

VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL  
ANTI-DISCRIMINATION LIST

*Application under section 83 of the Equal Opportunity Act 1995 (Vic)*

ABORIGINAL FAMILY VIOLENCE PREVENTION & LEGAL SERVICE (VICTORIA)

Applicant

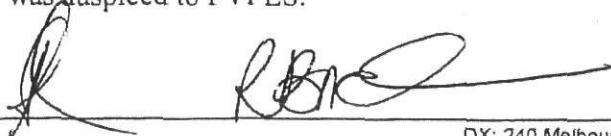
AFFIDAVIT OF REBECCA ANNE BOREHAM

I, **Rebecca Anne Boreham, lawyer, of**

Make affirmation and say:

**A. Personal background**

- 1 I have been the lawyer in the Mildura branch office of the Aboriginal Family Violence Prevention & Legal Service Victoria (FVPLS) since July 2008. In this position, I am responsible for the Mildura and district casework practice of FVPLS which includes the advice and representation, referral to support services and the supervision of Aboriginal and Torres Strait Islander (ATSI) paralegal workers in the regional office.
- 2 I commenced employment as a lawyer at the Murray Mallee Community Legal Service (MMCLS) in Mildura 2004, after having been employed there as a community legal education worker and paralegal since 2002. In my role as lawyer at this MMCLS I was responsible for delivering their Family Violence Intervention Order Court Support Scheme, at the Mildura Magistrates Court.
- 3 In 2005 I commenced work as principal lawyer at the Mildura Aboriginal Corporation's Indigenous Family Violence Prevention & Legal Service (MACIFVPLS), and had branch offices at Dareton and Buronga New South Wales. In this position I was responsible for the legal practice which included compliance with all professional requirements of the legal practice. The MACIFVPLS was funded under the same program funding as FVPLS, delivering similar services, and wound up in June 2008 when this region's program funding was auspiced to FVPLS.



Filed on behalf of the Applicant, FVPLS by:  
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4 During the last five years all of my work has been for ATSI people, including Barkindji, Latje Latje, Mutti Mutti Yorta Yorta, Pakanji, Nyimpa, and Numinjeri people from regions of Victoria, New South Wales and South Australia.

5 In the FVPLS Mildura office I am the only non-ATSI worker; all other staff, being the Coordinator, Paralegal Worker and Office Manager, are all Koori.

6 I make this affidavit from my own knowledge save where otherwise indicated. Wherever I depose to matters based on information provided to me by others I believe that information to be true and correct.

**B. FVPLS services**

7 FVPLS provides legal assistance to ATSI victims/survivors of family violence and sexual assault in Victoria and to non-ATSI parents or carers of ATSI children. One of the roles of the FVPLS is to intervene with support and advice at an earlier stage before a family situation deteriorates.

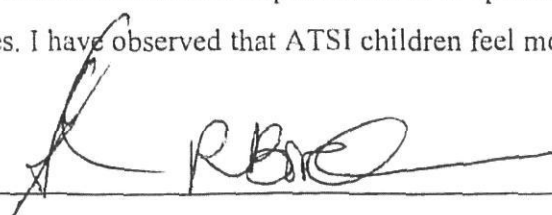
8 FVPLS Mildura specialises in and provides services in relation to the following areas:

- Family violence intervention orders, and apprehended domestic violence orders in NSW;
- Sexual assault;
- Child protection;
- Victims of Crime Assistance (Victoria) and Victims Compensation (NSW) applications; and
- Family law (where it relates to family violence).

9 Often clients who contact or are referred to FVPLS have multiple legal problems as a result of ongoing and past family violence. This requires FVPLS lawyers to assist with a number of the legal issues detailed at paragraph 8. For example, clients who have been victims of family violence where children were present, often require assistance with obtaining Family Violence Protection Orders (Intervention Orders and Apprehended Violence Orders) against generally male perpetrators. This involves making applications at the relevant Magistrates' or Local Court for interim and final intervention orders generally in favour of mother and children. Where the Department of Human Services or Department of Community Services (NSW) has been notified, often out of a revelation about family violence, and commenced an application for a protection order in the



Children's Court, FVPLS provides representation in this proceeding which may be lengthy dependant upon the nature and duration of orders made. Again, early contact with mother may assist in the repetition of "Stolen generation" in another guise. If Child Protection Proceedings have not issued Family Law assistance is often required to ensure arrangements for the children are secure and appropriate.

- 10 In providing legal advice and casework and undertaking other roles at FVPLS it is necessary to be aware of and sensitive to the broader issues of clients' lives. Issues relating to homelessness, mental health, physical ill-health, drug or alcohol use and past trauma are prevalent and need to be addressed if progress is to be made in relation to legal issues. Traumatic life history resulting from family dislocation, stolen generation issues, racism and discrimination often contribute to a client's presenting situation. Damaging experiences with the justice system mean there is a reluctance of victims/survivors to seek legal assistance through police, courts and lawyers. Many clients assisted by FVPLS have a history of childhood abuse including sexual assault. Often clients present for help with family violence and/or sexual assault issues including child protection matters, and during the course of their instructions also disclose childhood sexual abuse, witnessing violence between their own parents and involvement in the child protection system as children 'in need of care'. More often than not the interventions by Police and Child Protection authorities during their childhood and their family's history has not been effective in making their lives safer or left them feeling that they and their families were not fairly dealt with.
- 11 These issues are emotional and sensitive to address, and particularly in light of the history of racist attitudes and actions by white 'welfare' workers and services, there is often some difficulty in communicating around these issues by white workers with ATSI clients. In my experience these conversations are far less confronting for our ATSI clients if they are had with ATSI workers, who have a lived shared experience and understanding of ATSI history in Australia.
- 12 FVPLS assists children who are victims/survivors of family violence and sexual assault. The children may be secondary victims of violence having witnessed assaults upon their parent (generally the mother) and have suffered trauma as a result. The children may also be primary victims of family violence or sexual assault and require referral to specialist children's counselling and support services. I have observed that ATSI children feel more comfortable with a ATSI worker.



**C. Benefits to clients and the community**

- 13 With respect, the FVPLS, which caters primarily to ATSI women and children, would be in a better position to fulfil its aims if affirmative action criteria were included in its employment policy- both for women and for Aboriginal people.
- 14 In my experience working with ATSI people I have learnt that the family unit is the centre of cultural activity, economic interactions and the tradition has been that families stay very close, even after divorce and violence. Early intervention by a service such as ours can only attract the interest and trust of communities if we are seen to employ empathetic workers with the common knowledge shared with the clients of trauma and the origins of that trauma.
- 15 Employment of more ATSI staff at FVPLS is also a means by which to improve the accessibility of the justice system and legal system to the ATSI community. ATSI staff are best placed to advocate on behalf of clients for changes in the legal system to improve cultural sensitivity and accessibility.
- 16 The majority of the clients of FVPLS Victoria are women and children and the majority of perpetrators are male as is consistent with statistics relating to family violence in the broader community. Women who have been victims of family violence or sexual assault at the hands of a male perpetrator often will not, and cannot, speak to a male about these issues.
- 17 Clients are referred to FVPLS Mildura branch office in the main by other ATSI support workers or support workers employed in ATSI organisations, and by our ATSI staff through their community connections. These workers are women. All of the staff employed at the Mallee Domestic Violence Service and Mallee Sexual Assault Unit are women. The Indigenous Family Violence Support Workers in the Loddon Mallee region are women. Other agencies that we have strong connections with and refer to, including the Victims of Crime Assistance & Counselling Program are staffed by women. This indicates acceptance amongst other community organisations working in this area that women who are victims of family violence/sexual assault prefer to be supported by women. Referrals also come to FVPLS Mildura branch office from female family members of the victim/survivor. Very rarely does a male family member contact our office on behalf of a female victim/survivor.



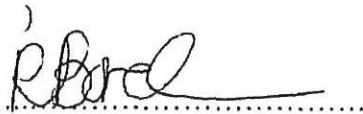
18 In my time working for ATSI people of Australia, it has been my experience that women clients will only instruct women lawyers in relation to family violence and sexual assault matters and will omit much of their story if instructing male lawyers. Often I have been instructed by female clients who have disclosed during their instructions to me details of sexual assaults and domestic violence assaults which they have not ever disclosed to their current partners and treating male doctors. In many instances I have been instructed by clients about sexual abuse that has occurred as part of domestic violence assaults which have been prosecuted by Police, but without any disclosure of the sexual abuse being made to the male detectives.

19 In my experience of my clients' cultures in Victoria, I have not experienced the taboo of a male client being unable to instruct a female lawyer. The Mildura office of FVPLS has the highest percentage of male clients, across all the FVPLS regions, and I have not experienced difficulties in obtaining full and frank instructions from these clients, including in relation to issues of childhood sexual abuse. In some situations my male clients have indicated that they would prefer their therapeutic, counselling, relationships to be with male counsellors, and FVPLS has been easily able to facilitate this under our present model of contracting out counselling services to psychologists in private practice.

Affirmed at:



In the State of Victoria, this 31<sup>st</sup> day of MARCH 2010 )



) REBECCA BOREHAM

FVPLS Victoria

Before me:



ALISON M. MEEK  
D. Justice Registrar of the  
Magistrates' Court of Victoria  
Mildura Law Courts  
56 Deakin Ave Mildura Vic 3500