



INTEGRITY BY MCCARTHY INC

Preventing & Resolving Workplace Harassment, Violence, Wrongdoing & Fraud



Challenges of Testifying to Defend Your Investigation

Facebook Live Session on June 3, 2020

CHALLENGES AT THE BEGINNING



- Few investigators get the “pleasure” of defending their investigations.
- Employers rely on your investigation results.
- Recourse comes in many forms, depending on jurisdiction.
- Did you respect labour and discrimination laws?
- Your reputation is at risk, but you may not know it.
- How bullet-proof was your work?
- You have no control over what happens.

CHALLENGES IN PREPARATION



- Complaints may not come to fruition for a few years.
- Memories fade, including your own.
- Political and legal power play – blame the investigator.
- Full disclosure – did you miss something?
- Missing documents and evidence, version control issues.
- Varying preparation times for your testimony, including last minute.
- Getting on the same page as the lawyer presenting the case.

CHALLENGES IN TESTIFYING



- Public and formal.
- Memories of events.
- New documents are disclosed.
- Did you meet the procedural fairness test?
- Are you defending the investigation or answering questions to help the adjudicator decide?
- Being out of sync with your lawyer.
- Cross examination.

LIVING WITH THE FALL-OUT



INTEGRITY BY MCCARTHY INC

Preventing & Resolving Workplace Harassment, Violence, Wrongdoing & Fraud

- Your reputation.
- Your clients' reputation.
- The complainants' reputation.
- Your clients' decision to accept or contest.
- Learning opportunities.

Take-Aways



- Learning experience.
- Bullet-proofing approach upfront.
- Procedural fairness and natural justice.
- Delivering what your client needs, not what they want.
- Don't fear the process.



INTEGRITY BY MCCARTHY INC

Preventing & Resolving Workplace Harassment, Violence, Wrongdoing & Fraud

Ken McCarthy
Ottawa, Ontario
Canada
613-794-6127

kenneth@integritybymccarthy.ca

<https://integritybymccarthy.ca>

<https://www.linkedin.com/in/kenneth-mccarthy-pci/>

<https://www.facebook.com/kenneth.mccarthy.9469>