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## The Rewards of Pro Bono: In Conversation with Jennifer Batrouney AM KC

The Centre reached out to the illustrious Jennifer Batrouney AM KC – one of our top-performing individual National Pro Bono Target signatories – to learn more about her flourishing pro bono practice.

Pro bono work has always been a vital part of my career at the Victorian Bar. Not only do I relish the opportunity to help those who do not have the resources to help themselves, but I really enjoy the work. The area of law that I do most of my pro bono work in is the law of charity. This law was established in 1601 and there are many challenges in applying the law to modern fact scenarios, even though much of it has been codified in the Charities Act 2001.

I help charities obtain or retain tax concessions and advise them if they have trouble interpreting their constituent documents, are experiencing internal disharmony or are unsure if they have the power to do a planned action.

One of the first big cases where I led a pro bono team was the Bicycle Victoria case [Bicycle Victoria Inc and Commissioner of Taxation \[2011\] AATA 444 \(24 June 2011\) \(austlii.edu.au\)](#). This case had a huge influence on my personal life because the expert witnesses we called convinced me that it is so important to exercise as part of a daily routine and also that cycling is a great way to improve physical fitness. While I have been exercising at the gym since – it is only in the last month or so that I have been game enough to take spin classes ... and they have been such fun! We were successful in having Bicycle Victoria declared to be a charitable institution but not a health promotion charity or public benevolent institution (PBI). You win some and you lose some!

Another important case in which I led the pro bono team was the Global Citizen case [Global Citizen Ltd and Commissioner of the Australian Charities and Not-for-profits Commission \[2021\] AATA 3313 \(17 September 2021\) \(austlii.edu.au\)](#). Global Citizen was registered as a charity

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but sought registration as a PBI. Its mission is to end global poverty by 2030. This was a groundbreaking case because we established that Global Citizen was a PBI, despite the fact that it did not directly dispense aid to the poor but rather engaged in activities to encourage governments across the globe to do so. This case had a rock star element to it both because the case referred to the “Make Poverty History” concerts run by the Global Citizen network but also because expert evidence was given in the case by two rock stars of the charitable word – Paul Ronalds, then CEO of Save the Children (Australia) and the legendary Rev. Tim Costello AO.

My pro bono work has also taken me overseas to New Zealand. I was fortunate to lead a team representing the



*Jennifer speaking at the Australian Bar Association's international conference in Singapore, 2019.*

Charity Law Association of Australia and New Zealand (CLAANZ) when it was granted leave to intervene in the Family First litigation – which ended up in the highest court in New Zealand – their Supreme Court [Attorney-General v Family First New Zealand \[2022\] NZSC 80 \(28 June 2022\) \(nzlii.org\)](#). CLAANZ was not supporting either party in the case but was granted leave to address the court on various issues such as advocacy and the line between propaganda and education. The Court found that Family First advocated for measures to prefer the “traditional man/woman family” and disadvantage others and held that such a discriminatory purpose was not compatible with a charitable purpose.

I have been lucky enough to have done a great deal of pro bono work to support Indigenous Australians in various ways. I have also provided pro bono assistance to the LGBTQI+ community, leading a fabulous team in a case seeking to establish that an equality organisation is a PBI. We are awaiting the decision in that case. I am also currently advising on the establishment of a foundation which will support and advocate for secondary victims of domestic violence.

It should be apparent that I provide pro bono assistance in a broad spectrum of cases. I find this kind of work very interesting, and it is a way of giving back to the broader community. It is such a privilege to be able to support such worthwhile causes and to play a small part in their success.

While I have always done a great deal of pro bono work for charities, I do so

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because it is important that they have pro bono legal representation where appropriate. Some big charities can afford to pay for representation, but many smaller charities cannot. These smaller charities are often troubled by the concept of expending their charitable funds on legal representation. That is where I can help by providing my expertise at no cost.

However, if charitable litigation ends up in the courts, at present charities are still exposed to paying the ACNC's costs if they are unsuccessful. This is a serious risk and deters many charities from pursuing matters in the courts. This issue would be alleviated if the ACNC was given a test case funding budget – similar to the test case funding budget provided to the Commissioner of Taxation.

The charity lawyer community is a small and close-knit group who are without exception a pleasure to work with. I am fortunate to be supported in my pro bono work by fantastic juniors and solicitors who also act pro bono. More often than not – the team acting in pro bono cases all end up being lifelong friends. I am so fortunate to have made many friends this way. I intend to keep on doing pro bono work for worthy causes for as long as my help is needed, and I encourage others to do the same. It is challenging, interesting and intellectually rewarding. ■



**Jennifer Batrouney** AM KC is a silk at the Victorian Bar practising in taxation, commercial, administrative, equity, superannuation and charity law. She was appointed a QC in 2000. Jennifer is a past President of the Australian Bar Association, the Victorian Bar, the Tax Bar Association and Australian Women Lawyers. She was the founding chair and

now sits on the Law Council of Australia Charity Law Committee and is a director of the Charity Law Association of Australia and New Zealand. She sits on the Melbourne Law School Advisory Council and Tax Masters Advisory Board. She is also a Senior Fellow at the Melbourne Law School teaching tax and charity law in the Melbourne Law Masters. Jennifer was appointed a Member of the Order of Australia in 2020 for significant service to the law, the legal profession and women lawyers.