

# MEMBERS QUARTERLY



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## News, Updates and Events

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SUMMER 2015 VOLUME 13, No. 3



Nathaly Pinchuk, RPR, CMP  
Executive Director

# If the Boss Won't, Pay Your Own Way

*Professional development is vital*

Some say that training budgets are at an all-time low or practically non-existent. There is a wide choice of professional development opportunities out there. If this is the case in your organization, why don't you just pay for the training yourself?

Most experts tell us that learning and talent development are fast becoming the last best sustainable competitive advantages for businesses and individuals alike. Professional development is something we all need, regardless of how busy we are. It not only helps us in our particular job, it helps us grow as a person.

Paying out of your own pocket for programs and conferences is nothing new. How many people do you know who have taken extra programs of little relevance to their present jobs and paid for it themselves? In the various positions that I had over the decades, there was always something of interest that was not mandatory for the job, well beyond the corporate budget but truly useful to me. I approached my boss to present the program and offered to pay for it myself if the company couldn't afford to pay for me. There was always immediate endorsement and approval.

Being able to adapt to the challenges and demands in today's market is imperative. Are you personally doing everything you can to stay on top in your field? Having just completed IPM's 2015 One Day Conference series across

Canada, I would say that there is serious room for improvement here. While we attracted record crowds in some centres, the actual numbers could be much higher.

If senior managers and executives prefer conferences and seminars to on-the-job training, where is everyone?

Using our IPM Conferences as the example, our regional volunteers spend countless hours planning a full day program. We try to meet the needs of our ongoing supporters who range from senior executives to directors, managers and supervisors in all industry sectors. While all the topics offered may not be that relevant in your position now, knowledge in another area never hurts.

Registration fees for one or two day PD programs do vary in cost, some well over the \$1000 mark. At IPM, we keep the package affordable to all (under \$150 for the full day including breakfast, lunch and coffee breaks). If four people register together, only three have to pay and the 4<sup>th</sup> attends free. A growing number of attendees do pay the registration fees out of their own pockets. They consider it well worth the cost. They not only gather information but make new contacts with other professionals in their field.

Keep in mind that paying for the event itself still qualifies you to include this when it's recertification time with other association memberships. When you approach your boss with

the program and offer to pay for it, he or she will be impressed to see that you are taking the initiative to expand your horizon and learn new skills.

So next time you receive some interesting programs, don't just toss them in the recycle box and invent excuses for not attending. No matter how much experience and knowledge we already have, we can always learn more. That's why they call it "lifelong learning".

*Nathaly Pinchuk, RPR, CMP  
Executive Director IPM  
Institute of Professional Management*

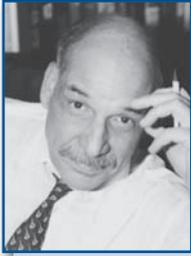
Perspective

[...] learning and talent development are fast becoming the last best sustainable competitive advantages for businesses and individuals alike.

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Brian W. Pascal  
President

President's Message

# Is Your Glass Half Full?

*Change your attitude and reap the benefits*

I am a 'glass half full' kind of guy. I need to be in order to stay in business. If I stop believing that I will be successful, then that may well turn out to be the case. So I have a belief in myself, my abilities and that the future holds opportunities as well as challenges. This makes my business run more smoothly and in fact helps me in all aspects of my life. As I realize that I'm getting older, I actually need that attitude in order to stay happy, content and focused.

I am also not blindly optimistic about the world or other people. I have deep and real concerns about the world we live in and the mess we have made of it. I am particularly concerned about the impact of our current decisions on future generations. I just don't dwell on those issues. I do my part whenever I can and I have to hope that's enough. I do my absolute best when it comes to what I do

have control over. That lets me sleep at night.

I am certainly not a rabid optimist, but even my milder version gives me an advantage over the critics and cynics who often populate our offices and other places of work. My personal sense of positivity allows me to accept minor defeats graciously and move on quickly to more successful endeavors. It also frees up my time and energy so that I don't dwell too long on mistakes but learn from them and then move on.

My optimism is also based on science. Well, almost science. Researchers at Harvard University found that having a positive attitude benefits both your mental and physical health. They looked at the correlation between cardiovascular risks and emotional states and found that when people had optimism or hope, they had a reduced risk of heart disease and stroke.

Other studies have shown that positive people can cope with serious diseases and ailments like cancer better than pessimists. They respond better to treatment and their full recovery rates are much higher.

If you are not exactly on the positivity track, how can you switch direction so that you head towards optimism? The answer according to some experts is to retrain your brain to think differently and more optimistically. There was an article a few years ago in INC magazine by author and blogger Geoffrey James that offered some suggestions on how to do this.

He suggested writing down what you do now, what he called 'your rules'. Then see how well, or not, your current thinking was working for you. Next, try coming up with some new rules and commit to practicing them for a specific period of time. Stick your new rules up in a prominent place in your workplace so you don't forget about them and start practicing being optimistic.

Of course, you could just stay miserable and see the glass as half empty. How's that working for you?

Researchers at Harvard University found that having a positive attitude benefits both your mental and physical health.



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Tom Ross,  
B.A., LL.B.  
Partner,  
McLennan Ross LLP

# Navigating Constructive Dismissal in Tough Economic Times

*Trim employee costs without termination*

In the midst of economic uncertainty and widespread cost-cutting measures, many employers this year are facing the challenge of how to taper wage costs while avoiding constructive dismissal claims. Whether particular changes to terms and conditions of employment constitute constructive dismissal is usually a grey area. Can employers make modest changes to spare the bottom line without generating significant exposure to termination claims?

## **What is Constructive Dismissal?**

The general rule of constructive dismissal is that an employer cannot make changes to employee terms and conditions of employment that are unilateral, fundamental and negative.

The exceptions to this general rule include where:

1. there is consent to the change;
2. there is acceptance of the change after the fact;
3. there is reasonable advance notice of the change or notice consistent with terms of an agreement (e.g., the employment agreement allows for changes on certain specified notice) [note the caution to this approach discussed below];
4. the changes are not fundamental;
5. the changes relate to matters that are within the employer's control to change without the employee (e.g., discretionary programs);
6. you make the changes in exchange for something else of value to the employee (e.g., a pay increase, promotion, added benefit, etc.).

Employers have many options available to them that are in line with these exceptions. First is to see if changes can be made that are not objectively viewed as being fundamental. An example of interest these days is across-the-board compensation or benefit changes that are negative, but modest, as a cost cutting measure.

## **Are Changes Fundamental?**

Although constructive dismissal is a grey area, it is most easily found in cases involving compensation reductions, because compensation is usually the most essential term of employment for employees. However, some compensation reductions have been accepted. Some cases have found that reductions in remuneration of less than 10 - 15% (without more) are not fundamental breaches, however caution must be exercised.

Reductions in hours may also be possible without constituting constructive dismissal. This is more easily done for wage-earning employees rather than salaried employees. In the recent case of *Bonsma v. Tesco Corp.*, the Alberta Court of Appeal held that a reduction in hours did not constitute constructive dismissal because there were no guaranteed hours. Other cases have found requiring employees to reduce their weekly hours by 20% or more did constitute constructive dismissal.

In *Otto v. Hamilton & Olsen Surveys Ltd.*, the Alberta Court of Appeal found that "reductions in the benefit package due to external economic pressures, but where salaries are maintained, have consistently escaped characterization as fundamental breaches." In that case, vacation

was reduced from 6 weeks to 4 and the 5% employer RRSP match was eliminated. The ability to reduce benefits generally would depend on the significance of the benefits and the reductions in question.

Courts look at the amount of the reduction, the economic situation of the employee, as well as the portion of the overall remuneration package that is being affected. Economic pressures do not protect an employer from the principles of constructive dismissal, but they will be considered. The threshold for this inquiry depends on individualized factors.

## **How to Properly Notify Employees of Fundamental Changes**

Notifying employees that negative changes will be made to their terms and conditions of employment has long been thought to protect against liability. Often it does. However, there are technical aspects of how to properly deal with such notice that are critical to protecting employers. In 2008, the Ontario Court of Appeal set out the proper approach.

In *Wronko v. Western Inventory Service Ltd.*, the Court stated that an employee has three choices when faced with unacceptable changes to terms and conditions of employment:

1. accept the change in the terms of employment;
2. reject the change and sue for constructive dismissal; or
3. clearly reject the new terms and continue working. If that happens, the employer may respond by terminating the employee with proper notice and offering re-employment on the new terms. If the

*continued page 14...*

Feature

# IPM's Spotlight on Members



**Connie Olson,  
RPR, CMP,  
Regional Director,  
IPM Associations  
Edmonton  
Chapter**

## IPM Associations 2015 Member of the Year

IPM Associations is pleased to introduce our "2015 Member of the Year", Connie Olson, RPR, CMP. Connie joined the Edmonton Regional Executive three years ago and has been an active volunteer from the start. She helped her team plan and promote the regional conferences as well as advise on member services. Connie and her team have helped Edmonton become one of the largest and most successful chapters in Canada. This month, Connie assumes the role of Regional Director for the Edmonton Chapter. Connie is presently Strategic Business Partner, HR for Independent Electric & Controls based in Edmonton.

IPM Associations congratulate Connie for her great efforts and achievements. We also thank Independent Electric & Controls for supporting Connie on her initiative as a valued volunteer on IPM Associations National Board of Directors.

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**workplace**  
TODAY



Hendrik Nieuwland LL.B.

Partner, Shields O'Donnell MacKillop LLP



Todd Weisberg, B.A., LL.B.

Associate, Shields O'Donnell MacKillop LLP

# Insubordination: Can You Terminate with Just Cause?

*Considerations for more serious disciplinary response*

Insubordination by employees is a frustrating experience for employers. The effective operation of an employer's business relies upon dutiful employees who complete the tasks assigned to them, treat other employees and members of management with respect and make a positive contribution to the workplace environment. When an employee is insubordinate and does not behave in the manner just described, the employer's business is at risk. Even worse, if the employer finds itself before a Court as a result of problems caused by an insubordinate employee, the Court may nevertheless be sympathetic to the employee.

Fortunately for employers, there are some circumstances in which an employer may dismiss an insubordinate employee for just cause and have the dismissal held up in Court. One circumstance is set out in *Hoang v. Mann*, 2014 ONSC 3762 ["Hoang"], a recent decision of the Ontario Superior Court of Justice.

In Hoang, the self-represented plaintiff Matthew Hoang brought an action against his former employer alleging wrongful dismissal. At issue before the Court was whether the employer had just cause to terminate Mr. Hoang's employment.

Mr. Hoang had been hired to serve as Chief Financial

Officer by the employer, a small company engaged in engineering consulting in the renewable energy sector. Mr. Hoang was hired to assist in raising significant capital for a development project on a fixed term employment contract of 13 months' duration.

Almost immediately after Mr. Hoang was hired, it became clear that he had significant performance issues and behaved in an insubordinate manner on a regular basis. The President and owner of the company worked to coach Mr. Hoang to resolve these issues, but the relationship between the employer and Mr. Hoang instead quickly reached an untenable point. As such, Mr. Hoang's employment was terminated for just cause after only 8 months of employment. Specific instances of Mr. Hoang's insubordination included the following:

- Mr. Hoang was directed to pursue an opportunity which would have capitalized on a government program that provided incentives for the installation of solar panels on agricultural barns. Mr. Hoang did not pursue this opportunity as directed and the employer's President had to instead perform the necessary work.
- Mr. Hoang was instructed to close a deal in which an agreement in principle had been reached, but which

required certain formal steps to close. Instead of closing the deal, Mr. Hoang changed the terms of the deal at the last minute, resulting in significant losses to the employer.

- Mr. Hoang did not provide training on various technologies to other employees.
- Mr. Hoang failed to renew an agreement between the employer and a business partner, despite being expressly ordered to do so. Mr. Hoang's failure caused the employer to lose the partner's business.
- Mr. Hoang agreed to a significant sale of the employer's real estate at a price well below that approved by the employer.
- Despite repeated instruction to treat his co-workers and managers with respect, Mr. Hoang continued to be "unprofessional, uncollegial, ... superior, insolent, rude and unprofessional", according to the Court. Specifically, Mr. Hoang told a senior manager that her actions were "idiotic", yelled and swore at a co-worker, repeatedly called the employer "dysfunctional" and drafted insubordinate emails to the President of the employer. This behaviour led numerous co-workers to refuse to deal with Mr. Hoang prior to the termination of his employment.
- Mr. Hoang refused to follow reasonable directions to apologize to co-workers whom he had verbally abused.

While insubordination alone is not usually sufficient to establish just cause [...], certain factors [...] favour of a more serious disciplinary response [...]

*continued next page...*

Feature

## Insubordination: Can You Terminate with Just Cause? ... *concluded*

As a result of the behaviour outlined above, the Court found that the employer had just cause to terminate Mr. Hoang's employment. In reaching this finding, the Court held that the evidence of the witnesses who testified on behalf of the employer was preferable to the evidence of Mr. Hoang. The Court did not trust Mr. Hoang's account of the events leading up to the termination of his employment because, as stated by the Court, Mr. Hoang's evidence was self-serving and blatantly dishonest.

The Court also affirmed that insubordination will only be found where there is a clear order given by a person in authority to an employee, the employee understood the order

and the employee disobeyed the order. While insubordination alone is not usually sufficient to establish just cause for dismissal, certain factors weigh in favour of a more serious disciplinary response to insubordination, including the following:

- repeated instances of insubordination (rather than a single instance);
- verbal abuse and harsh language toward superiors;
- insubordination that is willful and intentional;
- refusal to apologize; and
- insubordination by managers (rather than by lower-level employees).

Employers deciding whether to terminate the employment of an insubordinate employee for just cause should consider whether any of the above factors are present. While the presence of those factors may increase the likelihood that a termination for just cause will be upheld, each case will be examined on an individual basis and will be determined by the totality of the relevant facts. In addition, it is unlikely that insubordination that does not rise to the level demonstrated by Mr. Hoang will be sufficient to dismiss an employee for just cause.

*Hendrik Nieuwland and  
Todd Weisberg practise  
employment law with the firm  
Shields O'Donnell MacKillop LLP  
of Toronto.*

[...] if the employer finds itself before a Court as a result of problems caused by an insubordinate employee, the Court may nevertheless be sympathetic to the employee.



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**Calgary...** April 26, 2016  
**Edmonton...** April 28, 2016  
**Toronto...** May 4, 2016

More details to follow.



Sarah Manning,  
LL.B.  
Senior Associate,  
Taylor MacLellan  
Cochrane

# Employers Who Discriminate Pay the Price

*Probationary employees have the same rights as all other employees*

Mary is on a three month probation period. She works hard and her performance is average. During month two, she takes leave for anxiety and is out of the office for two weeks. She comes back to work and then goes out again for another week. The leaves are unpaid as her benefits haven't started yet. Her absence is noticed in the office. Co-workers are asking if this could be a pattern and voicing that they don't want to take on her duties every time she is out. Word has made it up the chain of command and your boss says "Mary has to go. What do we do?" But for the anxiety and subsequent leave she would have passed the probationary period. As an HR professional, what do you do?

Mary has the same human rights as any other employee and had them from day one of employment. Since anxiety qualifies as a disability under the Nova Scotia *Human Rights Act*, it can't play any part in the decision to end her employment or claim that she didn't pass probation. Simply letting her probation period end and telling her she didn't pass probation will not save you unless you have concrete valid reasons that are in no way related to her disability to support why she didn't pass probation. Mary is owed the same duty to

accommodate to the point of undue hardship that is owed to long term employees. A human right is just that, regardless of how long a person has been employed with you.

So, in wanting to ensure you protect the organization as best you can, you advise your boss "If we let her go for any reason related to her disability, she could file a human rights complaint against the company." He answers, "That's fine. She is probationary so any money she would get would be minimal, right?" What do you say now?

The best advice is to provide examples of cases where a probationary employee was terminated for discriminatory reasons. In *Brothers v. Black Educator's Association* (2013 CanLII 94697 (NS HRC)), a probationary employee was terminated for discriminatory reasons and received \$11,000 for general damages and loss of income. In *Eagles-Hazelwood v. Mondart Holdings Ltd.* 2005 NSHRC 3 (CanLII) a probationary car salesperson was terminated after one month of employment for discriminatory reasons. She received \$5,150 as general damages and lost income.

It would also be worth mentioning the case of *Lane v. ADGA Group Consultants Inc.* 2008 Carswell Ont 4677 (Ont. S.C.J)

reversing in part *Lane v ADGA*, 2007 HRTO 34 (CanLII) (Ont. Human Rights Tribunal). While it is an Ontario case, it is still good to have it on your radar. In that case, a probationary employee with only eight days on the job was terminated for reasons linked to his disability. He received almost \$80,000 in damages from the human rights tribunal, which was held up on appeal. He received \$35,000 as general damages for the infringement of his human rights, \$10,000 for mental anguish and almost \$35,000 in special damages for the salary he lost because of the violation of his human rights. He had only worked for them for eight days.

These cases reaffirm that probationary employees are entitled to the same human rights protections as other employees. Minimal years of service does not mean minimal rights when it comes to human rights! Keep this in mind as well when occupational health and safety matters arise. The Nova Scotia *Occupational Health and Safety Act* does not differentiate between probationary and non-probationary employees when it comes to safety concerns.

*Sarah Manning is a Senior Associate Lawyer with Taylor MacLellan Cochrane and can be reached via email at [manning@tmclaw.com](mailto:manning@tmclaw.com).*

Simply letting [the] probation period end and telling [the employee they] didn't pass probation will not save you unless you have concrete valid reasons that are in no way related to [their] disability [...]

Feature



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# Don't Become the Next Victim of Identity Theft

*Take the extra ounce of prevention*

As we grow more connected through the Internet, we are also growing more at risk to criminals who want to access our banking and credit information. Identity theft is a growing problem in Canada and across North America. The FBI calls it America's fastest growing crime. The Canadian Council of Better Business Bureaus has charted the costs of these crimes to individuals and businesses in multiple billions of dollars annually and rising. Canada's largest credit bureaus continue to report thousands of identity theft complaints every month.

## **So what is Identity Theft?**

According to the RCMP, identity theft occurs when someone takes possession of your personal data including your name, address, social insurance number, your credit card number or driving license, etc. The crime is committed with the intention to take illegal advantage of your identity, making purchases with your credit card. In more severe cases, identity thieves may try to even sell your property and embezzle the money.

## **How do they do it?**

These gangs of criminals use both conventional and sophisticated methods to get your personal information which they then use to access your financial information, credit cards and banking info. They may go through your garbage or your mailbox to look for receipts or credit card statements. They may try to trick you by phone into giving them your ATM access code or credit card numbers.

In recent years, they are using more elaborate and technologically advanced schemes to access your

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According to the RCMP, identity theft occurs when someone takes possession of your personal data [...] with the intention to take illegal advantage of your identity, [...]. In more severe cases, identity thieves may try to even sell your property and embezzle the money.

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personal data. They use the Internet for operations like skimming, phishing and hacking that allows them to gather information and profiles of their intended victims. They also utilize advanced computer technology such as spyware and hidden viruses to get inside your computer at home and at work. This latest trend is becoming more popular as people are catching on to their more traditional scams.

## **What can you do to prevent it?**

According to the Canadian Anti-Fraud Centre, there are steps that you can take to protect yourself against identity theft. In their view prevention is the best way to deal with this crime. Here are some ways that you can be proactive and preventative in dealing with identity thieves:

Be particularly wary of unsolicited e-mails, telephone calls or mail attempting to extract personal or financial information from you.

Review the identity documents you carry in your wallet or purse. Remove any you don't need and keep them in a secure location.

Check your credit reports, bank and credit card statements regularly and report any irregularities promptly to the relevant financial institution and to the credit bureaus.

During transactions, it's safer to swipe your cards yourself than it is to allow a cashier to do it for you. If you must hand over your card, never lose sight of it.

Always shield your personal identification number when using an ATM or a PIN pad.

Memorize all personal identification numbers for payment cards and telephone calling cards. Never write them on the cards.

Familiarize yourself with billing cycles for your credit and debit cards.

Make sure you shred personal and financial documents before putting them in the garbage.

When you change your address, make sure you notify the post office and all relevant financial institutions (your bank and credit card companies).

Have your computer checked regularly. If you notice that it is

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*continued page 14...*



Dmetri Berko, RPR  
Principal and Learning  
& Development  
Manager, DMA Canada

ASK the Expert

# Improve the Third-Party Experience

*Look at both the candidate's and client's perspectives*

**Q:** As third-party recruiters, can you tell us about recent trends you are seeing with a focus on the candidate side?

**A:** We notice some very interesting trends forming particularly in Western Canada.

1. The candidate experience with recruiters is generally very bland and often even negative. As a trainer in our organization, I set high standards of tracking and follow-up with our recruitment team. This includes closing the loop with candidates both successful and unsuccessful in each search.

It's imperative to engage candidates not only with the current search, but also explore what else they are doing to find a position. Are they interviewing elsewhere? Have they ever used a recruiter in the past? The more you know at the start, the better the chances of establishing a good relationship later on.

2. Candidates have high expectations of agents to "work" for them. I find myself educating candidates on the 'world' of recruiting explaining how we generate revenue. I know when I was first a candidate with a third-party recruiter, I had no idea

how they made money — it certainly wasn't coming from me.

Whether or not you like the metaphor, we work in a brokering business where our 'product' can choose to be sold or not. Everyone needs to be on the same page about who is paying, when they pay and what this entails.

3. Most employers are looking to fill positions immediately. In a rush to find "Mr. or Ms. Right", clients sometimes settle for "Mr. or Ms. Right-Now." My recruiting mentor and boss always claims "The best available candidate wins". As the agent, we have a responsibility to not only perform a thorough search vetting as many possible alternates as needed, but from the very start, the most important issue is to KNOW YOUR CLIENT. The value-proposition of using a third-party recruiter begins to erode once you have a candidate fall-off and then you have to relaunch the search.

**Here are some suggestions to third-party recruiters:**

**Candidate Experience —**  
This is often an emotional and tumultuous time in their lives. We need to shepherd them through the process quickly, but we should not forget that we are handling a fragile person!

**Candidate Expectations —**  
Prepare up-front contracts and fully explain the proposed process. Nearly everyone will have a bad experience with a recruiter at some point along the way. Don't let theirs be with you!

**Candidate Fall-off —**  
Clients hire the "best available candidate". No matter how many you present, the candidate who is hired may not work out. Spend as much time as you possibly can to get to know your client in order to avoid costly repeat searches.

It is absolutely imperative to make the time to get to know both your candidates and your clients. We see a lot of people trying to cut corners in a rush to get positions filled and your candidates placed. The last thing your organization needs is negative feedback in your own backyard. Make sure your recruiters are doing their best to build solid relationships. The good relationships you establish now will only help you down the road.

*Dmetri Berko, RPR is Principal and Learning & Development Manager, DMA Canada, Calgary, AB. He can be reached at dmetrib@dmacanda.net.*

It is absolutely imperative to make the time to get to know both your candidates and your clients. [...] The good relationships you establish now will only help you down the road.



Akeela Davis

CEO,  
Motivation Map  
Solutions Inc.  
President,  
Sirius Strategic Coach

# The Engaged Workforce: The Good, the Bad and the Ugly

*Look at the rewards and the price tags*

**H**ow many times have you experienced this situation?

You walk into an office or store. You are greeted with a warm smile and asked how you may be helped. You tell them you have a problem and the nature of it. You get a sympathetic smile. You are invited to take a seat while they find just the right person to help you. The person you need is not available. However your greeter helps you as much as they can. They get the details about your problem, your desired resolution and timeline involved, if any. They promise that you will be contacted within a certain time period.

You get home two hours later and there is a status update message from the greeter. It informs you that your issue is now in the right hands and gives you their contact information.

You have just met an engaged employee. Will your experience colour your view of the company?

This is one of many reasons why employee engagement is the holy grail of organizations today. It makes a huge difference in their ability to compete, survive and be profitable. Most studies have proved it.

The Corporate Leadership Council studies had two important findings. One was that high engagement companies grew profits up to 3 times faster than their competitors. The second was about retention. Highly engaged employees are eighty seven percent (87%) less likely to leave their company.

David MacLeod and Nita Clarke's research (for the UK government) on employee

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In the "Are They Really 'On the Job'?" report, Pont [...] said that high engagement organizations have 2 times higher customer loyalty, 2 times higher productivity and 2 times lower turnover.

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engagement showed its impact on operating income. They found that companies with highly engaged employees experience a 19.2 % higher growth in operating income over a 12-month period. They also found that low engagement resulted in 32.7% lower operating income in the same time period.

In the "Are They Really 'On the Job'?" report, Pont positions the benefits of employee engagement to organizations. He said that high engagement organizations have 2 times higher customer loyalty, 2 times higher productivity and 2 times lower turnover.

Gallup's 142-country study on the "State of the Global Workplace (2013)" investigated employee engagement. It found only 13% of the world's workers are engaged. Even worse, levels of engagement are declining.

North America (USA and Canada) scored the highest employee engagement study. Rounding out the results helps to clarify the picture. On average, thirty percent (30%) of North American employees fall between engaged and fully engaged. Another fifty percent (50%) (whom I refer to as placeholders) is a mix of somewhat engaged and somewhat disengaged. The final twenty percent (20%) are actively disengaged.

Imagine, for a moment, that you and your major competition are having a tug of war. You each have 10 employees on your teams. The teams line up and grab onto the rope. The "go" signal is given. Three people start to pull with all their power, five are holding on to the rope, putting in only as much effort as necessary to stay in place (placeholders). Two people on each team are not participating or worse, they are somehow trying to sabotage the team they are on.

Now, further imagine that one of the placeholders shifts their level of engagement. What if they decided to join the ones playing to win? What might happen if they join the ranks of the saboteurs? It is the organization's actions or inaction that will influence the direction of change.

Earlier, we talked about the rewards of having a high engagement workforce. There is another measure to be taken into consideration. What is the potential price tag of mere engagement and disengagement to organizations?

Here are two ways to do some rough estimates.

The first method uses Gallup 2002 figures where the cost of

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*continued next page...*

Feature

## The Engaged Workforce: The Good, the Bad and the Ugly

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disengagement is \$3,400 per \$10,000 of salary annually.

The second uses the Human Capital Institute model. It associates a percentage factor to the level of engagement. The individual's annual salary is then multiplied by the appropriate factor to establish their value to the organization. The factors are as follows: highly engaged is 120%, engaged is 100%, somewhat disengaged is 80% and fully disengaged is 60%.

Experts in the field have identified numerous drivers to employee engagement.

Many programs have been developed and delivered around them. Organizations spend mega-thousands annually to improve employee engagement. Yet, many have barely held on to their status quo. Why?

The fault is not in the solution—it lies in the process. Organizations are sold (and are often only willing to pay for) solutions to relieve the current symptom or pain. That is like taking painkillers to deal with a brain tumor. Put a good solution in a bad system and the system wins every time.

High engagement environments demand high commitment from management. There is no magic wand. It takes knowledge, planning, time and involvement at all levels to create long-term success.

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## Navigating Constructive Dismissal in Tough Economic Times

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employer does not take this course and permits the employee to continue to fulfill his or her job requirements, then the employee is entitled to insist on adherence to the terms of the original contract. As the Court stated: "I cannot agree that an employer has any unilateral right to change a contract or that by attempting to make such a change he can force an employee to either accept it or quit."

### **Duty to Mitigate**

If there is a constructive dismissal, employers have the ability to offer continued employment under the new terms as a way for the employee to mitigate any damages. There may be an obligation upon the employee to accept such offers where not demeaning and where reasonable in the circumstances.

### **Conclusion**

In looking to trim employee costs without terminating employees, employers should look for changes that are not fundamental, seek agreement or terminate the terms in accordance with proper notice. When all else fails, mitigation or litigation may be the result.

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## Don't Become the Next Victim of Identity Theft

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slower than usual or people tell you that they have received a suspicious e-mail from your account, turn the computer off and have it thoroughly inspected by an expert.

Ensure that you have reliable anti-virus and malware detection software on your computer and that it is up to date.

Never give anyone your personal password, especially over the Internet.

Be a careful online shopper and only deal with reputable suppliers and retailers that have a secure credit system.

Don't open e-mails or attachments from people you don't know.

Be creative in your passwords and don't use the same one for every account.

Don't share all your personal information on social networks, like when you are going to be away on vacation.

Remember that when it comes to your personal financial information, you can never be too careful, but you can certainly be sorry later.

*Members Quarterly Staff Writer*

**Philip H. Gennis, J.D., CIRP**  
Senior Principal



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