

Bench & Bar Liaison Committee Meeting

Federal Court - Canadian Bar Association - Department of Justice

October 16, 2020

MINUTES

Attendance

Federal Court: Chief Justice Crampton, Associate Chief Justice Gagné, Justice Mosley, Justice Kane, Justice Walker, Justice Manson, Justice Pentney, Justice Gleeson, Justice Favel, Justice Strickland, Justice Norris, Prothonotary Tabib

Courts Administration Service: Francine Côté, Lise Lafrenière Henrie, Caroline Perrier, Marie Desrosiers, Catou MacKinnon, Andrew Baumberg; Law clerks: Jasmine Godfrey, Leah Cummings, Caroline Zechel, Guillaume Sirois

Bar

Kamleh Nicola (Toronto, ON)	Intellectual Property
Guy Régimbald (Ottawa, ON)	Administrative Law
Marion Sandilands (Ottawa, ON)	Administrative Law
Vanessa Rochester (Montreal, QC)	Maritime Law
Nadia Effendi (Toronto, ON)	Civil Litigation
John Gailus (Victoria, BC)	Aboriginal Law
R. James Fyfe (Regina, SK)	Constitutional & Aboriginal Law
Erin Roth (Vancouver, BC)	Immigration Law
Catherine Lawrence	Department of Justice
Nadia Sayed	CBA Staff Lawyer

1) Opening Remarks

Kamleh Nicola and the Chief Justice welcomed the new members of the Committee - R. James Fyfe Marion Sandilands. The Chief Justice also thanked members of the Bar for their very timely support and contribution during the numerous consultations regarding the Court's response to the pandemic.

2) Adoption of Agenda & Minutes

Kamleh Nicola noted on Page 2: reference to "prior art number" rather than "prior number". Minutes adopted.

3) Follow-up Items from last meeting

a) Access to documents on Court web site

Justice Walker noted that she is heading a new Court sub-Committee to review the policy issues related to online access to documents. We are looking to find ways to balance the open court principle with the positions supporting restrictions on access, as identified by members of the Bar. We will be working on a consultation framework in the short term. Furthermore, CAS will soon be issuing a RFP regarding its CRMS modernization system, which includes some features related to online access. At this stage, we are aiming to keep flexibility in the system capabilities, given that policy work still needs to be done.

Chief Justice Crampton noted the issues raised by the Office of the Privacy Commissioner, and in particular, the jurisprudence and the fact that it was issued in respect of the physical court record at registry counters, which benefits from a level of "practical obscurity". Further input from the Bar would be appreciated regarding reconciliation between this jurisprudence, the open court principle

and the greater risks posed by online access to court records. The press needs to have access to at least some material, such as the legal submissions – ideally, members of the bar would draft memoranda with certain information kept separate (e.g., in a separate annex). We need to solve this issue.

Kamleh Nicola: the bar will review the materials and provide input to the Court. If there is a set timeline, please let us know. She added that the Strategic Plan appears to leave “pleadings” out of the first phase.

Chief Justice: this may have been an oversight, and will be considered by the new working group chaired by Justice Walker.

b) Court web site re-design

Kamleh Nicola: there was a recent follow-up regarding searches for IP patent numbers. Further work can proceed off-line with Lise Lafrenière Henrie.

Vanessa Rochester provided feedback from the maritime bar:

- The Bar appreciates the covid-19 practice direction pop-ups. This approach should be followed even for other new Practice Directions.
- It is also helpful to have the tweets posted on the website – not everyone has a twitter account, but for those who do, the twitter feed is very useful.
- Going through the various tabs, some but not all material is common to different tabs, but for counsel who are not familiar with the Court, some of the SRL resources might be added also to the general resources tab.
- For quick links boxes pop up, it would be helpful to have a pop-up to the practice guides and procedural guides as well. Otherwise, from a mobile device, these appear down at the bottom.

Lise Lafrenière Henrie introduced Catou MacKinnon, senior communications advisor, who is overseeing the twitter account and other communications issues.

Erin Roth: the guide for IMM proceedings indicates that “you may want to seek legal advice” but does not clarify who is authorized to represent a litigant. There should be clear information. There should be language pop-ups / links, at least for some major world languages, to help SRLs. Some guidance would be helpful. Also, for the bar referral page, only Alberta is listed.

Justice Norris: the IMM Bar Liaison Committee will be looking closely at the information on the website regarding representation.

c) Consent judgment template

Justice Norris : the IMM Liaison Committee is looking at this issue – we have had feedback from some agencies (whose decisions the Court reviews) that the Court provide more information about what the error is, so that the agency does not repeat the error. Subject to ongoing consultation with the public and private bar, we can explore options for revisions to the templates to provide more detail.

d) Federal Court Notice: [Class Action Judicial Protocols \(November 8, 2019\)](#)

Andrew Baumberg: the Court issued the Notice on November 8, 2019.

Chief Justice: earlier this year we were at close to 50 class actions, and now close to 60.

Caroline Perrier: 16 class actions have been received since mid-March.

Chief Justice: the Court is aiming to assign a case management judge with experience in the substantive legal issues, to make the process more efficient. Furthermore, a limited number of judges are being assigned to class actions, to facilitate development of expertise in the area. Leading members of the class action bar are encouraged to apply for judicial appointment.

Kamleh Nicola: would a specialized bar liaison committee be warranted? This might help to develop a quick response to practice issues.

Chief Justice: the Court will consider this – considerable resources are being invested in the class actions area.

Justice Kane: we had a good liaison meeting last year with coverage of the class action issue.

Nadia Effendi: the civil litigation section is interested in this issue. The bar has seen an important increase in class action litigation in Federal Court, including in competition matters. There may be room for further education of the bar regarding the class action jurisdiction – a liaison committee is an excellent initiative, but a Legal Education program might also be considered. However, although there are many new cases in Federal Court, the larger trend in class actions fall outside the Federal Court's jurisdiction.

Other feedback from the bar suggests a perception that the Federal Court's rules are very strict, without enough flexibility. Some lawyers prefer the superior court, which is perceived to provide more flexibility. In her view, though, the Federal Court offers better case management, and better access. For now, there is no better system than the Federal Court's e-filing portal.

Chief Justice: we have built additional flexibility through practice directions issued in recent years. Once the class action is in case management, there is lots of additional flexibility. This could be addressed at an education program. Regarding contested carriage motions, two Federal Court cases of interest were noted: *Laliberte v. Canada (Attorney General)* [2019 FC 766](#), and *Heyder v. Canada (Attorney General)* [2018 FC 432](#).

Action: Justice Fothergill and Justice Lafrenière to follow-up with the Bar regarding the proposal for a specialized bar liaison committee for class actions.

e) Identification of sitting judge

Kamleh Nicola: from the last meeting, there remains a perception of unequal treatment between the private and public bar counsel regarding the timing of disclosure of the identity of the presiding judge. It is possible in some cases for the Respondent to file their further memorandum with full knowledge of who will hear the case, whereas the Applicant must file their materials before the name of the judge is disclosed.

Erin Roth: the judge's name may be disclosed two weeks before the hearing, so perhaps in leave granted Orders, the respondent's memorandum could be made due 2 weeks before the hearing.

Guy Régumbald: from the administrative law bar, the circumstances do not arise frequently. There are potential situations when the respondent could have access to the name of the judge before they file some materials. There is no concern per se with knowing the name of the judge, but simply of unequal access to information. Perhaps the name should be disclosed much sooner, or not at all.

Chief Justice: thanked members of the Bar for their suggestions. The Court will consider them.

Caroline Perrier: the schedule regularly changes, and a different judge may be assigned within the two weeks before the hearing. Counsel should be cautious to rely on the name of the judge – it may change even close to the hearing.

Justice Kane: is the concern that the respondent will cite cases relevant to the judge, or engage in settlement discussions differently?

Guy Régimbald: yes, these are relevant issues. Everyone should be on a level playing field.

Catherine Lawrence: members of the immigration practice group indicated that it is rare for them to know the name of the judge – they usually file their memorandum before they can ask the Registry, with some exceptions. Furthermore, it is rare that a situation would arise when they would adjust their argument. Perhaps the respondent's materials could be filed earlier, or the name disclosed later. The Attorney General is open to either.

f) Gowning

Kamleh Nicola: is raising this for follow-up to close the issue.

Chief Justice: the issue of gowning recently was addressed by the Court with respect to virtual hearings.

Andrew Baumberg: there was a draft amendment, but this was overtaken by the pandemic, for which a separate guide was issued. We may need to integrate the two distinct frameworks.

Chief Justice: there are both in-person and virtual guidelines in place. We will ensure that there are no inconsistencies when we consolidate the various practice directions.

Kamleh Nicola: the issue is effectively addressed by the virtual hearing guidelines regarding gowning.

4) Federal Court Update

The Chief Justice presented a PPT deck focused on six topics: (i) the Court's COVID-19 Practice Directions and Orders (including the administrative practices that remain in force notwithstanding the termination of the Suspension period; (ii) the Court's transition to virtual hearings; (iii) safeguards for in-person hearings; (iv) looking ahead; (v) the Court's 2020-2025 Strategic Plan, and (vi) changes in the Court's judicial complement since the last committee meeting.

Action: Andrew Baumberg to circulate the PPT following the meeting.

Regarding Zoom hearings, Justice Pentney noted that there have been no security issues, though some technical issues have arisen. Some counsel who had previously requested an in-person hearing have now requested a virtual hearing. With experience, there is a growing comfort level, including with respect to cross-examination of witnesses.

Regarding e-filing, Vanessa Rochester noted that the Bar's experience is good. However, a larger file size limit would be helpful. So far, the Registry has been helpful (e.g., providing a FTP option).

Action:, Andrew Baumberg to request that e-filing file size limit be increased.

Justice Mosley: with a shift to Microsoft 365, OneDrive will eventually be an option.

Regarding practical challenges moving ahead with proceedings, Catherine Lawrence noted that most work process issues have been overcome within the Department. Most counsel have adapted to the new work arrangement. Counsel are much more comfortable now with Zoom hearings, and appreciate the collaboration with the Court and flexibility when addressing issues that might arise for individual counsel.

Chief Justice Crampton: the main issue now appears to be the Department's clients, who are not yet able to get electronic certified tribunal records to the Court.

Kamleh Nicola suggested that members of the Bar provide comments, if any, in writing following receipt of the PPT.

5) CBA National Sections

a) Immigration Law

Erin Roth : the section welcomes the IRB's efforts to provide e-CTRs and looks forward to the consolidation of practice guidelines, as well as the immigration bar moot.

b) Administrative Law

Guy Régimbald congratulated the Court for its work during the pandemic. The Zoom experience for judicial review has been good – the section likes virtual hearings. We may want to consider continuing this approach. Perhaps an amendment to Rule 369 to request the motion be in writing or, if a hearing is necessary, to hold it virtually.

Action: Andrew Baumberg with the Rules Committee a proposal for amendment to Rule 369 to request the motion be in writing or, if a hearing is necessary, to hold it virtually.

c) Constitutional Law and Human Rights

Marion Sandilands: very impressed with how the Court adjusted to the pandemic.

d) Maritime Law

Vanessa Rochester: regarding judicial sale of vessels, it is generally for the protection of creditors, but we have seen attempts to do this to avoid future liability. Perhaps the maritime bar could help provide training regarding actors who seek to use the court in this way.

Secondly, what is to happen if there is a large-scale oil spill? There could potentially be a hundred thousand claims – we may want to work with the court to develop a strategy for procedure.

Chief Justice: we have a group of specialized judges who hear most admiralty files.

Justice Strickland: in the event of a large spill, one of the most experienced admiralty judges would likely be assigned. It might be helpful to have a recommendation from the bar as to how such a proceeding might work.

The remaining updates were deferred.

e) Intellectual Property - Kamleh Nicola

f) Constitutional, Aboriginal Law - R. James Fyfe

g) Aboriginal Law - John Gailus

h) Civil Litigation - Nadia Effendi

i) Department of Justice – Catherine Lawrence

**Federal Court of Appeal – Federal Court
Canadian Bar Association – Department of Justice
October 16, 2020**

Additional attendees joining the meeting

Federal Court of Appeal : Chief Justice Noël, Justice Stratas

Courts Administration Service: Amélie Lavictoire, Adrian Bieniasiewicz, Witold Tymowski, François Desrosiers

Adoption of Agenda & Minutes.

1) Update from the Acting Chief Administrator of the Courts Administration Service

Francine Côté provided a brief report:

- She has been designated Acting Chief Administrator, replacing Daniel Gosselin who retired.
- Chantal Carbonneau, Deputy Chief Administrator, is moving to the Supreme Court of Canada. A replacement will be announced soon.
- The Courts and Registry Management System (CRMS) RFP will be posted soon.
- Regarding COVID-19, considerable work has been done for physical distancing, with plexiglass installed where this is not possible. Furthermore, a comprehensive health and safety protocol has been implemented, and audited externally.
- WiFi will be available in Ottawa by March 2020, then in regional offices later in the year.

2) Follow-up Items from last meeting

a) Safeguarding Judicial Independence & Bill C-58

Chief Justice Noël noted that members of the Courts have only limited travel this year due to the pandemic.

Kamleh Nicola: the Bar remains available to assist with any issues that might arise.

b) Articling students

Kamleh Nicola: the Bar has not pursued this since the last meeting, but would like to do so and therefore will continue further work.

Action: CBA to pursue discussions regarding articling students off-line, establish a position for the CBA and then raise at next meeting.

c) Vexatious litigants

R. James Fyfe: the Alberta Court of Queen's Bench has a screening process for claims that come before the Court, such as where the plaintiff names dozens or hundreds of defendants. Some of their approaches may be useful for the federal courts.

Lise Lafrenière Henrie: after the last meeting, three members of the Committee (Nadia Effendi, Josh Jantzi, and Catherine Lawrence) volunteered to join a working group to discuss these issues. A representative of the Alberta Court of Queen's Bench also offered to assist.

Chief Justice Crampton: the CJC's trial courts committee also established a network for vexatious litigants (contacts for each court, available to respond to requests for information).

Justice Stratas: the constraints of the existing framework in the Federal Courts Act and Rules do not provide as flexible a framework as Alberta has. One vexatious litigant takes up the Registry resources of 30 regular SRLs or 50 specialized counsel – effectively addressing a situation involving a truly vexatious litigant frees up resources for other litigants. However, the Court must remain fair and impartial, leaving it to the litigants to bring a motion under section 40. The jurisprudence under section 40 has been liberalized in the last few years – the threshold has been lowered, as have the evidentiary requirements. Short of declaring someone vexatious, the Courts have used existing tools in the Rules to curb excessive behaviour (e.g., Rule 74). It would be helpful if the bar were aware of these tools. There has never been a practice and procedure conference to educate members of the bar regarding this issue and option to control abuse.

Kamleh Nicola: welcomes the opportunity to liaise with the court to develop such a program.

3) CBA National Sections & New Items

a) [Appointing BIPOC Candidates to the Federal Judiciary](#)

Kamleh Nicola: this is an initiative of the Bar to support diversity on the Courts, and complements the conference in which Minister Lametti participated.

Chief Justice Crampton agreed that this is an important topic. Although appointments are in the Minister's hands, the issue is identified in the Federal Court's strategic plan. Leading members of the bar are encouraged to apply.

Kamleh Nicola: noted that one area of concern is the residency requirement at section 7. Is this a real issue that the CBA could take up as an advocacy role?

Chief Justice Noël: residency transcends the issue on the agenda, as it applies to all, which appears to be a different problem.

Kamleh Nicola: from the IP Bar's perspective, residency could be seen to be an impediment, as we have heard it to be an issue in the past, such as for women candidates.

Chief Justice Noël: the issue is significant, and we may not have sufficient time to explore it in depth today. The residency requirement goes to the fundamental identity of the Court, and addresses the need to have federal law apply without regional approaches – this goes beyond the issue of diversity on the bench.

Justice Stratas: playing with the residency requirement would directly affect the functioning and collegiality of the Federal Court of Appeal, which sits in panels of three. The Bar might consider approaching candidates who they consider able to manage the judicial role, and encourage them to apply for judicial appointment.

Justice Manson noted that he has been approached by many members of the Bar who have indicated that they are discouraged from applying due to the residency requirement, especially due to family / community ties. In his personal experience, it is possible to maintain collegial relationships without moving to Ottawa.

Justice Strickland: the views expressed by Justice Manson may be held by a number of members of the Federal Court. When the residency requirement was established, none of the technology options existed that currently are available to facilitate close relationships.

Chief Justice Crampton: we have tried to adopt a flexible approach, which recognizes that the needs of the Federal Court differ in some respects from those of the Federal Court of Appeal. With the new judicial appointments process and forms, which have placed a greater emphasis on diversity, we will wait to see what results are achieved. If they are not satisfactory, one option might be to have a limited number of positions available for which the residency requirement did not apply. Another option might be to have a limit on the number of positions for which that requirement does apply, for example, for all of the Court's designated judges. Both of these would be better than the option of providing the Minister with the discretion to waive the requirement on an ad hoc basis, as was suggested back in the 1990s. (A shortcoming of the latter option is that it would not be transparent. Potential candidates would not have any sense as to when such discretion might be exercised.

Prothonotary Tabib: we still manage to attract very strong candidates from regions outside Toronto and Montreal, despite the residency requirement. For the right candidate, properly motivated, there is a rich experience on the court. The travel requirement might be as much an impediment as residency.

Erin Roth: noted that some members of the bar have voiced concern with the travel requirement – perhaps the virtual hearing model would mitigate this concern.

Associate Chief Justice Gagné: there is a link between the challenge of attracting strong BIPOC candidates and the residency requirement. If there are few candidates, they may also be considering local courts.

Chief Justice Noël reiterated that the residency requirement is found in the *Federal Courts Act*.

Chief Justice Crampton clarified that even with the flexible approach that is currently being applied, judges must have a residence in the National Capital Region, but this does not need to be their principal residence, which may remain elsewhere in the country.

Justice Favel: the number of practising indigenous lawyers is still relatively small, and is a recent phenomenon, though more are going to law school. The efforts to encourage applicants to apply, and the work of law societies, will result in more applicants, and so likely there will be more appointments eventually. However, some patience is needed to see results.

4) Joint Items for Federal Court of Appeal & Federal Court

a) Rules Committee Update - Tariff B

Kamleh Nicola: is any more support from the Bar needed?

Prothonotary Tabib: there have been many helpful comments from the bar. Some of the comments, though, go far beyond the scope of the consultation. We are reviewing and collating them, with a view to making recommendations to the Rules Committee at its meeting on November 6.

Vanessa Rochester: the maritime bar noted that the courts have used their discretion to make lump-sum awards. With the new tariff, will there be restriction on the court's discretion?

Prothonotary Tabib: once the new tariff is adopted, we plan to hold education sessions.

Kamleh Nicola: we are available to collaborate on development of an education program.

b) Update – bijuralism pilot project

Kamleh Nicola: is there anything further the Bar can do to assist?

Andrew Baumberg: two cases are proceeding under the pilot, T-10-20 and T-1914-19.

Vanessa Rochester: the Notice regarding the pilot indicates that costs will follow the Quebec Rules. This may be an issue for maritime bar litigants.

Prothonotary Tabib: parties may agree to alter the regime for costs. However, it was decided that by default, the Quebec Rules would apply with respect to costs.

c) 50th anniversary

Lise Lafrenière Henrie: there is a very active committee of both the Federal Court of Appeal and Federal Court. The main event was planned for June 2021, but this has been impacted by the pandemic. Although the in-person event may be moved to 2022, the book launch is still planned for June 2021, even if it proceeds virtually. There may also be a series of virtual workshops – the program is still under review.

5) Next Meeting

To be determined following consultation between Andrew Baumberg, Amélie Lavictoire, and representatives of the CBA and Department of Justice.

END OF MEETING FOR MEMBERS OF THE FEDERAL COURT

Meeting of Federal Court of Appeal with CBA / Réunion de la Cour d'appel fédérale avec l'ABC

Attendance

Federal Court of Appeal : Chief Justice Noël, Justice Stratas

Courts Administration Service: Amélie Lavictoire, Adrian Bieniasiewicz, Witold Tymowski, François Desrosiers

Bar:

Kamleh Nicola (Toronto, ON)	Intellectual Property
Guy Régimbald (Ottawa, ON)	Administrative Law
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John Gailus (Victoria, BC)	Aboriginal Law
R. James Fyfe (Regina, SK)	Constitutional Law
Erin Roth (Vancouver, BC)	Immigration Law
Catherine Lawrence	Department of Justice
Nadia Sayed	CBA Staff Lawyer

1) Opening Remarks / Mot de bienvenue

Chief Justice Noël announced that Justice Dawson has retired, and that Justice LeBlanc was appointed to the FCA in April 2020 after 7 years at the FC. He replaces Justice Gauthier who became a supernumerary judge.

2) Statistics and Changes in the composition of the Court since the last meeting/ Statistiques et changements à la composition de la Cour depuis de la dernière réunion

Chief Justice Noël: The number of dispositions is on par with previous years (340 in 2019 vs. 310 in 2020). He noted that maintaining this number has required significant work and adaptation. He also noted that limitation periods were lifted in March, and that the suspension period was gradually ended as the situation became increasingly under control. At present, all files are back in the system with the time running. In May and June, virtual hearings were held using Zoom platform (30 appeals were heard) and as things improved, the Court started preparing for autumn sittings to be in-person, remote or hybrid hearings (with some participants appearing in person and others participating remotely). Presently, the Court is largely back to video conference hearings given the worsening public health situation.

3) Measures in place for in-person hearings before the FCA / Mesures en place pour les audiences en personne de la CAF

See above

4) *Direction RE: Section 6 of the Time Limits and Other Periods Act (COVID-19), [2020 FCA 137](#) / Directive relativement à l'article 6 de la Loi sur les délais et autres périodes (COVID-19), [2020 CAF 137](#)*

Chief Justice Noël: On September 1, 2020, the Court received a letter from the Attorney General of Canada indicating that new legislation that suspended delays set out in legislation also had the effect of suspending all deadlines under the Rules or imposed by the Court via directions or orders. This compelled the Court to issue a direction to convey its view for the benefit of parties : timelines and delays set by the Court continue to apply. Since then, no questions have been raised.

John Gailus inquired whether the Court expects an uptick in the number of appeals now that delay set out in the Act has passed.

Chief Justice Noël noted that for proceedings commenced between January and September, there has been a decrease of 130 matters in 2020, largely attributable to COVID. As the bulk of the decrease (80) relates to appeals from the Tax Court of Canada, the FCA will see a rise in the caseload coming from that court foreseeable future as the TCC restarts hearings.

Justice Stratas noted this appreciation for the work of Amélie Lavictoire, Francois Desrosiers and the entire FCA Registry. They had to quickly adapt to virtual work and worked very hard to keep the work going. Even at its peak, the FCA continued to accept documents, process motions, etc.

Kamleh Nicole noted that many members of the Bar saw seamless court operations. Vanessa Rochester noted that, in her view, the transition was seamless.

5) E-filing / Dépôt électronique

Amélie Lavictoire: COVID impacted the e-filing project, and it is now expected to launch in November. Until now, filings were accepted by email when offices were closed due to COVID, but the e-filing system will be a more robust system.

Vanessa Rochester noted that e-filing is a good system, but worried about the limits on the size of documents. She noted that the FC was able to pivot to other methods of filing for large documents.

Nadia Effendi noted that she received feedback that on occasion, material filed through the Federal Court's e-filing portal does not make it to Registry officer. In these cases, counsel had to email documents. She suggested that portal could ask for specific information (whether the proceeding is case-managed or is related to an upcoming hearing) to make the process of forwarding the material to the appropriate people easier.

Amélie Lavictoire: The FCA is aware of issues with the Federal Court e-filing system, and comments field will be available for parties to submit additional information.

6) Update on the CRMS project (if not discussed during joint meeting) / Mise à jour relativement au projet de SGCG (si une discussion à ce sujet n'a pas eu lieu pendant la réunion conjointe)

This matter was addressed during the FC-FCA portion of the meeting.

7) CBA Items :

a. Gowning / Port de la toge

Kamleh Nicola : Expressed appreciation for the direction that was issued by the Court (https://www.fca-caf.gc.ca/fca-caf/pdf/NOTICE_TO_THE_PROFESSION-Gowning-February_14_2020.pdf)

8) CBA National Sections Updates / Mises à jour des sections nationales de l'ABC

a) Department of Justice / Ministère de la justice – Catherine Lawrence

Catherine Lawrence noted that due to initial struggles involving COVID, Justice struck a working group to support litigators in their transition to the digital world. Technological changes were adopted, including adopting Zoom. Between April and August 2020, Justice was involved in over 675 hearings, with the vast majority being by video conference. Since June, there has been a greater amount of in-person hearings, with a recent reversion to videoconference hearings. A motivating factor for DOJ has been providing as much support as possible to the Courts. She expressed her appreciation for the flexibility demonstrated by the FCA, and its willingness to revert to video conference hearings when Montreal became a red zone. She suggested that a "point person" in Registry be appointed to get quick answers when there are issues that arise with respect to hearings or proceedings.

Chief Justice Noël indicated that having a point person is a very good idea and that the Court will consider it. He expressed his appreciation for the ongoing collaboration with Justice.

b) Civil Litigation / Litige civile – Nadia Effendi

Nadia Effendi echoed the comments of others about prompt and efficient actions taken by the Court to resume work as soon as it was possible to do so. She also noted that as a member sitting on the committee tasked to deal with vexatious litigants, she is dedicated to finding options to address this situation. Given that many

counsel are not aware of the relevant case law, a seminar would be particularly useful. On behalf of the civil litigation Bar, she also expressed her appreciation for the Court's recent guidance with respect to interventions.

Justice Stratas indicated that a practice and procedure conference could be organized. Members of the Court could assist in identifying changes in practice over the last 5 years. With respect to interveners, he noted that the Court has a very practical task before it, and counsel's main task is to inform the Court how their perspective will advance the Court's task if they are granted leave to intervene.

c) Aboriginal Law / Droit autochtone – John Gailus

John Gailus indicated that there would be merit in having a CDP course on jurisdiction, especially in the aboriginal law context.

d) Constitutional Law / Droit constitutionnel – R. James Fyfe

R. James Fyfe asked how Attorney Generals are supposed to give notice of their intention to intervene when a constitutional question has been served pursuant to section 57. He noted that there is also no direction as to whether this notice needs to be served on parties or on other AGs. In contrast, the SCC rules address this situation more clearly with a form. There may be a gap in the Federal Courts Rules.

Chief Justice Noël noted that generally, Attorney Generals write a letter to the Judicial Administrator, indicating their intention to intervene. However, if there are concerns, the Court remains open to looking into this issue.

Justice Stratas indicated that pursuant to Rule 109, the Attorney General has to move for leave to intervene when served with a notice of constitutional question. This is a narrow issue where an attorney general has an automatic right to intervene. Justice Stratas indicated that he will examine the issue of whether there needs to be a form and whether the matter should be brought to the attention of the Rules Committee.

e) Maritime Law / Droit maritime – Vanessa Rochester

Vanessa Rochester noted that the Maritime Law Association's meeting has been moved to 2022. She noted that the online annual maritime law conference held this year had its highest level of attendance. She indicated that the carriage regime is being reformed, and that materials should be coming soon. She expressed concern about judicial sales of ships and the ability to deflect liability of former ship owner to new owner. She indicated that the maritime Bar would be available to provide training, educational material, etc. Mrs. Rochester also expressed an openness on the part of her section to work with the Court to prepare in the event that there is a large-scale pollution incident in Canada. Such an incident would result in a large number of claims filed and would likely have a large impact on the Court's workload. With Justice Gauthier being supernumerary and Justice Nadon retiring in the near future, she inquired whether the Court had one or more judges who would be likely successors to these two judges with knowledge of and experience in maritime law. She inquired as to whether there were any other judges who had a passion for maritime law.

Chief Justice Noël indicated that everyone on the Court has a passion for maritime law.

f) Constitutional Law and Human Rights / Droit constitutionnel et droits de la personne - Marion Sandilands

Marion Sandilands noted that she only represents the Constitutional and Human rights section, and not Administrative Law. She also expressed her appreciation for the Court's use of Zoom.

g) Administrative Law / droit administratif – Guy Régimbald

Guy Régimbald expressed his appreciation for the work of the Court and Registry during the pandemic. In the future, he suggested that the infrastructure that was built in response to COVID should stay as it is cheaper and more efficient. He opined that perhaps oral hearings on 369 motions could continue to be held by Zoom.

h) Immigration Law / Droit de l'immigration – Erin Roth

Erin Roth indicated that there are no updates from the immigration bar. It has been business as usual.

i) Intellectual Property / Propriété intellectuelle – Kamleh Nicola

Kamleh Nicola expressed her section's appreciation for how the Court has continued to make matters progress. Court operations during COVID were seamless. Her section is thankful for the speed at which the Court was able to pivot to an electronic environment.

The annual Judges IP dinner was cancelled due to the pandemic.

9) Closing Remarks / Mot de clôture

Kamleh Nicola expressed her appreciation for all of the Court's efforts.

Chief Justice Noël indicated that this Committee is very useful to the Court and he expressed his appreciation of the Bar's continued efforts to support the judiciary.