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 Court[1]. 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 process[2].

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 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	16 March 2015
3	6 March 2015	Victorian Registry (FC)	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 Act[3].

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 matter[4].

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[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 involved[5] and whether they have been made with the intention to annoy or harass[6].

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 nature[7]. 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 Courts[8]. 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 Court[10].

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 grievance[11]. Further, the particular access actions involves an abuse of process because they seek to re-open matters that have

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[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]

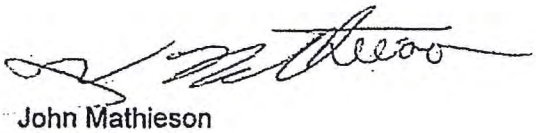
already been determined by the Courts[12]. It is evident that Mr Garrett's motivation is to harass and intimidate rather than seek access to documents.

Conclusion

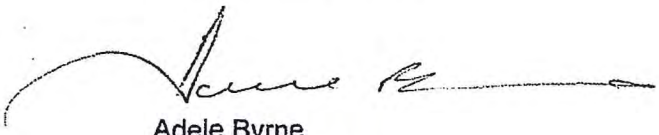
18. We understand that Mr Garrett needs to be given an opportunity to respond to the request for a declaration. A copy of this letter is being sent to him at the same time as it is dispatched to your office.

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: andrew.garrett[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; agd@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
RQ14 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 no 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 realting 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 Practioners 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 our 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

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

21 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. By letter dated 12 October 2015 but sent on 14 October 2015 the Federal Court and the Federal Circuit Court (the Courts) wrote to you seeking a declaration under s 89K of the *Freedom of Information Act* 1982 (FOI Act) in relation to Mr Andrew Morton Garrett.

2. On 14 October 2015 a copy of that letter to your office was sent to Mr Garrett for his information (see paragraph 18 of the letter referred to in paragraph 1) along with another letter to him in relation to a claim he has made seeking compensation from the Federal Court and the Federal Circuit Court under the *Scheme for Compensation for Detriment Caused by Defective Administration* (CDAA Scheme).

3. On 15 October 2015 another letter was sent to Mr Garrett in relation to a request he made for a grant of financial assistance from the Federal Court under the "Public Interest Test Funding Scheme" to match the funding that the Office of the Attorney-General has agreed to provide him under that Scheme. That letter indicated that no funding for public interest test cases is available or (for constitutional reasons explained in the letter) could lawfully be provided by the Federal Court to any person or entity.

4. In response to the letter referred to in paragraph 3 above, later on 15 October 2015 an email (see attached) was received by me from Mr Garrett making reference to the CDAA scheme; his assumption that as the Commissioner of Taxation has a budget for test case funding so would the Federal Court; that the misbehaviour of Registrars and the Judiciary is "morally reprehensible, unconstitutional and simply appalling"; that the reaction of the Federal Court and the Federal Circuit Court to a number of his applications reveals the extent of the defective administration of the Courts; the "Bethcar Strategy"; his intention of making an application to reopen a proceeding taken by him in 2014 in the High Court of Australia and to join the Federal Court, the Federal Circuit Court and Judicial Officers to that proceeding; and that he wishes to rely on the affidavit material already filed in the High Court in regard to that proceeding, including references made to the European system of

justice, sourcing Judicial Officers for Judicial Colleges and the role of Advocates General, in relation to his CDAA claim. Mr Garrett concludes by requesting:

> "I ask you to consider this communique as an application under the provision of the Freedom of Informations (sic) Act 1982 (Cth) for a copy of many (sic) document or thing releasing (sic) to complaints by any person except me against Judicial Officers and/or Registrars of both the Federal and 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?"

5. These requests, made less than a day after being notified that a vexatious applicant declaration had been sought, are further illustrations of Mr Garrett's irresponsible and immoderate use of the FOI Act; his attempts to use that Act to harass, annoy and intimidate; his lack of insight into his access action behaviour; and of his continued engagement in access actions that involve an abuse of process within the meaning of section 89L.

6. In regard to these requests, I firstly note that, since 12 April 2013, the FOI Act does not apply to any request for access to documents relating to complaint handling by the Federal Court or Federal Circuit court in relation to a Judge of either of these Courts (see subsections 5(1A) and (1C)). This (in relation to the Federal Court) was advised by me to Mr Garrett in my letter to him dated 16 March 2015 regarding the first six FOI Act requests he made to the Federal Court (see attached). Second, both requests are expressed in very broad terms with no attempt to limit the scope to a specific period of time or in some other way to ensure that its impact does not unreasonably divert the resources of the Courts. Third, any complaint by someone other than Mr Garrett against a Registrar of the Courts is likely to contain personal information about court personnel (both past and current) and external persons, raise issues of personal privacy and require consultation under section 27A of the FOI Act. When the scope is unlimited in time, it may include complaints made as long ago as 1976 when the Court was created (noting section 12 does not exclude material in the open access period to the extent that it contains personal information). Even for more recent complaints, the prospect of meaningful consultation on this request would be limited. Lastly, the second request is vague and imprecise but clearly includes documents that do not relate to matters of an administrative nature despite Mr Garrett being very aware from decisions made by both Courts, including on internal review, and by your office that these are excluded from the operation of the FOI Act.

7. It is requested that when you consider the request from the Federal Court and the Federal Circuit Court for a declaration under section 89K of the FOI Act in relation to Mr Garrett that you have regard to these two additional requests under the FOI Act which Mr Garrett has made to the Federal Court since the letter referred to in paragraph 1 above was sent to you.

8. These two new requests have not been processed. In the circumstances, the Federal Court also proposes to suspend that processing until a decision is made in relation to the request of the Federal Court and the Federal Circuit Court for the section 89K declaration.

9. In addition, in view of these two new requests and the circumstances in which they were made, it is requested that the terms of the section 89K declaration sought be extended from as set out in paragraph 2 of the letter referred to in paragraph 1 above so that the Courts can also exclude from consideration any request from Mr Garrett that:

   — Relates to any complaint about or which is otherwise in regard to the personal affairs of any of the personnel of either Court unless the request has been approved in writing by the Australian Information Commissioner.

10. While the Courts are cognisant of the need to confine any declaration to only what is necessary, this latest request demonstrates Mr Garrett is neither focused nor targeted in the requests he makes to the Courts.

11. It is again acknowledged that Mr Garrett needs to be given an opportunity to respond to this additional request to your office. A copy of this letter is being sent to him at the same time as it is dispatched to you.

12. Please contact on 02 9230 8336 if there is any further information required or if I can assist further with this request.

Yours sincerely,

John Mathieson
Deputy Registrar

From:	Andrew Garrett
To:	John Mathieson; Caroline Tjoa; Finass General; Weekes, Peter; AGD:Attorney-General"s Department
Cc:	[redacted] Tavolaro, Vincent; Jordan, Chris; [redacted]
Subject:	Re: Request for financial assistance under the Public Interest Test Funding Scheme
Date:	Thursday, 15 October 2015 4:04:12 PM
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 therefor 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 apalling.

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 were 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 communique 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 communique, 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 communique 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[redacted]>
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

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

COPY

Mr Andrew Garrett
[redacted]

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 Reprenstative (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

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

9 November 2015

Office of the Australian Information Commissioner
Level 3, 175 Pitt Street
Sydney NSW 2000

Attention: Ms Caitlin Emery

Dear Sir/Madam

REQUEST FOR DECLARATION UNDER S 89K OF THE *FREEDOM OF INFORMATION ACT 1982* RE ANDREW MORTON GARRETT

1. Thank you for your emails of 23 and 26 October 2015.

2. I apologise for the omission of the copies of the applications and decisions mentioned in the table at paragraph 6 of the letter from Registrar Byrne and myself dated 12 October 2015. These are now attached (Attachment 1 and Attachment 2 (without enclosures)).

Joint application for a declaration under s 89K of the FOI Act

3. The Federal Court and the Federal Circuit Court are separate agencies for the purposes of the FOI Act. I acknowledge that, ordinarily, an application for a declaration under s 89K of the FOI Act is made by an individual agency. However, in the circumstances of this application, any declaration needs to be made with respect to both the Federal Court and the Federal Circuit Court, in order for it to be effective in preventing access applications by Mr Garrett.

4. I note that there is nothing in the FOI Act to prevent joint applications under s 89K of the FOI Act and that joint declarations have been made where applications raised similar issues. In *Australian Securities and Investments Commission and Sweeney* [2013] AICmr 62 at [8] and *Australian Prudential Regulation Authority and Sweeney* [2013] AICmr 63 at [7] Professor McMillan, after having decided to hear applications for the same person to be declared a vexatious applicant under section 89K together, said that

> "It is not uncommon that different agencies receive requests from the same applicant for similar records, or may have to consult other agencies during FOI processing, or transfer an FOI request to another agency under s 16 of the FOI Act. A declaration under s 89K may not be fully effective in moderating the impact upon an agency of FOI requests received from a particular applicant unless the declaration applies in identical terms to more than one agency."

5. I also note that in *Comcare and Price* [2014] AICmr 24 Professor McMillan considered applications for declarations under section 89K made separately by each of Comcare and the Department of Veteran's Affairs against the same person. At [2] Professor McMillan said:

> "...(B)oth applications were in similar terms, and raised similar issues, and I have decided to deal jointly with them in this declaration and statement of reasons."

6. An important consideration for the making of a joint declaration is that The Federal Court and Federal Circuit Court have overlapping and inter-related jurisdiction in a range of areas of general federal law. In some areas, including bankruptcy, both Courts have concurrent jurisdiction at first instance. In general federal law more broadly, an appeal lies from judgments and orders made by the Federal Circuit Court to the Federal Court.

7. In undertaking its general federal law work, all registry services for the Federal Circuit Court are provided by staff of the Federal Court from a single registry in each capital city location. Federal Court Registrars (who also hold dual appointments as Federal Circuit Court Registrars) provide Registrar support for the Federal Circuit Court including exercising the powers delegated by Judges of that Court and the functions and powers specified in the rules of that Court.

8. Operationally, litigants and legal representatives with different matters in general federal law in both the Federal Court and the Federal Circuit Court, including a matter which may have been dealt with in the Federal Circuit Court at first instance and then in the Federal Court on appeal, may have dealt with the same staff in a registry. Similarly the same registry staff may be involved in matters dealt with in the Federal Court at first instance and later on appeal. As a result litigants and legal representatives sometimes do not distinguish as between the two courts in directing requests or other enquiries associated with court matters.

9. In Mr Garrett's requests and (although not relevant to any consideration by the Commissioner under section 89L but nevertheless relevant in regard to the exercise of a discretion under section 89K) in his complaints and other communications about the conduct of matters involving him or entities associated with him in the Federal Court and the Federal Circuit Court, Mr Garrett frequently fails to differentiate both as between the two Courts and, at times, to conflate roles and processes. As an example directly relevant to the application under consideration by the Commissioner, Mr Garrett sent his FOI request to the Federal Circuit Court dated 30 April 2015, addressed to "the FOI Team", to the Federal Court's generic FOI email address. His two later FOI requests to the Federal Circuit Court were each addressed to a Federal Court Registrar and "Registrar Byrne" sent to the generic email address used for the registry correspondence for the Federal Court's Victoria Registry and Federal Circuit Court's Melbourne Registry in general federal law.

10. The Commissioner's Guidelines make it clear that no fixed number of access actions are required to establish a pattern of repeated requests and that, in appropriate circumstances, a small number of requests may establish a pattern (see

[12.16]). Mr Garrett has made repeated requests to each of the Federal Court and the Federal Circuit Court in relation to dealings which he has had with each of these Courts which are overlapping and associated. As noted above, in doing so he has frequently not distinguished or differentiated between the two Courts.

11. It is suggested that once it is shown that repeated access actions has been taken by a person in relation to agencies with overlapping or associated jurisdiction or responsibilities it is artificial and impracticable to consider each agency in isolation for the purposes of section 89L. It is further suggested that any assessment of a "pattern" must take into account the broader operational context including, as is the case with the Federal Court and Federal Circuit Court, where support is shared.

Application for internal review

12. You have asked that the Court provide any submission it wishes to make in relation to Mr Garrett's application for internal review of 25 September 2015 of my decision of 14 September 2015. In his email in which he makes that application, Mr Garrett says that the grounds of that application is 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 Commission of Taxation dated 16th September 2015 that is attached and my submissions made in all cases heard by Judicial officers in the Victoria Registry". Later he says:

> "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 no (sic) yet been produced by the Courts in breach of s 17 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 (sic) proceedings however I request that the schedule of documents to be considered under the compensation application should nominate all documents in all actions."

13. The "Draft Affidavit" referred to is 50 pages in length. It has many exhibits although none are included with the copy provided. It deposes to events which have occurred primarily from 2009 to September 2015 and contains a mix of statements, assertions, allegations and submissions of fact and law. It does not specifically address Mr Garrett's claim for compensation under the scheme for Compensation for Detriment Caused by Defective Administration (CDDA) against the Federal Court and Federal Circuit Court but does contain some detail of three similar claims made by Mr Garrett against the Australian Taxation Office. I have not attached a copy of that "Draft Affidavit" to this letter however I am happy to provide it to you if you require it.

14. Since 1 January 2014 Mr Garrett has commenced or been a party to 18 proceedings in the Federal Court's Victoria District Registry and three proceedings in the Federal Circuit Court's Melbourne Registry. He has filed an extraordinary number and volume of documents in these matters. In my decision of 12 August 2015 on

internal review of an FOI decision made by Deputy District Registrar Luxton of 19 June 2015, after referring to the "very large number of documents" in the custody and possession of the Court's Victorian District Registry that related to Mr Garrett, I said:

> "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."

15. Mr Garrett's framing of the grounds for this latest application for internal review by reference to a lengthy document of unclear connection to the internal review application demonstrates that his real motivation, at least in part, is to harass and annoy. Further it is clear that this is another attempt by Mr Garrett to circumvent the law and the various decisions made by the Federal Court on initial request and on internal review (and the decision of the Commissioner on 1 September 2015 under section 54W of the FOI Act not to review two of those decisions) that documents relating to his court proceedings are not accessible under the FOI Act and to extend the reach of the FOI Act under this guise to all such documents. It again demonstrates Mr Garrett's irresponsible and immoderate use of the FOI Act and his lack of insight into his access action behaviour. It involves, it is suggested, a clear abuse of process within the meaning of section 89L.

16. For the reasons set out in paragraphs 13 – 16 above and in paragraphs 4 – 6 of my letter dated 21 October 2015, it is suggested that the terms of any declaration made under section 89K include that the Federal Court is not required to process access actions made after 1 September 2015 (the date of the Commissioner's decision mentioned in paragraph 15 above) which do not otherwise comply with the terms of the declaration.

Estimate of time taken to deal with the access requests

17. As can be seen from the table attached (Attachment 3) it is estimated that to date the Federal Court has devoted 48 hours and 20 minutes in decision-making on Mr Garrett's access actions and that the Federal Circuit Court has devoted 7 hours and 10 minutes in its decision-making in Mr Garrett's matters.

18. The FOI Act has only a very limited application to both the Federal Court and the Federal Circuit Court. That Act does not apply at all to judicial officers in either Court or to documents relating to the handling of complaints about judicial officers. Although both Courts, separately, are prescribed authorities, the Act does not apply to a request for access to a document of a court or registry "unless the document relates to matters of an administrative nature". Each year, very few FOI requests are made to either Court. Consequentially very little time and resources have been required to be devoted to FOI by either Court. In each Court only one officer is generally involved in dealing with FOI work and this is normally only as a very small part of the responsibilities and workload of those respective officers.

19. In 2015 to date, **excluding** access actions by Mr Garrett:

- the Federal Court has received a total of eight requests of which five were refused as they were not valid requests (although, for one, the documents requested were provided outside of the FOI Act), one was transferred to another agency under section 16, one was withdrawn and one is currently under consideration. The decision-making time for the six requests which have been finalised totalled only 10 hours; and
- the Federal Circuit Court has received a total of two requests and both were refused as they were not of an administrative nature. The decision-making time for the two requests which have been finalised totalled only three hours.

20. As can be seen when this is compared with the decision-making time mentioned in paragraph 3 above, the time which each of the Court have been required to devote to the management of Mr Garrett's access actions is vastly disproportionate to that required by all other FOI applicants combined (by almost 5 times in the case of the Federal Court and more than two times for the Federal Circuit Court).

Terms of the declaration

21. Finally you ask for suggestions on how the terms of any declaration could be stated more clearly. It is suggested that an appropriate declaration might be:

"Neither the Federal Court of Australia (Federal Court) nor the Federal Circuit Court of Australia (Federal Circuit Court) is required to consider any request from Andrew Morton Garrett (Mr Garrett) under the *Freedom of Information Act 1982* (FOI Act), whether for access to documents (section 15), internal review (section 54), amendment of records (section 48) or applications for review by the Information Commissioner (section 54L), which:

- concerns documents related to past or current proceedings involving Mr Garrett in the Federal Court or Federal Circuit Court and the administration of those proceedings;
- concerns documents relating to the processing or administration of any application under the scheme of Compensation for Detriment Caused by Defective Administration;
- concerns documents regarding the personal affairs of any personnel of the Federal Court or the Federal Circuit Court;
- concerns documents related to the processing or administration of any access or, internal review request, including requests made prior to the date of this declaration; or
- duplicates or substantially duplicates any earlier request made by Mr Garrett to the Federal Court or the Federal Circuit Court.

unless the request has been approved in writing by the Australian Information Commissioner.

The Federal Court is not required to process any request for access to documents or for an internal review made on or after 1 September 2015 which does not otherwise comply with the terms of the declaration."

22. The contact details of Adele Byrne, Principal Registrar of the Federal Circuit Court, are telephone [redacted] or email [redacted]

23. Registrar Byrne has seen this letter in draft and agrees with it. Similarly Registrar Byrne saw my letter to you dated 21 October 2015 in draft prior to its finalisation and also agreed with it.

24. Please contact me on [redacted] if there is any further information required or if I can assist further with this request.

Yours sincerely

John Mathieson
Deputy Registrar

Schedule D - Document 4

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

10 November 2015

Office of the Australian Information Commissioner
Level 3, 175 Pitt Street
Sydney NSW 2000

Attention: Ms Caitlin Emery

Dear Sir/Madam

REQUEST FOR DECLARATION UNDER S 89K OF THE *FREEDOM OF INFORMATION ACT 1982* RE ANDREW MORTON GARRETT

1. Shortly after the transmission to you of my letter of 9 November 2015 and its attachments, I received from Mr Garrett a further email (copy attached with enclosures) dated that same date which concludes:

   "I ask you to accept this communique as an application in writing under the provision of *the Freedom of Information Act 1982* (Cth) of any document or thing relating to my judicial complaints dated 6th June 2015 and 29th October 2015.

   Could I also ask for a copy of any document or thing evidencing consideration by the court of my offer to withdraw my complaints and applications for compensation dated 4th October 2015."

2. In regard to the first two of these requests (i.e. access to documents or things relating to each of his identified judicial complaints), as I noted in paragraph 6 of my letter to you of 21 October 2015, since 12 April 2013 the *Freedom of Information Act 1982* (FOI Act) does not apply to any request for access to documents relating to complaint handling by the Federal Court of Australia (Federal Court) in relation to a Judge (see subsection 5(1A) and (1C)). A copy of my letter to you of 21 October 2015 was sent to Mr Garrett on 21 October 2015. In addition (as also noted in paragraph 6 of that letter to you of 21 October 2015) I advised Mr Garrett that the FOI Act did not apply to complaint handling in the Federal Court in relation to a Judge in my letter to him dated 16 March 2015 regarding the first six FOI requests he made to the Federal Court.

3. The third request (i.e. access to documents or things relating to his invitation in his email of 4 October 2015 for the Federal Court and Federal Circuit Court of Australia to make an offer to him in the terms outlined) is inextricably linked to Mr Garrett's application for compensation under the scheme for Compensation for Detriment Caused by Defective Administration against the two courts which is the subject to his application for internal review of my decision of 14 September 2015.

Submissions in regard to that application for internal review are set out at paragraphs 12 to 16 of my letter to you of 9 November 2015. Such a request would, unless approved in writing by the Australian Information Commissioner, not be required to be considered by either the Federal Court or the Federal Circuit Court under the terms to the section 89K declaration proposed in paragraph 21 of my letter to you of 9 November 2015.

4. I suggest that the requests in Mr Garrett's email to me of 9 November 2015 again demonstrate his irresponsible and immoderate use of the FOI Act; his motivation to use that Act to harass, annoy and intimidate; his lack of insight into his access action behaviour; and his continued engagement in access actions that involve an abuse of process within the meaning of section 89L.

5. It is requested that the Information Commissioner takes into account the additional requests in Mr Garrett's email of 9 November 2015 when giving consideration to the request from the Federal Court and the Federal Circuit Court for the section 89K declaration sought.

6. These FOI requests have not been processed and the Federal Court proposes to suspend that processing until a decision is made by the Information Commissioner in relation to the request of the two Courts for the section 89K declaration. It is clear from Mr Garrett's conduct since he was first notified of the request for the section 89K declaration on 14 October 2015 as well as the Court's suspension of further FOI access actions pending that decision that he does not accept this and intends to continue to make further FOI requests regardless. In these circumstances and in view of the proposed terms of the declaration sought (see paragraph 21 of my letter to you of 9 November 2015) it is requested that the Information Commissioner approve that both Courts cease processing access actions pending a decision being made on the request for the declaration (see paragraph [12.36] of the OAIC Guidelines).

7. I am sending a copy of this letter (with enclosures) and my letter to you dated 9 November 2015 (with enclosures) to Mr Garrett. I have however redacted from paragraph 23 of the latter Registrar Byrne's direct telephone number and email address as both are personal information. I have discussed this letter with Registrar Byrne before finalising it and am also forwarding her of copy of it separately.

8. Please contact me on [redacted] if there is any further information required or if I can assist further with this request.

Yours sincerely

John Mathieson
Deputy Registrar

Australian Government
Office of the Australian Information Commissioner

Our reference: RQ14/01968

Mr Andrew Garrett
[redacted]

By email to: [redacted]

Dear Mr Garrett

Application for Information Commissioner Review

Background

I refer to your request for Information Commissioner review (IC review) of two decision of the Federal Court (Victoria Registry Division) dated 19 June 2015 and 27 July 2015 made to the Office of the Australian Information Commissioner (OAIC) on 17 August 2015. Both decisions refused you access on the basis that the *Freedom of Information Act 1982* (FOI Act) does not apply documents you seek.

On 18 August 2015, we advised you that under s 54W of the FOI Act, the Commissioner has the discretion not to conduct a review. On 26 August 2015, you submitted:

> On the 30th July 2015 following my application for Public Interest Test Case Funding to the office of the Commonwealth Attorney General ("the AG") I accepted a Grant to allow me to brief solicitors with a view to commencing two High Court Proceedings...
>
> The proposed High Court proceeding that is relevant to the FOI applications made to the Federal Court of Australia and the Federal Circuit Court of Australia seeks to commence a proceeding in the High Court as the Original and Exclusive Jurisdiction naming the aforementioned Authorities as Respondents along with Registrar Caporale and the following Justices that seek review of various judicial decisions made in the Courts...
>
> It is apparent to me from my various appearances that there has been a great degree of email traffic between various Judicial Chambers, the Registrars of the Court and the Chief Justice...
>
> I first made application under the provisions of the FOI Act between the 4th to the 6th March 2015 which was declined on the 16th March 2015 by Registrar Mathieson on the basis of that the Judicial Officers that I sought FOI from were not an authority.
>
> I do not believe there are no documents of an administrative character in existence and sought internal review on the 26th April 2015 which Registrar Mathieson first advised would be undertaken by Registrar Caporale; I objected to review by Registrar Caporale as I believe the Registrar has manipulated Judicial Outcomes and was subsequently undertaken by Registrar belcher on the 3rd June 2015 and upheld on the basis of the findings of the

High Court in *Kline* as well as the ground that Judicial Officers of the Federal Court were not an authority.

On the 21st May 2015 I made an FOI request of Registrar Caporale which was declined by Registrar Luxton on the 19th June 2015 relying on a variation of interpretation of *Kline*.

Discretion not to conduct an IC review

Under s 54W(a) of the FOI Act, the Information Commissioner may decide not to undertake a review, or not to continue to undertake a review, if he is satisfied that an IC review application is frivolous, vexatious, misconceived, lacking in substance or not made in good faith.

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 realting to the 'management or administration of office resources'.

If you have any questions about this letter, please contact Mr Richards by email at kenneth.richards[redacted]. In all correspondence, please quote RQ14/01968.

Yours sincerely

Karen Toohey
Assistant Commissioner
Office of the Australian Information Commissioner

1 September 2015

---

[1] Office of the Australian Information Commissioner, *Guidelines issued by the Australian Information Commissioner under s 93A of the Freedom of Information Act 1982* [2.7] (footnotes omitted).

John Mathieson

From: Andrew Garrett <andrew.garrett[redacted]>
Sent: Monday, 9 November 2015 1:24 PM
To: John Mathieson
Subject: RE: Freedom of Information Request
Attachments: Email to John Mathieson 16062015 re forward email dated 06062015 to Chief Justice.pdf; Email AMG to JM dated 4th October 2015.pdf; Extension to 6 June Judicial Complaint dated 29102015.pdf

Importance: High

Dear John

Further to our recent communications I am yet to hear anything from the Office of the Australian Information Commissioner regarding your refusal dated 14th October 2015 to conduct and Internal Review of your FOI Decision regarding my application for compensation.

I have recently copied you on correspondence to the Chief Justice and the Commonwealth Attorney General in respect to my complaint regarding various members of the Judiciary of the Federal Court of Australia and the Federal Circuit Court of Australia.

I ask you to accept this communique as an application in writing under the provisions of *the Freedom of Information Act* 1982 (Cth) of any document or thing related to my judicial complaints dated 6th June 2015 and 29th October 2015.

Could I also ask for a copy of any document or thing evidencing consideration by the court of my offer to withdraw my complaints and applications for compensation dated 4th October 2015.

Best Regards

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

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M: [redacted]
F: [redacted]
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From: John Mathieson [mailto:John.Mathieson@fedcourt.gov.au]
Sent: 14 October 2015 14:58
To: 'andrew.garrett[redacted]
Subject: Freedom of Information Request

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

andrew.garrett[redacted]

From: John Mathieson <John.Mathieson@fedcourt.gov.au>
Sent: 10 July 2015 12:21
To: andrew.garrett[redacted]
Subject: In the matter of Andrew Garrett; Correction
Attachments: Garrett Signed Letter.pdf

UNCLASSIFIED

Dear Mr Garrett,

Please see attached letter.

Regards,

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

From: andrew.garrett[redacted] [mailto:andrew.garrett[redacted]]
Sent: Tuesday, 16 June 2015 12:43 PM
To: John Mathieson
Subject: FW: In the matter of Andrew Garrett; Correction
Importance: High

Dear John

Could I ask you to forward this communique to His Honour Chief Justice Allsop's Chambers please?

I wished to correct my reference to FCR 1.34 which should in fact FCR 1.32

Best Regards

Andrew Garrett

From: andrew.garrett[redacted] [mailto:andrew.garrett[redacted]]
Sent: 06 June 2015 11:24
To: John Mathieson
Subject: In the matter of Andrew Garrett
Importance: High

Attn. the Honourable Chief Justice Allsop
The Federal Court of Australia
Principle Registry
Cc Registrar John Mathieson
Justice Beach
Justice Pagone
Justice Davies
Justice Jessup

Justice Mortimer

Re Access to Justice

Dear Chief Justice,

I write to address a very serious issue with your Honour.

As you know on the 21st November 2014 the Honourable Mortimer J delivered Her Honour's Judgment and Reasons in *Garrett v Make Wine & Ors* (2015) FCA 1258 where Her Honour set out at paragraph 219 of Her Honour's reasons

> 219 In my opinion there is an ample basis on the evidence in this application, together with previous reported decisions and Mr Garrett's spectrum of current litigation in this Court, for the making of wider orders under s 37AO(3), prohibiting Mr Garrett from commencing any further proceeding in any registry of the Federal Court, without the leave of a judge. On the basis of the conclusions I have reached in these reasons for judgment, and the number of proceedings I have now reviewed which he has instigated, it seems to me it is arguable that it would best serve the overarching purpose identified in s 37M of the Federal Court Act, and the object of s 37AO, if Mr Garrett were required to seek leave before commencing any further proceeding in this Court, in any Registry. I propose to draw my reasons for judgment in this matter to the attention of the Attorneys-General of the Commonwealth and the State of Victoria, and the Registrar of this Court, so that consideration might be given to this question. Of course, no such order could be made without giving Mr Garrett a reasonable opportunity to be heard in accordance with s 37AO(4).

Her Honour made the first of three vexatious litigant orders against me that have been made apparently under your Honour's supervision.

I respectfully suggest that in fact Her Honour was instructed to make such a finding and entered into communication with other in respect to the administration of VID 248 of 2014 prior to delivery of Her Honour's reasons.

The other two vexatious litigant orders were made by the Honourable Justice Pagone in *Garrett v Commissioner of Taxation* (2015) FCA 117 and by the Honourable Justice Davies in *Garrett v Commissioner of Taxation* (2015) FCA 485.

Without exception each of those three judgments relied on judgments in other courts in the making of the relevant order without making a finding on the merits OR reviewing my conduct in the proceedings.

The Court has thus far failed to apply the findings of this learned court in respect to Vexatious Litigants and also failed to apply *Attorney General (Vic) v Wentworth* (1998) 14 NSWLR 481, and make a finding that a vexatious proceeding was one that is so obviously untenable or manifestly groundless as to be utterly hopeless.

Without a finding on the merits in each of the aforementioned proceedings commenced by me it is my case that it is inconceivable that any unbiased mind exercising discretion in respect to the powers of the court would make such an order.

It is my view therefor that the minds of the Judiciary exercising discretion in all cases that I have appeared in thus far have been tainted.

It is also my view that the purpose of the Legislature in formulating the relevant Vexatious Proceedings sections of *the Federal Court of Australia Act* 1976 (Cth) was not to create barrier to justice but rather to ensure the Court and the parties were not put to unnecessary expense.

It is my view that the Federal Court of Australia and possibly the Federal Circuit Court of Australia have abused process for an improper purpose and used the Vexatious Litigant Sections so as to create a barrier to Justice.

I am now forced to argue the merits of the applications on appeal in circumstances where the evidence of the merits was available to the Court below in a process akin to Double Jeopardy.

His Honour Justice Beach received instructions from you on or before the 28th January 2015 in respect to the administration of three proceedings to be heard in the Melbourne Registry of the Federal Court of Australia when His Honour sent the email below to the parties in VID 730, VID 731 and VID 732 of 2014.

His Honour also heard the appeal in VID 49 of 2015 and relied upon the vexatious findings of Pagone J in his judgment on appeal revealing the extent of the biased mind brought to the matters heard by His Honour.

I have addressed this issue with His Honour Justice Beach on more than one occasion and sought access to correspondence between Your Honour and Beach J and also any other person related to proceedings brought by me in the Federal Court.

I have asked His Honour and Justice Tracey before him to exercise the inherent jurisdiction of the Court as well as s179 of *the Bankruptcy Act* 1966 (Cth) to investigate Francis Michael Cahill, Stephen James Duncan and Peter Ivan Macks.

With the greatest of respect I believe the Court has deliberately failed to address those points in the reasons delivered at your instructions.

Again, with respect it is my view that the jurisdictional failure of this learned Court beggars belief resulting in significant constitutional, Common law and Human Rights issues arising in the administration of all matters in which I have appeared.

It may be that I am quite wrong in respect to my belief and that I have fundamentally misconstrued the evidence before me, if I am incorrect then I make this apology in advance for any misunderstanding.

However it is my fundamental Constitutional, Common Law and Human Right to express myself if I so choose in respect to my perceived denial of the right to a fair hearing.

I wrote to the Honourable Justice Beach on the 5th June 2015 as set out below seeking that His Honour exercise FCR 1.34 and review all of His Honour's own judgements by His Honour's own motion for the reasons set out in that communique.

I ask you to review those reasons and also to bring your Honour's own motion under FCR 1.34 to intervene in the proceedings heard by Davies J, Pagone J, Tracey J and Beach J.

I do not make the same request in respect to the reasons of Mortimer J as I believe it was my own failing that did not ensure that the exhibits to my affidavits were available to Her Honour in the Summary Judgment application brought by the Respondents.

Thus far Volumes 4 and 5 of my affidavit dated 14th July 2015 and the relevant FOI releases from the Australian Taxation Office have been before the Judicial Officers no fewer than 10 times as set out in my email to His Honour Beach J below.

Without exception the Judiciary appears to have been wilfully blind to that evidence, which has been the subject of written submissions and in particular was detailed in my submissions dated 18th February 2015 to His Honour Pagone J in VID 600 of 2015 and also to Beach J in VID730, VID 731 and VID 732 all of which were heard on the 13th March 2015.

I provide a copy of the submissions in VID 600 and VID 731 for your Honour's attention and review.

Open System of Justice

I direct your attention to the attached affidavit filed yesterday in VID 297 of 2015 which highlights at exhibits AMG 3-12 the disturbing failure of this Honourable Court to comply with the intention of the Legislature set out at s17 of *the Federal Court of Australia Act* 1976 (Cth)

I have sought to exercise the provisions of the Freedom of Information Act 19832 (Cth) and FCR 2.32 to access information related to the administration of all proceedings in which I have appeared in this learned Court without success.

The Originating Application in VID 297 of 2015 seeks ancillary orders against non-parties as follows;

3. That an order pursunat to FCR 20.11 & 20.23 for non party discovery is made Registrar Byrne to provide a schedule of and a copy of any document or thing the administration of MLG 177 of 2015, MLG 1631 of 2014 and MLG 2265 of including copies of any communication between the chambers of the Judicial presiding in those proceedings and any other person.

4. That an order pursunat to FCR 20.11 & 20.23 for non party discovery is made Registrar Caporale and Registrar Allway to provide a schedule of and a copy document or thing related to the administration of any proceeding involving th (in any capacity) heard in the Federal Court of Australia Melbourne Registry b 1st March 2014 and today's date including copies of any communication betw chambers of the Judicial Officers presiding in those proceedings and any othe and in particular the Chief Justice and the Commonwealth Attorney General, meetings relating to the administration of those proceedings by any person in Judicial Officer presiding and any other document or thing related to the maki orders under s37AO of the Federal Court of Australia Act 1976 (Cth) against t Appellant in any proceeding.

It is clear to me that the Court is resisting my right of access to information relating to the administration of cases.

I will be deeply disturbed if the orders expressed above are not able to be made.

This court has rejected every invitation for probono referral and Alternative Dispute Resolution made by me since the 1st August 2014.

I have invited the Honourable Justice Davies to recuse herself from the hearing of VID 158 – VID 166 of 2015 on the grounds that the Justice is not able to bring an unbiased mind to the proceedings.

I have not received a response from Her Honour in this regard.

I am now forced to make a further application under s37AR for orders under s37AT to seek Her Honour to withdraw from those proceedings. I recognise how this may be perceived, nevertheless it is my right and one that I seek to exercise.

I invite your Honour to communicate with me and respond as to whether your Honour believes that my approach thus far is misconceived.

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

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From: andrew.garrett[redacted] [mailto:andrew.garrett[redacted]
Sent: 05 June 2015 10:38
To: associate.beachj@fedcourt.gov.au; [redacted]
Cc: [redacted]; EA - Beach J (EA.BeachJ@fedcourt.gov.au); Tavolaro, Vincent; [redacted]
Subject: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett
Importance: High

Dear Associate Beach,
Cc Registrars Allway, Caporale, and Byrne

I hope you are well.

I refer to my communique to you on the 25th May 2015 and observe I have not received a response from His Honour in this regard and request that you bring this communique to His Honour's Attention.

I advise that I have copied this communique to the Trustee in Bankruptcy of my Bankrupt Estate and his assistant in order to assist the Trustee in promptly acting in accordance with His Statutory Duties and gather the assets of the Bankrupt Estate.

It is worthy to note

In ***Owens***[8] the Victorian Court of Appeal held (after citing Re Lofthouse), that a right of appeal can fall within s 60(2), even though it is not property and does not vest in the trustee in bankruptcy but only if there was *'such a connection between the action and the estate as to make s60(2) applicable'*

His Honour at paragraph 58 also stated;

> *'In any event, there is a difference between a cause of action at trial to vindicate an existing right, and the exercise of a statutory power of appeal. A bare majority of the High Court has held that a right of appeal 'does not have the character of property merely because it is the creature of statute': **Cummings v Claremont Petroleum NL** (133) (Brennan CJ, Gaudron & McHugh JJ).'*
>
> *'But their Honours also said that '[a] chose in action may be the property of the person entitled to enforce it' (133), citing **Georgiadis v Australian & Overseas Telecommunications Corporation** [1994] HCA 6; (1994) 179 CLR 297, 303 - 304 (Mason CJ, Deane & Gaudron JJ), 312 (Brennan J), 325 (McHugh J) where their Honours, respectively, spoke of 'property' as including 'every species of valuable right', an 'action for damages for negligence', and 'a liability ... to pay damages'.'*

Of course the issue do not apply in respect to judgments that are reserved, unless those cases are reopened in the interests of Justice such as under FCR 1.34.

It is my view that this court has taken instruction from others in the exercise of discretion and has breached my constitutional, common law and human rights.

FCR 2.32 and s17 of *the Federal Court of Australia Act* 1976 (Cth)

Respectfully, I again request access to the court files of VID 248, VID 304, VID 425, VID 730, VID 731, VID 732 of 2014 and VID 49 of 2015 along with copies of all correspondence between any Judicial Officers, Registrars personnel of the Federal Court of Australia and any other person pursuant to the provisions of FCR 2.32 and s17 of *the Federal Court of Australia Act* 1976 (Cth)

Following my recent communications with Registry recently in respect to the FOI Applications of the 6th March 2015 and following I wish to again make this request for access to the court files in all proceedings referred to in this communique directly from His Honour.

As His Honour is aware I sought leave to adduce new evidence in VID 731 of 2014 amongst which was the materials that were not included in the Court Books prepared by the Respondents in VID 248 of 2015 being the exhibits to my affidavits and most particularly volumes 4 & 5 of my affidavit dated 14th July 2015.

That affidavit and exhibits was the subject of submissions to His Honour Justice Tracey in both VID 304 and VID 425 of 2014 and consequently was also before His Honour as evidence adduced on Appeal from the Court below.

His Honour has my oral and written submissions in that proceeding that I say evidences that I was bankrupted in respect to a debt in ADG 90 of 2004 that could not and did not legally exist and that the Trustees in Bankruptcy knew this and trespassed on various estates for a period of 7 years in respect to Mr Macks and 9 years in respect to Mr Duncan.

Volume 4 and 5 of my 14th July 2014 affidavit contained amongst other things details of FOI releases that were also put before His Honour once again in VID 730, VID 731 and VID 732 of 2014 by way of application for a stay and affidavit in support dated 6th February 2015.

His Honour dismissed the Application for Stay without considering the affidavits in support or the merits of the Application in all three actions and proceeded to list and hear these three major Appeals that were managed by a self-represented litigant in person on the same day being 13th March 2015.

In fact His Honour was not interested in any of the aforementioned Appeals being heard impartially as His Honour was acting under the instructions of others including the Chief Justice.

His Honour advised me, even before reviewing the evidence at the end of the hearings of VID 730 and VID 732 on the 13th March 2015, that judgment would be delivered on the 16th March 2015 at 9.00 am in those matters.

His Honour has reserved His decision in VID 731 of 2014 and has received supplementary submissions from me seeking to adduce new evidence being the Notices to Admit Facts filed in VID 158 – VID 166 of 2015; *Treasury Wine Estates Limited v Andrew Garrett* along with a further Notice to Admit served on the Third Respondent on the 1st May 2015 in accordance with the Court Rules and the Unwritten Law.

No doubt His Honour is aware that on the 15th May 2015 I was the subject of a sequestration order following the rejection of His Honour of my appeal VID 49 of 2015.

His Honour relied on the vexatious litigant orders made by Pagone J in the delivery of His Honour's reasons in VID 49 of 2015 though I fail to see the relevance, I believe this Judgment simply part of the overall

strategy of the court to continue to frustrate my constitutional, common law and human rights of access to justice.

Thus far the materials of which I speak produced under FOI from the Australian Taxation Office between June and August 2014 have never before been before any court of law in the country prior to the swearing of my affidavits dated 14th July 2014 and annexing of Volumes 5,6 & 7 to that affidavit.

Those materials have been placed before His Honour on 6 separate occasions, 3 times from the Courts below and 3 times on appeal.

Those Materials were before Tracey J in two matters and before Pagone J twice in VID 557 and VID 600 of 2014 were also ignored by those Justices.

As your Honour is aware I remain content for the Matter on Appeal in VID 731 of 2014 to be referred back to Her Honour Justice Mortimer, through my own stupidity in trusting the lawyers for the Respondents to include the exhibits to the affidavits in the Court Books and thinking they were not critical to the summary judgment application as all I needed to do was present the arguable case.

FCR 1.34

I now make this informal Application for His Honour to reconsider His Own Reasons given in VID 730, VID 732 of 2014 and VID 49 of 2015 pursuant to FCR 1.34 on the basis of the evidence before His Honour and to Not take instruction from others in the exercise of Discretion of the Powers of the Court in respect to the Jurisdiction of Natural Justice.

Despite the extremely serious findings of the Honourable Burchardt J in *Garrett v Cahill* (2015) FCCA 26 at paragraph 53 and the failure of His Honour Burchardt J to refer the matter, the Honourable Beach J also had an obligation to supervise Cahill as an officer of the court and failed to do so for the improper purpose of dismissing my Appeal in VID 49 of 2015.

The jurisdictional error demonstrated thus far by His Honour is truly extraordinary hence the reason why I seek His Honour to consider FCR 1.34 specifically and revisit His Honours own decisions by His Honour's own motion.

I respectfully submit that the materials that have been before your honour on 6 separate occasion reveal;

1. The extent of the liability of Treasury Wine Estates Vintners Limited as a consequence of issuing Recipient Created Tax Invoices that it was no legally entitled to issue and that in any event did not related to a Taxable Supply.

2. The effect of the indemnity under cl 17.3 of the Deed of Settlement which also acts to indemnify the newly appointed Trustee in Bankruptcy

3. The unenforceability of the Deed of Settlement dated 10th March 2009 relied upon by Tracey J in circumstances of Fraud, the improper appointment of the Trustees, the annulment of my Bankruptcy and that of my ex-wife pursuant to s153B of *the Bankruptcy Act* 1966 (Cth) and the lack of standing by them to execute the said Deed in all of the circumstances.

4. The extent and knowledge of Stephen James Duncan and Peter Ivan Macks in trespassing on various estates including my Bankrupt Estate and that of my Ex-Wife.

5. The extents to which the Australian Taxation office has gone to in order to conceal the relevant unlawful administration in respect to the Tax Affairs of the Andrew Garrett Family Trust and the entities related to me

Similarly Macks and Duncan are officers of the Court and are subject to the Court's inherent jurisdiction and the Duty of His Honour as requested by me to investigate under s179 of *the Bankruptcy Act* 1966 (Cth).

I have invoked the Court's jurisdiction under s153B and s179 of that Act and yet the Reasons of His Honour and the Hourable Tracey J have been silent to the Courts' Duties and Obligations in this regard as indeed they have been silent to the Courts obligations arising out of *Wren v Mahony* (1972) HCA 39 and *Corney v Brein.*

I have previously advised that it is my intention to seek the issue of Summons to Show Cause to His Honour as the Defendant under s75(v) of the Constitution in respect to Writs of Certiorari in respect to His Honour's Judgments in VID 730, VID 732 of 2014 and VID 49 of 2015

The application for review of those decisions in this manner must be made within 6 months and be ancillary to significant issues seeking the exercise of the discretion of the High Court.

I provide this Notice that the matters for consideration of the High Court in this regard include;

1. The proper interpretation and application of FCR 1.34
2. The proper interpretation and application of FCR 2.32
3. The proper interpretation of s17 of *the Federal Court of Australia Act* 1976 (Cth) post the decision in *Kline v Official Secretary to the Governor General* [2013] HCA 52
4. The proper application of FCR 2.32
5. The Duties of Judicial Officers to supervise officers of the Court
6. The Duties of Judicial of Judicial Officers to misconduct and criminal conduct of Court Officers to the relevant authorities
7. The Duties of Judicial Officers to ensure that Referrals are acted upon expeditiously
8. The Duties of Judicial Officers and Registrars generally.
9. The obligations of Judicial Officers to Act impartially
10. The obligation of Judicial Officers to not accept instructions from others.
11. Amongst others

I respectfully request His Honour to respond directly to me and not via the unrepresented litigants coordinator as is His Honour's Habit.

These are extremely serious issues that are relevant to all Citizens, I do not wish to take up the High Court's valuable resources without giving His Honour every opportunity to respond and rectify what I perceives are fundamental errors of conduct.

I could of course be wrong in the conclusions I have reached thus far and I wish to ensure that any party has the opportunity to correct any misconception I may hold.

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

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From: andrew.garrett[redacted] [mailto:andrew.garrett[redacted]
Sent: 25 May 2015 18:14
To: associate.beachj@fedcourt.gov.au
Cc: [redacted]; EA - Beach J (EA.BeachJ@fedcourt.gov.au)
Subject: FW: VID730-732 Case Management Referral - In the matter of Andrew Garrett
Importance: High

Dear Associate Beach,

I request access to the Court files listed in the email below dated 28th January 2015 and also VID 49 of 2015.

In particular I would like to review the correspondence from the Chief Justice and any other Correspondence between His Honour and any other person in respect to the four proceedings considered by His Honour thus far.

I make this request pursuant to FCR 2.32 of the Federal Court Rules.

Please advise me when it is suitable for me to inspect those files please.

Best Regards

Andrew Garrett

From: EA - Beach J [mailto:EA.BeachJ@fedcourt.gov.au]
Sent: 28 January 2015 13:40
To: 'andrew.garrett[redacted]
Cc: Associate BeachJ
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 | 305 William Street Melbourne Victoria 3000
T. (03) 8600 3333 | **F.** (03) 8600 3351 | 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

Andrew Garrett

From: Andrew Garrett <andrew.garrett[redacted]>
Sent: 04 October 2015 11:00
To: John Mathieson
Cc: Andrew Garrett; FinassGeneral@ag.gov.au; Peter Weekes
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

Andrew Garrett

From:	Andrew Garrett <andrew.garrett[redacted]>
Sent:	29 October 2015 13:57
To:	John Mathieson (John.Mathieson@fedcourt.gov.au)
Cc:	Kenneth.Richards[redacted] Caroline.Tioa@humanrights.gov.au; [redacted] john.williams@aph.gov.au; 'micheal.keenan@aph.gov.au'; 'senator.brandis@aph.gov.au'
Subject:	Part 1 Judicial Complaint and annexures
Attachments:	Attainment of Justice.rtf; Judicial Complaints Procedure.docx; Kline v Official Secretary to the Governor General.pdf; Email to John Mathieson 16062015 re forward email dated 06062015 to Chief Justice.pdf; Email AMG to JM dated 4th October 2015.pdf; Letter from John Mathieson on behalf of the Chief Justice dated 10072015.pdf; Letter to Mr Garrett- Request for Financial Assistance.pdf; Further Letter to OAIC 21 October 2015 with attachments.pdf; Further letter to Mr Garrett 21 October 2015.pdf
Importance:	High

The Chief Justice of the Federal Court of Australia, The Commonwealth Attorney General, The Minister For Justice, His Honour Chief Justice Allsop, The Honourable George Brandis QC, The Hon Michael Keenan MP, Cc Deputy Registrar John Mathieson,

JUDICIAL COMPLAINT

Dear Chief Justice, Minister Keenan, Attorney General,

On the 16th June 2015 I requested that Deputy Registrar Mathieson forward to you a copy of my communique to the Chief Justice of the Federal Court dated 6th June 2015. (copy attached)

His Honour instructed Mr Mathieson to respond to my complaints by letter dated 10th July 2015 a copy of which is attached.

On the 15th October 2015 Mr Mathieson responded to me regarding my application for financial assistance under the Public Interest Test Case Funding Scheme to bring a proceeding in the High Court as the original and exclusive jurisdiction against the Federal Court, the Federal Circuit Court and the Supreme Court of South Australia.

I have reviewed various documents available to any citizen from the Federal Court Web Site and attach a copy of documents related to Judicial Complaint and Attainment of Justice.

My communique dated 6th June 2015, addressed to His Honour, made Judicial Complaint regarding the following Justices of the Federal Court of Australia and Federal Circuit Court of Australia; Melbourne Registry;

1. Registrar Allway,
2. Registrar Byrne
3. Registrar Caporale,
4. Justice Davies,
5. Justice Mortimer,

6. Justice Tracey,
7. Justice Pagone,
8. Justice Jessup,
9. Justice Beach,
10. Justice Kenny,
11. Judge Reithmuller,
12. Judge Burchardt.

There is no need for me to repeat the complaint which has been clarified by way of email to Deputy Registrar Mathieson and the various Registrars, Judges and Justices involved, however I observe that 145 days has elapsed since I made my complaint to His Honour.

It is my respectful view that this is an unacceptable delay and against the Public Interest which demands that Complaints be dealt with promptly, efficiently and with respect to the Complainant.

I have received a letter from Deputy Registrar Mathieson rejecting my application for Financial Assistance under the Public Interest Test Case Funding Scheme dated 15th October 2015 which sets out spurious grounds for refusal. (copy attached)

As His Honour is aware, I made application for Compensation on the 27th June 2015 in which regard a period of 124 days has elapsed, this process is also meant to be completed in the manner set out in the relevant Fact Sheets provided to me pursuant to my FOI Application which documents were released to me on the 14th September 2015.

I also received a Letter from the Deputy Registrar attaching a copy of a communique from Deputy Registrar Mathieson to the Office of the Australian Information Commissioner both dated 21st October 2015 which advises that your Honour seeks a vexatious declaration under 289K of *the Freedom of Information Act* 1982 (Cth).

I note that the aforementioned communiques followed my offer to settle this dispute dated 4th October 2015 sent by email to Deputy Registrar Mathieson which also contained my application for Internal Review of the FOI Decision.

Respectfully, it appears to me that His Honour is determined to continue the conduct of the Judicial Officers and Registrar complained of by applying a defensive and adversarial strategy to my complaints coupled with the use of vexatious litigant proceedings as a barrier to justice in a strategy that is a corollary with the conduct of the NSW Department of Family and Community that is the subject of an affidavit filed by me in SCI-2014-03714; *Andrew Garrett v Legal Services Board* that I have called **"the Bethcar Strategy".**

For your convenience I have attached a copy of the aforementioned affidavit dated 26th October 2014 and the transcripts from the Royal Commission that acknowledge **"the Bethcar Strategy".**

It is my understanding as a lay person that the Court's roles are the exercise of judicial, quasi-judicial and administrative law discretion in an administrative capacity, it is a matter for the parties to a proceeding to conduct themselves in an adversarial fashion, I submit it is wholly inappropriate

for the court to apply adversarial bias (as it quite clearly has) to its administrative capacity and in particular against an unrepresented litigant in person.

The Court has an obligation and a duty to inquire, as well as a Duty to supervise officers of the court, which duties I have found to be lacking in all proceedings.

I make this further Complaint to include Deputy Registrar John Mathieson, Justice Lander (retired), Registrar Christie and, with the Greatest of respect to His Honour's office, His Honour, Chief Justice Allsop.

It is clear to me that the Registrars, Justices and Judges complained of are normal people, albeit all appointed exclusively from the Legal Fraternity, in which regard I found the reading of the House of Representatives (copy attached) as highlighted in yellow to be profoundly disturbing and an indictment of the conduct I have observed in the Courts under your direction and Control.

> **Mr McRAE:** I am trying to indicate to the Government back-benchers that, if they want to get some respectability into this whole farce, the circumstances that we have had tonight, they should at least make the society produce the accounts in Parliament. If everything else is to be secret, Parliament has no function at all.
>
> **Mr Crafter:** It is a secret society.
>
> **Mr McRAE:** It is a totally secret society. I indicated earlier that in many ways I support the Law Society, but in other respects I am critical of it.

It appears to me that despite the passage of 34 years the fears of the South Australian Legislature are a reality of life.

Please confirm to me what steps His Honour has taken since the 6th June 2015, *in the intervening 145 days*, to action an investigation of the Judicial Officers Complained of and/or in the alternative request that the Commonwealth Attorney General investigates my complaints in accordance with the published Judicial Complaints Procedure (copy attached).

At first blush, again with the greatest of Respect, it appears to me that His Honour's instructions to Deputy Registrar John Mathieson and the rest of the Judiciary are the result of the application of the Bethcar Strategy by His Honour.

It ought to have been clear to the various Judicial Officers and His Honour that a proper consideration of the evidence would have revealed that the vexatious litigant orders made in South Australia were in fact also the application of the Bethcar Strategy by the State of South Australia to avoid defer and frustrate my applications for compensation to the Assurance Fund, the Fidelity Fund and the Victims of Crime Fund.

I respectfully submit my contention that the insidious erosion of judicial independence flies in the face of the importance of the separation of powers and that the Legislature , the Executive Government of the States and Territories and the Judiciary of the States and Territories have

acted in concert with the insolvency and legal fraternities to avoid defer and frustrate claims for compensation against Professional Indemnity Insurance and various compensation funds.

Inescapably, that conduct and the application of the Bethcar Strategy has overflowed into the Federal Courts, the magical metamorphosis from mere Human Being to a Judicial Officer and some Higher Power/Plain of Existence is not in evidence in the State Courts and also, sadly, not in evidence in the Federal Courts.

His Honour Kirby J (as he then was) sets out;

> It is beyond the scope of this narrow paper to describe the State a judges in Australia. The position varies amongst the jurisdictions. A s appreciation of the peculiar status of State courts. They are mentioned Because State courts may be invested with federal jurisdiction, it has b

> of an appropriate measure of independence os as to be "worthy recept recently stated constitutional principle has given an assurance of a me to State judicial officers, to reinforce the provisions of State Constituti legislative encroachment.

The High Court issue arising being whether the State Courts are worthy receptacles of Federal Jurisdiction; on my submission they are not.....unfortunately the same question arises for the Federal Courts as to whether they also are worthy receptacles of Judicial Power in the Federal Jurisdiction on the basis of my experience.

The need for Judicial Colleges to instil Judicial Independence in Judicial Officers and I submit there is an urgent necessity to independently assess the adoption of a variant to the European model and the office of the Advocate General looms large on the Radar.

Of course as a lay person I am not apprised of all of the steps taken by various people to strive for a Judicial System in the Commonwealth that is of the Highest Quality and mean no disrespect to those hard working indviduals.

By this communique I make complaint to the Office of the Commonwealth Attorney General and the Minister for Justice regarding His Honour's apparent failure to initiate the proper Judicial Complaints Procedure

Respectfully Yours

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

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