

PRO BONO NEWS

Issue 3, October 2010

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News & Events

DGR Status for JusticeNet

JusticeNet has been granted deductible gift recipient (DGR) status by the Australian Taxation Office. All donations to JusticeNet of \$2.00 or more are now tax-deductible. JusticeNet has also received official endorsement to access charity tax concessions. We would like to thank Robert Kavanagh and Judy Choate from JusticeNet member Piper Alderman for preparing our application to the ATO. Thanks to their meticulous assistance, JusticeNet received its DGR endorsement in record time. Our DGR status will help JusticeNet to access philanthropic organisations and major donors.

Supporters can now make secure on-line donations to JusticeNet at:

<http://www.givenow.com.au/justicenetsa>

Walk for Justice 2010

300 walkers and over 30 teams from across the legal community enjoyed a perfect autumn morning to celebrate National Pro Bono Day on May 17. The Walk was lead by Chief Justice John Doyle AC, Justice John Mansfield AM, Australian Human

Rights Commission President, Catherine Branson QC and Law Society President, Mr Richard Mellows. The walk raised money for JusticeNet's pro bono referral scheme. Congratulations to the team from Finlaysons that won the prize for raising the most money: a dinner for six at the award-winning Spice Kitchen restaurant.

Service Evaluation

Recently, JusticeNet contracted Kilner Human Services Support to conduct an independent evaluation of our service. The feedback from the evaluation will provide us with valuable information to guide us into the future. As part of the evaluation, surveys were sent to members, other legal services and agencies, and users of our service. Thank you for taking the time to complete the survey forms. JusticeNet will report on the findings of the evaluation in our next newsletter.

Seminars for Not-For-Profit Organisations

JusticeNet has completed its pilot program of legal seminars for not-for-profit organisations (NFPs). The two seminars dealt with key legal issues facing NFPs and were delivered by our members at a low

cost to NFPs. The response to the seminars was positive as news of the seminars has spread through the NFP sector. We have received useful feedback from the attendees, and we will be reviewing the pilot program with a view to continuing it in 2011. Two seminars were held, one in July ('Workplace Relations') and September ('E-Risk Management for NFPs'). JusticeNet would like to thank Nick Linke and Zev Costi from Fisher Jeffries and Nigel Wilson from Bar Chambers for their time and effort in delivering the seminars and Fisher Jeffries and Thomsons Lawyers for hosting them.

AGS Secondment

Kate Sullivan, senior solicitor at the Australian Government Solicitors has recently completed her one day per week secondment to JusticeNet. Kate provided invaluable assistance during her stay. A big thank you to Kate for her contribution to JusticeNet. Thanks also to the Australian Government Solicitor for its continued support. JusticeNet is delighted that Nadia Ardalich, solicitor with the Australian Government Solicitor, has commenced a secondment with JusticeNet in October.

Referrals

JusticeNet has received over 300 enquiries, and made 43 pro bono referrals to member firms and the JusticeNet Bar Panel this year to date. Recently completed referrals include:

- **Griffin Hilditch and Martin Anders** of counsel were successful in having criminal charges against a client dismissed. Jane* is a young woman with a mild intellectual disability and chronic health conditions who requires full-time care. Jane was charged with a criminal offence under the Summary Offences Act. The Crown sought compensation. Jane's first appearance caused great distress and exacerbated her health conditions. Given the unusual circumstances of this matter and impact of the proceedings on Jane's wellbeing, JusticeNet referred her to Griffin Hilditch and Martin Anders for pro bono assistance. The prosecuting authority tendered no evidence on the first day of trial and the charges were dismissed. Costs orders were also obtained.
- **Kain C+C** lawyers accepted a referral from JusticeNet to help Sally and Peter* defend an action in debt brought by a finance company. Sally and Peter had recently come to Australia as refugees. Before coming to Australia they lived in a refugee camp for 15 years. A salesman visited their home in Adelaide and persuaded them to purchase a computerised education program. Neither Sally nor Peter have used or owned a computer and they had only started to learn English since coming to Australia. Sally and Peter thought they were purchasing tuition for their children. When they realised their mistake, they cancelled the payment arrangement. Kain C+C helped Sally and Peter file an amended defence to the claim against them, and persuaded the finance company to discontinue the proceedings against Sally and Peter with no order as to costs.

*To protect privacy, the names of clients have been changed

Other ongoing referrals include:

- **Donaldson Walsh** has agreed to provide advice on employment law and governance to a not-for-profit organisation.
- **Johnston Withers** is assisting a client with an insurance matter arising from a motor vehicle accident.
- **DMAW Lawyers** are assisting a client with a tenancy and property matter.
- **Helen Pertsinidis** of Howard Zelling Chambers has provided advice regarding a consumer credit matter.
- **Christopher Brohier** of counsel has provided detailed advice regarding an applicant's equitable interest in a property.
- **Kelly & Co.** are assisting a client with a family law matter;

- **Michael Roder SC** of Howard Zelling chambers is providing advice in relation to

an Aboriginal Cultural Heritage Act matter.

Thank you to all of our member firms and members of the JusticeNet Bar Panel for accepting pro bono referrals from JusticeNet.

Case in Focus – Direct Access Exemption for Barristers in Pro Bono Matters

Earlier this year, JusticeNet referred a matter involving an application to the Administrative Appeals Tribunal to review a decision by a delegate of the Minister for Immigration & Citizenship to cancel an applicant's permanent visa on character grounds. The applicant had migrated to Australia as a young child, and has a child and grandchild who are Australian citizens. He had also accumulated a substantial criminal record.

At very short notice, the matter was referred to **Mark Bastick** of counsel who successfully represented the applicant in the AAT. Because of the last minute nature of the referral, JusticeNet was unable to arrange an instructing solicitor. Mark kindly agreed to take the matter as a 'direct access' brief.

Rule 122 of the Barristers' Conduct Rules states that a barrister must not act in a professional capacity unless briefed by a solicitor or patent attorney. However, Rule 123 provides several exemptions, including "when [the barrister is] providing voluntary and unpaid assistance in a pro bono matter or at or for a legal advice centre or charitable organisation".

Direct access' briefs are justifiably rare, and the exemption need not be considered in the vast majority of cases. Nonetheless, the existence of Rule 123 provides flexibility for barristers when accepting pro bono briefs, particularly when assistance is needed at short notice.

Member Profile – Gillian Walker

JusticeNet is introducing a new segment in our newsletter – member profiles, where we interview one of our members on their interests and the law. Our inaugural interview is with Gillian Walker, a barrister at Murray Chambers who practices in all areas of commercial and civil litigation. She is a member of the Bar Council and is completing an LLM at Melbourne University at a pace that is best described as 'one semester on, two semesters off'. In this interview, Gillian talks about her experience at the bar, her involvement with JusticeNet and more.

Tell us about yourself, your interests, and what you really care about. After 8 years as a solicitor both in Adelaide and in Sydney, I joined Murray Chambers in March of this year. Whilst I have only been in Adelaide for 3 years, I am very much a convert and happily spruik the benefits of life here to all my friends and family. A perfect day is time with friends over a great meal, a trip to the beach and a couple of hours with a good book. I am still mourning the conclusion of the West Wing, but thankfully there are always the DVD's. What do I really care about? Addressing disadvantage, removing barriers to participation in society and ensuring the people feel like they have a voice. We often underestimate how much benefit a marginalised member of society can obtain

from simply feeling like they have been listened to and that someone has taken the time to consider their grievance, even where may be no real solution.

How have you found life at the bar? A wonderful combination of exciting, terrifying and liberating. Since coming to the bar, I have been very lucky to have the support of a number of firms, as well as from senior and junior counsel across a number of chambers. This has ensured that I have only had a couple of moments of pure panic as to where the next brief would come from! I never imagined I would have such a positive start to life at the bar.

Why did you get involved with JusticeNet? Pro bono work can be incredibly

rewarding and as soon as JusticeNet was set up, I was keen to be involved. This was reinforced by an experience I had a few years ago. I was started my legal career with a large firm, which had a structured pro bono programme and I volunteered at a homeless persons legal clinic. There I met 'Gary', a man in his mid-50's who had been homeless for a number of years before pulling himself into public housing with the support of a local shelter. He was on a disability pension as a result of mental illness, and despite a very strong suspicion of authority, had quietly begun turning his life around. One day Gary made the mistake of trying to intervene in a situation where two young men were verbally abusing an elderly woman. Witnesses described the men chasing him down and brutally beating him, breaking his pelvis and inflicting a serious head injury. Gary woke up in hospital some two weeks later and spent another 3 months in hospital and rehab. To Gary's surprise, he was supported by police and prosecutors, who ran two trials and secured convictions against his attackers, by all of his doctors, who never charged more than Medicare rates, by a psychologist who treated him pro bono for two years, and by the shelter who he had originally come into contact with when moving into housing. Even the RSPCA, which cared for his cat during his recovery.

I ran a victims compensation claim for Gary and he achieved the maximum possible payout for his injuries, in the order of \$45,000. We convinced a client of the firm to provide free, ongoing financial advice. As a result of the payout, Gary began studying for

a Bachelor of Arts. His payout has ensured that he can pay for textbooks, internet access and stationary. His participation in university classes has significantly increased his confidence and the support he received after the attack has gone a long way to convincing him that he is a valued member of society. In addition, the submissions and application developed for Gary's claim are now used as precedents for other claims.

I have worked on many matters over the years, but nothing has been as rewarding as the moment I opened and read a handwritten letter of thanks from Gary.

Describe your involvement with JusticeNet. In addition to membership and generally cheering Tim and his team on from the sidelines, I am on the JusticeNet Bar Panel and am presently involved in an ongoing piece of litigation for a JusticeNet client. I am instructed by DMAW Lawyers, who are also JusticeNet members.

How has your involvement with JusticeNet benefited your practice? My involvement in pro bono work in the past has significantly increased by skills, including my ability to effectively work with those whose English skills are limited or who are otherwise disadvantaged. It has exposed me to areas of the law which would never have formed part of my practice. My specific involvement with JusticeNet has also provided me with broader experience than I may have otherwise obtained, as well as exposure to other members of the profession who are passionate about access to justice.

JusticeNet Members

JusticeNet is now well into its second year of operation. Our success is in no small part thanks to support from our members, both in terms of accepting referrals and providing essential financial support. We would like to thank our members for renewing their membership with us this financial year.

JusticeNet would also like to welcome our new members:

Michael Kirby Chambers

The Public Trustee



Southern Community Justice Centre



Comunet Pty Ltd



JusticeNet acknowledges the ongoing support of our existing members, including:

Corporate members: am legal, Blake Dawson, Campbell Law, Clayton Utz, Cowell Clarke, DLA Philips Fox, DMAW Lawyers, Donaldson Walsh, Fisher Jeffries, Gilchrist Connell, Griffith Hilditch, Hanson Chambers, Johnston Withers, Kain C+C Lawyers, Kelly & Co, Piper Alderman, Sparke Helmore, The University of Adelaide, the University of South Australia, and Wallmans Lawyers.

Individuals: Hugh Abbott SC, Martin Anders, Melissa Ballantyne, Justice Barry Beazley, Justice D.J. Bleby, Malcolm Blue QC, Christopher Brohier, Peter Cannell, Gabrielle Canny, Kerry Clark, Elizabeth Connolly, David Crocker, Phillip Foreman, Tim Graham, Dianne Gray, Gregory Holland, George Karzis, Margaret Kaukas, Margaret Kelly, Kerry Kovacs, Justice Robyn Layton, Nicholas Linke, Mark Livesey QC, Judge R. M. Lunn, Arlene Macdonald, Roxanne McCardle, Philip McNamara QC, Alan Meritt, Michael Mills, Carolyn Mitchell, Neville Morcombe QC, Mark Mudri, Justice Geoffrey Muecke, Justice Margaret Nyland, Claire O'Connor, Ilya Ozerov, Cecilia Pascale, Harry Patsouris, Alex Reilly, Ian Robertson SC, Neville Rochow SC, Michael Roder SC, Emily Rutherford, Roger Sallis, George Stathopoulos, Joanne Staugas, Paula Stirling, Justice John Sulan, Gillian Walker, Noëla Washyn, Jonathan Wells QC.

JusticeNet also acknowledges the support of the Law Foundation of South Australia, the University of Adelaide, the Law Society of South Australia and the South Australian Bar Association.

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

Subscription and Feedback

To subscribe or unsubscribe to Pro Bono News or for more information about any item in this newsletter, please send an e-mail to admin@justicenet.org.au or contact us by phone (08) 8303 5005 or fax (08) 8303 4344.

What is JusticeNet?

JusticeNet is an independent not for profit organisation that coordinates pro bono legal assistance in South Australia. JusticeNet facilitates access to justice by matching charitable organisations and individuals who do not have the means to afford a lawyer, and cannot otherwise obtain the requisite legal assistance, with a member law firms and/or barristers, who are willing to act pro bono.

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