



David Tsai

Partner | Toronto

416.595.8598

dtsai@millerthomson.com

Biography

David Tsai's responsiveness and strategic thinking has earned him the reputation of trusted advisor for management-side clients. He prides himself on providing practical and timely advice on a wide range of labour and employment law matters.

David's practice spans unionized and non-unionized workplaces for both federally and provincially regulated employers. He has specialized expertise in advising clients on discipline and discharge, employment standards, occupational health and safety, workplace safety and insurance, collective bargaining, human rights, and wrongful dismissal matters. David is known for being proactive in helping clients interpret federal and provincial legislation and assisting them with the development of strategic workplace policies and procedures. David also has extensive experience advising clients on the labour and employment issues arising from corporate reorganizations and mergers and acquisitions.

David has represented clients before a variety of courts and tribunals including boards of arbitration, the Ontario Labour Relations Board, the Canada Industrial Relations Board, the Human Rights Tribunal of Ontario, and the Ontario Superior Court of Justice.

Prior to joining Miller Thomson, David summered, articulated and practised labour and employment law in the Toronto office of a global law firm. David also has experience working on the talent management teams of two major law firms, specializing in the recruitment, performance management and career development of summer law students, articling students and associates.

Professional achievements & leadership

- Honours Standing for Third Year, University of Toronto Faculty of Law, 2008

Notable matters

- *Gonder v. Sirius XM Canada Holdings Inc.*, 2021 HRTO 853 (successfully argued for the dismissal of a human rights application on the basis that the Human Rights Tribunal of Ontario lacked jurisdiction to decide the matter)

RELATED SERVICES

Entertainment and Media
Financial Services
Human Rights
Labour & Employment
Workplace Health & Safety

RELATED INDUSTRIES

Automotive
Education
Health
Retail
Social Impact

- *Dahoui v. Ivanhoe Cambridge Inc.*, 2017 HRTO 641 (successfully argued for the dismissal of a human rights application on the basis that the applicant had not been discriminated against because of race or any other of the enumerated grounds in the *Human Rights Code*)
- *Di Muccio v. Newmarket (Town)*, 2016 HRTO 406 (successfully represented the respondent Town in a human rights application that was dismissed by the Human Rights Tribunal of Ontario on the basis that the applicant was not in an employment or contractual relationship with the Town)
- *Jennifer Ford v. Anne Anderson and the University of St. Michael's College*, 2015 CanLII 27353 (ON LRB) (represented the University of St. Michael's College in a successful motion where the Ontario Labour Relations Board dismissed several issues raised by the individual in an application alleging reprisal under the *Occupational Health and Safety Act*)
- *Universal Workers Union (L.I.U.N.A., Local 183) v. PNR Railworks Inc.*, 2011 CanLII 78742 (ON LRB) and 2012 CanLII 17170 (ON LRB) (represented PNR Railworks in a grievance dismissed by the Ontario Labour Relations Board as a result of the union's failure to follow the parties' agreed-upon protocol for the referral of grievances to arbitration; the union subsequently sought to refer a second grievance that remedied this procedural defect but which was otherwise identical to the first grievance; the Ontario Labour Relations Board agreed with PNR Railworks' submissions that the second grievance referral not be accepted in the interests of sound labour relations policy requiring sophisticated entities to ensure public resources were not wasted by a union's failure to comply with previously agreed-upon protocols)
- *Universal Workers Union (L.I.U.N.A., Local 183) v. Teston Pipelines Limited*, 2011 CanLII 78812 (ON LRB) (successfully represented Teston Pipelines in a referral of a grievance to arbitration where the Ontario Labour Relations Board held that the disciplinary action imposed on a worker for making death threats against his foreman was appropriate)

Thought leadership

Presentations

- Co-presenter, "You're Out!", Miller Thomson's 2017 Labour Relations & Employment Law Conference, April 6, 2017
- "Return to Work Accommodation for Mental Health Illnesses and Conditions", Coffee Talk: A Miller Thomson LLP Health Industry Seminar Series (November 16, 2016)

Publications

- "Bring Your Own Device (to Work): Benefits and Challenges," *Canadian Labour & Employment Law Blog*, July 25, 2018
- "Ontario Passes Fair Wage Legislation to Protect Certain Workers on Government Contracts," *Labour and Employment Communiqué*, May 17, 2018
- "Ontario Government's Proposed Changes to the Province's Labour and Employment Laws," *Labour and Employment Communiqué*, May 31, 2017
- "Ontario's Changing Workplaces Review: Special Advisors' Final Report," *Labour and Employment Communiqué*, May 25, 2017
- "Changing Workplaces Review: Special Advisors' Interim Report," *Labour and Employment Communiqué*, August 2, 2016
- "Further Clarification on the 'With Respect to Employment' Threshold under Ontario's *Human Rights Code*," *Labour and Employment*

Communiqué, June 1, 2016

- “Employment and Labour Considerations Arising out of the 2015 Economic Action Plan and Bill C-59,” *Labour and Employment Communiqué*, May 22, 2015
- “Changes to the *Employment Standards Act, 2000* Increasing Workplace Protections for Employees now in Effect,” *Labour and Employment Communiqué*, May 21, 2015

Professional memberships

- Law Society of Ontario
- Canadian Bar Association
- Ontario Bar Association

Languages spoken

- English
- Mandarin

Bar admissions & education

- Ontario, 2009
- J.D., University of Toronto Faculty of Law, 2008
- B.Arts Sc. (Honours), Arts & Science and Biochemistry, McMaster University, 2004