

Labour & Employment Law

Difficulty Level: ♦

Timing: 2II

The Act does provide that "No action or other proceeding shall be instituted against a person for making a report in good faith in respect of a communicable disease or a reportable disease in accordance with the legislation" but that protection only deals with reporting specific occurrences and not with raising concerns about how such an occurrence is being addressed by the public health system. This lack of a real whistleblowing protection for public health workers is, in the opinion of many, a gap in the province's health protection system.

In our investigation relating to the GBH case, we found that the fear of reprisal was very real. Many nurses and other health care workers expressed fear of workplace consequences if it became known that they were being interviewed confidentially by the Commission. In some instances, GBH health care workers agreed to be interviewed on a confidential basis only after they understood that their disclosures to the Commission were protected by the whistleblower protection under the province's Public Inquiries Act.

Under Section 18.5 of that legislation, any person or entity (that, in our case, includes GBH) who takes adverse employment action against an employee is guilty of an offence and on conviction is liable to a fine of not more than \$5,000. This fine was certainly not seen by many of the employees as whistleblowing protection, more a mere slap on the wrist and, in the case of GBH, a mere drop in the bucket financially.

Sulamith, I really think it is time to push for change.

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Labour & Employment Law

Timing: 222

Difficulty Level: ♦♦

You asked me to review the law relating to the Morgan della Savia case. The following are my findings:

Under section 93(2) of the New Brunswick Labour Standards Code (hereinafter referred to as "NBLSC"), "...where an employee by collusion with the employee's employer or otherwise wilfully works for less than the minimum wage to which the employee is entitled under the legislation, or directly or indirectly returns to the employer any part of the employee's wages thereby in effect reducing the wages actually received and retained by the employee to an amount less than the minimum wage to which the employee is entitled, the employee and the employer are both guilty of an offence."

Under section 94(1) (a) of the NBLSC, a corporation who is guilty of an offence under the legislation is liable on **summary conviction** to a fine of not more than twenty-five thousand dollars (\$25,000). This applies in the della Savia case.

Under section 94(1) (c) of the NBLSC, a person (an employee) who is guilty of an offence under the legislation is liable on **summary conviction** to a fine of not more than two thousand five hundred dollars (\$2,500). This applies in the della Savia case.

Under section (94) (3) of the NBLSC, where a contravention or failure to comply continues for more than one (1) day, the person (or entity) is guilty of a separate offence **for each day** that the offence continues. This applies in the della Savia case.

Please let me know if you want to discuss the above.

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Wills & Estates

Difficulty Level: ◆◆◆

Timing: 23I

On March 31, 2014 the Estate Administration Act, 10
R.S.B.C. 1996, c.122; the Probate Recognition Act, R.S.B.C. 21
1996, c.376; the Wills Act, R.S.B.C. 1996, c. 489; and the 32
Wills Variation Act, R.S.B.C. 1996, c.490 were repealed and 43
the Wills, Estates and Succession Act, S.B.C. 2009, c.13 54
was enacted. 56

There were extensive changes to the law and procedures 67
when the Wills, Estates and Succession Act, S.B.C. 2009, 78
c.13 (hereinafter called the "WESA") came into force early 89
in 2014. This, in turn, gave rise to related amendments to 100
the Rules of Court. 103

On March 31, 2014, the Supreme Court Rules, B.C. Reg. 114
168/2009 (hereinafter referred to as the "SCR") were also 125
amended, *inter alia*, by (a) repealing Rules 21-4 and 21-5 136
(hereinafter referred to as the "Old Rules"), which dealt 147
with contentious and non-contentious estates, by adding a 158
new part entitled "Part 25 - Estates" consisting of Rules 169
25-1 to 25-16 (hereinafter referred to as the "Part 25 179
Rules" or the "Rules"), which covered all aspects of estate 190
administration, including both contentious and non- 200
contentious matters; and (b) repealing Forms 90 to 107 of 211
Appendix A (the forms prescribed for use under the old 221
Estate Administration Act [hereinafter referred to as the 232
"EAA"] and the Old Rules) and adding a new appendix 242
entitled "Appendix A.1 - Probate Forms" (hereinafter 252
referred to as "Appendix A.1") consisting of Forms P1 to 263
P43. 264

Please keep up to date with the legislation amendments 275
and follow the Probate Registry Practice Directions. 285

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