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2021, The Year in Review: Human Rights

**Labour, Employment and Human
Rights Group**

November 16, 2021

2021, The Year in Review: Human Rights



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November 16, 2021
Fasken's 2021, The Year in Review Webinar Series

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Overview

- Vaccines and the grounds of religion, disability, and political belief
- Mandatory vaccination policies: unlawful discrimination vs. legitimate enforcement of rules
- Language matters: pronouns and discrimination
- Systemic discrimination: lessons from the Fraser decision
- Family status discrimination and accommodation in the context of returns to the workplace
- The continuing trend of increasing human rights damages

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Vaccines and the grounds of religion, disability, and political belief

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Vaccines – Quebec

- *Charter of Human Rights and Freedoms:*
 - Disability
 - Personal liberty
 - Freedom of religion
 - 9.1 justification

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▼ Vaccines – Ontario

- *Human Rights Code:*
 - Disability, Creed
- Ontario Human Rights Commission
 - Mandating generally permissible
 - Duty to accommodate medical reasons
 - Personal preferences and singular beliefs not protected

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▼ Vaccines – Alberta

- *Human Rights Act:*
 - Physical Disability, Mental Disability, Religious Beliefs
- Alberta Human Rights Commission
 - Can't address personal opinion or political beliefs
- Alberta Government
 - Restrictions Exemption Program
 - Proof of medical exemption

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▼ Vaccines – BC

- *Human Rights Code:*
 - Disability, Religion, Political Belief
- BC Human Rights Commission
 - Proof of Vaccination requirement justified from HR perspective
 - Personal Choice

▼ Vaccines – BC

- BC Human Rights Tribunal
 - Vaccine requirement complaints:
 - What is the vaccine requirement.
 - How did the vaccine requirement negatively affect a person or group.
 - How does the negative effect relate to a protected area such as employment or public services.
 - How is the person the complaint is against [respondent] responsible for the negative effect.
 - How is a protected characteristic a factor in the negative effect.

▼ Vaccines – BC

- BC Human Rights Tribunal
 - Political Belief
 - Includes public discourse on matters of public interest which involves or would require action at a governmental level
 - A genuinely held belief opposing government rules regarding vaccination could be a political belief

▼ Vaccines – BC

- BC College of Physicians and Surgeons
 - Medical Certificates:
 - Statements made must be truthful and based on objective clinical information about the patient and not simply a repetition of the patient's self-diagnosis.
 - Medical information must be presented in a clear and factual manner, with opinions that are supported by objective medical evidence.
 - Conjecture, speculation and inappropriate advocacy in medical certificates or reports must be avoided

▼ Vaccines – BC


- BC Ministry of Health
 - Medical Reasons for Temporary Deferral:
 - Anaphylaxis to components of mRNA and adenovirus vector vaccine
 - Receipt of anti SARS-CoV-2 monoclonal antibodies or convalescent plasma for treatment or prevention of COVID-19
 - Diagnosis of Multisystem Inflammatory Syndrome
 - Physician-diagnosed myocarditis or pericarditis following the first dose with no other cause identified
 - Serious adverse event following first dose of vaccine reported to the medical health officer and awaiting recommendation for further vaccination by a MHO
 - Serious adverse event following first dose of vaccine not yet reported to the MHO

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▼ Vaccines – Religion

- Definition of Religion
- Sincerely held belief
- Vanderbilt publication on Immunizations and Religion
 - Lists religions with theological objections to vaccinations and those not opposed

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Mandatory Vaccination Policies

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Types of Vaccination Policies

- “True” mandatory vaccination
 - [Air Canada Introduces Mandatory COVID-19 Vaccination Policy for All Employees and New Hires - Aug 25, 2021 \(mediaroom.com\)](#)
 - [TTC to fire employees who do not get vaccinated against COVID-19 by Dec. 31 - Toronto | Globalnews.ca](#)
- “Vax or Test”
 - [Unvaccinated Ontario school staff required to take two COVID-19 tests per week | CBC News](#)


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▼ Types of Vaccination Policies

- Different requirements may apply to:
 - Employees returning to office vs. WFH
 - New hires
 - Contractor personnel who work on-site

▼ Case Law To-date

- “True” mandatory vaccination policy
 - *Paragon Protection* (Nov 9, 2021)
 - *Electrical Safety Authority* (Nov 11, 2021)
- “Vax or Test” policy
 - *Ontario Power Generation* (Nov 12, 2021)



The Use of Pronouns

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Recent amendments to human rights legislation

Recently, jurisdictions in Canada have amended their human rights legislation, in order to protect gender identity and gender expression:

- **Ontario:** in 2012, the *Human Rights Code* was amended to add “gender identity” and “gender expression” as a prohibited ground of discrimination.
- **Quebec:** In 2016, the *Act to strengthen the fights against transphobia and improve the situation of transgender minors in particulars* amended the *Quebec Charter of Human Rights and Freedoms* to add “gender identity or expression” as a prohibited ground of discrimination.
- **Federal :** in 2017, “gender identity or expression” was added as a prohibited ground of discrimination under the *Canadian Human rights Act*.

Some courts and tribunals have adopted new procedures about the importance of inviting court participants to share their preferred pronouns and prefixes.

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▼ What's in a name?

- "she/her/hers," "he/him/his," and "they/them/theirs"
- Including pronouns in the e-mail signature

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▼ Decisions relating to gender expression/gender identity

➤ Pronouns in the Workplace

- *Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others*, 2021 BCHRT 137
- *EN v. Gallagher's Bar and Lounge*, 2021 HRTO 240

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▼ Pronouns in the Workplace

- *Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others*
 - The Applicant is a non-binary, gender fluid, transgender person who uses they/them pronouns.
 - The bar manager referred to the applicant using she/her pronouns and gendered nicknames, despite repeated requests to stop.
 - The applicant asked the restaurant to intervene.
 - The applicant's employment was terminated.

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▼ Pronouns in the Workplace

- *Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others*



- Findings:
 - The employer engaged in discrimination on the basis of gender identity or expression.
 - The bar manager discriminated against the complainant in their employment on the basis of gender identity or expression.

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▼ Pronouns in the Workplace



- *Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others*

- Remedies:

- \$30,000 as compensation for injury to dignity, feelings and self-respect;
- Joint and several liability;
- The employee policy must be amended;
- Mandatory training.

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▼ Pronouns in the Workplace



- *Nelson v. Goodberry Restaurant Group Ltd. dba Buono Osteria and others*

Factors: The nature of the discrimination :

- ✓ Relatively **short time frame**;
- ✓ Discrimination was **ongoing** and **escalating**;
- ✓ **Severe outcome** : loss of employment.

Factors: The effect on the complainant :

- ✓ The complainant was very **upset** after their termination;
- ✓ Immediate shift in their **confidence**, after they had the courage to disclose their identity;
- ✓ The complainant felt **fear** and **sadness** and like they deserved to be treated as less than.

Factors: Social context of the complainant and their vulnerability :

- ✓ Unique **vulnerability of employees** in the context of their work;
- ✓ Vulnerability stemming from the forces of **systemic inequality** against transgender people;
- ✓ The complainant just moved to a new city and doing so left their job, community and home;
- ✓ Smaller community with fewer opportunities for employment.

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▼ Pronouns in the Workplace

- *EN v. Gallagher's Bar and Lounge*
 - The complainants identify as gender queer or non-binary trans persons who use they/them pronouns.
 - The manager refused to use their proper pronouns.
 - Spoke disparagingly about them to customers.
 - The manager refused to address their concerns any further.
 - The complainants quit to avoid a recurrence of the conduct.

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▼ Pronouns in the Workplace



- *EN v. Gallagher's Bar and Lounge*
- Findings:
 - The manager discriminated against the applicants because of their gender identity, gender expression and sex.

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▼ Pronouns in the Workplace



- *EN v. Gallagher's Bar and Lounge*
- Remedies:
 - \$10,000 to each of the applicants as compensation for injury to dignity, feelings and self-respect;
 - \$6,050, \$2,872 and \$2,096 for lost wages;
 - Joint and several liability.

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▼ Pronouns in the Workplace



- *EN v. Gallagher's Bar and Lounge*


Factors: The objective seriousness of the impact :

- ✓ **Egregious** discriminatory comment and context;
- ✓ Respondent's **status** as a manager;
- ✓ Very **public** nature of the comment;
- ✓ Applicants were publicly **outed without their consent**;
- ✓ The respondent took **no steps to rectify the situation** (even after a meeting with some of the applicants and a letter from their lawyer);
- ✓ The applicants' **employment came to an end** as a result from a discriminatory reason.

Factors: impact on the applicant individually :

- ✓ The applicants **feared risks to their safety** and **future discrimination** as a consequence of the respondent's action;
- ✓ They felt like they had no choice but to leave the restaurant.

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Systemic Discrimination

Lessons from the Fraser Decision

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Systemic Discrimination

- *Fraser v. Canada (Attorney General)*, 2020 SCC 28
 - Proving systemic discrimination
 - 2 types of evidence:
 - Situation of the group
 - Outcomes of the law or policy including statistics
 - Does the law or policy have the effect of reinforcing, perpetuating or exacerbating disadvantage
 - Prejudice or stereotyping not necessary

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▼ Systemic Discrimination

- *Kirchmeier obo others v. University of British Columbia (No. 4)*, 2021 BCHRT 149
 - M, a UBC PhD student subject to numerous complaints of sexual harassment
 - Complainant was a UBC alumnus who raised concerns about M
 - M expelled

▼ Systemic Discrimination

- *Kirchmeier obo others v. University of British Columbia (No. 4)*, 2021 BCHRT 149
 - Complainant brought representative complaint on behalf of herself and two classes of women:
 - Those who raised concerns about student M; and
 - Those who raised concerns about other men
 - Complained UBC's response to sexual misconduct (not just that of M) during the period harmed women who brought forward concerns in a manner connected to their sex

▼ Systemic Discrimination

- *Kirchmeier obo others v. University of British Columbia (No. 4)*, 2021 BCHRT 149
 - Complainant does not have to prove that UBC's actions were motivated or causally connected to sex
 - Sufficient to prove that the women were adversely impacted in connection with UBC's services and that sex was a factor in that impact

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▼ Systemic Discrimination

- *Lord v Fraser Health Authority*, 2021 BCSC 2176
 - Systemic discrimination and Tribunal gate keeping role
 - Systemic discrimination and duty to disclose/duty to inquire

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▼ Systemic Discrimination

- *Lord v Fraser Health Authority*, 2021 BCSC 2176
 - Complainant dismissed for cause due to misconduct
 - Despite repeated inquiries, complainant chose not to disclose bi-polar disorder to ER and said did not need accommodation
 - Complained of discrimination due to bi-polar disorder

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▼ Systemic Discrimination

- *Lord v Fraser Health Authority*, 2021 BCSC 2176
 - BCHRT dismissed Complaint as having no reasonable prospect of success exercising gatekeeping role
 - Concluded Complainant not able to prove termination connected to her disability


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▼ Systemic Discrimination: Lessons from the *Fraser* Decision

- *Lord v Fraser Health Authority*, 2021 BCSC 2176
 - Judicial Review
 - Sensitivity to difficulty in establishing adverse effect discrimination should inform gatekeeping process
 - BCHRT failed to consider evidence of complainant and accepted evidence of respondent


▼ Systemic Discrimination

- *Lord v Fraser Health Authority*, 2021 BCSC 2176
 - Judicial Review
 - Adverse impact discrimination may play a role in the ability or willingness of a party to disclose
 - Being asked to ascribe transgressions to a disability could lead complainant to wonder if bias is a factor



Family Status Discrimination & Accommodation

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Family Status Discrimination: Legal Tests

- Are employees required to “self-accommodate”?
 - [Campbell River](#) (2004, B.C. CA)
 - [Johnstone](#) (2014, Federal CA)
 - [Misetich v. Value Village Stores](#) (2016, HRTO)
 - [Alberta Health Services](#) (2021, Alberta CA)
- [A Mixed Bag: Tests for Family Status Discrimination Still Vary Across Canada | Knowledge | Fasken](#)

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▼ When does duty to accommodate arise?

- Test for *prima facie* discrimination (Moore, 2012, SCC)
 1. employee possesses a protected characteristic;
 2. Employee experiences an adverse impact with respect to their employment; and
 3. protected characteristic is a factor in the adverse impact

▼ Return to Office: Practical Considerations

- Engage accommodation process
- Pre-pandemic status quo may have changed
- Consistent approach
 - Guidelines for managers
 - HR support
- Advance notice
- Transition period



Quantum of Damages

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Quantum of Damages

➤ **Discrimination on the Basis of Race and Colour, Ethnic Origin and Ancestry**

- *Francis v. BC Ministry of Justice (No. 5)*, 2021 BCHRT 16
- *Commission des droits de la personne et des droits de la jeunesse (Nyembwe) c. Ville de Gatineau*, 2021 QCTDP 1

➤ **Discrimination on the Basis of Disability**

- *Kvaska v Gateway Motors (Edmonton) Ltd.*, 2020 AHRC 94

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▼ Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry

- *Francis v. BC Ministry of Justice (No. 4)*, 2019 BCHRT 136
 - The complainant worked as a correctional officer.
 - He experienced racist comments on a daily basis at work and was publicly denigrated.
 - He was retaliated against for filing a human rights complaint.
 - He ended up resigning.

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▼ Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry

- *Francis v. BC Ministry of Justice (No. 4)*
 - Findings:
 - The Ministry of Justice and North Fraser Pre-trial Centre discriminated against Levan Francis on the grounds of race and colour
 - Francis experienced retaliation.
 - The discrimination and retaliation led the Tribunal to conclude that the complainant had been subjected to a poisoned work.
 - His departure was an adverse impact.

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▼ Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry



- *Francis v. BC Ministry of Justice (No. 5)*
 - Remedies:
 - Order the Respondent to cease the discrimination and retaliation and to refrain from committing the same or similar contraventions
 - \$176,000 as compensation for injury to dignity, feelings and self-respect.
 - \$264,060 as compensation for past loss of earnings, \$431,601 as compensation for future loss of earnings and \$65,881 as compensation for pension loss;
 - \$1,140 as compensation for expenses (counselling and health-related therapy);
 - \$25,515.24 as compensation for disbursements;
 - **Total of \$964,197.24.**

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▼ Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry

*“What Francis experienced **encompasses virtually the entire spectrum of racial discrimination and harassment** in the workplace, escalated into retaliatory behaviour, and resulted in a poisoned work environment, necessitating a significant award of compensation”*

Francis v. BC Ministry of Justice (No. 5), par. 159

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Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry

Francis v. BC Ministry of Justice (No. 5)



Factors – Nature, Time Period and Frequency of the Contraventions :

- ✓ Serious nature of the contravention : **discrimination and retaliation**;
- ✓ Experienced virtually the **entire spectrum of racial discrimination** and harassment in the workplace;
- ✓ Experienced “**everyday racism**”;
- ✓ Many incidents were reported but Francis was **considered playing the “race card”**;
- ✓ His Human rights complaint has led to **retaliation**;
- ✓ Francis experienced **mental health** problems.

Factors – Vulnerability of the complainant:

- ✓ **Employees** are inherently **vulnerable**;
- ✓ Francis was subject to discrimination and retaliation by **both coworkers and supervisors**;
- ✓ He lost his friendships and **suffered socially** at work;
- ✓ Harms exacerbated by the **nature of his position** as a segregation officer;
- ✓ **Physical safety** was threatened and compromised because of the nature of his job;
- ✓ Francis **did not feel safe** at work and did not trust his coworkers had his back.

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Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry

- *Francis v. BC Ministry of Justice (No. 5)*



Factors – Impact on Francis :

- ✓ Francis’ **departure from his workplace**;
- ✓ **Loss of his ability to work** (medically not able to);
- ✓ **Mental health** issues (developed a mental illness);
- ✓ Wide-variety of **stress-related physical symptoms**;
- ✓ **Financial loss** that contributed to the loss of their family home;
- ✓ **Loss of interest** in things Francis previously enjoyed;
- ✓ Poor **hygiene** and **alcohol** consumption;
- ✓ Loss of his **friendships** and trust in everyone;
- ✓ Impacts on his **family life**.

Factors – Totality of Relationship Between the Parties:

- ✓ The totality of the relationship between the parties **exacerbated Francis’ vulnerability** and the impacts that he experienced as a result of the Contraventions;
- ✓ **Multiple sources** of discrimination and retaliation (number of officers and supervisors);
- ✓ Compromise of the necessary work relationships;
- ✓ **No recourse** open to him in his poisoned work environment.

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▼ Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry

- *Commission des droits de la personne et des droits de la jeunesse (Nyembwe) c. Ville de Gatineau*, 2021 QCTDP 1
 - Following a 911 call from a victim of domestic violence, the complainant was arrested, although he did not match the description given.
 - He was apprehended, detained and arrested and issued a statement of offence for disturbing the peace by the defendants Bélanger and Bruneau, police officers of the defendant city.

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▼ Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry

- *Commission des droits de la personne et des droits de la jeunesse (Nyembwe) c. Ville de Gatineau*
 - Findings:
 - The complainant was subjected to differential and unusual treatment;
 - He was apprehended, detained, searched and arrested and issued a statement of offence without any serious or reasonable grounds;
 - The police officers' behaviour can only be rationally explained by the biases they held, whether consciously or not.

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▼ Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry



- *Commission des droits de la personne et des droits de la jeunesse (Nyembwe) c. Ville de Gatineau*
- Remedies:
 - \$15,000 as compensation for moral damages.
 - Joint liability.
 - \$3,000 as punitive damages (by the police officers).

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▼ Discrimination on the Basis of Race, Colour, Ethnic Origin and Ancestry



Commission des droits de la personne et des droits de la jeunesse (Nyembwe) c. Ville de Gatineau

Factors – Moral damages :

- ✓ Profound negative impacts of racial discrimination on victims;
- ✓ Prolonged impacts of racial profiling over time;
- ✓ The complainant felt **humiliated** and **socially degraded**;
- ✓ The complainant felt **shame** and like he was responsible for what happened to him;
- ✓ **Denial** of what happened;
- ✓ **Sleep disorder**;
- ✓ **Fear of retaliation** from the officers.

Factors – Punitive damages:

- ✓ Officers' attitude of **suspicion, condescension and denigration towards the complainant** during the procedure;
- ✓ Absence of introspection of the officers;
- ✓ The officers are in a **position to perpetuate the behaviour** they have exhibited towards the complainant;
- ✓ Punitive damages **objectives** : deterrence, punishment and denunciation.


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▼ Discrimination on the basis of disability

- *Kvaska v Gateway Motors (Edmonton) Ltd.*, 2020 AHRC 94
 - The complainant worked as a commission car salesperson.
 - He began drinking heavily and came to work drunk every day.
 - The complainant began the process of applying for disability benefits in order to start a rehabilitation program.
 - The applicant attended work late while intoxicated, interrupted a staff meeting and acted belligerently towards the general manager.

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▼ Discrimination on the basis of disability

- *Kvaska v Gateway Motors (Edmonton) Ltd.*
 - Findings:
 - The complainant had a disability.
 - The employer knew or reasonably ought to have known that the complainant suffered from the disability.
 - The employer had a duty to inquire.

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▼ Discrimination on the basis of disability

*“Since there is no limit in the statute, one would expect to see **damage awards increasing over time**, at least with **inflation**, but also with **increasing awareness of the serious consequences** that can flow from having experienced discrimination.”*

Kvaska v Gateway Motors (Edmonton) Ltd., par. 74

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▼ Discrimination on the basis of disability

- *Kvaska v Gateway Motors (Edmonton) Ltd.*

- Remedies:

- \$30,000 as general damages for injury to dignity;
- Lost short-term disability benefits;
- Lost wages for six months, less any amount that the complainant received in wages from other sources or income replacement government benefits.



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▼ Discrimination on the basis of disability



- *Kvaska v Gateway Motors (Edmonton) Ltd.*

Factors: The objective seriousness of discrimination:

- ✓ **Termination of employment;**
- ✓ **Significant** disability suffered by the complainant;
- ✓ The respondent **knew or should have known** about the disability;
- ✓ The **absence of a termination meeting**, the complainant having been informed when he showed up unannounced in the workplace;
- ✓ **Refusal** that the complainant attend **rehabilitation treatment**.

Factors: Particular effect on the complainant:

- ✓ Humiliation;
- ✓ Loss of self-respect, dignity and confidence;
- ✓ Devastating psychological effects for several years, because of the loss of job and benefits at the time of his greatest need;
- ✓ The complainant never returned to this industry.

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Areas of Expertise

Labour, Employment & Human Rights | Labour Relations and Collective Bargaining | Employment Advice and Litigation | Labour Mergers, Acquisitions and Sales of Business | Human Rights & Discrimination | Canada

Education

2014, LLM, Labour and Employment Law, Osgoode Hall Law School at York University

2003, LLB, Queen's University

1998, BEd, Western University

1997, BA (Honours), Western University

Jurisdiction

Ontario, 2004

Language

English

Erin Porter's practice is focused on advising and representing employers in labour, employment and human rights matters. With considerable experience in the health care sector, Erin offers strategic and practical advice to her clients.

Erin returned to Fasken after spending more than 11 years as in-house counsel for one of Canada's largest retirement and long term care home providers. In her position as Vice President, Legal, she was responsible for providing advice on acquisitions and dispositions, accommodation, employment contracts, terminations and various other workplace matters.

Erin frequently appears before arbitrators, the Ontario Labour Relations Board, and the Human Rights Tribunal of Ontario. Although she is a passionate advocate, Erin also knows the benefit of pursuing a settlement under the right terms and conditions.

In addition to her appearance work, Erin also has experience negotiating and interpreting collective agreements, drafting employment policies and conducting workplace investigations. A former teacher, Erin loves to present and has been a speaker at professional and client-based seminars on topics such as the duty to accommodate, preparing for arbitration, workplace investigations, code of conduct and last chance agreements.



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Areas of Expertise

Labour Relations and Collective Bargaining | Labour, Employment & Human Rights | Employment Advice and Litigation | Labour Mergers, Acquisitions and Sales of Business | Human Rights & Discrimination | Executive Compensation and Incentive Plans | Pensions and Benefits

Education

2019, Certificate in law, Pension Law, Osgoode Hall Law School at York University

2008, BCL / LLB, McGill University

2005, BA (Honours), University of Toronto

Jurisdictions

Quebec, 2012 | Ontario, 2010

Languages

French | English

Rhonda Grintuch is a lawyer with the firm's Labor, Employment & Human Rights group. With a practice covering all aspects of employment law, she provides employers strategic advice on hiring, lay-offs and dismissals, human rights, and federal and provincial employment standards. Clients also benefit from Rhonda's advice on labour relations matters, including grievance arbitration and union certification.

Over the course of her practice, Rhonda has developed particular expertise in health law, including the administration of healthcare institutions and mental health law.



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Areas of Expertise

Labour Relations and Collective Bargaining | Labour,
Employment & Human Rights | Employment Advice and
Litigation | Human Rights & Discrimination | Transportation |
Retail | Health | Agribusiness, Food & Beverage

Education

2006, JD, University of Toronto

1999, B Comm (Hons), Industrial Relations
Management, University of British Columbia

Jurisdiction

Ontario, 2007

Languages

English | Chinese (Cantonese)

Bonny Mak advises and advocates for employers. Having practised exclusively labour, employment and human rights law for over a decade, she is experienced in a broad range of industry sectors, issues faced by employers, and legal proceedings. The majority of her work is in support of companies that are national in scope, in which she leverages both her own expertise and that of Fasken's national labour, employment and human rights team.

Advisory Work

Bonny supports employers in major initiatives impacting employees including: reduction in force, closure of business, sale and acquisition of business, implementation of new or changed policies, and response to union organizing campaigns. Recent examples include:

- Supported the closure of retail and manufacturing operations of a U.S. based client in 3 provinces involving the termination of 240 employees, from which no litigation arose
- Supported the negotiation of a closure and severance agreement between a service industry client and its union
- Formulated a strategy for client in building services sector to stay union free in contract bidding and subcontracting

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- Revamped a transportation industry client's alcohol and drugs policy, including the introduction of a requirement that employees in safety-sensitive positions self-report alcohol or drug addictions to the employer
- Advised a service industry client with salesforce in multiple provinces on changes in sales compensation structure and deferred commissions
- Analysis of retiree benefits buyout scheme under consideration for unionized and non-unionized employee groups potentially impacting thousands of retirees
- Supported distribution centre client in staying union free in the face of an aggressive 3-year organizing campaign


On a day-to-day basis, Bonny helps clients manage their employees and resolve workplace issues. She brings a pragmatic approach to disability management, discipline and termination, investigation of internal complaints, and the development of employment policies and procedures. She has delivered numerous training sessions on union organizing and certification, disability management, workplace harassment and human rights.

Advocacy Work

Bonny represents employers before the Human Rights Tribunal of Ontario, the Canadian Human Rights Commission, the Ontario Labour Relations Board, labour arbitrators, unjust dismissal complaint adjudicators, and courts. Recent examples include:

- Securing dismissal of 10 human rights complaints in 2018-19 before the Human Rights Tribunal of Ontario and Canadian Human Rights Commission without proceeding to hearing or investigation
- Represents a hospital in 9 complaints made by current and former employees to the Human Rights Tribunal of Ontario alleging systemic racial discrimination
- Successfully defended a discharge grievance for a transportation industry client
- In 2018-19, settled 8 grievances, 6 wrongful dismissal actions, and 5 human rights complaints





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