

NATIONAL PRO BONO RESOURCE CENTRE

Pro Bono News 4/2003 – Special Pre Conference Edition

Welcome to the fourth edition of the eNewsletter of the National Pro Bono Resource Centre. The National Pro Bono Resource Centre is affiliated with the Faculty of Law at the University of New South Wales and funded by the Commonwealth Attorney-General's Department.

In this edition:

- 1 **Second national pro bono conference - update**
- 2 **Pro bono: professional obligation or personal ethics?**
- 3 **Pro bono and Indigenous clients**
- 4 **Pro bono in rural, regional and remote areas**
- 5 **More conference highlights**
- 6 **Australian Pro Bono Manual**
- 7 **Applied Public Benefit Law Masters of Law subject**
- 8 **Centre seeks new Director**
- 9 **Subscribe/unsubscribe**
- 10 **Centre contact details**

1 **Second national pro bono conference - update**

Transforming Access to Justice
Sydney, 20-21 October 2003

The full program for this two day conference is now in place, and a copy is attached to this eNewsletter. Topics reflect the changing pro bono landscape and focus on finding solutions to the practical problems faced by pro bono service providers and community organisations in their work with disadvantaged groups in the community.

The conference organisers have stressed **the importance of booking early** – we are competing for accommodation with Rugby World Cup attendees. You can download the registration brochure attached to this eNewsletter, contact info@nationalprobono.org.au or phone us on: 02 9385 7381. The Conference program and registration brochure are also available at www.nationalprobono.org.au.

2 **Pro bono – professional obligation or personal ethics?**

Should professional bodies set aspirational targets for pro bono? David Hillard from Clayton Utz in Sydney will argue in Workshop 3, Day 1: ‘**Aiming high – goals, targets, definitions**’, that it is time for our legal professional associations to take the lead in establishing a voluntary minimum target for the performance of pro bono work by Australian lawyers. Hillard examines some of the concerns previously expressed about a voluntary minimum target and debunks some of the myths.

Hillard's paper argues for the inclusion of a voluntary minimum target within both the Law Council's *Model Rules of Professional Conduct and Practice* and the State and Territory Law Societies' equivalent professional standards. A target of at least 50 hours per lawyer per year is proposed. This target would be entirely voluntary, with no sanction or penalty for non-compliance.

Hillard claims that responsibility for the conduct of pro bono work has not been shared evenly across the profession. A voluntary minimum pro bono target will acknowledge the inherent professional obligation of lawyers to conduct pro bono work, and make clear that it is not an excuse for any further neglect of the government's and community's responsibility to provide legal aid.

Placing pro bono work squarely within professional conduct rules will speak directly to lawyers about what it means to be a professional. A voluntary minimum target is an extremely practical way of reminding each member of the profession that we all share a responsibility to provide pro bono assistance, regardless of the location or type of practice that we conduct. A target will be an important step towards ensuring a more even distribution of pro bono assistance across Australia.

Approaching aspirational targets from a different angle, Adrian Evans from Monash University in Victoria will look at the implications for pro bono of his research into the values of legal practitioners and law students.

As part of the Australian Lawyers' Values Study he conducted between 2001 and 2003, a hypothetical offer of a public interest pro bono matter was made to survey respondents (700 individuals). A small majority of respondents in the 2001 survey accepted this offer.

Evans argues that the profession is best served by maintaining a voluntary pro bono ethic. While acknowledging they contain some merit, Evans fears that aspirational targets could influence the Federal government to abrogate its responsibility to provide adequately funded legal aid. Furthermore, he suggests an aspirational approach should be avoided due to difficulties in defining pro bono, the implications for the quality of legal services and a perceived detrimental impact on firms generally. In addition, aspirational targets are not likely to stimulate a greater identification with appropriate legal professional values in the profession generally.

Evans notes, however, that his research indicates that for law students and junior practitioners (i.e. during Articles of Clerkship or their equivalent and for 1-2 years post-admission), aspirational targets develop a greater awareness of professionalism and provide practical benefits.

3. Pro bono and Indigenous clients

The Centre has recently commenced a project to survey the provision of pro bono legal services to Indigenous legal organisations and their clients. We have found a strong interest from Indigenous legal organisations in using pro bono services. While many Indigenous legal organisations (such as Aboriginal and Torres Strait Islander Legal Services, Native Title Representative Bodies, and Indigenous Womens Legal Services) face particular problems in accessing pro bono services, several models have been implemented.

In light of this interest, an additional **conference workshop** is under consideration. The workshop would allow conference delegates to discuss ways to increase access to pro bono legal services by Indigenous organisations and individuals. Representatives from a considerable number of Indigenous legal organisations and from the Registrar of Aboriginal Corporations have indicated interest in attending the conference and the proposed additional workshop.

4. Pro bono in rural regional and remote areas

The provision of pro bono legal services in RRR areas raises particular problems. Local practitioners are often stretched. Many communities have limited access to publicly funded legal services. How can pro bono providers, including those located in cities, help?

A number of agencies, including Queensland Legal Aid and Geraldton Resource Centre have developed innovative approaches to service provision in RRR areas. Representatives from those services will address a workshop at the National Conference entitled '**Meeting the needs of rural, remote and regional communities**'. The session will be facilitated by Mark Woods of Taralgon firm Tyler Tipping and Woods, and a member of the Law Council of Australia's Access to Justice Committee and benefit from a briefing by Lou Schetzer on the NSW Law and Justice Foundation Access to Justice project's findings about legal need in rural areas.

5 More conference highlights

- **Pro bono and the public interest - Interactive talkback session with Jenny Brockie**

Jenny Brockie, presenter of the SBS Insight program will lead a panel of experts through key issues affecting pro bono legal services in Australia. These issues include the relationship between government funded legal aid and pro bono and whether pro bono legal services should be available in areas of law that are core legal aid business. The panel includes Joan Vermeulen, for many years director of New York Lawyers in the Public Interest, PIAC's Andrea Durbach, Zoe Rathus, director of the Queensland Womens Legal Service, John North representing the Law Council, Ian Govey, Deputy Secretary of the Attorney General's Department and Tony Howard QC of the Victorian Bar.

- **Esther Lardent to moderate session for established law firm programs**

In addition to her keynote address, Esther Lardent, CEO of the Pro Bono Institute in Washington, will moderate a session aimed at assisting experienced pro bono service providers deal with issues they face in running an established pro bono program. A number of Australian managers of pro bono programs have in the past travelled to Washington to attend the Pro Bono Institute's highly regarded Annual Conferences. Delegates to the 2nd National Pro Bono Conference in Australia will benefit from Esther's 13 years of involvement in pro bono - without the expense of a fare to Washington. Australian focus will be maintained – and a free flowing discussion encouraged with presentations from two Australian pro bono Directors. Esther will also

participate in other conference sessions including the session ‘**Developing and Expanding Your Pro Bono Practice**’.

- **Building pro bono relationships**

Two conference sessions will specifically focus on the benefits of building relationships with community organisations. ‘**Building Pro Bono Partnerships**’ explores partnerships between law firms, the bar, law students and community legal organisations. ‘**Beyond Casework: pro bono strengthening communities**’ considers ways in which pro bono can contribute to the community development. Representatives from firms, community organisations and others will provide practical examples of their work.

- **Plenary sessions**

Sessions cover recent developments in Australia and abroad with local and overseas speakers presenting innovative developments in legal service delivery and a variety of pro bono service models to match the legal needs of different disadvantaged groups within the community. For full details see the attached program.

- **Workshops**

A series of Workshops have been devised to address the particular needs and appropriate pro bono service models to assist those in rural, remote and regional communities; the value of partnerships between community organisations and law firms, the bar and other legal service providers; dealing with the skill deficiencies of willing pro bono service providers in areas of client need. For full details see the attached program.

- **Conference dinner**

The NSW Attorney-General, Bob Debus MP, will welcome everyone to the conference dinner at L’Aqua on the Roof Terrace at Cockle Bay Wharf, Darling Harbour. Justice Peter Hidden’s legal choir *Hidden Talents*, and dinner speaker Justice Virginia Bell of the Supreme Court of NSW, are just part of the entertainment planned for the evening.

6 Launch of Australian Pro Bono Manual

The Centre’s major publication for 2003 is the *Australian Pro Bono Manual: A practice guide and resource kit for law firms*. The Manual, which is being published in collaboration with the Victoria Law Foundation, covers general matters such as models of pro bono practice, risk management and taxation issues as well as an extensive section on planning and developing a pro bono program within a firm. Casework procedures and precedents (sample policies and procedure, letters of engagement, secondment agreements etc) are provided along with details of law firm pro bono contacts and other relevant information and resources.

7 Applied Public Benefit Law Masters of Law subject

During her trip downunder Esther Lardent will conduct a two-day Workshop on Wednesday 15 and Thursday 16 October in Melbourne for the Victoria Law Foundation. Tailored to meet the needs of pro bono coordinators old and new, the Workshop will be an interactive seminar covering topics such as ‘Strategies for developing transactional pro

bono', 'Economics, practice and the structure of the large law firm' and 'Ethical issues in pro bono and community partnerships'. The Centre of Social Philanthropy will also be involved. Participation in the Workshop may constitute part of the requirements for an LLM subject '**Applied Public Benefit Law**'. For further information contact Kathy Laster, k.laster@victorialaw.org.au.

8 Centre seeks new Director

Centre Director Gordon Renouf has resigned to take up a new position in the Northern Territory. Gordon will leave after the October conference. The Centre will advertise for a new Director in national newspapers on 13 September 2003. For position information contact Jacqui Houston at the centre on jacqui@nationalprobono.org.au.

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10 NPBRC contact details

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