

1 March 2013

Senator Wright
Legal & Constitutional Affairs References Committee
Parliament House
ACT 2600



Dear Senator Wright

RE: INQUIRY INTO FEDERAL COURT FEE INCREASES

I write to express my concern over increases to federal courts fees and in particular the recent 2013 increases.

I am a community lawyer who assists people with a range of matters but it is my family law and family violence clients who are most affected by this issue.

In the past I have assisted clients who have had a hard time paying the old reduced fee amount of \$60.00 for a divorce. One client, prior to the 2013 increases, told me he had saved \$5.00 per fortnight in order to pay for his application for divorce to be heard. The reduced fee for a divorce hearing rose on 1 January 2013 from \$60.00 to \$265.00, an increase of \$205.00 or over 400%. If he had left his application for divorce until this year rather than last, it is likely my client would never have been able to afford the fee and would have chosen, very reluctantly, to stay married. The unreduced fee rose from \$577.00 in 2012 to \$800.00, a difference of \$223.00. The fee at the lower end of the scale is quite disproportionate therefore to that at the higher end. I believe both the full and the reduced fees are far too high for the ordinary Australian suffering financial stress, to afford.

I believe this will affect many of my clients and although the increase has only been operative for two months, I have already seen several clients who say they cannot afford to get divorced. This is particularly difficult for my female clients who have been the victims of domestic violence and want finalization over what has been a very distressing period in their lives. A divorce is often a major step on the road to recovery from the trauma associated with family violence. Clients from non-English speaking backgrounds, many who come from a male dominant culture, find it difficult to apply for a divorce in any case. The fee is a yet another major obstacle to them achieving the means by which to end years of control and domination at male hands.

Further, as a community lawyer I am now seeing the flow on effect from recent Victoria Legal Aid funding cuts and have had provide assistance that I would not usually provide to my clients. Because many of my clients are unable to afford any legal assistance at all, they would have no access to justice whatsoever if I do not provide the extra assistance. Our service has received no extra funding to provide extra assistance and each year we are expected to do more with less. The cuts to

Victoria Legal Aid funding affect female clients in particular. Their role as primary carers of children means the majority of them have less income earning capacity than their partners and they are not able to access or afford education and training programs which might enable them to acquire the skills and knowledge which would enable them to gain a better income. They are more often than not, part time workers, low paid workers or Centrelink recipients.

To then be asked to pay high court filing and hearing fees only exacerbates their stress and serves to increase feelings of being trapped in an untenable marriage or facing insurmountable family law problems. This obviously then, has a flow on impact on the well being and best interests of children. I am very concerned at the plight of the clients who come through the community legal centre in which I work and I believe strongly that the fee increases give no consideration to the ability of lower income Australians including the working poor, to access justice.

I have come to believe, in my work as a community lawyer, that only the wealthy and people on high incomes have access to justice. The recent increases in federal court fees only serve to make my belief stronger and I feel very disappointed that whoever made the decision to increase the fees, and to such a degree, is so out of touch with what is affordable, in terms of accessing justice, to ordinary Australians.

Yours faithfully

Ann Lightowler
Solicitor
Whittlesea Community Legal Service
