



Personal and Confidential

CJC File: 21-0261

November 15, 2021

Mr. Sean von Dehn

By email: gnosticwisdom37@gmail.com

Dear Mr. von Dehn:

I am responding to your correspondence sent between July 19, 2021 and October 25, 2021, in which you complain about the Honourable Sally A. Gomery of the Superior Court of Justice of Ontario.

The mandate of the Canadian Judicial Council (Council) is to determine whether a recommendation should be made to the Minister of Justice, after a formal investigation, that a judge be removed from office by Parliament. The reasons for removal are set out in the *Judges Act* and address situations where a judge has become incapacitated or disabled from performing the duties of a judge. This can be as a result of age or infirmity, misconduct, a failure to execute the duties of the position, or being in a position incompatible with the functions of a judge. In certain cases, Council may recommend remedial measures or express concern about a judge's conduct.

In your correspondence, you allege that Justice Gomery issued a biased, fraudulent, and prejudicial decision. You are asking that Justice Gomery be suspended and that the Order be vacated.

The responsibility and duty of the judge is to rule regarding the admissibility of evidence, the submissions from the parties, to control the proceedings before them to ensure an effective and efficient use of court time, as well as a fair hearing, and to interpret and apply the rules of the court. In order to do that, a judge does not have to remain quiet. He has the discretion to comment and ask questions on the evidence and the submissions presented. In any case, such functions fall within the ambit of judicial discretion and are not issues of conduct that fall within Council's mandate. Council is not a court. The proper recourse is at the appellate level.

It is important to note that impartiality is the fundamental qualification of a judge and a core attribute of the judiciary. It is key to our judicial process, and it is presumed. This

presumption of impartiality carries considerable weight. When acting in the course of judicial duties, a judge is presumed, unless the contrary is demonstrated, to have acted in good faith and with due and proper consideration of the issues before him or her. A personal opinion or disagreement with the judge's decisions are not evidence of bias, fraud, or prejudice. In any case, an allegation of bias must be raised at the earliest practical opportunity. This is meant to ensure that the decision-maker will have an opportunity to address the matter before any harm is done.

The Council's *Review Procedures* provide an early screening process of complaints that falls under my responsibility. Having reviewed your complaint, it is my view that it does not warrant consideration by Council.

Yours sincerely,



Marc A. Giroux
Interim Executive Director