Ontario

Human Rights Tribunal of Ontario

Application under Section 34 of the *Human Rights Code* (Form 1)

(Disponible en français)

www.hrto.ca

How to Apply to the Human Rights Tribunal of Ontario

Before you start:

1. Read the questions and answers below to find out if the Human Rights Tribunal of Ontario (the Tribunal) has the ability to deal with your Application.
2. Download and read the **Applicant's Guide** from the Tribunal's web site **www.hrto.ca.** If you need a paper copy or accessible format, contact us:

   Human Rights Tribunal of Ontario
   655 Bay Street, 14th floor
   Toronto, Ontario
   M7A 2A3

Phone:	416-326-1312	Toll-free:	1-866-598-0322
Fax:	416-326-2199	Toll-free:	1-866-355-6099
TTY:	416-326-2027	Toll-free:	1-866-607-1240
Email:	HRTO.Registrar@ontario.ca		
Website:	www.hrto.ca		

   The Tribunal has other guides and practice directions to help all parties to an Application understand the process Download copies from the Tribunal's website or contact us.
3. Complete each section of this Application form. As you fill out each section, refer to the instructions in the Applicant's Guide.

Getting help with your application

For free legal assistance with the application process, contact the **Human Rights Legal Support Centre**. Website: www.hrlsc.on.ca, Mail: 180 Dundas Street West, 8th floor, Toronto, ON M7A 0A1, Tel: 416-597-4900, Toll-free 1-866-625-5179, Fax: 416-597-4901, Toll-free 1-866-625-5180, TTY 416-597-4903, Toll-free 1-866-612-8627.

Questions About Filing an Application with the Tribunal

The following questions and answers are provided for general information. They should not be taken as legal advice or a determination of how the Tribunal will decide any particular application. For legal advice and assistance, contact the **Human Rights Legal Support Centre**.

Who can file an Application with the Tribunal?

You can file an Application if you believe you experienced discrimination or harassment in one of the five areas covered by the Ontario Human Rights Code (the Code). The Code lists a number of grounds for claiming discrimination and harassment. To find out if you have grounds for your complaint under the Code, read the **Applicant's Guide** .

What is the time limit for filing an Application?

You can file an Application up to one year after you experienced discrimination or harassment. If there was a series of events, you can file up to one year after the last event. In some cases, the Tribunal may extend this time.

Application under Section 34 of the Human Rights Code (Form 1)

The discrimination happened outside Ontario. Can I still apply?

In most cases, no. To find out about exceptions, contact the **Human Rights Legal Support Centre**.

My complaint is against a federal government department, agency, or a federally regulated business or service. Should I apply to the Tribunal?

No. Contact the Canadian Human Rights Commission. Web: **http://www.chrc-ccdp.ca**. Mail: 344 Slater Street, 8th Floor, Ottawa, Ontario K1A 1E1. Phone: (613) 995-1151. Toll-free: 1-888-214-1090. TTY: 1-888-643-3304. Fax: (613) 996-9661.

Should I use this form if I am applying because a previous human rights settlement has been breached?

No. If you settled a previous human rights application and the respondent did not comply with the settlement agreement, use the special application called **Application for Contravention of Settlement, Form 18**. For a paper copy, contact the Tribunal.

Can I file this Application if I am dealing with or have dealt with these facts or issues in another proceeding?

The Code has special rules depending on what the other proceeding is and at what stage the other proceeding is at. **Read the Applicant's Guide and get legal advice, if:**

1. You are currently involved in, or were previously involved in a civil court action based on the same facts and asked for a human rights remedy; **or**
2. You have ever filed a complaint with the Ontario Human Rights Commission based on the same subject matter; **or**
3. You are currently involved in, or were previously involved in another proceeding (for example, union grievance) based on the same facts.

How do I file an Application on behalf of another person?

To file an application on behalf of another person, you must complete and file this Application (Form 1) as well one other form:

- Form 4A if you are filing on behalf of a minor;
- Form 4B if you are filing on behalf of a mentally incompetent person; or
- Form 27 for all other situations where you are filing on behalf of someone else.

When completing this Application, you must check the box in Question 1 that indicates you are filing an Application on Behalf of Another Person. You must provide your name and contact information in Question 1.

The completed Form 4A, Form 4B or Form 27 can be attached to your Application or sent to the Tribunal separately by mail, fax or email. If sent separately, it must be sent within **five (5) days** following the filing of your Application.

For more information on applications on behalf of another person, please see the following Practice Directions:

- Practice Direction on filing application on behalf of another person under section 34(5) of the Code
- Practice Direction on Litigation Guardians before Social Justice Tribunals Ontario

Note: If you are a lawyer or other legal representative providing representation to the applicant, do not use the Form 4A, Form 4B or Form 27. Your details should be provided in section 3, “Representative Contact Information,” of this Application (Form 1).

Learn more

To find out more about human rights in Ontario, visit **www.ohrc.on.ca** or phone 1-800-387-9080.

Ontario

Human Rights Tribunal of Ontario

Application under Section 34 of the Human Rights Code (Form 1)

Instructions: Complete all parts of this form, using the **Applicant's Guide** for help. If your form is not complete, the Tribunal may return it to you. This will slow down the application process. At the end of this form, you will be required to read and agree to a declaration that the information in your Application is complete and accurate (if you are a lawyer or legal representative assisting an applicant with this Form 1, please see the **Practice Direction On Electronic Filing of Applications and Responses By Licensed Representatives**).

Contact Information for the Applicant

1. Personal Contact Information

☐ Check here if you are filing an Application on Behalf of Another Person. **Note**: you must *also* complete a Form 4A, Form 4B or Form 27, whichever is applicable, see Instructions above.

Please give us your personal contact information. This information will be shared with the respondent(s) and all correspondence from the Tribunal and the respondent(s) will go here. If you do not want the Tribunal to share this contact information, **you should complete section 2, below, but you must still provide your personal contact information for the Tribunal's records.**

***First Name**	Middle Name	***Last Name**
Marcin	Krzysztof	Pęski

Street #	Street Name	Apt/Suite
221	Major	

City/Town	Province	Postal Code	Email
Toronto	Ontario	M5S2L4	marcin.peski@utoronto.ca; mpeski@gmail.com

Daytime Phone (e.g. 999-999-9999)	Cell Phone (e.g. 999-999-9999)	Fax (e.g. 999-999-9999)	TTY (e.g. 999-999-9999)
	647-835-9125		

What is the best way to send information to you?
(If you check email, you are consenting to delivery of documents by email)

○ Mail ◉ Email ○ Fax

2. Alternative Contact Information

If you want the Tribunal and respondent(s) to contact you through another person, you must provide contact information for that person below. You should fill this section out if it will be difficult for the Tribunal to reach you at the address above or if you want the Tribunal to keep your contact information private. **If you complete this section, all of your correspondence will be sent to you in care of your Alternative Contact.**

First (or Given) Name	Middle Name	Last (or Family) Name

Street #	Street Name	Apt/Suite

City/Town	Province	Postal Code	Email
	Ontario		

Daytime Phone (i.e. 999-999-9999)	Cell Phone (i.e. 999-999-9999)	Fax (i.e. 999-999-9999)	TTY (i.e. 999-999-9999)

What is the best way to send information to you at your alternative contact?
(If you check email, you are consenting to delivery of documents by email)

◯ Mail ◯ Email ◯ Fax

3. Representative Contact Information

Complete this section only if you are authorizing a lawyer or another Representative to act for you.

☐ **I authorize the named organization and/or person to represent me**

My representative is:

☐ Lawyer	LSUC#	
☐ Paralegal	LSUC#	
☐ Legal Support Centre		
☐ Other- please specify the Nature of Exemption from licensing requirements in the text below:		

Nature of Exemption (e.g. family member, unpaid friend)

Please choose the type of Representative: ◯ A) Organizational Representative ◯ B) Individual Representative

A) Organizational Representative

Full Name of Representative Organization

Name of the Contact Person from the Organization

First (or Given) Name	Last (or Family) Name

Street #	Street Name	Apt/Suite

City/Town	Province	Postal Code	Email
	Ontario		

Daytime Phone (i.e. 999-999-9999)	Cell Phone (i.e. 999-999-9999)	Fax (i.e. 999-999-9999)	TTY (i.e. 999-999-9999)

What is the best way to send information to your representative?
(If you check email, you are consenting to delivery of documents by email) ◯ Mail ◯ Email ◯ Fax

Contact Information for the Respondent(s)

4. Respondent Contact Information

Provide the name and contact information for any respondent against which you are filing this Application.

Please choose the type of respondent: ◉ A) Organization Respondent ◯ B) Individual Respondent

A) Organization Respondent

Name the organization you believe discriminated against you. You should also indicate the contact person from the organization to whom correspondence can be addressed.

Full Name of Organization
University of Toronto Faculty Association

Name of the Contact Person from the Organization

First (or Given) Name	Last (or Family) Name	Title
Nellie	De Lorenzi	

Street #	Street Name	Apt/Suite
720	Spadina Avenue	419

City/Town	Province	Postal Code	Email
Toronto	Ontario	M5S 2T9	faculty@utfa.org

Daytime Phone (i.e. 999-999-9999)	Cell Phone (i.e. 999-999-9999)	Fax (i.e. 999-999-9999)	TTY (i.e. 999-999-9999)
416-978-3351			

Are there any additional respondents? ○ Yes ◉ No

Grounds of Discrimination

5. Grounds Claimed

The Ontario Human Rights Code lists the following grounds of discrimination or harassment. Put an "X" in the box beside each ground that you believe applies to your Application. You can check more than one box.

- ☒ Race
- ☒ Colour
- ☐ Ancestry
- ☐ Place of Origin
- ☐ Citizenship
- ☐ Ethnic Origin
- ☐ Disability
- ☐ Creed
- ☒ Sex, Including Sexual Harassment and Pregnancy
- ☐ Sexual Solicitation or Advances
- ☐ Sexual Orientation

- [x] Gender Identity
- [ ] Gender Expression
- [ ] Family Status
- [ ] Marital Status
- [ ] Age
- [ ] Receipt of Public Assistance (Note: This ground applies only to claims about Housing)
- [ ] Record of Offences (Note: This ground applies only to claims about Employment)
- [ ] Association with a Person Identified by a Ground Listed Above
- [ ] Reprisal or Threat of Reprisal

Areas of Discrimination under the Code

6. Area of Alleged Discrimination

The Ontario *Human Rights Code* prohibits discrimination in five areas. Put an "X" in the box beside the area where you believe you have experienced discrimination (choose one). Read the **Applicant's Guide** for more information on each area.

- ( ) **Employment (Complete Form 1-A)**
- ( ) **Housing (Complete Form 1-B)**
- ( ) **Goods, Services and Facilities (Complete Form 1-C)**
- ( ) **Contracts (Complete Form 1-D)**
- (•) **Membership in a Vocational Association (Complete Form 1-E)**

Does your Application involve discrimination in other areas? ( ) Yes (•) No

If "Yes", put an "X" in the box beside any other area where you believe you experienced discrimination:

[ ] Employment [ ] Housing [ ] Goods, Services or Facilities [ ] Contracts [ ] Vocational Association

Facts that Support Your Application

7. Location and Date (see Applicant's Guide)

Please answer the following questions.

a) *Did these events happen in Ontario?	(•) Yes	( ) No
b) In what city/town?	Toronto	
c) *What was the date of the last event? (dd/mm/yyyy)	06/10/2022	
d) If you are applying more than one year from the last event, please explain why:		

8. What Happened

*In the space below, describe each event you believe was discriminatory.

For each event, be sure to say:

- **What** happened
- **Who** was involved
- **When** it happened (day, month, year)
- **Where** it happened

Be as complete and accurate as possible. Be sure to give details of every incident of discrimination you want to raise in the hearing.

Overview:

1. Between May 25, 2021 and June 16, 2021, I was subject to continuous written and verbal harassment by other members of the association, including its Officers. The harassment was explicitly animated by a stereotype based on my sex and race.

2. The harassment escalated on Dec 1, 2021, when I was subject to a grave and slanderous accusation. The accusations were made in a public forum by an Officer of the association, and it was implicitly supported by its President. The nature of the accusation did not leave any opportunity for my defense.

3. An Officer of the association attempted to undermine my relationship with my employer.

*** I. Background: ***

I am a white male, employee of the University of Toronto (UofT), and a member of University of Toronto Faculty Association (UTFA), which is a non-certified recognized bargaining agent of UofT faculty and librarians. Due to the Rand formula, the membership in the UTFA is effectively a condition for employment. The UTFA is one of the largest and wealthiest faculty associations in the country, with a 4 mln annual budget and its work supported by 10-15 paid staff.

During 2016-22, I was a representative of my unit (Department of Economics) to the UTFA Council, which is a 60-person quasi-parliamentary body elected for 3-year terms. The day-to-day governance of UTFA is in the hands of a 14-people Executive, that includes Vice-Presidents and chairs of standing committees, and it is led by the President (since 2020, prof. Terezia Zorić). Executive (but not Council) positions are typically compensated in teaching releases and stipends.

During 2016-2022, I have volunteered hundreds of hours as a part of the team negotiating the pension plan reform (100-200h between 2017-2019) and, at the invitation of President prof. Zorić, a member of the UTFA bargaining team (100-200h between 2020-2021). During this time, there was likely no other member of the Association who volunteered (without compensation) more work and more hours than me. I have never had nor seeked any leadership position in the association. All committees/teams on which I worked were led by female leaders, prof. Cynthia Messenger (Past President) and President prof. Zorić. I have never heard any concerns about my work in those committees, and, in fact, on multiple occasions, both of them praised my work and contribution as valuable and productive. In fact, I heard no negative comments at all before May 25, 2021.

The atmosphere in the Council in 2020-2022 was unusually tense, partly due to two atypical political disputes: (a) the approach to School of Law Hiring Controversy/the Censure of the UofT as well as (b) response to Covid. Like many other Council members, I took part in some of these debates. I publicly supported the President prof. Zorić in some of those debates (the School of Law Hiring/Censure, online teaching in 2020-21, vaccine mandate for 2021-22), I opposed in others

(online teaching in 2021-22, and a Censure-tangential event, where I protested the vilification of two Council reps due to a false accusation of a breach of confidentiality during the Council meeting on May 18, 2021).

*** II. Harassment: ***

Between May 25, 2021 and June 16, 2021, I was subject to continuous written and verbal harassment.

1. During the May 18, 2021 Council meeting, two of my colleagues were falsely accused of breach of confidentiality. For an hour, speaker after speaker rose up against them, without giving them an opportunity of defense. When one of them tried to defend themselves, they were stopped by the President prof. Zorić on the grounds that their defense will lead to another breach of confidentiality. After the meeting, I wrote an email to the Council email list where I listed all the known facts and I argued that the breach of confidentiality does not apply. I referred to their treatment as “shameful”. I also pointed to the fact that one of the two Council members was running in Executive elections.

2. There is no reference to race or gender, or any gender-related language in this or any email that I have written.

3. In response to my May 18, 2021 email on the breach of confidentiality issue (App. A, 1-2), on 25 May 2021, Prof. Judith Taylor, who joined the Council in the previous month, wrote an email entitled “malicious non-compliance”. She wrote “Council feels like a mini version of the mostly -- but not only -- men storming the U.S. capitol. The only thing missing is the Davy Crocket hats. We have a contestation of elections, conspiracy theories, and what looks like a lot of white men unable to handle taking direction from a diverse leadership. ” (App. A, 6) The email contains other accusations and insults that are not related to race or gender but that are, in its intention, demeaning. I mentioned that her language violates the civility requirement of UTFA Civility Bylaw 16. I specifically pointed to the gender framing “You reduce people whom you have likely never spoken with to a weird stereotype based on race and gender” (App. A 7). In her reply, Prof. Taylor doubled down on the gender framing in her reply. “As for my supposed incivility, Media Relations at the direction of the provost's office, made a video about it. They understand how women are accused of incivility when they simply exhibit self-respect. May UTFA council be a place to grow self-respecting feminist voices -- as it has been for so many of us. We are UofT.” (App. A, p.8)

4. An email in her support (“ As a “pro-feminist” man, I encourage UTFA Council members to seriously examine how these biases and historical privileges and bases of power, whether implicit or explicit, have impacted our recent meetings.”) was written by the Vice President for External Affairs, prof. Roy Gillis. Yet another email in support was written by a member of the Executive, prof. Harriet Sonnes-Torrens. (App. A, 9-10)

5. On Sep. 26 2021, prof. Rena Helms-Park wrote “Marcin Peski and other men arguing with Terezia about the “Safe University” petition. I, too, feel victimized by pettifogging and sophistry despite not being directly in the firing line.” (App B, 1) This refers to an email chain initiated by me where I protested the fact that, without any consulting the Council, the President wrote an open letter to the President and initiated a Safe Reopening Petition calling for maintaining social distancing rules in 2021-22 academic year over and above what was required by public health.

6. On Sep 26 2021, prof. Ruth Marshall wrote “I am now really annoyed that you’re filling our inboxes with this time-wasting and judgmental nonsense, without listening to anything any of us have been saying or demonstrating. I hadn’t realized your were also a licensed virologist who can confidently state “vaccines are really amazing and there is nothing really to fear.” Who the hell are you that you can tell me my fears and those of my students are unfounded or unreasonable?! ”, which was later followed by “I read Marcin's failure to take my and my students' fears seriously, as gendered and deeply insulting as well as mis-informed (I may be a political scientist, but I have a family full of medical practitioners), but I shouldn't have used the phrase "who the hell are you?!”. (App. B, p12) I am confused why she thought my email, including the line, “vaccines are really amazing and there is nothing really to fear” addressed her. My earlier email responded to another Council number. Also, prof. Marshall had never mentioned her fears or her students.

7. On Oct 20 2021, prof. Helms-Park wrote “The sheer quantity and frequently questionable attacks on the UTFA President’s efforts, including her most innocuous ones, gives rise to memories of many of my own experiences. In those situations I have known at a deep level that such treatment would not be directed towards me if I were a man.” (App. B p20)

8. In a Jan 25th 2022 email, prof. Taylor accused me of “racism” (App B 31). The accusation referred to a single sentence from a multi-page email that I sent a few days earlier discussing a dramatic increase in the workload of my constituents due to academic integrity violations, where, at one point, I reported a factual information about “the largest identified group of cheaters used WeChat, which is a mostly Chinese language messaging app” (App B 28).

9. On Feb 23 2022, prof. Marshall wrote “Once again I note for the record this example of gendered bullying and aggression from one of a handful of men who know who they are.“ (App. B, 24) The accusation of gender-bullying was in response to my email discussing a draft of the anti-harassment and discrimination policy, where I wrote “” ‘the Officers of UTFA shall make final decisions’ should be replaced by something more concrete, that includes the possibility of recusal – since, as it may happens, discrimination complaints can be filed against the Officers, including the President”) with the link to a news report that she is herself a named respondent of a OHRT application. (App. B, p.25). (The subject of the application, but perhaps not the application itself, was well-known to the Council as it was related to a public apology from the President on Oct 28, 2021.)

10. The same day, in a follow-up, prof. Helms-Park wrote “I have seen more years than most on Council and am not exactly a shrinking violet, but quite honestly, I am frightened by you and all of the sundry and relentless ways in which your lengthy prose targets certain members of Council. Quite by coincidence, these recipients are always the same and always female. Even I, though not (yet) a direct target, feel battered psychologically.” (App B, p23)

11. The same day, responding to two of my colleagues defending me from prof. Marshall and Helms-Park accusations, and asking to stop referring to my (or anybody) race and gender in a negative context, prof. Anver Emon addressed them as “two white bros”. He justified his use of racial epithet by self-identifying as “racialized brown male”. (App. B, p. 26).

12. During the discussion of a new discrimination and harassment policy in the Council meeting on Feb. 24 2022, I motioned that (a) the language of the policy should be broad and apply not only to “UTFA events” but to “all UTFA operations” and (b) that the Officers should have an opportunity to recuse themselves from making decisions about complaints that involve them. Prof. Taylor characterized my motion as “insidious”. (App F, 1) (Although the Council rejected my motion, the final text of the policy incorporates both (a) and (b).)

13. On April 25 2022, during the Council meeting devoted to the proposal of Anti-Harassment policy, I argued that it is not appropriate that the details of each case, including potential sexual harassment cases, will be discussed and decided upon by 14(!) members of the UTFA Executive. Prof. Taylor accused me of making a “joke about harassment”. (App F 2).

14. Every single time that I say something, I am criticized for “excessive interjections”, “lengthy haranguing arguments”, and being “offensive” (App F 3-4).

*** II. Accusations: ***

On Dec 1, 2021, prof. Taylor, who was at that point the Chair of Membership Committee, an Officer of the Association, and member of the Executive, in an email sent to 70 or so people (including all Council members) accused me of “treatment“ that is ”so relentlessly undermining and so full of invective and sadism”. “As a woman at UofT”, she asked the Council to stop me from attending the next Membership Committee meeting. The request was specifically addressed to men: “Help me out here guys. I mean you, men, specifically. In a global sense, you owe me. Deal with this. I shouldn't have to.” (App D, p1)

After I asked her to give a single example of invective that I used, she replied “You inspire the most vivid, depleted, depressing frustration in everyone you work with. It's terrible. I am imploring you to stop your behaviour.“ (App D, p3)

The Dec 1 communication followed a previous-day interaction in a 15-person email list to the Membership Committee. Although the committee was formed and prof. Taylor was elected its Chair on Sep 23 2021, there was communication, no meeting, or no any other action taken before Nov 30, 2021. (Two weeks earlier, during a Council meeting I remarked in the chat that, out of two committees I belong to, one has only one meeting scheduled and the other none at all.) On Nov 30, prof. Taylor sent an email to schedule the first committee meeting on Dec. 3. Because one of my colleagues could not attend, I wrote that it is very unusual to have meetings announced on such a short notice, without an attempt to check for availability. I wrote “I am not sure why the hurry. Did something happen?”. I asked “I wonder whether some members were contacted about the date before you sent this email” (as it happened in another committee). (App C, 5) In response, prof. Taylor wrote “You are heart-warmingly paranoid and tautological, like Winnicott's worst-case scenario baby. You audaciously demand committee meetings verbally at our last meeting and then complain virulently when one is called. Amazing. “ (App C, 6). Other members joined in. Prof. Sherri Hellwig (Chair of Teaching Stream Committee) called me out for using language that is “demeaning” and “belittling” to prof. Taylor’s work (App C, 9) (I believe Prof. Hellwig referred to my line “Yes, you send numerous emails to the Council. Like me. As much as your work as the Chair of the Membership Committee, I have received from you only 3 emails, all of them today.”) President prof. Zorić joined in to call me an “attacker”. (App C, 10)

After a few days of silence following the Dec 1 emails, on Dec 6, 2021, President prof. Zorić sent an email to commemorate the National Day of Remembrance of Violence Against Women, in which she wrote “We are called to oppose misogyny in all its forms—on our campuses, in our Association, and in our broader communities.” (emph. mine) (App E 1).

***III. Email to the Chair: ***

Few days after Nov 30, 2021 Membership Committee interaction, I learned that prof. Taylor, who at this point was the Chair of the Membership Committee, wrote an email to my department chair Ettore Damiano in which she asked him for “help how to deal with me” (paraphrase of what I learned from my chair). Prof. Damiano is my direct supervisor in my employment at the UofT and a person who has authority to decide about my promotion, merit pay, workload, etc. I did not see the contents of the email as prof. Damiano would not share it with me.

On Jan 20, 2022, after I learned that prof. Taylor had been renominated for the Chair of the Membership Committee and the Officer of the Association, I wrote to the Council informing them about the email to prof. Damiano. I requested that “her communication with my Chair, her intent and all circumstances around it are carefully examined in a fair process that allows Judith Taylor to respond, and also allows my participation.” (App K).

My request was ignored. Nobody from the UTFA has ever contacted me regarding the email. Nobody offered to show the email in question.

The Effect on You

9. How the Events You Described Affected You

*Tell us how the events you described affected you. What was the effect (e.g. were there financial, social, emotional or mental health, or any other)?

There were three effects: emotional and psychological burden, reputational damage, and a loss of my ability to participate in the activities of the association to the best of my skills.

*** I. Psychological burden ***

1. I was and I am still very upset by public accusations of unrelenting sadism towards women and a request of protection against me issued towards other men, and related insinuation of my violent behavior. For weeks, I could not think about anything else. I could not work, I could not sleep.

2. The shock from reading May 25, 2021, and Dec 1, 2021 emails was so strong that I still remember where I was and what I was doing. Perhaps I live a very cloistered life and things like this do not happen often to me, but, the impression they left on me was similar to what happened when as a 20-year old student, I was beaten up by some thugs in a Warsaw streetcar. Not because of any violence, but because of a question: why would somebody do something like this to a person they have never met nor interacted in any other way?

3. For me personally, the most hurtful part is that, from my very childhood and school memories, I always assumed that I would always stand on the side of somebody weak against somebody who is strong. When I look at myself in the mirror, this is how I would like to see and respect myself. The multiple insinuations of violence, cruelty towards somebody who needs help, or who is less powerful than me, racism, making light of sexual harassment, go against this very core of my identity.

*** II. Reputational damage ***

1. Apart from psychological burden the accusations clearly led to reputational damage. They were made in front of a large group of faculty which includes former department chairs, members of the Governing Council of the UofT, who had occupied, occupy, or might occupy important positions in the university administration. Even if they did not have an immediate effect, a rumor of sadism towards women is a red flag in the current university setting (and rightly so!), where lots of work is done cooperatively, in committees. Such a rumor will have an impact on my committee assignments or administrative career prospects at the University.

2. The claim that I “inspire the most vivid, depleted, depressing frustration in everyone [I] work with” made by an Officer of the association damaged my ability to cooperatively work with other Council members. An average Council member does not realize how slanderous this claim is. I do not know prof. Taylor personally. I had no interaction with her beyond those described in this application. (Although I was a Council rep since 2016, she joined it in March 2021.) I have never worked with her on anything. The only two people that I worked with that she knows, prof. Zorić and prof. Nogami, have repeatedly praised my contributions to our joint work on pensions and bargaining.

3. The email to my chair is very concerning. My chair is my direct supervisor in my work and any message suggesting misbehavior on my part could be prejudicial and potentially used against me in the employment setting, including my promotion review, my PTR salary increases, etc. He is himself a member of UTFA and he may, at a point, apply for membership benefits, granting of which depends on decisions made by the UTFA Officers.

4. There are two problems: Although I informed them about the email’s existence 11 months ago, explained my concerns including the fact that I do not know its contents, and asked for an investigation, the fact that nobody contacted me to assuage my concerns is very worrying. The fact that a potentially damaging contact was initiated by an Officer of the Association violates the duty of fair representation the UTFA owes to its members.

*** III. My work in UTFA ***

1. I was a Council rep for 6 years. I was good at my job. I put in an enormous amount of work (as I said above, I volunteered many more hours for the association than anybody else). I believe I earned the respect of my colleagues. To this day, I help some of them to navigate their relationship with UofT administration and unions. One of my proudest moments was in October 2021 when I realized that a part of the most recent collective agreement was not being implemented in my department. Because of my intervention, 5 of my colleagues received additional $8-9,000 compensation. (When I informed the UTFA leadership that the issue may be present in other units as well, I was met with silence. I tried to inform my Council colleagues as well, but I don’t know if they did anything about it.) Even if on occasion frustrating, the job gave me significant satisfaction.

2. Starting from May 25, 2021, my job at Council became difficult, and eventually impossible.

3. My job as a Council rep for my department is to represent my colleagues. This involves advocating on their behalf and asking questions. The accusations of misogyny (and racism, and many others) diminished my credibility and reputation as a member of the Council. They made it easy to ignore my concerns and arguments not because of their contents, but because they were written by a “white man” whose behavior is “so relentlessly undermining and so full of invective and sadism” towards women. In other words, they are motivated by political power play in the organization, and not by legitimate concerns about my behavior.

4. The President and the Chairs of the Committees are required by the Bylaw 9.7 to “deal appropriately with questions and suggestions. This also includes ensuring that individuals, who have raised an issue, are kept informed of its progress and outcome.” (App G, 9) On numerous occasions, my questions or interventions were ignored. Sometimes, I was forced to repeat my questions many times. On occasions, an answer was given to me only when I repeated my question in public, which sometimes subjected me to humiliating treatment from Council members.

4a. In an email on Aug 13 2021, I asked President prof. Zorić and prof. Nogami to advocate with the administration to allow for a possibility of in-person exams even if teaching is online (a very important issue for my constituents). I have never received any reply to that email. (A parallel request to the Vice Provost led to immediate reply and a meeting within a few days.). (App J. p1)
4b. Starting from Sep. 9, I have asked on at least 5 different occasions (email, public, discussion forums) to explain the often repeated UTFA claim that the University of Toronto ventilation measurements were not adequate and the campus HVAC is not safe. There was no reply to my questions until I complained about the lack of replies in public around mid October. My public complaint resulted in a brief discussion of the issue in the October 20 Council meeting. (App J, 4-5)

4c On Sep 21, I asked President prof. Zorić and one of her staff for a list of Officers of the Association who receive monetary compensation from the Association. There was an immediate reply that it is a “fair question” that will require some work. There was no further reply. On Nov 18, I reminded my question to the President in another email. There was no reply. On Nov 29, I repeated my question in a public email to the Council. I got a reply within minutes (the information I requested was readily available to the administrator). Because of my public email, I was subject to a critique by Prof. Holmes-Park: “I am

sure that UTFA has a blizzardi of requests and queries to attend to, especially since the specter of a very challenging Winter 2022 session is lurking around everywhere. In light of this, could we perhaps remind ourselves that, once in a while, other requests just might have priority over ours, and that delays are not a sign of dysfunction and conspiracies." (App J 2-3)
4d On Sep 29, my colleague Renan Levine wrote to Brian McDonagh (Vice President for Grievances) and prof. Nogami to ask about a newly increased fine for using UTFA grievance resources by UofT faculty who are not UTFA members. His question was answered immediately. After talking to prof. Levine, I asked for further clarification on Oct 4. (The clarification was significant and its purpose was to determine the reason for changing the fines. As I have learned later, the increase in fines is used as evidence in another human rights complaint against the UTFA President. The answer to my question would reveal whether the officially stated concern of fiscal responsibility was the reason to increase the fine.) There was no reply. Prof. Levine and I sent a reminder email on Nov 30, and prof. Levine another one on Dec 12. There was no reply. (App 6-12)

4e On Feb 23, 2022, I asked the head of the Working Group on Civility prof. Jun Nogami how he responded to the motion passed by the Council on March 23, 2021 regarding the Group report, my question was ignored.

5. The above list does not include questions and requests that are related to my private affairs (I list them in the answer to E4). The lack of response to sometimes very straightforward questions and its message "we can ignore you and what can you do to us?" has an obvious chilling effect.

6. After prof. Taylor requested help from the men of the Council to stop me attending the Membership committee, and after she was renominated as the Chair of the committee on Jan 20, 2022, I had no choice but to resign from the Membership committee.

7. After Dec 1, 2021, I decided to stay in the Council only until I can find a replacement to make sure that my colleagues are represented. I knew it won't be easy, as being a UTFA rep is not a popular job, mildly speaking. During the Spring 2022, it became clear to me that my further presence in the Council hurts my colleagues more than if there was nobody giving them voice. Adding that to the continuous harassment, the slowness of the response to my complaints, and the lack of any response to my request for the protection from the harassment, my participation became unbearable. I have eventually resigned from the Council in June 2022.

8. Last but not least, there is a very explicit cost of the accusations. Because of my 6-year long interest in pensions, I always wanted to become the UTFA representative to the Sponsor Committee of the University Pension Plan (UPP). This job, which is compensated with an annual stipend of $20,000 plus a teaching release became available after the previous prof. Messenger resigned in June 2022. Very likely, I was (and I am) the most qualified person for this job: I am the only UTFA member currently who (a) has a professional expertise and education to understand pensions and (b) actively participated in the negotiation and the birth of the pension plan from 2017 onwards, and, as a result, knows the plan inside out. I have a huge professional respect for the person who got the job - prof. Lisa Kramer is undoubtedly very competent. However, she does not have the same experience with the UPP and detailed knowledge of some solutions that we adopted at UPP inception.

9. I have no doubt that the shadow cast by the accusations against me played a role in this decision. (To be perfectly clear, in June 2022, prof. Nogami circulated a request for nominations for the Sponsor rep to be presented in front of the Council. Knowing for sure that the accusations will make it impossible for me to be elected, I haven't suggested my name.)

The Remedy

10. The Remedy You are Asking For (see Applicant's Guide)

Put an "X" in the box beside each type of remedy you are asking the Tribunal to order. Explain why you are asking for this remedy in the space below.

☒ **Monetary Compensation**	Enter the Total Amount $84,000
Explain below how you calculated this amount:	

*** Psychological damage: $34,000. This is calculated as follows
May 25, 2021 message from prof. Taylor - $1000
Dec 1, 2021 message of prof. Taylor - $6000
Dec 6, 2021 message of President prof. Zoric - $4000
Jan 22, 2022 accusation of “racism” - $1000
Feb 23, 2022 “white bro” epithet - $1000
Apr 25, 2022 accusation of making a “joke about harassm ent” - $2000
Messages by prof. Helms-Park and prof. Marshall - $2000

The above claims add up to $17,000. I multiply the amount by 2 because the public nature of the comments and the fact that on many occasions they were made by members of the UTFA leadership caused additional stress.

*** Reputational damage: $30,000
$20,000: $20,000 is a mid-range estimate I received from an attorney Rahul Soni regarding a potential defamation award as a result of prof. Taylor comments.
$10,000 for the damages caused or intended by the email to my chair

*** Ability to work in UTFA: $20,000
The amount is based on the annual stipend paid to the Sponsor representative and it is an estimate of stipends and compensations I could have received from the UTFA for my work.

The amounts are for 2022 and they should be updated for inflation.

☒ **Non-Monetary Remedy-Explain below:**

A statement from the UTFA leadership that Judith Taylor’s accusation is her private matter and there is nothing that the UTFA knows to justify her accusations and that her comments do not arise from authorized conduct as a representative of the Association.

An additional statement or declaration to the Council that I was harmed and some kind of apology/regrets from UTFA.

☒ **Remedy for Future Compliance (Public Interest Remedy)-Explain below:**

Mandatory human rights training for Executive members, at the beginning and at least every three years for continuing members.

A statement from the UTFA leadership that any language in internal communications attributing actions to gender, race, or ethnicity, etc., especially one that is critical about such actions, must be avoided.

Mediation

11. Choosing Mediation to Resolve Your Application

Mediation is one of the ways the Tribunal tries to resolve disputes. It is a less formal process than a hearing.
Mediation can only happen if both parties agree to it. A Tribunal Member will be assigned to mediate your Application. The Member will meet with you to talk about your Application. The Member will also meet with the respondent(s) and will try to work out a solution that both sides can accept. If Mediation does not settle all the issues, a hearing will still take place and a different Member will be assigned to hear the case. Mediation is confidential.

Do you agree to try mediation? ☐ **Yes**

Other Legal Proceedings

12. Civil Court Action (see Applicant's Guide)

Note: If you answer "Yes" to any of these questions, you must send a copy of the statement of claim that started the court action.

***a)** Has there been a court action based on the same facts as this Application?	○ Yes (Answer 12b)	◉ No (Go to 13)

13. Complaint Filed with the Ontario Human Rights Commission (see Applicant's Guide)

Note: If you answer "Yes", you must attach a copy of the complaint.

*Have you ever filed a complaint with the Commission based on the same facts as this Application?	○ Yes	◉ No

14. Other Proceeding - in Progress (see Applicant's Guide)

Note: If you answer "Yes" to question "14a" you must attach a copy of the document that started the other proceeding.

***a)** Are the facts of this Application part of another proceeding that is still in progress?	◉ Yes (Answer 14b)	○ No (Go to 15)

b) Describe the other proceeding:

☐ A union grievance	Name of Union:	
☐ A claim before another board, tribunal or agency	Name of board, tribunal, or agency:	
☒ Other	Explain what the other proceeding is:	Complaint and investigation at the UTFA. I describe this and other complaints in detail in my answer to Question E4. The complaint was submitted on Jan 22, 2022. There has been no resolution so far. The document is attached

***c)** Are you asking the Tribunal to defer (postpone) your Application until the other proceeding is completed?	○ Yes	◉ No

15. Other Proceeding - Completed (see Applicant's Guide)

Note: If you answer is "Yes" to question "15a" you must attach a copy of the document that started the other proceeding and a copy of the decision from the other proceeding.

***a)** Were the facts of this Application part of some other proceeding that is now completed?	○ Yes (Answer Question 15b)	◉ No (Go to 16)

b) Describe the other proceeding:

☐ A union grievance	Name of Union:	
☐ A claim before another board, tribunal or agency	Name of board, tribunal, or agency:	
☐ Other	Explain what the other proceeding is:	

c) Explain why you believe the other proceeding did not appropriately deal with the substance of this Application.

Documents that Support this Application

16. Important Documents You Have

If you have documents that are important to your Application, list them here. List only the most important. Indicate whether the document is privileged. See the **Applicant's Guide**.
Note: You are not required to send copies of these documents at this time. However, if you decide to attach copies of the documents you list below to your Application they will be sent to the other parties to the Application along with your Application.

Document Name	Why It is Important to My Application
Appendices A-O, which contain email communication referenced in the text of my complaint.	This is the evidence. Because of Covid, almost all interactions in the Council occurred over emails.

Add more Documents

17. Important Documents the Respondent(s) Have

If you believe the respondent(s) have documents that you do not have that are important to your Application, list them here. List only the most important.

Document Name	Why It is Important To My Application	Name of Respondent Who Has It

Add more Documents

18. Important Documents Another Person or Organization Has

If you believe another person or organization has documents that you do not have that are important your Application, list them here. List only the most important.

Document Name	Why it is Important to my Application	Name of Person or Organization who has it

Add more Documents

Confidential List of Witnesses

19. Witnesses

Please list the witnesses that you intend to rely on in the hearing. **Note:** The Tribunal will not send this list to the respondent(s). (**see Applicant's Guide**)

Name of Witness	Why This Witness Is Important To My Application

Add more Witnesses

Other Important Information

20. Other Important Information the Tribunal Should Know

Is there any other important information you would like to share with the Tribunal?

Following Dec 1, 2021 emails from prof. Taylor, I retained a lawyer to write a letter to prof. Taylor to ask for retraction and apology. In her response on Jan 11, 2022, she refused. There were no other legal actions

Checklist of Required Documents

22. Other Documents from Questions 12 to 15

Confirm whether you are sending the Tribunal any of the following documents:

- ☐ A copy of a statement of claim (from Question 12)
- ☐ A copy of a complaint filed with the Ontario Human Rights Commission (from Question 13)
- ☒ A copy of a document that started another proceeding based on these facts (from Question 14 or 15)
- ☐ A copy of a decision from another proceeding based on these facts (from Question 15)

Application to the Human Rights Tribunal of Ontario
Area of Discrimination: Vocational Associations (Form 1-E)

Note: Complete this form if you believe you were discriminated against in the area of vocational associations.

PART I

Questions About the Vocational Association

E1. Describe the Vocational Association:

- ☐ Trade union
- ☐ Trade or occupational association
- ☐ Self-governing profession
- ☒ Other-please explain:

University of Toronto Faculty Association (UTFA) is a non-certified recognized bargaining agent of UofT faculty and librarians.

E2. Put an "X" in the box beside the point that describes how you believe you were discriminated against:

- ☐ I was denied a membership in a vocational association
- ☒ I was discriminated against while a member of a vocational association
- ☐ My membership in a vocational association was terminated
- ☐ Other-please explain:

Questions About Complaining to Someone in Authority

Complete this section only if you complained to someone in authority about the alleged discrimination.

E3. To whom did you complain?

At least four different complaints to President prof. Zorić, VP for Bargaining prof. Nogami, VP for Grievances prof. Brian McDonagh and the Executive

E4. Was there an investigation? ◉ Yes ○ No (Go to Part II)

a) If you answered "Yes" to E4, what was the outcome of the investigation?

Over 2021-2022, I made a series of complaints regarding harassment and uncivil behavior of some Council members. Some of those complaints were ignored; some of them were not treated seriously, or treated with a significant delay and without proper communication.

*** Complaint 1 ***

On May 30, 2021 I asked President prof. Zorić to condemn violation of the Civility UTFA Bylaw 16, listing multiple specific concerns with prof. Taylor email from May 25, 2021. The response was “We do not share your characterization of that email (see Judith Taylor’s email copied below). We do not believe that her critique of unhelpful behaviours in Council violated UTFA’s bylaws.” I understand this response as unserious, in the sense that it failed to respond to any of my specific concerns. (App I, 1)

*** Complaint 2 ***

On June 2, 2021 I had a meeting with Jun Nogami who was Vice-President for Salary, Benefits, Pension, and Workload and also a head of the Civility Working Group. (App I, 12). I asked him to intervene, condemn civility violations, and, at very minimum, to clarify publicly civility rules that apply to all Council members. Prof. Nogami ignored my request after shrugging off prof. Taylor and prof. Gillis emails as “politics”. I asked him to organize either an open meeting of the Civility Working Group or the Council devoted to the civility rules. Prof. Nogami verbally promised to organize such a meeting by the end of June. He never followed through on this

promise and the meeting did not happen.

*** Complaint 3 ***

A group of 12 Council members (including the Past President) wrote a letter to the Executive expressing concern "perceived violations of UTFA principles and norms, its Constitution and By-laws, Robert's Rules of Order and, most notably, due process and civility guidelines." The memo asked for limited resources to hire lawyers to examine UTFA Constitution and Bylaws and receive opinion on the best practices and finding a way to move forward. (App I 13). The request was denied. President prof. Zorić has also responded that the UTFA Working group on Civility "is already working toward the establishment of a healthier approach to the resolution of disagreements at UTFA." (App I 14). I have not heard about the Working Group on Civility ever since. In fact, when I asked about the Working Group work in an email on Feb 28 2022, my question was ignored.

*** Complaint 4 ***

On Jan 22 2022, after prof. Taylor was re-elected as the Chair of the Membership Committee, I wrote a letter of complaint to President prof. Zorić and VP of Grievances (App H). The complaint named specifically two people, prof. Taylor and President prof. Zorić. I asked for
A. "A clear statement from the UTFA leadership that prof. Taylor's accusation is her private matter and there is nothing that the UTFA knows to justify her accusations and that her comments do not arise from authorized conduct as a representative of the Association. If you are not comfortable making such a statement without an investigation, I fully support an investigation that will be fair and without prejudice. I am ready to offer any additional explanations that such an investigation may require. I am available at any point.

B. A clear statement from the UTFA leadership that any language in internal communications attributing actions to gender, race, or ethnicity, etc., especially one that is critical about such actions, must be avoided.
C. Finally, I would like a clear commitment from the UTFA leadership to develop a fair and clear process to handle internal complaints, like this one." (App H, 2)

The last request has been satisfied: Between February-June, the UTFA has formally developed a detailed discrimination policy with a complaint mechanism. The policy was formally adopted on June 15, 2022.

*** Investigation following complaint 4 ***

Apart from the last request (which is a public benefit rather than fixing harm done to me), the response to my Jan 22, 2022 complaint was slow. During February-June 2022, I had 4-5 interactions with President prof. Zorić, UTFA Executive Director Kathy Johnson (who since left the UTFA), and Ms Helen Nowak (UTFA lawyer and Interim Director) were entirely devoted to the procedure. For instance, I was asked a few times whether I prefer mediation or investigation, to which I replied, as consistent with my initial complaint, that I would like investigation. I was also advised how (not) to talk to my colleagues about the complaint. During this period, nobody wanted to talk about the contents of my complaint.

The first time that somebody listened to my complaint was when I was interviewed by Williams HR on August 22 and 30, 2022, seven months after I made my complaint. Nobody has reached out to me ever since. On Oct 6, I asked Nellie de Lorenzi (current UTFA Executive Director) about the timeline of completion of Ms. Williams report - she did not respond.

Apart from delay and occasional lack of communication, the investigation into my Jan 22 complaint exhibited a number of irregularities.

On April 26, 2022, I have asked the UTFA Executive Director for protection from further harassment "I would like to ask you to forward this email to Terezia with the following request: I would like Judith Taylor stop talking to me, don't use my name, preferably not to refer to me at all, and if she really needs to comment on what I said, use words like a Member or sth as far removed from me as possible." (App L 1) I have received no response to my request, not even an acknowledgement that it was received.

Because the harassing behavior continued, I brought up my request in an email to Kathy Johnson on June 16 (App L 2). In a subsequent meeting with Ms. Johnson and an UTA lawyer Helen Nowak. I asked if there was any reaction to my request - I have been told that this issue will be left to the investigation.

As members of the Executive, prof. Taylor and President prof. Zorić participated in decision-making about how to proceed with my

complaint. When I asked when prof. Taylor learned about my complaint and how much she knew about it, I was told that this issue shall be left for the investigation.

Prior and during the 23 June 2022 meeting, Ms. Nowak cautioned me "that I should not discuss the existence of a complaint with other people because it may affect how they remember things." (App O, p.1-2) The respondents of my complaint did not feel subject to the same caution. In fact, despite a multi-week delay in the in-take of my Jan 22 complaint, on Jan 26 2022, prof. Taylor sent out to the Membership Committee (of which I was not a member anymore) a project of a survey that is supposed to go to the Council members about "participation in the council" (App G). The Jan 26 email with the survey was sent one day before the next Membership committee meeting (27th Jan) and it was described by my colleague Andrew Sabl as "at the last minute". (App M, 1) The survey questions include "Do you feel speaking space is equitably used in council among members?", "Do you positively anticipate council meetings each month?", "Identity often, but not necessarily, correlates to comfort speaking in public bodies. Please share how you identify race/ ethnicity, gender, sexual identity". (App M, 3)

The survey was discussed during the Membership committee on Jan 27, 2022. Immediately after the meeting was over, prof. Sabl wrote very extensive notes from the 15-20 min discussion (App M 5). In his opinion, the survey was designed to collect and coordinate a narrative about prevalent "misogyny" in the Council. Some excerpts:
"Judith Taylor introduced the topic by saying {! I was actually blown away but nobody batted an eye} that she saw the survey as "more educative than data collection."
"She [President prof. Zorić] said that she had people writing to her —"both men and women" talking about a problem with misogyny at UTFA Council."
"TZ concluded that while "we're not going to write a survey saying 'tell us about misogyny'", she and the Executive generally are purposely aiming at "greater equity" so that people stop writing to her. "

The survey was later briefly discussed during the February Council meeting. After an oral report on what transpired during the Membership Committee meeting based on his notes, prof. Sabl was himself accused of a misogynistic attack on prof. Taylor (App O). A group of Council members used the Council email list to invite selected members to "a conversation on these important questions at a special meeting." The special meeting date was not shared with the rest of the Council.

The discussion around the planned survey makes it difficult to believe that it was not related to my Jan 22, 2021 complaint, where I specifically mentioned spurious accusations of misogyny (App H). I do not know whether prof. Taylor was informed about my Jan 22 complaint prior to Jan 26, but I find it likely.

Duty to investigate

In Laskowska v. Marineland of Canada Inc., 2005 HRTO 30, the Tribunal has found the Code to have been breached where respondent employers have failed to investigate or take action to address alleged discrimination or harassment in the workplace. The Tribunal set out the following criteria whereby the reasonableness and adequacy of the respondents' response will be assessed (para. 59):

(i) Awareness of issues of discrimination/harassment, Policy, Complaint Mechanism and Training: Was there an awareness of issues of discrimination and harassment in the workplace at the time of the incident? Was there a suitable anti-discrimination/harassment policy? Was there a proper complaint mechanism in place? Was adequate training given to management and employees;
(ii) Post-Complaint: Seriousness, Promptness, Taking Care of its Employee, Investigation and Action: Once an internal complaint was made, did the employer treat it seriously? Did it deal with the matter promptly and sensitively? Did it reasonably investigate and act; and
(iii) Resolution of the Complaint (including providing the Complainant with a Healthy Work Environment) and Communication: Did the employer provide a reasonable resolution in the circumstances? If the complainant chose to return to work, could the employer provide her/him with a healthy, discrimination-free work environment? Did it communicate its findings and actions to the complainant?

The duty to investigate is assumed to extend to the social area of trade unions in Szyluk v. United Food and Commercial Workers Canada, Local 1000A, [2009] O.H.R.T.D. No. 898, where the Tribunal found that " the respondent's untimely and inadequate investigation and response also amounted to discrimination in violation of the Code", and where the Tribunal relied on Laskowska to evaluate the reasonableness of the investigation.

In my opinion, the UTFA failed the first two standards. (The third standard does not apply yet because, so far, there was no

resolution.)

(i) Before June 15 2022, the behavior of UTFA Council members was governed by a single-sentence Civility Bylaw: "Members of Council … have a duty to respect the rights of other members and to engage in discussion … in a civil manner ….”). (App G, 13). There was no anti-discrimination/harassment policy. There was no mechanism to report and investigate harassment or discrimination claims.

The lack of a complaint mechanism is likely responsible for the lack of a reaction to complaints made by me and others in May/June 2021.

The lack of discrimination/harassment policy and complaint mechanism was not a surprise to the UTFA. To develop such a policy was a recommendation #1 of the report of the Working Group on Civility presented in the Council on 23 March 2021. It is my understanding that the Working Group has never started preparing such a policy. (When on Feb 28, 2022, I asked about any results produced by the Working Group, my question was ignored.)

There is no human rights training offered or required from the Council or Executive members. There is no culture of sensitivity towards human rights concerns. In fact, the opposite seems to be true. One example are concerns over an antisemitic trope present in President prof. Zorić's remarks from 15 June 2021 (which are apparently subject to another OHRT application) and the long time it took her to respond to people objecting to it.

Another example is prof. Taylor who in September 2021 was nominated for the Chair of Membership committee, in spite of multiple Council members reporting concerns with her May 25th, 2021 communication.

(ii) The complaints made in June 2021 were either ignored or not treated seriously.
The Jan 22, 2022 complaint was not treated promptly. The first time that somebody actually listened to my complaint was seven months after I made the complaint. Since then, I have received no communication regarding the resolution. In fact, my question about the remaining timeline asked on Oct 6 2022 was ignored.

It is possible that Jan 22, 2022 complaint was not treated with appropriate confidentiality. The temporal correlation between my complaint and the "last minute" survey prepared by prof. Taylor a few days later suggests that she might have been informed about my complaint.

By ignoring (not responding) to my request for protection from harassment, the UTFA failed to assure me that a healthy, discrimination-free environment will be provided at the conclusion of the investigation. This lack of assurance was one of reasons why I ended up quitting the UTFA Council in June 2022.

PART II

The following Part asks you to answer how you believe you were discriminated against based on grounds you identified. If you believe that you were discriminated against based on more than one ground, fill out all the sections that apply.

Questions About Discrimination on the Grounds of Race, Colour, Ancestry, Place of Origin, Citizenship, or Ethnic Origin

Complete this section only if you believe that you have been discriminated against on one or more of these grounds: race, colour, ancestry, place of origin, citizenship, or ethnic origin.

E5. Explain why you believe you were discriminated against because of your race, colour, ancestry, place of origin, citizenship or ethnic origin.

1. On three occasions, a member of the Executive and a member of the Council made my race or race of my colleagues salient and associated it with a negative stereotype.

2. On May 25, 2021 prof. Taylor wrote "Council feels like a mini version of the mostly -- but not only -- men storming the U.S. capitol. The only thing missing is the Davy Crocket hats. We have a contestation of elections, conspiracy theories, and what looks like a lot of white men unable to handle taking direction from a diverse leadership". This message was written after two Council members expressed concerns about the May 18, 2021 Council meeting: prof. Liang Chen (Asian female) and me

(white male). However, prof. Taylor singles white men out.

3. In one particularly egregious case, a Council member literally begged others not to use race and gender as a basis for using a stereotype, to be, in response, targeted with a racial epithet. On Feb 23, 2022, prof Anton Zilman wrote “more generally, bringing up - unsolicited - Prof. Peski's (or anyone else) gender, skin color, age or any other OHRC and MoA covered grounds is unwelcome and from where I stand, vexatious. I - very politely and collegially - request that it stops. Questioning motives or ascribing intentions to Council members - and especially so based on their gender, skin color etc. is against UTFA By-Laws … . I - very politely and collegially - request that it stops.” In response, prof. Anver Emon addressed prof. Zilman as a “white bro”: “The idea that two White bros (yes, I’m bringing up your race and your gender) are saying that gendered language in a meeting in which those gendered male, female, non-binary, etc., is “unacceptable” confounds me.” Prof. Anver Emon is an instructor at the School of Law at the UofT (full title: Professor of Law and History; Canada Research Chair in Islamic Law and History; Director, Institute of Islamic Studies).

3a. It is clear that whether racial epithets are harmful depends on the context, who is using them, to whom, etc. I understand that there are social situations where the term “bro” is used in an endearing way. I do not know a situation where the term “white bro” has a positive meaning.

3b Here, the term “white bro” is used in a clearly demeaning way, with a purpose to associate prof. Zilman with so-called “bro culture” with all its negative meanings of misogyny or racism (see “Everyone has their own definition of ‘bro.’ So what does the term really mean?” Globe and Mail, Sep 17, 2015 or “Hate Crimes Won’t End Until Toxic ‘Bro’ Culture Is Reformed” The Chronicle of Higher Education Apr 8, 2018).

3c As in the case of gender stereotypes, the stereotype of a “white bro” is used regardless of corresponding facts (prof. Zilman and I are European immigrants. I have not experienced “bro culture”, I do not understand it, nor have I ever used the term “bro” in reference to myself or anybody else.)

4. In a Jan 25th 2022 email, prof. Taylor accused me of “racism” (App B 31). The accusation referred to a single sentence from a multi-page email that I sent on Jan 22, 2021 discussing a dramatic increase in the workload of my constituents due to academic integrity violations, where, at one point, I reported a factual information about “the largest identified group of cheaters used WeChat, which is a mostly Chinese language messaging app” (App B 28). My email was summarizing a document I received from one of the faculty in my department that described strategies and challenges in identifying integrity violations, one of them being a language barrier.

4a. There is a concern that highlighting the ethnicity of some of the cheaters may lead some people to a false belief that international students, and Asian students in particular, are committing violations at a higher rate than the domestic students.

4b. In my unit (Department of Economics), the majority of students (as well as a significant number of faculty) are of Asian origin (most of them are international). The fact that “the largest group of cheaters” uses Chinese-language apps is entirely expected and not evidence of differential rates of integrity violations.

4c. The above information might have not been initially available to Council members who do not know Economics. But it became clear when I explained the facts over the email exchange during Jan 22 with one concerned Council member.

4d. Regardless, prof. Taylor chose to express “concerns about racism”, being the only Council members using this word. I believe that the intention behind the accusation of racism was to portray me as a white male who does not think that racism is a big deal, or perhaps is racist himself.

4f. For what it’s worth, my wife is Asian and my children are mixed-race. I am an immigrant with a bad accent, who lived and taught for a number of years in the United States (Texas) before moving to Canada. I treat racism very seriously and very personally.

E6. Please describe how you identify yourself in terms of your race, colour, ancestry, place of origin, citizenship, and/or ethnic origin.

I am white, an immigrant to Canada (2011) from Poland (through US).

Questions About Discrimination on the Grounds of Sex, Pregnancy, Gender Identity or Gender Expression

Complete this section only if you believe that you have been discriminated against on the grounds of sex, pregnancy, gender identity or gender expression.

E14. Is your Application about discrimination on the ground of pregnancy?	○ Yes	◉ No

E15. Explain why you believe you were discriminated against based on your sex, pregnancy, gender identity.

1. Multiple accusations against me invoked negative stereotypes associated with my race and my gender. The stereotypes were invoked either without any reference to any behavior, or where the reference ignored relevant facts. There was an intention to damage my reputation and my ability to work in UTFA.

2. In Abdallah v. Thames Valley District School Board, [2008] O.H.R.T.D. No. 247, the Tribunal explained "63. Discrimination can manifest both through differential treatment and/or stereotyping. Stereotyping occurs when a quality or characteristic is ascribed to an individual based on their actual or perceived group membership. In Law v. Canada (Minister of Employment and Immigration), [1999] 1 S.C.R. 497, the Supreme Court said that "[a] stereotype may be described as a misconception whereby a person or, more often, a group is unfairly portrayed as possessing undesirable traits, or traits which the group, or at least some of its members, do not possess. Stereotypes run contrary to the human rights tenet that persons should be judged as individuals and not based on presumed group characteristics."

3. The accusations and harassment invoke two negative stereotypes about men:

3a) Men are aggressive and sometimes violent: for example, "the most prominent stereotype about masculinity depicted in children's television is of boys and men as aggressors. In boys' TV, male characters commit 62.5% of violent acts against another person." (If He Can See It, Will He Be It? Representations of Masculinity in Boys' Television (Rep.). (2020). Geena Davis Institute on Gender in Media), "Murdering white men and the work of white women", Toronto Star, on Jun 16, 2020

3b) Men react negatively towards female bosses: for example, E. Netchaeva, M. Kouchaki, and L.D. Sheppard 2015, Eagly & Karau, 2002, "How to Stop Male Workers Feeling Threatened By Female Bosses" Vice.com Apr 11, 2017.

4. I believe that there is an empirical and statistical truth underlying the two stereotypes (in the second case, it is explicitly confirmed by the quoted research). However, the statistical truth does not imply any individual behavior. In Abdallah, the Tribunal has found that statistical evidence or personal experience is not a justification for using a stereotype to generalize a negative trait over protected grounds in a protected area of social relationship.

5. The two stereotypes mentioned above are invoked regardless of underlying facts.

6. On May 25, 2021 prof. Taylor wrote "Council feels like a mini version of the mostly -- but not only -- men storming the U.S. capitol. The only thing missing is the Davy Crocket hats. We have a contestation of elections, conspiracy theories, and what looks like a lot of white men unable to handle taking direction from a diverse leadership". She invokes very well-known (in the Spring of 2021), very visual images of angry violent men from Oath Keepers, Proud Boys and other far-right groups, swearing, attacking police officers, breaking doors, windows, to get into one of the most important, even sacred buildings of democracy on Jan 6, 2021. She chooses this image as an analogy for May 18 email despite the following facts:

6a. There were precisely two Council members who wrote emails to express concerns about the May 18, 2021 Council meeting: prof. Liang Chen (Asian female) and me (white male). However, prof. Taylor's statement singles white men out.

6b. Neither prof. Chen nor I contested the results of the May 18 elections to the Executive. We only pointed out the context of elections for the events. (In fact, this context was originally raised by the President and other Council members who initiated the vilification of their colleagues.)

6c. Neither prof. Chen's nor mine emails contain any hint of aggression, violence, or anger. If anything, the tone is factual, sad, disappointed, and/or ashamed.

7. On Dec. 1, 2021, prof. Taylor asked the men of the Council to stop me from attending the next Membership Committee meeting. "I'm at a loss. I need council's help. I don't feel I should be subject to this behaviour. No one should. I'm having a membership committee meeting Friday [Dec 5] and I don't want Marcin to attend. Don't get me wrong: I can handle anything, but as a woman at UofT who has really seen and experienced more than my share of gross anti-collegial behaviour, why should I? … Help me out here guys. I mean you, men, specifically. In a global sense, you owe me. Deal with this. I shouldn't have to". Her message insinuates that I am a threat from which she needs protection. My aggression is also implied by reference to sadism in the same email and by a call for chivalry. She does it, despite the following facts:

7a. Her message to the Council does not explain nor justifies the reason for her fear. The only thing that the Council is told is that prof. Taylor is scared of me.

7b. Likely, the message was driven by the interaction in the Membership committee on the previous day. It is clear that the previous day's exchange was not pleasant for anybody, there was lots of frustration, some misunderstandings. But there is no aggression, nobody made any threats and, apart from name-calling from prof. Taylor and from President prof. Zorić, the exchange wasn't even particularly uncivil.

7c. The planned Dec 5 meeting was on Zoom, with the UTFA staff controlling the parameters. The easiest way to stop me from attending would be to not admit me from the waiting room. Even if I were a violent threat and prof. Taylor was genuinely scared of me, it was not necessary to ask "men" for"help", unless stopping me from attending was not the real goal.

8. Male violence was explicit in President prof. Zorić commemoration of the National Day of Remembrance of Violence Against Women, 6 Dec 2021, in which she wrote "We are called to oppose misogyny in all its forms—on our campuses, in our Association, and in our broader communities." (emphasis mine). President prof. Zorić's commemorative message came after five days of silence on the Council email following Dec 1 email from prof. Taylor in which she accused me of "unrelenting sadism towards women."

8a. The Montreal massacre is one of the most tragic events in this nation's history, horrible and vile crime. It needs to be remembered. It is a good thing to commemorate it.

8b. At the same time, UTFA does not have a habit of commemorating holidays or anniversaries. With one exception, President prof. Zorić has not commemorated any other anniversary in the Council email list. In particular, she did not commemorate the Montreal massacre anniversary in 2020 nor in 2022. (The only exception that I am aware of is when she a similar email on the Holocaust Memorial day on 27 Jan, 2022: "UTFA supports the efforts of the University of Toronto administration to address antisemitism within the University of Toronto community …". (App E, p2) The Holocaust email does not refer to "antisemitism in the Association', which is notable given that a few months earlier she herself apologized for "using a phrase that evoked a negative trope" that can "tap into and reinforce harmful stereotypes about the Jewish community" (App E, p.3))

8c. Given the above, I believe that President prof. Zorić intended to show support for Prof. Taylor's accusations and to strengthen the association between me and violence. I believe that this is how the message was interpreted by the Council. It is exactly how it was interpreted by colleagues who contacted me after seeing the message.

9. When prof. Helms-Park writes on Sep 26, 2021 ""Marcin Peski and other men arguing with Terezia [Zorić] about the "Safe University" petition. I, too, feel victimized by pettifogging and sophistry despite not being directly in the firing line," she asserts that the reason I argue with President prof. Zorić is because I am a man and she is a woman, with the content of the argument being secondary or irrelevant. Prof. Helms-Park doesn't justify her opinion.

9a. The question of teaching online vs in-person was the single most important workload-related issue on campus in 2021-2022. As I explained in my emails, using publicly available data, social distancing meant online teaching for at least 85-90% students, effectively shutting down the university. Online teaching was opposed by my constituents. It was very hard and difficult for many of them, especially those who taught large courses and had to deal with a dramatic increase in workload caused by online teaching (mostly, but not only, due to academic integrity violations). One of my constituents reported that she seeked help for mental health issues caused by the stress and additional workload due to online learning on four different occasions. (When I forwarded this email to the Council, a Council member dismissed it as "hysterical".)

9b As I made clear multiple times, the main reason for using the email list was that the President prof. Zorić advocacy for social distancing during 2021-22 was done without any prior debate in the Council (not mentioning Council approval. Although the UTFA Bylaws make the Council as the ultimate governing body of the association (see App G), the Council was not consulted on the issue (it did not discuss nor vote on a campus reopening policy) before Dec 2021, many months later. As President prof. Zorić explained, the decision for the advocacy was made by "Jun and I", referring to prof. Nogami, VP for Bargaining. According to UTFA Bylaws, such

decisions should be taken by the Council.) There was no other forum available. (The Council agenda is controlled by the Executive.)

10. When prof. Helms-Park writes on Oct 20, 2021: "The sheer quantity and frequently questionable attacks on the UTFA President's efforts, including her most innocuous ones, gives rise to memories of many of my own experiences. In those situations I have known at a deep level that such treatment would not be directed towards me if I were a man." (App. B p20)" - she invokes "man do not tolerate female bosses" stereotype. She justifies it with her personal experience of sexism.

10a. I am very sorry for prof. Helms-Park experience of sexism. I am sure her feelings, including her interpretation of the "quantity" of my emails, are genuine. But her own experience with a negative trait in a protected group does not justify using a stereotype (Abdallah v. Thames Valley District School Board, [2008] O.H.R.T.D. No. 247).

10b. On Oct 17, 2021, three days before prof. Helms-Park message, I tried to reassure that my criticism is not targeted at personal characteristics of President prof. Zorić " I have never at any point criticized the personal qualities of the person. In fact, I have a very high regard for Terezia Zorić as a person: she is super smart, very knowledgeable about the issues and everything Association related, her work ethic is amazing, and nobody can doubt her dedication. … But I do strongly disagree with her going above the Council on an issue that is of crucial importance for my constituents, I think it was harmful to the association … I have the right to say it." It clearly wasn't enough.

10c. It is difficult to question a counterfactual contained in prof. Helms-Park email. Let me simply add that in all my adult life I had voted for a female candidate in almost every single election I could, including the 2018 UTFA elections. I am proud of the fact that, for all 6 years I was a Council rep, the UTFA was led by female Presidents. I had my disagreements with both Past President prof. Messenger and President prof. Zorić, and I have sometimes expressed them in writing. This did not stop us from having a productive (and, actually, quite friendly) relationship over 2017-2021 in our joint work on pensions and bargaining.

11. There are multiple aspects of the accusations that suggest that their intention is at best, to stop me from speaking and advocating for my constituents, and at worst, to directly harm me:

13. Although I have been a very active member of the Council since 2016, the accusation started at the moment I criticized the Council majority and the President on May 18, 2021. They continued when I criticized the President for not seeking advice from the Council in shaping the Covid advocacy in 2021-2022. There is a clear power differential between the accusers, very often members of the UTFA leadership, and me, a regular member of the Council. The stereotype of men hating a female boss is used to In this and the next message, prof. Helms-Park uses a gender stereotype to question not the contents of my communication, but its existence or its size.

14. There is also evidence that the accusers are not entirely serious about the accusations. On Sep 26, 2021, President prof. Zorić called me "offensive" and "insulting". Few days later, she referred to my emails as "revolting". At the same time, on Sep 27, she wrote a private email "Am missing your presence. Although you and I disagree on other issues, I'd very much be sorry if you did not keep playing an active role on our [bargaining] team. I know Jun [Nogami] feels the same.") Despite Dec 1, 2021 accusations of sadism, President prof. Zorić nominated me for a position on the Pension Committee (because of its importance, it's one of the few non-Executive jobs that are compensated with a stipend.)

15. More generally, although the people in charge of the association had formal tools and responsibility to do something about misogyny and sadism, or toxic culture in the Council, they have never done anything. There was never an attempt to investigate me for harassment. On the contrary, it was Council members like me or my colleagues, who repeatedly asked for formal tools to examine civility and Council culture. Our requests were always rejected.

16. Last, but not least: On April 25 2022, during the Council meeting devoted to the proposal of anti-discrimination/harassment policy, I argued that it is not appropriate that the details of each case, including potential sexual harassment cases, will be discussed and decided upon by 14(!) members of the UTFA Executive. Listening to my argument, prof. Taylor accused me of making a "joke about harassment". (App F 2).

16a. In my argument in the Council, I gave an example of a sexual harassment precisely because it was the most grave cases handled under the new policy. It was implicit in what I said that there is nothing funny about harassment.

16b. Nobody else thought I said anything funny. Both, Ms Johnson (UTFA Executive Director) and President prof. Zorić speaking after me said "Marcin, I hear you loud and clear on 'the 14 people'".

16c. The only plausible reason to make such a comment is to paint me as somebody who makes fun of sexual harassment, possibly

referring to another stereotype of men who are, on hand harassers and do not think that harassment is a big deal.

E16. Please identify your sex or describe your gender identity or gender expression.

I am male.

Declaration and Signature

23. Declaration and Signature

Instructions: Do not sign your Application until you are sure that you understand what you are declaring here.

Declaration:

To the best of my knowledge, the information in my Application is complete and accurate.

I understand that information about my Application can become public at a hearing, in a written decision, or in other ways determined by Tribunal policies.

I understand that the Tribunal must provide a copy of my Application to the Ontario Human Rights Commission on request.

I understand that the Tribunal may be required to release information requested under the Freedom of Information and Protection of Privacy Act (FIPPA).

***Signature Date (dd/mm/yyyy)**

22/12/2022

☒ *Please check this box if you are filing your Application electronically. This represents your signature. You must fill out the date, above.

Accommodation Required

If you require accommodation of Code-related needs please contact the Registrar at:
Email: HRTO.Registrar@ontario.ca
Phone: 416-326-1519 Toll-free: 1-866-598-0322
Fax: 416-326-2199 Toll-free: 1-866-355-6099
TTY: 416-326-2027 Toll-free: 1-866-607-1240

Note: Only file your Application once. If the Tribunal receives your application more than once, it will only accept the first Application Form received.

Submit to Prod (GDC) | Print Form