SUBMISSION TO THE FAMILY RULES COMMITTEE

Consultation on costs under the Family Law Rules

Summary

The Family Rules Committee is considering r. 24 on costs under the Family Law Rules. Ontario is the only common law province in Canada that does not adopt some form of cost grid or tariff. There is no presumptive cost scale for successful parties, and costs are intentionally left to judicial discretion.

The author affirms the public policy need for a differentiated approach towards costs in family law, but calls for this to be modified further to:

a) Discourage parties from entering into litigation to begin with; and,
b) Provide significant consequences for inappropriate conduct in litigation, including uncivil behaviour.

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About the Author

Omar Ha-Redeye[1] is a lawyer in Toronto who has committed much of his career to access to justice initiatives and improving the legal system. Although much of his background is in civil litigation, he has been involved in substantial family law reforms and public education initiatives. For example, he was an Executive Director for Justice Harvey Brownstone's family law television series, the first of its kind in the world, with a sitting family law judge providing information to the public. He was also responsible for developing and advancing the first and only free child/spousal calculator for the public, My Support Calculator, where he operated as General Manager.

Omar continues to be involved in legal reform initiatives, primarily out of the incubator for innovation and access to justice he founded, Fleet Street Law. In 2015, he received the Ontario Bar Association's inaugural Foundation Award for his efforts to improve the legal system and provide public legal education. He received The Queen Elizabeth II Diamond Jubilee Medal in 2013 for his efforts to promote access to justice. He is currently working on a 4,000 page loose-leaf text with Carswell on civil litigation, which includes the basics of cost submissions. He is frequently interviewed by the media on justice issues, including legal reform and access to justice, as well as how these relate to family law proceedings.

Executive Summary

This submission relies heavily on the rise of self-representation, increased dissatisfaction, and widespread incivility in family law to make a simple and pointed recommendation – that Rule 24(9) of the Family Law Rules should be modified to make it mandatory for a judge to review the conduct of counsel when apportioning costs.

The importance of this change is highlighted by the sheer number of family law proceedings that are commenced with representation, but ultimately proceed to trial or drag on even beyond trial due to the acrimonious and antagonistic positions unnecessarily adopted by the parties while represented.

This recommendation is necessarily a controversial one, as it is unlikely to be received favourably by the family law bar whose practice is focused on litigation, but it is ultimately a proposal which would assist family law litigants, the court system, and society as a whole. This recommendation is in accordance with the role and the function of the Family Rules Committee under ss. 66(2)(a) and 68(2) of the *Courts of Justice Act*.[2]

Differentiation of costs in family law from the civil regime is a principled one that is justified by both the context and the history of this area of law. Unfortunately given the

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[2] RSO 1990, c C.43.

crisis facing family law courts, more is needed to ensure that parties are properly dissuaded from litigation to begin with, and experience consequences for conduct more fully once litigation proceeds.

Differentiating Family Law

When it comes to costs, family law is the most public of all forms of law. Although criminal law is inherently public in that the other side is represented by the Crown, there are typically no cost regimes imposed in criminal law,[3] and Crown Attorneys are expected to conduct themselves in the public interest,[4] not in a traditional adversarial orientation.[5] In civil litigation, the dispute is ultimately about liability and a quantum of damages. Existing cost regimes in civil litigation can effectively look at the merit of various claims, the conduct of the parties, and their various levels of success, and impose costs, largely to encourage settlement and discourage inappropriate behaviour.

The issues in family law are markedly different. Although some of family law claims are premised on the equivalent parallels of financial claims, whether in equalization or support, and in quantum, the qualitative difference in family law is that litigation also involves children. These third-parties are necessarily vulnerable and exposed in such conflict, as determinations as to who will have legal authority over them and make substantive decisions around their lives is largely at stake. Because of the presence of minors, courts in family law can take a more interventionist approach between the parties than they would in other forms of civil conflict, and often do given the respective conduct of the parties. Put differently, the existing cost regime in family law has not effectively discouraged inappropriate conduct or adequately encouraged settlement for the majority of family law disputes in Ontario.

Economic Realities of Family Law Litigants

Divorce and family dissolution has a significant impact on the personal finances of litigants. Although criminal proceedings may involve fines or limitations on one's freedom, outside financial interests, where they exist, can continue and grow under the

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[3] *R. v. Brown*, 2009 ONCA 633 at paras 16-27 helps illustrates the rare circumstances where costs may be imposed in criminal law.

[4] *Director of Public Prosecutions Act*, SC 2006, c 9, s 121, s. 3.3(a).
For a greater examination of the role of the prosecutor, see R. Frater, *Prosecutorial Misconduct* (Aurora: Canada Law Book, 2009), ch 1 [*Prosecutorial Misconduct*] and Christine McGoey "The "Good" Criminal Law Barrister A Crown Perspective" (LSUC 2nd Colloquia on the Legal Profession, March 2004), online: <http://www.lsuc.on.ca/media/christine_mcgoey_good_criminal_lawyer_mar0504.pdf>;
See also, *R v Proulx*, 2001 SCC 66, [2001] 3 SCR 9.

[5] The Supreme Court of Canada emphasised this function in *Re Skogman and The Queen*, [1984] 2 SCR 93 at 109, (1984), 13 CCC (3d) 161, where the Court noted that Crown counsel have a markedly different position in law than a traditional litigant, specifically because their obligations towards the public interest.

direction of an unaffected party. In civil litigation, there will typically be a business transaction or a private tort that has occurred given right to a claim, and where the opposite party is insured, the economic impact is largely mitigated. In family law, nobody has personal family law insurance for the possibility that proceedings may occur. A well-drafted cohabitation agreement, marriage contract, or an amicably negotiated settlement agreement, may mitigate against much of the risk of litigation, but is not any guarantee that the financial impact of litigation will not affect the parties.[6] The business interests of a party may need to be dissolved or liquidated, or be subject exposure for any equity, preventing or inhibiting the business from reinvesting or growing further.

At a time when the parties are most economically vulnerable, an income-generating property may be so severely affected that it can no longer generate income for either party.[7] The nature of family law, where existing incomes used to support a single household now have twice the number of expenses, means that there is no other area of law where the parties finances are so precarious and severely impacted. This ultimately means that involvement with family law proceedings not only leaves litigants financially devastated, but that often many litigants cannot afford legal counsel. Where family law litigants can afford legal counsel, it is not uncommon that they frequently run out of funds before the end of litigation and are forced to self-represent. When examining the growing trend of self-representation of litigants in our courts we find that the vast majority can be found in family law proceedings.[8]

Distinctions Between Civil and Family Cost Regime

Modern costs rules are designed to foster three fundamental purposes: (1) to partially indemnify successful litigants for the cost of litigation; (2) to encourage settlement; and (3) to discourage and sanction inappropriate behaviour by litigants.[9] However, subrule 2(2) of the *Family Law Rules*[10] adds a fourth fundamental purpose for costs: to ensure that the primary objective of the *Rules* are met — that cases are dealt with justly. The inherent societal context and practical differentiation between general civil litigation and family law justifies an increased emphasis on the administration of justice, and particularly in the conduct of the parties as it relates to their actions within a legal dispute.

The distinctions between civil and family law can also be realized through the growth of collaborative family law and other alternative dispute resolution mechanisms, which more effectively and efficiently resolve these disputes better that the court system

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[6] For example, see *Kerr v. Baranow*, [2011] 1 SCR 269, 2011 SCC 10.
[7] *Family Law Act*, s. 5(7).
[8] Dr. Julie Macfarlane, "The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants," May 2013, online: <http://www.lsuc.on.ca/uploadedFiles/For_the_Public/About_the_Law_Society/Convocation_Decisions/2014/Self-represented_project.pdf>
[9] *Serra v. Serra* 2009 ONCA 395 para 8, citing *Fong v. Chan* (1999), 46 O.R. (3d) 330 (Ont. C.A.) at para. 22.
[10] *Family Law Rules*, O Reg 114/99 [the "*Rules*"].

can. Unfortunately most litigants are unaware of these alternatives, are inadequately informed of them by counsel,[11] or only discover them after litigation has already commenced. The Mandatory Information Program now required for family proceedings under Rule 8.1 only becomes available once the proceedings have commenced, and the parties are typically already antagonized and oriented in an adversarial fashion given highly inflammatory and largely inappropriate pleadings. The Family Law Information Program and other educational initiatives attempted by the Province have all failed to divert proceedings from the court, before they even are commenced.

The disconnect between the expectations of family law litigants, and the realities faced by them once they enter the system, are best encapsulated by Justice Curtis's comments in *Sabo v. Sabo*,[12]

> 53 It must be made clear to family law litigants that there is no right to a day in court, or at least, that the right to a day in court is tempered with the requirement that the parties take a clear-headed look at their case before insisting on their day in court. The court must sanction this behaviour clearly, or it will invite more of this behaviour.

Justice Curtis emphasized the importance a judicial response to the antagonistic and acrimonious conduct of parties routinely observed in family court. She also noted the limited finances of parties in family law, the growth of self-represented parties, and the greater strains on the administration of justice.[13] This response is ultimately guided by the *Rules*, and how the judiciary is instructed as to hold parties accountable based on cost regimes.

The Importance of Costs to the Resolution of Family Law Disputes

Costs in Family Law are intended in Family Law to serve dual purpose.[14] The first is to provide partial compensation to the "successful party," who has been out to expense, enforcing their legal rights. The second and arguably more important role is to encourage settlement, and discourage overly aggressive behaviour or "bad conduct."[15]

In a time without clear judicial direction, litigants can proceed unaware or without an appreciation of the potential cost implications involved in the family justice system. Cost awards, and early discussions relating to cost issues are increasingly more

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[11] This occurs despite Rules 3.1-1(c)(vi) and 3.2-4 (and commentary [1] to this Rule) of the *Rules of Professional Conduct*. The economic realities of family practice usually justifies or encourages litigation over alternative means of dispute resolution for most family law practitioners, and this is especially true for litigants funded by legal aid. For this reason, legal aid is often an obstacle to early dispute resolution. An estimated 82 per cent of applicants with family law matters receive a certificate, per Legal Aid Ontario, "FLIP Backgrounder," online: <http://www.legalaid.on.ca/en/getting/downloads/flip_backgrounder.pdf?t=1477940925568>

[12] 2013 ONCJ 545.

[13] *Ibid* at para 52. See also, *Izyuk v. Bilousov*, 2011 ONSC 7476 at para 58.

[14] Mary Jo Maur & Nicholas Bala & Graeme Adams, "Re-Thinking Costs in Ontario Family Cases: Encouraging Parties to "Move Forward" (2014) 33 C.F.L.Q. 173.

[15] *Ibid* at s.1

important to facilitate party settlement or early resolution. Judges in family cases can, and do, make cost orders that exceed the actual amounts at issue.[16] Unlike other types of litigation, family cases are often driven by emotions and concerns over relationships with children and dealing with relatively smaller amounts of money. Therefore, the costs of litigation often far exceed the amounts in dispute, which can have huge repercussions on the unsuccessful party.

Family litigants often do not directly gauge the risk of costs, and elect to take a "scorched earth" approach to their cases; opting to litigate rather than except a reasonable settlement offer. This is due to the high emotional and deeply personal nature of family law. These emotional agendas can often over-shadow any rational or economical concerns relating to the litigation. It is imperative for judges and lawyers to clearly outline potential cost orders early and at every step of the process. This level of transparency is required in order to facilitate reasonable, economic and efficient approaches to family proceedings.[17]

> Since family trials and long motions are very expensive, and since family litigants are often driven by emotion more than rational assessment, judges should use their power to award costs of wasted conferences more frequently in order to help litigants fully appreciate the financial impact of their course of conduct. From our discussions with Ontario judges, it would appear that submissions about costs of conferences will find receptive judicial ears.

The trend in Ontario is an overall shift to interpreting success under the *Rules* for costs not based on the outcome of a litigated case, but rather how close a party's settlement offer matches a judicial outcome. This approach distinguishes family matters from traditional civil litigation, and is justifiable based on a greater need to promote settlement. The appropriate use of cost awards can significantly promote more efficient and effective family justice process, especially if parties are informed in advance that their behaviour may have cost consequences.[18]

However, under the current formulation of Rule 24, judges still have insufficient power to properly deter inappropriate conduct, or alternatively, have too much discretion to avoid scrutinizing such conduct. When judicial resources are already scarce, and courts are flooded with too many cases, many judges are reluctant to wade further into why a family dispute has become unnecessarily protracted, and why a settlement has not been achieved. Instead, most judges expect the parties to simply resolve the matter outside of the court, without any recourse or consequence for the steps taken thus far or the conduct of the parties. Unfortunately, the majority of the inappropriate conduct in family law occurs when parties are represented, and it is lawyers themselves who can often be responsible for the questionable conduct in question. Any critique of this conduct is often rebuffed with the retort that they are simply applying "zealous advocacy" on behalf of their client.

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[16] See *Jordan v. Stewart*, 2013 CarswellOnt 11295, [2013] O.J. No. 3707 (Ont. S.C.J.), in which Justice Czutrin made an order for arrears of child support of $33,000, and a costs order of $90,000.
[17] *Supra* note 14, at s. Rule 24(9) — Costs against Counsel
[18] *Ibid*, at s.7

Lawyers as Vanguards against the Abuse of the System

Legal representation, even in family law, must serve a purpose. For far too many family law litigants, and in studies exploring the self-representation phenomenon in family law, representation typically means the introduction of additional unnecessary (and costly) steps, or even conduct which makes resolution more difficult. In part, this has to do with the parties in family litigation themselves. The issues in family law are necessarily more emotional and more charged than in other forms of litigation. The feelings and the emotions of the clients in family litigation often results in instructions to counsel to make claims that counsel knows are unsubstantiated, frivolous, or antagonistic, or take steps and use language that aggravate the parties further. Peter J. Lukasiewicz et al. state in "A Lawyer's Duty to Opposing Counsel,"[19]

> The lawyer is not and should not be just a mouth-piece for his client. He [and she] has a duty to his profession and to his ethical responsibilities and part of that duty includes an obligation to refrain from acting on instructions from his [or her] client which are in conflict with his duty to the court.

Unfortunately this duty, despite being enshrined in the *Rules of Professional Conduct*,[20] have little to no bearing to family law litigants or their counsel absent a complaint to the law society. Given the already antagonistic nature of family proceedings, the regulator is usually unable or unwilling to investigate complaints by parties in family law litigation as against counsel.

Civility, and the conduct of counsel, is not an issue isolated from family proceedings. The most pertinent in contemporary discussions on civility is the ongoing proceedings involving Joseph Groia.[21] Although the application judge found Mr. Groia's conduct at trial to be "improper", "appallingly unrestrained", "unprofessional", "inappropriate" and "extreme,"[22] his main objection was that neither the trial judge nor the opposing party complain to the law society about his conduct.[23] In subsequent coverage of the case, the media has described his position as follows:[24]

> As Joe Groia puts it, people don't hire a lawyer because they're nice and polite.
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> "Clients hire lawyers because they believe that the lawyer is all that stands between them and disaster."

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[19] Peter J. Lukasiewicz, Thomas Arndt, Jessica Bolla and Martine Ordon, "A Lawyer's Duty to Opposing Counsel," *Symposium on Civility*, The Advocates Society, online: <http://www.advocates.ca/assets/files/pdf/education/Symposium-on-Professionalism/Duty_to_Opposing_Counsel.pdf> at p 9.
[20] See note 11, *supra*.
[21] *Joseph Groia v. Law Society of Upper Canada*, 2014 ONSC 6026 (Div Ct); 2016 ONCA 471; leave to appeal to the Supreme Court of Canada pending ["*Groia*"].
[22] *Ibid* at para 22.
[23] *Ibid* at para 25.
[24] Jacques Gallant, "Toronto lawyer looks to end 'incivility' legal saga," *Toronto Star*, Oct. 21, 2016, online: <https://www.thestar.com/news/gta/2016/10/21/toronto-lawyer-looks-to-end-incivility-legal-saga.html>

Despite Mr. Groia's expressed views, the court has instead found that lawyers have a dual role, and must balance their duties required to the client with the duties required to the profession, the court and the public.[25] This is reflected in the comments made by Justice Cronk in the recent Court of Appeal decision in *Groia*. While the Supreme Court has recognized the lawyer's duty of commitment to the client's cause as a principle of fundamental justice under s. 7 of the Charter, nothing in their decision countenances a lawyer's breach of his or her professional obligations of courtesy, civility and good faith.[26]

We know from countless commentaries and conferences on civility that uncivil conduct tends to unnecessarily lengthen proceedings and adds to the cost and expense of the parties and the justice system as a whole. This conduct is often guised as "zealous advocacy" out of a misguided sense of acting in the client's best interests. The application of the *Groia* decision has already indicated that it is ineffective advocacy to behave in a "wrong-headed" manner, and emphasizes that the call to the bar is not a license to misbehave.[27] Public misconceptions about the effectiveness of counsel through aggressive and unnecessary conduct should not be the litmus test for what the profession considers to be appropriate. The rising tide of an "increase in incivility"[28] demonstrates a pertinent need for additional reform, as without this we continue to erode the public perception of family lawyers, the duties a lawyer is charged with when representing a client, and confidence in the justice system as a whole.[29] The most effective means of doing this is through financial repercussions.[30]

Although the *Groia* matter is currently seeking leave to appeal further, the lessons within are instructional as to how the profession can ensure that appropriate sanctions are in place for the conduct of counsel on a file, outside of the disciplinary context. The *Groia* case also illustrates that problematic conduct occurs far below the threshold of bad faith, and that use of that standard will not eradicate the type of

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[25] Timothy Froese, "Advocacy, Incivility and Professional Misconduct: Groia v The Law Society of Upper Canada" Canadian Appeals Monitor (06 March 2015), online: < http://www.canadianappeals.com>.
[26] *Supra* note 21, ONCA at para 95.
[27] *Dhaliwal v. Canada (Minister of Citizenship and Immigration),* [2015] I.A.D.D. No. 1336; [2015] D.S.A.I. no 1336 at para 124, in reference to *Groia, supra* note 27
[28] S*upra* note 26
[29] Family law features prominently in public dissatisfaction with the legal system; *supra* note 8 at 40-41, 44-48; See also, Omar Ha-Redeye, "Family Law Profiled at Opening of the Ontario Courts," Sept. 18, 2011, online: <http://www.slaw.ca/2011/09/18/family-law-profiled-at-opening-of-the-ontario-courts/>
[30] Financial considerations are the most important factor for litigants in family law, and the litigants themselves often unfairly bear the costs for conduct incurred while represented. See, for example, Bala N & Birnbaum R. "The Rise of Self-Representation in Canada's Family Courts" paper prepared for the National Family Law Program, Halifax Nova Scotia 2012 at 10. See also Langan A-M, "Threatening the Balance of the Scales of Justice: Unrepresented Litigants in the Family Courts of Ontario" 30 Queens's Law Journal (2005) 825; Gayla Reid, Donna Senniw, and John Malcolmson, Developing Models for Coordinated Services for Self-Representing Litigants: Mapping Services, Gaps, Issues and Needs Law Courts Education Society of BC, 2004, online: <http://www.lawcourtsed.ca/documents/research/srl_mapping_repo.pdf>.

incivility observed in family law. The best person to review the conduct of counsel is a judge presiding over the file, who can review in detailed cost submissions the conduct of the parties. This is especially pertinent in family law, where the majority of the questionable conduct occurs in written correspondence which may never otherwise make its way to a motion record or cost submissions. In order to empower judges to do this, a mandatory review of the conduct of counsel, both historic and on the record, is necessary to properly stamp out such behaviour, thereby facilitating early resolution and minimizing the impact of family proceedings on the justice system as a whole.

Recommendations

Any improvement to the cost regime under the *Rules* should be predicated on the public interest, primarily in ensuring that inappropriate and uncivil conduct is entirely stamped out in family proceedings. Although incivility is an issue in the profession generally, it has far more significant consequences on family law litigants, in lengthening the proceedings, adding additional steps, and irreparably damaging the relationships between the parties, than it does in other areas of law. The need for a constructive, positive and ongoing relationship between the parties is more pronounced in family law than other areas of law, for the reasons detailed above, especially when there is the presence of children. For this reason, the cost regime can only be described as effective if it completely and thorough discourages this inappropriate conduct.

The single most important change that can be made to the *Rules* is to hold the lawyer of record personally accountable for costs. Although this step already exists under Rule 24(9), the application of this rule should be broadened, as it is rarely applied as currently constructed. The language of this rule should be changed so that a judge *must* consider (rather than just “may”) the conduct of the lawyer in the proceedings. This change emphasizes to any lawyer that the frivolous nature of unsubstantiated allegations, rambling pleadings with unnecessary facts plead simply for the purposes of antagonizing the other party, and the vitriolic diatribe often contained within correspondence, will all be put before a judge. The effect of this will be to substantially curb the antagonism and animosity of litigants in family law, and emphasize the importance of professional conduct when representing parties in these proceedings. As family counsel routinely withdraw from the record, occasionally due to the possibility of having costs imposed on them personally, this rule should empower a judge to apportion costs on the basis of who was the lawyer of record when the conduct in question occurred. This also allows for greater harmony with the new Rule 24(10), where costs are imposed at each step, or are reserved for determination at a later stage. The latter option under this rule would preclude the imposition of costs personally on previous counsel, and has been strategically employed for that reason in evading responsibility for untoward conduct on a file.

The proposed amend would appear as follows:

COSTS CAUSED BY FAULT OF LAWYER OR AGENT

(9) If a party's lawyer or agent, or former lawyer or agent, has run up costs without reasonable cause or has wasted costs due to unnecessary actions, incivility, or any other form of inappropriate behaviour, the court ~~may~~ shall, on motion or on its own initiative, after giving the lawyer or agent an opportunity to be heard,

(a) order that the lawyer or agent shall not charge the client fees or disbursements for work specified in the order, and order the lawyer or agent to repay money that the client has already paid toward costs;

(b) order the lawyer or agent to repay the client any costs that the client has been ordered to pay another party;

(c) order the lawyer or agent personally to pay the costs of any party; and

(d) order that a copy of an order under this subrule be given to the client.

Differentiation of a cost regime unique to family is law is justified given the broader societal context in which family law operates, and the increased role and responsibility of the courts and the justice system in properly dispensing of justice issues that routinely impact vulnerable minorities. A recommendation to increase the responsibility of the lawyer of record, with financial consequences, is not one likely to come from the family bar itself, as it does not immediately benefit the family bar's interests.[31] This proposed amendment has the consequences of improving the family law system as a whole, and would be of in the public interest.

Where the public routinely indicates that legal services are "broken",[32] and our Chief Justice notes we have an access to justice "crisis,"[33] these types of systemic changes are certainly warranted. Access to justice does not come from increasing legal aid,[34] or even appointing more judges and expanding more courts.[35] These steps simply have the effect of doing what we have been doing before on a larger scale. Access to justice only really comes through doing things differently than we have in the past.[36]

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[31] The author made this recommendation orally to Bencher Joseph Groia, in respect to incivility in family law, on Sept. 25, 2016 at the Ontario Bar Association Council meeting in Collingwood, Ontario. Where the financial interests of the bar are not tied to litigation, or where those on the bench weigh the burdens on the justice system, such a recommendation becomes far more palatable.

[32] Jennifer Pagliaro, "Most Ontarians say justice system 'broken': survey," Toronto Star, Oct. 17, 2016, online: <https://www.thestar.com/news/gta/2016/10/17/most-ontarians-say-justice-system-broken-survey.html>

[33] "Remarks of the Right Honourable Beverley McLachlin, P.C. Chief Justice of Canada," 2015 Canadian Bar Association Plenary, August 14, 2015, online: <http://www.scc-csc.ca/court-cour/judges-juges/spe-dis/bm-2015-08-14-eng.aspx>;
See also, CBC News, "Canada's top judge slams 'inaccessible justice'," Aug 18, 2013, online: <http://www.cbc.ca/news/canada/saskatoon/canada-s-top-judge-slams-inaccessible-justice-1.1306993>

[34] Legal Aid Ontario, "New Financial Eligibility Guidelines for Legal Aid," April 1, 2015, online: <http://legalaid.on.ca/en/news/newsarchive/1503-31_eligibilityguidelinesdetails.asp>

[35] Helen Burnett, "More judges needed now in family court," *Law Times*, Feb. 4, 2008, online: <http://www.lawtimesnews.com/200802041750/headline-news/more-judges-needed-now-in-family-court>

[36] For other examples of systemic changes to improve the legal system, see the author's comments in Judy Van Rhun, "Family law opening up to non-lawyers," *Law Times*, June 20, 2016, available online: <http://www.omarha-redeye.com/wp-content/uploads/2016/06/2016-06-20_Family-Law-opening-to-non-lawyers.pdf>

Cost consequences imposed by the courts is the single greatest deterrent that our legal system can impose to ensure that litigants attempt to resolve their disputes before attending court, and while in litigation, only use proceedings for the intended purposes of resolving conflicts, and not to mount social, financial and emotional pressure on the other side. Unfortunately these consequences in the context of family law need to be borne more directly by the legal representatives providing assistance, as their assistance more frequently than not often complicates matters.