

**Federal Court Bench and Bar
(Immigration and Refugee Law)
Liaison Committee**

Minutes of Meeting

**Saturday, April 14, 2007 (7:30 am – 8:30 am)
CBA Conference, Victoria, B.C.**

Present:

Chair: Madam Justice Judith Snider (Federal Court)
Mr. Justice Yves de Montigny (Federal Court)
Mr. Justice Micheal Phelan (Federal Court)
Ms. Anne Edge (Hearings Coordinator, Federal Court) (by telephone)
Ms. Wendy Danson (CBA, Edmonton)
Ms. Kerri Froc (CBA, Ottawa)
Mr. Mitchell Goldberg (CBA, Montreal)
Ms. Urszula Kaczmarczyk (DOJ, Toronto)
Mr. David Matas (CBA, Winnipeg)
Mr. Gordon Maynard (CBA, Vancouver)
Ms. Claire le Riche (DOJ, Toronto)
Ms. Sylviane Roy (DOJ, Montreal)

1. Opening Remarks by Justice Snider:

Justice Snider welcomed everyone to the meeting, including some CBA Conference participants who were observing. There were some clarifications of the draft minutes of the February 2, 2007 meeting. Justice Snider noted that the Federal Court summer break referred to in item #8 would not apply in Vancouver. She provided an overview of statistics:

applications for leave:	1131	January and February, 2006
	870	January and February, 2007

March 2007 has been very busy. However, there is a very large drop in refugee applications from the RPD (509). This is the lowest number yet. (The number for March 2006 was 697.)

Claire le Riche provided the file opening and stay statistics for the Ontario Regional Office. 650 stay files were opened in 2006, compared to 388 in 2005.

Justice Snider indicated that there have been 116 urgent stay requests to the Court to date in 2007.

2. Business Arising from Previous Meetings:

i. Faxing leave denials to counsel:

The Committee had earlier received the written outline of the new leave denied process from Mr. Wayne Garnons-Williams. The FC will begin a 1 year pilot of the new method of notifying counsel of leave denied orders. The new method involves calling lawyers and law firms which have agreed to participate, and leaving a voice message with the order.

Justice Snider is to clarify whether the pilot is restricted to Ottawa.

Ms. Danson questioned why it was necessary to leave a voice mail message rather than with a person. Justice Snider explained that there is a need to ensure that the messages are getting through.

ii. Benchbooks of jurisprudence:

Some work has been done on the Benchbooks by John Provart (DOJ, Toronto), but not since the February meeting. The Benchbooks are to contain cases for stay applications. Additional books will contain SCC jurisprudence and leading refugee and immigration cases.

Ms. Froc advised that Mr. Waldman had not received any comments from the Bar on the proposed list of cases, and that he had asked the Committee to continue ahead with the project.

Justice Snider will put this item on the agenda for discussion at the next FC Judges' meeting to be held in May 2007. A Practice Direction will be required to implement this project.

iii. List of certified questions on FC website:

The report of certified questions in immigration cases is available on the FC website. It is updated every 2 weeks. An index will be available shortly, confined to post June, 2002 certified questions. The Court is attempting to ensure that the list is complete. [Counsel should advise Mr. Andrew Baumberg about cases which do not appear on the list.]

Justice Snider indicated that the Judges refer to the list and find it useful. There was a discussion of whether the questions could be grouped by issue, and whether the disposition of the cases could be added. David Matas suggested that knowing about the questions in cases where the appeal was not pursued would also be useful.

Justice Snider welcomes any feedback on the list.

iv. Surnames of Applicants:

Mr. Matas reported on the comments he had received on the draft Notice to the Profession which had required the family name of litigants to be in bold type. There are difficulties in searching for names of cases. Mr. Matas stated that the feedback he received was that using "family name" might create confusion.

Justice Snider explained the need for consistency on the use of family names. The bolding of the family name was used by the IRB.

Ms. Roy suggested the use of capitals for the family name. This was seen by all to be a good solution.

Justice Snider will bring this suggestion back to the FC Registry. A new Direction will be drafted suggesting the use of both bold and capitals for the family name.

v. Consultation with counsel in advance of setting hearing dates:

Justice Snider reported on the Montreal pilot project which allows counsel to jointly request a hearing date for the judicial review. There have not been many requests received, as the scheduling of JRs is not problematic in Montreal. It is an issue in Toronto where the volume and the backlog of cases makes scheduling more difficult.

Ms. Edge indicated that the Judicial Administrator tries to be flexible and to accommodate requests for changes for important personal reasons. However, the volume makes it very difficult to reschedule hearings. Currently there are no dates available in May or June and the Court is scheduling into August. The Court tries not to double-book counsel on one day.

vi. E-Filing of immigration documents:

Justice Snider indicated that e-filing will be coming to the FC and she will ensure that the information is sent out. Mid-April is the expected target date for a pilot project. The FC website has an August 2006 Direction to the Profession on the subject of e-filing.

vii. Confidentiality requests:

A discussion of the cases where a confidentiality order for the CTR [tribunal record] is sought by the DOJ. Justice Snider was of the view that case management was the appropriate way to handle these few cases, rather than adding a line in orders granting leave, setting a date by which the Respondent must file any motion for non-disclosure of documents.

3. CBA and DOJ items:

i. Montreal scheduling project:

Mr. Goldberg and Ms. Roy indicated that the project had been well-communicated to the Bar. The DOJ had sent several letters to counsel advising them of the availability of the project.

ii. Second motion day in Toronto:

Discussion of the urgent need to have a second motion day in Toronto. Lori Hendriks (DOJ, Toronto), and the OBA are writing to the Court to make this request.

Justice Snider said that she would take this issue to the next Judges' meeting. A second day would alleviate some of the urgent stays. She suggested that the Chief Justice should receive the OBA letter before the May 25th meeting. All 3 Judges on this Committee, along with Ms. Edge, support the second day.

Thursday was suggested as the best second day.

iii. Arguing stay applications from offices:

DOJ and the OBA had requested that counsel who are arguing a stay by teleconference be allowed to do so from their office, when the judge is not in the courtroom. Justice Snider indicated that she would be taking this matter to the next Judges' meeting. She explained that the reluctance of some judges to permit this stems from a concern to maintain the open court. It also arises from certain bad experiences in trying to connect to counsel by telephone.

Ms. Kaczmarczyk indicated that the DOJ also had security concerns about having counsel attend alone in the FC for late after-hour stay applications. The building is then deserted, and counsel may have to go down the elevator alone with the person concerned. They may have to interact with people who may be upset in a deserted court setting, where the normal daily security personnel are not present.

iv. FC summer sittings:

Ms. Roy thanked the Court for the summer break which has been announced, but asked that a month long break be considered for next year, as this would be most appreciated by the Bar.

Mr. Matas asked that a filing gap accompany the summer break.

Justice Snider will take this back to be explored with the Court.

v. Endorsement of judgements:

Ms. Froc raised the concern that reasons which are part of an endorsement of an order are not accessible on the website. Only the actual order and the endorsement are put on the web. There was a discussion about why some judges are reluctant to have the reasons used as a precedent. Justice Snider was of the view that the reasons should be available to all. She will put this over to the next meeting. Justice Snider raised the possibility of the Bar putting forward a position paper on this issue.

Other: The Court does not object to having the minutes of this Committee made available to CBA members.

4. Next Meeting:

To be scheduled by Mr. Baumberg in 6 months, by teleconference.