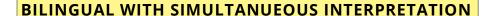
PROGRAM FOR JUDGES ONLY

SEMINAR ON PERSONAL PREJUDICES AND COGNITIVE BIASES





Online Program I Friday, February 10, 2023



Seminar Overview

This seminar aims to raise judges' awareness of personal prejudices (including implicit biases) and cognitive biases and how to avoid their effects on decisions. The program provides judges with tools to recognize personal prejudices and cognitive biases in the decision-making process. The program brings to light why adjudicators should be concerned with unconscious and cognitive biases.

Understanding unconscious and cognitive biases is essential to promoting fair outcomes. The objective of the program is to help judges to address these biases, and to encourage them to suspend their judgment and maintain deliberative engagement from beginning to end of the decision-making process. Several strategies are offered in this training, including checklists to detect biases, decision-making matrices, and breakdowns, sequencing the reception of information in a manner that reduces the effects of biases, and considering an outside view in evaluating the facts and law.

Topics Overview:

- What are personal prejudices and cognitive biases and why should adjudicators care about them?
- How does the decision-making process unfold?
- What are the instances in which prejudices and biases present themselves in the decision-making process?
- How can we reduce the influence of prejudices and biases on adjudicators?

Co-Chairs

- The Honourable Justice Peter Lauwers, Court of Appeal for Ontario
- The Honourable Justice James W. O'Reilly, Federal Court, CIAJ's Past President
- The Honourable Justice Daniel W. Payette, Superior Court of Québec

START TIME ACCORDING TO DIFFERENT TIME ZONES IN CANADA

PT: 8:00 am MT: 9:00 am CT: 10:00 am ET: 11:00 am AT: 12:00 pm NT: 12:30 pm NOTE: The time zone used in the program is Eastern Time

PROGRAM | FRIDAY, FEBRUARY 10, 2023

10:45 - 11:00 am LOGIN AND ONLINE PROGRAM SET UP

11:00 – 11:05 am WELCOME REMARKS AND INTRODUCTION

Co-Chairs

- The Honourable Justice Peter Lauwers, Court of Appeal for Ontario
- The Honourable Justice James W. O'Reilly, Federal Court; CIAJ's Past President
- The Honourable Justice Daniel W. Payette, Superior Court of Québec

11:05 am - 12:15 pm Creating Cultures Beyond Bias

Key words: personal prejudices bias, the "prejudice paradox", raising awareness, mental shortcuts, race and gender, justice system, adjudication, impartiality.

Jessica Nordell will talk about how biases do not necessarily emerge from strongly held prejudices. They may stem from unknowable associations and beliefs that we have not fully examined. Biases and stereotypes help us make sense of our world. They can be viewed as a choice; therefore, they can be overcome.

Moderator

• The Honourable Justice James W. O'Reilly, Federal Court; CIAJ's Past President

Speaker

• Jessica Nordell, award-winning author and science writer; author of *The End of Bias*

12:15 – 12:45 pm Why Anti-Bias Interventions (Need Not) Fail

Moderator

• The Honourable Justice James W. O'Reilly, Federal Court; CIAJ's Past President

Speaker

• Dr. Toni Schmader, PhD, Professor, Department of Psychology, University of

British Columbia

12:45 - 12:55 pm SHORT BREAK

12:55 – 1:25 pm What Are Cognitive Biases?

• The Honourable Justice Peter Lauwers, Court of Appeal for Ontario

2:10 – 3:25 pm Experiences on the Frontlines as Counsel and as Judge

Key words: reason, struggle, snap judgments, values, memory, socialization, and other personal attributes; bias affecting behaviours including decision-making, judgment, beliefs, and social interactions.

The panellists reflect upon personal prejudice in the judicial system, based on what they have seen in their functions as judges as well as in their former position as counsel.

Moderator Speakers

- The Honourable Justice James W. O'Reilly, Federal Court; CIAJ's Past President
- The Honourable Chief Justice Michael Tulloch, Court of Appeal for Ontario
- The Honourable Justice Denise A. Leblanc, Court of Appeal of New Brunswick
- The Honourable Justice Julie Philippe, Court of Québec

3:25 - 3:35 pm SHORT BREAK

3:35 – 4:50 pm Rhetoric and the Use of Cognitive Biases by Advocates

Key words: managing errors, reasoning, adjudication, justice system.

This presentation will describe what lawyers think about judicial decision-making and how their understanding of decision-making might influence their persuasive methods and strategies. In a nutshell, lawyers believe that emotion, experience, and ideology affect how judges decide; that judges are as susceptible as anyone else to cognitive biases; and that successful advocates tailor their arguments to match judicial expectations while taking advantage of judicial reliance on emotion and pre-existing beliefs. We will illustrate how lawyers might use various cognitive influences, including 1) neutrality; 2) familiarity; 3) coherence; 4) framing; and 5) representativeness.

Moderator Speakers

- The Honourable Justice Peter Lauwers, Court of Appeal for Ontario
- Linda L. Berger, Professor of Law Emerita, William S. Boyd School of Law, University of Nevada, Las Vegas; co-author of Legal Persuasion. A Rhetorical Approach to the Science
- Kathy M. Stanchi, E.L. Cord Foundation Professor of Law, William S. Boyd School of Law, University of Nevada, Las Vegas; co-author of *Legal Persuasion*. *A Rhetorical Approach to the Science*

4:50 – 4:55 pm CLOSING REMARKS

Co-Chairs

- The Honourable Justice Peter Lauwers, Court of Appeal for Ontario
- The Honourable Justice James W. O'Reilly, Federal Court; CIAJ's Past President
- The Honourable Justice Daniel W. Payette, Superior Court of Québec

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CIAJ's programs provide an opportunity for federal, provincial and territorial court judges not only to interact with judges of courts from all across the country, but also with professors, lawyers, representatives from governments and community organizations. The roundtables, seminars and conferences allow participants to learn and discuss the challenges facing the justice system and to contribute actively in finding solutions.

<u>The \$150 membership fee is recoverable</u> by federally-appointed judges under S. 27(1) of the *Judges Act*. Provincial and territorial judges, other judicial officers and board and tribunal members may be entitled to reimbursement through judicial or other professional allowances.

https://ciaj-icaj.ca/en/membership/

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