

The Family Lawyers Association agrees that all individuals involved in our family justice system should have easy access to justice together with competent legal representation when dealing with the important issues affecting themselves and their families. However, we do not believe that the recommendations made in Justice Bonkalo's report, Family Legal Service Review, will in fact result in an increase to access to justice for the majority of the self represented and unrepresented litigants.

It is firstly, very important to distinguish between the unrepresented litigants, those who cannot afford legal representation or do not qualify for legal aid and the self-represented litigants who choose to represent themselves because they wish to. This distinction is ignored in the report. Statistical distinction between the two groups is needed in order to provide the best suited remedy, especially given that, 54% of litigants (without the representation of counsel) did not report affordability or not qualifying for legal aid as a reason for not retaining a lawyer. Allowing for the presumably less costly option of paralegal representation in court will not remedy a problem that is not founded on an inability to afford counsel. The report does not recognize there being any other reason for the lack of counsel other than the inability to afford counsel. The issue of self represented litigants choosing to represent themselves is a lot more complex and not easily solved by simply providing a reduction in a representative's hourly rates. The issue needs to be further examined in order to be fully addressed.

For the 46% of unrepresented litigants who have stated that their lack of representation is a direct result of not being able to afford a lawyer or qualifying for legal aid, there is no empirical evidence that paralegals would be an affordable alternative given that 40% of these litigants earn less than \$30,000.00 a year. The report recognizes that for many unrepresented litigants, hiring a paralegal as an alternative to a lawyer will not be an affordable option but that paralegals will at least provide a greater choice of legal service providers for those in the middle class. Unfortunately, given that over 50% of unrepresented litigants earn well below a middle class income these recommendation will not be a realistic option for more than half of unrepresented litigants. It is this half, the most vulnerable, that will be left without a viable solution to their access to justice issue. If the report's recommendations are implemented it will ultimately result in a three tier justice system in which those litigants who can afford lawyers will continue to do so, those litigants who qualify for LAO will continue to be represented by lawyers, and those who cannot afford paralegals or lawyers will continue to go on without any representation.

Without adequate funding for LAO the most vulnerable, unrepresented litigant earning between \$22, 000.00- \$30,000.00, are left to venture on their own. LAO typically spends an average of \$3,000.00 per family law case and it is highly unlikely that paralegals will be able to provide unrepresented litigants with the same services for less. This is why Contribution Certificates

would be a realistic option for those earning \$22, 000.00- \$30,000.00 to obtain counsel and without necessarily having to drastically increase funding to LAO.

It is the Family Lawyers Association's position that the recommendations in this report will do nothing to further the issue of access to justice for the overwhelming majority of self-represented and unrepresented litigants and at the same time place in jeopardy the rights of the few unrepresented litigants who could afford to retain a paralegal's services.

The Family Lawyers Association will be commenting more fully on the recommendations in this report at a later date.