

## Urquhart

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**Subject:** FW: Call With Frank Denton, Assistant Deputy Minister of Ontario Ministry of Consumer Services  
**Attachments:** Ontario Consumer Protection Act - Jurisdiction.docx

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**From:** Urquhart [<mailto:urquhart@rogers.com>]  
**Sent:** July-12-11 5:47 PM  
**To:** 'Joel Rochon'; 'Sakie Tambakos'  
**Cc:** 'Diane & Hugh Urquhart'  
**Subject:** Call With Frank Denton, Assistant Deputy Minister of Ontario Ministry of Consumer Services

Joel and Sakie

Frank Denton, Assistant Deputy Minister and Phil Simeon, Executive Assistant to George Ross, Deputy Minister of Consumer Services called me at the scheduled time of 4:30 today. Frank Denton says the lawyers for Consumer Services working in the Ontario Ministry of the Attorney General have concluded that Nortel's disability insurance does not meet the definition of "consumer transaction."

### **Consumer Protection Act, 2002**

S.O. 2002, CHAPTER 30

“consumer” means an individual acting for personal, family or household purposes and does not include a person who is acting for business purposes;

“consumer agreement” means an agreement between a supplier and a consumer in which the supplier agrees to supply goods or services for payment;

“consumer transaction” means any act or instance of conducting business or other dealings with a consumer, including a consumer agreement;

The Friday, July 15th morning meeting is proceeding at my request for the purpose of yourselves and the lawyers from the Ontario Ministry of Attorney General to review the definition of a "consumer transaction" in the Ontario Consumer Protection Act. Pina Bosco will confirm the selected time for this meeting between 9 am and 12 noon.

Since none of us on the call today were lawyers, it made no sense to me that I would accept their lawyers' view at face value. Plus, their lawyers needed to hear from you two, because you have had success in the court room using the OCPA.

Their side's lawyers seem to have their minds made up to reject the jurisdiction of the OCPA in respect to Nortel's disability insurance on the consumer transaction definition reason. They plan to inform you of this opinion at Friday's meeting. Frank said that their lawyers had reviewed the Nortel contracts, in order to make this decision.

From my perspective, the misrepresentations are not in the "legal contracts," but in the employee benefit brochures and multiple communications between the Nortel disabled and Nortel or Sun Life. It was the employee benefit brochures that led the Nortel employees to use their own money, in most cases, to buy incremental disability insurance coverage at work rather than buy individual disability insurance coverage. See Page 22 in my Report on Misrepresentations that discusses how group disability insurance and individual disability insurance are substitute services for disability wage loss replacement. If group disability insurance is a substitute for individual disability insurance that is clearly a consumer transaction, how can group disability insurance not be a consumer transaction. Once group disability insurance was provided by Nortel, the employee would have had restrictions on the amount of individual disability insurance they could buy. Financial planners would have generally advised Nortel employees that 70% wage loss replacement was enough protection to have and Nortel's optional disability insurance raising coverage from 50% to 70% of pre-disability income would have been far cheaper to buy than individual disability insurance. There was no opt out provision for employees to not get the core employer paid 50% coverage, so that they could buy what is in retrospect the safer individual disability insurance. In short, the employees were effectively forced into this Nortel disability insurance, making its misrepresentations all the more egregious, since the employees had no choice to own the same protection with individual disability insurance.

#### [Report on Misrepresentation Evidence July 11, 2011](#)

The definition of "consumer transaction" does not preclude Nortel's group disability insurance in its plain English language.

This 4:30 teleconference was scheduled before I sent the Minister of Consumer Services senior staff at 10:53 am today the Report on Misrepresentation Evidence, and so the lawyers at the Ontario Ministry of the Attorney General would not likely have seen the employee benefit brochures and certainly would not have seen the personal communications.

Phil Simeon sought to exclude the four Nortel disabled on the teleconference. I insisted they be present and Frank Denton readily accepted my recommendation and so they will be in attendance. Frank Denton seems to me to be a compassionate and reasonable man based on this short phone call I had with him.

Diane