

CBM LAWYERS

One of Alta.'s largest boutique defence firms expands practice

Edmonton-based Chomicki Baril Mah, or CBM as it is commonly known, now acts for clients in five jurisdictions outside of Alberta – B.C., the Yukon, N.W.T., Nunavut and Hong Kong. With 24 experienced lawyers, the firm is one of the largest insurance defence boutiques in Alberta.

Five CBM partners offer their



Schmit

expertise beyond Alberta. They are: Tom Schmit, called to the Law Society of N.W.T. in 2008, the Yukon bar in 2007 and the B.C. bar in 1998; Debra Woodske, called to the bar in Nunavut

in 2014; Galan Lund, called to the B.C. bar in 1992; Nanette Kufeldt, called to the N.W.T. bar in 2012; and Brian Thompson, admitted to the B.C. bar in 2013.

Joining the ranks of lawyers admitted in multiple jurisdictions is Shawn Sipma, who will be called to the Yukon bar later this year.

As part of the CBM team, the five partners focus on litigation and dispute resolution, and can handle large or complex disputes in highly specialized areas. They also help the firm stay on top of new legislation and court rulings and help identify emerging issues that will impact clients.

A case in point is the Yukon government's recently amended *Fatal*

Accidents Act, which saw new provisions coming into force this past April. The amendments add claims for bereavement, replacing any Court's quantification of awards for loss of care, guidance and companionship. Prior to the changes, old rules had applied to quantify



Woodske

such claims on a subjective basis.

The new legislation provides fixed awards for bereavement – \$75,000 to a deceased's spouse, \$37,500 to each of the deceased's parents or \$75,000 to an individual parent, and \$45,000 to each of the deceased's daughters or sons.

Compared to legislation in Alberta, the Yukon Act has differences in wording. The definition of spouse, for instance, includes a person married to the deceased or a person who cohabited with the deceased for 12 months. In Alberta, no time period is specified to qualify as a spouse. Additional amendments relate to expense claims for the care and well-being of the deceased prior to death and for expenses that pre-date death.



Kufeldt

The changes clarify the value of claims that arise after the amendments came into force regarding fatal accidents in the Yukon.

There are also differences for damage awards for non-pecuniary loss or bereavement in the western provinces and the Territories. At issue is who can claim damages pursuant to legislation.

In B.C., N.W.T. and Nunavut, non-pecuniary loss or bereavement damages are still not permitted. The courts in B.C. and N.W.T. have dealt with the loss of love, guidance and affection as a pecuniary loss for which damages are awarded. The B.C. Supreme Court recently held that the conventional award has an upper limit of \$35,000, with the same approach followed by N.W.T.

To date, the Nunavut Court of Justice has not specifically addressed this issue.

In Alberta, non-pecuniary loss or bereavement damages for pain and suf-



Lund

fering are non-negotiable. The Court awards damages for grief and loss of the guidance, care and companionship of the deceased in the amounts of \$82,000 to the spouse or adult interdependent partner, \$82,000 to the parent or parents of the deceased, and \$49,000 to each child of the deceased.

In Saskatchewan the legislation provides for non-pecuniary loss/bereavement damages, also without reference to evidence of damages, for death that occurs on or after Aug. 1, 2004. Damages are mandatory for grief and loss of the guidance, care and companionship of the deceased person in the following amounts: \$60,000 to the spouse of the deceased, \$30,000 to each parent and \$30,000 to each child.



Thompson

In the Yukon, amendments to legislation came into force April 24 of this year. They add claims for non-pecuniary loss/bereavement damages similar to Alberta and Saskatchewan.

The non-pecuniary loss/bereavement portion of the legislation specifically provides that the Court shall award damages for grief and the loss of guidance, care and companionship as follows: \$75,000 to the deceased's spouse; \$37,500 to each of the deceased's parents or, if the action is brought for the benefit



Sipma

of one of the parents, \$75,000; and \$45,000 to each of the deceased's daughters and sons.

In Alberta, Saskatchewan and the Yukon, bereavement awards are made without evidence of damage to avoid subjecting survivors to examination and providing testimony as a result of having lost a family member. **IP**