

John Mathieson

From: Vic Federal Court Registry E-mail
Sent: Friday, 6 March 2015 10:25 AM
To: John Mathieson
Cc: Vic Federal Court Registry E-mail
Subject: FW: VID 600 of 2014 & VID 557 of 2014
Attachments: VID 600 of 2014 AMG v COT & Ors Application for Leave to file and serve Interlocutory Application 5th March 2015.pdf; VID 600 of 2014 AMG v COT & Ors LODGE Application for Leave to file and serve Interlocutory Application 5th March 2015.pdf

Importance: High

UNCLASSIFIED

John,

Further to my earlier email, the below is another FOI request that has been made directly to the chambers of his Honour Justice Pagone.

Thanks,

[REDACTED] Legal Case Manager
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. 03 8600 3333

www.fedcourt.gov.au

From: Associate PagoneJ
Sent: Friday, 6 March 2015 9:08 AM
To: [REDACTED]
Cc: EA - Pagone J
Subject: FW: VID 600 of 2014 & VID 557 of 2014
Importance: High

UNCLASSIFIED

Hi [REDACTED]

Please see below.

[REDACTED]
[REDACTED] Associate to the Hon Justice Pagone
Federal Court of Australia
305 William Street, Melbourne 3000
p. [REDACTED]
e. Associate.PagoneJ@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to ea.pagonej@fedcourt.gov.au.

From: andrew.garrett [REDACTED] [mailto:andrew.garrett@fedcourt.gov.au]
Sent: Friday, 6 March 2015 9:08 AM
To: Associate PagoneJ
Cc: Tavolaro, Vincent

Subject: FW: VID 600 of 2014 & VID 557 of 2014

Importance: High

Federal Court of Australia

Victoria Registry

Associate Pagone J

Dear Associate Pagone J

I refer to my application under the provisions of the FOI Act as set out below in respect to the administration of the aforementioned proceedings and request that the copies of an list of documents or things should relate to any person and not limited to the Chief Justice, His Chambers and the Office of the Attorney General.

I confirm that I have applied to reopen the proceeding by way of application for leave a copy of which and evidence of elodgment is attached.

Please advise whether His Honour has had an opportunity to consider my request for access to the court file which would in any event be available under the FOI request below.

Regards

Andrew Garrett

From: andrew.garrett [mailto:andrew.garrett]

Sent: 04 March 2015 15:04

To: Associate.PagoneJ@fedcourt.gov.au

Cc: Tavolaro, Vincent

Subject: VID 600 of 2014

Importance: High

Dear Associate Pagone,

I refer to my appearance before His Honour on the 26th February 2015 for the delivery of His Honours Reasons in the aforementioned proceeding.

On that day I asked His Honour whether His Honour was aware of an application under Divisions 28.1 of the Federal Court Rules pursuant to s53A of the Federal Court of Australia Act 1976 (Cth) to engage the court's jurisdiction under the provisions of the International Arbitration Act.

His Honour replied in words to the effect *"It is news to me Mr Garrett"*

I ask the court for access to the Court files in both VID 557 of 2014 and VID 600 of 2014 so that I may review the content of those files and the Transcripts of each appearance before His Honour.

At all times His Honour has been critical of the volume of materials before the Court, in circumstances where there are over 300 taxation decisions made I respectfully submit that the volume is hardly surprising.

Please see the copy of email received from Registry below received on the 2nd March 2015 confirming that the application was sent to Chambers on the day it was received. I ask that you confirm that His Honour reviewed the application and what His Honour's next step was in respect to the Application.

Please also note attached correspondence with the Solicitor for the Respondents on this issue.

Division 28.1 is quite clear "*the Parties must and the Court will*"

I ask you to consider this as an application in writing under the provisions of *the Freedom of Information Act* 1982 Cth) for you to provide a copy of any document or thing related to conversations, meetings, correspondence between His Honour, His Honour's Chambers and any representative of the Chief Justice of the Federal Court of Australia and/or Representative of the Respondents and/or the Commonwealth Attorney General with respect to any proceeding related to me.

I have also annexed other relevant emails with the solicitor for the respondent.

I advise that His Honours Reasons will be appealed and that I will apply to reopen the hearing following research in the Federal Court Library

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

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www.dynamic-cws.com.au

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Moore
2015/03/02

Mark
2015/03/02



Melbourne
181 Bay Street,
Brighton, Vic, 3186

Adelaide
C/- Deloitte Private (SA),
121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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From: [REDACTED] [mailto:[REDACTED]]
Sent: 02 March 2015 10:31
To: [andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED])

Cc: Vic Federal Court Registry E-mail

Subject: Your enquiry from 26th February 2015

UNCLASSIFIED

Dear Mr Garrett,

I refer to your email of the 26th of February asking for confirmation that your interlocutory application, filed on the 20th of February 2015 in matter VID600/2014 - Andrew Morton Garrett v The Commissioner of Taxation & Ors, was sent to chambers.

I can confirm that the Interlocutory application was referred to His Honour's Chambers on the 20th of February 2015.

Kind regards,

[REDACTED] | Legal Case Manager

Federal Court of Australia | 305 William Street Melbourne Victoria 3000

p. 03 8600 3333 | f. 03 8600 3351 | e. vicreg@fedcourt.gov.au |

w. www.fedcourt.gov.au

John Mathieson

From: Vic Federal Court Registry E-mail
Sent: Friday, 6 March 2015 10:12 AM
To: John Mathieson
Cc: Vic Federal Court Registry E-mail
Subject: FW: re Andrew Garrett Freedom of Information Application

Importance: High

For Official Use Only

John,

Do FOI requests come directly to you?

If not, please let me know to whom I should forward them.

Regards,

[REDACTED] Legal Case Manager
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. 03 8600 3333

www.fedcourt.gov.au

From: andrew.garrett [REDACTED] [mailto:andrew.garrett [REDACTED]]
Sent: Friday, 6 March 2015 8:53 AM
To: Vic Federal Court Registry E-mail
Subject: re Andrew Garrett Freedom of Information Application
Importance: High

Dear Registry

Please accept this communicate as a request in writing under the provisions of the *Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015 or any other matter related to me with particular reference to orders made under s37AO of the Federal Court of Australia Act.

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

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T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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John Mathieson

From: Chuan Ng
Sent: Friday, 6 March 2015 10:40 AM
To: John Mathieson
Cc: Michael Wall; James Cho; Daniel Caporale
Subject: FW: Re Andrew Garrett
Attachments: Re Andrew Garrett

Importance: High

Hi John,

I just received this email which appears to be an FOI request directed to the Chief Justice. It relates to a Victorian matter.

Regards,

Chuan Ng | Deputy District Registrar
Federal Court of Australia | NSW District Registry Queens Square Sydney NSW 2000
phone: [REDACTED] | fax: +612 9230 8535 | email: chuan.ng@fedcourt.gov.au | www.fedcourt.gov.au

From: NSW Listings
Sent: Friday, 6 March 2015 9:59 AM
To: Chuan Ng
Subject: FW: Re Andrew Garrett
Importance: High

UNCLASSIFIED

Good morning Chuan,

For duty registrar.

Thanks

Daniel

From: [andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED]) [mailto:[andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED])]
Sent: Friday, 6 March 2015 8:50 AM
To: NSW Listings
Subject: Re Andrew Garrett
Importance: High

The Associate Chief Justice Allsop
The Federal Court of Australia,
NSW Registry

Dear Associate Allsop,

Please accept this communicate as a request in writing under the provisions of the Freedom of Information Act 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015 or any other matter related to me.

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

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Andrew Garrett
TAGGC

Andrew Garrett
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E: [REDACTED]

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John Mathieson

From: Daniel Caporale
Sent: Tuesday, 10 March 2015 10:15 AM
To: John Mathieson
Subject: FW: re VID 739 of 2014 Freedom of Information Application

UNCLASSIFIED

Daniel Caporale | District Registrar | Victoria Registry
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. [REDACTED] | f. [REDACTED] | e. daniel.caporale@fedcourt.gov.au

From: Associate DaviesJ

Sent: Friday, 6 March 2015 9:08 AM
To: Daniel Caporale
Subject: FW: re VID 739 of 2014 Freedom of Information Application

UNCLASSIFIED

Good morning Daniel

I am forwarding to you an email that came this morning for your attention please.

Kind regards

[REDACTED]

[REDACTED] | Associate to the Hon. Justice Davies
Federal Court of Australia | 305 William Street, Melbourne Victoria 3000
T. [REDACTED] | F. [REDACTED] | Associate.DaviesJ@fedcourt.gov.au

From: [andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED]) [mailto:[andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED])]
Sent: Friday, 6 March 2015 8:58 AM
To: Associate DaviesJ
Subject: re VID 739 of 2014 Freedom of Information Application

Dear Associate Davies J

Please accept this communicate as a request in writing under the provisions of *the Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act and the Application dated 1st March 2015 for leave to file and serve the Application dated 26th January 2015

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

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www.dynamic-cws.com.au

[Signature]
Name
Title

[Signature]
Name
Title



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Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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John Mathieson

From: EA - Beach J
Sent: Thursday, 12 March 2015 11:15 AM
To: John Mathieson
Cc: Associate BeachJ
Subject: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett and VID 49 of 2014; Freedom of Information Request

Importance: High

UNCLASSIFIED

Dear Mr Mathieson,

Please find enclosed a copy of an email that was sent to the chambers of Justice Beach in relation to an FOI request from Mr Garrett.

I have been advised that these types of requests are to sent to you and it is for this reason I have forwarding on this mail.

Please let me know if there is any further information you require.

Yours sincerely,

[REDACTED] Executive Assistant to the Honourable Justice Beach
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
T. [REDACTED] | F. [REDACTED] | ea.beachj@fedcourt.gov.au | www.fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to associate.beachj@fedcourt.gov.au

From: andrew.garrett [REDACTED] [mailto:andrew.garrett@taggc.com.au]
Sent: Friday, 6 March 2015 8:46 AM
To: Associate BeachJ
Cc: EA - Beach J
Subject: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett and VID 49 of 2014; Freedom of Information Request
Importance: High

Dear Ms Associate

Please accept this communicate as a request in writing under the provisions of the *Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015.

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

John Mathieson

From: Phillip Allaway
Sent: Thursday, 12 March 2015 1:05 PM
To: [REDACTED]
Cc: [REDACTED] Associate MortimerJ; John Mathieson
Subject: RE: VID 248 of 2014

UNCLASSIFIED

Thanks Sophie. It should go to John. To that end I have copied him in on this reply.
Regards,
Phillip

Phillip Allaway | Deputy District Registrar | Victoria Registry
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
[REDACTED] f. [REDACTED]
e. phillip.allaway@fedcourt.gov.au

From: [REDACTED]
Sent: Thursday, 12 March 2015 1:01 PM
To: Phillip Allaway

Cc: [REDACTED]; [REDACTED] Associate MortimerJ
Subject: FW: VID 248 of 2014
Importance: High

UNCLASSIFIED

Hi Phil

Please see email below from Andrew Garrett containing a request for documents under the FOI Act.

Shall I forward this on to John Mathieson?

Thanks

[REDACTED]

[REDACTED] | Executive Assistant to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
T. [REDACTED] | F. [REDACTED] | [REDACTED] | www.fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to associate.mortimerj@fedcourt.gov.au

From: Associate MortimerJ
Sent: Friday, 6 March 2015 9:34 AM
To: Daniel Caporale
Cc: EA - MortimerJ; Lauren McCormick
Subject: FW: VID 248 of 2014
Importance: High

UNCLASSIFIED

Hi Daniel

Please see the communication below from Mr Garrett, to which I haven't responded and which Justice Mortimer asked me to pass on to you. I assume this doesn't require any action from us – let me know if you need anything from our end.

Kind regards

Associate to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street, Melbourne Victoria 3000
t [redacted] f [redacted] e associate.mortimerj@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to ea.mortimerj@fedcourt.gov.au

From: [redacted] [mailto:[redacted]]
Sent: Friday, 6 March 2015 9:13 AM
To: Associate Mortimer]
Subject: VID 248 of 2014
Importance: High

Federal Court of Australia
Victoria Registry
Attn Associate Mortimer J

Dear Associate Mortimer J

Please accept this communicate as a request in writing under the provisions of *the Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the office of the Chief Justice, the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act

I seek copies of any notes or references made by the Honourable Justice Mortimer in respect to my Affidavit dated 14th July 2014 plus exhibits and in particular the materials set out in Volumes 4 and 5 of that affidavit.

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

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Adelaide

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121 Greenhill Road,
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M: [REDACTED]

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E: [REDACTED]

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Telephone: [REDACTED]
Facsimile: (02) 9223 1906
DX 613 SYDNEY

FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY

A.B.N. 49 110 847 399

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

Your Ref:
Our Ref: PA2925

16 March 2015

Mr Andrew Garrett
[REDACTED]

COPY

Dear Mr Garrett,

Your requests under the *Freedom of Information Act 1982*

I am authorised under section 23(1) of the *Freedom of Information Act 1982* (FOI Act) to make decisions on behalf of the Federal Court of Australia (Federal Court) in relation to Freedom of Information (FOI) requests.

On 4 March 2015 you sent by email to the Associate of Justice Pagone a request under the *Freedom of Information Act 1982* (FOI Act) seeking "a copy of any document or thing related to conversations, meetings, correspondence between His Honour, His Honour's Chambers and any representative of the Chief Justice of the Federal Court of Australia and/or Representative (sic) of the Respondents and/or the Commonwealth Attorney General with respect to any proceeding related to me". On 6 March 2015 you sent a further email to the Associate of Justice Pagone in which you referred to your earlier request under the FOI Act and requested that "the copies of an (sic) list of documents or things should relate to any person and not limited to the Chief Justice, His Chambers and the Office of the Attorney General".

On 6 March 2015 you sent by email to the Associate of Chief Justice Allsop a request under the FOI Act seeking "a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015 or any other matter related to me".

On 6 March 2015 you also sent by email to the Associate of Justice Davies a request under the FOI Act seeking "a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act and the Application dated 1st March 2015 for leave to file and serve the Application dated 26th January 2015".

On 6 March 2015 you also sent by email to the Associate of Justice Beach a request under the FOI Act seeking "a list of and a copy of any document of thing including (but not limited to)

meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015”.

On 6 March 2015 you also sent by email to the Associate of Justice Mortimer a request under the FOI Act seeking “a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the office of the Chief Justice, the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act” as well as “copies of any notes or references made by the Honourable Justice Mortimer in respect to my Affidavit dated 14th July 2014 plus exhibits and in particular the materials set out in Volumes 4 and 5 of that affidavit”.

On 6 March 2015 you also sent by email to the Court’s Victorian District Registry a request under the FOI Act seeking “a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015 or any other matter related to me with particular reference to orders made under s37AO of the Federal Court of Australia Act”.

The Federal Court (including its registries and staff) is a prescribed authority for the purposes of the FOI Act but its judicial officers are not (see subsection 5(1) FOI Act and paragraph 2.6 of the Guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (Guidelines)). Importantly the FOI Act does not apply to any request for access to a document of the Court unless the document relates to matters of an administrative nature (see also subsection 5(1) FOI Act and paragraph 2.7 of the Guidelines) and, since 12 April 2013, the handling of judicial complaints (see subsection 5(1A) FOI Act and paragraph 2.6 of the Guidelines).

The High Court of Australia has recently clarified that the phrase “matters of an administrative nature” refers only to documents that concern “the management and administration of registry and office resources” (see *Kline v Official Secretary to the Governor General* [2013] HCA 52 at [47]) and not to documents relating to the exercise of substantive powers and functions of adjudication or tasks that are referable to this (see *Kline v Official Secretary to the Governor General* [2013] HCA 52 at [45]). (See also paragraphs 2.7 and 2.8 of the Guidelines.)

As judicial officers are not prescribed authorities for the purposes of the FOI Act no request under that Act can validly be made to them.

Any document in existence in the possession of the Federal Court which might fall within the ambit of your requests sent to the Chief Justice; Justices Pagone, Davies, Beach and Mortimer; and the Court’s Victorian District Registry relate to proceedings before the Court and are not documents of an administrative nature. As such the FOI Act does not apply to them and no request under that Act can validly be made in relation to them (see paragraphs 2.6 to 2.8 of the Guidelines).

If you are dissatisfied with my decisions, you may apply for internal review or Information Commissioner review of these.

Under section 54 of the FOI Act, you may apply in writing to the Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by another officer within 30 days of receipt of any request for review.

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decisions. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online:	https://forms.business.gov.au/aba/oaic/foi-review-/
email:	enquiries@oaic.gov.au
post:	GPO Box 2999, Canberra ACT 2601
in person:	Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. You can also find there the current Guidelines which I have referred to earlier in the reasons for my decisions. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

If you wish to discuss this decision, you can contact me by phone on the phone number shown on page 1 of this letter.

Yours sincerely

John Mathieson
Deputy Registrar

From: andrew.garrett [REDACTED]
Sent: Thursday, 21 May 2015 2:09 PM
To: External FOI
Subject: FW: FOI Requests
Attachments: Garrett correspondence dated 29 December 2014.pdf; LODGE Originating Process ADJR AMG v Daniel Caporale dated 28 January 2015.pdf; Ltr_Garrett_6Mar15.pdf; Originating Process ADJR AMG v Daniel Caporale.pdf; Letter to A_Garrett 09072014.pdf; Ltr_Garrett#2_6Mar15.pdf; Email to Registrar re pending application 20022015.pdf

Importance: High

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

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www.dynamic-cws.com.au

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M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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From: andrew.garrett [REDACTED] [mailto:andrew.garrett [REDACTED]]
Sent: 21 May 2015 12:52

To: vicreg@fedcourt.gov.au; John Mathieson (John.Mathieson@fedcourt.gov.au)
Cc: nswdr@fedcourt.gov.au
Subject: FW: FOI Requests
Importance: High

Registrar Daniel Caporale,
Victoria District Registrar,
Federal Law Courts,
William Street,
Melbourne, Victoria, 3000

Cc The Chief Justice Allsop

Dear Registrar Caporale,

Further to the recent correspondence with Deputy Registrar Mathieson of the NSW District Registry as set out below and my communique dated 20th July 2015 also set out below that was copied to you I request a prompt reply acknowledging receipt of this communique.

I first applied for FOI on the 4th & 6th March 2015, I am advised that you have been briefed to undertake the Internal Review of the decision of Deputy Registrar Mathieson dated 16th April 2015, as you are aware the FOI Act has time limitations in respect to the completion of review.

I have copied you on recent correspondence with the Honourable Justice Davies in which I have asked Her Honour to recuse herself from hearing any further matters involving me including VID 158 – VID 166 of 2014.

For the reasons set out below I request that you immediately desist from taking any further steps to complete that Internal Review and ask that you refer the same to a Review Officer outside of the Victoria District Registry and preferably the Federal Court of Australia in its entirety.

I would be satisfied if that internal review was undertaken by a Registrar of the High Court.

There is no doubt in my mind that the materials I seek will highlight your own involvement with the relevant vexatious litigant judgments and the failures of those three judgments given in VID 248 of 2014, VID 600 of 2014 and VID 739 of 2014 to make any reference to the merits of each application.

On the 20th February 2015 I wrote to Registry by email (Copy attached) asking Registry to take no further steps in respect to the proceedings referred to in the letter # 2 attached dated 6th March from Registrar Allway, in this regard that letter is wholly self-serving and was issued in circumstances where I had effectively withdrawn the proceedings.

Letter #1 from Registrar Allway also dated 6th March 2015 refers to the rejection of an application for Judicial Review of your own conduct as attached that was lodged on the 28th January 2015

Your letters dated 29th December 2014 and 9th July 2014 do not provide reasons for those decisions that are capable of being understood by a lay person.

Subject to an extension of time in so far as is necessary I request detailed reasons pursuant to s13 of *the Administrative Decisions Judicial Review Act 1977* (Cth) of the Administrative Decisions contained in the letters dated 9th July 2014, 29th December 2014 and 6th March 2015.

I recall there is one further Administrative Decision Letter that I cannot currently locate advising that a Federal Court Justice is not amenable to review under s39B of *the Judiciary Act 1903* (Cth), I request a copy of that letter and detained reasons for that decision also.

I am deeply concerned that you ought not have anything to do with the Internal Review of the Decision of Deputy Registrar Mathieson.

It is clear to me that there is no opportunity for you to bring an unbiased and impartial mind to that review process in the light of the proceedings I applied to commence against you on the 28th January 2015 and the conduct you have demonstrated since July 2014 (that I am aware of).

Pursuant to the provisions of the FOI Act I ask you to consider this communique as a further application under the provisions of the FOI Act that you provide a schedule of and a copy of any document or thing in your control and possession that relates to me,

Regards

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

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www.dynamic-cws.com.au

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Melbourne

Level 1, 2 Drewery Place
Melbourne, Vic, 3000

Adelaide

C/- Deloitte Private (SA),
121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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From: andrew.garrett [REDACTED] [mailto:andrew.garrett [REDACTED]]

Sent: 20 May 2015 10:53

To: 'John Mathieson'

Importance: High

Cc Registrar Byrne, Federal Circuit Court of Australia, Melbourne Registry
Registrar Caporale, Federal Court of Australia, Victoria Registry

I understand that you have passed the FOI requests along to Ms Byrne and Mr Caporale.

I also ask for a copy of any document or thing related to that request made of Her Honour.

The Andrew Garrett Group of Companies (TAGGC)

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三、T 型梁

Dr. N. W. Winkler
- *Barley*



Melbourne

Level 1, 2 Drewery Place
Melbourne, Vic, 3000

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M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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From: John Mathieson [mailto:John.Mathieson@fedcourt.gov.au]

Sent: 12 May 2015 15:18

To: andrew.garrett [REDACTED]

Subject: FOI Requests

UNCLASSIFIED

Dear Mr Garrett,

As promised in our telephone discussions last Friday, I write to confirm what was agreed in regard to your emails to the Federal Court dated 26 April 2015 (regarding various Federal Court proceedings including VID600/2014 and VID 557/2014) and 30 April 2015 (regarding Federal Circuit Court proceeding MLG177/2015) respectively and how that will be progressed.

You agreed that your email of 26 April 2015 (which is in response to the decision I made in relation to your several mail FOI requests dated 4 and 6 March 2015 which was set out in my letter dated 16 March 2015) should be treated as a request for internal review of my decision that "any document in existence in the possession of the Federal Court which might fall within the ambit of your requests ... relate to proceedings before the Court and are not documents of an administrative nature" and "(a)s such the FOI Act does not apply to them and no request under that Act can validly be made in relation to them" but that, should on that review it is decided this is incorrect and that the FOI Act does apply to documents relating to proceedings in the Court, then the scope of your requests is expanded as outlined in your email of 26 April 2015 to include "a list of and a copy of any documents of an administrative nature held by an officer of the Federal Court of Australia, Judicial or otherwise related to proceedings commenced by (you) between the 1st January 2014 and (26 April 2015)". That request for review is being referred to the Court's Victorian District Registrar, Daniel Caporale. Mr Caporale will also consider your request for extension of time to make the internal review request should any such extension be required.

We also discussed access to documents in court proceedings available under rule 2.32 of the Federal Court Rules and you also asked that, in parallel to the review of my decision, consideration be given by a Registrar of the Court to allowing inspection and copying of documents on the Court's files in relation to the relevant proceedings which are within the scope of your requests (as expanded). I have also passed this request onto Mr Caporale.

You also agreed that, to the extent that it is seeking access to a list and copies of documents, your email of 30 April 2015 should be treated as an FOI request to the Federal Circuit Court. As discussed, I had already provided a copy of that request to the Principal Registrar of the Federal Circuit Court, Adele Byrne, and she had requested that I seek

clarification about this on her behalf. I will advise her of what you have agreed. Ms Byrne (or some other person who may be authorised under the FOI Act to deal with your request on behalf of the Federal Circuit Court) will contact you directly if clarification about the scope of your FOI request to that Court is required. To the extent that your email seeks information about processing of documents in regard to the Federal Circuit Court proceeding mentioned, I will refer this to the Victorian Registry.

Regards,

John Mathieson

John Mathieson
Deputy Registrar
Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au

John Mathieson

From: John Mathieson
Sent: Tuesday, 26 May 2015 1:33 PM
To: Murray Belcher
Subject: FOI - Internal Review - Garrett
Attachments: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett and VID 49 of 2014; Freedom of Information Request; FW: re VID 739 of 2014 Freedom of Information Application; FW: VID 600 of 2014 & VID 557 of 2014; RE: Re Andrew Garrett; RE: re Andrew Garrett Freedom of Information Application; Combined Garrett FOI correspondence.pdf; FOI Requests; Garrett - FOI

UNCLASSIFIED

Murray,

As discussed I attach:

- 5 emails sent by Mr Garrett on 6 March 2015 requesting FOI access
- my letter dated 16 March 2015 deciding the FOI Act did not apply to any documents within scope of those requests and email response dated 26 April 2015 from Mr Garrett seeking an internal review of my decision
- my email to Mr Garrett dated 12 May 2015 noting what was agreed in a telephone discussion on 8 May 2015 regarding the handling of his request for internal review (and separate FOI request to FCC)
- my email to Daniel Caporale dated 19 May 2015 providing information about accessing FOI resource material
- email from Mr Garrett dated 21 May 2015 objecting to Daniel Caporale's involvement in internal review

As mentioned by phone, Daniel has confirmed that Mr Garrett applied to review a decision he made earlier this year and, in those circumstances, it would be better if he did not undertake the internal review of my FOI decision.

In relation to Mr Garrett's email of 21 May 2015, Daniel will respond separately in relation to the demand for s 13 ADJR reasons. I am thinking about whether the final paragraph of that email is a fresh FOI request and if so who should deal with it.

Once you (and/or Katie) have looked at the papers give me a call if you have any questions. Otherwise let me know who can do the internal review so I can arrange for Warwick to issue an appropriate authority.

Regards,

John

John Mathieson
Deputy Registrar
Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au

John Mathieson

From: Phillip Allaway
Sent: Thursday, 12 March 2015 1:05 PM
To: [REDACTED]
Cc: [REDACTED] Associate MortimerJ; John Mathieson
Subject: RE: VID 248 of 2014

UNCLASSIFIED

Thanks [REDACTED] It should go to John. To that end I have copied him in on this reply.
Regards,
Phillip

Phillip Allaway | Deputy District Registrar | Victoria Registry
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. [REDACTED] f. [REDACTED]
e. phillip.allaway@fedcourt.gov.au

Cc: [REDACTED] Associate MortimerJ
Subject: FW: VID 248 of 2014
Importance: High

From: [REDACTED]
Sent: Thursday, 12 March 2015 1:01 PM
To: Phillip Allaway

UNCLASSIFIED

Hi Phil

Please see email below from Andrew Garrett containing a request for documents under the FOI Act.

Shall I forward this on to John Mathieson?

Thanks

[REDACTED]
[REDACTED] | Executive Assistant to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
T. [REDACTED] | F. [REDACTED] | sophie.bird@fedcourt.gov.au | www.fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to associate.mortimerj@fedcourt.gov.au

From: Associate MortimerJ
Sent: Friday, 6 March 2015 9:34 AM
To: Daniel Caporale
Cc: EA - MortimerJ; Lauren McCormick
Subject: FW: VID 248 of 2014
Importance: High

UNCLASSIFIED

Hi Daniel

Please see the communication below from Mr Garrett, to which I haven't responded and which Justice Mortimer asked me to pass on to you. I assume this doesn't require any action from us – let me know if you need anything from our end.

Kind regards

[REDACTED]
[REDACTED] Associate to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street, Melbourne Victoria 3000
t [REDACTED] f [REDACTED] e associate.mortimerj@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to ea.mortimerj@fedcourt.gov.au

From: [andrew.garrett \[REDACTED\]](mailto:andrew.garrett@[REDACTED]) [mailto:[andrew.garrett \[REDACTED\]](mailto:andrew.garrett@[REDACTED])]
Sent: Friday, 6 March 2015 9:13 AM
To: Associate MortimerJ
Subject: VID 248 of 2014
Importance: High

Federal Court of Australia
Victoria Registry
Attn Associate Mortimer J

Dear Associate Mortimer J

Please accept this communicate as a request in writing under the provisions of *the Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the office of the Chief Justice, the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act

I seek copies of any notes or references made by the Honourable Justice Mortimer in respect to my Affidavit dated 14th July 2014 plus exhibits and in particular the materials set out in Volumes 4 and 5 of that affidavit.

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

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10/15/2015 10:15 AM
[REDACTED]
[REDACTED]

10/15/2015 10:15 AM
[REDACTED]
[REDACTED]



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Brighton, Vic, 3186

Adelaide

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121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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John Mathieson

From: EA - Beach J
Sent: Thursday, 12 March 2015 11:15 AM
To: John Mathieson
Cc: Associate BeachJ
Subject: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett and VID 49 of 2014; Freedom of Information Request

Importance: High

UNCLASSIFIED

Dear Mr Mathieson,

Please find enclosed a copy of an email that was sent to the chambers of Justice Beach in relation to an FOI request from Mr Garrett.

I have been advised that these types of requests are to sent to you and it is for this reason I have forwarding on this mail.

Please let me know if there is any further information you require.

Yours sincerely,

[REDACTED] Executive Assistant to the Honourable Justice Beach
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
T. [REDACTED] | F. [REDACTED] ea.beachj@fedcourt.gov.au | www.fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to associate.beachj@fedcourt.gov.au

From: andrew.garrett [REDACTED] [mailto:andrew.garrett@taggc.com.au]
Sent: Friday, 6 March 2015 8:46 AM
To: Associate BeachJ
Cc: EA - Beach J
Subject: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett and VID 49 of 2014; Freedom of Information Request
Importance: High

Dear Ms Associate

Please accept this communicate as a request in writing under the provisions of the *Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015.

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

John Mathieson

From: Daniel Caporale
Sent: Tuesday, 10 March 2015 10:15 AM
To: John Mathieson
Subject: FW: re VID 739 of 2014 Freedom of Information Application

UNCLASSIFIED

Daniel Caporale | District Registrar | Victoria Registry
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. [REDACTED] | f. [REDACTED] | e. daniel.caporale@fedcourt.gov.au

From: Associate DaviesJ

Sent: Friday, 6 March 2015 9:08 AM
To: Daniel Caporale
Subject: FW: re VID 739 of 2014 Freedom of Information Application

UNCLASSIFIED

Good morning Daniel

I am forwarding to you an email that came this morning for your attention please.

Kind regards

[REDACTED]

[REDACTED]

Associate to the Hon. Justice Davies

Federal Court of Australia | 305 William Street, Melbourne Victoria 3000

T. [REDACTED] F. [REDACTED] | Associate.DaviesJ@fedcourt.gov.au

From: [andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED]) [mailto:[andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED])]
Sent: Friday, 6 March 2015 8:58 AM
To: Associate DaviesJ
Subject: re VID 739 of 2014 Freedom of Information Application

Dear Associate Davies J

Please accept this communicate as a request in writing under the provisions of *the Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act and the Application dated 1st March 2015 for leave to file and serve the Application dated 26th January 2015

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

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John Mathieson

From: Chuan Ng
Sent: Friday, 6 March 2015 10:40 AM
To: John Mathieson
Cc: Michael Wall; James Cho; Daniel Caporale
Subject: FW: Re Andrew Garrett
Attachments: Re Andrew Garrett

Importance: High

Hi John,

I just received this email which appears to be an FOI request directed to the Chief Justice. It relates to a Victorian matter.

Regards,

Chuan Ng | Deputy District Registrar
Federal Court of Australia | NSW District Registry Queens Square Sydney NSW 2000
phone [REDACTED] | fax: +612 9230 8535 | email: chuan.ng@fedcourt.gov.au | www.fedcourt.gov.au

From: NSW Listings
Sent: Friday, 6 March 2015 9:59 AM
To: Chuan Ng
Subject: FW: Re Andrew Garrett
Importance: High

UNCLASSIFIED

Good morning Chuan,

For duty registrar.

Thanks

Daniel

From: [andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED]) [mailto:[andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED])]
Sent: Friday, 6 March 2015 8:50 AM
To: NSW Listings
Subject: Re Andrew Garrett
Importance: High

The Associate Chief Justice Allsop
The Federal Court of Australia,
NSW Registry

Dear Associate Allsop,

Please accept this communicate as a request in writing under the provisions of the Freedom of Information Act 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015 or any other matter related to me.

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

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MELBOURNE

Andrew Garrett
2011

ADELAIDE

Andrew Garrett
2011



Melbourne

181 Bay Street,
Brighton, Vic, 3186

Adelaide

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121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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John Mathieson

From: Vic Federal Court Registry E-mail
Sent: Friday, 6 March 2015 10:25 AM
To: John Mathieson
Cc: Vic Federal Court Registry E-mail
Subject: FW: VID 600 of 2014 & VID 557 of 2014
Attachments: VID 600 of 2014 AMG v COT & Ors Application for Leave to file and serve Interlocutory Application 5th March 2015.pdf; VID 600 of 2014 AMG v COT & Ors LODGE Application for Leave to file and serve Interlocutory Application 5th March 2015.pdf

Importance: High

UNCLASSIFIED

John,

Further to my earlier email, the below is another FOI request that has been made directly to the chambers of his Honour Justice Pagone.

Thanks,

[REDACTED] Legal Case Manager
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. 03 8600 3333

www.fedcourt.gov.au

From: Associate PagoneJ
Sent: Friday, 6 March 2015 9:08 AM
To: [REDACTED]
Cc: EA - Pagone J
Subject: FW: VID 600 of 2014 & VID 557 of 2014
Importance: High

UNCLASSIFIED

Hi [REDACTED]

Please see below.

[REDACTED]
[REDACTED] Associate to the Hon Justice Pagone
Federal Court of Australia
305 William Street, Melbourne 3000
p. [REDACTED]
e. Associate.PagoneJ@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to ea.pagonej@fedcourt.gov.au.

From: [REDACTED] [mailto:[REDACTED]]
Sent: Friday, 6 March 2015 9:08 AM
To: Associate PagoneJ
Cc: Tavolaro, Vincent

Subject: FW: VID 600 of 2014 & VID 557 of 2014

Importance: High

Federal Court of Australia
Victoria Registry
Associate Pagone J

Dear Associate Pagone J

I refer to my application under the provisions of the FOI Act as set out below in respect to the administration of the aforementioned proceedings and request that the copies of an list of documents or things should relate to any person and not limited to the Chief Justice, His Chambers and the Office of the Attorney General.

I confirm that I have applied to reopen the proceeding by way of application for leave a copy of which and evidence of elodgment is attached.

Please advise whether His Honour has had an opportunity to consider my request for access to the court file which would in any event be available under the FOI request below.

Regards

Andrew Garrett

From: andrew.garrett [redacted] [mailto:andrew.garrett [redacted]]
Sent: 04 March 2015 15:04
To: Associate.PagoneJ@fedcourt.gov.au
Cc: Tavolaro, Vincent
Subject: VID 600 of 2014
Importance: High

Dear Associate Pagone,

I refer to my appearance before His Honour on the 26th February 2015 for the delivery of His Honours Reasons in the aforementioned proceeding.

On that day I asked His Honour whether His Honour was aware of an application under Divisions 28.1 of the Federal Court Rules pursuant to s53A of the Federal Court of Australia Act 1976 (Cth) to engage the court's jurisdiction under the provisions of the International Arbitration Act.

His Honour replied in words to the effect "*It is news to me Mr Garrett*"

I ask the court for access to the Court files in both VID 557 of 2014 and VID 600 of 2014 so that I may review the content of those files and the Transcripts of each appearance before His Honour.

At all times His Honour has been critical of the volume of materials before the Court, in circumstances where there are over 300 taxation decisions made I respectfully submit that the volume is hardly surprising.

Please see the copy of email received from Registry below received on the 2nd March 2015 confirming that the application was sent to Chambers on the day it was received. I ask that you confirm that His Honour reviewed the application and what His Honour's next step was in respect to the Application.

Please also note attached correspondence with the Solicitor for the Respondents on this issue.

Division 28.1 is quite clear "*the Parties must and the Court will*"

I ask you to consider this as an application in writing under the provisions of *the Freedom of Information Act* 1982 Cth) for you to provide a copy of any document or thing related to conversations, meetings, correspondence between His Honour, His Honour's Chambers and any representative of the Chief Justice of the Federal Court of Australia and/or Representative of the Respondents and/or the Commonwealth Attorney General with respect to any proceeding related to me.

I have also annexed other relevant emails with the solicitor for the respondent.

I advise that His Honours Reasons will be appealed and that I will apply to reopen the hearing following research in the Federal Court Library

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

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T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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From: [REDACTED] [mailto:\[REDACTED\]](mailto:[REDACTED])

Sent: 02 March 2015 10:31

To: [andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED])

Cc: Vic Federal Court Registry E-mail
Subject: Your enquiry from 26th February 2015

UNCLASSIFIED

Dear Mr Garrett,

I refer to your email of the 26th of February asking for confirmation that your interlocutory application, filed on the 20th of February 2015 in matter VID600/2014 - Andrew Morton Garrett v The Commissioner of Taxation & Ors, was sent to chambers.

I can confirm that the Interlocutory application was referred to His Honour's Chambers on the 20th of February 2015.

Kind regards,

 | Legal Case Manager

Federal Court of Australia | 305 William Street Melbourne Victoria 3000

p. 03 8600 3333 | f. 03 8600 3351 | e. vicreg@fedcourt.gov.au |

w. www.fedcourt.gov.au

John Mathieson

From: Vic Federal Court Registry E-mail
Sent: Friday, 6 March 2015 10:12 AM
To: John Mathieson
Cc: Vic Federal Court Registry E-mail
Subject: FW: re Andrew Garrett Freedom of Information Application

Importance: High

For Official Use Only

John,

Do FOI requests come directly to you?

If not, please let me know to whom I should forward them.

Regards,

[REDACTED] Legal Case Manager
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. 03 8600 3333

www.fedcourt.gov.au

From: [andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED]) [mailto:[andrew.garrett@\[REDACTED\]](mailto:andrew.garrett@[REDACTED])]
Sent: Friday, 6 March 2015 8:53 AM
To: Vic Federal Court Registry E-mail
Subject: re Andrew Garrett Freedom of Information Application
Importance: High

Dear Registry

Please accept this communicate as a request in writing under the provisions of *the Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015 or any other matter related to me with particular reference to orders made under s37AO of the Federal Court of Australia Act.

Andrew Garrett

Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

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02/03/2010 - 10:11

Andrew Garrett

02/03/2010 - 10:11

Andrew Garrett



Melbourne

181 Bay Street,
Brighton, Vic, 3186

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M: [REDACTED]

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Telephone: [REDACTED]
Facsimile: (02) 9223 1906
DX 613 SYDNEY

A.B.N. 49 110 847 399

Your Ref:
Our Ref: PA2925

**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

16 March 2015

Mr Andrew Garrett
[REDACTED]

COPY

Dear Mr Garrett,

Your requests under the *Freedom of Information Act 1982*

I am authorised under section 23(1) of the *Freedom of Information Act 1982* (FOI Act) to make decisions on behalf of the Federal Court of Australia (Federal Court) in relation to Freedom of Information (FOI) requests.

On 4 March 2015 you sent by email to the Associate of Justice Pagone a request under the *Freedom of Information Act 1982* (FOI Act) seeking "a copy of any document or thing related to conversations, meetings, correspondence between His Honour, His Honour's Chambers and any representative of the Chief Justice of the Federal Court of Australia and/or Representative (sic) of the Respondents and/or the Commonwealth Attorney General with respect to any proceeding related to me". On 6 March 2015 you sent a further email to the Associate of Justice Pagone in which you referred to your earlier request under the FOI Act and requested that "the copies of an (sic) list of documents or things should relate to any person and not limited to the Chief Justice, His Chambers and the Office of the Attorney General".

On 6 March 2015 you sent by email to the Associate of Chief Justice Allsop a request under the FOI Act seeking "a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015 or any other matter related to me".

On 6 March 2015 you also sent by email to the Associate of Justice Davies a request under the FOI Act seeking "a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act and the Application dated 1st March 2015 for leave to file and serve the Application dated 26th January 2015".

On 6 March 2015 you also sent by email to the Associate of Justice Beach a request under the FOI Act seeking "a list of and a copy of any document of thing including (but not limited to)

Under section 54 of the FOI Act, you may apply in writing to the Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

Where possible please attach reasons why you believe a review of the decision is necessary. The internal review will be carried out by another officer within 30 days of receipt of any request for review.

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decisions. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online:	https://forms.business.gov.au/aba/oaic/foi-review-/
email:	enquiries@oaic.gov.au
post:	GPO Box 2999, Canberra ACT 2601
in person:	Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. You can also find there the current Guidelines which I have referred to earlier in the reasons for my decisions. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

If you wish to discuss this decision, you can contact me by phone on the phone number shown on page 1 of this letter.

Yours sincerely

John Mathieson
Deputy Registrar

John Mathieson

From: John Mathieson
Sent: Tuesday, 12 May 2015 3:18 PM
To: 'andrew.garret' [REDACTED]
Subject: FOI Requests

UNCLASSIFIED

Dear Mr Garrett,

As promised in our telephone discussions last Friday, I write to confirm what was agreed in regard to your emails to the Federal Court dated 26 April 2015 (regarding various Federal Court proceedings including VID600/2014 and VID 557/2014) and 30 April 2015 (regarding Federal Circuit Court proceeding MLG177/2015) respectively and how that will be progressed.

You agreed that your email of 26 April 2015 (which is in response to the decision I made in relation to your several email FOI requests dated 4 and 6 March 2015 which was set out in my letter dated 16 March 2015) should be treated as a request for internal review of my decision that "any document in existence in the possession of the Federal Court which might fall within the ambit of your requests ... relate to proceedings before the Court and are not documents of an administrative nature" and "(a)s such the FOI Act does not apply to them and no request under that Act can validly be made in relation to them" but that, should on that review it is decided this is incorrect and that the FOI Act does apply to documents relating to proceedings in the Court, then the scope of your requests is expanded as outlined in your email of 26 April 2015 to include "a list of and a copy of any documents of an administrative nature held by an officer of the Federal Court of Australia, Judicial or otherwise related to proceedings commenced by (you) between the 1st January 2014 and (26 April 2015)". That request for review is being referred to the Court's Victorian District Registrar, Daniel Caporale. Mr Caporale will also consider your request for extension of time to make the internal review request should any such extension be required.

We also discussed access to documents in court proceedings available under rule 2.32 of the Federal Court Rules and you also asked that, in parallel to the review of my decision, consideration be given by a Registrar of the Court to allowing inspection and copying of documents on the Court's files in relation to the relevant proceedings which are within the scope of your requests (as expanded). I have also passed this request onto Mr Caporale.

You also agreed that, to the extent that it is seeking access to a list and copies of documents, your email of 30 April 2015 should be treated as an FOI request to the Federal Circuit Court. As discussed, I had already provided a copy of that request to the Principal Registrar of the Federal Circuit Court, Adele Byrne, and she had requested that I seek clarification about this on her behalf. I will advise her of what you have agreed. Ms Byrne (or some other person who may be authorised under the FOI Act to deal with your request on behalf of the Federal Circuit Court) will contact you directly if clarification about the scope of your FOI request to that Court is required. To the extent that your email seeks information about processing of documents in regard to the Federal Circuit Court proceeding mentioned, I will refer this to the Victorian Registry.

Regards,

John Mathieson

John Mathieson
Deputy Registrar
Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au

John Mathieson

From: John Mathieson
Sent: Tuesday, 19 May 2015 4:29 PM
To: Daniel Caporale
Cc: Adele.Byrne@federalcircuitcourt.gov.au
Subject: Garrett - FOI

UNCLASSIFIED

Daniel,

My apologies for the delay in providing this additional information to you.

You can download the current FOI Act from ComLaw at
<http://www.comlaw.gov.au/Details/C2015C00013/Download>.

Some significant amendments are proposed in a Bill which has been passed in the House but is yet to be considered in the Senate. You can check progress of these on the Parliament of Australia webpage for that Bill at
http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5350

The Australian Information Commissioner has issued guidelines under section 93A of the FOI Act to which regard **must** be given in exercising any function under the FOI Act. You can find these on the Commissioner's website at <http://www.oaic.gov.au/freedom-of-information/applying-the-foi-act/foi-guidelines/>. Part 9 of the guidelines deal with internal agency review of decisions. You will need to consider Mr Garrett's request for an extension of time. Extension of time for an internal review is dealt with at paragraphs 9.20 – 9.24 of the guidelines and encourage the adoption of a liberal approach by agencies and to grant extensions unless there is a special reason not to do so.

The guidelines discuss the position of courts at paragraphs 2.6 – 2.8.

The Commissioner has also issued as an "agency resource" precedent letters etc. You can find these at <http://www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-agency-resources/foi-agency-resource-11-sample-foi-notice>.

If you require any further information please let me know.

For statistical purposes you will need to keep track of time taken in dealing with the review. I can provide you with a template to record this if that would help but all that is required is a total in hours to the nearest half hour. If in any doubt give me a call and I'll explain what I normally do.

Regards,

John

John Mathieson
Deputy Registrar
Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au

John Mathieson

From: [REDACTED]
Sent: Thursday, 21 May 2015 2:18 PM
To: John Mathieson
Subject: Email from Mr Garrett and Appointment for Daniel
Attachments: Garrett correspondence dated 29 December 2014.pdf; LODGE Originating Process ADJR AMG v Daniel Caporale dated 28 January 2015.pdf; Ltr_Garrett_6Mar15.pdf; Originating Process ADJR AMG v Daniel Caporale.pdf; Letter to A_Garrett 09072014.pdf; Ltr_Garrett#2_6Mar15.pdf; Email to Registrar re pending application 20022015.pdf

UNCLASSIFIED

Hi John,

Andrew Garrett just called and he has been trying to email you, but his emails have not been getting through. He is convinced you have blocked his email address!

I asked him to send the email to the FOI Account. Below is the email, he is saying that as he commenced proceedings against Daniel Caporale in January, he does not want him to do the internal review. I said you were away until Monday, and that I'd forward his email to you.

I also just spoke with Daniel Caporale (before Mr Garrett's call) and he was asking if he needs an authority to do the internal review. I've had a look at the folder, and I think he does need one, as currently all DR's have "all powers under the FOI Act.... except decisions in relation to applications for internal review"

From: andrew.garrett [mailto:andrew.garrett] [REDACTED]
Sent: Thursday, 21 May 2015 2:09 PM
To: External FOI
Subject: FW: FOI Requests
Importance: High

Andrew Garrett

Chief Executive Officer/ Winemaker

ie Andrew Garrett Group of Companies (TAGGC)

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Melbourne

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Melbourne, Vic, 3000

Adelaide

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121 Greenhill Road,
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T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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From: andrew.garrett [REDACTED] [mailto:andrew.garrett [REDACTED]]
Sent: 21 May 2015 12:52
To: vicreg@fedcourt.gov.au; John Mathieson (John.Mathieson@fedcourt.gov.au)
Cc: nswdr@fedcourt.gov.au
Subject: FW: FOI Requests
Importance: High

Registrar Daniel Caporale,
Victoria District Registrar,
Federal Law Courts,
William Street,
Melbourne, Victoria, 3000

Cc The Chief Justice Allsop

Dear Registrar Caporale,

Further to the recent correspondence with Deputy Registrar Mathieson of the NSW District Registry as set out below and my communicate dated 20th July 2015 also set out below that was copied to you I request a prompt reply acknowledging receipt of this communicate.

I first applied for FOI on the 4th & 6th March 2015, I am advised that you have been briefed to undertake the Internal Review of the decision of Deputy Registrar Mathieson dated 16th April 2015, as you are aware the FOI Act has time limitations in respect to the completion of review.

I have copied you on recent correspondence with the Honourable Justice Davies in which I have asked Her Honour to recuse herself from hearing any further matters involving me including VID 158 – VID 166 of 2014.

For the reasons set out below I request that you immediately desist from taking any further steps to complete that Internal Review and ask that you refer the same to a Review Officer outside of the Victoria District Registry and preferably the Federal Court of Australia in its entirety.

I would be satisfied if that internal review was undertaken by a Registrar of the High Court.

There is no doubt in my mind that the materials I seek will highlight your own involvement with the relevant vexatious litigant judgments and the failures of those three judgments given in VID 248 of 2014, VID 600 of 2014 and VID 739 of 2014 to make any reference to the merits of each application.

On the 20th February 2015 I wrote to Registry by email (Copy attached) asking Registry to take no further steps in respect to the proceedings referred to in the letter # 2 attached dated 6th March from Registrar Allway, in this regard that letter is wholly self-serving and was issued in circumstances where I had effectively withdrawn the proceedings.

Letter #1 from Registrar Allway also dated 6th March 2015 refers to the rejection of an application for Judicial Review of your own conduct as attached that was lodged on the 28th January 2015

Your letters dated 29th December 2014 and 9th July 2014 do not provide reasons for those decisions that are capable of being understood by a lay person.

Subject to an extension of time in so far as is necessary I request detailed reasons pursuant to s13 of *the Administrative Decisions Judicial, Review Act 1977* (Cth) of the Administrative Decisions contained in the letters dated 9th July 2014, 29th December 2014 and 6th March 2015.

I recall there is one further Administrative Decision Letter that I cannot currently locate advising that a Federal Court Justice is not amenable to review under s39B of *the Judiciary Act 1903* (Cth), I request a copy of that letter and detained reasons for that decision also.

I am deeply concerned that you ought not have anything to do with the Internal Review of the Decision of Deputy Registrar Mathieson.

It is clear to me that there is no opportunity for you to bring an unbiased and impartial mind to that review process in the light of the proceedings I applied to commence against you on the 28th January 2015 and the conduct you have demonstrated since July 2014 (that I am aware of).

Pursuant to the provisions of the FOI Act I ask you to consider this communique as a further application under the provisions of the FOI Act that you provide a schedule of and a copy of any document or thing in your control and possession that relates to me,

Regards

Andrew Garrett

Chief Executive Officer/ Winemaker

The Andrew Garrett Group of Companies (TAGGC)

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www.dynamic-cws.com.au

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Andrew Garrett
2015

Andrew Garrett
2015



Melbourne

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Melbourne, Vic, 3000

Adelaide

C/- Deloitte Private (SA),
121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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From: andrew.garrett [REDACTED] [mailto:andrew.garrett [REDACTED]]

Sent: 20 May 2015 10:53

To: 'John Mathieson'

Cc: vicreg@fedcourt.gov.au

Subject: RE: FOI Requests

Importance: High

Dear John

Cc Registrar Byrne, Federal Circuit Court of Australia, Melbourne Registry
Registrar Caporale, Federal Court of Australia, Victoria Registry

Thank you, I confirm the contents of your communique.

I understand that you have passed the FOI requests along to Ms Byrne and Mr Caporale.

On the 19th May 2015 Her Honour Justice Davies delivered her reasons in VID 739 of 2014 as *Garrett v Commissioner of Taxation* (2015) FCA 485 in which regard Her Honour made a further Vexatious Litigant Judgment without considering the merits of my application for review of GST registration.

I am simply staggered that the Court can make three vexatious Litigant Judgment without considering the merits of those applications.....this shows the extent of the Bias and mind-set that I say exists within the court as a function vexatious litigant judgments made in 2007 and 2009.

I wish to extend the FOI application/ Application under FCR 2.32 to also include the reasons of Her Honour Davies J referred to above and by this email I ask Registrar Caporale to include those materials.

The High Court point looms large as to whether a vexatious litigant judgement can be made without considering the merits of the application as a question of law.

I have asked the Honourable Justice Davies to recuse herself from hearing any further matters related to me due to apprehended bias, in the absence of Her Honour taking that steps I will seek an order that Her Honour be disqualified in accordance with the findings of the High Court in *Johnson v Johnson* (2000) HCA48.

I also ask for a copy of any document or thing related to that request made of Her Honour.

Andrew Garrett

Chief Executive Officer/ Winemaker

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T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

T: [REDACTED]

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From: John Mathieson [<mailto:John.Mathieson@fedcourt.gov.au>]

Sent: 12 May 2015 15:18

To: andrew.garrett@taggc.com.au [REDACTED]

Subject: FOI Requests

UNCLASSIFIED

Dear Mr Garrett,

As promised in our telephone discussions last Friday, I write to confirm what was agreed in regard to your emails to the Federal Court dated 26 April 2015 (regarding various Federal Court proceedings including VID600/2014 and VID 557/2014) and 30 April 2015 (regarding Federal Circuit Court proceeding MLG177/2015) respectively and how that will be progressed.

You agreed that your email of 26 April 2015 (which is in response to the decision I made in relation to your several email FOI requests dated 4 and 6 March 2015 which was set out in my letter dated 16 March 2015) should be treated as a request for internal review of my decision that "any document in existence in the possession of the Federal Court which might fall within the ambit of your requests ... relate to proceedings before the Court and are not documents of an administrative nature" and "(a)s such the FOI Act does not apply to them and no request under that Act can validly be made in relation to them" but that, should on that review it is decided this is incorrect and that the FOI Act does apply to documents relating to proceedings in the Court, then the scope of your requests is expanded as outlined in your email of 26 April 2015 to include "a list of and a copy of any documents of an administrative nature held by an officer of the Federal Court of Australia, Judicial or otherwise related to proceedings commenced by (you) between the 1st January 2014 and (26 April 2015)". That request for review is being referred to the Court's Victorian District Registrar, Daniel Caporale. Mr Caporale will also consider your request for extension of time to make the internal review request should any such extension be required.

We also discussed access to documents in court proceedings available under rule 2.32 of the Federal Court Rules and you also asked that, in parallel to the review of my decision, consideration be given by a Registrar of the Court to allowing inspection and copying of documents on the Court's files in relation to the relevant proceedings which are within the scope of your requests (as expanded). I have also passed this request onto Mr Caporale.

You also agreed that, to the extent that it is seeking access to a list and copies of documents, your email of 30 April 2015 should be treated as an FOI request to the Federal Circuit Court. As discussed, I had already provided a copy of that request to the Principal Registrar of the Federal Circuit Court, Adele Byrne, and she had requested that I seek clarification about this on her behalf. I will advise her of what you have agreed. Ms Byrne (or some other person who may be authorised under the FOI Act to deal with your request on behalf of the Federal Circuit Court) will contact you directly if clarification about the scope of your FOI request to that Court is required. To the extent that your email seeks information about processing of documents in regard to the Federal Circuit Court proceeding mentioned, I will refer this to the Victorian Registry.

Regards,

John Mathieson

John Mathieson
Deputy Registrar
Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au



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(07) 3248 1240 (Approved for Document Filing)
Email: qldreg@fedcourt.gov.au

**FEDERAL COURT OF AUSTRALIA
QUEENSLAND DISTRICT REGISTRY**

Your Ref:
Our Ref:

HARRY GIBBS COMMONWEALTH LAW COURTS
119 NORTH QUAY
BRISBANE QLD 4000

PO Box 13084
GEORGE ST POST SHOP
BRISBANE QLD 4003

3 June 2015

Mr Andrew Garrett

By email:

Dear Mr Garrett,

Re: Request for internal review under the Freedom of Information Act 1982

The purpose of this letter is to advise you of my decision following your request for internal review of decisions of John Mathieson, Deputy Registrar, refusing you access to documents requested under the *Freedom of Information Act 1982* (Cth) ("the FOI Act").

I am authorized under subsection 23(1) of the FOI Act to make decisions on behalf of the Federal Court of Australia ("the Court") in relation to applications for internal review regarding any request for access to documents in the possession of the Court.

In his letter to you dated 16 March 2015, Mr Mathieson makes decisions in response to the following requests made by you under the FOI Act –

- 1) Request made on 4 March 2015 addressed to the associate to Justice Pagone.
- 2) Request made on 6 March 2015 addressed to the associate to Chief Justice Allsop.
- 3) Request made on 6 March 2015 addressed to the associate to Justice Davies.
- 4) Request made on 6 March 2015 addressed to the associate to Justice Beach.
- 5) Request made on 6 March 2015 addressed to the associate to Justice Mortimer.
- 6) Request made on 6 March 2015 addressed to the Court's Victorian District Registry.

Mr Mathieson determined that you were not entitled under the FOI Act to have access to any documents that might fall within the ambit of the above requests.

The internal review was initially assigned to Daniel Caporale, District Registrar of the Victorian District Registry of the Court. It is my understanding that you objected to his involvement in this matter and, as a consequence, the internal review has been referred to me instead.

Your request for internal review is contained in your email dated 26 April 2015, which was forwarded to the Court after the expiration of the 30 day period referred to in paragraph 54B(1)(a) of the FOI Act. It is therefore necessary for me to consider whether it is appropriate to allow a further period for you to make your application for internal review.

The Australian Information Commissioner has issued guidelines under s 93A of the FOI Act to which I am obliged to have regard in performing my functions, including when making a decision concerning your request for an extension of time. Having regard to those guidelines I consider that there is no special reason or circumstance for not extending the time for you to seek an internal review of the decisions of Mr Mathieson.

Decision and Reasons:

For the reasons set out below, I have decided to affirm the decisions under review and to refuse to grant you access to the documents or information described in your requests.

The starting point in considering your requests is s 5(1) of the FOI Act. It determines the extent to which the FOI Act applies to the Court. As noted in the guidelines issued by the Australian Information Commissioner, the FOI Act has restricted application to the Court under that provision. Subsection 5(1) imposes two important restrictions upon access. Specifically the FOI Act does not extend to the holder of a judicial office in his or her capacity as the holder of that office. The FOI Act extends only to a registry or other office of the Court (being those areas of the Court that are responsible for the management and administration of the Court) and then only in respect of documents relating to administrative matters (see *Kline v Official Secretary to the Governor General & Anor* [2013] HCA 52 at [51]). The judiciary is intentionally omitted from the application of the FOI Act irrespective of whether or not the particular judicial officer is exercising judicial or administrative functions in performing the duties of his or her office.

In my view requests 1) to 5), being made directly to the chambers of a Justice of the Court (and seeking information concerning the carriage of particular cases before the Court), are requests that are being made directly to the holder of judicial office in his or her capacity as the holder of that office, and clearly fall within paragraph 5(1)(b) of the FOI Act. Accordingly, I concur with the view of Mr Mathieson that these requests cannot validly be made under the FOI Act. With respect, it is not to the point whether any documents of an administrative nature fall within these requests.

The second significant restriction in the application of the FOI Act to the Court is that a request for access may only be made in relation to information that relates to “matters of an administrative nature”. In *Kline v Official Secretary to the Governor General & Anor* the High Court observed (at [41]) that this is limited to documents that concern the management and administration of office resources. Although these documents might be incidental to the exercise or performance of substantive powers or functions, “in the sense of providing logistical support (or infrastructure or physical necessities or resources or platform) for the exercise or performance of those substantive powers or functions to be able to occur”, they nevertheless remain distinct from documents that concern the exercise or performance of substantive powers or functions of the Court (see *Gageler J* at [74]). It is also noted that documents do “not become ‘administrative’ merely because they are in some way preparatory to an exercise of a substantive power or to the performance of a substantive function” (per *Gageler J* at [76]).

The above observations are particularly apposite to request 6), made to the Court's Victorian District Registry.

Request 6) is expressed in fairly wide terms and it requires some analysis in order to identify what information it is you are in fact seeking. As I understand it, the request seeks any document of (any) thing (which I take to mean any action or process) including any meeting, any notes (including conversation notes) and correspondence between any person (including the Chief Justice) and the office of the Commonwealth Attorney-General relating to the administration of certain specified proceedings before the Court that involve you.

In your request for internal review you sought to clarify this request by confirming that you seek a list and copy of any document of an administrative nature held by an officer of the Court, judicial or otherwise, related to proceedings commenced by you in the Court from 1 January 2014 to the date of your email. With respect, this expands your original request but, significantly, still shows that the focus is on the specifics of the management of your matters before the Court.

In your email dated 30 May 2015 you explain that you are "simply seeking to determine how the judicial officers and other members of the court were instructed to deal with matters related to me". Again the focus is on how particular proceedings involving you are being managed by the Court.

To some extent, what is being sought in request 6) can be clarified by having regard to requests 1) to 5) (which were all made to specific judicial officers). I note that all requests are in similar terms. In this context, it is unlikely that request 6) should be construed differently, so as to be interpreted as also including a focus on documents concerning the management and administration of office resources or even of proceedings before the Court generally. Even when viewed in isolation, it is clear that request 6) is targeted at obtaining information which you perceive to exist relating to communications between judicial or other senior officers of the Court and officers of the Commonwealth Attorney-General's Department directly relating to the management of specific cases before the Court. It is difficult to see how such information, even if it existed, could be considered to be of "an administrative nature" as that term is used in s 5(1) of the FOI Act.

What arises is a threshold issue – whether the information that is being sought pursuant to request 6) is capable of falling within the category of information that relates to "matters of an administrative nature". In other words, is the type of information you are seeking access to and the type of information that is of "an administrative nature", as that term is used in s 5(1) of the FOI Act, mutually exclusive?

To the extent that your request is focussed on documents that concern the specifics of how particular proceedings are to be listed or how they are to be progressed, they are not, in my view, capable of falling within "matters of an administrative nature" for the purposes of s 5(1) of the FOI Act. Should such documents exist, they would likely fall within the description of documents that are preparatory to the exercise of a substantive power or to the performance of a substantive function by the Court. To the extent that your request concerns documents, if any, held by a judicial officer of the Court in relation to the particular proceedings, they would again fall outside the parameters of the information to which access might be granted under s 5(1) of the FOI Act. Had there been any meetings or communications between an officer of the Court and an officer of the Commonwealth Attorney-General's department

specifically relating to any of your cases, I would expect that any documents relating to the same would clearly fall outside "matters of an administrative nature".

My decision to refuse you access to the information being sought in your requests is based on my view that the requests you have made cannot be validly pursued under the FOI Act. This view has been reached having regard to the nature of the information to which you are seeking access. It is for this reason that I have not sought to specifically identify whether or not there are any documents that might fall within the ambit of those requests.

Material taken into account:

In making my decision I have taken the following material into account:

- Requests 1) to 6) referred to above;
- Letter from Mr Mathieson dated 16 March 2015;
- Your email, to the attention of John Mathieson, dated 26 April 2015;
- The email from Mr Mathieson forwarded to you on 12 May 2015;
- Your email to the Victorian Registry of the Court dated 30 May 2015;
- The guidelines issued by the Australian Information Commissioner under s 93A of the FOI Act.

Your review rights

If you are dissatisfied with my decision, you may apply to the Australian Information Commissioner for review. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-/>
email: enquiries@oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW

More information about review by the Information Commissioner is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Questions about this decision

If you wish to discuss this decision, please contact me using the details below:

Phone: (07) 3248 1100
Email: qldreg@fedcourt.gov.au
Post: PO Box 13084, George Street Post Shop, Brisbane QLD 4003

Yours faithfully



M Belcher
Acting District Registrar

John Mathieson

From: Federal Court Registry Email
Sent: Wednesday, 3 June 2015 3:18 PM
To: John Mathieson
Subject: FW: Request by Mr Garrett for internal review under the FOI Act
Attachments: FOI Internal Review of Garrett requests 15.06.03.pdf; FOI Internal Review re Garrett request 15.06.03.doc

UNCLASSIFIED

Dear John,

Below is a copy of my email to Mr Garrett together with a copy of my letter forwarded to him by that email.

You will see that I have affirmed your decisions of 16 March 2015 refusing Mr Garrett's requests under the FOI Act.

I also enclose a word version of my letter for convenience.

Regards

Murray

From: Federal Court Registry Email
Sent: Wednesday, 3 June 2015 3:01 PM
To: [andrew.garrett](#) [REDACTED]
Subject: Request by Mr Garrett for internal review under the FOI Act

UNCLASSIFIED

Dear Mr Garrett,

Enclosed is a copy of my letter of today's date notifying you of my decision in response to your application for internal review under the FOI Act. Please note that I have affirmed the decisions of John Mathieson made on 16 March 2015. The letter contains my reasons for doing so and informs you of your review rights.

Regards

Murray Belcher
Acting District Registrar,
Federal Court of Australia



Telephone: (03) 8600 3333
Facsimile: (03) 8600 3351
DX 435 MELBOURNE

A.B.N. 49 110 847 399

**FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

305 WILLIAM STREET
MELBOURNE VIC 3000

19 June 2015

Mr Andrew Garrett

By email: [REDACTED]

Dear Mr Garrett,

Re: Freedom of Information Request – 21 May 2015

I refer to your email addressed to District Registrar Daniel Caporale of 21 May 2015, and to my email to you of 5 June 2015. In particular, I refer to the last paragraph of your email, which reads as follows:

Pursuant to the provisions of the FOI Act I ask you to consider this communicate as a further application under the provisions of the FOI Act that you provide a schedule of and a copy of any document or thing in your control and possession that relates to me[.]

I have taken this to be a request made pursuant to s 15 of the *Freedom of Information Act 1982* (Cth) (**FOI Act**). I have been appointed to consider your request. This letter sets out my decision in respect of your request.

Law

Section 15(1) of the FOI Act provides that:

Subject to section 15A, a person who wishes to obtain access to a document of an agency or an official document of a Minister may request access to the document.

Section 5(1) of the FOI Act provides that:

For the purposes of this Act:

- (a) a court (other than a court of Norfolk Island) shall be deemed to be a prescribed authority;
- (b) the holder of a judicial office (other than a judicial office in a court of Norfolk Island) or other office pertaining to a court (other than a court of Norfolk Island) in his or her capacity as the holder of that office, being an office established by the legislation establishing the court, shall be deemed not to be a prescribed authority and shall not be included in a Department; and

- (c) a registry or other office of a court (other than a court of Norfolk Island), and the staff of such a registry or other office when acting in a capacity as members of that staff, shall be taken as a part of the court;

but this Act does not apply to any request for access to a document of the court unless the document relates to matters of an administrative nature.

The operation of s 5 of the FOI Act, and in particular the meaning of the expression “matters of an administrative nature”, was considered by the High Court of Australia in *Kline v Official Secretary to the Governor General* (2013) 249 CLR 645; [2013] HCA 52. The majority (French CJ, Crennan, Kiefel and Bell JJ) commented at [16] that:

Relevantly, courts, specified tribunals and the Official Secretary are excluded from the statutory obligation to grant access to a document “unless the document relates to matters of an administrative nature” (48).

Further, the majority commented at [19] that:

[T]he FOI Act does not apply to any request for access to a document of either a court or a specified tribunal, authority or body “unless the document relates to matters of an administrative nature”.

As to the meaning of the expression “matters of an administrative nature”, the majority commented at [41] that:

[T]he exception of a class of document which relates to “matters of an administrative nature” connotes documents which concern the management and administration of office resources, examples of which were given above (77). This is a common enough connotation of the epithet “administrative” (78).

Most relevantly for present purposes, the majority held at [47] that:

[T]he only documents which courts and specified tribunals, authorities and bodies are obliged to open to increased public scrutiny are those documents relating to the management and administration of registry and office resources.

Furthermore, the majority made clear that documents held by a court that relate to individual cases are not documents relating to “matters of an administrative nature” (*Kline* at [51]).

In a separate judgment, Gageler J also dismissed the appeal. Relevantly, and consistent with the majority, he commented at [76] that:

Matters which do not relate to the provision of logistical support do not become “administrative” merely because they are in some way preparatory to an exercise of a substantive power or to the performance of a substantive function.

I also note that pursuant to s 15(5A) of the FOI Act, in making a decision, I am required to have regard to any guidelines issued by the Australian Information Commissioner (AIC) for the purposes of s 93A. I have had regard to those guidelines as issued in October 2014.

Application of law

Your request seeks “a schedule of and a copy of any document or thing in your control and possession that relates to me”. The FOI Act applies only to documents which relate to the

management and administration of registry and office resources (*Kline* at [47]). The FOI Act does not apply to documents which relate to individual cases in the Court (*Kline* at [51]).

The threshold question is whether or not the FOI Act applies to the documents which you seek. The answer to that question must be “no”. Any document which relates to you must relate either to a proceeding in the Court, or to a matter ancillary or preparatory to the exercise of the Court’s power (e.g. a decision made pursuant to r 2.26 of the *Federal Court Rules* to refuse to accept a document for filing). That is, any document that relates to you would not be a document which relates to the management and administration of registry and office resources. Accordingly, the FOI Act does not apply to documents held by the Court which relate to you.

Given my decision as to the application of the FOI Act to documents which relate to you, it is not necessary for me to undertake a review of individual documents.

Decision

The FOI Act does not apply to the documents sought by way of your request. Accordingly, no documents will be disclosed in response to your request.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review (ICR) of the decision.

Under s 54 of the FOI Act, you may apply in writing to Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible, please provide reasons as to why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Under s 54L of the FOI Act, you may apply to the AIC to review my decision. An application for review by the AIC must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-/>
email: enquiries@oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW

More information about ICR is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Questions about this decision

If you have a question about this decision, you can email me at tim.luxton@fedcourt.gov.au or call me on 03 8600 3333.

Yours faithfully,

A handwritten signature in black ink, appearing to read 'Tim Luxton', with a stylized flourish at the end.

Tim Luxton
Deputy District Registrar

John Mathieson

From: Andrew Garrett <andrew.garrett[REDACTED]>
Sent: Tuesday, 30 June 2015 8:19 AM
To: John Mathieson
Subject: Fwd: FOI application

Dear John

Please note the following FOI application. I confirm all complaints have been lodged with the relevant parties regarding the Federal Court of Australia which complaints will be expanded to include the Federal Circuit Court

Regards

Andrew Garrett

Sent from my iPhone

Begin forwarded message:

From: Andrew Garrett <andrew.garrett[REDACTED]>
Date: 30 June 2015 7:49:27 am AEST
To: Vic Federal Court Registry E-mail <E-mail.Victoria@fedcourt.gov.au>
Cc: Andrew Garrett <andrew.garrett[REDACTED]>
Subject: FOI application

Federal Court of Australia
Attn; Registrar Caporale

Dear Registrar,

You are the District Registrar of the Federal Court of Australia for the State of Victoria.

Please accept this communicate as an application under the provisions of the Freedom of Information act for a schedule of and a copy of any document or thing in your possession and/or control related to the administration of proceedings involving me in any capacity in the Federal Court of Australia and the Federal Circuit Court of Australia.

Best Regards

Andrew Garrett

Sent from my iPhone

John Mathieson

From: andrew.garrett [REDACTED]
Sent: Monday, 13 July 2015 4:12 PM
To: John Mathieson
Cc: Ombudsman@ombudsman.sa.gov.au; FinassGeneral@ag.gov.au
Subject: FW: FOI application

Importance: High

Dear John,

As you are I have made a number of FOI applications to various officers of the Federal Court of Australia including Judicial Officers and Administrative Officers.

Most recently I have made requests dated 27th and 30th June 2015 and am yet to receive correspondence from the court in this regard

Please confirm that these FOI requests have been actioned by return communicate.

Best Regards

Andrew Garrett

-----Original Message-----

From: Andrew Garrett [mailto:andrew.garrett [REDACTED]]
Sent: 30 June 2015 07:19
To: Vic Federal Court Registry E-mail
Cc: Andrew Garrett
Subject: FOI application

Federal Court of Australia
Attn; Registrar Caporale

Dear Registrar,

You are the District Registrar of the Federal Court of Australia for the State of Victoria.

Please accept this communicate as an application under the provisions of the Freedom of Information act for a schedule of and a copy of any document or thing in your possession and/or control related to the administration of proceedings involving me in any capacity in the Federal Court of Australia and the Federal Circuit Court of Australia.

Best Regards

Andrew Garrett

Sent from my iPhone

John Mathieson

From: andrew.garrett [REDACTED]
Sent: Tuesday, 14 July 2015 3:46 PM
To: John Mathieson
Subject: Application for Compensation
Attachments: The CDDA Scheme Facts Sheet.docx; VID 129 of 2015 Notice to Admit dated 22nd June 2015.pdf; MLG 2265 of 2014 AMG v DCOT and Ors Sealed Statement of Claim dated 20032015.pdf; document2015-06-19-121449 FOI decision Tim Luxton.pdf; Tax Disputes Report.pdf; SUBMISSIONS INTO PARLIAMENTARY INQUIRY ON TAXATION DISPUTES dated 26 January 2015 plus Exhibits.pdf; Genesis to OenoViva (ANZ) 1st July 2013 re Settlement of Contracts and RSCNs.pdf; HOA dated 30th April Gensis acquisition of AMRLs.pdf

Importance: High

Dear John,

Thank you for your time on the phone this morning, I confirm that you have advised that you will be the point of contact for;

1. FOI related matters and
2. Compensation Application to the Federal Court of Australia and the Federal Circuit Court of Australia for Detriment caused by Defective Administration pursuant to the provisions of the CDDA Scheme and the Legal Services Directions 2005 (Cth)

FOI related Matters

I confirm that I am in receipt of a FOI decision of Tim Luxton dated 19th June 2015 (copy attached) in respect to my FOI Application dated 21st May 2015.

I ask that the Federal Court delegates an internal review of that FOI decision of Mr Luxton to a Registrar of the High Court of Australia.

I confirm that you have now been forwarded copies of both of my FOI Applications dated 27th June (to Registrars Allway and Byrne) and 30th June 2015 (to Registrar Caporale).

Those applications dated 27th and 30th have been restricted to seek access to only documents of an administrative nature rather than the open ended application set out in my application dated 21st May 2015 and addressed by Mr Luxton.

It is arguable that the applications could be an abuse of process as they seek the same documents as set out in my 21st May 2015 FOI application however Mr Luxton has deliberately limited his refusal as follows;

The threshold question is whether or not the FOI Act applies to the documents which you seek. The answer to that question must be "no". Any document which relates to you must relate either to a proceeding in the Court, or to a matter ancillary or preparatory to the exercise of the Court's power (e.g. a decision made pursuant to r 2.26 of the *Federal Court Rules* to refuse to accept a document for filing). That is, any document that relates to you would not be a document which relates to the management and administration of registry and office resources. Accordingly, the FOI Act does not apply to documents held by the Court which relate to you.

Given my decision as to the application of the FOI Act to documents which relate to you, it is not necessary for me to undertake a review of individual documents.

Decision

The FOI Act does not apply to the documents sought by way of your request. Accordingly, no documents will be disclosed in response to your request.

It appears that Mr Luxton did not consider that any document related to me to also incorporate those documents of an administrative Nature related to me consequently I have now lodged further FOI requests however I seek Mr Loxton's decision to be reviewed concurrently as it is my view that my application dated 21st May 2015 should have produced access to any documents related to me of an Administrative Character.

With respect, it is my view that Mr Luxton's decision is disingenuous in that the Court continues to seek to frustrate legitimate FOI applications first made by me on and around the 6th March 2015.

Compensation Application

You advised me that you were not clear that my application for Compensation dated 27th June 2015 was an application for compensation to the Federal Court of Australia for detriment caused by defective administration.

I have highlighted in Yellow the areas of my communique dated 27th June the areas that specifically ask the Chief Justice and the Registrars addressed to consider that communique as an application for compensation.

It is relevant to refer to the findings of the House of Representatives Standing Committee on Revenue and Tax published findings in March 2015 (Copy attached) following submissions from a number of parties including me dated 26th January 2015 (copy attached)

Similarly the Commonwealth Ombudsman made findings against the ATO in respect to my matters.

Neither the Commonwealth Ombudsman nor the House of Representatives Standing Committee are empowered to make findings in equity which is the domain of any court with Federal jurisdiction.

My submissions to the Committee were first sworn into evidence in VID 600 of 2014 and exhibited in in my affidavit dated 27th January 2015 filed in that proceeding.

It is worthy to note that the Committee has seen fit to exhibit materials provided by me in support of the Committee's findings as exhibits 7,8 and 9 of annexure B to the Report and yet this court has treated my evidence with contempt.

Thus far three vexatious litigant judgments have been made against me by Justices of the Federal Court acting on instructions of others, including the Chief Justice. I note that your response on behalf of the Chief Justice dated 10th July 2015 asserts as follows;

The other allegations and assertions you make in your email are either without foundation or are misconceived.

There is no evidence before me in support of the contentions of the Chief Justice despite my invitation for the Chief Justice to explain why my allegations were misconceived.

The quantum of damage sustained by entities related to me by the failure of the Federal Court to fulfil its role as an arbiter of justice is equivalent to that suffered by the conduct of the Commissioner of Taxation, Francis Michael Cahill, Peter Ivan Macks, Stephen James Duncan and the Respondents in VID 248 of 2014.

In respect to the damage suffered by the Andrew Garrett Family Trust No 4 as a consequence of the actions of the Commissioner the quantum is set out in the Heads of Agreement dated 30th April 2013 and the Letter from Genesis dated 1st July 2013 (copies attached)

Without exception there has been no orders for discovery made in any proceeding heard by either the Federal Court or the Federal Circuit Court despite the evidence provided by me in support of the reasons why those orders ought be made.

In support of my application for compensation I rely on the evidence in the possession and control of the Federal Court of Australia and the Federal Circuit Court of Australia including all correspondence and minutes of meetings related to matters involving me considered by officers (judicial and otherwise and employees of the two courts).

My communique dated 13th July sets out my belief that the two courts have abused process and used relevant provisions of the Bankruptcy Act 1966 (Cth) and the Federal Court of Australia Act 1976 (Cth) as a barrier to justice which I contend is against the intent of the legislature and a fundamental breach of my Common Law, Constitutional and Human Rights.

I have set out the claim against the Commissioner of Taxation and Others as best as I can as an unrepresented litigant, I note that I have served a Notice to Admit Facts in VID 129 of 2015 (as attached) which matter remains on foot.

The Respondents in that proceeding have not served a Notice Disputing Facts within 14 days in accordance with FCR 22.02 of the Federal Court Rules consequently that facts set out in the Notice to Admit are taken to be accepted in accordance with FCR 22.04 and I am able to seeking summary judgement in respect to those facts in accordance with FCR 22.07 of the Federal Court Rules.

Because of the failures of the Federal Court to properly consider the accepted facts in VID 158 – VID 166 of 2015 and VID 129 of 2015 it is my view that the Court has become jointly and severely liable for the amounts expressed in those Notices to Admit as a consequence of the absence of the judgments (defective administration) that ought to have been given under FCR 22.07 against the Respondents in VID 129 of 2015 and the Applicant in VID 158 – VID 166 of 2015.

I ask that you make the relevant compensation decision on behalf of the Federal Court of Australia and the Federal Circuit Court of Australia within the time frames allowed by the CDDA scheme and the Legal Services Directions 2005 (Cth)

Best Regards

Best Regards

Andrew Garrett

From: andrew.garrett [redacted] [mailto:andrew.garrett [redacted]]
Sent: 27 June 2015 10:28
To: 'Vic Federal Court Registry E-mail'; 'John.Mathieson@fedcourt.gov.au'
Cc: [redacted]; [redacted]; [redacted]
Subject: FW: Various Court-related matters
Importance: High

Federal Court of Australia
Attn Chief Justice Allsop
Registrar Allway & Caporale

Federal Circuit Court of Australia
Attn Registrar Byrne

Dear Chief Justice & Registrars

I am deeply concerned by the unwillingness of the officers (*judicial and administrative*) of the Federal Court of Australia and the Federal Circuit Court of Australia to apply the principles of s17 of the *Federal Court of Australia Act 1976* (Cth) to my requests for information and access to the Court Files.

Both Courts have now even gone so far as to refuse my access to the files for the purposes of simply reading transcripts; I find this situation untenable.

At every step in my re-engagement in the court process I have met with resistance and wilful blindness to the evidence before the relevant Judges, Justices and Registrars.

It is clearly simply not possible for documents of an administrative nature (as described within Kline) not to exist, in this regard it is my respectful view that emails between officers of the Court and any person fall into the category of Administrative Nature.

As set out below I have made complaints to the Commonwealth and Victorian Human Rights Commissioners regarding the conduct of the Federal Court of Australia as a result and will now proceed to also complain to the Commonwealth Ombudsman.

I make this application under the CDDA Scheme for Defective Administration. Please also consider this communicate as an application for compensation under *the Legal Services Directions 2005* (Cth).

I make this application in various capacities including those set out in the attached Statement of Claim filed in MLG 2265 of 2015, I rely on the attached Notice to Admit Facts served in VID 129 of 2015 as against the Commissioner of Taxation. (amongst other things)

In support of my application I rely on all the evidence filed in the Proceedings in the Victorian Registries on the Two Courts between March 2014 and today's date and materials to be produced under orders for discovery that I have sought initially in VID 297 of 2015.

In the circumstances that those orders are not made in VID 297 of 2015 they will be sought in the foreshadowed High Court Proceedings.

Please provide your prompt response acknowledging receipt of this application for Compensation

Best Regards

Andrew Garrett

From: andrew.garrett [redacted] [mailto:andrew.garrett [redacted]]
Sent: 24 June 2015 10:42
To: 'Vic Federal Court Registry E-mail'

Subject: RE: Various Court-related matters
Importance: High

Federal Court of Australia
Attn Registrar Allway

Dear Registrar Allway

Thank you for your correspondence dated 22nd June 2015.

I refer to your correspondence as headed by you in your communicate

My email to [REDACTED] dated 21st June 2015

Noted. I was simply providing the learned Justices the opportunity to reconsider their own reasons under FCR 1.32.

You have advised this will not occur, which is what I sought to confirm, I did not wish to appear unreasonable in respect to my applications to the High Court, in seeking that court to define the proper interpretation and application of that rule and s17 of *the Federal Court of Australia Act 1976* (Cth)

My email to [REDACTED] dated 22nd June 2015

You say that I am seeking a copy of the Transcripts in respect to MLG 177 of 2015.

A Judge may make such orders as he sees fit in the administration of Justice FCR 1.32, it cannot be in the interests of Justice that an impecunious party is deprived of the ability to read and obtain a copy of the Transcripts. I have been in contact with customer service of the Provider of Transcript Services, Auscript they have confirmed that they are aware that Justices and Judges often provide copies of transcripts to self-represented parties in the interests of administration of Justice. Auscript confirms it has no objection to this.

Indeed this Court has provided copies of transcripts to me on more than one occasion.

[REDACTED] confirmed to me that the court would no longer provide me with copies of transcripts last Friday, in essence what you have said by way of your communicate is that you are refusing my access to the court files for the purposes of reading the transcripts.

Please confirm that I have properly interpreted your communicate.

You have previously refused my applications in other matters under FCR 2.32 for access to the Court Files even though I am a party to proceedings.

Registrar Byrne has already granted access to the Court files however has directed me to the Courts Portal, I am not able to review the Transcripts on the Courts Portal or indeed any other document.

How am I to review the Court Files including the Transcripts if you continue to deny my access under FOI, FCR 2.32 and s17 of *the Federal Court of Australia Act 1976* (Cth)?

Communications with Chambers

Noted.

Frequency and Repetitive Nature of my Correspondence to Court

Noted. I concede that I am extremely disappointed in the administration of Justice by the Judiciary and the Registrars of the Court including yourself. I have no complaint about the Staff of the Registry who I find to be extraordinarily helpful and of the highest professional standard.

Thus far the Court has failed to address new evidence that came into my possession between September 2012 and today's date being FOI materials provided by the ATO. It is those materials that have consumed such large volumes of evidentiary space.

The Court has made three vexatious litigant judgments against me without considering the fundamentals of my case and avoided making any findings on the merits.

No doubt if the evidence had been properly considered the findings would be completely different and I would not be faced with the obstruction to justice that you are a party to.

In fact I believe my matters would have been finalised in respect to Treasury Wine Estates Vintners Limited. I find the conduct of Justice Davies extraordinary having now considered the relevant authorities.

My e-Lodgements made 17th June 2015

Noted. I am disturbed that you are considering those Lodgements and respectfully consider that neither you nor Registrar Caporale should be involved in any further matters involving me.

It is clear to me that the Federal Court made up its mind that I was vexatious at some time prior to July 2014, I believe that you and Registrar Caporale have been a part of that process.

Barrier to Justice

It is clear from the failure to make findings on the merits of three applications that in fact this court has determined to improperly apply s37AO of the Federal Court of Australia Act 1976 (Cth) so as to become a barrier to Justice in order to exhaust my financial and emotional resources.

Constitutional, Common Law and Human Rights

I have made complaint to the Commonwealth and Victorian Human Rights Commissioners regarding the conduct of the Federal Court of Australia as a result and will now proceed to also complain to the Commonwealth Ombudsman.

I first brought to the attention of Justice Gilmore the correction of GST Mistakes in WAD 206 of 2008 which matter his Honour transferred to South Australia on the application of the Trustee in Bankruptcy

Subsequently I brought those corrections to the attention of Justice Lander on Appeal of His Honour's own decision in SAD 101 of 2008, His Honour ought not have heard that appeal.

Those corrections were reversed by the ATO on the 18th February 2015 in circumstances where the ATO knew they were not legally entitled to do so.

Proceedings in the High Court

I have foreshadowed to Ms Musolino of the High Court that I seek to review the decisions made by the Federal Court under s75(v) of the Constitution and have requested information on seeking to bring the matter as one proceeding rather than seeking to issue Summons to Show Cause in each Judgment

Best Regards

Andrew Garrett

From: Vic Federal Court Registry E-mail [<mailto:E-mail.Victoria@fedcourt.gov.au>]

Sent: 22 June 2015 17:48

To: andrew.garrett [REDACTED]

Subject: Various Court-related matters

UNCLASSIFIED

Dear Sir

Please find attached for your attention correspondence from the Court of even date.

Yours faithfully

Client Services
Victoria Registry



Telephone: (03) 8600 3333
Facsimile: (03) 8600 3351
DX 435 MELBOURNE

**FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

A.B.N. 49 110 847 399

305 WILLIAM STREET
MELBOURNE VIC 3000

21 July 2015

Mr Andrew Garrett

By email: [REDACTED]

Dear Mr Garrett,

Re: Freedom of Information Requests – 27 and 30 June 2015

I refer to:

- (1) your email to Deputy District Registrar Philip Allaway and Principal Registrar Adele Byrne (of the Federal Circuit Court of Australia (FCC)) dated 27 June 2015;
- (2) your email to District Registrar Daniel Caporale dated 30 June 2015;
- (3) my email to you dated 14 July 2015;
- (4) your email to me dated 15 July 2015; and
- (5) Deputy Registrar John Mathieson's email to you dated 15 July 2015.

27 and 30 June Requests

I have taken your emails dated 27 and 30 June 2015 to each contain requests made pursuant to s 15 of the *Freedom of Information Act 1982* (Cth) (**FOI Act**). Those requests are, respectively, in the following form:

Dear Registrars Allway [sic] and Byrne,

I ask you to consider this as a further application under the provisions of the *Freedom of Information Act 1982* (Cth) for a copy of any document or thing related to me that is in your possession and control that has not been filed in any proceeding related to me that is not the subject of exercise of Judicial discretion on the documents filed in those proceedings.

(the 27 June Request)

and

Federal Court of Australia
Attn: Registrar Caporale

Dear Registrar,

You are the District Registrar of the Federal Court of Australia for the State of Victoria.

Please accept this communique as an application under the provisions of the Freedom of Information act for a schedule of and a copy of any document or thing in your possession and/or control related to the administration of proceedings involving me in any capacity in the Federal Court of Australia and the Federal Circuit Court of Australia.

(the 30 June Request)

Transfer of part of the 27 and 30 June Requests

Both the 27 June Request and the 30 June Request appear to concern documents of both this Court and of the FCC. Indeed, the 27 June Request is in part addressed to Principal Registrar Byrne of the FCC. Accordingly, on 16 July 2015 I transferred to the FCC those parts of the 27 and 30 June Requests which relate to the FCC.

Under s 16(1) of the FOI Act, I am able to transfer a request if the requested document is not in my possession but in the possession of another agency or if the subject matter of the document is more closely connected with the functions of another agency.

This Court received your requests on 27 and 30 June 2015 respectively and the 30 day statutory period for processing those requests commenced from those respective dates. The FCC will treat your requests as though it received them on the same days that we did. The period of 30 days may be extended if the FCC needs to consult third parties or for other reasons. The FCC will advise you if this happens.

The contact officer at the FCC is Principal Registrar Byrne. Her contact number is 1300 352 000, and her email address is [REDACTED]. Pursuant to s 16(4) of the FOI Act, I will provide a copy of this letter to Principal Registrar Byrne.

Consideration of 27 and 30 June Requests

In accordance with the above comments and my email to you of 14 July 2015, I have proceeded to consider the 27 June Request and 30 June Request to the extent that they relate to this Court. As required by s 15(5A) of the FOI Act, I have had regard to the guidelines issued by the Australian Information Commissioner (AIC) for the purposes of s 93A.

It is plain that the documents which you seek by way of the 27 June Request and the 30 June Request, to the extent that they relate to this Court, comprise a subset of the documents which you sought by way of your earlier request dated 21 May 2015. You expressed a similar view in your email dated 15 July 2015:

It is clear to me that the documents subject to the applications dated 27th June 2015 and 30th June 2015 fell within the category of documents expressed in my 21st May 2015 application that was the subject of the 19th June 2015 decision made by you.

I note that you have sought internal review of my decision dated 19 June 2015, and that the internal review will be undertaken by Deputy Registrar Mathieson. As such, the documents which you seek by way of the 27 June Request and the 30 June Request, to the extent that they relate to this Court, already form part of the subject matter of the internal review to be undertaken by Deputy Registrar Mathieson.

I do not propose rehearsing in this letter the analysis of the FOI Act and the decision of the High Court of Australia in *Kline v Official Secretary to the Governor General* (2013) 249 CLR; [2013] HCA 52. In this regard, I refer you to the discussion under the heading "Law" in my letter to you dated 19 June 2015. However, I do note that in *Kline*, the majority held at [47] that:

[T]he only documents which courts and specified tribunals, authorities and bodies are obliged to open to increased public scrutiny are those documents relating to the management and administration of registry and office resources.

In my opinion, none of the documents which you seek by way of the 27 June Request and the 30 June Request, to the extent that they relate to this Court, would comprise a document relating to the management and administration of registry and office resources. A document relating to a particular litigant is, in my opinion, not a document relating to the management and administration of registry and office resources. As such, the FOI Act does not apply to the documents which you seek.

Given my decision as to the application of the FOI Act to documents relating to you, it is not necessary for me to undertake a review of individual documents.

Decision

The FOI Act does not apply to the documents sought by way of your request. Accordingly, no documents will be disclosed in response to your request.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review (ICR) of the decision.

Under s 54 of the FOI Act, you may apply in writing to Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible, please provide reasons as to why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Under s 54L of the FOI Act, you may apply to the AIC to review my decision. An application for review by the AIC must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online: <https://forms.business.gov.au/aba/oaic/foi-review-1>

email: enquiries@oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW

More information about ICR is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Questions about this decision

If you have a question about this decision, you can email me at tim.luxton@fedcourt.gov.au or call me on 03 8600 3333.

Yours faithfully,



Tim Luxton
Deputy District Registrar



Telephone: (03) 8600 3333
Facsimile: (03) 8600 3351
DX 435 MELBOURNE

A.B.N. 49 110 847 399

**FEDERAL COURT OF AUSTRALIA
VICTORIA DISTRICT REGISTRY**

305 WILLIAM STREET
MELBOURNE VIC 3000

27 July 2015

Mr Andrew Garrett

By email: [REDACTED]

Dear Mr Garrett,

Re: Freedom of Information Request – 23 July 2015

I refer to your email to me dated 23 July 2015. I have taken your email to contain a request made pursuant to s 15 of the *Freedom of Information Act 1982* (Cth) (FOI Act). That request is in the following form:

Dear Registrar

I ask you to consider this communicate as a further application under the provisions of the FOI Act for a copy of any document [sic] of an administrative Nature related to the failure to list the application under s37AT to appeal the orders of Davies J made on the 13th May 2015 in VID 158 of 2015.

(the 23 July Request)

The 23 July Request was allocated to me, and I have proceeded to consider it. My decision is set out below.

Consideration of 23 July Request

As required by s 15(5A) of the FOI Act, I have had regard to the guidelines issued by the Australian Information Commissioner (AIC) for the purposes of s 93A.

As with my letter to you dated 21 July 2015, I do not propose rehearsing in this letter the analysis of the FOI Act and the decision of the High Court of Australia in *Kline v Official Secretary to the Governor General* (2013) 249 CLR; [2013] HCA 52. In this regard, I refer you to the discussion under the heading “Law” in my letter to you dated 19 June 2015. However, I do note that in *Kline*, the majority held at [47] that:

[T]he only documents which courts and specified tribunals, authorities and bodies are obliged to open to increased public scrutiny are those documents relating to the management and administration of registry and office resources.

Furthermore, the majority made clear that documents held by a court that relate to individual cases are not documents relating to “matters of an administrative nature” (*Kline* at [51]).

The documents which you seek by way of the 23 July Request relate to proceeding VID158/2015 before this Court, and/or matters ancillary to that proceeding. Furthermore, they are not documents relating to the management and administration of registry and office resources. As such, the FOI Act does not apply to the documents which you seek.

Given my decision as to the application of the FOI Act to documents relating to you, it is not necessary for me to undertake a review of individual documents.

Decision

The FOI Act does not apply to the documents sought by way of the 23 July Request. Accordingly, no documents will be disclosed in response to the 23 July Request.

Your review rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review (**ICR**) of the decision.

Under s 54 of the FOI Act, you may apply in writing to Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter. Where possible, please provide reasons as to why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days.

Under s 54L of the FOI Act, you may apply to the AIC to review my decision. An application for review by the AIC must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online:	https://forms.business.gov.au/aba/oaic/foi-review-1
email:	enquiries@oaic.gov.au
post:	GPO Box 2999, Canberra ACT 2601
in person:	Level 3, 175 Pitt Street, Sydney NSW

More information about ICR is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Questions about this decision

If you have a question about this decision, you can email me at tim.luxton@fedcourt.gov.au or call me on 03 8600 3333.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Tim Luxton', written in a cursive style.

Tim Luxton
Deputy District Registrar

John Mathieson

From: John Mathieson
Sent: Wednesday, 12 August 2015 9:30 AM
To: andrew.garrett [REDACTED]
Subject: Your FOI Request - Internal Review
Attachments: Letter to Garrett - internal review of DDR Luxton's decision 19 Jun 2015- 150812.pdf;
Documents released 12 August 2015.pdf

UNCLASSIFIED

Dear Mr Garrett,

I attach a letter setting out my decision on internal review of Deputy District Registrar Luxton's decision of 19 June 2015 in regard to your FOI request of 21 May 2015 together with copies of documents that I have decided should be released to you without fee.

Please note my advice on page 6 of my letter about publication in the Court's Disclosure Log and the need for advice should you believe that publication would be unreasonable.

Your sincerely ,

John Mathieson
Deputy Registrar
Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au



Telephone: [REDACTED]
Facsimile: (02) 9223 1906
DX 613 SYDNEY

A.B.N. 49 110 847 399

Your Ref:
Our Ref:

FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

12 August 2015

Mr Andrew Garrett
[REDACTED]

By email: [REDACTED]

Dear Mr Garrett,

Freedom of Information Request

The purpose of this letter is to advise you of my decision following your request for internal review of the Federal Court of Australia's decision on 19 June 2015 to refuse you access to documents requested under the *Freedom of Information Act 1982* (FOI Act).

Authority

I am authorised under section 23(1) of the FOI Act to make decisions on behalf of the Federal Court of Australia (Federal Court) in relation to applications for internal review of decisions regarding Freedom of Information (FOI) requests made to the Federal Court.

Background

In an email you sent addressed to the Court's Victorian District Registrar on 21 May 2015 you said, in part:

"Pursuant to the provisions of the FOI Act I ask you to consider this communique as a further application under the provisions of the FOI Act that you provide a schedule of and a copy of any document or thing in your control and possession that relates to me"

On 19 June 2015 Deputy District Registrar Luxton of the Court's Victorian Registry, an officer authorised under section 23(1) of the FOI Act to make decisions on behalf of the Federal Court in relation to FOI requests, decided that the FOI Act does not apply to the documents sought by way of that request and that, accordingly, no documents will be disclosed in response to it.

In an email you sent to me on 14 July 2015 you confirmed that you had received the FOI decision made by Deputy District Registrar Luxton and requested an internal review of that decision by "a Registrar of the High Court of Australia". In an email response sent that same day I indicated that I would be deciding that request for internal review on behalf of the Federal Court of Australia.

In your email of 14 July 2015 you also said in regard to Deputy District Registrar Luxton's decision and your request for internal review:

"It appears that Mr Luxton did not consider that any document related to me to also incorporate those documents of an administrative Nature related to me consequently I have now lodged further FOI requests however I seek Mr Loxton's decision to be reviewed concurrently as it is my view that my application dated 21st May 2015 should have produced access to any documents related to me of an Administrative Character.

With respect, it is my view that Mr Luxton's decision is disingenuous in that the Court continues to seek to frustrate legitimate FOI applications first made by me on and around the 6th March 2015."

I note that:

- on 4 and 6 March 2015 you made a series of FOI requests to the Federal Court addressed to the Associates to the Chief Justice and Justices Pagone, Davies, Mortimer and Beach and to the Victorian District Registrar;
- on 16 March 2015 I decided that:
 - any documents that were in existence in the possession of the Federal Court that fell within the scope of those requests related to proceedings that were before the Federal Court;
 - these were not documents of an administrative nature; and
 - as the FOI Act only applied to the Federal Court in relation to documents relating to matters of an administrative nature, no request under that Act can validly be in relation to any such documents; and
- on 3 June 2015 Deputy District Registrar Belcher of the Court's Queensland Registry decided, on internally review, to affirm my decision and refuse you access to the documents or information described in your requests, finding that your requests could not be pursued under the FOI Act.

In undertaking this internal review and reaching my decision I have had regard to the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (Guidelines).

Decision and Reasons

Your request for access to "any document or thing in your control and possession that relates to me" is very broad and is unlikely to satisfy the requirement of paragraph 15(2)(b) of the FOI Act that a request must sufficiently identify the requested documents. In other circumstances, the work involved in processing such a broad request could substantially and unreasonably divert the resources of the Federal Court from its other operations (see paragraph 3.96 of the Guidelines)

The FOI Act, however, has a very limited application to the Federal Court (paragraphs 2.6 – 2.8 of the Guidelines). It does not apply to Judicial Officers (paragraph 5(1)(b) of the FOI Act) or to any documents relating to the handling of complaints about Judicial Officers (subsections 5(1A) to (1C) of the FOI Act). Although the Federal Court is a "prescribed authority" for the purposes of the FOI Act (paragraph 5(1)(a)) the only request that can validly be made to it under the FOI Act is to access a "document of an administrative nature" (section 5).

The High Court of Australia in *Kline v Official Secretary to the Governor General of Australia & Anor* [2013] considered the meaning of the phrase "matters of an administrative nature". In the joint judgment given by the Chief Justice and Justices Crennan, Kiefel and

Bell dismissing the appeal to the High Court, this was described as documents which concern the management and administration of office resources, such as financial and human resources and information technology (see [41] with examples at [13]). That judgment also makes it clear that, in the view of those judges, documents held by a federal court relating to individual cases can never be characterised as documents “relating to ‘matters of an administrative nature’” (see [51]).

In a separate judgment, also dismissing the appeal, Justice Gageler distinguished between the exercise of substantive powers and functions and “administrative matters” which provide logistical support (or infrastructure of physical necessities or resources or platforms (see [74])). In illustration, using the example of the Governor-General’s performance of a ceremonial function at a remote location, he observes that documents relating to travel by and accommodation for the Governor-General and his or her entourage would be within the scope of the FOI Act but that documents relating to the Governor-General’s participation in the ceremony, generic or specific and whether prepared or received by the Governor-General or by the Official Secretary before or after the Governor-General’s participation in the particular ceremony, would not relate to matters of an administrative nature and would be outside of the scope of the FOI Act.

In 2014 and 2015 you commenced or sought to commence in the Court’s Victorian District Registry a significant number of proceedings. In addition over this period you have been or are a party in a smaller number of other proceedings conducted in that Registry of the Court. The Victorian District Registrar has the custody and control of all documents filed in the Victorian District Registry in a proceeding and the records of that District Registry (Federal Court Rule 2.31).

All documents that were lodged, filed, received or created for the purposes of or in connection with the various proceedings as above which you commenced or sought to commence or in which you were otherwise a party, including documents in relation to any matter ancillary or preparatory to the exercise of any of the Court’s powers or functions in relation to such proceedings, regardless of their source and nature cannot “relate to matters of an administrative nature” within the meaning of section 5 of the FOI Act, are outside of the scope of the FOI Act and no valid FOI request can be made in relation to them.

As you are or were a party or prospective party to each of the relevant proceedings, these documents will relate to you and, as above, they are in the custody and possession of the Victorian District Registrar. Nevertheless none are accessible under the FOI Act and your request for access to them is refused.

This covers almost all of the documents that relate to you which are in the custody and possession of the Victorian District Registrar and represents a very large volume of documents. In illustration of the latter, I note that in the judgment delivered on 31 March 2015 in *Garrett v Cahill* [2015] FCA 314 Justice Beach observes (at [65] and [66]) that he had dealt with four proceedings in which you were involved and that you had filed in these a total of 224 documents totalling 34,133 pages.

I have caused staff of the Federal Court’s Victorian District Registry to undertake searches for document held in that Registry which relate to you which do **not** relate to any of the relevant proceedings. This involved searching electronic folders and other records for the

relevant periods and by relying on their own knowledge. Fourteen (14) such documents have been identified. These are:

- email from you dated 6 March 2015 to Vic Federal Court Registry E-mail with a subject heading of re Andrew Garrett Freedom of Information Application;
- email to me from a Registry Legal Case Manager dated 6 March 2015 forwarding your message above for attention;
- email from you dated 6 March 2015 to Justice Davies' Associate with a subject heading of re VID 739 of 2014 Freedom of Information Application;
- email from Justice Davies' Associate dated 6 March 2015 to the Victoria District Registrar forwarding the message above;
- email to me from the Victoria District Registrar dated 10 March 2015 forwarding the last two mentioned messages above for attention;
- email from you dated 6 March 2015 to Justice Beach's Associate with a subject heading of re VID 730-732 Case Management Referral – In the matter of Andrew Garrett and VID 49 of 2014; Freedom of Information Request;
- email to me from Justice Beach's Associate dated 12 March 2015 forwarding the message above;
- email from you to Justice Mortimer's Associate dated 6 March 2015 with a subject heading VID 248 of 2014;
- email from Justice Mortimer's Associate dated 6 March 2015 to the Victoria District Registrar forwarding the message above;
- email from Justice Mortimer's Executive Assistant dated 12 March 2015 to Deputy District Registrar Allaway forwarding the two messages above;
- email from Deputy District Allaway dated 12 March 2015 to Justice Mortimer's Executive Assistant (copied to me) forwarding the three messages above;
- email from Deputy District Allaway dated 12 March 2015 to all chambers and registry staff and registrars with a subject heading of Andrew Morton Garrett – FOI Requests;
- email from me to the Victorian District Registrar dated 19 May 2015 with subject heading Garrett – FOI; and
- email from you to Vic Federal Court Registry E-mail and others dated 21 May 2015 with the subject heading of Test.

I have decided to give you access to each of the above documents by providing you scanned copies in PDF format (attached). I note that you are the holder of a Health Care Card issued by the Commonwealth of Australia. In my discretion I have decided not to impose a charge for this access (paragraph 4.1 Guidelines).

There is, however, one further aspect which I have given consideration to which relates to the scope of your request.

The Federal Court provides registry services to the Federal Circuit Court of Australia (Federal Circuit Court) in general federal law matters across Australia, including in the Federal Circuit Court's Melbourne Registry, under arrangements made between the two courts under section 91 of the *Federal Circuit Court of Australia Act 1999*. A document may be filed in the Federal Circuit Court if filed in accordance with an arrangement under section 91 of the *Federal Circuit Court of Australia Act* and the *Federal Circuit Court Rules* (see section 46 *Federal Circuit Court of Australia Act*). There is, however, no equivalent

provision in the Federal Circuit Court Rules to Federal Court Rule 2.31 and, as a result, any document filed in the Federal Circuit Court is in the custody and control of that Court and not an individual office holder.

In 2014 and 2015 you commenced or were a party to a small number of general federal law proceedings conducted in the Melbourne Registry of the Federal Circuit Court. On 30 April 2015 you sent an email to both the Federal Court's generic email address for FOI requests and the generic email address for the Federal Court's Victoria District Registry and the Federal Circuit Court's general federal law Melbourne Registry addressed to the "FOI Team" requesting:

"a copy of any document or thing relating to the administration of MLG177 of 2015 and the delay in filing of any Interim Application dated 9th April 2015 as evidenced from the court portal dated 20th April 2015 and 28th April 2015"

and

"the transfer of the hearing of this proceeding from the docket of Registrar Burns to the docket of the Honourable Judge Reithmuller and the striking out of the affidavit material by His Honour's own motion on the 27th April 2015 in circumstances where I was not advised beforehand of that motion".

Proceeding MLG177 of 2015 was a Federal Circuit Court proceeding in which you were a party. With your agreement (see my email to you of 12 May 2015) your email of 30 April 2015 was treated as an FOI request to the Federal Circuit Court, was directed by me to that Court and on 25 May 2015 the Principal Registrar of the Federal Circuit Court wrote to you advising that she had decided that any documents which might fall within the scope of your request were not documents of an administrative nature and the FOI Act did not apply to them.

Although this post-dates the FOI request I am concerned with in this internal review, I note that on 30 June 2015 you sent an email addressed to the Federal Court's Victoria District Registry in which you said:

"Please accept this communicate as an application under the provision of the Freedom of Information act for a schedule of and a copy of any document or thing in your possession and/or control related to the administration of proceedings involving me in any capacity in the Federal Court of Australia and the Federal Circuit Court of Australia."

In view of the above, I conclude that you were deliberate in both the addressing of your FOI request dated 21 May 2015 and the framing of the paragraph in that email setting out the scope of that FOI request (as above). Further, I conclude that it was your intention that that request covered only the documents or things in the control and possession of the Federal Court's Victoria District Registrar relating to you which were held by the District Registrar at that time in his capacity as the officer holder having the custody and control of documents filed in the Victorian District Registry of the Federal Court in a proceeding and the records of that District Registry of the Federal Court. More specifically and finally I conclude that that FOI request does not seek access to any documents of the Federal Circuit Court.

Although Deputy District Registrar Luxton's decision makes no specific reference to any conclusion he may have reached on the scope of your request in that regard, it is clear from his decision that he too concluded that your request did not extend to any documents of the

Federal Circuit Court. Neither I nor Deputy District Registrar Luxton has any authority to make any decision under the FOI Act on behalf of the Federal Circuit Court and any request which I or he might be required to consider which in any way relates to documents of the Federal Circuit Court would need to be transferred to that Court under section 16 of the FOI Act in regard to any such documents.

My decision on internal review affirms the decision of Deputy District Registrar Luxton set out in his letter dated 19 June 2015 save and except for one aspect. In summary my decision is:

- your request extends to only the documents in the custody and control of the Victorian District Registry, namely documents filed in the Victorian District Registry of the Federal Court and the records of that District Registry, and not to any documents in the custody and control of the Federal Circuit Court;
- almost all of the documents that relate to you that are in the custody and control of the Victorian District Registrar relate to proceedings in the Federal Court's Victoria District Registry which you commenced or sought to commence or in which you were otherwise a party;
- the FOI Act does not apply to any such documents, no FOI request can be made in relation to them and, as result, your FOI request for access in relation to all of these documents is refused;
- after reasonable search only fourteen (14) documents have been identified which relate to you, are in the custody and possession of the Victoria District Registrar and do not relate to a proceeding; and
- you are entitled to access each of these fourteen (14) documents without fee and a scanned PDF copy of them is attached.

Disclosure Log

As I have decided to grant you access to the fourteen (14) documents referred to above, under section 11C of the FOI Act details of those documents **must** be published in the Disclosure Log on the Court's website within ten (1) working days. This does not, however, apply if these contain personal information or information about the business, commercial, financial or professional affairs of a person and that publication would be unreasonable.

If you believe that publication of these documents would be unreasonable you should advise me immediately with details of your reasons so I may give consideration to not publishing those documents.

Your Review Rights

If you are dissatisfied with my decision, you may apply to the Australian Information Commissioner for review. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

online:	https://forms.business.gov.au/aba/oaic/foi-review/
email:	enquiries@oaic.gov.au
post:	GPO Box 2999, Canberra ACT 2601
in person:	Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Yours sincerely

A handwritten signature in black ink, appearing to read 'John Mathieson', with a long horizontal flourish extending to the left.

John Mathieson
Deputy Registrar

John Mathieson

From: Vic Federal Court Registry E-mail
Sent: Friday, 6 March 2015 10:12 AM
To: John Mathieson
Cc: Vic Federal Court Registry E-mail
Subject: FW: re Andrew Garrett Freedom of Information Application

Importance: High

For Official Use Only

John,

Do FOI requests come directly to you?

If not, please let me know to whom I should forward them.

Regards,

[REDACTED] Legal Case Manager
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. 03 8600 5333

www.fedcourt.gov.au

From: andrew.garrett [REDACTED] [mailto:andrew.garrett [REDACTED]]
Sent: Friday, 6 March 2015 8:53 AM
To: Vic Federal Court Registry E-mail
Subject: re Andrew Garrett Freedom of Information Application
Importance: High

Dear Registry

Please accept this communicate as a request in writing under the provisions of the *Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015 or any other matter related to me with particular reference to orders made under s37AO of the Federal Court of Australia Act.

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

www.oenoviva.com
www.dynamic-cws.com.au

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Melbourne

181 Bay Street,
Brighton, Vic, 3186

Adelaide

C/- Deloitte Private (SA),
121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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John Mathieson

From: Daniel Caporale
Sent: Tuesday, 10 March 2015 10:15 AM
To: John Mathieson
Subject: FW: re VID 739 of 2014 Freedom of Information Application

UNCLASSIFIED

Daniel Caporale | District Registrar | Victoria Registry
Federal Court of Australia | 305 William Street, Melbourne, Victoria 3000
P. [REDACTED] F. [REDACTED] | E. daniel.caporale@fedcourt.gov.au

From: Associate DaviesJ

Sent: Friday, 6 March 2015 9:08 AM
To: Daniel Caporale
Subject: FW: re VID 739 of 2014 Freedom of Information Application

UNCLASSIFIED

Good morning Daniel

I am forwarding to you an email that came this morning for your attention please.

Kind regards

[REDACTED]
[REDACTED] | Associate to the Hon. Justice Davies
Federal Court of Australia | 305 William Street, Melbourne, Victoria 3000
T. [REDACTED] F. [REDACTED] | E. Associate.DaviesJ@fedcourt.gov.au

From: [andrew.garrett \[REDACTED\]](mailto:andrew.garrett@taggc.com.au) [[mailto:andrew.garrett \[REDACTED\]](mailto:andrew.garrett [REDACTED])]
Sent: Friday, 6 March 2015 8:58 AM
To: Associate DaviesJ
Subject: re VID 739 of 2014 Freedom of Information Application

Dear Associate Davies J

Please accept this communicate as a request in writing under the provisions of the *Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act and the Application dated 1st March 2015 for leave to file and serve the Application dated 26th January 2015

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

www.oenoviva.com
www.dynamic-cws.com.au

11/11/2011
Andrew
Garrett

11/11/2011
Garrett
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181 Bay Street,
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121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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John Mathieson

From: EA - Beach J
Sent: Thursday, 12 March 2015 11:15 AM
To: John Mathieson
Cc: Associate BeachJ
Subject: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett and VID 49 of 2014; Freedom of Information Request

Importance: High

UNCLASSIFIED

Dear Mr Mathieson,

Please find enclosed a copy of an email that was sent to the chambers of Justice Beach in relation to an FOI request from Mr Garrett.

I have been advised that these types of requests are to sent to you and it is for this reason I have forwarding on this email.

Please let me know if there is any further information you require.

Yours sincerely,

██████████ Executive Assistant to the Honourable Justice Beach
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
T. ██████████ | F. ██████████ | ea.beachj@fedcourt.gov.au | www.fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to associate.beachj@fedcourt.gov.au

From: andrew.garrett██████████ [mailto:andrew.garrett██████████]
Sent: Friday, 6 March 2015 8:46 AM
To: Associate BeachJ
Cc: EA - Beach J
Subject: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett and VID 49 of 2014; Freedom of Information Request
Importance: High

Dear Ms Associate

Please accept this communicate as a request in writing under the provisions of the *Freedom of Information Act 1982 (Cth)* for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 730 – VID 732 of 2014 and VID 49 of 2015.

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)



Melbourne
181 Bay Street,
Brighton, Vic, 3186

Adelaide
C/- Deloitte Private (SA),
121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

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From: EA - Beach J [<mailto:EA.BeachJ@fedcourt.gov.au>]

Sent: 28 January 2015 13:40

To: 'andrew.garrett'; [REDACTED]; [REDACTED]; [REDACTED]

Cc: Associate Beach J

Subject: VID730-732 Case Management Referral - In the matter of Andrew Garrett

Importance: High

UNCLASSIFIED

Dear Parties,

The Chief Justice has referred to Beach J for case management and hearing various leave to appeal applications being the following:

- (a) *Garrett v Duncan* (VID730/2014), seeking leave to appeal from the decision of Tracey J [2014] FCA 1260;
- (b) *Garrett v Macks* (VID732/2014), seeking leave to appeal from the decision of Tracey J [2014] FCA 1259;
- (c) *Garrett v Make Wine Pty. Ltd.* (VID731/2014), seeking leave to appeal from the decision of Mortimer J [2014] FCA 1258.

Each of these three applications for leave are listed for hearing on Wednesday **11 February 2015 at 10.15 am** for **case management directions only**. At the directions hearing, a time-table will be set for the hearing of these applications. All parties should be ready to discuss at the directions hearing:

- (i) What further evidence needs to be filed on the applications for leave only;
- (ii) How much hearing time needs to be allocated for all 3 applications;
- (iii) Directions for the filing of submissions and any further evidence.

His Honour's tentative view is that all 3 applications for leave to appeal should be listed for a total hearing time of 2 days only in March or April 2015. This can be discussed with the parties at the directions hearing.

At this stage, no appeal books or appeal book indexes should be prepared. That will only be necessary if leave to appeal is granted in one or more of the matters.

If any application is to be made for a stay of any orders made in the proceedings the subject of leave to appeal, such an application with supporting material should be made returnable on **11 February 2015** so that it can be dealt with on that day. Moreover, it should be filed and served no later than **three business days before 11 February 2015**.

Any other application for other interlocutory orders should also be similarly brought before his Honour on **11 February 2015**.

Mr Garrett has sought a pro bono referral. At the present time his Honour is not persuaded to make such a reference in any of the three matters.

Further, as for Mr Garrett's request for copies of Court transcript, that request can be dealt with on **11 February 2015**.

Finally, all future communications dealing with the three applications for leave to appeal should be addressed to His Honour's Executive Assistant and Associate. Any urgent application that needs to be dealt with before 11 February 2015 should, in the first instance, be notified to His Honour's Executive Assistant and Associate; a copy of the proposed application and supporting affidavit should be emailed direct to His Honour's chambers.

Please confirm receipt of this email.

Yours sincerely,

Executive Assistant to the Honourable Justice Beach
Federal Court of Australia | 333 William Street Melbourne Victoria 3000
T: (03) 4645 3333 | F: (03) 4645 3351 | ea.beachj@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to associate.beachj@fedcourt.gov.au

John Mathieson

From: Phillip Allaway
Sent: Thursday, 12 March 2015 1:05 PM
To: [REDACTED]
Cc: [REDACTED]; [REDACTED], Associate MortimerJ; John Mathieson
Subject: RE: VID 248 of 2014

UNCLASSIFIED

Thanks [REDACTED]. It should go to John. To that end I have copied him in on this reply.
Regards,
Phillip

Phillip Allaway | Deputy District Registrar | Victoria Registry
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
p. [REDACTED] 2800 [REDACTED] f. [REDACTED] [REDACTED]
e. phillip.allaway@fedcourt.gov.au

From: [REDACTED]
Sent: Thursday, 12 March 2015 1:01 PM
To: Phillip Allaway

Cc: [REDACTED]; [REDACTED]; Associate MortimerJ
Subject: FW: VID 248 of 2014
Importance: High

UNCLASSIFIED

Hi Phil

Please see email below from Andrew Garrett containing a request for documents under the FOI Act.

Shall I forward this on to John Mathieson?

Thanks

[REDACTED]

[REDACTED] | Executive Assistant to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street Melbourne Victoria 3000
T. [REDACTED] F. [REDACTED] [REDACTED] www.fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to associate.mortimerj@fedcourt.gov.au

From: Associate MortimerJ
Sent: Friday, 6 March 2015 9:34 AM
To: Daniel Caporale
Cc: EA - MortimerJ; Lauren McCormick
Subject: FW: VID 248 of 2014
Importance: High

UNCLASSIFIED

Hi Daniel

Please see the communication below from Mr Garrett, to which I haven't responded and which Justice Mortimer asked me to pass on to you. I assume this doesn't require any action from us – let me know if you need anything from our end.

Kind regards

Associate to the Honourable Justice Mortimer
Federal Court of Australia | 305 William Street, Melbourne Victoria 3000
t (03) | e associate.mortimerj@fedcourt.gov.au

Please ensure that all official correspondence to Chambers is also sent to ea.mortimerj@fedcourt.gov.au

From: andrew.garrett@ [mailto:andrew.garrett@]
Sent: Friday, 6 March 2015 9:13 AM
To: Associate MortimerJ
Subject: VID 248 of 2014
Importance: High

Federal Court of Australia
Victoria Registry
Attn Associate Mortimer J

Dear Associate Mortimer J

Please accept this communicate as a request in writing under the provisions of the *Freedom of Information Act* 1982 (Cth) for a list of and a copy of any document of thing including (but not limited to) meeting notes, conversation notes and correspondence with any person including the office of the Chief Justice, the Chief Justice and the Office of the Commonwealth Attorney General relating to the administration of VID 739 with particular reference to the pending application under s37AO of the Federal Court of Australia Act

I seek copies of any notes or references made by the Honourable Justice Mortimer in respect to my Affidavit dated 14th July 2014 plus exhibits and in particular the materials set out in Volumes 4 and 5 of that affidavit.

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

www.oenoviva.com
www.dynamic-cws.com.au

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Melbourne

181 Bay Street,
Brighton, Vic, 3186

T: 1300 137 059

M: [REDACTED]

F: [REDACTED]

E: [REDACTED]

Adelaide

C/- Deloitte Private (SA),
121 Greenhill Road,
Unley, SA, 5061.

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John Mathieson

From: Phillip Allaway
Sent: Thursday, 12 March 2015 12:56 PM
To: VIC - Chambers
Cc: VIC - Client Services; VIC - Registrars; Daniel Caporale; John Mathieson
Subject: Andrew Morton Garrett - FOI Requests

UNCLASSIFIED

Dear Associates and Executive Assistants,

Some of you will be aware that Mr Andrew Garrett has recently made a number of requests direct to chambers for access to documents under the *Freedom of Information Act*. There are four separate requests of which we are aware, namely:

1. An email sent at 15.04 on 4 March 2015 to Justice Pagone's chambers titled in relation to proceeding VID600/2014.
2. An email sent at 9.08am on 6 March 2015 to Justice Pagone's chambers as a follow up to the abovementioned email and titled in relation to VID600/14 and VID557/2014.
3. An email sent at 8.46am on 6 March 2015 to Justice Beach's chambers titled in relation to VID730-732/2014 and VID49/2014.
4. An email sent at 8.58am on 6 March 2015 to Justice Davies' chambers titled in relation to VID739/2014.

The abovementioned requests have been forwarded to John Mathieson for appropriate action. The purpose of this email is to ask that any other existing or future FOI requests received by chambers from Mr Garrett also be sent to John Mathieson as soon as they are received so that they can be actioned accordingly. There is no need for Mr Garrett's FOI emails or requests to be acknowledged by chambers.

[REDACTED], [REDACTED] and I remain the first point of contact for you in relation to any other matters (i.e. non-FOI matters) concerning Mr Garrett.

Please let me know if you have any questions or concerns in relation to this matter.

Regards,

Phillip

Phillip Allaway | Deputy District Registrar | Victoria Registry
Federal Court of Australia | 305 William Street Melbourne Victoria 3000

p. [REDACTED]
e. phillip.allaway@fedcourt.gov.au

John Mathieson

From: John Mathieson
Sent: Tuesday, 19 May 2015 4:29 PM
To: Daniel Caporale
Cc: Adele.Byrne@[REDACTED]
Subject: Garrett - FOI

UNCLASSIFIED

Daniel,

My apologies for the delay in providing this additional information to you.

You can download the current FOI Act from ComLaw at
<http://www.comlaw.gov.au/Details/C2015C00013/Download>.

Some significant amendments are proposed in a Bill which has been passed in the House but is yet to be considered in the Senate. You can check progress of these on the Parliament of Australia webpage for that Bill at
http://www.aph.gov.au/Parliamentary_Business/Bills_Legislation/Bills_Search_Results/Result?bld=r5350

The Australian Information Commissioner has issued guidelines under section 93A of the FOI Act to which regard **must** be given in exercising any function under the FOI Act. You can find these on the Commissioner's website at <http://www.oaic.gov.au/freedom-of-information/applying-the-foi-act/foi-guidelines/>. Part 9 of the guidelines deal with internal agency review of decisions. You will need to consider Mr Garrett's request for an extension of time. Extension of time for an internal review is dealt with at paragraphs 9.20 – 9.24 of the guidelines and encourage the adoption of a liberal approach by agencies and to grant extensions unless there is a special reason not to do so.

The guidelines discuss the position of courts at paragraphs 2.6 – 2.8.

The Commissioner has also issued as an "agency resource" precedent letters etc. You can find these at <http://www.oaic.gov.au/freedom-of-information/foi-resources/freedom-of-information-agency-resources/foi-agency-resource-11-sample-foi-notices>.

If you require any further information please let me know.

For statistical purposes you will need to keep track of time taken in dealing with the review. I can provide you with a template to record this if that would help but all that is required is a total in hours to the nearest half hour. If in any doubt give me a call and I'll explain what I normally do.

Regards,

John

John Mathieson
Deputy Registrar
Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au

John Mathieson

From: andrew.garrett [REDACTED]
Sent: Thursday, 21 May 2015 7:14 PM
To: NSW Listings; Vic Federal Court Registry E-mail; John Mathieson
Subject: Test

Importance: High

Andrew Garrett
Chief Executive Officer/ Winemaker
The Andrew Garrett Group of Companies (TAGGC)

www.oenoviva.com

www.dynamic-cws.com.au

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Andrew Garrett
Chief Executive Officer/ Winemaker

John Mathieson
Chief Executive Officer/ Winemaker



Melbourne Adelaide

Level 1, 2 Drewery Place C/- Deloitte Private (SA),
Melbourne, Vic, 3000 121 Greenhill Road,
Unley, SA, 5061.

T: 1300 137 059

M: [REDACTED]

E: [REDACTED]

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John Mathieson

From: andrew.garrett [REDACTED]
Sent: Monday, 17 August 2015 5:52 PM
To: John Mathieson; ombudsman@ombudsman.gov.au; Vic Federal Court Registry E-mail
Cc: [REDACTED]
Subject: FW: Application for Compensation and Application under the provisions of the FOI Act
Attachments: Email to John Mathieson 16062015 re forward email dated 06062015 to Chief Justice.pdf; Letter from John Mathieson on behalf of the Chief Justice dated 10072015.pdf

Importance: High

The Federal Court of Australia
The Federal Circuit Court of Australia
Attn Deputy Registrar Mathieson
Victoria District Registrar Caporale

Cc Commonwealth Ombudsman
Australian Information Commissioner

Dear John & Registrar Caporale,

Following the most recent decision of Registrar Luxton in respect to FOI related Matters dated 27th July 2015 I refer to my application for compensation dated 27th June 2015 that was addressed in my communique dated 14th July 2015 (copies set out below)

I ask you to consider this communique as an application under the provisions of the *Freedom of Information Act* 1982 (Cth) for a copy of any document or thing related to my Compensation Application made to the Federal Court of Australia and the Federal Circuit Court of Australia.

Following your letter dated 10th July 2015 in reply to my communique dated 6th June 2015 to Chief Justice Allsop (copies of both attached), I confirm that I have applied to the Australian Information Commissioner for review of all FOI related decisions made by officers of the two aforementioned Authorities and have copied the relevant officer of the Information Commission on this communique.

I have copied the office of the Commonwealth Ombudsman on this communique in the absence of any further communication from you or any other officer of the two aforementioned authorities in respect to my application for compensation on the basis that the silence is a deemed refusal of my application for compensation and I seek review of that deemed decision.

As you know on the 30th July 2015 I accepted a Grant of Public Interest Test Case Funding from the officer of the Commonwealth Attorney General to bring proceedings against the Supreme Court of South Australia, the Federal Circuit Court of Australia and the Federal Court of Australia in the High Court of Australia as the original and exclusive jurisdiction under s75 of the Constitution and s38 of the Judiciary Act flowing from the issuing of Notices under s78 B of the Judiciary Act.

I had foreshadowed to High Court Registry the bringing of the applications and following acceptance of the Grant I have confirmed that the filing and serving of those applications would now be delayed as a consequence of seeking advice.

I am obliged to execute the Applicant's Genuine Steps Statement in accordance with the provisions of the *Civil Disputes Resolution Act* 2011 (Cth) and invite the Federal Court of Australia and the Federal Circuit Court of Australia to make an offer to settle the dispute prior to instructing counsel to proceed with the foreshadowed High Court Application.

Best Regards

Andrew Garrett

From: andrew.garrett [mailto:andrew.garrett]
Sent: 14 July 2015 15:16
To: 'John.Mathieson@fedcourt.gov.au'
Subject: Application for Compensation
Importance: High

Dear John,

Thank you for your time on the phone this morning, I confirm that you have advised that you will be the point of contact for;

1. FOI related matters and
2. Compensation Application to the Federal Court of Australia and the Federal Circuit Court of Australia for Detriment caused by Defective Administration pursuant to the provisions of the CDDA Scheme and the Legal Services Directions 2005 (Cth)

FOI related Matters

I confirm that I am in receipt of a FOI decision of Tim Luxton dated 19th June 2015 (copy attached) in respect to my FOI Application dated 21st May 2015.

I ask that the Federal Court delegates an internal review of that FOI decision of Mr Luxton to a Registrar of the High Court of Australia.

I confirm that you have now been forwarded copies of both of my FOI Applications dated 27th June (to Registrars Allway and Byrne) and 30th June 2015 (to Registrar Caporale).

Those applications dated 27th and 30th have been restricted to seek access to only documents of an administrative nature rather than the open ended application set out in my application dated 21st May 2015 and addressed by Mr Luxton.

It is arguable that the applications could be an abuse of process as they seek the same documents as set out in my 21st May 2015 FOI application however Mr Luxton has deliberately limited his refusal as follows;

The threshold question is whether or not the FOI Act applies to the documents which you seek. The answer to that question must be "no". Any document which relates to you must relate either to a proceeding in the Court, or to a matter ancillary or preparatory to the exercise of the Court's power (e.g. a decision made pursuant to r 2.26 of the *Federal Court Rules* to refuse to accept a document for filing). That is, any document that relates to you would not be a document which relates to the management and administration of registry and office resources. Accordingly, the FOI Act does not apply to documents held by the Court which relate to you.

Given my decision as to the application of the FOI Act to documents which relate to you, it is not necessary for me to undertake a review of individual documents.

Decision

The FOI Act does not apply to the documents sought by way of your request. Accordingly, no documents will be disclosed in response to your request.

It appears that Mr Luxton did not consider that any document related to me to also incorporate those documents of an administrative Nature related to me consequently I have now lodged further FOI requests however I seek Mr Loxton's decision to be reviewed concurrently as it is my view that my application dated 21st May 2015 should have produced access to any documents related to me of an Administrative Character.

With respect, it is my view that Mr Luxton's decision is disingenuous in that the Court continues to seek to frustrate legitimate FOI applications first made by me on and around the 6th March 2015.

Compensation Application

You advised me that you were not clear that my application for Compensation dated 27th June 2015 was an application for compensation to the Federal Court of Australia for detriment caused by defective administration.

I have highlighted in Yellow the areas of my communicate dated 27th June the areas that specifically ask the Chief Justice and the Registrars addressed to consider that communicate as an application for compensation.

It is relevant to refer to the findings of the House of Representatives Standing Committee on Revenue and Tax published findings in March 2015 (Copy attached) following submissions from a number of parties including me dated 26th January 2015 (copy attached)

Similarly the Commonwealth Ombudsman made findings against the ATO in respect to my matters.

Neither the Commonwealth Ombudsman nor the House of Representatives Standing Committee are empowered to make findings in equity which is the domain of any court with Federal jurisdiction.

My submissions to the Committee were first sworn into evidence in VID 600 of 2014 and exhibited in in my affidavit dated 27th January 2015 filed in that proceeding.

It is worthy to note that the Committee has seen fit to exhibit materials provided by me in support of the Committee's findings as exhibits 7,8 and 9 of annexure B to the Report and yet this court has treated my evidence with contempt.

Thus far three vexatious litigant judgments have been made against me by Justices of the Federal Court acting on instructions of others, including the Chief Justice. I note that your response on behalf of the Chief Justice dated 10th July 2015 asserts as follows;

The other allegations and assertions you make in your email are either without foundation or are misconceived

There is no evidence before me in support of the contentions of the Chief Justice despite my invitation for the Chief Justice to explain why my allegations were misconceived.

The quantum of damage sustained by entities related to me by the failure of the Federal Court to fulfil its role as an arbiter of justice is equivalent to that suffered by the conduct of the Commissioner of Taxation, Francis Michael Cahill, Peter Ivan Macks, Stephen James Duncan and the Respondents in VID 248 of 2014.

In respect to the damage suffered by the Andrew Garrett Family Trust No 4 as a consequence of the actions of the Commissioner the quantum is set out in the Heads of Agreement dated 30th April 2013 and the Letter from Genesis dated 1st July 2013 (copies attached)

Without exception there has been no orders for discovery made in any proceeding heard by either the Federal Court or the Federal Circuit Court despite the evidence provided by me in support of the reasons why those orders ought be made.

In support of my application for compensation I rely on the evidence in the possession and control of the Federal Court of Australia and the Federal Circuit Court of Australia including all correspondence and minutes of meetings related to matters involving me considered by officers (judicial and otherwise and employees of the two courts).

My communique dated 13th July sets out my belief that the two courts have abused process and used relevant provisions of the Bankruptcy Act 1966 (Cth) and the Federal Court of Australia Act 1976 (Cth) as a barrier to justice which I contend is against the intent of the legislature and a fundamental breach of my Common Law, Constitutional and Human Rights.

I have set out the claim against the Commissioner of Taxation and Others as best as I can as an unrepresented litigant, I note that I have served a Notice to Admit Facts in VID 129 of 2015 (as attached) which matter remains on foot.

The Respondents in that proceeding have not served a Notice Disputing Facts within 14 days in accordance with FCR 22.02 of the Federal Court Rules consequently that facts set out in the Notice to Admit are taken to be accepted in accordance with FCR 22.04 and I am able to seeking summary judgement in respect to those facts in accordance with FCR 22.07 of the Federal Court Rules.

Because of the failures of the Federal Court to properly consider the accepted facts in VID 158 – VID 166 of 2015 and VID 129 of 2015 it is my view that the Court has become jointly and severely liable for the amounts expressed in those Notices to Admit as a consequence of the absence of the judgments (defective administration) that ought to have been given under FCR 22.07 against the Respondents in VID 129 of 2015 and the Applicant in VID 158 – VID 166 of 2015.

I ask that you make the relevant compensation decision on behalf of the Federal Court of Australia and the Federal Circuit Court of Australia within the time frames allowed by the CDDA scheme and the Legal Services Directions 2005 (Cth)

Best Regards

Best Regards

Andrew Garrett

From: andrew.garrett [mailto:andrew.garrett]
Sent: 27 June 2015 10:28
To: 'Vic Federal Court Registry E-mail'; 'John.Mathieson@fedcourt.gov.au'
Cc:
Subject: FW: Various Court-related matters
Importance: High

Federal Court of Australia
Attn Chief Justice Allsop
Registrar Allway & Caporale

Federal Circuit Court of Australia
Attn Registrar Byrne

Dear Chief Justice & Registrars

I am deeply concerned by the unwillingness of the officers (*judicial and administrative*) of the Federal Court of Australia and the Federal Circuit Court of Australia to apply the principles of s17 of the *Federal Court of Australia Act 1976* (Cth) to my requests for information and access to the Court Files.

Both Courts have now even gone so far as to refuse my access to the files for the purposes of simply reading transcripts; I find this situation untenable.

At every step in my re-engagement in the court process I have met with resistance and wilful blindness to the evidence before the relevant Judges, Justices and Registrars.

It is clearly simply not possible for documents of an administrative nature (as described within Kline) not to exist, in this regard it is my respectful view that emails between officers of the Court and any person fall into the category of Administrative Nature.

As set out below I have made complaints to the Commonwealth and Victorian Human Rights Commissioners regarding the conduct of the Federal Court of Australia as a result and will now proceed to also complain to the Commonwealth Ombudsman.

I make this application under the CDDA Scheme for Defective Administration. Please also consider this communicate as an application for compensation under the *Legal Services Directions 2005* (Cth).

I make this application in various capacities including those set out in the attached Statement of Claim filed in MLG 2265 of 2015, I rely on the attached Notice to Admit Facts served in VID 129 of 2015 as against the Commissioner of Taxation. (amongst other things)

In support of my application I rely on all the evidence filed in the Proceedings in the Victorian Registries on the Two Courts between March 2014 and today's date and materials to be produced under orders for discovery that I have sought initially in VID 297 of 2015.

In the circumstances that those orders are not made in VID 297 of 2015 they will be sought in the foreshadowed High Court Proceedings.

Please provide your prompt response acknowledging receipt of this application for Compensation

Best Regards

Andrew Garrett

From: andrew.garrett [mailto:andrew.garrett]
Sent: 24 June 2015 10:42
To: 'Vic Federal Court Registry E-mail'

Subject: RE: Various Court-related matters
Importance: High

Federal Court of Australia
Attn Registrar Allway

Dear Registrar Allway

Thank you for your correspondence dated 22nd June 2015.

I refer to your correspondence as headed by you in your communique

My email to [REDACTED] dated 21st June 2015

Noted. I was simply providing the learned Justices the opportunity to reconsider their own reasons under FCR 1.32.

You have advised this will not occur, which is what I sought to confirm, I did not wish to appear unreasonable in respect to my applications to the High Court, in seeking that court to define the proper interpretation and application of that rule and s17 of the *Federal Court of Australia Act 1976* (Cth)

My email to [REDACTED] dated 22nd June 2015

You say that I am seeking a copy of the Transcripts in respect to MLG 177 of 2015.

A Judge may make such orders as he sees fit in the administration of Justice FCR 1.32, it cannot be in the interests of Justice that an impecunious party is deprived of the ability to read and obtain a copy of the Transcripts. I have been in contact with customer service of the Provider of Transcript Services, Auscript they have confirmed that they are aware that Justices and Judges often provide copies of transcripts to self-represented parties in the interests of administration of Justice. Auscript confirms it has no objection to this.

Indeed this Court has provided copies of transcripts to me on more than one occasion.

[REDACTED] confirmed to me that the court would no longer provide me with copies of transcripts last Friday, in essence what you have said by way of your communique is that you are refusing my access to the court files for the purposes of reading the transcripts.

Please confirm that I have properly interpreted your communique.

You have previously refused my applications in other matters under FCR 2.32 for access to the Court Files even though I am a party to proceedings.

Registrar Byrne has already granted access to the Court files however has directed me to the Courts Portal, I am not able to review the Transcripts on the Courts Portal or indeed any other document.

How am I to review the Court Files including the Transcripts if you continue to deny my access under FOI, FCR 2.32 and s17 of the *Federal Court of Australia Act 1976* (Cth)?

Communications with Chambers

Noted.

Frequency and Repetitive Nature of my Correspondence to Court

Noted. I concede that I am extremely disappointed in the administration of Justice by the Judiciary and the Registrars of the Court including yourself. I have no complaint about the Staff of the Registry who I find to be extraordinarily helpful and of the highest professional standard.

Thus far the Court has failed to address new evidence that came into my possession between September 2012 and today's date being FOI materials provided by the ATO. It is those materials that have consumed such large volumes of evidentiary space.

The Court has made three vexatious litigant judgments against me without considering the fundamentals of my case and avoided making any findings on the merits.

No doubt if the evidence had been properly considered the findings would be completely different and I would not be faced with the obstruction to justice that you are a party to.

In fact I believe my matters would have been finalised in respect to Treasury Wine Estates Vintners Limited. I find the conduct of Justice Davies extraordinary having now considered the relevant authorities.

My e-Lodgements made 17th June 2015

Noted. I am disturbed that you are considering those Lodgements and respectfully consider that neither you nor Registrar Caporale should be involved in any further matters involving me.

It is clear to me that the Federal Court made up its mind that I was vexatious at some time prior to July 2014, I believe that you and Registrar Caporale have been a part of that process.

Barrier to Justice

It is clear from the failure to make findings on the merits of three applications that in fact this court has determined to improperly apply s37AO of the Federal Court of Australia Act 1976 (Cth) so as to become a barrier to Justice in order to exhaust my financial and emotional resources.

Constitutional, Common Law and Human Rights

I have made complaint to the Commonwealth and Victorian Human Rights Commissioners regarding the conduct of the Federal Court of Australia as a result and will now proceed to also complain to the Commonwealth Ombudsman.

I first brought to the attention of Justice Gilmore the correction of GST Mistakes in WAD 206 of 2008 which matter his Honour transferred to South Australia on the application of the Trustee in Bankruptcy

Subsequently I brought those corrections to the attention of Justice Lander on Appeal of His Honour's own decision in SAD 101 of 2008, His Honour ought not have heard that appeal.

Those corrections were reversed by the ATO on the 18th February 2015 in circumstances where the ATO knew they were not legally entitled to do so.

Proceedings in the High Court

I have foreshadowed to Ms Musolino of the High Court that I seek to review the decisions made by the Federal Court under s75(v) of the Constitution and have requested information on seeking to bring the matter as one proceeding rather than seeking to issue Summons to Show Cause in each Judgment

Best Regards

Andrew Garrett

From: Vic Federal Court Registry E-mail [<mailto:E-mail.Victoria@fedcourt.gov.au>]

Sent: 22 June 2015 17:48

To: andrew.garrett [REDACTED]

Subject: Various Court-related matters

UNCLASSIFIED

Dear Sir

Please find attached for your attention correspondence from the Court of even date.

Yours faithfully

Client Services
Victoria Registry



Telephone: [REDACTED]
Facsimile: (02) 9223 1906
DX 613 SYDNEY

**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

A.B.N. 49 110 847 399

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

Your Ref:
Our Ref:

25 August 2015

Mr Andrew Garrett
[REDACTED]

By email: [REDACTED]

Dear Mr Garrett,

Freedom of Information Request

I refer to your email dated 17 August 2015 in which, as relevant, you said:

"I ask you to consider this communicate as an application under the *Freedom of Information Act 1982* (Cth) for a copy of any document or thing related to my Compensation Application made to the Federal Court of Australia and the Federal Circuit Court of Australia."

I am authorised under section 23(1) of the Freedom of Information Act to make decisions on behalf of the Federal Court of Australia (Federal Court) in relation to Freedom of Information (FOI) requests.

I understand your request to be seeking access to any document or thing in the possession of the Federal Court which relates to your application to the Federal Court and the Federal Circuit Court of Australia (Federal Circuit Court) for compensation under the scheme for Compensation for Detriment Caused by Defective Administration (the CDDA Scheme) as set out in your emails of 27 June 2015, 14, 15 and 23 July 2015 and 17 August 2015 and that the access sought is by providing you with a copy of any such document or thing.

Your email was received by the Court on 17 August 2015 and the 30 day statutory period for processing your request commenced from the day after that date. You should therefore expect a decision from the Court by 15 September 2015. The period of 30 days may be extended if the Court need to consult third parties or for other reasons. The Court will advise you if this happens.

Please note that information released by the Court under the FOI Act may later be published online on the disclosure log on the Court's website, subject to certain exceptions. (For example, personal information will not be published where this would be unreasonable.)

The Court will contact you about this request on the email address you provided. Please advise if you would prefer contact to be by some alternative means.

Yours sincerely

John Mathieson
Deputy Registrar



Telephone: [REDACTED]
Facsimile: (02) 9223 1906
DX 613 SYDNEY

A.B.N. 49 110 847 399

Your Ref:
Our Ref:

**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

14 September 2015

Mr Andrew Garrett
[REDACTED]

Cc (letter and schedule only) by email: [REDACTED]

Dear Mr Garrett,

Freedom of Information Request

The purpose of this letter is to advise you of my decision about your request, sent by email on 17 August 2015, under the *Freedom of Information Act 1982* (FOI Act) for access to documents.

I am authorised under section 23(1) of the FOI Act to make decisions in relation to Freedom of Information (FOI) requests on behalf of the Federal Court of Australia (Federal Court).

Summary

As noted in my letter to you dated 25 August 2015 acknowledging your request, I understand that request to be seeking access to any document or thing in the possession of the Federal Court which relates to your application to the Federal Court and the Federal Circuit Court of Australia for compensation under the scheme for Compensation for Detriment Caused by Defective Administration (the CDDA Scheme) as set out in your emails of 27 June 2015, 14, 15 and 23 July 2015 and 17 August 2015 and that the access sought is by providing you with a copy of any such document or thing.

This was confirmed by you in your email of 25 August 2015 save that you clarified that your application for compensation was also made under the Legal Services Directions made under section 55ZF of the *Judiciary Act 1903* and Schedule 2 of the *Human Rights and Equal Opportunities Act 1986*.

I identified a total of 22 “documents” which fell within the scope of your request. I did this by searching electronic folders and other records for the relevant period, arranging for staff of the Court’s Victoria District Registry conducting similar searches and by myself and those staff relying on our own knowledge.

The attached schedule of documents provides a description of these “documents”. Some “documents” are, in fact, multiples or clusters of documents. Some are chains of emails. Some emails have other documents attached to them. Some documents are or appear to be duplicated. This is identified in the schedule. Some documents are receipt notifications for

each individual attachment to an email which were generated automatically by a secure link application. These notifications are grouped together for each recipient of that email as a single "document" in the schedule. There is some duplication in the receipt notifications received. Again this is identified in the schedule.

The schedule also provides details of the access decision I have made in relation to each document or cluster of documents (the latter referring to email chains and any attachments to them and the grouped receipt notifications) or parts of these clusters.

I have decided to:

- grant you access in full to 11 documents or clusters of documents and to 8 attachments in another cluster of documents;
- grant you access to an edited copy of 10 documents or clusters of documents (modified to delete exempt or irrelevant matter under section 22 of the FOI Act); and
- refuse you access to three documents (one of which is an attachment in two separate clusters of documents and another is an attachment in another cluster of documents in two different electronic formats).

More information, including my reasons for my decision, is set out below.

Decision and Reasons for Decision

I have decided to grant you access in full to each of the documents or clusters of documents numbered 1, 2, 3, 4, 5, 6, 7, 8, 9, 10 and 22 in the schedule. As noted in the schedule, the cluster of documents numbered 9 appears to be a duplication of those numbered 8. However each was received separately and, as a result, access to both is given.

I have decided to grant you access in full to the 8 attachments in the cluster of documents numbered 14 in the schedule. As noted in the schedule, these include the documents or clusters of documents numbered 1, 2, 3, 4, 5 and 8 in the schedule (all mentioned in the previous paragraph). I have, however, decided to refuse you access to the confidential email included in the cluster of documents numbered 14.

That email was sent confidentially to a partner, senior associate and law graduate of a national law firm and contains instructions to that law firm in relation to legal advice which was required on a range of legal issues related to your claim for compensation under the CDDA scheme. It was prepared by me solely for the purpose of obtaining independent, professional and confidential legal advice from that law firm which had previously been engaged, following a value for money assessment, from the Legal Services Multi-Use List established by the Commonwealth Attorney-General's Department. That legal advice was sought from the partner and senior associate of the law firm in their capacities as professional legal advisers. The email therefore would be privileged at common law from production in legal proceedings on the ground of legal professional privilege. That privilege has not been waived, either expressly or impliedly. As a result the email is exempt from disclosure under section 42 of the FOI Act.

I have decided to grant you access to an edited copy of the confidential email in the cluster of documents numbered 11 in the schedule. That email, sent to me from the national law firm engaged to provide legal advice as above, attaches a confidential letter. The email contains personal information about the sender as well as the partner of the law firm involved in providing the professional and independent legal advice sought. I am satisfied that the identity of the individuals concerned is reasonably apparent from the email and that the

disclosure of this personal information would be unreasonable. The email is therefore conditionally exempt under section 47F of the FOI Act. Having considered the rights of the individuals concerned to privacy as well as factors in favour of disclosure including promoting the objects of the FOI Act, I am satisfied that disclosure of this personal information would, on balance, be contrary to the public interest. As a result the email is exempt under subsection 11(5) of the FOI Act. I am also satisfied that the email contains information which is irrelevant to your request and that it is possible to prepare an edited copy of the email which deletes both the personal information and the irrelevant information. As it is not apparent from your request that you would decline access to such an edited copy I have decided under section 22 of the FOI Act to provide you with such a copy of the email.

I have decided to grant you access to an edited copy of the confidential email in the cluster of documents numbered 12 in the schedule. That email, sent to me by the partner of the national law firm engaged to provide legal advice as above, attaches a copy of the confidential letter also attached to the email in the cluster of documents numbered 11 in the schedule. The email contains personal information about the sender as well as the senior associate of the law firm both of whom are involved in providing the professional and independent legal advice sought and a legal secretary at the law firm. I am satisfied that the identity of the individuals concerned is reasonably apparent from the email and that the disclosure of this personal information would be unreasonable. The email is therefore conditionally exempt under section 47F of the FOI Act. Having considered the rights of the individuals concerned to privacy as well as factors in favour of disclosure including promoting the objects of the FOI Act, I am satisfied that disclosure of this personal information would, on balance, be contrary to the public interest. As a result the email is exempt under subsection 11(5) of the FOI Act. I am also satisfied that the email contains information which is irrelevant to your request and that it is possible to prepare an edited copy of the email which deletes both the personal information and the irrelevant information. As it is not apparent from your request that you would decline access to such an edited copy I have decided under section 22 of the FOI Act to provide you with such a copy of the email.

I have decided to refuse you access to the confidential letter which is attached in both clusters of documents numbered 11 and 12 in the schedule.

This letter sets out confidential terms and conditions of the engagement of the national law firm for the provision of legal advice as above. It contains business information about rates agreed to be charged for specified work, the relationship of the terms of engagement with the Legal Services Multi-Use List Deed between the Commonwealth of Australia and the national law firm, the agreed scope of and limitations on the role agreed and the law governing the engagement. It contains professional information about confidentiality, disclosure, estimated likely legal costs for the legal advice proposed and the proposed next steps in providing legal advice. I am satisfied that disclosure of this information could reasonably be expected to unreasonably affect the national law firm adversely in undertaking its lawful business and profession. The confidential letter is therefore conditionally exempt under section 47G of the FOI Act. Having considered the right that the national law firm has to confidentiality to business and professional information of the type set out in the letter, particularly when this has been sent under a condition of confidentiality, and the harm which could potentially be suffered by the national law firm if this information is disclosed as well as factors in favour of disclosure including promoting the objects of the FOI Act, I am satisfied that disclosure of this business and professional information would, on balance, be contrary to the public interest. As a result the confidential letter is exempt under subsection 11(5) of the FOI Act.

This letter also contains personal information about the partner and senior associate who are involved in providing the professional and independent legal advice sought. I am satisfied that the identity of the individuals concerned is reasonably apparent from the confidential letter and that the disclosure of this personal information would be unreasonable. The confidential letter is therefore also conditionally exempt under section 47F of the FOI Act. Having considered the rights of the individuals concerned to privacy as well as factors in favour of disclosure including promoting the objects of the FOI Act, I am satisfied that disclosure of this personal information would, on balance, be contrary to the public interest. As a result the email is exempt under subsection 11(5) of the FOI Act

I am also satisfied that the confidential letter contains information which is not relevant to your request. I have considered whether it would be reasonably practicable to prepare an edited copy of the confidential letter modified to delete all business and professional information, personal information and irrelevant information. I am, however, satisfied that the extent of the deletions which would be required are so extensive that the remaining document would have little or no content or substance.

I have decided to grant you access to an edited copy of the email numbered 13 in the schedule. That email, sent to me from the senior associate of the national law firm engaged to provide legal advice as above, contains personal information about the sender who is involved in providing the professional and independent legal advice sought. I am satisfied that the identity of the individual concerned is reasonably apparent from the email and that the disclosure of this personal information would be unreasonable. The email is therefore conditionally exempt under section 47F of the FOI Act. Having considered the rights of the individual concerned to privacy as well as factors in favour of disclosure including promoting the objects of the FOI Act, I am satisfied that disclosure of this personal information would, on balance, be contrary to the public interest. As a result the email is exempt under subsection 11(5) of the FOI Act. I am also satisfied that the email contains information which is irrelevant to your request and that it is possible to prepare an edited copy of the email which deletes both the personal information and the irrelevant information. As it is not apparent from your request that you would decline access to such an edited copy I have decided under section 22 of the FOI Act to provide you with such a copy of the email.

I have decided to grant you access to edited copies of each of the notifications in the clusters of documents numbered 15, 17 and 20 in the schedule. Those automatically generated notifications, received by me from the national law firm engaged to provide legal advice as above, contains personal information about the partner and senior associate who are involved in providing the professional and independent legal advice sought and a law graduate who is assisting them. I am satisfied that the identity of the individual concerned is reasonably apparent from the notifications and that the disclosure of this personal information would be unreasonable. The notifications are therefore conditionally exempt under section 47F of the FOI Act. Having considered the rights of the individuals concerned to privacy as well as factors in favour of disclosure including promoting the objects of the FOI Act, I am satisfied that disclosure of this personal information would, on balance, be contrary to the public interest. As a result the notifications are exempt under subsection 11(5) of the FOI Act. I am also satisfied that the notifications contain information which is irrelevant to your request and that it is possible to prepare an edited copy of the notifications which deletes both the personal information and the irrelevant information. As it is not apparent from your request that you would decline access to such edited copies I have decided under section 22 of the FOI Act to provide you with such a copy of the each notification.

I have decided to grant you access to an edited copy of the notification numbered 16 in the schedule. This automatically generated notification, received by me from the national law firm engaged to provide legal advice as above, contains information which is irrelevant to your request. I am also satisfied that it is possible to prepare an edited copy of the notification which deletes that irrelevant information and, as it is not apparent from your request that you would decline access to such an edited copy, I have decided under section 22 of the FOI Act to provide you with such a copy of the notification.

I have decided to grant you access to an edited copy of the email numbered 18 in the schedule. That email, sent by me to the senior associate of the national law firm engaged to provide legal advice as above, contains personal information about the senior associate who is involved in providing the professional and independent legal advice sought. I am satisfied that the identity of the individual concerned is reasonably apparent from the email and that the disclosure of this personal information would be unreasonable. The email is therefore conditionally exempt under section 47F of the FOI Act. Having considered the rights of the individual concerned to privacy as well as factors in favour of disclosure including promoting the objects of the FOI Act, I am satisfied that disclosure of this personal information would, on balance, be contrary to the public interest. As a result the email is exempt under subsection 11(5) of the FOI Act. I am also satisfied that the email contains information which is irrelevant to your request and that it is possible to prepare an edited copy of the email which deletes both the personal information and the irrelevant information. As it is not apparent from your request that you would decline access to such an edited copy I have decided under section 22 of the FOI Act to provide you with such a copy of the email.

I have decided to grant you access to an edited copy of the email in the cluster of documents numbered 19 in the schedule. That email, sent to me from the senior associate of the national law firm engaged to provide legal advice as above, contains personal information about the sender who is involved in providing the professional and independent legal advice sought. I am satisfied that the identity of the individual concerned is reasonably apparent from the email and that the disclosure of this personal information would be unreasonable. The email is therefore conditionally exempt under section 47F of the FOI Act. Having considered the rights of the individual concerned to privacy as well as factors in favour of disclosure including promoting the objects of the FOI Act, I am satisfied that disclosure of this personal information would, on balance, be contrary to the public interest. As a result the email is exempt under subsection 11(5) of the FOI Act. I am also satisfied that the email contains information which is irrelevant to your request and that it is possible to prepare an edited copy of the email which deletes both the personal information and the irrelevant information. As it is not apparent from your request that you would decline access to such an edited copy I have decided under section 22 of the FOI Act to provide you with such a copy of the email.

I have, however, decided to refuse you access to the two attachments in the cluster of documents numbered 19 in the schedule. These are copies, in different electronic formats, of the confidential email included in the cluster of documents numbered 14. As I have already decided, that confidential email is exempt from disclosure under section 42 of the FOI Act. That exemption also applies to these copies of that confidential email.

I have decided to refuse you access to the confidential file note numbered 21 in the schedule. It contains contemporaneous notes made by me during a confidential telephone conference with the partner and senior associate of the national law firm engaged to provide legal advice as above. It records brief details of independent legal advice received from the partner and senior associate of the law firm in their capacities as professional legal advisers. The file note therefore would be privileged at common law from production in legal proceedings on

the ground of legal professional privilege. That privilege has not been waived, either expressly or impliedly. As a result the file note is exempt from disclosure under section 42 of the FOI Act.

Charges

I note that you are the holder of a Health Care Card issued by the Commonwealth of Australia and that you are bankrupt. In my discretion I have decided not to impose a charge for access to the documents which I have decided to release to you.

Material taken into account

I have taken the following material into account in making my decision:

- the content of the documents that fall within the scope of your request;
- our correspondence (noted above) in regard to acknowledgment of your request;
- the FOI Act (specifically sections 11, 11A, 11B, 22, 29, 42, 47F, and 47G); and
- the guidelines issued by the Australian Information Commissioner under section 93A of the FOI Act (specifically paragraphs 3.85 – 3.90, 4.1 – 4.4, 5.115 – 5.138, 6.3 – 6.33, 6.113 – 6.142, and 6.157 – 6.177).

Release of Documents

I have decided that the documents which I have decided to release to you should be provided in an electronic format. As the total size of these documents is well beyond the limits generally imposed by internet service providers, the documents have been copied onto a compact disc which is included with this letter.

Your Review Rights

If you are dissatisfied with my decision, you may apply for internal review or Information Commissioner review of the decision. We encourage you to seek internal review as a first step as it may provide a more rapid resolution of your concerns.

Internal review

Under section 54 of the FOI Act, you may apply in writing to the Court for an internal review of my decision. The internal review application must be made within 30 days of the date of this letter.

Where possible please attach reasons why you believe review of the decision is necessary. The internal review will be carried out by another officer within 30 days of receipt of any request for review.

Information Commissioner review

Under section 54L of the FOI Act, you may apply to the Australian Information Commissioner to review my decision. An application for review by the Information Commissioner must be made in writing within 60 days of the date of this letter, and be lodged in one of the following ways:

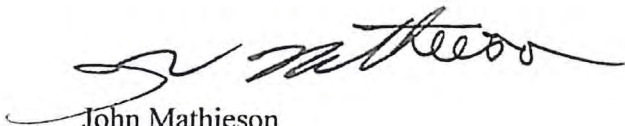
online: <https://forms.business.gov.au/aba/oaic/foi-review-/>
email: enquiries@oaic.gov.au
post: GPO Box 2999, Canberra ACT 2601
in person: Level 3, 175 Pitt Street, Sydney NSW

More information about Information Commissioner review is available on the Office of the Australian Information Commissioner website. You can also find there the FOI Act and the current Guidelines referred to above. Go to www.oaic.gov.au/freedom-of-information/foi-reviews.

Questions About This Decision

If you wish to discuss this decision, please contact me on the phone number shown on page 1 of this letter.

Yours sincerely



John Mathieson
Deputy Registrar

Attachments

1. Schedule of documents
2. Compact disc

Schedule of documents – A M Garrett - Freedom of Information Request received 17 August 2015

No.	Date	Size	Description	Decision on access	Exemption
1	27 Jun 2015	2 MB	Email from Andrew Garrett to VIC Federal Court Registry E-mail and John Mathieson (including email from Andrew Garrett to VIC Federal Court Registry E-mail dated 24 June 2015 and email from VIC Federal Court Registry E-mail dated 22 June 2015 and attaching CDDA Facts Sheet, VID129 of 2015 Notice to Admit dated 22 June 2015, MLG2265 of 2014 AMG v DCOT and Ors Sealed Statement of Claim dated 20032015)	Full access	Nil
2	10 Jul 2015	2 pages	Letter from Federal Court of Australia, Principal Registry to Andrew Garrett	Full access	Nil
3	14 Jul 2015	7 MB	Email from Andrew Garrett to John Mathieson (including email from Andrew Garrett to VIC Federal Court Registry E-mail and John Mathieson dated 27 June 2015, email from Andrew Garrett to VIC Federal Court Registry E-mail dated 24 June 2015 and email from VIC Federal Court Registry E-mail dated 22 June 2015 and attaching CDDA Facts Sheet, VID129 of 2015 Notice to Admit dated 22 June 2015, MLG2265 of 2014 AMG v DCOT and Ors Sealed Statement of Claim dated 20032015, document 2015-06-19-121449 FOI Decision of Tim Luxton, Tax Disputes Report, Submissions into Parliamentary Inquiry on Taxation Disputes dated 16 January 2015 plus Exhibits, Genesis to OenoViva (ANZ) 1 st July 2013 re Settlement of Contracts and RSCNs and HOA dated 30 th April	Full access	Nil

No.	Date	Size	Description	Decision on access	Exemption
			Genesis acquisition of AMRLs)		
4	15 Jul 2015	23 KB	Email from Andrew Garrett to Tim Luxton (including email from Tim Luxton to Andrew Garrett dated 14 July 2015)	Full access	Nil
5	15 Jul 2015	56 KB	Email from Andrew Garrett to John Mathieson (including email from John Mathieson to Andrew Garrett dated 15 Jul 2015, email from Andrew Garrett to Tim Luxton dated 15 Jul 2015 and email from Tim Luxton to Andrew Garrett dated 14 Jul 2015 and attaching Garrett v Cahill 2015 FCA 664 and Garrett v The Commissioner of Taxation [2015] FCA 665)	Full access	Nil
6	16 Jul 2015	125 KB	Email from Andrew Garrett to Vincent Tavoraro, VIC Federal Court Registry E-mail and John Mathieson	Full access	Nil
7	21 Jul 2015	7 MB	Email from Andrew Garrett to VIC Federal Court Registry E-mail and John Mathieson (including email from Andrew Garrett to John Mathieson dated 14 July 2014, email from Andrew Garrett to VIC Federal Court Registry E-mail and John Mathieson dated 27 June 2015, email from Andrew Garrett to VIC Federal Court Registry E-mail dated 24 June 2015 and email from VIC Federal Court Registry E-mail dated 22 June 2015 and attaching CDDA Facts Sheet, VID129 of 2015 Notice to Admit dated 22 June 2015, MLG2265 of 2014 AMG v DCOT and Ors Sealed Statement of Claim dated 20032015, document	Full access	Nil

No.	Date	Size	Description	Decision on access	Exemption
			2015-06-19-121449 FOI Decision of Tim Luxton, Tax Disputes Report, Submissions into Parliamentary Inquiry on Taxation Disputes dated 16 January 2015 plus Exhibits, Genesis to OenoViva (ANZ) 1st July 2013 re Settlement of Contracts and RSCNs and HOA dated 30th April Genesis acquisition of AMRLs)		
8	22 Jul 2015	9 MB	Email from Andrew Garrett to VIC Federal Court Registry E-mail and John Mathieson (including email from Andrew Garrett to [REDACTED] and [REDACTED] dated 22 July 2015 and attaching Berringer Blass Settlement Deed 26th July 2000, VID162 of 2015 Notice to Produce dated 14th July 2015, VID 166 of 2015 Notice to Produce dated 14th May 2015, VID 162 of 2015 Notice to Produce dated 16th June 2015, VID 162 of 2015 Notice to Produce dated 27th June 2015, VID 731 of 2015 Notice to Produce dated 1st May 2015, VID 158 of 2015 Notice to Admit debt of \$1,819,573.41 dated 6th April 2015, VID 159 of 2015 Notice to Admit debt of \$8,550,000 dated 6th April 2015, VID 160 of 2015 Notice to Admit debt of \$219,269.60 dated 11th April 2015, VID 163 of 2015 Notice to Admit debt of \$5,300,000.00 dated 11th April 2015, VID 161 of 2015 Notice to Admit debt of \$52,500.00 dated 11th April 2015, VID 162 of 2015 Notice to Admit debt of \$112,500.00 dated 11th April 2015, VID 164 of 2015 Notice to Admit debt of	Full access	Nil

No.	Date	Size	Description	Decision on access	Exemption
			\$150,000.00 dated 11th April 2015, VID 165 of 2015 Notice to Admit debt of \$310,000.00 dated 11th April 2015, VID 166 of 2015 Notice to Admit debt of \$37,000.00 dated 11th April 2015, VID 166 of 2015 Notice to Produce dated 8th May 2015 and VID 166 of 2015 Notice to Admit Facts dated 1st May 2015)		
9	22 Jul 2015	9 MB	Email from Andrew Garrett to VIC Federal Court Registry E-mail and John Mathieson (including email from Andrew Garrett to [REDACTED] and [REDACTED] dated 22 July 2015 and attaching Berringer Blass Settlement Deed 26th July 2000, VID162 of 2015 Notice to Produce dated 14th July 2015, VID 166 of 2015 Notice to Produce dated 14th May 2015, VID 162 of 2015 Notice to Produce dated 16th June 2015, VID 162 of 2015 Notice to Produce dated 27th June 2015, VID 731 of 2015 Notice to Produce dated 1st May 2015, VID 158 of 2015 Notice to Admit debt of \$1,819,573.41 dated 6th April 2015, VID 159 of 2015 Notice to Admit debt of \$8,550,000 dated 6th April 2015, VID 160 of 2015 Notice to Admit debt of \$219,269.60 dated 11th April 2015, VID 163 of 2015 Notice to Admit debt of \$5,300,000.00 dated 11th April 2015, VID 161 of 2015 Notice to Admit debt of \$52,500.00 dated 11th April 2015, VID 162 of 2015 Notice to Admit debt of \$112,500.00 dated 11th April 2015, VID 164 of 2015 Notice to Admit debt of	Full access	Nil

No.	Date	Size	Description	Decision on access	Exemption
			\$150,000.00 dated 11th April 2015, VID 165 of 2015 Notice to Admit debt of \$310,000.00 dated 11th April 2015, VID 166 of 2015 Notice to Admit debt of \$37,000.00 dated 11th April 2015, VID 166 of 2015 Notice to Produce dated 8th May 2015 and VID 166 of 2015 Notice to Admit Facts dated 1st May 2015) [Note: document 9 appears identical to document 8 above]		
10	23 Jul 2015		Email from Andrew Garrett to John Mathieson and VIC Federal Court Registry E-mail (including a corrected version of the email from Andrew Garrett to John Mathieson and VIC Federal Court Registry E-mail dated 22 July 2015 and email from Andrew Garrett to [REDACTED] and [REDACTED] dated 22 July 2015 and attaching Berringer Blass Settlement Deed 26th July 2000, VID162 of 2015 Notice to Produce dated 14th July 2015, VID 166 of 2015 Notice to Produce dated 14th May 2015, VID 162 of 2015 Notice to Produce dated 16th June 2015, VID 162 of 2015 Notice to Produce dated 27th June 2015, VID 731 of 2015 Notice to Produce dated 1st May 2015, VID 158 of 2015 Notice to Admit debt of \$1,819,573.41 dated 6th April 2015, VID 159 of 2015 Notice to Admit debt of \$8,550,000 dated 6th April 2015, VID 160 of 2015 Notice to Admit debt of \$219,269.60 dated 11th April 2015, VID 163 of 2015 Notice to Admit debt of \$5,300,000.00 dated 11th April 2015, VID 161 of	Full access	Nil

No.	Date	Size	Description	Decision on access	Exemption
			2015 Notice to Admit debt of \$52,500.00 dated 11 th April 2015, VID 162 of 2015 Notice to Admit debt of \$112,500.00 dated 11 th April 2015, VID 164 of 2015 Notice to Admit debt of \$150,000.00 dated 11 th April 2015, VID 165 of 2015 Notice to Admit debt of \$310,000.00 dated 11 th April 2015, VID 166 of 2015 Notice to Admit debt of \$37,000.00 dated 11 th April 2015, VID 166 of 2015 Notice to Produce dated 8 th May 2015 and VID 166 of 2015 Notice to Admit Facts dated 1 st May 2015) [Note: document 10 is a corrected version of documents 8 and 9 above]		
11	28 Jul 2015	970 KB	Confidential email from a law firm to John Mathieson (attaching confidential letter from that law firm to John Mathieson dated 28 July 2015)	Access to edited copy of confidential email Access to confidential letter refused	Modifications delete exempt personal information and irrelevant information Business and professional information and personal information and disclosure, on balance, contrary to public interest. Not reasonably practicable to prepare edited copy.
12	29 Jul 2015	973 KB	Confidential email from partner at law firm to John Mathieson (including confidential email from the law firm to John Mathieson dated 28 July 2015 and attaching again confidential letter from that law firm to John Mathieson dated 28	Access to edited copy of confidential email Access to confidential letter	Modifications delete exempt personal information and irrelevant information Business and professional

No.	Date	Size	Description	Decision on access	Exemption
			July 2015)	refused	information and personal information and disclosure, on balance, contrary to public interest. Not reasonably practicable to prepare edited copy.
13	31 Jul 2015	24 KB	Email from senior associate at law firm to John Mathieson	Access to edited copy of confidential email	Modifications delete exempt personal information and irrelevant information
14	31 Jul 2015	Not known	Confidential email from John Mathieson to partner, senior associate and law graduate at law firm (attaching documents 1, 2, 3, 4, 5 and 8 above together with Department of Finance Resource Management Guide No. 409 and Commonwealth Ombudsman Fact Sheet 9) sent by a secure link	Access refused to confidential email Full access to all attachments	Legal professional privilege Nil
15	31 Jul 2015	193 KB (Total)	10 receipt notifications (2 duplicated) received by John Mathieson for electronic files received by senior associate at law firm	Access to edited copy of notifications	Modifications delete exempt personal information and irrelevant information
16	31 Jul 2015	17 KB	Undeliverable mail notification received by John Mathieson from law firm	Access to edited copy of notification	Modifications delete exempt personal information and irrelevant information
17	31 Jul 2015	323 KB	Five receipt notifications (2 duplicated) received by John Mathieson for electronic files received	Access to edited copy of	Modifications delete exempt personal

No.	Date	Size	Description	Decision on access	Exemption
		(Total)	by law graduate at law firm	notifications	information and irrelevant information
18	31 Jul 2015	13 KB	Confidential email from John Mathieson to senior associate at law firm (including confidential email from senior associate at law firm to John Mathieson dated 31 July 2015)	Access to edited copy of confidential email	Modifications delete exempt personal information and irrelevant information
19	31 Jul 2015	154 KB	Confidential email from senior associate at law firm to John Mathieson (attaching confidential email from John Mathieson to partner, senior associate and law graduate at law firm dated 31 July 2015 in both MS Outlook and PDF formats)	Access to edited copy of confidential email Access to both attachments refused	Modifications delete exempt personal information and irrelevant information Legal professional privilege
20	9 Aug 2015	257 KB (Total)	13 receipt notifications (5 duplicated) received by John Mathieson for electronic files received by partner at law firm	Access to edited copy of notifications	Modifications delete exempt personal information and irrelevant information
21	14 Aug 2015	1 page	Confidential file note made by John Mathieson from telephone conference with partner, senior associate and law graduate at law firm	Access refused	Legal professional privilege
22	17 Aug 2015	1 MB	Email from Andrew Garrett to John Mathieson, VIC Federal Court Registry E-mail and Ombudsman (including email from Andrew Garrett to John Mathieson dated 14 July 2014, email from Andrew Garrett to VIC Federal Court Registry E-mail and John Mathieson dated 27 June 2015, email from Andrew Garrett to VIC	Full access	Nil

No.	Date	Size	Description	Decision on access	Exemption
			Federal Court Registry E-mail dated 24 June 2015 and email from VIC Federal Court Registry E-mail dated 22 June 2015)		

From: [REDACTED]
To: John Mathieson: "Finass General"; peter.weekes [REDACTED]; Kenneth.Richards [REDACTED]; chris.jordan [REDACTED]
Cc: admin@opi.sa.gov.au; [REDACTED] Ombudsman@ombudsman.sa.gov.au; aqd@agd.sa.gov.au; dpcwebmaster@dpc.sa.gov.au
Subject: Internal Review and application for Financial Assistance under the Public Interest Test Case funding scheme
Date: Friday, 25 September 2015 5:08:26 PM
Attachments: image003.png
image005.png
image007.png
image010.png
Email to John Mathieson 16062015 re forward email dated 06062015 to Chief Justice.pdf
DCCIV-2003-1666-Affidavit - AMG - 15092015.pdf
Email Chain with reply dated 30052015 regarding s17 of the FCA Act and open Justice.pdf
Email to Registry regarding failures to refer of the FCCA dated 30052015.pdf
13131986 LETR A. Garrett 16 Sep 15.pdf
Email VT to AMG dated 12th May 2015 17.42pm re reasons.pdf
RO14_01968 s 54W(a) closure.pdf
Email to ICAC Commissioner, SA Public Sector Minister, HH Riordan J and and SA Governor dated 17092015.pdf
Importance: High

Dear John

Thank you for your FOI decision dated 14th September 2015 in respect to the application for Compensation

I make this application for Internal Review of that decision.

The grounds of the application for Internal Review are set out in the Draft Affidavit dated 15th September 2015 that I propose to file in the District Court of South Australia in respect to my application to reopen the findings of Master Norman that are referred to in the attached letter from the Commissioner of Taxation dated 16th September 2015 that is attached and my submissions made in all cases heard by Judicial Officers in the Victoria Registry.

I am stunned by the level of misconduct of the officers of the two courts in question experienced by me when I simply sought to adduce new evidence that was not previously in my possession and control ("the FOI releases") prior to March 2014.

The list of documents that the Court should rely upon in assessing my application for compensation includes all documents filed in the relevant actions and all documents of an Administrative Nature that have not yet been produced by the Courts in breach of s17 of the *Federal Court of Australia Act 1976* (Cth) and the *Freedom of Information Act 1982* (Cth)

I do not request copies of all documents filed in the various actions by me or the Respondents in this proceedings however I request that the schedule of documents to be considered under the compensation application should nominate all documents in all actions.

My Draft affidavit sets out an excerpt from the Judgment of Mortimer J at paragraph 43 that reveals Her Honour had regard to the use of Court Resources and absolutely no regard for the justice of the matter in respect to the new evidence adduced and the proper application of rule 1.32 of the Federal Court Rules. Worse still all courts have failed to make orders for discovery in accordance with my statements of claim and or applications for subpoena.....to be clear I find the courts conduct lacking any morality whatsoever.

The focus of Her Honour Mortimer J on the issue of Court Resources makes it clear that there must be an extraordinary volume of communications and documents of an administrative nature that have not been produced to me despite my repeated requests under the provisions of the FOI Act in which regard I have requested the office of the Australian Information Commissioner to review the various FOI decisions previously made by the two courts. Conveniently the OAIC has clearly set out in a recent decision dated 1st September 2015 that documents of an administrative Character are those that are related to the allocation of Court Resources.

In relation to FOI requests made to Courts, tribunals and the Official Secretary to the Governor-General, the Freedom of Information Guidelines explain:

The phrase, 'matters of an administrative nature', is not defined in the FOI Act. In *Kline v Official Secretary to the Governor General* the High Court held that the phrase refers to documents that concern 'the management and administration of office resources, such as financial and human resources and information technology'. By contrast, the phrase does not apply to documents that relate to the discharge of a court's or the Governor-General's 'substantive powers and functions'. The Court approved a similar distinction drawn by the Full Federal Court in the decision under appeal between the substantive functions or powers of a court or the Governor-General, and the office 'apparatus' supporting the exercise or performance of those substantive powers and functions.¹

As a delegate of the Information Commissioner, I have decided under s 54W(a) of the FOI Act not to undertake reviews of the two Federal Court decisions identified above, on the basis that the IC review applications are lacking in substance. I am satisfied that you are seeking documents that relate to you and your Federal Court applications. These are not documents relating to the 'management or administration of office resources'.

I have pointed out the error in the Information Commissioner's decision by virtue of reference to Mortimer J's Judgment dated 21st November 2014 given in VID 248 of 2014.

Davies J had no regard for the Federal Court Rules 22.01 – 22.07 in Her Honours decisions 13th May 2015 19th May 2015 and 3rd August 2015 in VID 158 – VID 166 of 2015 and VID 739 of 2014 for reasons that are far from clear to me, similarly the Honourable Justice Beach did not even refer to the Notice to Admit filed in VID 731 of 2014 dated 1st May 2015 despite being clearly on notice of my application to reopen on the basis of the admitted facts in VID 158-VID 166 of 2015.

My emails to you dated 30th May 2015 and 16th June 2015 (annexing email to the Chief Justice dated 6th June 2015) are of particular relevance to the application for Compensation and the fundamental breach of my Human Rights by the Courts involved, the use of the provisions of the Bankruptcy Act 1966 as a barrier to Justice as well as s37AO of the Federal Court of Australia Act is simply appalling.....especially in respect to an self-represented litigant.

I have the clear impression that Registrar Caporale and Justice Davies, between them, have whipped the other Judicial Officers of both Courts into a frenzy of jurisdictional error which led to the referral from the Chief Justice dated 28th January 2015 to Justice beach to hear all appeals and while I am not a qualified person I have met similar persons and I verily believe that Registrar Caporale and Justice Davies fall into the category where the definition of Psychopath/ Narcissistic personality types applies.

On no less than 12 separate occasions those FOI materials were presented by me to the various judicial officers and not referred to in any judgment; by example see the judgment of Pagone referred to in the Commissioner's Letter dated 16th September 2015;

3. Further, we apprehend these requests to be yet another attempt to reagitate matters previously litigated. We draw your attention to paragraphs 18 and 19 of the Reasons for Judgment of Pagone J in *Garrett v Commissioner of Taxation* [2015] FCA 117 where his Honour states:

18. The present proceeding against the respondents contains other examples of both direct and indirect attempts to reagitate matters previously litigated. The relief sought by Mr Garrett in paragraphs 8.1.2 and 8.1.3 of the originating application seeks directly to relitigate or reopen matters previously determined in the District Court of South Australia. Those paragraphs of the originating application seek a writ of mandamus that:

8.1.2 The Respondent reinstate the Amending Activity Statement GST Corrections entered on the Running Balance Account of the Andrew Garrett Family Trust on the 6th and 7th of October 2008.

8.1.3 The Respondent immediately commences proceedings in the District Court of South Australia in DCC1V-1666-2003; *Commissioner of Taxation v Andrew Garrett* to apply to:

8.1.3.1 set aside the default judgment dated 11th February 2004 given against [Mr Garrett] in Favour of the Respondent; and

8.1.3.2 set aside the Judgment of the Honourable Master Norman given on the 16th January 2010.

The relief sought in paragraph 8.1.3 expressly seeks to reopen the matters previously determined by the District Court of South Australia. Paragraph 8.1.3 asks this court to order a party to commence proceedings in another court to bring about a different

outcome from that which was reached by that other court in the regular exercise of its jurisdiction. On 11 February 2004, judgment was entered in default by the District Court of South Australia in Action No 1666 of 2003. A sequestration order was made in connection with that default judgment by Registrar Christie of the Federal Magistrates Court in proceeding number ADG 90 of 2004 on 24 September 2004. Mr Garrett subsequently sought to have the default judgment set aside, but his application was dismissed on 16 January 2010 by District Court Master Norman. In dismissing the application, Master Norman concluded that Mr Garrett did not have standing to bring the application to set aside the default judgment, on the basis that the right to challenge the debt which had been the subject of the default judgment had vested in the official trustee upon Mr Garrett having become bankrupt. The District Master also concluded that Mr Garrett had not established that he had standing to bring the application as the sole trustee of the Andrew Garrett Family Trust and that, in any event, Mr Garrett did not have a meritorious defence such as would enable the default judgment to be set aside. In other words, Mr Garrett now seeks not only to re-agitate the outcome of the proceeding in the District Court of South Australia, but necessarily seeks in this proceeding to reagitate questions of his standing which have been decided against him by other courts.

19. Paragraph 8.1.2 of Mr Garrett's originating application refers to the 'Amending Activity Statement GST Corrections', which formed part of the defence that Master Norman found to lack merit. Mr Garrett had sought to argue before the Master that he had made some self-assessed amendments of GST on behalf of the Andrew Garrett Family Trust in respect of tax periods that occurred between 1 July 2002 and 30 June 2004, which resulted in there being no tax debt owed by Mr Garrett in connection with the Andrew Garrett Family Trust as at 24 October 2008. It was plain to Master Norman, as was the fact, that the self-assessed amendments of GST involved a claim for input tax credits made on behalf of the Andrew Garrett Family Trust more than four years after the tax period to which they were attributable and, therefore, that the Andrew Garrett Family Trust was no longer entitled to the credits (if it ever was entitled) pursuant to s 105-55 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The evidence before Master Norman was that the credits claimed in the self-assessed GST amendments had initially been processed in error, but that they were reversed once it was realised that the Business Activity Statements which contained the claimed credits were lodged outside the four year time limit. The "corrections" sought to be reinstated by the writ of mandamus sought in paragraph 8.1.2 of the originating application refers to those corrections which were in issue and considered and determined by the District Court of South Australia.

It is my respectful submissions that the degree of malfeasance in public office and unlawful judgments delivered by various judicial officers is only exceeded by the conduct of the ATO and counsel representing the ATO.

It is of course difficult to comprehend how the Commissioner of Taxation has concerns about re-litigation when neither the Federal Court of Australian and the Federal Circuit Court of Australia have referred to the evidence

that was presented on 12 separate occasions.

I note that the FOI Released has revealed that you have seen fit to brief counsel in respect to my application for compensation in which regard I remind you of the Hardiman Principle, all too often administrative officers adopt the adversarial Bethcar Strategy which has absolutely no application in Administrative Law.

The conduct of each public and judicial officer of the Courts involved is unlawful within the meaning of the findings of the High Court in *Project Blue Sky*.

I make this application to the relevant officer to make a grant of Financial Assistance to me under the Public Interest Test Case Funding scheme to match that of the office of the Commonwealth Attorney General that was accepted by me on the 30th July 2015

Were it not for the conduct of the Federal Court of Australia and the Federal Circuit Court the foreshadowed proceedings in the High Court would not be necessary consequently it would be unreasonable to expect the office of the Commonwealth Attorney General to shoulder the whole of the Financial Burden in such circumstances.

Please confirm to me by return communication when I can expect the application for compensation to be finalised in which regard I note that making such a decision involves the application of morals in the exercise of discretion that have been notably lacking thus far.

I look forward to receiving the internal review of your FOI decision as discussed I refer to our recent Phone Conversation and that you noted my allegations. It is my view that the public confidence in the Federal Court and the Federal Circuit court's ability to properly and impartially administer justice will be severely shaken based on my experience in both the South Australian and Victorian Registries in which regard I direct your attention to a recent communique to Commissioner Lander in South Australia , formerly a Judicial Officer of the Federal Court dated 17th September 2015.

The influence of the alleged secret society with "Mafia Proportions" referred to in the South Australian Parliament in 1981 in the administration of Justice that is referred to in the aforementioned communique must be brought to an end in the Public Interest.

Mr Viscariello has been of great service to this State having invested heavily in his pursuit of exposing the system corruption that you know only too well is rampant and out of Control and has remained this for over 34 years in which regard I direct your attention to the attached excerpt from the House of Assembly reading at the time of the passing of the Legal Practitioners Act 1981 (SA)

"The Law Society is now assuming Mafia Proportions" quoted in context below

ON THE NOMINATION OF THE ATTORNEY-GENERAL.

Mr CRAFTER: I do not think this amendment can be cast aside without at least some comment, because it is fundamental to the concept of public accountability and the Government, I believe, has erred in residing all of the authority for this tribunal in legal practitioners. There have been very cogent and strong arguments put in another place, and I believe that the defeat of this amendment will raise a great deal of criticism in the community of the Government's desire that the proper practice of the law is undertaken in this State and appears to be practised in a proper and responsible publicly accountable way. I believe that there is substantial latitude not legal practitioners, but who no doubt are other responsible members of the community who would see to it that the public interest is not only done but is seen to be done.

I look forward to receiving a positive response to my application for Public Interest Test Case Funding in which regard I also await a positive decision from the Commissioner of Taxation ; Chris Jordan who is copied on this communique

Best Regards

Andrew Garrett

From: John Mathieson [mailto:John.Mathieson@fedcourt.gov.au]
Sent: 14 September 2015 15:03
To: andrew.garrett [REDACTED]
Subject: Freedom of Information Request

UNCLASSIFIED

Dear Mr Garrett,

Further to our telephone discussions this morning, I attach copies in PDF format of my letter dated today setting out my decision and reasons in regard to your FOI request in your email sent on 17 August 2015 and the schedule of documents attached to that letter.

The original letter, schedule and a CD with electronic copies of the documents I have decided should be released to you is being posted to you today.

Yours sincerely,

John Mathieson
Deputy Registrar

Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au

John Mathieson

From: Andrew Garrett <andrew.garrett[REDACTED]>
Sent: Sunday, 4 October 2015 11:30 AM
To: John Mathieson
Cc: Andrew Garrett; FinassGeneral@ag.gov.au; [REDACTED]
Subject: Review of FOI request

Dear John

Could you please confirm to me by return email which officer of which Court will be undertaking the relevant Internal Review of your FOI decision by return email?

It is my view that every officer of the two courts involved will be conflicted in any review process and that the review should be considered by a Registrar of the High Court.

As you know I have accepted a grant of Financial Assistance from the office of the Commonwealth Attorney General to bring a proceeding in the High Court of Australia in the original and exclusive jurisdiction against the Federal Court, the Federal Circuit Court, the State of South Australia and the Supreme Court of South Australia On the grounds that the courts ought not use the provisions of the Bankruptcy Act 1966 (Cth), the Corporations Act 2001 (Cth) or the vexatious litigant provisions of the Supreme Court Act 1935 (SA) and the Federal Court Act 1976 (Cth) as a barrier to justice.

It is my clear view, having revisited the reasons of Mortimer J dated 21 November 2014, that Registrar Caporale "yanked the chain" of every judicial officer sitting in matters involving me as well as the Chief Justice and that the relevant judgements were given against the background of complaint by him in respect of use of Court Resources rather than the application of the inherent natural jurisdiction and FCR 1.32.

It is my view that the interference of Registrar Caporale and the Chief Justice in proceedings involving me and the conduct of the judicial officers in both the Federal Court and the Federal Circuit Court is a National Disgrace.

I am deeply concerned about the erosion of the public confidence in respect to the impartiality of both of the aforementioned Courts should this matter come to light as it inevitably will upon the commencement of the foreshadowed proceedings.

Once again I make this invitation to the Courts and the judicial officers involved to reconsider the proper application of the provisions of the International Covenant on Civil and Political Rights (Australian Treaty Series No 23), the Constitution, the Rule of Law, the Freedom of Information Act 1982 (Cth) FCR 1.32 and s17 of the Federal Court Act to vary set aside and/or quash their own decisions and make such directions as they deem fit.

I make this request on the basis of the findings of the High Court of Australia that each judicial decision made in proceedings involving me is unlawful within the meaning of Project Blue Sky as being administrative decisions under Administration Law invoking the Courts inherent jurisdiction and obligation to inquire.

As you know the aforementioned request for internal review of your FOI relates to my application for compensation under the provisions set out in my correspondence.

Of course I have the greatest respect for the Constitution and the Executive offices created under various Statutes including the acts that created the two aforementioned Courts.

While I am deeply and profoundly disturbed by the willingness of the relevant judicial officers to step outside of the boundaries of what I believe ought to be the proper application of jurisdiction I am more profoundly disturbed by the Constitutional Crisis of public confidence that will inevitably follow any seepage of my complaints into the public environment.

As with all matters I remain conscious of my own obligations under the Civil Disputes Resolution Act 2011(Cth) and the Civil Procedures Act 2010 (Vic) to take all steps necessary to resolve this fundamentally constitutional dispute prior to invoking the jurisdiction of the High Court of Australia.

I invite the court to make me an offer in all of my capacities to settle the dispute by way of;

1. Confidential letter of apology addressed to me from the Chief Justice and each judicial officer in respect to each proceeding in each court,
2. Making the relevant changes to all judgements and quash, vary or set aside all reasons and orders made on the basis of ALL of the evidence filed in each proceeding.
3. Requesting that I withdraw my application for Compensation
4. Requesting that I withdraw my application for Public Interest Test Case Funding
5. Paying my costs and disbursements since the failure of Justice Lander and Justice Mansfield to set aside the sequestration order made in AZ 90 of 2004 in respect to a debt that was paid in the 22nd September 2004 (with Receipt) and in any event could NOT and did NOT legally exist

It seems to me that any money the two Courts may consider offering in respect to my application for Compensation and my application for Public Interest Test Case Funding as well as those Commonwealth moneys that are set aside by the Commonwealth Attorney General might be better applied in the Public Interest to re-educating the Judiciary and the Registrars on their proper roles and the administration of Justice Generally.

My offer remains open for acceptance until otherwise withdrawn by me in writing

Best Regards

Andrew Garrett

Sent from my iPhone

John Mathieson

From: John Mathieson
Sent: Wednesday, 14 October 2015 3:28 PM
To: 'andrew.garrett' [REDACTED]
Subject: Freedom of Information Request
Attachments: Letter to Mr Garrett- FOI Request.pdf; Letter to OAIC with attachments.pdf

UNCLASSIFIED

Dear Mr Garrett,

Please see attached letter regarding your freedom of information request.

Kind regards
John

John Mathieson
Deputy Registrar
Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au



Telephone: [REDACTED]
Facsimile: (02) 9223 1906
DX 613 SYDNEY

A.B.N. 49 110 847 399

Your Ref:
Our Ref:

**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

14 October 2015

Mr Andrew Garrett
[REDACTED]

By email: [REDACTED]

Dear Mr Garrett,

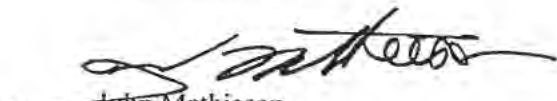
Freedom of Information Request

I refer to your email dated 25 September 2015 in which you make an application for internal review of my decision dated 14 September 2015 and to your email of 4 October 2015 enquiring about which officer of the Court will be undertaking the review.

I attach a copy of a letter and its enclosures dated 12 October 2015 which is today being sent to the Office of the Australian Information Commissioner (OAIC). As you will note it is seeking a declaration under section 89K of the *Freedom of Information Act* 1982 and permission of the OAIC to suspend processing your request for internal review mentioned above pending a decision being made by the OAIC on that request. The OAIC will be in touch with you in due course.

At this stage however, the Court does not propose to respond to your request for internal review.

Yours sincerely


John Mathieson
Deputy Registrar



Telephone: [REDACTED]
Facsimile: (02) 9223 1906
DX 613 SYDNEY

A.B.N. 49 110 847 399

**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

12 October 2015

Office of the Australian Information Commissioner
Level 3, 175 Pitt Street
Sydney NSW 2000

Dear Sir/Madam

**REQUEST FOR DECLARATION UNDER S 89K OF THE FREEDOM OF INFORMATION
ACT 1982 RE ANDREW MORTON GARRETT**

1. The Federal Court and the Federal Circuit Court (the Courts) seek a declaration under s 89K of the *Freedom of Information Act 1982* (FOI Act) in relation to Mr Andrew Morton Garrett.
2. The terms of the declaration sought are that:

The Courts are not required to consider any request, including requests for internal review or amendment of records and requests to the Australian Information Commissioner from Mr Garrett where:
 - The request concerns documents relating to past or current court proceedings or the administration of proceedings, involving Mr Garrett
 - That duplicates, or substantially duplicates, previous requests
 - The request relates to the processing or administration of any request under the FOI Act.
3. As Mr Garrett previously has made requests directly to judicial officers, the Courts also request that the declaration include a statement to the effect that judicial officers are excluded from the operation of the FOI Act under s 5(1)(b) and that Mr Garrett is not to make requests directly to judicial offices or any member of their staff.
4. The request for a declaration is made on the basis that Mr Garrett has repeatedly engaged in access actions that involve an abuse of the process for an access action (s 89L(1)(a)).

Background

5. Mr Garrett is a frequent litigant in the Courts. He is subject to various orders prohibiting him from instituting proceedings without leave of the Court¹. We note that, on 1 May 2015 on the application of the Australian Taxation Office, Mr Garrett was declared to be a vexatious applicant under s 89K of the FOI Act on the basis that he has repeatedly engaged in access actions that involve an abuse of process².
6. The following table describes the access requests made by Mr Garrett between 4 March 2015 to 17 August 2015, to whom they were made to and decision date:

No.	Date of request	Addressee	Description of request	Date of decision
1	4 March 2015	Associate to Pagone J Federal Court (FC)	Document or thing related to conversations, meetings, correspondence between His Honour, his Honour's Chambers and any representative of the Chief Justice of the Federal Court of Australia and/or Representative of the Respondents and/or the Commonwealth Attorney General with respect to any proceeding related to me.	16 March 2015
2	6 March 2015	Associate to Mortimer J (FC)	Meeting notes, conversation notes and correspondence with any person including the office of the chief Justice, the Chief Justice and the Office of the Commonwealth Attorney-General relating to the administration of VID 739 with particular reference to the pending application under s 37AO of the Federal Court of Australia Act	16 March 2015
3	6 March 2015	Victorian Registry (FC)	Copies of notes or references in respect to affidavit dated 14 July 14 plus exhibits and materials set out in volumes 4 and 5 of the affidavit Meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney-	16 March 2015

¹ *Garrett v Make Wine Pty Ltd* [2014] FCA 1258; *Garrett v Commissioner of Taxation* [2015] FCA 117

² *Australian Taxation Office and Garrett* [2015] AICmr 33

			General relating to the administration of VID 730-VID 732 of 2014 and VID 49 of 2015 or any other matter related to me with particular reference to the orders made under s 37AO of the Federal Court of Australia Act	
4	6 March 2015	Associate to Chief Justice Allsop (FC)	Meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney-General relating to the administration of VID 730-VID 732 of 2014 and VID 49 of 2015 or any other matter related to me	16 March 2015
5	6 March 2015	Associate to Beach J (FC)	Meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney-General relating to the administration of VID 730-VID 732 of 2014 and VID 49 of 2015	16 March 2015
6	6 March 2015	Associate to Davies J (FC)	Meeting notes, conversation notes and correspondence with any person including the Chief Justice and the Office of the Commonwealth Attorney-General relating to the administration of VID 739 with particular reference to the pending application under s 37AO of the Federal Court of Australia Act and the application dated 1 March 2015 for leave to file and serve the application dated 26 January 2015	16 March 2015
7	26 April 2015	Deputy Registrar (FC)	Request for internal review seeking internal review of the decision dated 16 March 2015. Scope refined to include list of and copy of any documents of an administrative nature held by an officer of the Federal Court of Australia, Judicial or otherwise related to	3 June 2015

			proceedings commenced by me in the court between 1 January 2014 and today's date (26 April)	
8	30 April 2015	FOI Team (FCC)	Copy of any document or thing relating to the administration of MLG177 of 2015 and the delay in filing of my Interim Application dated 9 April 2015 and reasons why I was not advised of its listing prior to the appearance before the Honourable Judge Reithmuller on 27 April 2015 in this proceeding Request extended to include reasons of Her Honour Davies in VID 739 of 2014 (on 20 May 2015)	25 May 2015
9	21 May 2015	District Registrar Caporale (FC)	Schedule of and a copy of any document or thing in your control and possession that relates to me Request Registrar Caporale refrain from completing internal review re 30 April 15 request]	19 June 2015
10	30 May 2015	Deputy District Registrar Allaway	Request for internal review of decision	NIL
11	27 June 2015	Registrar Byrne (FCC) and Deputy District Registrar Allaway	Copy of any document or thing related to me that is in your possession and control that has not been filed in any proceedings related to me that is not the subject of exercise of judicial discretion on the documents filed in those proceedings	22 July 2015
12	30 June 2015	District Registrar Caporale and Registrar Byrne (FCC)	Copy of any document or thing in your possession and/or control related to the administrative proceedings involving me in any capacity in the Federal Court or Federal Circuit Court of Australia	22 July 2015

13	14 July 2015	Deputy Registrar Mathieson	Internal review request of decision of Mr Luxton dated 19 June 2015	12 August 2015
14	23 July 2015	Deputy District Registrar Luxton	Any document of an administrative nature related to the failure to list the application under s 37AT to appeal the orders of Davies J made on the 13 May 2015 in VOD 158 of 2015	27 July 2015
15	17 August 2015	Deputy Registrar Mathieson and District Registrar Caporale	Any document or thing related to my Compensation Application made to the Federal Court of Australia and the Federal Circuit Court of Australia	14 September 2015

7. In addition to the above, the Federal Court received a request for internal review on 25 September 2015 in relation to the decision made by Deputy Registrar Mathieson on 14 September 2015 (copy attached without enclosures). The Federal Court has not processed this request and seeks permission to suspend the processing of the request until a decision is made in relation to this request for a declaration.
8. We note that, on 1 September 2015, the Assistant Commissioner of the OAIC decided, under s 54W(a) of the FOI Act, not to undertake reviews of the decisions of the Federal Court dated 19 June and 27 July 2015. The Assistant Commissioner was satisfied that the OAIC application lacked substance as the documents sought are excluded from the operation of the FOI Act³.
9. Copies of all of the above applications and decisions are attached in support of this submission.

'Repeatedly' engaged in access actions involving an abuse of process

10. Whether a person's access actions interfere unreasonably with the operations of an agency include:
 - a. The total number of the person's access actions in a specified period and the processing burden it imposes on the agency
 - b. The nature of the person's actions, including whether a person has made repeated requests for documents that were refused
 - c. Whether the person's access actions portray an immoderate prolongation of a separate grievance the person has against the agency or the continued pursuit of a matter⁴.

³ By virtue of s 5 of the FOI Act

⁴ OAIC Guidelines Part 12 — Vexatious applicant declarations [12:25]

11. There is no fixed number of access actions required to establish a pattern of repeated requests. Whether such a pattern exists will depend in part on the nature of the abuse of process involved⁵ and whether they have been made with the intention to annoy or harass⁶.
12. Mr Garrett has made 12 access requests and 4 requests for internal review under the FOI Act during the period 4 March to 17 August 2015 as described in the above table. The requests all concern proceedings, or administrative matters relating to those matters, that he has commenced or that relate to him.
13. Mr Garrett repeatedly has been made aware that s 5 of the FOI Act restricts the documents he can access to only those that relate to matters of an administrative nature⁷. However, despite these explanations, he continues to make access requests for documents that clearly are excluded from the operation of the FOI Act or to frame requests in an attempt to capture these.
14. The Court considers that a pattern of 'repeated behaviour' is established on the basis that the requests have been in close proximity following decisions and the nature and substance of the requests are inherently similar. The repetitive nature of the requests, including the range of addressee's and the tone of the communications, demonstrate that they have been made with an intention to annoy or harass.
15. Mr Garrett's requests are often a minor portion of his communications. His applications are generally accompanied by lengthy complaints about his treatment by the Courts⁸. For example, in his latest communication on 4 October 2015 (copy attached) referring to his most recent request for internal review he states that that pending internal review application should be considered by a Registrar of the High Court as he believes that every officer of the Federal Court and Federal Circuit Court are conflicted. He then goes on to make insulting, offensive, unsubstantiated, derogatory and inflammatory allegations against officers of the Courts.⁹
16. The nature of the requests demonstrate that his real motivation is to re-agitate a grievance that has been the subject of his numerous proceedings in the Federal Court¹⁰.
17. Mr Garrett's use of the FOI Act is neither responsible nor moderate. The Courts are of the view that he is using the FOI Act as a platform to support the immoderate prolongation of a personal grievance¹¹. Further, the particular access actions involves an abuse of process because they seek to re-open matters that have

⁵ OAIC Guidelines Part 12 — Vexatious applicant declarations [12.16]

⁶ OAIC Guidelines Part 12 — Vexatious applicant declarations [12.4]

⁷ *Per Kline v Official Secretary to the Governor General & anor* [2013] HCA 52

⁸ *Department of Defence and W* [2013] AICmr 2

⁹ OAIC Guidelines Part 12 — Vexatious applicant declarations [12.22]

¹⁰ *Australian Prudential Regulation Authority and Sweeney* [2013] AICmr 63

¹¹ *Australian Securities and Investments Commission and Sweeney* [2013] AICmr 62 at [44]

already been determined by the Courts¹². It is evident that Mr Garrett's motivation is to harass and intimidate rather than seek access to documents.

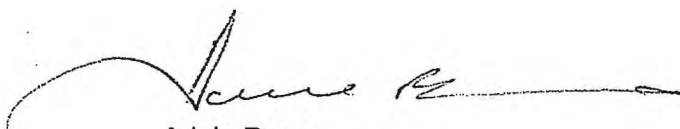
Conclusion

18. We understand that Mr Garrett needs to be given an opportunity to respond to the request for a declaration. A copy of this letter is being sent to him at the same time as it is dispatched to your office.
19. Please contact John Mathieson on 02 9230 8336 if there is any further information required or we can assist further with this request.

Yours sincerely



John Mathieson
Deputy Registrar
Federal Court of Australia



Adele Byrne
Principal Registrar
Federal Circuit Court of Australia

¹² *Fayle and Commissioner of Taxation* (2012) 57 AAR 506

From: [REDACTED]
To: John Mathieson; "Finass General"; peter.weekes [REDACTED]; Kenneth.Richard [REDACTED]; chris.jordan [REDACTED]
Cc: admin@oof.sa.gov.au; [REDACTED]; Ombudsman@ombudsman.sa.gov.au; and@aod.sa.gov.au; dpcwebmaster@dpc.sa.gov.au
Subject: Internal Review and application for Financial Assistance under the Public Interest Test Case funding scheme
Date: Friday, 25 September 2015 5:08:26 PM
Attachments: [image003.png](#)
[image005.png](#)
[image007.png](#)
[image010.png](#)
[Email to John Mathieson 16062015 re forward email dated 06062015 to Chief Justice.pdf](#)
[DCCIV-2003-1666-Affidavit - AMG -15092015.pdf](#)
[Email Chain with reply dated 30052015 regarding s17 of the FCA Act and open Justice.pdf](#)
[Email to Registry regarding failures to refer of the FCCA dated 30052015.pdf](#)
[13131986 LEFR A. Garrett 16 Sep 15.pdf](#)
[Email VT to AMG dated 17th May 2015 17:42pm re reasons.pdf](#)
[RQ14 01968 s 54W\(a\) closure.pdf](#)
[Email to ICAC Commissioner, SA Public Sector Minister, HH Riordan J and SA Governor dated 17092015.pdf](#)
Importance: High

Dear John

Thank you for your FOI decision dated 14th September 2015 in respect to the application for Compensation

I make this application for Internal Review of that decision.

The grounds of the application for Internal Review are set out in the Draft Affidavit dated 15th September 2015 that I propose to file in the District Court of South Australia in respect to my application to reopen the findings of Master Norman that are referred to in the attached letter from the Commissioner of Taxation dated 16th September 2015 that is attached and my submissions made in all cases heard by Judicial Officers in the Victoria Registry.

I am stunned by the level of misconduct of the officers of the two courts in question experienced by me when I simply sought to adduce new evidence that was not previously in my possession and control ("the FOI releases") prior to March 2014.

The list of documents that the Court should rely upon in assessing my application for compensation includes all documents filed in the relevant actions and all documents of an Administrative Nature that have not yet been produced by the Courts in breach of s17 of the *Federal Court of Australia Act 1976* (Cth) and the *Freedom of Information Act 1982* (Cth)

I do not request copies of all documents filed in the various actions by me or the Respondents in this proceedings however I request that the schedule of documents to be considered under the compensation application should nominate all documents in all actions.

My Draft affidavit sets out an excerpt from the Judgment of Mortimer J at paragraph 43 that reveals Her Honour had regard to the use of Court Resources and absolutely no regard for the justice of the matter in respect to the new evidence adduced and the proper application of rule 1.32 of the Federal Court Rules. Worse still all courts have failed to make orders for discovery in accordance with my statements of claim and or applications for subpoena.....to be clear I find the courts conduct lacking any morality whatsoever.

The focus of Her Honour Mortimer J on the issue of Court Resources makes it clear that there must be an extraordinary volume of communications and documents of an administrative nature that have not been produced to me despite my repeated requests under the provisions of the FOI Act in which regard I have requested the office of the Australian Information Commissioner to review the various FOI decisions previously made by the two courts. Conveniently the OAIC has clearly set out in a recent decision dated 1st September 2015 that documents of an administrative Character are those that are related to the allocation of Court Resources.

In relation to FOI requests made to Courts, tribunals and the Official Secretary to the Governor-General, the Freedom of Information Guidelines explain:

The phrase, 'matters of an administrative nature', is not defined in the FOI Act. In *Kline v Official Secretary to the Governor General* the High Court held that the phrase refers to documents that concern 'the management and administration of office resources, such as financial and human resources and information technology'. By contrast, the phrase does not apply to documents that relate to the discharge of a court's or the Governor-General's 'substantive powers and functions'. The Court approved a similar distinction drawn by the Full Federal Court in the decision under appeal between the substantive functions or powers of a court or the Governor-General, and the office 'apparatus' supporting the exercise or performance of those substantive powers and functions.¹

As a delegate of the Information Commissioner, I have decided under s 54W(a) of the FOI Act not to undertake reviews of the two Federal Court decisions identified above, on the basis that the IC review applications are lacking in substance. I am satisfied that you are seeking documents that relate to you and your Federal Court applications. These are not documents relating to the 'management or administration of office resources'.

I have pointed out the error in the Information Commissioner's decision by virtue of reference to Mortimer J's Judgment dated 21st November 2014 given in VID 248 of 2014.

Davies J had no regard for the Federal Court Rules 22.01 – 22.07 in Her Honours decisions 13th May 2015 19th May 2015 and 3rd August 2015 in VID 158 –VID 166 of 2015 and VID 739 of 2014 for reasons that are far from clear to me, similarly the Honourable Justice Beach did not even refer to the Notice to Admit filed in VID 731 of 2014 dated 1st May 2015 despite being clearly on notice of my application to reopen on the basis of the admitted facts in VID 158-VID 166 of 2015.

My emails to you dated 30th May 2015 and 16th June 2015 (annexing email to the Chief Justice dated 6th June 2015) are of particular relevance to the application for Compensation and the fundamental breach of my Human Rights by the Courts involved, the use of the provisions of the Bankruptcy Act 1966 as a barrier to Justice as well as s37AO of the Federal Court of Australia Act is simply appalling.....especially in respect to an self-represented litigant.

I have the clear impression that Registrar Caporale and Justice Davies, between them, have whipped the other Judicial Officers of both Courts into a frenzy of jurisdictional error which led to the referral from the Chief Justice dated 28th January 2015 to Justice beach to hear all appeals and while I am not a qualified person I have met similar persons and I verily believe that Registrar Caporale and Justice Davies fall into the category where the definition of Psychopath/ Narcissistic personality types applies.

On no less than 12 separate occasions those FOI materials were presented by me to the various judicial officers and not referred to in any judgment; by example see the judgment of Pagone referred to in the Commissioner's Letter dated 16th September 2015;

3. Further, we apprehend these requests to be yet another attempt to re-agitate matters previously litigated. We draw your attention to paragraphs 18 and 19 of the Reasons for Judgment of Pagone J in *Garrett v Commissioner of Taxation* [2015] FCA 117 where his Honour states:

18. The present proceeding against the respondents contains other examples of both direct and indirect attempts to re-agitate matters previously litigated. The relief sought by Mr Garrett in paragraphs 8.1.2 and 8.1.3 of the originating application seeks directly to re-litigate or reopen matters previously determined in the District Court of South Australia. Those paragraphs of the originating application seek a writ of mandamus that:

8.1.2 The Respondent reinstate the Amending Activity Statement GST Corrections entered on the Running Balance Account of the Andrew Garrett Family Trust on the 6th and 7th of October 2008.

8.1.3 The Respondent immediately commences proceedings in the District Court of South Australia in DCC1V-1666-2003; *Commissioner of Taxation v Andrew Garrett* to apply to:

8.1.3.1 set aside the default judgment dated 11th February 2004 given against [Mr Garrett] in Favour of the Respondent; and

8.1.3.2 set aside the Judgment of the Honourable Master Norman given on the 16th January 2010.

The relief sought in paragraph 8.1.3 expressly seeks to reopen the matters previously determined by the District Court of South Australia. Paragraph 8.1.3 asks this court to order a party to commence proceedings in another court to bring about a different

outcome from that which was reached by that other court in the regular exercise of its jurisdiction. On 11 February 2004, judgment was entered in default by the District Court of South Australia in Action No 1666 of 2003. A sequestration order was made in connection with that default judgment by Registrar Christie of the Federal Magistrates Court in proceeding number ADG 90 of 2004 on 24 September 2004. Mr Garrett subsequently sought to have the default judgment set aside, but his application was dismissed on 16 January 2010 by District Court Master Norman. In dismissing the application, Master Norman concluded that Mr Garrett did not have standing to bring the application to set aside the default judgment, on the basis that the right to challenge the debt which had been the subject of the default judgment had vested in the official trustee upon Mr Garrett having become bankrupt. The District Master also concluded that Mr Garrett had not established that he had standing to bring the application as the sole trustee of the Andrew Garrett Family Trust and that, in any event, Mr Garrett did not have a meritorious defence such as would enable the default judgment to be set aside. In other words, Mr Garrett now seeks not only to re-agitate the outcome of the proceeding in the District Court of South Australia, but necessarily seeks in this proceeding to re-agitate questions of his standing which have been decided against him by other courts.

19. Paragraph 8.1.2 of Mr Garrett's originating application refers to the 'Amending Activity Statement GST Corrections', which formed part of the defence that Master Norman found to lack merit. Mr Garrett had sought to argue before the Master that he had made some self-assessed amendments of GST on behalf of the Andrew Garrett Family Trust in respect of tax periods that occurred between 1 July 2002 and 30 June 2004, which resulted in there being no tax debt owed by Mr Garrett in connection with the Andrew Garrett Family Trust as at 24 October 2008. It was plain to Master Norman, as was the fact, that the self-assessed amendments of GST involved a claim for input tax credits made on behalf of the Andrew Garrett Family Trust more than four years after the tax period to which they were attributable and, therefore, that the Andrew Garrett Family Trust was no longer entitled to the credits (if it ever was entitled) pursuant to s 105-55 of Schedule 1 to the *Taxation Administration Act 1953* (Cth). The evidence before Master Norman was that the credits claimed in the self-assessed GST amendments had initially been processed in error, but that they were reversed once it was realised that the Business Activity Statements which contained the claimed credits were lodged outside the four year time limit. The "corrections" sought to be reinstated by the writ of mandamus sought in paragraph 8.1.2 of the originating application refers to those corrections which were in issue and considered and determined by the District Court of South Australia.

It is my respectful submissions that the degree of malfeasance in public office and unlawful judgments delivered by various judicial officers is only exceeded by the conduct of the ATO and counsel representing the ATO.

It is of course difficult to comprehend how the Commissioner of Taxation has concerns about re-litigation when neither the Federal Court of Australia and the Federal Circuit Court of Australia have referred to the evidence

that was presented on 12 separate occasions.

I note that the FOI Released has revealed that you have seen fit to brief counsel in respect to my application for compensation in which regard I remind you of the Hardiman Principle, all too often administrative officers adopt the adversarial Bethcar Strategy which has absolutely no application in Administrative Law.

The conduct of each public and judicial officer of the Courts involved is unlawful within the meaning of the findings of the High Court in *Project Blue Sky*.

I make this application to the relevant officer to make a grant of Financial Assistance to me under the Public Interest Test Case Funding scheme to match that of the office of the Commonwealth Attorney General that was accepted by me on the 30th July 2015

Were it not for the conduct of the Federal Court of Australia and the Federal Circuit Court the foreshadowed proceedings in the High Court would not be necessary consequently it would be unreasonable to expect the office of the Commonwealth Attorney General to shoulder the whole of the Financial Burden in such circumstances.

Please confirm to me by return communication when I can expect the application for compensation to be finalised in which regard I note that making such a decision involves the application of morals in the exercise of discretion that have been notably lacking thus far.

I look forward to receiving the internal review of your FOI decision as discussed I refer to our recent Phone Conversation and that you noted my allegations. It is my view that the public confidence in the Federal Court and the Federal Circuit court's ability to properly and impartially administer justice will be severely shaken based on my experience in both the South Australian and Victorian Registries in which regard I direct your attention to a recent communique to Commissioner Lander in South Australia, formerly a Judicial Officer of the Federal Court dated 17th September 2015.

The influence of the alleged secret society with "Mafia Proportions" referred to in the South Australian Parliament in 1981 in the administration of Justice that is referred to in the aforementioned communique must be brought to an end in the Public Interest.

Mr Viscariello has been of great service to this State having invested heavily in his pursuit of exposing the system corruption that you know only too well is rampant and out of Control and has remained this for over 34 years in which regard I direct your attention to the attached excerpt from the House of Assembly reading at the time of passing of the Legal Practitioners Act 1981 (SA)

"The Law Society is now assuming Mafia Proportions" quoted in context below

ON THE NOMINATION OF THE ATTORNEY-GENERAL.

Mr CRAFTER: I do not think this amendment can be cast aside without at least some comment, because it is fundamental to the concept of public accountability and the Government, I believe, has erred in residing all of the authority for this tribunal in legal practitioners. There have been very cogent and strong arguments put in another place, and I believe that the defeat of this amendment will raise a great deal of criticism in the community of the Government's desire that the proper practice of the law is undertaken in this State and appears to be practised in a proper and responsible publicly accountable way. I believe that there is substantial latitude not legal practitioners, but who no doubt are other responsible members of the community who would see to it that the public interest is not only done but is seen to be done.

I look forward to receiving a positive response to my application for Public Interest Test Case Funding in which regard I also await a positive decision from the Commissioner of Taxation ; Chris Jordan who is copied on this communique

Best Regards

Andrew Garrett

From: John Mathieson [mailto:John.Mathieson@fedcourt.gov.au]
Sent: 14 September 2015 15:03
To: andrew.garrett [REDACTED]
Subject: Freedom of Information Request

UNCLASSIFIED

Dear Mr Garrett,

Further to our telephone discussions this morning, I attach copies in PDF format of my letter dated today setting out my decision and reasons in regard to your FOI request in your email sent on 17 August 2015 and the schedule of documents attached to that letter.

The original letter, schedule and a CD with electronic copies of the documents I have decided should be released to you is being posted to you today.

Yours sincerely,

John Mathieson
Deputy Registrar

Principal Registry
Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au

From: [Andrew Garrett](#)
To: [John Mathieson](#)
Cc: [Andrew Garrett](#); FinassGeneral@ag.gov.au; [Peter Weekes](#)
Subject: Review of FOI request
Date: Sunday, 4 October 2015 11:29:54 AM

Dear John

Could you please confirm to me by return email which officer of which Court will be undertaking the relevant Internal Review of your FOI decision by return email?

It is my view that every officer of the two courts involved will be conflicted in any review process and that the review should be considered by a Registrar of the High Court.

As you know I have accepted a grant of Financial Assistance from the office of the Commonwealth Attorney General to bring a proceeding in the High Court of Australia in the original and exclusive jurisdiction against the Federal Court, the Federal Circuit Court, the State of South Australia and the Supreme Court of South Australia On the grounds that the courts ought not use the provisions of the Bankruptcy Act 1966 (Cth), the Corporations Act 2001 (Cth) or the vexatious litigant provisions of the Supreme Court Act 1935 (SA) and the Federal Court Act 1976 (Cth) as a barrier to justice.

It is my clear view, having revisited the reasons of Mortimer J dated 21 November 2014, that Registrar Caporale "yanked the chain" of every judicial officer sitting in matters involving me as well as the Chief Justice and that the relevant judgements were given against the background of complaint by him in respect of use of Court Resources rather than the application of the inherent natural jurisdiction and FCR 1.32.

It is my view that the interference of Registrar Caporale and the Chief Justice in proceedings involving me and the conduct of the judicial officers in both the Federal Court and the Federal Circuit Court is a National Disgrace.

I am deeply concerned about the erosion of the public confidence in respect to the impartiality of both of the aforementioned Courts should this matter come to light as it inevitably will upon the commencement of the foreshadowed proceedings.

Once again I make this invitation to the Courts and the judicial officers involved to reconsider the proper application of the provisions of the International Covenant on Civil and Political Rights (Australian Treaty Series No 23), the Constitution, the Rule of Law, the Freedom of Information Act 1982 (Cth) FCR 1.32 and s17 of the Federal Court Act to vary set aside and/or quash their own decisions and make such directions as they deem fit.

I make this request on the basis of the findings of the High Court of Australia that each judicial decision made in proceedings involving me is unlawful within the meaning of Project Blue Sky as being administrative decisions under Administration Law invoking the Courts inherent jurisdiction and obligation to inquire.

As you know the aforementioned request for internal review of your FOI relates to my application for compensation under the provisions set out in my correspondence.

Of course I have the greatest respect for the Constitution and the Executive offices created under various Statutes including the acts that created the two aforementioned Courts.

While I am deeply and profoundly disturbed by the willingness of the relevant judicial officers to step outside of the boundaries of what I believe ought to be the proper application of jurisdiction I am more profoundly disturbed by the Constitutional Crisis of public confidence that will inevitably follow any seepage of my complaints into the public environment.

As with all matters I remain conscious of my own obligations under the Civil Disputes Resolution Act 2011(Cth) and the Civil Procedures Act 2010 (Vic) to take all steps necessary to resolve this fundamentally constitutional dispute prior to invoking the jurisdiction of the High Court of Australia.

I invite the court to make me an offer in all of my capacities to settle the dispute by way of;

1. Confidential letter of apology addressed to me from the Chief Justice and each judicial officer in respect to each proceeding in each court,
2. Making the relevant changes to all judgements and quash, vary or set aside all reasons and orders made on the basis of ALL of the evidence filed in each proceeding.
3. Requesting that I withdraw my application for Compensation
4. Requesting that I withdraw my application for Public Interest Test Case Funding
5. Paying my costs and disbursements since the failure of Justice Lander and Justice Mansfield to set aside the sequestration order made in AZ 90 of 2004 in respect to a debt that was paid in the 22nd September 2004 (with Receipt) and in any event could NOT and did NOT legally exist

It seems to me that any money the two Courts may consider offering in respect to my application for Compensation and my application for Public Interest Test Case Funding as well as those Commonwealth moneys that are set aside by the Commonwealth Attorney General might be better applied in the Public Interest to re-educating the Judiciary and the Registrars on their proper roles and the administration of Justice Generally.

My offer remains open for acceptance until otherwise withdrawn by me in writing

Best Regards

Andrew Garrett

Sent from my iPhone

John Mathieson

From: Andrew Garrett <andrew.garrett@>
Sent: Thursday, 15 October 2015 4:03 PM
To: John Mathieson; Caroline Tjoa; Finass General: AGD:Attorney-General's Department
Cc: Tavoraro, Vincent; Jordan, Chris;
Subject: Re: Request for financial assistance under the Public Interest Test Funding Scheme
Attachments: The Bethcar StrategyBreach of Model Litigant Obligations.pdf; Scanned Third Affidavit of the Paintiff dated 26th October 2014.pdf; 10-06-1981 - House of Assembly - Legal Practitioners Bill committee reading.pdf

Dear John,

I have copied the Human Rights Commissioner and the Commonwealth Attorney General's Department on this communiqué.

Thank you for your correspondence, the CDDA scheme was established under s61 of the Constitution and applies to areas of discretion to make decisions based on Morality and the Legal Services Directions 2005 (Cth), the Common Law, the Constitution, the Rule of Law all apply in this situation.

I note that you have advised that the Court does not have a budget for the funding of a Test Case Funding and therefore cannot make such a grant available, the Commissioner of Taxation has that budget available to him so I assumed you would. I note that the Commissioner has similarly declined the grant of financial assistance under the public interest test case funding program for reasons that are incomprehensible.

The Commissioner and his personnel have applied "the Bethcar Strategy" thus far in my applications for compensation and I urge the Courts not to fall into the same administrative law error.

As you know, the Grant of Financial Assistance from the Office of the Commonwealth Attorney General provides for me to bring proceedings against the Federal Court of Australia and the Federal Circuit Court of Australia in respect to a fundamental breach of my Human Rights under Article 14(1) and the application of the provisions of the *Bankruptcy Act* 1966 (Cth) and s37AO of the *Federal Court Act* 1976 (Cth) as a barrier to Justice.

I remain speechless that even in circumstances where the Plaintiff admitted facts under the Federal Court Rules that the Honourable Davies J avoided making a determination in my favour, the Transcripts speak for themselves, it will be beyond the comprehension of any reasonable person that Her Honour could make such a judgement reflecting Her Honours reasons in VID 739 of 2015 making the Third Vexatious litigant Judgment without making a finding on the merits before the Federal Court.

The misbehaviour of the Registrars and the Judiciary involved is morally reprehensible, unconstitutional and simply appalling.

It appears to me that, like it or not, and in the absence of a satisfactory commercial resolution and apology following my offer made last weekend that this complaint will proceed to contest, I am satisfied that I have pursued all available options open to me prior to seeking to invoke the Jurisdiction of the High Court

I have referred to the Bethcar Strategy in various communications that you have been copied on to the Human Rights Commissioner as well as in evidence filed in the court and invite you to review the attached Transcripts of the Royal Commission into Institutional Responses to complaints of abuse of children while in institutional care.

In this regard I provide you a copy of my affidavit filed in the Victorian Supreme Court SCI-2014-03714; *Andrew Garrett v Legal Services Board* dated 26th October 2014. (copy attached)

As you know it is my case that the reactions of the Federal Circuit Court of Australia and the federal Court of Australia to my applications under FCR 1.32, FCR 22, FCR 2.32, the FOI Act, and s20 of the Federal Court Act reveals the extent of Defective Administration that I noticed in respect to my applications in MLG177 of 2015.

The aforementioned transcripts reveal that the costs to the taxpayers of the litigation involving Bethcar was \$3,700,000 while the legal expenses incurred by the plaintiffs was around \$2,000,000, the Department of Family and Community admitted wrong doing and breaches of the relevant Model Litigant Obligations in circumstances where Victims of Abuse became Victims for the second time.

Please confirm to me having regard to the Tribunal/ Administrative Law obligation to inquire that you are fully apprised of the Model Litigant Obligations appendix B to the *Legal Services Directions* 2005 (Cth).

I refer to my communicate to the Human Rights Commissioner dated 14th October 2015 at 4.54 pm (SA time) and ask you to confirm to me your receipt of that communicate, which you will note names the relevant Registrar

Please consider carefully the application of an adversarial strategy such as may be available in open court to the quite different obligations under administrative law that are incumbent upon you in this assessment process.

Relevantly, I refer you to the attached reading of the Legal Practitioners Bill Committee Reading highlighted sections which looms large in my foreshadowed application to join the Federal Court of Australia, the Federal Circuit Court, the Judicial Officers named the attorney general of South Australia the District Court of South Australia and the Supreme Court of South Australia to my application to reopen M42 of 2014 in the High Court of Australia.

I will be reliant on the affidavit materials already filed in that Honourable Court and will be happy to forward a copy to you for your consideration as part of the CDDA Application.

In that affidavit material and submissions I refer to the European System of Justice, sourcing of Judicial Officers from Judicial Colleges (not lawyers) and the importance of Advocates General.

I ask you to consider this communicate as an application under the provisions of the Freedom of Informations Act 1982 (Cth) for a copy of many document or thing releasing to complaints by any person except me against Judicial Officers and/or Registrars of both the Federal and the Federal Circuit Courts of Australia.

Would you be kind enough to also include in the FOI Application any document or thing related to consideration given by Court officers Administrative, Judicial and otherwise in respect to the application of the European System of Justice in Australia?

Best Regards

Andrew Garrett

From: John Mathieson <John.Mathieson@fedcourt.gov.au>

Date: Thursday, 15 October 2015 at 11:12 AM

To: Andrew Garrett <andrew.garrett@fedcourt.gov.au>

Subject: Request for financial assistance under the Public Interest Test Funding Scheme

UNCLASSIFIED

Dear Mr Garrett,

Please see attached letter regarding your request for financial assistance under the Public Interest Test Funding Scheme.

Regards

John

John Mathieson
Deputy Registrar
Principal Registry

Federal Court of Australia
john.mathieson@fedcourt.gov.au
Phone [REDACTED]
www.fedcourt.gov.au



Telephone: [REDACTED]
Facsimile: (02) 9223 1906
DX 613 SYDNEY

**FEDERAL COURT OF AUSTRALIA
PRINCIPAL REGISTRY**

A.B.N. 49 110 847 399

LEVEL 16
LAW COURTS BUILDING
QUEENS SQUARE
SYDNEY NSW 2000

Your Ref:
Our Ref:

21 October 2015

Mr Andrew Garrett
[REDACTED]

By email to [REDACTED] and by post.

Dear Mr Garrett,

Freedom of Information Requests

On 14 October 2015 I wrote to you advising, amongst other things, that the Court and the Federal Circuit Court had written to the Office of the Australian Information Commissioner (OAIC) seeking a declaration under section 89K of the *Freedom of Information Act 1982* (FOI Act) and that, pending a decision being made on that request, no action would be taken on your request for an internal review under the FOI Act contained in your email to me of 25 September 2015. I attached to that email a copy of the letter to the OAIC (with enclosures) from the Courts dated 12 October 2015.

In an email from you which I received on 15 October 2015 you make two new requests under the FOI Act. I have today written again to OAIC (copy attached with enclosures) requesting that the declaration sought by the Courts in their letter of 12 October 2015 be extended. The OAIC will also be in touch with you about this in due course.

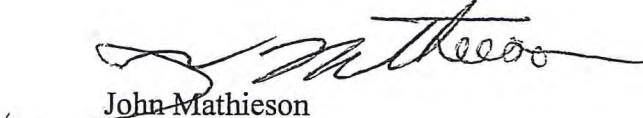
However, pending a decision being made on the Courts request to OAIC, no action will be taken on your new requests under the FOI Act.

In your email of 15 October 2015 you ask me to confirm that I am “fully apprised of the Model Litigant Obligations appendix B to the Legal Services Directions 2005 (Cth)”. I am familiar with the Legal Services Directions, including all of the appendices to Schedule 1 of that instrument, and the case law in relation to it. The latter includes, of course, the judgment of this Court in *Caporale v Deputy Commissioner of Taxation* [2013] FCA 427 to which you have also referred in a number of other emails which I have received from you.

In that email you also ask me to confirm that I had received your “communique to the Human Rights Commissioner dated 14th October 2015 at 4.54 pm (SA time)”. I received two emails from you on 14 October 2015 time stamped 3.06 pm and 5.50 pm respectively both of which are addressed to a number of addressees and copied to others. The first had a subject heading of “Re: Royal Commission [SEC=UNCLASSIFIED] & The Bethcar Strategy” and is

addressed in its body to "Dear Cannice". The second had a subject heading of "SCI-1996-2244; Andrew Garrett & Ors v Mildara Blass Limited and anor" and is addressed in its body to "Dear Daniel". I do not know if either is the communicate you refer to in your email.

Yours sincerely



John Mathieson
Deputy Registrar