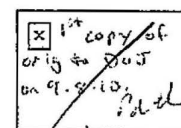


This document has been redacted for Public Interest Immunity claims made by Victoria Police. These claims are not yet resolved.

## Briefing Paper



HIGHLY PROTECTED – SUBJECT TO LEGAL PROFESSIONAL PRIVILEGE

### Issue:

Gobbo v State of Victoria and Ors.

### Background:

On 29 April, 2010 Ms Nicola Gobbo filed proceedings at the Supreme Court naming as defendants the State of Victoria, Chief Commissioner Simon Overland and former Chief Commissioner Christine Nixon. The writ contains allegations that Gobbo was approached to assist police with investigations into ex-member Paul Dale and that promises were held out to her which were not kept. The writ contains causes of action in breach of contract, breach of fiduciary duty, estoppel and negligence.

Ms Gobbo had been involved in the provision of information to police in relation to Dale and subsequently she provided a statement to police against him. The prosecution of Dale failed at the committal hearing stage. Victoria Police has attempted to facilitate high level protection processes for Ms Gobbo but have not been able to reach agreement on fundamental conditions, Victoria Police continue to make efforts in this regard in the interests of her safety.

Ms Gobbo was a criminal barrister who was admitted to the Victorian Bar in 1998. She has provided documentation that supports an average income in the vicinity of \$350k. She claims that as a result of her assistance to police she can no longer continue with her chosen profession. She is no longer registered on the Victorian Bar.

Ms Gobbo suffers from a number of health issues which she claims to have been exacerbated due to the stress and anxiety of her interaction with police.

### Senior Counsel Advice on Liability and Quantum:

Michael Wheelahan SC, Rowena Orr and Michael Rush of counsel, have been engaged for the State in this matter. They advise that it is highly likely that Gobbo will be successful in her estoppel claim. They have provided advice that damages quantum could range from PII [REDACTED]

A mediation conference for this matter is listed for 11 August, 2010.

### Comments:

Acting as a model litigant the State is obliged to resolve claims fairly and avoid litigation if possible where it is reasonably clear that it is seriously exposed on liability. Victoria Police has received advice from Senior Counsel that the plaintiff has a high likelihood of being successful in relation to the estoppel claim having regard to representations made that she "would be no worse off." Senior Counsel noted the decision of the NSW Court of Appeal, ACC v Gray and Anor [2003] NSWCA 318:

It is undesirable for this matter to proceed to a discovery phase for the following reasons:

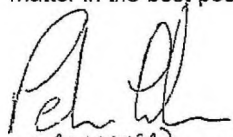
- If this matter were to proceed to trial there would be lengthy interlocutory hearings and numerous public interest immunity arguments raised, with the potential for reliance on suppression orders to protect the integrity of police methodology and the safety of the plaintiff and other individuals.
- The significant legal costs associated with running this complex and lengthy litigation would make an early commercial settlement in the public interest.
- There will be an extensive resource commitment required which will divert police members away from core operational activities.

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Returned from COS at time of viewing P.H.

Victoria Police will attempt to resolve this matter for a reasonable quantum consistent with the principles espoused in *ACC v Gray and Anor* [2003] NSWCA 318. Whilst the advice from Senior Counsel indicates a possible exposure in quantum to [PII], a negotiated settlement of an amount up to [PII] is considered to be in the interests of the Victorian community at this time. Should the matter not resolve at mediation then Victoria Police will reconsider the situation and if required make further application to the Minister.

**Recommendation:**

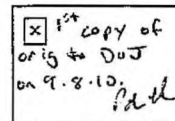
The Minister for Police & Emergency Services delegates to the Chief Commissioner authority to settle this matter in the best possible terms up to [PII]

  
C. LARSEN  
Supt 25546 per

Findlay McRae  
Director, Legal Services

9 Aug 2010

## Briefing Paper



HIGHLY PROTECTED – SUBJECT TO LEGAL PROFESSIONAL PRIVILEGE

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of CCL. pth

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A mediation conference for this matter is listed for 11 August, 2010.

### Comments:

Acting as a model litigant the State is obliged to resolve claims fairly and avoid litigation if possible where it is reasonably clear that it is seriously exposed on liability. Victoria Police has received advice from Senior Counsel that the plaintiff has a high likelihood to be successful in relation to the estoppel claim having regard to representations made that she "would be no worse off." Senior Counsel noted the decision of the NSW Court of Appeal, *ACC v Gray and Anor* [2003] NSWCA 318.

It is undesirable for this matter to proceed to a discovery phase for the following reasons:

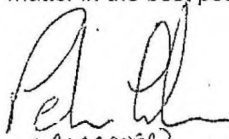
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- The significant legal costs associated with running this complex and lengthy litigation would make an early commercial settlement in the public interest.
- There will be an extensive resource commitment required which will divert police members away from core operational activities.



Victoria Police will attempt to resolve this matter for a reasonable quantum consistent with the principles espoused in *ACC v Gray and Anor* [2003] NSWCA 318. Whilst the advice from Senior Counsel indicates a possible exposure in quantum to \$[REDACTED] a negotiated settlement of an amount up to \$[REDACTED] is considered to be in the interests of the Victorian community at this time. Should the matter not resolve at mediation then Victoria Police will reconsider the situation and if required make further application to the Minister.

**Recommendation:**

The Minister for Police & Emergency Services delegates to the Chief Commissioner authority to settle this matter in the best possible terms up to \$[REDACTED]

  
C. P. LARONER  
SUPT 25546 per:  
Findlay McRae  
Director, Legal Services

9 Aug 2010