

Federal Court

Cour fédérale



Law Clerkship Program at the Federal Courts

2026-2027



Disclaimer | Avertissement

The views and opinions expressed in this presentation are those of the speaker and do not necessarily reflect the views or positions of the Federal Court.

Les points de vue et les opinions exprimés dans cette présentation sont ceux de l'orateur et ne reflètent pas nécessairement les points de vue ou les positions de la Cour fédérale.



OVERVIEW

1. Jurisdiction

- a) Federal Court (FC)
- b) Federal Court of Appeal (FCA)
- c) Court Martial Appeal Court of Canada (CMACC)

2. Composition of the Court

- a) Federal Court (FC)
- b) Federal Court of Appeal (FCA)

3. Law Clerkship Program



ANNO TRICESIMO ET TRICESIMO-PRIMO

VICTORIÆ REGINÆ.

CAP. III.

An Act for the Union of Canada, Nova Scotia, and New Brunswick, and the Government thereof; and for Purposes connected therewith.

[29th March 1867.]

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom :

101 The Parliament of Canada may, notwithstanding anything in this Act, from Time to Time provide for the Constitution, Maintenance, and Organization of a General Court of Appeal for Canada, and for the Establishment of any **additional Courts for the better Administration of the Laws of Canada.**

101 Le parlement du Canada pourra, nonobstant toute disposition contraire énoncée dans la présente loi, lorsque l'occasion le requerra, adopter des mesures à l'effet de créer, maintenir et organiser une cour générale d'appel pour le Canada, et établir **des tribunaux additionnels pour la meilleure administration des lois du Canada.**



The Exchequer Court (1875)

- Maritime law
- Intellectual property
- Claims against the Crown



The Federal Court (1971)

- Centralized judicial review of decisions made by federal agencies
- Uniform case law
- National court in certain areas of private law



1.a) Jurisdiction – FC

- The FC hears and decides issues across the federal landscape
- The FC regularly conducts hearings and renders decisions in disputes across the country
- Registry offices are conveniently located in all major cities
- Orders of the Court are binding in every province and territory, thus providing efficient, national coverage



1.a) Jurisdiction – FC

- Unlike Superior Courts established by provinces, the FC does not have inherent, general jurisdiction. For the FC to have authority to hear a given subject matter:
 - That subject matter must be assigned to Parliament under the Constitution
 - There must be actual, existing and applicable federal law
 - The administration of that law must have been conferred upon the FC
- This test is referred to as the « ITO test » after the case of *ITO-Int. Terminal Operators Ltd. v Miida Electronics Inc.* [1986] 1 S.C.R. 752



1.a) Jurisdiction – FC

- Conferred by the *Federal Courts Act* and, at present, close to a hundred other applicable federal statutes
- Court has the authority to hear and decide cases in a number of broad categories, including:
 - National Security
 - Review of Federal Government Decisions
 - Claims Involving the Federal Crown
 - First Nations
 - Intellectual Property
 - Admiralty Disputes



1.a) Jurisdiction – FC

a) National Security

- The FC reviews:
 - Security certificates
 - Warrant requests
 - Applications regarding the public disclosure of evidence



1.a) Jurisdiction – FC

b) Review of Federal Government Decisions

- The FC reviews the legality of actions of most federal offices, boards, commissions and tribunals
- Most government decisions at the federal level may be challenged in the FC, including decisions regarding immigration and refugee matters :
 - Immigration and Refugee Board (IRB) – Immigration Division and Immigration Appeal Division
 - IRB Refugee Appeal Division (refugee leave applications, motions to stay a removal, deportation or release Order; application for non-disclosure; referral of certificate)
 - Pre-Removal Risk Assessment
 - Other decisions arising within and outside of Canada – Citizenship and Immigration Canada
 - Canada Border Services Agency – Minister of Citizenship and Immigration, etc.



1.a) Jurisdiction – FC

b) Review of Federal Government Decisions (continued)

Elections

Official languages

Access to Information

Privacy

Passports

Prisoners in federal institutions

War veterans

*Canadian Charter of Rights and
Freedoms*

Environmental impact assessment

Public works

National defence

Public service employment

Aeronautics and transportation

Oceans and fisheries



1.a) Jurisdiction – FC

c) Claims Involving the Federal Crown

- First Nations' claims regarding Aboriginal and treaty rights
- Contractual disputes relating to the provision of goods and services to the federal government
- Civil liability claims for injury by agents of the federal government
- Judicial review of conduct and decisions of federal bodies and tribunals that affect First Nations, Métis and Inuit
- Judicial review of First Nations decision-making bodies, in particular elections tribunal



1.a) Jurisdiction – FC

e) Intellectual Property

- The FC has extensive jurisdiction to resolve disputes regarding intellectual property rights, including:
 - Copyright
 - Industrial design
 - Integrated circuits
 - Patents and patented medicines
 - Trademarks

f) Admiralty Disputes

- Navigation
- Shipping



1.b) Jurisdiction – FCA

- The FCA hears appeals of decisions of the FC
- Tax: appeals of decisions of the Tax Court of Canada
- Judicial Review: applications for judicial review of decisions from federal offices listed in section 28 of the *Federal Courts' Act* (CRTC, National Energy Board, Competition Tribunal, Social Security Tribunal, to name but a few)
- Immigration: only when a question has been certified in FC; in practice, this means few immigration cases



1.c) Jurisdiction – CMAACC

- CMAACC's main function is to hear appeals from Courts Martial, which are military courts established under the *National Defence Act* (NDA)
- The Courts Martial have jurisdiction to try military personnel and civilians accompanying them abroad for crimes and offences against the *Code of Service Discipline* in the NDA
- The CMAACC essentially performs the function and status of a provincial Superior Court of appellate criminal jurisdiction

2.a) Composition of the Court - FC

- 1 Chief Justice, 1 Associate Chief Justice (vacant), 37 other full-time judges, 4 supernumerary judges, 9 associate judges and 1 supernumerary associate judge from across the country
- Itinerant Court – based in Ottawa, but cases are heard across country
- In Ottawa, the Court is located at 90 Sparks Street
- 1 law clerk per judge, except for supernumerary judges who share the services of clerks
- 3 law clerks provide assistance to all associate judges





2.b) Composition of the Court - FCA

- 1 Chief Justice, 13 full-time judges plus 4 supernumerary judges
- Panel of 3 judges for almost all hearings
- Appeals from FCA go to SCC (by leave)
- 1 law clerk per judge



3. Law Clerkship Program

- Only one clerkship application required for the 3 Federal Courts
- Please refer to the Courts' websites for more information about the clerkship program
- 2026-2027 clerkship: the 3 Courts will hire 62 law clerks in total:
 - **17** for FCA
 - **44** for FC
 - **1** for CMAACC





3. Law Clerkship Program

- The work of law clerks involves:
 - Researching specific legal issues
 - Preparing bench memoranda on court files
 - Attending hearings
 - Editing draft judgments
 - Assisting in the preparation of speeches or papers for judges



3. Law Clerkship Program

Qualities of a Law Clerk

- Excellent legal research and analytical skills
- Thoroughness
- Judgment
- Good writing skills
- Initiative
- Detail-oriented
- Reliability
- Bilingualism is a condition of employment for certain positions (related to judges who hear cases in both official languages)



3. Law Clerkship Program

Experience

- One-on-one relationship for one year with judges; most judges have 20 – 30 years of experience
- Opportunity to work with different judges and associate judges on files
- Fulfills articling requirements for Ontario and Québec (for the other jurisdictions, please verify with your law society)
- Opportunity to attend and benefit from:
 - Training sessions provided by judges and associate judges
 - A broad range of professional activities : Speakers Series for clerks, Exchequer Cup, hiring events and social activities with judges
 - Team work and collegiality amongst clerks from all over the country





3. Law Clerkship Program

The Exchequer Cup





3. Law Clerkship Program

Application Deadline

- 2025-2026 clerkship year: the hiring process is completed
- 2026-2027 clerkship year:
 - Applications must be submitted via the online portal (refer to the FCA, FC or CMAACC websites)
 - Online portal will be available as of **November 25, 2024**
 - Applications must be submitted by **January 14, 2025**

3. Law Clerkship Program

Interviews

- Interviews usually start in February and end in March or April
- Interviews are conducted by judges and associate judges via videoconferencing or in person





3. Law Clerkship Program

The current salary is \$76,415 per annum

Benefits

- Lump sum allowance to cover relocation and expenses
- Dental Plan (premiums presently covered by employer)
- Public Service Health Care Plan (optional - employee and employer contribute)
- Long Term Disability Insurance (mandatory)
- Death Benefits (mandatory)
- Superannuation Plan (mandatory)
- 3 weeks of vacation (15 days) and 2 personal/volunteer days per fiscal year
- Sick leave: According to the LP Collective Agreement



3. Law Clerkship Program

Recommended courses

- Administrative law
- Immigration / Refugee law
- Maritime law
- Intellectual Property
- Human Rights law
- Environmental law
- Indigenous / Aboriginal law
- National Security law
- A course on evidence is highly recommended



- For more information, please contact **Me Mylène Tremblay**, Director and Executive Legal Counsel of the Law Clerkship Program, Federal Court:

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- Visit our **websites**:

www.fca-caf.gc.ca

www.fct-cf.gc.ca

www.cmac-cacm.ca



Promotional Video

