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ARTICLES

Litigation funding: Official intermeddling or access to justice? – Carman Yung

In recent years, the increasing inaccessibility of legal process has become a matter of concern for legal justice systems both in Australia and overseas. At the same time, Australia has seen the emergence and rise of “professional litigation funders”, commercial entities engaged in the business of third-party litigation funding for profit. This article considers whether litigation funding remains contrary to the law of maintenance and examines the extent to which Australian courts may be willing to accept the risks posed by the activities of the private litigation funding industry in the interests of promoting access to justice.61

Achieving just outcomes for homeless people through the court process – Beth Midgley

Homeless people are disproportionately represented in the criminal justice system and the rate of recidivism amongst homeless offenders is high. There are a range of particular issues and difficulties that homeless people face when they are required to attend court. Failure to take into consideration a defendant’s homelessness can result in an unfair and unjust outcome for the defendant. The article seeks to identify the particular issues that homeless people face in the court process, and canvasses a range of options for addressing those difficulties. It is based on primary research conducted as part of the Homeless Persons’ Court Project in 2004. The article is informed by the experiences and insights of 50 people who have been homeless and had interaction with the court system and participated in interviews and focus groups as part of the Project.82

Mutual observation, reflection and discussion and professional development for magistrates: Further developments – GF Hiskey SM

This article follows an earlier article by the same author entitled “Mutual Observation, Reflection and Discussion and Professional Development for Magistrates” (2002) 12 JJA 39 which examined the outcomes of a study where a number of magistrates, including the author, observed one another in their courts and were, in turn, observed. The principles of reflective learning as expounded by Schon and other were utilised. Magistrates found that the process yielded valuable insights. In 2004 a similar exercise was undertaken involving a group of five magistrates from Victoria and five from South Australia. The current article examines how that came about, the protocols that were developed for the project, the outcomes achieved and the advantages and disadvantages of an interstate program contrasted with an intrastate program. In October 2005 the program is to be replicated but changes have been made to the format. This article discusses the nature of those changes and why they are considered desirable. Whilst there is a developing range of programs of professional development for judicial officers, there is no program of this sort allowing

for mutual observation, reflection and discussion by them arising from in-court observations. The program is a useful addition to existing professional development programs for judicial officers.107

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