

WHAT'S NEW at RUBIN THOMLINSON LLP

Aaron Rousseau was quoted in the Toronto Star article *FedEx guy might still have a job. So, what does it take to get fired?* on December 21.

James Heeney discussed restrictive covenants at the Employment Law 2011 conference as part of the Osgoode Professional Development program on December 12.

Welcome Marie-Hélène Mayer

We are pleased to announce that Marie-Hélène Mayer has joined Rubin Thomlinson LLP to continue her work in employment law and workplace human rights.



One of Marie-Hélène's unique contributions to Rubin Thomlinson is that she is fluent in French. She is able to advise

clients in French, and has argued cases in French before various administrative tribunals. She now conducts workplace investigations and workplace investigation training in French.

Marie-Hélène provides counsel to employers and employees on all areas of employment law, including employment contracts, wrongful dismissal, constructive dismissal, workplace policies, employment standards, and workplace human rights.

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This alert is prepared as a service for our clients and other persons dealing with employment issues. It is not intended to be a complete statement of the law or an opinion on any subject. Although we endeavour to ensure its accuracy, no one should act upon it without a thorough examination of the law after the facts of a specific situation are considered, and without seeking the advice of legal counsel. No part of this publication may be reproduced without prior written permission of Rubin Thomlinson LLP. This has been sent to you courtesy of Rubin Thomlinson LLP.

As we ring in 2012 by either committing to pay off our holiday debts, run a marathon, or see more of friends and family, it occurred to us that there might be room for some new year's resolutions with an employment law focus. We thought about the most challenging circumstances faced by our own clients this year, or the ones which judges referenced in decided cases, and put together this list of suggestions for employers looking to minimize legal liability this year:

Thinking about Resolutions? Here are RT's Top Picks for 2012...

1. I resolve to not *immediately* say "NO!" to a request for accommodation. I may say no after considering the organization's duty to accommodate and determining with the assistance of our employment lawyer that we have an undue hardship argument, but I'll remember not to react instinctually to the request.
2. I resolve to do something every time an employee complains of harassment, violence or discrimination. This may not always require a full-blown investigation, but I will remember to take some meaningful steps, document what I have done and be sure to follow up with the employee to ensure the issue is resolved.
3. Before firing an employee, I will consider carefully whether the termination will have an aggravating effect on the employee in question because of any specific medical or other personal issues which the employee is currently experiencing. If so, I will work with legal counsel to see if this effect can be minimized.
4. Before firing an employee, I will look carefully at their pension and disability entitlements to see what effect the termination will have on these benefits. I will take steps to protect the employee, and consequently the organization, if possible.
5. I will *finally* have our

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Thinking about Resolutions? Here are RT's Top Picks for 2012...

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organization's employment contracts reviewed by an employment lawyer to see if we can be doing more to protect the organization.

6. OR I will *finally* commit to having an employment lawyer prepare employment contracts for our staff.

7. I resolve to act with caution before we decide to terminate an employee for just cause. I will ensure the organization does some form of an investigation into the misconduct in question and try to be objective in evaluating the findings, regardless of what I know about the employee personally.

8. As the search for good people intensifies, I resolve to train our hiring managers so that they understand the legal risks associated with hiring

people away from secure employment elsewhere and/or making promises to new hires that we may be unable to fulfill.

9. I resolve to review the requirements of the Accessibility for Ontarians with Disabilities Act (the "AODA") and to ensure that my organization has the necessary policies and procedures in place for January 1, 2012.

10. I resolve to stay in regular contact with my employment lawyer, because I know that the cost of a quick call to discuss a course of action is minimal when compared with a course of action which is not legally recommended.

Best wishes for a happy, healthy and liability-free 2012 from all of us here at Rubin Thomlinson LLP. ●

UPCOMING EVENTS

Chris Thomlinson will be chairing the Law Society of Upper Canada webcast "Client Communication in Employment Law" on January 13.

Janice Rubin will be discussing "Building Mentally Healthy Workplaces" for the Conference Board of Canada's Strategic Human Resources Management Council, on January 25.

Breakfast Seminar The Employment Law Roundup January 16, 2012

Our breakfast seminar, *The Employment Law Roundup*, returns on January 16. This popular program looks at the most interesting legal developments of the year and key cases to consider for 2012. Discover what these decisions mean for employers; learn what our lawyers recommend; and enjoy the opportunity to meet other HR/legal professionals.

The seminar is complimentary for clients, and non-clients are welcome to attend for \$99.

Registration takes place via our [website](#). Please register early as space is limited.

Workplace Investigation Training

Our 2012 workplace investigation training schedule is now available on our [website](#).

We offer a comprehensive workplace investigation techniques curriculum to support professionals at all levels of skill and experience. We'll prepare you to conduct your own investigations through hands-on, practical training designed to meet the challenges facing your institution's investigators.

Registration is now open for all of our 2012 sessions. Visit our [website](#) for more information or call (416) 847-1814.

We work with employer clients to provide optimal legal solutions to their challenging workplace issues. If you would like to know more about our practice, please do not hesitate to contact us at (416) 847-1814 or via e-mail at contact@rt-law.ca.