

---

**35<sup>th</sup> ANNUAL EMPLOYERS' CONFERENCE AGENDA**  
**November 9, 2021 ~ VIA WEBCAST**

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

9:05 – 9:45 **THE NEW WORKING FOR WORKERS ACT, 2021**



**Landon Young**

The Ontario government's newly introduced *Working for Workers Act, 2021*, if passed, will affect employers and employees in a variety of ways. Employers will be required to have a policy on disconnecting from work. Non-compete agreements will be all but abolished. Canadian experience requirements for foreign trade individuals to qualify for certain trades and professions will be eliminated. New licensing requirements will be imposed on temporary employment agencies. Owners of facilities will be required to provide washroom access to delivery persons. The Act also provides for the possibility of a distribution to employers from the Workplace Safety and Insurance Board's current reserve.

**Learn:**

- What the new "disconnecting from work" policy rules are and what they could mean for employers
- How the abolition of non-compete agreements will apply and what options employers have to protect themselves
- How the other changes to be brought in by this Act may affect employers.

9:45 – 10:30 **THE RISK OF PANDEMIC RELATED CONSTRUCTIVE DISMISSAL CLAIMS**



**Allison Taylor**

Many employers were forced to layoff employees because of the pandemic. Early on the Ontario government introduced infectious disease emergency leave of absence ("IDEL") regulations that have put a pause on when a layoff can be deemed to be a termination under the Employment Standards Act, 2000. We have since received conflicting decisions from the courts on whether the IDEL regulations also put a pause on constructive dismissal claims under

the common law. Meanwhile, employers also face possible constructive dismissal claims from employees who do not wish to return to work in the office.

**Learn:**

- What the courts have said regarding whether the IDEL regulations may prevent common law constructive dismissal claims
- Whether imposing unpaid leaves of absence on employees who refuse to get vaccinated might result in a constructive dismissal
- The risk of constructive dismissal claims from employees who do not wish to return to the office

10:30 - 10:50 **BREAK**

10:50 - 11:30 **HOT POTATOES: MANAGING COMPLEX WSIB CLAIMS**



**Ryan Conlin**

WSIB claims are one of the most vexing and potentially expensive issues confronting employers. The session will offer insight into how to tackle the most challenging claims management issues.

**Learn:**

- How to use surveillance to effectively challenge fraudulent claims
- How to respond to self serving "accommodation" requests
- How to determine when the reporting of stress claims is required
- What COVID-19 has taught us about questionable medical notes
- Can you ever realistically fire an employee during the re-employment window?
- Do employee "no lost time" incentive programs open the door to accusations of claim suppression?

11:30 - 12:15 **COVID TESTING OF EMPLOYEES: WHAT YOU NEED TO KNOW**



**Jeff Murray**

Employers have adopted robust infection control measures to protect their employees and business interests. These include mandatory testing and mask mandates, as well as forced absences from work in some circumstances. Some employees and unions have objected to these measures on grounds of fairness, privacy, and human rights.

**Learn:**

- What labour arbitrators have said about the legality of workplace COVID testing
- Emerging best practices for conducting COVID testing
- How human rights tribunals have dealt with the contentious issue of masking
- When must an employer pay employees to be absent from work

12:15 - 1:15 **LUNCH BREAK**

1:15 - 2:15 **DUCKING THE JAB: “MANDATORY” COVID VACCINATION POLICIES**



**Jeremy Schwartz**

Employers across Ontario are wrestling with the legal challenges associated with preparing vaccination policies, including how to respond to employees who refuse to get vaccinated, and how to cope with other employees who expect strict vaccine mandates.

**Learn:**

- The legal status of “mandatory” vaccinations
- Addressing valid exemptions and human rights considerations
- How the professional obligations of physicians impact the ability of employees to get exemptions
- Can employees refuse to work with non-vaccinated colleagues

2:15- 2:45 HEALTH AND SAFETY DUE DILIGENCE DURING THE PANDEMIC: LESSONS LEARNED AND WHAT'S NEXT?



**Haadi Malik**

When the pandemic hit, employers were forced to learn on the fly the scope of their legal duties to protect employee health and safety and best practices. Find out what employers have been doing to protect their employees and how the law has developed during the pandemic. More will no doubt be learned as we hopefully emerge from the pandemic.

**Learn:**

- The experience of employers dealing with employee work refusals and the approach taken by Ministry of Labour Health and Safety Inspectors to COVID related safety rules,
- The latest recommendations of Public Health authorities are regarding COVID are and what their legal effects are
- Whether employers can face risk of legal liability because of employees contracting COVID in the workplace
- What COVID health and safety duties and best practices we can expect going forward as we emerge from the pandemic.

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:**

- Hot topics for collective bargaining: Inflation, Reconciliation, and Pay Equity
- The impact of the Supreme Court's recent decision on the litigation of human rights claims for unionized employers
- The latest caselaw on termination clauses
- Update on developments for federally regulated employers
- COVID sick pay leave

4:00 **CONFERENCE ENDS**