



**The Victorian Bar Inc**

Reg. No. A0034304S

ANNUAL  
REPORT

**1 July 2003 – 30 June 2004**



# **Annual Report of The Victorian Bar Inc for the Year Ended 30 June 2004**

To be presented to the Annual General Meeting of The Victorian Bar Inc to be held at 5.00 pm on Monday, 6 September 2004, in the Neil McPhee Room, Level 1, Owen Dixon Chambers East, 205 William Street, Melbourne.

## **Victorian Bar Council**

In the annual election held in September 2003, the following members of counsel were elected:

*Category A:* **Eleven (11) counsel who are Queen's Counsel or Senior Counsel or are of not less than fifteen (15) years' standing**

Jack I Fajgenbaum QC  
Anthony J Howard QC  
Philip A Dunn QC  
W Ross Ray QC  
Robin A Brett QC  
Michael W Shand QC  
Mark A Dreyfus QC  
C F (Kate) McMillan S.C.  
Michael J Crennan S.C.  
David F R Beach S.C.  
Michelle L Quigley S.C.

*Category B:* **Six (6) counsel who are not of Queen's Counsel or Senior Counsel and are of not more than fifteen (15) nor less than six (6) years' standing**

Iain R Jones  
Fiona M McLeod  
Peter J Riordan  
Dr David J Neal  
Rachel M Doyle  
Anne E Duggan

*Category C:* **Four (4) counsel who are not of Queen's Counsel or Senior Counsel and are of less than six (6) years' standing**

Michael G R Gronow  
Debra J Coombs  
P Justin Hannebery  
Paul X Connor

# THE VICTORIAN BAR INC ANNUAL REPORT

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**E-mail:** [vicbar@vicbar.com.au](mailto:vicbar@vicbar.com.au)  
**Website:** [www.vicbar.com.au](http://www.vicbar.com.au)

# Chairman's Report

## Officers of the Bar Council

<i>Chairman</i>	Robin A Brett QC
<i>Senior Vice-Chairman</i>	W Ross Ray QC
<i>Junior Vice-Chairman</i>	C F (Kate) McMillan S.C.
<i>Honorary Treasurer</i>	Michael W Shand QC
<i>Assistant Honorary Treasurer</i>	Michelle Quigley S.C.
<i>Honorary Secretary</i>	Sharon E Moore
<i>Assistant Honorary Secretary</i>	Katharine J D Anderson

### VICTORIAN BAR STAFF

<i>Executive Director</i>	David Bremner
<i>Executive Officer</i>	Anna Whitney
<i>Legal Policy Officer</i>	Ross Nankivell
<i>Manager, Legal Education and Training</i>	Barbara Walsh
<i>Legal Education and Training Officer</i>	Elizabeth Rhodes
<i>Legal Education and Training Assistant</i>	Deborah Morris
<i>Investigations Officer, Ethics Committee</i>	Debbie Jones
<i>Assistant to the Ethics Committee</i>	Catherine Mukhtar
<i>Accountant/Membership Records</i>	Mal De Silva
<i>Secretary</i>	Rosa Globan
<i>Receptionist</i>	Michele Woolnough
<i>Administrative Assistants</i>	Gabrielle Incigneri and Daphne Ioannidis
<i>Archivist</i>	Alison Adams
<i>Mediation Receptionists</i>	Helen Henry, Pauline Hannan, Kay Kelly, Pat Lurye, Frances O'Halloran

### EXECUTIVE COMMITTEE OF THE BAR COUNCIL

<i>Chairman</i>	Robin A Brett
<i>Senior Vice-Chairman</i>	W Ross Ray QC
<i>Junior Vice-Chairman</i>	C F (Kate) McMillan S.C.
<i>Honorary Treasurer</i>	Michael W Shand QC
<i>Assistant Honorary Treasurer</i>	Michelle L Quigley S.C.
<i>Members</i>	Anthony J Howard QC Philip A Dunn QC Michael G R Gronow
<i>Honorary Secretary</i>	Sharon E Moore
<i>Assistant Honorary Secretary</i>	Katharine J D Anderson

### PORTFOLIOS OF BAR COUNCIL MEMBERS

#### Bar Rules

Jack I Fajgenbaum QC, Mark A Dreyfus QC, Fiona M McLeod S.C. and Michael G R Gronow

#### Barristers' Chambers Limited

Michael W Shand QC and Paul X Connor

**Clerking**

Philip A Dunn QC, C F (Kate) McMillan S.C. and Anne E Duggan

**Commercial Bar**

Robin A Brett QC, Michael W Shand QC and Iain R Jones

**Common Law Bar and Compensation Bar**

David F R Beach S.C., Anne E Duggan and Debra J Coombs

**Costs**

Michael J Crennan S.C., Michelle L Quigley S.C. and Debra J Coombs

**Courts and Civil Procedures**

Mark A Dreyfus QC, Fiona M McLeod S.C. and Anne E Duggan

**Criminal Bar**

Philip A Dunn QC, W Ross Ray QC, Dr David J Neal and P Justin Hannebery

**Dispute Resolution Committee**

Fiona M McLeod S.C. and Iain R Jones

**Equality Before the Law**

Robin A Brett QC, C F (Kate) McMillan S.C. and Rachel M Doyle

**Family Law Bar**

Jack I Fajgenbaum QC

**Federal Courts and Industrial Law**

Mark A Dreyfus QC, Michael J Crennan S.C. and Rachel M Doyle

**Law Council**

W Ross Ray QC

**Legal Aid**

Philip A Dunn QC, Dr David J Neal and P Justin Hannebery

**Library and Technology**

Michael W Shand QC, Michael G R Gronow and Paul X Connor

**Major Events**

Anthony J Howard QC, Philip A Dunn QC and Peter J Riordan S.C.

**Pro Bono**

Anthony J Howard QC, David F R Beach S.C. and Michael G R Gronow

**Professional Indemnity Insurance**

Michael W Shand QC, David F R Beach S.C. and Peter J Riordan S.C.

**Property Law**

C F (Kate) McMillan S.C., Michael J Crennan S.C. and Michelle L Quigley S.C.

**Readers' Course and Continuing Legal Education**

Robin A Brett QC, Michelle L Quigley S.C., Dr David J Neal and P Justin Hannebery

## **Bar Companies and Associations**

(as at 30 June 2004)

**BARFUND PTY LTD – BOARD OF DIRECTORS**

**(as trustee for the Victorian Bar Superannuation Fund)**

Philip J Kennon QC (Chairman), Jonathan B R Beach QC (Deputy Chairman), Ross C Macaw QC, Melanie Sloss S.C. and Paul J Cosgrave

**BARRISTERS’ BENEVOLENT ASSOCIATION OF VICTORIA  
SUB-COMMITTEE OF THE COMMITTEE OF MANAGEMENT**

Robin A Brett QC (Chairman, Victorian Bar Council) and Michael W Shand QC (Honorary Treasurer, Victorian Bar Council)

**BARRISTERS’ CHAMBERS LIMITED — BOARD OF DIRECTORS**

Paul E Anastassiou (Chairman), G John Digby QC (Deputy Chairman), Michael W Shand QC, David S Levin QC, Michael J Colbran QC, Peter W Lithgow, Caroline M Kenny, Wendy A Harris, Paul X Connor and Daryl F Collins (Chief Executive Officer)

**ESSOIGN CLUB — BOARD OF DIRECTORS**

Michael J Colbran QC (Chairman), Philip A Dunn QC (Vice-Chairman), Colin L Lovitt QC, Katherine L Bourke, Dr John P M de Koning (Honorary Secretary), Gunilla A Hedberg, Sara L Hinchey (Honorary Treasurer) and Peter N Crofts

**THE MELBOURNE BAR PTY LTD**

**Board of Directors**

David F R Beach S.C. and Mark T Settle

**Shareholders**

Ross McK. Robson QC, Neil J Young QC, John E Middleton QC and David E Curtain QC

**CHAIRMEN OF THE LIST COMMITTEES**

- List A — Peter W Almond QC
- List B — Michael A Tovey QC
- List C — Ronald K J Meldrum QC
- List D — Ross H Gillies QC
- List F — Philip A Dunn QC
- List G — Colin D Golvan S.C.
- List H — Paul D Elliott QC
- List L — Patrick F Tehan QC
- List M — Bernard R Fitzgerald
- List P — Richard R S Tracey QC
- List R — Kim W S Hargrave QC
- List S — Paul A Willee RFD QC
- List W — Brendan A Murphy QC

**CHILDREN’S COURT BAR ASSOCIATION**

Robert T Burns (President), Geoffrey R Martin (Honorary Treasurer) and Emma M Swart (Secretary)

**COMMERCIAL BAR ASSOCIATION**

David H Denton RFD S.C. (President), Melanie Sloss S.C. (Senior Vice-President), Albert A Monichino (Vice-President (Convenor)) and John R Dixon (Treasurer)

### **COMMON LAW BAR ASSOCIATION**

Ross H Gillies QC (Chairman), John H L Forrest QC (Vice-Chairman), Richard J Stanley QC, The Hon James H Kennan S.C, John A Jordan S.C., David F R Beach S.C., Fiona M McLeod S.C., David J Martin (Secretary), Andrew McH Ramsey, Frank D Saccardo, Richard H Smith Katherine L Bourke, Michael F Wheelahan, Mary Anne Hartley (Treasurer), Simon K McGregor and Anne E Duggan

### **COMPENSATION BAR ASSOCIATION**

James L Parrish S.C. (Chairman), John A O'Brien (Vice-Chairman), Stanley B Spittle (Treasurer), Brian R Wright (Information Officer), John B Richards S.C. (Common Law Bar Liaison), Debra J Coombs (Secretary), John J Noonan S.C., Michael J O'Brien and Ian D McDonald

### **CRIMINAL BAR ASSOCIATION**

Lex Lasry QC (Chairman), Ian D Hill QC (Deputy Chair), Jeanette G Morrish QC, Edwin J Lorkin (Secretary), Mark J Rochford, Julian P McMahan, Gerard P Mullaly, Nicola M Gobbo (Treasurer) and Kellie A Blair

### **FAMILY LAW BAR ASSOCIATION**

Noel J Ackman QC (Chairman), Olyvia Nikou S.C. (Vice-Chairman), Graeme P L Thompson (Treasurer) and Bronia A Tulloch (Secretary)

### **INDUSTRIAL LAW BAR ASSOCIATION**

Herman Borenstein S.C. (President), Frank Parry S.C. (Senior Vice-President), Warren L Friend (Vice-President), Gerard C P McKeown (Secretary) and Rohan A Millar (Treasurer)

### **WOMEN BARRISTERS' ASSOCIATION**

Samantha L Marks (Convenor), Fiona M McLeod S.C. (Past Convenor), Jennifer J Batrouney S.C. (Assistant Convenor), Michelle L Quigley S.C. (Assistant Convenor), Susan M Brennan (Assistant Convenor), Julianne E Jaques (Secretary), Caroline E Kirton (Assistant Secretary) Joy S Elleray (Treasurer), Danielle S Huntersmith (Assistant Treasurer), Patricia E Dobson (Membership Secretary), Her Honour Judge Elizabeth M Gaynor (Judicial Member), Chrissy Anagnostou, Kim M Pettigrew, Debra J Coombs, Kim J Knights, Emma M Swart, Sonja Roglic Carolene R Gwynn, Jacqueline Robertson, Victoria E Lambropoulos, My Anh Tran and Michelle R Sharpe

## **Standing Committees of the Bar Council**

(as at 30 June 2004)

### **Aboriginal Law Students Mentoring Committee**

Colin D Golvan S.C. (Chair), Jeanette G Morrish QC, David A Parsons S.C., John E Goetz, Jane A Dixon, Amanda Glaister, Susan C Dowler, Paul J Hayes, Daniel V Aghion, Daniel I Star, Edward J C Heerey and David J L Bremner (Executive Director)

### **Applications Review Committee**



Anthony J Howard QC (Chair), G John Digby QC, Michael J Colbran QC, Marc T Bevan-John, Dr Dorothy Kovacs, Tomaso Di Lallo, Caroline M Kenny, Michael F Wheelahan, Iain R Jones, Caroline E Kirton, William E Alstergren, Gregory P Harris, Kevin J A Lyons, Sharon E Moore (Honorary Secretary) and Katharine J D Anderson (Assistant Honorary Secretary)

### **Charitable and Sporting Donations Committee**

Peter J Riordan S.C. (Chair) and Michelle L Quigley S.C.

### **Conciliators for Sexual Harassment and Vilification**

David E Curtain QC (Convenor), Frank X Costigan QC, Michael J Crennan S.C., Richard J H Maidment S.C., Debra S Mortimer S.C., Fiona M McLeod S.C., Joy S Elleray, Richard W McGarvie, Melanie P Young and Sarah L Fregon

### **Counsel Committee**

Michael J Crennan S.C. (Chair), Philip A Dunn QC, Michael W Shand QC, Michelle L Quigley S.C., Iain R Jones, Rachel M Doyle, Paul X Connor, Sharon E Moore (Honorary Secretary) and Katharine J D Anderson (Assistant Honorary Secretary)

### **Equality Before the Law Committee**

Alexandra Richards QC (Chair), Anthony J Howard QC, Robin A Brett QC, Fiona M McLeod S.C., David C Munro RFD, Ian F Turley, Ross G Maxted, Jennifer Davies, Samantha L Marks, Richard M Niall, Debra J Coombs, Erin J Gardner, Sarah L Fregon, Deborah A Siemensma, Miguel A Belmar Salas, David J L Bremner (Executive Director), The Honourable Justice Ronald Merkel (Federal Court Consultant), The Honourable Justice Susan M B Morgan (Family Court Consultant), The Honourable Chief Justice Marilyn L Warren (Supreme Court Consultant), The Honourable Justice Robert F Redlich (Supreme Court Consultant), Her Honour Judge Rachelle A Lewitan AM (County Court Consultant), Her Honour Judge Susan M Cohen (County Court Consultant), Her Honour Judge Frances Millane (County Court Consultant), Ian L Gray (Magistrates' Court Consultant) and Pamela M Tate S.C. (Solicitor-General)

### **Ethics Committee**

CF (Kate) F McMillan S.C. (Chair), James D Merralls AM QC, Paul A Willee RFD QC, William F Lally QC, Martin Bartfeld QC, Jeremy H Gobbo QC, Mark A Dreyfus QC, Paul G Lacava S.C., Gerald A Lewis S.C., Cameron C Macaulay S.C., Neil J Clelland S.C., Michelle M Gordon S.C., John L Batten, Pauline L Shiff and Desmond J Lane

### **First Aid Officers**

Anthea E L MacTiernan and Marietta B Bylhouwer

### **Human Rights Committee**

Jack I Fajgenbaum QC (Chair), Remy van de Wiel QC, Alexandra Richards QC, Herman Borenstein S.C., Debra S Mortimer S.C., M Damian Murphy, Simon E Marks, Glenn C McGowan, Pauline L Shiff, Peter T Nugent, Wendy A Harris, Susan M Brennan, Daniel I Star, Beatrice C Melita, Jennifer M Firkin, Yusuf Zaman and Judy Benson (Secretary)

### **Legal Assistance Committee**

Anthony J Howard QC (Chair), Ross C Macaw QC, Alexandra Richards QC, Helen M

Symon S.C., Thomas F Danos, M Damian Murphy, Joshua D Wilson, Richard W McGarvie, Caroline M Kenny, Lisabella G De Ferrari, David J L Bremner (Executive Director), John A Emerson AO, Emma Hunt, Paula O'Brien and Susannah Sage

**Legal Education and Training — Legal Education and Training Committee**

W Ross Ray QC (Chair), W Brind Zichy-Woinarski QC, Julian W K Burnside QC, Robin A Brett QC, Jennifer J Batrouney S.C., Paul D Santamaria S.C., Michelle M Gordon, S.C., Sara L Hinchey and Barbara J Walsh (Manager – Legal Education and Training)

**Legal Education and Training — Continuing Legal Education Sub-Committee**

The Honourable Justice Geoffrey A A Nettle (Chair), Michelle M Gordon S.C., David H Denton RFD S.C., Peter J Riordan S.C., Jeanette G Morrish QC, Richard J H Maidment S.C., Duncan L Allen, Dr David J Neal, John T Rush RFD QC, Jeremy Ruskin QC, Clarinda E Molyneux QC, Martin Bartfeld QC, Samuel E K Hulme AM QC, Paul A Willee RFD QC, Neil J Young QC, John E Middleton QC, John H L Forrest QC, Robert Richter QC, Melanie Sloss S.C., Michael L Sifris S.C. and Barbara J Walsh (Manager – Legal Education and Training)

**Legal Education and Training — Readers' Course Sub-Committee**

Paul D Santamaria S.C. (Chair), The Honourable Justice David L Harper, David G Collins S.C., Neil J Clelland S.C., P Mark Taft, Caroline E Kirton, Matthew N Connock, Gregory P Harris, Robert W Taylor, Sara L Hinchey, Martin L Grinberg, Paul J Lawrie, Joyce G Tooher, Anthony G Burns, Elizabeth Rhodes (Legal Education and Training Officer) and Barbara J Walsh (Manager – Legal Education and Training)

**Past Practising Chairmen's Committee**

Hartog C Berkeley QC, Frank X Costigan QC, Brian J Shaw QC, Andrew J Kirkham RFD QC, Dr Chris N Jessup QC, Neil J Young QC, John E Middleton QC, John T Rush RFD QC, David E Curtain QC and D Mark B Derham QC

**Professional Indemnity Insurance Committee**

Michael W Shand QC (Chair), William J Martin QC, Gregory H Garde AM RFD QC, G John Digby QC, Michael D G Heaton QC, Mark A Dreyfus QC, Jennifer J Batrouney S.C., Peter N Rose S.C., David F R Beach S.C., Paul F O'Dwyer S.C., Cameron C Macaulay S.C., Ian S Williams, David M Clarke, Marcus Clarke, Robert N Cameron, Mark A Robins, Dr John P M de Koning, Alan D Kornhauser, Paul J Hayes, Emma M Swart, Maria A Carroll, Andrew F Hamlyn-Harris and David J L Bremner (Executive Director)

**Professional Standards Education Committee**

Paul A Willee RFD QC (Chairman), Michael W Shand QC, Gerald A Lewis S.C., Paul D Santamaria S.C., Cameron C Macaulay S.C., Daniel V Aghion, Debra J Coombs, Judy Benson and Laura Colla

**Victorian Bar Dispute Resolution Committee**

William J Martin QC (Chair), George H Golvan QC (Deputy Chair), Henry Jolson QC, G John Digby QC, David S Levin QC, Michael D G Heaton QC, Gerald A Lewis S.C., Robert H Miller, John G Bolton, Anthony A Nolan, Marc T Bevan-John, Ross G Maxted, Gerald A Hardy, Carmel M Morfuni, William E Alstergren, Danielle S Huntersmith, Cornelia N Fourfouris-Mack, Michael H Whitten and Elizabeth Brophy

### ***Victorian Bar News***

P Gerard Nash QC (Editor), Paul D Elliott QC (Editor), Judy Benson (Editor), Julian W K Burnside QC (Editorial Board), Graeme P L Thompson (Editorial Board), John V Kaufman QC (Editorial Committee), William F Gillies (Editorial Committee), Carolyn H Sparke (Editorial Committee), Georgina L Schoff (Editorial Committee), Paul T Duggan (Editorial Committee), Victoria E Lambropoulos (Editorial Committee), Richard L Brear (Editorial Assistant) and Peter W Lithgow (Book Reviews)

### **Victorian Bar Theatre Company Steering Committee**

Simon K Wilson QC (Chair), Philip A Dunn QC, Paul D Elliott QC, Jeanette G Morrish QC, Graeme P L Thompson, Darren A Mort, Georgina L Schoff, Nicholas A T Harrington, Sarah L Fregon and David J L Bremner (Executive Director)

## **Joint Standing Committees**

(as at 30 June 2004)

### **Bar/BCL Accommodation Committee**

Jack I Fajgenbaum QC, G John Digby QC, Michael J Colbran QC, Rachel M Doyle, Michael G R Gronow, Daryl Collins (BCL), Geoffrey Bartlett (BCL) and David J L Bremner (Executive Director)

### **Bar/BCL Communications Committee**

D Mark B Derham QC (Chair), Michael Feramez, Michael W Shand QC, David S Levin QC, Peter W Lithgow, William E M Lye, Geoffrey Bartlett and Ian Green (BCL), and David J L Bremner (Executive Director)

### **Essoign Standing Committee - Advisory Panel**

Michael J Crennan S.C. (Chair), His Honour Judge Tim D Wood, Colin L Lovitt QC, Peter J Jopling QC, Michael J Colbran QC, Fiona M McLeod S.C., Sara L Hinchey, David J L Bremner (Executive Director) and Nicholas Kalogeropoulos (Manager)

### **Law Aid (Bar/LIV)**

Richard J Stanley QC, Peter J Galbally QC, David F R Beach S.C. and Mary Anne Hartley

### **Medico-Legal Standing Committee (Bar, LIV & AMA)**

David A Kendall QC, Michael A Scarfo, Christopher M O'Neill and Mary Anne Hartley

### **Police/Lawyers Liaison Committee**

Ian D Hill QC (Chair), Lex Lasry QC (Alternate), Warwick J Walsh-Buckley (CBA Representative), Boris Kayser, Carolyn M Burnside

## **Bar Appointees**

(as at 30 June 2004)

### **Appeal Costs Board**

Anthony E Hooper QC

**Australasian Disputes Centre**  
William J Martin QC

**Australian Bar Association — Council**  
Robin A Brett QC (Delegate) and W Ross Ray QC (Alternate)

**Commonwealth Administrative Appeals Tribunal — (Melbourne) Liaison Committee**  
Charles Gunst QC

**Council of Law Reporting**  
James D Merralls AM QC and Charles Gunst QC

**Council of Legal Education**  
Jack I Fajgenbaum QC and C F (Kate) McMillan S.C.

**County Court — Building Cases Users Group**  
Richard J Manly S.C.

**County Court — Business Process Re-engineering Project**  
Robin P Gorton QC and David F R Beach S.C.

**County Court — Rules Committee**  
Peter T Fox and Michael J Corrigan

**County Court — WorkCover Users Group**  
Robin P Gorton QC, John J Noonan S.C., Robert W Dyer and James P Gorton

**Federal Court — Corporations List Users Group**  
David J O'Callaghan S.C. and Kim J Knights (Alternate)

**Federal Court — E-Filing Committee**  
Julian W K Burnside QC, Michael W Shand QC and William E M Lye

**Federal Court — Intellectual Property Users' Group**  
Bruce N Caine S.C.

**Federal Court — Migration List Users Group**  
Richard R S Tracey QC, Anthony L Cavanough QC, Kevin H Bell QC, Maree E Kennedy S.C., Debra S Mortimer S.C., Thomas V Hurley, Warren S Mosley and Richard M Niall

**Federal Court — Native Title Committee**  
David A Parsons S.C.

**Federal Court — Users Committee**  
Ross C Macaw QC, Richard R S Tracey QC, Garry T Bigmore QC, John W de Wijn QC and Bruce N Caine S.C.

**Firearms Appeal Committee**

Carolyn H Sparke

**International Bar Association — Human Rights Liaison Officer**

Jack I Fajgenbaum QC

**La Trobe University Law School — Legal Profession Consultative Council**

Ross C Macaw QC

**La Trobe University Proctorial Board**

Frank X Costigan QC

**Law Council of Australia Holdings Limited**

Mark A Dreyfus QC (Director) and Michael J Crennan S.C. (Alternate Director)

**Law Council of Australia — *Australian Lawyer* Editorial Committee**

P Gerard Nash QC

**Law Council of Australia — Access to Justice Committee**

Duncan L Allen

**Law Council of Australia — Equalising Opportunity in the Law Committee**

Alexandra Richards QC

**Law Council of Australia — Young Lawyers Standing Committee**

Katharine J D Anderson and Georgia Tsirmbas

**Law Institute of Victoria — Fee Disputes Conciliator**

Jeremy Ruskin QC

**Lawyers Engaged in Alternative Dispute Resolution (LEADR)**

William J Martin QC and Dr Damien J Cremean

**Legal Practice Board**

John E Middleton QC

**Legal Practice Board — Legal Costs Committee**

Nicholas J D Green QC

**Legal Profession Tribunal — Advocate Members**

Frank X Costigan QC, Lex Lasry QC, Richard R S Tracey QC, Peter J Jopling QC, Anthony G Southall QC, David S Levin QC, Jeremy W Rapke QC, Helen M Symon S.C., Aristomenis Garantziotis S.C., Sue A Winneke and Christopher J Ryan

**Legal Profession Tribunal — Conciliators**

Nathan A Moshinsky QC, Henry Jolson QC, John H L Forrest QC, Elspeth A Strong S.C., Richard J Spicer, Paul W McDermott, Robert W Dyer, Georgina Grigoriou, Michael F Wheelahan, Jennifer Brennan and Kevin J Thompson

**Leo Cussen Institute for Continuing Legal Education**

The Honourable Justice Mark S Weinberg, P Gerard Nash QC (Alternate), Helen M Symon S.C. and Fiona M McLeod S.C. (Alternate)

**Magistrates' Court — Civil Rules Committee**

Ian R McEachern, Christopher W Gilligan and Franz J Holzer

**Magistrates' Court - Occupational Health and Safety User Group**

Christopher W Gilligan and Franz J Holzer

**Magistrates' Court - WorkCover Users Group**

Ian D McDonald and Debra J Coombs

**Migration/Refugee Review Tribunal**

Maree E Kennedy S.C.

**Monash University Law Faculty Advisory Panel (Integration of Skills and Ethics Project)**

W Brind Zichy-Woinarski QC

**Monash University Law Faculty Board**

Paul A Willee RFD QC and P Gerard Nash QC (Alternate)

**Public Interest Law Clearing House (PILCH)**

Richard W McGarvie and Fiona M McLeod S.C. (Alternate)

**Supreme Court — Academic Course Appraisal Committee**

Jack I Fajgenbaum QC

**Supreme Court — Board of Examiners**

Ronald K J Meldrum QC, William F Lally QC, Peter J Jopling QC, Melanie Sloss S.C. (Deputy to Meldrum QC), Joseph G Santamaria QC (Deputy to Lally QC) and CF (Kate) McMillan S.C. (Deputy to Jopling QC)

**Supreme Court — Building List Users Committee**

G John Digby QC, David S Levin QC and Richard J Manly S.C.

**Supreme Court — Chief Justice's Civil Listing Committee**

Richard J Stanley QC

**Supreme Court — Chief Justice's Committee for Religious Observances**

Anthony E Radford

**Supreme Court — Chief Justice's Computer Committee**

Julian W K Burnside QC, Paul A Willee RFD QC and David S Levin QC

**Supreme Court — Chief Justice's Library Committee**

Melanie Sloss S.C. and Stephen G E McLeish

**Supreme Court — Chief Justice's Rules Committee**

Nemeer Mukhtar QC and Peter T Fox

**Supreme Court — Civil Litigation Committee**

Peter B Murdoch QC, John H L Forrest QC, Peter J Riordan S.C., David J O'Callaghan S.C. and Dr Kristine P Hanscombe S.C.

**Supreme Court — Commercial Causes Users Committee**

Julian W K Burnside QC, Simon K Wilson QC, Timothy J North S.C. and Stewart M Anderson

**Supreme Court — Commercial List Users' Committee**

Peter J Bick QC, David H Denton RFD S.C., Peter J Riordan S.C. and Albert A Monichino

**Supreme Court — Costs Co-ordination Committee**

Michael W Shand QC

**Supreme Court — Legal Education Committee**

Jack I Fajgenbaum QC and C F (Kate) McMillan S.C.

**Supreme Court — Probate Users' Committee**

Richard R Boaden and Shane P Newton

**University of Melbourne Law Faculty**

Neil J Young QC and The Honourable Justice Elizabeth J Hollingworth

**Victoria Law Foundation (including Grants Committee)**

Iain R Jones

**Victoria Legal Aid — Community Consultative Committee**

Dr David J Neal

**Victorian Association for the Care and Resettlement of Offenders (VACRO)**

Philip A Dunn QC

**Victorian Civil and Administrative Tribunal Consultative Users Groups  
— Anti-Discrimination List Users Group**

Herman Borenstein S.C., Melanie P Young and Jennifer M Firkin

**Victorian Civil and Administrative Tribunal Consultative Users Groups  
— Credit List Users Group**

Paul J Hayes

**Victorian Civil and Administrative Tribunal Consultative Users Groups  
— Domestic Building List Users Group**

J A Hugh Foxcroft S.C. and John G Bolton

**Victorian Civil and Administrative Tribunal Consultative Users Groups  
— General List Users Group**

Mark A Dreyfus QC and Mark G Klemens

**Victorian Civil and Administrative Tribunal Consultative Users Groups**  
— **Guardianship List Users Group**  
Carolyn H Sparke

**Victorian Civil and Administrative Tribunal Consultative Users Groups**  
— **Occupational & Business Regulation List Users Group**  
Mark A Dreyfus QC, Brian J Bourke, E Lloyd Bryant, John F M Larkins, Thomas V Hurley  
and Mary Anne Hartley

**Victorian Civil and Administrative Tribunal Consultative Users Groups**  
— **Planning List Users Group**  
Michael H Wright QC and Christopher J Wren

**Victorian Civil and Administrative Tribunal Consultative Users Groups**  
— **Retail Tenancies List Users Group**  
Dr Clyde E Croft S.C. and Georgina Grigoriou

**Victorian Heritage Council**  
Susan M Brennan

**Victorian Law Reform Commission Advisory Council**  
Robin A Brett QC

**Victorian Workcover Authority Committee**  
Robin P Gorton QC (Chair), John J Noonan S.C., Robert W Dyer and Katherine L Bourke

## **General Meetings**

### **GENERAL MEETINGS OF THE BAR**

The last Annual General Meeting of the Bar was held on 1 September 2003.

### **BAR COUNCIL MEETINGS**

For the year ended 30 June 2004 the Bar Council held 26 ordinary meetings.

The 2003/2004 Bar Council first met on 4 September 2003. Between that date and 22 July 2004 there have been 22 ordinary meetings. Attendance at these meetings was as follows:

Robin A Brett QC	22	Peter J Riordan S.C.	16
W Ross Ray QC	17	Fiona M McLeod S.C.	18
C F (Kate) McMillan S.C.	19	Iain R Jones	16
Jack I Fajgenbaum QC	20	Dr David J Neal	15
Anthony J Howard QC	17	Rachel M Doyle	19
Philip A Dunn QC	15	Anne E Duggan	17
Michael W Shand QC	21	Michael G R Gronow	20
Mark A Dreyfus QC	20	Debra J Coombs	21
Michael J Crennan S.C.	18	P Justin Hannebery	16



David F R Beach S.C. 18  
Michelle L Quigley S.C. 13

Paul X Connor 22

## EXECUTIVE COMMITTEE MEETINGS

For the year ended 30 June 2004 the Executive Committee held 17 ordinary meetings.

## SUBSCRIPTIONS

For the period 1 July 2003 to 30 June 2004 the Bar Council fixed annual subscriptions (including GST) for members of the Bar as follows:-

### Division A, Part I

Queen's Counsel/Senior Counsel	\$3,320
Over 15 years	\$1,980
Over 14 years	\$1,930
Over 13 years	\$1,930
Over 12 years	\$1,870
Over 11 years	\$1,770
Over 10 years	\$1,710
Over 9 years	\$1,280
Over 8 years	\$1,180
Over 7 years	\$1,070
Over 6 years	\$960
Over 5 years	\$860
Over 4 years	\$800
Over 3 years	\$750
Over 2 years	\$640
Over 1 year	\$590
Under 1 year's standing	\$320
Readers (September 2003)	\$161
Readers (March 2004)	\$43

### Division A, Part II

Crown Prosecutors and Public Defenders	\$400
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### Division A, Part III

Interstate and Overseas Queen's and Senior Counsel	\$530
Interstate and Overseas Juniors	\$400

### Division B, Part III

Ministers of the Crown and Members of Parliament	\$400
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### Division B, Part IV

Solicitors-General and Directors of Public Prosecutions	\$400
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### Division B, Part VII

Crown Counsel and Parliamentary Counsel	\$400
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### Division B, Part VIII

Other Official Appointments	\$400
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## Personalia

(as at 30 June 2004)

### OBITUARIES

Carl J Price on 2 November 2003, Robert C Webster on 23 November 2003, Christopher G Gee on 15 December 2003, Marcelle (Allayne) Kiddle on 27 December 2003, Leslie (George) Crisp on 11 February 2004, Michael N O'Sullivan QC on 26 March 2004 and John A Strahan QC on 17 May 2004.

### JUDICIAL APPOINTMENTS

During the year ended 30 June 2004 the following members of the Victorian Bar were appointed to judicial office.

#### **Federal Court of Australia**

The Honourable Justice Susan M Crennan, appointed 3 February 2004.

#### **Federal Magistrates Court**

Her Honour Federal Magistrate Victoria J Bennett, appointed 10 May 2004.

#### **Supreme Court of Victoria**

The Honourable Justice Marilyn Warren, appointed Chief Justice 23 November 2003, The Honourable Justice Stephen W Kaye, appointed 7 January 2004, The Honourable Justice Simon P Whelan, appointed 25 February 2004 and The Honourable Justice Elizabeth J Hollingworth, appointed 25 May 2004. As of 25 May 2004, The Honourable Justice Geoffrey Nettle was appointed to the Court of Appeal.

#### **County Court of Victoria**

His Honour Judge Geoffrey T Chettle, appointed 2 December 2003, and Her Honour Judge Frances Millane, appointed 2 December 2003.

#### **Magistrates' Court of Victoria**

Reginald J Marron, appointed 18 December 2003, and Gregory L McNamara, appointed 18 December 2003.

#### **Solicitor General**

On 8 July 2003, Pamela M Tate S.C. was appointed Solicitor-General for Victoria.

#### **Senior Counsel**

On 11 November 2003 the following members of the Victorian Bar were appointed Senior Counsel in Victoria:

Graham J Thomas, Peter J Riordan, John R Champion, Timothy J Ginnane, Anthony C Neal, James L Parrish, Jonathan J Noonan, Christopher J Delany, Graeme S Clarke, David J O'Callaghan, Cameron C Macaulay, Stephen G O'Bryan, Neil J Clelland, Mordecai Bromberg, James W S Peters, Carmen M Randazzo, Elspeth A Strong, Debra S Mortimer, Michelle M Gordon, Fiona M Mcleod, and Dr Kristine P Hanscombe.

## **Welcomes**

During the year ended 30 June 2004, the following members were welcomed to the Bench by the Victorian Bar:

### **Federal Court of Australia**

The Honourable Justice Susan M Crennan, on 3 February 2004 the Chairman of the Victorian Bar, Robin Brett QC, extended a welcome on behalf of the Bar.

### **Federal Magistrates Court**

Her Honour Federal Magistrate Victoria J Bennett, on 10 May 2004 the Senior Vice-Chairman of the Victorian Bar, W Ross Ray QC, extended a welcome on behalf of the Bar.

### **Supreme Court of Victoria**

The Honourable Chief Justice Marilyn Warren, on 1 December 2003 the Chairman of the Victorian Bar, Robin Brett QC, extended a welcome on behalf of the Bar.

The Honourable Justice Stephen W Kaye, on 6 February 2004 the Chairman of the Victorian Bar, Robin Brett QC, extended a welcome on behalf of the Bar.

The Honourable Justice Simon P Whelan, on 23 March 2004 the Chairman of the Victorian Bar, Robin Brett QC, extended a welcome on behalf of the Bar.

The Honourable Justice Elizabeth J Hollingworth, on 10 June 2004 the Chairman of the Victorian Bar, Robin Brett QC, extended a welcome on behalf of the Bar.

### **County Court of Victoria**

His Honour Judge Geoffrey T Chettle, on 5 December 2003 the Chairman of the Victorian Bar, Robin Brett QC, extended a welcome on behalf of the Bar.

Her Honour Judge Frances Millane, on 12 December 2003 the Chairman of the Victorian Bar, Robin Brett QC, extended a welcome on behalf of the Bar.

## **Farewells**

During the year ended 30 June 2004, the following judicial members were farewelled by the Victorian Bar:

### **Family Court of Australia**

The Honourable Chief Justice Alastair Nicholson AO RFD, on 26 March 2004 a farewell was extended on behalf of the Victorian Bar by the Chairman, Robin Brett QC.

### **Supreme Court of Victoria**

The Honourable Justice Rosemarie Balmford, on 12 September 2003 a farewell was extended on behalf of the Victorian Bar by the Chairman, Robin Brett QC.

The Honourable Chief Justice John H Phillips AC, on 17 October 2003 a farewell was extended on behalf of the Victorian Bar by the Chairman, Robin Brett QC.

The Honourable Mr Justice Norman O'Bryan, on 7 April 2004 a farewell was extended on behalf of the Victorian Bar by the Chairman, Robin Brett QC.

### **County Court of Victoria**

His Honour Judge Graeme R G Crossley, on 28 August 2003 a farewell was extended on behalf of the Victorian Bar by the then Chairman, John T Rush RFD QC.

His Honour Judge Gordon Lewis, on 11 March 2004 a farewell was extended on behalf of the Victorian Bar by the Chairman, Robin Brett QC.

His Honour Judge Thomas A Neesham, on 6 May 2004 a farewell was extended on behalf of the Victorian Bar by the Chairman, Robin Brett QC.

## **Roll of Counsel**

(as at 30 June 2004)

	Female	Male	Total
<b>Division A, Part I</b>			
Victorian Practising Counsel — Queen’s and Senior Counsel	17	193	210
Victorian Practising Counsel — Junior Counsel	276	1064	1340
<b>Division A, Part II</b>			
Crown Prosecutors and Public Defenders	6	18	24
<b>Division A, Part III</b>			
Interstate and Overseas Counsel	6	131	137
<b>Division B, Part I</b>			
Governors			
<b>Division B, Part II</b>			
Judges	27	150	177
<b>Division B, Part III</b>			
Ministers of the Crown and Members of Parliament	1	8	9
<b>Division B, Part IV</b>			
Solicitors-General and Directors of Public Prosecutions	1	5	6
<b>Division B, Part V</b>			
Masters and Judicial Registrars		7	7
<b>Division B, Part VI</b>			
Magistrates and Full-time Members of Statutory Tribunals	24	57	81
<b>Division B, Part VII</b>			
Crown Counsel and Parliamentary Counsel	2	3	5
<b>Division B, Part VIII</b>			
Other Official Appointments	1	2	3
<b>Division C, Part I</b>			
Retired Judges and other Judicial Officers	1	74	75
<b>Division C, Part II</b>			
Retired Holders of Public Office other than Judicial Officers	3	5	8
<b>Division C, Part III</b>			
Retired Counsel	10	74	84
<b>Division D</b>			
Academics	3	13	16
<b>TOTAL</b>	<b>378</b>	<b>1804</b>	<b>2182</b>

**The following 104 persons signed the Roll of Counsel:**

Peter Francis Collins, Shaun L Le Grand, The Hon Neil A Brown QC, Peter F J Condliffe, Anne Hassan, Theodoros Kassimatis, Dean G Guidolin, Eric D Wawra, Arushan Pillay, Tara K Hartnett, Pasquale A Marchetti, Patrick K Over, Asad Ansari, David C Hallowes, Anita R C Spitzer, Timothy R Marsh, Barnaby J Smith, Timothy J Sowden, Justin B B Lewis, Nha T Nguyen, Florian Andrighetto, Malcolm H Thomas, Jarrod D Williams, Jeremy J Whelen, Glenn W Casement, Caroline J Jenkins, Tom D Cordiner, Andrew J Woods, Christopher Fatouros, Justin S Graham, Ashley P Richardson, Christopher J Furnell, Samuel P Bird, Georgina A Costello, Simone L Bingham, Anthony T Strahan, Simon T Pitt, Antonio Ciro, Jonathan D Forbes, Christopher D Tate, Simon J Gannon, Robert A Niemann, Paul L Ehrlich, Ian P Horak, Michael J F Sweeney, Jacqueline M Horan, Frances I O'Brien S.C., Michael C Hines, Karl W Brandon, Struan J M Sutherland, Joanne L Piggott, Randall J

Kune, Sarah Leighfield, Jason Gullaci, Sharon A Burchell, Michael A O'Brien, Rachel E Ellyard, Craig A Halfpenny, Michelle M Unsworth, Shirley E Dennehy, Timothy D Bourke, Adrian S Strauch, Meryam Apak, Alanna M Duffy, Dianne L Mitchell, Georgina H Thomas, Justin P Wheelahan, Susan Aufgang, Neill F Campbell, Julian D Devery, Bernard Sheehy, Richard C Knowles, Tin A Bunjevac, Phillip Rompotis, Berris E Aitken, Anthony P Lewis, Annette H Kaitinis, Robert B Harper, Brendan L Reilly, Susan K Powell, Ian D Caudwell, Nikola Dragojlovic, John R V Kelly, Clive G Scott, Timothy M Grace, Gregory S Robinson, Liza M Powderly, Ewan J Hall, Sharon R Kermath, Peter H Wallis, Christopher V Provost, Neil A Hutton, William F Rimmer, Luke C Simpson, F (John) Morgan, Baptista K Lai, Francis B Healy, Helen Dellidis, Michelle Britbart, Philip A S Skehan, Constantine Mylonas, Richard J Greenfield, James G Samargis and Jessica B A Klingender.

**Members whose names were removed from Division A, Part I (Victorian Practising Division):**

David G Llewellyn, Stella Zaparas, Selwyn C Newnham, John R Wallace, Ronald Holdsworth, Bradley D Baker, Belal (Bill) Baarini, Christopher R Colman, Peter Neustupny, Eilish J Cooke, Mary L Exell, Wallace G Meehan, Kamal Farouque, Roger Ilitch and Kim Pettigrew.

**Members whose names were removed from Division A, Part III (Interstate and Overseas Counsel):**

Michael S Pickin, Brian F Murray QC, Rory S Derham, Michael G Skinner, Roland G Anthony, Anna J Katzmann S.C., Timothy C Watts, Clarence J Stevens QC, Mark L Williams S.C. and Kenneth D Wilkinson.

**Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division A, Part II (Crown Prosecutors):**

Mark A Gamble, Kieran G Gilligan and Douglas A Trapnell.

**Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division A, Part III (Interstate and Overseas Counsel):**

Paul F Dalkie, Andrew J Hawking and Richard J Bourke.

**Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division B, Part II (Judges):**

His Honour Judge Geoffrey T Chettle, Her Honour Judge Frances Millane, The Honourable Justice Stephen W Kaye, The Honourable Justice Susan M Crennan, The Honourable Justice Simon P Whelan, Her Honour Victoria J Bennett FM and The Honourable Justice Elizabeth J Hollingworth.

**Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division B, Part IV (Solicitors-General and Directors of Public Prosecutions):**

Pamela M Tate S.C. and Nathan A Moshinsky QC

**Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division B, Part VI (Magistrates & Full-time Members of Statutory Tribunals):**

Reginald J Marron, Gregory L McNamara, David A Fanning, Susan Borg, Stella Moraitis, and John B Bingeman QC.

**Member whose name was transferred from Division A, Part I (Victorian Practising Counsel) to Division B, Part VIII (Other Official Appointments):**

Bernard D Smith.

**Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division C, Part I (Retired Judges and Other Judicial Officers):**

The Honourable Anthony Graham QC and Constantine G Nikakis.

**Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division C, Part III (Retired Counsel):**

Howard W Fox QC, Siva S Rasa, David G Henshall, Harold A Cottee, P Richard Gorrie, Arthur G Roberts, Sue A Winneke, Harry G Wilcox, John A Ribbands and Michael J Croyle.

**Members whose names were transferred from Division A, Part I (Victorian Practising Counsel) to Division D (Academics):**

Oscar I Roos and Colin D Campbell.

**Member whose name was transferred from Division A, Part II (Crown Prosecutors and Public Defenders) to Division A, Part I (Victorian Practising Counsel):**

Michael P Cahill.

**Member whose name was transferred from Division A, Part II (Crown Prosecutors and Public Defenders) to Division A, Part III (Interstate and Overseas Counsel):**

Robert T Barry.

**Members whose names were transferred from Division A, Part III (Interstate and Overseas Counsel) to Division B, Part II (Judges):**

The Honourable Justice Robert McDougall and The Honourable Justice Richard W White.

**Member whose name was transferred from Division A, Part III (Interstate and Overseas Counsel) to Division C, Part III (Retired Counsel):**

Andrew Barrie.

**Member whose name was transferred from Division B, (Governors) to Division C, Part I (Retired Judges and other Judicial Officers):**

The Honourable Austin Ashe AC.

**Members whose names were transferred from Division B, Part II (Judges) to Division C, Part I (Retired Judges and other Judicial Officers):**

His Honour B J Herron QC, His Honour Judge Crossley, The Honourable Chief Justice John H Phillips AC, The Honourable Chief Justice Nicholson AO RFD, The Honourable Justice Roderick P Meagher and His Honour Judge Neesham.

**Member whose name was transferred from Division B, Part VII (Crown Counsel and Parliamentary Counsel) to Division C, Part III (Retired Counsel):**

Barry F Moorfoot.

**Member whose name was transferred from Division C, Part I (Retired Judges and Other Judicial Officers) to Division A, Part I (Victorian Practising Counsel):**

The Hon John D Davies QC.

**Member whose name was removed from Division D (Academics):**

Peter F Condliffe.

**Member whose name was transferred from Division D (Academics) to Division C, Part III (Retired Counsel):**

Professor Francis A Trindade.

**The following Readers signed the Overseas Roll of Counsel:**

Joseph Lai, Nirrie P Eliakim, Jacinta J Murray, Carol Singh and Lent H Tevi.

## Functions

### Opening of the Legal Year

Religious observances for the legal profession on the occasion of the opening of the Legal Year were held on 2 February 2004. The services were held at St Paul's Cathedral, St Patrick's Cathedral, Melbourne Hebrew Congregation and Fo Guang Yuan Temple.

### Social Functions

On 3 March 2004, a reception was held at the Essoign to acknowledge the pro bono contribution of members of the Bar and to farewell Samantha Burchell on her retirement as Co-Executive Director of the Public Interest Law Clearing House.

At a reception on 1 March 2004 the Chairman, Robin A Brett QC, unveiled a Tapa Cloth presented to the Victorian Bar by Vanuatu lawyer Jennifer La'au in gratitude for the Bar's commitment to the advocacy training of lawyers in the south-pacific region.

On 7 December 2003, the annual Christmas party for barristers' children was held at the Royal Botanical Gardens. Father Christmas (Paul D Elliott QC), attended.

On 9 September 2003, the Chairman and members of the Victorian Bar Council and the Women Barristers' Association hosted a reception to mark the unveiling of a second portrait in a series of "images of women in the law". The photograph is of the five women who have been Justices of the Supreme Court of Victoria – Justices Susan Kenny, Rosemary Balmford, Marilyn Warren, Julie Dodds-Streeton and Katherine Williams. The picture now hangs in the foyer of Owen Dixon Chambers West.

On 29 August 2003, the Chairman and members of the Victorian Bar Council held a Living Legends dinner at the Essoign. The 'Living Legends' honoured were Jeffrey L Sher QC, Douglas R Meagher QC, Jack I Fajgenbaum QC, Max G Perry, Susan M Crennan QC, Hartog C Berkeley QC, George Beaumont QC and Gerard P Nash QC.

The 2004 Annual Bar Dinner was held on 29 May 2004 at ZINC in Federation Square. The dinner was well attended by members of the Bench and Bar.

The honoured guests were:

*State*

The Honourable Chief Justice Warren  
The Honourable Robert Brooking AO, QC  
The Honourable Justice Kaye  
The Honourable Justice Whelan  
His Honour Judge Frank Walsh AM, QC  
Her Honour Judge Rachelle Lewitan AO

*Commonwealth*

The Honourable Justice Crennan  
Federal Magistrate Victoria Bennett

His Honour Judge Chettle  
Her Honour Judge Millane  
Pamela Tate S.C., Solicitor-General for Victoria  
*International*  
Nathan Moshinsky QC, Solicitor-General for the Solomon Islands

Entertainment was provided by His Honour Judge Frank Walsh's Vicbar All-Stars with Miss Sarah Fregon. The Junior Silk was Dr Kristine P Hanscombe S.C and the reply on behalf of the honoured guests was given by the Honourable Justice Simon Whelan.

Dinners were held at the conclusion of the September 2003 and March 2004 Readers' Courses to welcome the new members of the Bar. The Readers were joined at the reception by their mentors and members and staff of the Bar Council. The September Readers were addressed by The Honourable Justice Geoffrey Eames of the Supreme Court and the March Readers were addressed by The Honourable Chief Justice Warren of the Supreme Court.

### **Other Functions**

During the year under review the Chairman and members of the Victorian Bar Council entertained guests at various functions.

## **Sporting Events**

### **Cricket**

The annual cricket match between the Victorian Bar and the Law Institute of Victoria was played at the Waverley Oval, East Malvern on Monday, 22 December 2003. The Law Institute retained the Sir Henry Winneke Trophy. Scores: Law Institute 4/123 d. Victorian Bar 108.

### **Golf**

The Annual Golf Day between the Bench & Bar and the Law Institute of Victoria took place at Kingston Heath Golf Club on Tuesday, 23 December 2003. The Bench & Bar team regained the Sir Edmund Herring Trophy.

### **Hockey**

The "Bar None" hockey team had a 4-3 victory over the Law Institute of Victoria team at the State Hockey Centre on 23 October 2003.

### **Tennis**

The trophies for winning the overall tennis day and for the best performed pair were both won by the Law Institute at the annual contest held at Kooyong Stadium on Tuesday, 23 December 2003.

### **Yacht Regatta**

The 2003 Wigs & Gowns Regatta was held on Port Phillip on 22 December 2003. Ross Macaw QC won the Neil McPhee QC Memorial Trophy in his motor sailor *Marie Louise IV* and John Digby QC won the Thorsen Perpetual Trophy in his 45ft sloop *Capriccio*.



# **Annual Reports of Associations and Committees**

## **ANNUAL REPORT OF THE VICTORIAN BAR SUPERANNUATION FUND**

Barfund has had a good year. To 4 June 2004 the balanced and growth options, which together account for 95% of members funds, each achieved double-digit returns. This is a very strong result, especially when a two-year view is taken.

Last year the capital stable option and the balanced option which accounts for 76% of members funds, each returned a positive number when many comparable balanced funds recorded negative returns of about 10%.

Barfund adopted conservative strategies in the bear market. This action protected members against the downside. Although it slowed the pickup slightly in this year's bull market, the two-year results, in particular, have been well above those of the median manager.

Now, with the assistance of its asset consultants, JANA Investment Advisors, Barfund has been active in appointing the best fund managers to take advantage of the better climate for both Australian and International equities.

The directors thank David Holston and Greg Clark of JANA for their tireless contribution to the affairs of Barfund.

The appointment, in December 2003, of 452 Capital to manage 33% of the Australian Equity asset class was a very successful move. That mandate will be increased to 40% from mid July 2004. At the same time Concord and Wallara Asset Management will be introduced to take a further 20% each of that asset class. Maple Brown Abbott's mandate will be reduced from 33% to 20%, and UBS terminated.

As to international equities, Marathon and Wellington were appointment as new managers in August 2003, while Alliance Dresdner's appointment was terminated.

Being a not for profit fund, Barfund's management expense ratio (MER) continues to be significantly lower than the MER of most other funds.

In October 2003 the Directors farewelled Ross Robson on his retirement as a director and Chairman after 23 years of very fine service. Director David Maclean, also retired. Barfund records its appreciation for their contributions and also congratulates new directors Ross Macaw and Paul Cosgrave, and new alternative director, Stephen McLeish, on their appointments.

Recently, on 4 June 2004 Barfund, conducted a seminar on Allocated Pensions. It was very well attended. From 1<sup>st</sup> July 2004 an allocated pension will be available for all retired Barfund members over 55 years, or for non-retired members over 65 years.

The Fund now exceeds \$100 million. It operates efficiently and cost effectively in an ever increasing environment of regulation and red tape only through the dedicated efforts of its secretary John Ames and my fellow directors. For this, I sincerely thank John Ames, Jonathan Beach QC (Deputy Chairman), Melanie Sloss SC, Ross Macaw QC and Paul Cosgrave.

**Philip J. Kennon QC**  
*Chairman*

## **ANNUAL REPORT OF THE BARRISTERS' BENEVOLENT ASSOCIATION OF VICTORIA**

Subscriptions received during the twelve months to 30 June 2004 amounted to \$126,739. This

was significantly higher than in recent years. Subscriptions in the past seven years were:-

- 2002/2003 \$20,475\*
- 2001/2002 \$44,935
- 2000/2001 \$34,961
- 1999/2000 \$29,650
- 1998/1999 \$39,580
- 1997/1998 \$34,128
- 1996/1997 \$52,355

\* Subscriptions amounting to about \$30,000 were received at the end of June 2003 and were credited to the accounts in July 2003.

While the Association had a capital fund of \$1,015,120 at 30 June 2004, this reserve can be easily eroded unless subscriptions are maintained at a reasonable level. Members of the Association and of the Victorian Bar are urged to bear in mind the critical role that the Association can play in assisting fellow members or their families who require financial support. Subscriptions to the Association are currently considered to be tax deductible.

During 2003/2004 the Association made eight payments to applicants totalling \$137,000. Two payments were by way of interest-free loans, three were gifts and three were combinations of interest-free loans and gifts.

Following a review of outstanding loans, the sub-committee of the Committee of Management of the Association decided that several payments made by the Association in past years totalling \$33,980 which had previously been recorded as grants had in fact been loans. The accounts have been adjusted accordingly. The sub-committee also decided to write off three loans totalling \$50,000 because on account of death or other circumstances there was no prospect of the recipients repaying them.

Net interest from investments received during the year amounted to \$43,746.

At 30 June 2004, the capital fund, which is represented by investments in trustee securities and units in an investment fund, stood at \$1,015,120 and outstanding loans totalled \$197,917.

In December 2003 the Bar Council approved a change in the Association's investment strategy and resolved that half of the Association's funds should be invested in equities. Previously the whole of the funds were invested with Equity Trustees either in their Cash Management Fund or with their mortgage fund, the Common Fund No 1. This decision was based on advice provided independently by Equity Trustees Limited and JANA Investment Advisors both of whom recommended that the Association could obtain a better return by investing a proportion of its funds in 'blue chip' equities. The recommendation followed a review of the Association's expenditure pattern over recent years.

An investment of \$487,000 was subsequently made in the Equity Trustees ASX 200 Fund. The Fund invests in the top 200 listed companies on the Australian Stock Exchange excluding property trusts.

Over the first six months, the investment has achieved a return of 5.52% through a combination of income receivable of \$4,496 (a return on the investment of 0.92%) and an increase in the value of the units held in the fund of \$22,395 (a return of 4.6%). The return on investment has been calculated before taking into account any dividend franking credits which may become available to the Association after the Fund has completed its tax return for 2003/2004. It should be noted that the investment in the ASX Fund is considered to be a long-term investment in that the return may fluctuate over a 3-5 year period. The price of units in the Equity Trustees ASX 200 Fund can rise or fall, as market conditions dictate.

If the funds invested in the ASX Fund had instead been invested in the Equity Trustees

mortgage investment fund, the Common Fund No 1, a 2.62% return would have been achieved for the equivalent period but of course no capital growth.

The Victorian Bar Council is the Committee of Management for the Association. The Bar Council has delegated to a sub-committee consisting of the Chairman of the Bar and its Honorary Treasurer the power to conduct the business of the Association including to decide on applications for relief and the amount and mode of making grants in accordance with the objects of the Association. The sub-committee is required to report to the Committee of Management on decisions it has made but the names of recipients are not disclosed unless the Committee of Management so directs.

### Financial Statement for Year Ended 30 June 2004

	2004	2003
	\$	\$
Capital Fund at 1 July 2003	977,795	979,818
<b>Receipts</b>		
Subscriptions Received During the Year	126,739	20,475
Loan Repayments Received	3,563	
GST Refunds Received	277	77
Net Interest Earned During the Year	43,746	45,734
	<u>1,152,120</u>	<u>1,046,104</u>
<b>Payments</b>		
Grants Made	69,000	38,000
Loans Made	68,000	30,309
Total Payments to Members	<u>137,000</u>	<u>68,309</u>
<b>Capital Fund as at 30 June 2004</b>	<u>1,015,120</u>	<u>977,795</u>
<b>Loans</b>		
Loans Outstanding Before Adjustments	213,937	149,777
Plus Amounts Which Should Have Been Loans	33,980	
Less Loans Written-off	(50,000)	
Loans as at 30 June 2004	<u>197,917</u>	<u>149,777</u>
<b>Total Assets as at 30 June 2004</b>	<u>1,213,037</u>	<u>1,127,572</u>

### Amounts Held by Equity Trustees as at 30 June 2004

	2004	2003
	\$	\$
Equity Trustee Common Fund No. 1	436,956	712,529
Equity Trustees ASX 200 Fund Investment (at cost)*	487,000	
Equity Trustees Cash Management Fund	91,164	265,266
	<u>1,015,120</u>	<u>977,795</u>
Loans Outstanding	<u>197,917</u>	<u>149,777</u>
<b>Total Assets as at 30 June 2004</b>	<u>1,213,037</u>	<u>1,127,572</u>

\* The investment consists of 458,914 units. The original cost was \$1.06 per unit. At 30 June 2004, the unit price was \$1.11.

**Robin Brett and Michael Shand**

*Sub-committee of the Committee of Management, the Victorian Bar Council*

## ANNUAL REPORT OF BARRISTERS' CHAMBERS LIMITED

The refurbishment of Owen Dixon Chambers East has again dominated the affairs of Barristers' Chambers Limited. This is not surprising given the scale of the refurbishment and the difficulties associated with managing the refurbishment while at the same time keeping Owen Dixon Chambers East open. The refurbishment has necessarily and unavoidably involved inconvenience to many tenants in Owen Dixon Chambers East.

Tenants most directly affected by noise have been allowed rental rebates.

Despite the disruption, generally counsel have been most understanding and tolerant of the disruption caused by the refurbishment. BCL again wishes to place on record its appreciation for the tolerance and understanding shown by tenants who have been adversely affected.

The refurbishment has been closely managed and co-ordinated from BCL's end by Daryl Collins and Geoff Bartlett. Their organisation of the temporary relocation of tenants and close liaison with the architects and builders has been the key to enabling the refurbishment to proceed while keeping Owen Dixon Chambers East open. The significance of their work behind the scenes cannot be overstated.

The refurbishment is well advanced with the project targeted for completion in late November this year. Levels 11 to 13 were completed in October last year and levels 8 to 10 in late March/early April this year. Levels 5 to 7 are scheduled for completion in late July and early August this year. The last three floors, levels 2 to 4, will be refurbished between August and November.

As part of the refurbishment of Owen Dixon Chambers East there has been a substantial upgrade of the building's services. In particular, the upgrade of the lifts in Owen Dixon Chambers East was completed late last year.

It is pleasing to note that the refurbishment has been widely endorsed by tenants who have taken up chambers on the new floors.

The refurbishment of three floors at a time, involving the temporary loss of 75 rooms, has resulted in a shortfall of available rooms. This has particularly affected the junior bar. BCL expects that this shortfall will be met after the completion of the refurbishment. In addition to the 75 rooms which will then become available, BCL will commence refurbishment of level 2 of Douglas Menzies Chambers in about August this year. The former readers' course facilities located on level 2 will be converted to 16 rooms. In addition, in February this year BCL took up level 6 of Joan Rosanove Chambers adding a further 16 rooms. By the end of 2004 there will be approximately 100 more rooms available than there were at the end of 2003.

BCL has continued to work closely with the Victorian Bar throughout the year. The Victorian Bar Inc increased its commitment to BCL with a further capital injection of \$500,000. The progressive contribution of capital by the Victorian Bar Inc has enabled BCL to undertake the refurbishment and helps to ensure BCL remains in a sound financial position in the future.

The Victorian Bar Inc has worked with BCL on other issues of common interest. In the last year BCL with the Victorian Bar Inc applied for and obtained a determination from the Minister for Small Business to exempt BCL from the *Retail Leases Act* in relation to its barrister tenants. Had this exemption not been obtained, the Act would have applied to tenants on levels

1 to 3 of BCL's various buildings but not to tenants on levels 4 and above. In addition to this anomaly, the administrative and regulatory burden of compliance with the *Retail Leases Act* would have added substantially to BCL's costs. The Act would also have adversely affected BCL's flexibility in managing the relationship between long term leases undertaken by BCL on the one hand and monthly tenancies offered to barristers, on the other. I wish to record in particular BCL's thanks to Dr Clyde Croft S.C. who generously assisted in obtaining the ministerial exemption.

I would like to place on record the Board's appreciation for the good relationship between the Bar Council and the company. In particular, I acknowledge the tireless contribution to the company by Robin Brett QC who, until his election as Chairman of the Bar Council, had been the Bar Council representative on the Board for many years. He continues to work closely with the company in his new capacity as Chairman of the Bar Council.

I place on record my appreciation for the support I have received from all members of the Board during the year. They are: John Digby QC (Deputy Chairman), David Levin QC, Michael Colbran QC, Michael Shand QC, Peter Lithgow, Caroline Kenny, Wendy Harris, Paul Connor and Daryl Collins (Chief Executive Officer). The Board is extremely hard working and has functioned harmoniously throughout the year. On behalf of the Board I congratulate the Chief Executive Officer and the Secretary, Geoff Bartlett, for their capable and tireless dedication to the company. As I have said above, the refurbishment of Owen Dixon Chambers East could not have been conducted smoothly without their commitment to task. This has placed considerable strain on each of them and there is no doubt that the company and the bar as a whole have been extremely well served by each of them.

Finally, on behalf of the Board I must pay tribute to my predecessor Ross Robson QC. It is beyond the scope of this report to give a proper account of his enormous contribution to the company.

Ross Robson had been a director for nearly 10 years when he retired late last year. He was appointed on 7 November 1994 and became Chairman from 1998. When he joined the Board, shareholders' funds were negative \$2.7 million and accumulated losses stood at \$6.5 million. When Ross Robson retired shareholders funds stood at \$31.3 million, with retained profits of \$21.6 million. These figures speak for themselves but like all raw statistics they also require some explanation. The turnaround of the company's fortunes did not happen by accident. Ross Robson was instrumental in the turnaround of the company because he was prepared to tackle rather than avoid the hard decisions facing the company during his Chairmanship. During the tenure of Allan Myers QC as Chairman, Ross Robson took on responsibility for the financial restructuring of the company. He was instrumental in arranging for the re-financing of the debentures and unsecured notes which by 1997 were costing the company far more than the going market interest rate. By 2000 the company had repaid all of the debentures and unsecured notes.

In about 1990 the company purchased land in Little Bourke Street. This investment turned out to be a great burden on the resources of the company. Ross Robson recognised that the land had to be sold to enable the company to concentrate on its core business of providing chambers to barristers. Unfortunately, this was no straightforward task. The land was affected by easements and covenants which were imposed when it was part of a larger development site. It was also affected by a Public Transport Corporation substation in one corner. It is impossible to describe in this report just how convoluted dealing with this land became. Ross Robson was not deterred by this. He led the Board in obtaining a planning permit for the land to enable a car park to be constructed upon it, which involved an application to VCAT. He also negotiated with the Public Transport Corporation for the acquisition of air rights to enable the car park to be constructed. After several years, through Ross Robson's persistence, the company was able to

sell the land. Without this sale, the refurbishment of Owen Dixon Chambers East could not have commenced.

I witnessed the turnaround of the company's fortunes. This turnaround commenced with Allan Myers renegotiating the lease of Owen Dixon Chambers West with Schroeders. It was carried forward by Ross Robson pressing the sale of the land, negotiating the recapitalisation of the company by the Victorian Bar Inc and turning the refurbishment of Owen Dixon Chambers East from an idea into a work in progress.

I am fortunate to have taken over as Chairman of the company after it had been turned around and firmly established on a sound course by my predecessors.

**Paul Anastassiou**  
*Chairman*

## ANNUAL REPORT OF THE ESSOIGN

### ANNUAL REPORT OF THE CHILDREN'S COURT BAR ASSOCIATION

This year the Association has been very active in continuing education.

A series of three excellent and well-attended lectures in Spring 2003 focussed on the role of counsel in the court acting for parents, the Department of Human Services and children in proceedings under the Children and Young Persons Act.

In 2004, the Association organised a joint seminar with the Family Law Bar Association as a part of the new continuing legal education of the Bar featuring psychologist Vincent Papaleo on the topic of interviewing children about sex abuse.

Barristers practising in the family division were again able to access the discounted rate on professional indemnity insurance offered to those with predominantly criminal law practices.

The Association continued to liaise with the court through the court users group and is participating in the court's review of pre-hearing conferences and the review of the Children and Young Person's Act.

Office Bearers: Robert T. Burns (President), Emma M. Swart (Secretary), Geoff R. Martin (Treasurer)

### ANNUAL REPORT OF THE COMMERCIAL BAR ASSOCIATION

The Commercial Bar Association ("COMMBAR") is an association of members of the Victorian Bar ("the Bar"), practising predominantly in commercial law. It was established in October 1994 and is governed by its Rules (published at [http://www.vicbar.com.au/5\\_2\\_8.html](http://www.vicbar.com.au/5_2_8.html)).

The primary objectives of COMMBAR are:

- (a) to provide a forum for discussion amongst barristers of recent legislative and judicial developments in commercial law;
- (b) to provide continuing legal education ("CLE") for the Bar, especially amongst junior barristers;
- (c) to provide an opportunity for members of the Bar to become acquainted with other members of the Bar who share a common interest in a commercial law related area of practice; and

- (d) to comment upon proposed legislative and procedural reform in commercial law related areas of practice when requested by the Bar Council to do so.

COMMBAR is particularly committed to encouraging the participation of junior members of the Bar in COMMBAR activities.

Members of the Bar who are interested in becoming members of COMMBAR are invited to join by forwarding a membership application to the Convenor. At present, no membership fees apply (but this may change in the foreseeable future). The application form for membership is available at [http://www.vicbar.com.au/5\\_2\\_8.html](http://www.vicbar.com.au/5_2_8.html).

As at 30 June 2004, the Executive Office Bearers of COMMBAR were:

<b>President</b>	David H Denton, RFD S.C.
<b>Senior Vice-President</b>	Melanie Sloss, S.C.
<b>Vice-President (Convenor)</b>	Albert Monichino
<b>Treasurer</b>	John Dixon

The Section Chairs and Secretaries were:

**Banking & Finance**

<i>Chair</i>	Peter Bick, Q.C.
<i>Secretary</i>	Andrew Kirby
<i>Assistant Secretary</i>	Samantha Cipriano

**Construction Law**

<i>Chair</i>	John Digby, Q.C.
<i>Deputy Chair</i>	Richard Manly, S.C.
<i>Secretary</i>	Andrew Kincaid
<i>Assistant Secretary</i>	Caroline Kirton

**Corporations & Securities Law**

<i>Chair</i>	David H Denton, RFD S.C.
<i>Deputy Chair</i>	John Dixon
<i>Secretary</i>	Caroline Kenny
<i>Assistant Secretary</i>	Dino Currao

**Environmental, Planning & Local Government**

<i>Chair</i>	Jeremy Gobbo, Q.C.
<i>Secretary</i>	Susan Brennan
<i>Assistant Secretary</i>	Rebecca Leshinsky

**Insolvency Law**

<i>Chair</i>	Nunzio Lucarelli, Q.C.
<i>Secretary</i>	Kim Knights
<i>Assistant Secretary</i>	Andrew Hanak

**Insurance & Professional Negligence**

<i>Chair</i>	Peter Riordan, S.C.
<i>Deputy Chair</i>	Cameron Macaulay, S.C.
<i>Secretary</i>	Wendy Harris
<i>Assistant Secretary</i>	Kate Anderson

**Intellectual Property & Trade Practices**

<i>Chair</i>	Dr John Emmerson, Q.C.
<i>Secretary</i>	Andrew Maryniak
<i>Assistant Secretary</i>	Sara Hinchey

**Property & Probate**

<i>Chair</i>	Peter Best
<i>Deputy Chair</i>	Robert Shepherd
<i>Secretary</i>	David Batt

*Assistant Secretary*

My Anh Tran

**Public Law**

*Chair*

Richard Tracey, Q.C.

*Secretary*

Stephen McLeish

*Assistant Secretary*

Richard Wilson

**Revenue Law**

*Chair*

Alexandra Richards, Q.C.

*Secretary*

Simon Steward

*Assistant Secretary*

Chrissy Mavroudis

*Assistant Secretary*

Julianne Jacques

The past year has seen the introduction of mandatory CLE at the Bar. Whilst COMMBAR was opposed in principle to the introduction of mandatory (as opposed to voluntary) CLE - for the reasons set out in its submission to the Bar Council dated April 2003 – COMMBAR has wholeheartedly supported the introduction of mandatory CLE once the decision to introduce it was made by the Bar Council in June 2003. Without question, the introduction of mandatory CLE has been a resounding success with record attendances at CLE events. In great part this has been due to the quality of the presentations.

During the past year, COMMBAR has continued to be the major provider of commercial law related CLE to the Bar. It presented 27 CLE seminars conducted by the various sections of COMMBAR, as follows:

SECTION	DATE	TOPIC	SPEAKERS
Environmental, Planning & Local Government Law	5 August 2003	Changes to the administration of the Planning List at VCAT	The Honourable Justice Morris
Corporations & Securities	8 October 2003	Whether it is open for a person who is both a shareholder in a corporate trustee of a unit trust and a unit holder in the trust to seek orders under s233(1) of the <u>Corporations Act</u> requiring other unit holders to purchase his units in circumstances where there is a breakdown in the relationship between shareholders/unit holders	David Denton, RFD S.C., Dino Currao and Honourable Justice Dodds-Streton
Property & Probate Law	14 October 2003	Current practice in respect of applications made in the Practice Court of the Supreme Court on Probate Day. Review of current issues in Probate law including the High Court's recent consideration of mutual wills in <u>Barns v Barns</u> [2003] HCA 9.	Stuart McNab and Robert Shepherd



Insurance & Professional Negligence	11 November 2003	What constitutes “professional” activities for the purpose of construing professional indemnity insurance coverage following recent decisions including <u>Toomey v Scolaro’s Concrete Constructions</u> (2002) 12 ANZ Insur Cases 61-519 and <u>Pioneer Road Services v QBE Insurance</u> (2002) 12 ANZ Insur Cases 61-520.	Wendy Harris
Banking & Finance	18 November 2003	Barnes v Addy claims for “knowing receipt” of trust funds brought against financial institutions, with particular reference to Finkelstein J’s recent decision in <u>Spangaro v Corporate Investment Australia Funds Management Ltd</u> [2003] FCA 1025.	Jonathon Moore
Intellectual Property & Trade Practices	10 December 2003	Current practice and procedure in hearings at the Trade Marks Office	Ed Heerey
Property & Probate Law	15 December 2003	Recent developments in the law relating to Retail Tenancies	Dr Clyde Croft, S.C.
Environmental, Planning & Local Government Law	16 February 2004	The amendment of permits: <u>Melbourne City Council v Becton Corporation Pty Ltd</u> (2003) 14 VPR 278	Chris Canavan, Q.C. and Adrian Finanzio
Public Law	25 February 2004	Hearings before private tribunals with particular emphasis on the AFL Tribunal and the Racing Appeals Board	Anthony Nolan and Her Honour Judge Nicholson
Construction Law	11 March 2004	The admissibility of factual matrix evidence in the interpretation of contracts, with reference to <u>Royal Botanic Gardens and Domain Trust v South Sydney City Council</u> [2002] HCA 5, and contrasting the more liberal approach to construction in England affirmed in recent House of Lords decisions including <u>Investors Compensation Scheme v West Bromwich Building Society</u> (1998) 1 WLR 896	Andrew Kincaid and Francis Tiernan
Corporations & Securities Law	15 March 2004	The ACCC’s role in 2004	Graeme Samuel, AO, Chair of ACCC
Corporations & Securities Law	25 March 2004	Mapping complex arguments	Tim van Gelder and Andrew Palmer

Insurance & Professional Negligence	30 March 2004	Recent legislative amendments in the area of professional negligence, including amendments to the <u>Wrongs Act 1958</u>	Michael Wyles
Corporations & Securities Law	19 April 2004	Fiduciary and statutory duties of resigning directors - <u>Southern Real Estate P/L v Dellow &amp; Anor</u> [2003] SASC 318 and <u>Capital Investments Corporation Pty Ltd v Classic Trading Pty Ltd</u> [2001] FCA 385	Dr Robert Dean
Construction Law	22 April 2004	The application of the “Cardinal Change” doctrine to claims for variations due to changes to scope of works	Michael Whitten
Revenue Law	28 April 2004	The application of Part IVA of the <u>Income Tax Assessment Act</u> to the purposes of a third party	Michelle Gordon S.C. and Brian Shaw QC
Property	5 May 2004	Executor’s Commission – principles, ethics and <u>In re Barr Smith</u> [1920] SASR 380 revisited	Robert Shepherd and Paul Bravender-Coyle
Intellectual Property & Trade Practices	13 May 2004	The assessment of damages under section 82 of the <u>Trade Practices Act 1974</u> with particular reference to the recent High Court decision in <u>Murphy v Overton Investments Pty Ltd</u> [2004] HCA 3 (5 February 2004)	Noel Magee, QC and Richard Harris
Insurance & Professional Negligence	25 May 2004	When can barristers and solicitors, act against former clients? Lawyers duties of confidence and loyalty	Leslie Glick, S.C. and Anthony Schlicht
Banking & Finance and Insolvency Law	27 May 2004	The financial adviser as a deemed director.	Peter Agardy
Corporations & Securities Law	2 June 2004	Knowing receipt and knowing assistance: conspiracy – like wrongdoings in the civil law	Associate Professor John Glover, Monash University Law Faculty
General	3 June 2004	Misuse of market power and the <u>Trade Practices Act 1974</u> (Cth)	The Hon. Justice Heerey
General	10 June 2004	Trade Practices Law Twilight Series – Seminar 1	Charles Sweeney, Q.C.

Insolvency Law	17 June 2004	Recent developments in litigation funding and champerty, including the recent decision of <u>Clairs Keeley (a firm) v Treacy &amp; Ors</u> [2003] WASCA 299	Nunzio Lucarelli, Q.C. and Jane Patterson
Construction Law	24 June 2004	Liability in negligence of builders and engineers for pure economic loss sustained by subsequent purchasers of commercial premises	Jim Shaw
Environmental, Planning & Local Government	28 June 2004	Public interest environment litigation	Juliet Forsyth and Matthew Townsend
Intellectual Property & Trade Practices	30 June 2004	The <u>Designs Act</u> 2003 (Cth)	Glenn McGowan and Tom Cordiner

We thank the speakers referred to above for taking the time to develop and deliver their presentations. Where possible, outlines of presentations are posted on the COMMBAR page (under “News”) and on the Victorian Bar’s website ([http://www.vicbar.com.au/5\\_2\\_7.html](http://www.vicbar.com.au/5_2_7.html)).

In the past year, four representatives of COMMBAR (Peter Bick, Q.C., David Denton, S.C., Peter Riordan, S.C. and Albert Monichino) continued to represent the interests of the Commercial Bar on the Supreme Court of Victoria’s “*Commercial List Users’ Group*”, chaired by the Honourable Justice Byrne. The committee met on a regular basis to discuss the future operation of the Commercial List. In particular, the committee worked on the preparation of a Revised Guide to Commercial List Practice. The original Guide was published in 1992 and revised in 1996. In the course of preparation of the Revised Guide certain issues of principle were raised in respect of which COMMBAR prepared a Discussion Paper which advanced certain proposals in relation to those issues of principle. Comments were invited from the Commercial Bar in relation to those proposals.

The COMMBAR Executive and Section Chairs have also conferred with the Chief Justice of the Supreme Court and the Judges of the Commercial & Equity Division to discuss the operation of the Trial Division and Court of Appeal. These meetings have been most productive and at the invitation of the Chief Justice the Executive and Section Chairs will continue to meet in the next year to further those discussions. COMMBAR is appreciative of the engagement and looks forward to continuing its representations and consultations with the Judiciary.

COMMBAR recognises that the Bar has provided administrative support necessary for COMMBAR to carry on its activities, for which COMMBAR is grateful. Special thanks are extended to Barbara Walsh, Manager of Legal Education and Training and Wendy McPhee for advertising our seminars and activities.

All enquiries in relation to the activities of COMMBAR, suggestions as to seminar topics or offers to present seminars, should be directed to Albert Monichino, Clerk A on 9225 8247 or e-mail to [monichino@vicbar.com.au](mailto:monichino@vicbar.com.au).

**David H. Denton**  
*President*

**Albert Monichino**  
*Vice-President (Convenor)*

## ANNUAL REPORT OF THE COMMON LAW

## BAR ASSOCIATION

During the period 1 July, 2003 to 30 June, 2004, the Common Law Bar Association has been predominantly occupied with the effects of the amendments to the Wrongs Act and to the Limitation of Actions Act, both of which legislative enactments substantially alter common law rights and the time in which common law actions may be instituted.

Before their enactment, the Common Law Bar Association expressed to Government and Parliamentarians its opposition to many of the provisions of the legislation, particularly those provisions which, in many instances, abolish the right of injured persons to bring any common law claim at all. Having been unsuccessful in preventing the enactment of the legislation, the Common Law Bar Association has remained active in monitoring the effects of the legislation, in particular, by endeavouring, in conjunction with organisations such as the Australian Plaintiff Lawyers Association, to assemble a body of evidence which might, ultimately, be persuasive in, at the very least, modifying the restrictions which have been imposed. Those efforts will continue.

At the same time, the Common Law Bar Association has liaised with the Law Council of Australia, urging the Law Council to make representations to the Commonwealth Government concerning various matters which effect the operation of common law claims, in particular regarding possible taxation reforms, the operation of the Social Security Act and torts law reform in general.

Members of the Common Law Bar Association have delivered a number of papers at seminars conducted as part of the Bar's Continuing Legal Education Program. Those seminars have encompassed:-

- (a) codification of the laws of negligence;
- (b) ethical issues attendant upon acting for institutional clients;
- (c) the operation of the Federal Magistrates' Court;
- (d) non delegable duties of care;
- (e) operation of the AMA Impairment Guides;
- (f) the legislative amendments to the Wrongs Act and the Statute of Limitations Act.

It is proposed that further seminars on common law issues and matters will be continued in the forthcoming year.

The Common Law Bar Association has also been actively liaising with the Supreme Court and the County Court regarding the listing of cases. Office bearers of the Association have conducted a number of discussions with Chief Justice Warren as to having more common law matters instituted and litigated in the Supreme Court.

As a result of a concern as to the number of cases being listed in the County Court, discussions have ensued with Chief Judge Rozenes and Judges of the County Court with a view to increasing the number of cases listed on a daily basis. Following representations made to the County Court, a new system will be implemented commencing in August 2004 which it is considered will substantially increase the number of cases listed in the County Court and, at the same time, will result in the large number of anticipated Section 135AB applications pursuant to the Accident Compensation Act being given an early hearing date, possibly within one month of the issue of the relevant Originating Motion. Six members of the Association have accepted nominations to serve upon the County Court/Law Institute of Victoria/Bar Liaison Committee which is to concern itself with the civil jurisdiction of the County Court.

At the present time, there are 112 members of counsel who are members of the Common Law Bar Association.

At the present time, Office Bearers of the Association are R. H. Gillies QC (Chairman), J. H. L. Forrest QC (Vice-Chairman), D. J. Martin (Secretary) and M. A. Hartley (Treasurer).

The Committee Members are R. J. Stanley QC, P. Galbally QC, J. Jordan S.C., F. McLeod S.C., D. Beach S.C., T. Tobin S.C., F. Saccardo, T. Monti, M. Wheelahan, S. McGregor and K. Bourke.

## ANNUAL REPORT OF THE COMPENSATION BAR ASSOCIATION

In March 2004, the Compensation Bar Association resumed activity. The Association is open to all members of the Bar, but particularly those who have a practice and/or an interest in accident compensation and the application of the *Accident Compensation Act* 1985, as amended, and the *Transport Accident Act* 1986, as amended.

The office bearers of the Association are Jim Parrish S.C. (Chairman), John O'Brien (Vice Chairman), Stan Spittle (Treasurer), Brian Wright (Information Officer), John Richards S.C. (Common Law Bar Liaison), and Debra Coombs (Secretary).

At present, the Association has approximately 49 members.

The Association has set in train the following matters:

- (a) Liaising with the County Court Library to facilitate all common law judgments and in particular, accident compensation judgments to be made available on line.
- (b) Arranging for various members of the Bar and others to present CLE seminars in relation to various aspects of the *Accident Compensation Act* 1985, and the *Transport Accident Act*. On 31 May 2004 Mr. P. Mulvaney held a seminar on the workings of the 4<sup>th</sup> Edition of the *American Medical Association's Guides to the Evaluation of Permanent Impairment* (future seminars will involve discussion of s.98C/98E of the *Accident Compensation Act*, the use of medical panels and the payment of interest under the *Accident Compensation Act*).
- (c) Liaising with appropriate managers of the Victorian Workcover Authority and the Transport Accident Commission to discuss ongoing issues pertaining to fees under the appropriate protocols.
- (d) Liaising with the appropriate Magistrates as to the listing of Workcover matters in the Magistrates' Court and in particular, the provision of an adequate number of Magistrates to deal with such matters.
- (e) Arranging appropriate social functions – the first of which is to be held early in the new financial year with a view to inviting Magistrates and Judges who preside over compensation matters as guests to meet members on a more informal basis.

The Association attempts to be a very practical body dealing with the day to day issues that barristers practising in the compensation jurisdictions encounter. I urge all barristers practising in these jurisdictions to consider joining the Association.

**James L. Parrish**  
*Chairman*

## ANNUAL REPORT OF THE CRIMINAL BAR ASSOCIATION OF VICTORIA INC

In the period 1 July 2003 to 30 June 2004 the Criminal Bar Association of Victoria Inc (CBA) has continued to deal with an extensive and wide ranging number of issues relevant to the objects of the CBA namely to: -

- Promote the professional interest of its members;

- Provide facilities and programmes which will assist members in their professional practice;
- Liaise with other bodies concerned with issues of professional interest to members;
- Provide representation for members in relation to matters which affect the interest of members generally and
- Represent the views of members to bodies and persons engaged in the administration of criminal justice and the review and development of criminal law, procedure and civil liberties.

The range and complexity of the CBA's activities over the last year in furtherance of those objects have been extensive and has necessitated the Executive Committee meeting at least weekly in addition to the numerous meetings undertaken with various organisations relevant to the criminal justice system both State and Federal.

By way of illustration some of the more significant activities and issues undertaken and addressed during the last twelve months include: -

- Continued involvement in the Victorian Criminal Justice Coalition in order to monitor and influence the "law and order" policy development of the major political parties in Victoria.
- The staging of the CBA's Annual Advocating for Justice Lecture on 20 May 2004 as part of Law Week. This year Sir Edward Woodward AC OBE QC spoke on the topic "Police Corruption: How to Control and Deal with it". Over 150 members and guests attended to discuss and debate this vital topic of importance to core criminal justice values.
- The CBA co-hosted a further public seminar on 16 June 2004 together with the Law Institute of Victoria and the Monash Law Faculty designed to encourage on-going debate and focused on developing a solution to the problems posed by systemic police corruption. The outcome of that seminar was the formation of a joint working party which will proceed to develop a detailed model designed to tackle the problem for submission to Government as an agreed alternative to the present proposed Ombudsman's Office solution.
- The CBA was involved in co-hosting a public seminar on 21 April 2004 in conjunction with Project Innocence and the Law Institute of Victoria on DNA issues.
- The Annual Dinner at the Treasury Restaurant was attended by over 120 members and guests and was held to celebrate the 25<sup>th</sup> anniversary of the founding of the CBA and also to mark the retirement of Chief Justice Phillips a foundation and life member of the Association. Justice Cummins made a thoughtful and interesting speech to celebrate the work of the Association and its members.
- Our Mid Winter Dinner was held on 24 June 2004 at Matteo's Restaurant and was also a great success. The special guest of honour was Chief Justice Warren and an honoured guest was the Bar Chairman Robin Brett QC. Entertaining speeches were delivered by Judge Mick Bourke and by Reg Marron M.
- The holding of a number of Seminars as part of the Bar's Continuing Legal Education program on diverse and practical topics of relevance including: -
  - The conduct of sexual offences trials;
  - Prosecution Disclosure;
  - The law and practice associated with Bail Applications;
  - The law of Asset Confiscation and Forfeiture;
  - The structuring of a Final Address;
  - Evidence of Consciousness of Guilt;

- The choice between Summary Trial and Committal for Trial;
- Advocacy in Criminal Law.
- The issuing of Media Releases on matters of public importance on such issues as
  - the need to establish a Police Integrity Commission to deal with Police corruption;
  - concerns regarding the Victorian Law Reform Commission Report re Sexual Offences;
  - the extension of powers of detention and other powers contained in the ASIO Bill and
  - The State Government's decision to block independent recommendations for salary increases for Judges and Magistrate.

In addition representatives of the CBA have participated in a number of print, radio and television interviews designed to promote the views of the CBA on a range of criminal justice issues.

- The production and distribution of our Newsletter in February and July containing items of interest concerning the activities of the CBA, its members and developments in the criminal law generally.
- The continued reconstruction and improvement of the CBA Website at [www.crimbarvic.org.au](http://www.crimbarvic.org.au) containing copies of CBA Newsletters, CBA submissions re legislative proposals, links to major legal research websites, court lists and events of interest to members.
- Continued Membership of the Juvenile Justice Roundtable designed to ensure that appropriate measures are maintained so that juveniles involved in the criminal justice system are treated in a manner consistent with their age and to minimise the risk that they are subsumed into the adult criminal system.
- The continued liaison with judicial officers and officials of the Supreme Court, County Court, Magistrates' Court and Children's Court concerning the effective and efficient conduct of court lists and associated practices and procedures in criminal matters. In particular representatives of the CBA attend regular meetings of the Supreme Court Criminal Division and also monthly meetings of the County Court Criminal Users Group. The CBA considers that the exchange of views and ability to participate in such forums is of considerable value.
- The continued development of strong links to the Law Council of Australia especially through increased CBA participation in the activities of the Criminal Law National Liaison Committee of the Law Council.
- The CBA has been active in the establishment of the International Criminal Bar and occupies the position of Oceania representative on the Council of the ICB and is the only Australasian representative. The ICB is expected to be the defence pillar in relation to the International Criminal Court. Representations have been made by the CBA to the Australian Government to ensure that the ICB enjoys support from Government in its proposed role.
- A strong focus on Law Reform issues especially in making detailed submissions on the development of appropriate legal policy or commenting on draft legislation and appearing as necessary before State and/or Federal Parliamentary Committees to advocate appropriate legislative outcomes and initiatives.

Over the last twelve months those functions have continued to grow both in number and complexity. Examples of such matters undertaken by the CBA in the last year include: -

- Night Courts and Extended Sitting Hours proposals;
- Appeals Costs Act amendments;
- Administration of Justice Offences Discussion paper;
- Defences to Homicide Discussion Paper;
- Double Jeopardy and Crown Appeal Discussion Paper;
- Culpable and Dangerous Driving Amendments;
- Amphetamines and Party Drugs Discussion Paper;
- Legal Aid changes in Indictable funding arrangements;
- Hospital Orders under the Sentencing Act;
- Cross Border Investigative Powers and controlled operations proposals;
- Anti Terrorism legislation;
- Telephone Interception amendments;
- Security Cases and clearance of defence counsel discussion paper;
- Amendments to the Crimes Act and the Bail Act;
- Commonwealth Crimes Act amendments;
- Review of warrant powers and procedures and
- Proposals for a Family Violence Division of the Magistrates Court.
- Working effectively with the Bar Council to ensure that our views are represented on matters of concern to our membership and on matters of interest to the whole Bar. We have an excellent relationship with the Bar Council and its officers and are grateful for the assistance and support the Bar and its officers provide.
- The CBA is particularly pleased to continue its close association with and support of the Bar's Readers' Courses which continues to provide to readers an extremely professional, practical and wide ranging course preparatory to practice as a barrister. A large number of our members participate in a variety of ways in the conduct and planning of the course.
- Liaison on an on-going basis in relation to issues including:-
  - New Criminal Listing Procedures introduced on a trial basis in the County Court;
  - The County Court Committee concerning the operation of the Appeals Cost Fund Act;
  - Justice Teague's Committee re the criminal Division of the Supreme Court;
  - The Office of the Correctional Services Commissioner Stakeholders Forum;
  - The Establishment and continuation of Project Innocence in Victoria;
- During the past twelve months the CBA was delighted that the following members of the CBA were appointed to judicial office:
  - Judge Geoffrey Chettle and
  - Magistrate Reg Marron.

Very many members of the CBA have contributed willingly to the workload of the Association over the last year and each of them deserves special thanks and recognition. Without such assistance the work of the CBA could not be undertaken effectively. The Committee looks forward to that support continuing into the future and we encourage all members to participate fully in the affairs of the CBA and to contact committee members with suggestions on how the Association might be improved or strengthened. All seminars conclude with drinks and, together with our dinners, are valuable social events that we encourage all members to attend.

**Lex Lasry**  
*Chair*



## ANNUAL REPORT OF THE FAMILY LAW BAR ASSOCIATION

During the past year there have been many more significant changes in the Family Court and the Federal Magistrates Court. The Family Court introduced new rules on 29 March 2004. Prior to their introduction, representatives of the Family Law Bar Association prepared submissions to the court in relation to the new rules and have continued to liaise with the court in relation to matters arising from their implementation.

Our representatives have continued to attend regular meetings held by the Family Court and the Federal Magistrates' Courts. We have endeavoured to maintain a close relationship between the courts and our association for the benefit of our members. We were delighted to hear of the appointment to the Family Court of one of our former members, the Honourable Chief Justice Diana Bryant QC.

Our annual dinner was held in November 2003 at the Essoign Club. The Honourable Justice Kay entertained members of the association with a humorous speech. We also introduced after dinner dancing for the first time, a decision which appeared to be well received by those who attended.

Current members of the Executive are: Noel Ackman QC (Chairman); Olivia Nikou SC (Vice-Chairman); Graeme Thompson (Treasurer); and Bronia Tulloch (Secretary).

There are currently about 90 paid up members of the Association.

**Noel J Ackman**  
*Chairman*

## ANNUAL REPORT OF THE INDUSTRIAL BAR ASSOCIATION

The inaugural meeting of the Industrial Bar Association took place on 15 June 2004. Over 40 members of counsel practising in all areas of industrial and employment law attended and endorsed the formation of the association. All counsel interested in practising in these areas are encouraged to join the Association which they may do by contacting the Secretary, Gerard McKeown. The aim of the Association is to provide a forum for exchange of views between members of counsel practising in relevant jurisdictions, and to coordinate and develop proposals for CLE relevant to the practice of industrial and employment law. An Interim Committee and office bearers were elected at the inaugural meeting. The Committee will meet in mid-July to determine on a program of future activities for the Association.

**Herman Borenstein**  
*Convenor*

## ANNUAL REPORT OF THE WOMEN BARRISTERS' ASSOCIATION

In November 2003 WBA celebrated its 10 year anniversary as an association. It continues to be a great source of support and encouragement to women at the Victorian Bar, and to actively

further their interests. A summary of our activities in the last year follows.

WBA has hosted a number of different functions:

- Drinks to celebrate the appointments of Williams, J, Judge Campton and Judge Wilmoth and Pamela Tate S.C. as Solicitor-General on 4 September 2003;
- A special family law practitioners lunch in the Essoign and other regular informal lunches up there, attended by many WBA members;
- The 10 year anniversary dinner in November 2003 at the Essoign, at which Sally Brown, J. was guest speaker;
- Wonderful celebratory drinks on 19 April, 2004 in honour of new silks and judges appointed since the drinks on 4 September 2003, including the appointment of Warren, J as Chief Justice of the Supreme Court. These drinks also honoured the 10 year anniversary of Master Kathy Kings' appointment as the first female judicial appointment to the Supreme Court, and Master Kings spoke at the function as did our Convenor.
- The WBA also arranged two tables of barristers to attend a lunch co-ordinated by VWL and addressed by retired High Court Justice Mary Gaudron.

Seminar series: WBA hosted two seminars in September 2003, addressed by Sue Crennan QC (as she then was) and by Carmen Randazzo. Further seminars are planned for later this year, including one to be addressed by Georgina Costello in relation to issues surrounding the sexual trafficking of women into Australia.

Equal Opportunity: WBA has been involved in promoting the uniform briefing policy at state and national level, working with the Bar's Equality Before the Law Committee in this regard. We have communicated with VLA and other briefing agencies about the policy. We have dealt with Federal Attorneys-General Williams and Ruddock, and with State Attorney-General Rob Hulls, in relation to the adoption of the uniform policy. We have offered our services to a number of solicitors' firms as a conduit for them to get to know more female barristers in their areas and assisted in organising get-togethers between barristers and solicitors in particular practice areas.

We have looked at various issues involving women barristers and their responsibility for childcare, including following up Gleeson CJ's comments about child care and investigating the NSW pilot program for emergency child care, and making a detailed submission to the Bar in relation to dispensation for CLE requirements for those on parental leave.

Film: We produced a film "Raising the Bar" which deals with aspects of the history of women at the Victorian Bar, including archival footage and interviews with both junior and senior women presently at the Bar or members of the judiciary. It has been very well received by groups across Australia and was recently shown at the St. Kilda film festival.

We have been building links with the universities, and in particular have been involved in a mentoring program being set up with Melbourne University, and conducted a mentoring day for law students in October 2003. We are now setting up on-going mentoring relationships between female barristers and female law students. The Convenor addressed Melbourne University students on life at the Bar, from a woman's perspective – and particularly a mother's perspective. It was heartening to hear of students at that seminar now actively considering coming to the Bar in the future.

We have strengthened our ties with Victorian Women Lawyers, and are planning a function to be held with them in August 2004. . We have obtained reduced membership rates for barristers who are members of WBA to be members of VWL – just \$22.00 instead of \$65.00.

We have written various articles and letters published in Australian Financial review and The Age, Portia and the Law Institute Journal – principally encouraging people to implement the equal opportunity policy of giving consideration to briefing women and suggesting ways for them to do it.

We have been communicating with, and assisting, women barristers in New South Wales who want to set up an organisation for women barristers in that state.

We remain an active member of AWL, to which we contribute 10% of our membership fees and which provides a united voice for female lawyers' interests and concerns in Australia.

**Samantha L Marks**

*Convenor*

## ANNUAL REPORT OF THE ABORIGINAL LAW STUDENTS MENTORING COMMITTEE

Since 1999, the Bar has established close ties with the indigenous legal community through its mentoring program.

During the last year a number of indigenous law students have been mentored by members of the Bar. The mentoring activity has been greatly appreciated by the students and the law faculties in which they are enrolled. The Committee is grateful to members of counsel who have so willingly made themselves available to act as mentors.

The Committee has been in liaison with universities and other tertiary institutions concerning students joining the mentoring program.

Deakin University has the largest group of indigenous students in Victoria and has been associated with the program for some time. Melbourne and Monash Universities have much smaller groups of indigenous law students, but have both indicated a strong interest in participating in the program.

The co-ordinators of university programs for indigenous law students have attended a meeting of the Committee and expressed their support for the mentoring program of the Bar.

On 11 June 2004 the Committee held a social function attended by about 25 of Victoria's indigenous law students, as well as members of the indigenous legal community, judges and members of counsel. It provided an opportunity to promote the mentoring program with indigenous law students as well as the representatives of the indigenous legal community.

Many members of counsel have put their names forward to act as mentors, and their enthusiasm for the program was noted at the function. The strong hope was expressed by the Committee at the function that indigenous lawyers should consider careers at the Bar.

In addition to mentoring indigenous law students, the Committee has expressed its support for providing mentoring services for indigenous students who are not presently enrolled in law but who might be considering a career in law.

The Committee has established contact with a similar program convened by the NSW legal profession and looks forward to working co-operatively with Bars and other legal professional organisations in other States in providing mentoring options.

The Committee has also continued to work in close liaison with the Indigenous Law Students Mentoring Committee, chaired by Justice Kaye of the Supreme Court. Justice Kaye, himself, was chair of the Bar's Committee since its inception in 1999, and retired this year on his appointment to the Bench. His outstanding work as chair of the Committee was acknowledged at the recent function.

Federal Court Chief Justice Michael Black attended the function on 11 June 2004, and expressed his Court's support for the Bar's mentoring program. The Federal Court has an indigenous research assistants' program, and the Chief Justice indicated his support for the Federal Court working in liaison with the Bar's program to provide a range of opportunities for indigenous law students and new graduates.

**Colin D Golvan**  
*Chair*

## ANNUAL REPORT OF THE CONCILIATORS FOR SEXUAL HARASSMENT AND VILIFICATION STANDING COMMITTEE

The Bar's Sexual Harassment Conciliators for 2003-2004 were David Curtain QC, Frank Costigan QC, Michael Crennan S.C., Richard Madmen S.C., Debra Mortimer S.C., Fiona McLeod S.C., Joy Elleray, Richard McGarvie, Melanie Young, Sarah Fregon.

There were no incidents reported this year.

The Conciliators had published in the Bar News a reminder of the availability of Sexual Harassment Conciliators and their role and of the ethical rules which gave rise to their position.

**David E Curtain**  
*Convenor*

## ANNUAL REPORT OF THE EQUALITY BEFORE THE LAW COMMITTEE

The Committee meets and has met monthly throughout the year. In addition, there have been four urgent meetings of the Committee convened together with meetings of various sub-committees and ad hoc sub-committees established over that time.

Early in the financial year the Committee unanimously resolved to concentrate its whole of committee effort primarily on the implementation of the Equality of Opportunity Model Briefing Policy (model briefing policy) which was then gaining the backing and support of the Attorney-General, the Honourable Rob Hulls MP. That resolve has been vindicated by the enthusiasm with which the whole of the legal profession has responded to the initiative.

The need for the model briefing policy has been apparent for some years commencing with the analysis of statistical surveys conducted in the Courts and contained in the Bar's Equality of Opportunity Report commissioned by it in 1998. In 2003, a further survey was conducted by the Courts which confirmed that the position which had existed in relation to briefing practices referred to in the 1998 Report had not altered and, indeed, in some instances had regressed.

Further confirmation of this situation was sourced in the Legal Services Report released by the Victorian Government in late 2003 which revealed that of the panel firms briefing barristers to undertake government work, 58 barristers were briefed on 106 occasions in relation to which female barristers were briefed on 17% of those occasions but received only 6% of the total fees paid. As at July 2003, there were 278 female barristers in active practice constituting 18.6% of the Victorian Bar.

Since that time the Committee has instituted a number of important initiatives following in the wake of the Victorian Government which has issued directives and policy guidelines to its departments and developed reporting requirements in the implementation of the model briefing policy not only for government briefing agencies but also for private law firms seeking eligibility to undertake government work. The Committee wishes to acknowledge the unstinting efforts of its former Chair, now Judge Frances Millane of the County Court, in relation to the finalisation of the Bar's model briefing policy and its subsequent adoption by the Bar Council.

Recent developments in the adoption and implementation of the model briefing policy are:

- in December 2003, at a meeting of the Standing Committees of the Attorneys-General the Commonwealth Attorney, the Honourable Philip Ruddock MP, called upon the Law Council of Australia to develop a (national) model briefing policy for his consideration;
- LCA in turn referred the matter to its Equalising Opportunities Committee and the reference became the subject of a working party established for that purpose;
- Anthony Howard, QC, the Committee's representative on the working party shaped the model briefing policy into a draft national briefing policy suitable for adoption by all briefing agencies whether government departments or private law firms and capable of being adapted in all jurisdictions which with minor amendments became the national briefing policy formally adopted by the LCA on 20 March 2004 and subsequently referred to the Commonwealth Attorney under his reference;
- on 1 April 2004, the Victorian Bar Council as a matter of comity and national application adopted the national model briefing policy and further resolved, amongst other things, to adopt a number of practical measures for the implementation and development of the national model briefing policy including, presentations to law firms, the clerks, barristers and public and private briefing agencies, and the establishment of the a joint Equal Opportunity Task Force for the purposes of dissemination of reporting analyses and the ongoing monitoring of the implementation of the briefing policy and the making of recommendations arising out of its implementation. Membership of the proposed task force is to be representative of all sectors of the legal briefing community.

The Committee, in furtherance of the Bar Council resolutions, has:

- made and continues to make presentations to the litigation departments of law firms as to the need for, the background behind and the substance of requirements to be met in the implementation of the model briefing policy: in this regard, the Committee acknowledges the enthusiasm and leadership proffered by Mr Chris Dale, President of the Victoria Law Institute and his firm, Clayton Utz. The Committee also wishes to acknowledge work of Mallesons Stephen Jaques in the implementation of the model briefing policy and, in particular, Ms Joanne Cameron;
- distributed information through circulars and correspondence from the Bar Council to heads of government and other agencies, the clerks, the Bar;
- met and worked with the Clerks and the respective Clerking Committee Chairs with respect to implementation and reporting requirements and the necessary compilation of data;
- proceeded with work on the development of a reporting template suitable as far as can be practicably achieved for adoption by all briefing agencies, clerks and barristers;
- published the convening of a Continuing Legal Education seminar on implementation for all members of the Bar scheduled for 26 August 2004;
- made submissions to the Commonwealth Attorney-General's Department in response to its Review of the Legal Services Directions applicable to all Commonwealth briefing agencies with particular regard to the implementation of the national briefing policy;
- worked with and assisted the Victorian Government on the implementation of the model briefing policy and its reporting requirements;
- commenced the development of a Briefing Kit comprising historical and other information as to the introduction of the model briefing policy;
- fielded enquiries as to the proper application of the briefing policy.

The following sub-committees have been established to further the work of the whole committee:

- Child Care Sub-Committee chaired by Fiona McLeod, S.C. This sub-committee has been established to consider the recommendations and work of the former Bar Council

committee of the same name. In particular, the child care sub-committee is to review and report on the NSW Bar's recent establishment of a child care scheme which is designed to provide care for those barristers having parental care in the event of an emergency situation.

- Women in the Law Images Series Sub-Committee chaired by Miguel Belmar Salas. Since the last portrait now displayed in the ODCW foyer (female Justices of the Supreme Court) this sub-committee is considering its next artwork in oil.
- Reporting Template (Model Briefing Policy) Sub-Committee chaired by Ross Maxted. This sub-committee has been established to work on the production of a reporting template suitable for all briefing agencies, clerks and barristers which is designed as far as possible to protect the integrity and veracity of the data to be collected under the model briefing policy. The sub-committee is a short term one with its final report due on 9 August 2004.
- Equality of Opportunity Report 1998 Recommendations Sub-Committee chaired by Samantha Marks. This sub-committee, recently established, is to consider the recommendations contained in the 1998 report which require further action and implementation.

The efforts of the Bar's representative on the LCA's Equalising Opportunities Committee, Ms Kim Pettigrew, over some 5 years or more must not go unnoted. Kim's prolonged efforts have encompassed her role as a draftsman of the model briefing policy and an effective speaker in that behalf, as a member of the 1998 Report's first working party and a former member of this Committee and the Women Barristers' Association Committee. Her contribution will be sorely missed but we wait in anticipation her return from New South Wales.

The Committee also acknowledges the assistance of the Women Barristers' Association over the past 12 months under the convenorship of Fiona McLeod, S.C. and now Samantha Marks.

Finally, I would like to formally record the efforts and contributions of all members of the Committee over the year to date. The issues which have occupied the Committee's time and effort have not been without controversy from external areas or difference of opinion. It is a tribute to all of the members of the Committee that the work which it has traversed has always been conducted in a spirit of co-operation, endeavour and intellectual rigour.

**Alexandra Richards**

*Chair*

## ANNUAL REPORT OF THE ETHICS COMMITTEE

During the year the Ethics Committee met at its regular fortnightly meetings on 25 occasions. In addition, each member of the Ethics Committee gave rulings and guidance to individual barristers. The availability of members of the Ethics Committee, the time and effort put into the combined obligations of the Ethics Committee is outstanding. On behalf of the Victorian Bar, I thank each and every member of the Committee for the work done by them on the Ethics Committee.

During the year the Ethics Committee published a number of Bulletins in "In Brief" for the guidance of members. Bulletins covered the topics of "Counsel's Obligations to Courts and Tribunals", "Counsel Acting in Migration and Refugee Matters without Instructions from a Solicitor", "Court Behaviour", "Full and Frank Disclosure", "Barristers and the Media" and "Misleading and Irregular Briefing Practice".

During the year Peter Clark S.C. (15 October 2002 – 9 September 2003), Peter Riordan S.C. (26 November 1999 – 5 November 2003), Michelle Quigley S.C. (11 December 2001 – 5 November

2003) and Kerri Judd (11 December 2001 – 5 November 2003) retired from the Committee. All of the retiring members have provided a valuable contribution to the Ethics Committee during their time on the Committee.

The new members of the Ethics Committee this year were Jeremy Gobbo QC, Michelle Gordon S.C., John Batten and Desmond Lane.

The Ethics Committee continued with its education sessions in the Readers' Course conducting one session during the first week of each course followed by a half day workshop at the end of the each course. I thank Chief Justice Warren, Appeal Justice Buchanan, Justice Harper and Justice Williams for their involvement in the ethics part of the readers' course as well as the individual members of the Committee who contributed their time and energy to the course.

In addition to the Readers' Course, individual members of the Committee have provided papers on ethics issues for the compulsory continuing legal education program conducted by the Bar.

Mrs Debbie Jones, the investigations officer of the Committee, and Mrs Cath Mukhtar, the ethics assistant of the Committee, both continued to provide their excellent and valuable contribution to the work of the Committee. Both the Victorian Bar and the Committee are indebted to them for their contribution and dedication to their jobs.

**Kate McMillan**  
*Chairman*

**THE VICTORIAN BAR**  
**SUMMARY OF COMPLAINTS AND DISPUTES UNDER THE LEGAL PRACTICE ACT 1996 FOR THE PERIOD 1/07/2003 TO 30/06/2004**

MATTERS LODGED	Number of investigations conducted by the Ethics Committee of its own motion		Number of matters received by and investigated by the Ethics Committee		Number of matters received by the Ethics Committee and referred to the Legal Ombudsman		Number of matters received by the Legal Ombudsman and referred to the Ethics Committee		TOTAL
	Previous	Current	Previous	Current	Previous	Current	Previous	Current	
In progress at start of period	1	2	22	15	7	6	30	23	
Received during the period	5	5	77	81	13	18	95	104	
In progress at end of period	3	3	19	15	6	6	28	24	
Matters dealt with in the period	3	4	80	81	14	18	97	103	
No of allegations in the matters	3	5	143	133	27	41	173	179	
<b>COMPLAINTS</b>									
RESULT FOR ALLEGATIONS DEALT WITH	Number of investigations conducted by the Ethics Committee of its own motion		Number of conduct complaints received by the Ethics Committee		Number of conduct complaints received by the Ethics Committee and referred to the Legal Ombudsman		Number of conduct complaints received by the Legal Ombudsman and referred to the Ethics Committee		TOTAL
	Previous	Current	Previous	Current	Previous	Current	Previous	Current	
Outside Jurisdiction			2	5					2
Withdrawn/Not Pursued			7	4		2			7
Dismissed under S141(1)			22	34		5			27
No further action S151(3)(c)	1		2	3					3
Dismissed under S151(4)				2					0
Dismissed under S151(5)	2	2	36	27		5		8	43
Reprimand/caution S151(3)(b)		1	2	4					2
Referred to Tribunal S151(3)(a)		2	3	1					3
	3	5	74	80	0	0	10	16	87
Outside Jurisdiction									
Withdrawn/Not Pursued							30	35	37
Settled							3	1	3
Not Settled							2	1	2
							34	16	44
							69	53	86
TOTAL	3	5	74	80	0	0	69	53	173



## ANNUAL REPORT OF THE HUMAN RIGHTS COMMITTEE

The role of the Human Rights Committee is to report to the Bar Council and to make recommendations about matters within its sphere of interest. The Committee deals with matters referred to it by the Bar Council but also considers matters on its own motion.

The members of the Human Rights Committee for 2003-4 were as follows: Jack Fajgenbaum QC (Chair), Alexandra Richards QC, Remy van de Weil QC, Herman Borenstein S.C., Debra Mortimer S.C., Pauline Schiff, Damien Murphy, Simon Marks, Glenn McGowan, Peter Nugent, Wendy Harris, Daniel Star, Susan Brennan, Yusef Zaman, Beatrice Melita, Jennifer Firkin and Judy Benson (Secretary)

The Human Rights Committee met formally on 27 November 2003 and 4 December 2003.

Its main topics of deliberation were:

1. To consider what if any action could and should be taken in relation to raising public awareness of the plight of Mr Hicks and Mr Habib's continued detention in legal limbo at Guantanamo Bay without charges being laid and without trial. The Committee developed an action plan including ascertaining the views of the lawyers in Australia acting for the men; consulting with the Law Council of Australia: contact with counsel in the USA: and liaison with other peak bodies such as the International Commission of Jurists and Liberty Victoria.
2. As a result of this action plan and the feedback obtained, early in December 2003 the Committee drafted a press release entitled "Guantanamo Bay Detainees Illegally Held" and forwarded it to the Bar Council with the recommendation that it be released as soon as practicable to protest at the 'monstrous failure of justice' and 'to make plain publicly and unambiguously our condemnation of the utter lawlessness at Guantanamo Bay.'
3. The Victorian Bar Council accepted the Committee's recommendation and on 22 December 2003 the Chairman of the Bar Council issued a media release accordingly.

In addition to meeting formally, the Committee provided submissions to the Victorian Bar Council early in June 2004 at short notice in relation to responding to a request from the Law Council of Australia calling for contributions and comments from all its constituent bodies on the Commonwealth Government's National Action Plan on Human Rights consultation. The Committee responded promptly but wonders what level of meaningful comment the Commonwealth Attorney-General expects from law bodies nationally in response to a dense 98 page document within a handful of days.

**Judy Benson**  
*Secretary*

## ANNUAL REPORT OF THE LEGAL EDUCATION AND TRAINING COMMITTEE

Earlier in 2003, the Attorney-General spoke of what he considered to be the need for the Victorian Legal Profession to adopt compulsory Continuing Legal Education programs (CLE). In response to the Attorney's initiative, the Victorian Bar re-examined the Bar's CLE

arrangements and investigated a number of ways in which they might be improved. On 5 June 2003, the Bar Council resolved that CLE should henceforth be mandatory for practising members of the Bar.

The legal education sub-committee was established to develop the new mandatory CLE Program.

The Members of the committee were selected on the basis of their practice and their previous involvement in continuing legal education at the Bar and as originally constituted were as follows:

Ethics: SEK Hulme QC, Paul A Willee RFD, QC, John E Middleton QC

Criminal Law: Robert Richter QC, Jeanette G Morrish QC, Richard J H Maidment S.C.

Commercial Law: Susan M Crennan QC (as she then was), Neil J Young QC, Ian J Hardingham QC, David H Denton RFD, S.C.

Common Law: Jack T Rush QC, John H L Forrest QC, Jeremy Ruskin QC

Family Law: Clarinda E Molyneux QC, Martin Bartfeld QC

Young Barristers: Melanie Sloss S.C., Michael L Sifris S.C.

Executive: Michelle M Gordon S.C.

The committee met frequently in the three months following its establishment in order to ensure that the new program was prepared in time to take effect at the beginning of 2004. The aim was to take the best of the programs previously developed by the specialist Bar associations for their respective memberships, to augment them where considered desirable, and to draw them together into a coordinated Victorian Bar program directed to the current professional needs of all practising barristers. It was contemplated, however, that the program would continue to develop over time with increasing experience and changing circumstances, and that the specialist Bar associations and their members would continue to play a leading role in bringing forward new ideas and the development of new programs as part of that development.

The new program was adopted by the Bar Council very late in 2003 and began operation in February 2004. The details of the program have been published elsewhere on a number of occasions and it is unnecessary here to repeat them.

Generally speaking it is thought that the first six months of operation of the scheme have been satisfactory. But there has been a degree of dissatisfaction in some quarters as to the course content and accreditation and dispensation policies adopted by the committee. The committee's approach was aimed from the outset at making the program comprehensive and intellectually and practically rigorous. But although that approach was approved by the Bar Council at the time of the establishment of the scheme, it did not find favour at all levels. Some have since argued strongly in favour of less rigour in the selection of course content and more liberal accreditation and dispensation arrangements and the rules have recently been amended to allow for greater flexibility.

My work as first chairman of the committee is now effectively at an end. The job for the future and thus for the next chairman will be to develop the scheme in accordance with the requirements and suggestions of the specialist Bar associations and in line with such overall policy as the Bar Council may adopt towards course content, accreditation and dispensation. For those reasons it is appropriate that the committee henceforth be led by a member of the Bar and preferably by a member of the Bar Council with direct responsibility to the Council for continuing course development.

I take this opportunity of thanking all members of the sub-committee for their outstanding work in the establishment of the scheme and its administration during the first year of its operation, and to thank the dispensation and accreditation committee for the demanding

role which they have played in the processing and assessment of applications for accreditation and dispensation. Thanks are also due to those members of the Bar and others who have given so much of their time and effort in preparing and presenting the many sessions offered in the first year of the program's operation. Finally, I wish to acknowledge the very large contribution made by Barbara Walsh in the implementation and administration of the program and for her attendance at each lecture to ensure that it has been video taped.

**Geoffrey Nettle**  
*Chairman*

## ANNUAL REPORT OF THE READERS' COURSE COMMITTEE

From 30 June 2003 until November 2003, the Readers' Course Sub-Committee of the Bar's Legal Education and Training Committee was constituted by Ross Ray QC (Chair), the Honourable Justice David L. Harper, Donna Bakos M, David Collins S.C., Timothy Tobin S.C., Neil Clelland S.C., Mark Taft, Caroline Kirton, Matthew Connock, Robert Taylor, Sara Hinchey, Martin Grinberg, Paul Lawrie and Joycey Tooher.

Following the reconstitution of the Bar Committees in the latter part of 2003, the current Sub-Committee has been chaired by Paul Santamaria S.C. Ross Ray QC stepped down as Chair Sub-Committee together with Donna Bakos M. and Tim Tobin S.C. Gregory Harris and Anthony Burns joined the Sub-Committee.

The Bar conducted Readers' Courses commencing on 1 September 2003 and on 1 March 2004. The September Course was of twelve weeks duration. Forty readers participated in the Course, including one practitioner from Papua-New Guinea. The March Course was of nine weeks duration. Fifty readers participated in the Course, including four practitioners from the Pacific Region. The Victorian Bar has continued its commitment to the teaching of advocacy in the Pacific Region by inviting practitioners from those countries to participate in the Readers' Course and also by conducting Advocacy Training Workshops in PNG for government lawyers, the legal training institute and the Ombudsman's Commission of PNG. The Bar is particularly grateful to the Honourable Justices John Coldrey, David Harper and Geoffrey Eames of the Supreme Court of Victoria and Paul Coghlan QC Director of Public Prosecutors and to those members of the Bar, who take time out from their practices, for their generous assistance in these workshops.

During the last twelve months, there have been five significant developments which require special note:

- (a) the opening of the new Legal Education Centre on Level 1 of Owen Dixon Chambers East, combining lecture rooms and special-purpose moot court and video review rooms;
- (b) the significant increase in the number of practitioners who wish to join the Victorian Bar, with resulting pressure on the availability of places for the Readers' Course. This increased pressure resulted in the Bar Council resolving in February 2004 to increase the number of readers accepted for the March 2004 course to fifty readers, including four practitioners from overseas;
- (c) the shortening of the duration of the Readers Course (by 3 weeks) in March 2004 to a period of 2 months combined with a thorough review of the structure and content of the Course. The introduction of mandatory Continuing Legal Education at the Victorian Bar in 2004 meant that some jurisdiction-specific topics were able to be

- removed from the Readers' Course programme, which in turn enabled the Course to return to a greater concentration on practical advocacy teaching and exercises;
- (d) the revamping of the Application Regulations applicable to those wishing to participate in the Course;
  - (e) the introduction of a formal survey of the Readers immediately upon the completion of the Readers Course concerning their perception of the structure and content of the Course and whether the Course sufficiently equipped them to commence practice as barristers. The results of the survey were assessed by the Sub-Committee.

The Course continues to be guided in its content by the Sub-Committee but the specific management is done by Barbara Walsh, the Manager of Legal and Education and Training, Elizabeth Rhodes, Legal Education and Training Officer and Deborah Morris, Legal Education and Training Assistant. The Course maintains its excellent standard because of the generous commitment to it by members of the Bar and Bench. The Sub-Committee has been pleased to involve more judges from the Federal and Supreme Courts to assist in the Course. In the March 2004 Course, the Masters of the Supreme Court conducted Moot Courts in their own courts in a commercial cause exercise. The Committee hopes in the future to increase the involvement of judges from all jurisdictions.

**Paul Santamaria**  
*Chair*

## ANNUAL REPORT OF THE PROFESSIONAL INDEMNITY INSURANCE COMMITTEE

The Professional Indemnity Insurance Committee first met on 13 November 2003 to discuss the insurance arrangements for 2003/4. Various options were discussed and there was general support for the master policy approach. The views of the Committee including a dissenting view were conveyed to the Bar Council.

At its meeting on 20 November 2003, the Bar Council resolved to affirm its support for the central features of the then current master policy insurance arrangements. The Council further resolved that if invited by the Board, it would conduct a tender for the insurance for 2004/5 and for that purpose invite specific underwriters to submit tenders. The master policy arrangements assured the Bar of ownership of the claims information of its members, quality conditions of cover and automatic run off cover for all former barristers.

On 27 November 2003, the Bar had encouraging discussions with representatives of Suncorp Metway about their possible involvement in tendering for the Bar insurance for 2003/4.

- At its meeting in December 2003, the Legal Practice Board resolved inter alia:
- (a) to re-adopt for 2004/5 the professional indemnity insurance policy framework it adopted for 2003/4;
  - (b) to accept the timetable proposed by the Bar for the conducting of a limited tender by the Bar; and
  - (c) to require a master policy approach.

Section 227 of the *Legal Practice Act* 1996 requires in substance that at all times whilst engaged in legal practice, a barrister must maintain professional indemnity insurance on terms and conditions approved by the Board.

On 11 March 2003, the Legal Practice Board had resolved to require that professional indemnity insurance for Victorian barristers be obtained under a master policy to best meet the needs of consumers.

Following its meeting in December 2003, the Board requested the Bar Council to call for formal tenders from insurers for proposals for barristers' professional indemnity insurance for 2004/5, and then to make a recommendation to the Board as to the approval of terms and conditions. The Board also re-affirmed that the insurance be sought on a master policy basis whereby the Victorian Bar Inc would be a party to any contract of insurance.

On 9 December 2003, the Committee held a successful seminar on professional indemnity insurance at which the speakers were Susan Walpole, CEO of the Legal Practice Board, Sandy Grant Managing Director, Industry Fund Services, consultant to the Board, Peter Grant Director of Affinity Risk Partners, Stephen Mullaly of Munich-American Risk Partners and Mary Spanos, Claims Manager with Affinity.

On 3 February 2004, the Bar called for tenders for a master policy for professional indemnity insurance for the year ended 30 June 2005. The deadline for bids was 16 April 2004. The tender also invited insurers to provide top up insurance for barristers. The invitation to tender was sent to six insurers including former insurers of the Bar, Great Lakes Reinsurance (UK) PLC (Great Lakes) and Suncorp Metway.

The Bar received invaluable assistance and advice in managing the tender process from its appointed broker Affinity Risk Partners (Mr Peter Grant).

### **The Tender responses**

During the tender period, numerous discussions took place between representatives of the Bar and the prospective insurers. The Bar's objective in these discussions was to procure the most favourable policy terms and premiums.

No insurer submitted a tender that completely met the requirements expressed in the invitations to tender. Tenders were submitted as follows:

- a) Great Lakes lodged a tender including a master policy which included universal automatic run off cover for former barristers and other terms substantially conforming with those sought by the Bar.
- b) American Home Assurance Group (AIG) lodged a tender which also included run off cover but only for those former barristers who lodged a claims declaration.
- c) Suncorp Metway declined to tender either for a master policy for the whole Bar or any other form of insurance for Victorian barristers; they were prepared to offer individual barristers insurance on an offer and acceptance basis on their standard terms but not a master policy on the terms approved last year by the Legal Practice Board. They did not offer any proposed premiums prior to close of tenders.
- d) The other recipients of the invitation declined to tender although Ace, QBE and Vero (Formerly Royal Sun Alliance) expressed interest in providing top up cover.

### **Committee recommendation**

On 21 April 2004 the Committee met and resolved on a recommendation to the Bar Council in substance to the effect of the resolution stated below.

### **Bar Council recommendation**

The following day, after considering the tenders before it, the Bar Council resolved to accept the Committee's recommendation and to recommend to the Board –

- (a) that the master policy and ancillary terms and conditions proposed by Great Lakes (including provision in the master policy for the run off liabilities of all former barristers) be approved; and
- (b) that consistent with the master policy approach, no terms and conditions of insurance for 2004/5 by any other insurer be approved.

The Bar Council also resolved not to offer any view on the financial position of the respective bidders for insurance.

The Legal Practice Board subsequently met and resolved to approve the terms and conditions of insurance for 2004/5 in terms of the Bar Council's recommendation.

### **Comparison and reasons**

The reasons for this recommendation were –

- (a) Overall, Great Lakes offered better value for money than AIG. Great Lakes' maximum required premium pool was less than that of AIG and was capped at an amount which Great Lakes has requested for commercial reasons be kept confidential. AIG did not agree to a cap on the premiums it would collect from barristers.
- (b) In certain circumstances AIG would charge premium loadings of between 15% and 100% to barristers who had made claims within the last three years. Great Lakes did not propose to charge loadings.
- (c) The Great Lakes excess is \$5,000 (but *not including* defence costs) and a proposed special excess in relation to advocacy matters of 5% of a barrister's gross fee receipts for the period 1 July, 2003 to 30 June 2004, subject to a minimum of \$5,000 each and every claim (including up to \$5,000 for defence costs only) and a maximum of \$15,000 each and every claim (including up to \$5,000 for defence costs only). The special excess only applies to advocacy matters as defined in the insurance policy and shall only be applied if the High Court in the *D'Orta-Ekenaike* case decides, whether by a majority or unanimously, that regardless of his or her field of practice a barrister is not immune from suit for his or her acts or omissions as counsel in the conduct of a case in court.  
AIG stipulated one excess - \$5,000 *including* defence costs.
- (d) Great Lakes offered superior policy wording overall to AIG's offer. Great Lakes has proposed an exclusion if a claim is for a costs order which is made against a barrister in a proceeding to which a litigation funding agreement directly or indirectly relates, and arises as a consequence of the barrister's services in advancing a claim or a defence that is found to have no real prospect of success, and is in favour of the barrister's instructing solicitor or client (whether by way of rights of subrogation or otherwise) or the litigation funder.
- (e) The Great Lakes policy wording offered greater protection to barristers and their clients and more closely matches the cover offered to all Victorian solicitors by the Legal Practitioners' Liability Committee (LPLC) and the model certificate of insurance proposed by the Joint Task Force of the Standing Committee of Attorneys General and the Law Council of Australia than does the AIG policy.
- (f) Great Lakes offered universal automatic run off cover to all former barristers at a cost to practising barristers that is reasonable in the circumstances. Since 1995, there have been some 444 former barristers including now 54 sitting judges and magistrates. The AIG proposal did not appear to secure for former barristers automatic universal run off cover and had an overall cap of \$10 million. AIG required that as a condition of cover, a former barrister provide it with a claims declaration.
- (g) Great Lakes assures Victorian barristers of ownership of claims and insurance data for the purposes of –
  - (i) providing barristers with such assistance in connection with the claim or notification as may be appropriate;
  - (ii) maintaining a comprehensive and up to date claims history data base;
  - (iii) developing risk management strategies; and

- (iv) obtaining and maintaining professional indemnity insurance for Victorian barristers.

AIG signalled its good intentions in this regard but did not proffer any policy wording to secure the provision of claims data.

- (h) Great Lakes through its claims agent have co-operated with the Bar during 2003/4 to develop effective risk management strategies for Victorian barristers and protocols for claims management.
- (i) Great Lakes has a Standard and Poor's rating of A+ (down from last year's AA).

### **Premiums**

The premiums charged by Great Lakes for the primary layer of insurance are set out in the attached schedule. The premiums are referable to a barrister's estimated gross fee receipts (not including GST but including clerk's commission) for the year ended 30 June 2004.

The premiums have increased from those of last year generally as follows:

Gross annual fee receipts	Increase
Up to and including \$100,000	10%
\$100,000 to \$300,000	12%
\$300,000 to \$500,000	15.5%
\$500,000 plus	16%

Criminal law barristers faced higher percentage increases because of the reduction in the level of discount available to them and the rating this year of their premiums according to their gross receipts like the rest of the Bar.

The Bar Council was unable to prevent some increase in premiums. The General Insurance Industry Survey published by Deloitte in December 2003 reveals that premium rates for professional indemnity insurance for 2003 increased generally by 29% and were expected to rise in 2004 by 18% and in 2005 by 10%. The survey was of direct underwriters, reinsurers and brokers. The survey is at –

[http://www.deloitte.com/dtt/cda/doc/content/GI%20Survey\\_Executive%20Summary.pdf](http://www.deloitte.com/dtt/cda/doc/content/GI%20Survey_Executive%20Summary.pdf)

A portion of the overall increase was due to the High Court's review of the principle of advocates' immunity from suit in the *D'Orta-Ekenaike* case which was heard on 20 and 21 April 2004. The balance of the increase has followed an assessment of the claims experience of barristers over the past year in the light of the cost of capital in the insurance market.

Great Lakes has included in its maximum premium pool an amount of additional premium to allow for a possible increase in the number and cost of claims against barristers should the immunity from suit currently applicable to advocates be removed by the High Court. However Great Lakes has agreed that unless the High Court in *D'Orta-Ekenaike* case decides, whether by a majority or unanimously, that regardless of his or her field of practice a barrister is not immune from suit for his or her acts or omissions as counsel in the conduct of a case in court, then within 14 days from the date on which the High Court delivers judgment or 30 November 2004 (whichever is the later), the additional premium shall be refunded to barristers. If that happens, the percentage increases will generally be of the order of:

Gross annual receipts	Increase with immunity upheld
Up to and including \$100,000	4%
\$100,000 to \$300,000	6%
\$300,000 to \$500,000	9.5%
\$500,000 plus	10%

### **Top up insurance**

Affinity Risk Partners arranged top up insurance for various layers of insurance above \$1.5

million for which the insurers at different layers are QBE Insurance (Australia) Pty Ltd, Ace Insurance Limited and Vero Insurance Ltd (formerly Royal & SunAlliance). Suncorp Metway also offered top up insurance at competitive premium rates. These arrangements were put in place after tenders had closed and the Board had made its decision on the approval of terms and conditions of the compulsory layer insurance for 2004/5.

### **Claims History Data Base**

The Bar continues to maintain its comprehensive data base of claims and notifications made from 1995 to date. The Bar is grateful for the assistance in this regard of Affinity Risk Partners over the past year, in particular, its Claims Manager, Mary Spanos. This information is invaluable in assisting the Bar to attract the most competitive bids for insurance. During the recent tender process, Great Lakes, AIG, Suncorp Metway, QBE, Ace and Vero were each given access to the claims information held to assist them formulate their respective insurance arrangements.

### **D'Orta-Ekenaike**

On 20 and 21 April 2004, the High Court heard an application for special leave to appeal in the matter of *D'Orta-Ekenaike v Legal Aid Victoria*. The case raised the issue whether the High Court should reconsider the law on advocates' immunity as stated in *Giannarelli v Wraith*. The Court has reserved judgment. The Bar owes a debt of gratitude to Neil Young QC, Dyson Hore-Lacey S.C. , Bruce Walmsley S.C. , Graham Devries, Philip Crutchfield and Greg Hughan for their significant contributions to the defence of the application on behalf of the barrister. Thanks also to solicitors Beckwith Cleverdon Rees and Middletons for their considerable assistance.

### **Professional Standards legislation**

A subcommittee of Bill Martin QC, David Clarke, Andrew Hamlyn-Harris, David Bremner and I have spent considerable time examining the ramifications of the *Professional Standards Act* for the Bar and will be reporting to the Committee shortly. The issue will then go to the Bar Council.

### **Law Council working party on s54 of the Insurance Contracts Act**

Michael Heaton QC made a sustained contribution to the work of this Law Council working party for which the Bar expresses its gratitude.

I thank all members of the Committee for their enthusiastic assistance during the past year. Finally, I acknowledge with gratitude the valuable and energetic contribution of the Executive Director, David Bremner, and wish him a happy retirement.



**AFFINITY RISK PARTNERS**

**Victorian Bar - Premium Rates 2004/05**

Pricing below applies to the respective Limit of Indemnity

Pricing includes 10% GST and assumes 10% Victorian Stamp Duty. Stamp Duty may vary depending on where Gross Practice Receipts are actually earned

Gross Fee Income Range	Limit of Indemnity: \$1.5 million				Limit of Indemnity: \$3 million				Limit of Indemnity: \$5 million			
	1st Year Juniors		All Others		1st Year Juniors		All Others		1st Year Juniors		All Others	
	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL
\$0 to \$75,000	999	999	999	999	2,422	2,422	2,814	2,422	Refer	Refer	4,629	Refer
\$75,001 to \$100,000	999	999	1,997	1,178	2,422	2,422	3,812	2,601	Refer	Refer	5,627	Refer
\$100,001 to \$125,000	999	999	2,202	1,299	2,422	2,422	4,017	2,722	Refer	Refer	5,832	Refer
\$125,001 to \$150,000	1,099	999	2,372	1,399	2,522	2,422	4,187	2,822	Refer	Refer	6,002	Refer
\$150,001 to \$175,000	1,264	1,079	2,541	1,499	2,687	2,502	4,356	2,922	3,987	3,802	6,171	4,222
\$175,001 to \$200,000	1,453	1,165	2,710	1,599	2,876	2,588	4,525	3,022	4,176	3,888	6,340	4,322
\$200,001 to \$225,000	1,671	1,258	2,956	1,744	3,094	2,681	4,771	3,167	4,394	3,981	6,586	4,467
\$225,001 to \$250,000	1,922	1,359	3,202	1,889	3,345	2,782	5,017	3,312	4,645	4,082	6,832	4,612
\$250,001 to \$275,000	Refer	Refer	3,447	2,034	Refer	Refer	5,262	3,457	Refer	Refer	7,077	4,757
\$275,001 to \$300,000	Refer	Refer	3,693	2,179	Refer	Refer	5,508	3,602	Refer	Refer	7,323	4,902
\$300,001 to \$350,000	Refer	Refer	4,315	2,546	Refer	Refer	6,130	3,969	Refer	Refer	7,945	5,269
\$350,001 to \$400,000	Refer	Refer	4,720	2,785	Refer	Refer	6,535	4,208	Refer	Refer	8,350	5,508
\$400,001 to \$450,000	Refer	Refer	5,126	3,024	Refer	Refer	6,941	4,447	Refer	Refer	8,829	5,801
\$450,001 to \$500,000	Refer	Refer	5,531	3,263	Refer	Refer	7,346	4,686	Refer	Refer	9,441	6,195
\$500,001 to \$600,000	Refer	Refer	6,125	3,614	Refer	Refer	8,124	5,114	Refer	Refer	10,568	6,946
\$600,001 to \$700,000	Refer	Refer	6,694	3,950	Refer	Refer	8,897	5,603	Refer	Refer	11,589	7,622
\$700,001 to \$800,000	Refer	Refer	6,939	Refer	Refer	Refer	9,309	Refer	Refer	Refer	12,205	Refer
\$800,001 to \$900,000	Refer	Refer	7,183	Refer	Refer	Refer	9,683	Refer	Refer	Refer	12,737	Refer
\$900,001 to \$1,000,000	Refer	Refer	7,325	Refer	Refer	Refer	9,917	Refer	Refer	Refer	13,085	Refer
\$1,000,001 to \$1,500,000	Refer	Refer	8,038	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$1,500,001 to \$2,500,000	Refer	Refer	8,811	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$2,500,001 to \$5,000,000	Refer	Refer	9,319	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer

  

Gross Fee Income Range	Limit of Indemnity: \$10 million				Limit of Indemnity: \$15 million				Limit of Indemnity: \$20 million			
	1st Year Juniors		All Others		1st Year Juniors		All Others		1st Year Juniors		All Others	
	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL	Non - CL	CL
\$0 to \$75,000	Refer	Refer	5,295	Refer	Refer	Refer	7,291	Refer	Refer	Refer	9,288	Refer
\$75,001 to \$100,000	Refer	Refer	6,293	Refer	Refer	Refer	8,289	Refer	Refer	Refer	10,286	Refer
\$100,001 to \$125,000	Refer	Refer	6,498	Refer	Refer	Refer	8,494	Refer	Refer	Refer	10,491	Refer
\$125,001 to \$150,000	Refer	Refer	6,668	Refer	Refer	Refer	8,664	Refer	Refer	Refer	10,661	Refer
\$150,001 to \$175,000	4,653	4,468	6,837	4,888	6,649	6,464	8,833	6,884	8,646	8,461	10,830	8,881
\$175,001 to \$200,000	4,842	4,554	7,006	4,988	6,838	6,550	9,002	6,984	8,835	8,547	10,999	8,981
\$200,001 to \$225,000	5,725	5,312	7,917	5,798	8,387	7,974	10,579	8,460	11,049	10,636	13,241	11,122
\$225,001 to \$250,000	5,976	6,772	8,163	5,943	8,638	8,075	10,825	8,605	11,300	10,737	13,487	11,267
\$250,001 to \$275,000	Refer	Refer	8,408	6,088	Refer	Refer	11,070	8,750	Refer	Refer	13,732	11,412
\$275,001 to \$300,000	Refer	Refer	8,654	6,233	Refer	Refer	11,316	8,895	Refer	Refer	13,978	11,557
\$300,001 to \$350,000	Refer	Refer	9,567	6,891	Refer	Refer	12,229	9,553	Refer	Refer	14,891	12,215
\$350,001 to \$400,000	Refer	Refer	10,237	7,395	Refer	Refer	12,899	10,057	Refer	Refer	15,561	12,719
\$400,001 to \$450,000	Refer	Refer	10,889	7,861	Refer	Refer	14,217	11,189	Refer	Refer	17,544	14,516
\$450,001 to \$500,000	Refer	Refer	11,475	8,229	Refer	Refer	14,802	11,556	Refer	Refer	18,130	14,884
\$500,001 to \$600,000	Refer	Refer	13,043	9,421	Refer	Refer	16,371	12,749	Refer	Refer	19,698	16,076
\$600,001 to \$700,000	Refer	Refer	14,307	10,340	Refer	Refer	17,634	13,667	Refer	Refer	20,962	16,995
\$700,001 to \$800,000	Refer	Refer	15,132	Refer	Refer	Refer	18,459	Refer	Refer	Refer	21,787	Refer
\$800,001 to \$900,000	Refer	Refer	15,662	Refer	Refer	Refer	18,989	Refer	Refer	Refer	22,317	Refer
\$900,001 to \$1,000,000	Refer	Refer	16,070	Refer	Refer	Refer	19,398	Refer	Refer	Refer	22,725	Refer
\$1,000,001 to \$1,500,000	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$1,500,001 to \$2,500,000	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer
\$2,500,001 to \$5,000,000	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer	Refer

Note: "CL" refers to barristers who generate 90% or more of their Gross Practice Receipts from the practice of criminal law (including intervention orders)

**Michael Shand**  
Chairman

## ANNUAL REPORT OF THE PROFESSIONAL STANDARDS EDUCATION COMMITTEE

The Professional Standards Education Committee is constituted by Paul Willee QC Chair, Michael Shand QC, Gerald Lewis S.C., Paul Santamaria S.C., Cameron Macaulay S.C., Debra Coombs, Laura Colla, Daniel Agion and Judy Benson. Its membership, drawn as it is from the Bar Council, the Ethics, CLE, Insurance and Readers' Course committees is particularly well suited for liaison with the Bar Council and other committees whose co-operation is vital to its work. That co-operation has been readily given.

The Committee was formed in April 2003 with the avowed aim of focusing the attention of members of the Bar (particularly younger members) on the ethical rules underpinning good professional practice while simultaneously improving risk management by identifying recurrent incidents of negligent or bad practice giving rise to claims and putting in place strategies for the avoidance of such claims. The responsibilities of the Committee therefore, included identification and implementation of the best strategies for achieving its aims be that by the dissemination of written material, the conduct of seminars, influencing the content of the reader's course syllabus; designing and approving the content of such materials as it developed; securing the necessary volunteer or paid staffing as such courses required; settling the written material produced; and generally overseeing and co-ordinating the conduct of its programs.

As a first step, the Committee set about attempting to identify such undesirable practices by members of the Bar as had come to the attention of members of the judiciary and the magistracy and VCAT. In turn, this led to a programme of continuing interviews with representatives of the judiciary at all levels in the hierarchy, both State and Federal and the adduction of a considerable amount of material. Some of this material was startling and of such concern that it was brought to the attention of Bar Council and the New Barristers Standing Committee. The response of both bodies was prompt and constructive. The New Barristers Standing Committee was positive. The main thrust of its action was to encourage those members of the Magistracy who were invited to address the readers' course on a regular basis, to deal with the issues set out in the Memorandum, to ensure that CLE lectures focused on those matters and the encouragement of junior mentors to deal with the areas of concern. Nevertheless, appropriate mechanisms still need to be developed to analyse and formulate more directed and controlled action in relation to the material continuing to be collected. As part of that process, such strategies as are developed need to be monitored to determine and adjust the effectiveness of such action. Moreover the committee may need to shift focus slightly to take greater account of insurance aspects of its work.

The Committee determined at the outset that a most effective way of achieving its aims would be by making the customs and rules of professional conduct more appealing and accessible to members of the Bar. It was decided to do this by the provision of a highly readable professional standards manual (PSM), to be made available to all members of the Bar in both printed form and on the Bar website. Approaches then made to all Australian State and Territory Bars and the New Zealand Law Council produced a great deal of interest and enthusiasm for such a project which had not been previously attempted in any of those jurisdictions; as well as some useful material for it.

By 2 June 2003 the Committee had developed a detailed funding submission for the production of the PSM. When this was submitted through the auspices of the Bar Council to the Legal Practice Board, it resulted in a substantial grant of funds being made available to the Committee to commence the production of the manual and possibly complete and publish it, by

the end of 2005.

To that end, but before developing detailed specifications for the production of the PSM; advertising and interviewing applicants for the position of research writer and selecting a candidate; the committee engaged in an intensive process to examine the implications of the printing and publishing requirements of the manual and the use of a suitable mark up language to enable the research writer to put it in a form suitable for the Bar's web site. A considerable amount of work was done with the two major legal publishers relating to format, anticipated production costs and associated matters, as a result of which Judy Benson who has considerable publishing experience, was co-opted to the Committee for the purpose of consultation and advice in relation to those matters. Ms Róisín Annesley became the successful candidate and her appointment as research writer was confirmed on 4 June 2004. The committee is most grateful that Ms Annesley will have access to James Merralls AM QC for advice and assistance during her work, a role for which he has generously consented to make himself available.

By 30 June the pilot chapter of the proposed manual should have been completed for approval by the Committee. On acceptance, the project will continue with the chosen research writer.

Parallel with these developments the Committee was made busy in October 2003 by the appointment of an extremely energetic CLE Committee, charged with the task of producing a complete CLE program within a very short time frame ready to commence in February of this year. By way of contribution to that program the Committee worked up 10 suggested seminar topics which were ultimately accepted by CLE and became part of that program. By 16 June five of these lectures had been delivered (although not all under the ostensible auspices of the Committee). One member of the Committee has been involved in preparation and delivery of 2 of those papers and the Chairman has been involved in the delivery and presentation of one of them. In addition, the new Readers Course Committee selected from the CLE program, those topics which were of most relevance to readers and procured speakers to deliver them to the March intake of the Readers' Course.

Apart from supervising the completion and delivery of the manual, the immediate tasks for the committee include compilation of its suggested contribution to the 2005 CLE program; a review of the material so far collected from the courts and the Ethics Committee, to identify specific matters which may not have been addressed by the programmes currently in place, and the development of a process to assess the effectiveness of the Committee's attainment of its objectives.

**Paul Willee**  
*Chairman*

## ANNUAL REPORT OF THE VICTORIAN BAR DISPUTE RESOLUTION COMMITTEE

This last year has seen a concentration on responses to Government initiatives in dispute resolution, the continuation of Mediation Phase 2, attention to standardising orders for mediation in the Supreme Court, the launch of the Pilot Scheme for Mediation in the State Magistrates' Court, a disappointing response from the Federal Magistrates Court to a similar proposal for that court, and Continuing Legal Education.

The Chairman and Committee members wish to thank the retiring members of the committee, Her Honour Judge Frances Millane, David Bennett QC and Nathan Moshinsky QC,

all of whom were valuable members over a goodly period as well as retiring members Georgina Grigoriou, Jim Cyngler and Allana Goldsworthy who have also made most useful contributions.

Members of the Committee have prepared and delivered reports to government bodies, particularly Henry Jolson QC, Elizabeth Brophy and Peter Condliffe who prepared a detailed and considered report for NADRAC on Mediation Accreditation and Ross Maxted worked on the consultative committee for the NADRAC paper on "Mediation in Courts, Referral to ADR".

In addition, the Federal Government Justice statement discussion paper was referred to the Law Council of Australia. It will be remembered that the State Justice statement was dealt with by the Committee in the previous year.

The Committee's review of the conduct of mediation practice has continued with the successful conduct of the Supreme Court seminar organised by Will Alstergren and the Chairman in consultation with Justices Ashley, Byrne and Gillard. The Bar is grateful for their Honours' time, attention and contribution to standardising the Supreme Court order for mediation which is anticipated will be incorporated into a practice note.

Justice Gillard conducted a most entertaining and lively workshop on the topic, complete with not just words of wisdom but also (?) the inevitable cricket and Essendon. He is thanked most sincerely.

A great deal of the Committee's time has been taken up with the State Magistrates' Court pilot scheme. This scheme will now be familiar to the many barristers who have volunteered for the panel involved. The Committee acknowledges the assistance of their Worships Ian Gray, Chief Magistrate, and Peter Lauritsen, Deputy Chief Magistrate. The burden of work has been effected by Ross Maxted, involving many hours of meetings and communication. The scheme is a pilot one and it is anticipated necessary modifications will occur. The Committee conducted a seminar to familiarise Bar members with the administrative details of the scheme.

Mediation Phase 2 will continue and Cornelia Fourfouris-Mack has, along with now Her Honour Judge Millane, planned a session on mediation in VCAT which will be held in the near future.

A Continuing Legal Education sub-committee has been formed consisting of Bob Miller, Tony Nolan, John Bolton and Danielle Hunter-Smith and regular seminars will have commenced by the time of the publication of this report. David Levin QC, in his usual energetic way has kept his finger on the pulse and kindly organised a very successful seminar on on-line ADR in association with the Computer Users Groups. The speakers were Professors Tania Sourdin, John Zeleznikov, Di Bretherton and Melissa Conley-Tyler. The Chairman and the Committee sincerely thanked them again.

During the course of the year members of the Committee have been guest lecturers and tutors at various dispute resolution conference and workshops.

Again, under David Bremner the Mediation Centre continues to enjoy adequate patronage despite increasing competition. The key, of course, are the excellent staff consisting of Pauline Hannon, Helen Henry, Pat Lurye, Kay Kelly and of late Frances O'Halloran, ably assisted by Rebekah Thompson and now the enthusiastic Michele Woolnough.

On behalf of the Committee and the Bar Mediation Centre, I thank the barristers and solicitors who have supported the Mediation Centre during the past year.

The Chairman apologises in advance if he has admitted any activity from the many conducted this year, his last as Chairman.

**Bill Martin**  
*Chairman*

## ANNUAL REPORT OF THE

## NEW BARRISTERS STANDING COMMITTEE

During the period of 1 July 2003 to 30 June 2004, the New Barristers Standing Committee has been active in the following areas: -

- (a) The New Barristers Standing Committee met on 9 occasions during the reporting year.
- (b) Addressing each intake of Bar Readers.
- (c) The production of two editions of a Newsletter to new barristers.
- (d) Holding monthly Friday night drinks for new barristers to meet & socialise at the Essoign and organising special nights at the Essoign to welcome each new intake of Readers.
- (e) Jointly co-ordinating social and networking opportunities for new barristers with the Young Lawyers group of the Law Institute of Victoria, including a very successful evening at The Apartment on 17 October 2003.
- (f) Liaising with Bar Council and Young Lawyers LIV in relation to the Model Equal Opportunity Briefing Policy.
- (g) Representing the interests of new barristers to Bar Council and Barristers' Chambers Limited, including through the Bar Council/BCL Accommodation Committee, in pressing to find affordable solutions to the current accommodation shortage.
- (h) The investigation of alternative accommodation options available to new barristers.
- (i) Conducting a survey in order to try and ascertain the depth of the accommodation shortage.
- (j) Making submissions to the Magistrates' Court and the Ethics Committee in relation to issues of professional conduct of barristers in the Court.
- (k) NBSC Committee Member, Georgia Tsirmbas, is the Victorian Bar's appointed representative to the Australian Young Lawyers Committee of the Law Council of Australia and liaises with that body on behalf of the NBSC.
- (l) NBSC Committee Member, Joe Connellan, competed in the Golden Gavel, a National Comedy Debate, on 21 November 2003.
- (m) NBSC Committee Member, Sam Hay, participated in a presentation to delegates at the World Bar Conference Forum – Cape Town 2004.
- (n) Attending the launch of the Melbourne Magistrates' Mediation.
- (o) Liaising with and making representations to Bar Council and the Legal Education sub-committee on behalf of new barristers in relation to: the capacity to gain accreditation for CLE activities; the right to obtain dispensation from CLE requirements where engaging in approved leave; the availability of CLE materials; and, the timing of CLE seminars.

At the present time there are 479 members of counsel at the Victorian Bar who are new barristers, i.e.: under 5 years call or under 36 years of age. Approximately one third of that number are female members of counsel.

Committee Members of the New Barristers Standing Committee are:  
Cassie Serpell (Chairperson), Sam Hay (Deputy Chair), Rachel Doyle, Kate Anderson, Rowena Orr, Tony Vriends, Georgia Tsirmbas, Joe Connellan, Simone Bingham, Alanna Duffy, Marita Foley, St John Hibble, Simon Rubenstein, Tom Pikusa and Sarah Porritt.

**Cassie J Serpell**  
*Chairperson*

## ANNUAL REPORT OF THE LEGAL ASSISTANCE COMMITTEE

The Victorian Bar, through its legal assistance scheme (the scheme), continues in its endeavour to increase and improve the accessibility of pro bono legal assistance provided by Victorian barristers to the community. The scheme, now in its fourth successful year of administration by the Public Interest Law Clearing House (PILCH), is overseen by the Bar's Legal Assistance Committee (the Committee). The scheme will cost about \$118,420 to operate in 2004/2005 and, whilst it is funded by the Bar, it is appropriate to acknowledge the significant financial assistance provided to it by the Legal Practice Board as its contribution to the Bar's access to justice program.

Over 470 barristers – approximately 31% of the practising list - have volunteered to participate in the scheme. Many others, although not formally registered, welcome requests to assist or perform pro bono work outside of the scheme. The Bar Council extends its thanks to all those barristers and acknowledges that such generosity is noteworthy, particularly in light of a public misconception that lawyers are generally greedy and self-interested professionals.

Applications received by the scheme are assessed on the basis of legal merit, lack of means and whether assistance is required in the 'interests of the administration of justice'. The majority of applications come from individuals, many with complex legal problems and no other options for legal assistance. Referrals made to barristers may be for advice, drawing documents and/or appearance work.

In my report of 2002/2003, I noted that demand upon the scheme had increased substantially. The same pattern continued in 2003/2004. While the number of inquiries have remained relatively constant (277 in the past year compared to 289 in 2002/2003), there has been a 120% increase in the number of referrals to barristers (from 70 to 154). These figures do not take account of the many applicants who are referred to other services such as Victoria Legal Aid, an ombudsman, a community legal centre or another community based organisation.

No doubt, this increased work load reflects the efficient and dedicated work of public interest lawyers in favour of needy persons with meritorious cases. However, this significant development in the operation of the scheme points to the continuing and disturbing presence of unrepresented litigants in the legal system. Given the criteria required to be satisfied for a grant of assistance under the scheme, it also suggests that Governments are failing to provide adequate assistance to the community through legal aid services.

Applications to the scheme concern all areas of law and cover a diverse range of legal matters. A significant number of referrals during the past year concerned administrative law judicial review (particularly migration matters), criminal law, including appeals and property based debt recovery matters. Family law, including family violence, de facto and children's court cases were also highly represented. As in previous years refugee/migration law matters made up the greatest number of referrals although there was a 15% decrease in the incidence of these cases.

In addition to the daily inquiry and referral work, the scheme also undertakes special project and law reform activities. These activities seek to identify significant areas of legal need and ways in which to facilitate the delivery of pro bono services to meet those needs. Of special note in this regard are the following initiatives.

- The Asylum Seekers Sub-committee, established in February 2002 and convened by Michael Gronow, continues to assist and coordinate the efforts of counsel to meet the legitimate needs of asylum seekers – a marginalised group facing a complex and foreign legal system. This work has included the establishment of a database of over 100 barristers willing to assist in this area; a mentoring program for junior barristers undertaking migration matters; completion of an audit of the legal services available to such applicants; completion of the translation of application forms into several languages spoken by asylum seekers; and the implementation of a duty solicitor scheme (staffed by LAV solicitors) on refugee directions days in the Federal and Federal Magistrates Courts. A barristers training session, to be conducted in conjunction with the Asylum Seeker Resource Centre, is planned for the near future.
- The scheme has been engaged in the provision of administrative support and advice to barristers undertaking matters on a direct access basis under an order of the Federal Court of Australia or the Federal Magistrates Court. This service has included the provision of interpretation services and the making of applications for access to documents under freedom of information provisions.
- In conjunction with PILCH, the scheme made important law reform submissions to the Commonwealth Attorney-General's Migration Litigation Review (November 2003) and to the Senate Legal and Constitutional Committee in relation to the provisions of the *Migration Amendment (Judicial Review) Bill 2004* (May 2004) (following which Chris Horan, a key contributor to the written submission, gave oral evidence to the Committee).
- The scheme has also established a significant partnership with the Asylum Seeker Resource Centre (ASRC) so as to provide a legal merits assessment service of applications for review of Refugee Review Tribunal hearings. A pilot program is presently being considered whereby, in association with ASRC, barristers on the scheme's Migration List would volunteer their time at a night clinic to advise asylum seekers on the merits of their appeals.
- The scheme works closely with the LIV legal assistance scheme, also administered by PILCH. The LIV scheme is a valuable source of support for barristers engaged in pro bono work. In October 2003, a training program for solicitors was jointly hosted by the two schemes with the assistance of PILCH member firms.
- The scheme contributed to and assisted in facilitating submissions by the Bar and PILCH to the Commonwealth Attorney-General's Department concerning the Review of Legal Services Directions (April 2004) and the Commonwealth Attorney-General's Federal Civil Justice System Strategy (May 2004). The scheme Manager and Co-Executive Directors of PILCH also met with representatives of the Attorney-Generals Department to discuss the Strategy and the work done by PILCH and the scheme.
- The scheme Manager is extensively engaged in the promotion of the scheme, both to the legal profession and the broader community. She has liaised with a number of organisations as to the work of the scheme, including the Federation of Community Legal Centres at its general meeting in January 2004 when a presentation was made as to the work of the scheme and discussions were held as to the issue of unrepresented litigants in family violence matters before the Magistrates' Courts. A training program for practitioners in this area, to be run by the scheme, is presently being considered. Hopefully, this will enhance the work of the pilot Family Violence Courts project being conducted in two Magistrates' courts in Victoria.

- The Manager has also engaged in detailed discussions with almost every barristers clerk to discuss pro bono referrals. The scheme is most grateful for the support it receives from the clerks, particularly in meeting requests for assistance at short notice.
- Similarly, close contacts have been established with the courts so as to facilitate the frequent call for assistance to the unrepresented litigant or a witness needing urgent advice. Correspondence about the work of the scheme has been followed up with meetings with the heads of the courts and their administrative staff. The Committee gratefully acknowledges the support of the scheme by the various courts.
- On 3 March 2004 the Committee hosted a very successful drinks function to acknowledge and thank all counsel and PILCH staff who worked for the scheme or performed pro bono work in 2003/2004. The occasion also marked the outstanding work of Samantha Burchell upon her retirement as the Co-Executive Director of PILCH and as a member of the Committee. Senior representatives from the Victorian and Federal courts attended and the Chief Justice made a presentation to Samantha on behalf of the Bar.
- There is a special need for those in rural, regional and remote areas to gain better access to pro bono legal assistance. In recognition of this need the scheme is proposing, subject to grant funding, to conduct with PILCH and the LIV scheme, information sessions for community legal centres, law firms and the courts in eleven regional centres across Victoria. In doing this, it is hoped that the pool of legal practitioners working outside metropolitan Melbourne upon which each of the schemes may draw, will be increased. Further, this exercise will raise awareness of the work of the scheme and the ways in which it can improve the ability of individuals and not-for-profit groups throughout Victoria to gain greater access to justice.

Finally, I wish to acknowledge the dedication and professionalism of the scheme's Solicitor/Manager, Ms Susannah Sage Jacobson. Since her appointment in June 2003, Susannah has worked on a part-time basis, three days per week. In January 2004, the scheme welcomed Conrad Smith, a former PILCH volunteer, as the scheme administrator working one day per week. Reflecting the increased work of the scheme, the budget for 2004/2005 as approved by the Bar Council, provides for the Manager/Solicitor role to be increased to a full-time position and the administrator to a 2 day per week role. The Committee also thanks the Co-Executive Directors of PILCH, Emma Hunt and Paula O'Brien and their staff for their tireless and enthusiastic support of the scheme.

**Anthony Howard**  
*Chair*

## ANNUAL REPORT OF THE *VICTORIAN BAR NEWS*

Over the last 12 months Bar News has continued to record the social life of the Bar ranging across the full spectrum of social events from the Bar Dinner to Hockey, from the Living Legends Dinner to Royal Tennis, The Women Barristers' Tenth Birthday Celebration to Yachting, from the appointment of new Silks to the Criminal Bar Association Dinner.

The regular features, which include *A Bit About Words*, *Verbatim*, *The Chairman's Cupboard*, the *Attorney-General's Column* and the *Editors' Backsheet*, have been supplemented by numerous pieces dealing with individual exploits and individual successes. They have also been supplemented by an array of articles and papers, many of them from members of the Bar such as S.E.K. Hulme Q.C. on *Independence and the Bar*, Geoffrey Gibson on *Bush Lawyers*,



Yusef Zaman on *The Fight Against Terrorism*, Jack Rush Q.C. on *Irish Australian Legal Links* and a series of articles by Ashley Halphen on the Death Penalty in the United States. Our contributors have also included Chief Justice Gleeson and Justice Kirby, Chief Justice Warren and Professor Gillian Triggs of the University of Melbourne.

In accordance with tradition we have continued to publish all (non-defamatory) letters to the Editor which we have received. The Editors encourage members of the Bar to use these pages to raise issues of concern and to highlight problems or even to indulge in whimsy.

Also in accordance with tradition we have endeavoured to keep the Editors' Backsheet informative, controversial and sometimes mischievous. If we have failed in this aim we apologise.

Because Bar News is the journal of the Bar, the editors encourage all members who have something to say to put pen to paper (or finger to computer) and give us the benefit of their thoughts and ideas. If Bar News is not how you want it, tell us *in writing*.

**GERARD NASH**

*Joint Editor*

*Victorian Bar News*

## ANNUAL REPORT OF THE VICTORIAN BAR BAR CARE SCHEME

In 2002, the Bar Council resolved to establish the Bar Care Scheme, a counseling service for members of the Bar and their immediate family. The establishment of the scheme was recognition that the health and well-being of a member can be adversely affected by the pressures of professional and personal life and that the Victorian Bar has a role to play in ensuring that assistance is available to members who require it.

The objective of the scheme is to enable members to immediately access a counseling service which will assist them with emotional and stress related pressures arising from family or marital problems, multiple life stressors, drug or alcohol dependency, and practice pressures. A vital feature of the scheme is that full confidentiality applies to the identity of those who use it.

The scheme is available to any member of the Bar and their immediate family. The cost of the initial consultation and referral will be met by the Bar Council.

The Cairnmillar Institute ("the Institute") is the initial referral point for the Bar Care scheme. Its consultants are trained in psychology, medicine or social work and have specialist training in counselling and psychotherapy. The Institute provides initial counselling and refers clients to other specialist service providers where necessary.

A member who wishes to access the scheme should contact the Institute on 9813 3400 and advise that they require assistance in accordance with the Victorian Bar's Bar Care Scheme. The Institute is located at 993 Burke Road, Camberwell, 3124.

During the course of the initial consultation the counsellor provides assistance and determines what follow-up services or treatments are needed. The counsellor may then arrange for subsequent consultations or referrals to other service providers. The cost of any subsequent consultations by the Institute or another service provider is the responsibility of the member and may be reimbursable from government or private health insurance schemes.

On regular occasions the availability of the scheme is promoted in *In Brief* and *Bar News*.

During the year to 30 June 2004, three members sought assistance under the scheme and received a total of 10 consultations. The first consultation for each member was paid by the Bar Council at a total cost of \$363 excl GST. One of the members sought assistance due to stress and the other two as a result of marital and family issues.

**David J L Bremner**

*Executive Director*

SPECIAL PURPOSE FINANCIAL REPORT  
THE VICTORIAN BAR INC

**Statement of Financial Performance  
for the Year Ended  
30 June 2004**

	2004 \$	2003 \$
Revenue		
Revenue from Ordinary Activities	3,375,024	3,146,572
Other Revenue		
Indigenous Lawyers Project	-	27,338
Interest	<u>135,850</u>	<u>129,183</u>
Total Revenue	<u>3,510,874</u>	<u>3,303,093</u>
 Expenditure		
Administration Expenses	2,004,270	1,340,093
Employee Benefits Expense	949,003	869,628
Depreciation	97,471	183,560
Other	<u>83,226</u>	<u>110,453</u>
Total Expenditure	<u>3,133,970</u>	<u>2,503,734</u>
 Profit from Ordinary Activities	<u>376,904</u>	<u>799,359</u>
 <b>TOTAL CHANGE IN ACCUMULATED FUNDS</b>	<u>376,904</u>	<u>799,359</u>

The accompanying notes form part of these financial statements.

SPECIAL PURPOSE FINANCIAL REPORT  
THE VICTORIAN BAR INC

**Statement of Financial Position  
as at 30 June 2004**

	<i>Notes</i>	<i>2004</i> \$	<i>2003</i> \$
<b>Current Assets</b>			
Cash Assets		781,279	575,224
Other Financial Assets	3	2,575,377	1,678,957
Receivables	4	<u>144,825</u>	<u>233,140</u>
Total Current Assets		<u>3,501,481</u>	<u>2,487,321</u>
<b>Non-current Assets</b>			
Other Financial Assets	5	3,516,300	3,016,300
Property, Plant & Equipment	6	269,156	263,178
Loan to Essoign Club		<u>127,351</u>	<u>127,351</u>
Total Non-current Assets		<u>3,912,807</u>	<u>3,406,829</u>
<b>Total Assets</b>		<u>7,414,288</u>	<u>5,894,150</u>
<b>Current Liabilities</b>			
Provisions	7	182,814	173,142
Payables		779,839	313,808
Subscriptions in Advance		<u>1,088,266</u>	<u>416,615</u>
Total Current Liabilities		<u>2,050,919</u>	<u>903,565</u>
<b>Non-current Liabilities</b>			
Provisions	8	<u>4,798</u>	<u>8,918</u>
Total Non-current Liabilities		<u>4,798</u>	<u>8,918</u>
<b>Total Liabilities</b>		<u>2,055,717</u>	<u>912,483</u>
<b>Net Assets and Accumulated Funds</b>	9	<u>5,358,571</u>	<u>4,981,667</u>

The accompanying notes form part of these financial statements.

SPECIAL PURPOSE FINANCIAL REPORT  
THE VICTORIAN BAR INC

**Statement of Cash Flows**  
**For the Year Ended 30 June 2004**

	2004	2003
	\$	\$
<b>Cash Flows From Operating Activities</b>		
Receipts from Subscriptions	2,951,997	1,576,874
RPA Reimbursement Received	730,012	575,401
Interest Received	135,850	129,183
Other Receipts	577,981	535,110
Payments to Suppliers and Employees	<u>(2,689,914)</u>	<u>(2,472,122)</u>
Net Cash Provided by Operating Activities	<u>1,705,926</u>	<u>344,446</u>
<b>Cash Flows From Investing Activities</b>		
Payments for Plant and Equipment	(103,451)	(3,480)
Purchase of Shares	(500,000)	(500,000)
Loans Advanced	<u>-</u>	<u>(85,000)</u>
Net Cash Provided by/(Used in) Investing Activities	<u>(603,451)</u>	<u>(588,480)</u>
<b>Net Increase/(Decrease) in Cash Held</b>	1,102,475	(244,034)
Cash at the Beginning of Financial Year	<u>2,254,181</u>	<u>2,498,215</u>
<b>Cash at the End of Financial Year</b>	<u>3,356,656</u>	<u>2,254,181</u>

The accompanying notes form part of these financial statements.

SPECIAL PURPOSE FINANCIAL REPORT  
THE VICTORIAN BAR INC

**Notes to and Forming Part of the  
Financial Statements for the Year  
Ended 30 June 2004**

**1. Accounting Policies**

**Financial Reporting Framework**

The incorporation is not a reporting entity because in the opinion of the directors there are unlikely to exist users of the financial report who are unable to command the preparation of reports tailored so as to satisfy specifically all of their information needs. Accordingly, this “special purpose financial report” has been prepared to satisfy the Victorian Bar’s constitutional requirement to keep accounts.

The financial report has been prepared on the basis of historical cost and except where stated, does not take into account changing money values or current valuations of non-current assets. Cost is based on the fair values of the consideration given in exchange for assets.

The financial report has been prepared in accordance with the Victorian Bar’s constitution, the basis of accounting specified by all Accounting Standards and UIG Consensus Views, and the disclosure requirements of Accounting Standards AASB 1001 “Accounting Policies”.

**Accounting policies which have been significant in the preparation and presentation of the financial report:**

*(a) Acquisition of Assets*

Assets acquired are recorded at the cost of acquisition, being the purchase consideration determined as at the date of acquisition plus costs incidental to the acquisition. In the event that settlement of all or part of the cash consideration given in the acquisition of an asset is deferred, the fair value of the purchase consideration would be determined by discounting the amounts payable in the future to their present value as at the date of acquisition.

*(b) Depreciation*

Depreciation is provided on property, plant and equipment. Depreciation is calculated on a straight line basis so as to write off the net cost of each asset over its expected useful life. The following estimated useful lives are used in the calculation of depreciation:

Leasehold Improvements	3-10 years
Plant and Equipment	3-10 years

*(c) Recoverable Amount of Non-current Assets*

Non-current assets are written down to the recoverable amounts where the carrying value of any non-current asset exceeds recoverable amount. In determining the recoverable amount of non-current assets, the expected cash flows have not been discounted to their present value.

*(d) Expenses and Revenue*

Expenses and revenue are recognised on an accrual basis and are allocated into

functional categories dependent upon the ultimate purpose of the expenditure or revenue.

## SPECIAL PURPOSE FINANCIAL REPORT THE VICTORIAN BAR INC

- (e) *Investments*  
Investments are recorded at cost.
- (f) *Accounts Payable*  
Trade payables and other accounts payable are recognised when the Victorian Bar Inc. becomes obliged to make future payments resulting from the purchase of goods and services.
- (g) *Receivables*  
Trade receivables and other receivables are recorded at amounts due less any allowance for doubtful debts.
- (h) *Employee Entitlements*  
Annual leave liability is provided for all employees, and long service leave liability is provided only for those employees who have longer than five years' continuous service with The Victorian Bar Inc. This policy is believed to provide an estimate of the long service leave liability which is not materially different from the estimate provided by using the present value basis of measurement.
- (i) *Goods and Services Tax*  
Revenues, expenses and assets are recognised net of the amount of goods and services tax (GST), except:
- (i) where the amount of GST incurred is not recoverable from the taxation authority, it is recognised as part of the cost of acquisition of an asset or part of an item of expense; or
  - (ii) for receivables and payables which are recognised inclusive of GST.
- The net amount of GST recoverable from, or payable to, the taxation authority is included as part of receivables or payables.
- (j) *Comparative Figures*  
Comparative figures are, where appropriate, reclassified so as to be comparable with the figures presented for the current financial year.
- (k) *Income Tax*  
Annual subscriptions paid by members of the Victorian Bar to The Victorian Bar Inc are non-taxable through the mutuality principle. Other receipts are regarded as assessable for purposes of taxation.

	2004	2003
	\$	\$
<b>2. Lease Commitments</b>		
Non-cancellable Operating Leases		
Not Longer Than One Year	1,059,262	901,153
Longer Than One Year and Not Longer Than 5 Years	5,214,601	5,241,612
Longer Than 5 Years	<u>3,635,681</u>	<u>4,627,018</u>
<b>3. Other Financial Assets – Current</b>		
Commonwealth Bank of Australia —		
Bank Bills	<u>2,575,377</u>	<u>1,678,957</u>



**SPECIAL PURPOSE FINANCIAL REPORT  
THE VICTORIAN BAR INC**

<b>4. Receivables</b>		
Sundry Debtors	<u>144,825</u>	<u>233,140</u>
<b>5. Other Financial Assets – Non-current</b>		
Shares in Barristers’ Chambers Limited at Cost	<u>3,516,300</u>	<u>3,016,300</u>
The Victorian Bar Inc has an agreement with Barristers’ Chambers Limited (BCL) that it will subscribe and pay for shares in BCL to the value of \$500,000 in June each year until 30 June 2009. The agreement will terminate if BCL becomes insolvent, has an administrator appointed, has an application made for its winding up or does not proceed with the refurbishment of Owen Dixon Chambers East.		
<b>6. Property, Plant and Equipment</b>		
Equipment	220,495	238,121
Provision for Depreciation	<u>(217,989)</u>	<u>(215,901)</u>
<b>Total Equipment</b>	<u>2,506</u>	<u>22,220</u>
Office Furniture	41,751	40,107
Provision for Depreciation	<u>(28,152)</u>	<u>(24,567)</u>
<b>Total Office Furniture</b>	<u>13,599</u>	<u>15,540</u>
Art Works	53,375	41,389
Provision for Depreciation	<u>(26,727)</u>	<u>(23,345)</u>
<b>Total Art Works</b>	<u>26,648</u>	<u>18,044</u>
Library	237,732	237,732
Provision for Depreciation	<u>(180,210)</u>	<u>(156,436)</u>
<b>Total Library</b>	<u>57,522</u>	<u>81,296</u>
Refurbishment – Douglas Menzies Chambers	390,658	390,658
Provision for Depreciation	<u>(303,646)</u>	<u>(264,580)</u>
<b>Total Refurbishment</b>	<u>87,012</u>	<u>126,078</u>
Leasehold Improvements – Owen Dixon Chambers	89,821	-
Provision for Depreciation	<u>(7,952)</u>	-
<b>Total Refurbishment</b>	<u>81,869</u>	-
<b>Total Property, Plant and Equipment</b>	<u>269,156</u>	<u>263,178</u>
<b>7. Current Provisions</b>		
Employee Entitlements	<u>182,814</u>	<u>173,142</u>

SPECIAL PURPOSE FINANCIAL REPORT  
THE VICTORIAN BAR INC

<b>8. Non-current Provisions</b>		
Employee Entitlements	<u>4,798</u>	<u>8,918</u>
<b>9. Accumulated Funds</b>		
Balance at Beginning of Financial Year	4,981,667	4,182,308
Net Profit	<u>376,904</u>	<u>799,359</u>
Balance at End of Financial Year	<u>5,358,571</u>	<u>4,981,667</u>

SPECIAL PURPOSE FINANCIAL REPORT  
THE VICTORIAN BAR INC

OFFICERS' DECLARATION

As detailed in Note 1 to the financial report, The Victorian Bar Inc is not a reporting entity because in the opinion of the Officers there are unlikely to exist users of the financial report who are unable to command the preparation of reports tailored so as to specifically satisfy all of their information needs. Accordingly, this "Special Purpose Financial Report" has been prepared to satisfy the Officers' reporting requirements under the Victorian Bar's Constitution.

The Officers declare that:

- (a) the attached financial statements and notes thereto comply with accounting standards as outlined in Note 1;
- (b) the attached financial statements and notes thereto give a true and fair view of the financial position and performance of the Victorian Bar Inc;
- (c) in the Officers' opinion, the attached financial statements and notes thereto are in accordance with the Victorian Bar's Constitution; and
- (d) in the Officers' opinion, there are reasonable grounds to believe the Victorian Bar Inc will be able to pay its debts as and when they become due and payable.

On behalf of the Officers



Chairman:



Honorary Treasurer:

Dated:

18 August 2004

**DELOITTE'S LETTER TO GO ON THIS PAGE**

THE VICTORIAN BAR INC

**Detailed Statement of Financial  
Performance for the Year Ended  
30 June 2004**

	<i>Notes</i>	<i>2004</i> \$	<i>2003</i> \$
<b>Income</b>			
Subscriptions		2,278,813	2,058,796
Sale of Publications		499	601
Other Income		2,033	1,205
RPA Reimbursement	1	536,730	609,404
Interest		135,850	129,183
Indigenous Lawyers Project		-	27,338
Bar News Advertising Revenue		53,227	36,789
Entertainment Receipts		52,645	58,349
Library Copier Card Sales		769	687
Mediation Centre Income		164,808	159,950
Readers' Course Fees		267,186	201,115
Readers' Course Entertainment Receipts		14,404	19,087
Readers' Course Photograph Sales		<u>3,910</u>	<u>589</u>
<b>Total Income</b>		<b><u>3,510,874</u></b>	<b><u>3,303,093</u></b>
<b>Expenses</b>			
General Administration			
Archival Costs		9,139	7,053
Audit, Accounting and Computer Software		30,019	40,474
Australian Securities & Investment Commission		540	356
Bank Charges		2,362	2,863
Conference Expenses		13,115	10,248
Bar Dinner and Other Functions		113,767	141,695
<i>Bar News</i> Expenses		128,378	105,426
Depreciation		61,334	43,222
Donations		500	955
Floral Tributes		2,122	4,134
Indigenous Lawyers Project		-	31,851
Insurance		2,553	2,775
Legal Assistance Scheme Costs		83,226	78,602
Library (including Depreciation)		179,457	168,373
Miscellaneous		6,661	38,552
Postage		14,046	11,614
Printing and Stationery		105,938	98,621
Publications		10,407	6,988
Rent to Barristers' Chambers Limited	2	209,024	109,130
Essoign Rent and Fit Out	2	355,389	48,019

Research Studies and Projects	88,595	64,487
Salaries, Employee Entitlements, Superannuation and WorkCover Costs	606,481	554,737
Telephone	2,937	3,168
Travel Expenses	1,073	421
Australian Bar Association	78,850	73,900
International Bar Association	428	482
Law Council of Australia	131,743	130,147
Lawasia	909	909
PILCH	4,725	4,725
Ethics Administration		
Salaries and Expenses	221,027	196,866
Readers' Course and Continuing Legal Education		
Salaries, Expenses and Depreciation	523,490	388,487
Mediation Centre		
Salaries, Expenses and Depreciation	<u>145,735</u>	<u>134,454</u>
<b>Total Expenses</b>	<u>3,133,970</u>	<u>2,503,734</u>
<b>Operating Profit</b>	376,904	799,359
Accumulated Funds at Beginning of Financial Year	4,981,667	4,182,308
<b>Accumulated Funds at End of Financial Year</b>	<u>5,358,571</u>	<u>4,981,667</u>

## NOTES TO THE DETAILED STATEMENT OF FINANCIAL PERFORMANCE FOR THE YEAR ENDED 30 JUNE 2004

### 1 RPA Reimbursement

As from 1 January 1997, the Legal Practice Board reimburses the Victorian Bar for the costs of regulation and registration of legal practitioners regulated by the Bar. The Board also makes a contribution towards the cost of certain legal education programs at the Bar. The Board's financial support for the Bar's legal education and access to justice programs is appreciated.

Regulation	233,178	208,719
Registration	80,283	104,227
<i>Victorian Bar News</i>	28,000	26,500
Readers' Course and Legal Education	92,000	84,500
Library	40,044	39,000
Professional Indemnity Insurance Database	-	80,591
Legal Assistance Scheme	<u>63,225</u>	<u>65,867</u>
	<u>536,730</u>	<u>609,404</u>

In addition to the amounts stated above, the Legal Practice Board made a contribution of \$125,000 toward projects associated with the Bar's Compulsory Continuing Legal Education and

Professional Standards Education programs, the costs for which will be incurred in 2004/5.

## **2 Rent and Refurbishment Costs**

In July 2002, an agreement was entered into with Barristers' Chambers Limited (BCL) under which the Victorian Bar Inc agreed to rent certain space from BCL and to pay for the fit out of that refurbished space over a ten-year term. Part of the rent and fit out cost relates to the space occupied by the Essoign Club Limited in Owen Dixon Chambers East.

THE VICTORIAN BAR INC

**Victorian Bar Expenditure  
for the Year Ended 30 June 2004**

**Travel, Conference Costs  
and Donations**

The Annual General Meeting of the Victorian Bar Inc held on 3 September 2001, resolved that in future the Annual Report of the Victorian Bar should include an itemised list of the value of all gifts and donations paid or made out of Bar funds during the last financial year and the names of each donee, and the total spent in the financial year on travelling expenses for Bar staff and members of the Bar Council.

<b>Conferences and Travel</b>	<b>\$</b>	<b>Attended By</b>
National Pro Bono Conference	502	Anthony J Howard QC
ABA Quarterly Meetings	2,940	Chairman and Executive Director
LCA Quarterly Meetings	6,763	LCA Representative and Executive Director
Barristers and Advocates Conference International Bar Association 2 <sup>nd</sup>	1,662	Samuel Hay
World Women Lawyers' Conference	-113	Frances Millane
National Regulatory Officers Conference	1,009	Executive Director, Investigations Officer and Assistant to Ethics Committee
Queensland Bar Dinner	438	Senior Vice Chairman and Executive Director
ACT Bar Dinner	512	Chairman
NSW Bar Dinner	462	Chairman
Northern Territory Bar Dinner	240	Chairman
Staff Travel	714	
<b>Total</b>	<b>\$15,129</b>	

**Donations and Sponsorships**

Deakin University - Vienna VIS Moot Competition	500
<b>Total</b>	<b>\$500</b>