



# IFW NEWSLETTER

April 2024

## WHAT'S NEW AT IFW

- Partner Krista Kais-Prial obtained her Osgoode Advanced Certificate in Workplace Investigations and is now a certified workplace investigator. Please [contact her](#) for all your workplace investigation needs!
- Partner Carita Wong spoke at the University of Toronto's International Women's Panel on March 6, 2024. More details [HERE](#)



## WHAT'S NEW IN THE LAW

British Columbia's Court of Appeal upholds for-cause termination of senior executive who falsified \$250.00 in expenses

In *Mechalchuk v. Galaxy Motors (1990) Ltd.*, 2023 BCCA 482, British Columbia's Court of Appeal upheld a for-cause termination based on a senior employee's falsification of his expenses.

Mr. Mechalchuk had been employed by Galaxy Motors for just over 2 years. At the time his employment was terminated, he was the company's President of Operations and earned an annual income of between \$750,000.00 and \$1,000,000.00.

On June 15, 2022, Mr. Mechalchuk took his spouse on a business trip. That evening, the couple had dinner at a restaurant and when he received the bill, Mr. Mechalchuk wrote the names of two other employees on it. The next day, the couple went out to breakfast and Mr. Mechalchuk added the name of a third employee to the bill. Mr. Mechalchuk submitted the bills to Galaxy Motors and was reimbursed by the company for these restaurant expenses in the approximate amount of \$250.00. One of the company's owners eventually ordered an audit of Mr. Mechalchuk's expenses, which revealed the company's reimbursement to Mr. Mechalchuk for the dinner and breakfast.

Mr. Mechalchuk attended a meeting where he was questioned about the dinner and breakfast receipts but failed to explain them honestly. Two days later, when Mr. Mechalchuk he had a second meeting with the owners, he again failed to "come clean" regarding the dinner and breakfast "expenses." Mr. Mechalchuk was accused of fraudulent conduct and was dismissed for just cause.

When Mr. Mechalchuk brought a wrongful dismissal claim alleging that his conduct did not amount to just cause at common law, the trial judge dismissed the action. The trial judge's following reasons sum up the Supreme Court of British Columbia's view succinctly:

"... Although the total amount of the...receipts (approximately \$250) was relatively small, the misconduct went to the very root of the plaintiff's employment relationship with the defendant. He was in the most



senior management position at the defendant. His position commanded a high level of authority, responsibility, and trust. He breached that trust by submitted false expenses receipts and thereafter being untruthful about them when given an opportunity to explain them on July 11, 2022. Moreover, he failed to “come clean” when he had a second opportunity to do so during the meeting on July 13, 2022. His conduct was such that the defendant’s loss of faith and trust in him was justified.” [para 30 of appeal judgment, quoting para 65 of trial judgment.]

In the result, Mr. Mechachuk lost his appeal and the termination for cause was upheld. Though many employers were happy to read this case, termination for cause is extremely difficult to establish and maintain, and importantly, not every incident of dishonesty will support a termination for cause.

Termination for cause is always dependent on context and there have been other cases of thefts of smaller amounts where the court upheld the terminated employee’s wrongful dismissal claim ordered the employer to provide notice of termination. If you are contemplating a termination for cause, approach us for prompt legal advice to make sure that you have a solid basis for such a position: if you proceed and do not in fact have cause for termination, a negotiated severance can often be a fraction of the legal fees an employer may spend litigating a case to trial or appeal.

## LET’S TALK

Israel Foulon Wong LLP is one of Canada’s leading employment and labour law firms. The firm’s partners, [Peter Israel](#), [Chris Foulon](#), [Carita Wong](#), [Alex Van Kralingen](#), [Krista Kais-Prial](#), [Behzad Hassibi](#), [Katherine Chau](#), [Mark Repath](#) and their associates, [Yibhu Gairola](#) and [Domenica Moran](#), have over 125 years of collective experience in assisting clients with employment and labour law issues.

## CONTACT US

65 St. Clair Avenue East, Suite 200  
Toronto, ON M4T 2Y8  
p. 416-640-1550  
f. 416-640-1555  
[inquiries@israelfoulon.com](mailto:inquiries@israelfoulon.com)  
[www.israelfoulon.com](http://www.israelfoulon.com)