

Rewind and Review:

2022 Employment Law Recap





Presented by:

Lisa Stam and
Evaleen Hellinga

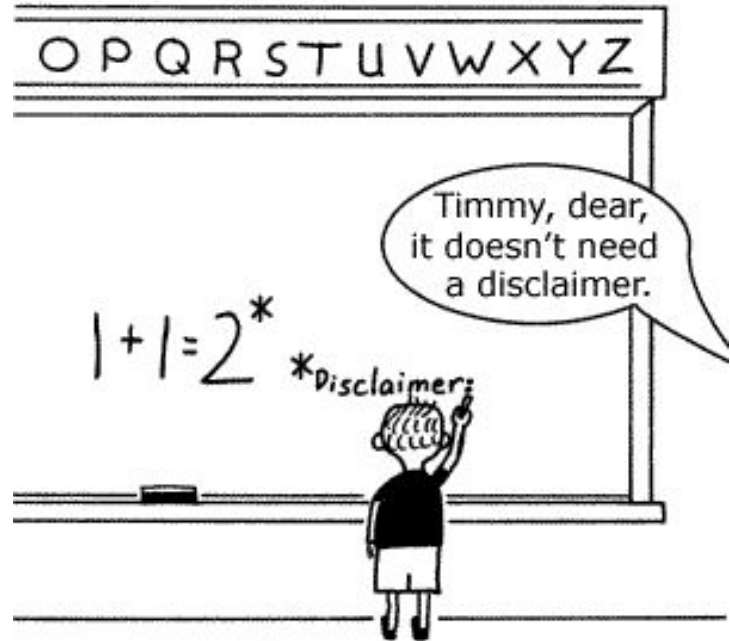
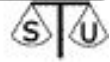
Spring LAW

Land Acknowledgement

We acknowledge that we are on the **traditional** territory of many nations including the Mississaugas of the Credit, the Anishnabeg, the Chippewa, the Haudenosaunee and the Wendat peoples and that this territory is now home to many diverse First Nations, Inuit and Métis peoples.

Legal Disclaimers

Timmy
doesn't need
a disclaimer
but we do...



Legal Disclaimers

We're lawyers and know that legal disclaimers are never fun to read, but sometimes necessary to have. To clarify the legal scope and intent of our webinars, here are our general legal disclaimers that apply to all SpringLaw videos, webinars and content on our YouTube channel:

- 1) The content of this webinar should not be relied upon as legal advice. If you require legal advice, please contact one of SpringLaw's lawyers, or you may wish to consult with the [Law Society of Ontario](#) for a listing of lawyers in Ontario.
- 2) Attending, accessing or viewing any SpringLaw webinars does not create a lawyer-client relationship with anyone at SpringLaw. That will only happen after you formally sign a Legal Services Agreement with us.
- 3) You should apply your own judgement in making any use of any content from our webinars, including the use of the information as the basis for any conclusions. Every case and set of facts is different and unique to you - our videos are informational only.
- 4) The law changes quickly in Canada. We do not guarantee that the content of our recorded webinar videos is accurate, complete or up-to-date given how quickly the law can change. SpringLaw assumes no obligation to update the content. We assume no responsibility for errors or omissions in the content or other documents that are referenced by or linked to in our videos. The content of this webinar may be changed without notice to you.

Please contact us at info@springlaw.ca if you have any questions about any of our content or your legal matter generally.

Presentation Roadmap: Hot Topics for 2023

- **The New Era Workforce**
- **Employment Contract Updates**
- **2023 Policy Checklist**
- **The Post-Pandemic Workplace**



Hot Topic #1 - The New Era Workforce

The New Era Workforce

- **Labour shortage and Quiet Quitting**
 - **Global existential navel-gazing**
 - **Burnout**
- **The Great Resignation**

Tips for Managing in the Era of Quit Quitting

- Clarity on after-hours expectations
- Review 1:1 and group meeting obligations
 - Are they meaningful?
 - Are they preventing focused work time that leads to resentful after-hours work?
- Clarity on what is “work” and what are the optional extracurricular activities
- Acknowledge impact of inflation right now
- Make work more meaningful (ie not just perky fun)
- ASK your employees!

Quitter's Remorse & Boomerang Employees

Is the tide turning?

- Decline of the 2022 employee-friendly market
- Layoffs across the tech sector
- Quitter's Remorse
- Employees returning to old jobs

Burnout, Mental Health and Workplace Accommodations

- Anxiety and exhaustion at all-time high for many workers
- Policies and perks offered across the organization can promote wellbeing among employees
- Individual employee mental health conditions may engage the employer's duty to accommodate
- No “one-size-fits-all solution”

Hot Topic #2 - “Contracts are Fun!!”

-said No Employer Ever



Employment Contract Updates: Termination Clauses and the Ongoing Effects of Waksdale

- An unenforceable just cause termination clause made the entire termination clause unenforceable: *Waksdale v. Swegon North America Inc.*, 2020 ONCA 391
- The employee's level of sophistication, independent legal advice, and the subjective intentions of the parties did not save an unenforceable termination provision: *Rahman v. Cannon Design Architecture Inc.*, 2022 ONCA 451
- A confidentiality or non-compete clause seen to contract out of ESA entitlements on termination made the entire termination clause unenforceable: *Henderson v. Slavkin et al.*, 2022 ONSC 2964

Hot Topic #3: Happy New Year! Policy Goals for 2023!



2023 Policy Checklist

- **Newly Legislated Policies (in Ontario):**
 - The Right to Disconnect (requirements)
 - Electronic Monitoring (requirements)
- **Other Updates for 2023:**
 - Remote Working Policy
 - Update Vaccine Policies
 - Update Workplace Harassment & Violence Policies for remote/hybrid workers
 - Update Health and Safety related policies for remote/hybrid workers

Hot Topic #4 - The Post-Pandemic Workplace



The Post-Pandemic Return to the Office

- **Mandatory vaccination policies**
 - **So far, not much comment from Ontario courts**
 - **Labour Arbitrators have generally found these policies to be reasonable**
 - **Assessed on a case-by-case basis**

Mandatory Hybrid Work Arrangements

- Requiring employees to return to the office has been a challenge for many employers
- Hybrid model remains popular, but tricky to roll out
- Legal risk to mandating a return to office if you hired employees to work exclusively remotely

Remote Working

- Working nomads and digital nomad visas
- Not much guidance from the legislature or courts here... yet
- Jurisdiction and appropriate employment standards regime
- Work location limits and ability to move around
- Tax and immigration implications

2023 Predictions

- **Employees will continue to have leverage, but will start to decline**
- **Mental health will continue to be a core, difficult issue for many organizations to navigate**
- **Courts will start to catch up on remote & hybrid issues and we'll get more guidance on non-competes and location-based constructive dismissals**
- **Termination clauses will continue to be attacked and set aside but employers will catch up with enforceable clauses - so hopefully more stability for workplaces**

Questions?

To learn more about our team:
springlaw.ca/team/

To connect with our legal team:

- Marnie Baizley - mbaizley@springlaw.ca
- Matt Chapman - mchapman@springlaw.ca
- Jessyca Greenwood - jgreenwood@springlaw.ca
- Evaleen Hellinga - ehellinga@springlaw.ca
- Danielle Murray - dmurray@springlaw.ca
- Hilary Page - hpage@springlaw.ca
- Emily Siu - esiu@springlaw.ca
- Lisa Stam - lstam@springlaw.ca
- Tiffany Thomas - tthomas@spring.ca
- Gaya Murti - gmurti@springlaw.ca
- Lindsay Koruna - lkoruna@springlaw.ca

Sign up for future **SpringForward Legal Updates**:
springlaw.ca/employers/springforward-legal-updates/

Sign up for our monthly **Newsletter**:
www.springlaw.ca

Spring
LAW



THANK YOU!