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Risk Management Counsel of Canada presents:

Employer's Dream: Insurer's Nightmare! Employer's Liability: The Need for a Canadian Model

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Areas of Potential Liability for Employers

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4 bases for liability:

- Statutory Liability
- Contractual Liability
- ▶ Tort
- Vicarious Liability

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1. Statutory Liability

- a) Canada Pension Plan Act
 - ▶ remit premiums
 - ▶ financial penalties
 - ▶ fines/imprisonment
 - officers' and directors' liability



- b) Employment Insurance Act
 - ▶ remit premiums
 - ▶ financial penalties
 - ▶ fines/imprisonment
 - officers' and directors' liability

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Statutory Liability Continued

- c) Occupational Health & Safety
 - requirements to ensure employer provide healthy and safe working environment
 - criminal sanctions (fines) for violation



- d) Pay Equity
 - ▶ requires compliance with pay equity standards
 - pay equity plans may be imposed
 - ▶ fines for some violations

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Statutory Liability Continued

- e) Employment Equity
 - imposes standards designed to promote employment equity
 - employment equity plans may be imposed



- f) Workers' Compensation
 - insurance scheme for employees injured in the course of employment
 - employers liable for premiums

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Statutory Liability Continued

- g) Pension Benefits
 - imposes requirements with respect to funding and administration of pension plans
- h) Whistleblower Legislation
 - protection for employees who report environmental damages



- i) Criminal Code
 - imposes legal duty on employers to take reasonable steps to prevent bodily harm to employees
 - ▶ fines

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Statutory Liability Continued

- j) Employment Standards
 - imposes minimum standards of employment
 - enforcement may include payment of amounts owed to employee, damages, fines
 - some officers' and/or directors' liability



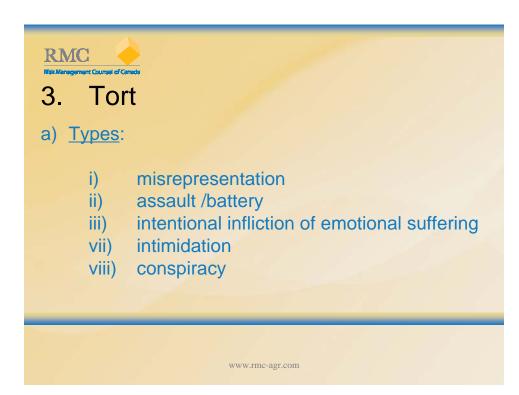
- k) Human Rights
 - prohibits discrimination on enumerated grounds
 - damages

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2. Contractual Liability

- a) on termination of employment
 - i) contractual notice period
 - ii) implied term of reasonable notice
- b)benefit/pension coverage
- c) collective agreements
- d)vested rights
- e)fiduciary obligations







- b) Additional Damages:
 - i) aggravated damages
 - ii) punitive damages

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4. Vicarious Liability

An employer is liable for the negligence or wrongful acts of its employees if the acts are committed in the course of employment.

It is a doctrine of strict liability.



Areas of Potential Liability for Employers

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