

Edmund Barton Chambers
Level 44, MLC Centre
Sydney NSW 2000

Malcolm D Broun OAM, QC

27 November 2008

The Attorney-General
for the Commonwealth
Attorney-General's Department
Robert Garran Offices
National Circuit
Barton ACT 2600

Dear Mr Attorney

The Federal Magistrates Court

I understand from the press that the Government is proposing or considering either the closure of the Federal Magistrates Court in family law matters or possibly the amalgamation of the Federal Magistrates Court in family law matters with the Family Court of Australia.

In my view, that is a very sound and long overdue proposal. The Federal Magistrates Court sounded like a good idea at the time, but it has in fact been, in my view, a total failure. Speaking as one practitioner, and I believe most practitioners are of the same view, we would try to avoid the Federal Magistrates Court if possible and avoid having any litigation or any disputes in that court. My own personal experience of the Federal Magistrates Court has been very discouraging and I would never advise any client to proceed in that court.

If the Government is proposing to amalgamate the two courts, then I would sincerely hope that the existing magistrates would not be turned into Family Court judges. Although some of the Federal Magistrates sitting in family law matters make conscientious efforts, I am afraid that a number of them do not provide the appropriate judicial standards for a judge under Chapter 3 of the Federal Constitution.

Yours sincerely

MALCOLM D. BROUN