

**FEDERAL COURT BENCH AND BAR
(IMMIGRATION & REFUGEE LAW)
LIAISON COMMITTEE**

MINUTES OF MEETING

Friday, May 5, 2006 (13:30 p.m - 3:00 p.m)
Québec, Quebec (with teleconference access)

PARTICIPANTS

Federal Court

Justice Pierre Blais
Justice Judith Snider
Justice Michael Phelan (by phone)
Andrew Baumberg, Office of the Chief Justice
Mr. Wayne Garnons-Williams, Registrar, Ottawa
Mr. Paul Robinson, Taxation Officer, Toronto

Canadian Bar Association

Ms. Kerri Froc
Mr. David Matas, private bar. Winnipeg
Mr. Lorne Waldman, Toronto
Mr. Gordon Maynard, Vancouver
Ms. Wendy Danson, Edmonton;
Mr. Mitchell Goldberg, Montreal

Department of Justice

Ms. Christine Bernard, Ottawa
Ms. Jocelyne Murphy, Montreal
Mr. Kevin Lunney, Toronto
Ms. Marie-Louise Wcislo, Toronto
Ms. Esta Resnick, Vancouver

Recording Secretary: Marie-Louise Wcislo

1. Opening Remarks

Justice Snider, as Chair, welcomed everyone to the meeting.

2. Meeting Minute-taking:

It was agreed that the responsibility for taking the draft minutes for our meetings would be rotated on a voluntary basis, and the draft minutes provided to Mr. Baumberg for circulation, finalization, approval and distribution.

3. Structure of our Liaison Group

We discussed the CBA's draft, outlining the structure and membership of our Group.

Justice Snider favours wide & regional membership, with both the private bar & Justice being represented.

Ms. Danson explained why it was previously agreed the IRB should not be a member of the Group, but could be invited to attend specific meetings. It was agreed that circulation of draft meeting agendas to IRB was similarly **inappropriate**.

Ms. Wcislo noted that government officials (CIC, CBSA) should not be members of the group. We agreed that we would extend an offer of membership to the FCA. Some discussion of whether a limited number of additional CBA members should be permitted to observe future meetings of our Group.

4. Faxing by CAS, of Orders denying leave, to counsel

Mr. Robinson explained that very shortly after leave is denied, that Order is input into the "Project Management System" at the Court. Orders denying leave are therefore accessible on the Court's website. This is usually reflected in the "status notes" too.

Snider J. stated that in recognition of the workload on the Registry Staff, Orders denying leave would not be faxed out to counsel.

5. Use of E-Mail to deliver Court decisions

Mr. Garnons-Williams discussed the Pilot Project in the Registry of the Court. It might be possible to scan decisions and send them out to counsel by e-mail.

Mr. Waldman's office has great scanners, while **Ms. Wcislo's** office has poor scanners. Rule 395 provides scope for the Court to modernize in this area of e-mail use. Draft directions to practitioners are coming.

Mr. Maynard suggested sending an e-mail to counsel, with a link to the actual Order & Reasons of the Court. Important decisions of the Court are already placed on the Court's website quickly. The Court faces technological challenges in this area, but is actively working on innovation & improvements.

6. The "Gap" between the decision to grant leave, and the Order granting Leave

Snider J. stated the Court is currently up-to-date everywhere in Canada except Toronto, where an order denying leave can be issued quickly, but an order granting leave must wait until it can be made within 3 months of the JR hearing date (due to *IRPA*). This causes a challenge for stay applications in Toronto, where the parties do not know if the leave application has been before a judge or not; when stays are organized by Ms. Edge in Ottawa, she usually advises the judge if the leave has already been considered by a judge or not; judges are doing their best to be aware of whether leave will be granted or not, when hearing a stay.

Justice Blais pointed out that before the Order granting leave is issued, it cannot be said, in law, that leave has been granted.

Mr. Matas stated that the problem is with the terms of *IRPA* and the CBA should advocate to have the statute changed.

7. "Bench Book" of Jurisprudence on Stay Applications

All in favour of trying this.

Mr. Provart of Justice in Toronto, will shortly provide Mr. Waldman with a draft list of cases, for Mr. Waldman's comment. There would be a hard copy of the Bench Book in each courtroom. The Book would have to be updated regularly to remain useful. Mr. Provart will provide details of how other Courts in Canada currently successfully use "Bench Books", in advance of our next meeting

8. The consolidation of the post-*Thamotharem* cases

Snider J. stated that this will not be discussed, as it is the subject of appeals in the FCA. However, the Court is always interested in ways to more efficiently handle many cases filed at the same time which raise the same legal issues. The Court appreciates help in identifying and thereafter managing such cases fairly & efficiently.

9. List of Certified Questions

The list is long, incomplete & not too helpful yet.

10. Surnames of Applicants to be in Bold print

Chief Justice Lutfy is currently working on a Notice to the Profession / Practice Direction on this point. Although the full names appear on the Court's indexing database now, the search engine works with surnames only. However, the decisions database can search both first and last names.

Mr. Matas & Mr. Maynard agreed to review a draft of the proposed Notice/Direction & provide comment to the Court.

11. Consultation with counsel in advance of setting JR hearing dates

The Federal Court has 29 judges and heard 1,216 cases in 2005. This volume precludes consulting counsel in advance. If you know in advance you will be unavailable for a significant period of time, you can write to the Court motions to adjourn set hearing dates due to counsel's unavailability, though they are not generally favoured by the Court.

Justice Blais stated the scheduling of hearings takes a great deal of time of the Court's staff. That said, the Registry can sometimes accommodate counsel's schedules or changes to hearing dates.

12. Media security screening in Toronto

Mr. Robinson confirmed that the Court has directed the security screening company in Toronto, that all persons entering the courtrooms must be security-screened, including members of the media. If counsel note this is not being done, please advise the local Registry staff.

13. E-Filing in Federal Court

Now available in IP matters, the Court administration is working on expanding it to other practice areas. Could be expanded to include service of documents in the future. A concern exists with respect to privacy and public access; discussions with the immigration bar will take place on this point.

14. Our next Liaison Group meetings

By teleconference: October of 2006 (not too close to general FC Bench and Bar meeting)
In person: Victoria, B.C., in spring of 2007.

Madam Justice Snider thanked all for attending.