



January 17, 2022

The Honourable Madame Justice Suzanne Côté
Supreme Court of Canada
301 Wellington Street
Ottawa, ON K1A 0J1

Dear Madam Justice Côté:

Re: CBA Survey on Counsel Credits

I write on behalf of the Canadian Bar Association's Supreme Court Liaison Committee (the CBA Committee) further to our meeting with you and your colleagues, Justices Moldaver and Rowe, on June 9, 2021, where we discussed limits on counsel for parties who could appear before the Supreme Court of Canada and receive credit in written judgments. We were asked to canvass Bar members about counsel credits included in SCC judgments, to gauge their views about how many counsel on interventions and appeals should be named in SCC judgments. The current practice is to limit counsel credits to two lawyers.

The CBA is a national association of 36,000 lawyers, law students, notaries and law teachers. Among our primary objectives are improvements in the law and the administration of justice and promoting the rule of law. The Supreme Court Liaison Subcommittee serves as a link between the Court and the Bar on issues of mutual concern.

The CBA Committee surveyed the SCC litigation bar who are CBA members – about 1425 people in all. In addition, some members spread the word through social media, so members of the bar who are not CBA members could respond. The survey was distributed in French and English, with 522 participants responding to the English survey and 23 to the French survey. A solid majority in both groups would limit the number of counsel named in SCC decisions to four, for both interveners and main parties.

As for the rationale for including more lawyers in the SCC reasons for judgments, the main reason mentioned was to recognize lawyers who worked on the file. Secondary reasons include helping junior lawyers develop their career and recognizing co-counsel would increase the diversity of the lawyers who appear before the Court.

Here are the results in more detail:

- 522 English respondents would limit number of counsel for main parties included in SCC decisions to four (82%), for interveners, same as main parties (65%). Reason is mainly to recognize lawyers who worked on the file and help junior lawyers develop their career (together, 68%).

- 23 French respondents would limit number of counsel for main parties included in SCC decisions to four (65%), for interveners, same as main parties (52%). Reason is mainly to recognize lawyers who worked on the file (87%).

We note that at the December 2021 meeting of the Court/Ottawa Agents Practice and Procedures Committee, the SCC indicated that there would be flexibility going forward regarding the number of counsel allowed at the hearings.

We hope this information answers the Court's query and we remain at your disposal for any further issues that may arise from the survey findings.

Yours truly,

(original letter signed by Julie Terrien for Alan Rankine)

Alan Rankine
Chair, CBA Supreme Court of Canada Liaison Subcommittee

cc. Barbara Kincaid, General Counsel