

September 24-25, 2015

Halifax, NS

12th Annual Atlantic Canada **LABOUR & EMPLOYEE RELATIONS FORUM**



Conference Highlights:

- Latest Developments of Note in Employment and Labour Law – Strategic Implications for Management and Labour
 - Family Status Accommodation – Impact of Developing Trends, Significant Case Decisions, and Defining the Line of Undue Hardship
 - Views and Updates from Your Labour Boards
 - Privacy of Personal and Medical Information – Balancing Between Too Much & Too Little Information
 - Attendance Management – Managing Absenteeism, Creating a Policy, and Lessons Learned After Three Years of Implementation
 - Qualifying What Counts as Bullying and Harassment – How Do We Address it?
 - Impacts of Recent Significant Decisions on Constructive Dismissals
- and more...

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Co-Chairs



Susan Coen
Legal Counsel
Canadian Union of Public Employees



James F. LeMesurier, Q.C.
Partner
Stewart McKelvey LLP

Speakers



Nancy Birt, Q.C.
Chair
Prince Edwards Island Labour Relations Board



Anna Goguen
Regional Representative
Public Service Alliance of Canada



Bettina Quinstgaard
Partner
Pink Larkin



Level Y. Y. Chan
Partner
Stewart McKelvey LLP



Noella Martin, Q.C.
Partner
Wickwire Holm



Kathryn A. Raymond
Arbitrator, Mediator, Partner
BOYNECLARKE LLP



Eric Durnford, Q.C.
Partner
Barteaux Durnford



David A. Mombourquette, MIR
Partner
Pink Larkin



Douglas G. Ruck, Q.C.
Chair
Nova Scotia Labour Board



Perry Dyke, CHRP
Human Resources and Administration Manager
Fredericton International Airport Authority



Sheilagh M. Murphy, Q.C.
Chair
Newfoundland and Labrador Labour Relations Board



Elizabeth Spinney
Mediator
Federal Mediation and Conciliation Service



George Filliter
Chair
New Brunswick Labour and Employment Board



Patrick O'Brien
Manager, Learning & Development
City of Moncton



Donna VanBuskirk
Manager, Human Resources
Atlantic Canada
Purolator



Gail L. Gatchalian
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Pink Larkin



Ian Pickard
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Kelly VanBuskirk
Partner
Lawson Creamer



Andrea D. Gillis
Manager of Labour Relations
Halifax Regional Municipality



Ronald Pizzo
Arbitrator, Mediator, Partner
Pink Larkin

12th Annual Atlantic Canada **LABOUR & EMPLOYEE RELATIONS FORUM**

The labour relations landscape is constantly changing and requires continuous attention. It is essential to consistently review the changes in labour law, to examine the issues affecting employees, and identify employers' responsibilities. As employee and union relations and human resources professionals, it is crucial to understand the importance of keeping up with developments on labour legislations, current labour relations issues, managing employee relations, and effective solutions for resolving disputes.

The **12th Annual Atlantic Canada LABOUR & EMPLOYEE RELATIONS FORUM** provides a one-of-a-kind opportunity for professionals from unionized and non-unionized workplaces to connect, network, benchmark and discuss issues of strategic and substantive relevance in the current environment. This year's agenda will address changes in the labour relations landscape, important issues impacting employers and employees, best practices in managing various workplace disputes, and significant decisions and developments of note. Best practices in personal and medical privacy, attendance management, mental health in the workplace, and managing family status accommodation amongst other key issues will also be covered. Regardless of your specific responsibilities within labour relations we believe that there are invaluable and critical takeaways for all participants.

Susan Coen
Legal Counsel
Canadian Union of Public Employees

James F. LeMesurier, Q.C.
Partner
Stewart McKelvey LLP



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and more...

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SEPTEMBER 24, 2015

8:15 | Registration and Continental Breakfast

9:00 | **Co-Chairs' Opening Remarks**

9:15 | **Latest Developments of Note in Employment and Labour Law – Strategic Implications for Management and Labour**

Eric Durnford, Q.C.

Partner
Barteaux Durnford

Gail L. Gatchalian

Partner
Pink Larkin

- Administrative leave – oops, did we accidentally fire someone?
- Unjust dismissal – can money make it more just?
- Iron clad termination provisions – maybe not?
- We had cause! – but did we do a proper investigation?
- We really want to search employees' email – is that a good idea?
- LTD and/or pension benefits – will they be clawed back from wrongful dismissal damages?
- Gender identity and expression as grounds of discrimination – how do we need to change our practices?

10:15 | **Family Status Accommodation – Impact of Developing Trends, Significant Case Decisions, and Defining the Line of Undue Hardship**

Kathryn A. Raymond

Arbitrator, Mediator, Partner
BOYNECLARKE LLP

- What kinds of family status and family relationships can trigger the duty to accommodate?
- What is the impact of recent family status decisions on employers and unions, and how can employers effectively address family status issues that arise in the workplace?
- How to recognize and react to potential Human Rights issues arising from changes to employee's status or work requirements
- Obligations and responsibilities of the three-way relationship: employer-union-employee
- Application of the *Federal Court of Appeal in Canada (Attorney General) v Johnstone* decision on future family status cases?
- What sort of accommodations do employers or unions have to make for employees who have family-related needs and obligations?
- Will this include, for example, modified work schedules, particular shifts, flex-time, or telecommuting?

11:00 | Networking Refreshment Break

11:15 | **Impacts of Recent Significant Decisions on Constructive Dismissals**

James F. LeMesurier, Q.C.

Partner
Stewart McKelvey LLP

- What are the two ways ("branches") by which constructive dismissal can be established?
- Is constructive dismissal an all-or-nothing proposition?
- Does suing for constructive dismissal constitute a resignation?
- Does an employee have a right to work?

12:00 | Networking Luncheon

FEATURED PANEL

1:00 | **Views and Updates from Your Labour Boards**

Nancy Birt, Q.C.

Chair
Prince Edwards Island Labour Relations Board

George Filliter

Chair
New Brunswick Labour and Employment Board

Sheilagh M. Murphy, Q.C.

Chair
Newfoundland and Labrador Labour Relations Board

Douglas G. Ruck, Q.C.

Chair
Nova Scotia Labour Board

In this presentation, the chairs from the Labour Relations Boards from across Atlantic Canada, will engage in a discussion on the legislative updates and rules of procedure in their respective provinces. Together they will give their perspectives on what lies ahead for Atlantic Canada.

2:15 | **Ending the Employment Relationship – Knowing When and How Best to Say Goodbye**

Noella Martin, Q.C.

Partner
Wickwire Holm

- At what point will undue hardship be reached and termination actions be called for?
- Effective communication to departing employees
- What tools do managers need?
- Liability that can come from termination conversations that don't go as scripted
- What's the role of the union throughout?

3:00 | **Qualifying What Counts as Bullying and Harassment – How Do We Address It?**

Susan D. Coen

Legal Counsel
Canadian Union of Public Employees

Andrea D. Gillis

Manager of Labour Relations
Halifax Regional Municipality

- What constitutes harassment and bullying? What doesn't?
- When can discipline constitute bullying and harassment?
- National Standard of Workplace Psychological Health
- Case studies of successful bullying and harassment management
- Rights and responsibilities for employers, employees and unions

4:00 | **Conference Concludes for Day One**

SEPTEMBER 25, 2015

8:30 | **Continental Breakfast**

9:00 | **Co-Chairs' Opening Remarks**

9:15 | **Consequences of Inadequate Workplace Investigations**

Donna VanBuskirk

Manager, Human Resources Atlantic Canada
Purolator

- Examining the process of conducting an effective investigation
- Recognizing the role of Human Resources during investigations
- Identifying best practices, common pitfalls and examples
- When should employers involve unions in the investigation

10:00 | **Privacy of Personal and Medical Information – Balancing Between Too Much and Too Little Information**

Ronald Pizzo

Arbitrator, Mediator, Partner
Pink Larkin

With awareness of employee privacy rights on the rise, personal and medical privacy challenges and evolving legal obligations can be difficult to balance with an employer's need to efficiently manage their business.

- What are the boundaries of what employers can or cannot ask?
- Understanding the threshold into an invasion of privacy. At what point should the request for information stop and accommodation begin?

10:45 | **Networking Refreshment Break**

11:00 | **Effective Management of Mental Health Illness and Disabilities By Unions and Management**

David A. Mombourquette, MIR

Partner
Pink Larkin

Kelly VanBuskirk

Partner
Lawson Creamer

Workplaces are much more complex than they used to be – most employers and unions are now navigating challenging issues that were not even discussed 20 years ago, with a primary focus on mental health. This discussion will identify common mental health issues in the workplace and pinpoint the rights, responsibilities and potential liabilities from all sides – employee, employer and union.

12:00 | **Networking Luncheon**

1:00 | **Updates on Developments and Changes in the Landscape of Benefit Plans, Compensation and Pensions**

Level Y. Y. Chan

Partner
Stewart McKelvey LLP

Bettina Quinstgaard

Partner
Pink Larkin

- What are the recent and significant legislative changes?
- How are other people doing it – trends and examples of benefit plans and compensation packages?
- What's on the horizon for pensions in Atlantic Canada?
- Benefits plans, compensation and pension issues at the bargaining table
- Impact of age and retirement (and delayed retirement) on benefits and pensions

2:00 | **Networking Refreshment Break**

CASE STUDY

2:15 | **Attendance Management, Performance Management and Accommodation – City of Moncton – Three Years Later and What Have We Learned?**

Patrick O'Brien

Manager, Learning & Development
City of Moncton

Ian C. Pickard

Partner
McInnes Cooper

- Defining the legal framework for the implementation of an attendance management policy:
 - Importance of tone
 - Chose words carefully – what to include and what to avoid

- Front-line buy-in
- Senior management buy-in
- Believe in the process
- What is a deviation? Don't be afraid
- What has worked and what hasn't?

CASE STUDY

3:15 | **Building the Union-Employer Relationship – Interest Based Bargaining – The Case of Fredericton Airport**

Perry Dyke, CHRP

Human Resources and Administration Manager
Fredericton International Airport Authority

Anna Goguen

Regional Representative
Public Service Alliance of Canada

Elizabeth Spinney

Mediator
Federal Mediation and Conciliation Service

This presentation will highlight the key aspects which lead to the tremendous success of the interest-based bargaining that took place for the Fredericton Airport and the Public Service Alliance of Canada. The panelists will engage in an open discussion on the Fredericton Airport strike and the interest-based bargaining that followed. Underlining the successful bargaining process is the relationship restoration that took place between the employer and the union. Attendees will take away best practices from their experience with the process, learn about what worked best and what didn't, as well as:

- Building a positive relationship between the union and employer
- Employee and employer relationship – importance of knowing your employees
- How do we open the flow of communication from employer to union in a way that works?
- How do we communicate to our members from both labour and management perspectives?
- How do we foster a culture of joint trust between the employer, the union and the employees?

4:15 | **Co-Chair's Closing Remarks and Conference Concludes**

WHO SHOULD ATTEND:

This conference has been designed for Human Resources, Labour Relations Professionals and Union Representatives from all industries in Atlantic Canada.

- Vice Presidents, Directors & Managers of:
 - Human Resources
 - Labour Relations
 - Employee Relations
 - Benefits, Compensation and Payroll
- Union Presidents, Business Agents, Stewards and Committee Members
- In-house Counsel
- Employment and Labour Lawyers
- Mediators and Arbitrators
- Administrative Law Practitioners
- HR and Labour Relations Consultants
- Benefits and Pension Consultants
- Association Representatives

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