



## **Summary of Judgment**

### **Law Institute of Victoria v Lydia Maric & Anor**

**[2006] VSC 361**

The Honourable Justice Osborn in the Victorian Supreme Court today refused to grant a permanent injunction to the Law Institute of Victoria ("the Institute"), against the defendants. The injunction was sought to prevent the defendants from preparing s.32 statements in the course of their conveyancing work.

His Honour ruled that a conveyancer does not necessarily engage in the giving of legal advice to clients in the course of preparing a s.32 statement. Further, although His Honour accepted the submission of the Institute that the completion of a s.32 statement *may* give rise to the giving of legal advice, His Honour found that the evidence in this case did not demonstrate a real and substantial risk that the defendants would give such advice and thereby engage in legal practice.

This proceeding arose as a result of a complaint received by the Institute from a country solicitor concerning a document prepared by the defendants, known as a "s.32 statement". The Institute formed the view that by preparing s.32 statements in the course of the conduct of a conveyancing business the defendants were engaging in legal practice in breach of s.314 of the *Legal Practice Act* 1996 ("the *Practice Act*").

The matter was referred to the Legal Practice Board, however the Board concluded that it would not prosecute the defendants for breaches of the *Practice Act*. The Institute then sought injunctive relief from this Court pursuant to s.316 of the *Practice Act* restraining the defendants from issuing s.32 statements.

The hearing of this matter initially occurred on 30 November and 1 December 2005. His Honour fixed a further mention of the matter on becoming aware that the legislation under which this action was brought (the *Practice Act*) had been repealed and replaced by the *Legal Profession Act* 2004. After the exchange of written submissions, a further hearing was then requested by the Institute. His Honour was critical of the Institute in that it did not bring to the immediate attention of the Court the change in legislation, thus delaying the resolution of this proceeding.

*NOTE: This statement is not intended to be a substitute of the reasons of the Court, or to be used in any later consideration of the Court's reasons.*

Click [here](#) for the full text version of this judgment.