

## *Sign on the dotted line...but not yet!*

A recent case out of British Columbia sends a clear message to all employers operating in Canada that terminated employees must be given sufficient time to consider the terms of a release before signing on the dotted line.

In April 2015, Mr. Saliken, a helicopter mechanic, was terminated from Alpine Aerotech Limited Partnership ("Alpine" for just cause). Although Mr. Saliken was terminated for just cause, Alpine offered to forgive a training bond in exchange for a signed release.

The decision to terminate was described as "an over-reaction to a one-off event" and as a result the termination meeting, attended by Mr. Saliken and two managers, was described as "tense, awkward and strained". Mr. Saliken was very surprised he was being terminated and did not agree with the decision. The managers did not explain any of the termination documents to him, but Mr. Saliken was asked to review and sign the termination documents in the meeting.

And so, Mr. Saliken signed the release.

The Court found that Mr. Saliken, who was characterized as somewhat unsophisticated, was not thinking clearly when he read and signed the release. The managers conducting the termination meeting believed that human resources wanted the termination documents signed in the meeting. A representative from human resources did not participate in the meeting at any point.

Ultimately, the Court also found that Mr. Saliken was not bound by the release.

*The plaintiff received no legal or other suitable advice. Ultimately, the circumstances and resulting stress of the termination resulted in an imbalance in bargaining power and the defendant knowingly took advantage of the plaintiff's vulnerability to its advantage. The offer contained in the termination documents was presented in a way that was directed to getting the plaintiff to accept, and in a manner set to take advantage of the plaintiff's vulnerability.*

### **Lessons for Employers**

**Never** accept the employee's agreement to the severance package or executed release during the termination meeting. The employee could at a later date, like Mr. Saliken, argue that s/he was pressured into signing an agreement and release against his/her will. Even if the employee is willing to sign the release in the meeting, insist that the employee take 5-7 days to consider the terms and ensure the letter of termination confirms this.

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Consider having an HR representative participate in the meeting to explain the termination documents to the employee and to advise the employee to take time to consider the terms and even seek legal advice if they wish.

We encourage you to contact e2r Solutions® to discuss any potential termination in your organization.

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