



Public  
Service  
Labour  
Relations  
Board

Commission des  
relations de  
travail dans la  
fonction  
publique

P.S.L.R.B. File Number  
FOR OFFICE USE ONLY

**Form 16**  
(Section 57)

**COMPLAINT UNDER SECTION 190 OF THE ACT**

*Public Service Labour Relations Act*

**NOTICE:** The original and one copy of this complaint must be filed with the Executive Director of the Board.

**1. Complainant information:**

Mr.  Mrs.  Miss  Ms.

Last or family name (*print in block letters*): ASSOCIATION OF JUSTICE COUNSEL

First name (*print in block letters*): Middle name(s) (*print in block letters*):

Mailing address:

Apartment (*if applicable*): Number and street: 1545 Carling Avenue, Suite 406

City: OTTAWA Province or Territory: Ontario Postal code: K1Z8P9

Telephone numbers (*where we can reach you*):

Fax numbers (*where we can reach you*):

Home: ( )

Home: ( )

Office: ( 613 ) 798-9900

Office: ( 613 ) 564-0606

E-mail address:

Name of authorized representative (*if applicable*):

DOUGALD BROWN (NELLIGAN O'BRIEN PAYNE LLP)

Mailing address:

Apartment (*if applicable*): Number and street: 1500 - 50 O'CONNOR

City: OTTAWA Province or Territory: Ontario Postal code: K1P6L2

Telephone number: ( 613 ) 231-8210 Fax number: ( 613 ) 788-3661

E-mail address: dougald.brown@nelligan.ca

**2. Respondent information:**

Name: TREASURY BOARD

Mailing address:

Apartment (if applicable): \_\_\_\_\_ Number and street: 140 O'CONNOR STREET

City: OTTAWA Province or Territory: Ontario Postal code: K1A0G5

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**3. Paragraph of the *Public Service Labour Relations Act* on which the complaint is based:** *(You must check off at least one box.)*

- 190(1)(a) Failure to comply with section 56 (duty to observe terms and conditions).
- 190(1)(b) Failure to comply with section 106 (duty to bargain in good faith).
- 190(1)(c) Failure to comply with section 107 (duty to observe terms and conditions).
- 190(1)(d) Failure to comply with subsection 110(3) (duty to bargain in good faith).
- 190(1)(e) Failure to comply with section 117 (duty to implement provisions of the collective agreement) or 157 (duty to implement provisions of the arbitral award).
- 190(1)(f) Failure to comply with section 132 (duty to observe terms and conditions).
- 190(1)(g) Unfair labour practice within the meaning of section 185.

**4. Concise statement of each act, omission or other matter complained of, including dates and names of persons involved:**

See attached Schedule "A".

**5. Date on which the complainant knew of the act, omission or other matter giving rise to the complaint:**

21/11/2011

(dd/mm/yyyy)

*Complete sections 6 and 7 only if the complaint alleges an unfair labour practice prohibited by paragraph 188(b) or (c) of the Public Service Labour Relations Act and if the employee organization has established a grievance or appeal procedure.*

**6. Date on which a grievance or appeal was presented in accordance with any procedure that has been established by the employee organization:**

(dd/mm/yyyy)

**7. Date on which the employee organization has provided the complainant with a copy of a decision to the grievance or appeal referred to in section 6:**

(dd/mm/yyyy)

**8. Steps that have been taken by or on behalf of the complainant for the resolution of the action, omission or other matter giving rise to the complaint:**

1. On November 21, 2011, the Association of Justice Counsel ("AJC") responded to the Department of Justice Canada ("the Department"), seeking the Department's agreement that it would uphold the long-standing practice under Article 28.01 of directly remitting lawyers' law society membership fees on their behalf.

2. On November 23, 2011, the Department advised that it was proceeding with the change to the application of Article 28.01.

**9. Corrective action sought under subsection 192(1) of the *Public Service Labour Relations Act*:**

See attached Schedule "A".

**10. Other matters relevant to the complaint:**

1. The payment of law society membership fees is necessary for lawyers in the Department to maintain their professional qualifications in good standing.
  2. The payment deadline for annual membership and professional fees for the 2012 calendar year is as early as January 1, 2012.
  3. The Respondent advised the Complainant on November 21, 2011 that it was changing the practice for reimbursement of law society membership fees.
  4. Lawyers risk administrative suspension where their annual law society membership fees are not remitted by the Department, as per the parties' long-standing practice, prior to January 1, 2012.
  5. As a result, there is urgency for the determination of this Complaint.
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I, the undersigned, (duly authorized representative of the complainant,) hereby file  
this *Complaint under Section 190 of the Act*.

Date: \_\_\_\_\_  
(dd/mm/yyyy)

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(Signature of complainant or authorized representative)

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(Office held with the complainant, where applicable)

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## Schedule “A”

1. The Collective Agreement between the Association of Justice Counsel (“AJC”) and the Treasury Board (“the Employer”) expired on May 9, 2011.
2. The AJC served Notice to Bargain, pursuant to section 105 of the *Public Service Labour Relations Act (PSLRA)*, S.C. 2003, c. 22, s. 2, on March 18, 2011. The parties have not yet concluded a new Collective Agreement.
3. Article 28.01 of the Collective Agreement between the AJC and the Employer states: “The Employer shall reimburse a lawyer for his payment of membership or other fees to a professional organization or organizations when the payment of such fees is necessary to maintain a professional qualification required by the Employer for the performance of any duties and/or responsibilities assigned.”
4. The payment of law society membership fees is necessary for lawyers employed by the Employer to maintain their professional qualifications in good standing.
5. A consistent and long-standing practice exists under which the Employer remits payment of annual membership fees directly to the appropriate provincial law society on behalf of lawyers employed by the government. Consistent with this practice, Article 28.01 has been interpreted and applied in a manner that does not require individual lawyers to first pay the fees themselves and then request subsequent reimbursement. Simply put, the Employer has always paid the fees directly.

6. On November 21, 2011, the Department of Justice advised the AJC that it was proceeding to change the process for reimbursement of law society membership fees.
7. The Department of Justice advised the AJC that it now requires lawyers to pay law society membership fees to their respective law societies, and to seek reimbursement from the Department thereafter. The Department also advised the AJC that it will refuse to reimburse lawyers for late fees remitted to a law society.
8. The payment deadline for annual membership and professional fees for the 2012 calendar year is impending. For example, payment of 2012 licensing fees for lawyers licensed by the Law Society of Upper Canada is due on January 1, 2012.
9. Lawyers risk administrative suspension if their annual law society membership fees are not paid on a timely basis.
10. The AJC requests that the Board issue an Order:
  - a) Declaring that the Employer has violated Section 107 of the PSLRA;
  - b) Ordering that the Employer respect all terms and conditions of employment in force at the time of the Notice to Bargain;
  - c) Ordering the Employer to withdraw any notices given to lawyers advising that they must first remit payment of annual membership fees to their respective law societies, and request reimbursement on an individual basis;

- d) Ordering the Employer to directly remit payment to law societies of annual membership fees on behalf of lawyers employed by the Employer;
- e) Any other relief that the Board may deem appropriate.

Date:

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Dougald Brown