



## ***Dawson v. Tolko Industries Ltd. – Update***

On March 16, 2011, the much anticipated decision of the BC Supreme Court in the pension case, *Dawson v. Tolko Industries Ltd.*, was pre-empted when the parties filed a Consent Order dismissing the action. The pension industry in Canada has been following the case closely due to its potential precedential value in the area of plan conversions and member communications.

The claim arose out of a conversion by Tolko Industries Ltd. (“Tolko”) from a defined benefit (“DB”) pension plan to a defined contribution (“DC”) pension plan. The plaintiffs, present and former employees who elected to convert their DB pensions to the DC plan, sought damages from Tolko, Tolko’s consulting firm, Towers Perrin, and a Towers Perrin employee with regard to their respective roles in the conversion. The plaintiffs alleged that their DC pension benefits were less than what they would have received had they elected to remain in the DB plan, and that the conduct of the defendants in preparing the written materials regarding the conversion, on which the plaintiffs relied in making their decisions, constituted a breach of fiduciary duties and the standard of care.

While a court decision is no longer forthcoming in the Tolko case, a similar action arising out of a plan conversion is currently before the B.C. Supreme Court involving a claim against Teck Metals Ltd., Towers Perrin, and others. In *James Weldon v. Teck Metals Ltd.*, the representative plaintiff claims damages for breach of fiduciary duty and negligence on behalf of the class of plaintiffs who ceased to be members of DB plans and commenced membership in DC plans.

We will provide updates on *Teck* as the case develops.

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If you have questions or would like further information on this or on other related topics, please contact any member of the Spectrum HR Law LLP Pensions, Employment Benefits, and Executive Compensation practice group:

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