



Topic: “Addressing a Supreme Court Judge in Family Division”

Opinion by: Justice Doug Campbell

Date: November 20, 2014

This memorandum was prepared by Justice Doug Campbell in reply to the request of ACJ O’Neil as outlined in his Notice to the Bar dated November 6, 2014. It represents Justice Campbell’s personal viewpoint and may or may not require some adjustment to conform to the preferences or practices of individual Judges. That will be left up to the Judge and the lawyer, if any, involved. Readers who make use of the within material do so therefore at their own discretion and subject to their own judgment.

Formulation:

- 1) The following discussion relates at least to the Judges who sit in the Supreme Court of Nova Scotia – Family Division;**
- 2) Some confusion exists about the distinction between the words “Judge” and “Justice”;**
- 3) Some confusion exists about differing contexts in which a Judge of this Court should be addressed.**

Office vs. Salutation: (*Judge vs. Justice*)

The Judges Act, R.S., c.J-1 refers in section 3 to a person’s eligibility to be “appointed a judge” of a Superior Court in any province. Throughout the course of that statute, the office is consistently and repeatedly referred to as that of a “judge” and not as that of a “justice”. It follows that each person who holds office on the Court does so in the capacity of a Judge.

Justice John deP Wright of the Superior Court of Justice in Ontario opined in an undated memo, widely circulated among the judiciary, that members of the Canadian Superior Courts are “judges”, not “justices”. He adds the comment that tradition holds that such members are “Judges” but that they are addressed as “Justices”. He relies on the Constitution Act which empowers the Governor General to appoint the Judges of the Superior Court in each province and not “Justices”. I agree with his opinion.

To restate his opinion, the word “Justice” is a *salutation* similar to “Mr.” or “Ms.” This means that one should *refer* to that person as a “Judge” but should *address* that person as “Justice” followed by that person’s name, often only his surname.

By way of example: It would be *appropriate* to say: “Good morning, Justice Fulton” (but, incidentally, it may *not be inappropriate* to say: “Good morning, Judge Fulton” or “ Good morning, Sir”).

However, it would be *inappropriate* to say: "Effort will be made to locate another *Justice* to perform this task. That would be analogous to saying "Effort will be made to locate another Mr. to perform this task."

Contrary practice has become somewhat established.

While the words "Justice" and "Judge" are gender-neutral, others are not.

Male references: *My Lord, Your Lordship and His Lordship:*

Female references: *My Lady, Your Ladyship and Her Ladyship:*

- 1) The reference, "*My Lord/My Lady*", is used when speaking directly to a Judge; for example, "Good Morning, My Lord/My Lady".
- 2) The reference, *Your Lordship/Your Ladyship* is used when speaking indirectly to the Judge; or one could say, when speaking about the Judge in his/her presence. For example, "as Your Lordship/Your Ladyship knows...."or "I wish to refer Your Lordship/Your Ladyship to the following decisions..."
- 3) The reference, "*His Lordship/Her Ladyship*" is used when speaking about the Judge when **not** in his/her presence; for example, "as His Lordship Justice Fulton/Her Ladyship, Justice Fulton stated in a recent decision....."

Accordingly, the following reference is *incorrect*: "I suggest to Your Lord that my Friend is wrong...." "*Your Lord/Your Lady*" should never be used.

Also, one should not say "I suggest to my *Lord/my Lady* that my Friend is wrong...." That is so because the Judge is present and the distinction in paragraph 2 above applies: "I suggest to Your Lordship/Your Ladyship that my Friend is wrong...."