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EDI – What you need to know

Global Mining Group

February 24, 2025



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EDI – What you need to know

February 24, 2025

Digging up legal trends in mining

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Please note the following:

- **Session Materials:** the handout can be downloaded via the “Materials” tab
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- **Survey:** please click on the “Survey” tab to complete our survey
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- **The Economics of EDI**
- **EDI Terminology**
- **Common EDI Issues**
- **Trauma-Informed Approach**
- **The Future of EDI**
- **Conclusion**

▶ Stakeholder expectation shifting

63%

of employees across all generations prioritize EDI when choosing which company to work for¹

52%

of institutional investors ask private equity firms about DEI metrics during fundraising²

70%

more likely to capture new markets with diversity in leadership³

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1: EY survey finds global workers feel sense of belonging at their workplaces, yet most are uncomfortable sharing all aspects – Jennifer Noel September 23, 2023 [URL](#) (73% of Gen Z and 68% of Millennial respondents said the same)

2: The State Of Diversity in Global Private Markets: 2023 – McKinsey August 22, 2023 [URL](#)

3: How Diversity Can Drive Innovation – Sylvia Ann Hewlett et al. (Harvard Business Review) December 2013 [URL](#)

▼ An equitable, diverse and inclusive workplace **attracts top talent, drives innovation** and **increases profits**

- | | |
|--|---|
| ▪ Gender-diverse executive teams are 39% more likely to outperform financially | ▪ Inclusive companies are “ 1.7 times more likely to be innovation leaders in their market” |
| ▪ Ethnically diverse companies are 39% more likely to outperform | ▪ Greater gender and ethnic diversity in leadership teams is linked to higher social and environmental impact |
| ▪ “A 1% increase in racial diversity similarity between upper and lower management increases firm productivity by between \$729 and \$1590 per employee per year ” | ▪ “ More than 3 out of 4 job seekers and employees (76%) report that a diverse workforce is an important factor when evaluating companies and job offers” |

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McKinsey & Company, *Diversity Matters Even More: The case for holistic impact*, November 2023, [URL](#),
Lauren Turner and Maya Fischhoff, *How Diversity Increases Productivity*, 2021, [URL](#),
Glassdoor, *What Job Seekers Really Think About Your Diversity and Inclusion Stats*, July 2021, [URL](#),
Josh Bersin, *Why Diversity and Inclusion Has Become a Business Priority*, December 2015, [URL](#)

▼ Shareholders Continued Support for EDI

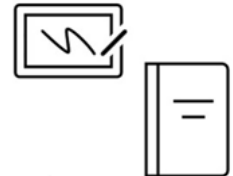
- Average anti-DEI (EDI) resolutions at U.S. corporations received less than 2 percent support last year ([Reuters](#))
- Corporations like Apple and Costco have pushed back on anti-EDI proposals

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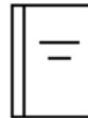
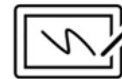
- The Economics of EDI
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▼ Definition of Key Terms

- **Intersectionality**
 - The way in which different types of discrimination are connected to and affect each other
- **Racism**
 - The belief that some races are better than others, or the unfair treatment of someone because of his or her race
- **Sexism**
 - The belief that the members of one sex are less intelligent, able, skilful, etc. than the members of the other sex



Definition of Key Terms

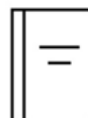
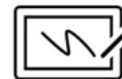


- **Parity**
 - The state of being equal, especially in relation to pay and position
- **Gender Gap**
 - A difference between the way men and women are treated in society, or between what men and women do and achieve
- **2SLGBTQI+**
 - The acronym used by the Government of Canada to refer to the Canadian community. 2S: at the front, recognizes Two-Spirit people as the first 2SLGBTQI+ communities; L: Lesbian; G: Gay; B: Bisexual; T: Transgender; Q: Queer; I: Intersex, considers sex characteristics beyond sexual orientation, gender identity and gender expression; +: is inclusive of people who identify as part of sexual and gender diverse communities, who use additional terminologies

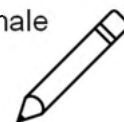


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Definition of Key Terms



- **SOGIE**
 - Sexual Orientation and Gender Identity and Expression
- **Two-Spirit**
 - (Also Two Spirit or Two-Spirited.) An English term used to broadly capture concepts traditional to many Indigenous cultures. It is a culturally-specific identity used by some Indigenous people to indicate a person whose gender identity, spiritual identity and/or sexual orientation comprises both male and female spirits
- **Cisgender**
 - A person who identifies with the gender they were assigned at birth
- **Gender-fluid**
 - A person whose gender identity varies over time and may include male, female and non-binary gender identities



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Definition of Key Terms



- **Intersex**

- An umbrella term to capture various types of biological sex differentiation. Intersex people have variations in their sex characteristics, such as sex chromosomes, internal reproductive organs, genitalia, and/or secondary sex characteristics (e.g. muscle mass, breasts) that fall outside of what is typically categorized as male or female

- **Non-Binary**

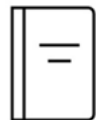
- (Also 'genderqueer.') Referring to a person whose gender identity does not align with a binary understanding of gender such as man or woman. It is a gender identity which may include man and woman, androgynous, fluid, multiple, no gender, or a different gender outside of the "woman—man" spectrum

- **Gender Dysphoria**

- A medical diagnosis often required by health providers and/or health insurance plans before prescriptions for hormones or gender affirming surgeries will be provided. It can be understood as discomfort or distress experienced by a person who feels their sense of their gender identity differs from their body, based on societal expectations



Definition of Key Terms



- **Gender Expression**

- Gender expression refers to the various ways in which people choose to express their gender identity. For example: clothes, voice, hair, make-up, etc. A person's gender expression may not align with societal expectations of gender. It is therefore not a reliable indicator of a person's gender identity

- **Gender Identity**

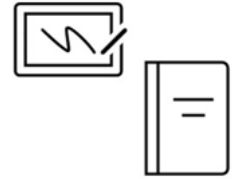
- Internal and deeply felt sense of being a man or woman, both or neither. A person's gender identity may or may not align with the gender typically associated with their sex. It may change over the course of one's lifetime

- **Transgender**

- (Also 'trans'). A person whose gender identity differs from what is typically associated with the sex they were assigned at birth



▼ Definition of Key Terms



- **Cancel Culture**

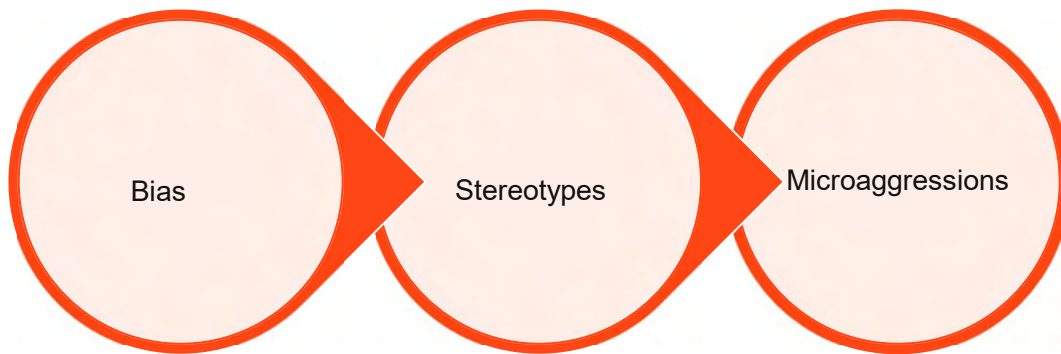
- A term coined and popularized by Twitter users as a public call for accountability, in the form of boycotting of individuals and/or entities for allegedly engaging in behaviours or expressing opinions in conflict with, or not supportive of, the evolving social landscape



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▼ Important EDI Concepts



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▼ Unconscious Bias



- Implicit attitude or motivation
- It is not deliberate – it is unintentional
- People often don't realize they are making unfair assumptions or stereotypes
- Examples include gender, age, ethnic or cultural bias
- Types of bias include affinity bias, beauty bias, perception bias, confirmation bias, halo/horns effect

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▼ Avoiding Unconscious Bias



Be honest with yourself – Do you have unconscious biases?

Avoid snap judgments and base decisions on facts/observations

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▼ Microaggressions



- A behaviour or communication (spoken or unspoken) that feeds into stereotypes
- Can be intentional or unintentional, demonstrating unconscious bias or stereotyping
- Experienced as racism, sexism, ageism or ableism
- Slightings, indignities or put-downs experienced in day-to-day interactions
- Can make the workplace feel uncomfortable, unsafe and toxic

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▼ Microaggressions



- Key: People are often unaware they have engaged in an offensive or demeaning way
- Often communicated through language – important to pay attention to how we talk and what we say in the workplace
- Recipient often feels insulted, but doesn't know how to respond

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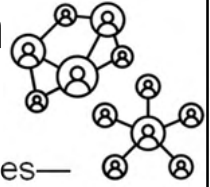
▼ Examples of Workplace Microaggressions

- “You’re so articulate.”
- “Your voice doesn’t match you.”
- “You’re transgender – You don’t look like it at all.”
- “Did you get in because of a quota or affirmative action?”
- “Oh you’re gay. You should meet my friend Anne. She’s gay too.”
- Calling women hysterical, shrill, etc.
- Where are you actually from?
- Are you in the right room?



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Understanding Systemic Discrimination



- Systemic discrimination encompasses the cumulative effects of exclusionary practices that result from biased attitudes and stereotypes—often unconscious—combined with policies and practices usually adopted without considering the characteristics of the groups protected against discrimination
- Often has long-lasting impacts on identifiable groups due to characteristics such as gender, age, skin colour, disability, etc.
- Can manifest as disproportionately unfavourable hiring and advancement opportunities, especially for women, Indigenous peoples, ethnic minorities, visible minorities, and persons with disabilities

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Addressing and Remedying Systemic Discrimination



- Often requires systemic measures for effective redress proportionate to the prejudice caused, considering the persistent and insidious effects of such discrimination
- Implementation of equality access programs as systemic remedies to correct the situation for groups that are victims of discrimination in employment, as well as in education, healthcare, and other public services

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▼ Racial Profiling

- Differential treatment or scrutiny because of negative stereotypes related to their race
- Not specifically recognized by human rights legislation, but often manifests as discrimination
- May occur through statements, signs, symbols, applications or employment practices

▼ Why Does it Matter?

- Aliyah Jones, a Black woman with an impressive digital design background, found it difficult to get any interviews for positions she applied to
- Created a duplicate LinkedIn page with an image of a White woman with exactly the same credentials
- Applied to 300 jobs with the fake profile and had a callback interview rate of 58%
- When she applied with her own profile, she only received a callback rate of 9%

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▼ Understanding Trauma

“A traumatic event involves a single experience, or enduring repeated or multiple experiences, that completely overwhelm the individual’s ability to cope or integrate the ideas and emotions involved in that experience”

From: Trauma Informed Toolkit

▼ Trauma Informed Approach in the Workplace

A trauma-informed approach involves:

- Having a baseline understanding of the psychological, neurological, biological, social and spiritual impact that trauma and violence can have on individuals seeking support
- Recognizing the signs and symptoms of trauma
- Responding by fully integrating knowledge about trauma into policies, procedures, practices and settings

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▼ *Bilac v. Abbey, Currier and NC Tractor Services,* 2023 CHRT 43

- Bilac, a transgender man (he/him pronouns) was repeatedly deadnamed, misgendered
- Resigned from employment due to mistreatment at work by his colleagues and employer

Tribunal found that:

- The misgendering and deadnaming was adverse treatment with respect to the Complainant's employment
- Individual Respondent was ordered to pay the Applicant \$3,000 for pain and suffering
- Employer Respondent ordered to pay \$12,000 for pain and suffering and \$3,000 in special compensation

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A.B. v Mad Max Windsor Inc., [2024 HRTO 721](#)

- A.B. identified as an indigenous transgender woman, called to request appointment for leg waxing services
- A.B. was repeatedly misgendered on the phone
- A.B. did not receive the leg waxing service when she arrived
- Tribunal determined that A.B.'s gender identity and gender expression were factors in the denial of the requested service
- Tribunal awarded \$35,000 as compensation to A.B. and ordered all employees of the Respondent to complete an online learning module entitled "Human Rights 101"

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▼ Trump Administration 2.0 DEI Rollbacks

- DEI initiatives put to a halt since President Trump took office on January 20, 2025
- Executive orders:
 - Terminating all Federal U.S. DEI programs
 - Revoking a 1965 executive order which prohibited discriminatory hiring practices for private sector government contractors
 - Recognizing male and female as the only two sexes

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▼ Impacts in the United States: ABA halts DEI mandate for law schools

- The American Bar Association (“ABA”) is suspending enforcement of its DEI mandate for law schools
- Law schools are required to comply with the Federal Law by February 28 and remove all race or gender-based policies or risk losing funding

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▼ MEI: Merit, Excellence, Intelligence

- A “colour-blind approach”
- Choosing applicants based primarily on their achievements, skills, and contributions
- Proponents say this approach will “*naturally yield a variety of backgrounds, perspectives and ideas.*”

▼ Barriers to MEI

- Concept is subjective: the decision-maker decides what MEI looks like
- The approach will continue to screen out equally-qualified people on the basis of race, disability, religion, sexual orientation, etc.
- Unlike MEI, EDI holds decision-makers accountable through transparency

▼ Spillover Effects in Canada ... ?

- Despite the political climate in the United States, Canada has not seen any impacts or threats to EDI (yet ...)
- It is still too early
- Upcoming Federal election may impact how Canadians and Canadian corporations will view EDI

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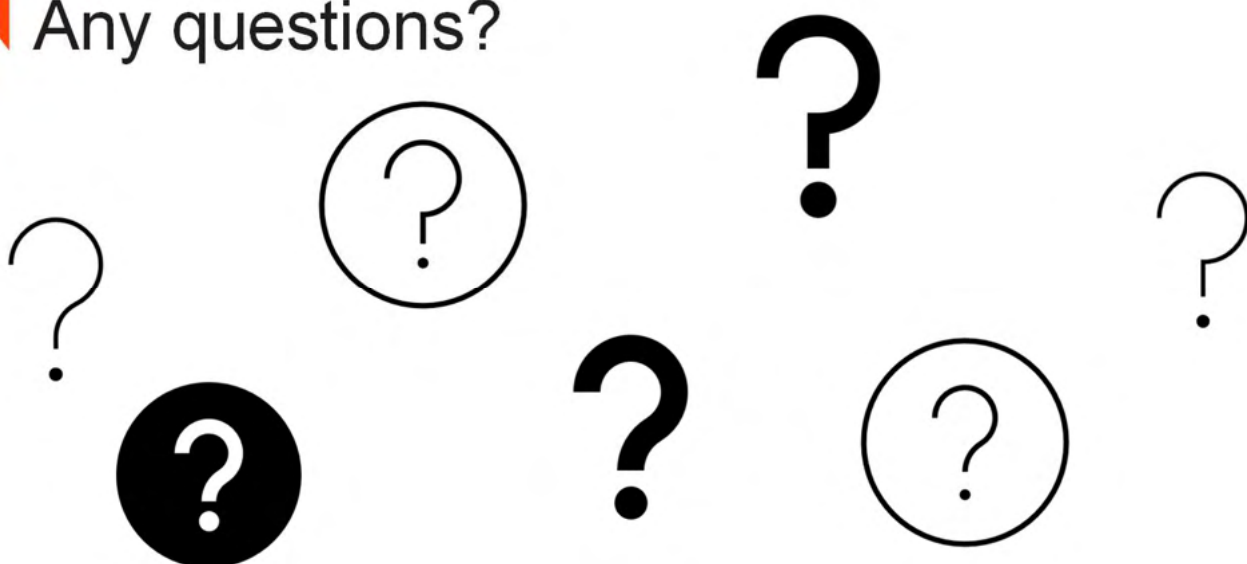
▼ What's next?

- Clients and stakeholders continue to demand EDI/DEI initiatives from their service providers
- Remains top-of-mind for the majority despite the current political climate
- We will continue to monitor how corporations are reacting to the United States rollback on DEI initiatives



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▼ Any questions?



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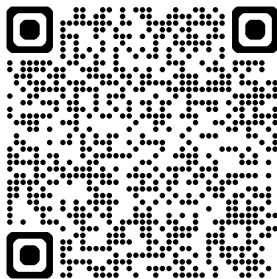
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Survey and CPD QR Codes

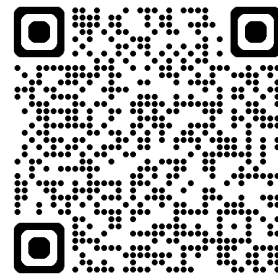
Survey – It only
takes a minute!



Law Society of
British Columbia

The session has been
loaded with the LSBC
and is titled “PDAC -
Equity, Diversity and
Inclusion (EDI) – What
you need to know -
February 24, 2025”.

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Biographies



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Areas of Expertise

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Employment Advice and Litigation | Human Rights &
Discrimination | Occupational Health and Safety & Workers'
Compensation Prevention Services | Pensions and Benefits |
Federal Sector | Biomedical Technologies

Education

1996, LLB, Université de Sherbrooke

Jurisdiction

Québec, 1997

Languages

French | English

Stéphane Fillion is a partner in the Labour, Employment and Human Rights Group. He practises in every area related to labour and employment law, be it collective or individual contracts of employment, human rights, labour standards, occupational health and safety, issues related to Pay Equity, the Charter of the French Language or other aspects.

Stéphane is praised for his extensive experience and reputation in the area. Stéphane is professional, extremely versatile and adapts to situations rapidly, always providing practical advice and strategies to allow clients to achieve their goals and objectives. Clients value his candour, and the respect that he transcends to business – not imposing, but rather providing guidance and ensuring his clients best interests at all times.

When litigation is required, Stéphane fiercely represents his clients before arbitrators, the Quebec Administrative Labour Tribunal, the Human Rights Tribunal of Quebec, the Superior Court, the Court of Appeal and more recently, the Supreme Court of Canada. Stéphane also has extensive experience with issues regarding pension and benefits.

Since the beginning of his practice, Stéphane has been representing several employers in the pharmaceutical sector, including medical devices. As such, he has an in-depth knowledge of the special issues that comes into play with employers who must not only comply with Labour and Employment legislation but also, the requirements imposed by Health Authorities such as Health Canada and the Food and Drug Administration.



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In addition to providing his clients with high quality day-to-day legal advice, Stéphane frequently delivers personalized training to clients on subjects such as managing disciplinary files, performance, absenteeism, psychological harassment, violence in the workplace, drug and alcohol in the workplace and many other topics.

Finally, Stéphane has been volunteering since 2016 as a director and officer of The Générations, a non-profit umbrella organization for the Tel-jeunes and LigneParents services. Générations' work pivots around a broad mission: creating and offering high-quality social intervention and animation, accessible to all children, young people and parents in Quebec.

Rankings and Awards

- *Lexpert 500 Cross Border Directory (formerly ALM 500)* 2024-2025 Recognized in Employment Law
- *The Legal 500 Canada* 2024-2025 Recognized nationwide as a Leading Individual in Labour and Employment Law
- *Chambers Canada* 2018-2025 Recognized as top tier (Band 1) in Employment and Labour in Québec
- *The Best Lawyers in Canada* 2017-2025 Recognized in Labour and Employment Law in Montreal
- *The Best Lawyers in Canada* 2024-2025 Recognized in Employee Benefits Law in Montreal
- *Lexpert 2024* Recognized in the Canadian Legal Lexpert Directory in Workplace Human Rights
- *Thomson Reuters stand-out lawyers* 2023-2024 Recognized as a Thomson Reuters Stand-out Lawyer (formerly known as Acritas Star™ lawyer)
- *Lexpert* 2014-2024 Recognized in the Canadian Legal Lexpert Directory as Most Frequently Recommended in Labour Relations, Employment Law and Workplace Human Rights
- *Lexology Index* 2024 Recognized as Recommended in Labour, Employment & Benefits
- *Chambers Canada* 2024 Recognized nationwide as top tier (Band 1) in Employment & Labour Law
- *The Legal 500 Canada* 2022-2023 Recognized nationwide as a Leading Individual in Labour and Employment
- *Who's Who Legal* 2017-2023 Recognized as Recommended in Labour, Employment & Benefits
- *Lexpert* 2022 Recognized in the Canadian Legal Lexpert Directory in Pensions & Employee Benefits and Workplace Human Rights
- *College of Labor and Employment Lawyers (Fellow)* 2020 Named as a Fellow of the College of Labor & Employment Lawyers
- *The Legal 500 Canada* 2019 Recommended by Legal 500 in the field of employment and labour (2019)





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Areas of Expertise

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Education

2023, Program of study, Executive Compensation, The Wharton School

1999, LLB, University of Victoria

1995, MA, University of Western Ontario

1994, BA (Honours), University of Western Ontario

Jurisdiction

Ontario, 2001

Language

English

Alix Herber is a senior partner in the Labour, Employment & Human Rights group. She prides herself on providing high quality strategic advice to her clients in all areas of labour, employment and human rights matters. With over 20 years of experience, Alix is a strategic partner to her clients and provides practical solution oriented advice, all the while mitigating potential liability. Alix also has particular experience in advising clients in the federal sector.

In addition to providing clients with quality legal advice, Alix uses her considerable experience to passionately represent her clients in arbitration hearings, labour board hearings, human rights tribunals, and court actions relating to all aspects of the employment relationship; always keeping her clients interests in mind, be that achieving an excellent settlement or pursuing a successful litigation strategy.

Alix has been consistently recognized by Chambers Canada, Lexpert, Best Lawyers in Canada and Legal 500 Canada. Alix was elected a Fellow of the prestigious American College of Labor & Employment Lawyers in 2023.

Previously working as In-House-Counsel for one of North America's largest grocery retail and distribution companies, Alix was involved in operational employment disputes, labour relations, arbitrations, and the administration of approximately 50 collective agreements, leading negotiations in many of them. This experience has allowed Alix to customize her advice to respond efficiently and effectively to her client's legal needs.



Alix also regularly delivers personalized training sessions on harassment and discrimination, workplace violence, disability management, union organizing and certification and many other topics. Alix regularly advises on or acts as the external investigator in sexual harassment and other workplace investigations.

Chair of the firm's Ontario Women's Network, Alix strongly advocates for women in the legal profession. Recently Alix was awarded Lexpert's "Zenith Award" for her ongoing contribution to promoting women in law. Finally, Alix is currently a Board of Director and Chair of the Governance Committee for Camp Kirk and a legal advisor to a chapter of the Women's President Organization.

Rankings and Awards

- *Chambers Canada* 2024-2025 Recognized in Employment & Labour in Ontario
- *The Best Lawyers in Canada* 2023-2025 Recognized in Labour and Employment Law in Toronto
- *Lexpert* 2022-2024 Recognized in the Canadian Legal Lexpert Directory in Employment Law
- *College of Labor and Employment Lawyers (Fellow)* 2023 Elected Fellow of the American College of Labor & Employment Lawyers
- *Lexpert* 2019-2022 Recognized in the Canadian Legal Lexpert Directory in Workplace Human Rights
- *Lexpert* 2017 Zenith Award

Memberships and Affiliations

- American College of Labor & Employment Lawyers
- Chair, Ontario Womens Network
- Women Presidents' Organization
- Member, Canadian Bar Association
- Member, Ontario Bar Association



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