KLC
kingsford legal centre

E BULLETIN

Winter 08

LOCATION
Kingsford Legal Centre is located on the ground floor of the Law Building, University of New South Wales, Anzac Parade, Kensington.

Enter the university at the main entrance on Anzac Parade, walk down the main walkway and turn down the 2nd path on the left. The entrance to the legal centre is opposite the Uni Bar.

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CHINESE DELEGATION'S VISIT

In Early May KLC was visited from a delegation from the Beijing Legal Aid Office for Rural Migrants (BLAORM). BLAORM is a non-profit organisation providing legal advocacy for migrant workers in China. The visit was coordinated by HREOC and forms part of the dialogue between the Federal Government and China on human rights.

Throughout the visit the delegation was given presentations by both staff and students relating to how KLC operates and how it helps to service the community. The presentations were formulated to be interactive enabling the individual members of the delegation to make comments and to highlight both the similarities and differences of the Chinese Legal system.

CHINESE DELEGATION WITH KLC STUDENTS WILLIAM CHAN (3RD FROM LEFT) & STEPHEN WOODLANDS (3RD FROM RIGHT)

The day was a great success and both the delegation and KLC benefited from the visit. The members of the delegation were extremely friendly and showed great enthusiasm. Thank you to all staff and students for their contributions!

ICESCR REPORTING

KLC along with the National Association of Community Legal Centres and the Human Rights Law Resource Centre have been undertaking a joint human rights project. The project involves the preparation of two NGO reports to the UN Committee on Economic, Social and Cultural Rights (CESCR) and the UN Human Rights Committee, which are responsible for monitoring the implementation of the ICESCR (International Covenant on Economic, Social and Cultural Rights) and the ICCPR (International Covenant on Civil and Political Rights) respectively.

The first of the two reports, entitled Freedom, Respect, Equality, Dignity: Action, was submitted to CESCR in April with support in whole or in part of over 100 local, national and international NGOs. The Report is a comprehensive and constructive analysis of the state of ESC rights in Australia and makes a range of targeted recommendations to address disadvantage and poverty. The Report was very well received by CESCR and has been invaluable to the formulation of CESCR's "List of Issues" it would like Australia to look at. The CECSR will officially review Australia's performance under the ICESCR some time next year.

SUBMISSION TO THE INQUIRY INTO STOLEN GENERATION COMPENSATION BILL 2008

In the 1990s KLC ran the first litigation in Australia on behalf of a member of the stolen generation, Joy Williams. Subsequently, Anna Cody made a written submission into the above inquiry on behalf of the Centre as well as appearing before the Committee. Senator Bartlett has proposed a draft Bill to establish a scheme for payment of compensation to members of the Stolen Generation. KLC's key recommendations were that it is important that the concept of "reparation" be used in any Tribunal, that a majority of the Tribunal members be Indigenous people, and that "removal" encompass a wider meaning than what the draft bill proposes.

SUBMISSION TO PRODUCTIVITY COMMISSION'S PUBLIC INQUIRY INTO MATERNITY, PATERNITY AND PARENTAL LEAVE

Director, Anna Cody and Law Student Clerks, Jenessa Rabone and Shana Krishnan prepared a submission for the Productivity Commission's Inquiry into Maternity, Paternity and Parental Leave in May.

Commissioners Robert Fitzgerald and Angela MacRae were particularly impressed with the Centre's expertise in employment and discrimination law and their experience with pregnancy-discrimination cases. KLC has encountered an alarming number of discrimination in employment cases which highlight the difficulties women experience, when they attempt to strike a healthy work-family balance.

KLC recommended that a government funded scheme of 26 weeks paid parental leave be introduced with additional voluntary top-ups by employers. Additional paid leave should also be provided for fathers and other parents on a "use it or lose it" basis. Resources must be allocated to support the combination

KLC VOLUNTEERS (L-R) MARGOT MORRIS, MARY O'CONNELL & DAVE LOONAM

of motherhood with employment if the government is to address the disadvantage that women experience as the result of their maternal role. The Productivity Commission's report is due February 2009.

VOLUNTEER SOLICITORS

As National Volunteers Week has just ended it is a good time to once again thank our unsung heroes, KLC Volunteer Solicitors. We have a team of around 35 volunteers who commit to attend the centre once a fortnight to give legal advice to our clients and to mentor and teach UNSW law students.

Without the Vol Sols we couldn't help anywhere near the 1500 clients a year who currently access quality legal advice from KLC. Thanks!!

We are currently looking for more volunteer solicitors – particularly for our Thursday night rosters at Maroubra Junction. So if you have a current NSW practice certificate and have at least 1 years experience we are interested in hearing from you. It isn't necessary to have experience in the areas of law we give advice. Training is provided and the environment is very supportive. If you have any questions, please contact Denise on 9385 9566 or d.wasley@unsw.edu.au.

LEGAL NEEDS SURVEY

In preparation for the strategic planning day, a "Legal Needs" survey was conducted from local community services in the KLC catchment area. The survey asked welfare and health workers what they considered to be the most important legal issues of their clients. In addition they were asked how would their clients like a legal service to be provided, and their knowledge of legal service providers. The results of this survey generated discussion and contributed to the development of strategies for the Strategic Plan.

SUCCESSFUL OUTCOME AT THE SOCIAL SECURITY APPEALS TRIBUNAL

KLC was successful in an appeal against a decision made by Centrelink at the Social Security Appeals Tribunal (SSAT) on 27th March 2008. Centrelink has not appealed the decision to the AAT.

The case was concerned with the statutory interpretation of the phrase "a course" in s 541B(1) of the Social Security Act 1991 (Cth). This section relates to whether a student is classified as "full-time" so they can qualify for Youth Allowance. This case has set a strong precedent for students enrolled in two courses studied concurrently at the one institution which is not formally recognised as a combined degree. The SSAT added the study loads of the two separate university courses studied concurrently to conclude that the student was a "full-time student". Centrelink will have to back-pay the student as they should not have cancelled her entitlement to Youth Allowance.

SUCCESSFUL OUTCOME IN CEMETERY MATTER

In June 2005, our client, Mrs Victoria Fridland, bought a single grave in the Jewish section of the Eastern Suburbs Memorial Park ("the Cemetery"). She bought the lot with the agreement that both her and her husband could be buried there. In May 2007, Mr Fridland passed away and was interred in the grave. However, on visiting the Cemetery office to arrange for a headstone, Mrs Fridland was advised that under Jewish rules the burial of two bodies in one grave was not permitted in the Jewish section. Exhuming Mr Fridland's body and re-interring it in the general area of the cemetery was not possible as it later became clear that exhumation was also not permitted in the Jewish section. The Cemetery advised Mrs Fridland that she should purchase another plot for herself for $11,000. As an aged pensioner with cancer, she was unable to afford this exorbitant amount.

Written negotiations with the Cemetery failed to produce a fair outcome. With assistance of KLC, Mrs Fridland filed a claim with the Consumer Trader and Tenancy Tribunal. On 7 May 2008, nearly a year after Mr Fridland's death and much distress, the Tribunal found that Mrs Fridland had not been properly informed by the Cemetery and she should not be required to pay for their mistake. The Member ordered that the Cemetery provide Mrs Fridland with a "Right of Burial" in the grave adjacent to Mr Fridland, at no cost to Mrs Fridland.

Since the Tribunal's decision, Mrs Fridland has become aware of a number of other families in the same situation. KLC recommends that anyone else in this situation should seek advice immediately.

EMPLOYMENT CLINIC NEWS

Botany Council Matter

The clinic has had a recent success following the relatively unusual event of taking a matter to hearing. Given the high settlement rates for our matters, it has been a long time between drinks at the bar table. Our client, Ray Bull, worked for Botany City Council and was the driver for Botany Mayor, Ron Hoenig. Mr Bull worked Monday to Friday in the mayor's office, however, his work involved significant overtime, driving the mayor to events at night and on the weekend.

Mr Bull was sacked after calling in on a Saturday to inform the council he was unwell and would not be able to drive the Mayor to Carols by Candlelight on the Sunday night. Although still on sick leave on the Monday, he was called into work and sacked on the spot on the basis that he had failed to work the overtime shift on the Sunday. Mr Bull brought a medical certificate with him on the Monday meeting but was told it was not relevant. There was no investigation by the

Council as to Mr Bull's illness and it was the Council's evidence that the decision to terminate him was made before he was called in on the Monday morning.

Commissioner Ritchie found Mr Bull had been unfairly dismissed and awarded him $16,500 which took into account ongoing workers compensation payments.
Bull &City of Botany Bay [2008] NSWIRComm 1041

UNLAWFUL DISMISSAL

- Pregnancy

An unlawful dismissal mentioned in the last bulletin as having almost settled is now back on. This is one of three unlawful dismissals the clinic currently has in the Federal Magistrates court – all three are pregnancy-related. Our fourth current pregnancy-related matter has gone to the Anti-Discrimination Board.

DISCRIMINATION IN EMPLOYMENT MATTER

In another discrimination matter, which was with HREOC, we have reached a favourable settlement for our client, a male nurse from Port Macquarie. He is Aboriginal and has been working as a nurse for 27 years. His complaint to HREOC included allegations of serious racial discrimination in the workplace. The client is now in new work and happy to have settled the matter.

LOBBYING

Apart from casework, the students are working on compiling statistics from our unfair dismissal advices to keep a tab on those clients who are excluded from the remedy by the WorkChoices amendments. We will be using the figures as part of broader political lobbying by the CLC employment network.

MCLE SESSION

In March Shirley Southgate and Linda Tucker provided an MCLE session on employment law and recently Linda also gave a talk on employment law to a group of volunteers who act as work mentors for refugees.

CCLCG STATE CONFERENCE

– Justice, CLCS celebrating change & connecting communities

KLC staff made significant contributions to the 2008 CCLCG conference. Anna Hartree was involved in the committee organising the conference as well as chairing the session, 'Guide to Publishing". Anna Cody made a presentation on KLC's ALAP grant in the "Aboriginal Legal Access and CLC's" session; Anna Cody and Teena Balgi organised and presented in the "CLCs Working with Human Rights Session"; Shirley Southgate presented in the "Anti-Discrimination Law – New Models" workshop; and the multi-talented Linda Tucker chaired the session on "Current Issues in Administrative Law" as well as hosting the conference dinner. The Conference is an important opportunity for CLC workers to share their experience and knowledge with their colleagues from around the state and this year's conference was a very successful and fruitful one.

RADIO COMMUNITY LEGAL EDUCATION

In May KLC staff have appeared on both Eastside Radio and 2SER to promote the Centre and community legal centres in general, to the broader community. These appearances are the result of a project targeting radio stations as part of our community legal education program.

SCAMBUSTERS WORKSHOP DURING SENIORS WEEK

As part of our ongoing community education activities, KLC was involved in the one-day Scambusters workshop on 9 April, aimed at older people in the community. Freehills secondee Mahreen Hasan presented a session on scams and practical solutions

for dealing with them. The topic prompted much discussion, with audience members eager to speak out about their own personal experiences with scammers. The Scambusters event was a collaboration between KLC, the South East Neighbourhood Centre, the Office of Fair Trading and the NSW Police.

LUCINDA FLANAGAN AND MAHREEN HASAN

FAREWELL TO FREEHILLS SECONDEE MAHREEN HASAN

Mahreen's 6 months with KLC has flown by and her last day with us was on 23 April. Mahreen's work was of the highest standard and she gave 100% to KLC and our clients. Her stay with KLC started with a Supreme Court matter and progressed through every facet of the service, including delivering a community legal education lecture to seniors on Scams. Staff and students have become very attached to Mahreen and her gentle and friendly manner will be sorely missed.

WELCOME TO LUCINDA FLANAGAN, FREEHILLS SECONDEE

Lucinda Flanagan is a solicitor at Freehills and has worked there for 3 years. She works in the firm's banking practice, having also spent some time in the litigation practice. She is a graduate of the University of Sydney. Outside of work Lucinda enjoys playing soccer, reading and catching up with her siblings that live overseas.

ANNA CODY SABBATICAL

Anna Cody will be on study leave for the next 7 months looking at clinical legal education issues in Mexico and Argentina, particularly their community development focus. She hopes to develop a new course during the time and work with a local human rights non government organisation in Mexico. Shirley Southgate will be Acting Director in Anna's absence.

PRACTICAL LEGAL TRAINING STUDENTS

KLC currently has two PLT students working at the Centre, Liz Snell and Margot Egan. They are both outstanding students and staff are enjoying the opportunity to work with them again.

MARGOT EGAN AND LIZ SNELL HARD AT WORK

STRATEGIC PLANNING DAY

At the end of February the centre had a very productive day developing the centre's strategic plan for the next 12 months. All staff attended along with members of the KLC Management Committee who included Sean Brennan, Julie Romanowski, Christine Robertson and Anne Cregan. The plan will also form the basis of the 3 year Strategic Plan that is required by our funding body.

Out thanks are extended to Blake Dawson who provided a fantastic venue and yummy sustenance to keep us going.

WOMEN'S DAY AT KOOLOORA

KLC shared an information stall with Eastern Area Tenants Service and Wirringa Baiya Aboriginal Women's Legal Centre at the annual International Women's Day fair at Kooloora Community Centre. Lots of pamphlets and information about the centre were handed out and our thanks to our students, Edwina and Michelle who staffed the stall. It wasn't all work and no play as they had the opportunity to watch and listen many talented women from the local area perform line dancing, singing, Tai Chi and Chinese dance.

KLC 2007 ANNUAL REPORT

The 2007 KLC Annual Report is now completed. If you would like to receive a copy please email us on legal@unsw.edu.au or follow the links on the KLC website at: www.kingsfordlegalcentre.org.

DOMESTIC VIOLENCE FORUM

In March Anna Hartree, KLC Coordinator was involved in the organisation of the Domestic Violence Forum, a project of the Eastern Suburbs Domestic Violence Network. Maria Kissouri presented the results of the very positive evaluation of the Staying at Home Leaving Violence Project which has been operating in the Eastern Suburbs for nearly 2 years. Mark Butler, the DVLO at St George LAC and Alicia Jillard, a solicitor with Women's Legal Services NSW, both spoke about the new NSW Domestic Violence Legislation which is soon to be enacted. Dr Michael Flood, Lecturer in Sociology at the University of Wollongong spoke about involving men in efforts to reduce violence against women. Zoe Sharman from the Benevolent Society spoke about the impact of domestic violence on children and presented a range of strategies and considerations when working with children. The evaluations from the forum were extremely positive with requests for further forums.

ANNA HARTREE (LEFT) AT DV FORUM

THE SHACK'S PHOTO-VOICE PROJECT

– "The Legend of Lexo"

On 1 April some KLC staff members attended the above exhibition presentation at The Shack's South Maroubra Outreach Project (SMOP) at Lexington Place. The project gave disadvantaged young people an opportunity to express what they love and hate about their area through photographs and to get their message directly to the Mayor of Randwick. The young people's photographs and presentation were of a very high calibre. Congratulations to the young people of Lexo as well as the wonderful workers at SMOP for an inspiring exhibition.

IF YOU WOULD LIKE TO SUBSCRIBE (FREE) TO THIS BULLETIN OR WOULD LIKE FURTHER INFORMATION PLEASE EMAIL DENISE WASLEY AT: D.WASLEY@UNSW.EDU.AU.

IF YOU WOULD LIKE TO UNSUBSCRIBE TO THIS BULLETIN PLEASE EMAIL DENISE WASLEY AT D.WASLEY@UNSW.EDU.AU WITH "UNSUBSCRIBE E-BULLETIN" IN THE SUBJECT FIELD.