

Public Service Labour  
Relations Board



**Annual Report**  
2006–2007


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The Honourable Josée Verner, P.C., M.P.  
Minister of Canadian Heritage, Status of Women and Official Languages  
House of Commons  
Ottawa, K1A 0A6

Dear Minister,

It is my pleasure to transmit to you, pursuant to section 251 of the *Public Service Labour Relations Act*, the Annual Report of the Public Service Labour Relations Board, covering the period from April 1, 2006 to March 31, 2007, for submission to Parliament.

Yours sincerely,



Casper M. Bloom, Q.C., Ad. E.  
CHAIRPERSON



# Public Service Labour Relations Board

## 2006–2007

**Chairperson:** Casper M. Bloom, Q.C., Ad. E.

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**Vice-Chairpersons:** Ian R. Mackenzie  
Sylvie Matteau (term ended September 1, 2006)  
Georges Nadeau  
Michele A. Pineau (appointed January 1, 2007)

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**Full-time Members:** Dan Butler  
Barry Done  
Léo-Paul Guindon  
Dan R. Quigley  
Jean-Pierre Tessier (term ended February 28, 2007)

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**Part-time Members:** Bruce Archibald, Q.C.  
Ruth Elizabeth Bilson, Q.C.  
Mary Ellen Cummings  
Joan Gordon  
Thomas Kuttner, Q.C.  
Paul E. Love  
Kenneth E. Norman  
John J. Steeves  
Denise T. Wilson

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### PRINCIPAL STAFF OFFICERS OF THE BOARD

<b>Executive Director of the Board and General Counsel:</b>	Pierre Hamel
<b>Director, Dispute Resolution Services:</b>	Guy Baron
<b>Director, Compensation Analysis and Research Services:</b>	Guy Lalonde
<b>Director, Registry Operations and Policy:</b>	Susan Mailer
<b>Director, Corporate Services:</b>	Denise Benoit
<b>Director, Financial Services:</b>	Robert Sabourin

## Message from the Chairperson

I am pleased to submit to Parliament the Annual Report of the Public Service Labour Relations Board (the Board) for 2006–2007.

As the newly appointed Chairperson of the Board, I feel very privileged to have been given the opportunity to lead an organization with such a solid record of achievement in administering the collective bargaining and grievance adjudication systems in the federal public service and parliamentary service. Thanks to the combined efforts of current and past Board members, management and employees, the Board is widely recognized as a highly credible and necessary organization.

In April 2005, the Board's mandate as an independent quasi-judicial tribunal was broadened with the enactment of the *Public Service Labour Relations Act (PSLRA)*. Under this Act, the Board is responsible for setting the parameters of fair and equitable employee representation, providing critical support for the collective bargaining process, which includes determining essential services, as well as adjudicating grievances and complaints, and offering mediation, conciliation and arbitration services. As part of its new mandate, the Board is establishing compensation analysis and research services that will support the collective bargaining process.

The Board is committed to conducting itself in an open and impartial manner consistent with the law, procedural fairness and the rules of natural justice as it deals with matters that have a significant impact on labour relations in the federal public service. The Board endeavours to continue to consult with both labour and management to facilitate and improve its processes and to educate clients and the public about its role, services and jurisprudence.

For the past few years, the Board has expended considerable effort managing the transition of its operations from the former legislation to the new regime. Over the coming year, the Board will be pursuing its efforts to address the backlog of cases, to solidly establish its compensation

analysis and research function and deliver compensation data, and to continue to improve the Board's management framework and infrastructure. Focusing on these priorities will help ensure that the Board's services and operating systems remain effective and efficient for the delivery of its mandate.

Fundamental to the effective and efficient delivery of the Board's mandate is an adequate and stable resource base. With 85 employees and expenditures of \$10.4 million, the Board is tasked with delivering services under its statutory mandate to a client base that includes some 230,000 employees, 24 employers and 86 bargaining units. While the Board gained additional responsibilities under the new *PSLRA* in 2005, it was not given a permanent commitment of increased financial resources to carry these out.

As the Board's new Chairperson, I am concerned about the time, energy and human resources that have been expended over the past few years in submitting repeated requests for the funds essential to conducting our work, given that the necessity for and disposition of these funds are not in question. We hope to see the matter resolved this year by the incorporation of these supplementary amounts into the Board's core funding, thus rendering them permanent.

I look forward to leading the Board in the accomplishment of its ambitious agenda in 2007–2008. All those who work for the Board are strongly committed to sustaining their efforts in the year ahead and to continuing to promote harmonious labour relations in the federal public service and parliamentary service in the interest of all Canadians.

### Casper M. Bloom, Q.C., Ad. E.

CHAIRPERSON

PUBLIC SERVICE LABOUR RELATIONS BOARD

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# part one

## About the Public Service Labour Relations Board

The Board is unique in that it is one of the few bodies of its type in Canada that combines both adjudication and labour relations functions.

### Overview

The Public Service Labour Relations Board (the Board) is a quasi-judicial tribunal mandated by the *Public Service Labour Relations Act (PSLRA)* to administer the collective bargaining and grievance adjudication systems in the Public Service of Canada. The Board is unique in that it is one of the few bodies of its type in Canada that combines both adjudication and labour relations functions.

Through its role in adjudicating grievances and complaints, mediating disputes, supporting the collective bargaining process, and performing compensation analysis and research, the Board helps foster harmonious labour relations and good human resource management in the federal public service. This benefits Canadians by supporting a productive and effective workplace that delivers government programs in the public interest.

The Board came into being on April 1, 2005, with the enactment of the new *PSLRA*. It replaced the Public Service Staff Relations Board (PSSRB), which had existed since 1967 when collective bargaining was first introduced into the federal public service.

Although the new Act effectively created a new Board with a new mandate, the Board in fact continues to provide many of the same services

as the former PSSRB and builds on its accomplishments and the solid body of jurisprudence it generated.

### Our Three-Pronged Mandate

#### Adjudication services

The Board and adjudicators of the Board hear and determine grievances, complaints and labour relations matters brought before them under the *PSLRA*. These cases are diverse and wide-ranging, and include:

#### Grievances (individual, group or policy)

- interpretation of collective agreements and arbitral awards;
- disciplinary action resulting in termination, demotion, suspension or financial penalty;
- demotion or termination for unsatisfactory performance or for any other non-disciplinary reasons; and
- deployment without an employee's consent.

#### Complaints

- unfair labour practices; and
- reprisal actions taken for raising an issue under Part II of the *Canada Labour Code*.



**Applications**

- certification and revocation of certification;
- determination of successor rights;
- determination of managerial or confidential positions;
- determination of essential services agreements;
- review of prior Board decisions; and
- requests for extensions of time to present grievances or to refer grievances to adjudication.

**Mediation services**

Mediators provided by the Board help parties reach collective agreements, manage their relations under collective agreements, and resolve

complaints and grievances in an effort to minimize the need for formal hearings.

**Compensation analysis and research services**

The Board conducts analysis and research on compensation for comparable work in relevant labour markets outside the federal public service. This information is provided to parties engaged in the collective bargaining process and is also available to other public and private organizations and individuals.

**The Public Service Labour Relations Board at a Glance**

Our role is to administer the collective bargaining and grievance adjudication systems and offer mediation and compensation analysis and research in the federal public service.

**Our services**

**Adjudication services**

- Administer a registry of applications, complaints and grievances (individual, group and policy)
- Hold grievance adjudication and complaint hearings throughout Canada
- Render decisions

**Mediation services**

**What we do**

- Offer case mediation services that help parties resolve grievances and complaints without resorting to formal hearings
- Offer conciliation and arbitration services that help parties resolve disputes related to the negotiation and implementation of collective agreements
- Receive and investigate requests for certifications, revocations, exclusions and essential services, etc.
- Provide training in alternative dispute resolution

**Compensation analysis and research services**

- Compile, analyze and disseminate compensation information

**What we seek to achieve**

- Fair and timely resolution of cases
- Solid body of precedents and case law that can be used to help resolve future cases

- Increased collaboration between labour and management
- Increased interest in and commitment to mediation on the part of all parties

- Support collective bargaining and compensation determination by providing accurate and comprehensive compensation data

**How we benefit federal public servants and Canadians**

Our work contributes to harmonious labour relations in the public service, which supports healthy and productive workplaces for public servants. By reducing the potential for labour unrest, we improve the ability of the public service to serve Canadians and protect the public interest.

As a quasi-judicial statutory tribunal, the Board is independent of the government of the day.

## Our Clients

In carrying out the activities in its three mandate areas, the Board assists employees, employers and bargaining agents in their labour relations.

Some 230 000 federal public servants belong to bargaining units covered by the *PSLRA*. They work for 24 different employers in the Public Service of Canada. Treasury Board, which is the employer of the core public administration, is by far the largest of these, employing 163 821 employees working in federal government departments and agencies. The remainder—66 255 public service employees—work for one of 23 other employers. (For a list of these employers, please refer to Appendix 1, Table 1.)

As of March 30, 2007, 22 bargaining agents were certified to represent 86 bargaining units in the federal public service. The Public Service Alliance of Canada is the certified bargaining agent for 32% of these bargaining units, encompassing 66% of unionized employees. A further 20% of unionized employees are represented by the Professional Institute of the Public Service of Canada, and the remaining 14% of unionized employees are represented by other bargaining agents. The majority of the other bargaining agents each represent one bargaining unit and membership in those ranges from 10 to 10 000 employees.

Table 1 in Appendix 1 reports the number of public service employees in non-excluded positions by employer and bargaining agent.

The Board's clients also include some employees who do not belong to bargaining units. For example, individuals who occupy managerial and confidential positions excluded from bargaining units are entitled to refer certain types of grievances to adjudication.

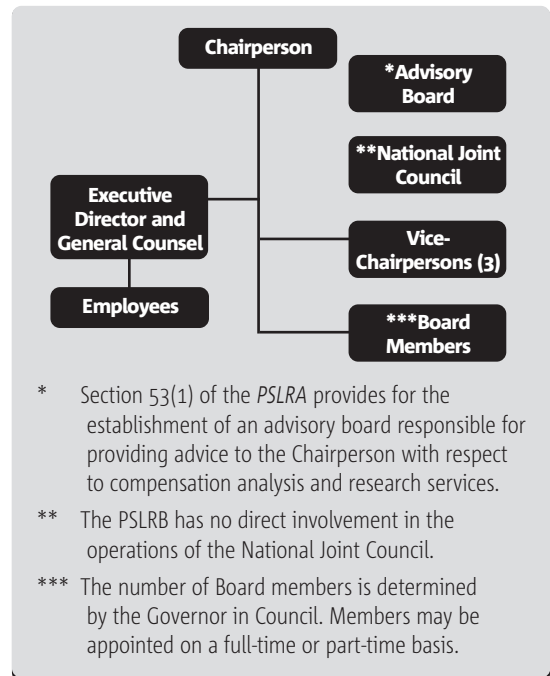
Any of these employees, employers and bargaining agents may be a party to an adjudication or mediation effort, as may deputy heads of federal departments and agencies, and the departments and agencies themselves. All of the employers and bargaining agents (on behalf of their mem-

bers) are potential users of the compensation analysis and research services provided by the Board. On occasion, the Board also offers mediation services to non-represented employees involved in disputes.

## Our Organization

As a quasi-judicial statutory tribunal, the Board is independent of the government of the day. It is responsible to Parliament through a designated minister who is not a member of the Treasury Board. The designated minister is currently the Minister of Canadian Heritage, Status of Women and Official Languages.

The designated minister is responsible under the *PSLRA* for tabling the Board's Annual Report before Parliament each year and for signing documents required under the *Financial Administration Act*. The minister is also the line of communication with the Governor in Council for the purposes of making appointments to the Board.



In 2006–2007, the Board had expenditures of \$10.4 million and had 85 full-time equivalent positions.

## Members of the Public Service Labour Relations Board

The members of the Board are responsible for administering the *PSLRA* by conducting hearings throughout Canada and rendering decisions. They are appointed by the Governor in Council for terms of no longer than five years. They may be re-appointed any number of times.

The Board is made up of the Chairperson, up to three Vice-Chairpersons and additional full- and part-time members as required. The Chairperson, Vice-Chairpersons and full-time Board members meet monthly to discuss questions of general interest to the operations of the Board and to determine matters related to policy.

Yvon Tarte served as the first Chairperson of the new Board. He retired in May 2006 after 14 years serving the Board and its predecessor, the PSSRB. Vice-Chairpersons of the Board, Sylvie Matteau and Ian R. Mackenzie, respectively, served as acting chairpersons until January 2, 2007 when the Board's new Chairperson, Casper M. Bloom, Q.C., Ad. E., was appointed.

Michele A. Pineau was appointed Vice-Chairperson of the Board effective January 1, 2007. Ian R. Mackenzie and Georges Nadeau continue in their appointments as vice-chairpersons of the Board. In 2006-2007 Jean-Pierre Tessier completed his term as a Board member, and Sylvie Matteau completed her term as Vice-Chairperson.

Biographies of full-time Board members are included in Appendix 3, along with the names and terms of part-time Board members.

## Management of the Board

Under the Board's governance structure, the Chairperson is the Board's Chief Executive Officer and has overall responsibility for managing the Board. Each Vice-Chairperson has been delegated functional responsibility for one of the three components of the Board's mandate—adjudication, mediation, and compensation analysis and research.

In 2006–2007, the Board had expenditures of \$10.4 million and had 85 full-time equivalent positions.

The Executive Committee is responsible for managing the resources allocated to the Board and for providing strategic direction and oversight to the management of the Board. It is composed of the Chairperson, the three Vice-Chairpersons, the Executive Director and General Counsel of the Board, and the directors of Registry Operations and Policy, Dispute Resolution Services, Compensation Analysis and Research, Corporate Services and Finance.

The Executive Director and General Counsel of the Board assists the Chairperson in the exercise of his functions and, subject to his direction, directs and supervises the day-to-day operations of the Board, the management of the Board's internal affairs, and the work of persons employed by the Board.

The Board has put in place key elements to ensure good governance, management and accountability. These include an annual strategic plan that takes into account operational priorities, resources, key risks faced by the organization and expectations of key stakeholders, along with a Management Resources and Results Structure that supports well-defined and long-term program activity, a Results-based Management and Accountability Framework and a risk-based internal audit plan. The organization regularly updates these plans and monitors and reports its progress in achieving goals set out in them. Key documents are available on the Board's website at [www.pslrb-crtfp.gc.ca](http://www.pslrb-crtfp.gc.ca).

## Other Responsibilities of the Board

As required by the *PSLRA*, the Board provides physical and administrative support services to the National Joint Council (NJC), an independent consultative body of employer and employee representatives. The NJC exists to facilitate consultation, and the co-development of, policies and terms of employment that do not lend themselves to unit-by-unit bargaining. The Board houses the NJC but plays no direct role in its operation.

The Board administers the collective bargaining and grievance adjudication systems under the *Parliamentary Employment and Staff Relations Act*, which governs labour relations in Parliament. Under an agreement with the Yukon government, the Board also administers the collective bargaining and grievance adjudication systems required by the Yukon *Education Labour Relations Act* and the Yukon *Public Service Labour Relations Act*. When performing those functions funded by the Yukon government, the Board acts as the Yukon Teachers Labour Relations Board and the Yukon Public Service Labour Relations Board, respectively.

Separate annual reports are issued for all of these acts, and are available on the Board's website at [www.pslrb-crtfp.gc.ca](http://www.pslrb-crtfp.gc.ca).

# part two

## The Year in Review

The Board's assistance to the parties begins with early interventions that aim to resolve issues before more formal proceedings become necessary.

### Overview of the Board's Work

In 2006–2007, the Public Service Labour Relations Board (the Board) moved into full-scale operation under the new *Public Service Labour Relations Act (PSLRA)*.

#### Early interventions to resolve issues

The Board's assistance to the parties begins with early interventions that aim to resolve issues before more formal proceedings become necessary. At the request of the parties, the Board provides preventive mediation services and offers support for consultation processes where the parties to a dispute can collaborate to identify and resolve problems. The Board also conducts a mediation training program to help equip employer and employee representatives with tools that will enable them to address local issues as they arise in the workplace.

The Board's new compensation analysis and research services also aim to assist the parties in preventing disputes by providing impartial information needed to support their discussions in collective bargaining.

#### Voluntary resolution of cases through mediation

When the Board receives a reference to adjudication, a complaint or another application, it gives priority to exploring options for resolving the matter voluntarily through mediation. Board mediators and Board members acting as mediators have established a strong record of success in helping the parties find solutions to their problems without the need for more formal hearings and decisions. The Board's mediation efforts may also continue once more formal proceedings have begun, with Board members ready to provide renewed mediation assistance where the parties concur.

Mediation is also the watchword for disputes in collective bargaining that come to the Board. By helping the parties reach voluntary agreements on essential services issues and on their disagreements at the bargaining table, the Board aims to minimize the number of cases where a formal dispute resolution procedure is required to bring collective agreement negotiations to completion.

The total number of cases before the Board—both new and carried over from previous years—continues to increase.

### Resolution of cases through hearings and decisions

Not all cases brought to the Board are suitable for voluntary resolution through mediation, nor do mediation efforts always succeed when they are undertaken. In those cases, the Board turns to more formal hearing and decision processes to assist the parties. These include grievance adjudication proceedings, complaint hearings, or a reference by the Chairperson to arbitration boards and public interest commissions. Depending on the process, the result takes the form of a binding decision that resolves a dispute, or in the case of public interest commissions, a decision that provides guidance as to how a problem might be settled by the parties. Pre-hearing conferences also contribute to the resolution of cases.

Each year, the number of cases that result in formal decisions is a relatively small percentage of the total actions brought before the Board. These decisions nevertheless are often viewed by the parties and the public as the Board's most tangible "product."

Some decisions establish important jurisprudence to guide the parties in the future. Some resolve conflicts that have attracted substantial public attention. While there is no doubt that these formal decisions are a critical component of the Board's role, they are always a complement to, rather than a substitute for, the Board's efforts to assist the parties in other ways.

### The Board's caseload in 2006–2007

The total number of cases before the Board—both new and carried over from previous years—continues to increase. In 2006–2007, the volume of open cases stood at 5928. This represents a 4% increase over 2005–2006, a 35% increase over 2004–2005 and a 48% increase over 2003–2004.

Grievances referred to adjudication constitute the bulk of the Board's workload. In 2006–2007, 5211 grievances constituted 88% of the Board's total cases—up from 83% in 2005–2006. The remaining 717 cases (12%) consisted of

complaints and applications. These are matters that are heard and decided by the Board or by a member of the Board.

In 2006–2007, 29% of the Board's total active caseload (or 1693 cases) was composed of new files received in 2006–2007; the other 71% (or 4235 cases) was made up of cases carried forward from previous years.

The Board closed 2636 cases in 2006–2007 (or 44% of its total active caseload), significantly more than in 2005–2006, when it closed 1447 cases. This was largely due to the withdrawal by one bargaining agent of 860 grievance cases at one time after a particular issue was resolved during collective bargaining. Outside this single mass withdrawal, the Board also succeeded in closing 329 more files than in the previous year. As a result, 22% fewer cases needed to be carried forward to the next fiscal year than in 2005–2006 (3292 compared to 4235).

The total number of all new cases received by the Board actually declined slightly—by 2%—in 2006–2007. The distribution of these new cases by type changed markedly. The number of new grievance cases was down 13% (from 1439 to 1251) and the number of applications received was up 56% (from 248 to 387). The latter was mainly due to a rise in applications for the determination of management and confidential positions, and for requests to extend time to file grievances or references to adjudication.

Table 1 in Appendix 2 provides more detailed statistics on the Board's caseload in 2006–2007.

### Grievances

Grievances are referred to the Board mainly as a result of "rights disputes" that arise from the application or interpretation of collective agreements or arbitral awards, or from major disciplinary action involving financial penalty, such as suspension and termination.

If a public service employee presents a grievance within a department or agency and it reaches the

**The Board offers mediation services to the parties involved in all grievance cases.**

end of the internal grievance process without being resolved to the employee's satisfaction, he or she may refer the grievance to adjudication before the Board if the subject matter falls within the classes listed in the *PSLRA*.

The Board offers mediation services to the parties involved in all grievance cases. Although engaging in mediation is voluntary, in many cases the parties agree to go forward to mediation, which can bring about a settlement before a case goes to a hearing. Cases that are not settled or withdrawn proceed to a hearing before a member of the Board selected by the Chairperson. Board members sitting in this capacity are acting as adjudicators.

In 2006–2007, the number of active grievance adjudication cases stood at 5211. This represented an increase of 4% over 2005–2006, an increase of 22% over 2004–2005 and an increase of 68% over 2003–2004.

While the number of new grievance cases received by the Board has been declining since 2004–2005, a backlog has been created because the number of cases carried forward every year has continued to climb, up until this fiscal year. For example, in 2005–2006, the number of cases carried over to the next year increased by 11% over 2004–2005 and by 73% over 2003–2004. But at the end of 2006–2007, only 2992 active grievance cases were carried forward to 2007–2008, representing a 24% drop from the year before. The main reason for this was the withdrawal of 860 grievance cases by one bargaining agent mentioned earlier.

In 2006–2007, the 1251 new grievance cases were distributed as follows: 1224 were individual grievances, 12 were group grievances and 15 were policy grievances. Fifty-three of those were termination cases.

The Board closed 2219 grievance cases in 2006–2007, or 43% of all grievance cases. The vast majority of those were cases settled or withdrawn by the parties involved. The Board also issued 94 adjudication decisions, some of which applied to more than one case.

When the *PSLRA* was enacted on April 1, 2005, employees were still able to refer grievances to adjudication under the former Act if the events grieved happened before that date, or if the grievance had been presented but not finally dealt with before that date.

In 2005–2006, 209 grievances (or 14% of grievances) referred to the Board were filed under the new Act while 1230 grievances (or 86% of grievances) were filed under the former Act.

In 2006–2007 the proportion has almost reversed; 926 (74%) new grievances were filed under the new Act while 325 (26%) were filed under the former Act. Although the number of grievances referred under the former Act is declining, it still represented one quarter of all grievances referred to the Board in 2006–2007.

### Complaints

Three per cent of the Board's active caseload in 2006–2007 involved complaints (156). Two types of complaints are heard by the Board—complaints of unfair labour practices under the new Act and complaints related to reprisals under the *Canada Labour Code*.

The bulk of active cases (126 or 81%) fall into the first category, which comprises certain types of complaints by employees, bargaining agents and employers, including those in which:

- an employer is alleged to have engaged in unfair labour practices (for example, by interfering with the creation or administration of a union or by engaging in discrimination based on union membership);
- a bargaining agent is accused of acting in bad faith in the representation of an employee; or
- an employer or bargaining agent is accused of failing to bargain in good faith.

The remaining cases (30 or 19%) fall into the second category, which includes complaints about disciplinary actions or discrimination resulting from the exercise by federal public



The Board's true caseload at any time is composed of a subset of the number of files formally referred to it—a subset that is not always easy to quantify with certainty.

service employees of workplace health and safety rights under Part II of the *Canada Labour Code*.

The total number of new complaints received in 2006–2007 (55) was quite similar to the previous year (49). However, the number of unfair labour practice complaints received went up from 31 to 50 (a 61% increase), while the number of complaints of reprisal under the *Canada Labour Code* went down from 18 to 5 (a 72% decline).

### Applications

Nine percent (561) of the Board's active cases in 2006–2007 involved applications for certifications, determination of management and confidential positions, designation of essential services positions, review of prior Board decisions and extensions of time.

There has been a notable increase in applications requesting an extension of time to file a grievance or to refer a grievance to adjudication. The number jumped by 224% over the previous year (from 33 to 107). Such applications can be heard and decided only by the Chairperson or a Vice-Chairperson as delegated by the Chairperson.

### Looking Behind the Numbers

Reporting the number of cases before the Board tells an important story about its work. It is important to interpret these numbers with some caution, however, particularly as they relate to the Board's grievance caseload. There are a number of factors that make the Board's caseload appear larger than it actually is.

Under the former Act, there was no formal provision for group grievances as currently exists under the new Act. Instead, employees who shared a common concern might submit many separate references to adjudication on the same subject at the same time.

On occasion, bargaining agents have also used this approach as part of a collective bargaining campaign to press for solutions to common problems experienced by their members. On occasion,

these campaigns have resulted in a large volume of similar grievances being referred over a very short period of time, such as several hundred in the course of one week.

In practice, the Board has normally consolidated these grievances for purposes of adjudication. Alternatively, an adjudicated outcome in a representative case might be used by the parties to resolve other references on the same subject. In still other instances, groups of cases have been withdrawn without formal Board intervention once the matter has been resolved in another setting.

The Board also frequently receives multiple references to adjudication from a single grievor, either at the same time or sequentially. In most situations where it is possible, Board mediators and adjudicators address these files together in one proceeding. Often, multiple files reveal related problems in the workplace that can best be solved through an integrated approach.

Finally, some files come to the Board when a party needs to comply with collective agreement or statutory time limits in order to protect its rights. A number of those cases are subsequently withdrawn when the parties themselves resolve the matter voluntarily prior to Board involvement.

Given these types of situations, the Board's true caseload at any time is composed of a subset of the number of files formally referred to it—a subset that is not always easy to quantify with certainty.

### Strategies to Manage the Board's Caseload

In response to the continued increase in the volume of cases before it, the Board has introduced new case management tools to keep active files to a manageable number. When new references and complaints are filed, they go through a thorough screening to identify any trends that would permit the Board to administratively group matters to be heard together or at least to track them under one common element.



**A growing number of cases involve individuals who are representing themselves.**

The Board also took action in 2006–2007 to deal with a steep rise in the number of requests from parties on both sides to postpone hearings at the last minute, either because of eleventh-hour settlement discussions or because witnesses were suddenly unavailable. To address this, in May 2006 the Board wrote to the parties to inform them that requests for postponement would be more closely scrutinized in the future.

The Board is also encouraging the parties to propose alternate cases to substitute into the time slots of cases that are unable to proceed. It should be noted that cases are currently scheduled in the anticipation that a certain number will settle, thereby allowing Board members/adjudicators time to write their decisions. If the Board changed the scheduling process significantly, it would not be able to assign cases in the same manner.

In addition, the Board is making greater use of the new provisions in the Act that provide for pre-hearing conferences. These have proven to be effective in clarifying issues prior to the start of a hearing, and, in some cases, they eliminate the need for an in-person hearing altogether. Pre-hearing conferences still present a challenge for the parties, who have to balance their availability not just for the formal hearing, but also for these conferences. The Board may use alternate modes such as teleconferences to hold hearings as well.

For a number of years, the Board has offered expedited adjudication to parties who want to save time and resources. This allows certain grievances to be dealt with without resorting to a full hearing process. In the expedited process, the parties normally file an agreed statement of facts and no witnesses are heard.

The parties agree that decisions rendered in the expedited process are not precedent-setting and will not be subject to judicial review. Oral decisions are given to the parties at the hearing. A short written decision follows within five days.

In 2006–2007, the Canadian Federal Pilots Association agreed to proceed with expedited

adjudication with the Treasury Board, bringing the total number of bargaining agents availing themselves of expedited adjudication to 17.

In 2006–2007, 21 cases filed with the Board requested the expedited adjudication process. The nine expedited adjudication hearings held during the year resulted in decisions affecting 20 cases from previous years.

### **New Challenges for the Board**

Most individuals who file grievances or complaints with the Board are represented by their bargaining agents. However, individuals may represent themselves when a grievance relates to termination, demotion or discipline resulting in financial penalty. A growing number of cases involve individuals who are representing themselves. While those cases still constitute a small proportion of the total number of cases filed every year, they have a disproportionate impact on the Board's resources. For example, since most self-represented individuals are not familiar with the Board's legislation and regulations, they have many questions and need much assistance as they go through the process of filing their cases. The Board has produced a video and written guidance to assist such individuals in presenting their grievances and complaints. These are available on the Board's website at [www.pslrb-crtfp.gc.ca](http://www.pslrb-crtfp.gc.ca), or upon request.

## **Adjudication Services**

### **Decisions of Interest**

This section elaborates on several decisions of interest rendered by the Board and by Board members acting as adjudicators in 2006–2007. While these selected decisions represent only a small portion of all the cases heard by the Board during the past year, they provide a good idea of the nature, diversity and complexity of matters coming before the Board.

Other decisions of interest in 2006–2007 dealt with human rights and the duty to accommodate persons with disabilities, the definition of reprisal under the *Canada Labour Code* and the certification of the bargaining unit representing lawyers in the federal public service.

Summaries and full-text versions of all decisions rendered by the Board and its adjudicators can be found on the Board's website at [www.pslrb-crtfp.gc.ca](http://www.pslrb-crtfp.gc.ca).

The first theme within decisions of interest centres around complaints of unfair labour practices. In 2006–2007, as noted earlier, the Board had the opportunity to address a number of such complaints. The second area picks up on a theme presented last year, which concerns the approach of adjudicators to admitting evidence obtained through videotape surveillance.

Other decisions of interest in 2006–2007 dealt with human rights and the duty to accommodate persons with disabilities, the definition of reprisal under the *Canada Labour Code* and the certification of the bargaining unit representing lawyers in the federal public service.

Certain decisions of the Board and its adjudicators have also been the subject of applications for judicial review before the Federal Court and the Federal Court of Appeal.

#### Complaints of unfair labour practices

The following three key cases in 2006–2007 concerned sections related to unfair labour practice complaints under both the former Act and the new Act. Each of the decisions issued by the Board focused on a different aspect of unfair labour practices.

In **Lamarche v. Marceau**, 2007 PSLRB 18, the Board was called upon to evaluate evidence related to the bargaining agent's allegation of anti-union "animus" (animosity) and to decide whether it was sufficient to meet the burden of proof required in such cases.

In this case, the complainant first filed a complaint under the former Act in 2002. He alleged that the Act had been violated when his candidacy for an acting appointment was rejected because he occupied a national position with his bargaining agent. His complaint was heard by the PSSRB and dismissed in 2004.

The complainant filed a successful application for judicial review and the Federal Court of Appeal

ordered a new hearing, which took place in 2006 but was decided under the terms of the former Act.

For such a complaint to be allowed, the complainant has to show that the employer acted in a discriminatory manner toward the employee because he or she was a member of an employee organization or because he or she was exercising a right under the former Act. In addition, as pointed out in the Federal Court ruling that referred this matter back to the Board for a new hearing, the evidence of anti-union animus is very relevant, if not crucial, to the matter to be decided.

Evidence revealed that the respondent had informed employees at a meeting that the complainant had not been considered for an acting appointment as tax appeals team leader because of his involvement with union duties. The respondent countered that he had chosen the most qualified person for the appointment and that the complainant did not possess the appeals experience required for the job.

At a later meeting, the respondent told the complainant that his involvement with the bargaining agent was very important and that the complainant could not leave to become a manager. Further evidence showed that though the bargaining agent had repeatedly requested the respondent sign a membership card, he had always refused, stating that he had no need for the bargaining agent.

The evidence also disclosed that, some years earlier, the respondent had commented in an employee's annual performance review that involvement with a bargaining agent was not compatible with managerial duties. The respondent had also informed an employee on the employer's bargaining team that he was not obliged to consider "a union guy," because the latter did not belong to the Appeals Division. The respondent countered that he had given employees involved with the union acting assignments in managerial positions on several occasions.

The Board considered the extent to which bargaining agent representatives could publicly criticize decisions of the employer and whether discipline imposed by an employer on a representative for having done so constitutes an unfair labour practice.

In its decision, the Board recognized that, by virtue of section 7 of the PSSRA, it could not evaluate the employer's decision about the qualifications deemed necessary for the acting assignment in question. It could, however, decide if the reasons given by the employer for not considering the complainant's candidacy were well founded or merely a pretext.

The Board allowed the complaint, stating that the reasons were indeed a pretext and were tainted by anti-union animus. To remedy the violation, the Board held that the complainant was entitled to the difference in salary between his position and that of the acting appointment he had been denied, for a defined time period.

In **Shaw v. Deputy Head (Department of Human Resources and Skills Development) et al.**, 2006 PSLRB 125, the Board considered the extent to which bargaining agent representatives could publicly criticize decisions of the employer and whether discipline imposed by an employer on a representative for having done so constitutes an unfair labour practice.

In this case, the grievor/complainant received a 10-day suspension without pay for publicly criticizing changes made to the way services were being delivered by his employer before a meeting of community organizations. The grievor/complainant was local president of the Canada Employment and Immigration Union (CEIU), the bargaining agent representing employees in his workplace, and made the comments in his capacity as its spokesperson. The CEIU was engaged in a vigorous campaign against the employer's contracting out of work performed by bargaining unit members. As one of the campaign's key organizers, the grievor/complainant had been attempting to draw public attention to the implications of cuts to government services. He grieved his suspension and filed a complaint alleging an unfair labour practice.

The complainant's director felt that these public statements had the potential to undermine the credibility and effectiveness of the department, were disrespectful and hurtful to its managers, and conveyed a political viewpoint on issues

about which the grievor/complainant was obliged to maintain public neutrality.

The Board allowed both the grievance and the complaint. In its decision, the Board held that bargaining agent representatives should not be subject to discipline unless they make statements against the employer that are malicious or knowingly or recklessly false. Those who speak for bargaining agents must be able to question the employer's decisions and challenge their wisdom and legitimacy. This licence to criticize applies equally to employees who volunteer as elected officers of bargaining agents and to representatives who work full time for bargaining agents.

The Board found that the greater latitude given to union representatives does not apply only to bargaining agent activity understood in a narrow sense, such as negotiating collective agreements, but also to broader strategies that are adopted to influence change in the terms and conditions of employment of members. In this case, the Board found the issues discussed during the meeting to be within the scope of the collective bargaining relationship. Because the employer failed to show that the statements made were malicious or knowingly or recklessly false, the discipline was not warranted.

The decision stated that a disciplinary sanction that singles out people for exercising their rights under the *PSLRA* constitutes interference with union representation. Not only can this make it difficult for representatives to perform their representational duties, it can exact a personal price that may inhibit them from challenging the employer, and may also send a message to other employees about the dangers of exercising their own rights under the Act.

The Board held that the employer did not meet the reverse onus imposed on it by subsection 191(3) of the Act to demonstrate that there had been no failure to observe the requirements of the statute. The employer was found to have committed an unfair labour practice in imposing discipline and was ordered to compensate the complainant for all wages and benefits lost due to the suspension.

The issue of the admissibility of videotape evidence has been the subject of increasing interest in the labour arbitration community.

The case of **International Association of Machinists and Aerospace Workers and District Lodge 147, National Association of Federal Correctional Officers v. Correctional Service of Canada**, 2006 PSLRB 76, also involved a complaint of unfair labour practices. In this case, the Board addressed the issue of bargaining agents communicating with employees in the context of a campaign to organize employees.

As part of such an effort, the International Association of Machinists and Aerospace Workers (IAMAW) sent campaign information to correctional officers at their work addresses. The employer returned the mail to the bargaining agent. The IAMAW filed a complaint alleging that this interfered with the formation of and discriminated against an employee organization in violation of the *PSLRA*.

In its decision, the Board held that, looked at in isolation, the refusal to deliver the complainant's mail could be characterized as interfering in the formation of an employee organization, but that in this case it was not. The Board held that the Correctional Service of Canada could reasonably believe that by mailing campaign literature to the workplace, the bargaining agent was attempting to persuade employees to join an employee organization on the employer's premises during normal working hours, an activity prohibited by the Act without the employer's consent. The Board also held that there was no evidence to show that the respondent's actions constituted discrimination against an employee organization within the meaning of the Act. The complaint was dismissed.

#### **Videotape surveillance evidence**

The issue of the admissibility of videotape evidence has been the subject of increasing interest in the labour arbitration community. The Board was called on to deal with this issue in **Taillefer v. Treasury Board (Department of Foreign Affairs and International Trade)**, 2006 PSLRB 70.

After an accident at work, the grievor was on leave from her job and was receiving worker's compensation benefits. The provincial workers'

compensation board was set to recommend she be designated "unemployable" due to incapacity. Upon receiving third-hand information that the grievor had been seen shopping at a mall, the provincial authority decided to investigate and videotape the grievor in public places. With the support of her doctor, the grievor then asked to return to work—a request that was denied by her employer. The investigation resulted in the suspension and then termination of the grievor's benefits. The employer felt it had no choice but to suspend the grievor pending its own investigation, which resulted in her termination. The grievor subsequently filed three related grievances.

The grievor's representative objected to the employer's intention to file in evidence the videotaped surveillance gathered by the provincial authority. Before the grievance could be heard on its merits, the adjudicator had to determine whether the videotaped surveillance would be admissible as evidence. Following the approach set out in previous cases, the adjudicator held that he could admit the evidence if the employer could prove that, given the circumstances, it was reasonable to videotape the grievor's activity and that such surveillance was carried out in a manner that was reasonable, proportionate to the gravity of the situation, and not unduly intrusive.

The adjudicator held that the decision of the workers' compensation board to proceed by videotaping the grievor was appropriate and justified given the circumstances. The adjudicator concluded that the evidence was consistent with the approach set out in the jurisprudence and was therefore admissible.

The adjudicator also rejected the grievor's argument that the employer had acted in bad faith. In rejecting the grievor's contention that the employer should have directly questioned her co-workers rather than resort to videotaping, the adjudicator noted that such questioning would have intruded more upon the grievor's private life and reputation than the videotape surveillance had done.

This case dealt with the employer's duty to accommodate a visually impaired employee during his probationary period.

The adjudicator rejected the employer's argument that it could not be constrained to ensure that the evidence in question respected the grievor's right to privacy, because it had not been the one to make the videotape. He held that the employer is required to ensure that the evidence on which it bases its decisions respects the fundamental rights of its employees. Simply because the evidence is collected by a third party does not mean it can come from any source and be collected under any circumstance.

#### Human rights—reasonable accommodation

In **O'Leary v. Treasury Board (Department of Indian Affairs and Northern Development)**, 2007 PSLRB 10, an adjudicator of the Board issued a decision in a case involving human rights, a newly acquired area of jurisdiction for the Board. This case dealt with the employer's duty to accommodate a visually impaired employee during his probationary period.

The grievor was employed as a human resources advisor (PE-02) in an isolated post. After 10 months in the position, he was demoted to the AS-01 level. He grieved the demotion. In the PE-02 position, the grievor was responsible for the staffing function in the region, although he had no direct experience in staffing. To compound matters, the office in question was very busy and handled 15% of the Department's total staffing requests.

As well, the grievor suffered from a visual disability that made it difficult for him to perform visually oriented tasks. The employer provided him with a special monitor and software but the monitor was delivered late. He received only one hour of training over the phone in the use of the software, which was provided only after he had been threatened with termination. The grievor never received the requested headset or large print key caps. He was given several days training with a senior staffing officer from headquarters, who advised the employer afterwards that with on-the-job training the grievor would become capable of performing his duties.

The grievor's supervisor, who was new to the Department and had not been involved in his hiring, was disappointed that he was not able to "hit the ground running." The employer produced some evidence that the grievor experienced difficulty completing his tasks, required frequent assistance, asked the same questions repeatedly, made mistakes on staffing files, failed to document staffing files, and was the subject of complaints from Public Service Commission staff he consulted.

In his decision, the adjudicator noted that there is a sequence of events necessary for the employer to establish that the performance of an individual is unsatisfactory to the point that warrants a demotion. In this case, the employer failed to demonstrate that its assessment of the grievor was reasonable. While the grievor did have difficulties meeting the level of performance expected of him, that level was excessive given his experience. All the evidence related to errors that had occurred early in his tenure and had not been repeated. Further, the evidence demonstrated that the grievor had handled a high volume of cases. In effect, the employer had set the stage for what occurred by hiring someone inexperienced and failing to provide sufficient training to assist him in overcoming his difficulties.

The grievor's inexperience, coupled with his visual impairment, would have required a comprehensive training and support program, along with time to allow him to achieve the desired level of proficiency. What the grievor received was little more than close supervision aimed more at documenting his failings than at helping him to overcome them.

The adjudicator held that the grievor should be reinstated to a PE-02 position in a location other than an isolated post, given the assessment of his health status done by Health Canada.

An application for judicial review before the Federal Court is pending.



Certification is granted when the employee organization applying for it is able to demonstrate to the Board that the majority of employees within the bargaining unit wish to be represented by it.

### Complaints under the *Canada Labour Code*

Under section 133 of the *Canada Labour Code* (the *Code*), the Board is required to inquire into complaints where it is alleged that the employer has taken a measure described in section 147 of the *Code*. These are measures against an employee's participation in a proceeding engaged under Part II of the *Code* or against an employee's action in accordance with or in furtherance of Part II of the *Code*.

In **Ferrusi and Giornofelice v. Treasury Board (Canada Border Services Agency)**, 2007 PSLRB 1, the Board dealt with three related issues: the procedure that governs work refusals; the obligation of the employer to compensate complainants for the period of the work refusal; and whether certain statements made to employees constituted improper threats of reprisal under section 147 of the *Code*.

The complainants, who were both customs officers, exercised their right to refuse to work under section 128 of the *Code*. The complainants alleged that on two occasions the employer had failed to follow proper procedures when they exercised their right to refuse to work under the *Code*, and had improperly withheld compensation for the period in which they were exercising their right to refuse. Because the employer regarded the second series of work refusals as continuations of earlier ones that had raised many of the same issues, it did not require new investigations by health and safety officers from Human Resources and Social Development Canada. Health and safety officers had previously investigated the work refusals and had found that no danger existed. The employees had returned to work.

The Board found the employer to be in violation of sections 128 and 129 of the *Code* by refusing to participate in an internal investigation or to permit an investigation of the work refusals to be undertaken by a health and safety officer. It also found the employer to be in violation of section 147 of the *Code* by refusing to pay the complainants for the period during which they exercised their right under the *Code* to refuse work

and by making improper threats of reprisal against employees who were exercising their rights within the meaning of that section. The Board ordered the employer to post its decision in a place where it would be accessible to all employees.

### Certification of bargaining agents

The Board also handles applications for certification or revocation of certification and, in response to applications, issues decisions regarding successor rights. Certification means that an employee organization (bargaining agent) has been recognized by the Board to represent a group of employees in their labour relations with their employer.

Certification is granted when the employee organization applying for it is able to demonstrate to the Board that the majority of employees within the bargaining unit wish to be represented by it. It brings with it the right to bargain collectively on behalf of the employees included in the bargaining unit and to become their bargaining agent.

Anyone representing a majority of employees who no longer wish to be represented by the certified union can apply for revocation of certification. Revocation can also be granted for abandonment or for fraud.

Successor rights involve the transfer of the rights and obligations associated with certification under certain circumstances. For example, if a department or a portion of a department or agency becomes a separate agency or becomes a part of an existing separate agency, the union's representation rights are protected and the collective agreements continue to apply to the employees who will be transferred to their new employer. The Board may be called upon to render orders to ensure that those transitions take place in an orderly manner.

In 2006–2007, there were two new applications for certification and nine carried over from previous years. Two decisions were rendered and all 11 cases were closed.

When the PSLRA came into force, lawyers at the DOJ were no longer automatically excluded from collective bargaining. This opened the door to the certification of a bargaining unit for lawyers.

Perhaps the most historic of those were the applications received on behalf of lawyers working in the Department of Justice (DOJ). When the *PSLRA* came into force, lawyers at the DOJ were no longer automatically excluded from collective bargaining. This opened the door to the certification of a bargaining unit for lawyers.

In **Federal Law Officers of the Crown v. Treasury Board of Canada, Association of Justice Counsel v. Treasury Board of Canada and Treasury Board of Canada v. Professional Institute of the Public Service of Canada**, 2006 PSLRB 45, the Board rendered a decision regarding the certification of a bargaining unit for all DOJ lawyers.

Under the former Act, a bargaining certificate had been issued to the Professional Institute of the Public Service of Canada (PIPSC) as bargaining agent for a small group of lawyers who worked in the field of law outside the DOJ. When the *PSLRA* came into force, the Federal Law Officers of the Crown (FLOC) and the Association of Justice Counsel (AJC) filed applications for certification with the Board. The FLOC application covered all DOJ lawyers employed at the Ontario Regional Office (ORO)—about 10% of DOJ lawyers. The AJC's application covered all lawyers employed by the DOJ. The PIPSC applied for and was granted intervenor status in the hearing.

The Treasury Board asserted that neither of the proposed bargaining units were appropriate for collective bargaining, arguing that the bargaining unit should be a service-wide unit. During the course of the hearing, the AJC amended its position to assert that the appropriate bargaining unit should be service-wide. The FLOC stated that the history of the relationship between lawyers working in the ORO and lawyers working elsewhere in Canada was such that the AJC could not adequately represent ORO lawyers and, indeed, that the AJC was committed to acting against the interests of the ORO lawyers. The FLOC felt that the goal of parity with Ontario provincial crown attorneys could be realized if they formed their own bargaining unit but not if they became part of a service-wide bargaining unit.

When determining whether a group of employees constitutes an appropriate unit for collective bargaining under the *PSLRA*, the Board must have regard for the employer's classification of those employees and must establish units that are co-extensive with the occupational groups or subgroups created by the employer, unless doing so would not permit satisfactory representation of employees within the unit.

The panel of the Board held that the unit proposed by the FLOC did not constitute an occupational subgroup and that the existence of a regional rate of pay for ORO lawyers did not create such a subgroup. The Board stated that it disapproved of fragmentation and a multiplicity of bargaining units, and asserted that sound labour relations requires broad-based bargaining units whenever possible. Regional market forces do not justify the creation of separate bargaining units.

The evidence of conflict between the FLOC and the AJC did not establish that a service-wide bargaining unit would lead to the unsatisfactory representation of ORO lawyers. The Board concluded that a service-wide bargaining unit composed of all lawyers in the LA group for whom Treasury Board is the employer was the only appropriate bargaining unit. The Board was satisfied that a majority of the LA group wished to have the AJC as their bargaining agent and a certificate naming the AJC as bargaining agent was issued in due course.

### Decisions of the Federal Court and the Federal Court of Appeal

The decisions of the Board and its adjudicators are subject to judicial review by the Federal Court of Appeal and the Federal Court. In 2006–2007, 11 decisions were issued by these courts that concerned decisions issued by either the Board or its adjudicators. In all but one decision, the applications for judicial review were dismissed.

In **Attorney General of Canada v. Professional Institute of the Public Service of Canada**, 2006 FCA 185, the Federal Court of Appeal issued a

The extent to which labour arbitrators and adjudicators, rather than the courts, have the authority to grant damages has been the subject of much debate in the labour relations community in Canada in recent years.

decision that examined the level of deference given to decisions of the Board on procedural matters. The Court held that the Board should be afforded the greatest level of deference on procedural matters, and referred to it as a “highly expert body.” It quoted with approval a decision of the Supreme Court of Canada in *Prasad v. Canada (Minister of Employment and Immigration)*, [1989] 1 S.C.R. 560, which held that, as a general rule, tribunals are considered to be “masters of their own house,” and that, in the absence of specific rules, they should control their own procedures, as long as they comply with the rules of fairness and natural justice.

In ***Attorney General of Canada v. Grover***, 2006 FC 28, the Court considered the employer’s application for the judicial review of a decision of a Board adjudicator. This decision allowed a grievance against the employer for imposing an indefinite suspension without pay on the employee for refusing to submit to a medical examination by a physician of the employer’s choice. The adjudicator had ruled that the employer did not have sufficient grounds to make such a request.

The case raised a significant issue: What is the balance to be struck between an employee’s right to privacy and an employer’s legitimate duty to maintain a safe workplace? The Court stated that the foundational principle in the applicable labour law jurisprudence is that employees have a strong right to privacy with respect to their bodily integrity and medical practitioner; therefore, a trespass is committed if an employee is examined against his or her will.

Consequently, the employer cannot order the employee to submit to a medical examination by a doctor of its choosing without some express contractual obligation or statutory authority. Notwithstanding this finding, the Court found the employer’s obligation to ensure a safe workplace was also well established. This means employers have the right to know more about an employee’s medical information if there are reasonable and probable grounds to believe that the employee presents a risk to health or safety in the workplace.

The Court held that, in order to respect the employee’s right to privacy and bodily integrity, the employer must explore other options to obtain the necessary information. If the employer is dissatisfied with these other options, including and in particular a medical certificate tendered by the employee, it has the duty to clearly explain to the employee the reasons the information is insufficient.

The Court found that only after all of these steps have been taken can an employer, in certain instances, insist that an employee go to a doctor of its choosing. Significantly, the Court held that it was important to emphasize that the employer’s interest must relate to safety. Concerns about the validity of an employee’s sick leave cannot justify a demand for a medical examination. The Court concluded that there was a fundamental difference between requiring a medical examination to assess fitness to work and to test the validity of an alleged illness.

The extent to which labour arbitrators and adjudicators, rather than the courts, have the authority to grant damages, including special and punitive damages and the applicable legal principles, has been the subject of much debate in the labour relations community in Canada in recent years. In ***Bédirian v. Canada (Attorney General)***, 2006 FC 1239, the Federal Court reviewed a decision of a Board adjudicator that concerned an employee’s right to claim damages following disciplinary action by the employer that was overturned at adjudication.

In outlining the principles that apply to the awarding of general and punitive damages, the Court stated that both types of damages required proof of fault on the part of the employer giving rise to an independent cause of action founded on contractual or tortious responsibility. Proof of a causal link between the impugned actions and the damages suffered is also required.

The Court held that the adjudicator’s conclusion that the employer had not committed an error giving rise to damages was unreasonable because the employer had treated the employee unfairly.



Preventing discord and resolving disputes before positions become entrenched is always preferable to resorting to more formal and adversarial rights-based approaches.

The Court remitted the case to another Board adjudicator to be decided in conformity with the principles outlined by the Court in its decision.

The Attorney General of Canada filed an appeal of the decision. On June 8, 2007, the Federal Court of Appeal granted the appeal and overturned the Federal Court's judgment. In **Canada (Attorney General) v. Bédirian**, 2007 FCA 221, the Federal Court of Appeal held that when determining the right to damages in cases where disciplinary measures are found to be unjustly imposed, the question to be asked is whether the employer committed a distinct tortious or wrongful act susceptible of attracting liability, based on the application of the principles of civil liability. The question is not whether the employer acted inequitably or in bad faith, because that in and of itself does not necessarily attract a finding of civil liability.

The Federal Court of Appeal found no basis in the record before it upon which a distinct tortious or wrongful action could be established. Therefore, no damages could be awarded. The decision of the Board's adjudicator was confirmed.

## Mediation Services

Mediation is a key element of the Board's statutory mandate and a vital service provided by the Board. The legislation governing the work of the Board clearly recognizes that a key to good labour-management relations is the proactive and informal resolution of conflicts at the earliest stage possible.

Preventing discord and resolving disputes before positions become entrenched is always preferable to resorting to more formal and adversarial rights-based approaches. The Board promotes and supports the use of informal and innovative approaches to dealing with workplace conflicts. Mediation is well accepted because it strives for a result that satisfies both parties and is less confrontational than adjudication.

The Board's Dispute Resolution Services team consists of six staff mediators. They are dedicated to

providing impartial third-party assistance to parties to resolve disputes to their mutual satisfaction.

In recent years, the availability of mediation has led to a decline in the number of matters actually heard at adjudication. Parties to a conflict may call upon the mediation services of the Board even in the case of a file that has not yet officially been referred to adjudication. In those cases, mediation interventions tend to improve long-term relations between the parties.

In 2006–2007, the Board provided mediation services in 279 cases. This includes 223 cases in which a grievance or complaint had been filed, and 56 cases of preventive mediation where mediation was undertaken to resolve a dispute before an application was filed. In 2006–2007, there was an increase in the number of people who decided to participate in mediation processes without the assistance of representatives.

Parties were successful in resolving 89% (247) of those cases with the assistance of Board-appointed mediators. See Table 2 in Appendix 2 for data on the Board's mediation caseload in 2006–2007.

The Board offers a range of other mediation services, which include:

- facilitating discussion between parties within specific departments and agencies, often in the context of labour-management consultation committees;
- conducting strategic interventions, through which broad issues likely to generate disputes are discussed;
- assisting in the investigation of cases involving applications for certification, the determination of membership on a specific date, and successor rights; and
- facilitating discussions regarding the determination of positions/employees who are to provide essential services in case of a strike (employees holding these positions are not eligible to strike).

In 2006–2007, the Board was called upon seven times to provide the services of a mediator to assist parties in the negotiation of their collective agreements.

### Mediation training

In 2006–2007, members of the Dispute Resolution Services team gave 14 sessions on interest-based negotiation and mediation. To date, nearly 2500 people have attended this training through the Board’s national training program, which was established in 2000–2001.

The two-and-a-half-day interactive session enables participants to acquire basic interest-based negotiation and mediation skills that can be used to resolve disputes in the workplace. It also provides an opportunity to explore conflict issues and communication problems between the parties. Through role plays, participants are able to practise the skills and techniques they have acquired in negotiation and grievance mediation. The training session also enables them to exchange views on mediation issues.

The target audience includes individuals responsible for workplace conflict resolution, such as staff relations officers, union representatives, managers and supervisors, and others working in this field, such as employee assistance program officers. Online registration can be done through the Board’s website at [www.pslrb-crtfp.gc.ca](http://www.pslrb-crtfp.gc.ca).

In 2006–2007, Board mediators also took part in many sessions both inside and outside the public service that helped increase awareness about how mediation can be used to resolve disputes. Sessions were held for academics, members of the management and human resources communities, and local- and national-level union officials.

### Collective bargaining

Under the *PSLRA*, there are two methods of resolving collective bargaining disputes—conciliation and binding arbitration. Upon certification, the bargaining agent must choose one of these methods for each bargaining unit it represents. The method may be changed before each round of bargaining. Regardless of the method chosen, the employer or the bargaining agent may request third-party assistance from the Board.

In 2006–2007, the Board was called upon seven times to provide the services of a mediator to assist parties in the negotiation of their collective agreements.

Conciliation gives employees the right to strike under certain prescribed conditions, and is therefore often referred to as the “conciliation/strike route.” The new Act introduced a new process for helping parties settle their collective agreements—the Public Interest Commission (PIC). These non-permanent bodies consist of one or three persons who are appointed by the Minister on the recommendation of the Chairperson of the Board to assist the parties by making recommendations for settlement. The recommendations are not binding on the parties. In 2006–2007, there were no requests for PICs, but some are expected with the new round of collective bargaining in 2007 and 2008.

If parties are unable to settle their collective agreements through negotiation, binding arbitration can also be undertaken. This culminates in an arbitral award (a decision) that is legally binding upon both parties and thus precludes any legal strike action. Arbitration boards are established by the Chairperson of the Board.

Twelve arbitration boards were established in 2006–2007, seven of which resulted in arbitral awards, including one award for a first-time collective agreement.

See Table 3 in Appendix 2 for statistics on the Board’s collective bargaining caseload in 2006–2007.

### Compensation Analysis and Research Services

In 2005–2006, as a result of new provisions of the *PSLRA*, the Board established a division to carry out compensation analysis and research. This division, known as CARS, will enable the Board to provide impartial, accurate and timely information on comparative rates of pay, employee earnings,

Compensation information obtained through market-based surveys will be available to the employers and bargaining agents that participate in the collective bargaining process in the federal public service as well as to other interested parties.

conditions of employment, and benefits in the public and private sectors.

This compensation information, obtained through market-based surveys, will be available to the employers and bargaining agents that participate in the collective bargaining process in the federal public service as well as to other interested parties.

Compensation is a key issue for both employers and employees at the bargaining table. Negotiations can proceed more smoothly when both sides have equal access to accurate and comprehensive compensation information provided by a neutral and authoritative third party. When parties begin negotiations by agreeing to use the Board's compensation survey data as a reference point, they can focus their time and effort more efficiently on negotiating rates of pay and other benefits that will be acceptable to all.

Compensation data provided by the Board will also assist arbitration boards and PICs in making their recommendations for settlement.

### Laying the groundwork

In the year under review, important progress was made to further strengthen the foundation of the Board's compensation survey and research activities. Extensive consultations were undertaken with the parties to bargaining in the federal public service. Those sessions confirmed that, while the parties may differ in their priorities, views and objectives, they agree on the need for sound and reliable compensation information and strongly support its provision by an impartial third party.

Meetings were held with provincial governments to seek their partnership in coordinating compensation survey activities in an effort to avoid duplicating work. The meetings provided an opportunity to gain a comprehensive understanding of compensation issues in Canada and to pursue potential alliances with provincial administrations on those issues.

In 2006–2007, the Board recruited researchers and experts in job evaluation and compensation to join its core team of employees. This team is supported by external service providers that are engaged to develop survey tools and conduct survey field work. While this model envisions the contracting out of major survey development and activities, it also enables the Board to maintain a strong internal capacity to oversee survey development and to guarantee the quality of survey processes and results. It gives the Board the added flexibility of being able to conduct small group-specific pay surveys or ad hoc surveys on specific benefits and working conditions. As well, it will permit the Board to carry out socio-economic and other research to support its survey activities.

This model also includes a dedicated client-service function, which is responsible for identifying compensation data and analysis requirements, responding to queries, disseminating survey and research results, and promoting the Board's compensation analysis and research products and services.

### Independent Advisory Board

Under the *PSLRA*, the role of the Advisory Board on Compensation Analysis and Research is to advise the Chairperson on the Board's compensation research services. The Advisory Board is chaired by Maryanne Webber of Statistics Canada and currently has the following members:

- Louise Boivin (Confédération des syndicats nationaux);
- Michel Cavallin (Social Sciences and Humanities Research Council of Canada);
- Claude Danik (Canadian Association of Professional Employees);
- Denise Doherty-Delorme (Professional Institute of the Public Service of Canada);
- Richard Lafontaine (Parks Canada);

In the spring of 2006, the Chairperson of the Board wrote to all parties under the PSLRA and the *Parliamentary Employment and Staff Relations Act (PESRA)* to find out what kind of compensation information they required for the upcoming round of public service collective bargaining in 2007 and 2008.

- Guy Lalonde (Public Service Labour Relations Board);
- David Orfald (Public Service Alliance of Canada);
- Suzanne Payette (Human Resources and Skills Development Canada);
- Robert Taylor (International Brotherhood of Electrical Workers, Local 2228); and
- Anthony Rizzotto (Treasury Board of Canada Secretariat).

Since its inaugural meeting in January 2006, members of the Advisory Board have recommended useful strategies and tools for communicating and consulting with the parties, and have provided guidance on the most effective ways to seek out, evaluate, and report on proposals for compensation research and survey projects.

The representative composition of the group has afforded a valuable understanding of the interests and concerns of public service employers and bargaining agents, as well as an opportunity to establish constructive working relationships with both.

Over the coming year, Advisory Board members will play a key role in advising on a national compensation survey—both its overall direction and many of the methodology and process matters associated with developing and deploying it.

#### **Identifying requirements for compensation data and selecting initial projects**

In the spring of 2006, the Chairperson of the Board wrote to all parties under the *PSLRA* and the *Parliamentary Employment and Staff Relations Act (PESRA)* to find out what kind of compensation information they required for the upcoming round of public service collective bargaining in 2007 and 2008.

Nearly half of the 50 parties contacted proposed one or more research projects that could be undertaken to meet their compensation data requirements. In light of this response, the Board

initially decided to select some compensation pilot projects based on criteria that included the opportunity to pilot various methodologies, the scope of the survey or research project, the joint interest of all parties involved, the timelines within which the data was required, and the resources and capacity of the Board to engage in these projects.

By the end of 2006–2007, three compensation-comparability studies had been selected. Discussions were initiated with the parties involved about the framework and parameters to be used to carry out the studies. These included selecting the occupations and comparators to be included in the surveys and determining the compensation elements to be measured, such as wages and/or benefits and working conditions. Work is under way to engage the external service providers that will carry out the studies.

#### **Determining survey strategies, methodologies and processes**

In addition to these short-term projects, CARS is reviewing and testing a variety of methodologies, criteria and tools for longer-term survey development. It has been working closely with Statistics Canada, in order to benefit from that agency's expertise in identifying and resolving methodological and process issues related to conducting a survey on a national scale.

As an acknowledged and well-established authority and world leader in data collection and statistical analysis, Statistics Canada is providing CARS with access to a team of experts in survey methodology, information processing and survey operations. The scope of the developmental work to be undertaken by Statistics Canada on the Board's behalf covers survey data design, analysis, quality assurance, and collection and reporting mechanisms.

### **Outreach and communications**

In January 2007, the Board launched the first edition of the CARS newsletter. The newsletter is made available to all the parties under the *PSLRA* and the *PESRA*, as well as to other stakeholders, and is posted on the Board's website at [www.pslrb-crtfp.gc.ca](http://www.pslrb-crtfp.gc.ca). Periodic updates on the Board's compensation analysis and research activities will continue to be provided through the newsletter.

### **Looking ahead**

The Board is working towards having the results of its three short-term compensation-comparability studies available in time for the next major round of collective bargaining in the federal public service slated for 2007–2008.

New development work on the national survey of a wider range of federal public service occupations is expected to occur over the next year. This will include the development of the survey, parameters, and data collection, analysis, and reporting processes. Dissemination of a preliminary set of survey results is planned for 2009–2010.

## For More Information on the Public Service Labour Relations Board

The Board's mailing address is:

*Public Service Labour Relations Board  
P.O. Box 1525, Station B  
Ottawa, Ontario  
Canada  
K1P 5V2*

The Board may also be contacted by telephone or fax between the weekday hours of 08:00 and 16:00 (EST).

Telephone: 613-990-1800  
Fax: 613-990-1849

The Board may be reached by email at [mail.courrier@pslrb-crtfp.gc.ca](mailto:mail.courrier@pslrb-crtfp.gc.ca)

The Board's library houses a large collection of labour relations resources and provides reference assistance in person, by telephone and by email.

CD Howe Building  
240 Sparks St.  
West tower, 6th floor  
Ottawa, Ontario  
Telephone: 613-990-1813  
Email: [library-bibliotheque@pslrb-crtfp.gc.ca](mailto:library-bibliotheque@pslrb-crtfp.gc.ca)

The Board's website—which can be visited at [www.pslrb-crtfp.gc.ca](http://www.pslrb-crtfp.gc.ca)—contains a wealth of useful information, including:

- summary and full-text versions of all Board decisions
- information on the Board's mandate, membership and functions
- hearing schedules
- information on the status of collective bargaining
- annual reports and publications
- frequently asked questions, fact sheets, practice notes and guides
- labour relations legislation, regulations and forms
- newsletters
- how to order resources such as videos
- how to register for mediation training.

## Appendix 1

**Table 1: Number of Bargaining Units and Public Service Employees by Employer and Bargaining Agent  
April 1, 2006 to March 31, 2007**

### Treasury Board of Canada

Bargaining agent	Number of bargaining units	Number of public service employees in non-excluded positions
Association of Canadian Financial Officers	1	3233
Association of Justice Counsel	1	2321
CAW – CANADA	1	10
CAW – CANADA, Local 2182	1	343
Canadian Association of Professional Employees	2	11 060
Canadian Federal Pilots Association	1	437
Canadian Merchant Service Guild	1	1015
Canadian Military Colleges Faculty Association	1	194
Communications, Energy and Paperworkers Union of Canada, Local 588	1	31
Federal Government Dockyard Chargehands Association	1	84
Federal Government Dockyard Trades and Labour Council (East)	1	743
Federal Government Dockyard Trades and Labour Council (Esquimalt, B.C.)	1	827
International Brotherhood of Electrical Workers, Local 2228	1	1020
Professional Association of Foreign Service Officers	1	1191
Professional Institute of the Public Service of Canada	7	31 634
Public Service Alliance of Canada	4	104 106
Union of Canadian Correctional Officers – Syndicat des agents correctionnels du Canada – CSN	1	5572
<b>Total for Treasury Board</b>	<b>27</b>	<b>163 821</b>

**Table 1: Number of Bargaining Units and Public Service Employees by Employer and Bargaining Agent  
April 1, 2006 to March 31, 2007**

**Other Employers**

<b>Bargaining agent</b>	<b>Number of bargaining units</b>	<b>Number of public service employees in non-excluded positions</b>
<b>CANADA INVESTMENT AND SAVINGS PROGRAM</b>		
No bargaining agents	0	15
<b>Total</b>	<b>0</b>	<b>15</b>
<b>CANADA REVENUE AGENCY</b>		
Professional Institute of the Public Service of Canada	1	10 207
Public Service Alliance of Canada	1	30 772
<b>Total</b>	<b>2</b>	<b>40 979</b>
<b>CANADIAN FOOD INSPECTION AGENCY</b>		
Professional Institute of the Public Service of Canada	3	1695
Public Service Alliance of Canada	1	3968
<b>Total</b>	<b>4</b>	<b>5663</b>
<b>CANADIAN INSTITUTES OF HEALTH RESEARCH</b>		
Public Service Alliance of Canada	1	25
<b>Total</b>	<b>1</b>	<b>25</b>
<b>CANADIAN NUCLEAR SAFETY COMMISSION</b>		
Professional Institute of the Public Service of Canada	1	381
<b>Total</b>	<b>1</b>	<b>381</b>
<b>CANADIAN POLAR COMMISSION</b>		
No bargaining agents	0	5
<b>Total</b>	<b>0</b>	<b>5</b>
<b>CANADIAN SECURITY INTELLIGENCE SERVICE</b>		
Public Service Alliance of Canada	1	204
<b>Total</b>	<b>1</b>	<b>204</b>
<b>COMMUNICATIONS SECURITY ESTABLISHMENT</b>		
Public Service Alliance of Canada	1	1513
<b>Total</b>	<b>1</b>	<b>1513</b>



**Table 1: Number of Bargaining Units and Public Service Employees by Employer and Bargaining Agent**  
April 1, 2006 to March 31, 2007

**Other Employers** *(continued)*

Bargaining agent	Number of bargaining units	Number of public service employees in non-excluded positions
<b>INDIAN OIL AND GAS CANADA</b>		
No bargaining agents	0	71
Total	0	71
<b>NATIONAL CAPITAL COMMISSION</b>		
Public Service Alliance of Canada	1	354
Total	1	354
<b>NATIONAL ENERGY BOARD</b>		
Professional Institute of the Public Service of Canada	1	323
Total	1	323
<b>NATIONAL FILM BOARD</b>		
Canadian Union of Public Employees, Local 2656	2	132
Professional Institute of the Public Service of Canada	2	140
Syndicat général du cinéma et de la télévision (CUPE LOCAL 9854)	1	117
Total	5	389
<b>NATIONAL RESEARCH COUNCIL CANADA</b>		
Professional Institute of the Public Service of Canada	4	1639
Research Council Employees' Association	6	2281
Total	10	3920
<b>NATIONAL ROUND TABLE ON THE ENVIRONMENT AND THE ECONOMY</b>		
No bargaining agents	0	25
Total	0	25
<b>NATURAL SCIENCES AND ENGINEERING RESEARCH COUNCIL OF CANADA</b>		
No bargaining agents	0	348
Total	0	348
<b>OFFICE OF THE AUDITOR GENERAL OF CANADA</b>		
Public Service Alliance of Canada	2	480
Total	2	480

**Table 1: Number of Bargaining Units and Public Service Employees by Employer and Bargaining Agent  
April 1, 2006 to March 31, 2007**

**Other Employers (continued)**

Bargaining agent	Number of bargaining units	Number of public service employees in non-excluded positions
<b>OFFICE OF THE CORRECTIONAL INVESTIGATOR</b>		
No bargaining agents	0	25
<b>Total</b>	<b>0</b>	<b>25</b>
<b>OFFICE OF THE SUPERINTENDENT OF FINANCIAL INSTITUTIONS</b>		
Professional Institute of the Public Service of Canada	1	330
Public Service Alliance of Canada	1	25
<b>Total</b>	<b>2</b>	<b>355</b>
<b>PARKS CANADA</b>		
Public Service Alliance of Canada	1	7345
<b>Total</b>	<b>1</b>	<b>7345</b>
<b>SECURITY INTELLIGENCE REVIEW COMMITTEE</b>		
No bargaining agents	0	0
<b>SOCIAL SCIENCES AND HUMANITIES RESEARCH COUNCIL OF CANADA</b>		
Public Service Alliance of Canada	1	173
<b>Total</b>	<b>1</b>	<b>173</b>
<b>STAFF OF THE NON-PUBLIC FUNDS, CANADIAN FORCES</b>		
Hospitality and Service Trade Union	1	4
Public Service Alliance of Canada	11	846
United Food and Commercial Workers Union	12	899
<b>Total</b>	<b>24</b>	<b>1749</b>
<b>STATISTICAL SURVEY OPERATIONS</b>		
Public Service Alliance of Canada	2	1913
<b>Total</b>	<b>2</b>	<b>1913</b>
<b>Total for other employers</b>	<b>59</b>	<b>66 255</b>
<b>Total for all employers</b>	<b>86</b>	<b>230 076</b>

**Table 2: Number of Bargaining Units and Public Service Employees by Bargaining Agent  
April 1, 2006 to March 31, 2007**

<b>Certified Bargaining agent</b>	<b>Number of bargaining units</b>	<b>Number of public service employees in non-excluded positions</b>
Association of Canadian Financial Officers	1	3233
Association of Justice Counsel	1	2321
CAW – CANADA	1	10
CAW – CANADA, Local 2182	1	343
Canadian Association of Professional Employees	2	11 060
Canadian Federal Pilots Association	1	437
Canadian Merchant Service Guild	1	1015
Canadian Military Colleges Faculty Association	1	194
Canadian Union of Public Employees, Local 2656	2	132
Communications, Energy and Paperworkers Union of Canada, Local 588	1	31
Federal Government Dockyard Chargehands Association	1	84
Federal Government Dockyard Trades and Labour Council (East)	1	743
Federal Government Dockyard Trades and Labour Council (Esquimalt, B.C.)	1	827
Hospitality and Service Trade Union	1	4
International Brotherhood of Electrical Workers, Local 2228	1	1020
Professional Association of Foreign Service Officers	1	1191
Professional Institute of the Public Service of Canada	20	46 349
Public Service Alliance of Canada	28	151 724
Research Council Employees' Association	6	2281
Syndicat général du cinéma et de la télévision (CUPE LOCAL 9854)	1	117
United Food and Commercial Workers Union	12	899
Union of Canadian Correctional Officers – Syndicat des agents correctionnels du Canada – CSN	1	5572
<b>Total</b>	<b>86</b>	<b>229 587*</b>

\*The total number of public service employees indicated in this table differs from the total in Table 1 because this table's total does not include 489 employees who are in positions not represented by bargaining agents.

## Appendix 2

**Table 1: Cases Before the Public Service  
Labour Relations Board  
2006–2007**

	Cases brought forward from previous years	New cases received	Total Cases	Cases Closed (includes cases settled, withdrawn and decided)	Cases carried forward to 2007–2008	Decisions/orders <sup>1</sup>
Grievances	3960	1251	5211	2219	2992	94
Complaints of unfair labour practices	76	50	126	37	89	12
Complaints under the <i>Canada Labour Code</i>	25	5	30	12	18	1
Certifications	9	2	11	11	0	2
Revocations of certification	0	3	3	0	3	0
Determination of successor rights	1	0	1	1	0	1
Determination of management and confidential positions	133	273	406	342	64	149
Designation of essential services positions	6	1	7	7	0	0
Applications for review of Board decisions	2	1	3	1	2	1
Requests for extensions of time	22	107	129	6	123	2
Other	1	0	1	0	1	0
<b>Total</b>	<b>4235</b>	<b>1693</b>	<b>5928</b>	<b>2636</b>	<b>3292</b>	<b>262</b>

<sup>1</sup> A decision or order may apply to more than one case.

**Table 2: Mediation Services Cases  
2006-2007**

	Cases carried over from previous year	Cases received in 2006-2007	Cases in which mediation was refused by parties	Total number of mediation cases	Total cases carried over to next fiscal year*	Total completed mediation cases	Cases settled or withdrawn	Cases not settled	Success rate %
Mediation Grievances/complaints	1650	1115	557	2208	1985	223	197	26	88%
Preventive mediation	19	71	0	90	34	56	50	6	89%

\*It is important to note that this figure represents the number of individual files that are created by the Board when it receives cases. Many individual files may fall under one type of case allowing them to be resolved together, which could result in from 50 to 100 cases being resolved in one mediation process. An example of this is a case that relates to the specifics of a work description that applies to more than one person in the same work unit.

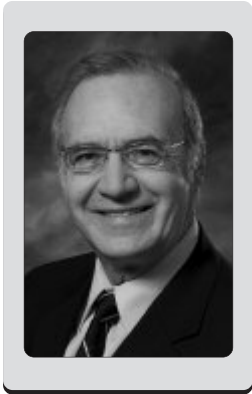
**Table 3: Collective Bargaining Cases  
2006-2007**

	Carried over from previous year	Received in 2006-2007	Total	Settlements	Arbitral awards	Carried over to next fiscal year
Arbitration boards	3	9	12	1	7	4
	Carried over from previous year	Received in 2006-2007	Total	Settlements	Mediator's report	Carried over to next fiscal year
Requests for mediator	2	5	7	4	2	1
	Carried over from previous year	Received in 2006-2007	Total	Settlements	Conciliation board report	Carried over to next fiscal year
Conciliation boards/PICs	2	0	2	2	0	0

## Appendix 3

### Members of the Public Service Labour Relations Board

#### Full-time Board members



#### **Casper Bloom, Q.C., Ad. E.**

*Chairperson (appointed January 2, 2007)*

Born in Montréal, Casper M. Bloom received a Bachelor of Arts from McGill University, a Master of Business Administration from the University of Western Ontario, and a Licence en Droit from the Université de Montréal. In 1967, Mr. Bloom was admitted to the Bar of Quebec and began practising law at Ogilvy Renault, where he subsequently became a senior partner and continued practising until 2000.

As a specialist in labour and employment law, Mr. Bloom has been an active litigator in both official languages before many courts and administrative tribunals, including the Quebec provincial and superior courts and Court of Appeal, the Federal Court, arbitration boards of several provinces, various labour relations boards, and the Quebec and Canadian human rights commissions. Mr. Bloom was appointed Queen's Counsel in 1985.

From 2000 to 2002, Mr. Bloom served as President and Chief Executive Officer of the Canadian Lake Carriers Association, where he was responsible for the labour relations of all the major carriers in the Great Lakes–St-Lawrence Seaway system. From 2002 to 2006, Mr. Bloom served as Legal Counsel and Director of Academic and Employee Relations at Concordia University.

Mr. Bloom has frequently been called upon by governments to advise and consult on matters related to public policy and the public interest, including electoral law, linguistic and equality rights and Canadian unity. He is recognized both nationally and internationally for his public-law advocacy, having served in many capacities, including terms as the Batonnier of the Bar of Montreal, National Chair of the Labour Law Section of the Canadian Bar Association, Chair of the Labour Law Section of Quebec, President of the Lord Reading Law Society and President of the Quebec Branch of the Canadian Bar Association. In addition, he has served as a member of the Federal Court Challenges Program, has been a Governor of the Quebec Bar Foundation and is currently a trustee of the Foundation for Legal Research. His community activities include serving on the boards of the Canadian Jewish Congress and the Canadian Friends of Tel Aviv University and on the Board and executive of the McGill University Health Centre. Mr. Bloom also lectured at McGill University in labour and employment law from 1972 to 1977.

Mr. Bloom has received many awards and distinctions in his career, including the 1998 Award of Distinction of the Department of Justice for his contributions to Canada's legal, linguistic and cultural duality, the 2000 Award of Merit of the Barreau du Québec and the 1994 Human Rights Award of the Lord Reading Law Society.

Mr. Bloom was appointed Chairperson of the Public Service Labour Relations Board on January 2, 2007, for a term of three years.



### **Ian R. Mackenzie**

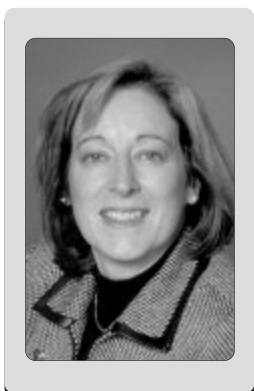
#### *Vice-Chairperson*

Ian R. Mackenzie is a graduate of Carleton University, where he received a B.A. (Hons.) in Political Science and an M.A. in Sociology. He received his law degree from the University of Windsor and has been a member of the Ontario Bar since 1992. He worked in private practice with an Ottawa law firm from 1992 to 1993, where he practiced labour and employment law. He was a research officer with a federal public service bargaining agent from 1994 to 1997, and Executive Director of the Professional Association of Foreign Service Officers from 1998 to 2000. He was also a legal counsel with the Department of Justice in 1997–1998 and from 2000 to 2002, working in the areas of judicial compensation and benefits and administrative law.

Mr. Mackenzie was a member of the National Joint Council (NJC) from 1993 to 2000, where he served on a number of committees, including those dealing with the Foreign Service directives, workforce adjustment, and employment equity. From 2001 to 2002, he was Chair of the NJC Foreign Service Directives Committee. He was a member of the Law Society of Upper Canada's Equity Advisory Group from 1999 to 2002. He has also taught employment law and public law at Carleton University and for the Ontario Bar Admission program.

He was first appointed as a full-time member of the Public Service Staff Relations Board on July 3, 2002. He was appointed Vice-Chairperson of the Public Service Labour Relations Board on May 5, 2005, for a period of five years.

Mr. Mackenzie served as Acting Chairperson from September 2, 2006 to January 1, 2007.



### **Sylvie Matteau**

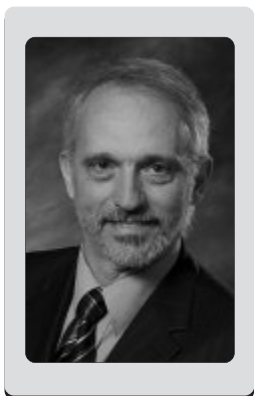
#### *Vice-Chairperson (term ended September 1, 2006)*

Sylvie Matteau was admitted to the Quebec Bar in 1981, after studying law at the University of Sherbrooke and receiving a Master's of Law degree from McGill University (International Law and Air and Space Law). In 1981, she studied briefly at the Academy for International Law in The Hague, Holland. Her immediate post-university occupational history—from 1982 to 1985—was in the service of the federal government. In 1985, she joined the Canadian Institute for International Peace and Security, where she worked for two years in the field of conflict resolution.

After a move back to Montréal, she developed a legal practice and established one of Montréal's first private mediation services in 1987. In the years since, her professional activities have been dedicated to all facets of alternative dispute resolution and particularly their application in the workplace. She has regularly collaborated with different training institutes and groups in this field, more specifically, at the Postgraduate Program in Engineering at the University of Sherbrooke (2000–2003) as well as with the Institut de médiation et d'arbitrage du Québec (2001–2002).

Ms. Matteau has been invited to lecture at McGill University, the *Pontificia Universidad Católica de Chile* (1998) and the Independent Bar Association of the Kingdom of Cambodia (2001–2004). She was a member of the steering committee and facilitator of the Canadian Forum on Dispute Resolution in 1995, and from 2000 to April 2004, she was chairperson of the Conflict Resolution Network Canada, a national organization promoting peaceful conflict resolution in schools, communities and workplaces.

Ms. Matteau was appointed Vice-Chairperson of the Public Service Staff Relations Board for a three-year term effective September 2, 2003. On May 8, 2006, she was designated Acting Chairperson of the Public Service Labour Relations Board until the expiry of her term as Vice-Chairperson.



### **Georges Nadeau**

#### *Vice-Chairperson*

Georges Nadeau received a bachelor's degree in business administration in 1978 from the Centre des études universitaires dans l'Ouest québécois of the Université du Québec. From 1978 to 1983, he served as a union representative with the Supply and Services Union, a component of the Public Service Alliance of Canada. In 1983, he became an officer with the Alliance's grievance and adjudication section, a position he occupied until 1996. During those 13 years, Mr. Nadeau argued a large number of grievance cases in a variety of jurisdictions in Canada. From 1996 to 1998, the Alliance put Mr. Nadeau in charge of co-ordinating its collective bargaining section.

In 1998, the Professional Institute of the Public Service of Canada, one of Canada's largest professional unions, hired Mr. Nadeau as Senior Manager, Representational Services, a position he occupied until his appointment to the Board. Mr. Nadeau's responsibilities included collective bargaining, member-representation services, research, pension and benefit services, and recruiting and retaining union delegates, members, and bargaining units.

In 2004-2005, Mr. Nadeau co-chaired the task force on corrective action in staffing matters set up by the Deputy Ministers' Sub-Committee on Staffing and Staffing Recourse. From 2001 to 2005, Mr. Nadeau sat on the National Joint Council Union-Management Relations Committee. In 1995-1996 he represented the Alliance on the Canadian Labour Congress task force on the revision of the *Canada Labour Code*. From 1992 to 1995, he was a member of the Conseil du module des études de premier cycle en relations industrielles of Université du Québec.

On May 5, 2005, Mr. Nadeau was appointed as a Vice-Chairperson of the Public Service Labour Relations Board for a four-year term that began on June 6, 2005.



### **Michele A. Pineau**

#### *Vice-Chairperson (appointed January 1, 2007)*

Michele A. Pineau is an experienced mediator and arbitrator specializing in the resolution of labour and employment disputes.

Ms. Pineau is a law graduate of McGill University (B.C.L.) and has been a member of the Quebec Bar since 1981. She received a Bachelor of Arts degree from St. Patrick's College (Carleton University) and a French Baccalaureate from the Université de Paris (Sorbonne) in 1968. She has also received extensive arbitration and mediation training in both Canada and the United States, and was one of the first dispute resolution trainers in Canada.

Most recently, Ms. Pineau served as Vice-Chair of the Canada Industrial Relations Board for eight years and in 2002 was awarded the Queen's Golden Jubilee Medal for her significant contribution to its work.

Before that Ms. Pineau conducted a private arbitration and mediation practice in Ontario and Quebec. She developed dispute resolution programs for the Federal Department of Justice, Agriculture Canada, the Arbitration and Mediation Institute of Quebec, the Chambre des notaires du Québec, the Quebec Ministry of Hospital Services, the Canadian Dispute Resolution Corporation (Quebec), the Société Québécoise de développement de la main-d'oeuvre and the Université de Sherbrooke.

Ms. Pineau has worked as legal counsel for the Treasury Board, Revenue Canada, and the Immigration and Refugee Board and has held the post of National Director of Labour Relations for Canada Post Corporation. She has also served as employer counsel for various Quebec corporations.



Prior to taking her law degree, she was a private industry human resources specialist and she worked briefly as a union services officer with the Public Service Alliance of Canada (National Component) and the Pay Research Bureau.

Ms. Pineau is a Chartered Arbitrator and a Chartered Mediator (Arbitration and Mediation Institute of Canada). She is a member of the Ontario Labour-Management Arbitrators Association, the Canadian Institute for the Administration of Justice and the Canadian Council of Administrative Tribunals. She has worked throughout Canada and has participated in exchanges with labour relations boards and employment tribunals in the United States, Japan, New Zealand and Australia.

Ms. Pineau was appointed as a Vice-Chairperson of the Public Service Labour Relations Board on January 1, 2007, for a period of five years.

### **Dan Butler**

#### *Board member*



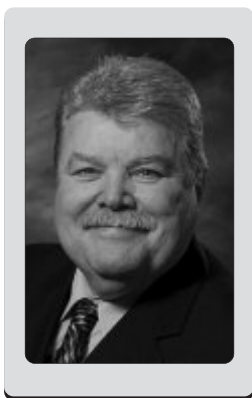
Dan Butler brings to the Public Service Labour Relations Board more than 25 years of experience in labour relations in the public sector. After undergraduate and graduate studies in political science at York University and Carleton University, Mr. Butler joined the Professional Institute of the Public Service of Canada in January 1980 as a research officer. At PIPSC, he subsequently served as Chief Research Officer (1981 to 1986), Negotiator (1986 to 1997) and finally, Head of Negotiations and National Employment Relations (1999-2001).

Mr. Butler's primary focus throughout these assignments was on collective bargaining and dispute resolution, with negotiation experience under six different labour laws, representing scientific and professional employees working for a dozen different public employers. Mr. Butler also acted as a principal union spokesperson on national files including classification modernization, pay equity and staffing reform. From 1997 to 1999, he provided policy and strategic advice to the Public Service Commission under an interchange agreement, as Senior Advisor and Project Leader in the PSC Research Directorate.

In May 2001, Mr. Butler was appointed General Secretary of the National Joint Council (NJC) of the Public Service. In this capacity, Mr. Butler undertook broad responsibilities as a third-party neutral facilitating relations between the Government of Canada and its bargaining agents. The mandate of the NJC as the Public Service "Forum of Choice" included co-development of directives establishing terms and conditions of employment with Public Service-wide application, national consultations on employer policies and legislative modernization, resolution of NJC grievances and insurance plan appeals, and the development of methodologies for a comprehensive compensation research capacity.

Mr. Butler also held parallel responsibilities as General Secretary of the Public Service Commission Advisory Council and as Co-Secretary of the Public Service Modernization Act Union Management Advisory Committee.

Mr. Butler was appointed as a full-time member of the Public Service Labour Relations Board on October 24, 2005, for a period of three years.



### **Barry Done**

#### *Board member*

Barry Done is a graduate of Carleton University where he received a B.A. in Law and Political Science.

Following a brief period in the federal government, he began what would become a 28-and-a-half year career with the Public Service Alliance of Canada (PSAC). Mr. Done's first position with the PSAC was that of Services Officer with the National Component in Ottawa, where he represented component members at final-level grievance hearings in his assigned departments (Labour Canada, Statistics Canada, Industry Trade and Commerce, Office of the Auditor General, etc.). Services Officer duties also included conducting regional seminars, providing representation on public service employment matters and daily advice to component Locals across Canada.

In November 1981, he moved to Kingston to become a Regional Representative with the Organization Branch of the PSAC. There, he continued to provide representation on appeals, and to teach weekend and in-residence union training courses on a wide variety of topics. In addition, he became Health and Safety Co-ordinator and represented Kingston Region members on work refusals and conducted joint workplace Health and Safety investigations with Labour Canada. His last few years in this position included acting as Assistant Director of the Organization Branch supervising all regional representatives in Canada; and acting as PSAC Legislative Officer, where he co-ordinated referrals to the Federal Court and acted as liaison between the Alliance and their law firm. It was during this period that he co-wrote the first Alliance Appeals Representation Course, began presenting cases before the Public Service Staff Relations Board and writing/hosting a three-part televised Pre-Retirement Planning Course for the Kingston and District Labour Council.

In April 1989, Mr. Done accepted a full-time position as Grievance and Adjudication Officer with the Collective Bargaining Branch in Winnipeg where he provided representation on adjudicable matters across the country to Alliance members.

Mr. Done was appointed as a full-time member of the Public Service Labour Relations Board on November 7, 2005, for a period of three years.



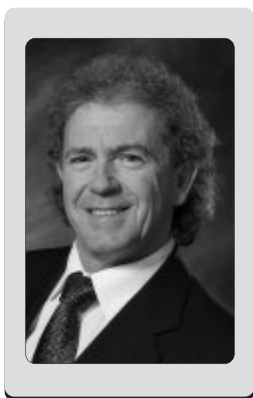
### **Léo-Paul Guindon**

#### *Board member*

Born in Montréal, Quebec, Léo-Paul Guindon is a graduate of l'Université du Québec à Montréal, where he received a law degree. He was called to the Quebec Bar in 1983. Mr. Guindon is a recognized family mediator and as a lawyer in private practice has had extensive experience in administrative, labour, civil and real property law. He also worked as a labour relations consultant with l'Alliance des professeurs de Montréal.

Mr. Guindon has served, on a part-time basis, as Chair of the Employment Insurance Board of Referees for the Quebec Regional Division (District of Montreal Centre-Ville) since 1994.

Mr. Guindon was appointed as a full-time member of the Public Service Staff Relations Board on June 1, 2000. His appointment was renewed on June 1, 2004, for a period of three years. His appointment continued with the Public Service Labour Relations Board for the remainder of his term.



### **Dan R. Quigley**

#### *Board member*

Dan R. Quigley attended the School for Workers at the University of Wisconsin where he successfully completed his studies in labour relations and collective bargaining.

Mr. Quigley began his public service career as an apprentice boiler maker in Victoria in 1976. He became a journey person in 1980 and, from 1986 until his appointment to the Public Service Staff Relations Board, he was the National President of the Federal Government Dockyards Trades and Labour Council (Esquimalt, British Columbia).

Mr. Quigley was a member of the National Joint Council of Canada for some 15 years, where he was involved in major policy developments and directives such as workforce adjustment, civilian reduction plan, Public Service Health Care, Disability and Dental Plans.

He has held various positions, most notably as Chief Negotiator for the Federal Government Dockyards Trades and Labour Council (Esquimalt); Chairman of the National Joint Council Union-Management Relations Committee; Co-Chair and a founder of the Public Service Commission Advisory Committee; Co-Chair of the Department of National Defence (DND) Union-Management Human Resources Sub-Committee and National Advisor to DND's Employee Assistance Program; and, a member of the International and Canadian Representatives Liaison Committee.

Mr. Quigley has worked with and advised the Civil Service Commission and the National Unions of the Philippines on collective bargaining, staffing and labour relations.

Mr. Quigley was first appointed as a full-time member of the Public Service Staff Relations Board on November 19, 2001. His appointment was renewed on November 19, 2003, for a period of three years. His appointment was continued with the Public Service Labour Relations Board for the remainder of his term. Mr. Quigley was reappointed as member of the Board for a term of three years on November 19, 2006.



### **Jean-Pierre Tessier**

#### *Board member (term ended February 28, 2007)*

Mr. Tessier received his law degree from Laval University in 1970 and was called to the Quebec Bar the following year. He has almost 30 years of experience in the labour relations field. He held the positions of counsel, labour relations director and chief negotiator with the Quebec Federation of School Boards between 1971 and 1985. He served as a Department of Health negotiator with the Quebec Federation of General Practitioners between 1989 and 1996. Various private-sector, para-public, corporate-public and public bodies have called on his expertise.

Mr. Tessier has also served as Chair of the Employment Insurance Board of Referees for the Quebec City/Ste-Foy region. Since 1985, he has practised law, mainly as labour relations arbitrator and negotiator, as partner in a law firm and through his own labour relations company.

Mr. Tessier was appointed as a full-time member of the Public Service Staff Relations Board on February 28, 2000, for a period of four years. His appointment was renewed on February 28, 2004, for a period of three years. His appointment continued with the Public Service Labour Relations Board for the remainder of his term.

**Part-time Board members**

Bruce Archibald, Q.C.

Ruth Elizabeth Bilson, Q.C.

Mary Ellen Cummings

Joan M. Gordon

Thomas Kuttner, Q.C.

Paul E. Love

Kenneth E. Norman

John J. Steeves

Denise T. Wilson

**Term ending**

December 8, 2009

September 15, 2007

March 10, 2007

May 12, 2007

May 20, 2007

March 10, 2007

September 15, 2006

March 10, 2007

May 20, 2006