

THE HONOURABLE MR. JUSTICE ROBERT N. BEAUDOIN
SUPERIOR COURT OF JUSTICE

COURT HOUSE
161 ELGIN STREET
OTTAWA, ONTARIO K2P 2K1



L'HONORABLE JUGE ROBERT N. BEAUDOIN
COUR SUPÉRIEURE DE JUSTICE

PALAIS DE JUSTICE
161, RUE ELGIN
OTTAWA (ONTARIO) K2P 2K1

October 28, 2011

Dr. Denis Rancourt

Dear Sir:

Re. Systemic abuse of the *Rules of Procedure*, Ottawa Registrar

Your letter of October 24, 2011 addressed to the Regional Senior Justice Hackland has been directed to me for reply as the administrative judge for civil matters in Ottawa. In your letter you indicate that the Registrar directed you to contact the office of the Regional Senior Judge with respect to your complaint.

Insofar as your letter complains about the responsibilities of the counter staff in the Registrar's office, you should understand that these staff do not report to the judiciary and they are under the management and supervision of Ms. Josée Boulianne, Manager, Court Operations.

Having said that, counter staff have a limited role in enforcing the *Rules of Civil Procedure*. There are very few rules that authorize the Registrar to refuse the filing of a document. Generally the enforcement of an applicable rule such as rule 37.10(1) is generally left to the parties who can raise the issue before the presiding judge or master who has the ultimate discretion to deal with the issue. As judges and masters are independent in the exercise of their discretion, there is no authority for the Regional Senior Justice or myself to interfere in that exercise of that discretion.

I draw your attention to rule 1.04(1) which provides that the *Rules of Civil Procedure* "shall be liberally construed to secure the just, most expeditious and least expensive determination of every civil proceeding on its merits" and more particularly I refer you to rule 2.01(1) which specifically addresses the effect of non-compliance with the rules. That section provides:

2.01 (1) A failure to comply with these rules is an irregularity and does not render a proceeding or a step, document or order in a proceeding a nullity, and the court,

(a) may grant all necessary amendments or other relief, on such terms as are just, to secure the just determination of the real matters in dispute; or

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(b) only where and as necessary in the interest of justice, may set aside the proceeding or a step, document or order in the proceeding in whole or in part.

The motion confirmation rules are generally regarded as an administrative tool that allows the Registrar's staff to prepare the motion materials for hearing. It is ultimately in the discretion of the presiding judge or master if he or she wishes to proceed with the motion if rule 37.10(1) has not been complied with.

Yours truly,

Mr. Justice Robert N. Beaudoin

c.c. Regional Senior Justice Charles T. Hackland
Josée Boulianne, Manager, Court Operations

RNB/sm