

# MEDIA RELEASE

## **CONTINGENCY FEES SHOULD BE OPPOSED IN NSW TO PROTECT LITIGANTS' INTERESTS AND LAWYERS' DUTIES**



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New South Wales should not follow Victoria's decision this week to legislate to introduce contingency fees for plaintiff solicitors in representative proceedings, according to the New South Wales Bar Association.

"Victoria's unilateral move to introduce contingency fees for plaintiff solicitors in representative proceedings in class actions is regrettable and should not be emulated," New South Wales Bar Association President, Tim Game SC, said today.

"It also pre-empts an ongoing inquiry by the Federal Parliamentary Joint Committee on Corporations and Financial Services, which is currently investigating the consequences of allowing lawyers to enter into contingency fee agreements, among other issues.

"The Association does not consider there is a policy need to allow lawyers to enter contingency fees arrangements. Such a proposal is fraught and contrary to the public interest.

"The Association is not satisfied that ethical concerns have been sufficiently addressed or safeguards proposed to justify support for contingency fees without significant risk to the administration of justice and public confidence in the legal profession. In the Association's view, contingency fees and lawyers' ethical considerations and professional obligations cannot be reconciled," said Mr Game.

"Contingency fees fundamentally undermine the independence of the profession by creating the appearance of a conflict between a client's interest and the lawyer's own interest, which can be just as damaging to the profession's reputation as an actual conflict of interest.

"The Association will continue to work closely with our members, as well as with the Office of the Legal Services Commissioner and governments, to protect the public interest by promoting best practice regarding cost disclosures and charging.

"However, the Association will not support legislating contingency fees in this state.

"Contingency fee regimes are so inimical to lawyers' professional responsibilities it is difficult to see how any effective safeguards could be formulated," Mr Game said.

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