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MEDIA RELEASE

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Union Members Not Personally Liable for Union Breach: Supreme Court of Canada

OTTAWA, April 25, 2002—Nelligan O'Brien Payne today announced a significant win in a Supreme Court of Canada labour law case. In the landmark decision, the Supreme Court of Canada has confirmed that union members cannot sue one another for breach of the union constitution.

Until now, union membership has been characterised most often as a “complex of contracts” between union members. In this groundbreaking case, Air Ontario pilots sued Air Canada pilots individually for breaching this complex of contracts when the Air Canada pilots refused to support a merged seniority list and subsequently broke away to form their own union.

In its decision, the Supreme Court rejected the “complex of contracts” model. Citing modern statutory labour relations regimes and labour law principles, the Court found that it would be beyond the reasonable expectation of any union member that, by joining a union, they could become personally liable to other members for breach of the union rules. Such a liability would, for obvious reasons, chill union democracy in Canada. The Court confirmed that a member could sue the union itself for breaches of contract in appropriate circumstances.

The decision of the Court provides much needed clarification on the legal character of the relationship between union members, and between unions and their members.

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Nelligan O'Brien Payne is a multi-service law firm offering services in a wide range of areas, including employment and labour law, union consulting, litigation, corporate and commercial law, technology law, intellectual property, public law, real estate and development, condominium law, family law and estate planning. One of the largest and most respected law firms in the National Capital Region, Nelligan O'Brien Payne is committed to offering the highest level of excellence in client service. Visit our Web site at www.nelligan.ca.