May 15, 2017

VIA EMAIL: commentsFLSR@lsuc.on.ca

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Treasurer
Law Society of Upper Canada
Osgoode Hall
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Mr. Howard Goldblatt
Chair, Access to Justice Committee
Law Society of Upper Canada
Osgoode Hall
130 Queen Street West
Toronto, ON M5H 2N6

Dear Treasurer and Mr. Goldblatt:

RE: Family Legal Services Review Report

The Advocates' Society was founded in 1963 and is a not-for-profit association of over 5,700 lawyers across Canada. The mandate of The Advocates' Society includes, among other things, making submissions to governments and other entities on matters that affect access to justice, the administration of justice and the practice of law by advocates.

The Advocates' Society has been a leader in family law access to justice and reform. Our members include many lawyers practising in the area of family law at all levels of court and with a diverse client base. They take a keen interest in the intersection of access to justice issues and family justice. Over the last decade The Advocates' Society has played an ever-increasing role in family law thought leadership. We led a lengthy cross-province grassroots discussion about family law reform which eventually resulted in the publication of the *Family Justice Reform Project* paper. Our board of directors and members have spearheaded the development of court-based *pro bono* programs for family litigants, family law security reform and many other significant projects including, of course, leading the way in the advocacy for a Unified Family Court in all jurisdictions across Ontario.

In April 2016, The Advocates' Society made written submissions to The Honourable Annemarie E. Bonkalo during the public consultation entitled "Expanding Legal Services Options for Ontario Families" (our "April 2016 Submission") and provided supplementary submissions to Justice Bonkalo in July 2016 (our "July 2016 Submission"). We attach our April 2016 and July

2016 Submissions to this letter. Members of the Task Force established to respond to this consultation also attended an in-person meeting with Justice Bonkalo in May 2016.

The Advocates' Society has reviewed Justice Bonkalo's Family Legal Services Review Report (the "Report") and the recommendations therein with both interest and, in some cases, concern.

The Advocates' Society supports some of the recommendations in the Report which could effectively improve access to justice in family law. However, as articulated in our April 2016 Submission, The Advocates' Society remains very concerned with the recommendations in the Report suggesting that paralegals be permitted to provide family law services and legal advice independently, without being supervised by a lawyer. The stated intention of the recommendations in the Report is to increase access to justice, particularly for members of marginalized communities who have difficulty affording legal services. However, allowing unsupervised paralegals to provide family law legal advice and court representation actually risks harming members of these communities the most.

This letter will first address the recommendations dealing with paralegals. We will then comment on the recommendations dealing with unbundled legal services, legal coaching, students and court staff. Finally, we will reiterate the need to focus resources on the expansion of the Unified Family Court, which in The Advocates' Society's view continues to offer real and meaningful increased access to family justice in Ontario, and will provide a platform for ongoing improvements.

The scope of paralegal practice should not be extended to the unsupervised practice of family law

With respect to **Recommendation 4** in the Report, The Advocates' Society submits that any specialized licence for paralegals to provide specified legal services in family law should be granted only if the paralegal were to provide these services ***under the supervision of a lawyer***. A lawyer must retain ultimate responsibility and accountability for the services provided by a paralegal.

Recommendations 5 and 6, which outline the services it is proposed that paralegals could potentially provide in specific areas of family law, raise a number of issues. **Recommendation 5** appears to intend to expand paralegals' scope of practice to "simple" family law matters, while leaving more "complex" matters to lawyers. **Recommendation 6** would limit the services paralegals provide to those not involving court appearances at trial. However, there are serious flaws with the rationale allegedly supporting both of these recommendations:

- One of the stated reasons for these Recommendations is that allowing paralegals to provide family law services will reduce the number of self-represented litigants, who are often unsuccessful before the courts. However:
    - The Report does not distinguish between litigants who are self-represented and those who are unrepresented (see Part 1, Section 1(c)(ii)). While studies cited in the report indicate that a large number of "self-represented litigants" (used interchangeably with unrepresented litigants) do not retain legal representatives because of cost considerations, many unrepresented litigants do not have a legal

representative because they *choose* not to have one, regardless of whether they could afford one. These individuals would not likely avail themselves of the services provided by paralegals. In addition, there is no evidence in the Report that those self-represented litigants who cannot currently afford legal representation would, in fact, be able or willing to pay for the services of paralegals even if they did charge lower rates (which, as we will discuss, they may not).

- The applicability of the study conducted by Loom Analytics, referred to at Part 1, Section 2(a) of the Report, is tenuous. We have learned from Loom Analytics that the study included only tort and contract cases. ***Family law cases were specifically excluded from the data***. In addition, we have learned that the methodology used by Loom Analytics classified a "loss" as "an outcome where a party has had no measure of success" and a "win" as "an outcome where a party has achieved a full measure of success". These definitions risk understating "wins" and overstating "losses, as a "loss" would encompass a self-represented party's claim for relief to which he or she is not at all entitled.

- The rationale in the Report for paralegals to provide unsupervised services is that paralegals would be less expensive than lawyers. However, as we noted in our April 2016 Submission, some paralegals' rates can be as high as those charged by lawyers. Our members have reported that they regularly see paralegals and law clerks billing at rates in excess of $75 to $100 per hour and upwards of $250 per hour, with some charging even higher rates for overtime work. In contrast, some junior lawyers charge as little as $100 to $200 per hour. As we noted in our July 2016 Submission, a study of paralegals in the residential tenancies context showed that paralegals did not provide more affordable or accessible legal services to tenants and, instead, were largely employed by landlords, and in particular by corporate landlords.

- The Report recommends that paralegals be permitted to provide legal services in custody and access cases, but not in cases involving property. The suggestion that paralegals can divide children, but not bank accounts, is illogical. In an interview with the *Toronto Star*, The Honourable Marion Cohen of the Ontario Court of Justice shared the perspective of one of her colleagues who said "Paralegals can't assist on the question of who gets the Rolex, but they can assist on who gets the kids?" ("Paralegals in family courts 'not the solution,' Toronto judge says", Jacques Gallant, *Toronto Star*, March 14, 2017). Issues relating to custody, access and parenting (including issues of sole/joint custody; parallel parenting; parenting schedules; the sometimes strategic interplay between parenting, child support and spousal support; and jurisdiction (inter-province and international)) are *inherently* complex and require a sensitive and nuanced understanding of the interplay of family dynamics and the law. In addition, it is the rare case that only involves property or only involves support or only involves children. Just as families are diverse, so are the legal issues when disputes arise after relationships break down. The average family law matter involves a combination of legal issues.

- It is not clear what would constitute a "simple divorce without property". Sometimes, even a "simple" divorce (assumed to be a claim for divorce only without an attached claim for corollary relief) can be incredibly complicated, as is the case with a divorce

obtained in a foreign jurisdiction. A divorce in a foreign jurisdiction precludes a former spouse from ever obtaining spousal support in Ontario. This can have a devastating impact on some former spouses and disproportionately affects marginalized groups including women and new Canadians.

- At the outset of a case, it is impossible to predict whether it will be "simple" or "complex". It is also not accurate to say that the sole difference between a "simple" and "complex" child support case is the presence of discretionary income determinations, as the Report appears to suggest. Sometimes even apparently "simple" child support cases involving a payor earning regular employment income can be complicated by tax issues (spousal support is taxable and child support is not, leading to sometimes complex calculations), retroactive support issues (again, involving considerations of retroactive tax issues and various after-tax credits and debits), periodic or lump sum support considerations (also taxed differently), and varying amounts of support depending on the age of children and how much they live in each household. Since any one of the foregoing considerations involves a whole body of substantive caselaw that is continuing to evolve, it is fallacious to suggest that a category of cases could be called "simple child support cases."

- Even if there were a principled method to delineate "simple" and "complex" child support cases, a case could easily, and quickly, move from a "simple" to a "complex" one if more information were to come to light in the course of the case. Based on **Recommendation 5**, such a transformation would take a "simple" case outside of the scope of a paralegal's practice. This would leave the litigant with three options: transfer the case to a lawyer and incur additional fees to allow a lawyer to familiarize him or herself with a file (fees which would not have been incurred if the lawyer had taken the file from the outset); become self-represented (which is contrary to the spirit of the Report); or abandon the "complex" child support issue entirely in order to retain a paralegal's services. None of these options is desirable or "improves access to family justice".

- The reality is, despite the "simple" and "complex" terminology used in the Report, support cases can be, and often are, challenging at all income levels – and cases involving low-income families can be among the most challenging. Support payors often argue that their incomes are lower than alleged or have complex structures or strategies by which they receive non-monetary benefits or business profits. Some payors have complicated compensation structures. For example, a tradesman who takes cash or barter for services, or a plumber who owns his or her own company and deducts personal expenses, or an electrician whose payroll includes non arms-length parties, will have compensation structures that are not straightforward and require close scrutiny. But any one of them might appear "simple" at the outset. Some payors receive regular, semi-regular, or irregular sums of money from family members. Some payors and/or recipients and/or dependent children are in receipt of Ontario Disability Support Program payments, which significantly complicates child support issues. Many payors unreasonably deduct expenses in calculating income for support purposes. Calculating income for these payors is not easy and requires a thorough understanding of the relevant legal principles and substantive case law.

- The implication in the Report is that the family law issues faced by economically disadvantaged people are somehow "simpler" than those faced by clients who have

property. A two-tiered system would be created where those with more financial resources would receive legal services from lawyers and those with few resources would receive legal services from paralegals. This creates the unacceptable impression that those with fewer resources do not have legal issues that warrant the assistance of a lawyer.

- The reality is that family law is never simple. More than any other area of law, family law regularly intersects with a wide range of legal fields, including tax law, immigration law, trust law, wills/estates law, real estate law, employment law, corporate law, criminal law, tort law, contract law, private international law, child protection law, the law of evidence, and laws regarding domestic violence. Family lawyers must help their clients navigate these interrelated issues. Even seemingly straightforward matters, such as uncontested divorces, can have serious ramifications.

- The cost for uncontested divorces (which would presumably fall under "simple divorces") suggested in the Report appears to be inflated. An internet search shows that many lawyers provide services for uncontested divorces at rates that range from $199 to $500. Many firms provide uncontested divorces for flat fees in addition to the federal and provincial filing fees, which in Ontario currently total just shy of $500 for an "over the counter" divorce. It is difficult to understand the justification for delegating these family law services to paralegals.

- **Recommendation 6** expressly prohibits a paralegal from representing a client at a trial. However, this recommendation provides that a paralegal could perform several "forms-related tasks", including completing court-approved forms on the client's behalf and advising a client on how to complete a form. This recommendation also provides that a paralegal could "select, draft, complete or revise, or assist in the selection, drafting, completion or revision of, a document for use in a proceeding".

- While the Report refers to "forms" and "other documents" in a fashion that makes them sound like simple items, the Report is actually referring to formal court pleadings which now take the form of partially-standard forms that are available to the public. However, it is important to note that these are not simple forms comparable to, for example, a medical questionnaire which one might complete before seeing a physician. These "forms" are *the pleadings in the case* – the Application, Answer, Reply, Affidavits and Financial Statements. And only parts of the Forms are standardized. The content of most of these documents is required to be sworn, which speaks to their seriousness and significance. The content may also have permanent effects on the case, particularly when allegations and admissions are made (which is almost always). The consequences of faulty or incompetent pleadings may be permanent. "Drafting pleadings" is not the same as "filling out forms." It is difficult to see how concerns about paralegals representing litigants in court at a trial would not manifest themselves in the preparation of the very documents to be used at that trial. Pleadings must be drafted with the trial in mind, with full knowledge of the material facts required to support or respond to a legal claim.

- It is simplistic to suggest that paralegals can simply "run" with the case until trial, and then hand the matter to a lawyer for trial. As with most areas of family law, preparation

and strategizing for a possible trial begins with the very first client intake meeting and carries through the preparation of pleadings, disclosure, and interim proceedings. Many lawyers will not want to take a matter in which they have not been involved to trial – and a client that has a previously uninvolved lawyer taking the trial will be inherently disadvantaged.

- The Advocates' Society found the recommendation that paralegals be permitted to represent clients in court (even outside of a trial setting) to be particularly surprising given what unfolded during the consultation process. Members of The Advocates' Society's Task Force, and representatives from other organizations (including the Ontario Bar Association), met with Justice Bonkalo in the spring of 2016 after having provided our April 2016 Submission. At that time, Justice Bonkalo indicated that she would not be recommending that paralegals represent clients before the courts and that she did not need to hear submissions on the issue. As a result, none of the stakeholder groups were even offered an opportunity to address the issue.

Recommendations 7 through 10 speak to the type of education, training and insurance that it is suggested paralegals should have in order to provide unsupervised family law services. As emphasized above, The Advocates' Society does not believe that it is in the best interest of the spouses and children we serve to receive unsupervised "paralegal legal advice." Our concerns are illustrated by the extensive education which is required of lawyers to practise family law. The Advocates' Society believes that anyone who purports to provide family law services should receive rigorous training in tax, corporate law, contracts, torts, employment, property, immigration, trusts, wills and estates, criminal law, real estate law, conflicts of law and private international law, in addition to family law (including child protection law and laws regarding domestic violence), evidence and rules of civil procedure. Only with such training could anyone be in a position to provide unsupervised family law services in a manner that is consistent with public interest. As the Report acknowledges, the new class of practitioners called Limited Licence Legal Technicians (LLLTs) created in Washington state in an attempt to increase access to justice in family law requires significant formal and experiential training and, to date, has had limited uptake: there are currently only 10 LLLTs in Washington (Part 2, Section 8(b)(i)). The Report acknowledges that "there is no data yet about the success of the program in improving access to justice", but the investment required by the regulator to monitor these educational requirements would not seem to be proportionate to any increase in access to justice for families. The Advocates' Society also believes that any consideration about the experiential training that paralegals receive should be examined following the completion of the Law Society's evaluation of its licensing process for lawyers entering the profession.

Recommendations 11 through 13 suggest potential roles for paralegals to provide family law services in collaboration with lawyers, Legal Aid Ontario, Family Law Information Centres and family court counter staff. The Advocates' Society is supportive of having paralegals provide family services in these contexts in order to increase access to justice – but again, as we articulated in our April 2016 Submission, ***only if*** the paralegals are ultimately supervised by lawyers.

The Advocates' Society supports **Recommendation 14**, which encourages the Family Rules Committee to amend the family court forms to require service providers who are compensated

for preparing, or assisting in the preparation of, “forms”, to indicate that they have provided such assistance.

Recommendations 15 and 16 speak to a five-year review of paralegals specializing in family law and providing unsupervised family law services. The Advocates’ Society opposes the unsupervised provision of family law services by paralegals.

The Report posits that requiring paralegals to be supervised by a lawyer in the provision of family law services would not increase access to justice.

The Advocates’ Society believes, however, that there are available opportunities for paralegals and students, through Pro Bono Students Canada, for example, to provide family law services in a supervised capacity which would increase access to justice. For example, existing staffing models at firms, legal aid clinics and Law Help centres across Ontario could be expanded to include paralegals providing family law services under the supervision of lawyers. For clarity, The Advocates’ Society is not suggesting that lawyer supervision of paralegals be limited to a 1:1 relationship. Certainly, as already occurs successfully across the province, one lawyer may supervise several paralegals.

Lawyers should continue to provide unbundled legal services and coaching

The Advocates’ Society supports **Recommendations 1 and 2** in the Report regarding the provision of unbundled legal services. The Report notes:

> However, in spite of the fact that unbundled services are expressly permitted by the Law Society, I heard that they continue to be offered sparingly. The reason most often provided for the reluctance to offer these services is a continued fear of increased exposure to liability. This fear persists even though the Law Society and LawPRO continue to educate lawyers about the permissibility of offering unbundled legal services, and provide resources to support them in doing so. (Part 4, Section 2(a), 6th paragraph)

The reluctance identified in the Report is justified in light of the recent decision of the Court of Appeal for Ontario in *Meehan v. Good*, 2017 ONCA 103, released after the Report was delivered. In *Meehan*, the Court of Appeal contemplated that a lawyer might have liability to a client for failing to provide advice with respect to an issue that was outside the scope of the retainer agreement. This is precisely the concern referenced by Justice Bonkalo. We understand that, as matters stand currently, counsel for LawPRO is openly discouraging lawyers from acting “unbundled” as a result of *Meehan*.

To increase lawyers’ willingness to provide unbundled services in family law, the concern created by the *Meehan* decision must be addressed. The Advocates’ Society urges the Law Society to make necessary amendments to the *Rules of Professional Conduct* and, if necessary, to propose amendments to the *Law Society Act* to ensure that the provision of unbundled legal services does not create undue liability for lawyers. Judicial education regarding the importance, and limitations, of unbundled legal services should also be examined. Once a more robust regulatory or legislative framework is developed around unbundled services, the option of providing these services and the regulated or legislated protections can

be more effectively promoted to the bar and disseminated through CPD programs offered to the profession. Information should also be made available on the LSUC Public Portal about the availability of unbundled and coaching services, as their availability is not widely recognized.

Currently, a full economic study on the impact of unbundled legal services is being undertaken in Alberta. The Alberta Limited Legal Services Project, a research effort looking at the effects of unbundling on access to justice, including lawyers' and clients' satisfaction with limited scope work, was formally launched in April 2017. The Advocates' Society believes that the sweeping changes discussed in the Report should not be made on the basis of anecdotal evidence alone. Rather, Ontario should wait until Alberta finishes its study, or Ontario should engage in a study of its own (after the issues raised by the *Meehan* decision are resolved).

Lawyers should continue to provide legal coaching services

The Advocates' Society supports **Recommendation 3** for the continued development of legal coaching services.

Just as unbundled legal services are still relatively new, the idea of legal "coaching" is still very much in its infancy. The Advocates' Society believes that better public education is necessary regarding the possibility and availability of unbundled legal services and legal coaching. For example, Ontario could provide education material about both of these alternative methods of delivering legal services at the Mandatory Information Sessions and through the Family Law Information Centres, and the LSUC should make such material available on its Public Access Web Portal.

Law students should continue to play a key role in the family justice system

The Advocates' Society supports **Recommendations 17 and 18** in the Report. The continued funding of programs like Pro Bono Students Canada's Family Law Project and student legal aid services, as well as amendments to Rule 4 of the *Family Law Rules* to permit students to appear in court (for limited appearances), are important to providing access to justice for family litigants. With respect to **Recommendation 19**, The Advocates' Society supports innovative ways to provide an experiential learning experience to law students while serving the needs of families. The University of Calgary's Family Law Incubator project, though in its initial stages, may be a model for providing articling students – and junior lawyers – with the opportunity to provide supervised legal assistance to family litigants.

A clearer distinction between legal advice and legal information would further enhance access to justice

The Advocates' Society supports **Recommendations 20 and 21** on emphasizing the difference between legal information and legal advice and encouraging court staff to assist litigants as much as possible within the limits of their role.

The Unified Family Court remains a key element to improving the family justice system

As noted in our original submissions, in many parts of Ontario, family law jurisdiction is split between two courts: the Superior Court of Justice and the Ontario Court of Justice. This creates

confusion, inefficiency and a reduced opportunity for streamlined services for family justice litigants. A solution to this problem is the province-wide implementation of the Unified Family Court, with exclusive jurisdiction over all family law proceedings. This would allow separating families to resolve all of their legal issues in a single forum, with a specialized judiciary and court-annexed mediation, coaching and counseling services on site. These significant, systemic changes are long overdue and have been acknowledged to be necessary for over three decades. The improvements in individual and systemic family law access to justice that are expected to come from a United Family Court are varied and significant. Adding paralegals to the current system without addressing the need for a Unified Family Court would be akin to handing a band-aid to a patient in cardiac arrest. The Unified Family Court, now included in both the provincial and federal justice mandate letters, offers real and meaningful improvement to access to family law justice in this province. In The Advocates' Society's respectful opinion, the Unified Family Court should be **the** main focus of family law reform presently, as the project really does offer immediate and significant improvements to access to family justice.

As The Honourable Rosalie Abella once said, "Family law is and should be a leader in the legal system because it matters so much to so many." Delegating the provision of legal services to unsupervised paralegals would lower the standard of service in this crucially important area of law and work an injustice on the most disadvantaged among family litigants.

Thank you for providing The Advocates' Society with the opportunity to make these submissions. I would be pleased to discuss these submissions with you at your convenience.

Yours very truly,

Bradley E. Berg
President

Task Force Leaders:
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The Advocates' Society

April 29, 2016

VIA EMAIL: FamilyLegalServicesReview@ontario.ca

The Honourable Annemarie E. Bonkalo
Family Legal Services Review
Ministry of the Attorney General
720 Bay Street, 7th Floor
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Dear Justice Bonkalo:

RE: Family Legal Services Review: "Expanding Legal Services Options for Ontario Families"

I enclose The Advocates' Society's submissions on the captioned public consultation. The questions and issues raised in this consultation are very important to The Advocates' Society. Our members are very engaged with these issues and we appreciate the opportunity to provide our views.

I would be pleased to discuss these submissions with you further. In addition, if you are planning on undertaking further consultations on these issues over the next few months leading to the release of your final report, we would be grateful to continue to be involved in such consultations.

Yours very truly,

Martha McCarthy
President

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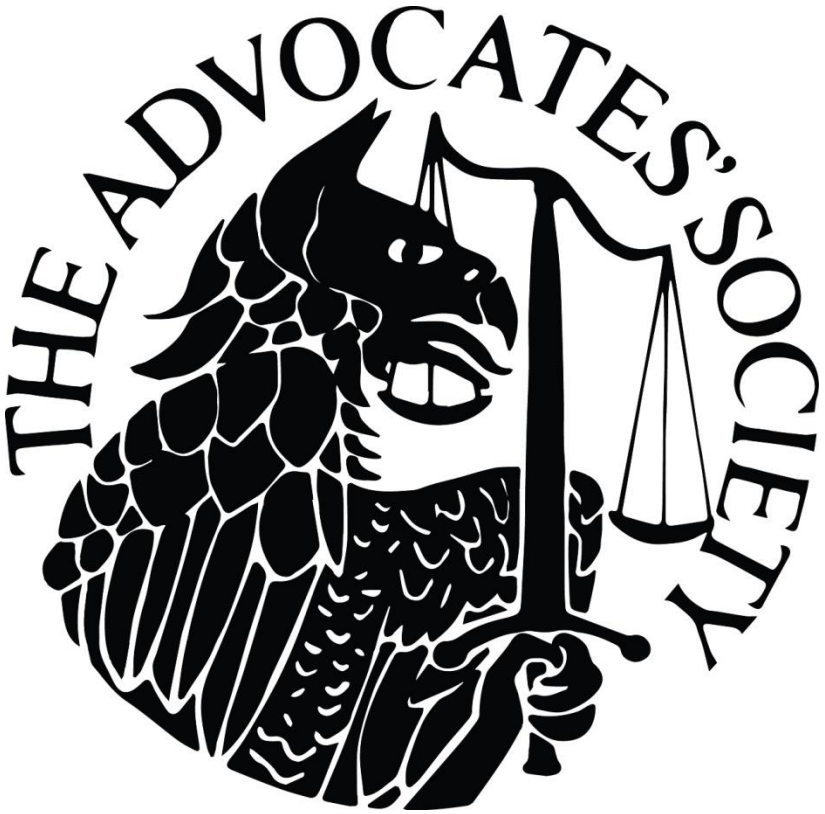

Response to Public Consultation: Expanding Legal Services Options for Ontario Families

The Advocates' Society

April 29, 2016

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The Advocates' Society Response to the Public Consultation on Expanding Legal Services Options for Ontario Families

The Advocates' Society is a not-for-profit association of over 5,500 lawyers throughout Ontario and the rest of Canada. The mandate of The Advocates' Society includes, amongst other things, making submissions to governments and other entities on matters that affect access to justice, the administration of justice and the practice of law by advocates. Our members practise in the area of family law and take a keen interest in the issues raised in the public consultation regarding Expanding Legal Services Options for Ontario Families (the "Public Consultation")

The Advocates Society, in consultation with its members through discussions and a membership-wide survey, has spent a significant amount of time considering the questions raised in the Public Consultation. The questions raised by this Public Consultation are as follows:

- *Which types of legal services, if provided by paralegals and other legal service providers, could improve the family justice system?*

- *Should paralegals and other legal services providers, such as law clerks and law students, be allowed to handle certain family law matters?*

- *How should the Province and the Law Society of Upper Canada ensure the accountability of persons, such as paralegals, law clerks, and law students, if they are allowed to handle certain family law matters?*

These questions presuppose the continuation of the family law system as it currently operates. Regrettably, however, there are systemic weaknesses at the heart of the current family law system that are the cause of the current crisis. These weaknesses will not be meaningfully addressed by permitting the representation of spouses and children by non-lawyers. Indeed, that step will only serve to exacerbate an already deplorable state of affairs for participants in the family justice system, particularly for those who are most marginalized.

Our members operate within the court system on a daily basis. We are keenly aware that the current system is greatly challenged. Access to justice is a real issue. Many people involved in litigious disputes cannot afford lawyers, and often struggle to receive financial assistance from an under-funded legal aid system. Self-represented and unrepresented litigants overwhelm some courts, which are themselves under-resourced.

We see the impact of these issues on a consistent basis and we are invested in finding solutions for all concerned. There are a number of current initiatives that are focused on improving the family law system and addressing the issues within it. The Advocates' Society has been involved with a number of these initiatives, having brought together an

Ontario-wide task force to consider ways to improve the family law system.[1] These initiatives involve numerous different players in the family law system – judges, lawyers, other legal service providers, other professionals, community leaders and volunteers – working together while engaging in activities that are reflective of their respective skill sets and experience levels. The current initiatives underway, we believe, will help to resolve the issues with the family law system.

Paralegals, articling students, summer students and law clerks already play a significant role in the practice of family law. However, our members strongly believe that expanding the role of non-lawyer legal service providers within the practice of family law (or any other practice area) will not help to resolve the issues with the family justice system, for the reasons set out below. **Adding another tier of participants to the family law system will not solve the main problems with the system; rather, it will exacerbate the existing problems, particularly for those members of the public who are the most marginalized.**

1. Roles of Non-lawyers Under the Supervision of Lawyers

Law Clerks and Students. Many family lawyers in the province operate with the assistance of *at least* one law clerk. Those who practise in firms that are equipped to take on the responsibilities associated with supervising articling students and summer students often do so.

These law clerks and students are invaluable to the practice. They conduct a wide range of work from drafting letters, court documents and financial statements, to gathering and reviewing financial disclosure, to meeting with clients and preparing simple agreements, to assisting with trial preparations.

The key is that all of this work is completed at the direction, and under the supervision, of a practising lawyer.

The Advocates' Society strongly believes that law clerks and students should be able to continue their work in this capacity, but their responsibilities should not include *carriage* of a file. In other words, they should not be permitted to "handle certain family law matters" (using the language in the Public Consultation questions described above) if "handle" implies *carriage* or *responsibility*. It is critical that a lawyer in good standing maintain ultimate responsibility for the file, for the reasons discussed further below.

Paralegals. Paralegals require distinct analysis as they frequently work independently – as their own direct service provider – rather than in a firm setting or under the direct

[1] See The Advocates' Society's *Family Justice Reform Project* paper (September 10, 2014).

supervision of a lawyer. Paralegals are regulated professionals under the *Law Society Act*, R.S.O. 1990, c. L.8. Pursuant to By-Law 4 enacted under the *Act*, paralegals may represent a party before (1) the Small Claims Court; (2) the Ontario Court of Justice, in the case of a proceeding under the *Provincial Offences Act*; (3) a summary conviction court, in the case of a proceeding under the *Criminal Code*; (4) a tribunal established under an Act of the Legislature of Ontario or under an Act of Parliament; and (5) a person dealing with a claim (or a matter related to a claim) for statutory accident benefits within the meaning of the *Insurance Act* (excluding a claim of an individual who has or appears to have a catastrophic impairment within the meaning of the Statutory Accident Benefits Schedule).

The Law Society of Upper Canada's website stresses that: "Paralegals are not permitted to appear in Family Court and may not provide legal services that only a lawyer may provide, such as drafting wills or handling real estate transactions or estates". The Advocates' Society does not believe the current scope of work of paralegals should be extended to include independent provision of family law services.

As with law clerks, The Advocates' Society does not oppose paralegals assisting with a wide range of work, including drafting letters, court documents and financial statements (including Net Family Property Statements), gathering and reviewing financial disclosure, meeting with clients and preparing simple agreements, and assisting with negotiations and trial preparations — again, provided this work is done under the direct supervision of a lawyer. As with law clerks and students, this is a model that is already in place in our current system. In addition, many paralegals currently operate as litigation filing clerks, playing an important role in the operation of our court system. Filing litigation documents is, however, quite different from providing legal representation to a family litigant.

It is critical that a supervising lawyer be not only *responsible* for the work of paralegals but also practically able to *review and supervise* the work in a meaningful way. The protection of the public demands no less. The Advocates' Society has concerns about a model whereby one lawyer supervises a large number of paralegals, if the ratio of lawyer to paralegals becomes too low.

The key, again, is that all of the work is completed under the supervision of a practising lawyer. For the reasons addressed below, The Advocates' Society strongly opposes expanding the responsibilities of paralegals to "handle" a family law matter if this includes *carriage of* or *responsibility for* a file.

Appearing Before the Court is a Distinct Responsibility. Although The Advocates' Society recognizes that law clerks, paralegals and students have an existing role in the practice of family law completing delegated work under the supervision of a lawyer in good standing, we do not agree with permitting the delegation of work to extend to court appearances as a general rule.

As lawyers, we are duty bound to protect and uphold the administration of justice. We consider it important to recognize the complexity and importance of the majority of legal matters outside of the Small Claims Court realm (and in particular in the family law realm). It is also important to recognize the education, expertise, and judgment that lawyers bring to bear on these complex legal matters. Non-lawyers who may be empowered to appear in court may command a false sense of authority (or a false sense of security) when they actually lack the training, experience and judgment required to add real value to clients in legal disputes that have very serious and long lasting impacts upon their lives. This is particularly important in the case of clients from marginalized communities, who may be most inclined to seek assistance from a non-lawyer.

The Advocates' Society does not oppose permitting articling students to appear before the court on small matters such as scheduling dates where sensitive judgment calls are not required. Again, however, this would be at the instruction, and under the supervision, of a lawyer in good standing.[2]

It is worth noting that, in criminal law, the scope of a paralegal's ability to assist members of the public is curtailed by Section 802.1 of the *Criminal Code*, which prohibits paralegals from representing a defendant who is liable, on summary conviction, to imprisonment for more than six months (with very narrow exceptions). Parliament has chosen to place a limit on the role of paralegals in the criminal context and restrict the representation of defendants facing serious consequences in the criminal courts to lawyers. The approach taken to serious matters in the criminal law supports our submission that in the family law context, where there are serious implications for the parties, lawyers with enhanced judgment, experience and training should maintain carriage of files. The outcome of a custody or access application, for example, can have an impact upon a child's emotional life and well-being far greater than the impact of a summary conviction upon an adult.

Position. For the reasons set out below, The Advocates' Society supports the continuation of the current role of law clerks, articling students, summer students and paralegals in the family law system, namely under the express supervision of a lawyer in good standing, and outside of the court itself.

We do not agree with the expansion of these roles with the exception of permitting articling students to appear before the court on small matters such as scheduling dates.

[2] The better solution to saving costs is to reimagine how the court system operates and to determine other mechanisms to avoid wasted procedures, processes and appearances.

2. Expanding Non-Lawyer Services Will Not Improve Access to Justice

(a) Another Level of Fee For Service Work Will Not Help Marginalized Populations

An assumption that appears to underlie the questions posed in this Public Consultation is that the addition of non-lawyer family law service providers will save costs for litigants. The Advocates' Society believes this is not the case.

The hourly rate of many paralegals and law clerks is not insignificant. Our members have reported that they regularly see paralegals and law clerks billing at a rate well over $75 - $100 per hour and upwards of $250+ per hour, with some charging even higher rates for overtime work. At the mid-to-upper-end of this range, these rates are actually *higher* than those of articling students and junior lawyers and comparable to some more senior family law practitioners. At the low-to mid-point of the range, they are not materially lower than the rates of articling students and junior lawyers practising family law.[3]

The reality is that if an individual is unable to pay $175 per hour for the advice of a practising family lawyer, then that individual is going to be equally unable to pay the fees for a non-lawyer, which are only incrementally lower, if at all.

(b) Fees Paid to Non-lawyers Will Not Offer the Same Value

While there is limited difference in the hourly rate for non-lawyers and junior lawyers, the value for the money spent is not at all comparable.

Legal education, training and the articling process are meaningful. From admission to law school through graduation, obtaining and completing articles, writing and passing the Bar Admissions examinations, gaining admission to the Bar, and ongoing licensing, regulation, and continuing education, there are a series of criteria that provide assurance of educational and professional standards for lawyers. Essential skills including issue identification, legal research and analysis, problem-solving, effective written and oral advocacy, and ethical lawyering are extensively developed through this process.

[3] In addition to the many family lawyers who provide hourly rates within this range, there are other ways in which family lawyers make themselves more accessible, including providing sliding scale fees, significant discounts to low income files, and *pro bono* services.

No matter the training or requirements that might be put in place for paralegals, there is no substitute to the legal education and training a lawyer undergoes before being admitted to the Bar. To suggest otherwise simply undermines the legal profession and the legal system, and would risk bringing the administration of justice into disrepute.

(c) Family Law Should Not Be Treated Differently Than Other Areas of Law

Criteria for the possible expansion of the role of non-lawyers in the area of family law should not be any different than for the expansion of the role of non-lawyers in any other area of law.

In some quarters, family law may have an unearned reputation as being facile or rote, but this has more to do with the familiarity with which people regard domestic disputes and the general minimization of work in the context of the family, rather than reflecting the realities of family law work. In fact, the opposite is more likely true.

(d) Family Law Is Complicated

There is an expression among family lawyers that family law is not for "dabblers". It is an area fraught with complexities that may not be readily apparent to the inexperienced.

Family law involves complicated interactions with a diverse range of other areas of the law. Family law sometimes works in tandem with other areas (such as wills, trusts and estates) and sometimes in conflict with other areas (such as tax and bankruptcy). Lack of knowledge in a related area can have catastrophic impacts on a client – such as the interplay between family law and bankruptcy law.

Family lawyers must be familiar with, and have good working knowledge of, some 39 statutes and regulations, including federal and provincial legislation. Family lawyers also deal extensively with common law principles and equitable claims, including complicated issues regarding unjust enrichment, resulting trust and constructive trust.

Family lawyers must be able to provide advice — or at a minimum identify critical issues — within a wide range of legal fields, including tax, corporate law, insurance, contracts, employment, property, immigration, trusts, estates, criminal law, real estate law, conflicts of law and private international law.

Family lawyers also must regularly deal with international treaties and conventions, such at the *Hague Convention on the Civil Aspects of International Child Abduction*, *United Nations Convention on the Rights of the Child* and *The Hague Convention on the Service Abroad of Judicial and Extrajudicial Documents in Civil or Commercial Matters*.

Substantive legal issues aside, family law also requires an in-depth understanding of civil procedure rules and evidentiary principles, which are essential to navigating even the more simple one-day trials or motions.

It is an area that is disproportionately represented in negligence and insurance claims in part for this reason.

Paralegals and law clerks are not in a position to advise parties about how to proceed in a family law case in the same way that a lawyer is able to do. The Advocates' Society's view is that additional training for paralegals and law clerks, regardless of how extensive, will not change this.

(e) Family Law Has Significant Ramifications for Families

It would be dangerous to assume that only particularly complicated family law cases fall within the complex web of statutes and common law described above, or that most family law cases are "simple" and able to be dealt with by non-lawyers.

The issues at stake in family law matters are almost always significant:

- **children**, including issues relating to: child protection, access to and decision-making about children, considerations of sole or joint custody or shared parenting, access and supervised access, setting aside domestic contracts, and mobility;

- **property**, including issues relating to: occupation and ownership of the matrimonial home, property ownership and division, deductions, exclusions, tracing, joint family ventures, unequal division, partition and sale, exclusive possession, and unjust enrichment; and

- **financial security**, including issues relating to: monthly child support and spousal support, calculation of income for support purposes, variations (and determination of material change), and the financial and tax implications of separation and divorce.

An individual's ability to remain resident in Canada can be affected by family law matters. Indeed, immigration matters are often inextricably linked to family law matters, especially in the most marginalized of communities.

Family law is critical in establishing child and spousal support arrangements. These issues may have a lifelong impact on parties' ability to support themselves and their children.

The role of parents in children's lives is almost always a part of family law cases. This can include cases in which a child needs to be protected from a parent, or in which one parent is actively alienating a child from the other parent. It can also include cases in which one parent seeks to move away with children (mobility cases), which could effectively deny children the opportunity to see one parent. These are critically important issues, which in our submission should be treated on a similar plane as criminal law issues, considering what is at stake.

Family law cases often have an additional serious dimension to them, namely issues relating to child protection and domestic violence. The navigation of these issues requires a level of judgment that, if not properly exercised, could have devastating impacts on the individual members of a family.

We submit that the terms of reference in this Public Consultation recognize the importance of child-related matters in exempting child welfare cases from this potential role expansion.

Even a matter as simple as a divorce can have serious ramifications if there is not proper family law advice. For example, a divorce in a foreign jurisdiction will preclude the former spouse from ever obtaining spousal support in Ontario. This could have a catastrophic impact on certain parties and may again disproportionally impact marginalized groups, such as new Canadians. These individuals may be unaware of their rights in Ontario and, without proper legal advice, may consent to a divorce in their country of origin where they may not have the ability to obtain spousal support at all, much less support that is commensurate with the entitlement under Ontario law.

(f) It Is Not Better to Have Non-lawyer Representation Than No Advice at All

The above begs the question: if family law issues are so complicated and so important, is it not better to have non-lawyer representation than no representation at all?

The answer is a resounding "no".

(i) Communications Between Non-Lawyers and Clients Are Not Protected By Solicitor-Client Privilege

Information exchanged between a paralegal and his or client is not protected by solicitor-client privilege. This places the client in the impossible position of having to choose whether to exchange information willingly and candidly at the risk of this information being disclosed to the opposite party, or withholding information that is essential to his or her case. This is a critical issue and is a significant impediment to the proposed expansion of the role of non-legal service providers in the family law context.

(ii) Non-Lawyer Representation Would Exacerbate Litigation and Court Backlog

Expanding the role of non-lawyers in family law would do nothing to change the overarching system in which we operate. Rather, it may actually encourage litigation as more "advocates" would then be available.

Non-lawyers are not trained to properly assess the merit of a claim. Doing so requires not only the detailed knowledge of the statutes referenced above and extensive case law, but it also involves assessing — *with the specific skill set acquired in legal training* — the merits of a claim in applying the facts to the law. The main focus of law school, we submit, is to teach students to look at a problem in a particular way in order to assess the *legal merits* of a case.

It is complicated to determine the best approach to solve any given problem, to overlay myriad patterns of fact against diverse legal principles, to find the best angle and approach — and, conversely but just as importantly, to identify the inappropriate and unsupportable approaches.

This skill set comes from training, experience and judgment, and it is why most cases settle and avoid the court system (or at least a trial) in the first place.

(iii) Non-Lawyer Representation Would Create a False Sense of Security for Clients

The most concerning aspect of expanding non-lawyer legal representation is the false sense of security that clients (and the court) would have in seeing that the client is represented.

Even the concept of non-lawyer "legal service providers" (as they are described in the terms of reference for this Public Consultation) is fundamentally problematic. The phrase is confusing to the public as it imparts the status of "legal service provider" on someone who is not in fact a lawyer.

The Advocates' Society submits that the populations that this Public Consultation seeks to protect — including the most marginalized Ontario populations — are the very people least likely to understand the difference between lawyers and legal service providers.

If non-lawyers have the ability to market themselves as family law legal services providers, this will create an aura of authority and credibility. Clients will assume that they are getting full and proper legal advice and that will simply not be the case.

Clients will then rely upon the advice of the legal service provider. The fact that these providers would have a title and status and would be authorized to act for them, will convey a sense of authority that will induce most individuals to follow the advice without much question.

The burden around the marketing of legal services must be maintained at a very high standard given issues at stake. If it is not, it is the most vulnerable who will suffer the most.

(iv) Non-Lawyer Representation Would Create a False Sense of Security for the Court

When dealing with a self-represented or unrepresented litigant, the court is "on notice" to ensure that the litigant understands the process. However, when a non-lawyer acts for a party, the court will likely not exercise the same degree of concern, because the litigant is "represented."

This will further exacerbate the vulnerabilities facing clients of non-lawyer legal service providers.

(v) Inadequate Representation Would Create a Secondary Legal Market

Inadequate representation at the non-lawyer/paralegal level would inevitably create a secondary legal market to deal with cases gone awry, again adding to an overburdened system.

This may involve lawyers taking over files that are not moving forward properly, or involve negligence cases against the non-lawyer representatives. Of course, this also raises questions about insurance matters, which would require serious consideration.

(vi) Non-Lawyer Representation Creates a False Sense that Access to Justice and Legal Representation is No Longer an Issue

One of the most deleterious effects of expanding the role of non-lawyers in the family law sphere is that it would mask the continuing problems in the system. The vast majority of those who cannot afford a lawyer also cannot afford a non-lawyer representative. And they are still working within the confines of an overburdened system.

Adding non-lawyer representation to the mix only adds to the problem. It is another layer in an overburdened, underfunded, hierarchical system that is slow, unresponsive and often not the most elegant or efficient way of addressing many of the core issues confronting separating spouses.

(vii) Legal Aid Funding Should Not Be Used To Subsidize Service Delivery By Non-Lawyers

Since the Attorney General's announcement of the Government of Ontario's commitment to increased legal aid funding in October 2014, legal aid has been made available to an increased number of Ontarians. Despite the recent infusion of funds into legal aid, this funding remains a scarce resource. In light of the considerations outlined above, The Advocates' Society is of the view that legal aid funding, in particular funding for legal aid certificates, should be restricted to subsidizing services provided by lawyers.

3. We Need an Opportunity to Pursue Current Initiatives

The Advocates' Society's mandate includes improving access to justice for members of the public. The Advocates' Society cautions against the assumption that the provision of family law services by unsupervised non-lawyers will improve access to justice in the family legal system. There are more effective initiatives for enhancing access to justice that do not raise the concerns discussed above and are already underway.

We believe that to address the valid concerns underlying this Public Consultation (which we understand to be access to justice and legal representation), we need to formulate not just different answers but different questions:

> *How can we rethink the current system?*
>
> *What meaningful options can we provide so that the court system is not the only mechanism for family dispute resolution?*
>
> *How can we integrate other community services so that the real issues confronting parties can be addressed (including counseling, mental health support, parenting support, substance abuse treatment, immigration services, housing and employment services, etc.)?*
>
> *How do we make legal services more affordable?*

Historically, when the family law system has not been operating properly, the family law bar has stepped forward to provide solutions. The Dispute Resolution Officer program is but one example. As we stress above, there are many additional initiatives that are recently getting underway that involve the collaboration of various players in the family law system, including the bar, the bench, community organizations, the regulator and government. We believe these initiatives are going to have a significant impact and we need an opportunity to pursue them. These initiatives include:

(a) **Unified Family Court.** The Advocates' Society is encouraged by the willingness of both the Federal and Ontario governments to expand the use of a unified family court in a larger number of centres. This will assist with alleviating the jurisdictional confusion inherent in the family law system. Our President, with the unanimous support of our Board of Directors, has committed directly to the Federal Minister of Justice, the Attorney General of Ontario, and the Chief Justices of all Ontario Courts to achieving this priority law reform effort and bringing the unified family court to all family law cases. The Advocates' Society has an active task force engaged and ready to assist with this initiative.

(b) **Early Judicial Intervention in Family Court Proceedings.** The Advocates' Society has consistently suggested that a triage system whereby family litigants have access to a judge very shortly after the commencement of a proceeding, in order for the judge to give directions and make orders, would assist with streamlining family litigation and alleviate some of the conflict inherent in family law proceedings.[4] At meetings of the Attorney General's Family Justice Table, the President and Executive Director of The Advocates' Society have advocated for the implementation of a judicial triage pilot project.

(c) ***Pro Bono*** **Initiatives.** In 2013, The Advocates' Society developed the Crown Wardship Appeals program in collaboration with the Court of Appeal for Ontario, Superior Court of Justice and Pro Bono Law Ontario, whereby members of The Advocates' Society provide *pro bono* assistance to parents in Crown wardship / no access appeals. The Advocates' Society is now working in conjunction with Pro Bono Law Ontario to expand the Appeals Assistance Project at the Court of Appeal for Ontario to provide *pro bono* representation and assistance to parties in a wider range of family law appeals and motions. This project is set to launch in June 2016.

(d) **Unbundled Legal Services.** The Rules of Professional Conduct and the Family Law Rules have recently been amended to contemplate limited scope retainers and unbundled legal services. Many lawyers and firms are now starting to offer unbundled or "à la carte" legal services in family law. This allows parties to get advice and assistance on specific matters and at specific times — for example getting comprehensive advice at the start of an action, assistance with drafting court documents, representation on a specific court attendance (case conference, motion or trial), and assistance with settlement strategies at a settlement conference.

A subcommittee related to the Future of Legal Representation in Family Law group has identified that there is more work that can be done to enhance the provision of unbundled legal services and is looking at ways to address this, including:

- educating the public about this option (including when lawyers can be the most helpful – such as setting the parameters of a case in the beginning or coming up with creative ideas to settle a case after disclosure has been made);

[4] See The Advocates' Society's *Family Justice Reform Project* paper (September 10, 2014).

- getting family lawyers comfortable with this type of work, in the context of coming to terms with having no overall control over the file, considering insurance issues, providing templates for retainer agreements and best practices for unbundled service provision, and so on;

- educating the judiciary about counsel's limited role as agent in this context (for example, to manage judicial expectations about the role a lawyer may play in this context and prevent the forced extension of retainers by court order); and

- advertising unbundled services more clearly (including through the Law Society of Upper Canada referral sources).

(e) **Private Duty Counsel Project.** This project places additional duty counsel at family courts but on a modest fee-for-service basis.

(f) **Virtual Legal Clinic.** Under the guidance of Ontario family lawyer and violence against women expert Pamela Cross, Luke's Place is in the process of establishing a Virtual Legal Clinic to connect women in remote communities to family law advice from skilled lawyers through online face-to-face meetings facilitated via Skype. Many Ontario family lawyers have already signed on for this initiative and are in the training stage. The Virtual Legal Clinic should be fully launched soon. If it proves successful, it will serve as a model for a broader scale out of the project.

(g) **Mediation.** More and more courts have mediators available, either at no cost or on a sliding scale, and this is serving to divert a significant number of cases from the court system. And more family law lawyers are now offering mediation services. The Advocates' Society believes that there would be a tremendous benefit to expanding this program within the courts in which it operates, as well as across the province.

It could be possible to facilitate Virtual Mediation Centres via Skype or other online mechanisms in the same manner as the Luke's Place Virtual Legal Clinic to bring this service to even remote parts of Ontario.

We are under no illusion that these initiatives will offer the complete solution. They still exist within the confines of our current system too. Nevertheless, they represent progress without creating the vulnerabilities that The Advocates' Society believes exist around the introduction of non-lawyer family law service providers. And, in any case, these measures should be allowed to take root before the implementation of any radical changes to legal representation.

4. These Issues Are Not Limited to Family Law

As discussed above, the issues of access to justice and legal representation are not confined to family law.

The problems may be more evident in the context of family law disputes because these disputes are of such a nature that they cannot simply be ignored. Family law concerns revolve around critical day-to-day issues and needs. In integral matters such as these, there may not be a luxury of choice about whether or not to pursue remedies in court if other remedies are not forthcoming. Parties may have little choice but to seek court assistance if they cannot work out reasonable arrangements between themselves because these issues are critical to their daily lives and cannot be ignored, whether the parties can reasonably afford legal counsel or not.[5]

This may be contrasted to certain other areas of law where parties without means to hire legal counsel simply ignore or disregard claims due to the seemingly insurmountable legal barriers facing them. This does not make the problems facing such parties less significant.

Similarly, the impact of allowing non-lawyer family law service providers is not limited to the family law system.

The Advocates' Society considers the possible addition of any non-lawyer third parties to the court process to be a critical issue warranting the consideration of all advocates, not just family lawyers.

If the outcome of this study is to make further enquiries or take further steps toward the participation of non-lawyer third parties in additional roles within the legal system, the matter must be opened up to a broader review, accessing the perspectives of participants across disciplines.

In considering this, The Advocates' Society remembers the extensive consultation and analysis that went into this topic in 2013 when paralegals were seeking expanded standing and roles. It is unclear what has changed since then that is bringing this issue once again into the forefront.

With respect, it is our position that the concerns underlying the formation of the Expanding Legal Services Options for Ontario Families inquiry are meritorious from an access to justice and legal representation perspective. Regrettably, however, we believe that the

[5] It is because of this fundamental primacy of family law issues that so many self-represented and unrepresented litigants surface in family court, and it is for this same reason that family law matters should not be shunted off to non-lawyer representatives, as discussed above.

specific questions that are being asked, which are focused on whether or how to integrate non-lawyer third parties into the current family law system, are serving to direct attention away from meaningful solutions to the most pressing problems facing the system.

5. The Solution to the Access to Justice Crisis Lies in Meaningful Systemic Change

Introducing a non-lawyer service model will serve only to bring into the family justice system a large group of people who will see a business opportunity and who do not have the training, skills and judgment to effectively operate as independent advocates in the family law system.

This concern is not only limited to entrepreneurial individuals. Law firms would inevitably be led to participate in such a model, bringing on paralegals and profiting from their work.

None of this will result in meaningful improvements for the unrepresented and self-represented litigants who have difficulty resolving their disputes and accessing the court system. The reality is that within the confines of a legal system where every step is legally oriented and the focus is on the rights and obligations of the parties, lawyers are essential to achieving justice.

July 7, 2016

VIA EMAIL: FamilyLegalServicesReview@ontario.ca

The Honourable Annemarie E. Bonkalo
Family Legal Services Review
Ministry of the Attorney General
720 Bay Street, 7th Floor
Toronto, ON
M7A 2S9

Dear Justice Bonkalo:

RE: Family Legal Services Review

I write to supplement the written submissions of The Advocates' Society on the Family Legal Services Review dated April 29, 2016 and the discussions our representatives had with you at the subsequent meeting on May 31, 2016.

I draw your attention to a recent article written by Professor David Wiseman for the Canadian Forum on Civil Justice, entitled "Research Update: Paralegals, the Cost of Justice and Access to Justice: A Case Study of Residential Tenancy Disputes in Ottawa". Professor Wiseman raises the concern, based on his empirical research, that paralegals who assist with residential tenancy matters are not increasing access to justice for members of those vulnerable populations which they were meant to help. Professor Wiseman summarizes his findings as follows:

> A further and final year of data gathered for this case study has reinforced the message that paralegals, who purportedly offer more affordable and accessible legal services than lawyers, are continuing to make a significant contribution to the resolution of residential tenancy disputes in Ottawa, but only for landlords and, largely, for corporate landlords. The reinforcement of this message across a data set now spanning five years of residential tenancy dispute cases for the Eastern Region of the Landlord and Tenant Board of Ontario further solidifies a conclusion that *who* provides more affordable and accessible legal services can have an impact on *whose* legal needs are serviced. This, in turn, raises more fundamental questions about *whether* access to justice is really being improved in this context at all. [italics in original; underlining added]

Put more succinctly, Professor Wiseman states: "It would appear that paralegals are not sufficiently affordable or accessible to be a viable option for tenants and so offer no direct access to justice improvements to tenants."

I encourage you to read the entire article here: http://cfcj-fcjc.org/a2jblog/research-update-paralegals-the-cost-of-justice-and-access-to-justice-a-case-study-of-0

While the study above was conducted in the context of residential tenancy disputes, The Advocates' Society suggests that the findings with regard to the affordability of paralegals are relevant to the Family Legal Services Review. This is clear evidence that, quite apart from any issues related to competence or training and the complexity of family law, representation by a paralegal would not be a financially viable option for many litigants in the family law system.

Thank you for your continued work on the Family Legal Services Review. We would be pleased to engage with further discussions with you on these issues.

Yours very truly,

Bradley E. Berg
President

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