



**ONTARIO
BAR ASSOCIATION**
A Branch of the CANADIAN BAR ASSOCIATION

**OBA Submission
to the Ministry of Finance
Pre-Budget Consultation**

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Submitted by:
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Mr. Minister - Thank you for providing the Ontario Bar Association with the opportunity to participate in your pre-budget consultation process. My name is Steve Pengelly and I am the Executive Director of the OBA.

As you may be aware, our Association represents 18,000 lawyers, judges, law professors and law students across the province. We are a voluntary membership-based association and the largest provincial branch of the Canadian Bar Association. Our role as the voice of the legal profession in Ontario is to advance reasoned positions to the public, to all levels of government, and to our regulator, the Law Society of Upper Canada, for the benefit of our members, and to improve the law and the administration of justice in this province.

On behalf of our members, and as we have done in the past, we would, once again, urge you to consider an amendment the Business Corporations Act. Under the act, lawyers cannot currently issue non-voting shares to immediate family members. Doctors and dentists can. While this is clearly an issue of fairness and equity, it is also most decidedly an access-to-justice issue which we will pursue with your colleague, the Attorney General as well. In small towns and rural communities throughout this province, the ability to access the same right available to Doctors and Dentists could be the difference between maintaining a viable law practice to serve the local community or packing up and moving one's practice to a larger centre. The Ontario Bar Association submits that it is unfair and inappropriate to permit doctors and dentists to have the benefit of this right under the act, but not lawyers.

Our primary purpose today is to bring to your attention some of the critical realities of today's Ontario justice system. We released, in May of this year, the report of our Justice Stakeholder Summit. We are very pleased that the government has seen fit to act quickly to address a number of the recommendations contained in our report. It is our view that Ontario's system of justice has no equal in the world. However, our justice system cannot continue to be a Tier 2 priority in the budget development process or at the Cabinet table.

The justice system and the rule of law, underpin Ontario's civilized society. Without them we really have no viable society. Those who serve in the justice system are as relevant and essential to society's well being as those who serve in the health care and education fields. Individuals' rights and liberties are the subject matters dealt with on a daily basis in Ontario's criminal, civil and family justice systems. The rule of law and an effective judicial system represent the foundation, the cornerstone, of our society.

As we face difficult economic times, the strain on Ontario's justice system will be increase. Tough times, unfortunately, are often accompanied by increased crime rates, domestic violence, and family breakdown. The need for a sustainable and accessible legal aid system is all the more pressing in an economic downturn.

Legal aid as a component both of the justice sector budget, and of overall government spending is relatively small. Adequate funding of legal aid represents exceptional value for money in terms of its positive impact on individual's lives and communities generally. Equally, neglect of the legal aid system has a direct and immediate effect on individual Ontarians, as well as on public confidence in the administration of justice in this province, particularly as more and more people need to turn to legal aid for assistance.

Central to our submission to the government's legal aid review last year was the need for continuing, significant, and sustainable investment in legal aid. This need is dire, and there is no other way to describe it. There is an immediate need to increase both the tariff and the overall funding for legal aid services to ensure that lawyers are able to continue to accept legal aid work. It is also essential to deal with the ongoing requirement to institutionalize a system of periodic adjustments, preferably in the budgeting process, to ensure legal aid services are adequately and appropriately funded now and in the future.

When over 35% of family law applicants are turned away, it means that hundreds of single mothers and fathers with kids are left with no ability to have their needs properly represented. The ripple effect on the system is horrendous as many of them descend into poverty and onto social assistance. Such individuals have no choice but to access the courts, and many attempt to represent themselves. Individuals in such circumstances are no match for experienced counsel on the other side, and judges have no option but to use valuable court time to instruct them in how to proceed and ensure that the process is somewhat balanced. Unrepresented or self-represented litigants now account for more than 50% of family law matters in many counties in Ontario.

The Ontario justice system must become a government priority. For years we have participated in these kinds of sessions and presented essentially the same message. The citizens of this province need and deserve a justice system in which they have confidence, which is accessible in a timely manner, and in which, legal aid assistance is available for those in need. The tremendous demands on Ontario's justice system are not new. Indeed, they are well documented in virtually every major newspaper, news and talk show. The rule of law, and the justice system that ensures there is a viable legal system in place, must be afforded the same kind of priority that the health care and education systems currently enjoy. Doing so will ensure that all three pillars required to support our society, and our way of life, are in place.