

News Release

Directors of companies that exploit workers may face personal liability, employment lawyer Andrew Monkhouse warns

JUNE 11, 2019 - TORONTO, Ont. — Employment lawyer Andrew Monkhouse is warning that employers who misclassify workers as ‘independent contractors’ in an attempt to avoid paying benefits, overtime, and other entitlements may find themselves on the hook for sizeable penalties in the form of directors and officers liability.

“Employers who exploit vulnerable workers and attempt to get out of compensating them by having them sign on as independent contractors when, in fact they are not, are violating the Employment Standards Act. Directors themselves could end up having to shell out personally on substantial back-pay to employees.”

In Ontario, employee class actions alleging misclassification of employees are on the rise. To date, there have been five such lawsuits filed in Ontario, seeking damages ranging from \$30 to \$200 million.

Monkhouse Law represented the first class-action misclassification case in Ontario in March 2015 when individuals filed a suit for lost pay against Deloitte Management Services.

Recently, Monkhouse Law filed for an order to certify a class-action proceeding against Solar Brokers Canada and its directors (Jean Claude Awwad & Joseph Barker) personally in Toronto, alleging that the company misclassified sales representatives and failed to pay them appropriate wages, vacation, overtime, and public holiday pay. About 120 employees in Ontario and Alberta are affected.

Solar Brokers classified them as independent contractors, but the action alleges they were employees, as they had to follow work schedules, wear company badges, work exclusively for the company, attend training sessions and meetings for which they received no compensation, follow company guidelines and, on telephone calls, identify themselves as working for the company. They were also assigned corporate email accounts, required to use cubicles at the firm’s headquarters and encouraged to work beyond 44 hours a week, but were not compensated.

“Employers who engage in this type of conduct are vulnerable to substantial financial liability and expose themselves to steep financial penalties,” said Monkhouse.

The facts alleged have not been proven in court and the lawsuit is currently pending summary judgment.

For additional information:

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