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**34<sup>th</sup> ANNUAL EMPLOYERS' CONFERENCE AGENDA**  
**November 5, 2020 ~ VIA WEBCAST**

9:00 - 9:05 **INTRODUCTORY REMARKS** (Each session time below includes Q&A)

9:05 – 9:55 **TERMINATION OF EMPLOYMENT CLAUSES**



**Landon Young**

Recent Court decisions have made it more and more difficult for employers to contract out of common law notice obligations, which can be onerous. Are we entering an era where no termination clause is safe? Is there anything employers can do to avoid common law notice? This session will explore these questions and provide practical tips for improving the odds your clauses will hold up if challenged.

**Learn:**

- The implications of recent decisions on termination clauses, including *Waxdale v. Swegon*,
- Best practices when drafting and using termination clauses, and
- Where the law may be headed in the future.

9:55 – 10:45 **FAMILY STATUS DISCRIMINATION AND COVID-19**



**Allison Taylor**

The *Human Rights Code* prohibits discrimination against employees on the basis of “family status”. The COVID-19 pandemic has raised new questions about the level of accommodation an employer must provide to an employee to respond to potential issues arising from the crisis.

**Learn:**

- Is an employer required to allow an employee to work from home due to childcare obligations?
- What type of accommodation is an employer obliged to provide an employee who has a family member at higher risk if they contract the virus? How far does this obligation extend? How is “family” defined?
- The fine line between the legal obligation to accommodate and employee preferences

10:45 - 11:00 **BREAK**

11:00 - 11:45 **OHS AND COVID-19**



**Ryan Conlin**

The pandemic has put OHS compliance at the forefront of almost every employer's agenda. We will review the latest OHS developments arising from the COVID-19 crisis.

**Learn:**

- A review of OHS related COVID-19 cases from the Courts and the OLRB
- An overview of the sweeping changes to the Provincial Offences Act which open the door to almost every aspect of Court taking place via video conferencing
- Our experience with work refusals in the COVID-19 era
- The latest on the liability of owners as the "employer" on construction projects

11:45 - 12:30 **STATE OF THE UNIONS IN THE COVID-19 ERA**



**Jeff Murray**

The pandemic has forced unions to adapt to how they conduct business, just like it has employers. This presentation provides an overview of organized labour in this new era and discusses trends to look out for going forward.

**Learn:**

- A review of COVID-19 caselaw,
- The response of unions to employers' efforts to keep workplaces safe during the pandemic,
- The impact of the pandemic on the OLRB's practices,
- Collective bargaining and grievance arbitration during the pandemic, and
- What the long-term impact on labour relations may be of the pandemic.

12:30 - 1:30 **LUNCH BREAK**

1:30 - 2:15 **THE BRAVE NEW WORLD OF LAYOFFS AND TERMINATIONS**



***Jeremy Schwartz***

The issue of (non-union) layoffs and terminations is one of the most complex and nuanced issues to arise since the pandemic. Plaintiff side lawyers have been aggressively pushing forward litigation involving employees who have been laid off and not recalled.

**Learn:**

- How the Courts have historically treated layoffs involving non-union employees,
- The special COVID-19 layoff provisions under the ESA, and
- The interaction between wrongful dismissal litigation and the new ESA layoff provisions

2:15 - 2:45 **LEAVES UNDER THE ESA DURING THE PANDEMIC**



***Amanda Boyce***

Employees who were laid off because of COVID-19 have been deemed to be on emergency leave. This raises questions as to what duties employers have regarding these employees. The ESA also contains other leaves that employees may be entitled to take during the pandemic. Understanding these leaves is essential to avoiding Ministry of Labour complaints and potentially expensive reprisal claims.

**Learn:**

- The implications of laid off employees being deemed to be on emergency leave during the pandemic,
- What leaves are available to employees under the ESA during the pandemic,
- What are employers' obligations to employees while on ESA leaves and when they end, and
- The potentially costly consequences of firing an employee on a leave

2:45 - 3:00 **BREAK**

3:00 - 4:00    **LEGAL ROUNDUP**

In this session, we provide concise summaries of some of the most significant legal developments affecting employers from the past year.

**Topics:**

- WSIB COVID-19 policy update
- The implications of the Supreme Court decision in *Uber v. Heller*
- An update on the reopening of courts and tribunals
- Privacy law during the pandemic

4:00    **CONFERENCE ENDS**