



# HUMAN RIGHTS TRIBUNAL OF ONTARIO

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## BETWEEN:

**Andrew Lau, Chun Pong Tam, Greg Ulewicz, Harvey Ledra, Kathy Lim, Mark Olynyk, Tung Yiu Lo, Marsha Luong, Nicholas Tullett, Richard Dobreny, Robert Cameron, Roy Chin Fee, Sidney Fox and Tariq Habib**

**Applicants**

**-and-**

**CGI Information Systems and Management Consultants Inc.**

**Respondent**

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## INTERIM DECISION

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**Adjudicator:** Eban Bayefsky

**Date:** May 11, 2018

**File Numbers:** 2017-30273-I, 2017-30274-I, 2017-30275-I, 2017-30276-I, 2017-30277-I, 2017-30279-I, 2017-30280-I, 2017-30281-I, 2017-30282-I, 2017-30283-I, 2017-30284-I, 2017-30285-I, 2017-30286-I, 2017-30287-I

**Citation:** 2018 HRTO 643

**Indexed as:** **Lau v. CGI Information Systems and Management Consultants Inc.**

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**WRITTEN SUBMISSIONS**

Andrew Lau, Chun Pong Tam, Greg )  
Ulewicz, Harvey Ledra, Kathy Lim, Mark ) Daniel A. Lublin, Counsel  
Olynyk, Tung Yiu Lo, Marsha Luong, )  
Nicholas Tullett, Richard Dobreny, Robert )  
Cameron, Roy Chin Fee, Sidney Fox and )  
Tariq Habib, Applicants )  
)

CGI Information Systems and Management )  
Consultants Inc., Respondent ) Bonny Mak and Karen Sargeant,  
) Counsel  
)

## INTRODUCTION

[1] The purpose of this Interim Decision is to determine whether these Applications should be consolidated and heard together.

[2] The applicants each filed an Application against the same respondent, alleging discrimination in employment on the ground of age, as well as reprisal or threat of reprisal, contrary to the *Human Rights Code*, R.S.O. 1990, c. H.19, as amended (the “Code”).

[3] The applicants requested that the Tribunal consolidate their Applications and hear them together.

[4] The respondent objected to the applicants’ request. In the alternative, the respondent submitted that, if the Applications were to be heard together, they should not be consolidated. In the further alternative, the respondent submitted that if the Applications were to be consolidated and heard together, the Application of one of the applicants, Tariq Habib, should not be consolidated or heard together with the other Applications.

[5] In the further alternative, the respondent submitted that the Tribunal should defer determining whether to “consolidate and/or process some or all of the Applications together, and continue to process each of the Applications separately” pending the completion of the mediation of the Applications.

[6] For the following reasons, I find that the Applications should be consolidated and heard together.

## FINDINGS

[7] Rule 1.7(d) of the Tribunal’s Rules of Procedure states that the Tribunal may consolidate or hear Applications together in order to provide for the fair, just and expeditious resolution of any matter before it.

[8] The Tribunal generally considers the following factors when deciding whether to consolidate and/or hear Applications together:

- a. The public interest in avoiding a multiplicity of proceedings, including considerations of expense, delay, the convenience of the witnesses, reducing the need for the repetition of evidence, and the risk of inconsistent results;
- b. The potential prejudice to the respondents that could result from a single hearing, including the lengthening of the hearing for each respondent as issues unique to the other respondent are dealt with, and the potential for confusion that may result from the introduction of evidence that may not relate to the allegations specifically involving one respondent or the other; and
- c. Whether there are common issues of fact or law.

(See, *Persaud v. Toronto District School Board*, 2008 HRTO 25)

[9] I find that these Applications should be consolidated and heard together. The respondent submitted that, simply by virtue of the fact that there is more than one applicant, the Applications should not be consolidated. However, the Applications, including that of Mr. Habib, raise virtually identical facts and issues. There is only one respondent, and the Responses to the Applications, themselves, are virtually identical.

[10] The respondent submitted that consolidating and/or hearing the Applications together would “delay, prolong and unduly complicate the hearing process.” I disagree.

[11] The respondent raised unique facts regarding the circumstances of Mr. Habib’s termination. However, Mr. Habib’s allegations of discrimination are virtually identical to those of the other applicants. The respondent also pointed to differences in the training, experience and job performance of the individual applicants. However, these differences would not, in my view, alter the essential nature of the applicants’ allegations of discrimination or the respondent’s response to those allegations. Nor would they unduly delay or complicate the adjudication of the different Applications.

[12] The respondent suggested, in part, that if the Applications were to be joined, the applicants “may discover” facts during the proceedings which “may” give rise to conflicts of interest between them. In my view, this is entirely speculative, and in any event, something the applicants would be fully capable of addressing should the matter arise.

[13] There is a compelling public interest in avoiding a multiplicity of proceedings in this case. Consolidating the Applications and hearing them together would avoid a duplication of proceedings, with no demonstrable prejudice to the respondent. Any question as to whether the applicants should be permitted to remain in the hearing room while each other testifies can be addressed by the Vice-chair presiding at the hearing. The Tribunal will, therefore, consolidate these Applications and hear them together.

[14] The respondent suggested that the Tribunal defer its decision on consolidation pending the outcome of any mediation in these cases. In my view, consolidating the Applications at this stage may, in fact, foster more productive settlement discussions. The respondent’s request to defer is denied.

## **ORDER**

[15] The Applications are consolidated and the Tribunal will hear them together.

[16] I am not seized of this matter.

Dated at Toronto, this 11<sup>th</sup> day of May, 2018.

*“Signed by”*

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Eban Bayefsky  
Vice-chair