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PRO BONO NEWS

Issue 16, December 2015

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Season's Greetings

From all of the team at JusticeNet SA we wish you safe and happy festive season. It's been a busy year and we are grateful for the support of our members and supporters. Enjoy your break with family and friends and we look forward to working with you again in the New Year. **Click on the image below to see our Christmas message** - we hope it puts a smile on your face and a jiggle in your toes.



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Summer CPD Intensive - Registration Now Open

Our popular Summer CPD Intensive returns on Friday, 26 February 2016 at Flinders University in Victoria Square. We have an excellent program this year covering all mandatory units plus much more.

JusticeNet's CPD seminars are competitively priced and give participants the opportunity to earn CPD points before the 31 March MCPD deadline. Registrations are now open with big discounts for JusticeNet members. All proceeds support JusticeNet's mission to improve access to justice for those in need.

[CLICK HERE FOR MORE INFORMATION AND REGISTRATION](#)

Thank you to Flinders University and our presenters for supporting this important fundraiser for JusticeNet SA.

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Law Foundation funds pilot pro bono Refugee Legal Service

JusticeNet commenced the Refugee and Asylum Seeker Project in 2012 with a simple aim: to provide refugees with the essential legal support necessary to have their claims for protection heard in accordance with Australian law. The importance of this work has been reinforced in recent months by news images of men, women and children fleeing oppressive regimes, and the tragic consequences for some.

JusticeNet has helped well over a hundred clients with advice and representation in the Federal Courts and cultivated a committed network of lawyers that assist these highly vulnerable clients. However, the high demand for assistance and complex needs of our clients, not to mention the ever changing migration law, have all put strain on our ability to make referrals in timely way.

We are, therefore, delighted to announce that JusticeNet SA has received funding to employ a part-time Coordinator / Solicitor for a pilot Pro Bono Refugee Legal Service. The Coordinator will allow us to grow our pro bono networks and deploy pro bono capacity in the most efficient and timely way, particularly in light of the Commonwealth Government's new Fast Track Assessment process.

More news to come in 2016.

We acknowledge the support of the Law Foundation of South Australia and the Sidney Myer Fund for this project.

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Pro Bono Referral Service update

A look behind the scenes at the referral service

A Refugee Legal Service Coordinator will ease the pressure on our referrals team. At JusticeNet we expect to receive over 700 enquiries this year, all handled by our Referrals Solicitor, Administration Officer and small team of dedicated volunteers and secondees.

Our referrals team works hard to ensure that pro bono referrals are made for clients who have no other opportunity to access justice. About 100 of those enquiries will lead to pro bono referrals. Sometimes, matters can be resolved with behind-the-scenes advocacy and liaison of JusticeNet staff, obviating the need for a pro bono referral. The following example is illustrative.

The referral service assisted a party to a burial dispute. Tragically, a young Aboriginal woman and her baby both died, just after child birth. The woman's mother and the woman's partner disagreed about the proposed burial arrangements for both of the deceaseds. JusticeNet was asked to assist one of the parties as the Aboriginal Legal Rights Movement were unable to assist. One party was helped on a pro bono basis by a solicitor based in Port Augusta. At JusticeNet's request, Camatta Lempens agreed to act for the other party. Fortunately, the parties agreed on the burial location, which avoided the need to apply to the Supreme Court for a determination.

Whilst our referrals role came to an end, we continued to liaise between numerous parties, such as the lawyer and ALRM field officers in Port Augusta, to ensure that appropriate consents were obtained for the hospital to release the deceaseds to the funeral directors. We also liaised with the DCSI regarding access to the Funeral Assistance Program. Notably, the funeral arrangements required the repatriation of the bodies by chartered plane to the far north of South Australia and attending the funeral was financially out of reach for some members of the family – all of these issues were eventually overcome by extensive liaison and with the input of DCSI.

More generally, this is the second Aboriginal burial disputes matter in two years with which JusticeNet has assisted. The issue is now under consideration by the SA Law Reform Institute and JusticeNet will be looking at assisting the LRI either with its consultation or by way of formal submission in due course. If you would like to express your interest in this topic then please do get in touch with us.

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Justice for an unrepresented party with impaired capacity

The arcane procedures, obscure language and sheer complexity of the legal system make it an alien and confronting world for non-lawyers (and many lawyers!). Consider what it is like for those experiencing mental health issues that challenge their ability to rationally engage with the world around them.

The legal system is poorly equipped to deal with clients who have impaired or limited capacity, particularly in relation to civil justice issues. Court rules, conduct rules and legislation offer only a piecemeal approach and limited guidance on dealing with clients or other parties who have capacity issues. The inadequacies of the system were highlighted by a recent referral taken up by

Wallmans Lawyers.

JusticeNet was approached by Lewis when he was facing imminent judgment for failing to file a defence. Our Self-Representation Service provided him with advice and drafting assistance but staff quickly became concerned about his capacity to instruct the service. Lewis was involved in two sets of protracted litigation. One had eventually involved the appointment of a litigation guardian, and yet in the second, closely related litigation, no such litigation guardian had been appointed.

Soon after approaching the service, Lewis failed to appear at a hearing in the second matter. In a cruel twist of fate, both of his matters had been listed in court at the same time on the same day. Default judgment was entered against him for a substantial sum. At this stage JusticeNet referred Lewis to Wallmans and arranged for the Public Trustee to instruct Wallmans for the purpose of an application to appoint a permanent litigation guardian and set aside the default judgment. The application was opposed by the judgment creditor, was argued in late November and recently granted, with the Public Trustee appointed litigation guardian for Lewis. It is expected that the judgment will be set aside as a formality.

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Self-Representation Services Update

Self-Representation Service up and running the District Court

JusticeNet's State Courts Self-Representation Service has been very busy since expanding to the civil jurisdiction of the District Court. The service has received 38 new clients in only three months. Here are some snapshots of the work being done by the service to help disadvantaged clients:

- A client defending proceedings under the Domestic Partners Property Act received general advice as to the proceedings and costs risks and assistance with drafting a defence. Having gained an appreciation of the litigation process, and the importance of legal advice, the client has been able to secure representation for the matter.
- A client with a long running neighbourhood dispute received assistance in relation to the appeal procedures, the role of the District Court Registry and the potential consequences of publishing defamatory allegations in correspondence to third parties relating to the matter. The client was grateful for the professional advice and resolved to cease attempts to further agitate the matter in the court system.
- A client who is the defendant to defamation proceedings that have been listed for trial in 2016 received assistance to draft a Calderbank letter to obtain costs protection and seeking to resolve the matter. The client was very grateful for the solicitor assistance and is hopeful the matter can be negotiated to achieve a favourable outcome.

The Self-Representation Service (State Courts) is supported by the following firms: MinterEllison, Fisher Jeffries, Finlaysons, Cowell Clarke and HWL Ebsworth.

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Picking up the pieces after mental health trauma: case study

The Self-Representation Service SA/NT (Federal Courts) recently helped a client settle a general protections claim in the Federal Circuit Court arising from a mental health issue.

The client, John, had taken time off of work to attend his aunt's funeral interstate. Shortly upon his return he experienced an acute psychiatric episode. He abruptly drove from his home, parked near a beach and was unable to move from his car for 5 days. His family were frantic with worry and contacted the police. John was eventually found, dehydrated and malnourished. He was hospitalised and subsequently diagnosed with chronic depression.

Days after his discharge from hospital John telephoned his employer to explain what had happened and that he would not be able to return to work while further tests and procedures were being undertaken. The employer told John to return to work when he was better and offered him financial assistance. John had been employed on a casual basis and did not have an entitlement to sick leave; John declined the offer. John was informed by his doctor that he would not be able to return to work for another 4 weeks. John and his wife began to experience financial difficulties and so John applied to Centrelink for a sickness benefit, and notified his employer.

Centrelink refused to pay John the Sickness Benefit because "he did not have a job to return to" (which is a condition of receiving a Sickness Benefit). It transpires that Centrelink had contacted the employer to ascertain John's employment status and they had advised that John was no longer employed. This was the first notice John had received of his termination. He contacted the employer but no reason was given for the dismissal.

The Self-Representation Service helped John prepare his claim form, provided him with advice about the medical evidence that should accompany the form and helped him prepare for conciliation. John was very pleased to receive a settlement as a result of the conciliation process.

The Self-Representation Service SA/NT (Federal Courts) is supported by the following firms: MinterEllison, Finlaysons, Fisher Jeffries, Cowell Clarke, Clayton Utz (NT), DMAW, McDonald Steed McGrath and O'Toole Lawyers.

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Become a 'Friend of JusticeNet'

JusticeNet plays a vital role in facilitating access to justice for low-income and disadvantaged South Australians who fall through the gaps. While membership subscriptions are a significant source of income, they currently cover less than 50% of our core operating costs.

As a Friend of JusticeNet you can help ensure the long-term future of our service for as little as \$10 per month. Your donation is 100% tax-deductible.

[Click here to join Friends of JusticeNet using the secure online facility of GiveNow.com.au](#)

Current Friends of JusticeNet:

Heath Barklay, Grace and Matilda Bawden, Katrina Bochner, Janet Cheung, Kieren Chester, Tim Graham, George Karzis, Robyn Layton, The Hon Christopher Legoe, Nicholas Linke, Shaun Mercer, Robyn Milera, Geoff Muecke, Alex Reilly, David Sedorkin and Paula Stirling

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JusticeNet Members

JusticeNet welcomes our newest members:

Camatta Lempens



Clayton Utz



JusticeNet acknowledges the ongoing support of our members:

Corporate members: Adelaide Law School, Aged Rights Advocacy Service, Ashurst Australia, Beach Energy Limited, Bourne Lawyers, Budwal Lawyers, Camatta Lempens, Campbell Law, Central Community Legal Services, Clayton Utz, Cowell Clarke, DMAW Lawyers, Environmental Defenders Office, Finlaysons, Fisher Jeffries, Flinders Law School, DW Fox Tucker Lawyers, Gilchrist Connell, Hanson Chambers, HWL Ebsworth, Hutt Street Law, Lipman Karas, Minter Ellison Lawyers, Ombudsman SA, O'Toole Lawyers, Piper Alderman, Riverland Community Legal Service, Ruth Beach Lawyer & Mediator, South East Community Legal Service, Southern Community Justice Centre, Sparke Helmore, UniSA Law School, Wallmans Lawyers

Individual members: Warwick Ambrose, Lucas Arnold, Melissa Ballantyne, The Hon Barry Beazley, The Hon David Bleby QC, Elizabeth Boxall, Simon Bourne, Darren Blight SC, Paramjit Budwal, Peter Cannell, Gabrielle Canny, Kerry Clark, Jane Cox, Thomas Cox, Larissa Detmold, Samuel Doyle SC, Carrie Eames, Phillip Foreman, Rachel Garland, Sanzhuan Guo, Tim Graham, Rachel Gray, Joseph Harding, James Hartnett, Jenny Hirst, Chad Jacobi, Andrew Jantke, Scott Jelbert, Clare Jobson, Peter Kassapidis, Manjit Kaur, Margaret Kelly, Lisette Knobel, Robert Lawton, The Hon Robyn Layton QC, Nina Lagzdins, The Hon Christopher Legoe QC, Karen Lehmann, Cathrynne Lester, Nicholas Linke, Melanie Little, Mark Livesey QC, Philip McNamara QC, Joseph Maniscalco, Adrian Meegan, Alan Merritt, Beth Midgely, Michael Mills, Carolyn Mitchell, Angela Moffa, Neville Morcombe QC, Geoffrey Muecke, Leah Mundy, The Hon Margaret Nyland, Claire O'Connor SC, Karen O'Keefe, Mark Parnell, Harry Patsouris, Kim Pedler, Megan Philpot, Rebecca Plummer, Jocelyn Redden, Ian Robertson SC, Emily Rutherford, Rick Sarre, Catherine Sarre, Carolyn Scholefield, Nerissa Schwarz, Cabrini Sheperd, Paula Stirling, George Stathopoulos, Edward Stratton-Smith, Jayne Stinson, Tania Sulan, Anna Tallis, Ian Thomas, Elise Thomson, Natalie Wade, Mike Wait, Gillian Walker, Helen

Ward, Noëla Washyn, Belinda Wells, Jonathan Wells QC, Penny Wright, Kate Wycherley

For more information about membership of JusticeNet go to: <http://justicenet.org.au/members.html>.

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What is JusticeNet SA?

JusticeNet is an independent not-for-profit organisation that coordinates pro bono legal assistance in South Australia. JusticeNet matches individuals who do not have the means to afford a lawyer, and cannot otherwise obtain the requisite legal assistance elsewhere, with lawyers who are willing to act pro bono. We also assist not-for-profit and community groups.

For more details of our referral service and eligibility criteria, see the JusticeNet website at www.justicenet.org.au.

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