



CRIMINAL LAWYERS' ASSOCIATION
189 Queen Street East, Suite 1
Toronto, ON M5A 1S2
Tel: 416-214-9875
Fax: 416-968-6818

www.criminallawyers.ca

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BY EMAIL ONLY

The Rt. Hon. Richard Wagner, P.C., Chief Justice of Canada
c/o Mr. David Power
Acting Registrar
Supreme Court of Canada
301 Wellington Street
Ottawa, Ontario
registry-greffe@scc-csc.ca

cc: Ms. Renée Thériault, Executive Legal Officer
renee.theriault@scc-csc.ca

Dear Chief Justice Wagner,

I am the Vice-President of the Criminal Lawyers' Association (the "CLA") and co-chair of the CLA's Litigation Committee, responsible for overseeing our legal intervention program. Our organization recently wrote to the Acting Registrar, Mr. David Power, to address a concern we had regarding the Court's practice about recognizing co-counsel on published judgments. In response, Mr. Power directed us to the Court's written policy, which provides that only counsel who appear for a hearing will be listed in the published reasons for judgment. I am writing to request that the Court reconsider this policy.

Six years ago, the CLA created the Litigation Committee's Junior Roster Program, which partners junior lawyers with experienced intervention counsel for appeals including those to the Court of Appeal for Ontario and to this Court. Our aim was to provide mentorship and litigation opportunities to lawyers who had expressed an interest in public interest litigation. Our goal was also to ensure a broad range of participation from equity-seeking groups and racialized members of the criminal bar: those who may otherwise be denied access to meaningful participation in these types of opportunities.

Other organizations like ours followed suit and created similar mentorship programs. The effect was that many young lawyers from diverse backgrounds have been given opportunities to participate in the organizations' *pro bono* efforts and contribute to important social justice issues.



When oral hearings were routinely held in person, our junior intervention counsel would attend the appeal hearing as gowned co-counsel. Their names would also appear on the Court's judgment. Since the COVID-19 pandemic, hearings have primarily proceeded by video. For interveners, participation has been limited to one counsel per group. The unfortunate result is that co-counsel, almost exclusively junior lawyers, are not noted on the Court's judgment.

Creating mentorship programs, and permitting junior counsel to sit alongside senior lawyers, offered them an opportunity to hone their written and oral advocacy skills and well-deserved recognition for their hard work. Many of the lawyers who have graduated from the CLA's Junior Roster have since appeared before this Court as lead intervention counsel. Had this program not existed, these lawyers may not have had such opportunities as quickly or as often.

Our concern is that denying junior lawyers the recognition they deserve may discourage them and others in the future from participating in these mentorship programs and, in turn, perpetuate the status quo of having a more homogenized cadre of lawyers appearing before this Court. Denying these opportunities does this Court, the bar, and the public a disservice.

Mentorship programs like ours have made litigation before this Court accessible for a new generation of lawyers. We believe that recognition encourages participation, which in turn ensures a diversity of views that would assist the Court in determining issues of national importance.

In addition to our organization, the following other organizations support this request: Aboriginal Legal Services; Animal Justice; Barbra Schlifer Commemorative Clinic; British Columbia Civil Liberties Association; Canadian Civil Liberties Association; Canadian Constitutional Foundation; Canadian Muslim Lawyers Association; Criminal Trial Lawyers' Association; David Asper Centre for Constitutional Rights; Federation of Asian Canadian Lawyers; HIV & AIDS Legal Clinic Ontario; Law and Mental Disorder Association; Samuelson-Glushko Canadian Internet Policy and Public Interest Clinic; The Association des avocats de la défense de Montréal - Laval - Longueuil (AADM); The Empowerment Council; West Coast Legal Education and Action Fund (West Coast LEAF); and Women's Legal Education and Action Fund (LEAF).

Sincerely,

Daniel Brown