



Examination – essay 2

NAME:

Course Name: Canadian and International Law
Course Code: CLN4U
Instructor: Prof. Dr. Panayotis Zamaros
Number of cover pages (including this page): 1

Students are reminded of NJC policy on Academic Honesty:

“The very highest standards of academic honesty are expected of students of Neuchâtel Junior College. Cheating, plagiarism and academic dishonesty of any kind will not be tolerated. Students who are found cheating on any required course work, examination, quiz or essay will receive a failing grade for that work”.

INSTRUCTIONS

Open source examination: course notes, textbooks, online texts and references are allowed. Used material is to be referenced. Consider question instructions with due care. Answers are to be typed on a computer and e-mailed at the end of the allotted time. The allotted time is 75 minutes. This examination is corrected by means of the usual ‘assessment grid’.

TASKS

Schumacher v. Toronto-Dominion Bank: Brief

Schumacher started as a bank trainee in 1984 and by 1993 had become a senior vice-president. As head of worldwide trading and risk management, he was responsible for trillions of dollars in investments. The president of the bank stated that Schumacher was one of a select few of his generation who one day "should be in the group running the Bank." Schumacher's career was on the rise. In 1994, he earned \$1.6 million.

In early 1995, without consulting Schumacher, the bank hired Wright to take over some of his responsibilities. Schumacher's lawyer sent a letter to the bank. By reducing his responsibilities, the letter stated, the bank had demoted Schumacher amounting

in law to constructive dismissal. Schumacher was prepared to negotiate a termination package and would return to work once negotiations started.

The bank stated this was not a demotion and told Schumacher to return to work. In one memorandum it wrote: "We [the Bank] remain convinced that ... there will be no significant adverse impact as a result of this restructuring." When Schumacher did not return to work, the bank sent him a letter. It understood from all of your actions, that you [Schumacher] have resigned from our employ." The resignation was to be effective immediately. Schumacher sued the bank for constructive dismissal.

At trial, three bank employees testified that the bank had effectively brought Schumacher's career to a halt by hiring Wright. A memo from Schumacher's immediate superior, written just before Wright was hired, stated: "Be prepared to offer C. J. Schumacher a package (constructive dismissal)".

In 1997, the Trial judge awarded Schumacher in excess of \$1.7 million in damages for constructive dismissal. The bank appealed.

Examination question

As a lawyer employed by the bank, consider appropriate employment legislation and facts to defend, with justification, the bank's position at the Ontario Court of Appeal.

EXPECTATIONS

As per the info pack

WEIGHTING

As per the info pack

ACHIEVEMENTCHART

As per the info pack