**Justices of the Peace Review Council**

**IN THE MATTER OF A HEARING UNDER SECTION 11.1 OF THE *JUSTICES OF THE PEACE ACT*, R.S.O. 1990, c. J.4**

**Concerning a Complaint about the Conduct of**

**Justice of the Peace Claire Winchester**

**Hearing Panel of the Justices of the Peace Review Council**

**WRITTEN SUBMISSIONS OF JUSTICE OF THE PEACE CLAIRE WINCHESTER RE: DISPOSITION**

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**Overview of the submissions and position of counsel for Justice of the Peace Claire Winchester**

1. By way of overview, counsel for Justice of the Peace Winchester respectfully submit that:
	* 1. There is substantial agreement with most of the written submissions offered by Presenting Counsel.
		2. In particular, counsel for Her Worship agree with the submissions relating to General Principles (paras 4-10). We agree with Presenting Counsels’ own stated overview of their summary survey of caselaw (paras 11-33), namely that “factually there is no prior judicial discipline case that is particularly similar to this one.”
		3. We agree with Presenting Counsels’ submission (para 35) that this is not a case in which removal is warranted. There is no suggestion, in Presenting Counsels’ own words, of “any irremediable compromise of personal integrity that would justify removal.”
		4. We agree with Presenting Counsels’ submission (para 36) that the caselaw supports the proposition that cases of “misconduct that involves errors in judgment without an element of dishonesty or unscrupulousness are more likely to receive dispositions geared toward rehabilitation.” We submit that there was no element of dishonesty or unscrupulousness in Her Worship’s conduct. Her misconduct was error in judgment.
		5. We further agree with Presenting Counsels’ submission (para 37) that “capacity for remediation is a powerful factor in determining what disposition is necessary to restore public confidence” and that “evidence of concrete steps already taken toward that objective can significantly mitigate the harshness of the penalty required.” We will address important evidence of the concrete steps already taken that constitute a “powerful factor” in determining appropriate disposition.
		6. We agree with Presenting Counsel who submit that “acceptance of responsibility” for one’s error (para 38) and “the judicial officer’s reputation, personal qualities and judicial track record can make an important difference” (para 39) in the choice of the least remedy necessary to restore public confidence. We will address relevant evidence of both Justice of the Peace Winchester’s current acceptance of responsibility for her error in judgment and her reputation, qualities and track record that make an “important difference” in the choice of appropriate disposition.
		7. We do not disagree with Presenting Counsel’s attempt to identify some cases that bear some features of the present case, and we do not disagree with the choice of cases in particular that Presenting Counsel submit (para 40) the Panel might find most helpful in its task of choosing the least serious disposition and only ordering what is “necessary” to restore public confidence. The three cases that Presenting Counsel suggest “share the most features” with the case at bar (*Romagnoli*,*Chisvin* and *Johnston*) are ‘error in judgment’ cases without an element of dishonesty or unscrupulousness, like the Winchester case. We will, however, examine the circumstances of those cases in greater detail and suggest an additional case to the three suggested by Presenting Counsel.
		8. We agree with Presenting Counsels’ process in proceeding through the Chisvin/Rule 17.3 ten factors (para 43) in attempting to resolve the least serious disposition required to restore public confidence.
		9. We agree with Presenting Counsels’ submission (para 44) that a “significant remedial component” is required and warranted by the Panel’s findings but we respectfully disagree with the submission that the Panel’s disposition “should also encompass a punitive dimension.” The Divisional Court in *Massiah* unanimously adopted the proposition that “*… the role of the Hearing Panel in addressing judicial misconduct is not to punish a part, i.e. the indivdiual justice of the peace who stands out by conduct that is deemed uncceptable but, rather, to preserve the integrity of the whole, i.e. the entire judiciary itself.*” [[1]](#footnote-1) The Panel’s task is remedial, “*not to punish the judicial office holder.*” Therefore, it would be serious error for this Panel to adopt a “punitive” disposition. This is all the more so in a case involving no bad faith or dishonesty or unscrupulous abuse of the judicial office for personal advantage. This is an “error in judgment” case, and one informed by a host of contextual circumstances which are highly relevant to ultimate disposition.
		10. Finally, we agree that the remedial task for the Panel is to ensure that public confidence has been restored by evidence that, as Presenting Counsel submit (para 46), “Her Worship has learned her lesson” from the error she made and that “misconduct of this kind will never be repeated.” There is much helpful evidence that Justice of the Peace Winchester has, indeed, learned her lesson and that there is no reasonable prospect of the recurrence of her allowing a bail protocol (or any protocol) to override her judicial duty as guardian of Charter rights and freedoms.

**Circumstantial Context in which the Judicial Misconduct Occurred:**

1. It is respectfully submitted that Presenting Counsels’ lengthy (paras. 11-33) but merely summary overview of highly different cases with different outcomes teaches 2 useful lessons about the case law: (i) that, as Presenting Counsel correctly submit “there is no prior judicial discipline case that is particularly similar to this one”; and (ii) the appropriate, “least serious” disposition required to restore public confidence in each case must fundamentally be determined by the contextual circumstances unique to each case. In turn, this second lesson requires that the Panel give close consideration to the contextual circumstances in which Her Worship Winchester’s error in judgment - her judicial misconduct in closing court early on June 27, 2018 – occurred.
2. Context is critical. In *Massiah*, Mr. Justice Nordheimer, writing for himself and Justices Marrocco and Thorburn, stated that evidence had to be considered “*in its proper context.*”[[2]](#footnote-2) JPRC caselaw has identified that conduct of a Justice of the Peace “*needed to be considered in the full context*”[[3]](#footnote-3) in which it happened. The Supreme Court of Canada in *Sparrow* stated that “*We wish to emphasize the importance of context.*”[[4]](#footnote-4) The appropriate disposition for Her Worship’s error of judgment must fairly reflect the contextual circumstances in which she made the error, an error she has never previously made.
3. The following are the contextual circumstances in which Her Worship’s error in judgment on June 27, 2018 was found by the Panel to constitute judicial misconduct in that she “failed to fulfill and uphold [her] judicial duties”, she “acted in haste”, “in an impetuous fashion,” showing some “flippancy” and acted without “due diligence” in closing bail court early, thereby depriving an accused person of his right to reasonable bail.[[5]](#footnote-5)
4. It is important to make the point that the Panel found that none of these contextual circumstances reduced her conduct below the level of judicial misconduct. That finding has been made. However, the circumstances are, nevertheless, highly relevant to a full understanding of how a Justice of the Peace with an unblemished, 7-year record for in-court decision making, a person reputed to be a “very dedicated”[[6]](#footnote-6), “hard-working” and “diligent”[[7]](#footnote-7) Justice of the Peace who ordinarily “takes a lot of time”[[8]](#footnote-8) over her decisions, came to make a hasty error in judgment amounting to judicial misconduct and what, therefore, is the appropriate and “least serious” disposition required to restore public confidence.
	* 1. Her Worship sat all morning in bail court (courtroom #2) in Cornwall from 9am to 11:37am dealing, without incident, with both video remands and in person bail proceedings. There is no suggestion or evidence that that any of her conduct that morning in bail court was inappropriate in any way or anything other than professional and competent. [[9]](#footnote-9)
		2. The day before June 27, 2018 – as the Panel noted in its decision – Her Worship Winchester “and other justices of the peace had been severely admonished … by RSJP Leblance for not complying with policy” (related to judicial endorsement forms). Her Worship Winchester took this as “a clear signal that protocols and policies had to be followed, first and foremost.”[[10]](#footnote-10) Right or wrong (and she now recognizes that it was wrong to prioritize the protocol), Her Worship Winchester on the 27th was reacting to recent admonishment from her superior for not following policy/protocol. Justice of the Peace Linda Pearson’s evidence confirmed in detail the “upsetting” impact on Justice of the Peace Winchester of the June 26th event.[[11]](#footnote-11)
		3. The relevant protocol – the “Cornwall Bail Protocol/Prisoners” – was created by Her Worship’s superiors. Prior to June 27, 2018, the message from those superiors was to pay close attention to and abide by the terms of this protocol. In an email to all East Region JP’s dated July 29 2016, RSJP Leblanc pointed out that the protocol “ has been in place for many years”, was “distributed to all stakeholders” (including JPs), was still in effect and that “everyone is reminded of this protocol.” In addition, RSJP Leblance attached an earlier email stressing that the protocol is to be “adhered to.”[[12]](#footnote-12)
		4. The Cornwall Bail Protocol/Prisoners was laminated and placed (by someone, not Justice of the Peace Winchester) directly on the daïs occupied by the presiding bail court Justice of the Peace. This gave the protocol an apparent importance, especially given the consistent message since 2009 that it was to be “adhered to.”[[13]](#footnote-13) RSJP Leblanc herself misread into this laminated protocol an express requirement that informations had to be before the bail court at 2:00pm in order to proceed with afternoon bail court.[[14]](#footnote-14)
		5. The wording of the Cornwall Bail Protocol/Prisoners expressly included statements that “Additions to the bail docket will be accepted until 2:00pm” (emphasis added).[[15]](#footnote-15) The protocol expressly set out the “Protocol to Follow if Bail Court is Finished Prior to the Lunch Hour” (i.e. for the 2:00pm bail court). Its wording stated that any new bail should be ready to proceed “at 2:00pm.” Only in “exceptional circumstances” would “a strict cut off of 2:00pm” not apply. “All stakeholders” were to contact the LAJP “if the protocol is not being followed.” Her Worship’s error as found by the Panel was to read (misread) this protocol as mandating a strict cut off of bail court if all parties and documents were not before the court, at 2:00pm, ready to proceed (“…that she was obligated to close court at 2:00pm if the informations were not before her”). While the Panel found that the intent of the protocol could not have been “to curtail the right to bail,” and that therefore Her Worship Winchester’s interpretation would be “nonsensical”[[16]](#footnote-16), it is a circumstantial fact that the Protocol’s wording (rather than the purpose or intent of the protocol) does appear to create a “strict cut off” if matters are not ready to proceed at 2:00pm. That is how Her Worship (mis)read the protocol. It is clear that the protocol and its wording and the message that it must be “adhered to” played a role in inducing a normally diligent and hard-working Justice of the Peace who takes a lot of time over her decisions into an erroneous and “hasty” decision that the Panel has determined amounted to judicial misconduct. This is not to justify her erroneous decision but simply to understand what influenced it, a fair and relevant contextual circumstance and consideration.
		6. The evidence of Louise Rozon, former LAJP, an extremely experienced and senior East Region Justice of the Peace and mentor to Justice of Peace Winchester, is that Justice of the Peace Winchester was not the first or only stakeholder to misread, misinterpret or misunderstand the chosen wording of the the Cornwall Bail Protocol. In answer to Presenting Counsel’s question “Have you ever been privy to any misunderstandings about the protocol?” Justice of the Peace Rozon replied “With duty counsel. I have argued with duty counsel in court on a number of occasions where, you know, I will ask them about proceeding at a bail hearing and they will look at me and they say, ‘well, we have a cutoff time of two o’clock’. ‘No, we don’t have a cutoff time of two o’clock’. Like, I don’t … and they took this protocol and figured that they had a cutoff time until two.” In cross-examination Justice of the Peace Rozon agreed that the protocol, in her opinion, was “poorly worded” and that “people are misunderstanding it”, people regularly in Cornwall bail court like duty counsel. The poor wording leading to misinterpretation of the protocol was significant enough that Justice of the Peace Rozon “brought it to the attention of Her Worship Leblanc this year to get it…” (reworded?) Justice of the Peace Rozon’s uncontradicted evidence was that Justice of the Peace Winchester’s good faith error in her interpretation of the protocol was “consistent with misinterpretations that other people have made …”[[17]](#footnote-17) It is respectfully submitted that the Panel’s disposition should reflect and acknowledge this relevant circumstance.
		7. The transcript for June 27, 2018 reveals that counsel for the Crown (mis)interpreted the protocol in much the same way as did Justice of the Peace Winchester: when the issue of having no information before the court arose in the context of a discussion of the “cut-off time”, Crown counsel stated, rather than urging a search for informations, “I don’t know what we’re waiting for.” When Her Worship asked counsel “how you want to proceed with this,” Crown counsel stated that “the court has to have everything there” and that she was “trying to understand” why the JJ matter, already scheduled for the 28th in the am, was moved “to today.”[[18]](#footnote-18) The position of counsel is relevant. It is not determinative but it is relevant. As Justice of the Peace Rozon testified, she herself “normally relied on the submissions and position of the Crown; that is quite reasonable to do.”[[19]](#footnote-19) The buck stops with the presiding Justice of the Peace, but it is a relevant contextual circumstance that Crown counsel urged that the 2:00pm bail court be closed so that the JJ matter could go to “tomorrow.” Justice of the Peace Winchester’s “hasty” error amounting to judicial misconduct was in fact encouraged by Crown counsel. That, it is respectfully submitted, is relevant to disposition.
		8. In its finding that Justice of the Peace Winchester’s “hasty” and “impetuous” bail court closure in the circumstances amounted to judicial misconduct, the Panel acknowledged that “there was confusion” among the participants “during that brief attendance in court.”[[20]](#footnote-20) Not only was no information present in court, there was no evidence that an information or informations relevant to JJ’s detention even existed/had been sworn.[[21]](#footnote-21) Marla Belanger’s evidence was that when she called the Intake office (on Justice of the Peace Winchester’s instruction) to ascertain the state of jurisdictionally necessary informations, “His Worship Doran was letting me know that they hadn’t sworn the informations yet, the new Information.”[[22]](#footnote-22) The transcript for June 27th, coupled with the evidence of Ms. Belanger demonstrated the extent of confusion among counsel, the police, and court staff about whether informations were going to be prepared for “tomorrow.” The confusion does not absolve Her Worship. The Panel found that, even amid the confusion, she committed judicial misconduct in “impetuously” closing the court. But her error in judgment has to be considered – in respect of the least serious disposition required – in light of the confusing environment Her Worship faced. It is telling that at the conclusion of Ms. Belanger’s evidence (and the evidence for Presenting Counsel) the Panel Chair was moved to ask “why both Crown and defence were saying that he was releasable but that they knew nothing about the charges.”[[23]](#footnote-23) This confusion is relevant to an assessment of the gravity of the judicial misconduct, and to disposition.
		9. Finally, a relevant circumstance, given the wording of the protocol and its history of misunderstanding/misinterpretation by stakeholders in Cornwall, is that no clarifying or limiting instruction was sent to the stakeholders (including JP’s) until after the June 27, 2018 incident. The email of October 11, 2018 from RSJP Leblanc advised stakeholders that despite “protocols suggesting a cut-off time for receipt of new arrests” (i.e. the Cornwall Bail Protocol/Prisoners) “this does not affect our judicial duty to accept new arrivals to our courtrooms despite that being after a particular court’s ‘cut-off’ time.”[[24]](#footnote-24) Justice of the Peace Rozon testified that “certainly” it would have been more useful to Justices of the Peace in the East Region and to Justice of the Peace Winchester in particular, had this clarifying email been sent out in a timely way, prior to June 27, 2018.[[25]](#footnote-25) Such a simple and clarifying email prior to June 27th could have avoided the misinterpretation that led to a finding of judicial misconduct.
5. It is respectfully submitted that the nine contextual circumstances set out above, individually but especially collectively, better explain and put Justice of the Peace Winchester’s ‘error of judgment’ judicial misconduct in the lower range of conduct amounting to judicial misconduct, particularly given that there is no prior history of such misconduct. Given the Panel’s duty (set out in *Baldwin*[[26]](#footnote-26)) to impose the “least” disposition necessary to restore public confidence, these circumstances justify a remedial disposition in the less serious range.

**The Rule 17.3/Chisvin Factors:**

1. Rule 17.3 identifies “Factors that may be relevant to an assessment of the appropriate sanction for judicial misconduct include, but are not limited to”:
	* 1. Whether the misconduct is an isolated incident or evidences a pattern of misconduct.

The Panel found that “the allegation of a ‘pattern’ of judicial misconduct cannot be established.” This factor asks whether or not there is evidence of “a pattern of misconduct,” not whether some more minor, unrelated, dissimilar, inappropriate action not rising to the level of judicial misconduct may be found in the Justice’s past. The OJC Hearing Panel in *Chisvin* stated that the test for whether the misconduct is an “isolated incident” or a “pattern of judicial misconduct” is whether the incident in question has been preceded or followed by “similar conduct”: “There is no suggestion that this isolated incident was preceded or has been followed by any similar conduct on the part of the judge.”[[27]](#footnote-27) The misconduct “incident” found by this Panel was Her Worship hastily, impetuously, somewhat flippantly closing bail court early, thereby depriving a detainee of a right to reasonable bail. There is no prior history or “pattern” of such courtroom misconduct, no evidence whatsoever of improper conduct of bail or any other courtroom proceedings. The “incident” of June 27, 2018 is isolated and without similar precedent or antecedent. This factor is mitigating.

* + 1. The nature, extent and frequency of occurrence of the acts of misconduct.

This was a single, brief act of misconduct. This is a mitigating factor.

* + 1. Whether the misconduct occurred in or out of the courtroom.

The misconduct occurred in the courtroom, an aggravating factor. However, as set out above in paragraphs 4, 5, and 6, it ocurred in the context of a host of circumstances that contributed to Her Worship’s error in judgment, circumstances that explain better how a normally “diligent,” hard-working,” “top notch,” “very dedicated” Justice of the Peace with no prior track record for inappropriate courtroom conduct or bail court misconduct made an error of judgment found to constitute judicial misconduct. The combination of circumstances was unusual, to say the least. Marla Belanger, an experienced clerk agreed that it was “true” that “it is not usual that court convenes and nobody knows what is going on.”[[28]](#footnote-28) Ms. Belanger agreed that that was the situation Her Worship faced on June 27, 2018. An error of judgment was made in unusually confusing circumstances.

* + 1. Whether the misconduct occurred in the Justice’s official capacity or in her private life.

Justice of the Peace Winchester’s error in judgment amounting to judicial misconduct occurred in the justice’s official capacity, an aggravating factor, but one somewhat attenuated by the unusual combination of circumstances on June 27, 2018.

* + 1. Whether the Justice has acknowledged or recognized that the acts occurred.

As Presenting Counsel submits “there was never any dispute that the acts occurred…” This factor asks a factual question. Justice of the Peace Winchester never denied that her conduct (“the act”) in closing bail court early on June 27th occurred. However, Presenting Counsel quite fairly and properly raise under this heading – given the Panel’s finding that Her Worship, in her testimony, “appeared to shift the blame” to others in the system – the question of whether Justice of the Peace Winchester is remorseful and accepts responsibility for her misconduct. Presenting Counsel concede that “Her Worship was eloquent in expressing remorse and accepting responsibility in her written response to the complaint.” So the question now is, at the time of disposition, and after the Panel’s finding of misconduct, after JP Winchester reflecting on it, after the days of teaching and mentoring by His Honour Justice Nadelle, what is Her Worship’s current remorse and acceptance of responsibility for her “hasty” error in judgment?

It is respectfully submitted that a number of relevant evidentiary factors answer this question and provide the Panel and the public with reliable, eloquent assurance that Her Worship is, indeed, remorseful, even deeply remorseful, and that she accepts that the responsibility for what happened on June 27th ultimately lies with her as the presiding judicial officer, not with others.

First, there is the evidence of her initial response to the complaint about her conduct. In her September 27, 2018 written response, Justice of the Peace Winchester in her own words explained that “I was terribly wrong” and “showed a true lack of judgment for adjourning court prematurely”; “I very deeply regret my decision”; “I was and still am terribly ashamed of how I conducted this matter”; “I created a nightmare situation for everybody”; “I cannot ever remember having made such a bad decision”;“I am ashamed and depressed for having made such bad decisions and I am distraught over the impact my decisions have had on the people involved”; “ I was wrong and I deeply regret my actions.”[[29]](#footnote-29) This is strong evidence of remorse and acceptance of responsibility.

Second, Her Worship’s evidence at trial must be read in the context of attempting to defend against a finding of judicial misconduct, in other words, not denying that her conduct was wrong and for which she was remorseful, but whether – in the context of constitutionally-protected judicial decision-making on June 27th – it constituted judicial misconduct. She was, it is submitted, attempting to explain the unusual contextual factors operative on her that day in courtroom #2. When asked early in the cross-examination by Presenting Counsel whether “you now feel less responsibility [than when she wrote the September 27, 2018 letter of response] for your conduct?”, her evidence was “No. I feel that I was responsible, it was my court, I was responsible. I made a decision that, at the time, I thought was right. Would I make that decision again? No.” She went on to explain the impact of the protocol, the June 26th events and the missing, apparently unsworn information(s) (that even the Panel Chair agreed was concerning: “And I agree with you, Mr. Bayne, that it is concerning that no one knew where that document was”) but clearly prefaced all of that with acceptance of responsibility. And, in the midst of her testimony, Her Worship said “I am just so sorry that I didn’t, just didn’t give him…. give them a recess in order for them to be able to get organized if they could have.”[[30]](#footnote-30) This is evidence of remorse. As Presenting Counsel’s cross-examination was ending, this exchange occurred: “Q. And today, most of what we heard is you laying responsibility on other actors. A. No. I’m trying to give you the context. Q. Okay. A. I’m the one, I’m the one that made the decision, not anybody else.”[[31]](#footnote-31) Her explanation was imperfect in that it appeared to convey blame on others, but both at the start and end of her cross-examination, Her Worship accepted responsibility for her hasty and erroneous decision.

Third, Appendix A to these submissions is a current statement from Her Worship reflecting on the impact on her, in her own words, of her educational/mentoring sessions on March 4, 5, and 6, 2020, with His Honour Justice Nadelle. Apart from describing at length the beneficial impacts of those sessions, Her Worship states the following: “His Honour Nadelle’s insistence and emphasis concerning these principles allowed me to further reflect and to further internalize the importance and the meaning of individual rights and freedom. In the future, I will never allow a protocol to override Charter rights and case law. I will never again allow such, as this local protocol, to interfere with sound judgement and my duties as a Justice of the Peace, no matter the circumstances. I know I was wrong to pay such diligent attention to the bail protocol on June 27 and to interpret it as I did, especially that I do fundamentally understand and appreciate the primacy of the rights and freedoms as guaranteed in our Charter.”

Her Worship has, since the Hearing and the Panel’s decision and following valuable mentoring by a respected and experienced judge, “further reflected” on and “internalized” the fact that she – not anybody else – was “wrong” in her conduct on June 27th. She accepts responsibility.

Further, Her Worship states in Appendix A the following: “Very unfortunately and with great regret then and since, I recognize that I had been hasty and that I had not focussed on the individual’s rights and freedoms entrenched in the Charter and current case law before adjourning court. Reinforced by the thoughtful teachings of His Honour Justice Nadelle, this will never happen again.” This is an expression of unqualified regret.

Fourth, Appendix B is a statement from Her Worship of the impact on her of the (18-month) non-presiding order. The following are statements made by Her Worship reflecting her current attitude toward her June 27 misconduct:

* “I had let everybody down.”
* “I confess that I did not know that my decision amounted to judicial misconduct until the panel ruled that it did but I always knew and acknowledged that I had made a mistake in court.”
* “Ultimately, my decision had deprived someone of his right to freedom. I recognized that I was responsible for that mistake. I will never make such a mistake in bail court again.”
* “I held myself responsible for having deprived someone of his freedom. I worried about the defendant’s well-being.”
* “My feelings of sorrow and deep shame at having disappointed the Justice of the Peace bench were overwhelming.”
* “My sense of shame has lived with me throughout and, to this day.”
* “I am sorry that people for whom I have great respect will now think that I attempted to blame them. As I said in testimony, I was the sole person responsible for the decision that occurred in court on June 27 a decision that will never be repeated.”

Her Worship fully accepts responsibility, apologizes for and shows insight into her conduct and its impact, acknowledges that it is not others to be blamed but “solely” herself and is “deeply” shamed and remorseful. This acceptance of responsibility and eloquent expression of genuine regret is, as Presenting Counsel assert (in paras. 38-39), an “important” difference-maker in deciding an appropriate disposition.

Fifth, Appendix C is Judge Nadelle’s report to the Panel concerning his remedial education and tutoring of Her Worship. His Honour’s statement that “I should note that a number of times during our sessions she expressed to me that she knows she was wrong and that there have been and there could be further consequences” is independent corroboration by an experienced jurist of JP Winchester’s acceptance of responsibility. The sheer fact of voluntarily undertaking remedial education is an act of responsibility.

* + 1. Whether the Justice has evidenced an effort to change or modify her conduct.

As Presenting Counsel have submitted (para. 37), “capacity for remediation” and “evidence of concrete steps” already taken toward that objective are “powerful factors” that can “significantly mitigate the harshness of the penalty required.” We respectfully submit that “penalty” is the wrong word; this process is remedial not punitive. The word “disposition” better fits the Panel’s task. There is, indeed, evidence of such powerful factors. Appendices A and C provide evidence of both capacity for remediation and concrete steps already taken.

Appendix A, Her Worship’s “Reflection” on her remedial education sessions with Judge Nadelle, evidences her initiative and attitude in voluntarily undertaking remedial measures specifically designed to address her erroneously hasty judgment on June 27th. This initiative she undertook “with pleasure” and was “greatly anticipated” by her. Her obvious enthusiasm and gratefulness for the remedial training strongly evidences capacity for remediation, as does the detailed description she provides of the postive learning outcomes of that remediation.

Strong evidence of concrete remedial steps already taken appears in Appendices A and C. Not only was Her Worship eager to engage, voluntarily, in such remedial training, she has eloquently detailed those training sessions, the particular benefits derived and the resolve that “Reinforced by the thoughtful teachings of His Honour Justice Nadelle, this [the “hasty” error of June 27th] will never happen again.” Judge Nadelle, in his straightforward report, describes the remedial education and concludes that “I am of the opinion that Justice of the Peace Winchester fully understands the Principles of Judicial Office and her responsibilities as a Justice of the Peace and will perform them in a manner that the public will have confidence in her and in the administration of justice.”

Therefore, there is evidence of powerful factors – capacity for remediation and concrete steps taken - that should significantly mitigate the harshness of disposition in this case. This factor is strongly mitigating.

* + 1. The length of service on the Bench.

Justice of the Peace Winchester has served over 7 years (7.5) on the bench. It is respectfully submitted that this is long enough to be considered to be more than a neutral factor as suggested by Presenting Counsel. The JPRC Hearing Panel in *Kowarsky*, for example, noted Justice Kowarsky’s 7.5 year length of service, pre-dating his act of judicial misconduct, in the context of mitigating factors.[[32]](#footnote-32) In *Chisvin*, the OJC Panel, chaired by Sharpe J.A., listed the “eight years” of service (it was actually 3 days over 7.25 years) as a mitigating factor.[[33]](#footnote-33)Her Worship is not a newcomer or recent appointment, having earned a reputation as a “diligent” and “hard working” Justice of the Peace over her 7.5 years. This period of service is a mitigating factor.

* + 1. Whether there have been prior complaints about this Justice.

There have been no prior complaints about Her Worship. This is a mitigating factor.

* + 1. The effect of the misconduct has on the integrity of and respect for the judiciary.

This is an aggravating factor subject to the following observations. It is respectfully submitted that, as Presenting Counsel states “… this is not susceptible to empirical measurement.” Presenting Counsel further submits, however, that it simply must follow from an unwarranted deprivation of liberty occasioned by an act of judicial misconduct that a “corrosive impact” on public trust is created for the judiciary generally. The test, however, as the OJC Hearing Panel recently stated in *Zabel*, is “what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude.”[[34]](#footnote-34) To an informed public, it is respectfully submitted, it would matter whether the judicial misconduct in bail court was deliberate or an isolated error in judgment – without precedent - that occurred in a constellation of unusually confusing circumstances. While still an aggravating factor, the latter is clearly less aggravating.

* + 1. The extent to which the Justice exploited her position to satisfy her personal desires.

This factor has been made out in cases where a judicial officer conceals a personal interest in the case (JP Foulds protecting his romantic partner and, previously, interfering in an investigation to aid a friend; JP Phillips misleading a police officer to protect her daughter; JP Barroilhet using his position improperly to assist a friend; JP Sinai trying to trade the completion of reserved judgments in return for making an investigation into his conduct “go away”). There is nothing remotely like this in JP Winchester’s case. Her Worship did not exploit her position to satisfy her personal desires. There is no evidence that she closed court to satisfy her personal desires. The Panel never found that this error in judgment was a function of satisfying personal desires. Presenting Counsel ask the Panel to speculate (“could take the view”) that Her Worship “acted in a manner that prioritized her personal convenience.” Such speculation would be erroneous and unfair. This factor is mitigating.[[35]](#footnote-35)

1. An additional strongly mitigating factor (an “important difference”-maker in the choice of appropriate disposition according to Presenting Counsel – para. 39) is Justice of the Peace Winchester’s personal and professional reputation and track record. Not only is there no history of judicial misconduct in her over 7 years of service, but there is important character evidence of an extremely high quality person, citizen and professional.
	* 1. Claire Winchester has been, all of her adult life, a high-performing contributor to education in her community and beyond. Her CV details almost four decades of teaching, administration, research and executive level service to the city of Cornwall, United Counties of Stormont, Dundas and Glengarry and to the Ministries of Children and Youth Services and Attorney General for Ontario. All of this committed service preceded her 2011 appointment as a Justice of the Peace, and speaks to her character.[[36]](#footnote-36) Her service on boards and committees of the Children’s Aid Society, the local hospital, environmental initiatives, the Community Action Network Against Abuse and many others demonstrates her high level of citizenship.
		2. Evidence of Marla Belanger: this clerk with 20 years of experience in Cornwall, in answer to questions from Presenting Counsel, observed Justice of the Peace Winchester “to be a diligent justice of the peace” and one with whom she had “a good working relationship.”[[37]](#footnote-37)
		3. Justice of the Peace Pearson, an 8-year veteran at the time of her testimony, was appointed at the same time as Justice of the Peace Winchester, went through training with her and then served with her in Ottawa. Justice of the Peace Pearson also presided in Cornwall “a lot.” In training, Justice of the Peace Pearson observed Her Worship Winchester to be a “very, very organized” and “on the ball” trainee, happy to share information in a collegial way. Of Justice of the Peace Winchester’s work ethic as a sitting justice of the peace, Her Worship Pearson testified that it was “top notch. She is very proud of her work. She takes a lot of time to write decisions.” She added that Justice of the Peace Winchester was “always sharing information … she was a sharer.”[[38]](#footnote-38)
		4. Justice of the Peace Emmanuelle Bourbonnais was also appointed at the same time as Justice of the Peace Winchester and came to know her through the 1.5 year training process. She, as a fellow francophone, felt an instant rapport to Justice of the Peace Winchester. As a result, they started helping one another out early in their careers, translating materials and developing a legal vocabulary. She described Justice of the Peace Winchester as “very organized” and the person who helped her to prepare her own bench book. In addition, Justice of the Peace Bourbonnais testified that Justice of the Peace Winchester “helped me out a lot,” sharing materials and templates. She described Justice of the Peace Winchester to the Panel as a “very well-prepared” Justice of the Peace.[[39]](#footnote-39) This, it is submitted, speaks to Justice of the Peace Winchester’s professionalism and attention to her duties.
		5. Justice of the Peace Louise Rozon is an exceptionally experienced Justice of the Peace, having been appointed in 1993 (27 years). Her service throughout has been Cornwall. She served as the LAJP from 2004-2010. She was also mentor to many East Region JPs, including Claire Winchester. She thus has a unique perspective on the qualities of the East Region JPs. She described Justice of the Peace Winchester as a “very dedicated” JP, one “always looking to help and … take on more responsibility.” “She is hard-working … she loves the work of a justice of the peace.” Having worked beside Justice of the Peace Winchester “on a day to day basis,” she agreed that Her Worship was “collegial” and “anxious to help others.”[[40]](#footnote-40)
		6. Peter Tropea, DVM has practised veterinary medicine in Cornwall since 1980. He has known Justice of the Peace Winchester for over 40 years. He says that “I can vouch for her integrity, her honesty, her sense of responsibility, and her commitment to and enjoyment of her work in our community.” Dr. Tropea has also witnessed Justice of the Peace Winchester at work, presiding in court. He was deeply impressed, describing that “throughout the day, Justice of the Peace Winchester was patient, welcoming and sympathetic to the plight faced by various defendants.” He was “impressed with Justice of the Peace Winchester’s level of understanding and empathy.” He concluded that “I left feeling pleased and happy that our community has good able servants such as Justice of the Peace Winchester to serve them.”[[41]](#footnote-41)
		7. Gail Kaneb, a Cornwall resident, has known Justice of the Peace Winchester for almost 40 years and describes her personally as one who “cares about people and has the courage to advocate for those who are treated unfairly.” She states that “Professionally, Claire is deeply committed, passionate about what she does, and is one of the most responsible and caring people I know.”[[42]](#footnote-42)

**Comparable caselaw relevant to diposition in this case:**

1. Presenting Counsel submit (para 40) that “the case at bar shares the most features with *Romagnoli*, *Chisvin* and *Johnston*.” In paragraph 1(vii) above, counsel for Her Worship express agreement with Presenting counsel but suggest that an additional case is also of assistance in determining the appropriate disposition. That case is *Kowarsky.*[[43]](#footnote-43) All of these four cases represent dispositions in “hasty”, in-court, error of judgment situations, as in the Winchester matter.
2. *Romagnoli* is a 2018 decision of a JPRC Hearing Panel. Three types of allegations of misconduct were set out in the Notice of Hearing: failure to know, maintain competence in, and apply the law; improper adjournments and failure to decide promptly; bias (actual or perceived) against prosecutors and police. Presenting Counsel proceeded only on the first allegation. All conduct occurred in the courtroom in JP Romagnoli’s official capacity. Her failures to know the law involved the areas of joint submissions on penalties, the provisions of governing legislation and imposing illegal sentences not known to the law (negative fines).
	1. JP Romagnoli’s misconduct, unlike that of JP Winchester, was persistent and repetitive. She improperly and unreasonably rejected 16 joint submissions; she failed 10 times to follow binding authority and did not understand the principle of *stare decisis*; she imposed three illegal penalties. This conduct in a multiplicity of different cases affecting many accused persons persisted for almost a full year. By contrast, JP Winchester’s error of judgment occurred briefly and only once in her 7-year career. Presenting Counsel submit, however, (para. 40) that JP Winchester’s single error in judgment may merit a “more substantial disposition” than in *Romagnoli.* We respectfully disagree: persistent and repetitive misconduct is much more aggravating and requires a more substantial disposition.
	2. The Panel in Romagnoli stated: *“The Hearing Panel is of the view that the repeated nature of Her Worship’s conduct in failing to be diligent in her knowledge and application of the law, despite it having been brought to her attention on certain occasions, is an aggravating factor. This was not an isolated incident but a persistent pattern of conduct. Her Worship’s failure of diligence resulted in the law being misapplied in Her Worship’s courtroom on several issues, in multiple cases, over the course of almost a year”* (emphasis added).[[44]](#footnote-44) A pattern of misconduct warrants a more substantial disposition. In significant contrast, JP Winchester’s misconduct is not part of a “pattern.”
	3. The disposition for JP Romagnoli, who, like JP Winchester, had no prior history of judicial misconduct, was a formal reprimand and an order for additional legal education. JP Romagnoli was permitted to preside while receiving such additional education. It is submitted that in JP Romagnoli’s case, “additional education” was needed because of the multiple times (29) she misapplied multiple aspects of the law in multiple cases affecting multiple accused persons over the course of a year – a very different and aggravating circumstance from the case of Her Worship Winchester.
3. *Chisvin* is a 2012 decision of the OJC (Sharpe J.A. chairing) in which the OCJ Judge dismissed an entire “plea court” docket (with 10 accused persons and 33 criminal charges remaining to be dealt with) because the Crown was a few minutes late returning from a morning recess. Multiple accused persons and complainants as a direct result were impacted by the decision and had their cases hanging over their heads, instead of being resolved, “for weeks and in some cases months”. In addition, because this was a court for “guilty pleas,” liberty issues were also at stake. Steps had to be taken by the Ministry of the Attorney General to obtain the consent of the Deputy AG to re-swear the necessary informations, effecting service of multiple summons, as well as “filing appeals to protect the right to proceed in the face of potential autrefois acquit defences.”[[45]](#footnote-45) The Ontario Court of Appeal characterized Chisvin J.’s conduct as “highhanded” and “a real disservice to the proper administration of justice.”
	1. Chisvin J. had – like JP Winchester - 7 years’ experience prior to his misconduct; the OJC Hearing Panel noted that the conduct occurred in court in the judge’s official capacity and was “serious” having “plainly” a “detrimental effect upon public confidence.” On the mitigating side, the misconduct “occurred in a matter of minutes”, was an “isolated incident” not preceded or followed by any “similar conduct,” and was regretted by the judge promptly; he had sought professional assistance to deal with stress and there was before the Panel evidence from colleagues that he was normally a “hard-working, dedicated judge”, one “always willing to help.” The parallels with Justice Winchester’s case are obvious and significant.
	2. The disposition imposed by the Panel was a reprimand. The Panel stated: “Given the steps that Justice Chisvin has already taken, including apologizing for his misconduct, seeking professional assistance, proposing an educational program on the issue of stress, which we strongly encourage him to pursue, and serving with integrity since this incident arose, we are of the view that no additional disposition is required.”[[46]](#footnote-46)
4. The *Johnston* case (JPRC, 2014) involved two unrelated complaints, one relating to failure to assist a self-represented accused and failing to ensure a fair trial, the second relating to His Worship dismissing the entire 1:30pm Provincial Offences docket after waiting only 1 minute 11 seconds for the prosecutor. The first complaint, leading to a finding of misconduct, involved His Worship “mocking” the self-represented defendant, “ridiculing” his pronunciation and compromising the right to full answer and defence. The Panel characterized the second matter, the JP’s actions in dismissing the entire docket of cases (affecting multiple accuseds and occasioning four appeals), as “hasty” and “intemperate.” The Panel found the misconduct to be “serious.” It was in court in an official capacity. It involved two separate and unrelated matters of judicial misconduct in two separate cases. Unlike the Winchester case, it was not an isolated incident of judicial misconduct. His Worship in addition had failed to show any remorse prior to the public hearing: “there is no evidence that His Worship expressed regret or apologized for any of his actions in his responses to the complaints …”; he apologized at the Hearing.[[47]](#footnote-47)
	1. The Panel imposed a disposition of a 7-day suspension without pay plus a requirement of a written apology to the unrepresented accused. There is no evidence of JP Johnson having been de facto suspended (via a non-presiding order) prior to this disposition.
	2. This is significantly different from the case before this Panel – JP Winchester has already endured a long (18-month) and impactful de facto suspension through the non-presiding order. As the Divisional Court in *Massiah* noted “… *The impact on the holder of a judicial office, where a hearing is called, is significant …*”.[[48]](#footnote-48)In JP Winchester’s case that significant impact has been magnified by a lengthy de facto suspension before her case was decided. This Panel has detailed evidence before it (Appendix B) of the substantial personal, family, health, reputational and professional impact on JP Winchester of the de facto pre-Hearing suspension. Her Worship has already experienced a far more substantial “suspension” than JP Johnston whose misconduct involved a “pattern.”
5. Like the *Chisvin*, *Romagnoli* and *Johnston* cases, *Kowarsky* represents precedent for an appropriate disposition in the case of a “hasty”, in-court error of judgment. And, like *Chisvin*, which was an isolated incident case (unlike *Romagnoli* and *Johnston*), in *Kowarsky* the Panel determined that “a Reprimand by this Panel is sufficient to restore public confidence in the administration of justice.”
	1. *Kowarsky* involved three separate complaint incidents on three separate dates (“sometime in 2008”; January 29, 2010; March 1, 2010). All incidents involved JP Kowarsky conducting himself inappropriately with a female court clerk. Only the January 29, 2010 incident resulted in a finding of judicial misconduct and it involved JP Kowarsky “in a courtroom”, “During the course of the proceedings”, getting “the complainant’s attention” and making “a sexually inappropriate comment to her.” The comment was “very short”, was an “ill-conceived attempt at humour” and caused the complainant to become “very upset.” “She did not return to the courtroom in the afternoon and was absent the next day.” The other two (out of court) incidents involved a suggestion of a kiss on the lips and yelling at the complainant.[[49]](#footnote-49)
	2. JP Kowarsky was appointed in May 2002. Thus, by the January 29, 2010 incident, he had been presiding just over 7.5 years, similar to JP Winchester. He was “well respected by colleagues” and had been the subject of “no prior complaints.” In an Agreed Statement of Fact filed at the Hearing, JP Kowarsky acknowledged that his conduct on January 29, 2010 “was completely inappropriate, unwelcomed, and wrong.” Three days of pre-Hearing motions, procedural matters, the receiving of evidence and hearing of submissions occurred over the months of March, April and May, 2011. The Panel dismissed the other two complaints. JP Kowarsky had written a letter of apology to the complainant before disposition and had received remedial psychological counselling.[[50]](#footnote-50)
	3. The Panel determined that JP Kowarsky’s in-court misconduct was serious and undermined public confidence in the administration of justice. It was, however, “a short incident” and the Panel determined that the “context” for the comment was relevant (not a deliberately wrongful act but poor judgment). In addition, the positive professional character evidence, the remedial sessions with the psychologist and the written apology made “consideration of some of the possible dispositions unnecessary.” There is similarity in all this to the Winchester case.
	4. “The Panel’s decision is to reprimand Justice of Peace Kowarsky … a Reprimand by this Panel is sufficient to restore public confidence in the administration of justice.”

**Submission as to Appropriate Disposition:**

1. Presenting Counsel submit (para 36) that for “error in judgment” cases (like *Chisvin*, *Johnston* and *Romagnoli* – and, we add, *Kowarsky*) “a reprimand will inevitably be given.” Whether “inevitable” or not, we respectfully submit that a reprimand is the appropriate disposition in the Winchester matter.
	* 1. JP Winchester’s misconduct was an isolated incident of error of judgment (as in Chisvin) during in-court proceedings. There is (as in Chisvin and Kowarsky) no prior history of judicial misconduct. There is no “pattern” of judicial misconduct.
		2. Like the *Chisvin*, *Romagnoli*, *Johnston*, and *Kowarsky* cases, JP Winchester’s misconduct involved none of the aggravating elements of being dishonest or unscrupulous conduct nor of exploiting her office for personal gain or advantage as in *Foulds*, *Phillips*, *Barroilhet* and *Sinai*.
		3. As in Chisvin and Kowarsky, JP Winchester’s misconduct was a single, brief act. By contrast, the misconduct in Romagnoli – which also resulted in a reprimand – involved multiple acts in multiple cases spanning almost a year. Also by contrast, in Johnston there were two unrelated findings of judicial misconduct, involving multiple acts. For these reasons, the misconduct in *Romagnoli* and *Johnston* may be seen to be more aggravating than in Winchester.
		4. While JP Winchester’s misconduct occurred in the courtroom in her official capacity, that was the same situation that obtained in the Chisvin, Kowarsky, Romagnoli, and Johnston cases, in all of which a reprimand either solely (Chisvin, Kowarsky) or in combination with other dispositions (Romagnoli – additional education; Johnston – a 7-day suspension) was the appropriate remedy.
		5. As set out above in paragraph 7.v. Her Worship both initially and currently has expressed deep remorse, regret, shame and acceptance of responsibility for her misconduct. While concern was raised during the hearing about her appearing to blame others and not taking responsibility for her error in judgment, it is respectfully submitted that she was imperfectly trying to explain the contextual circumstances in which she made her erroneously “hasty” decision to close the court – “I’m trying to give you the context.” And, as set out in paragraph 7.v. above, she did even in that testimony take responsibility. In any event, Appendices A, B, and C to these submissions are important, detailed, eloquent current evidence of Her Worship’s remorse, regret, insight into her conduct and its consequences and full acceptance of responsibility for her decision. No greater disposition than a reprimand (as in *Chisvin* and *Kowarsky*) is required to bring about remorse and acceptance of responsibility or the restoration of public confidence.
		6. It may well be that, had JP Winchester not already taken the initiative to undertake remedial training and mentoring with Justice Nadelle, that the Panel would be ordering a course of remedial education in addition to a reprimand. This, however, is a situation very like Chisvin and Kowarsky, where the judicial officer, showing initiative and responsibility, has already taken remedial education with positive reported results. The Hearing Panels in both Chisvin and Kowarsky decided that “Given the steps … already taken … no additional disposition is required” and that “a Reprimand by this Panel is sufficient to restore public confidence in the administration of justice.”
		7. While “additional judicial education” was imposed by the Panel in Romagnoli, in addition to a reprimand, that disposition was reasonably required by the aggravating facts in that case that the Justice of the Peace had erred in law and ignored binding law and imposed illegal sentences no fewer than 29 times, in 29 different cases over the course of a year. This stands in sharp contrast to the single, brief error in judgment JP Winchester made in a single case in her 7-year career. JP Romagnoli’s legal deficiencies were clearly more widespread across a broader spectrum of cases and issues and so required “additional” education.
		8. Similarly, in Johnston a 7-day suspension without pay was added to a reprimand, however that additional disposition reflected significantly different and more aggravating facts. The first is that Johnston involved two separate, unrelated findings of judicial misconduct concerning different cases at different times. There was a “pattern” of judicial misconduct, a highly aggravating factor. The second is that there is no evidence that -unlike JP Winchester- prior to the Hearing and disposition, JP Johnston experienced any period of de facto suspension by way of a non-presiding order, much less an extraordinarily long (18-month) de facto suspension with significant professional and personal impact. No additional suspension is “necessary” to restore public confidence in the Winchester matter.
		9. It is respectfully submitted that, unlike *Romagnoli* and *Johnston*, there is no necessity to add to the reprimand disposition in the Winchester case: unlike Romagnoli and Johnston, there is in the Winchester case no persistent, repetitive misconduct over a year and/or pattern of judicial misconduct (multiple findings of judicial misconduct). Rather, like the *Chisvin* and *Kowarsky* cases, the isolated, “brief” act of misconduct in the Winchester matter – given the unusual contextual circumstances in which it occurred, given the remedial steps Her Worship has already taken, given Her Worship’s highly positive personal and professional reputation and track record, given her detailed and eloquent initial and current expressions of remorse, shame, regret and acceptance of responsibility, and given the extensive de facto suspension she has already served – may be adequately addressed by a reprimand. The evidence demonstrates that in Presenting Counsel’s words she has “learned her lesson” and that “misconduct of this kind will never be repeated.”

All of which is respectfully submitted this 16th of March 2020.

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 Donald B. Bayne, Counsel for the Applicant

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 Michelle O’Doherty, Counsel for the Applicant

1. *Massiah v. Ontario Justices of the Peace Review Council)*, 2016 ONSC 6191, Presenting Counsel’s Book of Authorities, Tab 4, at paras 34-36, 51. [↑](#footnote-ref-1)
2. *Ibid* at para 27. [↑](#footnote-ref-2)
3. JPRC Tenth Annual Report App A. Case No 26-018/15 at pp. A-35 and A-37. [↑](#footnote-ref-3)
4. *R. v. Sparrow*, [1990] 1 S.C.R. 1075, at para. 66. [↑](#footnote-ref-4)
5. *Reasons for Decision*, February 19 2020, at paras. 50, 54, 56, 59. [↑](#footnote-ref-5)
6. Evidence of JP Louise Rozon,*Transcript of Proceedings*, October 17, 2019, at p.159 l.6 – p.160 l.11. [↑](#footnote-ref-6)
7. Evidence of Marla Belanger, *Transcript of Proceedings*, October 17, 2019, atp.188 ll.14-16. [↑](#footnote-ref-7)
8. Evidence of JP Linda Pearson, *Transcript of Proceedings*, December 4, 2019, atp.41 ll.10-22. [↑](#footnote-ref-8)
9. *Form 1 – Court Reporter’s certificate of Recording – June 27, 2018*, Exhibit 16 of Hearing. [↑](#footnote-ref-9)
10. *Reasons for Decision*, *supra* at footnote 5, at para.47. [↑](#footnote-ref-10)
11. Evidence of JP Linda Pearson, *supra* at footnote 8, at p.45 l.13 - p.51 l.21. [↑](#footnote-ref-11)
12. *Bail Protocol dated November 19, 2019*, Exhibit 14 of Hearing; *Memo addressed to Presiding Justices of the Peace dated November 19, 2009*, Exhibit 15 of Hearing. [↑](#footnote-ref-12)
13. Evidence of JP Claire Winchester, *Transcript of Proceedings*, December 2, 2019, atp.84 l.19 – p.86 l.8. [↑](#footnote-ref-13)
14. Evidence of RSJP Linda Leblanc, *Transcript of Proceedings*, October 17, 2019, atp.108 l.13 – p.111 l.9. [↑](#footnote-ref-14)
15. Exhibit 14 [↑](#footnote-ref-15)
16. *Reasons for Decision*, *supra* at footnote 5, at para 46. [↑](#footnote-ref-16)
17. Evidence of JP Louise Rozon, *supra* at footnote 6, at p.125 ll.5-18; p.147 l.18 - p. 148 l.7; p.155 l.9 – p.158 l. 15. [↑](#footnote-ref-17)
18. “Transcript of June 27, 2018”, *Joint Book of Documents*, Exhibit 4, at p.1 l.1 – p.6 l.32. [↑](#footnote-ref-18)
19. Evidence of JP Louise Rozon, *supra* at footnote 6, at p.167 ll.3-22. [↑](#footnote-ref-19)
20. *Reasons for Decision*, *supra* at footnote 5. [↑](#footnote-ref-20)
21. “Transcript of June 27, 2018,” *supra* at footnote 5, at p.1 ll.11-12, 20-26; p.2 ll.26-32; p.3 ll.10-24. [↑](#footnote-ref-21)
22. Evidence of Marla Belanger, *supra* at footnote 7, at p.179 ll.3-8. [↑](#footnote-ref-22)
23. “Transcript of June 27, 2018,” *supra* at footnote 5. [↑](#footnote-ref-23)
24. “Email,” *Joint Book of Documents* at Tab 11. [↑](#footnote-ref-24)
25. Evidence of JP Louise Rozon, *supra* at footnote 6, at p.161 l.19 – p.162 l.20. [↑](#footnote-ref-25)
26. *Re Baldwin* (OJC, May 10, 2002), Presenting Counsel’s Book of Authorities, Tab 5. [↑](#footnote-ref-26)
27. *Re Chisvin* (OJC, November 26, 2012), Presenting Counsel’s Book of Authorities at para 45. [↑](#footnote-ref-27)
28. Evidence of Marla Belanger, *supra* at footnote 6, at p.195 ll.3-5. [↑](#footnote-ref-28)
29. *Her Worship’s Response dated September 27, 2018,* Exhibit 5A of Hearing. [↑](#footnote-ref-29)
30. Evidence of JP Claire Winchester, *supra* at footnote 13, at p.118 l.23 – p.119 l.5, p.180 ll. 7-11; p.200 l.25- p.201, l.2. [↑](#footnote-ref-30)
31. *Ibid.*  [↑](#footnote-ref-31)
32. *Re Kowarsky*, (JPRC, May 30, 2012), Presenting Counsel’s Book of Authorities, Tab 13, at paras 22-23. [↑](#footnote-ref-32)
33. *Re Chisvin*, *supra* at footnote 27, at paras 3, 4, 41, 45 [↑](#footnote-ref-33)
34. *Re Zabel* (OJC September 11, 2017), Presenting Counsel’s Book of Authorities, Tab 22, at para 61. [↑](#footnote-ref-34)
35. *Re Foulds* (JPRC, April 27, 2018), Presenting Counsel’s Book of Authorities, Tab 11, at paras 39-47; *Re Phillips* (JPRC, October 24, 2013), Presenting Counsel’s Book of Authorities, Tab 17, at paras 1-10, 25; *Re Barroilhet* (JPRC, October 15, 2009), Presenting Counsel’s Book of Authorities, Tab 6, paras 19, 20, 23, 24; Hon. David George Carr, *Report of the Judicial Inquiry re: His Worship Benjamin Sinai* (March 7, 2008), Presenting Counsel’s Book of Authorities, Tab 1, pp.1, 11-12. [↑](#footnote-ref-35)
36. *Curriculum Vitae – Her Worship Claire Winchester*, Exhibit 19 of Hearing. [↑](#footnote-ref-36)
37. Evidence of Marla Belanger *supra* at footnote 7, at p.188 ll.7-16. [↑](#footnote-ref-37)
38. Evidence of JP Linda Pearson, *supra* at footnote 8, at p.32 ll. 14-16; p.33 ll.20-25; p.34 l.4, 17-21; p.37 ll.6-13. [↑](#footnote-ref-38)
39. Evidence of JP Emanuelle Bourbonnais, *Transcript of Proceedings*, December 3, 2019, atp.5 ll.5-7, 20-24; p.6, ll.3-7; p.6 l.25 – p.7 ll.1-3; p.7 l.21 – p.8 l.15; p.10 ll.5-13. [↑](#footnote-ref-39)
40. Evidence of JP Louise Rozon, *supra* at footnote 6, at p.124 l.5-18; p.159 l.6 – p.161 l.11. [↑](#footnote-ref-40)
41. *Letters of Support to Her Worship (Dr. Peter Tropea, Ms. Gail Kaneb and Mr. Tom Kaneb)*, Exhibit 26 of Hearing. [↑](#footnote-ref-41)
42. *Ibid.*  [↑](#footnote-ref-42)
43. *Re Romagnoli* (JPRC, August 29, 2018), Presenting Counsel’s Book of Authorities, Tab 18; *Re Chisvin*, *supra* at footnote 27; *Re Johnston* (JPRC, August 19, 2014), Presenting Counsel’s Book of Authorities, Tab 14; *Re Kowarsky*, *supra* at footnote 32. [↑](#footnote-ref-43)
44. *Re Romagnol*i, *ibid* at paras 7,8,15-25, 29-31, 50-52, 81-82, 84,89. [↑](#footnote-ref-44)
45. *Re Chisvin*, *supra* at footnote 27, at paras 3, 7-29, 39-52. [↑](#footnote-ref-45)
46. *Re Chisvin*, *supra* at footnote 27, at paras 3, 7-29, 39-52. [↑](#footnote-ref-46)
47. *Re Johnson*, *supra* at footnote 43, at pp.1-2, 4-7, 10. [↑](#footnote-ref-47)
48. *Massiah v. Ontario (Justice of the Peace Review Council)*, *supra* at footnote 1, at para 53. [↑](#footnote-ref-48)
49. *Re* *Kowarsky*, *supra* at footnote 32, at paras 3, 9-16, 43. [↑](#footnote-ref-49)
50. *Re Kowarsky*, *supra* at footnote 32, at paras 2, 17-19, 22-30, 34, 36-43. [↑](#footnote-ref-50)