

David Tsai

Partner

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OFFICE

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Industries & Expertise

INDUSTRIES

Mining | Charity & Not-For-Profit |
Entertainment and Media | Retail

EXPERTISE

Arbitration & Mediation | Labour & Employment
| Mergers & Acquisitions

Biography

BAR ADMISSION

Ontario, 2009

EDUCATION

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

LANGUAGES SPOKEN

English, Mandarin

David Tsai is a trusted advisor for management-side labour and employment law matters. David's practice spans unionized and non-unionized workplaces for both federally and provincially regulated employers. He has broad knowledge and experience 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. From interpreting legislation to crafting strategic policies, David's proactive approach ensures that clients' rights and interests are well-protected. 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 Human Rights Tribunal of Ontario, and the Ontario Superior Court of Justice.

David has been an active presenter and author, delivering insightful presentations and contributing to publications on various legal topics showcasing his continuous commitment to staying informed and sharing his knowledge with others. At Miller Thomson, David is deeply committed to his responsibilities as a member of both the Student Recruitment Committee and the Inclusion & Diversity Committee.

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 gained experience working on the talent management teams of two major law firms, focusing on recruitment, performance management and career development of summer law students, articling students, and associates. David is recognized in well-respected industry directories.

Industry involvement

Recognition

- *Best Lawyers in Canada*, Labour and Employment Law, 2025
- Honours Standing for Third Year, University of Toronto Faculty of Law, 2008

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

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)
- *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)

Memberships & affiliations

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