



March 29, 2018

Michael Enright  
CBC Radio

Dear Mr. Enright,

**RE: March 25, 2018 Interview, “More Canadians are acting as their own lawyer because they don't have a choice”**

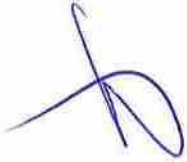
Your interview with Professor MacFarlane on March 25, 2018 addressed the issue of access to justice to our legal system and, in particular, the family law courts. These are issues of great concern to the Toronto Lawyers Association. The TLA recognizes that family litigants who do not have lawyers are a significant part of all family law litigation and that they are not going away. They need to be treated with respect, as do all members of the family law system, including the judiciary, lawyers and mediators. The decision to license paralegals to practice family law will not solve the problem, which is that unrepresented family law litigants are trying to navigate a daunting system, because paralegals will not have the same knowledge base as lawyers in what is a complex area of law. Family law litigants who hire paralegals will in some measure be worse off as they will not have the benefit of the special consideration that judges are required to give to unrepresented parties.

What separating spouses want, and need is a resolution of their disputes. The courtroom should be the last, not the first, way to resolve these disputes. There are better ways to address access to justice, some of which are underway:

- a. The Federal government has announced an expansion of Unified Family Courts across Ontario over the next seven years. This will ensure that in every jurisdiction we have family law information centres to assist unrepresented parties at no cost, mediation available free or at low cost, and specialized family law judges who can receive targeted training.
- b. We can expand unbundling of legal services and legal coaching by addressing liability issues. While the Law Society of Ontario has amended the professional rules of conduct to promote these activities, LawPro, our insurers, are simultaneously warning lawyers to approach these arrangements with caution because of the higher risk of malpractice suits when a lawyer handles only part of a case. With unlimited personal liability for malpractice claims this is a legitimate concern for lawyers as it will be for paralegals.

- c. We can simplify the family law rules and practices to make courts more accessible to those without lawyers and cheaper for those with lawyers. This would require action by the provincial governments.

Yours very truly,

A handwritten signature in blue ink, appearing to be 'D. Derstine', with a stylized flourish.

Dirk M. Derstine  
President  
Toronto Lawyers Association