Backgrounder:
BC Supreme Court Issues Decision in BCTF Challenge to Bills 27 and 28

April 13, 2011

The British Columbia Supreme Court has today issued its decision[1] in response to the BC Teachers' Federation (BCTF) court challenge regarding the constitutionality of the 2002 legislation enacted by the provincial government — Bill 27, the *Education Services Collective Agreement Act*, and Bill 28, the *Public Education Flexibility and Choice Act*.

Specifically, the legislation removed school organization issues such as class size and composition from the realm of the collective agreement into the realm of legislation. Class size was no longer something that could be the subject of collective bargaining; it was now defined by law and public policy.

The positions before Madam Justice S. Griffin were:

> [11] In summary, the teachers' position is that the provincial government by its legislation unilaterally voided existing terms in their collective agreement, and prohibited future collective bargaining, on the subjects of restrictions on class sizes, class composition (number of special needs children integrated in the class), ratios of non-enrolling teachers to students (teachers not assigned to classrooms, such as librarians, counsellors, and special education teachers), and workload. The teachers say that these matters have a substantial impact on their working conditions. The legislation also affected some other related issues, such as school calendaring and hours and days of work.
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> [12] The government‟s position is that these subjects are more importantly matters for educational policy decisions, and ought not to be the subject of collective bargaining. The government says that in bringing in the legislation, it was exercising its power and authority to enact education legislation for the public good, its constitutional responsibility under s. 93 of the *Constitution Act,1867* (U.K.), 30 & 31 Vict., c. 3 [*Constitution Act, 1867*]. It also says that the impugned legislation does not have the substantial impact on collective bargaining that the teachers argue it has. Finally, the government argues that even if the legislation does offend the *Charter* protection for collective bargaining, it is saved by application of s. 1 of the *Charter*.
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> [13] In addition to challenging the legislation, the plaintiffs also say that the government engaged in additional unconstitutional conduct that offended the *Charter*-guaranteed protection for collective bargaining, by engaging in bad faith bargaining in 2001, leading-

[1] *Between British Columbia Teachers' Federation and David Chudnovsky on his own behalf and on behalf of all Members of the British Columbia Teachers' Federation –and– Her Majesty the Queen in Right of the Province of British Columbia.*

up to the passage of the impugned legislation. I have not found for the teachers on this issue.

The BCTF alleged that the changes to the *School Act* in 2002 — which prohibited collective bargaining on matters related to class size, class composition, non-enrolling staffing ratios, and hours of work (collectively referred to as "working conditions provisions") and removed offending collective agreement provisions from the collective agreement — were unconstitutional. The BCTF also alleged that the legislated merger of collective agreements in amalgamated school districts (the "merger amendment") was also unconstitutional.

One of the BCTF's central arguments was that the BC Public School Employers' Association (BCPSEA) had purposefully failed to bargain in good faith in 2001 and 2002 at the direction of government. As noted in paragraph 13 (above) and at paragraph 185 of the decision, the Court rejected this argument, noting that while BCPSEA sought policy direction from government in order to inform its bargaining strategy, there was simply no evidence that the government acted in concert with BCPSEA to negotiate in bad faith in the months leading up to the legislation.

The Court then considered whether the legislation interfered with the *Charter of Rights and Freedoms* (the Charter) guarantee of Freedom of Association and concluded that the working conditions provisions were unconstitutional, but the merger amendment was not.

Findings

The Court's analysis followed the Supreme Court of Canada's reasons in *Health Services and Support v. British Columbia*, 2007 SCC 27, a ground-breaking case finding that Freedom of Association included the right to the "process" of collective bargaining.

First, the Court found that the legislation interfered with collective bargaining and that the interference was substantial. With respect to the working conditions provisions, the Court found that the process used by government negated any process for voluntary good faith bargaining and consultation. On the other hand, the process used in relation to the merger amendment did leave open a process for future good faith negotiation.

As a result, only the working conditions provisions were found to have breached the Charter guarantee of Freedom of Association. The Court found that the government could have found a less intrusive way of meeting its policy objectives of giving school boards more flexibility in relation to class size, composition, staffing and instructional hours while giving all stakeholders a voice in the decision making process.

In the end, the Court found that the working conditions provisions were unconstitutional and invalid, although the declaration of invalidity has been suspended for a year to allow the government time to address the repercussions of the decision, including determining whether to revert to the pre-2002 legislative provisions or to enact new legislation to address the deficiencies which were the basis of the Court's finding of unconstitutionality.

The merger amendment was upheld and is not changed. The BCTF reserved the right to argue that any additional remedies are warranted in the circumstances.

For ease of reference, attached are the specific legislative provisions declared unconstitutional and invalid (Appendix 1), as well as a chronology of events (Appendix 2) leading to enactment of the legislation and the court challenge by the BCTF.

Appendix 1: Specific Legislative Provisions Declared Unconstitutional and Invalid

School Act

Section 27(3)(d) through (j): prohibiting collective agreement provisions relating to class size and composition, and staffing.

Section 27(5) and (6): declaring that any collective agreement provision in conflict with section 27(3) is void and prohibiting collective agreement provisions from providing a mechanism to replace, amend or modify provisions.

Section 78.1(1) and (2): prohibiting collective agreement provisions which limit or restrict a school board's power to adopt an alternate school calendar or to establish the schedule of educational programs including the hours of the day, days of the week and months of the year in which those programs are delivered.

***Education Services Collective Agreement Amendment Act, 2004*, SBC 2004 c. 16 (Bill 19)**

Section 5 – deemed the collective agreement provisions deleted by Arbitrator Rice in 2004 to be effective as of July 1, 2002.

School Act	**8** ***Section 27* [of the *School Act*] *is amended*** ***(a)*** ***in subsection (1) by repealing paragraph (b) and substituting the following:*** (b) the terms and conditions, not inconsistent with this Act and the regulations, of a teachers' collective agreement, and, ***(b)*** ***in subsections (3) and (4) by striking out "***a collective agreement***" and substituting "***a teachers' collective agreement***"***, ***(c)*** ***in subsection (3) by striking out "***or***" at the end of paragraph (b) and by adding the following paragraphs:*** (d) restricting or regulating a board's power to establish class size and class composition, (e) establishing or imposing class size limits, requirements respecting average class sizes, or methods for determining class size limits or average class sizes, (f) restricting or regulating a board's power to assign a student to a class, course or program, (g) restricting or regulating a board's power to determine staffing levels or ratios or the number of teachers or other staff employed by the board,

	(h) establishing minimum numbers of teachers or other staff, (i) restricting or regulating a board's power to determine the number of students assigned to a teacher, or (j) establishing maximum or minimum case loads, staffing loads or teaching loads ***, and*** ***(d) by adding the following subsections:*** (5) A provision of a teachers' collective agreement that conflicts or is inconsistent with subsection (3) is void to the extent of the conflict or inconsistency. (6) A provision of a teachers' collective agreement that (a) requires the employers' association to negotiate with the Provincial union, as defined in the *Public Education Labour Relations Act*, to replace provisions of the agreement that are void as a result of subsection (5), or (b) authorizes or requires the Labour Relations Board, an arbitrator or any person to replace, amend or modify provisions of the agreement that are void as a result of subsection (5), is void to the extent that the provision relates to a matter described in subsection (3)(a) to (j).
	15 The following section is added **[to the *School Act*]:** **Extended day and year-round schooling** 78.1(1) If a board satisfies the conditions under section 78 (3.1), a provision of a teachers' collective agreement that limits or restricts, or purports to limit or restrict, the board's power to adopt and implement the school calendar approved under section 78 (3.1) for the school or the group of students concerned is void, but only to the extent that the provision limits or restricts the power in respect of that school or group of students. (2) Without limiting subsection (1), a provision of a teachers' collective agreement is void to the extent that it limits or restricts, or purports to limit or restrict, the power of the board to establish, vary, extend or amend, in respect of the school or group of students referred to in subsection (1), (a) the schedule of delivery of educational programs in a day of instruction,

	(b) the schedule of delivery of health services, social services and other support services under section 88, in a day of instruction, (c) the hours of the day, days of the week or months of the year on or within which educational programs are to be provided, or (d) the days on which teachers, or persons providing services referred to in paragraph (b), are scheduled to be available for instructional, non-instructional or administrative activities.
Education Services Collective Agreement Act	***1 Section 2(1)(a)(v) of the Education Services Collective Agreement Act, S.B.C. 2002, c. 1, is repealed and the following substituted:*** (v) effective July 1, 2002, (A) deleting Article D.1 entitled "Staffing Formula — Non-Enrolling/English as a Second Language Teachers", (B) deleting Article D.2 entitled "K-3 Primary Class Size", (C) deleting sections D.1, D.2 and D.3 of Appendix 1 of Letter of Understanding No. 1, dated May 31, 1995, (D) in Addendum C to Letter of Understanding No. 1, which addendum is dated April 23, 1997, deleting the heading "Professional Development and Teacher Assistants" and substituting "Professional Development" and deleting the heading "Teacher Assistants:" and the paragraph immediately under that heading, (E) deleting paragraphs 1 to 5 and everything after paragraph 8 of Letter of Understanding No. 3, dated June 4, 1999, (F) deleting Letter of Understanding No. 4, dated June 22, 1999, (G) deleting Letter of Understanding No. 5, dated June 19, 2000, and (H) in respect of an agreement referred to in Column A of the document entitled "Teachers' Collective Agreement Deletions" tabled in the Legislative Assembly on the date of First Reading of the *Education Services Collective Agreement Amendment Act, 2004*, deleting those words, phrases and provisions, or parts of provisions, as set out in the same row in Column B of that document;

	Retroactive effect **5**(1) Despite any decision of a court to the contrary made before or after the coming into force of this section, (a) the deletion under section 1 of words, phrases, provisions and parts of provisions from a collective agreement between the British Columbia Teachers' Federation and the British Columbia Public School Employers' Association is deemed to have taken effect on July 1, 2002, and (b) those deleted words, phrases, provisions and parts of provisions must not for any purpose, including any suit or arbitration commenced or continued before or after the coming into force of this section, be considered part of that collective agreement on or after July 1, 2002. (2) This section is retroactive to the extent necessary to give full force and effect to its provisions and must not be construed as lacking retroactive effect in relation to any matter merely because it makes no specific reference to that matter.

Appendix 2: Chronology of Events

August 16, 2001	The newly elected provincial government enacts Bill 18, *Skills Development and Labour Statutes Amendment Act*, to amend the *Labour Relations Code* to include education as an essential service. *72 (1) If a dispute arises after collective bargaining has commenced, the chair may, on the chair's own motion or on application by either of the parties to the dispute,* *(a) investigate whether or not the* **dispute poses a threat to** **(i) the health, safety or welfare of the residents of British Columbia,** or (ii) the provision of **educational programs to students and eligible children under the School Act**, an*d* *(b) report the results of the investigation to the minister.* *72 (2.1) If the minister* *(a) after receiving a report of the chair respecting a dispute, or* *(b) on the minister's own initiative* *considers that a dispute poses a threat to the provision of educational programs to students and eligible children under the School Act, the minister may direct the board to designate as essential services those facilities, productions and services that the board considers* ***necessary or essential to prevent immediate and serious disruption to the provision of educational programs****. (emphasis added)* Sections 1-11 effective August 16, 2001; [BC Reg. 206/2001] sections 12-13 effective September 11, 2001.
Sept-Nov, 2001	Negotiations between the BCTF and BCPSEA proceed; the provincial government believes that a timely negotiated agreement is unlikely. On September 27, 2001 BCPSEA files an application with the Labour Relations Board (LRB) for the designation of services in the K-12 sector as essential. On October 16, following receipt of the LRB report, the Minister of Labour directs the LRB to designate "those facilities, productions and services that the [LRB] considers necessary or essential to prevent immediate and serious disruption to the provision of educational programs" and "necessary or essential to prevent immediate and serious danger to the health, safety or welfare of residents" pursuant to s. 72(2) and 72(2.1). In October 2001, the BCTF holds the first-ever province-wide strike vote; 91.4% of British Columbia teachers who vote, vote in favour of strike action. On November 5, 2001 the BCTF serve 72-hour strike notice to BCPSEA and 72 hours later, on November 8, teachers begin Phase I of the province-wide strike. The LRB upholds Phases I and II of

	the teachers' job action plan**.** By November 30, 2001, the BCTF and BCPSEA complete 60 bargaining sessions with little success. The Minister of Labour appoints a fact finder, Richard Longpre, on November 25, 2001 to inquire into the dispute and determine the potential for a timely settlement at the table. Longpre's report, issued November 29, 2001, includes a recommendation to engage the assistance of a facilitator (the parties' request that Stephen Kelleher act as the facilitator).
December 2001	In early December the parties begin meeting with mediator/arbitrator Stephen Kelleher, QC. The meetings reveal that the parties are still very far apart on key issues. The BCTF announce that it will withdraw all voluntary activities on January 7, 2002, according to their LRB-approved job action plan.
January 7, 2002	BC teachers withdraw all voluntary activities.
January 15, 2002	BCTF President David Chudnovsky reports to the media that the BCTF is to make a "dramatic new proposal" and presents a framework for settlement to BCPSEA on January 22, 2002. It includes a continuation of proposals previously rejected by BCPSEA.
January 22, 2002	In response to speculation that the provincial government will legislate an end to the BCTF job action and impose a collective agreement on the BCTF and BCPSEA, the BCTF *Legislative Intervention Response Plan* released to local teachers' union presidents in early January, becomes public. The Plan outlines the BCTF response, including a "Day of Protest" – a one-day walkout by teachers when the legislation is introduced to protest a legislated settlement to the bargaining impasse.
January 24, 2002	BCPSEA applies to the LRB for a declaration that the proposed "Day of Protest" would be an illegal strike and contravene section 57 of the *Labour Relations Code* should back to work legislation deem a collective agreement in force.
January 25, 2002	Bill 27, *Education Services Collective Agreement Act*, and Bill 28, the *Public Education Flexibility and Choice Act* are introduced by the provincial government, legislating terms and working conditions between school boards and the British Columbia Teachers' Federation (BCTF).
January 27, 2002	Bill 27, the *Education Services Collective Agreement Act*, is enacted, establishing the terms of the collective agreement between teachers and public school employers and ending teacher job action. The Act provides for: Term – Three year collective agreement from July 1, 2001 to June 30, 2004 Salary increases – Increases of 2.5% effective July 1, 2001; 2.5%

	effective July 1, 2002; and 2.5% effective July 1, 2003. Amalgamation – On December 1, 1996, the provincial government amalgamated school districts in several areas of the province to reduce the number from 75 to 59. Bill 27 requires that the consolidation of local teacher agreements be completed. Review of Teacher Bargaining Structures, Processes, and Procedures – Section 5 of the *Education Services Collective Agreement Act* provides for a review of the teacher bargaining structure.
January 28, 2002	Bill 28, the *Public Education Flexibility and Choice Act* is enacted. The Act removes school organization matters (such as class size) from the scope of bargaining and places them in public policy. Class size limits are placed in the *School Act* with an accompanying *Class Size Regulation*. The intention of the amendments is for the planning of schools to be accomplished through a new framework consisting of parents, teachers, principals, school boards and the newly created school planning councils. This has the effect of moving school organization matters from the collective agreement and collective bargaining into public policy. The Act also amends the *School Act* by codifying in section 27.1 a legislative vehicle to resolve conflicts and inconsistencies between the amendments to the *School Act* and the collective agreement. The BCTF stated that Bill 28 "stripped the teachers' collective agreement of working-conditions provisions...No other government in Canada had ever simply torn up legally binding contracts." In protest against the government's actions, teachers planned (and held) a one-day walk-out on January 28, 2002. This day of protest would become the subject of LRB proceedings and later court action.
March 19, 2002	BC's teachers vote to affiliate with the BC Federation of Labour for a three-year period.
May 7, 2002	The *first petition:* The BCTF file a petition in the BC Supreme Court seeking to have the definition of "strike" in the *Labour Relations Code* struck down, asserting that the definition violates the BCTF right under section 2 of the *Charter*. This issue dates back to the January 28 day of "political protest," which the BCTF objects to being treated as an illegal strike. In response to the BCTF petition, the Attorney General of BC brings a preliminary objection stating that the matter should proceed first before the LRB.
May 30, 2002	The *second petition*: The BCTF file a petition in BC Supreme Court alleging that teachers' *Charter*-protected rights, namely section 7, section 2 (b) and (d), and section 15, were violated with the passage of Bills 27 and 28. The BCTF petition was preceded by the BC health unions' response to legislation enacted at the same time as the education bills, which was heard in the BC Supreme Court and dismissed on September 11, 2003. That decision was appealed to the BC Court of Appeal

	and then dismissed on July 5, 2004. The health unions were granted leave to appeal to the Supreme Court of Canada. The BCTF sought intervener status in that case. In January 2002, Bill 29 (the *Health and Social Services Delivery Implementation Act)* was enacted. Among its provisions, the Act: ▪ voided collective agreement provisions that restricted contracting out of non-clinical services; and ▪ removed protections against layoffs, and permitted employers to transfer employees to different worksites without first obtaining the consent of the affected employee. The Hospital Employees' Union, the BC Government and Service Employees' Union and the BC Nurses' Union challenged the constitutionality of Bill 29, alleging that it breached the rights of employees to freedom of association as guaranteed by section 2(d) of the *Charter*. Based on previous Supreme Court of Canada jurisprudence, the unions' challenges were rejected by the BC Supreme Court and BC Court of Appeal. Both held that section 2(d) did not protect collective bargaining rights. On further appeal to the Supreme Court of Canada, the unions were successful, and portions of Bill 29 were declared unconstitutional by the SCC in their decision of June 8, 2007. The majority of the Court held that the freedom of association right in section 2(d) of the *Charter* included a procedural right to collective bargaining and protected the process of collective bargaining against "substantial interference" by governmental action. The unions were successful in their section 2(d) argument only. The Court did not agree that Bill 29 offended the equality guarantee in section 15 of the *Charter*, on the basis that the legislation did not draw a distinction based on one of the grounds enumerated in section 15. The Court's decision in respect of section 2(d) was a reversal of its own previous jurisprudence, which determined that section 2(d) did not protect the right to strike or bargain collectively. The Court now held that section 2(d) provides limited protection in collective bargaining.
July 2002	Eric Rice, QC, is appointed as the arbitrator for the section 27.1 interpretive process (arising from Bill 28) to remove class size references from the collective agreements. The BCTF refuses to participate in the process.
August 30, 2002	After holding hearings, Arbitrator Rice issues his award.
November 20, 2002	The BCTF files a petition in BC Supreme Court for a judicial review of the Rice award. The BCTF asks that the arbitrator's decisions be set aside because they believe Rice violated the principles of

	natural justice, erred in law, and exceeded his jurisdiction.
April 3-4, 2003	In response to the BCTF petition filed May 7, 2002 (the *first petition*), the Attorney General of BC brought a preliminary objection stating that the matter should proceed first before the LRB. The objection was heard April 3-4, 2003 and the Court, agreeing with the Attorney General, declined jurisdiction and referred the matter back to the LRB. The LRB set August 27-29, 2003 to hear the case. In January 2003, similar issues had arisen before the LRB as a result of a "Day of Protest" by the Hospital Employees' Union (HEU). When the Health Employers Association of BC (HEABC) applied for an interim "cease and desist" order, the HEU challenged the constitutionality of the definition of strike. On February 24, 2004, the LRB agreed with the HEU that the definition of strike was invalid to the extent that it prohibited political protest strikes. (See "March 19, 2004" below.)
May 29, 2003	Bill 50, *School Amendment Act*, is enacted to ensure that students have meaningful input into school planning which will improve student achievement. It also gives boards more flexibility in various areas. Bill 51, *Teaching Professional Amendment Act*, is enacted to increase public accountability, and to clarify the role of the College of Teachers and enhance its efficiency.
September 8, 2003	The Minister of Skills Development and Labour announces that he is proceeding with a review of the teacher collective bargaining structure, as per Section 5 of the *Education Services Collective Agreement Act*.
Nov. – Dec. 2003	In December 2003, as the first step of the structure review, the Minister appoints Don Wright, a respected senior civil servant, to assist in developing the terms of reference for this review. Specifically, he is asked to: ▪ review the history of teacher collective bargaining in BC ▪ consult with the key stakeholders and seek their recommendations concerning the development of terms of reference ▪ establish draft terms of reference for a commission of inquiry. Mr. Wright delivers his report to the Minister on November 10, 2003. On December 19, 2003, he is subsequently appointed as a one-person commission to conduct the inquiry.
March 19, 2004	The LRB concludes in the BCTF case that the definition of "strike" in the *Labour Relations Code* is constitutionally valid. The BCTF and HEABC seek reconsideration from the LRB on the two decisions, and in June 2004, the two cases are consolidated. On December 17, 2004, a majority of the reconsideration panel holds that the legislation is a reasonable limit on the right to

	freedom of expression, and that the rights to freedom of assembly and association are not infringed. (See "February 15, 2005" below.)
April 29, 2004	Bill 19, *Education Services Collective Agreement Amendment Act* is enacted, which implements the Rice award under section 27.1 of the *School Act*.
June 30, 2004	Teacher collective agreement expires.
December 16, 2004	*Voice, Accountability and Dialogue: Recommendations for an Improved Collective Bargaining System for Teacher Contracts in British Columbia*, is released by Don Wright. While generally accepted by employers, it is rejected by the BCTF.
February 15, 2005	The BCTF and the HEU file respective applications for judicial review of the reconsideration panel's decision (definition of "strike") with the BC Supreme Court. On December 5, 2005, the Court issues an Order that the BCTF and HEU cases be heard together.
March 20, 2007	Madam Justice Daphne Smith of the BC Supreme Court dismisses the applications for judicial review. She finds that the legislation does not infringe on the right to freedom of expression guaranteed by section 2(b), but if it did, such infringement could be justified under section 1 of the *Charter* as a reasonable limit. The Court finds additionally that the legislation does not infringe the right to freedom of association.
April 17, 2007	The BCTF and HEU file Notices of Appeal in the BC Court of Appeal from the decision of the BC Supreme Court.
February 4, 2009	In a unanimous decision, the BC Court of Appeal find that the *Labour Relations Code* prohibition against mid-contract political strikes does not violate employees' right to freedom of association or freedom of assembly under the *Charter of Rights and Freedoms*. In dismissing the unions' appeals, Mr. Justice Mackenzie states that "the impugned definition of a strike, through its effects, infringes the guarantee of free expression in s. 2(b) of the *Charter* but the infringement is justified under s.1." He further states that "…the prohibition of mid-contract strikes is an integral part of the labour relations scheme." In his conclusion, Justice Mackenzie states: The pre-1984 definition prohibited mid-contract collective bargaining strikes; the 1984 amendment extends that mid-contract prohibition to strikes for any purpose. The right to strike when no collective agreement is in force is maintained, subject to Code procedural requirements and essential services limits. The object of the prohibition is the prevention of disruption of services or production. That objective is pressing and substantial; the mid-contract prohibition is rationally connected to that objective. The prohibition extends a limit that is non-controversial in a

	collective bargaining context to a political protest context. Means of free expression other than through work stoppages remain unimpaired. The mid-contract prohibition meets the standard of minimal impairment and is proportionate to the balance between free expression and harmful impact. The indeterminate and politically charged dimensions of a Charter guarantee of limited protest strike action reinforces the validity of the Legislature's imposition of a clear standard. In the result, I conclude that the impugned definition of strike, through its effects, infringes the guarantee of free expression in s. 2(b) of the Charter but the infringement is justified under s. 1. It follows that the HEU protest strike was properly enjoined, independent of the picketing activity and the severance issue raised by the HEU is immaterial. Accordingly, I would dismiss the appeals.
Mid-February 2009	The BCTF announce their intention to appeal the Court of Appeal decision to the Supreme Court of Canada, saying *that no work or services were disrupted that one day, and union members had the right to engage in political protest*. BCTF President Irene Lanzinger contends: "The real argument we're making is the definition of strike is too broad and includes things that are really not strikes against our employer. That definition of a strike is a limit on our freedom of expression."
August 20, 2009	The Supreme Court of Canada (SCC) dismisses the BCTF application for leave to appeal the BC Court of Appeal decision regarding the definition of strike in the *Labour Relations Code*. The SCC also dismisses the leave application by the Health Employees' Union in the companion case. The effect of the SCC decision is that the BC Court of Appeal decision stands and the definition of strike remains constitutionally valid and applicable.
November 15, 2010	The BCTF launches its legal challenge against the provincial government in BC Supreme Court, alleging that legislation enacted in 2002 (Bills 27 and 28) and 2004 (Bill 19) is unconstitutional and contrary to section 2(d) Freedom of Association of the *Charter of Rights and Freedoms.* The BCTF issues a press release, "Teachers challenge Liberal laws that stripped collective agreements" and post additional commentary on their website in which they report on BCTF counsel's submission to the Court.
November 26, 2010	Counsel for the BCTF and for the Attorney-General representing the Province of British Columbia complete presentation of their arguments in BC Supreme Court.