



MCKERCHER LLP BARRISTERS & SOLICITORS



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## FORMER EMPLOYEES' TORT CLAIM BARRED

A Saskatchewan Court of Queen's Bench case (2018 SKQB 224 (CanLII)) provides an important reminder to employers in Saskatchewan that the workers' compensation system can protect your company against a wide variety of employee claims, including workplace injuries of a psychological nature.

In that case, the Plaintiffs sued the corporate defendant for compensation relating to treatment they allegedly received from their floor manager. It was alleged that the floor manager committed sexual assault and battery against them during their employment, and the Plaintiff sought tort damages, in addition to constructive dismissal damages. The corporate defendant applied to Worker's Compensation Board ("WCB") for a determination under *The Worker's Compensation Act* (the "Act") of whether the tort damages were properly under the WCB's jurisdiction on the basis that these specific injuries arose out of and during the Plaintiffs' employment. The WCB agreed that the injuries fell under the WCB's jurisdiction. As result, the Plaintiffs were barred from claiming these damages in the Court of Queen's Bench. The constructive dismissal aspects of the claim, however, did not fall within the WCB's jurisdiction and that aspect of the lawsuit continued.

This case is an important reminder to employers in Saskatchewan: even though workers' compensation premiums can be an expensive aspect of managing your company, they also act as important (mandatory) insurance to your business. 

### About the Author:

Kit McGuinness maintains a litigation practice with particular emphasis on Labour and Employment Law and Commercial Litigation.

### About McKercher LLP:

McKercher LLP is one of Saskatchewan's largest and most experienced law firms with offices in Saskatoon and Regina. Our deep roots and client-first philosophy have made our firm rank in the top 5 in Saskatchewan by Canadian Lawyer magazine (2017). Integrity, experience and capacity provide innovative solutions for our clients' diverse legal issues and complex business transactions.