

International Tax Litigator and Former Crown Counsel Joins Osler's Tax Practice

PR Newswire

Aug. 14, 2017

Osler, Hoskin & Harcourt LLP is delighted to announce that **David Jacyk** has joined our partnership and will lead our Vancouver-based tax litigation practice.

David Jacyk has built a formidable tax litigation practice over more than two decades most notably with the **Department of Justice Canada as General Counsel**, and more recently with the Crown Law Office/Inland Revenue in New Zealand. In the course of his stellar litigation career he has been involved in litigating many of Canada's high profile tax cases for the Crown and is deeply knowledgeable in controversies affecting corporate taxpayers. David's practice spans areas beyond tax litigation including civil litigation, customs and anti-dumping, bankruptcy and insolvency, judicial review, constitutional and other matters.

"Our clients are facing heightened audit and assessment activity that, more than ever, requires a superior level of tax expertise, specialized advocacy and deep insight into the court process in order to respond," said Monica Biringer, co-head of Osler's National Tax Group.

Al Meghji, who heads up the firm's market leading tax litigation group explains: "Having David lead our Vancouver tax disputes practice with a team that includes former Supreme Court of Canada Justice Marshall Rothstein and former Federal Court of Appeal Justice Karen Sharlow, adds immeasurably to our ability to meet the growing demand for top flight tax litigation services in Vancouver and nationally. We couldn't be more delighted to welcome David to our team."

SOURCE Osler, Hoskin & Harcourt LLP

New advisory panel set to begin work to fill 'urgent' N.B. judicial vacancy

7-member committee will review applications, make recommendations to feds for Saint John family court judge

CBC News

Bobbi-Jean MacKinnon

August 16, 2017

A panel of seven New Brunswickers will begin meeting next month to vet lawyers who want to become judges and make recommendations to the federal Department of Justice on which of them should fill vacancies on the bench.

The executive director of the Law Society of New Brunswick says it's a critical step in fixing the "unacceptable" backlog in Saint John's family court, which has been short one judge for a year.

But Marc Richard doesn't expect anyone to be appointed from the estimated 25 to 30 applicants before the fall and he said it could take months, or even up to a year, to resolve the backlog of custody and support cases.

Four of the panel members appointed in June are from the legal community, while the other three are members of the general public. They include:

Chair Justice Margaret Larlee, a supernumerary judge of the New Brunswick Court of Appeal, who was the first woman appointed to the provincial appeal court in 1998 and to the New Brunswick Court of Queen's Bench in 1985. (Nominee of the chief justice of New Brunswick.)
Moncton lawyer Blair Fraser, who also lectures at the University of Moncton. (Nominee of the minister of justice and attorney general of New Brunswick.)

Pierre Castonguay, executive director of the New Brunswick Legal Aid Services Commission. (Nominee of the Law Society of New Brunswick.)

Saint John lawyer Cathy Lahey, who was appointed Queen's Counsel by the lieutenant-governor of New Brunswick in 2013. (Nominee of the Canadian Bar Association.)

Clarence LeBreton, a historian and longtime civil servant from Caraquet and chair of the board of L'Acadie Nouvelle, an independent French-language newspaper. (Nominee of the federal government.)

Normand Theriault from Madawaska County, who has 30 years of experience working with credit unions. (Nominee of the federal government.)

Bridget Ryan, a Sussex town councillor and school co-ordinator. (Nominee of the federal government.)

The volunteer panel will classify candidates as highly recommended, recommended or not recommended, said Ryan.

"Obviously, we're looking for their legal background and their skills that pertain to their job," she said. "But it's a little more than that.

"It's looking at what they've done in their communities, where they stand on different issues. Are they, you know, socially aware? Are they progressive thinkers? Are they fair when it comes to gender and nationality and multiculturalism and all of those things?

"I think that the people of New Brunswick should have that say. The legal system is for all of us. It's not just for the people who work in that field. It's for everybody. So I do think that it's important that residents have a say in this," she said.

Under Prime Minister Justin Trudeau's Liberal government, the judicial advisory committees (JACs) in each province are supposed to better represent Canada's diversity, and boost diversity on the bench.

The unpaid two-year terms of New Brunswick's previous JAC members expired in October 2015.

Wait times hit 'historic heights'

The family division of the Court of Queen's Bench in Saint John has been down to two judges from three since Justice Richard Petrie was transferred to Woodstock last summer.

The court has been unable to get a replacement, waiting for the federal justice minister to appoint the seven-member screening panel to review applications.

Earlier this summer, veteran Saint John family lawyer Kimberly McCurdy wrote to federal Justice Minister Jody Wilson-Raybould, making an "urgent plea" to fill the judicial vacancy.

"Urgent assistance is required," McCurdy wrote in the letter dated June 7, a copy of which was obtained by CBC News.

"Wait times are now at historic heights," she said, and "to suggest [the two sitting judges] would be exhausted is an understatement."

The pressure on the two existing judges is especially difficult because of the busy docket and the time it takes to adequately hear child protection matters, the letter said.

"The long-term effect on the families in our community by ineffective delivery of justice can in no measure be healthy for our children," McCurdy wrote in the letter, which was copied to New Brunswick Justice Minister Denis Landry, the Saint John Law Society, the Law Society of New Brunswick and the Canadian Bar Association.

"Families are the foundation of our community. The judicial district of Saint John has a widening and unnecessary crack in that foundation which we urgently implore you to repair."

There is also a Court of Queen's Bench vacancy in Bathurst, according to the Canadian Bar Association for New Brunswick.

Un avocat américain s'invite dans le débat de l'arrêt Jordan

Droit Inc.

Delphine Jung

16 août 2017

Le droit américain peut inspirer le droit canadien, dit cet avocat américain. Il ne permettrait pas à des présumés meurtriers de s'en sortir...

Me Daniel Martin Bellemare, qui exerce à la fois au Vermont et au Québec, veut proposer « une perspective axée sur l'administration de la justice fédérale aux États-Unis ».

Il a déposé une requête en Cour d'appel du Québec pour mettre en lumière les différences qui opposent les systèmes judiciaires américain et canadien, ont rapporté plusieurs médias.

Son intervention intervient dans le cadre du dossier d'appel de Sivaloganathan Thanabalasingham, ce Sri-lankais accusé du meurtre de sa femme, Anuja Baskaran.

Plus de 50 mois s'étaient écoulés depuis son arrestation. Il avait par la suite été expulsé en juillet dans son pays natal. Le DPCP avait porté en appel cette décision.

Au Canada, l'arrêt Jordan de la Cour suprême fixe à 18 ou 30 mois le délai maximal pour être jugé, sauf exception. Depuis cette décision rendue en juillet 2016, trois meurtriers allégués en ont profité au Québec.

Me Bellemare explique qu'aux États-Unis, « aucune remise ne doit être accordée en raison de l'engorgement du calendrier de la cour ». De l'autre côté de la frontière, un accusé fédéral doit pouvoir être jugé dans un délai de 70 jours sauf si la cause est « inhabituelle, complexe à cause du nombre d'accusés, de la nature de l'accusation ou l'existence de questions nouvelles en droit », est-il écrit dans le document de cour.

Me Daniel Martin Bellemare estime que le droit américain peut inspirer le Canada. La Constitution américaine reconnaît à toute personne accusée d'une infraction criminelle « le droit à un procès rapide et public ».

Il va aussi, d'ici le 25 août, déposer un mémoire qui va permettre de comparer les effectifs judiciaires des deux pays.

Quant au mémoire de la défense, il devrait être déposé mardi.

PPSC Annual Report Tabled in Parliament

OTTAWA, Aug. 16, 2017 /CNW/ - The Director of Public Prosecutions, Kathleen Roussel, today announced the tabling in Parliament of the Public Prosecution Service of Canada Annual Report 2016-2017. The report covers the period from April 1, 2016, to March 31, 2017.

The 2016-2017 year was a significant milestone for the PPSC, as it celebrated its 10th anniversary in December 2016, marking a decade of prosecutorial excellence.

In 2016-2017, the PPSC worked on 70,028 files. This includes 38,863 files opened during the year and 31,165 carried over from previous years. While drug prosecutions continue to represent a significant proportion of its total caseload, the PPSC also conducted notable prosecutions in a number of areas including environmental, economic, immigration, and terrorism offences.

The report includes a section provided by Commissioner of Canada Elections (CCE), Yves Côté, on the operations of the CCE for the 2016-2017 period.

"The PPSC's employees are at the heart of all that we do as an organization," said Ms. Roussel. "Throughout the year, their commitment to our key values of respect, integrity, excellence, and leadership have made our success possible. I would like to thank them for all their efforts."

The PPSC is responsible for prosecuting offences under federal jurisdiction and provides prosecution-related advice to investigative and law enforcement agencies. As of March 31, 2017, the organization had 1,082 employees, 523 of whom were lawyers. The PPSC also retained the services of 417 standing agents from private-sector law firms.

(Version française disponible)

SOURCE Public Prosecution Service Canada

Government of Canada announces judicial appointments in the province of Quebec

OTTAWA, Aug. 17, 2017 /CNW/ - The Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, today announced the following appointments under the new judicial application process announced on October 20, 2016. The new process emphasizes transparency, merit, and diversity, and will continue to ensure the appointment of jurists who meet the highest standards of excellence and integrity.

The Honourable Claudine Roy, a judge of the Superior Court of Quebec, is appointed a judge of the Quebec Court of Appeal in Montreal. She fills a new position created as a result of the passage of Bill C-44.

Gregory Moore, a partner at Joli-Cœur Lacasse s.e.n.c.r.l., is appointed a judge of the Superior Court of Quebec for the district of Montreal. He replaces Madam Justice Claudine Roy, who has been elevated to the Quebec Court of Appeal.

Biographies

The Honourable Claudine Roy was appointed a judge of the Superior Court of Quebec for the district of Montreal in 2003. She was responsible for the training of Superior Court judges and was a member of the Court's Procedure Committee.

Justice Roy is and has always been actively involved in education and training – whether through her work with the Superior Court, the Barreau du Québec, the Canadian Bar Association, the Canadian Institute for the Administration of Justice, or the National Judicial Institute. She has also contributed to training at the international level, particularly in Cambodia and Vietnam. She has served as a member of the NJI's Board of Governors, a member of the CIAJ's Research

Committee, and a jury member for the Quebec Bar Foundation's legal competition. She is a former chair and committee member of several sections of CBA Quebec.

Before her appointment to the judiciary, Justice Roy was a partner with Ogilvy Renault (today Norton Rose Fulbright), where she coordinated the firm's research and administrative law groups. She was also the chair of the firm's Knowledge Management Committee. She previously practised law with the Commission des services juridiques and the Longueuil Legal Aid Office. In addition, she was a lecturer at the Université du Québec à Montréal.

Justice Roy holds a bachelor's degree in law from Université Laval and a master's in law from the Université de Montréal.

Mr. Justice Gregory Moore graduated from McGill University in 1994 with degrees in civil law and common law. After a clerkship at the Federal Court, he joined the Department of Justice Canada before entering private practice. He practised civil litigation, representing individuals and businesses in intellectual property, medical liability, and contractual disputes. He was also a certified mediator.

In 2014-2015, Justice Moore was the Bâtonnier of the Bar of Montreal. In this capacity, he worked to promote participatory justice and the vibrant diversity of the city's 14,000 lawyers. He served on the Executive and Finance Committees of the Barreau du Québec, as well as its Conseil général. Justice Moore also taught intellectual property law and business ethics at the Université du Québec à Trois-Rivières, and has lectured and published articles on a variety of legal issues.

Prior to his appointment, Justice Moore practiced with Joli-Cœur Lacasse s.e.n.c.r.l.

Justice officials testing waters for sentencing reform promised by Liberals

National Post

Joanna Smith

August 18th 2017

OTTAWA — The Justice Department wants to know what Canadians think of changing some of the former Conservative government's controversial tough-on-crime sentencing legacy — including mandatory minimum penalties — before the Liberals bring in their promised reforms.

An online survey asks respondents to judge several scenarios involving mitigating circumstances surrounding a crime, such as a brain-damaged offender whose condition leads to poor decision-making skills, or an offender who acted out of character and has apologized to the victim in court.

Consider, for example, the fictional case of Sarah, a 36-year-old single mother struggling with addiction who was convicted of drug trafficking after she was caught selling some of her prescription opioid pills.

The survey says she had a knife in her backpack, which she claimed was for her own protection, and after she went to jail, her two children were placed with child welfare services because she had no family to take them in.

The survey, conducted by EKOS Research Associates, Inc., says everyone convicted of drug trafficking while carrying a weapon must be sentenced to at least one year behind bars, no matter the circumstances, and then asks respondents whether they believe the sentence is appropriate and fair.

The Liberals have promised legislative changes to mandatory minimum sentences, including at least some of the dozens the Conservatives imposed, or increased, over the decade they were in power.

Proponents of mandatory minimum penalties argue they help ensure consistency in sentencing, while critics have decried them for taking away the ability of judges to use their discretion in handing down a consequence that fits not only the crime, but also the person convicted of committing it.

Justice Minister Jody Wilson-Raybould, who said earlier this summer about half the charter challenges her officials are tracking involve mandatory minimum penalties, is expected to introduce legislation this fall.

Ottawa-based criminal defence lawyer Michael Spratt said he is concerned the survey suggests the Liberal government is looking to public opinion, rather than evidence, when it comes to shaping its justice policy.

“Governing your justice policy based on the popular opinion is a dangerous game that potentially could undermine the rule of law and important constitutional protections,” Spratt said.

Yvon Dandurand, a criminologist at the University of the Fraser Valley in Abbotsford, B.C., said he does not share that view because he knows the Liberal government is doing much more than polling when it comes to its review of the criminal justice system.

“They have done just about everything else to develop a good, rational policy on sentencing so to find out where public opinion lies is just part of that,” Dandurand said.

Kathleen Davis, a spokeswoman for Wilson-Raybould, said the survey, which was not crafted by her office, is part of a broader effort by the department to engage the public on such issues, including focus groups and a more traditional public opinion survey using a randomized sample.

She said other topics they will explore this fall include restorative justice, sexual assault, court delays, Indigenous issues and mental health.

Davis also said she has seen preliminary results of the survey, which she would not release, and that she was surprised by the level of support for repealing mandatory minimum penalties.

“That goes against the narrative that’s out there that the public would not be in favour of that,” she said.

Carissima Mathen, a University of Ottawa law professor, said she would be concerned if the survey results were being used to determine policy, but said it could serve to educate people about “complexities in the criminal justice system,” including how sentencing goes beyond the crime.

NDP justice critic Alistair MacGregor said he hopes the polling means the Liberals are getting closer to acting on their promise.

“I guess at the end of the day, you have to say better late than never,” he said.

Government of Canada announces judicial appointment in the province of Ontario

OTTAWA, Aug. 17, 2017 /CNW/ - The Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, today announced the following appointment under the new judicial application process announced on October 20, 2016. The new process emphasizes transparency, merit, and diversity, and will continue to ensure the appointment of jurists who meet the highest standards of excellence and integrity.

David E. Harris, a sole practitioner, is appointed a judge of the Superior Court of Justice in and for the Province of Ontario in Brampton. He replaces Madam Justice J.M. Fairburn, who was appointed to the Court of Appeal for Ontario on July 14, 2017.

Biography

Prior to his appointment, Mr. Justice David E. Harris was a criminal defence lawyer with an emphasis on appeal work. He graduated from Osgoode Hall Law School in 1985 and was called to the bar in 1987. He worked initially as an Assistant Crown Attorney in Toronto. In 1988, he joined the criminal defence firm of Carter, McCombs and Minden. Since 1993, he has been a sole practitioner.

Justice Harris has argued over 150 cases in the Ontario Court of Appeal and the Supreme Court of Canada, including *W.(D.)* and *Handy*. Between 1996 and 2005, he worked part-time assisting law students with criminal law cases at Downtown Legal Services, the University of Toronto's law clinic.

Since 2004, Justice Harris has been a member of the Circle of Directors of the Native Men's Residence – a provider of housing, employment services, and support for Aboriginal men in Toronto. He served on the organization's executive committee for several of those years. Justice Harris also spent 15 years, including a two-year term as president, on the board of directors of the John Howard Society of Toronto, which assists individuals in conflict with the law. He has worked with a number of other charitable causes, including the Chess Institute of Canada, Lawyers Feed the Hungry, and the Royal Conservatory of Music. Since 2012, he has been a member of the Stratford Festival Board of Governors.

In addition, Justice Harris has led numerous canoe trips in the Northwest Territories and Nunavut.

Ottawa sonde l'opinion publique sur la réforme de la justice criminelle

La Presse Canadienne

18 août 2017

Les libéraux ont promis de modifier la loi pour débarrasser les juges de l'obligation de peines minimales...

Le ministère fédéral de la Justice souhaite obtenir l'avis des Canadiens sur les changements que les libéraux veulent apporter à certaines dispositions adoptées par le précédent gouvernement conservateur, notamment sur les peines minimales obligatoires.

Dans un sondage en ligne, Ottawa demande notamment aux répondants de se faire juge face à différents scénarios, où les accusés ne sont pas des « criminels endurcis ».

Lorsque le répondant décide du verdict et de la peine, on lui signale qu'à l'heure actuelle, un juge n'aurait d'autres choix que d'imposer une peine minimale de prison pour ce crime.

Les libéraux avaient promis de modifier la loi pour débarrasser les juges de cette obligation de peines minimales, mais ils reportent inlassablement le dépôt d'un projet de loi, qui est maintenant prévu pour l'automne. Ce sondage pourrait servir d'argumentaire lors des débats au Parlement.

Le criminaliste Michael Spratt s'inquiète toutefois de voir le gouvernement libéral se baser sur l'opinion, plutôt que sur les connaissances, pour élaborer une politique publique.

Au cabinet de la ministre de la Justice, Jody Wilson-Raybould, on explique que le sondage, qui n'a pas été élaboré par son bureau, fait partie d'un ensemble de mesures visant à impliquer les citoyens dans le débat public.

Phoenix ruining her parental leave

The Siver Times

Boris Proulx

August 18th, 2017

OTTAWA | A young father unpaid for six months because of a system problem Phoenix sees his parental leave to be tempered by the hours spent in his paperwork rather than with her daughter.

“It brings me to the insecurity, but mostly frustration. When you have a baby, you don’t necessarily have the time to spend three hours a day on the phone to resolve your problem pay”, says Guillaume Larose, holding in his arms his little Coralie, born in October.

The native of Quebec is part of the many employees of the federal State continue to be victims of the fiasco of the payroll system Phoenix, that is “worthy of the third world,” according to the opposition, a year and a half after its implementation.

The father, 36-year-old installed in Orleans, Ontario, has had to spend several hours per week in his paperwork to try to unlock his file in the Centre of the pays to achieve what he has right.

His wife, self-employed, aren’t contributing to employment insurance and, therefore, had no right to a paid leave of absence.

“Neither of us has had to pay from October to march [during parental leave]. This is not pleasant,” says Mr. Larose, who takes advantage of a parental leave for almost 11 months.

Paid too much

As many of the victims of the new payroll system, her record was derailed because of a little detail that the software Phoenix did not take into account time.

Shortly before the birth of her child, programmer-analyst at the public service Commission has taken a leave of absence without pay in the summer of 2016, but the forms are duly approved are holed up somewhere in the Center of pay. The money has continued to enter in his account as usual.

“I’ve done all the steps to make them stop, and it never worked,” he recalls.

Mr. Larose has had time to return to work, to witness the birth of his daughter, and leave the work of months later, this time for a parental leave who, himself, would have had to be paid.

No salary

But now, in November, his pay has ceased, a sign that his old application for leave without pay had finally been processed. To this day, he receives neither his salary nor his parental leave benefits. The government now has a lot more than what he got in too.

“It is a constant battle every week to call and send e-mails all the time.”

To make matters worse, the forms he is required to submit in order to obtain its benefits are riddled with errors. Impossible for him to prove that he is eligible for parental leave, even if he holds this job for the past ten years.

After several months of radio silence, the Centre pays him has finally paid of a sudden a part of the amounts due in the spring, without, however, set the compensation for the following.

The government must always be “a few thousand” dollars, in addition to having forgotten amounts on his tax forms causing him to now be in trouble with the revenue Agency.

It is now ready to start the work in September, but is concerned about having new problems with the payroll immediately upon his return.

The department is responsible for the system Phoenix, public Services and Supply Canada does not comment on the case due to “privacy”.

The Journal has consulted the documents and correspondence of the officials encountered which testify to their efforts.

Our folder

A year and a half after the implementation of the new payroll system Phoenix by the federal government, the epidemic problems of pay continues to affect thousands of its employees. The government and the opposition will always accuse each other for this embarrassment of world-class. To better understand the magnitude of the situation, The Newspaper has met with officials in Quebec whose life has been disrupted by problems in their payroll.

Revenue Canada asks for 10 000 \$

Sign that problems pay never come alone, a mistake on a tax form does away with some \$ 10,000 in contributions to a young father on parental leave without salary for months. As many government officials victims of the Phoenix, making his income tax return was a nightmare.

“I didn’t need it in my parental leave, especially after months without pay. This is ridiculous,” said Guillaume Larose, a victim of the system Phoenix.

Like many civil servants who have received too much or not enough salary because of the problems of the system, its tax forms T4 and r1-1s have been issued late and contained significant errors.

Contributions

In the case of Mr. Larose, what are his contributions to his salary during any year which have disappeared from its Q4, as if by magic.

“It is stated that I have paid nothing. Depending on the system, I would have 10 000 \$ to send in taxes,” he said, with his tax form incorrect.

His pay stubs that he had carefully compiled, show that it has already paid this amount in taxes.

According to a book of Gatineau, which has many officials as customers, Phoenix has generated a “bordel total” in numerous statements of income.

Inconsistencies

“The people came to do their taxes with T4 erroneous, because the government has not released their new T4 to time”, said Yves Godin.

Among the inconsistencies that it has detected a lot of T4 forms submitted to the officials indicated the amount of deduction that was not in line with their pay stubs.

The Canada revenue Agency application to public servants as Mr. Larose to pay the amounts listed on their Q4 incorrect, then get a refund when will be set to their folder. Compensation is provided to cover some of the costs incurred by Phoenix, such as the services of an accountant.

Several more years of mistakes to come

The Siver Times

Boris Proulx

August 18, 2017

OTTAWA | federal officials may be victims of payroll system Phoenix for years to come, they feared.

“We are still trying to retain a system that does not work. I think that it is still for several years, ” said Magali Picard, a spokesman for the public service Alliance of Canada.

It seems that as issues of compensation are settled, new problems arise, plunging ever of government employees in the insecurity of not knowing if the money will go as expected in their bank account.

The only solution, according to Stéphane Aubry, of the professional Institute of the public service, is to scan one by one the folders. “Over 300 000 public servants, the time to find all those who have problems, it has for years. “

Varied

Even more than a year after the government’s apology to his employees, Phoenix is still unable to pay them properly officials. This is especially those who are dealing with a change of status that it costs, since the software is slow to update their status, or makes a mistake in doing so.

The system messes up more often the pay of employees who become parents, become sick, retire, or receiving a promotion, temporary. These officials see the amounts disappearing from their paycheck, sometimes for months.

The federal government is committed to giving back the overdue amounts, and offers to pay some of the costs generated by the problems of Phoenix.

Thousands

The number of employees whose pay is altered by the system in Phoenix is not made public. At the height of the crisis, the government has estimated at 80 000 the number of employees affected. The unions claim that up to 100,000 of them may have been incorrectly paid, or one-third of the entire federal public service.

The many victims of Phoenix faced by The Newspaper, have all described the feeling of deep despair which inhabits them. It was difficult or impossible for them to contact the Center’s payroll, where only operators who are unfamiliar with their file their answer.

Most of the problems occurred after the implementation of the payroll software Phoenix by the liberal government in the spring of 2016, believing the opposition parties, that Phoenix was put into service too soon, against the advice of trade unions. However, it is the previous government of Stephen Harper, who has given IBM the contract to build this software.

The conservatives have also laid off hundreds of specialists to remuneration in the country to retain a single Central payroll, Miramichi, New Brunswick.

The adventure promised savings of\$ 70 Million per year. It is now clear that no economy will be carried out. On the contrary, the system will cost canadian taxpayers hundreds of millions of dollars.

The canadian government no longer publishes target date for settling all the problems of its new payroll system.

Class action ?

The Law on labour relations in the civil service prevents public officials to apply to the courts for their employment issues, and provides its own process for grievances and complaints.

Unions have already filed a” grievance “, which acts as the class action internal. In parallel, a former casual employee of the government has launched a proposed class action lawsuit that will try all the same to represent the 300 000 public servants, but that still has not been accepted by the Court.