

Debrief

The members of NSW Young Lawyers are all legal practitioners under the age of 36 or in their first 5 years of practice, and all law students

VOL 4 / 2007



Young Lawyers @ Sundowners Event



Young Lawyer Staff Members: Poppy Drekis, Amy O'Rourke & Christina Piazza



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Prez Sez

Access to justice and the Rule of Law are two of the most important pillars to any civilised democratic society such as Australia. In this regard the ability of individuals to freely access up-to-date and complete legal information, such as decisions from Courts and Tribunals around the Country, as well as primary and secondary legislation from all jurisdictions, is an enormous contributor which enables such access and freedoms. It is for this reason that the recent threat to AustLII was such an important issue and why it was taken extremely seriously by NSW Young Lawyers as well as other public and private law bodies around Australia.

In early 2007 the very generous development funding which had been provided to AustLII for its establishment from the Law Foundation of NSW and the Australian Research Council's LIEF fund was cut due to the fact that AustLII was 'established' and so it was considered that the purpose of that funding had now passed. As a result AustLII lost 50% of its overall funding which it had to obtain from other sources. This loss of funding caused AustLII to reduce its staff numbers as well as put a temporary hold on adding new databases to its service.

The cost to maintain its services at the then current levels was assessed at around \$1 million. AustLII's funding (other than the grant which was no longer available) came from around 60 Stakeholders at that time including law firms, Universities and individuals. AustLII adopts the Stakeholder model so as to ensure that AustLII remains truly independent and not reliant (or answerable to) on any one funder. This maintains the ideological basis of a comprehensive free service for all. AustLII needed to raise around \$400,000 this year to maintain its current level of services.

NSW Young Lawyers responded to this crisis by immediately forming a group of concerned young lawyers. This group was the brainchild of the Civil Litigation Committee and was named the Civil Litigation AustLII Group ('CLAG'). The CLAG managed to coordinate and organise an enormously successful awareness and fund raising event for this worthy cause



through a 'Sausage Sizzle' in Martin Place on 19 June 2007. Since the funding crisis a number of bodies have responded to the call for assistance becoming contributors and stakeholders. These have included private firms such as my own, TressCox, which I am pleased to report has recently become a significant Stakeholder. In addition the Law Council has recently pledged \$20,000 and the Law Society of NSW has committed a very generous \$25,000 this year with a further \$25,000 expected to be provided next year. This makes the Law Society of New South Wales one of the largest non-government Stakeholders for AustLII.

It has been a very successful concerted effort of many and varied groups (such as Young Lawyers), bodies, private sector firms and concerned individuals.

Scott Alden, President
president@younglawyers.com.au

Flexible Working Network

Shauna Jarrett, Junior Vice President and Chair of the Workplace Committee and NSW Women Lawyers is proud to announce the launch of the FLEXIBLE WORKING NETWORK on **27 September 2007 at 5.30pm.**

Increasingly young lawyers – who encompass a broad spectrum of the profession – are wanting to work flexibly for a whole range of reasons – family responsibilities, lifestyle (life is not just about work), further study or the fact we are not going to retire at 55 and maybe you want to pace it out.

This network will enable flexible lawyers to get together and discuss the high-lights and problems of working flexibly. It will also offer seminars on financial implications of working flexibly at various times in your career. You will be able to talk to lawyers who have negotiated flexible working contracts and get tips on the best way to approach your partnership to implement such practices. There will also be drinks and canapés to assist in the networking.

The FWN is a joint project that supports the report undertaken by the Law Society in 2005 "The Case for Flexibility: A guide to implement a flexible workplace" that found that where firms that are proactive in their approach to flexibility, gain benefits around attracting and retaining talent, as well as enhancing productivity and morale and reducing stress and burnout.

Further details of the launch will be revealed in Monday Briefs over the next few months.

THIS ISSUE

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- Volunteer to be A Shadow
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- Upcoming CLE

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nsw
Young LAWYERS
A Fresh Perspective

AUSTLII – a great Aussie institution that deserves our support



“\$1,500 raised for AustLII – thanks for your support”

The importance of the Australasian Legal Information Institute (AustLII) as a free tool for daily practice is well known to law students and legal practitioners. But AustLII's goal “to promote and support free access to public legal information throughout the world, principally via the Internet” is a bold one, rooted in a broader belief that public legal information from all countries and international institutions forms part of the common heritage of humanity and maximising access to this information promotes justice and the rule of law.

AustLII has its genesis from the Legal Information Institute (LII), a project of the Cornell University Law School. LII was an experimental project aimed to provide free access to legal information over the internet. Launched in 1992 by Peter Martin and Tom Bruce, the LII collection was revolutionary at the time, offering the entire US Code, all decisions of the United States Supreme Court handed down since 1992 (along with a selection of earlier decisions of historical importance) and a decade of the New York Court of Appeal decisions. And all this as a free service. As Martin explained,

“One of our powerful early discoveries was how much demand outside those professional [legal] sectors there was -- ordinary citizens trying to make sense of laws that impinge on their lives. ”

On 1 January 1995, AustLII commenced its operations as a legal research facility on the internet to facilitate free access to Australian primary and secondary legal materials produced by public bodies. Established as a joint facility of the University of Technology Sydney and University of NSW, it was funded with a \$100,000 grant from the Commonwealth Department of Employment, Education and Training and two grants of \$50,000 each from its host universities. It aimed to be part of the expanding international network of internet servers focused on providing public domain legal materials through the internet.

While AustLII was intended to have a similar function to LII, namely to provide access to its legal materials at no charge via standard internet tools, it has distinguished itself from its American counterpart in the following ways.

Firstly, AustLII has never stopped growing since its inception. It continues to update its current databases as well as add new databases to its library. Today, AustLII hosts over 250 databases covering decisions of not just the superior courts, but also a myriad of lower jurisdictions, tribunals and quasi-judicial bodies providing one of the most comprehensive libraries of legal material available. In addition, it has the largest collection of online law journals in Australia (approximately 45) and one of the largest subject catalogues of Australian and global law related internet sites .

Further to growing its content, AustLII also continues to innovate the way in which legal materials are computerised. Instead of relying heavily on using humans to edit and code the data, AustLII has continued to automate the transformation of material originally created for hard copy printing into a value added soft copy. Some of AustLII's technical innovations include automated rich hypertext, its SINO search engine and LINKS software that maintains and presents AustLII's indices, integrated hypertext and text retrieval (so that every section in an Act and Regulation has a 'Noteup' link which causes an automatic search for cases, other legislation, and secondary materials that refer to that section); and Point-in-time Legislation which allow users to see an Act or section as it was for any date covered by the system.



Users can also visually compare sections at different dates side-by-side.

Though not run for profit, AustLII has never been free. AustLII's running costs amount to approximately \$1.5 million per annum and has been traditionally funded from a variety of sectors – universities, courts and tribunals, private grants, and the Australian Research Council (ARC). However this year, a major infrastructure grant from the ARC was not renewed and this left a significant gap in AustLII's budget. As a result, AustLII has already reduced the number of full time staff and does not have the resources to add new databases to its collection, though existing ones are being updated.

It is no surprise that the largest two groups of users of AustLII's services are law students and legal practitioners. Accordingly, it is AustLII's position that institutions using its services, whether non profit or for business, professional or academic purposes, should contribute equitably to its operation . This 'stakeholder' model is designed to achieve a dual purpose, firstly, to ensure that better-resourced professional users make an equitable contribution towards the cost of maintaining AustLII (given their own substantial usage) and secondly, ensures that these stakeholders support the efficiency of the legal administrative processes by promoting due advice and inquiry by members of the public. The process of broadening the number of contributing stakeholders in AustLII will also avoid undue influence by any one stakeholder.

Therefore AustLII's efforts to secure its future by broadening its funding base is a worthwhile one and one that New South Wales Young Lawyers supports given AustLII's service is an important tool for practitioners and a key plank in open justice and the rule of law. Recently, the Civil Litigation Committee has spearheaded NSW Young Lawyers efforts to support AustLII's decision to secure long term funding through a stakeholder model by engaging in a number of grass roots activities to promote awareness of AustLII's current funding shortage and to raise money for AustLII. One of those events was a BBQ in Martin Place held on 19 June, at which, over 250 people attended. We invite all members to take an active approach to support a strong response from the profession as a whole to secure AustLII's future for the benefit of all.

You can make a tax deductible donation to AustLII visit www.austlii.edu.au/sponsors/contribute.pdf or to get more detailed information on the background to AustLII's current funding shortage visit, www.austlii.edu.au/austlii/sponsors/ To get involved in the Civil Litigation Committee, contact Davyd Wong at Davyd.wong@younglawyers.com.au

Young Lawyers Goes International International Law Committee



The Young Lawyers International Law Committee is new and exciting. Created as a result of our fascination with international law, and the growing role it has in our practice and our political system more broadly, the Committee aims to provide a forum for discussion of international legal issues, a place for young lawyers to meet like-minded practitioners and students – passionate about international law and wanting to get involved. The Committee's work is truly "international"; it covers not only public but also private international law. International arbitration, conflict of laws, law of international organisations, humanitarian law and even space law are all part of the Committee's areas of work. We provide a forum for young practitioners to discuss international legal issues. We also aim to make submissions to government on topics relevant to international law, monitor Australia's adherence to its international legal obligations, and publish articles on international legal issues of interest to practitioners in NSW. We are also focused on the importance of continuing to develop skills and gain experience; we are career-minded. We will keep you updated on employment opportunities in international organisations, government, NGOs and anywhere else where international lawyers are active. Our philosophy is: the more practitioners in international law, the better it will be for international law. But it is not going to be all work. Networking evenings and social outings are certainly on the cards. We aim to create a network of like-minded people and organisations; we want to bring together practitioners and law students, who are passionate about international law, and link the Committee with local and international organisations, such as the Red Cross, the United Nations and the Australia and New Zealand Society of International Law. The Committee's work is fresh and exciting. In a time when the rule of law is being challenged internationally, it is empowering to become part of a Committee dedicated to upholding the rule of law, and defending it whenever possible. The level of your involvement is up to you – you may wish to try your hand at writing an article, or organizing an event, or merely use the Committee to keep abreast of activities and events of interest to you. Send an email to intlaw.chair@younglawyers.com.au and take part in the Committee's growth and exciting work!

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MENTORING

NSW Young Lawyers we are continuing to advance the mentoring program with a pilot program due for launch this November at the Annual Assembly. We are currently finalising negotiations with the external facilitator for this program and applications are still open for prospective mentees to participate in this program. If you are interested and would like to participate in this program please send your details to our Secretary, Tayanah Caldarella, email: secretary@younglawyers.com.au

YOUNG LAWYERS SHADOWING PROGRAM

The program will run from Monday, 29 October 2007 to Friday, 2 November 2007. For about the last 14 years, NSW Young Lawyers has been conducting a successful shadowing program in various areas of the State, usually targeted at schools in disadvantaged areas. The 2007 program is to be offered to schools eligible to participate in the Priority Schools Funding Program.

The program's purpose is to provide an insight into working as a lawyer, to those students who may not otherwise have the opportunity to meet lawyers. The program is not automatically directed at the most academically gifted of students, but rather towards those who would most benefit from this type of experience, particularly those that are motivated and keen to learn. Without volunteer lawyers the program simply cannot run. In past years the response has been positive, and it is hoped that 2007 will see a similar outpouring of help.

Volunteer lawyers interested in participating should please email her at ptd@lawsocnsw.asn.au or telephone Poppy Dreki on 9926-0269.

NSW Young Lawyers Sponsorship



In other news we are pleased to report that NSW Young Lawyers has recently secured major sponsorship from the international recruitment firm Naiman Clark which continues our very successful relationship commenced this year when they sponsored our Mid Year Assembly. Naiman Clark will be sponsoring our Annual Assembly this year as well appearing regularly in Debrief and hosting a number of interesting and useful presentations relevant to our members.

NSW Young Lawyers
A Fresh Perspective

INTER-PROFESSIONAL BALL

Date: Saturday, 1st September, 2007
Venue: State Room, Level 1, Hilton Hotel, Sydney, 488 George Street, Sydney
Time: Arrival 7pm for Pre Dinner Drinks
7:30 pm 3 course dinner and drinks

Ticket Price: \$130 per person (GST included)
Online ticket purchasing go to:
<http://www.lawsociety.com.au/page.asp?partid=46>
Credit Card over the phone contact Christina 9926 0270

Band: Papa Grove
Dress: Black Tie
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Sponsor:

My Job:

Daniel Meltz



What do you do?

Barrister-at Law, 12th Floor Wentworth Selborne Chambers. I practice in general commercial and construction litigation but I have a niche specialty in international commercial arbitration.

Why did you choose the work you do?

I have always been drawn to the field of international commercial arbitration because it is an area which challenges lawyers from disparate legal systems to represent their clients through a unified internationally recognised system. When you think of disputes

arising in international trade and commerce you can imagine that a company, say, in Outer Mongolia, does not want to submit to Australian Courts and vice versa for an Australian company. Moreover the Australian company might not want to sign a contract specifying Mongolian law as the substantive law of the contract. Submitting the dispute to international arbitration means that a neutral panel of arbitrators could determine the dispute anywhere in the world that the parties agree and then enforce the award relatively simply in over 130 countries thanks to the New York Convention on the Recognition and Enforcement of Awards

What do you consider to be your career highlights?

Two highlights: I was fortunate to serve as a lawyer on the Tribunal for Dormant Accounts in Switzerland which was an international arbitration tribunal set up under the aegis of Paul Volcker, former chairman of the US Federal Reserve. The Tribunal dealt with claims arising out of World War II accounts which had not been returned by Swiss banks to their owners, or heirs of owners, who were affected by the war. My second highlight involved acting for a sovereign state on a team of lawyers in a case before the Permanent Court of Arbitration in the Hague which dealt with the termination of a military contract by another sovereign state as a result of a revolution.

What factors have influenced your career plans?

I wanted to work in a field which would allow me to practice in other jurisdictions and international arbitration is unique in dispute resolution in that foreign lawyers have a right of appearance in most countries in relation to enforcement of awards. Finding the right partners in the right firms who do that work helps too.

Have you read a case or book lately and what was it?

Just read an interesting case called *Transfield v Pacific Luzon Hydro Ltd* [2006] VSC 175. As you are aware, if you have a contract case in Australia you can't contract out of certain provisions of the Trade Practices Act. In international arbitration we call these 'mandatory laws'. The question in that case for consideration was what happens in a international arbitration which takes place outside Australia with the Tribunal applying foreign law. Does the fact that one of the parties is Australian and engages in possible s.52 behavior overseas mean that for the purposes of the arbitration s.52 is a mandatory law which the tribunal must apply? In that case the Tribunal declined to deal with the issue and so one of the parties tried in the Supreme Court of Victoria...and lost.

What tips can you give young lawyers who want to do similar work?

Never be dissuaded from what you want to do. While it is important to gain experience in an array of areas of the law when you start out, work out where you want to end up and find out how to get there. The best way is to read into the area, or do further study (I teach the LLM at UNSW in International Arbitration, or undertake a diploma through the Chartered Institute). You can also join the Australasian Association for International Arbitration (AFIA) which is free to join and to participate in and is supported by the major firms. Arbitration is generally industry based - construction predominantly in Australia, but also trade, intellectual property and shipping - so try to gain skills in those areas. It is not realistic to think you can do international arbitration in Australia 100% of the time. Move to a firm that has a partner or reputation in that field and then head overseas to one of the major markets.

Your Say! Letters to the Editor

If you have something to say, debate, vent or offer, why not write a letter to the editor at vicepresident@younglawyers.com.au. All letters will be printed anonymously, unless you wish for your name to appear. All letters must be received by 20 September 2007 to be considered for publication.

AUGUST/SEPTEMBER CLE SEMINARS

- **David Hicks and the Legal Black Hole:** Unresolved Issues for International and Domestic Human Rights Law – Wednesday 22 August, 5:30 to 7:30pm.
- **A Brave New World? Recent Changes to the Commonwealth OH&S Act 1991** – Tuesday 28 August, 1:00 to 2:00pm
- **Dispute Resolution for the Legal Profession – Satisfying the Client** Wednesday 29 August, 5:30 to 7:30pm.
- **Afternoon CLE in Orange** -Tuesday, 4th September 4:30 pm - 6:30 pm
- **Basics Wills & Probate** – Wednesday, 5 September, 5:30 pm – 7:30 pm
- **Recent Developments in Migration Law** – Wednesday, 12th September 5:30 pm – 7:30 pm
- **Mortgage Enforcement, Fraud & the Consumer Credit Code** Tuesday, 18th September 1:00 pm – 2:00 pm
- **Electronic Discovery** – Wednesday, 19th September 5:30 pm – 7:30 pm
- **An Introduction to Advocacy One Day - Hotel InterContinental** Saturday, 22nd September, 2007 - 6 CLE units
- **What your clients need to know about Anti-Money Laundering and Counter Terrorist Financing** – Tuesday 25th September 1:00 pm – 2:00 pm
- **Sentencing in the District Court: A Practical Consideration** Wednesday, 26th September, 5:30 pm – 7:30 pm

2007 STUDENT ESSAY COMPETITIONS

NSW Young Lawyers has a number of Committees offering essay Competitions as follows;

ANIMAL RIGHTS COMMITTEE

1st Prize: \$500 kindly donated by Voiceless, the fund for animals

2nd Prize: \$300

Competition closes: Friday, 5th October, 2007

For more information go to: <http://www.lawsociety.com.au/page.asp?partID=18277>

EMPLOYMENT & INDUSTRIAL LAW COMMITTEE – THE MCCALLUM MEDAL

1st Prize: \$550 Cash and \$550 book voucher from Thomson Legal

2nd Prize: \$300 cash and \$300 book voucher from Thomson Legal

Competition closes: Monday, 10th September, 2007

For more information go to: <http://www.lawsociety.com.au/page.asp?partID=18299>

ENVIRONMENTAL LAW COMMITTEE

1st Prize: \$1,000 investment in one of the Australian Ethical Trusts sponsored by Australian Ethical Investment & Superannuation.

2nd Prize: \$300

Competition closes: Monday, 8th October, 2007

For more information go to: http://www.lawsociety.com.au/uploads/files/1183953767681_0.6901232559755674.pdf

For more information go to:

<http://www.lawsociety.com.au/page.asp?PartID=10>
Scroll down to Student Essay Competitions

Thank you to contributors

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Would you like to make a contribution? If you would like to have an article published in Debrief on a topic of interest, email the article and your details to vicepresident@younglawyers.com.au. **This issue of Debrief** has been edited by Tayanah Caldarella, Scott Alden and Poppy Drekis. All expressions of opinion are published on the basis that they are not to be regarded as expressing the official opinion of NSW Young Lawyers. NSW Young Lawyers accepts no responsibility for the accuracy of any opinion or information contained in this publication. Readers should rely on their own inquiries in making any decisions.