

THE HONOURABLE CHIEF JUSTICE
L'HONORABLE JUGE EN CHEF
DAVID D. SMITH



THE COURT OF QUEEN'S BENCH
OF NEW BRUNSWICK
LA COUR DU BANC DE LA REINE
DU NOUVEAU-BRUNSWICK

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January 21, 2008

Ms. Sheila Block
Chairperson
Judicial Compensation and
Benefits Commission
99 Metcalfe Street
Ottawa, ON
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Dear Ms. Block:

RE: Salary differential

I have consulted with the judges of my Court and, of those who have chosen to give me a response, 94% disagree with the initiative of imposing a salary differential between federally-appointed judges at the superior courts and those at the appellate courts.

My opinion is that the following factors motivate this consensus.


- (1) The change would create a divisiveness among the Canadian Judiciary that has no counter balancing rationale to mitigate the damage that this would cause.*
- (2) There is no reason in principle for the segregation. Federally-appointed judges undertake a variety of tasks in many areas in the effective administration of justice in Canada. The workload, substantive complexity and operational environment vary greatly from one individual judge to another whether at the trial or appellate level.*

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- (3) *If the argument is made that a degree of intellectual superiority is required from appellate judges, a position which I do not believe to be founded, is made to support higher salary levels, it follows that a much more rigorous screening process would be necessary for those seeking appellate appointments. The present protocol would need to change. The superior capacity of individual judges in this new higher class of judiciary would need to be clearly perceived by the public.*
- (4) *Trial judges, who are the face of justice to the vast majority of litigants involved in civil and serious criminal matters, must be the most capable persons available if public confidence and respect for justice is to be maintained.*

For the above reasons, I would join the others opposing the salary differential in asking you to reject the appeal judges' brief.

Yours truly,



David D. Smith
Chief Justice

DDS:gr