



Peter Israel
Senior Partner

65 St. Clair Avenue East, Suite 200
Toronto, ON M4T 2Y8
Tel: 416.640.1550
Fax: 416.640.1555
Cell: 416.844.6244
pisrael@israelfoulon.com
www.israelfoulon.com

Repeatedly named as one of Canada's most frequently recommended employment lawyers by The Canadian Legal LEXPERT Directory (every year since 1998) and listed in the American Lawyer Media's Guide to the Leading 500 Lawyers in Canada, Peter is the founding partner of ISRAEL FOULON LLP, a boutique practice specializing in Employment and Labour Law. He has been awarded Martindale-Hubbell's highest rating ("AV") for his skills, integrity, and reputation and has been included in the Bar Register of Preeminent Lawyers (each year since its inception in Canada in 2008). Peter has also been named to the National Post-Best Lawyers in Canada every year since its inception, and has also been named to the World's Leading Lawyers in Labour and Employment Law.

As counsel to management and with more than 41 years of experience in employment and labour law, Peter represents both public and private sector employers in healthcare, manufacturing, retail, broadcast, high technology, financial services, insurance and transportation matters. He regularly advises executives and in-house counsel responsible for overseeing operations and employees, and provides advice on preventative policies and procedures, recruitment, employment agreements, collective agreements, matters relating to health and safety and human rights in the context of employment, terminations and layoffs, plant closures, successor employer obligations and all manner of labour issues in both the federal and provincial arenas.

Peter has represented clients before many administrative tribunals, both federal and provincial, including the Ontario Labour Relations Board, the Canada Labour Relations Board, various human rights boards of inquiry, employment standards referees, numerous grievance arbitrations, criminal and provincial offences, professional misconduct hearings, coroners' inquests and Occupational Health and Safety proceedings. He has also appeared before all levels of court, including the Ontario Court of Appeal and the Supreme Court of Canada.

Peter has been an instructor at the Bar Admissions Course and has lectured in the area of employment law for Continuing Legal Education.

ADMISSIONS & AFFILIATIONS

Called to the Bar of Ontario, 1978

Law Society of Upper Canada

Canadian Bar Association

Advocates Society

County of York Law Association

EDUCATION

Osgoode Hall Law School, Toronto, Ontario (1976)

B.A. (Hons.), York University, Toronto, Ontario (1973)

SELECTED PRESENTATIONS

2008

October 16 & 17, 2008 – Speaker, The Canadian Institute, 8th Annual Advanced Forum on Employment Law – Meeting your Duty to Accommodate: Preventing Escalating Claims

April 28, 2008, Panel Participant, Osgoode Professional Development, Successful Strategies for Dealing with Constructive Dismissal Cases

2007

Nov. 21, 2007, Senior Practitioners' Panel Participant, The Law Society of Upper Canada, 8th Annual Employment Law Summit

Apr. 23 & 24, 2007, Speaker, The Law Society of Upper Canada, Special Lectures 2007 Employment Law – Considerations in the Law of Hiring, Negligence and Performance Reviews

June 20 & 21, 2007, Moderator and Speaker, The Canadian Institute, Fundamentals of Employment Law – Creating a Zero Tolerance Environment: Managing Workplace Harassment and Discrimination Issues

2006

Nov. 24, 2006, Senior Practitioners' Panel Participant, The Law Society of Upper Canada, 7th Annual Employment Law Summit

2005

Oct. 7, 2005 Senior Practitioners' Panel Participant, The Law society of Canada, 6th Annual Employment Law Forum;

June 2, 2005, Speaker, 8th Annual "Six-Minute" Employment Lawyer, paper: "Just Cause or "Just Cause"?"

2004

Oct/Nov, 2006, Senior Practitioners' Panel Participant, The Law Society of Upper Canada, 5th Annual Employment Law Forum

June 1, 2004, Speaker, 7th Annual "Six-Minute" Employment Lawyer, paper: "Please Release Me: Mistakes to Avoid in Employment Releases.

2003

Feb. 12 – 14, Speaker, HRPAO Conference, Employment Law.

May 2, 2003 Senior Practitioners' Panel Participant, The Law Society of Upper Canada, 6th Annual Six Minute Employment Lawyer: "A Judge, A Mediator and Two Lawyers Were on a Panel..."

Sept. 10 – 12, 2003, Chair, Federated Press 6th Annual Terminations Summit, Best Practices from Canada's Top HR Executives in Structuring, Carrying out and Defending Dismissals, Reducing Financial and Legal Liabilities When Terminating Employees.

Oct. 21, 2003, 10th Annual HRPAO HR Law Conference: Employment Agreements.

Oct. 29, 2003, HRPAO (Cobourg) Speaker, Effects of the Federal Privacy Legislation, on HR Policy.

Dec. 2003, Speaker, The Law Society of Upper Canada, 4th Annual Employment Law Forum.

2002

Sept. 12, 2002, Speaker, Professional Development Program, Continuing Legal Education, Employment and Pensions & Benefits.

Dec. 6, 2002, Senior Practitioners' Panel Participant, The Law Society of Upper Canada, The Third Annual Employment Law Forum Senior Practitioners Panel.

2001

Jan. 30, 2001, Co-Chair, The Canadian Institute, Employment in the Information Age: A Legal Guide for Employers of Knowledge and High-Tech Workers.

June 9, 2001, Speaker, Canadian Bar Association, Young Lawyers' Division Ontario, Continuing Legal Education, Advising Information Technology Businesses; Can This Relationship be Saved or Should It End?

Oct. 9 – 10, 2001, Course Leader, Federated Press Conference, Employment Termination in the Changing Workplace.

Dec. 3, 2001, Course Leader, Federated Press Conference, Employment Termination in the Changing Workplace.

2000

Apr. 6 – 7, 2000, Speaker and Workshop Leader, Osgoode Hall Law School of York University Professional Development Programme: Current Developments and Critical Issues in Employment and Labour Law.

April 2000, Speaker, Osgoode Hall Law School of York University: Employment Related Rights, Benefits and Obligations, Common Law Obligations; The Non-Statutory Employment Relationship.

Apr. 28, 2000, Lecturer, Managing without Interference, Invacare Canada Inc.

May 18, 2000, Speaker, Recent Developments in Employment Law, Goodman and Carr LLP clients.

May 28, 2000, Lecturer, The Practical Considerations of the Termination of Employment of a Non-Union Employee, Beaver Lumber Company Limited.

June 21 – 22, 2000, Speaker, The Canadian Institute Conference: Labour and Employment Law Update for Federally Regulated Employers.; The Five Most Frequently Asked Questions Under Labour Standards.

July 21, 2000, Lecturer, Update on Recent Developments, Invacare Canada Inc.

July 27, 2000, Lecturer, Performance Management, Newmar Window Manufacturing Inc.

Sept. 27, 2000, Speaker, Insight Information Co., The Role of Human Resources In Mergers, Acquisitions and Reorganizations.

Oct. 16 -17, 2000, Chair, Insight Information Co.; How to Attract and Retain Workers and Protect Your Organization.

Nov. 1, 2000, Lecturer, Seneca College, Teaching: The Legal Environment for Human Resources Managers.

Nov. 7, 2000, Chair, Canadian Institute, Employment Law for a Wired World, Legal Strategies for Effective Staffing with Minimized Risk in the High Tech and Knowledge Based Workplace.

Nov. 13 – 14, 2000, Speaker, Insight Information Co.: The New Face of White Collar Crime: How to Prevent it in Your Organization; Client and Employee Issues and Relations.

Nov. 22 – 23, 2000, Speaker, The Law Society of Upper Canada First Annual Employment Law Forum: Setting the Stage for the Employment Relationship; Restrictive Covenants and Confidentiality Agreements.

1999

June 7 – 8, 1999, Chair, Insight Conference: Employment Practices Compliance; Does Your Company Have All the Right Things In Place to Avoid Liability?

June 14 – 15, 1999, Speaker, Insight Information Co., Corporate Compliance: Latest Techniques and Best Practices.

Dec. 1 – 2, 1999 Speaker and workshop leader, Osgoode Hall Law School of York University Professional Development Programme: “Current Developments and Critical Issues in Employment and Labour Law” Intensive lecture and workshop course; Employment Related Rights, Benefits and Obligations.

1998

Feb. 12, 1998, Speaker, Insight Conference: Cutting the Costs of Wrongful Dismissal;. Discipline and Termination Interviews. A panel discussion regarding how to conduct a discipline and termination of employment interview and how to deal with performance issues in the employment context

June 18, 1998. Speaker, Counsel on Education Management: Employment Law Update 1998: Working with Your Union to Increase Productivity and Decrease Administrative Headaches.

July 15, 1998, Lectured at Seneca College on Labour Relations in Ontario.

Oct. 21, 1998, Speaker, Canada Law Book: The Canadian Law Super Congress: How to Avoid Legal Mine Fields in the Workplace; Workplace Manuals and Policies: Are Yours Working for You? The “Why’s” and “How To’s” of Workplace Policy Manuals.

Nov. 23, 1998, Speaker, Lexpert Conference: Hiring, Firing & Poaching Senior Executives; Intellectual Capital vs Trade Secrets.

Nov. 24, 1998, Program Instructor, Complete Employment for HR Professionals and Corporate Counsel Employment Contracts, Policies, Forms, Letters & Checklists Course.

1993

June 8 – 10, 1993, Speaker, Equinet Fifth Annual Conference; Human Resources Policy: How to Cope With Changes in Employment Law: How to Deal with Current Developments in Wrongful Dismissal and Wrongful Hiring.

1992

June 16 – 18, 1992, Speaker: Equinet Fourth Annual Conference; Human Resources Policy: How to Cope With Changes in Employment Law: How to Manage Corporate Downsizing and Restructuring While Meeting the Letter of the Law.

SELECTED PUBLICATIONS

ASK AN EXPERT COLUMN OF PETER ISRAEL IN CANADIAN, EMPLOYMENT LAW TODAY, A CARSWELL PUBLICATION

June 9, 04 If a headhunter lies to a candidate, can the employer be held responsible?

Can an employer terminate a new hire before he starts?

Determining reasonable notice without an employment contract.

May 26, 04 What can an employee do about a manager who belittles him?

Merit increases and maternity leave.

May 12, 04 Getting employees without contracts to sign one.

Another take on how to handle resume fraud.

Apr. 28, 04 Accommodating a disabled employee.

Employers have the burden of proof when it comes to undue hardship.

- Apr. 14, 04 The duty to accommodate and undue hardship.
Can you fire a worker for failing a stress test?
- Mar. 31, 04 Dealing with harassment and discrimination in the workplace.
Can an employee be terminated for showing up to work drunk?
Compassionate care leave in British Columbia.
- Mar. 17, 04 Preventing former employees from competing.
Dismissing an employee for lateness.
- Mar. 3, 04 Key considerations in implementing work place harassment policies.
The federal privacy legislation and its impact on third party administrators.
- Feb. 18, 04 Are there any legal restrictions on obtaining information about an employee's medical status?
- Feb. 4, 04 Suggestions on creating a binding employment contract.
Is it legal to have a mandatory retirement policy?
- Jan. 7, 04 How to deal with romance in the workplace.
What impact do collective agreements have on workplace harassment policies?
- Jan. 21, 04 What rights does a worker returning from pregnancy leave have?
Can employers ask staff to take a lie detector test?
- Dec. 10, 03 Does time spent laid off count in determining severance?
Does poor treatment entitle an employee to resign and seek damages for constructive dismissal?
- Nov. 26, 03 Compassionate care benefits: What are the new changes?
- Nov. 12, 03 Dismissing employees close to the holiday season.
Dealing with absenteeism during the holiday season. Maintaining a professional work environment during the holiday season.
- Oct. 29, 03 What are the rules around dismissing a probationary employee?

- Can an employer dismiss an employee without notice for submitting fraudulent expense reports?
- Oct. 15, 03 Can employers ask staff to take a lie detector test?
- Can an employment contract be for life?
- Oct. 1, 03 Keep human rights legislation in mind when writing help-wanted ads.
- If a worker won't relocate to another city or country, can he be fired?
- Sept. 17, 03 Calculating pay for public holidays in Ontario.
- Dismissing an employee with a criminal record.
- Aug. 6, 03 Are part-time employees entitled to the same minimum vacation as full-time employees?
- Employing children in Manitoba.
- July 23, 03 Is obesity a disability?
- How can employers guard against wrongful-hire suits?
- July 7, 03 Can an employee make a claim under the Canada Labour Code and sue for wrongful dismissal?
- Are policies that forfeit vacation if it's not taken by a specific date legal?
- What's happening with Ontario's mandatory retirement changes?
- June 25, 03 Does changing employees to salary circumvent overtime regulation?
- Are part-time employees entitled to full-time vacation?
- Balancing wrongful dismissal and human rights claims.
- June 11, 03 Can an employer ask candidates to work for free?
- Severance obligations to dismissed employees receiving EI benefits.
- When is an employer obligated to issue a record of employment?
- May 28, 03 Human rights legislation and releases.
- Are employment agreements valid if the position and salary change?
- May 14, 03 SARS update.

- Apr. 30, 03 Can Wallace damages be awarded if there is a written contract?
Mitigating damages for constructive dismissal.
Is an employer obligated to pay wages of staff on short-term disability?
- Apr. 16, 03 Can employers ask about past union affiliations during a job interview?
Is gambling a disability? Can employees use it as a defence for their actions?
Can a claim be brought under the ESA in addition to starting an action for wrongful dismissal?
- Apr. 2, 03 Does the employer have the right to terminate probationary employees without pay in lieu of notice?
Can an employer withhold pay from an employee's final paycheque?
Sick leave and emergency leave.
- Mar. 19, 03 Alcohol and the workplace – who is responsible?
Are criminal charges grounds for dismissal?
- Mar. 5, 03 Can employers conduct credit checks on job applicants?
Can employers conduct drug screening on job applicants?
Are professional membership fees a taxable employment benefit?
- Feb. 19, 03 Does vacation and sick time accrue when an employee is off on WSIB?
Does a company car play a role in determining pay in lieu of notice?
Employee EI obligations from severance and termination pay.
- Feb. 5, 03 Does a job posting in a newspaper constitute inducement?
Is a threatening e-mail to a co-worker just cause for termination?
- Jan. 22, 03 Unearned Vacation Time.
Terminating an employee for theft.
Letters of reference.
- Jan. 8, 03 Can employers force some to retire at 65 but keep others?

- Does a rude supervisor constitute constructive dismissal?
- Can an employer terminate an employee on long-term disability?
- Dec. 11, 03 If an employer puts in surveillance cameras, does it have to post a sign warning employees?
- What recourse does an employer have if an employee doesn't provide reasonable notice?
- Nov. 27, 02 Who owns a workplace invention – the employer or the employee?
- Can an employer deduct notice because of economy?
- How do you calculate pay in lieu of notice for commission-based earnings?
- Nov. 13, 02 When can an employer dismiss for cause due to incompetence?
- Can an employee who reaches the age of 65 be dismissed without notice?
- How much notice does an employee have to give when handing in a resignation?
- Oct. 30, 02 What happens if an employee works past the expiry of a fixed-term contract?
- How do you give a terminated employee working notice that is valid?
- Is there any difference in calculating reasonable notice for part-time employees?
- Oct. 2, 02 Will having terminated workers sign releases cause more harm than good?
- Can existing staff be asked to sign new employment contracts?
- Can an interviewer ask a candidate if she has children?
- Sept. 18, 02 Can a company downsize a worker on maternity leave?
- Is "emergency leave" different than sick days?
- Sept. 4, 02 Can you fire a probationary employee?
- Is a fired employee obliged to seek work while suing for wrongful dismissal?

Does an employee's seniority and vacation time accrue during pregnancy leave?

ARTICLES PUBLISHED IN THE CANADIAN HR REPORTER, A CARSWELL PUBLICATION

- Sept. 22, 03 Can employers temporarily lay off workers?
- Aug. 11, 03 Workers' compensation protects firms from lawsuits, but beware employees looking for loopholes.
- June 16, 03 Damages for human rights violations increasingly punish employers
- May 19, 03 If you're not protecting employee data, it's time to get started.
- Apr. 21, 03 Spying on employees...and it's perfectly legal.
- Mar. 24, 03 Providing references to employees: Should you or shouldn't you?
- Feb. 10, 03 How to tackle poor job performance - and bring down legal costs?
- Jan. 27, 03 When who your spouse is gets you fired
- Dec. 16, 02 How far does an employer have to go to accommodate religious beliefs?
- Nov. 18, 02 Cut down on lawsuits just by being nice.
- Oct. 21, 02 Stock option plans hit the courts.
- Sept. 23, 02 Safeguarding directors from liability.
- Aug. 12, 02 Firing an employee for dishonesty? Put things in context first.
- June 17, 02 Employment agreements – getting it right.
- May 20, 02 Employee Misconduct...employer responsibility?

ARTICLES PUBLISHED IN CANADIAN EMPLOYMENT LAW TODAY, A CARSWELL PUBLICATION

- Sept. 3, 03 Agreement remains in force after takeover.
- June 11, 03 How to implement an employment contract?
- May 28, 03 The pitfalls, and benefits, of providing references.
- May 14, 03 The case for a policy manual: It causes more good than harm.
- Apr. 30, 03 Dos and don'ts of responding to a union organization drive.

- Apr. 16, 03 Conducting reference, credit checks as part of hiring.
- Mar. 19, 03 Termination checklist.
- Mar. 5, 03 Ensuring independent contractors are not really employees.
- Feb. 19, 03 How to create a sound progressive discipline policy?

SELECTED OLDER PUBLICATIONS

Author, Employment Policies: Why Bother? Why and How to Build Employment Policies for Your Workplace, Presented at the Canada Law Book Super Congress on Employment, October 1998.

Co-Author, Do It Right: Hiring Tips, Carswell, June, 1998.

Author, Managing Employee Performance and Attitudinal Problems, Murray Axmith Transitions, Vol. 10, No. 4, 1998.

Author, Strange Bed Mates: Tips To Improving Your Workplace Relationship for CLV Special Report, 1998, Critical Issues in Employee Relations, Carswell Continuing Legal Education.

Author, Independent Contractors: A Double-Edged Sword, Federated Press Executive Wealth Preservation Conference, 1996.

Author, How to Get the Most Out of Your Employment Agreements, Insight Conference, 1996.

Author, How to Deal with Employee Performance Problems, The Employment Law Report, Vol. 16 No. 5, 1995.

Author, What Should Go Into Your Leave of Absence Policy? The Employment Law Report, Vol. 15, No. 12, 1994.

Author, 10 Must Items for Your Absenteeism Control Policy, The Employment Law Report, Vol. 15, No. 4, 1994.

Author, How to Get the Most Out of Your Employment Contracts, The Employment Law Report, Vol. 15, No. 2, 1994.

Author, Eleven Practical Tips About Reference Checking, The Employment Law Report, Vol. 14, No. 11, 1993.

Author, 29 Must Items for Your Termination Package Checklist, The Employment Law Report, 1st Edition, 1993.

SELECTED CASES

Eastcan Holdings Ltd. v. Consolidated Building Corp., [1978] O.J. No. 721

Doerner v. Bliss Laughlin Industries, 1980 2 SCR 865

Credit Valley Cable TV/FM Ltd. v. Peel Condominium Corp. #95 et al, 27 O.R. (2d) 433; 107 D.L.R. (3d) 266

Di Poce v. Simpson, [1981] O.J. No. 931

Mastermedia Inc. v. Wells, [1982] O. J. No. 439

Regina v. Barbara Laskin; Regina v. Tony Dean Wannamaker, 1982 W.C.B.J. LEXIX 13112; 1982 W.C.B.J. 543507; 8 W.C.B. 99

Canadian Air Line Flight Attendants' Association and Stephen Brailsford and Worldways Canada Ltd., 55 di 151, CLRB Decision No. 459

Scagnetto v. Di Luca, 1985 O.J. No. 1054

Friction Division Products, Inc. v. E. I. Dupont de Nemours & Co. Inc. et al, 51 O. R. (2d) 244

Canadian Newspaper Co. v. Canada (Attorney General) [1986] O.J. No. 1033, 56 O.R. (2d) 240, 12 C.P.C. (2d) 203

Canadian Newspaper Co. Ltd. v. A. G. of Canada and two other actions, 55 O.R. (2d) 737; 56 O.R. (2d) 240; 32 D.L.R. (4th) 292; 29 CCC (3d) 109

Re Friction Division Product Inc. and E.I. Dupont de Nemours & Co. Inc. et al (No. 2), 56 O.R. (2d) 722, 32 O.L.R. (4th) 105

FBI Brands, 29 L.A.C. (3d) 189, 1987

Kronick v. Lemarche-Craven, 1991 O.J. No. 1054

Beaubien v. CUC Broadcasting Ltd., 1992 O.J. No. 92

Coopers & Lybrand Ltd. (Re), [1992] O.E.S.A.D. No. 208

Coopers & Lybrand Ltd. (Re), [1992] O.E.S.A.D. No. 216

Dylex Ltd. (c.o.b. Bi-Way) (Re), [1994] O.E.S.A.D.No. 86

Samuel, Son & Co. (Re), [1994] O.E.S.A.D. No. 174

Samuel, Son & Co. (Re), [1994] O.E.S.A.D. No. 214

Saint Elizabeth Health Care - Durham Region, [1996] OLRB Rep.
November/December 1008, [1996] O.L.R.D. No. 4496

Fiorini v. Di Poce Management Ltd. [1996] O.H.R.B.I.D. No. 38, Decision No.
96-038

Fiorini v. Di Poce Management Ltd. [1997] O.H.R.B.I.D. No. 4, Decision No. 97-
003-I

Union of Needletrades, Industrial and Textile Employees and Rennie Inc., [1999]
O.L.A.A. No. 395

*Quality Meat Packers Ltd. v. United Food and Commercial Workers International
Union, Local 175 (Pastana Grievance)*, [2001] O.L.A.A. No.228