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Submission regarding “Resolution of disputes with financial service providers within the justice system”

My Background:

I am a 77-year old Australian citizen, married 50-years with 4 adult children and 11 grandchildren. We own a mortgage-free home, have a superannuation producing a good return income from property rental and own a small engineering business with 24 employees.

Since commencing work, apart from a period of about 3-years, I have been a Shareholder, Director and a Senior Executive in business and my wife and I have totally owned our present business for about 26-years. Our business plan includes a major investment into Research & Development and 80% of the sales made by our company now concern products that were designed and developed in-house and we soon expect a royalty flow from world-wide patents.

The corporations most likely to seek a license to our patented products are very large international corporations with a presence in Australia and a concern is that we would not be able to cover high litigation costs should they fail to meet their obligations. Accordingly, we are sensitive to the need for an “Equality of Arms” as now needed for the banking industry and others.

Submission:

The horrific reports from the Hayne’s Commission, the equally disturbing experiences reported to the “Banks Reform Now (BRN)” and the even worse findings of the “Banking and Finance Consumers Support Association (BFCSA)” show that the rights of various individuals and/or small organisations were simply ignored because the banks knew that their ‘prey’ did not have the funding to fight in court. Thus the abuse by the banks has occurred over many years and will continue until financial support is available to result in an “Equality of Arms”.

I am personally aware of two cases where Banks have used their power to simply ignore the rights of a smaller party; both involved close business associates. In the first case, an agreed level of funding was removed and this led to liquidation and this would have also been the end result in the second case but for loans received from friends and family. In both cases, it was the anticipated litigation costs that stopped justice being served.

Legislation must establish an independent bank funded specialist legal aid cell to represent bank victims when they are subject to legal action by a bank. This will require banks to be

responsible for their clients' legal expenses to give victims timely, proportional, and equitable legal support.

Abuse of the law and legal processes as a weapon to financially decimate the Banks aggrieved clients is no longer tolerable and once bankers fully understand that a client has proper access to justice, there will be two desirably flow on results:

1. The banks will be unlikely to take a victim on in court - especially if they know the victim has a good case.
2. Banks and bankers will be far less likely to engage in unethical, unconscionable, immoral and illegal behaviour. In other words the industry will be forever changed.

Yours Faithfully

William Robert Ifield