Class action based on the thesis of constructive dismissal: the Superior Court dismisses the application for authorization

August 1, 2013

In July 2007, Allstate Insurance Company of Canada (hereinafter referred to as “Allstate”) sent a notice of change of working conditions to all its insurance agents. Allstate was then employing approximately 90 agents in Quebec.

The notice was sent 26 months prior to the implementation of the changes, which were particularly related to their workplace and their remuneration scheme (the Employment Agreements of the agents and their Employee Manuals both stated that Allstate reserved the right to modify the working conditions of the agents and their remuneration scheme).

One of the agents, Mr. Agostino, disagreed with said changes and resigned because he considered that he was the subject of constructive dismissal. He thereafter filed a motion to be authorized to institute a class action against Allstate in the name of the agents.

In its July 3, 2013 decision[1], the Superior Court dismissed the motion, among other things on the ground that a remedy for constructive dismissal is ultimately an individual claim. In fact, the facts underlying a remedy for constructive dismissal must be analyzed on a case by case basis, in the light of the facts specific to each employee who alleges having been the subject of a material and unilateral change of the essential terms and conditions of his or her employment contract.

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[1] *Agostino* v. *Allstate du Canada, compagnie d’assurances*, 2013 QCCS 3049

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