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Litigants in person: Guidelines for the Federal Circuit Court – Stephen H Scarlett RFD

The Federal Circuit Court has a duty to see that all parties, including those who do not have legal representation, receive procedural fairness. This article examines the guidelines given by the two appellate courts with which the court deals in its family law and child support jurisdiction on the one hand and its general federal law jurisdiction on the other. The article considers the decision of the Full Court of the Family Court in *Re F: Litigants in Person Guidelines* (2001) 161 FLR 189; 27 Fam LR 517; [2001] FamCA 348 and the decision of the Full Court of the Federal Court, on appeal from the Federal Circuit Court, in *SZRUR v Minister for Immigration and Border Protection* (2013) 216 FCR 445; [2013] FCAFC 146. The two decisions, referring to different authorities, arrive at essentially the same conclusions as to the way the court should approach the question of providing procedural fairness to litigants in person. Consideration is also given to the earlier High Court decision of *Neil v Nott* (1994) 121 ALR 148; 68 ALJR 509; [1994] HCA 23, which considered the case of a litigant in person whose lack of success in the lower courts had been largely due to his own failings as an advocate on his own behalf. The article asks whether the High Court has set out a counsel of perfection for busy trial courts in trying to ascertain what self-represented litigants really want and whether the concept of the “level playing field” is a myth.

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The self-represented litigant in the Court of Appeal, Supreme Court of Queensland – The Hon Justice Margaret McMurdo AC

The Queensland Court of Appeal is for most purposes the final appellate court in Queensland. It has a broad criminal and civil jurisdiction. A significant proportion of its litigants in both criminal and civil matters are self-represented. In this article the author provides statistics as to the number of self-represented litigants and their success rates, and explains how self-represented litigants can place pressure on limited registry and court resources. Initiatives adopted to better assist self-represented litigants, including the QPILCH Self Representation Service (Court of Appeal), the Queensland Court of Appeal Criminal Law Pro Bono Scheme, and the Criminal Matters Legal Clinic are discussed. The Court of Appeal is revising its website, information sheets and guidelines and preparing an information pack to assist self-represented litigants. The author considers it is a desirable goal for courts to strive to ensure that self-represented litigants, even unsuccessful ones, are satisfied with their court experience.

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Self-represented parties and court rules in the Queensland courts – Iain McCowie

The Queensland Public Interest Law Clearing House Incorporated (QPILCH) has operated a Self Representation Service at the Queensland courts since late 2007. The service’s file

work provides anecdotal evidence about the difficulties that self-represented litigants can have in complying with the requirements of court rules. The grievances of self-represented litigants reflect some of the concerns about the costs and delays in the conduct of litigation generally. The successful use of case management regimes to administer an increasing civil case load suggests that appropriately adapted case management might also assist the courts to respond to the challenges of, and faced by, self-represented litigants. In an innovative development (and with some input from QPILCH) the Supreme Court of Queensland, in Practice Direction 10 of 2014, has adopted a Supervised Case List for cases involving a self-represented party in the Brisbane Registry of the Supreme Court. 18

Self-represented litigants and strata title disputes in the State Administrative Tribunal: An experiment in accessible justice – Bertus de Villiers

Self-representation in legal proceedings is becoming more prevalent at all levels of courts and tribunals. In many instances courts and tribunals are challenged by: the volume of self-represented litigants; the pressure to assist them in the conduct of proceedings; and the need to simplify processes to a level where ordinary persons can conduct their own litigation. The State Administrative Tribunal (SAT) of Western Australia recently undertook quantitative research in respect of litigants who had been involved in strata title proceedings to assess the reasons for self-representation, to obtain insight into the experiences of those persons in all phases of proceedings (lodgment, directions hearing, mediation and hearing), and to identify areas where processes could be modified or improved. This article provides an overview of the dynamic jurisdiction of a super-tribunal such as the SAT and then discusses the findings of the research. Comments are also made about areas where the SAT can improve in its service delivery. 30

Model no more: Querulent behaviour, vexatious litigants and the Vexatious Proceedings Act 2005 (Qld) – Narelle Bedford and Monica Taylor

This article examines the history and development of vexatious proceedings legislation in Queensland. It undertakes a case study of declared vexatious litigants and analyses the effectiveness of a legislative response. In light of recent national and international reforms, this article argues that the current legislative approach to dealing with vexatious proceedings in Queensland is no longer model and requires reformulation. It asserts that a system of graduated litigation limitation orders would provide for a more nuanced response to the issue of vexatious and querulous behaviour. The article concludes by emphasising the value of a multidimensional approach which includes practical, early intervention strategies in addition to legislation. 46

The dilemmas posed by self-represented litigants: The dark side – Tania Sourdin and Nerida Wallace

People represent themselves in every court and tribunal in Australia, sometimes by choice or because they simply cannot afford legal representation or recoup the full costs. Some take advantage of arrangements that courts and tribunals make for self-representation. In some jurisdictions some self-represented litigants can exhibit difficult, obsessive and unsafe behaviour. This article considers the nature of self-representation and the issues raised for judges and others working in courts and tribunals by those who display more difficult and irrational behaviours. It also explores the techniques available to ensure court and tribunal justice objectives are met. 61

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