

10 December 2014

Ms Esther Mendelsohn
JD Candidate
Osgoode Hall Law School

Dear Ms Mendelsohn:

I am responding to your letter of 4 December 2014 in respect of the Inquiry Committee convened by the Canadian Judicial Council, pursuant to the provisions of the *Judges Act*, about the Honourable Lori Douglas.

The Douglas Inquiry has raised a number of difficult, and sometimes novel, issues. However, the Inquiry was never instituted to determine if a judge's ability to adjudicate impartially has been affected because of "her choice to engage in private, consensual sexual expression."

The Inquiry was constituted in fulfilment of Council's statutory duty, to inquire into a number of issues and, ultimately, determine if the Judge can continue to hold office with the necessary public confidence to discharge the duties of that office. At the time the hearings were scheduled to begin, one allegation had to do with the obligation to be candid when applying to become a judge. Another allegation had to do with the Judge's representations about her personal diary of past, relevant events. A third allegation was whether the availability of the photographs on the Internet undermines the integrity of the judiciary and the confidence of parties appearing before the judge. The public record, available on Council's website, provides a full overview of all the issues in question.

I have been particularly troubled by your suggestion that Independent Counsel, Ms Suzanne Côté (now Justice Côté), acted in a "callous and gratuitous manner." The mandate of Independent Counsel is to marshal *all* evidence, whether favourable or unfavourable to the judge. Independent Counsel who served in the Douglas Inquiry is someone with a strong reputation for outstanding legal skills. She discharged her duty, as she was required to do, in accordance with Council's by-laws and policies. There is no basis to suggest she acted other than in the proper fulfilment of that mandate.

The Inquiry has stayed its proceedings on the basis that it would not be in the public interest to proceed, given the judge's decision to retire in May 2015, and given related Court actions would not be completed by then. Questions about the facts to be considered by the Inquiry will therefore remain unresolved. For that reason, no conclusions should be drawn about the allegations.

Yours sincerely,

[Original signed by]

Norman Sabourin
Executive Director and Senior General Counsel