

Blaney McMurtry BARRISTERS & SOLICITORS LLP

Benefit Issues: The Latest Word

Presented by :

Elizabeth J. Forster 416.593.3919 eforster@blaney.com

2 QUEEN STREET EAST, SUITE 1500 TORONTO, CANADA M5C 3G5

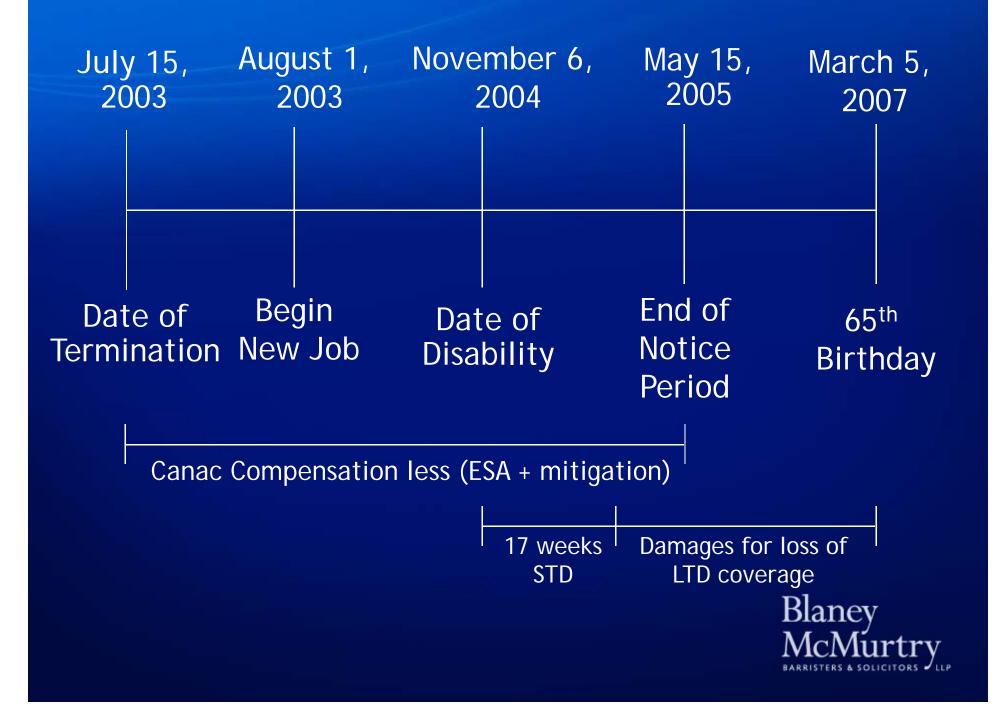
TEL 416.593.1221 FAX 416.593.5437 WWW.BLANEY.COM

Brito v. Canac Kitchens



Age: 55
Years of Service: 24
Income: \$71,000





Recommendations:

1. Provide LTD coverage with a conversion privilege

2. Contract out of obligation to provide LTD coverage on termination beyond the statutory notice period



3. Reimburse employee for cost of replacement coverage



O'Neill v. General Motors



2 Classes of Retirees:

1. Former non-union salaried employees

2. Former Executives



 Retirement benefits are important to retired employees and their families



2. Retirement benefits can be changed even after employee has retired provided contract is clear and unambiguous



Salaried Employees

"Your health care coverage... will be provided at GM's expense for your lifetime."



"Your basic life insurance will be continued for you for your lifetime."



 Benefits provided as deferred compensation not gratuitously



2. Whether benefits (or vested rights) can be changed depends on whether employer has contractual right to do so



3. No clear reservation of right to reduce benefits



4. Language in benefit documents such that employees had reasonable expectation benefits would continue for life



 Employment contract will be interpreted to protect employees unless there is clear language to the contrary



Executives

"Benefits paid under this program may be reduced or eliminated with prior approval of the Board"



"Executives should reasonably have understood that the... [benefits] were not guaranteed and could be reduced or eliminated even after retirement."



Salaried Employees Eligible for Retirement

Post 1994:

GM "reserves the right to amend, modify, suspend or terminate any of its programs (including benefits)...



Changes to plans can be made during active employment but not after retirement



The End

