Good morning,

Please find my (general) suggestions regarding the above matter at paragraphs numbered A to C below. They principally relate to the High Court, District Court and Disputes Tribunal. They follow two articles in the Stuff news service recently (one focusing on an interview with Andrew Little and the other the Chief Justice). I have also submitted them to the Bar Association and New Zealand Law Society.

Ideas mentioned in the Stuff articles include (1) a less adversarial, more inquisitorial model, (2) a funding boost for civil legal aid, and (3) possibly allowing people other than lawyers and self-represented litigants to argue in courts. The first and third of these are the more radical, although they are already present in some areas of our legal system. Somewhat inquisitorial approaches are taken in Disputes and Tenancy Tribunal hearings, and employment advocates (who are not lawyers) are permitted to argue on behalf of clients in the Employment Relations Authority and the Employment Court.

Cases tend to be shuffled into courts or tribunals according to the value involved and the kind of law that applies. The Disputes Tribunal can hear many kinds of disputes up to a value of $30K (as of 29 October 2019), the District Court is in a similar position but up to a value of $350K, and the High Court has no value limit to its jurisdiction. The kinds of costs you might incur can vary wildly between these different forums, with the Disputes Tribunal being the cheapest by far. I suspect that these adjustments, together, would improve access to civil justice in those forums:

A. Increase flexibility of jurisdiction: Shift focus away from the value of a case and toward the complexity of the issues. So the Disputes Tribunal could hear a straightforward case that happens to be worth an amount greater than its current $30K limit. Widening the rights of appeal from that Tribunal would be worthwhile if that were to happen.

B. Increase activism and flexibility in procedure: Promote an inquisitorial approach to the procedure of a case. So if a case could be dealt with in a less expensive forum then it gets moved there early on. There could also be greater tailoring of procedural steps in the interests of cost and expedience.

C. Decrease legal complexity: Unify the rules of procedure, and keep them simple. So there could be one fundamental set of procedural rules used in several forums, and one fundamental set of forms too. Perhaps some forums might need their own bespoke rules for some aspects, although that may be minimised by the procedural flexibility described above.

I do not think these are particularly radical suggestions, and I wonder if the costs associated with them would be offset by the overall gains.

**How do these relate to the Rules Committee proposal?**

Suggestion B reflects the proposal for a more inquisitorial-type process, albeit that my suggestion is principally focused on early procedural steps. It also reflects the proposal for a summary judgment triage procedure to an extent.

Suggestion C reflects, to an extent, the expressed desire for simpler procedures. It would compliment suggestion B. It assumes simplification can promote better access to justice by making the court process easier to understand.

Suggestion A is not obviously reflected by the proposal, although it would promote additional use of the Disputes Tribunal. That forum, as mentioned above, does tend to take a more inquisitorial approach to hearings. That kind of approach is of course something that is being proposed.

I would be happy to discuss further if called upon.

Kind regards,

**Martin Dillon**Barrister