



January 11, 2018

Via email: mcu@justice.gc.ca

The Honourable Jody Wilson-Raybould, P.C., M.P.
Minister of Justice
284 Wellington Street
Ottawa, ON K1A 0H8

Dear Minister:

Re: Judicial Appointments

The Canadian Bar Association appreciates the government's ongoing commitment to address delays in superior courts throughout Canada, including recent appointments to fill judicial vacancies in the superior courts of many provinces and territories. However, the Commissioner of Federal Judicial Affairs reports 63 unfilled vacancies as of December 1, 2017, affecting all provinces and territories. We continue to believe that maintaining full judicial complements is critically important to ensuring public access to, and confidence in, our justice system.

The existing vacancies are compounded by requests by many Chief Justices of superior courts for an increase in judicial complements. We applaud the commitment in the 2017 Budget to create 28 new federally-appointed judicial positions. These positions will help the superior courts to manage ever-increasing workloads in the criminal courts – as well as system-wide pressures on all aspects of the justice system, including family and civil justice – resulting from *R. v. Jordan*.

We agree with recent comments of the Chief Justice of Ontario, that it is “important to ensure that civil and family matters are not eclipsed by the pressing need to address criminal justice efficiencies.”¹ The Chief Justice noted that the “diversion of judicial resources in light of *Jordan* has had the unfortunate effect of creating greater strains on the civil docket. We must renew our efforts to improve access to civil justice.”

The strain on the civil justice system has lengthened wait times for procedural steps and trials, which in turn frustrates access to justice for families, businesses and individuals.

¹ [Remarks](http://bit.ly/2mshWVY) of Chief Justice George Strathy at the Opening of Courts of Ontario, September 2017. (<http://bit.ly/2mshWVY>)

People with matters before the court are dealing with issues of vital importance in their everyday lives. The timely adjudication of criminal, civil (including commercial and estates matters) and family proceedings is central to a functioning justice system. Currently, timely adjudication is not occurring. While the 28 judicial positions in Budget 2017 are a significant step in the right direction, more is needed to address the challenges posed by demographic changes, access to justice concerns and heightened complexity of cases. In our view, an appropriately managed increase to the judicial complement is one good way to improve access to justice in criminal, civil and family law proceedings.

We understand that the Ontario Ministry of the Attorney General and Superior Court of Justice have asked the federal government to immediately increase Ontario's federally-appointed judicial complement. We support this proposal. While we are not privy to the specifics of the requests and the business plan, recognizing the integrated nature of the justice system in Canada, we believe that opportunities exist to improve the efficiency and effectiveness of the justice system as a whole.

Ontario's Attorney General, in collaboration with the Ontario judiciary, has submitted a proposal calling for an expansion of the province's Unified Family Court (UFC) by 2025, with immediate expansion to eight new sites. Forty years after it was first introduced in Hamilton, the merits of the UFC model are clear: it provides family law participants with a single court/venue to resolve their proceedings, thereby reducing duplication, confusion and delay, while eliminating conflicts of jurisdiction and multiplicity of litigation. Indeed, the expansion of UFCs has the clear support of the judiciary in Ontario and is a top priority for the CBA's Family Law Section on a national basis.

A province-wide roll-out of UFCs will require significant, ongoing increases to the judicial complement over the next few years. We are pleased to see an alignment of priorities between the federal and provincial governments, expressed in the Mandate Letters of 2015 and 2016 respectively. It is significant that both governments are working jointly to complete the UFC project and support its expansion. Expanded UFCs can improve the public's access to justice. And efficiencies realized in the family law system can be reasonably expected to reduce strains on the civil and criminal docket.

We appreciate the complexities in creating new superior court positions due to shared federal, provincial and territorial responsibilities. However, intergovernmental challenges must not be a barrier to the proper functioning of the justice system, particularly where there is a demonstrated need for more judges.

The appointment of judges must be a critical piece of any sustainable plan to reduce court delays. As always, the CBA is willing to assist in any way that would be helpful.

Yours truly,

(original letter signed by Tamra Thomson for Kerry L. Simmons and Quinn M. Ross)

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cc. The Honourable William Morneau, P.C., M.P., Minister of Finance, Bill.Morneau@canada.ca