

Legislative  
Assembly  
of Ontario



Assemblée  
législative  
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**Official Report  
of Debates  
(Hansard)**

A-17

**Journal  
des débats  
(Hansard)**

A-17

**Standing Committee on  
Government Agencies**

Intended appointments

1<sup>st</sup> Session  
43<sup>rd</sup> Parliament

Thursday 8 June 2023

**Comité permanent des  
organismes gouvernementaux**

Nominations prévues

1<sup>re</sup> session  
43<sup>e</sup> législature

Jeudi 8 juin 2023

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Chair: Will Bouma  
Clerk: Isaiah Thorning

Président : Will Bouma  
Greffier : Isaiah Thorning

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LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

## STANDING COMMITTEE ON GOVERNMENT AGENCIES

## COMITÉ PERMANENT DES ORGANISMES GOUVERNEMENTAUX

Thursday 8 June 2023

Jeudi 8 juin 2023

*The committee met at 0915 in room 151.*

**The Chair (Mr. Will Bouma):** Good morning, everyone. The Standing Committee on Government Agencies will now come to order. I did want to apologize if I messed up anyone's schedule, but seeing that it was the last time that our current Clerk would be doing the processional, I wanted to give an opportunity for everyone to attend and see that. It was very special, and so I appreciate everyone's understanding on it.

But we are meeting to conduct a review of intended appointees. We are joined by staff from legislative research, Hansard, and broadcast and recording.

To ensure that everyone can understand what is going on, it is important that participants speak slowly and clearly, which always reminds me to slow down. Please wait until I recognize you before starting to speak.

As always, all comments by members and witnesses should go through the Chair.

### SUBCOMMITTEE REPORT

**The Chair (Mr. Will Bouma):** The first item of business will be the adoption of a subcommittee report, which was distributed in advance. We have the subcommittee report dated May 25, 2023. Could I please have a motion? Member Coe.

**Mr. Lorne Coe:** Through you, I move adoption of the subcommittee report on intended appointments dated Thursday, May 25, 2023, on the order-in-council certificate dated May 19, 2023.

**The Chair (Mr. Will Bouma):** Member Coe has moved the subcommittee report. Is there any discussion? Seeing none, are members ready to vote? All those in favour? That's unanimous.

### INTENDED APPOINTMENTS

#### DR. DAVE LANGLOIS

Review of intended appointment, selected by government party: Dave Langlois, intended appointee as member, Human Rights Tribunal of Ontario.

**The Chair (Mr. Will Bouma):** We will now conduct our review of the intended appointees. Our first appointee today is David Langlois, nominated as member of the Human Rights Tribunal of Ontario. Thank you very much for joining us today.

David, if I may call you David, you may make an initial statement at your discretion. Following this, there will be questions from members of the committee. And with that questioning, we will start with the government side, followed by the official opposition, with 15 minutes allocated to each recognized party. Any time you take in your statement will be deducted from the time allotted to the government.

You may begin. Thank you again for joining us.

**Dr. Dave Langlois:** Good morning, everyone. My name is Dave Langlois. Thank you, Mr. Chair and Mr. Vice-Chair, and thank you to the honourable members of the Standing Committee on Government Agencies for inviting me to appear before you today.

I am honoured to be here to discuss my pending appointment as a full-time member of the Human Rights Tribunal of Ontario. The position for which I am being considered is an important and challenging one that serves a critical function in our justice system, and so I'm happy to have the opportunity to discuss my personal and professional experiences and qualifications for the role. I'm hopeful that by the end of our time this morning, you will have confidence that I can serve in this role with skill, integrity and sound judgment.

Let me tell you a little bit about myself. I've been interested in issues at the intersection of ethics and the law since I was a teenager. After doing my undergraduate work here in Canada at Queen's University, I completed a PhD in the department of philosophy at Harvard University, in Cambridge, Massachusetts, where I specialized in ethics and focused on issues at the intersection of ethics, law and political theory. While at Harvard, I was a Social Sciences and Humanities Research Council of Canada doctoral fellow and I also had the honour of spending a year as a graduate fellow at the Edmond and Lily Safra Center for Ethics at Harvard.

Shortly after completing my PhD, I moved back home to Ontario, and to Toronto specifically, and I began my career in health care ethics. Since 2015, I have worked across a huge range of health care environments in Ontario, from emergency and critical care medicine, to child and adolescent psychiatry, to complex continuing care and rehabilitative medicine, to long-term care, the list goes on, to provide clinical ethics consultation services to physicians, other clinicians, health care staff and to patients and their loved ones.

I have spent the better part of a decade now providing guidance, mediation and facilitation to persons grappling with the weightiest issues affecting human life: about the justifiability of detaining and treating persons against their will in psychiatric contexts; about how to respond when we learn that persons in care, often children or the elderly, are facing grave risks in their homes and experiencing vulnerabilities beyond their control; about when it is appropriate to discontinue life-preserving medical interventions for persons who have little prospect of recovery and who are no longer able to direct their own care.

This is challenging and often harrowing work that requires discretion, sound judgment and an ability to act quickly and under pressure. It requires an ability to interpret and apply the law in novel circumstances, and to do so in the context of intense interpersonal conflict. I've conducted hundreds of consultations and facilitated more meetings between passionately disagreeing parties than I can count, and I continue acting as a clinical ethicist today.

**0920**

Since 2017, I've had a faculty appointment at the University of Toronto at the rank of assistant professor, and I've had the privilege of teaching the next generation of health care professionals. I teach graduate classes in the faculties of public health and medicine. During my time at the university, I have served as a teacher, supervisor and mentor to many students and trainees in ethics and at the intersection of ethics and the law. For instance, for the last few years, I've now taught a graduate course on legal and ethical issues in molecular genetics, within the faculty of medicine.

I've managed to carve out some time during this time for my ongoing personal academic pursuits, though perhaps not as much as I would like. Looking at the last couple of years, I think I've published four new articles in academic journals or books on topics in bioethics and law.

In 2019, I began also serving as an adjudicator alongside my work in the hospitals and at the university. My first appointment was to the Consent and Capacity Board, which is a tribunal that has jurisdiction over a range of applications under the Health Care Consent Act, Mental Health Act, Substitute Decisions Act and certain other statutes. I was reappointed to the Consent and Capacity Board in 2021. I've had the privilege of serving as an adjudicator on, by my rough math, a couple of hundred hearings at the CCB. I have only the most positive things to say about the Consent and Capacity Board. It plays an absolutely critical role in our province's health care system.

My experiences on the CCB demonstrated to me that I am as passionate about adjudication as I am about the practice of bioethics, so I applied to and was appointed to the Ontario Review Board in 2021. The Ontario Review Board, as you know, is the provincial body that has jurisdiction over the disposition of persons who are found not criminally responsible or unfit to stand trial pursuant to the Criminal Code. My time on the ORB has been valuable and rewarding. Their work is critical, and they are world leaders in what they do.

Now a little bit about the Human Rights Tribunal, which is what I'm hear today to speak to you about: I've been serving as a part-time member on the Human Rights Tribunal of Ontario since 2021, but my interest in the Human Rights Tribunal long predates that. Many years ago, when we first returned to Canada, and years before I ever applied to the Consent and Capacity Board, I told my wife that I wished that I could serve on the Human Rights Tribunal one day. Human rights law is, in many regards, the instantiation of some of our culture's most fundamental ethical commitments—commitments against unjust discrimination, commitments to respect and accommodate difference in our society. So it has been a goal of mine for a long time to be able to serve the public on the HRTO. When I applied and was subsequently appointed to a part-time role in 2021, it was a tremendous honour. So I'm here today asking you to allow me to dedicate myself more fully to the tribunal's work. The last two years have redoubled my commitment to its work.

The tribunal's work is complex and challenging, but I am confident that I am up to the task. I have amassed a set of experiences and expertise in law, and in human rights in particular, that makes me well-suited to the tribunal's work. Not only my work as an adjudicator but also as an ethicist has given me an aptitude for impartial adjudication and for sensitive and respectful mediation. And I have an uncommon amount of experience working with vulnerable persons and people experiencing distress. There are many such people engaged in our province's adjudicative system and before the HRTO in particular.

I have carried a substantial workload for many years across my many roles, and I've managed to retain my commitment to producing excellent work while also ensuring that my work is performed expeditiously. I believe that all of these experiences and traits will serve me well at the tribunal.

I want to finish just by emphasizing how important this role is to me. I've had the tremendous fortune of enjoying a rewarding and varied professional life up to this point across health care, academia and several quasi-judicial boards. It is a lot to leave behind, as you can imagine. So that I am asking, for the time being, to pause or depart from these other areas of my professional life and focus more wholly on the Human Rights Tribunal demonstrates the depth of my commitment to its work.

It would be a great privilege to be able to continue serving the people of the province on the Human Rights Tribunal of Ontario.

With all of that said, I'd be pleased to answer any questions you might have about me and about my suitability to the position. Thank you.

**The Chair (Mr. Will Bouma):** Thank you very much for your statement. I really appreciated it.

We'll turn to the government now, with seven minutes and 40 seconds left on the clock. Member Coe.

**Mr. Lorne Coe:** Thank you very much, Chair, and through you: Welcome, Mr. Langlois, to the committee. I appreciated your statement and the detail that you provided to the committee members.

My question focuses on the capacity that you would have, given your existing commitments, to balance the caseloads. You talked about 200 hearings on the capacity board, and you're also serving on the Ontario Review Board. You're busy also in your academic work. How are you going to balance all of your commitments at the present time? If you're approved to sit on the Human Rights Tribunal of Ontario, how are you going to balance that?

**Dr. Dave Langlois:** Thanks very much. I appreciate the question. My intention would be, on a temporary basis for as long as I'm appointed to the Human Rights Tribunal, to pause that work by resigning from those other appointments and putting on hold my clinical and professional academic life for the time being, realizing that, hopefully one day, when I finish serving the province in this capacity, I'd have the opportunity to return to some of that work. But for the time being, my hope would be to focus all of my time on the work of the Human Rights Tribunal.

**Mr. Lorne Coe:** Thank you for that answer.

Through you, Chair, to MPP Sandhu.

**The Chair (Mr. Will Bouma):** Member Sandhu, go ahead. You have six minutes and 48 seconds.

**Mr. Amarjot Sandhu:** Thank you, Mr. Langlois, for appearing before the committee. We appreciate your presentation.

We know that the Human Rights Tribunal has heavy caseload volumes. Can you tell us about your experience managing high caseload volumes?

**Dr. Dave Langlois:** It's a very important question. Obviously, one of the key elements of a successful adjudicative system is that it's able to offer fair and expeditious access to justice. I'm happy to be able to say that I believe my experiences to this point put me in a very strong position to be able to assist the tribunal in those efforts.

As I tried to share earlier, for many years I've juggled cases and high work volumes across a lot of different settings, oftentimes teaching multiple classes while conducting sometimes many dozens of clinical ethics consultations in a month, and also serving on these other adjudicative tribunals, all at the same time. So I believe that I've amassed a set of skills and an ability not only to balance my work but to work highly expeditiously in the time that I have to ensure that I'm able to assist in that effort.

I believe my work and qualifications will help me in ensuring that I'm part of a well-functioning adjudicative system. Thanks for the question.

**The Chair (Mr. Will Bouma):** Member Sabawy, with four minutes and 50 seconds.

**Mr. Sheref Sabawy:** Thank you very much for your submission. It's very impressive to go through your qualifications and the file. As you understand, human rights cases are very sensitive and touch the lives of people. As well, there is some time sensitivity into making decisions. How are you going to be making sure that you are on top of the caseload in the tribunal and taking decisions in a timely manner?

**Dr. Dave Langlois:** I appreciate the question. In a way, it's a hard question to answer, because I don't want to say what I'm about to say without bragging. I'm very uncomfortable speaking about myself and I don't like to boast. I guess what I would say is that I believe my track record, the way that I've managed to juggle so many things over the period of time that I have—managing to publish high-quality papers in academic periodicals while managing high caseloads in my clinical work and whatnot.

I believe what I have is an ability—I don't know exactly where it comes from; hopefully my training, probably my parents—to work cautiously, conscientiously and also expeditiously. My intention is to bring that sort of skill set to the tribunal.

**Mr. Sheref Sabawy:** Thank you very much. I just want to raise a point here. My belief is that slow justice is injustice, so I really appreciate your coming forward to put your name through and I wish you all the best.

**Dr. Dave Langlois:** Many thanks.

**The Chair (Mr. Will Bouma):** Member Jones, with three minutes.

**Mr. Trevor Jones:** Good morning, sir, and through you, Chair: Considering your experience in the service on other appointments, what specific skills or strategies have you learned that you might apply as a full-time member on the Human Rights Tribunal of Ontario?

**Dr. Dave Langlois:** Thanks. One thing that I might add onto what I've said already is that I think sound, impartial adjudication requires an ability to weigh and consider evidence and to ask and hear questions reasonably in high-stakes, conflictual circumstances. Certainly, my experiences before both the Consent and Capacity Board and the Ontario Review Board have borne that out, and I believe my time on other tribunals to date has made me better, frankly, at asking good questions, listening conscientiously and conscientiously and being able to hear and weigh evidence even under high stakes and conflictual circumstances, and certainly I think that that skill set will be relevant to the Human Rights Tribunal as well.

0930

**Mr. Trevor Jones:** Thank you, sir.

**The Chair (Mr. Will Bouma):** Further questions from the government? Member Gallagher-Murphy with one minute and 50 seconds.

**M<sup>me</sup> Dawn Gallagher Murphy:** Thank you, Mr. Langlois. I noticed that you talked about dealing with people with vulnerabilities beyond their control, which leads to my question. As you're probably aware, parties appearing before the Human Rights Tribunal often don't have legal representation. That being the case, that can create challenges. Back to the vulnerabilities point there, my question to you is: How will you work with these people to ensure that they do get a fair hearing? Thank you.

**Dr. Dave Langlois:** It's a lovely question; thank you for asking it. I have said before that in the health care system, all parties are unrepresented. Whether or not patients or families or doctors wish it to be the case, the health care system is itself a legally complex system, and folks operating within that system are operating within

that legal context. So I would say that all of my clinical training over the last 10 years has made me well equipped to work with persons experiencing many vulnerabilities, who are also operating within legal contexts that are sometimes beyond their knowledge.

I would also say that, frankly, it's in some respects a benefit of mine that I'm not a lawyer by background. I've obviously had a lot of education in different ways, but I'm not a trained lawyer, and so I think that gives me an interesting and helpful vantage point, because I'm a non-lawyer operating within a legal context. I think that sometimes allows me to maybe more easily understand the various challenges that unrepresented parties might be facing in our system.

**The Chair (Mr. Will Bouma):** That concludes the time that we have available.

We'll now turn to the opposition side. Member Pasma, go ahead. You have 15 minutes.

**Ms. Chandra Pasma:** Thank you very much for being here this morning, Mr. Langlois. I know it's not always the most comfortable experience, but the opportunity to review appointments is an incredibly important part of our democratic process, to make sure that appointees are qualified for the positions that they're receiving and that they're not patronage appointments. You have a very interesting background—some work in fields that we don't often hear about here at the committee—so it's already been very interesting to hear your testimony this morning.

I am wondering, since most of your experience has been in the field of health care: We know that the majority of the cases at the Human Rights Tribunal actually have to do with discrimination in employment. Do you have any experience working in the area of employment, and what parameters affect people within the area of employment and what solutions there are available there?

**Dr. Dave Langlois:** Thank you for the question. I'd say that the most important experience I have is the last two years I spent serving on the Human Rights Tribunal. I would acknowledge that prior to that, I didn't have—although, as many of us do, we have indirect experiences through our own experiences and the experiences of others, and I've done a lot of education, so I've done some classwork that might overlap. But frankly, no, up until the point that I first joined the tribunal, it was not an area of expertise for me.

I believe that over the last two years I've been able to amass that expertise and instill sufficient confidence in the leadership of the tribunal that I'll be able to do this important work. But I acknowledge that's not one of the primary areas that I had existing expertise in prior to my coming to the tribunal.

**Ms. Chandra Pasma:** Right. Okay.

The biggest issue that we hear about all the time is the issue of the backlogs and the inability to actually get a case heard. We know Tribunal Watch has flagged significant concerns about appointments to the Human Rights Tribunal: the fact that experienced adjudicators were not retained, new appointees were not being appointed, and

then when the government finally started appointing people it was people who did not have relevant qualifications. There was turnover in administrative staff, and so no plan was ever put in place to deal with the backlog. The Human Rights Tribunal was one of the agencies that really struggled to adapt to the pandemic, and the result is now we have this backlog of 9,000 cases.

I'm wondering: As an ethicist, what is your take on the ethics of backlogs in justice?

**Dr. Dave Langlois:** I appreciate the question; it's an interesting one. What I'm here to talk about today is whether or not I'm in a position to be able to serve the tribunal well. I'm happy to speak about my experiences and qualifications to serve the people of Ontario through the tribunal. I don't have any particular comments on the ethics of backlogs as a general matter.

**Ms. Chandra Pasma:** But your capacity as an adjudicator to address backlogs—does that not in any way reflect your beliefs about the virtues, or lack of virtues, of a backlog on the impact of justice for Ontarians?

**Dr. Dave Langlois:** Well, it's set out in the Human Rights Code that it is a fundamental intention of the tribunal to resolve the merits of matters before it in a way that's fair, just and expeditious, and I'm happy and excited to be part of that process.

**Ms. Chandra Pasma:** Okay. Do you think what's happening now is fair, just and expeditious?

**Dr. Dave Langlois:** What I can speak to are the experiences that I've had over the last two years that have been impressive and positive enough that they've made me want to put the rest of my life on hold to dedicate my time to hearing applications before the tribunal.

**Ms. Chandra Pasma:** Okay. But we know compliance rate with service standards—first mediation date offered to parties will take place within 150 calendar days: only 29%. First hearing date will be offered to parties within 180 calendar days: 0%. Decisions for hearings which take three days or less will be issued within 90 calendar days: 43%. Decisions for hearings which take longer than three days will be issued within 180 calendar days: 60%.

Do you think that track record is good enough?

**Dr. Dave Langlois:** As I think I've indicated, I'm not part of the management or the leadership team. I don't have any administrative role at the tribunal. I'm not in a position to be able to comment on those numbers, which I take it are publicly available numbers and I would encourage anyone to take a look at. What I'm enthusiastic to talk about are my own qualifications and my ability to serve the tribunal and the people before it well.

**Ms. Chandra Pasma:** Tribunal Watch has recommended four things to address the current backlog, starting with admitting that there's a problem; secondly, providing additional resources for the human rights system; appointing experienced people and making sure that all appointees meet the criteria set out in regulations; and creating a specialized team to deal with the backlog.

Do you agree with those recommendations?

**Dr. Dave Langlois:** I have not heard those recommendations before. The third one seemed—you just read



it to me—to mention appointing experienced adjudicators, and that’s why I am here today. My hope is to be appointed to the tribunal on a full-time basis so that I can dedicate myself thoroughly to assisting the tribunal in its very, very important work.

**Ms. Chandra Pasma:** What skills will you bring from your work at the Consent and Capacity Board and from the past two years as an adjudicator with the Human Rights Tribunal to do your part in helping to address the backlog?

**Dr. Dave Langlois:** Thanks for the question. I hope what I’m able to offer is exactly what the code sets out as being the priority of impartial adjudication so that applicants to the tribunal and other parties involved in the tribunal’s process have access to fair outcomes on the resolution of the merits of their applications.

**Ms. Chandra Pasma:** But is there anything you will do to make sure that people have not only fair outcomes on their applications, but timely outcomes on their applications?

**Dr. Dave Langlois:** Certainly. As I tried to indicate earlier, I believe my skill set will allow me to function in a highly expeditious manner personally, certainly.

**Ms. Chandra Pasma:** Okay.

Another concern that we’ve heard frequently about the Human Rights Tribunal is the fact that hearings are only being offered virtually or by teleconference. We’ve seen with the Human Rights Tribunal, the Landlord and Tenant Board and other tribunals that that significantly disadvantages lower-income Ontarians along with people with disabilities, both because they are significantly less likely to have access to Internet at home but also less likely to have access to the resources that they need to make sure that they can fairly participate via Internet or via phone.

Do you think that this is a fair practice that this is the way that all hearings are being held, or do you think there need to be accommodations made for people to be able to have hearings in person where that would be more fair?

**Dr. Dave Langlois:** I do appreciate the question. It’s an interesting and important one. I’m frankly not in a position to be able to comment on what sounds like a policy decision. I’m here to speak, I understand, about my qualifications and suitability to be a full-time adjudicator at the Human Rights Tribunal, and I’d like to focus as much as possible on that.

**Ms. Chandra Pasma:** But you’ve been working as an adjudicator for the last two years, so surely you have some thoughts on whether it’s a fair process and whether it’s working for the people who are appearing before you.

**Dr. Dave Langlois:** I think what I can say is I’ve served on a number of adjudicative tribunals over the last few years. I’ve also worked extensively in health care, where a lot of service delivery has gone virtual. By and large, my experiences have been that we’re able to deliver positive experiences for the people involved in any of those contexts. But beyond speaking to my personal experiences, which have been positive, I’m not in a position to be able to weigh in on what sound like policy issues to me.

**0940**

**Ms. Chandra Pasma:** So you haven’t had low-income Ontarians who have had difficulty connecting to appointments or hearings that you’ve held as an adjudicator?

**Dr. Dave Langlois:** Frankly, no. But again, I’m not here to be—I can’t comment on policy issues. That’s not something that I’ve experienced. You’re asking about my personal experiences; what I’d prefer to speak about is my qualifications and suitability to the position. But to answer your question flatly, not that I can recall.

**Ms. Chandra Pasma:** Thank you.

I’m going to turn it over to MPP Harden, Chair.

**The Chair (Mr. Will Bouma):** Member Harden, you have six minutes and 15 seconds.

**Mr. Joel Harden:** Thank you, Mr. Langlois, for being here this morning. I’m wondering if you could take us inside your work as an adjudicator for a little moment to appreciate some of the judgment calls that need to be made in cases where capacity for self-advocacy is difficult.

You mentioned the work you’ve done at the CCB. Our experience in our community in Ottawa Centre is some of the matters that end up before the Human Rights Tribunal often involve not only vulnerable people but people who are in a difficult capacity to be making some of their own advocacy and some of their own decisions. The skilled hands of somebody adjudicating these matters can sometimes enable those people to have voice.

Without disclosing identities or specific cases, I’m just wondering if you could talk to us a little bit about the capacities you have to help those people find their voice at that critical moment where they need to be advocates for themselves.

**Dr. Dave Langlois:** That’s a wonderful question. I want to make sure that I’m understanding it correctly, so is it okay if I ask you a question about your question? Is the idea that some folks might appear before a tribunal who might, for one reason or another, have trouble understanding the directions of the tribunal or might have trouble participating wholly in the tribunals processes, so what does the person on this side of the table, the adjudicator or the mediator, do to try to ensure that they have access to justice in that context?

**Mr. Joel Harden:** Precisely.

**Dr. Dave Langlois:** It’s a great question. I think it’s an important one. As I said earlier, it’s frankly not too dissimilar to the health care context in which I spent the better part of the early part of my career.

I can give you an example in the health care context that has informed the way that I operate within adjudicative contexts. It is very common in health care that practitioners see themselves, rightly, as wedded to complying with the consent statutes that we have in the province, the Health Care Consent Act being the primary statute that directs how it is that practitioners are supposed to go about getting informed consent to treatment.

Very often, the obligations that practitioners have to carry out consenting processes in compliance with the act aren’t things that seem natural or common sense to laypersons: patients, the residents of long-term-care facilities,

their families, their substitute decision-makers. So we very often, in clinical contexts, wind up in circumstances where doctors or nurses, practitioners, are sort of awkwardly locked in conflict with patients or family members or loved ones of a patient where the clinicians are attempting as best they can to comply with the prevailing legal standards and where the patients and families are, frankly, not understanding why things can't be done in a different way.

What my job has been for many years now is, without guiding the decisions that a patient or a loved one might make, since of course the choice would be theirs, to try as best I can to communicate with them in a way that makes it more transparent how the system functions, why the doctor is asking them certain questions and how the framework that we're all operating within works.

I think it's not too dissimilar before an adjudicative tribunal. Of course, it's very important in adjudicative and mediation contexts to be sure that we're not leading unrepresented parties, that we're not guiding them, that we're not making decisions instead of them. But certainly there's a lot of communication work that can be done to make sure that the parties before us understand their context and the options that they have.

So I believe, actually, that one of the things that has made me relatively successful as an adjudicator is my experiences in the health care context.

**Mr. Joel Harden:** Thank you, sir.

How much time do I have left, Chair?

**The Chair (Mr. Will Bouma):** Two minutes, 30 seconds.

**Mr. Joel Harden:** I would like to pass the remaining time to MPP Vaugeois, please.

**The Chair (Mr. Will Bouma):** Member Vaugeois.

**MPP Lise Vaugeois:** I am very interested in your background as an ethicist. I'd love to have a longer conversation about that. But I want to get to something that I think MPP Gallagher Murphy was also getting at. People often, when they're in a state of distress, can be seen as being unreasonable, and that's often a reason, then, to dismiss what's actually behind their experience. I wonder if you can talk about whether you've got that capacity—when you have a wall of anger and distress coming at you, do you have the capacity to hear what's actually at stake for that person?

**Dr. Dave Langlois:** Thank you very much for the question. These are hard questions to answer because the better person to ask, of course, are the folks with whom I'm interacting who might be in those contexts. Certainly, I hope that that's a skill set that I have, and it's something that I think it would be very unlikely that I would have been able to progress in my career as I have without those skills.

A great deal of my work in the hospitals involves precisely that. It's hearing people who, in some circumstances, can't even say words, they're so upset, and nevertheless trying to see our way through to a resolution. Again, it's odd to boast and to say I'm a wonderful communicator or whatnot, but a large part of the work that I do requires me to exist and to communicate successfully in

exactly those contexts, and I believe that same skill set will prove fruitful with the human rights tribunal.

**The Chair (Mr. Will Bouma):** Member Pasma for 43 seconds.

**Ms. Chandra Pasma:** I'm going to ask you some quick, uncomfortable but necessary questions. Are you currently or have you ever been a member of the Progressive Conservative Party?

**Dr. Dave Langlois:** No.

**Ms. Chandra Pasma:** Are you a member of the federal Conservative Party?

**Dr. Dave Langlois:** No.

**Ms. Chandra Pasma:** Have you donated to the Progressive Conservative or Conservative Party?

**Dr. Dave Langlois:** I have not.

**Ms. Chandra Pasma:** Have you ever worked on a Conservative election campaign?

**Dr. Dave Langlois:** I have not.

**Ms. Chandra Pasma:** Have you ever sat at Doug Ford's table at a Ford family event?

**Dr. Dave Langlois:** I have not.

**Ms. Chandra Pasma:** And did anyone ask you to apply for this position?

**Dr. Dave Langlois:** Not other than my wife, no.

**Mr. Mike Harris:** I expect that from Joel, not from you.

**Ms. Chandra Pasma:** I ask it every time, Mike. It shouldn't come as a surprise to you.

**The Chair (Mr. Will Bouma):** Okay, that wraps up our time. I do want to try to keep moving.

Mr. Langlois, thank you so much for coming before committee this morning. We really appreciated your testimony, your answers to the questions, and thank you for the good questions from both sides. You're all set. Stay if you wish, but otherwise, you're free to have a look around the building.

We have with us in the public gallery today a delegation of members from the Standing Committee of Selection from the Parliament of Ghana. Please join me in warmly welcoming our guests.

*Applause.*

**The Chair (Mr. Will Bouma):** We do need to keep moving. I won't ask for a motion, but obviously, as you can see, we have less than a half-hour on the clock. If we would like time for any discussion or for our votes, perhaps you can consider keeping your time a little bit shorter.

MR. TIM LIZNICK

Review of intended appointment, selected by official opposition party: Tim Liznick, intended appointee as vice-chair, Ontario Labour Relations Board.

**The Chair (Mr. Will Bouma):** I would like to welcome to the table our next appointee, Tim Liznick, nominated as vice-chair of the Ontario Labour Relations Board.

Mr. Liznick, come forward, please. You may make an initial statement at your discretion. Following this, there will be questions from members of the committee. With

that questioning, again, we will start with the government, followed by the official opposition, with 15 minutes allocated to each recognized party. Any time you take in your statement will be deducted from the time allotted to the government.

Go ahead, sir. Thank you very much.

**Mr. Tim Liznick:** Thank you very much, Mr. Chair. Thank you, members. Good morning. I'm Tim Liznick, and I'm truly grateful for the opportunity to be considered for a vice-chair position at the Ontario Labour Relations Board.

A little bit about myself: I grew up in the small north-eastern Ontario town of Iroquois Falls. It was a pulp-and-paper town. Both of my parents were long-standing trade union members: my father, some 44 years in the CEP as a stationary engineer; my mom for about 40 years as a secretary at the local high school in an OPEIU local.

These early experiences exposed me to the vital role that trade unions play in the lives of working people, their families and the overall well-being of our communities. It instilled in me a profound understanding and appreciation for the rights and protections that unions provide to workers.

On leaving Iroquois Falls, I attended Queen's University, where I focused my studies in human resources, organizational development and labour relations at the Queen's School of Business. I took, quite literally, every available course in those disciplines while studying in the school of business, and, on graduation, earned the school of business prize in human resources and labour relations. Then, building on that foundation, I remained at Queen's and did a master's degree in industrial relations, and then I went to the University of Western Ontario to complete my law studies.

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Starting in May 1988, I held summer student positions at Hicks Morley Hamilton Stewart Storie during my first and second years of law school. I then returned to Hicks Morley as an articling student and, ultimately, as an associate in 1992. I became a partner in the firm in 1998. I have practised labour and employment law for the last 31 years.

Over the course of my career, I have regularly appeared before and litigated at the Ontario Labour Relations Board, dealing also with matters before boards of arbitration and other provincial tribunals, including the Human Rights Tribunal, the Workplace Safety and Insurance Board, and the Workplace Safety and Insurance Appeals Tribunal. Additionally, I've appeared at every level of court, including the Supreme Court of Canada. I've engaged in collective bargaining throughout my career in sets that have ranged in scale from small and local to province-wide in scope. These professional experiences, I believe, have well-prepared me to serve as a vice-chair at the board.

Labour relations is an inherently partisan field. Notwithstanding that, I have consistently upheld professionalism, respect and courtesy in interacting with opposing counsel and decision-makers. I've fostered positive working relationships with union-side practitioners, recognizing the importance of understanding different perspectives as we deal with our differences.

As an effective advocate, I've always anticipated the evidence and arguments to be presented by both sides, and I've always considered how those will land with the decision-maker. This approach, in my view, has enabled me to represent my clients effectively, but for our purposes here, has, I believe, prepared me well to assume the role of a neutral and fair decision-maker because I approach every problem looking at it from every perspective.

I'm wholeheartedly committed to fairness, impartiality and safeguarding workers' rights. My extensive background, legal expertise and collaborative approach in dealing with matters, I believe, has me well-suited for service as a vice-chair at the board.

Given the opportunity, I'm eager to contribute my skills and knowledge to advance labour relations and to promote the well-being of workers across the province.

I thank you for your consideration, and I look forward to answering any questions you may have.

**The Chair (Mr. Will Bouma):** Thank you very much, sir.

We will now turn to the government, with nine minutes and 55 seconds left. Member Pang.

**Mr. Billy Pang:** Thank you, Tim, for putting your name forward. I can see that you have a lot of experience in labour law, and you shared a bit about how this related to your application.

Can you expand a bit about your application? Your experience—how will it benefit to your application?

**Mr. Tim Liznick:** I appreciate the question.

Over the course of my career, I have dealt with virtually every labour relations statute that we have in Ontario in some capacity, so I believe I have a fairly deep, substantive understanding of the law and, with respect to the board particularly, a fairly deep understanding of its jurisprudence. So I'm starting from a perspective of having that lengthy experience informing my ability to approach the questions I'll face as a vice-chair.

**The Chair (Mr. Will Bouma):** Member Harris, eight minutes and 45 seconds.

**Mr. Mike Harris:** Thank you, Tim, for being here today.

You touched a little bit on being on the other side of the table, litigating at the Ontario Labour Relations Board over many years. I'm just wondering how you feel that experience can help prepare you for looking at it from a little bit of a different perspective, and maybe understanding things from a bit more granular level and how you can interpret them from a legal perspective.

**Mr. Tim Liznick:** Thank you for the question. As I said in my opening, my approach to every case that I deal with is to look at it from three sides. I look at it from the side of my client; I look at it and consider it from the side of my opponent; and with respect to both of those views, I look at how all of those things will land for the adjudicator, ultimately. I would say that over the last 30 years, I have consistently been putting myself in the shoes of the adjudicator to have a sense of how all of these arguments will land for them. My experience at the board over the years obviously involved that same process.

I would add that I believe I've benefited from the mentorship that board vice-chairs of the past have offered me. As an advocate, when you appear in front of any decision-maker, there's an element of their guidance that informs your development. So my time appearing at the board has certainly benefited me in terms of my own professional growth and ability to deal with the questions that the board will now receive and that I'll have to consider.

**Mr. Mike Harris:** Thank you.

**Mr. Tim Liznick:** Thank you.

**The Chair (Mr. Will Bouma):** Member Jones with six minutes, 45 seconds.

**Mr. Trevor Jones:** I'd like you to share with some detail the type, nature and scope of some of the cases you've dealt with in your firm life, and how you might apply those insights to specific cases you may hear in this role.

**Mr. Tim Liznick:** As I said, I have dealt with pretty much every form of labour and employment-based question in a litigation context that you might experience. One significant matter that I recall specifically—years ago, just prior to Mike Harris forming the government, we had the NDP government of Bob Rae, and they enacted amendments to the Labour Relations Act that contained replacement worker restrictions. I actually litigated as a—I'm going to say sixth- or seventh-year associate at the time—the first replacement worker case on behalf of an employer-client in Ontario coming out of that change in legislation. Why I point specifically to that is this was new legislation. It was something that no tribunal had dealt with before. So those opportunities to address things for the first time and start from first principles I think are an important base skill to have, and something that I certainly had the opportunity to do in that case.

In terms of breadth of cases, I've appeared in front of boards of arbitration. The very first thing that I ever worked on was a case that made its way all the way to the Supreme Court of Canada: the discharge of a teacher, appeals, judicial review and then appeals through the Court of Appeal and, ultimately, the Supreme Court of Canada. So, I've dealt with big matters down to—one of the first collective agreements I ever bargained was a mom-and-pop gas station in the Welland area. So that provides an opportunity, relating it back to the vice-chair role, of being comfortable with whatever shows up. Whether it's big or small, complex or straightforward, you bring the same set of skills to bear in terms of ensuring that people are heard, they're heard fairly, and a fair and reasonable decision, compliant with the law, is rendered.

**Mr. Trevor Jones:** Thank you for sharing that.

**Mr. Tim Liznick:** Thank you.

**The Chair (Mr. Will Bouma):** Four minutes. Do we have any other government members?

**Mr. Mike Harris:** Do we go until 10:15 or 10?

**The Chair (Mr. Will Bouma):** At 10:15 we're done. So if we want to have concurrences, you have to give up a bit of time. But your call.

*Interjections.*

**Mr. Mike Harris:** We're probably okay.

**The Chair (Mr. Will Bouma):** Okay. We'll turn to the opposition side. Member Harden, you have 15 minutes.

**Mr. Joel Harden:** Good morning, Mr. Liznick. You just mentioned in some of the questioning from my colleagues in the government that you were present at the Labour Relations Board for discussion around the use of replacement workers. I'm wondering if you could just give us a little bit of context on that, because it would help us understand your judgment. It's a sensitive matter, as you can appreciate. We have labour disputes going on right now where this particular issue, in my view, is prolonging disputes. But could you give us a little bit more context as to what you heard and saw?

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**Mr. Tim Liznick:** Certainly. The case that I was referring to was a case involving the Canadian Red Cross Society and a variety of local home care providers and CCACs, as they were back in the day. The Red Cross was struck and the client service that the homemaker program of the Red Cross provided was taken up by a number of other employers, and the trade unions involved brought an application to the labour board claiming that that breached the then-new replacement worker provisions of the Labour Relations Act. That matter was heard by the board; the board rendered a decision. At the end of the day, the decision was that the CCAC essentially taking back work from a contractor and providing it to other contractors did not violate the replacement worker provisions of the statute. That was the case.

**Mr. Joel Harden:** Okay. Thank you for that. So you're referring, I'm gathering, then, to the Rae government years, when the replacement worker ban was installed?

**Mr. Tim Liznick:** Yes.

**Mr. Joel Harden:** Okay. So since then, what we've seen—and I'm familiar, in particular, with an ongoing labour dispute in the Windsor area at one of our province's salt mines—just for the record, just to get your reaction: We have a protracted labour dispute there that I've heard from community members is having a massive injurious impact upon family members, where folks who would like to have some leverage to get back to the bargaining table feel like they have none because people are circumventing their legal right to picket outside their workplace and doing their work anyway.

As someone who, if given this position as vice-chair, would be responsible for trying to find fairness and balance, do you think the reversal in Ontario's policy of allowing replacement workers is going to make your work more challenging at the labour board to find fairness in labour disputes?

**Mr. Tim Liznick:** Thank you for that. I can't speak to issues of policy or the direction of the development of legislation. As an adjudicator, I would expect that I'd take the law as I find it. You good people determine the law of the land, parties litigate about the meaning of the law of the land, and as an adjudicator, my role would be to hear those arguments fully, consider the statute, consider the precedents, if any, and render a decision. Beyond that, I don't think that it's the role of an adjudicator to really

comment upon the broader policy question. That really is your bailiwick, not mine.

**Mr. Joel Harden:** I take your point. In that particular case with the Red Cross, were you an intervening party on behalf of the person seeking to allow for the use of replacement workers?

**Mr. Tim Liznick:** No. I was counsel for the Canadian Red Cross. There were, I'm going to say, at least eight other employer counsels and two or three union counsels. The union brought the application, and we responded.

**Mr. Joel Harden:** Okay. How much time do we have left, Chair?

**The Chair (Mr. Will Bouma):** Eleven minutes.

**Mr. Joel Harden:** Thank you very much. Some of the matters that we're familiar with hearing about in Ontario with labour relations have to do with new employment contexts, where in many cases what we would often, in labour law, call "workers" are being identified as "independent contractors." As such, their charter rights to assembly and self-representation as unionized employers are being questioned. As you said in an earlier answer, I'm not asking you to comment on the policy matter of that particular conundrum. But it would seem, in Ontario—whether we're talking about people who operate ride-share vehicles or deliver our food or do important, crucial work—increasingly, some of those folks are not being able to avail themselves of organized representation. It would seem to me what happens to them, as individuals, if they're clever and enterprising enough, is that they can find their way to the Labour Relations Board. But it would seem like a lot of those folks either don't have the time, the resources or the capacity to be able to do that.

Were you to hear a matter around the representation of independent contractors, regardless of the occupation, do you think it's the board's responsibility to make sure that people who would find themselves before you have the right to represent themselves and define fair working conditions, fair labour conditions?

**Mr. Tim Liznick:** Thank you for the question. I would think, as an adjudicator at the board, my role would be to make sure that they're fully heard in whatever application they're bringing.

Typically, I would expect the way that folks would make their way to the labour board is a trade union, on their behalf, may file an application for certification. And the question that the board will be faced with is the one that you quite clearly identify: Are you an employee? Are you a dependent contractor? Because the Labour Relations Act treats dependent contractors in the same way it treats employees. Or are you an independent contractor? I would expect, as an adjudicator, my obligation is to make sure that those arguments are fully placed before me.

I am a strong adherent to the rule of law. It's what has guided my career all the way along. So I then look to: What does the legislation say? We've got long-standing legal tests in the jurisprudence dealing with the status of an employee versus an independent contractor versus a dependent contractor at the board. I would undertake to apply those fairly and without any predetermination.

**The Chair (Mr. Will Bouma):** Member Pasma, eight minutes.

**Ms. Chandra Pasma:** Thank you so much for being here this morning, Mr. Liznick. You led a seminar for the Human Resources Professionals Association on "Human Resource Management in the Unionized Environment—Bringing Your Labour Relations Practice into the Future." I'm wondering what you see as the future of labour relations in Ontario.

**Mr. Tim Liznick:** I'm trying to remember that presentation. I have to admit, I'm having a bit of an issue trying to remember it. Frankly, I honestly believe that the future of labour relations in Ontario is bright. We have a vibrant economy that generates jobs, and when you have that, there is undoubtedly dispute that happens over the spoils, if you will. Quite often, the way that those disputes are resolved is in pieces of litigation before the labour board.

I see, certainly in my practice, many collaborative approaches between unions and employers and the employees. I have certainly been involved directly in fostering those relationships, trying to find a workable solution for everyone. And I would expect, as a vice-chair at the labour board, I would have the opportunity to foster that and encourage it. I believe my track record is one of litigating when I have to, and trying to find a mutually acceptable accommodation where I can. And I would intend to continue to pursue that approach as a vice-chair of the board.

**Ms. Chandra Pasma:** Okay, thank you.

One of the concerns that we hear frequently from labour unions is the timelines at the OLRB and the mounting backlog, which is making those timelines longer. Only 65% of cases are currently being completed within six months. What will you bring from your experience as a litigator and your skill set to help address these backlogs and make sure that we are getting timely resolutions to disputes?

**Mr. Tim Liznick:** I believe my track record is that I quite efficiently deal with the matters that I have to deal with in practice, and I would intend to bring those time management skills and practices to the board. I obviously would not be involved in scheduling—that would be the registrar—but my commitment would be to make myself as available as I can and to complete my work as efficiently as I possibly can.

**Ms. Chandra Pasma:** Thank you. I'll turn it back over to MPP Harden.

**The Chair (Mr. Will Bouma):** Member Harden, five minutes.

**Mr. Joel Harden:** Some more quick-hit questions as we round out the end of our time. You've commented on this to some extent already, but I'll give you the opportunity to re-say it succinctly. The position, as we understand it, as you know well with your time at the board, requires an aptitude for impartial adjudication.

How do you approach being impartial with your experience?

**Mr. Tim Liznick:** Thank you. Obviously, I have been a litigant on behalf of employers for 30 years. If you look at the board roster now and in the past, what you will find is that the adjudicators there come from one side or the other. Labour relations, unfortunately, is not the kind of a practice where you can play both sides; you have one.

As I said, I'm an adherent to the rule of law, and so my undertaking and commitment at the board would be to approach each matter objectively and with an open mind. The positions in the past that I have presented or argued are not my positions; they're those of my client. So I would bring that open-mindedness to the pursuit of dealing with matters at the board.

**Mr. Joel Harden:** Mr. Liznick, are you currently or have you been a member of the Progressive Conservative Party of Ontario?

**Mr. Tim Liznick:** Yes, I have.

**Mr. Joel Harden:** The federal party as well?

**Mr. Tim Liznick:** Not currently.

**Mr. Joel Harden:** Have you donated to the Progressive Conservative Party of Ontario or the federal Conservative Party in the last 10 years?

**Mr. Tim Liznick:** Yes, provincially, and yes, federally.

**Mr. Joel Harden:** We understand those being your charter rights—but in the matters before you, do you think this has any bearing on your impartiality, your efforts to achieve impartiality?

**Mr. Tim Liznick:** No. I would say that my personal views are irrelevant. The obligation of a vice-chair is to approach each matter neutrally, and I believe I have the capacity to do that.

**Mr. Joel Harden:** I don't have any more questions, Chair.

**The Chair (Mr. Will Bouma):** Thank you very much for your testimony and for coming to the committee and being willing to serve.

And thank you to both the government and opposition sides for leaving some time on the clock so we can move to concurrences.

You are free to go, Mr. Liznick. Thank you.

We will now consider the intended appointment of David Langlois, nominated as member of the Human Rights Tribunal of Ontario. We have a motion from member Coe.

**Mr. Lorne Coe:** Chair, through you, I move concurrence in the intended appointment of David Langlois, nominated as member of the Human Rights Tribunal of Ontario.

**The Chair (Mr. Will Bouma):** Concurrence in the appointment has been moved by member Coe. Is there any discussion? Seeing none, are members ready to vote? All those in favour? Unanimous. Thank you very much, members.

We will now consider the intended appointment of Tim Liznick, nominated as vice-chair of the Ontario Labour Relations Board. We have a motion from member Coe.

**Mr. Lorne Coe:** Chair, through you, I move concurrence in the intended appointment of Tim Liznick, nominated as vice-chair of the Ontario Labour Relations Board.

**The Chair (Mr. Will Bouma):** Concurrence in the appointment has been moved by member Coe. Is there any discussion? Seeing none, are members ready to vote? All those in favour? That is unanimous again. Thank you very much, members, for that.

Committee members, the deadline to review the intended appointments of Jordan Paquet, Rabiah Usman, Mark McQueen, Sam Moini, Lynn Kennedy and Lacey Rigg, selected from the May 19, 2023, certificate, is June 18, 2023. Do we have unanimous agreement to extend the deadline to consider the intended appointments to July 18, 2023? I heard a no.

Thank you, members. That concludes our business for today. And again, thank you very much for your accommodation earlier to start the meeting a bit later.

This meeting is now adjourned.

*The committee adjourned at 1013.*



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