



Canadian
Judicial Council
Conseil canadien
de la magistrature

Our File: 05-0406
28 Novembre 2005

Ottawa, Ontario K1A 0W8

CONFIDENTIAL

Mr Gary Nichols
President
Nichols Gravel Limited
P.O. Box 172
Delhi, Ontario
N4B 2W9

Dear Mr Nichols:

I am responding to your letter of 7 October last, in which you make a complaint against a number of judges who have heard matters relating to litigation involving your firm, Nichols Gravel Limited.

As you will have noted from the brochure sent to you last month, the mandate of the Council in matters of judicial conduct is to decide whether or not to make a recommendation that a judge be removed from office in certain specific circumstances. The reasons for removal are set out in the *Judges Act* and address cases 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, the Council can also recommend remedial measures or express concern about a judge's conduct.

However, the Council is not a court and it cannot review a judicial decision and decide if it was right or wrong. Such powers rest only with appellate courts, including, in certain circumstances, the Supreme Court of Canada.

In accordance with the *Complaints Procedures* of Council, I referred your complaint to the Honourable Richard Scott, Chief Justice of Manitoba and Chairperson of the Judicial Conduct Committee of Council. Upon his review of your complaint, Chief Justice Scott is of the view that the allegations you make relate to the judicial decision-making of judges and do not raise matters of conduct. You allege that several judges have abused their authority and are responsible for "obstruction of justice," and assert that, in your opinion, "the decision rendered by Justice John Cavarzan, August 23, 1996 is an absolutely outrageous perversion of truth, fact and law based on speculation and assumption of fact, false evidence and manipulation by both the defence and the courts." However, you provide no evidence to support such serious claims.

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Chief Justice Scott has noted your allegation that Mr Justice Cavarzan made a number of "errors in law" as part of the litigation involving your company. If there were any errors in law – and Chief Justice Scott expresses no views whatsoever on this point – that would be a matter for the Courts of appeal and not a conduct matter. Chief Justice Scott notes that you have in fact appealed that decision.

Overall, the information you have provided relates entirely to court proceedings and the decisions of the Courts in relation to those proceedings. While you may be dissatisfied with the result of these proceedings, the complaints process is not an appropriate venue to address your concerns.

For these reasons, Chief Justice Scott is of the view that your complaint does not fall within the mandate of the Canadian Judicial Council and he has directed me to close the file with this reply.

Yours sincerely,

A handwritten signature in dark ink, appearing to read "Norman Sabourin", with a horizontal line extending to the right.

Norman Sabourin