

The leader in labour law education.

# THE 2013 ACCOMMODATION LAW CONFERENCE

New legal breakthroughs in the duty to accommodate and their impact  
on union and employer representatives in Canada



Ottawa

May 1 & 2, 2013  
Fairmont Château Laurier



**labour law online.ca**  
CENTRE FOR LABOUR-MANAGEMENT DEVELOPMENT

**ATTENTION LAWYERS:** This conference consists of 10.75 hours of Continuing Professional Development (CPD) credits and can be applied towards 9 of the 12 hours of annual CPD required by the Law Society of Upper Canada (not the New Member Requirement).

# THE 2013 ACCOMMODATION LAW CONFERENCE

New legal breakthroughs in the duty to accommodate and their impact on union and employer representatives in Canada

**Learn what it takes to make informed accommodation decisions based on the latest developments in the law.** Attend this state-of-the-law conference—for union representatives, employer representatives and lawyers—and stay on top of the latest legal breakthroughs in the duty to accommodate and their impact on unionized workplaces in Canada.

**WEDNESDAY, MAY 1**

**Registration: 8:30 - 9:00 a.m.**

**MORNING SESSION - 9:00 a.m. to 12:00 p.m.**

**Paul Champ and Laurel Johnson**

## **The Year's Top Accommodation Cases**

A review of the important new accommodation cases in Canada and their impact on Ontario unions and employers.

**AFTERNOON SESSION - 1:15 to 4:30 p.m.**

**Peter Engelmann and Charles Hurdon**

## **The Employee's Duty to Cooperate:**

### **When employees sabotage their own accommodation**

While every employee has a duty to cooperate in the accommodation process, this duty may be complex. Employees who are not communicative, refuse reasonable requests for medical information, resort to self-accommodation or are generally uncooperative may jeopardize their right to accommodation. A review of recent cases that shed light on when an employee's lack of cooperation can sink their entitlement to accommodation.

### **When the Duty to Accommodate Affects Work Scheduling**

What happens when a proposed accommodation interferes with an employee's ability to work regularly scheduled hours? The duty to accommodate disability, religion and family status may at times require the employer to take a flexible approach and alter its work schedules in appropriate cases. How have arbitrators weighed in on this issue, and how can unions and employers minimize potential conflicts between work scheduling and the duty to accommodate?

## **Accommodation Saturation:**

### **When one more accommodation is just too much**

Accommodating multiple employees at the same time can be a real challenge for employers. Yet there is no explicit statutory recognition of the principle of accommodation saturation: when there are so many accommodation cases that it would cause undue hardship to accommodate even one more employee. This topic will examine whether such a legal threshold exists and the responses from arbitrators and human rights tribunals.

## **Returning to Work after a Lengthy Absence:**

### **Practical guidelines for unions and employers**

Returning to work after a lengthy medical absence can be difficult for the employee, the employer and fellow employees. What needs to be communicated between the parties in terms of expected duties and accommodation options? How can employers evaluate an employee's capabilities and fitness for duty? What medical information must employees disclose upon returning to work? How can unions facilitate the transition back to work in a timely fashion without undue delay?



Ottawa

May 1 & 2, 2013  
Fairmont Château Laurier

## THURSDAY, MAY 2

**MORNING SESSION - 8:30 a.m. to 12:00 p.m.**  
**Andrew Astritis and Kecia Podetz**

### **Workplace Policies:**

#### **When they can violate the duty to accommodate**

Employers may spend a significant amount of time and resources developing workplace policies only to discover that they run afoul of human rights law. Policies that address drugs and alcohol, attendance management and zero tolerance can undermine an employer's accommodation obligations if applied with rigidity. A review of cases where arbitrators have required a flexible approach to the application of workplace policies in deference to the duty to accommodate.

### **Discipline, Discharge and the Disabled Employee**

There may be instances where an accommodated employee engages in workplace misconduct that warrants discipline. Misconduct including intoxication, lateness and theft may be treated as disciplinary or non-disciplinary depending on the nexus between the misconduct and the disability. Recent cases clarify when discipline is appropriate and when it is not.

### **Accommodating Family Status:**

#### **New cases push the boundaries**

As the law evolves in the area of family status accommodation, arbitrators and human rights tribunals wrestle with the ongoing tension between work and the family obligations. A review of recent decisions reveals new directions in the law and offers unions and employers insight into how to handle family status cases going forward.

### **Disabilities that Require Special Accommodation**

Although each disability is unique, some disabilities require accommodation measures that are special, out of the ordinary or beyond the norm. This topic examines disabilities requiring complex or unusual accommodation measures, and specific techniques used by employers and unions in these circumstances including trial periods, additional training and consultation with experts.

**AFTERNOON SESSION - 1:15 to 3:00 p.m.**  
**Syd Baxter (Chair), James Cameron and Karen Jensen**

### **Accommodation Q&A**

A labour arbitrator, union counsel and management counsel answer your questions on the duty to accommodate.

## PRESENTERS

### **Andrew Astritis**

Union Counsel  
Raven, Cameron,  
Ballantyne & Yazbeck  
Ottawa

### **Sydney Baxter**

Labour Arbitrator  
and Mediator  
Ottawa

### **James Cameron**

Union Counsel  
Raven, Cameron,  
Ballantyne & Yazbeck  
Ottawa

### **Paul Champ**

Union Counsel  
Champ & Associates  
Ottawa

### **Peter Engelmann**

Union Counsel  
Sack Goldblatt Mitchell  
Ottawa

### **Charles Hurdon**

Employer Counsel  
Norton Rose  
Ottawa

### **Karen Jensen**

Employer Counsel  
Norton Rose  
Ottawa

### **Laurel Johnson**

Counsel, Public & Labour Law  
Office of the Legal Advisor  
for National Defence and the  
Canadian Forces  
Ottawa

### **Kecia Podetz**

Employer Counsel  
Emond Harnden  
Ottawa

### **Steven Williams**

Employer Counsel  
Emond Harnden  
Ottawa

# 4 easy ways to register

Centre For Labour-Management Development  
141 Bannatyne Ave., Suite 250,  
Winnipeg, Manitoba R3B 0R3

- 1. by mail
- 2. toll-free fax 1-800-665-5990
- 3. toll-free phone 1-800-665-4411
- 4. online www.LabourLawOnline.ca

- Please register us for the 2013 Accommodation Law Conference in Ottawa, May 1 & 2, 2013
- I cannot attend, but please send me notice of future programs by mail or E-mail
- I am a lawyer who wishes to receive Continuing Professional Development (CPD) credits from the Law Society of Upper Canada for attending this conference.

Name and organization will appear on name tag. (Please print clearly)

1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_

Organization \_\_\_\_\_

Address \_\_\_\_\_

City/Town \_\_\_\_\_

Province \_\_\_\_\_ Postal Code \_\_\_\_\_

Area Code \_\_\_\_\_ Tel \_\_\_\_\_ Fax \_\_\_\_\_

E-mail \_\_\_\_\_

Payment is due prior to the program:

- Cheque enclosed payable to: Centre For Labour-Management Development Inc.
- Invoice my organization attn: \_\_\_\_\_
- GST exempt, Registration No. \_\_\_\_\_
- Purchase Order No. is attached

Charge to the following credit card:  VISA  MASTERCARD  AmEx  DISCOVER

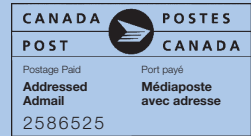
Card # \_\_\_\_\_ 3-digit code \_\_\_\_\_

Cardholder \_\_\_\_\_ Expiry Date \_\_\_\_/\_\_\_\_

Cardholder Signature \_\_\_\_\_

**Incorrect address? Receiving duplicates?**  
Please E-MAIL [Info@LabourLawOnline.ca](mailto:Info@LabourLawOnline.ca) or  
FAX toll-free 1-800-665-5990 or PHONE toll-free 1-800-665-4411

Mail Room Personnel: If undeliverable, please reroute to your organization's Human Resources Manager or Business Agent



141 Bannatyne Ave., Suite 250  
Winnipeg, Manitoba R3B 0R3  
Phone (204) 956-0800 Fax (204) 956-0515  
Info@LabourLawOnline.ca

PROGRAMS

**The 2013 Accommodation Law Conference**

Saskatoon	April 17 & 18
Ottawa	May 1 & 2
Winnipeg	May 8 & 9
Edmonton	May 16 & 17
Vancouver	May 28 & 29

**Le droit de l'accommodement 2013**

Montreal	April 24 & 25
----------	---------------

**Progressive Discipline for Supervisors and Stewards**

Saskatoon	June 19
Regina	June 20
Edmonton	March 13
Vancouver	March 14
Winnipeg	June 26

ONSITE

Ask us about arranging an inhouse course at a time and location suitable for you:

- Progressive Discipline For Supervisors and Stewards
- The Duty to Accommodate in the Unionized Workplace

ACCOMMODATIONS

Special guestroom rates starting at \$199 (standard, single/double plus taxes) have been arranged for registrants at the Fairmont Château Laurier, 1 Rideau Street in downtown Ottawa.

Phone hotel reservation directly at (613) 241-1414 and ask for the group rate for the "Accommodation Law Conference." Reserve early as availability is limited. The Fairmont Château Laurier is a unionized hotel.

TUITION

Includes two-day conference, conference binder, Certificate of Attendance, continental breakfasts and refreshments. Other meals and guestrooms are not included.

**Individual: \$795** (plus \$103.35 HST = \$898.35)  
**Group (3+ each): \$745** (plus \$96.85 HST = \$841.85)  
**Super Group (7+ each): \$695** (plus \$90.35 HST = \$785.35)

To qualify for group rates, registrants must be from the same organization, or union local, and register together.

CANCELLATIONS must be in writing and received by April 24, 2013 in order to qualify for a full refund less a \$50 administration fee. Non-compliance will result in liability for the entire tuition.

SUBSTITUTIONS may be made at any time.

PRESENTERS are confirmed at the time of publication, but are subject to change in emergencies.

GST No. 122060569

LEGAL CREDITS

**ATTENTION LAWYERS:** This conference consists of 10.75 hours of Continuing Professional Development (CPD) credits and can be applied towards 9 of the 12 hours of annual CPD required by the Law Society of Upper Canada (not the New Member Requirement).