

Labour and Employment

Legal aid veteran now champions causes for impoverished pro bono

By **Donalee Moulton**

(November 20, 2017, 1:00 PM EST) -- For 31 years, Vince Calderhead worked for Nova Scotia Legal Aid helping individuals living in poverty address a diverse and dire range of legal issues. He retired earlier this year — and almost immediately went to work in private practice with Pink Larkin. That work, however, is unique in Canada. Calderhead, who is counsel in the Halifax law firm, does not charge for his services.

"I'm working on a pro bono basis representing people in cases that present systemic issues," he said in an interview. "My focus is exclusively in the anti-poverty area.

"I charge nothing to [clients]," he added, "and I don't bill as a result."



Vince Calderhead, Pink Larkin

The role is believed to be one of a kind. Pink Larkin, which specializes in labour and employment law, may well be the only firm in Canada to employ a full-time lawyer to work on pro bono cases.

For Calderhead, his distinctive job description enables him to do what he didn't have the time or resources to do as a legal aid lawyer: delve into legal issues that have significant and widespread impact. "I was keen to spend the last few years of my practising life focusing on the underlying systemic issues I was seeing many of my clients face," he said.

It's an opportunity few lawyers get. To pull a case off the assembly line because you recognize embedded in it are serious issues is difficult, Calderhead noted. "It takes a lot of work and can get you mired. There isn't really the funding or the space in the caseload to do that."

Calderhead is concentrating his legal acumen on a long-running human rights case he brought with

him from legal aid. At the Nova Scotia Hospital, a psychiatric facility in Dartmouth, a special unit provides medical services to individuals with both mental health problems and intellectual disabilities. A lack of community housing, however, has meant that many patients stay in the unit long after they could be medically discharged. "One client has been there for 17 years," said Calderhead. "There is no medical reason or legal reason for her to be there."

The case, which goes to trial in February, "is an example of the kind of case I'll be doing," Calderhead said. "My focus is on challenging a law, policy or regulation that creates a barrier for people living in poverty."

Calderhead recently tore down one barrier for individuals on social assistance in the province. Appearing before the Nova Scotia Court of Appeal, the Dalhousie University law school graduate successfully argued that the Department of Community Services overstepped its authority when it withheld benefits from a family of five instead of just the father's portion, who was said not to have made sufficient effort to look for work: *Sparks v. Nova Scotia (Assistance Appeal Board)* 2017 NSCA 82.

In his 20-page decision, Chief Justice Michael MacDonald determined that an ineligible recipient means only the defaulting party. "In my view, that represents the only reasonable and just solution," he said. "Only those at fault will be punished. Furthermore, the goal of promoting independence and economic self-sufficiency will hit its target. In other words, the spectre of ineligibility will threaten only those able to prevent it."

It's a conclusion that will affect more than the family that appeared in court, said Calderhead. "[It] will help this family and hundreds of other families." Although he occupies a distinctive role, the 63-year-old lawyer believes he may soon have company. "The private bar and government lawyers recognize there is a gap in legal aid. Where there are resources available, people are asking how they can make the best use of these."

He pointed out that the impact of what Pink Larkin has done by hiring him may be felt beyond the walls of a single law firm. "In a way, Pink Larkin is throwing down a challenge. This is not a random act of charity. This is a very strategic and thoughtful approach."

For law firms elsewhere in Canada considering enhancing their pro bono services, consultation is key, said Calderhead. "It is really important for firms to consult widely with those who are involved in a daily way."