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House Standing Committee on Legal and Constitutional Affairs  
House of Representatives  
PO Box 6021  
Parliament House  
Canberra ACT 2600

Submission No. .... <u>33</u> .....
Date Received .....

12<sup>th</sup> October 2006

To Whom It May Concern,

**Re: Submission – Inquiry into harmonization of legal systems**

**Statute of Limitations**

While I understand the need for a Statute of Limitations timeframe to be imposed on certain legal claims, other factors can come into play that manipulate the pursuit of a claimant wishing to pursue legal claims in order to protect their person or business and their ability and freedom to earn an honest income without the constant threat of harassment.

Since 1998 I experienced hindrance and restriction of trade accompanied by a snowball effect of fraud that has depleted my finances and standard of living.

I had considered it an honour to pay tax because that meant I was an upstanding Australian citizen, who was contributing to the economy, health and welfare of my country, and because of my legal restrictions ATO has also suffered a domino effect and substantial money has been lost to the public purse and economy.

I was advised to report matters of fraud and theft to ASIC as well as state and federal police and I followed that advice, not realizing it would lead me onto a never ending merry go round of bureaucracy and paperwork that had no real destination.

In 1999 one Federal Policeman said in front of a witness, "*you might just have to be a martyr to the cause, we're concentrating on drug and international crimes.*" International crime is part of my company evidence and I'm yet to discover the "cause" he was referring to. ASIC reported the crimes to Adelaide fraud squad, but didn't bother to follow it up. Although I pressed them for assistance ASIC deregistered my company Creative Home Marketing Pty Ltd in August this year.

When fraud isn't addressed at the onset, it snowballs and I would personally like to see Australian police introduce a much better standard of spring-cleaning into their procedures and work ethic. AFP letterhead states, "*To fight crime and win.*" It appears obvious AFP choose the crimes they prefer to fight, but leave the average Australian to suffer by their independent decree. **Exhibit**

My company prepared homes for sale and restored heritage property, we had also ventured into commercial property and maintenance, however from early 1998 we were sabotaged by telephone, mail, e-mail, personal assistant theft, fraud and website hacking. Mirabile Dictu was an Australian Art business under the banner of Creative Home Marketing, who had proved its service was valuable to the community and had achieved considerable success - our clients benefited both financially and emotionally.

Creative Home Marketing consultants were wives and mother's who had raised and educated their families and my company gave them the opportunity to expand their homemaking and creative talents and venture into the workplace after many years absence. Our trade's people were reliable, trustworthy and loyal. The collapse of my company and website also left my talented Australian artists (Mirabile Dictu) without promotion, income and success for their work and it totally restricted me from earning a living. Although the complete scenario has financially and emotionally depleted me, I have never lost the willpower or focus to continue supporting my Artists and promote their work at every opportunity that becomes available to me. **Exhibit**

In March 2003 I approached The Hon Peter Lewis to obtain assistance to find a lawyer who would reintroduce a pressing financial misappropriation Family Law matter back into the court to obtain honest financial settlement and attend to my company legal claims. Mr. Lewis was exceptional in his efforts to assist; he also wrote to NSW Attorney General Bob Debus on my behalf and organized the assistance of an Adelaide Lawyer/Accountant to attend to my claims, however she failed to do so and instead crossed the line of legal ethics. She also refused to return my legal files and accounting records so that I could explore other avenues for redress. **Exhibit**

In November 2005 Denise Watkins from Adelaide Law Society Professional Standards telephoned to say that \_\_\_\_\_ had been disbarred on a matter not associated with mine and my legal and accounting records would be handed over by her husband \_\_\_\_\_ Although I have made many attempts to have my property collected they both made themselves unavailable and refuse to return it. I am at a loss to understand how supposedly professional legal and justice professions have such a distain for Australian law and order. **Exhibit**

\_\_\_\_\_ has willfully withheld my legal files and accounting records since March 2003, which in turn has restricted my business legal claims and imposed a Statute of Limitation rendering those financial claims useless.

### **Legal Procedures**

I believe most Australians understand their rights and basic Australian Law, however legal procedures are confusing and complicated to the average person and those complications instill frustration and act as a barrier for any claimant. Court hearings are lengthy and can easily be manipulated into virtual stagnation by an opposing party. When finally the Court does make a ruling and costs are awarded the claimant must then make a separate application to the court to have those costs paid.

During April 2000 - 2003 my family and I suffered severe harassment, violence and additional theft. I attended an Adelaide Magistrates Court matter where the Plaintiff had apparently tried to have me arrested. I had been living in New South Wales and returned to South Australia for a brief holiday and had not seen or spoken to the person in question since May 1999, yet somehow he was able to have a lawyer introduce a criminal matter into the court with no registered Affidavit to support his outrageous claims. I am a children's writer and the Plaintiff's actions appeared to be intent to hinder my writing career. One of my children's series of stories suffered attempted plagiarism and I was forced to use my Arts Law membership for legal consultation. Mr. Ant Horne kindly made appointments with Mallisons Sydney who drafted a letter for me to send to the perpetrators. I did not have the funds to apply to

the courts to address the matter properly and a vain lifeless threat was the only avenue that was available to protect my writings. **Exhibit**

In 2004 I applied to the Supreme Court Adelaide to have my legal files and accounting records returned to me. During the term of court proceedings I was threatened and had become so frightened by those threats that I registered most of my company and family law evidence in the hope that it would protect me from ongoing abuse and harassment.

This matter is now finalized and although the court ordered the return of my property and awarded me costs, the application of costs is a separate case and only pays lawyers fees. My family and I have suffered Exemplary Damages and I was shocked and horrified when Adelaide lawyers and refused to apply to the Court for those costs and instead stated that they intend to hound me for their fees when my elderly mother dies.

I believe the current legal costs process should be included in the same case that was presided over by the court – it is the only way that true finalization of a financial claim can occur and be completely put to rest.

**Joinder Applications** Adelaide Forensic Accountants introduced me to the term 'Joinder Application' and I believe 'Joinder Applications' could be a great advantage to expedite matters where associated evidence has been registered as part of a preceding court case.

Joinder Applications could also logically relieve Court backlog and extended legal costs in matters where evidence, parties or claims have definite and associated factors.

I would personally like to see the evidence and Court Orders of associated legal cases be joined so that all the relevant evidence is taken into account when a Judge or Jury makes their final decision on the presiding case in question.

### **Service of Legal Proceedings**

I'm told that this is a matter for the Appellant or the appointment of an attorney to service documents. Many times I have discovered that parties summoned to attend court can quite easily evade service, simply by making themselves unavailable. I have used Registered Post to service court documents when the involved party had locked and barred their residence of work and turned off their fax machine. Although their mail was collected regularly at the Post Office they refused to sign Australia Post's required registered mail form and the documents were redirected back to me.

### **Legal Obstacles**

When theft, fraud and violence are allowed to continue undressed over a period of time it becomes financially impossible to obtain the service of competent and dedicated lawyers. Lack of finance caused me another legal bind and further restricted my ability to pursue my financial legal claims. I was appalled that the perpetrators of fraud and abuse were so blatant in their continued and seemingly never-ending harassment to hold me back. I approached Legal Aid, but was advised that they don't handle financial matters. One independent Adelaide lawyer advised me that I would have to prosecute the crimes myself.

In desperation I telephoned a Sydney law firm and was introduced to Mr. David Ross of Northside Law. Although most of my claims are South Australian based Mr. Ross was kind enough to continue to fight for justice on my behalf and to date I have been most grateful for his professionalism and outstanding dedication to assist me.

Mr. Ross took over a Sydney Supreme Court Equity matter that was introduced to the court in March this year and at last he appears to be making headway to have the case addressed professionally and with competence. Recently Mr. Ross interviewed me over six days, including Saturday and Sunday at his office in order to prepare an informed Affidavit in the matter.

My legal claims have become substantial, however I don't wish to be bound to the court systems and legal profession for the rest of my life. I have found that the legal profession are the only people to profit in legal cases, but somehow I would like my financial funds restored so that I can be free to earn an income and live my life without interference or fear that every attempt I make to reestablish my business those efforts aren't sabotaged by the same parties because they know I don't have the funds to protect myself.

Fraud, theft and violence are police matters for prosecution, however one can't make the police do their job if they don't want to and I'm sick of talking about it. Action speaks louder than words, but one must have basic integrity and self-respect in order to maintain personal dignity and I refuse to take the law into my own hands.

I'm at a loss to see how the legal process can be simplified and rectified to uphold Australian Laws when bureaucracy seems to have taken such a hold in so many different areas of the justice system. Surely it's not too much to ask that an Australian is free to work and earn a living in freedom and peace and without hindrance.

I prefer to think that the greater majority of people living in Australia are good and honest people and I know that the harassing perpetrators of crimes I have encountered are few in number, yet they appear to have greater power behind them than all the Australian justice and legal systems put together.

In a supposedly enlightened and wise society there must be an avenue for Australian Parliament to consider in order to simplify our Court and justice procedures and in so doing harmonize the systems to also include those financially disadvantaged people.

Parliament may also consider the appointment of Legal Tribunal hearings that are presided over by informed and responsible members of the community. (similar to the Elizabethan Moot Court system). The Aboriginal culture used a similar system that was presided over by the elders of the clan to uphold law and justice and many other native cultures follow a similar practice that has achieved great success.

Tribunal hearings may prove to be a more efficient way to handle the initial court process in order for final hearing, directions and verdict. While I understand that this form of procedure wouldn't suit all cases, I believe it could be an answer to introduce greater efficiency, less stressful and more cost effective results for many people, including the Courts and legal and justice professions.

Not long ago two policemen stopped their car and spoke to me late at night in the street. My initial reaction was, "here comes trouble!" I was surprised when one Policeman politely asked, "we were wondering if everything is alright?" After this encounter I realized my previous meetings with uncaring and lazy policemen had engendered a prejudged view of those two men who were thoughtful enough to be concerned for my welfare.

Australian people and children are our most precious commodity and we owe it them and our children's children to lead by an example of honesty and integrity and to show them that crime and violence will never be the way to reconcile a difficulty or gain true justice. I feel positive that it is possible to restore efficiency and respect into our police and legal systems; but anything worthwhile takes effort and attention to detail. Getting in and doing a job at hand efficiently saves valuable time and achieves a greater sense of self worth for all the parties involved. It's up to each individual person to take responsibility for their actions while showing respect for others and acting in a dignified and professional manner.

There will always be unscrupulous and corrupt people in the world, but surely violence and corruption is easier to control if our leaders set an exemplary example and educate the wider community with a good dose of work ethics, respect and compassion for honesty and efficient law and order.

As a direct descendent of free settler pioneers who is proud of my Australian heritage, people and eclectic mix of cultures I strongly urge Parliament to consider the wide open spaces of available options to make the law more user friendly to the average person and create the most practical, honest and pure system possible. On the whole I have found Australians in particular to be stoic people who thrive in a positive and fulfilling environment and whose most precious want is to simply have a fair go.

Yours sincerely,

Narelle McDonald