

**REMARKS OF THE HON MARILYN WARREN AC
CHIEF JUSTICE OF THE SUPREME COURT OF VICTORIA ON
THE PRESENTATION OF THE
VICTORIA LAW FOUNDATION PRO BONO AWARDS 2008
SUPREME COURT OF VICTORIA, LIBRARY
TUESDAY 11 NOVEMBER 2008**

Lawyers have long known the benefits and rewards of pro bono service. As a profession there is a tremendous proclivity to helping the disadvantaged. Without a willingness to provide legal representation on a pro bono basis, our legal system would fray. Each person has a right to legal representation and it is our obligation to adequately facilitate this need. As a profession our duty is to promote and serve the legal system with the highest of integrity. This duty is never waived. We like to think that a person does not become a doctor unless they wish to help the sick. So too, we should think a person does not become a lawyer unless they wish to help the needy and disadvantaged in the community.

In Victoria law firms are significant contributors to the administration of justice through their pro bono work. We know

that firms who receive work from the Victorian Government spent \$7.7 million of their own money that way in 2006-2007.¹

In addition, firms provided pro bono services equivalent to 15 per cent of their revenues from the Government.²

Nationally is it estimated that law firms and individual lawyers contributed \$250 million worth of pro bono work in 2007.³

Without doubt, the pro bono services given by law firms, individual lawyers and barristers provide the oil to keep the justice system on track. Without their contribution the system would crack and delays in courts would be exacerbated.

The Victorian Bar Legal Assistance Scheme has over 400 participants who have offered their service for no or a substantially reduced fee to people in need of legal

¹ "Panel firms excel on pro bono", *The Australian*, 13 June 2008 quoting the Victorian Government report on legal services.

² Ibid.

³ "\$250m pro bono work by Australian solicitors", National Survey Report, 13 March 2008

representation. This scheme, as highlighted by the Victorian Bar, is not a substitute for Legal Aid. Rather the scheme works to complement, if you like, the Legal Aid framework. The scheme provides an avenue for cases which are meritorious in their content or which highlight difficult legal principle, that without adequate finance, would never be heard. It is the work of the Victorian Bar, such as the Legal Assistance Scheme and the Duty Barristers Scheme, that illustrate the great willingness of Victorian barristers to help the disadvantaged.

Recognition, however for this work is not so often given. Continued concern relating to the cost of justice, fails to take into consideration the dedication and diligence of hundreds of legal professionals who are providing a service to our legal system and to a greater degree, our state. Access to justice is a vital matter. Ben Schokman, a lawyer with the Human Rights Law Resource Centre, said in *The Age* earlier this year that the

under-representation of what Victorian barristers do for our legal system is continually devaluing and contradicting the actual work done by so many.

Mr Schokman asserted that without the Victorian Bar's contribution to our legal system by offering pro bono services 'many Victorians would find it impossible to navigate a highly complex legal system and realise their legal rights.' This piece was published after the assertion that barristers' fees prohibit access to justice. The contribution of the Victorian Bar and the profession should be praised. Without it the system of justice in this state would be in serious difficulty.

Earlier this month The National Pro Bono Resource Centre released its survey data into the pro bono work provided by barristers in Australia, the first national survey of its kind. Some 355 barristers were surveyed, 154 of them Victorian, representing approximately 9% of the State's barristers. 136 of

Victorian barristers' surveyed had undertaken pro bono work in the previous twelve months.

The survey revealed the mean number of hours Victorian barristers dedicated to pro bono work in the last twelve months was 51-70 hours, compared with the national mean of 41-50. It is findings such as these that should make the Victorian community proud.

The work not only by barristers but also firms has long been underrepresented. The firms, some represented here tonight, have shown excellence in the pro bono service they offer to our community. It is a service that uses the resources of their respective firms and helps promote our legal system. Without this our legal system would be ineffective in being able to adequately deliver justice to the community. The firms who make it their responsibility to offer support to individuals, disadvantaged in some way, are providing our community with the ability to achieve access to representation.

Court proceedings are often financially burdensome to many individuals and organisations. It is therefore pivotal to the effectiveness of our legal system to have barristers, solicitors and firms who are acting to enhance an individuals ability to gain representation. Without legal professionals offering such a service we would be seeing an even larger number of unrepresented or self-represented litigants before the court. Indeed not withstanding the increase in pro bono service, this has been a trend in recent years. The challenge for the self-represented litigant is that he/she often has little to no experience of the legal system. The flow on effect of this is a significant increase in the hours spent in court by judges to adequately facilitate such parties. A limited knowledge of the system, court processes and procedures and to an extent, the law, ultimately leads to a draining of resources. As well, the inability of self-represented litigants to clearly articulate the real issues in their case could possibly result in injustice, particularly where the opposing side has legal representation.

As a State and as legal professionals we can be very proud of the work that has been done on our behalf to help people of disadvantage. The hundreds of Victorian barristers who offer their time to help provide members of our community who find themselves isolated and bewildered by the system, are proving that our profession has at its core a true sense of social responsibility. This feeling of responsibility to our society, for some, and we hope most, was the catalyst for pursuing law as a career. It is those dedicated people, many of whom are here tonight, who have provided Victoria with the ability to champion the rights of our state's most victimised and vulnerable. We have more to do, but we must also acknowledge the tremendous and inspiring work that has already been done so far. Tonight's awards provide the chance to recognise and applaud the selfless generosity of Victorian barristers and lawyers.