

From: Evan Fox-Decent, Prof. <evan.fox-decent@mcgill.ca>
Date: Wednesday, August 21, 2024 at 10:18 PM
To: Robert Leckey, Prof. <robert.leckey@mcgill.ca>
Cc: Fabrice Labeau, Prof. <fabrice.labeau@mcgill.ca>, Christopher Manfredi, Prof. <christopher.manfredi@McGill.Ca>, sataogul@mmgc.quebec <sataogul@mmgc.quebec>
Subject: Re: A message from Christopher Manfredi and Fabrice Labeau

Robert,

I am writing to you on behalf of AMPL to stop sending such messages. Without even getting into the content, which we strongly disagree with, caselaw clearly and unanimously states that the employees of the bargaining unit have to be free to listen or not to receive the message of the employer (see *Syndicat Canadien des communications, de l'énergie et du papier, local 194 c. Disque Améric inc.* [1996 CanLII 17642 \(QC TT\)](#), [1996] T.T. 451., cited in nearly all decisions in the province on an employer's right to address employees on union matters).

By sending an email entitled "a message from Christopher Manfredi and Fabrice Lebeau" as Dean, you are clearly violating this right as all professors will inevitably feel obligated to open and read this email as part of their tasks.

Moreover, the same caselaw clearly states that an employer cannot in any case use his authority as an employer, on the basis of the subordinate relationship established with employees, to propagate his opinions against a union.

Not only are you violating these principles, but you are doing it at a particularly sensitive time in bargaining.

We are therefore putting you on notice to not do this again and if you do, please note that we will be undertaking all recourses, including emergency ones, to make it stop.

Regards,

Evan

From: LAWPROFS - Discussion List for Law Professors <LAWPROFS@LISTS.MCGILL.CA> on behalf of Robert Leckey, Prof. <robert.leckey@MCGILL.CA>
Date: Wednesday, August 21, 2024 at 9:14 PM
To: LAWPROFS@LISTS.MCGILL.CA <LAWPROFS@LISTS.MCGILL.CA>
Subject: A message from Christopher Manfredi and Fabrice Labeau

Dear colleagues,

I was asked to forward the message below to you.

Best,
Robert

Dear professors in the Faculty of Law,

We write to provide further facts, given the sense that McGill's confirmation on 18 August that it would not participate in further conciliation sessions this week was unexpected, and even an act of bad faith.

AMPL sought the appointment of a conciliator in March 2023. McGill subsequently found the conciliator's presence helpful. AMPL's repeated public assertions that McGill has bargained in bad faith have disinclined McGill to meet AMPL without the presence of a neutral third party. While it is customary for the same conciliator

to stay with parties throughout the whole process, with deepening knowledge of their issues, McGill on one occasion accepted a substitute conciliator to avoid cancelling a session.

In May, conciliation sessions were set for 19, 21, and 29 August, as well as 4 September.

After the conciliation session on 7 June, McGill's decision to request arbitration signaled its conclusion that further sessions of conciliation would not bring progress.

On 24 July, the ministry of labour communicated the minister's decision accepting to refer the dispute to arbitration. In other words, the minister agreed with McGill that further conciliation sessions would not be fruitful. On 6 August, AMPL filed for judicial review of the minister's decision referring the dispute to arbitration. AMPL also sought a stay order of that decision.

Meanwhile, AMPL wrote to the chief conciliator at the ministry of labour, indicating that it had lost confidence in the conciliator. AMPL repeated this loss of confidence during the hearing before the Superior Court on 13 August.

On 16 August, the Superior Court rejected AMPL's application for a stay order.

AMPL knew, or should have known, where things stood regarding the possibility of further conciliation sessions. There was no longer a conciliator who enjoyed the confidence of both parties.

On the evening of 16 August and morning of 17 August, AMPL sent messages and documents relating to what it still seemed to see as the upcoming conciliation sessions. Those documents made plain that the substantial gap between the parties that had led to McGill's conclusion in June remained. On 18 August, McGill clarified to AMPL that it would not be attending the 19 August conciliation session.

Some may wonder why McGill did not notify AMPL earlier that conciliation sessions would not take place on the dates reserved back in May. There were two successive reasons. First, McGill initially hoped that the parties might swiftly agree on an arbitrator and that the arbitrator could use one or more of those mutually agreeable dates to begin mediation. Recall that from 24 July, the parties might have agreed on an arbitrator. Second, once AMPL sought to stay the minister's decision, on 6 August, cancelling those dates would have been premature. Had the stay been granted, it would have been appropriate to use those dates for the ongoing conciliation.

There was never discussion that keeping the conciliation dates would somehow induce AMPL members to complete their grading from the winter term. We presume AMPL members carry out their academic duties in good faith. Once they returned to work on 20 June, the unfinished grading was of high priority among those duties and the Faculty of Law accepted AMPL's proposed timeline for it.

To sum things up, as this week began, the conditions for further conciliation sessions were not present. McGill had, after all, concluded in June that further conciliation sessions would not be fruitful, and the minister of labour agreed with that assessment in July. Last, on 20 August, the chief mediator-conciliator at the ministry of labour wrote to the parties: "After taking note of the various exchanges between the parties over the past few days, we believe that it is not appropriate to continue the conciliation process at this stage."

Once an arbitrator is appointed, that person will begin by working with the parties in mediation mode to see if progress can be made on matters under dispute. McGill looks forward to that process.

Christopher Manfredi
Provost and Executive Vice-President (Academic)

Fabrice Labeau
Vice-President (Administration and Finance)