

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, as amended**
Concerning a Complaint about the Conduct of
Justice of the Peace Margot McLeod

Before:

Justice Vincenzo Rondinelli, Chair
Ontario Court of Justice

Justice of the Peace Kristine Diaz,
Ontario Court of Justice

George Nikolov, Community Member

**DECISION ON A REQUEST FOR A RECOMMENDATION FOR
COMPENSATION FOR LEGAL COSTS**

Counsel:

Linda Rothstein and Mannu Chowdhury, Presenting Counsel

Paul D. Stern and Margot Davis, Counsel for Justice of the Peace Margot
McLeod

Introduction

[1] A Complaints Committee of the Justices of the Peace Review Council ordered that a complaint regarding the conduct of Justice of the Peace Margot McLeod be referred to a hearing panel of the Review Council for a formal hearing pursuant to s. 11(15)(c) of the *Justices of the Peace Act*, R.S.O. 1990, c. J.4, as amended (the “Act”). The hearing lasted two days and evidence was led by way of

an Agreed Statement of Facts (“ASF”), a joint book of exhibits, and *viva voce* evidence of two witnesses including Justice of the Peace Margot McLeod.

[2] In reasons dated November 20, 2023, this Panel dismissed the complaint, finding that the first allegation in the Notice of Hearing did not support a finding of judicial misconduct and the two additional allegations were not established on a balance of probabilities.

[3] Justice of the Peace McLeod is now requesting that the Panel make a recommendation to the Attorney General for compensation for the legal costs incurred as a result of the complaints process pursuant to ss. 11.1(17) and (17.1) of the Act.

Background

[4] The complaint in question arose out of a remedial order that was imposed on Justice of the Peace McLeod in a 2021 hearing before the Justice of the Peace Review Council (JPRC). The hearing panel found that Justice of the Peace McLeod engaged in multiple instances of judicial misconduct and imposed various remedial orders, including an order that Justice of the Peace McLeod engage in continued education and mentorship for a period of one year or as determined by the Chief Justice.

[5] The allegations at issue in the present hearing were that Her Worship attended a mentorship session held pursuant to the first hearing panel’s disposition order while impaired by prescription medication; that she presided in bail court

while impaired by prescription medication; and that she engaged in conduct that reflected similar failures that led to findings of misconduct by the first JPRC hearing panel.

[6] The present hearing panel found that the entirety of the evidence adduced in support of the allegations in the Notice of Hearing did not support a finding of judicial misconduct and the complaint was therefore dismissed.

Legal Principles

[7] This Panel has authority under s. 11.1(17) of the *Justices of the Peace Act* to recommend to the Attorney General that Justice of Peace McLeod be compensated for all or part of the cost of legal services incurred in connection with the investigation of the complaint by the complaints committee and in connection with the hearing.

[8] The governing principles on an application for compensation for legal fees were stated by Nordheimer J. (as he then was) on behalf of the Divisional Court in *Massiah v. Justice of the Peace Review Council*, 2016 ONSC 6191, at para. 56:

[A]djudicative bodies, dealing with complaints against judicial office holders, ought to start from the premise that it is always in the best interests of the administration of justice, to ensure that persons, who are subject to such complaints, have the benefit of counsel. Consequently, the costs of ensuring a fair, full and complete process, ought usually to be borne by the public purse, because it is the interests of the public, first and foremost, that are being advanced and maintained through the complaint

process. Again, this reflects the public interest nature of the process.

[9] A hearing panel should also consider if any costs associated with the hearing related to procedural steps that were unmeritorious or unnecessary: see [*Re Bisson*](#) (JPRC 2018), at paras. 58-59.

Submissions of the Parties

[10] In support of the application for a recommendation for compensation, legal counsel for Justice of the Peace McLeod, Mr. Paul Stern, has submitted the account of Stern Landesman Clark LLP and the account of Mr. Eugene Bhattacharya. Mr. Bhattacharya represented Justice of the Peace McLeod at the investigation stage of the complaints process.

[11] Mr. Bhattacharya's account reflects 12 hours of services at a block fee of \$4,000 inclusive of HST and a \$30.00 disbursement. This amount would reflect an hourly rate of \$295. Mr. Bhattacharya's year of call is 1988.

[12] The account of Stern Landesman Clark LLP is for \$99,665.33 inclusive of HST and disbursements. The accompanying statement of account details that Mr. Stern billed 105.3 hours at the hourly rate of \$500, while his associate Margot Davis billed 126.1 hours at the hourly rate of \$275. The statement of account indicates that the total fees for Mr. Stern were \$52,650 and the total fees for Ms. Davis were \$34,677.50. Mr. Stern was called to the Bar in 1980, while Ms. Davis was called to the Bar in 2018.

[13] Section 11.1(18) of the Act states: “The amount of compensation recommended under subsection (17) shall be based on a rate for legal services that does not exceed the maximum rate normally paid by the Government of Ontario for similar services.”

[14] Mr. Stern notes that in the hearing panel’s compensation decision in *Re McLeod* (OJC 2021), the panel identified the following guidelines on the maximum hourly rates that may be charged by Presenting Counsel or counsel for a judge who is subject to a complaint:

Expert/Lead counsel – up to \$450 per hour

Senior Lawyer (9+ yrs) – up to \$350 per hour

Intermediate Lawyer (3-8 yrs) – up to \$275 per hour

Junior Lawyer (up to 3 yrs) – up to \$175 per hour

Student/Law Clerk/Paralegal – up to \$100 per hour

[15] Mr. Stern submits that the source of these guidelines is uncertain, and that these rates appear to be below the prevailing market rate for services where senior counsel is engaged. Mr. Stern asks the Panel to depart from the \$450 limit and to recommend compensation reflecting the \$500 per hour agreed upon rate, having regard to his many years of experience in cases involving allegations of judicial misconduct and the fact that the complaint was dismissed.

[16] Presenting Counsel, Ms. Linda Rothstein, did not take a position on the costs submissions, other than clarifying the issue of the appropriate billing rate of

senior counsel in judicial council proceedings. Presenting Counsel noted that in the compensation decisions in [Re Gibbon](#) (JPRC 2022), at para. 22, and in [Re McLeod](#) (OJC 2021), at para. 6, the hearing panels noted that the maximum hourly rate of senior lead counsel in judicial council proceedings is \$450.

Analysis

[17] In our view, the hearing before this Panel was run professionally and efficiently by counsel on both sides. The hearing was concluded in less than two days, which was less than originally estimated.

[18] The hearing proceeded on the basis of an Agreed Statement of Facts, and the documentary evidence was well organized and filed on consent. There were no unmeritorious or unnecessary motions or procedural steps in the hearing.

[19] The hearing carried significant implications for Justice of the Peace McLeod, given that a previous hearing panel had recently found she had engaged in judicial misconduct. The hearing also had significant implications for public confidence in the administration of justice. As stated in *Massiah*, at para 51: “The principal objective of the complaint process is to restore and maintain public confidence in the integrity of the judiciary”.

Conclusion

[20] The Hearing Panel sees fit to make a recommendation to the Attorney General that Justice of the Peace McLeod be compensated for her legal costs

incurred in relation to the investigation of this complaint and this hearing. Based on our review of the itemized statement of legal fees submitted on behalf of Mr. Bhattacharya and Stern Landesman Clark LLP, these accounts appear reasonable in light of the complexity of the work involved and the significant interests at stake. We do not find any unnecessary costs. However, we are not prepared to depart from the \$450 rate paid to expert/lead counsel for legal fees associated with the judicial complaints process.

[21] For these reasons, this Panel recommends that Justice of the Peace McLeod be compensated in the requested amount of \$4000, inclusive of HST and disbursements, for Mr. Bhattacharya's legal services.

[22] The Panel recommends that Justice of the Peace McLeod be compensated in the amount of \$93,715.99, inclusive of HST and disbursements, for Stern Landesman Clark LLP's legal services. This figure reflects an hourly rate of \$450 for Mr. Stern's legal fees.

[23] Mr. Stern is directed to file with the Registrar an amended statement of account reflecting an hourly rate of \$450 for his legal fees.

[24] We wish to thank counsel for their professionalism and able assistance throughout the hearing process.

Released: this 23 day of January, 2024

HEARING PANEL:

Justice Vincenzo Rondinelli, Chair

Justice of the Peace Kristine Diaz, Justice of the Peace Member

George Nikolov, Community Member