

THE HONOURABLE MR. JUSTICE DOUGLAS RUTHERFORD
SUPERIOR COURT OF JUSTICE

COURT HOUSE
161 ELGIN STREET
OTTAWA, ONTARIO K2P 2K1



L'HONORABLE JUGE DOUGLAS RUTHERFORD
COUR SUPÉRIEURE DE JUSTICE

PALAIS DE JUSTICE
161, RUE ELGIN
OTTAWA (ONTARIO) K2P 2K1

July 24, 2008

Chris G. Paliare, Esq.
Barrister & Solicitor
Paliare Roland Rosenberg Rothstein LLP
501-250 University Avenue
Toronto, Ontario
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Dear Mr. Paliare,

I write to you as counsel for The Honourable Mr. Justice Paul Cosgrove before an Inquiry Committee of the Canadian Judicial Council investigating allegations of misconduct on his part.

Mr. Justice Cosgrove has given decades of dedicated public service in municipal and federal elected office and as a section 96 judge. It has been my good fortune to have come to know him and work with him as an 'East Region' colleague on the Superior Court of Ontario for the past 17 years. I have had many occasions to work side by side with Justice Cosgrove in the county seats of the Region, including in Brockville where Justice Cosgrove was, for many years, the local administrative judge, and in the Ottawa Courthouse where he has presided countless times. I have had a good opportunity to get to know him, both in the courthouse setting and more personally.


Justice Cosgrove approaches his judicial work industriously, with honest and pure intentions. In my discussions with him about our work, I have never heard or seen one iota of indication that would support a suggestion that he intends anything but the due and proper administration of justice. He is proud of our judicial system and feels honored to be a part of it. That he would import bad faith into his judicial decision-making, or knowingly abuse his judicial office is totally foreign to the Paul Cosgrove I have come to know over the past 17 years.

A good part of the *Elliott* trial took place in the Ottawa Courthouse. I recall Justice Cosgrove trying to explain the increasing difficulties he was encountering in the case during mid-day recesses with other judges on many occasions. It was clear he was agonizing over the problems the case presented. Unfortunately, particularly in longer, complex cases, it is usually only the judge whose case it is that can properly understand the detailed factual intricacies of the situation and that was particularly the case in *Elliott*, as none of the rest of us seemed to appreciate how difficult the case had become for him. I suppose we were all too preoccupied with our own cases at the time.

The important point I wish to make, however, is that at no time did I ever hear one word from Justice Cosgrove that could possibly suggest that he was allowing any element of bad faith or intentional abuse of his office to intrude upon his efforts to try that case fairly and properly. Unfortunately, he appears to have been overly influenced by the strategic submissions and arguments of defense counsel at trial which led him into the errors in his disposition of the *Elliott* case that the Ontario Court of Appeal dealt with fully and without 'pulling any punches' that fell on Justice Cosgrove.¹

Paul Cosgrove has been a dedicated, hard-working judge, conscientious in his efforts, considerate, collegial and supportive of his colleagues and of the Court, and I was witness to some of his intense struggle with the issues and problems raised in the *Elliott* trial. His disposition of them may have been marred by error, but it was not without protracted effort and consideration of the consequences. Bad faith and intentional abuse of office are simply not part of the man or of the judge.

Sincerely,

A handwritten signature in black ink, reading "Douglas Ruskopf". The signature is written in a cursive style with a large, sweeping flourish at the end.

¹ R. v. Elliott, [2003] O.J. No. 4694 (Ont. C.A.)