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7 September 2018.

Committee Secretary,  
Senate Legal and Constitutional Affairs Committee,  
PO Box 6100,  
Parliament House.  
CANBERRA. ACT. 2600.  
[legcon.sen@aph.gov.au](mailto:legcon.sen@aph.gov.au)

Dear Sir/Madam

Re – Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018 and Federal Circuit and Family Court of Australia Bill 2018

We thank the Senate Legal and Constitutional Affairs Committee for allowing us to present our submission to your Inquiry into the *Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018* and *Federal Circuit and Family Court of Australia Bill 2018*

It is submitted that fundamental legislative changes would not help alleviate the crises that exists in the current Family Court.

Unfortunately by only addressing basic structural changes, the Attorney-General has not considered more fundamental legislative changes that would help solve the problem.

These fundamental legislative changes include such issues as the implementation of a rebuttable presumption of joint residency; the provision of parents with having rights (rather than the rights of children being paramount), the reduction of court secrecy to increase the accountability of court judges, etc.

Changing the name of a court does not change the attitude of the people who administer the court nor does it change the legislation under which the family law system operates.

At the same time, couples may be now forced to accept further unfair court orders. This is due to the fact that they may be now faced with the possibility of indemnity costs. This

is similar to the types of cost orders that now apply in the Federal Court.

Paragraph 50(4)(e) and paragraph 159(4)(e) of the proposed *Federal Circuit and Family Court of Australia Bill 2018* make it clear that such costs may be awarded on an indemnity basis.

Yours faithfully,

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