

Oct-Nov 2012

Highest Award of Punitive Damages in Canada

In *Higginson v. Babine Forest Products Ltd.* ("Higginson"), a jury of the British Columbia Supreme Court awarded an employee approximately \$809,000 in damages after he was terminated without notice after 34 years of service.

The employee, Mr Larry Higginson, was employed at a sawmill operated by Babine Forest Products for more than 30 years when the sawmill was purchased by Hampton Lumber Mills Inc. After the sale, Mr Higginson continued to work at the sawmill for approximately 3 more years until terminated, allegedly for cause, in October 2009 and was not provided with any notice.

Mr Higginson commenced legal proceedings against both Hampton Lumber Mills Inc. and Babine Forest Products Ltd for damages for wrongful dismissal as well as punitive damages.

Following a three week trial, a jury determined that Mr Higginson was wrongfully dismissed from his employment and that there was no merit to the allegations of cause raised by the

Defendants. Mr Higginson was awarded approximately \$809,000, representing \$236,000 for wrongful dismissal and \$573,000 in punitive damages due to the Defendants' improper conduct in terminating Mr Higginson's employment.

This represents the largest punitive damages award in an employment law case in Canada.

Employers should ensure that they treat employees respectfully during the termination process and should not withhold notice on the basis of cause allegations that are without merit and made for the purpose of trying to minimize an employee's notice entitlement.

It appears that significant punitive damages may be awarded against employers who improperly allege cause and refuse to provide any notice on the basis of those improper allegations.

It is always recommended that employers consult with employment lawyers when considering terminating an

employee and to obtain legal advice with respect to the termination process and package to be provided to the terminated employee.

Long term employees should be aware that their notice entitlements may be quite significant providing they are not bound by a termination clause restricting their common law notice.

Employees should consult with an employment lawyer to have termination packages reviewed before signing off on a Release to ensure they receive a fair package which takes into consideration the employee's length of service, position and age, among other things.

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**Minken &
Associates**

NEW MEMBER PROFILE



TAMMY WEISS

Singer / Songwriter



Tammy Weiss at the London Jazz Festival November 14 at the Pheasantry featuring James Bryan Mccollum on Guitar 20:30 start.

For reservations and further information please call +44 (0)845 6027 017

www.londonjazzfestival.org.uk/event/tammy-weiss

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