

## PROVIDING CAREER TRANSITION COUNSELING TO TERMINATED EMPLOYEES

We have covered the Supreme Court of Canada's decision in *Wallace v. United Grain Growers* ("Wallace") in past issues. One of the developments that has occurred over the past few years since that decision is the increase in the number of employers providing career transition counseling to employees upon termination where cause is not alleged.

What is career transition counseling? Essentially, career transition counseling is a service provided by organizations or individuals to assist terminated employees in improving their marketability and their job search skills. It also provides information on the job market and related markets, as well as providing the opportunity for terminated employees to meet with other terminated employees for discussion and fellowship.

Each company offering career transition counseling has a range of services available. Exactly what services will be offered to terminated employees will depend on the nature of the position they were terminated from, and the value of the termination package provided by the former employer.

Why would a former employer provide career transition counseling? The *Wallace* decision placed an onus on employers to act reasonably toward their employees at the time of their termination. This requirement can be met, in part, by providing career transition counseling. The employer also receives the benefit of having a former employee that is properly skilled to find alternative employment.

Former employees have a duty to mitigate, or lessen, the value of any claim for damages they may have against their former employer for notice of termination or payment in lieu of notice. If employees receive career transition counseling, they are more likely to find alternative employment at an earlier stage, and thereby lessen the damages claim. This could save the company money in the long run. The employees also receive value because they will be better able to move forward with their careers.

How should career transition counseling be offered? If possible, it is beneficial to have a career transition counselor available at the time that termination letters are provided to employees. In this way, the counselor can provide information on the services available to the employees, and hopefully lessen the emotional impact of termination. Employees may feel less like they have been abandoned by the employer and will be able to access some of the counseling services offered, on the spot.

If it is not possible to have a career transition counselor available at the time of termination, reference to the service should be made in the termination letter or accompanying documents. In this way, employees will at least be aware that the service is being offered, and if the employees seek legal advice about the propriety of the termination package offered (as they should do), legal counsel will be aware of the service being offered.

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If you are an employee who has been terminated, you may wish to seek career transition counseling as part of any termination or settlement package offered by your former employer. If you are an employer considering terminating an employee and offering a termination package, you may wish to include career transition counseling as part of the package. In either case, you should seek legal advice to determine if career transition counseling should be part of the package.

**DISCLAIMER** This article should not be interpreted as providing legal advice. Consult your legal adviser before acting on any of the information contained in it. Questions, comments, suggestions and address updates are most appreciated and should be directed to:

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