

Australian Lawyers and Overseas Clients

An interesting and unusual case before the State Administrative Tribunal of Western Australia contains a significant discussion of the professional obligations of Australian lawyers—especially regarding confidentiality and privilege—while representing overseas clients. In so doing, the Tribunal considered, among other things, (1) the extra-territorial legislative and regulatory competence of the State of Western Australia, (2) the proper law of contracts of retainer and, it would seem, extra-contractual obligations of confidence, and (3) burdens of proof regarding foreign law.

The case concerned a Western Australian QC who was engaged by the Commonwealth government of Australia to advise Schapelle Corby, an Australian citizen, after her arrest for drug offenses on the Indonesian island of Bali. The Tribunal found that the QC had committed unprofessional conduct by revealing, in statements to the Australian media, confidential information that had been imparted to him in Indonesia.

Legal Practitioners Complaints Committee and Trowell [2009] WASAT 42 (13 March 2009)