



ALBERTA

Report and Recommendations

of the

**2006 ALBERTA JUDICIAL COMPENSATION
COMMISSION**

PRESENTED TO THE
MINISTER OF JUSTICE AND
ATTORNEY GENERAL AND
THE ALBERTA PROVINCIAL
JUDGES' ASSOCIATION

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1) JURISDICTION AND APPOINTMENT OF THE COMMISSION

The 2006 Alberta Judicial Compensation Commission ("2006 Commission") was established pursuant to the *Alberta Provincial Judges Compensation Commission Regulation 111/2006* (the "Regulation"). The Regulation was passed by Order in Council pursuant to the *Judicature Act* c.J-2, RSA 2000 on May 10, 2006. The *Judicature Act*, under section 42, requires that the remuneration and benefits to be paid to provincial court judges ("Judges") and masters in chambers ("Masters") be reviewed by a judicial compensation commission. The judicial compensation commission makes recommendations with respect to any changes on remuneration and benefits in accordance with the Regulation.

On May 16, 2006, pursuant to section 3 of the Regulation, The Honourable Ron Stevens QC, Minister of Justice and Attorney General, appointed John Moreau QC as the sole Commissioner of the 2006 Commission. This is the fourth judicial compensation commission. The three previous commissions presented their reports to the Minister on the following dates: June 19, 1998; July 31, 2000 and February 5, 2004.

The Minister of Justice and Attorney General (the "Minister") was represented in these proceedings by David Kinloch. Mr. Kinloch was assisted in the preparation of his brief by Kate Bridgett. The Alberta Provincial Court Judges' Association (the "Association") was represented by Bradley Nemetz QC.

2) ROLE OF THE COMMISSION

The role of the Commission is set out at section 2 of the Regulation:

- 2 (1)** The Commission must make recommendations respecting the compensation of Judges.
- (2)** The Commission must determine issues relating to compensation independently, effectively and objectively.
- (3)** The Commission is to contribute to maintaining and enhancing the independence of the court and the judges through the inquiry process and its report.

The 2003 Commission captured the essence of the role of a judicial compensation commission at p. 22 of its report:

The role of the 2003 Commission is set out in section 2 of the Regulation. This 2003 Commission must clearly make recommendations respecting the compensation of judges. This 2003 Commission must clearly determine issues relating to compensation independently, effectively and objectively. This 2003 Commission must contribute to maintaining and enhancing the independence of the court and the judges through the inquiry process and its report. Our constating Regulation mandates this. All of the weight of the constitutional authority mandates this.

3) SCOPE AND CONDUCT OF THE INQUIRY

The Commission is required to conduct an inquiry. The scope and conduct of the inquiry is set out at section 6 of the Regulation:

- 6.** The Commission must conduct an inquiry respecting:
 - (a)** the appropriate level of compensation for judges sitting full or part time or on a supernumerary basis,
 - (b)** the appropriate design and level of judges' pension benefits of all kinds, the appropriate level and kinds of benefits and allowances of judges, and
 - (c)** any other issues relevant to the financial security of the judges that the Commission agrees to resolve.

The Regulation, at section 12, requires that the Commission meet with the Minister and the Association to address any preliminary matters in advance of its inquiry. In that regard, the Commission met with Mr. Nemetz QC on behalf of the Association and Mr. Kinloch on behalf of the Minister and a public hearing date was agreed to for June 15, 2006. The deadline for written submissions was set for June 12, 2006. Public notice of the hearing and the deadline for submissions was published in the leading Edmonton and Calgary newspapers on June 1, 2006.

Written briefs were submitted by the Minister and the Association. In addition, David R. Haigh QC and Laura C. Snowball submitted a written brief on behalf of Judge Hugh Landerkin, a Judge of the Provincial Court of Alberta. The Commission also received letter submissions from the Canadian Bar Association, Alberta; the Canadian Taxpayers Federation as well the following individuals: Doug Whitehall of Red Deer Alberta and Hans J. Hahn of Spruce Grove Alberta. All of the briefs and letter submissions were submitted to the Commission by the June 12, 2006 deadline and are available on the Government of Alberta website.

Oral presentations were made to the 2006 Commission as scheduled on June 15, 2006 at the Calgary Court House, 611-4th Street S.W., Calgary, Alberta. After opening procedural remarks by the Commission, Mr. Kinloch made oral submissions on behalf of the Minister followed by Mr. Nemetz on behalf of the Association. Leave was then granted to Ms. Snowball to present an oral

submission on behalf of Judge Landerkin. One individual member of the public, Robert Middleton from Medicine Hat, Alberta, was also granted leave to make an oral submission to the Commission. The proceedings concluded with final reply submissions from Mr. Kinloch and Mr. Nemetz.

4) SALARIES

By way of background, it is worth noting that the recommendations of the previous 2003 Commission regarding salary levels were rejected by the Minister.¹ The Minister, in that regard, determined that the following salaries recommended by the 2003 Commission for the three year period beginning April 1, 2003, could not be justified:

April 1, 2003 to March 31, 2004- \$200,000 per annum
April 1, 2004 to March 31, 2005- \$210,000 per annum
April 1, 2005 to March 31, 2006- \$220,000 per annum

On April 15, 2004, the Lieutenant Governor in Council passed OC 161/2004. OC 161/2004 set out the compensation for Judges and Masters for the period April 1, 2003 to March 31, 2006. It also set out the reasons why the Minister rejected the salary recommendations of the 2003 Commission for the three year period beginning April 1, 2003. The salary amounts provided for in OC 161/2004 are:

April 1, 2003 to March 31, 2004: \$186,000 per annum
April 1, 2004 to March 31, 2005: \$193,000 per annum
April 1, 2005 to March 31, 2006: \$200,000 per annum

¹ The Minister also rejected the per diem rates recommended for a supernumerary judge of the Provincial Court of Alberta and the amount to be paid by way of costs to the Association for submissions to the Commission.

The Association applied for Judicial Review of OC 161/2004. As noted in the Minister's brief before the 2006 Commission, Justice MacCallum of the Court of Queen's Bench of Alberta ordered on August 20, 2004 that the Minister reconsider the 2003 Commission's salary recommendations. His direction in that regard reads as follows:

[144] My direction is: the Minister has 90 days to reconsider the report's recommendations and to justify its rejection on the grounds of exceptional circumstances. If it does not do so, the report's recommendations on salary, supernumerary judges' per diem and costs will become effective.²

The Minister did not provide further reasons within the 90 day period. The Association then appealed Justice MacCallum's decision and the Minister cross-appealed. (Neither the Appeal nor the Cross-Appeal has been argued before the Court of Appeal of Alberta). The Minister also applied for a stay of Justice MacCallum's Order but was unsuccessful. In the interim, the Minister has been paying Judges and Masters in accordance with the Order of Justice MacCallum and the salary recommendations of the 2003 Commission.

The Minister and the Association jointly submitted to the 2006 Commission that the salaries being paid for the three year period ending March 31, 2006 should be the permanent salaries; that is, the salaries for the three year period beginning April 1, 2006 remain at the 2005/2006 level of **\$220,000**³ for Judges and Masters.

² See: *Alberta Provincial Judges' Association v. Alberta* 2004 ABQB 611

³ The increases for the Assistant Chief Judge and Chief Judge were agreed to at \$227,500 and \$235,000 respectively.

5) PENSIONS:

Neither the Minister nor the Association disputed the recommendations of the 2003 Commission on the issue of pensions. Again by way of background, the Minister pointed out in its brief to the 2006 Commission that Judges and Masters belong to two separate pension plans: the "Registered Plan" and "Unregistered Plan." For judicial service before 1992, pension benefits are funded and registered under the *Income Tax Act* as a Registered Pension Plan. Due to changes in the *Income Tax Act*, which took effect on January 1, 1992 imposing a salary cap for registered pension plans, pension contributions are directed to the Registered Plan until the salary cap is reached. Once the salary cap is reached, pension contributions are directed into the Unregistered Plan. Judges pension contributions were 9% of their salaries from April 1, 1998 until March 31, 2000. Pension contributions since April 1, 2000 are 7%, with the Minister funding the balance. A full pension equals 70% of salary. A Judge may retire without penalty at the end of the year in which the Judge turns 69 or at age 60 or greater if the Judge's age plus years of judicial service total at least 80 (known as the "80 factor"). The annual accrual rate is 2% before April 1, 1998, then 2.67 % until March 31, 2000 and 3% after March 31, 2000.⁴ The pension benefits on retirement are calculated as follows:

- (i) for service before March 31, 1998, 2% of the average salary during the best 5 consecutive years multiplied by the number of years of pensionable service;

⁴ The 2003 Commission recommended the current accrual rate of 3.0% and the 70% of the best three years of salary. In doing so, it adopted the pension recommendations of the 2000 Commission as agreed to by the Minister and the Association in a joint submission to the 2000 Commission.

(ii) for service on and after April 1, 1998 until March 31, 2000, 2.67% of the average salary during the best 3 consecutive years multiplied by the number of years of pensionable service and;

(iii) for service on and after April 1, 2000, 3% of the average salary during the best 3 consecutive years multiplied by the number of years of pensionable service.

The Minister and the Association agreed in their joint submission recommendations before the 2006 Commission that the pensionable salary under the current pension plans be calculated for those Judges who retire after March 31, 2006 by determining the average of the three best consecutive years of service.

6) PART-TIME JUDGES

The 2006 Commission is the first judicial compensation commission to consider the part-time judges program. As of October 1, 2005, section 9.24 of the *Provincial Court Act* allows for the appointment of a part-time Judge when a full-time Judge wants to retire and work part-time only, and when the Chief Judge is prepared to request the appointment to enhance the administration of the court. Part-time Judges must have attained the age of 60 and have 10 years of accumulated service as a full-time Judge.

The Minister fixed the compensation for the office of part-time Judge without a judicial salary commission review but with the express approval of the Association. Part-time Judges receive their pension benefits and an annual salary of up to 50% of the annual salary of a full-time Judge. Part-time Judges are also entitled to participate fully in the Long Term Disability Income (LTDI)

plan on a prorated basis for those Judges under age 70, in the group life insurance plan and extended health care plans. They also receive half of the professional allowance and half of the vacation entitlement of full-time judges. Part-time judges must serve two 3 month periods sitting on a full-time basis during each year of their term. The Minister and the Association agreed in their joint submission recommendations to the 2006 Commission that the part-time Judges program should continue operating as it has since its inception on October 1, 2005.

7) OTHER BENEFITS

The other benefits recommended by the 2003 Commission were accepted by the Minister and were not included in any appeal proceedings. The Minister and the Association agreed in their joint submission recommendations to the 2006 Commission that those other current benefit plans should continue intact. Those other benefits include: a professional allowance of \$3000 per year, 30 days annual vacation, LTDI benefits, participation in medical/dental/prescription drug plans, a retirement bonus for every year a Judge sits on the bench prior to 1988, the extra cost of automobile insurance to insure the Judge's vehicle for business use as well as mileage and other travel expenses. The Chief Judge is provided with an automobile.

8) CRITERIA

The Commission must consider the criteria set out in section 14 of the Regulation in making its recommendations. Section 14 reads as follows:

- 14** The Commission, in making the recommendations in its report, must consider the following criteria:
- (a) the constitutional law of Canada;
 - (b) the need to maintain the independence of the court and the judges;
 - (c) the unique nature of the judge's role;
 - (d) the need to maintain a strong court by attracting highly qualified applicants;
 - (e) the compensation of other judges in Canada;
 - (f) the growth and decline in real per capita income;
 - (g) the need to provide fair and reasonable compensation for judges in light of prevailing economic conditions in Alberta and the overall state of the economy, including the financial position of the Minister;
 - (h) the cost of living and the position of judges relative to its increases;
 - (i) the nature of the jurisdiction of the court and masters in chamber;
 - (j) the level of increases provided to other programs and persons funded by the Minister;
 - (k) any other factors relevant to the matters in issue.

Each of the three previous judicial compensation commissions have considered, as required by Regulation, the criteria set out in the Regulation establishing their respective commissions. The 2006 Commission has also considered each of the specific criteria in arriving at its recommendations. The 2006 Commission will deal with the criteria in summary form given its detailed treatment in the past and bearing in mind the consensus reached by the Minister

and Association in the level and appropriateness of judicial compensation for the next three years.

- (a) *the constitutional law of Canada;*
- (b) *the need to maintain the independence of the court and the judges;*
- (c) *the unique nature of the judge's role;*
- (d) *the need to maintain a strong court by attracting highly qualified applicants;*⁵

As noted in the 2000 Commission report, the Constitution requires that the judiciary must be independent of the legislative and executive branches of Minister. Judges are unique because they must at all times be seen to be independent in their daily lives. In order to maintain that independence, Judges must be fairly remunerated. The Association argued in the 2003 Commission that federally-appointed judges were the most comparable group for determining remuneration and that the salary of provincial court Judges in Alberta should be broadly equivalent to federally-appointed judges.

The salary gap between federally-appointed judges and provincial court judges in Alberta has now been significantly narrowed. The 2006 Commission agrees with the submission of the Minister that the level of compensation now being paid to provincial court judges is not significantly lower than that being paid to federally-appointed judges, such that there is little financial incentive for prospective candidates not to select the court for which they are best suited. In the view of the 2006 Commission, salary is no longer a major consideration for a lawyer in choosing one level of court over the other.

⁵ The first Alberta judicial compensation commission, the 1998 Commission, was not required to deal with factor (d): attracting highly qualified applicants. The 2000 and 2003 Commissions were required to do so.

(e) *the compensation of other judges in Canada*

The following table shows the salaries of judges in the nine other provinces and two territories as well as federally-appointed judges. The salaries of judges in Ontario, Manitoba, Newfoundland and New Brunswick have not been recently reviewed by provincial judicial compensation commissions.

Jurisdiction	Current Salary
British Columbia	\$161,250
Alberta	\$220,000
Saskatchewan	\$165,190
Manitoba	\$161,257
Ontario	\$213,630
Québec	\$161,333
New Brunswick	\$150,706
Nova Scotia	\$172,000
Prince Edward Island	\$174,904 ⁶
Newfoundland	\$159,181
North West Territories	\$201,766
Yukon	\$195,407
FEDERAL	\$224,200

The Minister noted in its submission to the 2006 Commission that the salaries recommended by the 2003 Commission increased the salary of an Alberta Judge significantly as against every other jurisdiction in Canada, with the exception of the Federal jurisdiction. The Association noted in its submission that until such time that there is certainty with respect to the recommendations of the McLennan Report⁷ regarding the salaries of federally-appointed judges for the four year period beginning April 1, 2004, it is difficult to make any submission on

⁶ PEI salaries are fixed as the average remuneration of all Canadian Provincial Court judges.

⁷ The recommendations of the 2004 Federal Judicial Compensation Commission delivered on May 1, 2004 (the "McLennan Report") have not been implemented. Bill C-51 died on the Order Paper in Parliament. Bill C-51 would have increased the basic federal judicial salary to \$240,000 as of April 1, 2004 with indexed increases effective April 1, 2005 (2.2%), 2006 and 2007.

the extent to which salaries for provincially-appointed judges in Alberta should be adjusted for the period April 1, 2006 to March 31, 2009 beyond the current salary of \$220,000.

The 2006 Commission accepts the submission of both the Minister and the Association that the current agreed salary of \$220,000 for the next three years is a compromise which reflects the current uncertainty surrounding the salary to be paid to federally-appointed judges and the public interest in determining with certainty the salary to be paid to Judges in Alberta for the period April 1, 2006 to March 31, 2009. The fact that the current salary of \$220,000 puts Alberta Judges at the top of the salary list of all the provinces and territories, coupled with the relatively narrow difference in salary between provincially-appointed Judges in Alberta and federally-appointed judges, supports the joint submission of the Minister and the Association on the salary issue.

- (f) *the growth and decline in real per capita income;*
- (g) *the need to provide fair and reasonable compensation for judges in light of prevailing economic conditions in Alberta and the overall state of the economy, including the financial position of the Minister;*
- (h) *the cost of living index and the position of the judges relative to its increases.*

The Minister also noted in its submissions that Alberta had the highest per capita income in Canada in 2003 (\$33,076) and 2004 (\$35,005), an increase of 5.8%. Current Alberta Government reports provided to the 2006 Commission notes that Alberta leads the nation in all economic indicators with the highest real gross domestic product per capita among all the provinces. High oil prices have been reflected in high budget surpluses over the last few years. The consumer

price index in Alberta rose 4.4% in 2003, 1.4% in 2004 and 2.1% in 2005. The economic outlook for Alberta is that the consumer price index and the rate of inflation will average 2.2% over the next three years. All this to say that Alberta remains in an enviable economic position and the salary recommendation of \$220,000 over the next three years reflects Alberta's economic stability.

(i) *the nature of the jurisdiction of the court and masters in chambers*

As noted in the submission of the Minister, the jurisdiction of the Provincial Court arises out of the *Provincial Court Act* and other provincial and federal statutes such as the *Criminal Code*. The jurisdiction of the Masters arises from sections 9 through 11 of the *Court of Queen's Bench Act*. There have been few notable changes in the jurisdiction of the Masters and Judges since the 2003 Commission.

(j) *the level of increases provided to other programs and persons funded by Minister;*

The statistics provided by the Minister in the 2006 submission indicate the comparative salaries of three groups of employees: senior crown counsel, members of the Alberta Union of Provincial Employees ("AUPE") and Deputy Ministers. All three groups received salary increases for the years 2003/04 of 3.5% and 2004/05 of 3.95%. Crown counsel and AUPE bargaining unit members received a salary increase of 3% in 2005/06 while the salaries of Deputy Ministers rose 26% to \$200,000 in 2005/06. The view of the 2006 Commission is that the significant increase in the salary of a Deputy Minister to the current \$200,000 is evidence of the Minister's priority to provide a competitive salary in

order to attract competent people to the most senior Government positions. The same priority applies to attracting competent lawyers to the judiciary.

9) LONG TERM DISABILITY: SUBMISSION BY JUDGE LANDERKIN

(i) Background

Judge Landerkin was appointed to the Provincial Court of Alberta in January 1988. He suffered a heart attack in late November 1997. He later returned to work on a trial basis but, by 1999, was unable to continue with his regular duties due to his heart condition. He was declared disabled by the Judicial Council of Alberta in the Fall of 1999 and received 70% of a working judge's salary. It was only following the 2000 Commission that Judge Landerkin discovered that he was permanently locked into 70% of his pre-disability 1999 salary and that he would not benefit from any salary increases resulting from the judicial compensation commission process.

A disabled Judge's LTDI benefits of 70% of pre-disability salary are adjusted annually for the cost of living. The cost-of-living adjustment is set at 60% of the prescribed annual increase in the cost-of-living. Judges receiving LTDI benefits do not make pension contributions like working Judges. Disabled Judges who meet the "80 factor" requirement are entitled to a retirement pension that is 70% of the best three years of salary he or she would have received if not disabled. Accordingly, for purposes of calculating retirement pension at 70% salary, the disabled Judge is deemed to have received full and current judicial salary throughout the disability period.

The following provinces and territories calculate a Judge's LTDI benefits based on the judge's salary as at the date of disability: Alberta, Manitoba, Newfoundland, Nova Scotia, Prince Edward Island, Québec and the Yukon. (Consumer price index protection is provided for in Alberta and the Yukon). The following provinces calculate LTDI plan benefits based on the current salary of a sitting judge: British Columbia, New Brunswick, Northwest Territories, Ontario and Saskatchewan. Federally-appointed judges who are permanently disabled may retire at full pension (2/3 of salary at date of retirement) with 100% cost-of-living increase.

Counsel for Judge Landerkin submits that the current "two-tier" system is unfair because it is based solely on a serious physical disability. Counsel also argues that the current system is discriminatory to the extent that it allows able-bodied judges to benefit from a judicial compensation commission while disabled judges do not. Counsel for Judge Landerkin further submits that Alberta, a prosperous province, should ensure that the base salary that is the starting point for the calculation of a disabled judge's salary keeps pace with the salary paid to his or her able-bodied colleagues.

Counsel for the Minister, in a Reply brief to Judge Landerkin, noted that the 1998 Commission, after hearing a submission from the Association that LTDI salary benefits be based on current judicial salaries, had stated in its report that the 70% of pre-disability salary rule should remain unchanged. The Association also requested in oral argument before the 2003 Commission that disability

benefits should be based on the current salary of sitting judges rather than the pre-disability salary. The 2003 Commission did not recommend any changes to the current disability payment structure.

Counsel for the Minister also noted in the Reply brief that disability plans for public service bargaining unit employees, non-union employees, and management employees are also based on pre-disability income and are not indexed. In the end, the Minister submits that linking disability benefits to pre-disability salary is not an issue going to judicial independence. The existing plan has been approved by previous judicial compensation commissions in Alberta and does not result in the arbitrary reduction of a judicial salary by the Minister.

(ii) Analysis

As Counsel for the Minister noted in the Reply brief to Judge Landerkin, this issue is not about whether the Minister can afford to make the 70% payment based on the current salary of a working judge. It is about what is reasonable and fair under the circumstances.

LTDI plan benefits, as again noted by the counsel for the Minister, are not simply a payment of a percentage of salary for Judges who are unable to work but rather part of a group of benefits available to Judges who are disabled. The issue here of whether Judges should be paid LTDI plan benefits at 70% of salary calculated at the time of disability or 70% of a working Judge's current salary should therefore not be considered in isolation. For example, a Judge who is

unable to work continues to receive health care benefits. A disabled Judge also continues to accumulate pension credits but is not required to contribute to the pension plan as other working Judges are required to do. A disabled Judge also has the advantage in Alberta of an ongoing cost of living adjustment to his or her LTDI benefits.

It is not the intent of the 2006 Commission to micromanage the LTDI benefits payable to disabled Judges. The LTDI plan is an insurance scheme administered with expertise by the Government of Alberta. It is for this reason that past judicial compensation commissions have probably elected not to tinker with this part of the overall benefits plan.

Counsel for the Minister provided extracts of the proceedings before previous Alberta judicial compensation commissions on this issue. Both the 1998 and 2003 Commissions heard evidence and argument on the LTDI plan but did not recommend any changes. There is, however, evidence before the 2006 Commission which provides more specific details on how the disability payment is calculated at the present time in other jurisdictions. In that regard, Judge Landerkin and the Minister have provided extensive briefs and oral submissions on this aspect of the LTDI plan in all of the other provinces and territories. That evidence is of significant value to the 2006 Commission in determining whether the submission of Judge Landerkin should be accepted or rejected at this time.

The 2006 Commission does not place significant weight on the disability scheme offered to federally-appointed judges. They are deemed to have retired on the date of disability (2/3 of current salary). None of the provincial jurisdictions offer anything close to that type of benefit. Rather, all of the provinces and northern territories have opted for either a current salary payment or a pre-disability based payment.

There is an even split in the western provinces. The provinces of Saskatchewan and British Columbia pay 70% of current salary. Manitoba pays 70% of pre-disability salary with no adjustment for cost of living. Alberta pays 70% of pre-disability salary with an annual cost-of-living top up. The split continues as we travel east and reach the two largest provinces in the country, Ontario using current salary and Québec using pre-disability salary. In the Maritime Provinces, New Brunswick uses current salary while Nova Scotia uses pre-disability salary. (PEI has never had to administer a payment of salary to a disabled judge.) Newfoundland uses pre-disability salary. The north is also split with the Yukon using the pre-disability salary measurement and the Northwest Territories using the current salary measurement.

The evidence before the 2006 Commission indicates that almost half of all the provinces and northern territories in the country have now adopted the current salary measurement for calculating LTDI benefits. On balance, it is the view of the 2006 Commission that Alberta, an economically-advantaged province, should follow their lead and adopt the current salary standard for

calculating LTDI salary benefits payable to a disabled Judge. The 2006 Commission therefore finds that a proper application of the judicial independence principle, and the other section 14 criteria, leads to the conclusion that the request of Judge Landerkin to change the method of calculating the LTDI salary benefit to 70% of current salary is both timely and reasonable.

10) RECOMMENDATIONS

The 2006 Commission has considered all the material submitted and agrees with the joint proposals of the Minister and the Association. Accordingly, the 2006 Commission recommends the following:

- (i) that the salaries for the Judges and Masters be set for the period April 1, 2006 through March 31, 2009, at **\$220,000**;
- (ii) that the salary for the Chief Judge be set for the period of April 1, 2006 through March 31, 2009 at **\$235,000**;
- (iii) that the salary for Assistant Chief Judges be set for the period April 1, 2006 through March 31, 2009 at **\$227,500**;
- (iv) that for the period April 1, 2006 through March 31, 2009, supernumerary judges be paid **\$1060** per scheduled sitting day and, in addition, where a sitting is cancelled with less than 24 hours' notice, the supernumerary Judge who would have held the sitting be entitled to be paid for that sitting, as well as the allowances provided for all judges in sections 4 and 5 of the *Provincial Court Judges and Masters in Chambers compensation Regulation*;
- (v) that for the period of April 1, 2006 through March 31, 2009, part-time Judges be paid a salary of 50% of the amount payable to a full-time Judge, but if the aggregate of the part-time Judge's annual salary and pension benefits payable during a 12-month term of appointment exceeds the annual salary of a full-time Judge for that 12-month term of appointment, the annual salary payable to the part-time Judge shall be reduced by the amount exceeded;
- (vi) that the part-time Judges program continue operating as it has been since October 1, 2005;

- (vii) for Judges and Masters retiring on or after April 1, 2006, that the pension plan for Judges and Masters be enhanced by the adoption of a universal "best 3 consecutive years" rule when calculating pension benefits;
- (viii) that for the period April 1, 2006 through March 31, 2009 the other benefits for the Judges and Masters be as provided in the Compensation Regulation.

The 2006 Commission also makes the following recommendations:

- (ix) effective April 1, 2006, that section 8.1, Schedule 2, compensation Regulation be struck (cost of living increase); and, that section 8(1) of the Regulation be amended to read:

The benefit amount for a participant whose bodily injury or illness results in a disability is 70% of the salary being paid to a participant performing regular duties, which is effective on completion of the elimination period.

Respectfully submitted,

John Moreau, Q.C.