IFW NEWSLETTER

October 2025

EI Emergency Measures Extended to 2026

In our April 2025 newsletter, we covered temporary Employment Insurance (EI) measures introduced to cushion trade-related economic impacts. These measures have now been extended until **April 11, 2026.**

In addition, starting October 12, 2025 (for claims commenced on or after June 15, 2025), 20 extra weeks of EI will be available for long-tenured workers (up to 65 weeks total)

Ontario Court Awards Whistleblower Employee over $5M in Damages for Reprisal by Employer in breach of *Securities Act*

In *McPherson v. Global Growth Assets Inc.* (2025 ONSC 5226), the Court provided its first ever judicial interpretation of the anti-reprisal provisions in Ontario's *Securities Act* (the "**Act**"). The Court's decision confirms that an employer that takes any adverse action against an employee due to the employee engaging in "protected activity" under the Act will be found to have committed a reprisal. The statutory remedy for reprisal under the Act is either reinstatement, or an award of twice the amount of money the employee would have been paid had the contravention not occurred – calculated from the date of the reprisal to the date of the order. This statutory remedy sits independent of – and in addition to – an internal whistleblower policy which exists at the Ontario Securities Commission ("**OSC**"), which can award payments directly from the OSC in connection with successful whistleblowing activities. Those payments can be made independent of any amounts granted by a Court through the statutory remedy.

Regardless, in *McPherson*, the Court used the statutory remedy to award more than **$5 million** to a former CEO after finding that his employment was terminated as a reprisal for raising concerns that the employer was in breach of Ontario's securities laws.

The employee was hired by the Employer as its new CEO to bring the firm into compliance with securities law, which the former CEO had been found by the OSC to have breached. However, when the new CEO attempted to supervise the activities of the former CEO's daughter, the Board of Directors removed her from his supervision. The new CEO raised concerns that the removal of the former CEO's daughter from his oversight could prevent him from discharging his compliance obligations. The Board of Directors refused to meet with the Employee, and instead terminated his employment.

The Court found that the OSC's prohibition against reprisal is contravened if an employee's "protected activity" formed any part of the reason to terminate their employment. This analysis is consistent with the reprisal analysis under different statutes such as Ontario's *Employment Standards Act, 2000*, Ontario's *Human Rights Code* and Ontario's *Occupational Health and Safety*

Act. The Court clarified that the employer bears the onus of establishing that the employee's protected activity was not a factor in the termination of employment.

The Court dismissed the employee's claim for wrongful dismissal finding that the monetary remedy for the established reprisal – which was not subject to any deduction or mitigation income – meant that the employee did not suffer damages for his wrongful dismissal. As such, the Court deemed the statutory remedy not to be independent of that for wrongful dismissal. The Court also found that the employee did not establish evidence of aggravated damages, and that the $5.37 million award would be sufficiently punitive to obviate the need for further punitive damages.

Takeaways

The reprisal provisions under the Act provide whistleblower protections to employees and give them a statutory remedy of damages approximately 2x their compensation. It is important that employers do not engage in actions which could be found to be reprisals under the Act, and that employees are not punished in any way for raising concerns about an employer's compliance with the Act. Employers will have the burden of proving that there has been no reprisal, and failure to do so can result in significant exposure.

SMALL CLAIMS COURT LIMIT INCREASED TO $50,000

As of October 1, 2025, the monetary jurisdiction of Ontario's Small Claims Court has increased from **$35,000 to $50,000.** This change will allow more disputes to be brought and heard in Small Claims Court. Procedure before the Small Claims Court is less formal, does not include any discovery stage, and can often proceed to a hearing more quickly than a civil action in Superior Court. Cost awards are also capped, reducing potential exposure for the losing party.

Employers should note that Ontario Small Claims Court plaintiffs can amend their claim up to 30 days before trial without needing court approval or the other party's consent. This flexibility can expand an employer's exposure late in the process. Employers facing claims near the new $50,000 limit should consult counsel early to ensure their litigation strategy is responsive to this procedural reality.

LET'S TALK

Israel Foulon Wong LLP is one of Canada's leading employment and labour law firms. We have been helping employers, from startups to national and multinational brands, navigate these drafting and implementation challenges in real time. Our partners, Peter Israel, Chris Foulon, Carita Wong, Alex Van Kralingen, Krista Kais-Prial, Behzad Hassibi, Katherine Chau, Mark Repath and associates, Vibhu Gairola, Domenica Moran, and Amirali Golpira have over 125 years of collective experience in assisting clients with employment and labour law issues.

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