

Preparing and Presenting Cases in the Family Court of Australia

Thursday, 17th November 2011

9.30 am - 1.00 pm

This seminar will consider the latest cases and developments in preparing and conducting litigation in the Family Court of Australia at trial and appellate level.

The seminar will examine how lawyers may advise clients on strategic and legal issues that arise. It will consider the practical presentation of cases with effective pre-trial procedures; interlocutory procedures including interim hearings, defended trials and appeals and the best options for dispute resolution.

The seminar will also look at managing urgent matters or complex issues that may arise. In particular, discussion will consider:

- Third parties
- Injunctions
- Commercial aspects and possible associated litigation in other courts
- Superannuation
- Risk prevention in practice

At a practical level, the seminar will consider preparation of admissible affidavits as well as working documents that assist in the preparation and presentation of your cases.

The seminar will consider cases where issues go beyond typical matrimonial interests of the husband and wife. This includes cases involving third parties or other claims.

Recent decisions will be considered as well as the practical implications of the *Family Law Amendment (De Facto Financial Matters and Other Measures) Act 2008* (Cth). Practical examples will be given based on hypothetical facts.

Topics covered in this seminar will include:

- Practical pre-action and interlocutory procedures
- Streamlining complex cases

- Resolving strategic and urgent issues that may arise
- Examples of relief that may be sought or evidence that may be gathered including expert evidence or by subpoenas or other relief
- Preparation for an effective mediation or dispute resolution processes
- Possible injunctions or other urgent steps
- Superannuation
- Cases involving third parties or other courts e.g. related equitable claims and other commercial implications
- Utilising case management to your advantage
- Risk prevention in practice

 **Compulsory MCLE field:**
Professional Skills 3.25 units

About the Presenter

The presenter at this seminar will be Richard Bell. Richard is a barrister and mediator at 16th Floor, Wardell Chambers. Richard was admitted to the Bar in 1981 and was a solicitor for 3 years previously. He has frequently practised in the Family Court as well as the Supreme Court, District Court, Federal Court and all their appellate levels including the High Court of Australia. Richard is also an accredited mediator who has frequently conducted mediations either as mediator or representing clients in a wide range of mediations. Richard has regularly presented advocacy, evidence and mediation seminars to legal professional bodies.

www.cpd.com.au

Building Law – Critical Issues

Thursday, 17th November 2011

2.00 pm - 5.15 pm

This seminar will update practitioners on the most critical issues arising from recent developments in building law.

Every practitioner needs to know about the increasingly complex world of home building, whether it be in the context of the purchase of residential property or when a dispute arises.

Equally, the strict time limits imposed by the security of payments regime governed by the *Building and Construction Industry (Security of Payment) Act 1999 (NSW)* and the draconian consequences of non-compliance with them, make keeping abreast of the moving landscape in this area critical.

The seminar will explore in detail the obligations of each of the stakeholders in residential building work within the meaning of the *Home Building Act 1989 (NSW)*. Whether it be a developer, a builder, a subsequent purchaser, an owners corporation, a strata lot owner, an approval authority or a home warranty insurer, each has clear obligations which can sometimes become blurred.

What happens when a licensed builder offers its name and license to building work which in reality was carried out by someone else? Is the builder still liable? Can a home warranty insurer refuse to indemnify in those circumstances? Is a landowner still a “developer” under the Act when it does not own the development land? This seminar will explore these and other issues and consider the progress of recent legislative amendments and authorities.

The seminar also provides an overview of the latest cases under the *Building and Construction Industry (Security of Payment) Act 1999 (NSW)*. It provides a guide through the maze of provisions which may result in judgment being entered under the Act.

Is it really easier to challenge an Adjudicator’s Determination since *Chase Oyster Bar v Hamo Industries* [2010] NSWCA 190?

Can a defence be raised in proceedings brought by a payment claimant that the defendant is not a party to the building contract?

What is service under the Act?

These and various other questions will be answered. The seminar aims to ensure that practitioners will leave knowing how to deal confidently with these difficult areas.

 **MCLE field:**
Substantive Law 3 units

About the Presenter

The presenter at this seminar will be Justin Young. Justin was admitted to legal practice in 1991 where he practised as a solicitor in commercial and property firms specialising in commercial litigation, building and construction law. Justin was admitted to the Bar in 2001. He presents papers and publishes articles in his areas of expertise and was the Law Society Journal legal writer of the year.

www.cpd.com.au

MCLE Information

Mandatory Continuing Legal Education (MCLE)


The MCLE year begins on 1 April and ends on 31 March the following year. In each year, a practitioner in New South Wales who holds a practising certificate generally must complete a minimum of 10 MCLE units unless exempted. MCLE units can be attained through a variety of activities. Attending a CPDS seminar, practitioners will be able to claim 1 unit per hour of attendance (refreshment breaks not included).

Compulsory MCLE Units

There are three compulsory MCLE units:

 **Ethics and Professional Responsibility**


 **Practice Management and Business Skills**

 **Professional Skills**


Practitioners must include at least one (1) MCLE unit in each of the above fields. Compulsory units count towards the annual unit requirement and are not an additional requirement.

The Legal Profession Act Regulations also require every three years that at least one MCLE unit must cover equal employment opportunity, discrimination and harassment, occupational health and safety law or employment law.

Seminars that qualify for this requirement are designed by CPDS as:

 **Regulation 176 Compulsory Requirement**
EEO, Discrimination, Employment and OH&S

Seminars that do not include a compulsory field are usually designated by CPDS as:

 **Substantive Law**

Enquiries

For all enquiries regarding application of MCLE units to individual seminars, please contact CPDS.

The above is provided for informational purposes and is based on information supplied by the Law Society of New South Wales at the time of publication. Practitioners should make their own enquiries before relying on the information supplied above.

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Preparing and Presenting Cases in the Family Court of Australia

Building Law - Critical Issues

Statutory Demands

The New Succession Law

CPDS Seminars November 2011

Sydney

The Grace Hotel
77 York Street

Statutory Demands – the Do’s and Don’ts

Thursday, 17th November 2011

9.30 am - 1.00 pm

The Statutory Demand provides creditors with a simple and cost effective method of requiring corporate debtors to address outstanding debts. If the debtor fails to respond to the demand in the required fashion, it may find itself having to prove that it is solvent to avoid being wound up. An often expensive and risky exercise

The *Corporations Act* sets out a regime governing how statutory demands are to be prepared, served and the basis on which they can be resisted by the debtor.

Given the radical consequences for a debtor which can flow from non-compliance with a statutory demand, it is no surprise that the courts have required a high level of conformity with the statutory requirements for statutory demands.

In this context, it is also probably no surprise that errors are often made with Statutory Demands that can have serious consequences. Not only for the creditor or debtor, but for their legal advisers as well.

Statutory Demand cases are the most common contested *Corporations Act* matters heard by the NSW Supreme Court and many of those cases are concerned with whether there is a defect or deficiency in the Demand or the Set Aside application or whether the documents have been properly served.

If the company does find itself fighting a presumption of insolvency and therefore having to prove it is solvent, the evidence it presents of its financial position must be the “fullest and best” - but often it isn’t.

This seminar will take you through the “do’s and don’ts” of Statutory Demands and Winding Up applications.

This will include a discussion of the following topics:

- An overview of the Statutory Demand regime
- Preparing a Statutory Demand to make sure it is “clear, correct and unambiguous”
- Serving a Statutory Demand
- Applications to set aside a statutory demand and the supporting affidavit
- The Application to wind up the debtor



Compulsory MCLE field:
Professional Skills



MCLE field:
Substantive Law 3.25 units

About the Presenter

The presenter at this seminar will be Tim Rickard. Tim is a barrister based in Sydney practising mainly in the fields of insolvency, commercial law and equity. Previously he worked in investment banking in the corporate finance and treasury areas and in industry as manager of several engineering companies. He has recently updated and rewritten the “Options” commentary in the *Australian Encyclopaedia of Forms and Precedents* and the “Carriers” chapter in *Halsburys Laws of Australia*.

www.cpbs.com.au

The New Succession Law – An Overview

Thursday, 17th November 2011

2.00 pm - 5.15 pm

Since 2008, a number of significant changes have been made to the law of succession in New South Wales. The *Succession Act* commenced in 2008 with new provisions relating to the validity of wills and other matters including informal testamentary documents and construction.

In 2009, the *Family Provision Act 1982* was repealed and new provisions introduced by Chapter 3 of the *Succession Act*.

In 2010, further amendments were made introducing new intestacy provisions to the *Succession Act*.

This seminar will give an overview of the new provisions, with particular attention to those areas where significant changes have been made to the previous law. More particularly, the seminar will address the following areas:

1. The new law relating to the making, amendment and revocation of wills
2. The new category of statutory wills
3. Construction of wills
4. The recognition of foreign wills
5. The new Family Provision scheme
6. The new law of intestacy - with particular attention to changes in the treatment of spouses depending upon the existence of children from previous relationships, multiple spouses and the new spouses’ statutory entitlement
7. What remains of the *Probate and Administration Act*

One difficulty for practitioners is knowing what law applies to different circumstances. Some of the new provisions apply to wills executed after the introduction of particular provisions of the Act. Some apply to estates where the date of death is after the introduction of the new provisions and some apply no matter when particular events occurred.

The discussion in this seminar will include clarification of the events which trigger the application of the new provisions.

The seminar will also give practitioners the opportunity to seek guidance about the practical application of the new scheme through discussion of particular circumstances.

To the extent that they are available, decisions giving assistance concerning the new provisions will also be discussed.



MCLE field:
Substantive Law 3 units

About the Presenter

The presenter at this seminar will be Peter Jeffriess. Peter has been at the Bar since 1990. Initially he specialised in criminal trial work, but over the years his practice has changed and now he appears in a range of jurisdictions but concentrating on equity. He has a particular interest in probate. His practice also includes commercial disputes, assisting in guardianship matters and general equity proceedings.

Whilst based in Sydney, he practises throughout New South Wales and as far away as London.

He has presented many successful seminars on probate, Family Provision law and practice, general probate and evidence.

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Registration Form & Tax Invoice

Please Register me for:

- ☐ Preparing and Presenting Cases in the Family Court of Australia
- ☐ Building Law - Critical Issues
- ☐ Statutory Demands - the Do’s and Don’ts
- ☐ The New Succession Law - An Overview

Registration Fees \$440 each seminar

Registration fees are inclusive of 10% GST. A tax invoice will be issued upon payment. Discounts are also available for early registration, online registration and group bookings – see below for details.

Name: _____

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Complete this registration form with your credit card details and fax it to: (03) 9328 4688 or post with cheque attached to:

CPDS
PO Box 598
North Melbourne, VIC 3051

Venue

Level 2 Conference Rooms
The Grace Hotel
77 York Street
Sydney

Discounts

A discounted registration fee of \$395 is available for all fully paid registrations received at least 30 days prior to the date of the seminar. A group discount of 10% off the full registration fee is offered for bookings of three or more persons from the same firm. Please send all registrations together clearly labelled “group booking”. A discounted registration fee of \$395 is also available for all online registrations. You can search and register for all CPDS seminars at www.cpbs.com.au. Only one discount category can be claimed for each registration.

Cancellations

Registrations may be cancelled up to 14 days prior to the seminar or workshop and a refund will be provided but an administrative fee of \$44 will be deducted. No refunds will be available within 14 days of the seminar or workshop. Should a seminar or workshop be cancelled by CPDS for any reason, a full refund of all fees paid will be made. CPDS reserves the right to cancel or reschedule courses, and to change speakers or revise content as necessary.

Mandatory CPD Schemes

If this particular educational activity is relevant to your immediate or long term needs in relation to your professional development and practice of the law, then you should claim one “unit” for each hour of attendance, refreshment breaks not included. Further Information is provided on the back of this brochure.

Enquiries

For all enquiries regarding the course content or registration: Continuing Professional Development Seminars
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