

MINUTES OF DIRECTORS' MEETING

NOVEMBER 19, 2022

Present:

In attendance:

Monast, M.

Groves, J.

Lynch, M.

Conlan, C.

McMurtry, J.

Edmond, J. (by video)

Granosik, L.

Quigg, K.

Duncan, J. (by video)

Gagné, S.

McKelvey, M.

Chappel, D.

O'Brien, K.

Key, N. (by video)

Brand, W. (by video for compensation agenda item)

Farrar, D. (by video)

Tholl, J. (By video)

Davidson, K.

Lockhart, S. (Executive Director)

Brown, B. (Prosure Insurance)

Bickford, B. (Interpreter)

Approval of Minutes of the April 30, 2022 Directors' Meeting

Moved: Lukasz Granosik

Seconded: Joel Groves

Carried

Approval of New Board Members:

Motion: to accept the appointment of Jerome Tholl for Saskatchewan; Nancy Key for Prince Edward Island; Dominique Lafleur for The Courts as Directors.

Moved: Clay Conlan

Seconded: Kate O'Brien

Carried

Committee composition 2022-2023

The president populated the committees with Council members, with a view to country-wide representation. Joel Groves offered congratulations to the president for filling committees so quickly.

Motion: to accept the Committees as structured by the President.

Moved: Kent Davidson

Seconded: Michael McKelvey

Carried

President's Report

The president Michele Monast attended the installation of the new CBA president. They discussed the common objective of the CBA and CSCJA to promote judicial independence and a plan to organize a joint national forum on the issue.

The president met with judges of the New Brunswick King's Bench, Quebec Superior Court and Court of Appeal and the Ontario Superior Court at their respective, en banc meetings. She looks forward to attending other provincial meetings of judges.

The president met with Wagner CJ when the SCC sat in Quebec City.

The president met with the Commissioner of Federal Judicial Affairs about the increase in the Incidental Allowance to ensure members will benefit from the increases back to 2020. The Commissioner has invited the CSCJA and the CJC to meet with him in December to review the terms of the Incidental Allowance. The president, Mona Lynch, and Joel Groves will represent the CSCJA at that meeting. The CSCJA will seek an increase to the permitted expenditure on home offices and the addition of health plans and court clothing as permitted expenditures.

The president reported that the CSCJA has joined with the CJC to create a working group to review issues concerning the security of judges.

The president also reported on the efforts of the CSCJA committees, which information will be reported under the name of the committee.

Finally, the president thanked Kate O'Brien, as president of the Governance Committee, and the committee for their work in implementing the report on governance prepared by the AMCES group.

Quadcomm / Compensation Committee

Ward Branch reported on the efforts of the Compensation Committee to collect data on the income of professional legal corporations as requested by the last QuadComm committee. The government has also embraced the project to collect data.

Counsel for the CSCJA estimate fees of @ \$95,000 for the preliminary work of collecting the data. Counsel have provided a legal opinion suggesting the CSCJA seek reimbursement of the legal fees expended on this preliminary work from the next QuadComm committee, under s. 26.3(2) of the *Judges Act*.

Stephanie Lockhart and Clay Conlan advised that we will spread our projected, net costs of the next QuadComm over the next four budget cycles. Stephanie also advised that our costs were higher for the last QuadComm because of delays due to Covid.

A preliminary projection of the IAI suggests an increase to judicial salaries in April 2023 of 3.1%, which would take the salaries of puisne judges from @ \$372,000 to @ \$384,000.

The CSCJA received \$655,000 to reimburse it for the expenses of the last QuadComm.

Motion: to accept the recommendation of the Compensation Committee with respect to our costs for the collection of data.

Moved: Kent Davidson

Seconded: Clay Conlan

Carried

Member Services & Wellness

Mark McKelvey & Brenda Brown reported on issues with the carriers for medical and travel benefits under the Supplementary Insurance Plan. Our carrier RSA is exiting the small group travel market. The committee expects to be able to enter into new contracts within a month or so.

674 regular members and 390 retired members participate in the supplementary insurance plans, although retirees are not eligible for the travel plan. The premiums are likely to rise in 2023 and the committee recommended that the CSCJA draw from the reserve fund, created for the purpose of balancing/stabilizing premiums, so that members do not experience a large rise in premiums. The reserve fund sits currently at 1.5 million. The purpose of the Reserve Fund is described in a letter from Feldman JA when she was chair of the Insurance Committee.

Brenda Brown will advise members of the open period (i.e., when members do not have to produce medical information) in a mailing in December.

The president asked the Committee to consider whether the Reserve Fund can be used to increase plan benefits

Motion: if necessary, we will supplement the monthly premiums for our supplementary insurance plans for 2023 from the Reserve Fund to a maximum of \$150,000.

Moved: Joel Groves

Seconded: Mark McKelvey

Carried

Conduct Committee

Mona Lynch reported the progress of Bill C-9, which reforms the judicial conduct process under the *Judges Act*. The Bill passed second reading and is at the committee stage. The Minister of Justice and counsel for the CJC accepted an invitation to appear before the committee reviewing the Bill. The CSCJA was invited but declined.

The Spiro complaint was dismissed by the CJC after Spiro J provided a letter of apology. The complainants applied to the Federal Court for judicial review, but were unsuccessful.

The Dugre complaint is before the CJC as a whole, after the inquiry committee recommended his removal from office. A recent application for judicial review by Dugre J was dismissed by the Federal Court as premature.

Term Limits Reflections Committee

The president provided background on this issue for the new directors.

In April 2022, past president Joel Groves was advised by the CJC of their response to the CSCJA Term Limits proposal. The proposal was in the form of a resolution directing chief judges to consider their tenure at 10 years of service by answering a list of questions. In May 2022, Joel wrote to the CJC to request the terms of the resolution and the questions. These were received in June but embargoed so that only members of the CSCJA executive and the Reflections Committee could see them. The executive referred the resolution and questions to the Reflections Committee for recommendations on further steps. In October 2022, the president requested permission of the CJC to share the resolution and questions with its members, which permission was communicated by Wagner CJ in November 2022.

A written report was provided by the Reflections Committee, which reviews the history of the term limits initiative.

Motion: that the membership be informed of the work of CSCJA to-date and invited to provide feedback with respect to the CJC Response.

Moved: Clay Conlan

Seconded: Susanne Gagne

Carried

Treasurer's Report

Clay Conlan reported that the CSCJA had received reimbursement for two-thirds of our expenses for the last QuadComm. We spent @ \$330,000 for which we have not been reimbursed.

The CSCJA was also reimbursed @ \$51,000 for expenses incurred in reviewing the Minister of Justice's proposal with regard to pension accrual by judges removed from office, and for appearing before the last QuadComm on the issue.

The 2023 budget includes expenses of \$69,000, one-quarter of the expected net expense for the next QuadComm.

The Directors will be provided with our 2019 policy on investment. A review of the policy is recommended.

The Membership Committee will review the expected \$17,000 expense for printed directories to determine whether printing directories, which are available on the CSCJA website, remains appropriate.

The Directors were reminded to follow-up with lapsed, or non-members. The CSCJA is entirely member funded and fees are only 8% of the Incidental Allowance. Of the 1187 federally appointed judges, 1004 are members of the CSCJA.

Motion: that the Governance Committee review the Investment Policy and provide a recommendation.

Moved: Clay Conlan

Seconded: Mona Lynch

Carried

Technology Committee

The president reported that the NJI has agreed to organize the Judging Better, Judging Smarter (JBJS) program in conjunction with the Technology committee of the CSCJA in 2023 and 2024. The program in 2023 will be held in Quebec City from July 5-8 and, due to a conflict with the Sorbonne quadrennial program in July 2024, the 2024 JBJS program will be held in June instead of July. The location is TBA.

Independence Committee

The president reported that in June 2022 the Committee provided written comment, as requested by the Minister of Justice, on a report commissioned by the Minister concerning the creation of a proposed Miscarriage of Justice Commission. The Committee's commentary was included in the Board materials.

The new chair of the committee is Kent Davidson.

Public Education & Access to Justice

No report.

Judges Counselling Program

No report.

International Relations

The president lauded the contribution of Canadian judges to two international committees, the International Association of Judges (IAJ) and the Commonwealth Magistrates and Judges Association (CMJA). Details of the activities of the two associations and the contributions of Canadian judges are included in written reports prepared by Denis Jacques and Graeme Mew.

The incoming president of the CMJA is Leitch J of the Ontario Superior Court and a former president of the CSCJA. Mew J of the same court is the incoming Regional Vice-President (Atlantic & Mediterranean).

The next IAJ and CMJA meetings are in Taipei, Taiwan and Cardiff, Wales, respectively. The CJC resolutions approving the financing of judges to attend these meetings were included with Denis Jacques' written report.

Governance Committee

Kate O'Brien reported on the work of the Committee. Following the study by AMCES, the CSCJA reduced the number of committees and created new strategic goals. The CSCJA is compiling a Board manual, which will include terms of reference for each committee. The Committee has drafted its terms of reference, which should serve as a template for other committees.

The Committee will draft guidelines on the role of a director and council member. The Committee will also monitor the term limits for each director and Council member to ensure turn-over as required under Bylaw #4.

Motion: to approve the Terms of Reference for the Governance Committee.

Moved: Kate O'Brien

Seconded: Joel Groves

Carried

Other Business

Mona Lynch reported on the Judicom revamp. The new Judicom, expected to be available in the fall of 2023, will require Microsoft 365, and will provide a portal for expense claims, amongst other changes.

Next Meetings:

Chateau Laurier, Ottawa on April 29, 2023

Montreal on November 18, 2023

Adjournment

Moved: Kent Davidson

Seconded: Kathleen Quigg