

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

did he leave that sort of - - -

A I kept him informed. I kept Sir Ken informed as well.

Q Thanks.

A When he wasn't on leave.

Q237. But it was you that signed off on it?

A Yeah. Yeah.

Q238. But not the others?

A It was me, yeah.

Q239. Yeah. Now, I understand you sought advice from the VGSO?

A Yep.

Q240. And that many of the - much of the information that was provided to the VGSO was done through oral briefings, is that correct? And did you also provided written information to the VGSO to help - to help inform media as they would be able to accept and provide you with legal advice?

A We gave them documentation, yeah, absolutely; we gave them the whole file.

Q241. OK. So, they did review the file?

A Well, they had to, to find - because we did it on a model litigant basis we needed to firstly determine whether there was a course of action. So, the claims were based in contract, which would be unenforceable for public policy; it's in regard to giving evidence, Richard. Public policy grants you can't have a contract to give evidence. Secondly, there was a promissory estoppel that we had - a delegate of the Chief Commissioner had promised the

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

witness that she would be no worse off, and she'd relied on that to her detriment. And there were other claims, fiduciary duties, and other claims, which was quite complex. So, the - we sought senior counsel advice through Wheelahan. And Wheelahan went through the evidence to find the factual basis to support a claim, and said that there was a strong claim on promissory estoppel.

Q242. Now, when - the conversation between, I think it was O'Connor and Ms Gobbo in relation to that she wouldn't be worse off financially, was that a recorded conversation?

A I don't know. I can't remember.

Q That's OK.

A I imagine it probably would be because I think they did use to record the conversations. But it was certainly notated in the log.

Q243. Yeah. What was considered when formulating the terms of the settlement?

A The settlement was done at mediation. Which terms?

Q244. But you were at the mediation?

A No, I wasn't.

Q245. You weren't?

A No, no, no. I was her financial delegate.

Q246. So, who was there?

A So, at the mediation we had Emmett Dunne representing the organisation, Wheelahan, Michael Rush, David Ryde from VGSO. I can't remember who else was there.

Q247. It might help if I actually show you this?

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

A Yeah, sure.

Q248. Now, I'm not sure whether this is yours but I'm sure you'll be able to recognise your own writing?

A Whether I'll be able to read it or not is another thing.

Q249. Is this your file note?

A No.

Q250. It's not? OK. But you were at this meeting?

A Right.

Q251. Do you know whose this file note is?

A It's probably Peter Lardner.

Q252. Now, from the file and from the notes, and obviously because there's some discussion around whether she's better off as a witness and informer and whether or not this evidence from her is still needed in relation to the Dale matter. Do you recall the discussion around that?

A At this particular meeting?

Q253. Yeah. And obviously more closer to the time of settlement?

A About her value as a witness?

Q254. Yes. Yes?

A Yeah, we had discussions. I can't particularly remember this meeting.

Q255. No, that's OK. I actually - I wasn't sure whose it was first and it's helped to know it's Michael Lardner's. Yeah?

A Yeah. What do you want to know about her value as a witness?

Q256. What value was placed on whether or not she was

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

valuable as a witness? We're just trying to sort of work out the weight of what was placed on her value as a witness when going through the terms of settlement.

A None.

Q257. None?

A Look, I don't know what you mean. What would her being a witness have to do with the terms of settlement?

Q258. I'll show it to you in a second. I don't know whether you've seen all these. I presume - - -

A I've seen the terms of settlement but not for a couple of years.

Q259. It might be useful to look through some of it if you can?

A The settlement was on the basis of her loss of earning capacity.

Q260. Yeah. There's probably specific things in there that I'm referring to that I'd just sort of like to get your view on.

A Sure. You know why we stopped the investigation - why we stopped the prosecution? Because one of the witnesses died.

MR VANDERHAAR:

Q M'mm. Mr Williams?

A Yeah. Just after we'd had a big fight about a suppression order. Actually I won't go into it.

MS INFANTI:

Q261. No, that's all right. I'll just get you to have a look at that. Now, it's probably 4(g) and 8 that I

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

wanted to ask you about. One in particular, so
I'll just - - -

A Yeah. "No longer proposes to call the plaintiff to give evidence in any proceedings. No longer seeks the plaintiff's assistance in relation thereto, and accordingly the second defendant herself or by an authorised officer will direct members of the Petra Taskforce not to contact the plaintiff. Will remove the current prohibition on the head of the Source Development Unit or his delegate communicating with the plaintiff and will remove surveillance equipment installed." Yeah.

Q262. So, around Victoria Police no longer proposing to call Ms Gobbo, I just wanted to know why that provision was in there and what discussion was had around that?

A The - Gobbo claimed that we - the whole claim - well, part of the claim was her personal injury claim about damage to her health. The reason for limiting contact to one person was so that it could be managed properly, one point of contact. Because Gobbo would contact people all through the workforce and say, "I've got some information for you." And then they would start following up and start commencing their own investigation. It's too much of a risk, both to her and the organisation, to have further claims like this. Having said that, we're talking to her right now. It's very difficult to stop because she will contact people. She lives and breathes this stuff. So, it was

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

really about managing it moving forward. In terms of her issues as a witness, she was an unreliable witness. She was saying that she wasn't going to come along because of health reasons. So we were always concerned that she might not turn up on the day. We were - the whole process that we went through leading to this settlement was to keep her healthy enough to give evidence. There was another issue that became quite an issue for me. First of all I was dealing with it to get her on the Witness Protection Program because we thought, and still think, that she's a high risk. But then the Moti decision happened in Queensland that said that paying witnesses was an abuse of process. And it's fair to say that Gobbo was getting more than the usual recompense for - to keep her at a standard of living. But the Moti decision in Queensland basically said that the standard needed to be a subsistence standard. So, the risk for us with her as a witness was that the whole case might be made an abuse of process, declared an abuse of process and struck out. So, I spoke to the State DPP about that and he said, "Reel everything back to subsistence." And that didn't help us with our relationship, I can tell you that. The Moti decision was later overturned and went back to

- - -

Q Yeah.

A Yeah.

MR VANDERHAAR:

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

Q263. The status quo?

A The status - yeah, sort of. Yeah. It has caused people to think a bit.

MS INFANTI:

Q264. In terms of benefits provided to her by Victoria Police - I mean I understand that you were saying before, which obviously she was used to probably a more affluent lifestyle, so that was a part of
- - -

A And most witnesses.

Q Yeah.

A But we checked witnesses and she would never have made into Witsec. But generally our witnesses don't have any income that they can actually tell us about because no tax returns. Here we had a witness who was making \$300,000 a year and was in a - it's - yeah, unusual.

Q265. So, obviously were weekly payments made to her?

A There was a retainer, yes.

Q266. Do you know what else was provided to her?

A You're probably better asking one of the people who looked after her at that time than me.

Q267. Was that done through Petra?

A Yeah. Yeah, yeah, it was. Yeah. I think there was a car and of course accommodation, and I don't know what else. Medical - medical benefits. It's a while since I've looked at this one. I tried to put in the back box.

Q268. Are you aware of any benefits that she's - tickets to concerts or to the races?

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

A There was something in the media about that but I don't know.

Q269. So, for something like that - just so I get my head around how it's approved - if - obviously there's some sort of financial delegation for benefits to be provided to her. Who ticks off on all that?

A Well, normally it would be done through the Witsec unit itself.

Q270. But she wasn't in that program?

A That's right. So, we effectively - because she was a difficult customer, very demanding - had - the investigators had been - set up their own program.

Q271. OK. Has this ever happened before or was it sort of - - -

A No. Not in my time. I've never seen it before. And that's why I got called in, because she would - they wanted someone who was - who could speak to her from a lawyer to lawyer basis to work things through. But I only ended up meeting her once on the Witsec issue.

Q272. What do you know about the program that was outlining these matters?

A They were providing - they were providing protection, so there were a [REDACTED] [REDACTED] her to [REDACTED] [REDACTED] her and doing so in Melbourne and other places, sometimes [REDACTED] and [REDACTED].

Q273. Yes. And what about providing her with financial assistance or benefits, was that done through that program as well?

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

A I couldn't be certain; I can't remember. But I think it was.

Q274. Do you know who was involved in that?

A No, I think the financial part might have been dealt with through Witsec; it might have been [REDACTED], but I'm not sure.

Q275. No, no, no, that's fine. Was there any input from anyone involved in Petra concerning the management of Ms Gobbo, and how this issue would be settled?

A No. We kept the litigation separate from the team because the investigators are too emotionally attached to the investigation. It's better to keep it separate.

Q276. Had you heard concerns that Ms Gobbo had perhaps come close to some of the members in Petra?

A Didn't have concerns about it other than for their own mental health, because it was - it had become a marathon for them because their service wasn't providing bodyguard service. And I know they - and because she wasn't friendly. Her mood had changed because she wasn't well. It was very difficult for them. But I wasn't on the ground with them. Yeah, I was only dealing with the legal stuff, facilitating the advice through VGSO.

Q277. Did - was any sort of - - -

A And dealing also with - well, the main objective was to keep her alive basically.

Q278. I mean, based on that, what you just said, did that have a bearing on the settlement?

A Keeping her alive? Yes.

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

- Q279. In what regard?
- A The money allows her an independence so that she can move away from the danger.
- Q Yeah.
- A A very real danger given the strike rate on witnesses in those matters.
- Q280. It's been - protection has been re-offered to her, hasn't it?
- A A number of times.
- Q281. She still hasn't taken that up?
- A No, she doesn't want protection in the way witness protection works in any scheme. Witness protection means [REDACTED], [REDACTED], and possibly [REDACTED]. It's a very big decision.
- Q282. Did you speak to Ken Jones or Simon or Emmett Dunne was also involved?
- A At the settlement?
- Q283. Regarding the management of Ms Gobbo?
- A Yeah. Not Emmett.
- Q284. No?
- A No. Emmett came in later when he became Head of ESD.
- Q OK, yeah.
- A Yeah. Briefed Simon - on the management of the witness?
- Q M'mm?
- A No, no, that went through the governance structure.
- Q285. And what about regarding the settlement?
- A The settlement, I briefed Ken and Simon together on

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

a whiteboard, and went through the course of action.

Q286. Yeah?

A They both laughed at me.

Q287. Oh, really? Why did that laugh at you?

A Because they said it was legal 101.

Q Oh, OK.

A But I felt that I needed to pace them through it.

Q288. Yeah. And how long before the settlement was that briefing?

A That would have been a few weeks before.

Q OK, yeah.

A Because I just wanted to get them on board for the idea of settling such a major claim, and also the risk to the organisation of a witness.

Q289. And what were their views?

A Ken wanted me to settle it no matter what the - it cost. I said, "Well, we've got to do it on model litigant principles."

Q290. Yeah?

A Simon was a little bit more circumspect but was willing to take advice on it.

Q OK.

MR VANDERHAAR:

Q291. He was the lawyer out of the two, wasn't he?

A Yeah, that's true. Yeah. That's why he didn't like me preaching to him about the law.

MS INFANTI:

Q292. Was anyone opposed to settling?

A No.

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

Q293. No one you're aware of?

A No. It has enormous risks to particularly people in custody if the information that she'd passed on - well, firstly a risk to the witness, but to other clients and associates. It would just have a knock-on effect to people's health.

Q294. There was something else that I just - - -

MR VANDERHAAR:

Q295. As in life?

A Yes.

Q296. It's a pretty part of health there?

A I wished she could go on the circuit for young wise criminal lawyers to tell them - like Person 5 not that I'm saying that she's a criminal, but what can happen to criminal lawyers.

MS INFANTI:

Q297. We believe this one is your folder, that's your signature on the grey?

A That's me.

Q298. Yeah? I'll let you have a quick look over it so you can just see the context.

MR VANDERHAAR:

Q I see what you mean about the writing.

A If I want to be able to read it I dictate it.

MS INFANTI:

Q Sometimes I can't read my own writing.

A I can read it if you want me to read any to the transcript.

MR VANDERHAAR:

Q I can read it - I can actually read it.

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

MS INFANTI:

Q299. No, it's not too bad; I've seen worse, don't worry. There was a question I had just in relation to the bottom of the first page where you talk about risk to integrity in witness protection, and then you've got "Contact with the media." I just wanted you to - for you to explain what was meant by that? I know I'm asking you to cast your mind back a fair while ago.

A Yeah. Eff was in constant contact with the media. And we thought that she was going to put out our methodology and our people to the media. Part of the leveraging on the civil claim was basically to say "They're going to put you out there." And she - she - thankfully she had some fairly low-level interviews on ABC and I think there was one article in The Age.

Q300. What did you mean by your methodology?

A The witness protection methodology.

Q301. But she wasn't a part of the program?

A No, no, no. But we were running that quasi-program for her.

Q OK. Yeah.

A Yeah. But not only that, she had copies of our MoUs, which we don't normally give to witnesses.

Q OK.

A But given she was a lawyer we decided to give it to her and her lawyers on the undertaking that they not give it to anyone else.

Q302. So, if you can just run me through what the concern

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

was specifically about her making public how the Witness Protection Program works?

A We thought that she might criticise the Witness Protection Program, which would make it less likely that witnesses would enter the program.

Q OK.

A From memory.

Q Yeah. Yeah. I know I'm asking you to cast your mind a while back.

A July 2010. But we did have that concern.

Q303. Yeah. Yeah. The other thing I wanted to show you was - and it may refer to similar issues but I'm sure you can tell me. There's advice by Peter Hanks - - -

A Yeah.

Q(cont'd) You probably don't want to read the whole thing but I'll let you read the bits. And what I'm going to ask you about is 2.3 on page 1. And - - -

A Yeah.

Q(cont'd) - - - at the end of it, I've got 19 at the last page.

A Yeah.

Q304. So, if we just go to the first one. It says, "There are good reasons why Victoria Police may wish to avoid public exposure in its dealings with Ms Gobbo." Obviously the advice didn't go into any more details as to what those reasons are. Can you recall what those reasons were?

A It's - it's the - the issues in - I didn't brief Hanks on this feature, Zoe did. But the issues are

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

- because we got this as a second advice that's comfort advice for the Minister.

Q Yeah. OK.

A The reasons are that exposure of the people that she was talking to would lead to a risk to their health and wellbeing.

Q305. That she was talking to?

A Yeah. Because she gave us so much information on so many criminals, including people who had given information on other people who may be in the same prisons, that if that came out through discovery and - - -

Q306. Through an open court or something like that?

Yeah.

A Yeah, through a court process. It would never come out through an open court because the court would - we'd always suppress it. But the documents fly around and then somehow copies are given to other people. So, once it's in the court process we lose control.

Q307. Where that information goes?

A Yeah, absolutely. So, yeah, very difficult.

Q308. We saw a statement - - -

A In 19?

Q309. Yeah. Where he talks about the reputation of (indistinct) and adding a further 100,000 based on that and her professional lifestyle.

A Well, criticising the way we handle witnesses is a very difficult proposition for us. It's hard to get people in those situations to give evidence if

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

you have a high-profile person criticising us - and she's scathing, absolutely scathing.

Q310. What were her criticisms?

A She wanted to maintain a lifestyle in Melbourne with a bodyguard service. And she felt that - that we had not looked after her interests and allowed her to provide information to her detriment and not - not lived up to our side of the deal. So, she was critical of the last person she spoke to on each occasion. M'mm. Well, her criticisms were set out in her Statement of Claim.

Q Yeah.

A But they were not very balanced. But having said that, I don't discount the fact that she gave evidence that's led to a lot of matters - not "gave" evidence, gave us information. Because as a witness - and she's not a good witness - but in terms of giving us information that led to inquiries she did a - it was very brave.

Q Yeah.

A Well worth the money for the Victorian community. I've forgotten how much - how high that settlement was. I still say it's worth the money though.

Q311. Are you surprised it settled for what it did? She was asking for 20 million, wasn't she?

A No, I always thought that was ambit. But we were lucky that we got Callinan, who's a QC High Court Judge - very strong QC - or was it Callinan or Chernoff in the end? It might have been Chernoff in the end. I can't remember. But we had a - I

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

think it was Chernoff who's the Governor. I forget. We just needed someone who would take control because she was represented by her sister, which made it very difficult because of the emotion.

Q312. Now, this is - I think you've already touched on it but I just want to clarify. This is part of VGSO's advice. Point 20 - I'll just hand it over to you - and 21. If you can just walk me through that again?

A It's the same issue.

Q Yeah.

A This is - "A trial in this case will involve scrutiny of the procedures adopted by Victoria Police in dealing with informants and in attaining the cooperation of witnesses in criminal proceedings, and will involve an examination of the limitations of the program. The trial is likely to receive a great deal of publicity, which could be damaging to Victoria Police in the administration of criminal justice, the criminal justice system."

Q313. Did part of that come from the concerns regarding the (indistinct).

A No. I think - the legal community understands - I don't know about the general community, but the legal community understands that we need to support witnesses especially if you take them out of their workplace and their home. So, there's money involved and it goes to their credit. So, were you a paid witness? I think this was more about the

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

criticism of the witness program and whether we'd get another person to enter the witness program.

Q Yeah.

A When someone who is a leading criminal figure says, "No, your program's no good" - unfairly, we'd say. Firstly because she didn't enter the program, and secondly because we bent over backwards to provide what was something of a Rolls Royce service of bodyguards rather than witness protection where you take the person away from the risk. We had her in the risk with people hanging around trying to protect her.

Q Yeah, that's fine. Yeah, you've explained that.

A And certainly it would scare the horses in terms of persons in custody and career criminals.

Q314. And that's - is that what the 21 relates to?

A Partly.

Paul, did you have any other questions?

MR VANDERHAAR:

No, none there.

Q315. I do, on the - just a quick - here it is. With the - in (g) it says, "Victoria Police no longer proposes to call plaintiffs to give evidence in any proceedings, no longer seeks the plaintiff's input." I presume that is proceedings that you were then contemplating, not

- - -

A Yes.

Q(cont'd) Yeah. Because - - -

A Well, you can't contract out.

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

Q316. Well, that's right. Yeah, OK. So, she was going to - she'd given the information on a range of issues and the only proceeding you were - I think you were seriously talking about having her involved in was the Dale matter. Correct me if I'm wrong. But there were other matters she potentially could have been asked to give evidence against?

A Any number of matters.

Q317. Yeah, OK. And the only other matter I'm aware of, which I think she's been summonsed for, is the perjury against Dale at a Federal level?

A M'mm.

Q318. This doesn't prevent that obviously?

A No. No, you can't contract that out.

Q No, I'm with you. No worries. I just wanted to clear that up. Thank you.

A It still won't help with her cooperation as a witness.

Q Not at all.

Have you got any other questions on Gobbo?

MS INFANTI:

Q319. There was a reference in the file to seeking advice from Jeremy Rapke.

A Yeah.

Q320. What was his involvement?

A That was the Moti issue.

Q Oh, OK. Yeah, you mentioned that.

A So, what I was - yeah, I wanted to take over the prosecution if she was going to give evidence by

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

getting guidance of what he considered, as the DPP, to be acceptable. And it was after the Moti decision that we reeled back anything that I thought was over the top, over the subsistence level, in terms of assistance.

MR VANDERHAAR:

Q321. And then that's subsequently overturned on appeal, was that - did they - - -

A It was overturned on appeal but it - my advice would be to keep it very low-level and keep your promises as low-level as possible.

MS INFANTI:

Q322. So, after you'd sought that advice or spoken to Mr Rapke about that, were the amount of benefits provided to her reduced in terms of - - -

A No, we kept the retainer and the car. Yeah. So, there was nothing - because she was making demands, you see.

Q323. And she got a thousand a week or something in the - - -

A She was getting a thousand, which is acceptable.

Q Yeah.

A Easily acceptable for her previous wage. But she was at that stage wanting to meet with us to ask for damages.

Q OK. Yeah.

A Asked for a big payout. I was saying, "We're not going to talk to you about a big payout just before you give evidence. If you want to move into - - -"
- - -

Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

Q324. And that was prior to the whole settlement?

A Yeah. "If you want to move into witness protection I'll deal with that in a normal witness protection way. But certainly not prior to evidence."

Q325. So, she was talking about all that before they agreed, it was issued?

A M'mm.

Q326. So you weren't very surprised when you got it, were you?

A No. No.

MR VANDERHAAR:

You finished?

MS INFANTI:

Yeah, go ahead.

Relevance

