



October 12, 2016

**The Honourable Jody Wilson-Raybould**  
**House of Commons**  
Ottawa, Ontario  
Canada  
K1A 0A6

Dear Minister Wilson-Raybould,

**RE: Judicial Vacancies**

I am writing this letter to express the profound concern of the Toronto Lawyers' Association with respect to the unprecedented number of judicial vacancies across the country, including Toronto in particular, and the unwarranted delay of your office in filling those vacancies.

The Toronto Lawyers' Association is the voice of its 3,200 members who practice law in all disciplines across the GTA. Issues touching on improving and enhancing access to justice for Torontonians are of particular importance to the TLA Board and our members. In our view, maintaining a robust, highly qualified and independent judiciary is an important aspect of an effective and functional court system.

Presently there are 8 Superior Court of Justice, 3 Unified Family Court and 3 Court of Appeal vacancies in Ontario. We understand that of the 8 Superior Court vacancies, 5 are for unfilled positions in the Toronto civil division. The result is that the civil Superior Courts in Toronto are operating at less than 80% of a full judicial roster. In fact, given that 5 of 19 judges currently sitting on the civil list are supernumerary, the civil list is in fact operating at only 69% of its present capacity.

The results are disastrous to the effective administration of justice. Parties seeking to set actions down for a long trial in Toronto are now being offered trial dates in 2019. Some cases that have been waiting months or years for their trials are being told that they will have further delays as no judge is available to hear the case on the date the matter was scheduled to commence. Delays of more than two years before a litigant's dispute can be heard by the court are untenable and reflect a demonstrable failure of the system to provide meaningful access to justice to the citizens of Ontario.

.../2

Obviously, the lack of judicial resources is a central cause of the delays faced by the users of the civil justice system. The vacancies are also placing tremendous burdens on the current sitting judges, who are struggling to meet the additional demands on their time caused by the vacant positions.

It is imperative, therefore, that you take immediate action to fill the judicial vacancies without any further delay. There are a multitude of highly qualified applicants who have already been vetted by the prior Judicial Appointments Advisory Committee for the Greater Toronto Area. Selection of the next appointments from among these applicants should proceed now. There is no principled basis for delay in appointing new judges. While we are extremely pleased that steps are being taken to change the judicial appointment process to make it more transparent, and to increase diversity on the bench, filling the judicial vacancies cannot and should not wait until those amendments are formalized. Surely there are suitable candidates who have already been vetted who would fall within the likely criterion under the forthcoming system?

In addition, the Toronto Lawyers' Association notes that there has been no increase in the total compliment of Superior Court judges in decades. Almost ten years ago, in his 2007 report on Civil Justice Reform, the Honourable Coulter Osborne then noted that there was a need for additional judicial appointments based upon the significant increase in Ontario's population since 1990. He concluded "in some judicial centres in Ontario the need for more judges is palpable to the extent that, I think, an overwhelming case exists for increasing the number of judges there." This includes Toronto, as well as Central East, Central West and Central South. Ontario has the highest population-to-judge ratio of all Canadian jurisdictions, and Toronto is the hardest hit, with a judge to population ratio now sitting at 1:52,000. The last time additional judges were added to the compliment, the ratio sat at 1:27,000. The exponential increase in population has, of course, resulted in increased pressures on the judiciary. Additional pressures are also being exerted in particular on the civil justice system as more judges must be allocated to criminal cases in response to the requirements imposed by the recent Supreme Court of Canada decision in *R v. Jordan*, 2016 SCC 27 for trial within a reasonable time.

Accordingly, Ontario is long overdue for a meaningful increase to the total judicial compliment. The Toronto Lawyers' Association urges the Ministry to take immediate action to fill all the outstanding vacancies, and to create new judicial positions without any further delay. The current situation is verging on a crisis, as the civil justice system is unable to withstand the ongoing pressures exerted on it to the detriment of the public, the administration of justice and, indeed the Rule of Law.

Yours very truly,



Stephen Mullings  
President  
Toronto Lawyers Association