7.2.

Truus Souman

From: Paul Conway
Sent: March-22-16 8:17 AM
To: ADRIC - Mena Sestito; Truus Souman; Nancy Flatters
Cc: Tammy Borowiecki; Jocelyn Christian; Jennifer Warren; Stan Galbraith; ADRIC - Janet McKay; Siemens, Scott
Subject: RE: Chartered Arbitrator Waiver for Retired Judges

Follow Up Flag: Follow up
Flag Status: Flagged

Thanks you Mena. We will await further feedback.

Nancy - FYI. I believe you should still submit your designation application(s) this month while we seek clarification on the issue. Your thoughts on the views expressed below are welcome.

Truus - Please add to our own Board agenda as an info item for April, and distribute this email chain to the to the ADC for info and/or comment.
Please track the issue until we have a definitive answer from ADRIC

Paul Conway | ***Executive Director***
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From: ADRIC - Mena Sestito [mailto:mena@adric.ca]
Sent: March-22-16 7:56 AM
To: Paul Conway
Subject: FW: Chartered Arbitrator Waiver for Retired Judges
Importance: High

Hi Paul... I'm afraid we don't have a definitive answer yet to your question about a waiver (education and experience) for retired judges at the provincial level. The matter is on the Agenda for the next board of directors meeting. I will let you know the outcome after this meeting.

In the meantime, here are the responses/comments (below) from the various members of the National Audit and Appeal Committee, for your information.

Thank you for your patience.

Mena

From: bceffler@mymts.net [mailto:bceffler@mymts.net]
Sent: Monday, March 21, 2016 10:59 PM
To: Glen Bell
Cc: Guy G. Couturier; ADRIC - Mena Sestito; Stephen' 'Antle; Michael Erdle; rm@robertmasson.ca;

JMusgrave@coxandpalmer.com; ADRIC - Janet McKay; barry.effler@outlook.com
Subject: Re: Chartered Arbitrator Waiver for Retired Judges

Hello all,

My apologies for not responding earlier. I lost access to this email account a couple of months ago with a change in providers. Finally got it back today.

The comments of Glen Bell are accurate. The related reason was that provincial court jurisdictions vary across the provinces. In Manitoba as an example, the provincial judges are solely criminal court jurisdiction.

Each of the provincial reviewing accreditation committees may use the other waiver provisions to respond to individual applications where the relevant experience relates to arbitration.

my understanding is that this committee may recommend amendments to standards. In the end, the decision belongs to the Board of Directors.

If possible, please send future messages to me at

barry.effler@outlook.com

Barry Effler

From: "Glen Bell" <glen.w.bell@shaw.ca>
To: "Guy G. Couturier" <ggcouturier@nb.aibn.com>, "ADRIC - Mena Sestito" <mena@adric.ca>, "Stephen' 'Antle" <SAntle@blg.com>
Cc: bceffler@mts.net, "Michael Erdle" <michael.erdle@practicalresolutions.ca>, rm@robertmasson.ca, JMusgrave@coxandpalmer.com, "ADRIC - Janet McKay" <janetmckay@adric.ca>
Sent: Monday, March 14, 2016 11:18:22 AM
Subject: RE: Chartered Arbitrator Waiver for Retired Judges

The reason the automatic exemption does not apply to provincial court judges is that the standards for appointment to a provincial court bench are not consistent across the ten provinces. Some members of the committee with experience in provincial court were concerned that some unqualified ex-judges could be granted the designation. Provincial court judges may nevertheless apply for C.Arb. designation under the general waiver for equivalent experience.

Glen W. Bell, C.Arb.
Arbitrator ~ Mediator

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From: Guy G. Couturier [mailto:ggcouturier@nb.aibn.com]
Sent: March 4, 2016 8:29 AM
To: 'ADRIC - Mena Sestito' <mena@adric.ca>; 'Antle, Stephen' <SAntle@blg.com>
Cc: glen.w.bell@shaw.ca; bceffler@mts.net; 'Michael Erdle' <michael.erdle@practicalresolutions.ca>;

rm@robertmasson.ca; JMusgrave@coxandpalmer.com; 'ADRIC - Janet McKay' <janetmckay@adric.ca>
Subject: RE: Chartered Arbitrator Waiver for Retired Judges

Good afternoon everyone,

I apologize for my tardiness. As I was not a party to the initial discussions, I prefer not to comment on the existing standards, or how and why they came to be. Nevertheless, I do agree with Stephen's perspective on the issue.

Best Regards

Guy

From: ADRIC - Mena Sestito [mailto:mena@adric.ca]
Sent: March-03-16 2:12 PM
To: Antle, Stephen
Cc: glen.w.bell@shaw.ca; ggcouturier@nb.aibn.com; bceffler@mts.net; Michael Erdle; rm@robertmasson.ca; JMusgrave@coxandpalmer.com; ADRIC - Janet McKay
Subject: RE: Chartered Arbitrator Waiver for Retired Judges

Thank you, Stephen. I agree. Let's wait for a decision until we receive comments from the other committee members.
Cheers,
Mena

From: Antle, Stephen [mailto:SAntle@blg.com]
Sent: Thursday, March 03, 2016 11:45 AM
To: ADRIC - Mena Sestito
Cc: glen.w.bell@shaw.ca; ggcouturier@nb.aibn.com; bceffler@mts.net; Michael Erdle; rm@robertmasson.ca; JMusgrave@coxandpalmer.com; ADRIC - Janet McKay
Subject: RE: Chartered Arbitrator Waiver for Retired Judges

Mina:

Short answer: I don't know.

I recall some debate some time ago (presumably in 2012 when the C.Arb. principles, criteria, protocol and competencies were approved by ADRIC's board of directors) about whether regional committees should have the option of waiving the education and practical experience criteria for retired judges at all, but not about provincial vs. superior court judges.

My personal view, which I expressed at the time, is that arbitration and litigation are so different that experience as a judge is irrelevant to competence as an arbitrator, and so the regional committees should not have this option, for any retired judges. I think that's almost too obvious for words. But the board obviously disagreed.

Given the regional committees do have this option, I can't think of a principled reason it shouldn't apply to retired provincial court judges as well as superior court judges.

I'm new to this chair gig, so I'm not sure how to proceed. Does this committee have any authority to change the principles etc.? Or is that for the board, on our recommendation?

I suggest the other committee members share their views by email. Let's see where it makes sense to go from there.

Stephen

From: ADRIC - Mena Sestito [mailto:mena@adric.ca]
Sent: March-03-16 7:25 AM
To: Antle, Stephen; glen.w.bell@shaw.ca; ggcouturier@nb.aibn.com; bceffler@mts.net; Michael Erdle; rm@robertmasson.ca; JMusgrave@coxandpalmer.com
Cc: ADRIC - Janet McKay
Subject: Chartered Arbitrator Waiver for Retired Judges
Importance: High

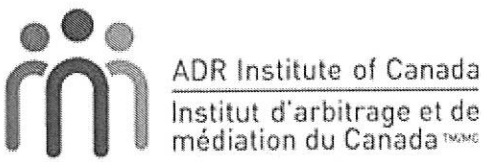
TO:
Arbitration Designations Standards, Audits, Appeals & CEE
Chair: **Stephen Antle** ; Glen Bell, BC ; Guy Couturier, Atlantic ; Barry Effler, MB ; Michael Erdle, ON; Robert Masson, QC; Jim Musgrave, Atlantic

Dear Members of the Arbitration Designation Standards Committee:

There has been an inquiry about the C.Arb criteria from an Alberta Member who is a retired provincial court judge. She is questioning the educational and practical experience waiver for retired judges (**C.Arb Criteria..., Section C. Waiver - last paragraph).** According to our criteria, the accreditation committee will waive the educational and practical experience requirements for a **retired justice of a superior court or higher.** She is asking why the waiver is not inclusive of provincial court judges. Paul Conway, ADR Alberta's E.D. is also seeking clarification.

Thank you very much for taking the time to respond to this inquiry.

Mena Sestito
Manager, Membership, Accreditations & Arbitration Admin /
Directrice, Adhésions, accréditations et administration des arbitrages



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From: Paul Conway
Sent: March-02-16 11:53 AM
To: 'ADRIC - Mena Sestito'; 'ADRIC - Janet McKay'; 'Nancy Flatters'; Tammy Borowiecki
Cc: Truus Souman
Subject: RE: Designation application forms + waiver

Let me check Nancy - I don't think ADRIC intended to make such a distinction.

Mena/Janet/Tammy - can you clarify this issue for us?

Paul Conway | ***Executive Director***

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From: Nancy Flatters [mailto:nancy.flatters@shaw.ca]
Sent: March-02-16 11:19 AM
To: Truus Souman; Paul Conway
Subject: RE: Designation application forms + waiver
Importance: High

Dear Paul and Truus:

I have reviewed the waiver form for the judiciary and it speaks to only superior court judges and not provincial court judges. I am surprised it is not inclusive of the Provincial Court. On this basis as a retired Judge, I am ineligible to apply for the waiver.

Can you help me understand this distinction please.

Thanks.

Nancy Flatters
Retired Judge

From: Truus Souman [mailto:membership@adralberta.com]
Sent: February 25, 2016 1:29 PM
To: nancy.flatters@shaw.ca
Subject: Designation application forms + waiver

Good afternoon Nancy,

Nice talking to you!

Please see attached the forms requested.

With kind regards,

Truus Souman | *Executive & Membership Coordinator (part-time)*

ADR Institute of Alberta

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- Encouraging those practicing ADR to join our organization
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