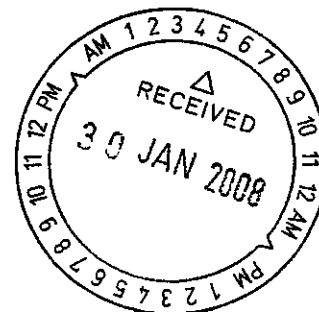


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EVANS & COMPANY

FAMILY LAWYERS

> Date: Thursday, 29 January 2009
> Your Ref:
> Our Ref: Dean Evans



The Federal Courts Branch
Australian Attorney-General's Department
Robert Garran Offices
3-5 National Circuit
BARTON ACT 2600

FACSIMILE: 02 62505904

Dear Sirs

RE: REVIEW OF FUTURE GOVERNANCE OPTIONS FOR FEDERAL FAMILY LAW COURTS IN AUSTRALIA

I refer to the invitation for comments on the recommendations made by the abovementioned Review.

I submit that if the two Courts are to merge, the use of the superior Court's name, The Family Court of Australia, will create certainty and reflect the nature of the legal matters before the Court. Refraining from a further name change, would also, in economic terms, avoid the likely large administrative cost in rebadging the Court from all levels such as signage, stationery, online and so on.

In general, my staff and I have no preference or alternate suggestion concerning what the Judicial Officers should be called. In general, the profession and the litigants have adapted to the prior changes and will continue to do so.

In terms of new procedures which might be considered, one of the main areas of concern that my staff and I have, is that matters which require urgent attention, are often not being dealt with to the satisfaction of clients and practitioners.

Particularly in parenting matters involving unilateral relocation and recovery orders, but also in urgent spousal maintenance and injunctive relief applications, it would be of assistance to practitioners to have access to a fixed Court listing day permanently scheduled say twice per week at which a duty Judicial Officer hears submissions about the urgent nature of matters before determining when and before whom they should be listed. Alternatively, after considering those matters, and any preventative measures taken, they could be referred for alternative dispute resolution at a Family & Relationships Centre or to similar private services.

Currently, the methodology of listing particularly parenting matters, has the practical effect of permitting unilaterally acting spouses of gaining the benefit of time, disruption to children and ongoing arrangements. In a variety of those cases, the financial, personal and emotional

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Thursday, 29 January 2009

**Re: REVIEW OF FUTURE GOVERNANCE OPTIONS FOR FEDERAL FAMILY LAW COURTS
IN AUSTRALIA**Page 2

consequences of waiting for periods of two months for a Court return date, effects significant damage to the children and could not possibly be considered in a child's best interests.

It is submitted that a Judge, hearing limited submissions, could readily discern what was urgent and what was not and could allocate Interim hearing dates whilst pronouncing any necessary urgent Orders which prevent capricious and inappropriate conduct on the part of parents who are intent on otherwise capitalising on the delay in Court listing procedures.

In terms of divisional responsibilities, it is submitted that all Judges should have the same jurisdiction to hear parenting, property and maintenance matters, but that the level of demand, rather than the hierarchy of Judges should determine where and in what matters a former Federal Magistrate or current Judge should preside.

What is important to parties and practitioners is prompt available access to justice. It is not of great concern that there be a maintenance of a clear demarcation in hierarchy. The hierarchy of the Court is likely to be maintained by a minor differentiation in title names and the terms of tenure.

It is hoped by the writer that the current Judges of the Family Court will not be relegated to dealing with appellate and complex matters only. They are all equipped to play a role in the spreading of resources so as to reduce Court waiting times and continue receiving allocations to a docket system.

It is clear that the Court will soon be called upon to handle the determination of financial cases arising between de facto couples.

With that in mind, it appears all the more important to mobilise all Judicial Officers, so as to minimise the blow out of Court listings at each level (i.e. Interim and final hearings).

Thank you for the opportunity to provide these comments on behalf of my staff and I.

Yours faithfully,
EVANS & COMPANY
FAMILY LAWYERS

DEAN EVANS
Principal
Qld Law Society Accredited Specialist - Family Law