

Legal Costs – An Overview

Tuesday, 19th July 2011

9.30 am - 1.00 pm

Although the *Legal Profession Act 2007* came into effect on 1 July 2007, it is apparent that some solicitors are not fully aware of their disclosure obligations under the Act.

This observation applies not just to the initial obligation under s308 of the Act but also to the ongoing obligations under s315 of the Act. Failure to completely fulfill these mandatory requirements may have potential consequences under s316 of the Act should clients seek assessment of their bill, or should the solicitor take legal action to recover costs from their client.

Further, some solicitors are unclear about the requirements of an itemised bill which a client has a right to request under the Act (at no cost to the client).

Another issue which may arise is whether the record keeping on the file is adequate. This may be necessary to:

- Support the solicitor's bill to the client
- Ensure that the client (if awarded costs in the client's favour) can recover all that he/she is legally entitled to recover

Since counsel became obliged to provide disclosure statements to solicitors, this has imposed further obligations on solicitors in addition to those which arise in connection with the principles of *Re Blyth & Fanshawe* (1882) 10 QBD 207. On the other hand, the Act does provide solicitors with the facility to have counsel's fees assessed.

Although a solicitor has only 60 days to apply for an assessment of costs charged by counsel, most clients have a year to apply for assessment of legal costs charged by the solicitor. This has the potential to leave the solicitor exposed to liability for some of counsel's fees in certain circumstances.

All of these issues will be covered with in this seminar.



Compulsory CPD Core Area:
Practice Management and Business Skills



Compulsory CPD Core Area:
Practical Legal Ethics 3.25 CPD Points

About the Presenter

The presenter at this seminar will be Graham Robinson. Graham is a barrister who has practised extensively in the law of costs for over 25 years. He has written annotations in respect of costs rules for Lexis Nexis for most of that period.

He has appeared before assessing registrars and taxing officers of State and Federal Courts on numerous occasions. He is a costs assessor on the Supreme Court panel and frequently prepares objections to costs statements. He has prepared expert reports in relation to applications for security for costs and has been a member of a number of small committees advising the Supreme Court Rules Committee on changes to Court Rules and costs legislation.

As well as dealing with the issues set out above, Graham is able to respond to questions on these and other issues which may arise in the course of this seminar.

www.cpd.com.au

Perfecting Pleadings

Tuesday, 19th July 2011

2.00 pm - 5.30 pm

A client's case can rise or fall on its pleadings. Deficient pleadings not only have disastrous effects for a practitioner's clients – but can also cause embarrassment to the practitioner.

Despite this, pleadings are the one thing which are a constant struggle for practitioners. They are the subject of very rigid, often ambiguous, rules of court and it is of fundamental importance that practitioners are skilled in the art of properly pleading.

This seminar is designed to equip practitioners with an understanding of the purposes of pleading, how to comply with the rules of court and the art of drafting pleadings. Further, the seminar will offer practical advice on how to approach defective pleadings received from adversarial practitioners.

Topics which will be covered in this seminar will include:

- When proceedings should be conducted by way of pleadings
- The rules of pleading
- The importance of properly pleading and the consequences of defective pleadings
- Drafting the key pleadings (statement of claim, defence, counterclaim, reply and answer)
- Amending pleadings
- Dealing with defective pleadings

The seminar focuses on providing practitioners with a practical understanding of pleadings - not overly burdening participants with unnecessary theory. In doing so, day-to-day examples of pleading issues which arise in practice will be used which practitioners will be able to relate to.

A large part of the seminar will involve a practical workshop – where participants are given the opportunity to draft each of the relevant types of pleadings and receive feedback. This will provide participants with the opportunity to consolidate their knowledge, appreciate how theory turns into practice and understand how a good pleading can set up their client's case.



Compulsory CPD Core Area:
Professional Skills 3.25 CPD Points

About the Presenter

The presenter at this seminar will be Ben McGlade. Ben is a barrister whose practice is heavily civil litigation focused. Prior to joining the Bar, Ben worked as a litigator for a number of years at Clayton Utz and was an associate at HWL Ebsworth. Ben also lectures and tutors casually at the Queensland University of Technology in the subjects of equity, trusts, evidence and commercial law.

www.cpd.com.au

CPD Information

Mandatory Continuing Education Scheme

The CPD year begins on 1 April and ends on 31 March the following year. In each year, a Queensland practitioner must complete a minimum of 10 CPD units to maintain their practising certificate. CPD 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 CPD Core Areas

There are three compulsory CPD core areas:



Practical Legal Ethics



Practice Management and Business Skills



Professional Skills

Practitioners must accumulate one CPD unit for each core area annually. Compulsory area points count towards the annual CPD Scheme unit requirement and are not an additional requirement.

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



Substantive Law

Enquiries

For all enquiries regarding application of CPD points to individual seminars:

Continuing Professional Development Seminars
Postal Address: PO Box 598, North Melbourne, VIC 3051
Telephone: (03) 9328 2688
Facsimile: (03) 9328 4688
Email: seminars@cpds.com.au
Website: www.cpd.com.au

Please note that the above is provided for informational purposes and is based on information supplied by the Queensland Law Society at the time of publication. Practitioners should make their own enquiries before relying on the information supplied above.

www.cpd.com.au



- Legal Costs
- Perfecting Pleadings
- Compulsory Acquisition of Land
- Family Provision Applications

CPDS Seminars July 2011

Brisbane
Christie Conference Centre
320 Adelaide Street

Compulsory Acquisition of Land

Tuesday, 19th July 2011

9.30 am - 1.00 pm

Since the 19th century, mechanisms have existed whereby the State could compulsorily acquire the land of its citizens for certain purposes.

Each Australian jurisdiction has enacted legislation giving to their executive arms of government, the power to acquire land compulsorily.

So far as Queensland is concerned, substantial infrastructure advancement, the mining boom and associated transport and general infrastructure needs has meant that episodes of compulsorily acquisition of land have escalated.

That escalation means that more and more solicitors will be called upon to act for and advise people whose land has been compulsorily acquired.

The *Acquisition of Land Act 1967* and the Land Court are specialised areas of practice, yet more and more, practitioners have to grapple with them.

This seminar will provide some general guidance in this area of practice. It will address the matters a solicitor in those circumstances is likely to face - from the receipt by the solicitor's client of the notice of intention to resume, through to the commencement of a trial in the Land Court.

Despite its general and introductory nature, this seminar will also specifically address the interaction between s20(3) of the *Acquisition of Land Act 1967* and the common law principle which takes its name from the decision of the Privy Council in *Pointe Gourde Quarrying and Transport Co Ltd v Sub-Intendent of Crown Lands*.

The seminar will offer assistance in recognising when that area of jurisprudence is engaged and how the questions of the identity and relevant impact of the relevant "works or purpose for which the land was taken..." (or "scheme" in *Pointe Gourde* parlance), should or might be answered.



Substantive Law

CPD Points - 3.25

About the Presenters

The presenters at this seminar will be Douglas Quayle and Kaia Duce. After some years as a solicitor with a major firm in Brisbane, Douglas became a barrister in 1996 and has practised at the private commercial bar since that time. Douglas has a particular interest in the area of resumption law and regularly appears in the Land Court for a range of constructing authorities, including the Brisbane City Council, the Department of Transport and Main Roads, and also for resumed land owners in the Brisbane area and in many other parts of Queensland.

Kaia Duce is a Senior Lawyer in the Government Services Group at Clayton Utz. Kaia has experience advising Government Departments including the Department of Transport and Main Roads and the Office of the Coordinator-General in relation to a range of major infrastructure projects, including the Queensland Children's Hospital and the Airport Link Project. Kaia has advised on compensation matters and other issues arising from the compulsory acquisition of land under the *Acquisition of Land Act 1967* and the *State Development and Public Works Organisation Act 1971*. A number of these matters have progressed to mediations and hearings in the Land Court.

www.cpbs.com.au

Family Provision Applications From Go to a Successful Outcome

Tuesday, 19th July 2011

2.00 pm - 5.30 pm

Introduction to Family Provision Applications

- What is a family provision application?
- Who can claim - spouses, children, step-children, dependants and others
- What property is outside the claim - superannuation, joint property and property in other jurisdictions
- What factors are relevant - assessing need, why a family provision application is not a personal injuries claim
- Time limits

Practical Beginnings - how to start the applicant's side

- Starting a family provision application, the changing jurisdictional limits of the courts and Practice Direction number 8 of 2001
- Gathering the relevant information from the client
- The difficult client - managing client expectations from the beginning and establishing a relationship of trust and confidence
- Estimating costs
- Different approaches for different applicants - spouses, adult children, step-children, dependent children, dependants and the lame duck
- Different approaches for different estates - small, medium and large

Practical defence - acting for the executor

- What do you put in the executor's affidavit and what are your obligations of disclosure?
- Are proper valuations useful and do I need a private detective?
- Conflicts of interest - when can you act for the executor and beneficiaries and when do you suggest they obtain separate representation? What if I am the executor and I drafted the will?

Ending proceedings - Alternative Dispute Resolution

- What ADR processes are available? Are they compulsory?
- What are the executor's duties to settle and when do you go to court?
- Preparing the client for ADR
- Ending proceedings early by settlement or summary judgement
- What is the difference between a consent order of the court or filing a notice of discontinuance?
- Important considerations when drafting a Deed of Settlement
- Consent orders and Practice Direction number 4 of 2010

Ending proceedings - Trials

- Preparing for trial - the small matter of hearsay evidence and other problems
- Calderbank offers
- Tips on trial by affidavit



Substantive Law

CPD Points - 3.25

About the Presenter

The presenter at this seminar will be Sue McLeod, barrister at the Queensland Bar, who in a previous life as a solicitor, and an accredited specialist in succession law practised almost exclusively in succession law. Sue is uniquely placed to share tips from both sides of the legal profession and has acted in more family provision applications than she cares to remember, acting for both the applicant and the executor.

www.cpbs.com.au

Registration Form & Tax Invoice

Please Register me for:

- ☐ Legal Costs - An Overview
- ☐ Perfecting Pleadings
- ☐ Compulsory Acquisition of Land
- ☐ Family Provision Applications - From Go to a Successful Outcome

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: _____

Firm: _____

Address: _____

Telephone: _____

Facsimile: _____

Email: _____

Method of Payment

- ☐ Cheque ☐ Visa
- ☐ MasterCard ☐ American Express

Credit Card No: _____

Name on Credit Card: _____

Signature _____ Exp. Date _____ / _____

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

Morgan, Teach, Lafitte & Endeavour Rooms
Christie Conference Centre
320 Adelaide Street
Brisbane

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
ABN 17 126 054 466
Postal Address: PO Box 598, North Melbourne, VIC 3051
Telephone: (03) 9328 2688
Facsimile: (03) 9328 4688
Email: seminars@cpds.com.au
Website: www.cpbs.com.au