

IN THE MATTER OF THE *JUDGES ACT*, R.S.C. 1985, C. J-1

**2015 QUADRENNIAL JUDICIAL COMPENSATION
AND BENEFITS COMMISSION**

**SUBMISSION OF THE HONOURABLE LEONARD S. MANDAMIN
REGARDING PENSION CREDIT FOR PROVINCIAL COURT JUDGES
APPOINTED TO THE SUPERIOR COURTS**

The Honourable Leonard S. Mandamin
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Quadrennial Judicial Compensation and Benefits Commission
99 Metcalfe Street, 8th floor
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I write to raise a matter that the Quadrennial Commission should consider in its deliberations.

By way of background I was appointed as a Federal Court judge on April 27, 2007. Prior to that appointment, I served for seven years as a judge of the Provincial Court of Alberta, from 1999 to 2007. Upon my federal appointment, I was advised by Federal Judicial Affairs that I do not receive any pensionable credit for my years as a provincial court judge and my entitlement to a federal judge's pension would only lock in after serving 10 years as a federal superior court judge. At the same time, I was advised by the Alberta Pensions Corporation that, upon my appointment to the Federal Court, I was considered to have retired and would commence to receive an Alberta Provincial Court judge's pension but very significantly discounted because of my early retirement.

The forgoing presents a significant disincentive for provincial court judges seeking an appointment to the superior court. However, there is an additional dimension that I will address, that being the appointment of Indigenous judicial candidates to the superior courts.

I am an Indigenous judge, a member of the Wikwemikong Unceded Indian Reserve on Manitoulin Island in Ontario. I will be 72 this year and I will reach the mandatory age of retirement from the Federal Court in 2019. As such I have been giving thought to the potential for appointments of Indigenous candidates to the superior courts. The situation is not promising.

To my knowledge, there have been seven Indigenous justices serving in the federal superior courts this past decade. Of that number, five, including myself, are either retired or approaching retirement. Absent any change, that would leave two serving Indigenous justices.

One potential pool for qualified candidates is the Indigenous judges serving in the provincial or territorial courts. There are 14 active provincial court judges. I know many of them and consider them to have the knowledge, ability and experience to ably serve in the federal superior courts. Indeed, I made a point to speak to two about seeking a superior court appointment. Prominent in their reasons for not seeking a

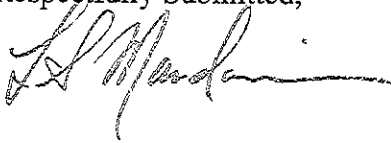
superior court appointment is the 10 year wait before a federal pension would lock in notwithstanding their years of experience in the provincial courts.

The disconnect between pension credit for serving in provincial courts and in superior courts is a barrier that needs to be addressed in relation to appointment of provincial court judges to the superior courts; this question is especially significant for the appointment of qualified Indigenous provincial court judges.

I raise this issue for future appointments since I myself will be well past this question in the not too distant future.

I respectfully request the Commission recommend that the Government of Canada address the question of providing pension credit for provincial court judges who are appointed to the superior courts.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'L. S. Mandamin', written in a cursive style.

Leonard S. Mandamin
2016/03/08