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THE HONOURABLE MADAM JUSTICE  
BONNIE L. RAWLINS



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COURT OF QUEEN'S BENCH OF ALBERTA

January 22, 2004

Judicial Compensation and Benefits Commission  
9<sup>th</sup> Floor  
99 Metcalfe Street  
OTTAWA, Ontario  
K1A 1E3 (Via email: [jruest@quadcom.gc.ca](mailto:jruest@quadcom.gc.ca))

Dear Commission:

I am a member of the Alberta Court of Queen's Bench. I would ordinarily not file a separate submission with the Quadrennial Commission; however, given the import of certain submissions you have received on judicial benefits, the salary differential sought by members of Courts of Appeal across Canada, and the recent Provincial Court Judges Commission in Alberta, I feel compelled to do so. My position can be summed up quite simply: hierarchy counts for all court levels and it should be reflected in the salary paid to judges at each court level.

The judicial system is based on hierarchy, as is every corporation, government and organization. Hierarchy exists for a reason; it is a direct reflection of the fact that the duties and responsibilities imposed on members of a court change as a case proceeds up the hierarchical ladder. So too do the consequences of the decision made by each Court. Traditionally, and properly, with the anomaly of Courts of Appeal, a corresponding pay differential has always existed amongst various court levels. It is beyond dispute that such a differential is justified by the nature of the duties and responsibilities assumed at each level by those appointed to those positions. No one would seriously suggest, for example, that a Traffic Commissioner does the same job as a justice of the Supreme Court of Canada, or should receive the same salary.

Without in any way diminishing the importance and the value of the work done by intake courts in Canada, the reality is that a day in docket court is not the same as a day presiding over a multi-party criminal jury trial or a complex oil and gas dispute with hundreds of documents, both of which trials can last for months. The issue is not about the training or intelligence of individual judges of any Court. It is about the nature of the work undertaken at the various court levels. This holds true with respect to each step up the judicial ladder from justice of the peace, to traffic commissioner, Provincial Court, Superior Trial Court, Court of Appeal, and finally, Supreme Court of Canada. A justice of the peace may be as intelligent as a judge of the highest court, but the duties and responsibilities imposed on each differ significantly as do the consequences of the decisions made.

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Consequently, s.96 trial judges, to whom Parliament and Legislatures have assigned duties which may be fairly characterized as more complex than those assigned to provincial courts, and who are constituted as appellate courts for most of the decisions of those provincial courts, should receive a salary commensurate with those responsibilities and that appellate jurisdiction. Historically, that differential has been recognized as being at least 20% more than the salary paid to judges of Provincial Courts and in any event, an amount equal to the mid point of the highest level of federal Deputy Ministers. There is no valid reason to resile from these parameters. For Alberta, it is my understanding that the recent Provincial Court Judges Commission has recommended the retention of a differential between the salary of the Provincial Court and s. 96 Courts. The salary recommended for Provincial Court judges is \$210,000 as of April 1, 2004 and \$220,000 as of April 1, 2005. I am assuming that you have already been provided with the information on the current salary and benefits package received by the majority of federal Deputy Ministers.

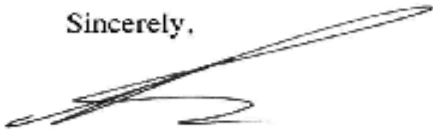
For the same reasons, I fully support the submission that judges of Courts of Appeal should receive an increased salary to reflect the appellate duties assigned to them. These duties closely approximate in nature and substance the type of work undertaken by the Supreme Court of Canada. Indeed, for more than 95% of cases heard and decided in each Province in Canada, Courts of Appeal are effectively the courts of last resort. I am sure that there are many who would be surprised to learn that judges on Courts of Appeal do not presently receive an increased salary. I urge this Commission to rectify this inequity. As you may be aware, in Alberta, trial judges occasionally sit *ad hoc* on the Court of Appeal from time to time, but this is not a reason to deny the principle of a salary differential.

Recognizing judicial hierarchy and compensating those holding positions in accordance with their place in that hierarchy will not negatively affect collegiality amongst judges at any court levels. Surely, fair-minded judges at all court levels would acknowledge that the nature of the work done by those in judicial positions who can overrule their decisions warrants an appropriate salary differential. Such a differential would encourage all judges to strive for, and consider, appointment to a higher court level, not only for the increased salary, but for the imposition of additional duties and responsibilities.

If, however, the principle of hierarchy with its accompanying salary differential were to be rejected, and the governing principle becomes that every judge is paid the same, regardless of the judicial office they hold and the responsibilities they discharge, then fairness demands that all judges' salaries be moved up to the highest paid court level, that is the salary received by judges on the Supreme Court of Canada, and contemplated increases proceed from that level. There would be no principled basis for doing otherwise. This suggestion alone should prove my point.

In conclusion, I support the principle of hierarchy in the court system from justices of the peace to the Supreme Court of Canada, with appropriate salary differentials at each level.

Sincerely,

A handwritten signature in black ink, appearing to read 'B.L. Rawlins', with a long, sweeping horizontal stroke extending to the right.

B.L. Rawlins