Ius Laboris Canada Global HR Lawyers
MathewsDinsdale

MATHEWS, DINSDALE & CLARK LLP
The Well, 35th Floor
8 Spadina Avenue
Toronto, Ontario, Canada M5V 0S8
O 416.862.8280 | F 416.862.8247

October 27, 2026

Jim C. McKeown

jmckeown@mathewsdinsdale.com

T 416.869.2506

Toronto Office

VIA EMAIL and E-FILING

Ms. Catherine Gilbert, Registrar
Ontario Labour Relations Board
505 University Avenue, 2nd Floor
Toronto, ON M5G 2P1

Dear Ms. Gilbert:

Re: Crane Rental Association of Ontario ("Applicant") and International Union of Operating Engineers, The Union ("Responding Party")
OLRB File No. 2973-24-R

As you are aware, we are counsel for the Interveners, Pumpcrete Corporation ("Pumpcrete") and Aurora Concrete Pumping ("Aurora"), with respect to the above-noted matter.

We write regarding the position of the Interveners that there is a reasonable apprehension of bias in the panel of the Board assigned to the within matter. We renew our request for the Board to convene an abbreviated case management hearing or case management teleconference for the parties to address a process for submissions about the bias issue, separate and apart from the other issues the parties are still making submissions about, as explained below.

As the Board will recall, the issue of bias was first raised during the case management discussions at the Case Management Hearing ("the CMH") that occurred on June 15, 2026. The parties ultimately agreed to a case management procedure, which was then directed in the Board's Decision dated June 16, 2026 at paragraph 4:

> Further to the agreement of the parties, the Board will proceed to deal with the various outstanding issues according to the following schedule:
>
> (a) On or before July 31, 2026, Pumpcrete and Aurora shall frame their objections to the application, and the grounds in support of them, and shall set out the evidence they say would be relevant to them, and by that same date shall advise if they will be raising an allegation of bias against this Panel continuing to hear this matter; [emphasis added]
>
> (b) On or before August 31, 2026, the Crane Rental Association of Ontario and International Union of Operating Engineers, Local 793 shall file their submissions with respect to any no prima facie objections they are making to the positions taken by Pumpcrete and Aurora;

(c) On or before October 9, 2026, Pumpcrete and Aurora shall respond, and where they say evidence is needed, state what that evidence is and why it would be relevant; and

(d) On or before November 6, 2026, the Crane Rental Association of Ontario and International Union of Operating Engineers, Local 793 shall file their reply submissions.

As it was not apparent at that time what ultimately the instructions were from the clients, the only thing required of any party in respect of the bias issue was for the Interveners to identify for the other parties if we were in fact raising an allegation of bias. There was no direction from the Board at that time for any parties to make submissions on the issue. The case management discussions were to the effect that there would be a further CMH or case management conference call to address a process for the receiving of submissions on the issue of bias, separate and apart from the submissions on the other issues in dispute.

In the Interveners' representations dated August 7, 2026, as directed at paragraph 4(a) of the above-noted Decision, counsel indicated our clients' instruction that the Interveners are raising that there is a reasonable apprehension of bias and that a different panel of the Board ought to be assigned to adjudicate the matter. At that time, we requested the Board to schedule a further abbreviated CMH or a case management teleconference to address the issue of receiving submissions on the issue of bias. The parties have yet to hear from the Board in regard to that request.

Reply submissions from the Applicant and the Responding Party on the other issues raised by the Interveners are due on November 13, 2026. Our view is, of course, that the current panel of the Board assigned to the matter, respectfully, should not rule on those submissions at all, or, alternatively and without prejudice to our position regarding bias, at least until the issue of bias is resolved. In the Interveners' view, it would be important and necessary for the parties to know for certain the process for submissions in regard to the issue of bias, prior to the reply submissions being filed by the Applicant and the Responding Party. We ask therefore for a direction for an abbreviated CMH or case management teleconference as soon as possible.

Please contact the undersigned should you have any questions.

Yours truly,
Mathews, Dinsdale & Clark LLP



Jim C. McKeown
JCM:kt

cc: Jeremy Schwartz and Natalie Caballero, *Stringer LLP*
Kathryn Bell and Caitlin Hanak, *IUOE*
Client