

# **Bench & Bar Liaison Committee Meeting**

## **Réunion du Comité de liaison entre la Magistrature et le Barreau**

### **MINUTES**

#### **Meeting of Federal Court with CBA**

**December 3, 2021**

#### **Attendance:**

**Federal Court:** Chief Justice Crampton, Associate Chief Justice Gagné, Justice Shore, Justice Strickland, Justice Favel, Justice Walker

**CAS:** Darlene Carreau, Manon Pitre, Klara Trudeau, Sandra Gruescu, Jaro Mazzola, Andrew Baumberg, law clerks [Jessye Kilburn, Kelly Zhang, Jennine Punzalan, Sarah Gagnon, Shayna Levine-poch]

**CBA / Department of Justice:** Guy Régimbald (CBA Chair), Nadia Effendi, John Gailus, Marion Sandilands, Erin Roth, Joshua Jantzi, Julie Terrien, Catherine Lawrence; Regrets: R. James Fyfe

#### **1) Opening Remarks**

Guy Régimbald noted the departure of Kamleh Nicola following the recent electoral system changes at the CBA.

Chief Justice Crampton and Associate Chief Justice Gagné welcomed members of the Bar.

#### **2) Adoption of Agenda & Minutes**

Adopted.

#### **3) Follow-up Items from last meeting**

##### **a) Class Actions**

Nadia Effendi: the Bar welcomes the Court's proposal for a new specialized liaison committee. There is enormous interest within the CBA, which is working to identify representatives. The Department of Justice will also be designating two members. In early 2022, a first meeting can be planned.

Chief Justice Crampton: the Court has an internal class action committee, with a group of judges who have expertise in this area to support the class action work (there are currently 93 active cases). The Court has also reached out to the Advocates Society to consider designation of members to participate in the new liaison committee.

##### **b) Court web site – Consolidated Practice Directions**

Guy Régimbald: members of the Bar find that the website works well, though with some challenges regarding access to documents.

Chief Justice Crampton: the Court re-designed the website a few years ago, with the goal to have all material available "within 3 clicks." If there are further changes needed, these will be considered. It is acknowledged that the website currently appears a little busy due to pop-up messages related to COVID-19 measures.

There is also an additional initiative related to online access to documents – more information will be provided in due course.

Guy Régimbald: there is some concern regarding the delays in updates to the docket following submission of documents, but this is not strictly a website issue.

Chief Justice Crampton: this is primarily a resource issue attributable to bottle-necks in the Registry. We are working to address this.

Erin Roth: there is concern regarding the date posted for document updates, which leads to confusion for lawyers and the clients. It would be preferable to indicate the date that the document is posted online rather than the actual decision date.

Chief Justice Crampton: the Court is developing a series of consolidated practice guidelines that group together a number of individual practice directions.

Andrew Baumberg: noted the Bar's concerns regarding the number of practice directions – a draft consolidation was circulated this morning for reference.

#### c) Identification of sitting judge

Andrew Baumberg: lawyers can find out the name of the judge 2 weeks before the hearing. As noted at the May 7 meeting, the Bar proposes that this be changed to 1 week (to avoid the possibility that the respondent learns the name of the judge before the deadline for filing a reply memorandum). The Bar's proposal is addressed in the revised draft General Consolidation.

#### d) Gowning

Josh Jantzi: there have been no issues during virtual hearings – the practice direction provides sufficient flexibility.

Chief Justice Crampton: the draft Consolidation establishes a requirement for gowning (outside the pandemic context) with some exceptions.

Andrew Baumberg added that the CBA's 2019 proposal with revised language for accommodation is addressed in the revised draft General Consolidation.

### 4) Federal Court Update

#### a) Update from the Chief Justice

Chief Justice Crampton presented a PPT deck. [See [Annex](#)]

Of note, the Court is recommending a name change from Prothonotary to Associate Judge, and a supernumerary framework is also under consideration for the prothonotary position.

Regarding mode of hearing, the Court continues with virtual hearings in most cases. For in-person hearings, all members of the Court and staff who attend will be vaccinated, but the Court does not require parties and counsel, or members of the public, to be vaccinated in order to attend in-person.

Guy Régimbald: feedback from a number of sections indicates that parties should be allowed to proceed via virtual hearing mode even after the pandemic is over. This is less costly for the client.

Chief Justice Crampton: if parties indicate a preference for an in-person hearing, it will be necessary to consider how to address the vaccination issue. The Court welcomes input from the bar regarding a possible proof of vaccination requirement.

Guy Régimbald: this issue will be raised within the Bar and an update provided in due course.

b) COVID-19 Practice Directions & Orders

- Practice Direction: Update #7

The Chief Justice invited suggestions from the Bar regarding issues that should be addressed in the next update, which will likely be done early in 2022.

Erin Roth: there is concern that the 5<sup>th</sup> wave might again close schools – in previous situations of this nature, the Bar appreciated the suspension of deadlines.

c) Virtual & in-person hearings

The Chief Justice: the Court will be consolidating materials prepared in 2020 regarding virtual and in-person hearings.

d) Access to documents – Court web site

Justice Walker: the Court established a working group overseeing this project, also including Justice Pentney and Justice McHaffie. The pilot project is being planned for launch in early 2022 on proceedings in IP, maritime & admiralty, aboriginal law, and class actions, initially for Court-created documents but eventually for all documents. The pilot will only move forward proactively, rather than having retroactive application. Discussions are ongoing to assess application of the project to immigration and refugee cases.

Catherine Lawrence: there is agreement that pleadings, *facta*, and court decisions are appropriate, though there is concern regarding affidavits and certified tribunal records, which often contain sensitive information. In general, a publication delay would be appreciated. Although class action counsel had limited concerns regarding affidavits, there was general support for the project.

e) Access to video recording of hearings

Chief Justice: the current default approach of not having such recordings has been working – there have been concerns expressed on all sides regarding the possibility of video recordings being made available.

## 5) CBA National Sections & New Items

a) Administrative, Constitutional, Indigenous, Trade-marks and Tax Law

Guy Régimbald: other than trials, remote hearings work well and reduce costs for clients. The Bar appreciates the Court's initiative in developing the video-hearing framework so quickly in the early stages of the pandemic.

Chief Justice Crampton: it is expected that demand for virtual hearings will continue – the Court is being lead by the parties. If they prefer a specific mode of hearing, it would likely be the exception for the Court to impose an alternate hearing mode (e.g., there may be other public access considerations). If there is a dispute between parties, the Court will need to address it.

b) Immigration Law

Erin Roth: the bar greatly appreciates the range of virtual proceeding options (e-filing, e-hearing) – it is very cost effective. Regarding the expansion of the settlement project, there are some members of the bar that are new to the initiative.

There is some dialogue within the immigration bar regarding group / class action litigation.

#### c) Civil Litigation and Public Law

Nadia Effendi: there is a question regarding public access to some interlocutory decisions which are not assigned a neutral citation nor published if not considered precedential value.

Chief Justice Crampton: the 2018 Notice provides that all interlocutory decisions with reasons are meant to be posted.

Nadia Effendi: there are some examples of decisions with more substantial content that were not published on CANLII.

Chief Justice Crampton: we can follow-up within the Court.

Andrew Baumberg asked the Bar to send examples for review.

#### d) Department of Justice

Catherine Lawrence:

- there is a new senior management structure at the Department;
- there are increased capacity limits within department facilities, allowing for additional staff on site;
- all departmental counsel are subject to the government's mandatory vaccine policy;
- the digital litigation working group has been re-launched and is looking forward to dialogue with the Court regarding virtual hearings;
- thanked the Court for consultation with the Bar regarding practice issues throughout the pandemic.

Chief Justice Crampton: in the event that there is an in-person hearing, it might be helpful for counsel to discuss vaccination status so they can take this into account in deciding upon the mode of hearing. It would also be helpful for court staff to know this, if people are comfortable sharing this information with the Court.

Catherine Lawrence: we cannot confirm vaccination status, only whether the employee complies with the government policy, which also allows for exemptions. This is a matter for counsel to voluntarily disclose to opposing counsel.

Chief Justice Crampton: this is simply suggested on an individual rather than departmental level.

#### e) Aboriginal Law & Energy / Environmental Section

Joshua Jantzi: the Bar supports continuation of virtual hearings, with an over-arching preference for which-ever hearing mode is most timely. However, for the indigenous bar, if there is viva voce evidence from an indigenous Elder, in some cases protocol requires in-person presentation of the oral testimony.

Regarding the online access pilot, the Bar would prefer to have a lag-time to allow for counsel to identify an unexpected (but exceptional) issue (e.g., privilege).

f) Aboriginal Law

John Gailus: regarding online access, we shall need to consider how best to handle affidavits. For hearings, there is support for the following hearing options: in-person hearing, Zoom hearing, or hybrid.

Regarding vaccination status, it may be preferable to establish a mandatory policy. The Bar will develop a formal position on this.

g) Administrative and Constitutional Law and Civil Litigation

Marion Sandilands: no additional comments.

Erin Roth: in B.C., there is a general requirement to confirm vaccine status. It would be appropriate to apply this provincial approach to the federal level.

Chief Justice: in the revised COVID practice direction, we might simply encourage parties to confer regarding the possibility of advising the Court of their vaccination status for the purposes of a request for an in-person hearing. Insofar as vaccine mandates are concerned, there is an important distinction to be made between essential and non-essential services.

Darlene Carreau: given that the Courts sit across the country in both federal and provincial facilities, there may be some constraints to the Courts establishing a restrictive policy in all.

Guy Régimbald: in-person access is not necessarily essential, given that parties and the public can still access the Court virtually. The Supreme Court allows only virtual access, with no suggestion that there is no access to the Court.

Chief Justice: there have been some concerns expressed by counsel about virtual trials, and in particular, cross-examination of witnesses. There may also be some situations with self-represented litigants who assert a requirement for an in-person hearing due to an inability to proceed virtually.

**Annex – PPT Deck**

**CBA Bench and Bar Liaison Committee - Chief Justice's Update  
December 3, 2021 (Virtual Meeting)**

**Recent Appointments**

- Justice Aylen (4/8/2021)
- Justice Go (4/8/21)
- Justice Rochester (4/8/21)
- Prothonotary Coughlan (4/8/21)
- Prothonotary Horne (4/8/21)

**Recent/pending retirements**

- Justice Martineau (31/08/21)
- Justice Barnes (22/11/21)
- Justice Annis (April 6, 2022)

- Justice Shore (April 30, 2022)
- Justice Phelan (June 8, 2022)
- Justice Simpson (June 10, 2022)
- Justice Noël (November 17, 2022)

NB: Justice Lafrenière elected supernumerary status on (June 4, 2021)

### **Vacancies**

- Two judge positions in Quebec
- One prothonotary position in Ottawa
- Two positions created in Budget 2019, and one created in Budget 2018.
  - To be filled only when the Court is in a position to demonstrate the need to fill these additional positions.

### **Workload Update**

- We are essentially operating at a full workload
- IMM, Aboriginal and National Security workload increasing.
  - Impact of recent national expansion of Toronto Settlement Pilot will not be noticeable until approximately February 2022.
- Still waiting to see uptick in TM cases.
- We now have 93 class actions.

### **Scheduling (timing)**

- Files (1-3 days) being scheduled within 90 days unless a fall date or an in-person hearing is requested
- Hearings of 4-9 days being scheduled for early 2022
- Trials of 10+ days being scheduled for spring 2022
- PMNOC's being scheduled for early 2023

### **Scheduling (mode of hearing)**

- We are continuing to schedule all JRs and all General Sittings to be heard virtually. We will revisit this in Jan/Feb.
- Parties will continue to have the option to request an in-person hearing.
  - Very few requests being made
  - Few disagreements among parties as to mode of hearing
  - There are only an average of 10 in person hearings per month from Oct – Dec
- Case management judges and trial judges will decide on mode of hearing for trials and other matters, where a request is made after they have become seized.

### **Scheduling (mode of hearing)**

- The broad shift to virtual hearings has given substantial flexibility to draw on Registry resources from across the country.
- The Association of Justice Counsel has written to Chief Justices to express concerns about in person hearings, due to risk of aerosols. It has recommended:
  - Virtual hearings as “first and best line of defence”

- That counsel leave hearing room where it is unsafe, including when Court permits persons to remove masks (or where judicial officer does so)

### **Rebalancing Prothonotaries' Workload**

- Prairies and BC
- Ontario/Quebec

### **E-Filing Portal**

- Overhauled portal launched earlier this year.
- Since then, there has been a major increase in its use.
  - Note that the portal only accepts documents in PDF format.
  - Special arrangements need to be made to send Word documents.
- Pay Now function is working well.
  - 1,399 transactions were approved
  - 31 were rejected
  - 3 reimbursements
  - There are a few pending/in-progress

### **COVID-19 Practice Direction (Update #7)**

- To be updated:
  - filing electronic documents by e-mail
  - access to electronic documents
  - access to video recordings
  - electronic payment
  - in-person hearings in certain cities?
  - Confirmation of vaccination by judges/court staff?

### **Courtroom Safeguards (1)**

- [COVID-19: Safety Measures - Guidelines for Safe Court Facilities and Courtrooms operations during the COVID-19 pandemic](#) --- updated Sept. 10th:

*“All attendees are required to wear a blue disposable procedural face mask in the courtroom, unless directed otherwise by the presiding judge. The presiding judge may also direct other health and safety measures depending on the circumstances. Attendees who have concerns about the use/non-use of face masks or other health and safety measures in the courtroom should raise them as soon as possible with the presiding judge.”*

### **Courtroom Safeguards (2)**

*“If a hearing participant (counsel, party, or witness) has a genuine accommodation need which precludes the wearing of a blue disposable procedural face mask in the courtroom during a hearing, then counsel, the party, or the party calling the witness must advise the Registry of the general requirements of the accommodation in writing as soon as possible in advance of the hearing.”*

- Plexiglass
- Physical distancing
- Hand sanitizer

- *Security questionnaire.*

### **Decorum – virtual hearings**

- We have noticed a material reduction in decorum in a small number of hearings.
- This is consistent with the experience of other courts across the country.
- Paragraph 18 of the COVID-19 PD (Update #7) states:

Counsel and parties are expected to dress in appropriate business attire. Judges and prothonotaries will similarly dress in business attire. Gowning for in-person hearings remains subject to the February 6, 2017 Notice to the Profession

### **50th Anniversary**

- Internal event on June 21, 2021 – video available on YouTube
  - Search « Federal Court 50th Anniversary »
- Book launch October 1, 2021.
- International event: June 27-29, Château Laurier
  - Session on June 28th: « Indigenous Peoples and the Federal Courts

### ***Break***



# **Meeting of Federal Court of Appeal & Federal Court with CBA**

**December 3, 2021**

## **Additional attendees joining the meeting**

**Federal Court of Appeal:** Chief Justice Noël, Justice Stratas, Justice Laskin

**Courts Administration Service:** Christine Norrena, Witold Tymowski, Adrian Bieniasiewicz, Courtney West

## **1) Adoption of Agenda & Minutes**

Approved.

## **2) Update from the Chief Administrator of the Courts Administration Service**

Darlene Carreau noted that although most hearings are continuing remotely, CAS continues work on safety guidelines for resumption of in-person hearings. [see September 2021 Guide at: <https://www.cas-satj.gc.ca/docs/pdf/CAS-External-Guide-EN-Sept-10.pdf> ]

Work also continues on electronic courtroom and e-hearing support. We are re-examining the use of Plexiglas barriers, which present challenges for hearing room visibility, and have also been the subject of recent medical review.

We also continue work on a case and records management procurement project, an e-filing portal for the Federal Court of Appeal, and an online documents project for the Federal Court.

Regarding facilities, we are installing additional e-courtroom infrastructure as well as audio system improvements. Finally, there is continued emphasis on service excellence as well as on an agile workforce.

In response to a question regarding hybrid hearings, it was noted that the Courts have conducted some hearings with both in-person and remote participants. The Plexiglas barriers and masks have created both visual and audio challenges. We are looking at set-up and technology options to address these issues. There is a need for additional training and preparation within the Registry to prepare for such hearings, which sometimes are switched from fully in-person or fully virtual hearing-mode with only limited notice.

Chief Justice Crampton: these hybrid hearings have been challenging in the pandemic environment due to physical restrictions, which require additional registry support to manage both in-person and virtual hearing modes simultaneously. It is anticipated that post-pandemic, this pressure will be mitigated.

Justice Stratas thanked the Courts Administration Service for its timely work building a back-office infrastructure to maintain the operation of the Courts.

## **3) Follow-up Items from last meeting**

### **a) Articling students**

Guy Régimbald noted that the Bar endorses the proposed practice direction prepared by the Courts.

Catherine Lawrence: there is general support from the department, though there was a question whether the list of regional rules will be appended to the notice – some lawyers and articling students are not aware of the rules in their own jurisdiction. Also, Section 11 is not exhaustive for who may appear in Federal Court – paralegals and immigration consultants may seize on this to argue their right to appear. Finally, perhaps refer to provinces *and territories*.

b) Protocol on pronouns and forms of address - [Gender-Inclusive Pronouns](#)

Guy Régimbald: the CBA has struck a working group, which is preparing a letter that will be provided to the Courts.

Justice Stratas: regarding equity and inclusiveness in our language, an education program has been started in the Federal Court of Appeal.

c) Webinar on Jurisdiction and Procedure

Marion Sandilands: the webinar is scheduled for December 15,<sup>1</sup> which will provide an opportunity for Q&A.

John Gailus thanked Marion Sandilands and James Fyfe for their work on this project.

d) Department of Justice Update: Vexatious Litigants

Catherine Lawrence: the Department continues to work with the Bar and both Courts to ensure that the section 40 process is efficient and transparent. We are also considering the question whether the subsection 40(2) consent requirements continues to be necessary, given that it has been removed in other jurisdictions. Some statistics were provided regarding requests for consent between 2016 to 2021:

- the Attorney General received 9 consent requests under section 40(2) from parties external to the department
- consent was granted in all the cases
- in 5 of the cases, it was possible to extract data regarding the time-line for granting consent: the average response time was 55 days

The authority to approve requests has been delegated to the assistant deputy attorney general.

Justice Stratas noted that there has not been any recent activity from the Department on this front in the Federal Court of Appeal. As noted in previous meetings, a single vexatious litigant

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<sup>1</sup> [https://www.cbapd.org/details\\_en.aspx?id=na\\_na21law26a](https://www.cbapd.org/details_en.aspx?id=na_na21law26a)

The webinar will be a dynamic “Bar asks the Bench” format, where two members of the Bar will ask questions to Justice Fothergill of the Federal Court and Justice Stratas of the Federal Court of Appeal about a variety of topics related to the Courts’ respective jurisdiction, procedure and practice. The seminar will begin with a short primer on the Courts’ jurisdiction, and then move on to more specific topics such as vexatious litigants, class actions, and interventions.

*Speakers*

**The Honourable David W. Stratas**, Federal Court of Appeal

**The Honourable Simon Fothergill**, Federal Court

**John Gailus**, DGW Law Corporation

**Catherine Lawrence**, Department of Justice Canada

can take up the equivalent resources of 50 ‘regular’ litigants, which is of particular concern in recent times when the Registry is under pressure given the transition to digital litigation.

Chief Justice Crampton endorsed the remarks of Justice Stratas, and also reiterated his previously expressed concern regarding some cases of egregious litigant behaviour for which no application was made under s 40.

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

##### **a) Rules Committee Update**

Andrew Baumberg: as reported at the May 7 CBA meeting, 3 sets of Amendments were pre-published in the April 10 edition of Part I Canada Gazette

- a. comprehensive update to the Rules on enforcement;
- b. rules for Limited Scope Representation so a party could be represented by a lawyer on a defined, limited mandate (e.g., only for a motion);
- c. amendments incorporating the principle of proportionality, adding more tools to deal with abuse of process (in particular Rule 74), and providing a framework for Motions at the FCA.

These are now moving forward in the approval process for publication in CG2, and it is anticipated that they will come in force in early 2022. A notice will be sent once these receive Governor in Council approval and the coming in force date is confirmed.

##### **b) Residency Requirement**

Guy Régimbald: the CBA is proceeding with its review of the residency requirement for members of the Courts, and anticipates a recommendation that for Federal Court appointments, the NCR requirement be removed.

#### **5) Next Meeting**

Andrew Baumberg: does the Committee intend to continue meeting twice per year?

CJ Noël suggested that 2 meetings per year is probably sufficient.

Guy Régimbald will consult with the Bar and provide an update shortly.

**END OF MEETING FOR MEMBERS OF THE FEDERAL COURT**

## **Meeting of Federal Court of Appeal with CBA December 3, 2021**

### **Attendance:**

**Federal Court of Appeal:** Chief Justice Noël, Justice Stratas, Justice Laskin.

**CAS:** Christine Norrena, Witold Tymowski, Adrian Bieniasiewicz

**CBA / Department of Justice:** Guy Régimbald (CBA Chair), John Gailus, Nadia Effendi, Marion Sandilands, Erin Roth, Joshua Jantzi, Julie Terrien, Catherine Lawrence;  
Regrets: R. James Fyfe

### **1. Opening Remarks / Mot de bienvenue**

### **2. Update on Court Operations / Mise à jour quant aux activités de la Cour**

#### **a. Statistics / Statistiques**

Chief Justice Noël indicated that recent FCA statistics are similar to those 10 months ago as the Court is operating under similar conditions. Approximately 300 proceedings were commenced in the first 9 months of 2021.

#### **b. Changes to the composition of the Court / Changements dans la composition de la Cour**

Chief Justice Noël reported that he had made a request for two additional judicial positions, one of which had been granted. He reiterated that the need for both positions is real: while the Federal Court has more than doubled in 20 years, the complement of FCA judges had only increased by one. When the flow of cases resumes, the FCA will be a very busy court. He noted that having a sufficient number of judges is a matter of service to the public.

Justice Stratas noted that the Court is at a point where its resources are stretched very thinly, and the Court may have serious trouble addressing a large and urgent matter.

### **3. Follow up items from last meeting**

#### **a. Attorneys General intervening under section 57 / Procureurs généraux qui interviennent en vertu de l'article 57**

Mr. Régimbald indicated that this was a matter that was raised by James Fyfe at the previous meeting. While Mr. Fyfe is not present at the current meeting, he wanted to know if there had been progress on this issue.

Justice Stratas indicated that the Rules Committee agreed that there is a gap in the Rules, and put it on a priority list for consideration. The next step will be to study and debate the matter, and then a recommendation will be made. Justice Stratas reminded that any gaps in the rules should be brought forward to either the Rules Committee directly, or to the attention of this committee.

#### **4. Regulating Problematic and Vexatious Litigants / Contrôle des plaideurs problématiques et quérulents**

Justice Stratas noted that due to the pressures on Registry staff arising from Covid, very careful attention is being paid to leakages of efficiency. Problematic litigants are one area of concern. These are litigants who have not been declared vexatious, but who nonetheless take up a lot of the Registry's resources. Some of them require an extra layer of regulation in order to preserve resources for the benefit of not only other users, but also the health and welfare of our staff. He indicated that a program has been launched to identify these litigants. When they are identified, the Court will send out a direction to the litigant with a proposed course of action and to seek their input. If warranted, the Court will issue orders or directions restricting access to the Court. The restriction is to curb unnecessary use of resources. The DOJ may want to pay attention to who is regulated, and may want to take further action where it is warranted.

#### **5. FCA use of Twitter/ L'utilisation de Twitter par la CAF**

Witold Tymowski noted that the FCA launched its Twitter account in 2018 and that since that time, it has served as a great communication tool with the broader community. However, he noted that the Court's resources are limited and tweets cannot be posted about every single decision. As a result, the Court conducts a filtering process to determine which decisions are worthy of a tweet. To improve this process, the Court wanted to reach out to the Bar to find out how it uses Twitter.

Nadia Effendi indicated that she will go back and canvass her colleagues, but expects that there will be great interest in cases of precedential value, even if it has lesser interest to the public.

Chief Justice Noël noted that the FCA has been on Twitter for 3 years and has over 3000 followers. He indicated that this demonstrated that there is interest out there, and that the Court has improved its communication by, for example, posting summaries of decisions.

Mr. Régimbald noted that while precedential value is in the eye of the beholder, he expects that the answer from the Bar will be that the more tweets, the better.

#### **6. E-filing / Dépôt électronique**

Christine Norrena indicated that the FCA has been developing an e-filing portal to modernize the Court that will allow parties to submit documents for filing. It will also include a payment feature. It is currently in the last round of testing and is expected to launch in early 2022.

Mr. Régimbald added that filing electronically is better environmentally and easier for the parties. The Bar applauds the initiative.

Justice Stratas noted that the FCA has been ahead of the curve for decades: it was conducting videoconference hearings in the 1980s, and electronic hearings in 2019.

## **7. CBA National Sections Updates and New Items / Mises à jour des sections nationales et points soulevés par l'ABC**

- a. Administrative, Constitutional, Indigenous, Trade-marks and Tax Law / Droit administratif, constitutionnel, autochtone, marques de commerce, et impôt – Guy Régimbald (Chair / président)

Mr. Régimbald noted that there was no representation from the IP or Tax Bar. However, he canvassed both groups and the general consensus is that remote hearings work. Even post COVID, parties prefer having e-hearings rather than in-person hearings. There is a preference that e-hearings can continue.

- b. Immigration Law / Droit de l'immigration – Erin Roth

Ms. Roth received no feedback aimed at the FCA. She noted that the Immigration section has embraced virtual hearings and is looking forward to e-filing.

- c. Civil Litigation and Public Law / Litige civil et droit public – Nadia Effendi

Ms. Effendi endorsed Ms. Roth's statements.

- d. Department of Justice / Ministère de la justice – Catherine Lawrence

Ms. Lawrence noted important personnel changes at the senior level of DOJ (new Deputy Minister and Deputy Attorney General, new Associate Deputy Minister and Deputy Attorney General, and new Chief General Counsel). She also noted that the department's return to work progress is in phase 2, which means that NCR offices are up to 30% occupancy, while some offices outside the NCR are up to 50%. Personal protective equipment continues to be required when more than one person in a room. DOJ is also subject to the government vaccination policy. As a result, counsel appearing before the Court will either have attested to being fully vaccinated, or have been granted an exception. If the latter, they will have been tested for COVID.

She also indicated that a digital working group has been revived and will be exploring the future of virtual hearings. Courts will be consulted in due time.

- e. Aboriginal Law / Droit autochtone – Joshua Jantzi

Mr. Jantzi noted that both Bars continue to support virtual hearings and wanted to congratulate the Court for the way it has handled the pandemic. He noted that in general, members of his sections wanted to be heard as soon as possible, and supported any type of hearings that promoted speedy hearings. However, he indicated that many indigenous communities place great value in personal gatherings. This is obviously not always possible during the pandemic, but there is an expectation from the Aboriginal bar is that there will be a resumption of cases with personal appearance. Both bars are supportive of filing a judicial vacancy on the Court to ensure that it is able to handle large-scale urgent public interest appeals.

f. Aboriginal Law / Droit autochtone – John Gailus

Mr. Gailus noted that he had only received positive comments about the Court.

g. Aboriginal & Constitutional Law / Droit constitutionnel & autochtone – R. James Fyfe

Not present.

h. Administrative and Constitutional Law and Civil Litigation / Droit administratif & constitutionnel et Litige civil – Marion Sandilands

Ms. Sandilands had no comments.

## **8. Closing Remarks / Mot de clôture**

Chief Justice Noël noted that he was encouraged by the comments, and that the Court has always tried to respond to the requirements of the bar. The message that the Bar appreciates the different ways of holding hearings, particularly virtual hearings, has been heard.

Mr. Régimbald thanked the Chief Justice for the opportunity to speak to the Court of the tremendous job that the Court has done.