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BY EMAIL

27 May 2016

Reply to: SEBASTIEN ANDERSON

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Attention: Mr. Gordon Clarke, Secretary-Treasurer

Dear Sirs and Mesdames:

Re: Legal opinion concerning the RCMP's responsibility to provide training and equipment; Our File No. 03-0001.331

1. Opinion Requested

1.1 We have been retained by the Mounted Police Legal Fund to provide a legal opinion regarding the RCMP's responsibility to provide training and equipment to RCMP Members. In addition, we have been asked whether the RCMP has a legal obligation to correct the public record with regards to misinformation that it disclosed to the public.

2. Short Answer

2.1 As an employer, the RCMP has an obligation to provide training, equipment and materials to its employees under Part II of the *Canada Labour Code*.¹ Most importantly, the RCMP as an employer cannot be relieved from any duty as established under Part II of the *Code*. Additionally, the *Canada Occupational Health and Safety Regulations*² establish 20 regulations that outline management's responsibilities in order to achieve a healthy and safe workplace.

2.2 Likewise, the employment relationship between RCMP Members and the RCMP is entirely governed by the *Royal Canadian Mounted Police Act*,³ the Regulations, and the Commissioner's Standing Orders. Section 20.2(1) of the *Act* states that the Commissioner *may* determine the

¹ *Canada Labour Code*, RSC 1985, c L-2 ("the *Code*").

² *Canada Occupational Health and Safety Regulations*, SOR/86 – 304.

³ *Royal Canadian Mounted Police Act*, RSC 1985, c R-10 ("the *RCMP Act*"),

learning, training, and development requirements of Members and fix the terms on which the learning, training, and development *may* be carried out.⁴

2.3 Lastly, there is no statutory obligation requiring the RCMP as an employer to correct misinformation on the public record.

3. Facts and Presumptions

3.1 Mr. Benjamin (Monty) Robinson was employed by the RCMP for a period of 16 years prior to his consensual medical discharge in 2012.

3.2 While he was employed by the RCMP, he was involved in a motor vehicle accident following which he was charged with and convicted of obstruction of justice, for which he received a conditional sentence (Obstruction of Justice conviction).

3.3 Also, during the course of his employment with the RCMP, he was the supervising officer in a police incident involving Robert Dziekanski ("Dziekanski") at the Vancouver International Airport ("YVR"), which resulted in a fatality ("the Police Incident").

3.4 As a result of this Police Incident and the resulting fatality, a public inquiry was held during which Mr. Robinson testified.

3.5 Subsequently, Mr. Robinson was charged perjury with respect to the testimony he gave during the inquiry into the Police Incident.

3.6 Mr. Robinson was convicted of perjury and received a sentence of two years less a day, one year probation, and 240 hours community service.

3.7 Mr. Robinson's perjury conviction is currently under appeal, which is scheduled to be heard in the BC Court of Appeal in October 2016.

3.8 During the course of these events, the RCMP made public statements that characterized in a negative light the actions taken by Mr. Robinson and the other officers involved in the Police Incident.

3.9 This negative characterization of Mr. Robinson's involvement in the Police Incident is inconsistent with the findings of the RCMP's internal review processes.

3.10 In December 2010, Mr. Robinson was provided with a negative Performance Log (RCMP Form #1004 ["Performance Log"]), which outlined that his conduct as the supervisor in the Police Incident required improvement, specifically:

- (a) his report writing;

⁴ *Supra* note 2.

- (b) his level of insight into optics with regards to appearing at the Richmond Detachment with the other officers involved in the Police Incident;
- (c) failing to provide a sufficient level of care to Dziekanski; and
- (d) failure to exercise control regarding the RCMP response, including, but not limited to, supervising the RCMP Members under his command, ensuring adequate communications, and utilizing appropriate de-escalation options.

3.11 The Performance Log confirms that Mr. Robinson had not been disciplined at any time with respect to his conduct in Police Incident during which Dziekanski died.

3.12 Mr. Robinson filed a grievance contesting the negative Performance Log, which was resolved subsequently during the Early Resolution process in which he contended that:

- (a) The four RCMP Members did not meet inappropriately at the sub-detachment;
- (b) S/Sgt. Mike Ingles was present at the Richmond sub-detachment with the other three RCMP Members who attended at the Police Incident, during which time Mr. Robinson was with IHIT at YVR;
- (c) Subsequently, Mr. Robinson returned to the Richmond sub-detachment along with IHIT members;
- (d) S/Sgt. Mike Ingles notified the Commissioner directly by email regarding these key aspects regarding the Police Incident; and
- (e) Despite being aware of evidence to the contrary, the RCMP has accepted the findings from Braidwood and Kennedy (Commission for Public Complaints Against the RCMP) inquires, that Mr. Robinson and the three other RCMP Members together met alone at the Richmond sub-detachment.

3.13 The agreed statement of facts between Supt. Rendall Nessel and Mr. Robinson regarding the negative Performance Log are as follows:

- (a) that the service of the negative Performance Log upon Mr. Robinson exceeded the two-year retention period for the RCMP Member service file;
- (b) the failure to discuss the negative Performance Log at the time of the incident; and
- (c) the negative Performance Log was served 38 months following the Police Incident, and such late service was contrary to the spirit of the Career Management Manual policy.

3.14 While making negative comments publicly about the RCMP Members involved in the Police Incident, the RCMP's internal communication confirmed in more than one instance that Mr. Robinson's conduct was consistent with the training he received from the RCMP.

3.15 The RCMP has not corrected the misinformation it disclosed on the public record with respect to their statements that characterized Mr. Robinson's actions in the Police Incident in a negative manner.

3.16 The RCMP's acceptance and advancement of the position, as outlined in paragraph 3.12(e), occurred to the exclusion of contrary reviews conducted by the OPP, IHIT, IOR, Crown Counsel, and Len Doust, all of whom have failed to reach a finding of criminal liability or a breach of internal policy with regard to the conduct of Mr. Robinson and the three other RCMP Members during and following the Police Incident.

3.17 On 24 September 2013, Mr. Robinson made two Access to Information and Privacy ("ATIP") requests application for disclosure of records by the RCMP.

3.18 On 18 March 2014, the Office of the Privacy Commissioner received the two complaints ("Complaints") from Mr. Robinson regarding the RCMP's delay in responding to his ATIP requests.

3.19 The RCMP has failed to disclose the records sought by Mr. Robinson's ATIP requests and subsequent Complaints.

4. Discussion

Statutory Obligations - *Canada Labour Code*

4.1 There are bilateral responsibilities outlined under Part II of the *Canada Labour Code* that apply to both employee and employer. It should be noted that Part II of Section 126 of the *Code* outlines an employee's responsibilities, which extend to complying with safety materials and equipment, following outlined procedures, and cooperating with designated individuals as identified under the *Code*. The employee has three key rights:

- (a) the "right to know" the hazards;
- (b) the "right to participate" in the identification of recommended ameliorative actions with respect to health and safety concerns; and
- (c) the right to refuse dangerous and unsafe work.

4.2 The employee's "right to know" includes being informed of known or foreseeable hazards in the workplace, being provided with information, instruction, training, and the necessary supervision to protect their health and safety. Moreover an employee has a right to access employer reports regarding health and safety through the health and safety committees.

4.3 Similarly under the "right to participate," an employee has the right to be involved in the identification and recommendation of ameliorative actions with regards to workplace health and safety concerns. Again, this right is engaged through the health and safety committee process.

4.4 Likewise, the "right to refuse" provides the employee with additional protection, which includes the right to refuse dangerous work, if the employee reasonably believes that a danger

exists to his health and safety as a result of the use or operation of equipment or machinery, the performance of an activity, or that the workplace presents a danger to his life. It follows that the employee does not require the employer's agreement or consent to engage the right to refuse, this right exists in spite of a potential lack of consensus with management personnel on the issue. In such cases, the employer bears an additional responsibility to investigate the matter and document the investigation in a refusal to work investigation report.

4.5 For the purposes of this opinion, our focus is with respect to the employer's duties and responsibilities.

4.6 Section 124 of the *Code* states that:

every employer shall ensure that the health and safety at work of every person employed by an employer is protected.

4.7 The employer's specific duties arise under the *Code* at section 125(1), which states, in part, that the employer bears a positive obligation to specifically:

(k) ensure that the vehicles and mobile equipment used by the employees in the course of their employment meet prescribed standards;

(l) provide every person granted access to the work place by the employer with prescribed safety materials, equipment, devices and clothing;

(t) ensure that the machinery, equipment and tools used by the employees in the course of their employment meet prescribed health, safety and ergonomic standards and are safe under all conditions of their intended use;

(w) ensure that every person granted access to the work place by the employer is familiar with and uses in the prescribed circumstances and manner all prescribed safety materials, equipment, devices and clothing;

(z.07) ensure the availability in the work place of premises, equipment and personnel necessary for the operation of the policy and work place committees; and

(z.13) when necessary, develop, implement and monitor a program for the provision of personal protective equipment, clothing, devices or materials, in consultation, except in emergencies, with the policy committee or, if there is no policy committee, with the work place committee or the health and safety representative.⁵

4.8 Similarly, Section 125 of the *Code* also addresses the employer's training obligations, it provides, in part, that the employer shall:

(q) provide, in the prescribed manner, each employee with the information, instruction, training and supervision necessary to ensure their health and safety at work; and

⁵ *ibid* note 1.

(z.01) ensure that members of policy and work place committees and health and safety representatives receive the prescribed training in health and safety and are informed of their responsibilities under this Part.⁶

4.9 According to Section 126(2) of the *Code*, nothing in subsection 1 relieves an employer from any duty imposed on the employer under this part of the *Act*.

4.10 Similarly Section 126(3) of the *Code* states that:

no employee is personally liable for anything done or omitted to be done in good faith by the employee when the employee is assisting the employer, as requested by the employer, in providing first aid or in carrying out any other emergency measures.⁷

The Canada Occupational Health & Safety Regulations: Part XIII Tools and Machinery

4.11 The Occupational Health and Safety Regulations ("OH&S Regulations") establish a number of obligations to which an employer is required to comply. Section 13 of the OH&S Regulations outlines the obligations regarding instructions and training, which provides in part as follows:

13.11 every employee shall be instructed and trained by a qualified person appointed by his employer in the safe and proper inspection, maintenance and use of all tools and machinery that he is required to use;

13.12(1) every employer shall maintain a manual of operating instructions for each type of portable electric tools, portable air power tool, explosive actuated fastening tool and machine used by his employees;

(2) the manual referred to in subsection 1 shall be kept by the employer readily available for examination by an employee who is required to use the tool and machine to which the manual applies.

4.12 Both Part II of the *Code* and the OH&S Regulations impose a duty upon the RCMP to investigate all accidents, occupational diseases, and other hazardous occurrences affecting its employees. This is set out pursuant to the Hazardous Occurrence, Investigation, Recording and Reporting, which defines a "hazardous occurrence" as an act, which results in or has a potential to result in injury or illness to employees, material loss, or property damage.

⁶ *Ibid* note 1.

⁷ *Ibid* note 1.

4.13 Equally, both the *Code* and the OH&S Regulations confirm that the training requirements include:

- (a) Mandatory *Canada Labour Code* training;
- (b) Electrical safety;
- (c) Hazardous substances;
- (d) Safe occupancy of the workplace;
- (e) Permanent and temporary structures;
- (f) Sanitation and food handling;
- (g) tools and machinery; and
- (h) diving operations.

4.14 There is no doubt that the RCMP is aware of their duties and obligations under the *Code* and OH&S Regulations. Internally, the RCMP has prepared materials, including a PowerPoint presentation, on the subject matter of Occupational Health & Safety. A review of this PowerPoint presentation by Bruce Christiansen, Director Occupational Safety Policy and Program, provides a complete overview of the employer's duties and obligations under both the *Code* and the OH&S Regulations. In the absence of confirmation of the RCMP's use of this document, it is reasonable to reach a determination that this PowerPoint presentation is used to provide an overview of the employee and employer's respective roles under both the *Code* and the OH&S Regulations.

4.15 Employment and Social Development Canada ("ESDC") is the regulatory body in place to monitor the conduct with regards to the *Code*. This body has the ability to conduct inspections and investigations with respect to all health and safety complaints, any refusals to work and any violent occurrences. In terms of outcomes, the ESDC's authority is evident in recent cases. For example, in the St. Albert incident which resulted in the on-duty death of Cst. David Wynn, the ESDC issued a Direction against the RCMP for failing to be compliant under the *Code*. A Direction is a formal order to correct an identified violation under the *Code*. Similarly, in the Moncton incident in which three officers died and two were wounded, the ESDC recommended charges against the RCMP for failing to comply with Part II of the *Code*.

The *RCMP Act*

4.16 Section 20.2(1) of the *RCMP Act* states that the Commissioner has a discretionary power to determine the learning, training, and development requirements of RCMP Members and fix the terms on which the learning, training, and development may be carried out. We note that this power is discretionary and does not create a positive obligation for the Commissioner to exercise the powers as outlined under section 20.2(1).

4.17 Subject to the orders of the Commissioner, it is the duty of every RCMP Member who is a peace officer:

- (a) to perform all duties that are assigned in relation to the preservation of the peace, the prevention of crime and of offences against the laws of Canada and the laws in

force in any province in which they may be employed, and the apprehension of criminals and offenders and others who may be lawfully taken into custody;

- (b) to execute all warrants, and perform all duties and services in relation thereto, that may, under the *RCMP Act* or the laws of Canada or the laws in force in any province, be lawfully executed and performed by peace officers;
- (c) to perform all duties that may be lawfully performed in relation to the escort and conveyance of convicts and other persons in custody to or from any courts, places of punishment or confinement, asylums, or other places; and
- (d) to perform such other duties and functions as are prescribed by the Governor in Council or the Commissioner.⁸

Torts

Misfeasance in a Public Office

4.18 Misfeasance in a public office has been summarized by the Supreme Court of Canada in the *Odhavji Estate v Woodhouse*⁹ decision, in which the court described misfeasance in a public office as an intentional tort whereby the following elements have to be established:

- (i) deliberate unlawful conduct in the exercise of public function; and
- (ii) awareness that the unlawful conduct is likely to injure the plaintiff.

4.19 In addition to establishing these two requirements, a plaintiff must also prove that the conduct was the proximate cause of his injury and that the injury suffered is compensable in tort law.

4.20 Relatedly, the Public Officer must deliberately engage in conduct that he or she knows to be inconsistent with the obligations of his or her office. Liability does not attach to each individual public officer who blatantly disregards his or her official duty and is restricted only to a Public Officer who demonstrates a conscious disregard for the interests of those who will be affected by the impugned conduct.¹⁰

4.21 At this stage, it is uncertain whether the facts as set out above would be successful under a claim of misfeasance in public office. To date, no information has been provided for our review that indicates that the RCMP engaged in deliberate unlawful conduct with regards to the training and equipment used in the Police Incident. That is to say that, at this stage, we have not been provided with information that supports that the RCMP was aware that their training and equipment was inadequate at the time the events arose. We note however, the RCMP has acknowledged that the training was deficient, despite this acknowledgment, it is unclear whether that statement alone would satisfy the threshold test to establish misfeasance in public office.

4.22 Moreover, we have reviewed information on the public record provided by the RCMP that is inconsistent with its internal messaging with regards to Mr. Robinson's conduct in the Police

⁸ *Ibid* note 2 at ¶18.

⁹ *Odhavji Estate v Woodhouse*, 2003 SCC 69.

¹⁰ Alan Linden, Lewis Klar & Bruce Feldthusen, *Canadian Tort Law: Cases Notes & Materials*(LexisNexis Canada Inc., 2009).

Incident. For greater certainty, it should be noted that the RCMP's public acceptance of the findings in the Braidwood Inquiry does not in itself give rise to the basis of a successful civil claim. It is our opinion, that the RCMP was under no duty or obligation to accept the findings of their internal process to the exclusion of the public administrative processes. Admittedly, there is a legitimate question with regards to the RCMP's ability to internally reach findings that the officers acted within the scope of their duties and training, while also accepting the findings of Braidwood Inquiry. Despite this apparent conflict, it is our opinion that this does not form the basis of a successful civil claim for misfeasance of public office.

4.23 Despite the potential limitations with advancing an argument based on misfeasance of public office, it is our opinion that this argument is advanceable. As the holder of public office, there is an expectation that the officeholder will exercise its discretion in a certain way, particularly in a matter that involves members' safety. In considering their deficient conduct with regards to their compliance with the obligations under the labour code, it is our opinion that this forms the basis of the misfeasance argument.

Breach of Statute

4.24 In *Saskatchewan Wheat Pool*¹¹, Justice Dickson stated that proof of statutory breach causing damages may be evidence of negligence and may provide a specific standard of reasonable conduct. Thus, advancing a claim of negligence based on a breach of statute may provide an umbrella under which to collectively address the issues related to the conduct of the RCMP Members involved in the Police Incident. In our opinion, the failure to disclose the records pursuant to the ATIP request, the failure to correct the public record, and the failure to provide adequate training and equipment could all be addressed under a civil claim of negligence.

4.25 The proximate relationship between the RCMP and its Members establishes that the RCMP owes a duty of care to its Members. Accordingly, it could be argued that the RCMP breached its duty of care by:

- (a) failing to adequately and properly supervise its employees, agents or servants;
- (b) failing to have and implement adequate legislation, policies, procedures, code of conduct and guidelines to ensure the members' rights were upheld; and
- (c) failing to take any steps at all to remedy the information put forward to the public in a timely and meaningful manner.

4.26 In the alternative, in the event that a finding is reached that the RCMP's policies, procedures, code of conduct and guidelines were adequate, which is not admitted, but is specifically denied, then it could be argued that the RCMP breached its duties by failing or neglecting to implement policies, procedures, codes of conduct and guidelines.

¹¹ *Canada v Saskatchewan Wheat Pool* (1983), 143 DLR (3d) 9, [1983] 1 SCR 205.

Breach of Contract

4.27 Similarly, there is an argument for a breach of contract. The RCMP entered into a contract of employment with the members pursuant to the *RCMP Act* and Regulations. It is an express term of the employment contract that the RCMP would provide the members with a work environment that complied with the applicable legislation, policies, procedures, code of conduct, guidelines and the common law. It could be argued that the RCMP breached the contractual terms by:

- (a) failing to adequately train, supervise, and provide appropriate equipment to its employees, agents or servants; and
- (b) Failing to have and implement adequate legislation, policies, procedures, code of conduct and guidelines to ensure that the employee's rights were upheld.

Limitation Period

4.28 The time limit for advancing a claim under this head of damage is limited to a two-year period from the date the claim was discovered.

4.29 The discovery of the claim is considered in the following context, the claim is discovered by a person on the first day on which the person knew or reasonably ought to have known all of the following:

- (a) that injury, loss or damage had occurred;
- (b) that the injury, loss or damage was caused by or contributed to by an act or omission;
- (c) that the act or omission was that of the person against whom the claim is or may be made;
- (d) that, having regard to the nature of the injury, loss or damage, a court proceeding would be an appropriate means to seek to remedy the injury, loss or damage.¹²

4.30 That said, there is a possibility that an argument of postponement can be made with regard to the limitation period. This is a mechanism used to postpone the expiration of the limitation period. This particular issue was addressed in *Novak v Bond*¹³, where the court held that:

the time does not begin to run until this reasonable person would conclude that someone in the plaintiff's position could, acting reasonably in light of his or her own circumstances and interest, bring an action. The reasonable person would only consider that the plaintiff could not have brought an action at the time the right to do so first arose if the plaintiff's own interests and circumstances were serious, significant, and compelling.¹⁴

¹² *Limitation Act BC*, SBC 2012, c 13 ¶ 8.

¹³ *Novak v Bond* [1999] 1 SCR 808; 172 DLR (4th) 385.

¹⁴ *Supra* at ¶ 39.

4.31 There are a number of factors in Mr. Robinson's case in which his claim may fall within the factors set out in the *Novak* case above. These factors include:

- (a) he was required to maintain a dependent relationship with your employer, the RCMP;
- (b) the RCMP maintained discretion to fund your litigation;
- (c) the litigation dealt with issues regarding your liberty, safety, and security of person; and
- (d) the RCMP notified you on several occasions that any communication to the public or media would result in the termination of funds for your litigation.

4.32 In this regard, paragraph 4.30(c) above establishes that Mr. Robinson's rights under the *Charter* were engaged. It is well-established law that additional considerations and protections are in play when a claimant's Charter rights are engaged. Based on the acceptance of the above argument, this would provide a basis to challenge to the expiration of the limitation period. Procedurally, the limitation period is the first point of consideration prior to establishing a cause of action in tort. You would next need to establish that a tort has been committed based on the test set out at paragraph 4.18.

4.33 Given the possibility of a challenge to the limitation period, it is our opinion that a Notice of Civil Claim is filed right away in order to preserve the limitation period. It should be noted that the claim can be filed and not served on the parties, in so doing it preserves the limitation period while also providing the plaintiff with the ability to time the commencement of the proceeding.

Obligation to correct the record

4.34 In *McDonough v Nova Scotia (Police Commission)*,¹⁵ the police commission held an inquiry into the conduct of one officer. In the course of the inquiry the conduct of a second officer was also considered and commented on. At the completion of the inquiry, the commission prepared a report that included negative comments with respect to the second officer's conduct. The commission's comments with regard to the second officer were printed in the newspaper. As a result, the second officer argued that he had been denied natural justice since he was not provided with advance warning that his conduct would be subject to criticism in the report and accordingly did not make arrangements to be represented at the inquiry.

4.35 By way of resolution, the court ruled that the appropriate remedy was to issue a declaration that the comments made in regard to the second officer are null and void, because they were based on a hearing which did not offer him procedural fairness, but nevertheless affected his reputation in the community. The court further held that such comments should not form the basis of any action against the officer and should not in any way be reflected on his record.¹⁶

4.36 It bears reviewing whether there are any applicable decisions issued by the RCMP against Mr. Robinson that may be subject to certiorari whereby a similar declaration could be issued to in

¹⁵ *McDonough v Nova Scotia (Police Commission)*, [1993] N SJ No 378, 126 NSR (2d) 40.

¹⁶ *Ibid* note 1 at ¶ 22.

fact set the record straight. Alternatively, it is appropriate to consider a cause of action under the *Libel and Slander Act*¹⁷. In this regard there is a requirement to establish that:

- (a) The material was defamatory;
- (b) That the material referred to the plaintiff; and
- (c) That the material was published.

4.37 In order to be actionable, the defamatory statement must be spoken of and concerning the plaintiff, this must be pleaded and proved by the plaintiff.¹⁸ In our view, this analysis would require Mr. Robinson to collect the statements made by the RCMP administrators, confirm that the statements were made by identifying him, and confirm the manner and location where the material was published.

4.38 A potential claim in defamation arises with respect to Craig Callens' statement about his intent to terminate Mr. Robinson's employment if he had not quit. This statement named Mr. Robinson specifically and was published in a local newspaper. Arguably, his comments suggest a basis for termination, which could be characterized as defamatory as it reflects "an unfitness to practice one's trade or profession."¹⁹

4.39 Justification, truth, fair comment and qualified privilege are the most reasonable defences available to Mr. Callens. The onus is upon him to prove, on a balance of probabilities, that his statements regarding Mr. Robinson's conduct and service were true.

4.40 Fair comment on matters of public concern or interest is protected from liability for defamation provided it is based on fact.²⁰ In order to be protected, the matters must fall within two main categories; first, those in which the public has a legitimate interest, public affairs, government activity and public debate. Second, works of art displayed in public, such as theatrical performances, music and literature.²¹ Fair comment must be based on facts and the facts must be included in the communication or they must be indicated with sufficient clarity to lay a proper foundation for the comment being made.²²

4.41 Similarly, qualified privilege permits individuals in certain positions, primarily positions of trust to make statements that would otherwise be considered libel or slander. This permission arises when the importance of the communication is seen to favour freedom of speech over the protection of one's reputation. Once the defence of qualified privileges is raised, the plaintiff then bears the burden of establishing the statements were made in malice which would then override the ability to assert qualified privilege.

¹⁷ *Libel and Slander Act*, RSBC 1996 C 263.

¹⁸ *Ibid* note 9 at ¶ 672.

¹⁹ *Ibid* note 9 at ¶ 663.

²⁰ *Ibid* note 10.

²¹ *Supra* note 20.

²² *Ibid* note 20 at ¶ 704.

5. Conclusion

5.1 The RCMP have an obligation under the Canada Labour Code, Part II to provide training equipment and materials to members. Failure to comply with this portion can lead to a number of sanctions ranging from investigation to charges.

5.2 The RCMP's noncompliance with their obligations under the Code can further give rise to a civil claim, particularly: misfeasance in public office, breach of contract and breach of statute. These claims are limited to a two-year limitation period whereby the plaintiff must file the Notice of Civil Claim within this statutory prescribed time frame. Failure to do so will mean that the claim is statute barred.

5.3 Lastly, Mr. Callens' comment regarding Mr. Robinson may be subject to challenge under the *Libel and Slander Act* where he would have the following defences available to him including fair comment and qualified privilege.

5.4 We hope that you will find this to be a clear and sufficient answer to the question posed. Please advise if we may be of further assistance.

Yours truly,

Labour Rights Law Office

per:

A handwritten signature in black ink, appearing to read 'S. Anderson', with a stylized flourish at the end.

Sebastien Anderson*, Barrister & Solicitor

* Professional Law Corporation

/sa

cc B. (Monty) Robinson - via e-mail
B. Szwczok - via e-mail
Roy Hill - via e-mail