

## Employment & Labour

Few things are as critical to an organization's success as a happy workforce. Organizations can take a number of steps to promote good workplace conditions. We strongly believe that retaining expert legal counsel is a necessary step in this process, and we fully recognize the importance of choosing the right people for the task at hand.

WeirFoulds' labour lawyers represent employers in both the federal and provincial private and public sectors. The lawyers on our team are experienced, highly motivated professionals who share a talent for creative solutions and a dedication to client service. We advise clients on how to preserve union-free work environments, represent management in collective bargaining proceedings, and litigate disputes and grievances before labour relations arbitrators and boards, courts and human rights tribunals.

Our lawyers also handle a wide array of employment law matters, including advising on regulatory compliance, drafting employment contracts (including bonus, stock option, non-compete, non-solicitation and severance clauses), and helping employers navigate workplace disputes, investigations and terminations.

We take a multidisciplinary approach to our labour and employment files, engaging our corporate, pension and benefits, commercial and litigation experts as necessary to ensure our clients receive excellent advice that is tailored to their needs.

The Employment and Labour group has recently launched a series of Equity, Diversity & Inclusion (EDI) legal and consultation services. Learn more [here](#).

### Lawyers and professionals in this area



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## Areas of Expertise

- Compliance
- Employment contracts
- Equity, Diversity & Inclusion (EDI)
- Hiring
- Human rights
- Investigations
- Labour law
- Mergers and acquisitions

- Occupational health and safety
- Pensions and benefits
- Risk management
- Severance agreements
- Sub-contracting
- Temporary foreign workers
- Termination
- Workforce reductions
- Workplace restructuring
- Wrongful dismissal

## Representative Experience

### Representative Experience (employment litigation)

Among the firm's many significant cases in this area are the following:

- We represented the successful plaintiff in a case that decided the imposition of an unpaid suspension as a form of discipline amounts to the constructive dismissal of an employee, absent an express or implied term in the employment contract permitting discipline in this manner. *Carscallen v. FRI Corporation* (2005), 42 C.C.E.L. (3d) 196 (Ont. S.C.J.), aff'd (2006), 52 C.C.E.L. (3d) 161 (Ont. C.A.).
- We represented a long term senior executive in a complex constructive dismissal action in which substantial damages, known as "Wallace Damages", were given to our client for the employer's bad faith. *George v. Imagineering Ltd* (2001), 14 C.C.E.L. (3d) 102 (Ont. S.C.J.), aff'd (2002), 23 C.C.E.L. (3d) 31 (Ont. C.A.).
- We represented the employees in a case that determined the limits to an employer's duty to accommodate requests for religious holidays. *Ontario (Ministry of Community and Social Services) v. O.P.S.E.U.* (2000), 50 O.R. (3d) 560, 191 D.L.R. (4th) 489 (C.A.).
- We acted for the defendant in having summary judgment denied when it would have thwarted the assessment of damages by a jury. *King v. Giffels Holdings Inc.* (1999), 46 O.R.(3d) 17 (S.C.J.).
- We represented the successful respondent where an executive who refused continued employment after the sale of a business still received his Employment Standards entitlements. *Ondaatje Securities Corp. v. Carter et al.* (1996), 88 O.A.C. 72 (Div. Ct.).

### Representative Experience (employment law and human resources management)

We offer comprehensive human resource management advice and representation. This includes:

- Providing guidance on positive pro-active employee relations.
- Assisting and representing clients on employment termination issues, including termination for cause and willful misconduct, wrongful dismissal, constructive dismissal, and advising on post-termination restrictive covenants, including non-solicitation and non-competition restrictions.
- Acting for clients on all matters arising under the Employment Standards Act, the Ontario Human Rights Code, the Canada Labour Code, the Canadian Human Rights Act and at common law.
- Drafting and advising on complex employment agreements, employment policies, employee handbooks and manuals, as well as incentive compensation agreements, such as stock option, share purchase and phantom stock ownership plans.
- Providing tax efficient compensation structures that comply with the applicable regulatory requirements, such as reinvestment plans for stock options, SAR plans, employee benefits and dividend reinvestment plans and other employee

purchase and option plans.

- Acting for and advising clients on human rights, discrimination and sexual harassment complaints, workplace injuries and workers' compensation, occupational health and safety, executive compensation, privacy rights, the duties of fiduciaries and the protection of confidential information and trade secrets in the workplace.
- Advising purchasers, vendors and lenders, as well as management and employees, in addressing the employment law issues that arise in connection with the purchase and sale of businesses, including multi-jurisdictional issues facing businesses that operate in the global environment.

**WeirFoulds**<sup>LLP</sup>

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