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**PATRON : David Russell**

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The Law Commission  
PO Box 2590  
WELLINGTON 6001

Dear Sirs

### **Courts Submission**

The Federation is a collective of community organisations that share a common code of ethics, philosophy and commitment to delivering high quality, free budgeting advice to families and individuals. Budget advisers have considerable experience in helping people deal with debt and this includes advising about processes for the Disputes Tribunal, Tenancy Tribunal, District Court and High Court (for bankruptcy actions). Many of the results achieved by budget advisers however are by negotiation rather than the adversarial route.

We agree that a fair justice system depends on people knowing their rights and the consequences of their decisions. While written material is important it is not in itself sufficient to ensure understanding. As identified in the report there are within communities a large number of trained, semi-trained and untrained advocates to whom people in need can go to for help. Many Government agencies have identified these people, in Citizens Advice Bureaux, Budget Advisory Services, Victims Support, etc. as valuable resources to help disseminate and interpret information. These Government departments enter into relationships with these community groups in arrangements that include a free supply of promotional material, training of advocates and supply of reference manuals. We note that the Legal Services Agency has begun a series of training programmes on various aspects of the law in an effort to stem the tide of demand on the Legal Aid system. This work is hampered by resources within the agency and the community.

*It is our recommendation that the Courts Department should invest in the existing people resources in communities by working with appropriate community agencies to provide training for advocates and ongoing reference material suitable for para-legal practitioners.*

It is our belief that this will enable disputes and debt issues to be more readily negotiated rather than clogging up the Courts systems.

The recent restructuring of the Department of Court's debt enforcement sections has impacted on the way that budgeting services have inter-acted with the Courts. Many budgeting services supply Supervisors of Summary Instalment Orders and the distancing of Court services from many provincial centres has created problems. While Internet services are becoming increasingly an option, it is far too soon to rely on e-business for the great majority of consumer debtors. However even more important than location has been the attitude and competence of staff employed in the Courts. The Department of Courts remains one of the few Government agencies that take a paternal rather than fraternal view of community agencies and community advocates. That prevents the community agencies engaging in informal networks that could deflect cases proceeding.

*It is our recommendation that the Department of Courts needs to improve its relationships in communities.*

We agree that the volume of debt cases will not be dealt with just by simplifying the rules and procedures of the Courts. The issue has to be viewed more broadly in terms of consumerism, reckless credit arrangements, and the current reviews of consumer and insolvency laws. Many creditors are offering unsupportable credit in the knowledge that current laws and Court processes support them in terms of contractual obligations and costs of recovery. If this system continues to be based on adversarial resolution then with the pending insolvency law 'fresh-start' changes there will be greater use of personal no asset bankruptcy and less reliance on Summary Instalment Orders or judgements. The result, while perhaps shifting the workload from the Courts, will damage the country's economy and discourage financial responsibility.

*It is our recommendation that:*

- *Greater use should be made of mediation and for all its weaknesses the Disputes Tribunal is a better option than time-consuming and costly District Court proceedings.*
- *Greater use should be made of debtor initiated Summary Instalment Orders that can be made in chambers by allocating adequate resources to this area of the Court activities.*

Yours sincerely

Raewyn Nielsen  
Executive Officer