



Team Canada Athletes: COVID-19 and Navigating Legal Considerations around Assistance Programs, Contracts, and Trusts

May 13, 2020

COVID-19 Update

Navigating the Legal Considerations of Assistance Programs, Contracts, and Trusts related to COVID-19

May 13, 2020



FASKEN



OFFICIAL LEGAL SERVICES PARTNER
PARTENAIRE OFFICIEL DE SERVICES JURIDIQUES

FASKEN

Opening Remarks & Introduction



Marc-André Fabien, AdE

+1 514 397 7557

mfabien@fasken.com

FASKEN

▼ Agenda

1. Welcome and Introduction
2. Are You Eligible for Subsidies?
3. Sponsorship Agreements
4. What Comes Next?
5. Questions and Answers

FASKEN

▼ Are You Eligible for Subsidies?



David T. McDonald

+1 604 631 4751

dmcDonald@fasken.com



Raphaël Buruiana

+1 514 397 5125

rburuiana@fasken.com

FASKEN

Canada Emergency Response Benefit



FASKEN

Introduction

CERB Overview



Announcement – On March 25, 2020, Finance Minister Bill Morneau announced the enactment of the Canada Emergency Response Benefit (the “**CERB**”).



The Measure – The CERB is a taxable benefit that provides \$2,000 every four weeks for up to four months to workers who lose their income as a result of the COVID-19 pandemic.



Royal Assent – The legislation implementing the CERB received Royal Assent after a special sitting of Parliament on March 25, 2020.

FASKEN

Requirements



Requirements – The CERB is available to workers who meet all of the following requirements:

1. live in Canada and are at least 15 years old
2. stopped working for at least 14 consecutive days because of COVID-19 or are eligible for EI regular or sickness benefits
3. have not voluntarily quit their job
4. had income of at least \$5,000 in 2019 or in the 12 months prior to the date of their application.

Subject to specific conditions, workers may be permitted to earn up to \$1000 per month while collecting the CERB

FASKEN

Applications and Additional Details



Employment Insurance - Effectively replaces Employment Insurance for the period between March 15 to October 3, 2020



Application Process - Applications for the CERB are made through the Canada Revenue Agency (CRA) website



Second Benefit Period - Applications for the second monthly benefit period are now possible



Payments are Taxable Benefits - CERB payments are taxable benefits for the worker who receives them

FASKEN

Canada Emergency Wage Subsidy



FASKEN

Introduction

CEWS Overview



Announcement – On April 1, 2020, Finance Minister Bill Morneau announced the general parameters of the new Canada Emergency Wage Subsidy (the “**CEWS**”).



The Measure – The CEWS provides a monthly subsidy of up to 75% of salary, wages and other remuneration paid by eligible employers (max. \$847/week/employee) for 12 weeks and possibly for longer.

FASKEN

Requirements



Requirements – In order to determine whether an employer qualifies for the CEWS, the employer must determine whether:




1. **Eligible Entity** – it is an “eligible entity”; and
2. **Revenue Drop Test** - the employer has suffered at least a 15% decrease in gross revenues in March, 2020 or at least a 30% decrease in gross revenues during the months of April, and/or May, 2020.

FASKEN

Eligible Entity



Eligible – The following types of persons (and partnerships/organizations) are eligible entities:

-  individuals and taxable corporations;
-  partnerships consisting of only eligible employers; and
-  certain non-profit organizations and registered charities.



Non-eligible – Certain public bodies are not eligible entities. This includes municipalities, local governments, Crown corporations, public universities, colleges, schools, and hospitals.

FASKEN

30% Revenue Drop Test



Revenue Drop – Only eligible entities who suffer a decrease in gross revenue of at least **15%** in March 2020, or at least **30%** in April 2020 and/or May 2020 will qualify.



Reference Periods – To determine eligibility for the CEWS for each qualifying period, the qualifying gross revenue of the “current reference period” is compared to the qualifying gross revenue in the “prior reference period”.

FASKEN

Qualifying Periods and Current Reference Periods



Qualifying Periods – A qualifying entity can apply for a wage subsidy in each qualifying period. Currently, there are three qualifying periods but the Minister of National Revenue may add additional qualifying periods (up to and including September, 2020). The initial qualifying periods and the current reference period for each qualifying period is shown below:

Number	Qualifying Period	Current Reference Period
Period 1	March 15 - April 11, 2020	March 2020
Period 2	April 12 - May 9, 2020	April 2020
Period 3	May 10 - June 6, 2020	May 2020

FASKEN

Past Reference Periods



Past Reference Period – The past reference period for each qualifying period is based on monthly revenues in 2019 except where either (i) the business was not operating on March 1, 2019, or (ii) where the eligible entity elects to use the “Jan/Feb Average” for each qualifying period.



Jan/Feb Average – Generally speaking, a eligible entity can elect to use as its past reference period the amount that is equal to the aggregate of gross revenues for January and February 2020, divided by two. If this election is made, it applies for qualifying periods 1, 2 and 3.

Number	Qualifying Period	Past Reference Period
Period 1	March 15 - April 11, 2020	March 2019 or Jan/Feb Average
Period 2	April 12 - May 9, 2020	April 2019 or Jan/Feb Average
Period 3	May 10 - June 6, 2020	May 2019 or Jan/Feb Average

FASKEN

Special Rules



NPOs and Charities – For registered charities and non-profit organizations, qualifying revenue will include most forms of revenue, excluding revenues from non-arm's length persons. These organizations may choose whether or not to include revenue from government sources as part of the calculation. Once chosen, the same approach applies throughout the program periods.

FASKEN

Amount per Employee

Amount of Subsidy



Calculation – The CEWS for a given employee, with respect to eligible remuneration paid in respect of a week of employment during a qualifying period, is equal to the greater of the following amounts:

1. 75% * remuneration paid to the employee in respect of that week, up to a maximum of \$847; and
2. the lesser of: (i) the amount of remuneration paid to the employee in respect of that week (maximum of \$847); and (ii) 75% * the employee's pre-crisis weekly remuneration ("baseline remuneration").



Add-on in respect of paid-leave – The CEWS is increased by the amount of employer's premium under the labour standards legislation, as an employer's contribution under the Canada Pension Plan or under a provincial pension plan, or as an employer's premium under the parental insurance plan in Quebec, for weeks in a qualifying period when an eligible employee is on paid leave.

FASKEN

Additional Details

Amount of Subsidy



Eligible Employee – An eligible employee is an individual who is employed in Canada and who has not been without remuneration for 14 or more consecutive days in that qualifying period. In contrast, the Canada Emergency Response Benefit requires that worker not receive more than \$1,000 income for a 14 consecutive day period. **An employee who qualifies for the CERB will generally be excluded for the CEWS for a particular qualifying period, and vice versa.**



Eligible Remuneration – This may include salary, wages, and other remuneration including commissions (this does not include severance pay, stock option benefits, or certain other benefits).

FASKEN

Amount per Employee

Amount of Subsidy



Example – If an existing or former employee earned an average of \$1,000 per week between January 1 and March 15, his or her employer may maintain employment, recall the employee from layoff, or rehire the individual at \$750 per week and claim a full subsidy on that amount, resulting in no net out-of-pocket cost. In contrast, if the employer hires a new employee at \$750 per week, the employer would only be eligible to receive a subsidy equal to \$562.50 (i.e., 75% of the amount paid).



Best Efforts – Canadian Government has reiterated that employers are expected where possible to “make their best effort” to maintain existing employees' pre-crisis employment earnings. This “expectation” is not provided for in the legislation.

FASKEN

Application Process

Claiming the Subsidy



Application – An eligible employer must submit an application before October, 2020 through the “My Business Account” portal (as well as a web-based application) for **each** of the following periods:

1. March 15 - April 11, 2020;
2. April 12 - May 9, 2020; and
3. May 10 - June 6, 2020.



Timing – the application portal is now open.

FASKEN

Canada Emergency Student Benefits



FASKEN

Canada Emergency Student Benefits

- Provide \$9 Billion in income support to post-secondary students from May through August 2020
 - \$1,250 per month for eligible students
 - \$2,000 for students with dependents or those with permanent disabilities
- CESB will be delivered by the CRA
- Applications will open in mid-May
- Applicants can apply any time before September 30, 2020

FASKEN

Canada Emergency Student Benefits

Eligibility:

- students who are enrolled at anytime between Dec 1 2019 and Aug 31, 2020 in a post-secondary education program leading to a degree, diploma, or certificate;
- students who ended their studies or graduated no earlier than December 2019;
- 2020 high-school graduates who have applied for and will be joining post-secondary programs in the coming months (Before Feb 1, 2021); and
- Canadian students studying abroad meeting one of the above criteria.

FASKEN

Canada Emergency Student Benefits

Eligible Students must not receive:

- Income from employment or self-employment
- EI Benefits or employment insurance emergency response benefit
- Canada Emergency Response Benefit (CERB)

- International students are not eligible for the CESB at this time
- Students must show they are seeking work in order to qualify

FASKEN

Canada Student Service Grant



FASKEN

Canada Student Service Grant

Students can receive funding towards fall tuition if they volunteer in a sector needing assistance during COVID-19.

- They can receive anywhere from \$1,000 to \$5,000 depending on volunteer hours
- Allows students to gain experience while volunteering during the pandemic

FASKEN

Canada Student Service Grant

More details will be released on the “I Want Help” platform in the coming weeks

- More detailed information about eligibility
- Levels of funding available through the grant
- How to apply for a national service position
- How applications will be assessed

FASKEN

Amateur Athletic Trust




FASKEN

Amateur Athletic Trust

- Qualifying performance income put into an Amateur Athletic Trust (ATT) is not income of the beneficiary
- All amounts distributed from the ATT to the beneficiary shall be considered income
- Consider what the impact will be on your entitlement to CERB

FASKEN



Sponsorship Agreements



Julia Kennedy
+1 613 696 6882
jkennedy@fasken.com



Arif Chowdhury
+1 403 261 5379
achowdhury@fasken.com

FASKEN

Sponsorship Agreements



FASKEN

▼ Sponsorship Agreements

Under a Typical Sponsorship Agreement:

- ✓ The Sponsor pays the Athlete
 - ❖ Sometimes in a lump-sum, sometimes through installments, sometimes up-front, sometimes upon certain milestones.
 - ❖ May also provide in-kind benefits and services or products.
- ✓ The Athlete preforms specific obligations
 - ❖ For example attending meet and greets or wearing the Sponsor's logo at certain events.
 - ❖ Typically allows Sponsor to use Athlete's image in marketing its products and brand.
- ✓ The Contract is for a specified period of time

FASKEN

▼ Sponsorship Agreement: Common Provisions

Provisions that Might be Affected by COVID-19:

- ❖ Payment Terms – timing and conditions precedent
- ❖ Performance obligations
- ❖ Termination Provisions
- ❖ Force Majeure Provisions

FASKEN

▼ Sponsorship Agreement: Common Provisions

Signing Bonus:

“Execution Bonus: A one-time contract execution bonus of \$75,000 if the contract is executed and returned by June 1, 2020 and the Athlete uses the Sponsor’s products in the 2020 Summer Olympics.”

- ❖ Signing bonus might contain conditions.
- ❖ What if COVID makes such a condition impossible?
- ❖ Can the Sponsor refuse to pay the signing bonus?

FASKEN

▼ Sponsorship Agreement: Common Provisions

Installment Payments:

“First Contract Year: June 1, 2020 through May 30, 2021; \$150,000 payable in two equal installments of \$75,000 payable on June 15, 2020 and November 15, 2020.”

- ❖ Athletes can be paid in installments, where an installment might fall after the date of an event.
- ❖ What if COVID makes future performance impossible?
- ❖ Can the Sponsor claw-back the advance?

FASKEN

▼ Sponsorship Agreement: Common Provisions

Performance:

“Athlete will wear the Sponsor logo during Athlete’s participation in all competition events, including qualifiers and award ceremonies, during the 2020 Sport season.”

- ❖ What if COVID makes performance difficult or impossible?
- ❖ What if performance is possible in a more limited form than originally expected?

“Athlete will post to social media using Sponsor hashtag at least one picture of Athlete wearing Sponsor logo each week during the 2020 season.”

- ❖ If Athlete can perform, does sponsor have to pay?

FASKEN

▼ Termination of Contract

How does a Contract come to an end?

- ❖ Performance is completed
- ❖ Breach of Contract
- ❖ Termination Provision
- ❖ Force Majeure
- ❖ Frustration

FASKEN

▼ Sponsorship Agreement: Common Provisions

Termination Provision:

“The Sponsor shall have the option to terminate this Agreement immediately if the athlete participates in any 2020 Summer Olympic event with the logo of the products covered and no further payments shall be due to the athlete from the Sponsor after the Sponsor gives notice of exercising this option.”

- ❖ Generally require the happening of **specific** event.
- ❖ Generally require **strict compliance** with preconditions to termination.
- ❖ May be **too narrow** to capture COVID-related non-performance.

FASKEN

▼ **Termination of Contract**



FASKEN

Sponsorship Agreements: *Force Majeure*



FASKEN

▼ Sponsorship Agreements: *Force Majeure*

What Is It?

- ✓ Many commercial contracts contain a *force majeure* clause.
 - ❖ These clauses may expressly excuse a party from performance of its contractual obligations (or suspend performance of a party's obligations).
- ✓ Provides a mechanism to relieve parties from their obligations upon certain happenings.
 - ❖ The scope of a *force majeure* clause, when it is triggered, and the relief it provides depends on the specific words of the provision and the contract more generally.

FASKEN

▼ *Force Majeure*: Article 1470 of Quebec Civil Code

Article 1470 of the Civil Code:

- ✓ This codified concept applies where there is no contractual definition of "*force majeure*", or may be used by the courts to interpret an incomplete contractual definition.
- ✓ "A person may free himself from his liability for injury caused to another by proving that the injury results from **superior force**, unless he has undertaken to make reparation for it."
- ✓ Superior force is an **unforeseeable** and **irresistible** event, including external causes with the same characteristics.

FASKEN

▼ Sponsorship Agreements: *Force Majeure*

How it Works

- ✓ Governed by the terms of the particular contract.
 - ❖ Not every contract contains a *force majeure* clause nor does every *force majeure* clause use that phrase.
- ✓ Often contains pre-conditions to application.
 - ❖ Triggering events, impact requirements, notice requirements.
- ✓ Grants the form of relief articulated within the provision.
 - ❖ The clause will typically explain what kind of relief the affected party is entitled to if it establishes that *force majeure* applies.

FASKEN

▼ Sponsorship Agreements: *Force Majeure*

Common Elements:

- ✓ The Triggering Event
 - ❖ The clause will define what kind of circumstances may give rise to an event of *force majeure*.
- ✓ Impact Requirements
 - ❖ The clause will typically specify that the affected party must be impacted by the event.
- ✓ Notice Requirements
 - ❖ The clause will typically require notice of the *force majeure* event within a certain time after it has commenced.

FASKEN

▼ Sponsorship Agreements: *Force Majeure*

“If, for any reason beyond [the Sponsor]’s control, including, but not limited to, strikes, boycotts, war, acts of God, labour troubles, riots, delays of commercial carriers, restraints of public authority, or for any other reason, similar or dissimilar (a “Force Majeure Event”), [the Sponsor] is unable to produce, use, and or reuse the Publicity Materials, or Personal Appearances to be provided under the Agreement, then [the Sponsor], in its sole discretion, will have the right to extend the Term for an equivalent period, without additional compensation to the Contractor on behalf of the Player. If a Force Majeure Event extends beyond thirty days, either party may terminate the Agreement by providing 15 days’ notice to the other Party.”

FASKEN

▼ Sponsorship Agreements: *Force Majeure*

Common Elements: cont’d

- ✓ Compliance with notice requirements is significant.
 - ❖ Notice provisions impose an obligation on the party seeking to be excused from performance (or seeking to suspend performance) to provide notice to the other party to the contract.
- ✓ COVID-19 does not fit neatly within the boilerplate *force majeure* language.
 - ❖ Whether or not the outbreak of COVID-19 constitutes a *force majeure* under a particular contract will depend on the specific wording of that contract, and on the governing law in the jurisdiction applicable to the contract.

FASKEN

Sponsorship Agreements: Frustration



FASKEN

▼ Termination of Contract: Frustration

What Is It?

- ✓ Common law doctrine – not found within the terms of the contract.
- ✓ Arises upon the happening of an unforeseen event that is the fault of neither party.
- ✓ Renders performance of the contract something radically different from what was originally agreed.
- ✓ Releases both parties from any further performance obligations under the contract.

FASKEN

▼ Termination of Contract: Frustration

How Does It Work?

- ✓ A contract does not become frustrated just because it becomes more difficult to perform.
- ✓ A finding of frustration requires a careful analysis of the contract and the factual circumstances.
- ✓ It depends on the nature of the services to be provided under the contract and on the severity of the impact that the supervening event has on a party's ability to perform its contractual obligations.

FASKEN

▼ Termination of Contract: Frustration

An Example:

- ✓ A leases space and operates "A's Pizzeria" in a strip mall owned by B. B operates "B's Property Management" from an office next door to A's. Part of A's lease provides that A must supply heat to B's all year long. Two months into the lease and due to a horrific pizza-oven related incident, a fire broke out at A's, destroyed A's furnace, and put A out of business.
- ✓ Nevertheless, B continues to look to A to heat B's offices through the frigid (and unusually long) Alberta winter.
- ✓ A claims it shouldn't have to pay and that the agreement is frustrated.

FASKEN

▼ Termination of Contract: Frustration

Another Example:

- ✓ A popular rock band has been scheduled to play in the only outdoor stadium in your hometown. Two days before the concert, the local municipality revokes the license because it is discovered that the stadium has become very dangerous due to serious architectural flaws.
- ✓ The band, the promoters, the airlines, the trucking companies, the roadies, security companies, franchises and fans all assumed the stadium would be available. Large sums of money have been expended and significant profit expected.
- ✓ Are these agreements frustrated?

FASKEN

▼ Termination of Contract: Frustration

COVID-19 and Frustration:

- ✓ Contracting parties may seek to rely on the doctrine of frustration for COVID-19 to relieve them of their contractual obligations.
- ✓ However, as demonstrated, applicability of frustration is a high-bar and it is inapplicable where performance is not impossible, but more difficult.
- ✓ Whether or not COVID-19 will frustrate a particular sponsorship agreement will require need to be assessed on a case-by-case basis.

FASKEN

Sponsorship Agreements: Going Forward



FASKEN

▼ Going Forward Without Terminating



FASKEN

▼ Going Forward: Performance

Fulfill performance obligations:

- ✓ Both parties should consider what can still be done
 - ❖ Many contracts include terms that anticipate delayed, modified or reduced performance and what the consequences are to some extent.
- ✓ Specific contract terms will vary
 - ❖ Sponsor's obligations for payment may scale with level of athlete performance or 'services'
 - ❖ Athlete's obligations may be reduced or remain unchanged despite COVID-19

FASKEN

▼ Going Forward: Performance

Example:

- ✓ Athlete is required to post on social media at least once per week during 2020 season wearing Sponsor's logo and using Sponsor's #tag. Athlete gets paid in installments with a bonus for number of impressions.
 - ❖ Athlete can still fulfill this obligation.

FASKEN

▼ Going Forward: Penalty for Non-Performance

Penalties Prohibited:

✓ Different from damages.

- ❖ Penalties are sums above the actual damage amount incurred by a party required to be paid when a breach occurs.

✓ Grossly punitive.

- ❖ It will be held to be a penalty if the sum stipulated for is extravagant and unconscionable in amount in comparison with the greatest loss that could conceivably be proved to have followed from the breach.

FASKEN

▼ Going Forward: Penalty for Non-Performance

Liquidated Damages:

✓ Genuine pre-estimates of damages are allowable.

✓ Liquidated damages vs. penalty.

- ❖ The common law penalty rule considered by the courts was whether the stipulated penalty under a contract was a genuine estimate of the damages suffered by the innocent party upon breach. If a penalty provision estimated damages above those actually incurred, it would not be enforceable.

✓ Must be evaluated on a case-by-case basis.

- ❖ Reasonableness of the sum or formula adopted seems to be the key consideration.

FASKEN

▼ Going Forward: Amendment

Amendment of a Sponsorship Agreement:

- ✓ An amendment is a type of variation.
- ✓ Parties can vary a contract where they both agree to do so.
- ✓ A variation can be express or implied, but must be supported by consideration.
- ✓ Once varied, a party cannot rely on the original, unvaried terms.

FASKEN

▼ Going Forward: Amendment

Negotiation considerations:

- ✓ Do both Athlete and Sponsor want to maintain the relationship?
- ✓ Can the terms be modified to fit current circumstances?
- ✓ Does the term need to be extended to cover events that have been or likely will be postponed?
- ✓ What should happen if there are further cancellations and postponements?

FASKEN

▼ Going Forward: Amendment

Negotiation considerations:

- ✓ Get specific legal advice on the terms of your existing agreement
- ✓ Have a plan in place when approaching your Sponsor to negotiate an amendment

FASKEN

▼
What comes
next?



Erin Porter
+1 416 868 3536
eporter@fasken.com

FASKEN

▼ What Comes Next?

- The Emergency Support Fund for Cultural, Heritage and Sport Organizations will provide \$500 million to help address the financial needs of affected organizations.
 - Administered by Canadian Heritage.
 - 72 million designated to Sports Organizations.
 - NSOs and sports institutes will receive \$34.5 million;
 - Provinces and territories \$32.5 million; and
 - Athlete Assistance Program \$5 million.

FASKEN

▼ What Comes Next?

- Emergency Support Fund Criteria:
 - they are in need of funding to ensure a continuity of operations and to safeguard jobs;
 - they remain in operation at the time of application and plan to continue contributing to their sector in the future;
 - they are not receiving funding from multiple sources to cover the same costs; and,
 - where relevant, funds will be used to support workers such as the self-employed and freelance workers, artists, and creators.

FASKEN

64

▼ What Comes Next?

Where Can I Train?

- Recommendation from Athletics Canada is to train in isolation at home
- May be options for training in outdoor spaces (varies by province)
 - Training should still be alone, not in groups or with a coach.
 - No-one should train outside if they are currently in quarantine from recent travel, or self-isolation for a possible recent exposure or feeling unwell.
 - You must stay at least 2 meters away from other people at all times.
 - Do not share equipment.
 - Ensure equipment is sanitized in between each use.

FASKEN

65

▼ What Comes Next?

Where Can I Train?

- Some signs that training facilities may reopen soon
 - British Columbia has announced gyms may reopen after May long weekend
 - Ontario government announced Professional Sports Training Facilities would reopen on May 8th
 - Other provinces have not set timelines but opening gyms is typically included at phase three or four of the province's reopening plan

FASKEN

66

▼ Questions?



FASKEN



OFFICIAL LEGAL SERVICES PARTNER
PARTENAIRE OFFICIEL DE SERVICES JURIDIQUES

FASKEN

FASKEN

FASKEN

Biographies



Areas of Expertise

International Arbitration | Securities Litigation | Litigation and Dispute Resolution | Aviation

Education

1981, LLB, Université de Montréal

Jurisdiction

Quebec, 1982

Languages

French | English

Marc-André G. Fabien, Ad. E. is a seasoned litigator and Fellow of the American College of Trial Lawyers recognized for his mastery of high-profile complex litigation. He specializes in commercial and shareholders' disputes, securities litigation and penal proceedings, and litigation involving federal, provincial and municipal bodies. In addition, he is the President of the Canadian Paralympic Committee.

Marc-André appears before all levels of courts, including the Supreme Court of Canada, the Court of Appeal of Québec, the Superior Court, various administrative tribunals, and the International Court of Arbitration for Sport. He also lectured at the Faculty of Law of the Université de Montréal, where he taught the art of advocacy.

His vast experience before the courts has earned him an excellent reputation among the judiciary. He is especially sought for his strategic expertise.

Marc-André G. Fabien, Ad.E., has written several articles on environmental law, property assessment and corporate criminal liability.

In 2012, he was awarded the title of Lawyer Emeritus (Ad.E.) by the Barreau du Québec, an honour reserved for lawyers known for their outstanding professional career, outstanding contribution to the legal profession, or outstanding social and community standing that has brought honour to the legal profession. Marc-André continues to be involved as a member of various associations, in particular a long involvement with the Canadian Paralympic Committee.



Areas of Expertise

Labour Relations and Collective Bargaining | Labour, Employment & Human Rights | Employment Advice and Litigation | Alternative Dispute Resolution | Human Rights

Education

1997, LLB, University of British Columbia

1994, BA, McGill University

Jurisdiction

British Columbia, 1998

Language

English

David McDonald is a leading labour, employment and human rights lawyer in Vancouver. Employers seek out David's skills as strategic counsel in workplace law.

David proactively works with clients to find solutions to employment issues. He has a particular focus on labour relations and collective bargaining. He also gives advice in all areas of employment law, human rights in the workplace and occupational health and safety.

David shares his expertise with clients and professional organizations through presenting seminars on labour relations and employment law.





Areas of Expertise

Labour, Employment & Human Rights | Employment Advice and Litigation | Human Rights | Labour Mergers and Acquisitions | Labour Relations and Collective Bargaining

Education

2014, LLM, University of Cambridge
2012, LLB, University of Sherbrooke
2012, M.B.A., University of Sherbrooke

Jurisdiction

Quebec, 2015

Languages

French | English | Spanish

Raphaël Buruiana is a lawyer in the Labour, Employment and Human Rights Group. He specializes in labour law, representing public and private employers. Raphaël advises and represents clients in litigation, arbitration, negotiation, human rights, and labour relations cases.

Raphaël is a determined and dedicated lawyer who represented clients before the Administrative Labour Tribunal, the Court of Québec, the Superior Court, and the Court of Appeal for Quebec. While Raphaël was a student, he was recognized numerous times as one of the 10 best students in the faculty of law, in addition to earning a scholarship for excellence.

Raphaël also acts as a speaker. He is regularly invited to give training on a variety of subjects according to clients' needs and notably on questions regarding labour standards, the impact of legalizing cannabis, psychological and sexual harassment. Before joining Fasken, Raphaël practised with a regional law firm.

FASKEN



Julia Kennedy

PARTNER

Ottawa

+1 613 696 6882

jkennedy@fasken.com

www.fasken.com/en/julia-kennedy

Areas of Expertise

Mergers & Acquisitions | Corporate Finance & Securities | Private M&A | Corporate Governance | Corporate/Commercial | Procurement | Entertainment and Media | Health | Mining | Technology, Media and Telecommunications | Startup and Emerging Company Services | Communications | 5G Network

Education

2008, BCL, McGill University

2008, LLB, McGill University

2004, BA, Environmental Studies, McGill University

Jurisdiction

Ontario, 2010

Languages

English | French

Julia's corporate/commercial practice is focused on providing solutions that fit the business realities of both small and large clients. Working across a variety of industries, Julia has advised telecommunications, technology, broadcasting, health and mining clients.

Regularly sought-after for both commercial agreements and transactions, Julia's mergers and acquisitions practice includes changes of control, asset and share transactions. For her start-up clients, Julia applies her experience to guide them through early to late-stage financing rounds. She has also negotiated and drafted a range of commercial contracts, including sales, services, technology collaboration, confidentiality, licensing, and employment agreements.

Clients benefit from Julia's targeted legal analysis, risk assessment and practical advice that draws upon a breadth of experience in employment law, public and private procurement, competition and consumer protection, broadcasting, copyright, civil litigation and appellate advocacy.

Julia has degrees in common law and civil law from McGill University.

FASKEN



Arif Chowdhury

PARTNER

Calgary

+1 403 261 5379

achowdhury@fasken.com

www.fasken.com/en/arif-chowdhury

Areas of Expertise

Insolvency & Restructuring | Human Rights | Commercial Litigation | Litigation and Dispute Resolution

Education

2009, JD, with distinction, University of Saskatchewan

2003, BSc, McGill University

Jurisdiction

Alberta, 2010

Languages

Bengali | English

Arif is a commercial litigator in the Litigation and Dispute Resolution Group and a member of the Insolvency and Restructuring Group. He has appeared at all levels of court in both Alberta and Saskatchewan as well as at the Supreme Court of Canada. Arif has experience in international arbitration and before administrative boards, including the Sport Dispute Resolution Centre of Canada.

Arif has represented large multinational corporations, product manufacturers, insurers, entrepreneurs, professional athletes, national sports organizations, franchisees and franchisors. His commercial practice includes claims for breach of contract, breach of trust, breach of fiduciary duty, claims in fraud, product liability, franchise disputes and judicial review.

Arif's practice also encompasses injunction and urgent relief work in broad-ranging areas including labour and employment, privacy and technology, and national sports organizations.

In insolvency and restructuring proceedings, Arif has represented financial institutions, secured and unsecured creditors as well as private investors in various proceedings, including contested disputes concerning the validity and priority of security interests.

Arif joined Fasken Martineau after graduating from the College of Law at the University of Saskatchewan and is an alumnus of McGill University. He volunteers regularly at Diefenbaker High School in Calgary introducing students to advocacy. Arif advises victims of discrimination on a pro bono basis.

FASKEN



Areas of Expertise

Labour, Employment & Human Rights | Labour Relations and Collective Bargaining | Employment Advice and Litigation | Labour Mergers and Acquisitions | Human Rights | Canada

Education

2014, LLM, Labour and Employment Law, Osgoode Hall Law School at York University

2003, LLB, Queen's University

1998, BEd, Western University

1997, BA (Honours), Western University

Jurisdiction

Ontario, 2004

Language

English

Erin Porter's practice is focused on advising and representing employers in labour, employment and human rights matters. With considerable experience in the health care sector, Erin offers strategic and practical advice to her clients.

Erin returned to Fasken after spending more than 11 years as in-house counsel for one of Canada's largest retirement and long term care home providers. In her position as Vice President, Legal, she was responsible for providing advice on acquisitions and dispositions, accommodation, employment contracts, terminations and various other workplace matters.

Erin frequently appears before arbitrators, the Ontario Labour Relations Board, and the Human Rights Tribunal of Ontario. Although she is a passionate advocate, Erin also knows the benefit of pursuing a settlement under the right terms and conditions.

In addition to her appearance work, Erin also has experience negotiating and interpreting collective agreements, drafting employment policies and conducting workplace investigations. A former teacher, Erin loves to present



FASKEN

and has been a speaker at professional and client-based seminars on topics such as the duty to accommodate, preparing for arbitration, workplace investigations, code of conduct and last chance agreements.



FASKEN