

## Level Chan

### Partner

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Language(s) spoken: English

Bar Admission(s): Nova Scotia, 2003

Legal Assistant(s): [Crystal Palmer](#)

Level advises employers and pension and benefit plan sponsors and administrators, including for many of the largest plans in Atlantic Canada. He helps them manage risk and liability in the governance, administration, investment management and amendment of pension and employee benefits plans, as well as defend against claims under those plans. By analyzing legal obligations and strategically planning how to meet them, he provides perspective, as well as timely and effective solutions to these challenges. Level is knowledgeable and experienced with regional, national and international approaches to labour and employment, pension and benefits and executive compensation issues. Examples of his work include:

#### Pensions and Employee Benefits

##### 1. Advice to Employers and Pension and Benefit Plan Administrators and Sponsors

- Advising on amendment, fiduciary duties, administration, funding, joint sponsorship and governance of many of the largest pension plans in Atlantic Canada, including plans in the public service, retail, manufacturing, resource, health care, utility and education sectors.
- Advising plan sponsors on the amendment of employee benefits including restructuring of benefits funding and pooling, administrative services only (ASO) arrangements, flex plans, and post-retirement benefits.
- Advising on plan administration issues, including spousal division, survivor benefits and plan records.
- Advising on the conversion of pension plans in the private and public sectors to shared risk or target benefit plans.
- Advising on consolidation and conversion of pension plans to larger plans, including through the application of special legislation.
- Amendment of pension plans, retirement savings plans (e.g. LIFs and LIRAs), and related documents for compliance with pension legislation.
- Advising on pension, benefit and employment matters in mergers and acquisitions, including acquisitions of retail,

manufacturing, technology, professional services and forest products companies.

#### Example matters

- Conversion of pension plan for a Nova Scotia manufacturer from a defined benefit to a multi-employer target benefit plan.
- Provided advice regarding pension and benefits in acquisition of a large Canadian retail business.
- Negotiating on behalf of educational institutions to convert to joint sponsorship of their pension plans.
- Advising lender on pension issues in a significant (approximately \$80 million) credit facility for a New Brunswick forest products company.
- Advising on restructuring of trust arrangements including conversion to a master trust.

### 2. Investment Advice and Negotiations for Pension Plans

- Advising and negotiating investment management agreements, management services agreements and side letters for pension plan investments including:
  - Discretionary mandates in Canadian, US and global equity, bond, private debt and fixed income.
  - Investment in pooled funds (including with master trusts) for global bonds, emerging markets equity and debt, real estate, infrastructure, mortgages and fixed income (including core).
  - Negotiation and revision of limited partnership agreement in establishment of real estate investment structure.
- Review and advice on transition management and investment consulting agreements.
- Review of other investment agreements and policies, including statement of investment policies and procedures, trust agreements and environmental, social and governance (ESG) policies for defined benefit, defined contribution and target benefit plans.
- Review, advice and negotiation on annuity arrangements for defined benefit and defined contribution plans, including one of the largest defined contribution plans in Canada.

### 3. Pension and Benefits Litigation

- Advising on and responding to claims regarding pension and benefits plans, including retiree benefits.

#### Example matters

- Assisting the Province of New Brunswick in pension actions by retirees and unions, including Charter challenges, with respect to the implementation of the Public Service Shared Risk Plan.
- Representation of a private sector benefits plan sponsor in claims with respect to misrepresentation and bad faith in administration of disability benefit and group life insurance plans.
- Representation of a national bank on pension matters in the wrongful dismissal of a senior manager.
- Representation of a school board in an arbitration on pension plan amendments (increase in employee contributions).
- Representation of a health care facility in an arbitration pertaining to a group RRSP on issues including breach of fiduciary duty.

- Assisting with the representation of a large Nova Scotia manufacturer in defending against a class action proceeding by pension plan members with respect to pension plan amendments, pension plan funding and legal costs.
- Representation of Newfoundland municipality pension plans in response to breach of a fiduciary duty action.
- Representation of forest products companies in Nova Scotia and New Brunswick in pension litigation with respect to spousal pension and plant closure matters.
- Representation of employers in workers' compensation hearings on issues including gradual onset injuries and environmental illness.

#### Executive Employment and Services Agreements

- Reviewing and advising on executive employment, including employment agreements and supplemental employee/executive retirement plans (SERPs), in the public sector as well as private and publicly-traded companies in the bio and ocean tech, medical research, food products, retail, transportation, commercial real estate, health care, entertainment and education sectors.
- Advising on and revising incentive plans, including bonus, stock option, deferred share unit (DSU) and performance share unit (PSU) plans.
- Advising on and drafting services and consulting agreements, including independent contractor, contingent workforce management and payroll services agreements.
- Advising on retirement and post-retirement arrangements, including consulting, transition and part-time work.
- Advising on executive employment matters in mergers and acquisitions, including employment of key persons and non-competition obligations.
- Responding to claims by executives for wrongful dismissal and incentive plan entitlements.

#### Advocacy and Law Reform

Projects and initiatives that Level has lead or contributed to include:

- Various law reform submissions on pension and equality legislation at the Federal and provincial levels.
- Advocacy for increasing the diversity of the judiciary.
- Development of a guide for law firms to measure the diversity and inclusiveness of their workplaces.
- Development of concrete measures to increase the diversity of Canadian Bar Association (CBA) leadership.

## **Practice Areas**

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Education

Human Rights

Labour & Employment

Pensions & Benefits

## **Education & Career**

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## Education

Dalhousie University, LLB, 2002

Dalhousie University, BA (honours), 1999

## Activities

President, [Federation of Asian Canadian Lawyers, Atlantic Canada Chapter](#)

Co-chair, [Racial Equity Committee of the Nova Scotia Barristers' Society](#)

Member, [Dalhousie University Board of Governors](#), Chair, Academic and Student Affairs Committee and Member, Investment Committee

Past Chair, [CBA National Pension & Benefits Section](#)

Past Co-chair, Outreach Committee and Advocacy and Government Relations and Communications Committees of the [CBA's National Pensions & Benefits Law Section](#)

Past Member, Diversity & Inclusion Committee, Stewart McKelvey

Past Co-chair, Students Committee, Stewart McKelvey

Past Vice-chair of [FUSION Halifax](#)

Past President of the [Dalhousie Alumni Association](#)

Past Member, National Board of Directors of the [Canadian Bar Association](#) (CBA)

Past Chair of the [CBA's National Equality Committee](#)

Past Chair of the [Atlantic Regional Council of the Canadian Pension and Benefits Institute](#)

Past Member, Board of Directors of the [Halifax Chamber of Commerce](#)

Past Chair, Membership Committee of the [Halifax Chamber of Commerce](#)

Memberships

Association of Canadian Pension Management

Canadian Pension and Benefits Institute

International Foundation of Employee Benefit Plans

International Pension & Employee Benefits Lawyers Association

Canadian Association of Counsel to Employers

## Accolades

Chambers and Partners Canada 2022-2024 Pensions & Benefits – Nationwide – Canada, Band 4 lawyer

Who's Who Legal: Canada 2023 (Labour, Employment & Benefits)

[Canadian Pension and Benefits Institute Atlantic Region Volunteer of the Year Award, 2015](#)

[CBA Nova Scotia Zöe Odei Young Lawyers Award, 2010](#)

Best Lawyers: Labour and Employment Law, 2021 – 2024

Lexpert rating: Pensions and Employee Benefits, 2016 – 2024

Lexpert® Rising Star: Leading Lawyer Under 40, 2016

## Thought Leadership

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Nova Scotia offers new pension option to private sector employers

November 24, 2023

Deadline extended on CAPSA guideline consultations

September 21, 2022

Pension update – CAPSA releases consultation draft of CAP Guideline No. 3 for comment

May 30, 2022

Amendments to come for more flexibility to correct contribution errors in defined contribution plans

March 07, 2022

New Brunswick regulator seeks input on revised proposed rule under *Unclaimed Property Act*

May 25, 2021

Atlantic Canada pension and benefits outlook 2020

January 13, 2020

Pension plan recovers overpayments made to deceased

November 06, 2019

The road forward: Nova Scotia government announces and seeks input on further regulatory changes regarding funding of defined benefit pension plans

May 14, 2019

Nova Scotia announces changes to defined benefit pension funding

March 13, 2019

Atlantic Canada pension and benefits countdown to 2019

December 28, 2018

Client Update: New Nova Scotia pension plan asset transfer regulations

November 30, 2017

Pensions & Employee Benefits Update: Nova Scotia pension funding framework & regulatory review

October 24, 2017

Client Update: New Nova Scotia temporary solvency relief for defined benefit pension plans

August 10, 2017

Client Update: Pension update: Countdown to Nova Scotia Pooled Registered Pension Plans

May 17, 2016

Pension Primer: Pooled Registered Pension Plans (“PRPPs”) in Nova Scotia

April 22, 2016

Client Update: Nova Scotia Consultation on Pooled Registered Pension Plan (PRPP) Regulations

September 11, 2015

## **Publications**

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Co-author, “Environmental, social and governance factors in pension and endowment fund investment”, Discovery: Atlantic Education and the Law

September 26, 2018

“Amendments to the Canada Pension Plan: Bill C-26”, Stewart McKelvey’s HR Law blog, November 2016

“Discipline and Mental Health Issues – Understanding the Impact”, Stewart McKelvey’s HR Law blog, November 2015

“Policy Development: 5 Policies You Need”, Stewart McKelvey’s HR Law blog, October 2014

“New Brunswick MLAs to join the “Shared Risk Pension Plan””, April 2014

“April 2014: Federal Target Benefit Plan Consultation”, April 2014

Benefit of the Doubt: Litigating Pension and Benefits, Stewart McKelvey’s HR Law blog, 2013

Everything You Say and Do... Another Lesson for Employers Changing Employee Benefits – Benefits Canada website, July 2013

“Actions Speak Louder than Words – Past Decisions May Affect Future Pension Plan Changes”, July 2013

Set “For Life” – Communications put employer “On the Hook” for retiree benefits costs – Mercer in the Mercer/CCH Guide for Employers, June 2013

“Invest in real estate? Pension plans in Newfoundland and Labrador (and elsewhere) do”, March 2013

“Atlantic Canada Solvency Relief Update”, February 2013

“Shared Risk Pension Plan Legislation Introduced”, December, 2012

“PEI Pension Benefits Act Introduced (Yet Again)”, November, 2012

“Amending and Restructuring Pension and Benefits Plan”, Stewart McKelvey’s HR Law blog, October 2012

“Mandatory retirement and working past 65. Damned if you do and damned if you don’t”, August, 2012

"PRPPs not Risk-Free for Employers", July 2012

"Pension 351", Universities Seminar, Stewart McKelvey's HR Law blog, October 2011

"Changing Employee Benefits - Retiree, Disability + Drugs", Stewart McKelvey's HR Law blog, October 2011

"A sign of claims to come? Pension plan administrator commences claim against investment manager in aftermath of collapse of Lehman Brothers" - Journal of the International Pension & Employee Benefits Lawyers Association, May 2009

## **Presentations**

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Osgoode Certificate in Pension Law, "Pension Law in Atlantic Canada" - 2019 to 2024

Lancaster House National Pensions Conference 2024: Emerging Trends in a Changing World - "Keeping Current on Pensions: An Update on Key Caselaw and Legislative Developments"

March 06, 2024

Stewart McKelvey Labour and Employment Client Seminar, "Salary vs. Benefits: Negotiating Hard Compensation Choices in Hard Economic Times Incentive Plans and Termination"

October 24, 2023

CBA Pensions and Benefits Law Online Symposium - "What's New: Pensions & Employee Benefits: Navigating Changes in Law, the Economy and Collective Bargaining"

June 14, 2023

CBA Skilled Lawyers Series: Corporate Stream - "Understanding the Changing Legal Landscape of Perks, Rewards, Compensation and Benefits"

May 02, 2023

Association of Canadian Pension Management, Current and Developing Legal Issues for Pension Plan Sponsors and Administrators"

September 14, 2021

Canadian Bar Association, "What's New in Pensions & Benefits: Case Law and Regulatory Update"

April 01, 2021

Institute of Corporate Directors, "The Board's Role in Advancing Organizational Diversity, Equity & Inclusion"

October 29, 2020

Osgoode Certificate in Pension Law, "Pension Law in Atlantic Canada" - 2019 to 2022

CPBI Atlantic Regional Conference, "Diversity in Health and Benefits Plans"

October 04, 2018

LSPEI/CBA – PEI Branch, “Pendant for Pensions: An Afternoon on Pension Law”

September 20, 2018

CBA/ABA/IPEBLA Global Pension and Employee Benefits Lawyer Conference, Moderator – “Workshop IV: Discrimination and Pension & Benefits Plans”, June 10 – 12, 2018

Benefits Breakfast Club, “Protecting the Integrity of a Benefits Plan – Legal Risks”

April 25, 2018

CBA Administrative Law, Labour and Employment Law Conference, “The Aging Workforce – Accommodation & Benefits”, November 2017

CBA Pensions and Benefits Webinar, “What’s New in Pensions and Benefits: Case Law and Regulatory Update”, June 2016 & June 2017

“Amendments to the Canada Pension Plan: Bill C-26”, November 2016

“Discipline and Mental Health Issues – Understanding the Impact”, November 2015

Conference Board of Canada, “Navigating the Legal Landscape to Change Pensions and Benefits”, October 2015

Insight, “Updates on Developments and Changes in the Landscape of Benefit Plans, Compensation and Pensions”, September 2015

ISCEBS Halifax Chapter Meeting, “Pension Legislative and Legal Update”, June 2015

“Policy Development: 5 Policies You Need”, October 2014

CBA Women’s Conference, “A Summary Discussion of the Trinity Western Storm of 2013-2014”, May 2014

Human Resources Association of Nova Scotia (HRANS) Annual Law Seminar, “10 Things HR Professionals Need to Know about Pensions”, March 2014

Benefit of the Doubt: Litigating Pension and Benefits, 2013

Canadian Pension & Benefits Institute – Co-Chair of 2011 and 2012 Atlantic Regional Conferences and moderator on panel sessions “What is the Best Solution for Canada’s Pension System” (2011) and “Legal Panel on Pension and Benefit Plan Changes and Conversions” (2013)

CBA Canadian Legal Conference – Moderator – The More the Better: Practicing Inclusive Leadership, August 2013

“Amending and Restructuring Pension and Benefits Plan”, October 2012



Canadian Corporate Counsel Association, "Diversity in Action: Creating and Implementing a Diversity Plan in Your Organization", August 2012

CBA Canadian Legal Conference – Panel Discussion, "Envisioning Justice: Access, Practice and Inclusion", August 2012

"Pension 351", Universities Seminar, October 2011

"Changing Employee Benefits – Retiree, Disability + Drugs", October 2011

Federated Press, Essential Skills for Pension Committee Members, "Developing the Right Governance Structure", March 2010