

NATIONAL PRO BONO RESOURCE CENTRE

Pro Bono News Issue 14: Volume 2/2005

Welcome to the second edition for 2005 of the eNewsletter of the National Pro Bono Resource Centre (NPBRC). The Centre is affiliated with the Faculty of Law at the University of New South Wales and is funded by the Commonwealth Attorney-General's Department. Archived eNewsletters are available at www.nationalprobono.org.au/publications/index.html

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1 To be or not....

At the time of writing, NPBRC is unsure whether it will receive funding in the forthcoming federal budget but we will know by May 10th. Many thanks to the supporters who have sent submissions to the Attorney-General outlining the Centre's achievements and urging continued funding for the Centre.

2 NPBRC Submission to Migration Litigation Reform Bill

NPBRC prepared a submission to the Senate Legal and Constitutional Committee Inquiry into the provisions of the *Migration Litigation Reform Bill 2005*. The main focus of the submission was the proposed reforms in relation to third party costs orders, which the Centre argued may be a strong deterrent to members of the legal profession who might otherwise undertake pro bono work in this area.

The full submission can be read at the Centre's website at <http://www.nationalprobono.org.au/submissions>. To read other submissions and transcript of oral evidence given to the Inquiry, visit the Inquiry website at http://www.aph.gov.au/senate/committee/legcon_ctte/mig_litigation/index.htm

3 NPBR Best practice sessions

The Pro Bono Best Practice Sessions are well underway in Sydney. The first, a workshop titled 'Working with CLCs' was held at Cutler Hughes & Harris Lawyers, 2 Park St, Sydney on 6 April 2005 and was presented by Julie Bishop, Director of the National Association of Community Legal Centres. It attracted 25 people with some new mid tier firm/CLC relationships emerging on the night.

The next session will be held on 11 May 2005 and will be a seminar focusing on training and support for pro bono lawyers. It will be presented by Annette Bain, National Pro Bono Coordinator for Freehills. The seminar will be held at Allens Arthur Robinson, Chifley Tower, 2 Chifley Square, Sydney between 5.30 pm and 7.30 pm. To attend simply send an email to bookings@nationalprobono.org.au . [Details of the remaining sessions and venues for the year are available here](#)

4 Casenote: O 80 of Federal Court Rules no guarantee of representation

In the recent Federal Court judgment of *Taylor v Minister for Immigration & Multicultural & Indigenous Affairs*, French J considered the Order 80 pro bono referral scheme whereby the Court may refer a litigant to the Registrar for referral to a legal practitioner on the Pro Bono Panel for legal assistance.

In this matter, Mr Taylor's lawyer who was referred under the scheme was given leave to cease to provide assistance shortly before his appeal to the Full Court. After the matter was adjourned generally by the Full Court, the Minister asked the Court to consider the O 80 referral and whether it should be revoked.

In considering the matter, French J held that, "In deciding whether to refer a matter to the Registrar under O 80 r 4, a judge undertakes an administrative function in aid of the jurisdiction of the Court....", French J went on to say that the decision to issue a referral certificate under the scheme does not necessarily depend on any assessment of the strength of the case, and that the "interests of justice,, in O 80 r 4 is a wide term that can import a consideration of the effect of a decision on the applicant, and on third parties including his family. However, French J declined to revoke the referral on the basis that O 80 does not provide for revocation of a referral, stating that the referral being "an administrative act which, having been done, cannot, of its nature, be recalled.,,

However, French J decided that a referral under O 80 does not amount to a guarantee of representation. A referral does not oblige a Registrar to secure pro bono assistance, it only "imposes upon the Registrar an obligation to 'attempt to arrange for the legal assistance mentioned in the certificate.' The matter was referred back to the Registrar to make further inquiries about the availability of pro bono legal assistance for the appeal.

See *Taylor v Minister for Immigration & Multicultural & Indigenous Affairs* [2005] FCA 319 - BC200501683 at http://www.austlii.edu.au/au/cases/cth/federal_ct/2005/319.html

5 New pro bono coordinator at Holding Redlich

Holding Redlich has appointed Linda Rubinstein as its first national director of pro bono. This brings the number of firms in Australia with dedicated pro bono coordinators to 18. Linda hails from the ACTU and has already had the partners approve new pro bono policy and procedures for Holding Redlich. Linda will work from the Melbourne office: 03 9321 9999

6 Pro bono awards

(i) PM's Community Business Partnership Award

Congratulations to Mallesons Stephen Jaques for winning the Special Award for 'Impact on a Community' in the Prime Minister's Awards for Excellence in Community Business Partnerships. Mallesons won the Award for its multi-faceted national program aimed at alleviating poverty and improving community welfare, and helping to protect children and young people at risk through provision of free legal services, staff volunteering and workplace giving. Details at: <http://www.partnerships.gov.au/pdf/awards/2004/mallesons.pdf> and http://www.partnerships.gov.au/awards/awards_2004.shtml

(ii) Law and Justice awards

The annual Justice Awards are conducted by the Law and Justice Foundation of NSW to recognise those who have improved access to justice in NSW, particularly for socially and economically disadvantaged people. Nominations are invited for the following awards:

- The Justice Medal
- The Aboriginal Justice Award
- The Law and Justice Volunteer Award
- The Combined Community Legal Centres Group Award
- The Pro Bono Partnership Award (sponsored by the NPBRC)

Nominations close on 5 August 2005 with the presentation dinner to be held on Thursday, 6 October 2005 at Parliament House, Sydney. Further information about the awards can be found at: http://www.lawfoundation.net.au/justice_awards

7 New class of practising certificate in Victoria to make it easier for government lawyers to volunteer at a CLC

In distinctively Victorian changes to the regulatory framework for lawyers (as part of the national legal profession project), a new class of practising certificate has been created, specifically for practitioners who only engage in legal practice as a volunteer at a community legal centre.. These practising certificates will be issued without charge. This should act as a particular incentive to government lawyers for whom the lack of a practising certificate has been an impediment to volunteering at a community legal centre. The Centre is investigating whether it will also facilitate in-house corporate lawyers to volunteer at community legal centres. Further details about the reforms can be found at the News section of the NPBRC website at <http://www.nationalprobono.org.au/index.html> . The Centre's paper on 'Government lawyers' is available at www.nationalprobono.org.au/publications/index.html

8 The state of the legal profession

Law Council of Australia president John North delivered an inspiring speech at the LAWASIAdownunder2005 Conference titled 'The State of the Profession'. His address focuses on the role of the profession in light of the erosion of fundamental rights at the hands of the executive government and is available at www.lawcouncil.asn.au/read/2005/2411380806 .

9 What's a volunteer worth?

A report in the Pro Bono Australia e-newsletter (Vol 11 Edition 9, May 2005) claims that a US Not for profit organisation has found that the 2004 estimate for the value of a volunteer hour has reached \$US17.55 per hour, or \$AUD22.19 per hour. The estimate for total value of hours

volunteered in the US was thus approximately \$US272 billion per year, based on the number of volunteer hours from the previous year.

10 Centre activities

* At the invitation of QPILCH, John Corker attended and facilitated QPILCH's strategic planning day held at Deacons in Brisbane on Saturday 16 April 2005.

* Jenny Lovric made a presentation on the Centre's work to the Chief Justice of the Supreme Court of Tonga, the Hon. Chief Justice Robert Webster and Registrar Manikovey on 11 April 2005.

* The Centre consulted in April with the Department of Justice, Canada, on the Centre's Information Paper on Government Lawyers.

* We have had to farewell two staff this month. Laura Soley, a senior project officer and UK lawyer has left us to have her first child. Kate House, our administrator, has returned to WA where we wish her all the best with her career. **We are now seeking a replacement part-time administrator with some legal background who wishes to work with us for three days a week from the White House on UNSW Campus. Please contact info@nationalprobono.org.au for a full job description.**

11 Subscribe/unsubscribe

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Please forward this newsletter to anyone else you think may be interested.

12 Centre contact details

National Pro Bono Resource Centre

web: www.nationalprobono.org.au

email: info@nationalprobono.org.au

phone: +61 2 9385 7381

fax: +61 2 9385 7375

post: The White House, University of New South Wales, UNSW Sydney NSW 2052