

## PROGRAM FOR JUDGES ONLY

# SEMINAR ON PERSONAL PREJUDICES AND COGNITIVE BIASES

**BILINGUAL WITH SIMULTANEOUS INTERPRETATION**

# CIAJ

Canadian Institute  
for the Administration  
of Justice

Listening. Learning. Leading.

Online Program | Friday, February 10, 2023



[WEB PAGE](#)

## 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

Participation in this program is approved under Section 41 (1) of the *Judges Act*

## 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?

*Speaker*

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

---

**1:25 – 2:10 pm      LONG BREAK**

---

**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*                      • The Honourable Justice James W. O’Reilly, Federal Court; CIAJ’s Past President
- Speakers*                        • 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*                      • The Honourable Justice Peter Lauwers, Court of Appeal for Ontario
- Speakers*                        • 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

## YOUR MULTIDISCIPLINARY AND BILINGUAL LEGAL NETWORK FROM COAST TO COAST

CIAJ is a non-profit, independent organization that links individuals and institutions involved in the administration of justice across Canada. Its work is multidisciplinary and wide-ranging. Collaborating with governments, courts, tribunals, professional associations, law schools and law firms, CIAJ sponsors and conducts conferences and specialized seminars and prepares comprehensive papers and reports. Its services are offered in both official languages.

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.

The \$150 membership fee is recoverable 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/>

### Contact us

Please contact us for more information about our organization, the benefits of membership and how you can assist us with our mission.

#### Canadian Institute for the Administration of Justice

5950, Chemin de la Côte-des-Neiges, Office 450  
Montréal, Québec, Canada  
H3S 1Z6

Tel: 514 -731-2855  
Email: [ciaj@ciaj-icaj.ca](mailto:ciaj@ciaj-icaj.ca)



[www.ciaj-icaj.ca](http://www.ciaj-icaj.ca)

# THE LAW OF BORDERS



**OCTOBER 25–27, 2023**  
IN PERSON | OTTAWA