

STATEMENT OF CLAIM

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Filed on behalf of	AND	The Plaintiffs
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1.0 OBJECTIVES. The objective of this statement of claim is to put before this Supreme Court of Victoria a stated case and grounds sufficient to claim from the said Court orders and/or rulings that facilitate the *right of representation* or *co-presentation*. This right is the right of a *first-lay-person* to have his/her legal matters presented by or with a *second-lay-person* in any court within the state of Victoria, when the *first-lay-person* provides to the court an appropriate legal instrument that confers upon the *second-lay-person* the said right who thereafter agrees to re-present or to co-present in the matter of the *first-lay-person*.

1.1 Obtaining right of representation is fickle.

Whether or not the courts grant the *right of representation* or *co-presentation* is fickle. The decision to grant or not grant the *right of representation* or *co-presentation* is a discretionary decision of the *person-presiding* in a court proceeding. The fickle nature of the discretionary power of the *person-presiding* does not instill in the community either confidence or a sense of fairness in court proceedings. It is not possible for a *first-lay-person* to be confident that the *second-lay-person* shall be able represent or co-present in his /her matter. The *first-lay-person* is disadvantaged if right of representation is not granted. We do not accept that it is the function or the intent of the court to create stress in the first-lay-person or to create an unpredictable court-arena, because if this is the intent then such intent would meet with public outcry.

1.2 State of Victoria has duty of care obligations to provide open, fair and reliable judicial system.

The State of Victoria has a *duty of care obligation* at common law to provide for an *open, fair and reliable* Judicial system for the members of the community that live within it and that comprise it. The provision by the *State of Victoria* of an *open, fair and reliable* Judicial system is an essential function of the State of Victoria. The fickleness surrounding right of representation is neither open or fair or reliable. The State of Victoria has a duty of care obligation and responsibility to create conditions and laws that facilitate for the Plaintiffs *open, fair and reliable* Judicial system which includes the capacity of the Plaintiffs to exercise their right of representation.

1.3 Loss of confidence.

The community has an assumption and /or a projection of a postulate that the judicial process is open, fair and reliable. Justice must not only be done, but it must be seen to be done by the community. But in the eyes of the Plaintiffs the assumptions or the projections are not manifesting in the procedures of the court and the discretionary decisions of person(s)-presiding. The assumptions and the postulates of openness, fairness and reliability are crumbling and in jeopardy of reaching a point of no return in the eyes of the community. Individuals have been squashed in their righteous stands and their assumptions and postulates are found to be false. The choice of response by individuals to being squashed are as many as the individuals themselves. Some are overwhelmed and collapse in bitterness because they lack the tools for handling the lack of manifestation of their assumptions and their projections, whilst others choose to handle and confront the problem by the means available to them at law. The Plaintiffs fall into the latter category.

1.4 Duty of care obligations of the State facilitated via the organs of the State.

The fulfillment of this *duty of care obligation* to provide an *open, fair and reliable* Judicial system may be facilitated via the organs of the State, which include the Judicial and Parliamentary structures. This fulfillment may also be facilitated via external authorities such as the High Court or the Federal Parliament, where those external structures are with jurisdiction to so facilitate.

1.5 Supreme Court of Victoria.

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The Supreme Court of Victoria may be likened to the Judicial organ of the state of Victoria. Like all living organs, this organ has many functions. Apart from fulfilling its function in the maintenance of the body of the State and its purpose of existence, it must also regulate itself, and draw to itself that which it needs to heal and evolve itself in the event that its functioning is impaired or new understandings and functions arise, whichever the case may be.

1.6 **Plaintiffs drawn to Supreme Court.**

Thus we, the Plaintiffs, as it were the cells of the State of Victoria, are drawn to the organ of the Supreme Court because we have experienced a dysfunction in the *openness, fairness and reliability* of judicial functioning that we know to be not in the interests of the community of the State of Victoria

1.7 **Supreme Court of Victoria, the Governing Judicial Organ.**

The Supreme Court of Victoria is the highest Judicial Authority in the State of Victoria, to which all other inferior courts must answer in respect of questions of law and questions regarding the *openness, fairness and reliability* of operation of the Judicial organ.

1.8 **Fulfillment of organ function.**

Fulfillment of the purpose of existence of the organs of state is the fulfillment of one or more of the duty of care obligations of the state. Similarly, fulfillment of the purpose of existence of the state is the fulfillment of the true function of the State. The true function of the State is facilitated through the proper functioning of the organs of the State. Thus the Plaintiffs hold that it is the function of the Supreme Court of Victoria to hear this matter, because that is its function, and that is its purpose of existence. The Plaintiffs also hold the view, that the problems of the Judicial functioning of the State of Victoria must firstly be brought before the Supreme Court, because this is the proper chain of command. (New Testament, Mathew 18: 15-20). We feel that it would not be proper to go firstly to the Federal Court, or the High Court, or the Elector's' Parliament without first going to the Supreme Court of Victoria

1.9 **Matters on right of representation previously brought before the Supreme Court of Victoria**

The Supreme Court of Victoria has superficially heard Appeals from lower courts on the matter of right of representation, which Appeals have been brought by certain of the Plaintiffs in this group proceeding. However these Appeals have not born fruit, because an expanded stated case has not been put before the Court.

1.10 **Group Proceeding is the appropriate Proceeding in the matter of Right of Representation.**

Regarding the right of representation, it is the case that the number of persons aggrieved from the decisions of person(s)-presiding is very large. It would be difficult for each individual to present their cases, and it would be a waste of the court's time for such similar matters to be brought before the court one after another. Thus it is expedient for the parties and in the interests of the parties and the courts for the matter to proceed by way of a group proceeding pursuant to orders 18A of the Supreme Court Rules.

1.11 **Supreme Court has Jurisdiction in this matter.**

The Supreme Court of Victoria has jurisdiction to hear this matter and to make rulings and orders regarding the relief and remedy sought in the Statement of Claim. The Supreme Court of Victoria has jurisdiction because

1.11.1 It is the superior court in the State of Victoria and has a supervisory role over courts inferior to it.

1.11.2 Authority is vested in the Supreme Court to hear and determine matters of law and matters regarding the *openness, fairness and reliability* of the operation of the Judicial organ of the State of Victoria.

1.11.3 If the Supreme Court does not have Jurisdiction, then the Jurisdiction resides in The Elector's' Parliament of Victoria at Referendum, or the lesser Elected Parliament of Victoria, and /or the Federal Court or the High Court.

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This claim in this proceeding is made in reliance on the following facts:

2.0 The Plaintiffs:

- 2.1 are *living flesh and blood natural persons*, that are with spirit and good conscience;
- 2.2 are entitled to vote for a member of the Senate and for a member of the Legislative Assembly of the State in which they are domiciled;
- 2.3 have the title **Honourable Member(s) of the Elector's' Parliaments of Australia**. and are so named and honored as **Honourable** because they:
have knowledge of good and evil, and choose to do good not evil.
have a conscience, and their spirit is good.
uphold and stand for truth, liberty and justice
oppose iniquity,
care for their community and want happiness for all within it.
- 2.4 assist in the creation of the Members Parliaments individually and collectively every time they vote;
- 2.5 have standing to bring forth an action in the Supreme Court.
- 2.6 AND said Plaintiffs
have rights, privileges and duties as an **Honourable Member of the Elector's' Parliaments of Australia**;
- 2.7 Are individually and collectively:
 - 2.7.1 endowed with **free will, good conscience** and the **power of discernment**;
 - 2.7.2 endowed with **many inalienable capacities** and **inalienable human rights**, which **inalienable capacities** and **inalienable human rights** are intrinsic to their existence and which cannot be granted to them by any other human or human authority;
 - 2.7.3 Are with knowledge that **free will** is an inalienable capacity that is with them individually and collectively;
 - 2.7.4 Are with will and motivation to **live** their capacities and their rights for the benefit of themselves and their community;
 - 2.7.5 Are with knowledge that free will is with them individually and collectively to change the nature of their own reality and to change the nature of the reality of their community in which they live;
 - 2.7.6 Are individually and collectively with a **power of discernment** to judge laws and actions being either good or not good for themselves and / or for their community;
- 2.8 The Plaintiffs as thus described shall hereinafter be known in this context. The term **Honourable Plaintiffs** may also be used to name and to describe the Plaintiffs. The Plaintiffs in the context of this Statement of claim may also be referred to hereinafter as person(s) or humans or human beings or sovereign natural persons.

3.0 SUB GROUPS

- 3.1 A number of the Plaintiffs are members of an association of elector's' which association is known to the federal and state communities as **UPMART**, which is an association of elector's' involved in initiatives that uphold inalienable human rights. The members of UPMART are a sub-group of this group proceeding.
This group proceeding is an initiative of the Association of UPMART, however the initiative is open to members of the general public to join into. Consequently the number of members in this proceeding is swelled by a large proportion of members from the general community, which members represent the interests of the greater community in this matter and not necessarily all the interests of the sub-group of UPMART.

4.0 The Plaintiffs

- 4.1 Claim they are each individually and collectively *with* inalienable [natural law rights](#) and [common](#)

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[law rights](#) and/or [divine law rights](#) to appoint or donate power to persons of their choice, who are not legal practitioners within the meaning of the **Legal Practices Act 1996** (Vic), to represent them or co-present with them in their matters in any State or Federal Court or Tribunal within the Commonwealth of Australia.

- 4.2 Who are members of the sub-group known as UPMART, **further** claim that the members of their association are a special sub-case of the aforementioned claim (of 4.1) by virtue of the fact of their association.
- 4.2.1 UPMART members claim it is their right to choose members from *within* their own association to represent *other members of their association* in the matters that pertain to the *causes of existence and the initiatives of their association*, and that such right is a special case of the aforesaid natural, common and divine law rights.
- 4.2.2 That the association is in itself a group proceeding in cause of action upon their initiatives, and as such must be accorded the right of representation granted to all group proceedings in a manner similar to that as described by the act in order 18A.
- 4.2.3 That the members of this association are engaged in action in political protest against certain of the laws of the states and other matters that are in the public interest, and that the denial of the ***right of representation of an association*** is unlawful.

5.0 TWO CATEGORIES OF PLAINTIFFS. The Plaintiffs fall into three categories.

5.1 PLAINTIFFS DENIED RIGHT OF REPRESENTATION.

Being those persons who are aggrieved by a past decision of person(s)-presiding to deny them the right of representation. The list of these donors that have been denied right of representation includes but is not limited to Josepha van ROOY, Andrew MOYLE, Darko POSTRUZIN, Ljubica POSTRUZIN, Anthony MORTON, Carol MORTON and Alison COOK, all of whom are Plaintiffs in this proceeding, having provided to the 1st named Plaintiff an Enduring Power of Attorney and a Notice of Appearance.

Power of Attorney documents and Affidavits of the Plaintiffs regarding this group proceeding are attached as exhibits in the ***Affidavit of Malcolm McClure***.

Those enduring Powers of Attorneys of Plaintiffs in this proceeding and other probative documents that are not included as exhibits in the ***Affidavit of Malcolm McClure*** are available for inspection at a mutually agreeable location to the parties in this matter upon request of the 1st named Plaintiff,.

5.2 PLAINTIFFS FEARFUL OF BEING DENIED RIGHT OF REPRESENTATION.

Liberty to join this proceeding is open to those persons who are not yet joined in this proceeding, but who are fearful that they may be aggrieved by virtue of the fickle nature of the person(s)-presiding and for other grounds for the right of representation that are stated herein and to which they have a cause of action.

6.0 MATTER IN PUBLIC INTEREST. The Plaintiffs claim that this Matter is in the public interest.

The objectives of this ***statement of claim*** either directly affect or have the potential to directly affect all members of our community who have cause to appear as a party to a court proceeding in any court in the state of Victoria, the nature of which effects include but are not limited to their choice of legal representation.

The number of the Plaintiffs who have appeared in this group proceeding to the [group representatives](#) is large, being over 200 natural persons at the *date of the Writ lodgment*, with *numerous* additional persons making an appearance thereafter.

7.0 COSTS SOUGHT BY PLAINTIFFS TO BE MET BY STATE OF VICTORIA. The Plaintiffs claim that because this matter is in the public interests that the cost of this proceeding must be met by the state of Victoria.

8.0 DEFINITIONS. <i> In this ***Statement of Claim*** the Plaintiffs define that :

- 8.1 **Donor(s)**. The **person(s) A**, who appoints or donates power to the **person(s) B**, to represent

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- person(s) A** or co-present with **person(s) A** in their matter shall be named the **donor(s)** of the power.
- 8.2 **Donee(s)**. The **person(s) B** to whom power is donated shall hereinafter be named as either the **donee(s)** or the **Appointed Representative(s)** or the **Appointed Presenters**.
- 8.3 **Instrument-of-appointment**. The legal instrument used by **person(s) A** to appoint or donate power to **person(s) B** shall be named the **instrument-of-appointment** or the **instrument-donating-power**.
- 8.4 **Method for establishing an instrument-of-appointment**. The **instrument-of-appointment** or the **instrument-donating-power** by the donor, to the donee, may be established either:
- 8.4.1 by way of service by the donor upon the donee of a **Power of Attorney** in a form similar to that used by the Plaintiffs to co-join in this matter; and /or
- 8.4.2 by way of **verbal donation** of said power by the donor to the donee which verbal donation is witnessed before a magistrate or judge in a court or tribunal proceeding, which proceeding is probative to the donor's matter.
- 8.5 **right of presentation**. The right of **person(s) A** to **self-present** in his /her matter in any court.
- 8.6 **right of representation**, or **right of re-presentation**. The right of **person(s) A** to be represented by, or to co-present with, **person(s) B** in his /her matter in any court.
- 8.7 **Right of representation in a group proceeding**. The right of a lay-person to present the matter of a group on behalf of the group in a group-proceeding pursuant to common law as codified in **order 18A** of the Supreme Court Rules.
- 8.8 **Right of representation in association**, or the **Right of representation via association**,
The right of a lay-person who is a member of the association to present or to co-present
- 8.8.1 a matter that pertains to the interests of the association or
- 8.8.2 a matter on behalf of one of the members or the association, which matter pertains to the interests of the association.
- 8.8.3 on behalf of the members of the association in a group-proceeding.
- 8.9 **Authorities for the right of representation**. The authorities that are *with* person(s) A or that are *cited* by person(s) A as the legal grounds to have his /her matter represented by, or co-presented with person(s) B.
- 8.10 **Court**. A court or tribunal of competent jurisdiction such as Federal, or State courts or any other court, before which a **right of representation** or **right of presentation** is sought to be exercised by a donor.
- 8.11 **Presiding-person** or **person(s)-presiding** or **person(s) C**. The judge or magistrate or master or registrar or any person that is presiding in a court shall be named as **person(s) C** or the **Presiding-Person(s)** or the **person(s)-presiding**.
- 8.12 **Denial of legal representation**, or **denying legal representation**. A verbal or written *act* by **person(s)-presiding** to deny or to facilitate the denial of, the **right of representation** in the face of an **instrument-donating-power** that is presented to the **presiding-person** by either the **donor** or the **donee**.
- 8.13 **Authorities against the right of representation**. The authority that is with or that is cited by a presiding-person as legal grounds for denying the right of representation to person(s) A in their matter shall be named the **authorities against the right of representation**. These authorities include statute laws, regulations, court rules and the presiding-person's purported discretionary authorities.
- 8.14 **Natural law**. The laws that beget, permeate and sustain all creation. The laws at the foundation of the existence of matter, space, time, energy, life, and the human body, mind, spirit and soul. Persons have varying capacities and abilities to understand the natural law, and apply those understandings in order to satisfy the requirements of social justice and human flourishing.
- 8.15 **Natural law rights** are those rights that are *with* a person as an inseparable part of the *person's existence*. A *person's existence* is manifested, seen and observed in the existence of the person's physical-body, mental-body, soul-body and spirit. **Natural law rights** are intrinsic to and inseparable from a person's existence, and to the quality of living enjoyed by the person in their existence. **Natural law rights** are sought to be lived by a person in pursuit of the continuance of and /or increase in the *person's existence* and the quality of that existence. Natural law rights are **absolute rights** in the sense that natural law rights can only be denied to a person, or temporarily

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/ permanently ceded by the consent of the person, but never removed from a person. For example, the right to breathe is denied to a person if that person is drowned or suffocated by another person, but the right to breathe remains with the person until it is extinguished by death of the person. The right to eat may be ceded by a mother as she gives the last of her food to her young dependent child. Denial of natural law rights to a person may cause the *person's existence* to temporarily or permanently diminish. Examples of a person's *natural law rights* are the 'right of self-defence and the right to obtain assistance for the purpose of self-defence.

- 8.16 **Common law** is defined into many classes. Common law is human law.
- 8.16.1 "That which derives its force and authority from the universal consent and immemorial practice of the community"
O.E.D.: THE SHORTER OXFORD ENGLISH DICTIONARY ON HISTORICAL PRINCIPLES 1933, Third Edition, reprinted 1968 Oxford University Press, Ely House, London W.I .
- 8.16.2 Ibid O.E.D. "The unwritten law derived from the traditional law of England.
- 8.16.3 Butterworths legal dictionary. 1997 "The unwritten law derived from the traditional law of England and as developed by judicial precedence, interpretation, expansion and modification. *Dietrich V R* 1992 177 CLR 292 at 319-20; 109 ALR 385. The common law creates specific criminal offences, contains rules of evidence and practice and procedure, and sets out the rights and privileges of citizens. In the Code Jurisdictions the common law has been replaced by statute so far as criminal offences are concerned but otherwise the common law still applies... Generally a statute will not be taken to have repealed the common law unless it explicitly or implicitly shows such an intention. *Fuller V R* (1994) 34 NSWLR 233; *Corporate Affairs Commission (NSW) V Yull* (1991) 172 CR 319 at 322,338. A law interfering with a common law right of a citizen will generally be taken to be consistent with the common law so far as possible unless there is a clear legislative intention to abolish or limit the common law right: *Coco v R* (1994) 120 ALR 415.
- 8.17 **Common law rights**. Ancient rights and codes that are individually and severally with the members of a community that have been practiced by and within the community for a period of time that cannot be measured but which time period is beyond living memory, and 'before legal memory' which the (U.K.) *statute of Westminster I* 1275 fixed at 1189 AD. For example, the common law right of person A to choose a person B as his/her champion to act in his/her stead is ancient and has been practiced in many communities before legal memory.
- 8.18 **Divine law** or **Bible codified common law** Is defined as those laws and codes of conduct for humans as written in the **King James Bible 1611**, especially the New Testaments. The laws and codes of conduct found in the King James Bible 1611 are defined as **divine law** or **bible codified common law**. The apostles of the New Testament, for example, wrote of many social and spiritual principles that are the guiding principles for our community. The Commonwealth of Australia is founded on the Christian faith, and this faith permeates our laws and our culture. The Australian Federal Constitution and Commonwealth of Australia is founded upon the blessing of Almighty God (see preamble to the Constitution). Pursuant to **Senate Standing Orders**, order 50 the Federal Parliament convenes with a prayer.
- 8.19 **Divine law rights**. Those rights, privileges and gifts given to man by God, as codified in Genesis and the other books within the Old Testament and the New Testament of the **King James Bible 1611**.
- 8.20 **Legal Practitioner**: In the meaning of the legal practice Act 1996, being "a person admitted to legal practice in Victoria or an incorporated practitioner and includes (a) an interstate practitioner. (b) an interstate practitioner who has established a practice in Victoria" which includes lawyers, barristers, solicitors and persons admitted to the bar.
- 8.21 **Lay-person** In this statement of claim means a person who is not a Legal Practitioner.
- 8.22 **Group-representative(s)** ,The group representative(s) for this matter pursuant to **order 18A** of the supreme court rules.
- 8.23 **Barrister**, by definition in the ¹*Butterworths legal Dictionary* (ISBN 0409 30722X) 1997, is a class of legal practitioner who is by law or custom limited to advocacy and advisory work, in any field of the law. In New South Wales, a barrister is a person admitted as a legal practitioner holding a practicing certificate issued by the Council of the New South Wales Bar Association rather than one issued by the Council of the Law Society of New South Wales

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(NSW) Legal Profession Act 1987 s3(1) and is consequently subject to the rules of the Bar Council: NSW Legal Profession Act 1987 s 57 D(1). In Queensland a barrister is a person admitted to practice as a barrister rather than as a solicitor: (QLD) Legal Practitioners Act 1995 s44. In the remaining jurisdictions where the legal profession is fused, a barrister is a person admitted to practice in the dual capacity of barrister and solicitor, however described, who is a member of the local bar association and subject to the rules of that association. Local bar rules vary but generally they restrict direct client access, require members to refrain from performing the work of solicitors, and require members to operate as sole practitioners. The bar is comprised of junior counsel or "members of the outer 'bar' and senior or Queen's Counsel. Also known as 'counsel'

- 8.24 **Bar table.** The place where barristers and advocates sit in court. It is traditional bar table seating etiquette that counsel for the plaintiff, appellant, or applicant are seated on the left hand side of the bar table and that counsel for the defendant or respondent are seated on the right hand side. Solicitors instructing counsel do not sit at the bar table when counsel have been briefed. In matters involving a jury, plaintiffs; counsel are seated nearest to the jury box.
- 8.25 **Barrier to entry.** A market condition such that potential entrants to the market face costs greater than the market incumbents. Such barriers may be a result of technological, **legal** or **other conditions** ... The presence or otherwise of such a barrier is a critical factor in determining whether a potential entrant can compete with the incumbent. Ibid ¹.
- 8.26 **Competition.** In **trade and commerce**, rivalrous market behaviour. The antithesis of competition is undue market power. The competitive state of a market can be determined from its structure, including: the number and distribution of independent sellers, especially the degree of market concentration; the height of barriers to entry; the extent of product differentiation; the character of vertical relationships; and the nature of any stable arrangements between firms which restrict their ability to function independently: Ibid ¹

9.0 **PLAINTIFFS CLAIM RIGHT OF REPRESENTATION.** The Plaintiffs claim:

- 9.1 It is their right to exercise their **right of representation** in a **court** in the capacity as either a **donor** or a **donee** of the **right of representation** especially for non-indictable matters.
And
- 9.2 That the presiding-person is duty-bound at law or otherwise compelled at law to accept and facilitate the right of representation by a donee, pursuant to the will of the donor, when the donee is able to provide to the presiding-person an instrument-of-appointment.
- 9.3 That the dispensations and lenience granted or provided by a court to an un-represented lay-person are incumbent upon a presiding-person to also grant to or provide to a donee.
- 9.4 That in a **court** the **authorities against the right of representation** that are relied upon by presiding-person(s) to **deny** the **right of representation** to the Plaintiffs must, at law, give way to **authorities for the right of representation** that are relied upon by the Plaintiffs to be granted the **right of representation**. The natural law, common law and divine law authorities and rights that are grounds for the right of representation are greater authorities and rights than the statutory or discretionary authorities against same.
- 9.5 That any provisions within a statute to deny right of representation are ultra-vires the authority of the parliament of Victoria to enact, and are ultra-vires the power and the authority of the **presiding-person** to enforce. Such provisions are against the public interest. Within the community of the Commonwealth of Australia, in the state of Victoria, there exists a community of individual souls which
- 9.5.1 Does not consent to the denial of their right of representation by presiding-person(s)
- 9.5.2 Who have stripped bare the illusion of the status quo of the system to which they have been asked to submit.

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10.0 PLAINTIFFS DENIED RIGHT OF REPRESENTATION.

The Plaintiffs claim the *person(s)-presiding*:

- 10.1 have denied to certain of the Plaintiffs their **right of representation**.
and
- 10.2 have on other occasions granted the right of representation to certain of the Plaintiffs
and
- 10.3 are fickle in the exercise of their authority to either grant or not grant the right of representation to the Plaintiffs.

11.0 RIGHT OF REPRESENTATION ESTABLISHED BY PERSON(S)-PRESIDING.

- 11.1 The occasions where person(s)-presiding have granted the right of representation to the Plaintiffs and to other persons within the state of Victoria, in either the presence or absence of an [instrument-of-appointment](#) , have established, at common law, the common law rule and legal precedence **for** the right of representation.

12.0 PLAINTIFFS HAVE CONCERNS

The common concerns and fears of the Plaintiffs are many. Each Plaintiff has their own individual concerns, but many are common. Numerous common concerns are presented throughout this statement of claim. Three further concerns are herewith presented.

- 12.1 The Plaintiffs claim the fickle nature of the exercise of the purported discretionary power of a presiding-person regarding the granting to the Plaintiffs of the right of representation is disruptive to legal procedures and creates uncertainty for the Plaintiffs.
The Plaintiffs are concerned regarding the fickle nature of person(s)-presiding with respect of their right of representation and are not able to proceed in their matter with certainty as to the method.
- 12.2 The Plaintiffs fear that at some future time they shall be denied their right of representation by a presiding-person.
- 12.3 The Plaintiffs fear that they may be forced and coerced to use a legal representative against their will, with such force and coercion being applied by the presiding-person and/or the police. The Plaintiffs cite the matter of Mr. Jerry Kobylski vs. Police in the magistrates court of Queensland, sitting at Southport on 30th September 2004. where Mr. Jerry Kobylski was incarcerated for not using a legal representative as suggested by the presiding-person, Magistrate Costello. Knowledge of this example of the violation of rights by the courts has spread wide and far throughout the community, and is well known to the Plaintiffs. Similar events have occurred within the state of Victoria, where second-lay-persons by orders of the person-presiding have been arrested and /or charged with contempt of court and/or have been evicted from the court. Were the right of representation in place these events would not occur and second-lay-persons would not be at risk of enduring these occurrences.

13.0 PLAINTIFFS HAVE SUFFERED.

Pursuant to acts of **denial of legal representation** by person(s)-presiding it arises that the Plaintiffs have either suffered, or fear that they may suffer:

- 13.1 A denial of natural justice in any of their current or future legal matters.
- 13.2 damages for which damages are not sufficient.
- 13.3 Interference by the State of Victoria in a contract for provision of a service by one person to another. The contract is that of the agreement between the donor and the donee for the provision of a service. The person(s)-presiding have interfered with this contract.
- 13.4 In the event that:
 - A. the Plaintiffs do not want to represent themselves
AND
 - B. a **second-lay-person**, being a friend, family member or associate, is available who is sufficiently competent to be their representative, which person is willing to be the Plaintiffs representative, but the presiding-person does not permit this.
AND

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C. the Plaintiffs are then **forced** to use a legal representative,
Then in this event, it is that the Plaintiff(s)

- a. have been forced to incur costs against their will.
 - b. have been forced to use a legal-representative against their will, when alternative lay-persons are available
 - c. have been forced to do an act against their will, that is against their interests.
- This damage would not occur were the right of representation permitted by the person-presiding.

14.0 PLAINTIFF'S WILL IS TO NOT ALWAYS USE LEGAL REPRESENTATIVES.

It is the will of the Plaintiffs to **not always use legal practitioners** on grounds, that include, but are not limited to:

14.1 PROHIBITIVE COSTS OF LEGAL REPRESENTATIVES.

The prohibitive costs of legal practitioners such as barristers, lawyers and solicitors.

14.2 USE OF LEGAL REPRESENTATIVES IS AGAINST RELIGIOUS BELIEFS.

Those members of this proceeding who uphold the teachings of Jesus Christ are opposed to using lawyers and solicitors.

Luke 11:45 "Then answered one the lawyers, and said unto him, master, thus saying thou reproachest us also."

Luke 11:46 "And he said, Woe unto you also, ye lawyers! for ye lade men with burdens grievous to be borne, and ye yourselves touch not the burdens with one of your fingers"

Luke 11:52 "Woe unto you, lawyers! for ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered."

14.3 POLITICAL PROTEST TO BOYCOTT USE OF LEGAL REPRESENTATIVES.

Pursuant to **section 51-35** of the **Commonwealth of Australia Constitution Act**, the right of political protest is available, at law, to the Plaintiffs. The High Court has upheld this right in many case precedents e.g. *Levy vs State of Victoria 1977*, *Lange v The Australian Broadcasting Corporation S109/1996 (3 March 1997)*. The Plaintiffs are living their right of political protest in this matter, as a means to bring about change to the judicial systems and operations within the courts.

The Plaintiffs are engaged in an active political protest to **not use** legal representatives on grounds, that include, but are not limited to, the following causes.

- 14.3.1 PROTEST TO END LEGAL REPRESENTATION MONOPOLY. The will of the Plaintiffs to not support the legal monopoly held by legal representatives. This is a political stand and a political protest against the monopoly on legal representation that is enjoyed by barristers, lawyers and solicitors that arises from the effect of the **Legal Practice Act 1996 (Vic)**. The Plaintiffs are engaged in active political protest against the monopoly and choose not to endorse this monopoly.

Certain of the Plaintiffs that are active in this political protest AND who do not want to represent themselves in their matters AND who are then forced to either use a legal representative when an alternative sufficiently competent lay-person is available, or to represent themselves, then it is that in those cases the Plaintiffs are effectively denied their right to be involved in an active political protest, and are simultaneously suffering damages. High court rulings are in favor of the Plaintiffs regarding this protest see for example **Levy vs State of Victoria & Ors 1997**.

- 14.3.2 LEGISLATION AND RULINGS AGAINST MONOPOLIES.

Legislation and legal precedence exists that prohibits monopolies. The legislation includes but is not limited to

- 14.3.2.1 the **[1623-4] or 21 and 22 James I c. III ss1, 6]. Statute of Monopolies** which is law in the state of Victoria, by way of the state of Victoria being a member state of the **Commonwealth of Australia**, and bound by certain provisions within the **Commonwealth of Australia Constitution Act**. This statute is incorporated as law by virtue of the **Imperial Acts Application Act 1980 (Vic)** Act No 9426 / 1980,

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in Division 4 of that Act.

14.3.2.2 the **Australian Industries Preservation Act 1906** sections 4 and 7, of which was assented to on 24th September of that year. Sec. 4 provides that:—(1) Any person who, either as principal or as agent, makes or enters into any contract, or is or continues to be a member of or engages in any combination, in relation to trade or commerce with other countries or among the States— (a) With intent to restrain trade or commerce to the detriment of the public: is guilty of an offence.

The High court has many clear examples of rulings regarding monopolies. Eg. **Cable & Wireless Optus vs. Commonwealth of Australia**.

14.3.3 **PROTEST AGAINST LEGAL IMMUNITY.**

The decisions in *Giannarelli v Wraith (1988)* [165 CLR 543](#) where

(a) at common law an advocate cannot be sued by his or her client for negligence in the conduct of a case in court, or in work out of court which leads to a decision affecting the conduct of a case in court; and

(b) in 1891 (the date at which the extent of the liability of a barrister was fixed by the *Legal Profession Practice Act 1958* (Vic) ("the LPPA")) an advocate was immune from suit for allegedly negligent acts or omissions committed in court in the conduct of civil or criminal litigation, or committed out of court but leading to a decision affecting the conduct of a case in court,

These decisions provide for immunity of barristers and lawyers from negligence suits.

This decision has been upheld in *D'Orta-Ekenaike v Victoria Legal Aid [2005] HCA 12 (10 March 2005)* on the grounds that a central tenet of the judicial system was the "need for certainty and finality of decision... The immunity of advocates is a necessary consequence of that need."

The Plaintiffs claim that there is little or no accountability of legal practitioners or that the process to bring about a claim against a legal practitioner is very difficult and time consuming.

The Plaintiffs are in political protest against the immunity enjoyed by legal representatives from negligence suits. This political protest takes its form in an active boycott from using legal representatives. We say that common law jurisdictions such as England, Canada, and New Zealand HAVE REMOVED THIS IMMUNITY and that the High Court is out of step with the legal world. Medical practitioners, specialists, physicians and surgeons, anesthetists, teachers, architects, civil engineers, dental surgeons, electrical contractors, people who give financial advice, police, builders, pilots, solicitors (for out-of-court advice) can be sued for negligence whereas lawyers for trial work cannot be sued for negligence.

14.3.4 **PROTEST AGAINST RESTRICTION TO THE FREE MARKET OF LEGAL REPRESENTATION.**

The legal profession, like all professions, has exponents of that profession who are not formally qualified in the traditional sense of academic qualifications, but who, in the particular field of law in which they have experience have, nonetheless, developed competency. Such lay people have, in effect, done their apprenticeship through experience and study, and whilst not necessarily being fully familiar with all the dynamics and considerations of a qualified and experienced legal practitioner are adequately competent to perform certain legal tasks.

There exists a **Barrier to entry** into the market of legal representation that arises from legislation and traditional practices in the legal system in the State of Victoria and other states.

14.3.5 **PROTEST AGAINST DISCRIMINATION AND UNFAIR POLICE ADVANTAGES..**

Police prosecutors at the magistrate's or local courts are not usually qualified members of the bar, and yet are permitted to act as legal representatives and put forward legal arguments in the courts AND have multiple assistants that are not usually legal

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practitioners or members of the bar. Police move to and fro in the court as they please. They provide information, advice and council. This is grossly unfair to un-represented defendants.

The Plaintiffs however are only allowed to stand by themselves, and assistance cannot be provided to them except by leave of the court. The court arena is stacked greatly against the PLAINTIFFS and heavily in favor of police prosecutors.

14.3.6 **PROTESTS AGAINST HAVING RESTRICTED CHOICE TO USE BARRISTERS OR SOLICITORS WHOSE FIRST DUTY IS TO THE LEGAL SYSTEM AND NOT TO THE CLIENT.**

The first duty of legal representatives (Barristers, solicitors, lawyers etc) is not to the client they represent, it is to the rules of the bar association or other entity. The second duty is to themselves and their last duty is to the client.

This situation is objected to by Plaintiffs.

14.4 **MONOPOLY IS ANTI-COMPETITIVE.** The legal representation monopoly destroys competition and removes the incentive for legal practitioners to perform well. Certain of the Plaintiffs have experienced this lack of incentive and lack of performance by legal representatives. It is well established in the community that legal practitioners are not to be relied upon and that many of their number are without ethics and principles. It is the will of the Plaintiffs to not use the services of legal practitioners, because of personal concerns that their interests, or the interests of the public / community, are not the first priority of the legal practitioner.

14.5 **PLAINTIFF'S DISADVANTAGED IN COURT.** In the present arena of the court the Plaintiffs claim they are greatly disadvantaged in certain of their matters, especially in those matters that are concerned with summary charges brought against them by the police. The Plaintiffs disadvantages exists due to a conflict of interest between the presiding-person and the police prosecutor, as they act in unison in the interests of a third party which third party has interests that are against the interests of the Plaintiff.

High Court Justice McHugh says a lawyer's first duty is to the court and that the law sometimes required a lawyer to act contrary to the interests of a client. *D'Orta-Ekenaike v Victoria Legal Aid [2005] HCA 12 (10 March 2005)*

The first duty of a legal practitioner is to the court and the bar, the second to himself and last to the person who is paying him. Many of the Plaintiffs know that it would be foolish of them to pay money to a legal practitioner who does not put their interests first, and who will "roll over" to the will of a third party when that third party so demands.

Solicitors, barristers and lawyers are in service to the bar, and themselves first, and then the client. The Plaintiffs feel they would be further disadvantaged, in certain of their matters, by use of a legal-practitioner.

The fact that the interests of the bar and the court are put before the interests of the Plaintiffs is conflict of interests that is with the legal practitioner which is in conflict with the interests of the Plaintiffs.

14.6 **Legal practitioners not familiar and or motivated with the cause of action.** Those Plaintiffs who are members of the sub-group of UPMART do not want to use legal practitioners for the grounds as aforesaid and also because

14.6.1 the legal practitioners are not members of their association and are not in the same spirit as the members.

14.6.2 No legal practitioners have been found who support the initiatives of the association and

14.6.3 Legal practitioners cannot participate in the initiatives because of their beliefs and because of their respective oaths as legal practitioners and conflicts of interest arising therefrom.

The members uphold that it is their right to choose one of their own members to represent themselves in their matters that are the matters of the causes of existence of the association of

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UPMART.

- 15.0 **PLAINTIFFS DISADVANTAGED.** The Plaintiffs are greatly disadvantaged in legal proceedings in the current judicial system. Their disadvantaged position manifests itself in many ways, which include but are not limited to:
- 15.1 lay persons have been frequently and continually denied by the presiding-person the assistance of a McKenzie friend to sit with them at the bar, and being so denied the lone Plaintiff may then have to stand against professional and very experienced legal practitioners, who have far greater experience, knowledge and personal presentation capacities.
AND
 - 15.2 on many occasions when person(s)-presiding have permitted a McKenzie friend, pursuant to the rulings of McKenzie vs. McKenzie 1970 3 WLR 472, the “friend” has been ordered to sit behind the Plaintiff. The effect of this order has been to disrupt the quick and spontaneous communication that must occur between the Plaintiff and his McKenzie friend. Although an un-represented accused does not have a right to a McKenzie friend: *Smith v R (1985) 159 CLR 532; 71 ALR 631*. the trial judge has complete discretion to refuse an accused person’s request for the assistance of a McKenzie friend as friends are considered disruptive and will only be permitted in rare and exceptional cases. However such considerations on the part of the persons-presiding are opinions, not supported by probative facts relative to the persons involved.
 - 15.3 provisions within the **Legal Practice Act 1996** make provisions that strengthen the position of legal practitioners at the bar, whilst weakening the position of the Plaintiffs. For example, s65 Co-advocacy. Says
(1) In any proceeding, 2 or more current practitioners may appear together as co-advocates. There is a clear advantage to the prosecution, with having the resources of more than one practitioner, whilst the Plaintiffs have been compelled to stand against the prosecution by themselves.
- 16.0 **PLAINTIFFS HAVE A RIGHT TO NOT USE LEGAL REPRESENTATIVES.** It is the right of the Plaintiffs to **not use** legal representatives, such right exists because:
- 16.1 It is their right pursuant to their free will.
 - 16.2 The effective monopoly of legal representation is counter to the interests of the community and against the interests of individuals within the community.
 - 16.3 forced use of legal representatives is anti-competitive. (see case of [Jerry Kobylski](#))
 - 16.4 forced use of legal representatives is against religious beliefs.
- 17.0 **PLAINTIFFS HAVE RIGHTS TO USE LAY-PERSONS TO REPRESENT THEM.**
The rights of the Plaintiff to use a lay-person to represent them in their matter are many. The rights exist in **natural law, common law and bible codified common law**. Here are a few of the many grounds for a natural person to represent another natural person in any court
- 17.1 **Natural law.** There are many natural laws that rule and the Plaintiffs right to appoint a lay-person as their **representative**. Those same natural laws provide for the right of the donee to accept the appointment AND they bind the court to accept the appointment since a denial of the appointment would be a breach of the rules of natural law and natural justice. For example, in a group of living organisms, it is often the case where particular member(s) of the group take on specialized roles. A simple example of this is the beehive, where there are worker bees, drones and a queen. Bees organize themselves to perform specific functions. The bees taking on those functions do them naturally in accordance with their genetic make up and capacities arising therefrom. It is the same with communities of whales, dolphins, lions, dogs and other mammals that live in groups. It is certainly the same for humans. In the case of certain of the Plaintiffs, regarding their court matters and the law, they have less legal experience and expertise than other of the Plaintiffs, and so pursuant to natural law, those with less experience, confidence or competency appoint those persons with greater experience, confidence or competency as their representative.

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17.2 **Common law** is the law of tradition of the community. In the ancestry of the Plaintiffs, and within the communities of the Plaintiffs now living within Australia, there exists a common law that permits any person to represent another person in legal matters if that representation be the will of the parties concerned. No other third person has the right to deny that representation. The situation of people taking sides in an argument is a good example of both the common law and natural law in operation at the same time.

17.3 **Bible codified common law.** There are many examples within the bible of the mediatorial role of Christ Jesus where He intervened on behalf of others in daily matters. The attempt by any magistrate to veto this bible codified right is an attempt to veto a constitutional right pursuant to section 116 of the Australian Constitution. Herewith is a brief study of the mediatorial role of Christ.

The Pharisees were men of high rank in Jesus' day. They ruled over the people and matters of court were heard before the Sanhedrin. The people would live or die according to how these men passed judgment. Jesus himself contested with them many times and was crucified because of them.

The apostle Paul laid great emphasis on the mediatorial role of Christ in his epistles to the Christians of his day. This strong Christian doctrine is evidenced in his 1st letter to Timothy chapter 2 and verse 5. Here is what Paul wrote, 'For there is one God, and one mediator between God and men, the man Christ Jesus'

However, Jesus' mediatorial role was not restricted to that as mediator between God and men. There is ample proof of the fact that Jesus, whilst here in the flesh, mediated **between the common man** and the religious rulers of the day.

The following are from the gospels of Matthew, Mark, Luke and John.

Mathew 9v 10-13 *"And it came to pass, as Jesus sat at meat in the house, behold, many publicans and sinners came and sat down with him and his disciples. And when the Pharisees saw it, they said unto his disciples, "Why eateth your master with publicans and sinners?" But when Jesus heard that, he said unto them, They that are whole need not a physician but they that are sick. But go and learn what that meaneth, I will have mercy, and not sacrifice: for I am not come to call the righteous, but sinners to repentance.*

Jesus answered on behalf of his disciples and is thus mediating for them and representing them.

6 v1-5 *And it came to pass on the second Sabbath after the first, that he went through the corn fields; and his disciples plucked ears of corn, and did eat, rubbing them in their hands. And certain of the Pharisees said unto them, Why do ye that which is not lawful to do on the Sabbath days? And Jesus answering them said, have ye not read so much as this, what David did, when himself was an hungered, and they which were with him; How he went into the house of God and did take and eat the shewbread, and gave also to them that were with him, which it is not lawful to eat but for the priests alone? And he said unto them, That the Son of man is Lord also of the Sabbath.*

Jesus answered on behalf of his disciples and is thus mediating for them and representing them..

Luke 13 v 14-17. *And the ruler of the synagogue answered with indignation, because that Jesus had healed on the Sabbath day, and said unto the people, there are six days in which men ought to work: in them therefore come and be healed, and not on the Sabbath day. The Lord then answered him, and said, Thou hypocrite, doth not each one of you on the Sabbath loose his ox or his ass from the stall, and lead him away to watering? And ought not this woman, being a daughter of Abraham, whom Satan hath bound, lo, these eighteen years, be loosed from this bond on the Sabbath day: And when he had said these things, all his adversaries were ashamed: and all the people rejoiced for all the glorious things that were done by him.*

A ruler here in the opening verse (but read the three verses prior to this to complete the scene) is acting with the view to implement a proclamation upon the people. The people would have hearkened to him because of the fear of these rulers under whose rule they lived. However, Jesus, as always, wanting the people to experience the liberty he offered, knew that what this man was purporting, was not in the best interests of the people. Mediating for the people, once again, he sharply rebukes this

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man for gross hypocrisy. It shall be noted in the last line it says, 'the people rejoiced'
John 8v3-11 *"the scribes and Pharisees brought unto him a woman taken in adultery, and when they had set her in the midst, they say unto him, Master, this woman was taken in adultery, in the very act. Now Moses in the law commanded us, that such should be stoned: but what sayest thou? This they said, tempting him, that they might have to accuse Him. But Jesus stooped down, and with His finger wrote on the ground, as though he heard them not. So when they continued asking him, he lifted up himself, and said unto them, He that is without sin among you, let him first cast a stone at her. And again he stooped down and wrote on the ground. And they which heard it, being convicted by their own conscience, went out one by one, beginning at the eldest, even unto the last: and Jesus was left alone, and the woman standing in the midst. When Jesus had lifted up himself, and saw none but the woman, he said unto her, Woman, where are those thine accusers? Hath no man condemned thee? She said, No man, Lord. And Jesus said unto here, Neither do I condemn thee: go, and sin no more.*
Jesus again mediates and represents, this time saving a woman's life.

- 17.4 **Advocacy can be by any person for any person.** Expertise and knowledge of the law is not restricted to those who have qualifications in law or who are otherwise solicitors or lawyers. Being a lawyer is not proof of competency or good virtue.
John 7 v 15-16 *"And the Jews marveled, saying, How knoweth this man letters, having never learned? Jesus answered them and said, My doctrine is not mine, but his that sent me.*
Mathew 13 v 54-57. *"And when he was come into his own country he taught them in their synagogue, insomuch that they were astonished and said, Whence hath this man this wisdom, and these mighty works: Is not this the carpenter's son? Is not his mother called Mary? And his brethren, James, and Joses, and Simon, and Judas and his sisters, are they not all with us? Whence then hath this man all these things? And they were offended in him.*
Mathew 22 v 15, 35-40. *Then went the Pharisees, and took counsel how they might entangle him in his talk. Then one of them, which was a lawyer, asked him a question, tempting him, and saying, Master, which is the great commandment in the law? Jesus said unto him, Thou shalt love the Lord they God with all thy heart, and with all thy soul, and all they mind. This is the first and great commandment. And the second is like unto it, Thou shalt love they neighbour as thyself. On these two commandments hang all the law and the prophets.*
Luke 11 v 52 *Woe unto you, lawyers! For ye have taken away the key of knowledge: ye entered not in yourselves, and them that were entering in ye hindered.*
- 17.5 Certain of the Plaintiffs are members of the association of UPMART. These members are part of a cohesive group of natural persons that are engaged in causes of action that are similar in nature from one member to the other, which causes have resulted in challenges to themselves from the authorities of the State which authorities are represented by the police of that state and by the courts of the state. It is that pursuant to their will the said members prefer to be represented by their own members in these matters. This is one of the codes of conduct of the members of their association.
- 17.6 **The instruments Act 1958 (Victoria), Section 107.** This statutory law says "A general power of attorney...shall operate to confer (a) on the attorney under the power ...authority to do on behalf of the donor (of the power) anything (other than delegate his powers under the power of attorney) which he can lawfully do by an attorney. One of the lawful things that an attorney may do is to act as a representative in court for the person who is the donor of the power.
- 17.7 When a lay-person (B) is witness to a court proceeding wherein lay-person (A) is self representing and lay-person (A) is not demonstrating competency to defend himself against an abuse of process by the court or other such abuse or inadequacy, then it is a crime or against the public interest for lay-person (B) to be denied the right to intercede on behalf lay-person (A). In fact it is held by the plaintiffs that to **not intercede** is a crime and a breach of a duty at tort and a common law duty of care to members of the community and that **to intercede** is a duty that is incumbent upon community members. The plaintiffs hold that it is a natural instinct to render assistance to persons where needed. A person who has done a first aid course and who does not assist at a scene where his/her skills are needed has breached a duty of care obligation to the community, and may be charged accordingly.

18.0 PLAINTIFFS ACKNOWLEDGE SOME PERSON(S)-PRESIDING WILL PERMIT RIGHT OF

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REPRESENTATION

The Plaintiffs:

- 18.1 Acknowledge that not all **person(s)-presiding** shall deny to them the **right of representation**, but notwithstanding this, it is a fact, that all **person(s)-presiding**, whilst acting in the matters of the Plaintiffs, have capacity and /or purport to have a purported discretionary power to cause the Plaintiffs to endure a **denial of legal representation**, with such denial being:
 - 18.1.1 In the face of an **instrument-donating-power**
 - 18.1.2 in the face of orally submitted grounds, (and of developed arguments associated therewith) for the **right of representation** the headers of which grounds *include but are not limited to* the rights of the donor, that are active and potent in natural law and common law or which rights exist as *bible codified common law* which right is protected pursuant to **s116** of the **Commonwealth of Australian Constitution Act**.
AND
 - 18.1.3 with such **denial of legal representation** being occasioned by **person(s)-presiding** on the grounds of statutes in force in the state of Victoria, namely the **Magistrates' Court Act 1986** or the **Legal Practitioners Act**, which grounds principally revolve around the fact that the donee is not a legally qualified person or is not a member of the bar in the state of Victoria or in any other state.
- 18.2 having encountered or in consideration of encountering Magistrates or Judges whilst living in the Commonwealth of Australia on their matters are desirous to establish a precedent in the Supreme Court of Victoria to the effect that the Plaintiffs be permitted to be represented in their matters by their **Appointed Representative(s)**.
- 18.3 Have joined together in a group proceeding on this matter.
- 19.0 **THE PLAINTIFFS' WILL IS TO BE SOMETIMES REPRESENTED BY LAY-PERSONS.**
Particular Plaintiffs, who are, have been, or who desire to be **donors** to a donee, know that their appointed donee(s) are not legal practitioners within the meaning of the **Magistrates Court Act 1989** or the **Legal Practices Act**. However, notwithstanding this knowledge, the donors still desire to appoint the said donee because:
 - 19.1 the donors have understanding that their appointed **donee** is a *lay-person* and has a **lay-legal-capacity** or **Donee's Legal Capacity**. The **Donee's Legal Capacity** is experience or knowledge in certain types of legal matters or in certain court proceedings or in certain federal, state and imperial statutes or in certain case law or in other areas of law, and /or
 - 19.2 the donor wants their donee to represent them because the donor feels the donee is better suited to represent them for whatever is the donor's reason, and /or
 - 19.3 the donor cannot afford legal representation by a barrister or solicitor and legal aid is not available for their matter, and/or
 - 19.4 the donor opposes the monopoly that solicitors and barristers hold on legal representation and chooses to be represented by a *lay-person* so as not to support this monopoly and /or
 - 19.5 the donor is of the view that **person(s) B** who is not a solicitor or barrister who has gained some capacity at particular areas of law should be allowed to represent another **person(s) A** if that is what **person(s) A** wants and /or.
 - 19.6 the donor prefers to be represented by a friend or associate whom they know and trust rather than a solicitor or barrister and /or
 - 19.7 the donor is of the view that the will of a donor to appoint a lay-person in the donor's matter must be honored, even if the donee is not a solicitor or barrister or member of the bar. and /or
 - 19.8 the donor is of the view that if the donor is deemed competent to elect a person to the senate to run Australia, then they should be deemed competent to elect and choose their representative in court. and /or
 - 19.9 the donor is of the view that the **right of representation** exists pursuant to statutes such as the **Instruments Act 1958** (Vic) or the **Power of Attorneys Act 1998** (Qld) and /or
 - 19.10 the donor is of the view that the **right of representation** is an inalienable natural law right that

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is with the donor and cannot be denied.

19.11 the donor is of the view that the right of representation is a common law or a bible codified common law right.

19.12 The donors are with a conviction that it is their right that both the donor and the donee should be allowed to sit on the bench of the court at the same time and that both donor and donee should be allowed to present the matter.

19.13 the donor desires to have another person beside them for support in the same way as the opposing party is joined and supported.

20.0 **RIGHT OF REPRESENTATION IS A CURRENT PROBLEM TO THE PLAINTIFFS.**

Particular Plaintiffs have had and continue to have matters before the courts and the issue of representation in those matters turns upon the outcome of this proceeding. Thus certain of the Plaintiffs are presently aggrieved and are suffering or likely to suffer damages as a result of the denial of their right of representation by person(s)-presiding.

21.0 **EXAMPLES OF MATTERS WHERE THE RIGHT OF REPRESENTATION WAS DENIED**

The Plaintiffs, Josepha van ROOY, Andrew MOYLE, Darko POSTRUZIN, Ljubica POSTRUZIN, Anthony MORTON, Carol MORTON and others:

21.1 Have had matters in the courts of Victoria, and have either

21.1.1 appointed the first named Plaintiff, Malcolm McClure as their **Appointed Representative** to represent them or to co-present with them in their respective matters. The instrument-of-appointment was / is an **enduring power of attorney**. or

21.1.2 have themselves been appointed by a donor as the donee of an authority granting to them the **right of representation** for or with the donor.

21.2 Irrespective of having an **instrument of Appointment**, the person(s)-presiding denied Mr McClure or other such donee as aforementioned, the right of representation and caused the donor to represent him / herself against his /her will.

21.3 Consequential to the said **denial of representation**, the Plaintiffs have endured damages for which payment of damages is not sufficient.

22.0 **PLAINTIFFS ARE CO-OPERATIVE WITH PERSON(S)-PRESIDING.**

The **Plaintiffs** have been cooperative with the **person(s)-presiding** at all times except upon those occurrences where it has become apparent that the **person(s)-presiding** were in breach of natural law, and/or common law, and/or bible codified common law and /or statute law of the Commonwealth and/or of a statute law or regulations of the state of Victoria and /or were acting outside their jurisdiction, whereupon the Plaintiffs may have peacefully challenged the **person(s)-presiding**.

22.1 The Plaintiffs have met all duty of care obligations required of them at common law and at no time whatsoever have the Plaintiffs caused grievances to the **person(s)-presiding**.

23.0 **PERSON(S)-PRESIDING HAVE CONSTRUCTIVE KNOWLEDGE OF RIGHT OF REPRESENTATION.**

The **person(s)-presiding**,

23.1 Have constructive knowledge of the grounds and authorities upon which the Plaintiffs claim right of representation and have accordingly appointed their legal representatives. In the face of such constructive knowledge have dismissed the Plaintiff's claim.

23.2 Knew or ought to have known that their activities breached their duty of care obligations to the Plaintiffs which obligations exist pursuant to:

23.2.1 Natural law and their duty to afford natural justice to the Plaintiffs

23.2.2 Common law, and the common law right of representation that is with the Plaintiffs.

23.2.3 Bible codified common law, and the rights of representation arising from precedents therein and as protected pursuant to many provisions within the Australian Constitution that are binding upon the State and the courts by virtue of s109.

23.3 Knew or ought to have known that the balance of consideration in their decision regarding the right of representation lies in favour of the Plaintiffs.

23.4

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24.0 AUTHORITIES RELIED UPON BY PERSON(S)-PRESIDING IN COURTS TO DENY RIGHT OF REPRESENTATION IN THE STATE OF VICTORIA.

The legislation that is relied upon by the *person(s)-presiding* to deny the *right of representation* is:

24.1 **The Magistrates' Court Act 1989(Vic)** section 38 which section is headed *Appearance* and says: "A party to a criminal proceeding may appear (a) personally; or (b) by a legal practitioner or other person empowered by law to appear for the party; or (c) in the case of an informant who is a member of the police force, by a police prosecutor; or (d) if the proceeding was commenced by the filing by a prescribed person or a member of a prescribed class of persons of a charge under section 18W(1), 26(1), 31(1), 47(1) or 79(1) of the Sentencing Act 1991, by any other prescribed person or any other member of the prescribed class of persons within the meaning of that Act."

24.2 **The Magistrates' Court Act 1989 (Vic)** section 39 which section is headed *Representation* and says "If--(a) a defendant is charged with an offence punishable by imprisonment; and (b) the defendant is un-represented on his or her first appearance before the Court in respect of the charge--the Court must--(c) ask the defendant whether he or she has sought legal advice; and (d) if satisfied that the defendant has not had a reasonable opportunity to obtain legal advice, grant an adjournment if so requested by the defendant."

24.3 The **Legal Practice Act 1996 (Vic)**

25.0 AUTHORITIES RELIED UPON BY PERSON(S)-PRESIDING IN COURTS TO DENY RIGHT OF REPRESENTATION IN THE STATE OF NEW SOUTH WALES.

In the State of New South Wales, Magistrates have similarly denied to certain of the Plaintiffs the right of representation pursuant to the **Local Courts Act 1982 (NSW)** No 164 which says **Section 50**. Right of representation

(1) An applicant or respondent may appear personally or by a barrister or solicitor or other person empowered by an Act or other law to appear for the applicant or respondent.

Section 51 Conduct of case

(1) The applicant's case may be conducted by the applicant or by the applicant's barrister or solicitor or any other person permitted to appear for the applicant (whether under this or any other Act)

(2) The respondent's case may be conducted by the respondent or by the respondent's barrister or solicitor or any other person permitted to appear for the respondent (whether under this or any other Act).

26.0 OTHER MEANS RELIED UPON BY THE PERSON(S)-PRESIDING IN COURTS TO DENY RIGHT OF REPRESENTATION IN THE STATE OF VICTORIA, AND ALSO IN OTHER STATES OF THE COMMONWEALTH.

26.1 Common law argument by the *person(s)-presiding* that the discretionary power to grant or not grant the right of representation is with the person(s)-presiding in order to:

26.1.1 Control the Court

26.1.2 Facilitate fairness on behalf of an un-represented party, pursuant to the wisdom of the person(s)-presiding.

26.2 Use of security guards and /or police to threaten to remove and/ or to remove the Plaintiffs from the court, where the Plaintiff has peacefully and lawfully sought right of representation.

26.3 Charging the Plaintiffs or threatening to charge the Plaintiffs with contempt of court if they do not comply with the will of the person(s)-presiding.

The Plaintiffs allege and charge that such means as these are an abuse of the power of the persons presiding, and brings both the crown and the court into disrepute, and, for example, in the State of Victoria is a breach of the **Crimes Act 1958**, section 320 and also several other laws. As a result of these practices and violations against the Plaintiffs, the Plaintiffs are losing confidence in the courts and the judicial process. Though relief and remedy sought in this Writ does not extend to these means used by the person(s)-presiding, it is however, a concern of the Plaintiffs that cannot pass without mention. This behaviour of person(s) presiding is not acceptable to the Plaintiffs or the community.

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- 27.0 **OTHER AUTHORITIES AND GROUNDS THAT UPHOLD THE RIGHT OF REPRESENTATION**, include but are not limited to;
- 27.1 Community Polls and surveys that demonstrate that the community will is for the right of representation
- 27.2 Numerous other references from within the ***Annotated Constitution of the Commonwealth of Australia by Quick and Garran***, which include but are not limited to
- 27.2.1 common law principles at the foundation of our constitution. For example the inbuilt provision for and expectation of the evolution of the community will to embrace and grant for itself greater authority and capacity for self-determination both individually and collectively. The evolution of Nationalism is a theme of the founding forefathers of our constitution. Nationalism is rooted in common beliefs and common will of the community, whose people pull together to fulfill a common vision. eg. Page 340 Quick and Garran."... *Nations are made only by great occasions, not by paper constitutions. But the energy will be there, and in the fullness of time, when the opportunity comes, the nation will arise like a bridegroom coming forth from his chamber, like a strong man to run a race. This change will not necessarily imply any conflict with the States, because the people of the States, who are also the people of the nation, will throb with the new life, and will be disposed to yield to the irresistible pressure of nationhood. ...*" Indeed a great event, that builds a nation, is when the people of that nation cry out in one voice and claim for themselves rights, privileges and immunities that they know to be their birthright, and bring forth actions to cause the Administrative structures of Community, Parliament and courts to comply with the new will, the new vision of the people of that community. The people of the Nation thus awaken to a new understanding, a new sense of themselves and a new and greater expectation for themselves, their community and for future generations.
- 27.2.2 Page 791. "*The Federal Parliament and State Parliaments are not sovereign bodies; they are legislatures with limited powers, and any law which they attempt to pass in excess of those powers is no law at all, it is simply a nullity entitled to no obedience...*" The Plaintiffs hold that no provision exists within the Federal or State constitutions that vests within them an authority to deny to the Plaintiffs the right of representation, and *that which is not expressly granted to the Federal or State parliaments is denied to it.*
- 28.0 **JURISDICTION WITH HIGHER COURTS FOR THIS MATTER.**
The courts presided over by the **person(s)-presiding** in the lower courts did not have jurisdiction to hear and determine certain of the legal arguments and grounds raised by the Plaintiff(s) in their defence of their claim for their **right of representation** since jurisdiction in those legal arguments and grounds:
- 28.1 Jurisdiction is with the **Supreme Court of Victoria** being the final interpreter of
- a) Acts assented to by the Parliament of the State of Victoria and/or
- b) certain Common law defences pertaining to the **right of representation**.
- a) matters regarding the openness, fairness and reliability of the Judicial System of the state of Victoria
- 28.2 Jurisdiction is with the High Court regarding interpretation of
- a) the **Commonwealth of Australia Constitution Act** and sections therein that relate to the grounds cited by the Plaintiffs in support of their right of representation.
- b) the human rights issues and natural law arguments pertaining to the **right of representation**.
- 28.3 Jurisdiction is with the **Federal Court** regarding interpretation of
- a) Acts assented to by the Federal Parliament of the Commonwealth of Australia.
- 28.4 Jurisdiction is with the Federal and State **Elector's' Parliaments** at referendum, by virtue of **s128** of the Commonwealth of Australia Constitution Act, and other provisions therein regarding interpretation of any of the laws of the state of Victoria.
- 28.5 Certain of the Plaintiffs in their matters stated jurisdictional grounds for their arguments and submissions regarding the right of representation to be not heard before the **person(s)-presiding** which grounds were ignored by the said **person(s)-presiding**.
- 28.6 It is the will of the Plaintiffs to be represented in their matter(s). In the face of this expressed will **person(s)-presiding** have refused to comply with the Plaintiff's will and thus denied to

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them access to a fair trial.

29.0 PLAINTIFFS ARE AGGRIEVED.

The Plaintiffs are aggrieved because the Plaintiffs

- 29.1 have been or are likely to be denied natural justice pursuant to decisions made by person(s)-presiding to deny the right of representation, which denial has resulted and shall continue to result in their matters not being presented in the manner of their choosing.
- 29.2 have been or are likely to incur costs pursuant to decisions made by person(s)-presiding to deny the **right of representation**.
- 29.3 have endured or are likely to endure damages pursuant to decisions made by **person(s)-presiding**.

30.0 THE GREATER LEGAL AUTHORITY IS WITH CONSCIONABLE INALIENABLE RIGHTS.

The Plaintiffs are **natural persons** who are endowed with **inalienable rights** which rights over-rule the provisions of the state statute law of the Magistrate's Court or the Legal Practice Act (Vic).

- 30.1 A natural law right is not removed from a natural person when parliament legislates.

31.0 STATE LEGISLATION REGARDING THE RIGHT OF REPRESENTATION IS DEFICIENT.

The Plaintiffs claim the **Legal Practice Act 1996** and any other legislation that does not provide for right of representation is deficient and does not meet the needs of our community and /or does not meet the needs of certain individuals and groups of individuals within our community.

32.0 PARTIES JOINED. Particular persons who have interests in the outcome of this proceeding have joined into this proceeding by way of completing.

- 32.1 An [Enduring Power of Attorney](#) regarding this group proceeding and /or
- 32.2 by completion of a [Notice of appearance of a group member](#).
- 32.3 An [Affidavit in support](#) of the statement of claim.

- 32.4 [and the Plaintiffs Claim](#) <|<

Injunctive relief

1. That until such time as the matter of this Writ is concluded, being the matter of the **denial of the right of representation** to the Plaintiffs by person(s)-presiding that:
 - 1.1 The matters of the Plaintiffs that **are** currently before the courts in the state of Victoria AND in which matters the **right of representation can be demonstrated** as having been **sought** by the Plaintiff and was thereafter subsequently denied by the **person(s)-presiding** who thereafter, by their will, caused the matter to proceed, be adjourned or stood down **sine die** pending the conclusion of this matter.
 - 1.2 The matters of the Plaintiffs that **are pending** before the courts as mentions or contest mentions in the state of Victoria AND in which matters the **right of representation can be demonstrated** as having been **sought** by the Plaintiff and was thereafter subsequently denied by the **person(s)-presiding**, be adjourned or stood down **sine die** pending the conclusion of this matter.
 - 1.3 The orders made against the Plaintiffs by the **person(s)-presiding** in matters in which the Plaintiff can demonstrate that they have sought and have been subsequently denied the **right of representation** by the **person(s)-presiding** be stayed pending the conclusion of this matter.
 - 1.4 The orders made against the Plaintiffs by the **person(s)-presiding** in matters in which the Plaintiff can demonstrate that they have sought and have been subsequently denied the **right of representation** by the **person(s)-presiding** are re-heard upon either The Supreme Court of Victoria making a ruling that grants in part or in total the relief and remedy sought **or** by the Victorian Parliament amending legislation to grant in part or in

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total the relief and remedy sought, whichever comes first. Or if neither eventuate then until the legal process of appeals on the matter is concluded.

2. That the Court order that until such time as the matter of the denial of the **right of representation** to the Plaintiffs by **person(s)-presiding** and the orders made by the **person(s)-presiding** in the matters of Plaintiffs wherein the right of representation can be proved by the Plaintiff as having been denied to the Plaintiff be set aside *sine die*.

Rulings sought by the Plaintiffs

3. The Plaintiffs seek rulings and/or orders that
 - 3.1 **person(s)-presiding** in courts in the State of Victoria not deny to the Plaintiffs the **right of representation** upon the presentation to the said **person(s)-presiding** an **instrument-donating-power** that confers upon a donee the **right of representation** to either act on behalf of the donor or to co-present with the donor in the donor's matter.
 - 3.2 **Person(s)-presiding** in the courts in the State of Victoria not deny to the Plaintiffs, who are members of the sub-group of UPMART, the **right of representation** upon the presentation to the said **person(s)-presiding** of an **instrument-donating-power** that confers upon a donee the **right of representation** to either act on behalf of the donor or to co-present with the donor in the donor's matter.
4. That in the event that the **Supreme Court of Victoria** finds in favor of the Plaintiffs in this matter, that the particular individual matters of the Plaintiffs and the orders associated thereto that were made by the **person(s)-presiding**, in those **summary matters** where a **denial of legal representation** to the Plaintiff can be proved, be quashed and set for re-hearing, **ab-initio** in the magistrates court of Victoria, wherein the Plaintiff may thereafter have the matter re-heard with the representative of their choice, thus according to them the natural justice that was theirs in the beginning of their matter.
5. That in the event that the Supreme Court of Victoria finds in favor of the Plaintiffs, who are members of the sub-group of UPMART a ruling or order that the particular individual matters of the Plaintiffs and the orders associated thereto that were made by the **person(s)-presiding**, in those **summary matters** where a **denial of legal representation** to the Plaintiff can be proved, be quashed and set for re-hearing, **ab-initio** in the **Magistrates Court of Victoria**, wherein the Plaintiff may thereafter have the matter re-heard with the representative of their choice, thus according to them the natural justice that was theirs in the beginning of their matter

OTHER ORDERS SOUGHT

6. Such further or other orders as the Court deems fit that are in the interests of the Plaintiffs.
7. The 1st named Plaintiff seeks the additional orders that the costs in this matter be born by the State of Victoria on the grounds that the matter is in the public interests and for other grounds that are to be pleaded.

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8. **PLACE OF TRIAL-:**

8.1 Melbourne

8.2 Mode of trial: by Jury . The plaintiff elects trial by jury (*if the plaintiff elects under Rule 472 and no Act excludes a trial by jury*)

9. **FILING OF WRIT.**

This Writ was filed by the 1st named Plaintiffs in person;

10. **ADDRESS FOR SERVICE OF DOCUMENTS**

The address for service of documents to the Plaintiffs is
P.O. Box 124, Elwood, Victoria, 3184

Signed: (plaintiff)

End of statement of claim <<