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The Association of Family and Conciliation Courts, Ontario Chapter (AFCC-O)

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January 30, 2017

The Honourable Chief Justice Heather Smith
Toronto Region
Osgoode Hall, 130 Queen St. W.
Toronto, Ontario M5H 2N5

Dear Chief Justice Smith:

Re: Unified Family Courts Initiative

We are writing to you in our capacity as Past President and President-Elect of the Association of Family and Conciliation Courts, Ontario Chapter ("AFCC-O") in support of the expansion of the Unified Family Court ("UFC") throughout Ontario.

The AFCC is an interdisciplinary and international association of professionals dedicated to the resolution of family conflict. AFCC members share a strong commitment to education, innovation, and collaboration in order to benefit communities, empower families, and promote a healthy future for children. We promote a collaborative approach to serving the needs of children among those who work in and with family law systems, encouraging education, research and innovation and identifying best practices. Our Vision is a justice system in which all professionals work collaboratively through education, support, and access to services to achieve the best possible outcome for children and families. The AFCC, Ontario Chapter, one of two Canadian chapters, has over 400 members in the province, including lawyers, mental health professionals, mediators and judges.

AFCC-O has publicly supported the expansion of the UFC since our 2011 policy paper entitled "*The Ideal Family Court*", which was adopted following our symposium about the challenges faced by the family justice system. The development of UFC was a primary goal highlighted in that report. In 2014, AFCC-O followed up on this initial policy piece by conducting an

environmental scan of Ontario government agencies and non-profit organizations to better understand their policy initiatives as well as the gaps they identified in the family law system. We utilized the responses collected from 22 government agencies and non-profit organizations to devise the “Ideal Family Court (Revised 2014)”, which is attached hereto. Once again, UFC was identified as a key priority that was and continues to be supported by various stakeholders in the family justice community.

In 2015, AFCC-O conducted research on the issue of domestic family law cases that also involve the child protection system. We found a high volume of complex cases that intersect the various legal and social systems. What is apparent from our research and from prior social science studies is that many families have multiple stressors following separation and divorce, and/or involvement with the child protection system. In November 2016, AFCC-O organized a symposium to build on this research and to consider how we may improve the provision of services and supports for these families. Once again the UFC was identified as an important step to facilitate the resolution of family law disputes. The research paper and symposium notes are available on our website, www.afccontario.ca.

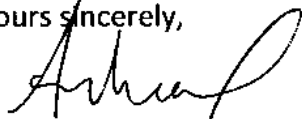
AFCC-O believes that the benefit of the Unified Family Court is threefold: (1) Under the UFC model, families engaged in the child protection and domestic courts are served in a single location with a single set of rules, practices and procedures, and one line of appeal. As such, some of the barriers to access to justice as well as public and private costs are reduced, particularly for self-represented litigants; (2) So long as the UFC is properly resourced, families have better access to a broad range of family law services that are designed to address the multi-dimensional issues and challenges faced by many litigants. These services include support for families and children impacted by domestic violence, intersection cases (domestic family law and child protection); and, (3) improved access to mediation.

We commend the federal and provincial governments on the excellent initiatives that have been implemented since June 2011 when AFCC-O commenced its review of challenges faced by the family justice system. We believe that the expansion of the UFC is the next crucial step, as a single court model can best provide families and children (who are often the most vulnerable in our population) access the services they require. We urge the Minister of Justice to fulfill her mandate with respect to the expansion of the UFC.

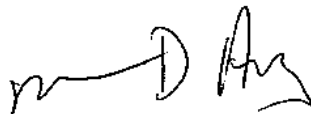
In October 2016, AFCC-O wrote to the Minister of Justice in support of ongoing (predictable, sustained, stable) funding for family law initiatives in order to ensure stability of existing services and the capacity to innovate, develop new service delivery models and to expand on existing services that require additional resources. Today we write to support our belief that an investment in the UFC, a key family law initiative, will not only improve the justice system, but will also lead to reduced costs (financial and otherwise) in areas such as health and criminal justice.

The Association of Family and Conciliation Courts, Ontario Chapter strongly supports the expansion of the UFC. We look forward to working with the federal and provincial governments in any capacity that may be of assistance.

Yours sincerely,



Andrea Himel, LL.B., M.S.W.
Past President, AFCC-O



Dr. Dan Ashbourne, C. Psych.
President- Elect, AFCC-O

* This letter is supported by the AFCC-O Board Members listed above. Judicial Board Members take no position with respect to AFCC-O's support for the UFC.

AFCC-Ontario: The Ideal Family Court (Revised November 2014)

1. Statement of Principles:

- a. There should be one stop family court availability for all legal issues; commonly known as Unified Family Court. ¹
- b. A minimum selection of services should be available for all family court litigants in a timely manner, including: information and education, mediation, supervised access centres, for visits and exchanges, therapeutic supervised access services, legal advice, a system of adequate legal representation, child legal representation, timely judicial decision-making, and a source for referrals to counselling, assessment, and parent coordination. Reunification and therapeutic access should be prioritized, and increased funding made available to agencies providing these services. ²
- c. Every Court Location and family law services should be culturally sensitive with costs proportionate to income ³
- d. There should be a sufficient complement of specialized family court judges in each jurisdiction to ensure that cases are scheduled and progress appropriately. A maximum time standard should be established for court and service processes and this time standard should be available to all litigants, along with information about the local ability to meet those standards. ⁴
- e. Court processes and forms should be simplified, and the Family Law Rules amended, to provide for more efficient and effective access to justice. Information about the court process and court services should be readily available to all litigants ⁵

2. Best Practices to Work Towards:

- a. ``One Judge for One Family`` should be the norm from the beginning of the case until the door of trial and for Motions to Change. The trial judge should be responsible for the follow-up enforcement and contempt issues. ⁶
- b. Services should include an evaluation component with regular feedback to the local court and community partners
- c. Formalized and regular communication between the court and the service community, including public health and educators, should be established ⁷

- d. In particular, there should be protocols on information and service sharing for children whose families have court matters in more than one type of court.⁸
- e. Protocols and partnerships should be developed between the court and local service-providers consistent with the principles outlined above.⁹
- f. Research and regular evaluations should be built into all processes.¹⁰
- g. Affordable legal advice at the intake stage, and affordable assistance with the completion of court forms (for domestic and child protection matters), should be readily available to lower-middle and middle-income families.¹¹

3. Best Practices Already in Progress:

- a. Family Law Information sessions should be mandatory in all court centres and a second session should be mandatory for all litigants and their children, if the children are involved in the case. Children should be provided with general information; such as their legal rights, living in two homes, step-parents, step-siblings, domestic violence, and the court process.
- b. Every Court Location should have Liaison and Resource Committees.
- c. Every Court location should regularly develop and assess needs and priorities for its court, related to these principles and best practices¹²
- d. Family Courts should keep abreast of and try to integrate all modern technologies which could assist in the efficient and accessible operation of the court.¹³
- e. Family courts should continually assess tasks that require routine, uncomplicated, procedural, and consensual decision-making for fast-track processes.¹⁴
- f. Financial eligibility for Legal Aid Ontario Services should be expanded, particularly for clients who receive FLSC document preparation services as well as post-mediation ILA certificates.¹⁵

Endnotes

Organizations that also support the initiatives identified by AFCC Ontario Chapter, as set out in their responses to the 2014 Environmental Scan and/or reports issued by these organizations in 2013 and 2014 include those set out below. A list of additional organizations in Canada and the United States that support some or all of these initiatives may be found in the AFCC Family Court Review, Volume 52, Issue 4 (October 2014):

¹ Initiative 1(a): Pro Bono Legal Ontario ("PBLO), Family Mediation Canada ("FMC"), Law Foundation of Ontario, Office of the Children's Lawyer, Hinck's-Dellcrest Centre, Supervised Access Program - Ministry of the Attorney General of Ontario, the Advocates Society, Legal Aid Ontario

("LAO"), Ontario Natives Women Association ("ONWA"), and National Action Committee ("NAC").

- ² Initiative 1(b): Canadian Forum on Civil Justice ("CFCJ"), Superior Court of Canada, Law Foundation of Ontario, Office of the Children's Lawyer, ONWA, Hincks-Dellcrest Centre, The London Family Court Clinic, the Advocates Society, Regional Municipality of York, Supervised Access Program - Ministry of the Attorney General of Ontario, Luke's Place, PBLO, FMC, and NAC.
- ³ Initiative 1(c): CFCJ, NAC, Law Foundation of Ontario, Niagara Chapter – Native Women Inc., ONWA, Hincks-Dellcrest Centre, Supervised Access Program – Ministry of the Attorney General of Ontario, the Advocates Society, Regional Municipality of York, Luke's Place, and LAO.
- ⁴ Initiative 1(d): LAO, Office of the Children's Lawyer, Supervised Access Program – Ministry of the Attorney General of Ontario, The London Family Court Clinic, the Advocates Society, and Regional Municipality of York.
- ⁵ Initiative 1(e): PBLO, FMC, Luke's Place, Law Foundation of Ontario, Office of the Children's Lawyer, Supervised Access Program - Ministry of the Attorney General of Ontario, Superior Court of Canada, The London Family Court Clinic, the Advocates Society, and NAC.
- ⁶ Initiative 2(a): Office of the Children's Lawyer, Supervised Access Program - Ministry of the Attorney General of Ontario, The London Court Clinic, the Advocates Society, and Regional Municipality of York.
- ⁷ Initiative 2(c): Law Foundation Ontario, ONWA The London Family Court Clinic, LAO, Hincks-Dellcrest Center, and Supervised Access Program – Ministry of the Attorney General of Ontario.
- ⁸ Initiative 2(d): The London Family Court Clinic, and the Advocates Society.
- ⁹ Initiative 2(e): Law Foundation Ontario, ONWA, The London Family Court Clinic, LAO, Hincks-Dellcrest Center, and Supervised Access Program – Ministry of the Attorney General of Ontario.
- ¹⁰ Initiative 2(f): PBLO.
- ¹¹ Initiative 2(g): PBLO, FMC, CFCJ, Luke's Place, LAO, and Superior Court of Canada, Law Foundation of Ontario, Niagara Chapter – Native Women Inc., Office of the Children's Lawyer, ONWA, Hincks-Dellcrest Centre, the Advocates Society, Regional Municipality of York, and Supervised-Access Program – Ministry of the Attorney General of Ontario.
- ¹² Initiative 3(c): NAC.
- ¹³ Initiative 3(d): PBLO, and Regional Municipality of York.
- ¹⁴ Initiative 3(e): PBLO, Office of the Children's Lawyer, the Advocates Society, CFCJ, LAO, Superior Court of Canada, and NAC.
- ¹⁵ Initiative 3(f): Luke's Place, LAO, Office of the Children's Lawyer, Regional Municipality of York, Law Foundation of Ontario, Advocates Society, and NAC.