Canadian Judicial Council
Conseil canadien de la magistrature

In the Matter of an inquiry pursuant to s. 63(1) of the *Judges Act* regarding the Honourable Justice Robin Camp

Reasons for Leave to Intervene

I. OVERVIEW

[1] Following a request by the Minister of Justice and Solicitor General of Alberta, this Inquiry Committee (the "Committee") was formed to inquire into whether Mr. Justice Robin Camp has become incapacitated or disabled from the due execution of the office of judge, and should be removed from office, due to his conduct of the trial in *R. v. Wagar*[1] when he was a judge of the Provincial Court of Alberta, before his appointment as a judge of the Federal Court in June 2015: *Judges Act*, R.S.C. 1985 c. J-1, ss. 63(1), 63(3), and 65(2)(b) to (d). The inquiry is scheduled for September 2016.

[2] A number of equality-seeking organizations and front-line service providers to survivors of sexual assault applied to intervene in the inquiry. In the event that their requests were granted, they applied for funding. On July 8, 2016, the Committee made an order granting intervener status to these organizations, and setting out the terms of the interveners' participation in the inquiry. The Committee denied the requests for funding. These are the Committee's reasons for the order.

[1] Provincial Court of Alberta at Calgary bearing Docket No. 130288731P1 (the "Trial").

[3] Under the *Judges Act*, an inquiry committee is making a specific inquiry into the specific conduct of a specific judge. It is therefore exceptional that anyone other than the judge whose alleged conduct is being inquired into will be given standing in the inquiry, even more so when the person is seeking intervener status. Ultimately, the Committee must decide whether allowing a person to participate as an intervener will assist the Committee in fulfilling its mandate in a way that enhances public confidence, and without prejudicing the judge, duplicating submissions, or delaying the inquiry.

[4] Here, the interveners demonstrated that they bring distinct and useful perspectives to the legal and social context of sexual assault law in Canada, which could assist the Committee in discharging its mandate. Importantly, Justice Camp consented to the interventions, provided that appropriate limits were imposed on the scope of the interveners' participation. We agreed, and the terms of our order reflect the need to conduct this inquiry in a way that is effective and procedurally fair.

[5] Assuming, without deciding, that the Committee has the jurisdiction to grant the interveners' funding requests, it is not an appropriate case to do so.

II. ISSUES

[6] These motions raise two issues:

a) Should the moving parties be granted leave to intervene in the inquiry?

b) If so, should they be granted funding?

III. FACTS

[7] On May 4, 2016, the Committee issued directions to potential interveners, setting out the procedure for seeking leave to intervene (the "Directions") in the inquiry into whether Mr. Justice Camp has become incapacitated or disabled from the due execution of the office of judge for any of the reasons set out in paragraphs 65(2)(b) to (d) of the *Judges Act* and should be removed from office.

[8] On June 1, 2016, the Committee received motions for leave to intervene from the following organizations:

a) An intervener coalition comprising Avalon Sexual Assault Centre ("Avalon"), Ending Violence Association of British Columbia ("EVA BC"), the Institute for the Advancement of Aboriginal Women ("IAAW"), Metropolitan Action Committee on Violence Against Women and Children ("METRAC"), West Coast Women's Legal Education and Action Fund Association ("West Coast LEAF"), and the Women's Legal Education and Action Fund Inc. ("LEAF") (collectively the "Intervener Coalition");

b) Women Against Violence Against Women Rape Crisis Centre ("WAVAW"); and

c) The Barbra Schlifer Commemorative Clinic (the "Schlifer Clinic").

[9] The Judge and Presenting Counsel responded on June 15, 2016. Reply submissions were made by the proposed interveners on June 22, 2016. At the direction of the Chairperson, submissions concerning requests for funding were made on June 28, 2016. Justice Camp filed a sur-reply on June 29, 2016.

IV. SUBMISSIONS

A. Submissions of the Intervener Coalition

[10] The members of the Intervener Coalition describe themselves as feminist legal advocacy organizations and front-line providers to survivors of sexual assault, each with specialized knowledge and experience in the historical, legal and social context of the treatment of sexual assault in the criminal justice system. The Intervener Coalition seeks leave to make written and oral submissions on these issues, and argues that it can offer a unique perspective that would benefit the Committee.

[11] The Intervener Coalition argues that the Committee's assessment of the allegations and its interpretation of the meaning of "due execution of the office of judge" in section 65(2) of the *Judges Act* must be informed by an understanding of the evolution of sexual assault law and its current substantive and procedural requirements governing the conduct of sexual assault trials. Statutory and judicial reform of sexual assault law have been expressly aimed at curing the unequal treatment of survivors of sexual violence and the failure of the criminal justice system to afford them equal benefit and

protection of the law. The Intervener Coalition will argue that the execution of the judicial function requires that legal proceedings be conducted in a manner consistent with the fundamental tenet of affording all individuals equal benefit and protection of the law.

[12] If granted leave to intervene, the Intervener Coalition would make three principal submissions:

a) The issue in this inquiry must be approached with regard to the evolution of sexual assault law as reflected in sections 273.1, 273.2, 275 and 276 of the Criminal Code and an understanding of the purpose and effect of those reforms.

b) While the judicial function clearly requires independent individual judgment, that judgment must be exercised with fidelity to law, including the fundamental obligation to afford all individuals equal benefit and protection of the law. This means that judges cannot refuse to apply the law on the basis of personal opinions as to the merits of a law or legal regime, and judges must respect the purpose of laws aimed at remedying the denial of some groups equal benefit and protection of the law.

c) It is a relevant consideration in an inquiry under the *Judges Act* that the judge's conduct effectively reintroduces the very harms the law was reformed to correct.

[13] The Intervener Coalition takes no position on the particular allegations set out in the Notice of Allegations or on what recommendation the Committee should make at the conclusion of the inquiry.

[14] With respect to the Intervener Coalition's interest, Avalon, EVA BC and METRAC argue that they are frontline organizations that regularly see, as they put it, the failure of the criminal justice system to adequately respond to reports of sexual assault and the concomitant reluctance of survivors to report the assaults. IAAW states that is well-placed to address the situation of Indigenous sexual assault survivors. LEAF and West Coast

LEAF submit that they are able to draw on their extensive experience in bringing an equality rights lens to the interpretation and application of sexual assault law.

[15] The Intervener Coalition argues that this is a public inquiry, and it is an opportunity to show the public how seriously the judiciary takes the ethical obligations of judges, and that the perspectives of the groups most directly affected by a judge's conduct should be heard and considered when assessing those obligations.

[16] While the Intervener Coalition concedes that it would not suffer prejudice in the usual sense if leave to intervene were denied, the issues in the inquiry are of fundamental importance to the members of the coalition.

[17] They seek leave to make written and oral submissions.

B. Submissions of WAVAW

[18] WAVAW provides counselling and support services to survivors of sexual violence in the Greater Vancouver area since 1982. WAVAW has also engaged in wide-ranging advocacy work to redefine rape and sexual violence against women in the criminal law, to enhance legal protections for survivors in the criminal justice process, to facilitate reporting of sexual violence, and to support survivors through court proceedings.

[19] WAVAW argues that it can provide the Committee with a depth of understanding and knowledge as to how the public and the appearance of justice are affected by conduct such as that displayed by Justice Camp.

[20] WAVAW proposes to intervene with respect to allegations 1, 2, 3, 5, and 6. If leave were granted, it would make the following submissions:

a) The Judge's conduct demonstrated a perspective infused with rape myths, stereotypes and biases.

b) The vital importance of respecting and enforcing laws designed to protect sexual assault complainants, and the Judge's antipathy towards those laws.

c) The broader impact that the Judge's conduct has on sexual assault survivors and their supporters speaks to the need for sanction.

d) Public confidence in the justice system demands a robust response from the Council that demonstrates that such attitudes and conduct will not be tolerated and will form no part of the Canadian justice system.

[21] WAVAW does not argue that it would suffer any prejudice if leave to intervene were denied.

[22] WAVAW seeks leave to present oral and/or file written submissions following the evidentiary portion of the proceeding, or to file written submissions in advance of the hearing.

C. Submissions of the Schlifer Clinic

[23] The Schlifer Clinic has over 30 years of front-line service and legal expertise in violence against women, including sexual assault. The Schlifer Clinic provides legal information and advice, as well as counselling services, to sexual assault survivors. The Schlifer Clinic also has recognized legal advocacy experience, including a number of interventions in the Supreme Court of Canada. The Schlifer Clinic serves diverse communities of women, including women with a variety of religious beliefs, newcomer women, young women, women with physical and mental disabilities, and indigenous women, among others.

[24] The Schlifer Clinic argues that it has a genuine interest in the inquiry. In particular, the Schlifer Clinic is concerned that the Committee's analysis of misconduct or incapacity, and its recommendation for penalty or removal from office, should take into account the effect of Justice Camp's comments and reasons on sexual assault survivors, including the systemic and well-documented problem of underreporting of sexual assault.

[25] The Schlifer Clinic states that the purpose of its proposed intervention is to provide affidavit evidence or legal submissions, drawn from the Clinic's over 30 years of expertise.

[26] The Schlifer Clinic argues that its proposed evidence and legal submissions are relevant to both the misconduct issue and, if a finding of misconduct (or incapacity) is made, the Committee's recommendations arising from that finding, whether removal from office or other action.

[27] The Schlifer Clinic states that it is in the hands of the Committee as to its most appropriate role. If the Committee is concerned about evidence at the misconduct hearing, the Schlifer Clinic argues that evidence on penalty could, and in its submission should, properly be received in a manner analogous to a victim impact statement.

[28] The Schlifer Clinic is open to working in collaboration or coalition with other front-line women's organizations who may similarly seek leave to intervene.

[29] The Schlifer Clinic does not argue that it will suffer any prejudice if leave were denied.

D. Submissions of Presenting Counsel

[30] Presenting Counsel argues that the proposed interveners satisfy the criteria to be granted leave to intervene to make written and oral submissions.

[31] Presenting Counsel, however, submits that the Schlifer Clinic should not be granted leave to present evidence in the proceedings. Presenting Counsel argues that to the extent that the proposed evidence may be useful, it is the role of Presenting Counsel to advance such evidence, rather than having it adduced through an intervener. Presenting Counsel has not decided at this time whether she seeks to adduce the evidence proposed by the Schlifer Clinic.

[32] Presenting Counsel does not anticipate that the interveners will create any delay or other prejudice to Justice Camp.

[33] Presenting Counsel proposes to address any potential overlap in the submissions and the expert evidence that Presenting Counsel intends to call by providing the expert report to the interveners in advance of their making written submissions, and by the Committee directing the proposed interveners to cooperate.

E. Submissions of Justice Camp

[34] Justice Camp submits that the interveners should be granted limited “friend of the court” status, but not full party status.

[35] Justice Camp argues that the proposed interveners should not be permitted to offer evidence on disputed issues; the proposed interveners cannot tender controversial evidence as “submissions”; and it is the duty of Presenting Counsel to present all relevant evidence. Further the hearing date should not be derailed by the prospect that third parties may call evidence or otherwise expand the record.

[36] Justice Camp argues that since the applicants are intervening “against” the Judge, that they should be limited to written submissions and that there is no need for oral submissions in light of the Presenting Counsel’s duty to present all relevant evidence and to make submissions.

[37] Justice Camp submits that the Committee should make an order allowing the applicants to provide written submissions of no more than 20 pages on any or all of the following issues:

a) The history, evolution and reform of sexual assault law in Canada;

b) The applicability of legal principles to the committee’s mandate under section 65 of the *Judges Act*;

c) The test or factors that the Committee should consider in making its decision under section 65; and

d) The experience of vulnerable groups with the Canadian justice system.

[38] Further Justice Camp submits that the applicants should only be permitted to rely on secondary sources and authorities. They should not introduce new evidence, comment on the correctness of the allegations, or recommend findings against Justice Camp.

F. Reply Submission of the Intervener Coalition

[39] The Intervener Coalition argues that the conditions proposed by Justice Camp are too narrow, that the proposed submissions of the coalition would not cause Justice Camp prejudice, and that the proposed submissions would facilitate a hearing that bolsters public confidence in the inquiry. The coalition's proposed submissions would allow the Committee to take into account the broader concerns of the public.

[40] The Intervener Coalition seeks leave to make oral submissions because of the opportunity it allows the Committee to ask questions, ensuring the coalition's fuller contribution to the inquiry.

G. Reply Submissions of WAVAW

[41] WAVAW generally supports the position of Presenting Counsel that the participation of WAVAW take the form of a 20 page written submission and oral argument of not more than one hour, and that the interveners coordinate to avoid overlap. WAVAW argues that Justice Camp's proposal is unduly restrictive, and does not give sufficient voice to the important perspectives that the proposed interveners can provide.

[42] WAVAW submits that written submissions from all the interveners would be most relevant and useful to the Committee if finalized in light of the evidence presented at the hearing. WAVAW argues that its written submissions should be filed at the same time as other interveners, at the time it presents oral argument.

[43] WAVAW submits that as part of its written submissions, it should be permitted to reference and append relevant reports or academic materials it offers, publishes or adopts. It argues that these materials would not form evidence but would be referenced in support of the intervener's perspective. Any such reports or publications would be circulated to the parties well in advance of the hearing.

[44] Given the importance of the issues for survivors of sexual assault and those who provide them support, WAVAW submits that oral argument following the evidentiary portion of the hearing is appropriate.

H. Reply Submissions of the Schlifer Clinic

[45] The Clinic agrees with Presenting Counsel and the Judge that it should be granted standing to file written submissions of 20 pages in length. The Clinic agrees with Presenting Counsel that the Clinic's written submissions should focus on "the individual and systemic impact of the legal reasoning and comments made by Justice Camp on women who have experienced sexual violence". The Clinic argues that Justice Camp's proposed parameters for interveners' arguments are overly restrictive.

[46] The Clinic argues that it is not only appropriate, but necessary for it to make reference to the specific comments made by Justice Camp in the *R. v. Wager* trial as referenced in the Notice of Allegations.

[47] Accordingly, the Clinic submits that it be granted standing in accordance with Presenting Counsel's proposal, without additional restrictions. The Clinic requests leave to make oral argument, and that leave for oral argument be granted at this time in order to prepare adequately and make the necessary arrangements to travel to Calgary.

I. Sur-Reply Submissions by Justice Camp

[48] In sur-reply, counsel for Justice Camp made the following submissions:

> In addition to bringing their expertise to the Inquiry through written submissions, the proposed interveners request permission to intervene against Justice Camp to comment on the record and to argue for his removal. This is not the traditional or proper role of interveners. The [Committee] has already appointed and funded presenting counsel who is mandated to present all relevant evidence against Justice Camp. There is no demonstrated need to appoint third party prosecutors. With respect to the specific issue of whether the [Committee] should fund the interveners, Justice Camp has no interest in (and takes no position on) whether the proposed interveners receive funding, provided their submissions are appropriate intervener submissions.

V. REQUESTS FOR FUNDING

[49] The Intervener Coalition requests funding for reasonable disbursements and for a portion of their legal fees to a maximum of $25,000. The coalition relies on its member's non-profit status and limited financial means, arguing that the ability to make useful

submissions and to coordinate with other interveners will depend on its resources. The coalition does not argue that it could not participate in the inquiry without funding.

[50] WAVAW argues that it has dedicated its current funding to its services for survivors of sexual assault and has no funding available to support legal representations for the inquiry. WAVAW argues that funding would be appropriate to ensure that WAVAW can meaningfully participate, and to enhance the quality of the proceedings. WAVAW requests funding for reasonable disbursements and for a portion of their legal fees to a maximum of $25,000, with counsel fees set at a rate based on the Department of Justice of Canada rates for outside counsel. WAVAW would submit its lawyers' account for review and approval as directed by the Committee. WAVAW does not argue that it could not participate in the inquiry without funding.

[51] The Schlifer Clinic argues that it is appropriate for the Committee to direct that limited funding be provided to the Clinic to support its intervention, and in particular to support travel to Calgary for any attendance at the hearing. It argues that the participation of the interveners is in the public interest and would facilitate access to justice for women across Canada who are impacted by the persistence of stereotypical reasoning and sexual assault trials. The Clinic relies on the funding order made by the inquiry committee in the Douglas inquiry: *Ruling of the Inquiry Committee with respect to the application of Alex Chapman for standing and the funding of legal counsel*, July 11, 2012 [*Douglas Standing Ruling*]. The clinic does not argue that funding is necessary for the clinic to participate in the inquiry.

[52] Justice Camp has no interest in, and takes no position on, whether the proposed interveners receive funding, provided their submissions are appropriate intervener submissions.

VI. ANALYSIS

A. Leave to Intervene

[53] To resolve the motions for leave to intervene, it is necessary to consider the inquiry's statutory context.

[54] The task of the Committee is to inquire into whether Justice Camp should be removed from his office as a judge of the Federal Court for any of the reasons set out in paragraphs 65(2)(b) to (d) of the *Judges Act* as a result of the alleged conduct that forms the subject matter of the Minister of Justice and Solicitor General of Alberta's complaint. Following the inquiry, the Committee must submit a report to the Council setting out its findings and its conclusions about whether to recommend the removal of Justice Camp from office: *Judges Act*, ss. 63(1) and 63(3); *Canadian Judicial Council Inquiries and Investigations By-laws*, 2015, S.O.R./2015-203 ("By-laws"), ss. 5 and 8.

[55] An inquiry committee's proceedings are inquisitorial, not adversarial: see *Douglas v. Canada (Attorney General)*, 2014 FC 299 at paras. 116-18 and the authorities cited therein. An inquiry committee's "primary role is to search for the truth": *Ruffo v. Conseil de la magistrature*, [1995] 4 S.C.R. 267 at para. 73 (considering a similar, but not identical, statutory scheme for Quebec provincial court judges). It is for the Committee to decide what issues to inquire into and what evidence to hear, based on the complaint or complaints before it: *By-laws*, s. 5. The inquiry must be conducted in a manner that accords with the principles of fairness: *By-laws*, s. 7.

[56] These guiding principles are amplified in the *Handbook of Practice and Procedure of CJC Inquiry Committees* (17 September 2015) (the "*Handbook*"). Although the *Handbook* is not binding on the Inquiry Committee, it is designed to provide clarity and consistency in respect of hearings and procedures before the Inquiry Committee. Sections 3.2 and 3.3 of the *Handbook* provide:

> 3.2 The Committee may engage one or more legal counsel to assist in marshalling the evidence; interview persons believed to have information or evidence bearing on the subject-matter of the Inquiry; assist in the Committee's deliberations; conduct legal research; provide advice to Committee members on matters of procedure and on any measures necessary to ensure the impartiality and fairness of the hearing.
>
> 3.3 Legal counsel and other persons engaged by the Committee have no authority independent of the Committee and are bound at all times by the authority and rulings of the Committee.

[57] To make this inquiry effective and fair, the Committee assigned Presenting Counsel the responsibility to, among other things, "present all relevant evidence to the Inquiry Committee and make submissions on questions of procedure and applicable law": *Directions to Counsel*, April 22, 2016, para. 2. This includes making submissions regarding "the findings and recommendations to be made by the Inquiry Committee": *ibid*., para. 6. Justice Camp may respond to the allegations by tendering relevant evidence and by making submissions. The Committee has been told that Presenting Counsel intends to call expert evidence about some of the matters that the moving parties propose to canvass, including "the historical evolution of sexual assault law and the legislative and social aims sought to be achieved through reform of this law": Submissions of Presenting Counsel, June 15, 2016, p. 3. (Of course, the proposed evidence may or may not be challenged by Justice Camp.) At the end of the hearing, the Committee expects that the allegations will be thoroughly canvassed and all the relevant evidence placed before it.

[58] Against this background, the Committee comes to consider the motions for leave to intervene by the Intervener Coalition, WAVAW and the Schlifer Clinic.

[59] In support of their requests, the moving parties relied on the *Douglas Standing Ruling* in the Inquiry Concerning the Honourable Lori Douglas [the Douglas Inquiry]. Although highly instructive, the *Douglas Standing Ruling* is not entirely apposite.

[60] In the Douglas Inquiry, Mr. Chapman (a complainant-witness) sought and was granted limited party standing with respect to a specific allegation. He was granted standing because of certain exceptional interests he had in the specific allegation, not simply because he was a complainant and a witness. First, Mr. Chapman's character and reputation were directly in issue, to a degree substantially higher than for witnesses generally, and were expected to come under heavy attack by the judge. Second, the inquiry into the specific allegation was expected to turn on a credibility contest between Mr. Chapman and the judge. Third, independent counsel in that case would have been placed in an untenable position, having to cross-examine Mr. Chapman and the judge as to the same subject matter. Finally, there were potentially unresolved issues of Mr. Chapman's solicitor-client privilege to contend with.

[61] By contrast, in the present inquiry, the proposed interveners are not seeking party standing; they seek a more limited form of standing akin to a "friend of the court" role. None of the factors leading the inquiry committee in the Douglas Inquiry to grant Mr. Chapman limited party standing are applicable here.

[62] Although the test formulated by the inquiry committee in the Douglas Inquiry for party standing is not directly applicable to interveners, we agree with the cautionary note that persons other than the judge will rarely be granted a role in inquiries: *Douglas Standing Ruling*, paras. 22-25.

[63] In their submissions, the moving parties likened an inquiry under the *Judges Act* to a public inquiry. However the comparison is inapt, as the inquiry committee in the Douglas Inquiry explained:

> […] an inquiry committee has a much more focused role than the vast majority of public inquiries since it is making a specific inquiry into the specific conduct of a specific judge. Accordingly, this makes it less likely that the fact findings made will negatively impact on others. It must be remembered that the mandate of an inquiry committee is to make findings of fact and determine "… Whether or not a recommendation should be made for the removal of the judge and from office" (By-laws s. 8(1)). No member of the public has a greater interest in this aspect of the inquiry than any other member of the public.[2]

[64] This is the first time, to our knowledge, that persons have sought intervener status before an inquiry committee of the Canadian Judicial Council. We therefore proceed with caution in articulating the considerations that informed our decision to grant leave to intervene. These considerations may need to be refined in future inquiries.

[65] Drawing on the test for interveners in other contexts,[3] the Committee considered the following factors:

a) Whether the allegations in the inquiry raise important legal, social or other implications.

---

[2] Douglas Standing Ruling, para. 22.

[3] *Trinity Western University v. Law Society of Upper Canada*, 2014 ONSC 5541; *Groia v. Law Society of Upper Canada*, 2014 ONSC 6026 (Div. Ct.). See also E. Ratushny, *The Conduct of Public Inquiries*, pp. 188-89; P.R. Muldoon, *Law of Intervention – Status and Practice* (1989, Canada Law Book), pp. 74-76.

b) Whether the proposed intervener has a genuine concern of an exceptional nature in the inquiry.

c) Whether the proposed intervener will make a useful contribution to the inquiry by bringing a different perspective or assisting the Inquiry Committee in resolving the issues before it.

d) Whether granting leave to intervene would create the potential for delay, prejudice and duplication of submissions.

[66] There is no right to intervene in an inquiry before the Canadian Judicial Council. Ultimately, it will be a matter within an inquiry committee's discretion to decide how best it can fulfil its mandate in a manner that maintains public confidence in the process while ensuring that the proceedings are fair to the judge whose conduct is being examined. It should be presumed that Presenting Counsel will be able to adduce all the relevant evidence and perspectives in an inquiry. One can expect that leave to intervene will rarely be granted.

[67] Applying the foregoing factors, the Committee exercised its direction to grant the moving parties leave to intervene in the inquiry.

[68] First, the allegations against Justice Camp raise important legal and social implications. As noted, the Committee "is making a specific inquiry into the specific conduct of a specific judge": *Douglas Standing Ruling*, para. 22. But the Inquiry Committee's ultimate findings concerning the allegations may have a broader impact on the conduct of sexual assault trials in future and – whatever the outcome – they will contribute to society's discussion about gender equality and how the justice system responds to sexual assault complaints.

[69] Second, although none of the proposed interveners will suffer prejudice as a result of the Committee's findings and recommendations, they each have interests and perspectives directly relevant to the legal issues and social context. As Justice Camp acknowledged, "The Committee is entitled to consider the social context in which the alleged misconduct took place in deciding whether a judge is 'incapacitated' […]. Properly

tailored, their perspective will help the Committee fulfill its mandate […]": Submissions of Justice Camp, June 15, 2016, para. 1. The proposed interveners represent members of equality-seeking groups and front-line service organizations for sexual assault survivors that could be affected by how the Council responds to the allegations made against Justice Camp. In our view, their interest is exceptional in light of the current legal and social context surrounding how the justice system responds to sexual assault complaints. Their participation will enhance public confidence in the inquiry process.

[70] Third, the proposed interveners can each make useful contributions to the inquiry. The proposed interveners bring distinct and valuable expertise that would likely be helpful to the Committee in appreciating the law and the social context to this inquiry, and this contribution would not easily be replicated by Presenting Counsel. The moving parties are best placed to forcefully advocate their positions.

[71] Finally, there is no real potential for delay, prejudice and duplication of submissions if the terms granting leave to intervene are appropriately tailored. Justice Camp's consent to the interveners' participation – provided suitable limits were imposed on the scope of their participation – weighed heavily in favour of granting leave to intervene. In this regard, we agree with Justice Camp that the interveners should not be given leave to introduce evidence, nor make submissions with respect to the merits of the allegations against the Judge and the Committee's ultimate recommendation.

[72] The Intervener Coalition correctly "takes no position on the particular allegations set out in the statement of allegations or on what recommendation the Committee should make at the conclusion of the inquiry." WAVAW and the Clinic are denied leave to make submission going to the merits and the recommendation made by the Committee. Allowing them to make such submissions would be unfairly prejudicial to the Judge. With respect to the findings and recommendation of the Committee, "no member of the public has a greater interest in this aspect of the inquiry than any other member of the public": *Douglas Standing Ruling*, para. 22.

[73] Further, the interveners are denied leave to adduce evidence. That is properly the responsibility of Presenting Counsel and Justice Camp, if he so chooses: *Directions to Counsel*, April 22, 2016, at para. 10(2); see also *Douglas Standing Ruling*, para. 23.

[74] In light of the overlap between the nature of WAVAW and the Clinic and their proposed submissions, the Committee considers it appropriate to grant them standing to make joint submissions only. This will eliminate duplication and make the hearing more manageable. The Clinic has indicated an openness "to working in cooperation or coalition with other front-line women's organizations who may similarly seek leave to intervene": Letter of the Clinic dated June 1, 2016, p. 3. We trust that WAVAW will work with the Schlifer Clinic in the same spirit.

[75] The terms set out in our order allow for a focussed, efficient hearing that appropriately reflects that an inquiry committee is examining the alleged conduct of a particular judge. Taking into account the need for fairness to Justice Camp and efficiency, the interveners are denied leave to make oral submissions. The Committee will have the benefit of the interveners' written submissions.

[76] In closing, we add that our order granting the moving parties leave to intervene before the Committee does not confer upon them any right to participate at later stages of the conduct process. That question, should it arise, would be for others to determine.

B. Funding

[77] The interveners have requested limited legal funding. Assuming without deciding that the Committee has the power to order that funding be provided to the interveners, the Committee concludes that this is not an appropriate case to do so. None of the interveners has established that their participation in the inquiry depends on the provision of public funds. They are sophisticated advocacy groups which regularly engage in law reform efforts before the courts, legislatures and Parliament.

[78] In the result, the requests for funding are denied.

July 26, 2016

The Honourable Austin F. Cullen, Chairperson of the Inquiry Committee, Associate Chief Justice of the Supreme Court of British Columbia

The Honourable Deborah K. Smith, Associate Chief Justice of the Supreme Court of Nova Scotia

The Honourable Raymond P. Whalen, Chief Justice of the Supreme Court of Newfoundland and Labrador, Trial Division

Karen Jensen

Cynthia Petersen