

Some of the areas covered in this session will include:

- Employee monitoring
- Employee medical information
- Privacy breaches
- Public access to grievance and other documents involving employees

12:30 | 1:15 Networking Luncheon

1:15 | 2:00

KEYNOTE LUNCHEON ADDRESS**The Future of the Labour Movement – The Management Perspective****Doug Alley***Vice President, Human Resources
Business Council of British Columbia*

2:00 | 2:50

Ethical Obligations of Counsel in a Hearing

Alan J. Hamilton, Q.C.

Partner

Farris, Vaughan, Wills & Murphy LLP

Stan Lanyon, Q.C.

Arbitrator/Mediator

Bruce A. Laughton, Q.C.

Union Counsel

Laughton & Company

Leading experts will discuss ethical and professional responsibility issues arising from:

- Expert witnesses
- Production of documents
- Preparation of witnesses
- Maintenance of privacy and privilege
- Provision of advice to grievors

2:50 | 3:00 **Networking Refreshment Break**

3:00 | 3:50

Making the Grievance Procedure Work

Neil Bradbury

National Representative, Special Projects

CUPE

Trevor Clifford

Manager, Labour Relations

British Columbia Maritime Employers Association (BCMEA)

- Understanding goals and motivations
- Identifying core issues, complex dispute or simple misunderstanding
- Dealing with expectations
- Myth and reality

3:50 | 4:45

Difficult Conversations – Identifying, Accommodating, and Successfully Reintegrating Employees with Mental Illness

Thomas F. Beasley

Senior Associate Counsel

Coutts Pulver LLP

Carol Reardon

Legal and Legislative Representative

CUPE / Hospital Employees' Union

- What are the risks and precautions to be taken in representing persons with mental disabilities?
- Role of medical evidence in accommodation of persons with disabilities
- Is Grievor consent necessary during the grievance/ accommodation process?
- What is the obligation of a mentally ill employee to cooperate in his/her accommodation process?
- What obligations do the union and employer have when an employee denies illness?
- When does mental illness excuse culpable conduct?
- How does the concept of undue hardship apply in the context of accommodating a mental illness?
- Is the arbitration process always suitable for mentally ill grievors?

4:45 **Conference Concludes**

CLE Accreditation

Approved by the Law Society of British Columbia for 12 hours of which 80 minutes count for ethics.

Pre-conference workshops approved by the Law Society of British Columbia for 3.5 hours each.

HOW PAST ATTENDEES HAVE BENEFITED

“ Overall a useful, informative and valuable conference. It was well thought out in terms of the topics, covering a broad spectrum of very real and applicable issues with practical and forward looking advice.”
– Karen Whitfield, CEP Local 465

“ More knowledge on drafting agreements, more awareness of conflict resolution options, OH&S issues (regulatory vs. criminal), bullying.”
– Jade Humble, Gibson Energy

“ Review of current case law. Strategies for dealing with disabilities. Discussion of how current economic climate impacts bargaining.”
– Kate Campbell, BCGEU

“ Very informative topics and well run.”
– Debbie Gale, Intertek

“ Excellent update on current issues that will effect members of my local union.”
– Rob Gibson, Boilermakers Local D277

“ I developed a stronger understanding of the fundamental principles of this area of the law including the most up-to-date decisions that inform the topic.”
– Darrell LeHouillier, Workers' Advisers Office

“ Applicable to daily situations on the job.”
– Craig Cornell, Ledcor Group

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5th Annual Western Canada

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Workshops | January 20, 2010 Yes! Please register the following delegate(s) (photocopy for additional delegates)Priority Code: 10461_AMr. Ms. Name _____

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Area of practice: _____

Company: _____

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 Early Bird Special \$1,595.00 + GST (\$79.75) = \$1,674.75
(Register and pay by **October 23, 2009**) Regular Conference Price: \$1,795.00 + GST (\$89.75) = \$1,884.75 Workshop A or B only \$600.00 + GST (\$30.00) = \$630.00 Combine Conference and Workshop(s) and Save \$100.00 per workshop Workshops A or B Both Workshops A and B I would like to order an extra copy of the conference binder (1 conference binder is included in the registration fee) \$100.00 + 5% GST Payment enclosed. Payment to follow. (GST Reg. #856568779RT0001) Charge to my VISA* AMEX* MasterCard*

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For overnight accommodation please contact the hotel at (604) 687-1122,
or Toll-Free: 1-800-667-2300, or by Fax at 604-643-7267.**CANCELLATION AND REFUND POLICY:**

A refund (less an administration fee of \$200 plus GST) will be made if notice of cancellation is received in writing three weeks before the event. We regret that no refund will be given after this period. A substitute delegate is welcome at any time.

SPECIAL OFFER: Send 4 people for the price of 3!

Register 3 delegates for the main conference at regular price at the same time and you're entitled to register a fourth person from your organization at no charge. For other group discounts, please call 1-888-777-1707. All discounts must be redeemed when booking, discounts will not be valid or applied after this time.

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