



THE CANADIAN
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November 5, 2018

Via email: Barbara.Kincaid@SCC-CSC.CA

Barbara Kincaid
General Counsel
Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1

Dear Ms. Kincaid:

Re: Role of Agents in Supreme Court of Canada Proceedings

At the June 2018 meeting of the SCC/CBA Liaison Committee meeting, the Court asked how the Bar sees the role of Ottawa agents evolving in the age of electronic filing. The Canadian Bar Association consulted on this issue, through a survey of CBA members who have appeared at the SCC or who act as agents.

The survey was sent to about 1400 CBA members, along with the SCC's May 2018 discussion paper, *The role of agents at the Supreme Court of Canada*. It was also publicized on the CBA's social media channels. We received 173 responses (159 in English and 14 in French). The responses are geographically representative having been received from all but two jurisdictions (Yukon and PEI). Of those who indicated their roles in Supreme Court matters, most described themselves as counsel, while 11 described themselves as either agent or both counsel and agent.

Full reports of the English and French surveys are attached. In the analysis below, we have amalgamated the English and French responses.

The significant majority of respondents (69.3%) identify the role of agents as important or somewhat important. We asked when SCC agents are thought to be the most important – for leave applications, interventions or appeals. The leave to appeal was identified by 53.4% as the most important stage in which to involve agents.

Overall, the majority of respondents favoured an optional role for agents moving forward. Many commented that, with the advent of electronic filing, the need for agents is diminishing. The added cost of using agents appears to be a concern, particularly for interveners. However, other respondents spoke very favourably about the role of agents and felt that the status quo, with agents optional at the leave stage and mandatory at the appeal stage, still makes sense. The ability to serve agents and have them quickly acknowledge service is seen as an advantage, particularly in large files with large numbers of parties and interveners.

We hope that the responses are of assistance. Should the Court need any further information, please do not hesitate to contact us.

Yours truly,

(original letter signed by Tamra Thomson for Rekha Malaviya)

Rekha Malaviya
Chair
Supreme Court of Canada Liaison Committee