

FASKEN



2021, The Year in Review: Federal Sector

**Labour, Employment and Human
Rights Group**

November 2, 2021

2021, The Year in Review: Federal Sector



November 2, 2021

Fasken's 2021, The Year in Review Series

FASKEN
Institute



Stéphane Fillion

- Partner & Co-Leader, LEHR Group, Fasken
- +1 514 397 4309
- sfillion@fasken.com



Jackie VanDerMeulen

- Partner, Fasken
- +1 416 865 5402
- jvandermeulen@fasken.com



Christopher Pigott

- Partner, Fasken
- +1 416 865 5475
- cpigott@fasken.com



Derrick Hynes

- President and CEO, FETCO
- derrick.hynes@fetco.ca

FASKEN
Institute

Agenda

- What to Expect from a New(ish) Government
 - 10 days of paid sick leave?
 - Anti-replacement worker legislation?
 - French language requirements for the private sector
 - Taskforce Review of the Employment Equity Act
- Mandatory Vaccination – Trends and Considerations
- Pay Equity Act is now in force
- New National Day for Truth and Reconciliation
- Questions

FASKEN
Institute

What to Expect from the New(ish) Government

FASKEN
Institute

▼ The New Liberal Government

- Parliament resumes November 22, 2021
- Liberal Party Platform included significant policy proposals for federal workplaces
- Minority government, but high likelihood of change

▼ 10 days of paid sick leave?

- Within 100 days of election, introduce *CLC* amendments to provide 10 days paid sick leave for all federally regulated workers
- Part III of the *CLC* currently provides 3 paid personal days for illness/injury (among other things)

▼ Anti-replacement worker legislation?

- The Liberals also promised to “create a fairer collective bargaining process” by prohibiting the use of replacement workers by employer who has locked out employees
 - No prohibition during strikes
 - BUT – NDP supports total prohibition

▼ New French Language Requirements

- Promised to re-introduce, within the first 100 days, Bill C-32
 - Originally tabled in June 2021
 - Recognize the right to work and be served in French at federal sector companies in Quebec and regions with a strong Francophone presence

▼ New French Language Requirements

- Key Features:

- Private federal sector business required to protect and promote French as language of work and customer service
- Enhanced powers for Commissioner
- Complaints process
- Legislation would only apply to businesses with threshold # of employees – to be defined
- Many features to be defined by regulation

FASKEN
Institute

▼ Other Possible Changes

- “Right to Disconnect”
 - To be “co-developed” with labour and employers
- Strengthen rights for “digital platform” workers under *CLC*, Part III
- And don’t forget about....
 - \$15 min wage, increased termination notice, “equal pay for equal work”.....

FASKEN
Institute

▼ Taskforce Review of the Employment Equity Act

- Currently requires large employers to:
 - Analyze HR systems, policies and practices to identify barriers / inequalities for
 - women
 - “Aboriginal peoples”
 - persons with disabilities
 - members of visible minorities
 - Develop and implement a plan to remove barriers / inequalities

▼ What is Prompting the Review?

- Key societal changes and challenges, including:
 - Aging demographics
 - Shifting immigration patterns
 - Increase in non-standard work
 - Recognition of barriers facing LGBTQ2+ communities
 - Distinct employment circumstances of different Indigenous populations
 - More nuanced understanding of various forms of disability

▼ Changes Contemplated?

- Better reflection of equity seeking groups (definitions, scope, distinct experiences, etc.)
- New / different measures required to address barriers / inequities, including role of other organizations (e.g. unions)
- Changes to accountability, compliance and enforcement mechanisms
- Changes to public reporting requirements

FASKEN
Institute

▼ Mandatory Vaccination

FASKEN
Institute

Where we were before the election

- The Liberals' election platform provided that it would :
 - Require travelers on interprovincial trains, commercial flights, cruise ships, and other federally regulated vessels to be vaccinated;
 - Impose vaccination across the Federal public service;
 - Work with employers in Crown corporations and federally regulated workplaces to ensure vaccination is prioritized for workers in these sectors;
 - Table legislation to ensure that every business and organization that decides to require a proof of vaccination from employees and customers can do so without fear of a legal challenge
- In addition, during a leaders' debate, on September 8, 2021, Prime Minister Trudeau made it clear that unvaccinated people would not be able to work for the Federal public service

FASKEN
Institute

Where we are now

- On October 6, the Government announced that :
 - All Federal public servants in the Core Public Administration, including members of the Royal Canadian Mounted Police and including public servants working remotely, are required to confirm their vaccination status by October 29, 2021
 - Those unwilling to disclose their vaccination status or to be fully vaccinated will be placed on administrative leave without pay as early as November 15, 2021
 - The government justifies the application of the mandatory vaccination to the employees working remotely and teleworking on the basis that operational requirements may include *ad hoc* onsite presence ([Policy on COVID-19](#))
 - Since October 30, the Government also requires employers in the federally regulated air, rail, and marine transportation sectors to establish vaccination policies for their employees

FASKEN
Institute

Where we are now

- Also effective October 30, travelers departing from Canadian airports, and travelers on VIA Rail and Rocky Mountaineer trains, are required to be fully vaccinated in order to travel
- To allow travelers time to become fully vaccinated, there will be a short transition period where they will be able to travel if they show a valid COVID-19 molecular test within 72 hours of travel as an alternative to providing proof of full vaccination. This transition period will however end as of November 30
- Crown corporations and separate agencies are being asked to implement vaccine policies mirroring the requirements announced for the rest of the public service
- The government will keep working with employers in other federally regulated workplaces to ensure vaccination is prioritized for workers in these sectors

FASKEN
Institute

Where we are now

For Federally Regulated Transportation Sector

TO WHOM DOES THE MANDATORY VACCINATION APPLY?

- Mandatory vaccination applies to:
 - airlines and airports, and other organizations who have employees who enter restricted areas of airports, such as concession and hospitality workers
 - federally regulated railways, and their rail crew and track employees
 - marine operators with Canadian vessels that operate with 12 or more crew
- Based on the information currently available, the requirement appears to apply to all employees who fall into the above categories, regardless of their position, and regardless of whether they are working in person or remotely

FASKEN
Institute

▼ Where we are now

For Federally Regulated Transportation Sector

The content of the policy

- Each organization is required to implement a rigorous policy, which must:
 - Include a provision for employee attestation/declaration of their vaccination status;
 - Include a description of consequences for employees who do not comply or who falsify information; and
 - Meet standards consistent with the approach taken by the Government of Canada for the Core Public Administration
- After a short phase-in period, **each organization is required to guarantee that employees are fully vaccinated, or they will be unable to work**

FASKEN
Institute

▼ Where we are now

For Federally Regulated Transportation Sector

Enforcement

- Transport Canada will use its regulatory and oversight authority related to operations of federally regulated air, rail, and marine transportation service providers to ensure that the transportation system and these workplaces are safe through vaccination mandates
- Transport Canada will oversee compliance by means of inspections and enforcement tools—including Administrative Monetary Penalties
- For those who falsify information or otherwise fail to comply:
 - Railway companies could be subject to compliance actions up to \$250,000 per violation, per day, under the [Railway Safety Act](#)
 - In the air sector, individuals—either travelers or employees—could be fined up to \$5,000 per violation under the [Aeronautics Act](#), and operators could be fined up to \$25,000 per violation
 - In the marine sector, employees and travelers could be fined for being non-compliant with the obligation to provide proof of vaccination up to \$250,000 per violation, per day, and operators could be fined up to \$250,000 per violation, per day, for non-compliance to the Interim Order made pursuant to the [Canada Shipping Act, 2001](#)

FASKEN
Institute

▼ Where we are now

What about the other sectors ?

- Crown corporations and separate agencies are being asked to implement vaccine policies mirroring the requirements announced on October 6, 2021, for the rest of the public service.
- For the other sectors, the only indication we have is that “the government will keep working with employers in other federally regulated workplaces to ensure vaccination is prioritized for workers in these sectors”
- And there is no trace of the previously announced protection against legal action for employers who impose mandatory vaccination

FASKEN
Institute

▼ Where we are now

What if an employee refuses to get vaccinated?

EMPLOYEES THAT ARE NOT FULLY VACCINATED WILL BE UNABLE TO WORK

In the Core Public Administration, according to the published [Policy on COVID-19 Vaccination](#):

- For employees unwilling to be fully vaccinated or to disclose their vaccination status, the employer will implement the following measures:
 - Within 2 weeks of the attestation deadline, employees will be required to attend an online training session on COVID-19 vaccination;
 - Two (2) weeks after the attestation deadline:
 - Employees' access to the workplace, off-site visits, business travel and conferences will be restricted;
 - Employees will be placed on administrative Leave Without Pay and will be asked not to report to work, or to stop working remotely

FASKEN
Institute

▼ Where we are now

What if an employee refuses to get vaccinated?

In the **Core Public Administration**, according to the published [Policy on COVID-19 Vaccination](#):

- For employees who are partially vaccinated:
 - Partially vaccinated employees will be placed on Leave Without Pay if they have not received their second dose 10 weeks after their first dose
 - Employees who have been placed on Leave Without Pay and who become partially vaccinated will resume work and have their pay reinstated
 - Partially vaccinated employees may be subject to temporary measures for the period of time for which they remain partially vaccinated

FASKEN
Institute

▼ What about the protection against legal action?

- So far, no trace of the previously announced protection against legal action for employers who impose mandatory vaccination
- While parliamentary work has not yet resumed, Prime Minister Justin Trudeau made no mention of it when stating, on October 6, that he already delivered on the vaccine commitment:

« Already we're delivering on the first of our vaccine commitment and in the weeks to come, we'll get the job done on the vaccine passport for international travel, we'll be there to foot the bill for provinces and territories that roll out proof of vaccination programs and we'll introduce legislation to make it a criminal offence to threaten or harass healthcare workers. »

FASKEN
Institute

▼ What about the protection against legal action?

In the absence of legislation protecting from recourses, Federal employers who have adopted mandatory vaccination policies may face recourses based on the following:

- Human rights based on an allegation of discrimination and failure to accommodate (religion or medical)
- Right to privacy
- Right to make their own decisions about medical treatment
- The policy is abusive, unreasonable or discriminatory (the *KVP* case analysis)

▼ RELIGIOUS ACCOMODATIONS?

- On October 6, Prime Minister Trudeau stated that
 - Exemptions from mandatory vaccination would be extremely limited, rare and hard to obtain
 - A mere personal conviction will not be enough

What are the directives for the Core public administration when it comes to accommodations?

[The Policy on COVID-19 Vaccination for the Core Public Administration Including the Royal Canadian Mounted Police](#) provides for the following process:

- Informing the employee of its obligations
- Gathering the relevant information on the religious accommodation requested
- Making decisions as to whether the duty to accommodate applies
- Implementing the decision by identifying the appropriate accommodation measures, which may include mandatory testing; and,
- Documenting the process.

Employees are responsible for :

- Informing their manager of their need for accommodation **based on a certified medical contraindication, religion, or another prohibited ground of discrimination** as defined under the *Canadian Human Rights Act* at the earliest opportunity or by the attestation deadline, if possible
- Providing their manager **with complete and accurate information necessary to identify appropriate accommodation**, including information on relevant limitations, restrictions, and if they are partially vaccinated

FASKEN
Institute

What are the directives for the Core public administration when it comes to accommodations?

[The Directive on the Duty to Accommodate](#) (Government) provides that:

- Management must obtain from the person making the request, information and documentation about any limitations or restrictions and, if applicable, any relevant professional assessments or recommendations
- Request additional information from the individual or obtain the individual's consent prior to seeking information from a medical practitioner or other relevant third party, in support of a request for accommodation
- Consult internal subject matter experts with regard to the accommodation measure(s), including any related implications (e.g., security, technology, financial), if required

[COVID-19 vaccination for Federal public service managers](#)

- If a decision has been taken that the accommodation is not warranted, the manager will treat the situation as an employee unwilling to be vaccinated
- In the case of medical exemptions, Federal employees will be required to provide medical certification of why they cannot be vaccinated
- An employee who refuses to be vaccinated for religious reasons will be required to provide certification from a commissioner of that religious belief. Personal beliefs are not sufficient grounds for refusing to be vaccinated

FASKEN
Institute



The test to establish an infringement of Religious Freedom

FROM A CASELAW PERSPECTIVE:

Syndicat Northcrest v. Amselem, 2004 SCC 47

(1) The plaintiff must show that he or she has a practice or belief, having a nexus with religion, which calls for a particular line of conduct, **either by being objectively or subjectively obligatory or customary**, or by, in general, subjectively engendering a personal connection with the divine or with the subject or object of an individual's spiritual faith, irrespective of whether a particular practice or belief is required by official religious dogma or is in conformity with the position of religious officials; and

(2) he or she is sincere in his or her belief.

Singh c. Montréal Gateway Terminals Partnership (CP Ships Ltd./Navigation CP Itée), 2016 QCCS 4521; Singh c. Montréal Gateway Terminals Partnership, 2019 QCCA 1494

- The claimant must show that the impugned contractual or legislative provision (or conduct) interferes with his or her ability to act in accordance with his or her religious beliefs in a manner that is more than trivial or insubstantial.
- Then the defendant must demonstrate that the policy is justified
 - The interference with fundamental rights must be imposed in furtherance of a legitimate and substantial objective; and
 - The chosen means must be proportional to the objective in question (proportionality test);
 - It is rationally connected to that end;
 - The right is impaired as little as possible

FASKEN
Institute



The test for determining whether a policy is discriminatory

Singh c. Montréal Gateway Terminals Partnership (CP Ships Ltd./Navigation CP Itée), 2016 QCCS 4521, later confirmed by Singh c. Montréal Gateway Terminals Partnership, 2019 QCCA 1494

1 – The plaintiff must prove a “*prima facie*” distinction

2 – The defendant must demonstrate that the policy is justified. This element also overlaps with the requirements of sections 15(1)(g) and 15(2) of the Canadian Human Rights Act to establish freedom from discrimination under section 5.

Once *prima facie* discrimination is established, the onus shifts to **the defendant to prove on a balance of probabilities that the discriminatory standard is a *bona fide* occupational requirement or has a *bona fide* and reasonable justification**. (*British Columbia (Superintendent of Motor Vehicles) v. British Columbia (Council of Human Rights)*, [1999] 3 SCR 868)

- (1) it adopted the standard for a purpose or goal rationally connected to the function being performed;
- (2) it adopted the standard in good faith, in the belief that it is necessary for the fulfilment of the purpose or goal; and
- (3) the standard is reasonably necessary to accomplish its purpose or goal, because the defendant cannot accommodate persons with the characteristics of the claimant without incurring undue hardship, whether that hardship takes the form of impossibility, serious risk or excessive cost.

FASKEN
Institute



What should be considered in establishing the validity and reasonableness of the mandatory vaccination policy and the bona fide requirement?

Should be considered, among other things:

- The nature of the employee's work
- The employee's particular workplace
- Whether the Employer is complying with a statutory or regulatory mandate
- Whether the employee holds a position that involves public facing especially if the employee interacts with vulnerable members of the population
- Whether current precautions (like masking, distancing where possible, impermeable barriers/eye protection, enhanced cleaning and disinfection, working from home) have been sufficient to keep employees safe at work
- Whether there are less intrusive measures available
- The vaccination rate in the organization
- The overall COVID-19 Situation



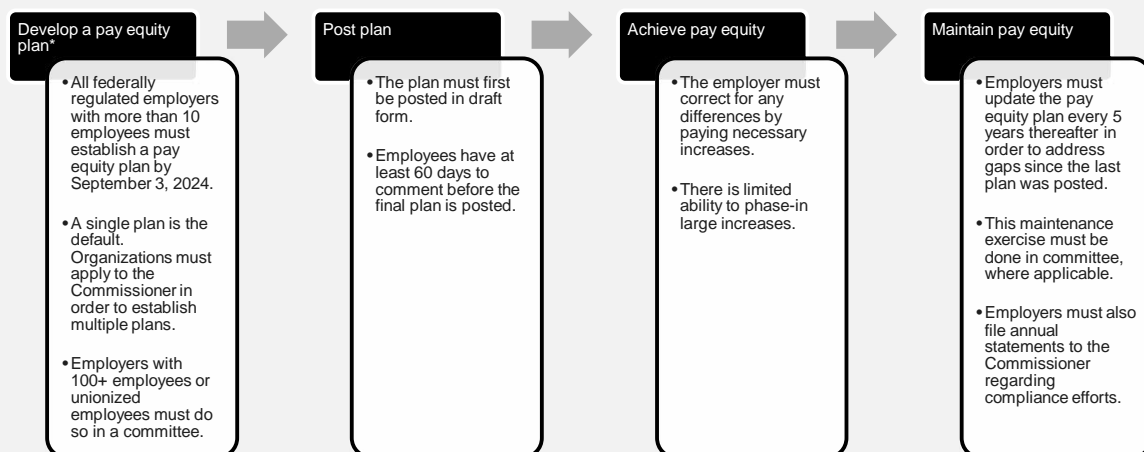
Pay Equity Act is Now in Force

Background on the Pay Equity Act

- Pay Equity Act came into force on **August 31, 2021**
 - First notice was due to be posted on November 1, 2021
- Purpose of the Act is to establish a proactive pay equity regime within the federal public and private sectors
 - “Equal pay for work of equal value”
- Designed to redress systemic, gender-based discrimination in compensation practices and systems by reducing gender wage gaps that may exist for female dominated job classes
 - Not an individual analysis, but rather about comparing female dominated job classes to male dominated job classes

FASKEN
Institute

Overview of Requirements



*Further details regarding the process and requirements for developing pay equity plan are addressed in the coming slides.

FASKEN
Institute

Responsibilities in Developing a Pay Equity Plan

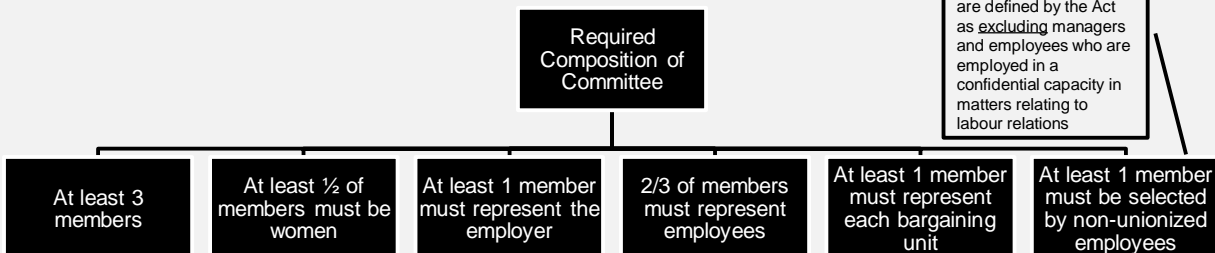
3 year
timeline

1. **Identify the job classes** in the workplace
2. **Determine the gender predominance** of the job classes based on prescribed factors
3. **Determine the value of work** performed by the job class
4. **Identify the total compensation** for each job class
5. **Compare the total compensation** of the predominantly female job classes with the compensation of the predominantly male job classes
6. **Identify wage gaps** for predominantly female job classes
7. **Draft and finalize plan(s)**
8. **Post the finalized plan(s)**

FASKEN
Institute

Committee Requirements

- Unionized employers and employers with 100+ employees in their workforces are required to develop their pay equity plans in joint committees.
- The composition of the committee is prescribed by the Act.



- Employer representatives have one vote (as a group) and employee representatives have one vote (as a group). A decision of the employee representatives must be unanimous, otherwise the employer vote prevails.

FASKEN
Institute

Multiple Plans


- Default under the Act is a single plan per employer
- May apply to the Commissioner to establish multiple plans
 - Threshold issue: “enough” predominantly male job classes for comparison purposes, considering “quantity” and “quality”
 - Appropriate in the circumstances
- Timing considerations for applying
 - Before or after committee is established?
 - Evidence of employee support?
 - Risk analysis?

FASKEN
Institute

Key Preliminary Considerations

- **Develop a project plan**
 - Identify the internal project team, including key stakeholders in HR, Compensation, Labour Relations, Legal, Communications and any necessary external resources
 - Outline key responsibilities, decision points and expected timelines
 - Assess available data and identify gaps (job classes, gender predominance, detailed compensation information, job evaluations)
 - Consider engaging a consultant under privilege
- **Evaluate opportunities for multiple plans and assess their anticipated impact**
- **Post notice of pay equity obligations (was due on November 1, 2021)**
 - Consider the development of a broader communication plan in conjunction with the notice to employees
- **Identify committee structure**
 - Consider how to best structure the committee(s), in light of legislative, geographic, business and other strategic considerations
 - Identify management representatives and consider process for electing non-unionized employee representative(s)
 - Develop terms of reference for the committee, including confidentiality agreements

FASKEN
Institute



National Day for Truth and Reconciliation

FASKEN
Institute



What is the *National Day for Truth and Reconciliation* ?

- On September 29, 2020, the Government introduced Bill C-5, *An Act to amend the Bills of Exchange Act, the Interpretation Act and the Canada Labour Code (National Day for Truth and Reconciliation)*, to designate September 30 as the National Day for Truth and Reconciliation and make it a federal statutory holiday. It was adopted by the Standing Committee on Canadian Heritage, without amendment, in November 2020 and received royal assent on June 3, 2021.
- Since then, section 166 of the Canada Labour Code is amended to include in the definition of general holiday, the "National Day for Truth and Reconciliation".

general holiday means New Year's Day, Good Friday, Victoria Day, Canada Day, Labour Day, National Day for Truth and Reconciliation, which is observed on September 30, Thanksgiving Day, Remembrance Day, Christmas Day and Boxing Day and includes any day substituted for any such holiday under section 195; (jours fériés)

FASKEN
Institute

▼ The greater benefit argument

- *Canada Labour Code:*
 - **168 (1.1)** Divisions II, IV, **V (General holidays)** and VIII do not apply to an employer and employees who are parties to a collective agreement that confers on employees rights and benefits at least as favourable as those conferred by those respective Divisions in respect of length of leave, rates of pay and qualifying periods for benefits, and, in respect of employees to whom the third party settlement provisions of such a collective agreement apply, the settlement of disagreements relating to those matters is governed exclusively by the collective agreement.

▼ The greater benefit argument

- While most Federal employers decided to grant the new holiday even if their collective agreement provided for at least 10 general holidays prior to the adoption of Bill C-5, some did not
- It is expected that legal challenges will be heard in the upcoming months

▼ Questions?

FASKEN
Institute

FASKEN
Institute

Biographies



Derrick Hynes
President and CEO, FETCO

Derrick Hynes is currently the President and CEO of FETCO (Federally Regulated Employers – Transportation and Communications). In this role, he manages the day-to-day operations of FETCO, an employers' association comprised of federally regulated firms within the transportation and communications sectors. FETCO companies employ nearly 500,000 Canadian workers and is the primary voice for federal private sector employers within Canada.

Mr. Hynes has served on the Board of Directors for the Canadian Employers Council, the voice of Canadian employers on labour matters on the international stage. In this capacity, he has been selected to lead the Canadian Employer Delegation to the ILO International Labour Conference and has served as a member of the Equal Pay Equity International Coalition (EPIC). He has spoken at numerous international events on behalf of Canadian employers.

Mr. Hynes has more than 25 years of professional experience, in both the private and public sectors. He is a skilled communicator, with proven research, writing and facilitation skills. Mr. Hynes has served as primary media spokesperson on behalf of federal employers for many years and is a registered lobbyist who advocates on behalf of a diverse constituency. Previous employers include The Conference Board of Canada, NAV CANADA and the Government of Yukon.

Mr. Hynes holds a Bachelor of Arts in Political Science from Memorial University and a Master of Public Administration from Queen's University. He has been married to Jacqueline for 23 years and is a proud father to Adam and Leah. In his free time, Mr. Hynes is an active cyclist, cross country skier and hockey player. He is also a long-time cross country skiing instructor and minor hockey coach.



Stéphane Fillion

PARTNER | CO-LEADER, LABOUR, EMPLOYMENT & HUMAN RIGHTS

Montréal

+1 514 397 4309

sfillion@fasken.com

www.fasken.com/en/stephane-fillion

Areas of Expertise

Workplace Equity | Labour, Employment & Human Rights |
Employment Advice and Litigation | Human Rights &
Discrimination | Occupational Health and Safety & Workers'
Compensation Prevention Services | Pensions and Benefits |
Federal Sector

Education

1996, LLB, Université de Sherbrooke

Jurisdiction

Quebec, 1997

Languages

French | English

Stéphane Fillion is the co-leader of the Labour, Employment & Human Rights group, he is also the Chair of Fasken's Quebec Labour, Employment and Human Rights Group. He practises in every area related to labour and employment law, be it collective or individual contracts of employment, human rights, labour standards, occupational health and safety, issues related to Pay Equity, the Charter of the French Language or other aspects.

Stéphane is praised for his expertise and reputation in the area. Stéphane is professional, extremely versatile and adapts to situations rapidly, always providing practical advice and strategies to allow clients to achieve their goals and objectives. Clients value his candour, and the respect that he transcends to business – not imposing, but rather providing guidance and ensuring his clients best interests at all times.

When litigation is required, Stéphane fiercely represents his clients before arbitrators, the Quebec Administrative Labour Tribunal, the Human Rights Tribunal of Quebec, the Superior Court, the Court of Appeal and more recently, the Supreme Court of Canada. Stéphane also has extensive experience with issues regarding pension and benefits.

Since the beginning of his practice, Stéphane has been representing several employers in the pharmaceutical sector, including medical devices. As such, he has an in-depth knowledge of the special issues that comes into play with employers who must not only comply with Labour and Employment legislation but also, the requirements imposed by Health Authorities such as Health Canada and the Food and Drug Administration.

FASKEN

In addition to providing his clients with high quality day-to-day legal advice, Stéphane frequently delivers personalized training to clients on subjects such as managing disciplinary files, performance, absenteeism, psychological harassment, violence in the workplace, drug and alcohol in the workplace and many other topics.

Finally, Stéphane has been volunteering since 2016 as a director and officer of The Générations, a non-profit umbrella organization for the Tel-jeunes and LigneParents services. Générations' work pivots around a broad mission: creating and offering high-quality social intervention and animation, accessible to all children, young people and parents in Quebec.





Areas of Expertise

Labour, Employment & Human Rights | ESG and Sustainability | Federal Sector

Education

2009, JD, University of Toronto

2005, BA (Honours), Economics and International Development, with Great Distinction, McGill University

Jurisdiction

Ontario, 2010

Languages

English | French

Jackie VanDerMeulen practices all aspects of labour and employment law. She is a skilled advocate who regularly represents employers in labour arbitrations, interest arbitrations, federal and provincial labour board matters, human rights proceedings, employment litigation and applications for judicial review.

Jackie works with employers across a variety of sectors to address complex labour issues, including:

- Regularly representing hospital, telecommunications, education and transportation sector employers in labour arbitration and board proceedings
- Representing Canada Post in an 18-month long interest arbitration with its largest union
- Appearing in various judicial review proceedings before the Federal Court, the Ontario Divisional Court and the B.C. Supreme Court

Jackie also provides employers with strategic advice, including on labour negotiations, corporate transactions, workplace policies and law reform. Jackie is recognized by Lexpert in the category of Workplace Human Rights and has developed particular expertise in accessibility legislation and pay equity. She frequently assists federally and provincially regulated employers with their accessibility and pay equity programs, including any resulting litigation.

FASKEN

Jackie distinguished herself while studying at both McGill University and the University of Toronto and was awarded the prize for the highest standing in undergraduate economics. Jackie is a dedicated mentor for students in the LAWS program, which aims to support, guide and motivate high school students who face challenges in engaging successfully with school and accessing postsecondary education.





Christopher Pigott

PARTNER

Toronto

+1 416 865 5475

cpigott@fasken.com

www.fasken.com/en/christopher-pigott

Areas of Expertise

Labour, Employment & Human Rights | ESG and Sustainability | Federal Sector

Education

2009, JD, Osgoode Hall Law School at York University

2007, MA, Political Studies, Queen's University

2005, BA (Honours), with High Distinction, University of Toronto

Jurisdiction

Ontario, 2010

Language

English

Chris Pigott's practice is focused on labour, employment, human rights and public law. Chris provides employers with strategic advice, representation in negotiations and litigation, and guidance on law reform and policy development. Chris has been recognized by *Chambers Canada* as a lawyer with "a 'wealth of legal knowledge' and a growing reputation as a 'leading thinker.'"

Chris has extensive experience in complex labour, employment, and human rights disputes. He advises clients on how to achieve their goals in the face of major labour negotiations, organizational change and restructuring, and other critical developments that impact their workplace. Chris frequently provides advice in negotiations and other labour matters that stretch across provincial and international borders. In addition to negotiation and advisory work, Chris focuses on litigation arising from labour, employment, and human rights disputes. He appears in arbitrations, labour board proceedings, before the Ontario and Federal Courts, and in the Supreme Court of Canada. Chris routinely acts in judicial review and appeal proceedings and has acted as lead or co-counsel in several significant recent appeals in the Supreme Court and Federal Court of Appeal, including:

- *Canada Post v. CUPW* (federal sector health and safety inspections)
- *Mounted Police Association of Ontario* (constitutional right to collective bargaining)
- *Saskatchewan Federation of Labour* (constitutional right to strike)

FASKEN

- *AECL v. Wilson* (unjust dismissal in the federal sector)

Chris has considerable experience representing federally regulated employers in transportation, telecommunications, banking and other industries. He acts as counsel to FETCO (Federally Regulated Employers - Transportation and Communications), the association that serves as the principal representative of employers in the federal sector.

Chris deals frequently with public law and public policy issues in the labour, employment, and human rights context. He provides advice to private and public sector clients on legislative action and government initiatives that impact their operations, and helps them craft legal and practical strategies in response. He acts for clients in matters that involve administrative or constitutional law issues, including litigation under the Canadian Charter of Rights and Freedoms. Chris also has an active international practice. He advises Canadian, foreign, and multinational employers on business and human rights, international labour standards, the international union movement, and cross-border industrial relations. He is active within the Canadian Employers Council (CEC), the exclusive representative of Canadian employers concerning global labour and employment issues. Chris has taught labour and employment law and policy at the Western University Faculty of Law, the Queen's University Faculty of Law, the Centre for Industrial Relations and Human Resources at U of T, and the Osgoode Hall Law School Certificate in Labour Law.





Ten offices Four continents One Fasken

> fasken.com



▼ Canada

Vancouver, BC
550 Burrard Street, Suite 2900
T +1 604 631 3131
vancouver@fasken.com

Calgary, AB
350 7th Avenue SW, Suite 3400
T +1 403 261 5350
calgary@fasken.com

Ottawa, ON
55 Metcalfe Street, Suite 1300
T +1 613 236 3882
ottawa@fasken.com

Québec, QC
140 Grande Allée E., Suite 800
T +1 418 640 2000
quebec@fasken.com

Surrey, BC
13401 - 108th Avenue, Suite 1800
T +1 604 631 3131
surrey@fasken.com

Toronto, ON
333 Bay Street, Suite 2400
T +1 416 366 8381
toronto@fasken.com

Montréal, QC
800 Victoria Square, Suite 3500
T +1 514 397 7400
montreal@fasken.com

▼ Global

London, United Kingdom
15th Floor, 125 Old Broad Street
T +44 20 7917 8500
london@fasken.com

Johannesburg, South Africa
Inanda Greens, 54 Wierda Road
West Sandton 2196
T +27 11 586 6000
johannesburg@fasken.com

Beijing, China
Level 24, China World Office 2
No. 1 Jianguomenwai Avenue
T +8610 5929 7620

FASKEN

Institute