

## AUDIO CONFERENCE SUMMARIES

SUBJECT	DATE	TOPICS/COMMENTARIES AND WRITTEN MATERIALS
<b>Accommodating Family Responsibilities in the Workplace: The New Tests</b>	May 8, 2007	Discrimination on the basis of family status; pregnancy, maternity, parental and adoption leave; Accommodating pregnancy; Compassionate care, emergency leave, and family responsibility leave.
<b>Accommodating Mental Illness and Workplace Stress: Dealing with “invisible disabilities”</b>	May 28, 2008	When do “invisible” illnesses constitute a disability giving rise to the duty to accommodate? Do temporary conditions count? What constitutes discrimination based on perceived disability?; Employer’s duty to inquire: Does inappropriate anti-social behaviour trigger a duty on the employer’s part to inquire about an employee’s mental health?; How does the employer determine whether an employee’s absenteeism or misconduct is a matter for discipline or the result of a disability that requires accommodation? In what circumstances does mental illness reduce or nullify culpability arising from misconduct? When can the employer obtain an independent medical evaluation or specialists’ opinion? What measures should be put in place to protect an employee’s privacy?; What must the employee disclose in order to establish a need for accommodation? Is the employer required to accommodate an employee with a mental illness where the employee denies disability? Refuses to provide medical information? Experiences a relapse? Can employers insist on psychiatric treatment and/or medication as a condition of employment?

<p><b>Accommodating Religious Practices in the Workplace</b></p>	<p>February 22, 2007</p>	<p>The effect of Meiorin; rules relating to personal appearance; discretionary leaves of absence; dress code policies and religion; accommodating religious observance in scheduling; the scope of protection of religious observance under human rights legislation; exceptions for charitable, religious and philanthropic employers.</p>
<p><b>Alcoholism and Drug Addiction: Testing, Treatment and Screening</b></p>	<p>December 19, 2006</p>	<p>Assessment of discipline; the duty to accommodate addictions: what are the rules? When does the duty to accommodate arise? The worker's obligations; accommodating relapses: the "hybrid" approach; off-duty conduct; zero tolerance policies; last chance agreements; drug and alcohol testing; safety sensitive workplaces and positions; random testing; privacy.</p>
<p><b>An update on violence, bullying and harassment in the workplace</b></p>	<p>September 4, 2008</p>	<p>When will actions, gestures or statements made by an employee constitute a threat to management or a co-worker? How do arbitrators distinguish between harassment and insensitivity or petty conduct?; When can an employer discipline employees for violence, threats and harassment?; When will a violent incident justify terminating the employee? What penalties are likely to be upheld at arbitration?; Can an employer rely on a workplace violence or harassment policy in establishing just cause for termination or to justify disciplinary actions taken? Are "zero tolerance" workplace violence and harassment policies enforceable?; When will mental illness and/or disability mitigate the blameworthiness of an employee's workplace violence, threats, or harassment?; Which remedies are courts, boards and tribunals awarding to harassment victims? When will</p>

		employers be held liable for the actions of its employees? Under what circumstances will an employer be ordered to transfer an accused harasser or to find a new position for a victim of harassment? What other requirements might be imposed on the employer or accused harasser as a condition of continuing employment?
<b>**Anti-Social Media: Pulling the plug on electronic bullies</b>	February 26, 2015	Is cyberbullying treated differently than other forms of bullying and harassment under human rights, occupational health and safety, or workers' compensation legislation? Will a single email, Facebook post, Tweet, or blog entry be found to constitute personal harassment or discriminatory harassment, or area a series of communications required? Can employees monitor internal e-mail or text messaging on employer-owned devices to ensure that employees are not engaging in harassing communication? What about social media such as employees' e-mail or social networking sites to investigate suspected cyberbullying? How should employers respond to cyberbullying that takes place outside work hours and with personal computers? Is an employer entitled to discipline an employee for abusive or harassing statements in a private e-mail exchange? How can employers and unions work together to prevent cyberbullying?
<b>Assessing Appropriate Discipline</b>	November 17, 2004	Type of offence/aggravating factors; mitigating factors; disciplinary regimes; progressive discipline; zero-tolerance regimes.

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<b>Assessing Discipline: Getting It Right</b>	April 6, 2006	Factors affecting penalty; severity of the misconduct; motive and intent; medical conditions; failure to cooperate with the investigation; progressive discipline; forms of discipline; discipline policies; culminating incident; the “work now, grieve later rule”; last chance agreements; the “hybrid” case.
<b>Attendance Management Programs and Last Chance Agreements – Making Them Fair, Effective and Enforceable</b>	November 20, 2006	Attendance management programs; last chance agreements.
<b>Attendance Management Programs: What will pass muster? What won't</b>	February 3, 2011	Legislation; The problem of absenteeism, How widespread is the problem of absenteeism? What is the average rate of absenteeism in Canadian workplaces? Do studies and decisions distinguish between short- and long-term absenteeism?; Establishing a program, In what circumstances are attendance management programs appropriate and what elements do they typically contain? What factors will arbitrators consider in determining whether an attendance management policy is valid? What aspects of an attendance management program will arbitrators usually find objectionable?, What conditions may be imposed by attendance management programs? Abstinence? Counselling? Treatment?, Which types of attendance management programs are effective, and which are not?; Thresholds; Consequences, What are permissible and impermissible consequences of an employee's participation in an attendance management program – for example, can participation be used as a factor to rank employees for such purposes as

		<p>promotion, layoff, etc.?; Accommodation, What role should the accommodation of disabilities play in an attendance management program?; Undue Hardship, When can an employee be discharged for non-culpable absenteeism? At what point can an employer demonstrate “undue hardship”?; What constraints are there upon an employer in discharging an employee for innocent absenteeism (e.g. notice, benefit loss, etc.)?; Medical certificates</p>
<p><b>Bullying and Harassment: Employer Responsibilities, Employee Remedies – An Advanced Session</b></p>	<p>May 24, 2007</p>	<p>What constitutes harassment in the face of rapidly changing workplace norms? What’s the difference between legitimate management, bad management, and harassment?  Responding to harassment complaints: What employer duties are triggered immediately upon receipt of a complaint? Can, or should, the employer remove the accused harasser from the workplace? Place the harasser on leave? How should the employer respond to a concern regarding harassment in order to reduce the risk of a grievance, human rights complaint or lawsuit?  Investigating harassment complaints: How must the investigation be conducted to ensure that all parties are treated fairly? Are harassment complaints and witness statements privileged? What happens to those investigation reports – are they disclosable? Should they be shredded? How should investigations be conducted if there is a pattern of harassment? What steps should be taken to ensure that victims and witnesses are protected against reprisal?  Discipline for harassment in the workplace:</p>

		<p>What must the employer prove? What special rules govern a harassment investigation? What penalties are arbitrators imposing on harassers?</p> <p>Damages for harassment in arbitral, human rights tribunal and court awards: When is harassment actionable? When will decision-makers award damages for harassment, and how much? What other remedies are being ordered?</p>
<b>Bargaining: What's Legal, What's Not?</b>	May 18, 2006	<p>Hard bargaining vs surface bargaining; direct bargaining; procedural issues surrounding bargaining; bargainable issues.</p>
<b>Chronic Physical Disorders</b>	December 16, 2005	<p>Best practices for disability management innocent absenteeism; effect of benefits plans. How can employees prove the existence of an "invisible" chronic disease? Can employers require examination by the employer's own doctor or psychiatrist? What is the extent of an employer's duty to accommodate? Where benefits are denied by a third party insurer, what remedies are available?</p> <p>Employer discipline/discharges an employee for absenteeism related to chronic illness.</p>

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<p><b>Company Rules, Supervisors' Orders &amp; Insubordination: What Does It Include? What Sanctions are Appropriate?</b></p>	<p>October 24, 2006</p>	<p>Which rules require employee or union consent? Which can be unilaterally imposed? Do rules and orders have to satisfy a test of reasonableness? What does insubordination encompass? Insolent, disrespectful, insulting comments towards management? Exceptions to the "work now, grieve later rule". What can union representatives or officials say or do that other employees cannot without breaching the rules against insubordination? Types of sanctions arbitrators consider as appropriate.</p>
<p><b>Criminal Conduct and its impact on Employment: Exploring the consequences</b></p>	<p>May 7, 2008</p>	<p>When is an employee obliged to disclose criminal charges and/or a conviction arising from off-duty conduct? When can employers do criminal record checks as part of the hiring process? How does the prohibition against discrimination based on criminal record in the Charter and human rights legislation affect an employer's course of action? What about prohibition against discrimination provisions in the collective agreement? When will off-duty criminal conduct merit a disciplinary response? Or non-disciplinary termination? What issues arise when employees are convicted of driving offenses? When is it appropriate to suspend an employee subject to criminal investigation or charged with a criminal offence? What effect do criminal charges have on workplace investigations, disciplinary proceedings and grievance arbitration? Can employees subject to criminal investigation invoke the right to remain silent vis-à-vis their employer? Are they compelled to cooperate with an employer investigation?</p>

<p><b>Dealing with Bullying Bosses: <i>How management can control them; How employees can effectively respond to them</i></b></p>	<p>November 29, 2011</p>	<p>Recognizing bullying; How can you distinguish between bullying, an aggressive management style and simple insensitivity?; Must there be a pattern of behaviour or can as single incident constitute harassment?; Can the “silent treatment,” gossip and isolation constitute harassment?; At what point does a workplace become poisoned?; Effective employee responses to bullying; How should an employee respond to harassment from a supervisor? Is it better to confront the bully or to bypass him or her in favour of informing higher-ups? What should be done to protect employees from retaliation and reprisal?; How should the union respond to reports of a bullying supervisor? Should the union conduct its own independent investigation into the complaints?; How should unions respond when the alleged harasser is a member of the same bargaining unit as the complainant?; What employer duties are triggered immediately upon receipt of a complaint? How should the employer respond to a concern regarding harassment in order to reduce the risk of a grievance, human rights complaint, or lawsuit? What are the essential elements of an investigation into complaints of personal harassment?; When does a workplace investigation cross the line and become personal harassment?; What should management do to protect the victim and the alleged harassment?; Can the employer be held liable if it ignores the supervisor’s bullying? What is the effect of senior management not dealing with a supervisor’s bullying behaviour quickly and decisively?; What options do unionized and non-unionized employees have</p>
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		if they are being bullied or have been forced to leave the workplace because of the harassment?; When can bullying or harassment complaints be brought before human rights tribunals? When is it better to sue for constructive dismissal?
<b>Dealing with Pandemic Outbreaks: Legal implications for the workplace</b>	May 29, 2009	Privilege based on personal privacy; Insubordination – “The work now, greive later” Rule; Medical examinations and disclosure of medical information; Definition of disability; What constitutes illness; Illness, Disability and Emergency Leave; Workplace protection measures; Protecting front line workers against H1N1; Sick leave and other leave of absence; Work refusals; Human rights/Accommodation obligations; Workers’ compensation benefits; Potential liability for failure to protect workers.
<b>Dealing with Workplace Harassment, Violence and Threats</b>	June 16, 2005	Evolving definitions and concepts: bullying, harassment and violence and the role of workplace policies; how to react? Employer liability – the obligation to provide a safe work environment and remedies for the failure to protect employees from violence and bullying; significant cases.
<b>Defining the Outside Limits to Accommodation</b>	May 4, 2005	The duty to reconfigure the job and reorganize the workplace; hours of work; promotion, demotion, transfer outside of the bargaining unit; displacement of incumbents/employee morale; seniority and collective agreement provisions; health and safety; employee’s duty to inform, co-operate.

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<p><b>Disciplinary Investigations: What questions can employers ask? What questions should employees ask?</b></p>	<p>January 19, 2012</p>	<p>What steps should an employer take to ensure a fair investigation? Does an employee have a right to disclosure of information about the disciplinary investigation in advance of an interview?; When should an employer interview co-workers and other witnesses? What information can employers share with witnesses? What questions should be asked when conducting interviews with employees and witnesses?; What protections regarding confidentiality should the employer provide to witnesses, the complainant and the alleged perpetrator? What steps should an employer take to protect complainants from reprisal?; Do employees have a duty to tell their employer that they witnessed another employee engaging in misconduct?; How will an employee's dishonesty during the investigation process impact an arbitrator's assessment of the appropriate discipline for that employee?; Do employee's dishonesty during the investigation process impact an arbitrator's assessment of the appropriate discipline for that employee?; Are unionized employees entitled to union representation at investigatory interviews? Must an employer advise an employee of the right to union representation?; Is an employee entitled to choose a particular union representative?; What role can a union representative play in an interview?; Is the representative merely a witness or can he or she actively take part? Can a union representative advise the employee not to answer certain questions or advise the</p>

		<p>employee how to answer certain questions?;</p> <p>What are the consequences of a failure to allow/ensure the presence of a union advisor?;</p> <p>Criminal charges: If an employee has been charged criminally, does the employer still need to conduct an investigation before imposing discipline? What rules govern an employer's access to police and court documents relating to criminal charges?;</p> <p>Investigating the possibility of disability: Does an employer have an obligation to investigate whether disability played a role in an employee's misconduct prior to imposing discipline?; When does an employee have an obligation to bring his or her disability to light?; The investigation report: Who is entitled to a copy of the investigation report? Which portions of the investigation report should be disclosed and which should be withheld?</p>
<b>Discharge for Incompetence and Incapacity</b>	March 1, 2007	<p>Non-compliance with disciplinary procedure; innocent absenteeism; effect of benefits plans; discipline and discharge for performance deficiencies; non-disciplinary responses to performance deficiencies; special rules governing probationary employees; discharge for incapacity;</p>
<b>Discharge for Incompetence and Incapacity: The latest cases, the current rules</b>	June 25, 2009	<p>How does the standard of just cause differ as between disciplinary and non-disciplinary termination?; When will poor performance justify discharge? What steps must employers take prior to dismissing an employee for poor performance?; Do the rules of progressive discipline and culminating incident apply when the employer is enforcing safety standards?; When will a single safety infraction justify termination?; Are employees entitled to union</p>

		representation during performance reviews; coaching or counselling sessions?; Are probationary employees subject to different standards? What about temporary employees?
<b>Disciplinary Terminations: Getting It Right</b>	November 27, 2003	Off-duty conduct: standards for investigations; union representation; employee participation.
<b>Drawing the line: When is it bullying, when is it management?</b>	March 6, 2014	How can you distinguish between bullying on one hand, and an aggressive management style, a difficult personality or simple insensitivity on the other? What different factors come into play when dealing with a conflict between an employee and supervisor, as opposed to conflict between two employees? Can a work assignment by managers constitute harassment? What change have recently been made to BC workers' compensation legislation to address the psychological injuries caused by harassment and bullying? What should an employer do to ensure that managers don't cross the line from management to bullying? What measures can be adopted to deal with situations where an employee takes offence to direction that is managerial but does not amount to bullying? What should employees do if they feel their manager has crossed the line? When can an employee refuse to work on the basis of harassment concerns? How should the union respond? Should the union conduct its own independent investigation into the complaints? How should the employer and the union approach allegations against a supervisor who is in the same bargaining unit as the complainant? What obligations does senior management have to investigate complaints about bullying bosses? Can the employer be held liable if it ignores the supervisor's

		bullying? How can employers and unions work together to recognize and prevent the most common sources of bullying? How should policies set out clear expectations for acceptable conduct and processes to follow when problems arise? What remedies have different provinces established under legislation for workplace harassment and bullying? See pg. 89 "Workers compensation Act now addresses bullying and harassment."
<b>DSM 5 – Changing Medical Definitions of Mental Disabilities, And the Potential Impact on Workplace Law</b>	July 10, 2013	How heavily do adjudicators rely on the DSM (Diagnostic and Statistical Manual of Mental Disorders) when making legal determinations?; Is the clinical diagnosis of a DSM mental disorder sufficient to establish a disability under human rights legislation? Entitlement to workers' compensation benefits, short-term disability benefits or long-term disability benefits?; Who is qualified to diagnose individuals with mental disorders using the guidelines of DSM? Do these professionals need further training before using the DSM-5?; Do references to "the most recent edition" of the DSM in worker's compensation legislation in Alberta and British Columbia meant that, as of the publication of the DSM-5, diagnoses made with the DSM-IV have been superseded? Is there a transition period?
<b>E-mail and Internet Use and Abuse</b>	November 17, 2005	Failure to comply with employer rules; management rights & rules. What limits on email use are permissible under a collective agreement guaranteeing electronic communications rights? Is discipline justified for abusive private email? Is dismissal the appropriate response?

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<b>Employee' Off-duty Conduct</b>	January 26, 2006	<p>Under what circumstances does an employer have a legitimate interest in an employee's off duty conduct? Factors arbitrators apply? Are employer's ever liable for employee's off duty conduct?</p> <p>In cases of addiction, can employers limit or prohibit an employee's use of drugs or alcohol after work hours? Does it make a difference if the employee is a drug addict or a recreational user?</p> <p>Can employees be disciplined for views expressed outside the workplace that reflect adversely on the employer?</p> <p>Do certain employees, such as public sector employees, have a higher responsibility?</p> <p>In what circumstances can an employee be suspended pending a trial on criminal charges?</p> <p>Is the employer required to maintain the employee?</p> <p>Is an employee's conviction cause for discharge?</p> <p>Is surveillance outside the workplace permissible?</p> <p>Should employers develop policies regarding off-duty activities?</p>

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<b>Expedited Arbitration: <i>Pros and Cons for Workers, Unions and Employers</i></b>		Excerpts from Ontario Power Generation/Power Workers' Union Collective Agreement; Excerpts from the Memorandum of Agreement Establishing Canadian Railway Office of Arbitration & Dispute Resolution; Excerpts from expedited arbitration agreements.
<b>Filling Vacancies- The Do's and Don'ts</b>		What qualifications can and cannot be included in job advertisements; Fair and effective interviews: What questions contravene human rights and privacy legislation?; Legal limits on selection decisions, including hiring and promotion decisions – On what grounds can unsuccessful applicants challenge selection decisions?; Legal tests: Discrimination in the selection process and sufficiency of accommodation; Can an employer reject an applicant who is overqualified? Can an employer state qualifications that go beyond the requirements for the immediate job?; Access to hiring and personal information by prospective employees, employers and unions; Consequences where an applicant provides false information on an application?; Screening employees: References checks, employee credit histories, criminal records, health and fitness tests, and drug and alcohol tests
<b>How Much Detail is Required in Medical Certificates</b>	February 10, 2005	Employer's right to medical information; scope; who may access employee health information? Employee privacy, human rights and the " <i>Charter</i> "; inadequate medical certificates/information; access to medical information during the grievance/arbitration process; costs.

<p><b>Good Faith Dealing between Employers &amp; Employees: What is legally required?</b></p>	<p>Oct 20, 2011</p>	<p>What is the extent of the general duty of “good faith and fidelity” implied into all employment contracts? What is the rationale behind this duty? When is a breach of the duty of good faith and fidelity cause for dismissal?; Do aspects of this duty survive the employment relationship? If so, why? How enforceable are promises not to compete, not to solicit and not to steal trade secrets?; Does the duty of “good faith and fidelity” impose obligations on employers as well as on employees? If so, what is the extent of the employer’s duty? What remedies are available if an employer breaches this duty?; When will courts find a violation of the employer’s duty to act in good faith in the manner of dismissing an employee? What remedy is available when an employer violates the duty to act in good faith in dismissing an employee? Are damages for mental distress available?; Besides the duty to bargain in good faith, do other good faith duties constrain an employer in dealing with unions and employees? Does the employer’s duty to act in good faith end once bargaining is complete or does it apply to the administration of the collective agreement?; If it applies to the administration of the collective agreement, does it apply to all areas of managerial action? Does it apply to areas in which an employer exercises traditional management rights? What about areas in which discretion is explicitly given to management? Is the obligation to exercise management rights fairly and reasonably the same as the duty to act in good faith in administering the collective agreement?; What remedies have arbitrators awarded where they have found that an</p>
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<p><b>High-Conflict Personalities: Dealing with difficult behaviours and personality disorders (E.G. Narcissistic, Paranoid, Anti-social)</b></p>	<p>March 21 , 2013</p>	<p>What is a personality disorder (from a medical/psychological perspective)? What are the most common personality disorders? What are standard clinical treatments for personality disorders?; How do the most common personality disorders manifest themselves in the workplace? Are people with certain personality disorders likely to be involved in more conflict than others?; What is the likelihood of someone with a personality disorder significantly changing his/her conflict-inducing patterns of behaviour?; have Canadian adjudicators recognized personality disorders as disabilities under human rights legislation? What is the "social model" of disability accepted by the Supreme Court of Canada and how does it differ from the "medical model" of disability?; Assuming that a worker's personality disorder were found to be a disability at adjudication, would maintaining the employment of a person who repeatedly causes workplace conflict constitute undue hardship? What if the employee were</p>

		committed to treatment?; When and how should management approach an individual thought to be causing workplace conflict? When and how should the union approach a member whose behaviour is thought to be causing conflict with other members?; What remedies can a union seek through the grievance process if a member of management is believed to be causing workplace conflict because of high conflict personality?
<b>Innovative Contract Language: An Overview</b>	June 1, 2006	Examples of innovative contract language from existing collective agreements; emerging issues in contract negotiations.
<b>Investigating Disability Claims &amp; Sick Leave</b>	May 19, 2005	Arbitrability of benefit disputes; investigating disability claims and possible sick leave abuse; when and how should surveillance/monitoring be conducted; independent medical examinations.
<b>Last Chance Agreements</b>	October 20, 2005	Is reinstatement subject to average attendance reasonable accommodation? Are last chance agreements discriminatory? Can employees be fired for absenteeism due to mental illness and addiction? Can alcoholic employees be discharged?

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<p><b>Management Rights: Defining the scope and the limits</b></p>	<p>April 7, 2011</p>	<p>Explicit vs. implied rights; Does the characterization of a decision as relating to the operation aspects of the business versus the individual rights of employees impact on this question?; Duty of fairness, good faith, and reasonableness; Once it has been established that management has acted in good faith, can the union object on the basis that the actions taken were simply for the company's convenience or were unreasonable?; If a provision of the collective agreement confers discretion on the employer, must this discretion be exercised reasonably? Impact of collective agreement language; How do various provisions of the collective agreement such as recognition clauses, seniority clauses, job classifications, etc., circumscribe the management's exercise of discretion?; Employer rules; What tests must be met where management issues rules?; Existing working conditions; What issues would be caught by a provision that management is to continue "existing working conditions" unless changed by mutual consent?; Can an employer unilaterally reorganize the workforce?; Can an employer unilaterally implement drug testing?; Can an employer unilaterally institute biometric time keeping?; Can an employer require that employees obtain periodic police record checks?; Can an employer unilaterally engage in electronic surveillance?; Can an employer unilaterally introduce an attendance management program?; What limits are there, if any, on management's ability to assign</p>

		overtime hours?; Can an employer unilaterally eliminate a shift?; Can an employer assign bargaining unit work to non-bargaining unit employees?; Can an employer abolish a position when a vacancy occurs?
<b>Measuring Your Collective Agreement Against Human Rights Obligations</b>	October 6, 2005	Prohibitions on discrimination and the duty to accommodate; matters not covered by the collective agreement; human rights remedies; the contest between seniority and human rights. Human code can be invoked in wrongful dismissal lawsuit.
<b>Medical Information: The Scope of Access, the Limits on Disclosures</b>	December 6, 2006	<p>What circumstances can employees be required to provide medical information?</p> <p>How much medical information can employees be required to provide to their employer? to the union? to the Work Safe BC? Can an employer discipline a worker for refusing to provide detailed information? Can a worker be withheld from the job pending the provision of more detailed information? Can employers demand more? Is a worker's manager or direct supervisor entitled to access the employee's medical information? Can an arbitrator order a grievor to disclose medial information during the arbitration proceedings? How does recent federal and provincial privacy legislation affect the disclosure of employee's medical information? What is the role of unions in safeguarding the rights of employees.</p>

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<b>Non-Disciplinary Terminations: Exploring the Changing Rules</b>	October 9, 2003	Discharge of probationary employees; innocent absenteeism; attendance management programs. Can probationary employees grieve discharge? Attendance management programs: when does an employer's policy go too far?
<b>Pensions and Retirement Benefits: 2007 Update</b>	October 25, 2007	Facts, statistics and commentary; legislation; update on pension class actions: recent decisions; defined benefit plans versus defined contribution plans: the latest developments; case law developments and implications at the bargaining table; the abolition of mandatory retirement and implications for pension and benefits plans; impact on pension plans, performance evaluation practices, and the duty to accommodate; unilateral changes and age-based restrictions – are they permitted?; standing of retirees to challenge benefit changes; requests for early retirement; rights on phased, early retirement; voluntary retirement packages.
<b>Post-Retirement Benefits: Addressing emerging issues</b>	February 24, 2010	Do an employee's retirement benefits "freeze" or "vest" upon retirement at the level defined by the collective agreement or pension plan in effect at the time, or can an employer alter the retirement benefits of retirees?; If the entitlements under a later collective agreement or enhanced pension plan are more generous, does the retired employee have a right to the improved benefits?; Can an employee be simultaneously entitled to separation payment-for example, severance pay-as well as retirement benefits?; What is the Definition of 'Retirement'?; Are age-based restrictions associated with pensions or retirement benefit

		plans discriminatory?; Does the termination of workers' compensation benefits at age 65 constitute discrimination?; What is the appropriate venue for resolving disputes about post-retirement-the courts or labour arbitration?; Can unions negotiate and grieve retirement benefit matters on behalf of retired bargaining unit members?; Employer's obligation to communicate pension and retirement benefit information to employees; An update on phased retirement.
<b>Privacy and Access to Medical Information: Do's and Don'ts</b>	September 11, 2009	Obligations of employer to inquire/assess accommodation; Disclosure required by employee and limits to the information that must be disclosed; Interpreting and assessing and the adequacy of the medical information & requesting further information/medical examinations; Medical information at grievance/arbitration and human rights hearings; Access to and disclosure of medical information – privacy legislation and policy.
<b>Psychological Harassment: Modern Solutions to a Pressing Problem</b>	June 15, 2006	Elements of harassment; the employer duties; effective harassment policies; disciplining harassers; employer liability; the union's role; remedies.
<b>Remedies in Discharge Cases at Arbitration</b>	April 15, 2004	The "make-whole" principle; damages – non-monetary loss; compensation in lieu of reinstatement. Can arbitrators award damages for defamation and infliction of mental distress?

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<p><b>Return To Work: Current Issues &amp; Practical Solutions</b></p>	<p>December 2, 2004</p>	<p>Returning to work: duties imposed on employers and employees in workers compensation statutes; grievor's return-to-work proposal more demanding than duty of accommodation requires. Who bears burden of lost wages in dispute over delay in return to work?  The Union's duty of fair representation in human rights cases.  Limits – Accommodating mental illness: how far must employers go?</p>
<p><b>Returning Employees to Work: Navigating the Maze</b></p>	<p>October 22, 2008</p>	<p>What prior steps must an employer take before dismissing an employee for misconduct? Are employers required to impose equal disciplinary measures on employees who have committed similar acts of misconduct? Will a discharge be voided where union representation is not provided?; The Hybrid Approach: Are employers entitled to dismiss an employee for misconduct where there are both culpable and non-culpable elements of behaviour due to disability?; When are last chance agreements enforceable? To what extent can the parties, by agreement, limit the jurisdiction of an arbitrator to assess cause and/or substitute penalties? When will arbitrators vary the terms of a last chance agreement?; When will an arbitrator substitute compensation in lieu of reinstatement despite a finding that there was no cause for discharge?; Probationary employees: Is a disabled probationary employee entitled to accommodation where the contract of employment says he may be fired without</p>

		cause or notice? When can a probationary employee challenge a dismissal? Does the employer have an implied duty to act reasonably and in good faith when dismissing a probationary employee?
<b>Security, Surveillance &amp; Employee Privacy</b>	October 7, 2004	Off-site surveillance; workplace surveillance: cameras and searches; impact of privacy legislation; screening/biometrics/fingerprinting – security/background checks; palm screening/polygraph; electronic monitoring/email & internet use.

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<b>Seniority and Duty to Accommodate</b>	September 22, 2005	Are disabled workers entitled to accrual of seniority and benefits? What is the scope of the union's duty to accommodate?
<b>Sick Leave and LTD Claims: The Hidden Perils, the Fine Print</b>	December 1, 2005	Sick leave; medical certificates; examinations; requirements and obligation provisions of medical information; investigating sick leave and long term disability (LTD)claims; lump sum LTD settlements and income tax; "moonlight" on sick leave.
<b>Social Networking Media At the Workplace</b>	December 4, 2009	Emerging technologies and employee privacy rights; Employer Monitoring and Investigation; Discipline for abuse of electronic resources; Off- duty or off-site misconduct; Employee access to information about co-workers or clients; Employer policies on internet and e-mail use; Online postings in breach of confidentiality clauses
<b>Special Audio Session for the Health Care Sector: Restructuring, Workload, Health and Safety, Discipline and Discharge</b>	April 26, 2007	"On the job" effects of health care sector restructuring – scheduling and work distribution; wages; representation rights, workload, rest periods, overtime, call-in pay. Occupational health and safety for health care workers: vaccinations; needlestick injuries; stress, harassment, violence; medical examinations and information. Discipline: patient abuse; performance; breach of confidence/conflict of interest; effect of disciplinary proceedings before a professional college.
<b>**Staying on the right side: The do's and don'ts of fair and effective disciplinary meetings and investigations</b>	April 30, 2015	Developing a fair investigative process; When should an employer interview co-workers and other witnesses? Should the investigator be internal or a third party? Should the

		<p>complainant or the accused employee be removed from the workplace pending the results of the investigation? What timelines should govern the investigation?; What is the extent of an employee's duty to cooperate with his or her employer's investigation?; Can employee's be disciplined for refusing to answer the employer's questions during an investigation? Are employees accused of misconduct entitled to know the allegations against them before they answer questions in an interview process?; Must an employer advise an employee of the right to union representation? What are the consequences of failing to ensure the presence of a union advisor when required?; What is the role of the union in the investigation? What about in an interview? Can a union representative advise the employee not to answer certain questions or advise the employee how to answer certain questions? How should a union deal with an investigation involving allegations of harassment by one member against another? What are the employer's obligations to disclose or withhold the investigation report, witness statements, or other documents that form part of the investigation? Does privacy legislation provide any protections against disclosing information gathered during the course of an investigation?</p>
<b>Surveillance, Monitoring and Privacy Rights: What is the Scope? What are the Limits?</b>	September 14, 2006	Admissibility of evidence — surveillance; electronic monitoring; biometrics; searches; charter considerations; the impact of privacy legislation.
<b>Testing/Screening Employees: Medical, Fitness, Psychological, Drug and Alcohol Tests, Credit and Security Tests</b>	November 1, 2005	Drug and alcohol testing; protection against discrimination. Must employer establish a substance abuse problem before imposing drug testing? Drug testing for reasonable cause

		upheld for employees in safety-sensitive positions.
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SUBJECT	DATE	TOPICS/COMMENTARIES AND WRITTEN MATERIALS
<b>The Impact of Criminal Convictions: the Supreme Court Decisions in City of Toronto and Maksteel</b>	February 12, 2004	The Supreme Court of Canada's Decision – City of Toronto Prior Criminal Convictions: Are they conclusive proof? An arbitrator's perspective; a management perspective; a union perspective. Dishonest and illegal conduct – off duty conduct.
<b>The Top 10 Questions concerning Discharge and Discipline</b>	November 9, 2006	What constitutes “just cause” for discipline? Exceptions to the “obey now, grieve later” rule; What exactly does “progressive discipline” entail? What constitutes a “culminating incident” warranting discharge? What mitigating factors must be considered in assessing discipline? Rules governing discipline in “hybrid” cases, i.e. where both culpable and non-culpable behaviours must be addressed? Rules governing discharge of non-culpable performance issues, innocent absenteeism? Which particular forms of discipline are acceptable to arbitrators, and which are not? Off-duty conduct? When is union representation required?

SUBJECT	DATE	TOPICS/COMMENTARIES AND WRITTEN MATERIALS
<b>Video Surveillance</b>	September 12, 2005	Videotape surveillance evidence: off-site surveillance; workplace surveillance: cameras and searches; impact of privacy legislation.
<b>Workplace Bullying: Leading Experts Discuss Practical Strategies for Prevention</b>	February 7, 2013	<p>What is the difference between personal harassment and harassment under human rights legislation?; Can gossip, swearing, isolation, or unfair treatment constitute bullying?; Should a workplace try to come up with a comprehensive definition of harassment in its policies or collective agreement provisions?; Can a single incident amount to harassment?; What is the difference between harassing behaviour and rudeness or a difficult personality?; Can off-duty conduct by employees constitute workplace harassment?; What duties and responsibilities of the employer, union, and employees should be detailed in the collective agreement and/or a workplace policy regarding workplace harassment?; How should a harassment reporting system be structured to allow employees to express their concerns?; When can an employee refuse to work on the basis of harassment concerns?; What role should the union play in this process of reporting and responding to harassment complaints? Is an employee entitled to union representation during the investigation process?; Who is entitled to the investigation report and any other documents or evidence arising from the investigation? What if an employee's mental illness caused him or her to engage in threatening or harassing behaviour?; What remedies have different provinces established</p>

		under legislation for workplace harassment and bullying?
<b>Workplace Investigations: What to Do, What Not to Do</b>	January 27, 2005	Non-compliance with disciplinary procedure – When is union representation required? .....delay in imposing discipline. Off duty conduct – criminal convictions; criminal charges; conducting the investigation; disciplinary interviews –union representation; employee obligation to cooperate during investigation.
<b>Workplace Violence, Threats, Bullying and Harassment: <i>New Rules and Responsibilities</i></b>	November 15, 2007	What do the latest cases say about discipline for violence, threats and harassment? When will a violent employee incident justify terminating the employee? Employers' obligations under occupational health and safety laws to address violence, threats and harassment in the workplace, When will mental illness and/or disability mitigate the blameworthiness of an employee's workplace violence, threats, or harassment? Can employers require violent employees to receive medical assessments or treatment as a condition of continuing employment? Which remedies are courts, boards, and tribunals awarding to harassment victims?
<b>Zero Tolerance Versus Progressive Discipline</b>	April 7, 2005	Factors affecting penalty; progressive discipline or zero tolerance: are they mutually exclusive? Just cause provisions.

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