



City of Sydney Law Society



A Regional Society of the Law Society of NSW

April-May 2007

Free Important Legal Seminars for you

Our coming seminars

18 April '07: Simplifying Superannuation for Lawyers

23 April '07: Small Firms Practice Forum

2 May '07: Purchasing Strata Units off the Plan

7 May '07: Small Firms Practice Forum

9 May '07: Developments in Litigation on Death and Succession Law

All seminars are free to CSLS Members. If not a member, JOIN NOW. Fill in the Application Form below with subscription before the seminar and attend most seminars free to the end of the financial year.

Non-members can also attend our seminars but at a cost of \$25 if a Law Society member and \$35 for non-members. (unless otherwise specified). The Forums are free to all legal practitioners. Refreshments provided and opportunities to meet like-minded practitioners.

JOIN TODAY

Registration form is at the end of the Seminar Notices.

SUPPORT OUR SPONSOR
CORPORATE EXPRESS
for incorporating companies
www.corporateexpress.com.au

APRIL '07

Simplified Superannuation: Key Points for Lawyers

When: Wednesday 18 April 2007, 5:30pm to 6:30pm

Where: Sydney Mechanics School of Arts, Lvl 1, 280 Pitt St, Sydney (b/w Park & Bathurst Sts).

Speaker: MICHAEL HALLINAN of Townsend Business & Corporate Lawyers.

Our speaker is a Superannuation and Funds Management Lawyer with over 20 years experience in private practice and corporate positions. He is well qualified to practice in the areas of superannuation, managed investments, financial services and regulatory compliance.

All lawyers need to be fully aware of the **new** superannuation laws from 1 July '07 to

advise and for their own personal benefit.

Chair: Stephen Bell, CSLS Councillor
1 MCLE point.

Small Firms Practice Forum - NOTE NEW DATE

When: Monday 23 April 2007, 5:30pm to 7:15pm

Where: Sydney Mechanics School of Arts, Lvl 1, 280 Pitt St, Sydney.

These meetings are well worth going to. The topics are what interests small firm practitioners. **This month we will share ideas on making a small practice efficient.** Gerard Dupal, a practitioner since 1972 will offer his experiences. This meeting is FREE to all legal practitioners.

Chair: Anthony Restuccia, CSLS President
1 1/2 MCLE points.

MAY '07

Purchasing Strata Units off the Plan

When: Wednesday 2 May 2007, 5:30pm to 6:30pm

Where: Sydney Mechanics School of Arts, Lvl 1, 280 Pitt St, Sydney (b/w Park & Bathurst Sts).

Speaker: KEN HARKNESS of K M Harkness & Co. Solicitors.

Ken Harkness is a specialist in Strata Unit work. The presentation will however, be a DVD Video by Gary Newton of Colin Biggers & Paisley followed by group discussion. Notes are available. Off the plan sales are the principal method involving large scale residential developments. Know the danger, avoid litigation.

Chair: Ken Harkness, CSLS Secretary
1 MCLE point.

Small Firms Practice Forum

When: Monday 7 May 2007, 5:30pm to 7:15pm

Where: Sydney Mechanics School of Arts, Lvl 1, 280 Pitt St, Sydney.

Apart from concerns of interest raised by members, we will secure a progress report on the Best Practice Certification of Small Firms (at a reasonable cost) - LAW 9000. Excellent practical value. No cost.

Chair: Anthony Restuccia, CSLS President

Latest Developments in Litigation in Deceased Estates and Succession Law

When: Wednesday 9 May 2007, 5:30pm to 7:00pm

Where: Sydney Mechanics School of Arts, Lvl 1, 280 Pitt St, Sydney (b/w Park & Bathurst Sts).

Speaker: ROBERT COLQUHOUN, Barrister.

Our speaker has practiced as a Barrister for 28 years and is a former Solicitor who has specialised in contended deceased estate litigation for some years. **The speaker's talk to us last year was excellent.** He will inform us of the latest developments in the contesting of Wills, rectifying circumventing of irregularity in Wills, testation competence

and capacity, duress, fraud and costs, and the new Succession Act.

Chair: Anthony Restuccia, CSLS President
1 1/2 MCLE points.

OTHER SEMINARS TO NOTE

Lawyers in Defence of Religious Freedom

Topic: Catch the Fire Ministries v Islamic Council of Victoria - on appeal with judgement awaited.

When: Friday 27 April 2007, 5:00pm to 6:00pm

Where: State Parliament House Theatre, Macquarie St, Sydney.

Speakers: Pastors DANIEL SCOT and DANIEL NALLIAH (the Defendants)

This case is a landmark decision on discrimination law involving particularly religious freedom and freedom of speech. Admission is free. Donation appreciated.

Church Law Forum: Administrative Law

When: Thursday 17 May 2007, 5:30pm

Where: Wesley Mission Centre, 220 Pitt St, Sydney.

How do we apply the principles of Natural Justice to Church issues?

Register directly with Bryce Bridges: ph 9263 5373.

REGISTER HERE

Send an email to Marianne Atherton on csls@optusnet.com.au or print this page, complete the form and post or fax to the address at the end of the registration form.

A tax invoice will be sent to you.

REGISTRATION FORM

[] Simplifying Superannuation for Lawyers - Wed 18 Apr '07.

CSLS Memb: Free; Law Soc Memb: \$25; Non Memb: \$35.

[] Small Firms Forum - Mon 23 Apr '07.

Free to members & non-members.

[] Purchasing Strata Units off the Plan - Wed 2 May '07.

CSLS Memb: Free; Law Soc Memb: \$25; Non-Memb: \$35.

[] Small Firms Forum - Mon 7 May '07.

Free to members & non-members.

[] Development in Litigation on Death & Succession Law - Wed 4 Apr '07

CSLS Memb: Free; Law Soc Memb: \$25; Non Memb: \$35.

[] NEW MEMBER. I wish to take up immediate membership of CSLS and include my completed application form and the membership fee of \$80.00 (Group discounts available, contact us for details). My membership will be valid until 30 June 2007, when a renewal notice will be sent to all members.

I ATTACH A LIST OF NAMES IF APPROPRIATE OF ALL THOSE INCLUDED ON THIS REGISTRATION FORM

Prices are inclusive of GST. A tax invoice/receipt will be sent to you.

Payment method:

Visa

Mastercard

Bankcard

Cheque (payable to City of Sydney Law Society)

I enclose payment of \$_____

Credit card No: _____

Expires: ____ / ____

Cardholder name: _____

Cardholder signature: _____

Name: _____

Firm: _____

Address: _____

Phone: _____ Fax: _____

Email: _____

NEW MEMBERSHIP APPLICATION/RENEWAL OF MEMBERSHIP, add details below:

New Renewal

Full name: _____

Practising Non-practising

Law Society of NSW member? Yes No

Date of admission as Legal Practitioner: _____

Practising as: Solicitor Barrister Judicial officer

Private address: _____

Telephone: _____ Mobile: _____

Signature: _____

Email: _____

Individual Membership \$80

Group discount 10% (applicable when 3 or more solicitors from the same firm join together)

Newly admitted Solicitor (1-2 years) \$40

Newly admitted Solicitor (3-4 years) \$60

Cheque herewith OR Credit card details completed above

ACT NOW

**Please return this form with payment to :
City of Sydney Law Society,
GPO Box 1907 Sydney 2001. Phone 9453 3511.
Fax 9453 3522 Email csls@optusnet.com.au**

Register early, seating limited. Did you include a membership application?

A message from our Sponsor:

C O R P O R A T E



X

P

R

E

S

S

We are excited to be the new sponsors of the City of Sydney Law Society.

Firstly, just to dispel any misunderstandings about our name; we provide Incorporations, Corporate Secretarial and ASIC Compliance Services.

Corporate Express is a dynamic, focused and progressive team that has partnered with Australian business, large and small for almost twenty years, in meeting their incorporation and corporate compliance challenges.

Our experience in business has made us aware of the value of being able to access reliable resources in these vital areas and the role that business partnership has in achieving excellence.

We intend to be a 'participating' sponsor of the City of Sydney Law Society. We plan to share with you a combination of our own extensive resources, as well as expertise from some of our business partners in areas such as Business Succession, Systems Building and Profitability.

As has always been our practice, we will provide the most relevant information and contacts for your business. To this end, we need your input as to what you want to hear from us.

So what is your greatest challenge?

Maybe you've got a few! Drop us an email at admin@corporateexpress.com.au with the ideas or issues facing your business/market at the moment and in upcoming newsletters and seminars we present, we'll work together to provide you with some possible solutions. In the meantime, click here www.corporateexpress.com.au today to learn more about our team and the services we provide. Alternatively, you can call us on 9261 2100.

Newsletter

President: Anthony (Rusty) Restuccia a_j_restuccia@yahoo.com.au
Mob. 0419 698 753, Fax 9438 5143

Vice President: Denis Mockler dmockler@scm.com.au

Treasurer & CLE Convener: Nea Goodman nea.goodman@community.nsw.gov.au

Secretary: Ken Harkness k.harkness@kmhc.com.au

Secretariat: GPO Box 1907, Sydney 2001 Ph 9453 3511

Presidents Message

The Mentally Ill

In the run-up to the election in NSW, both the Law Society and the Bar Association proposed changes in the Criminal Justice system to improve its dealing with the mentally ill. The Law Society proposed that there should be more mental health liaison workers in Courts, increased training for Probation Parole Officers, and increased funding for Justice Health to address mental illness.

The Bar Association proposed that a Court, and not the executive government should decide, on the recommendation of the Mental Health Review Tribunal whether to release the forensic patient from gaol. It is worth noting that 60% of female and 44% of male prisoners have been diagnosed in a 2001 study with a mental disorder. The study highlights that disabled (mental & intellectual) offenders are disadvantaged from their arrest, through trial, confinement and with grossly inadequate post-release services.

Professor Ian Hickie in his excellent address to our enjoyable Law Week Breakfast recently offered hope that the problem of the mentally ill (1 in 5 in our community) have been acknowledged by NSW Government, supported by funding (Government Response Report 12/2003), AND by our community that wants something meaningful done.

Budget details will (to a degree) show Government credibility, employment & training of sufficient officers will be the proof. To defer the needs of the criminal justice system is to perpetuate serious injustice, endanger the public, and pay out more later (Law Society www.lawsociety.com.au; Bar Association www.nswbar.asn.au for more information).

Support the present Review of the Forensic Mental Health System including Mental Health Review Tribunal, Inquiries Margaret Lawrence ph. 8876 6302.

Law Council of Australia

At its recent meeting, the big law firms were given a seat at the Law Council, at the expense of NSW losing an entrenched position. The President of the Law Council Tim Bugg has accepted an invitation from the CSLS to address members in the near future. A convenient date is being arranged. The topic will be the "National Profession Act and the Small Firms. Who benefits?"

Motions for the Regional Law Societies Presidents Meeting on 20 April 2007 are invited from members. Forward to CSLS urgently. Your initiative can bring improvements.

Executive Officer for CSLS

Our Executive Officer Marianne Atherton has resigned for personal reasons. Any person interested in the position should contact Anthony Restuccia 0419 698 753.

Recognition

The CSLS wishes to honour senior legal practitioners in Sydney CBD. If you are or know of Solicitors with over 30 continuous legal practice contact the CSLS by phone, fax or email. Inquiries contact Anthony Restuccia, Denis Mockler, Nea Goodman, Ken Harkness.

Improvements?

If you have any suggestions, ideas, comments, complaints or ways to improve YOUR City of Sydney Regional Society please contact us by telephone, fax or email or myself direct on 0419 698 753.

With every best wish,
Anthony Restuccia

President

For Your Information

Supreme Court – Common law telephone directions on Wednesdays

From 7 March, 2007 the Common Law Registrar will conduct directions hearings via telephone each Wednesday. Matters suitable are matters by consent, and matters where parties or their legal reps are outside the Sydney CBD. Directions and orders that may be obtained by telephone call over include:

Adjournments

Directions

Allocation of hearing dates.

Matters currently listed on a Wednesday will automatically be placed in the telephone directions list.

Parties should fax proposed directions to the Common Law Case Management Registrar on 9230 8827 by 5pm on the day before the scheduled telephone directions hearing and indicate whether they are by consent. Five minutes prior to the appointed time the parties dial into the telephone directions on 02 8295 0923, the operator will take their details and be placed on hold with music playing until connected. Once connected the Registrar will deal with the matter in a three way conference call. Parties should identify themselves on each occasion before speaking.

The conference call will be taped and a copy of the tape sent to the court by the conference call provider. Copies of the tape may be purchased from the Court. See at www.lawink.nsw.gov.au/practice_notes/nswsc_pc.nsf.pages/387

Independent Contractors Act, 2006 commenced 1 March 2007

The Federal government's Independent *Contractors Act 2006* and *Independent Contractors Regulations 2007* commenced on 1 March, 2007. The regulations provide that claims under the services contracts review scheme that a contract is unfair and/or harsh, must be made not later than 12 months after the contract ends. The Courts have discretion to allow claims made after that date. There is no remuneration cap on who can seek a view. See at www.comlaw.gov.au

New Law –

Russell v Trustees of the Roman Catholic Church of the Archdiocese of Sydney [2007] NSWSC 107, Rothman J, 19 February, 2007

Held: for the first time that there are implied conditions in a contract of employment that the employer owes the employee a duty of good faith and a duty of trust and confidence:

"the rights and/or duties reposed in either the employer or the employee would need to be exercised honestly and reasonably; with prudence, caution and diligence, and with "due care to avoid or minimize adverse consequences" to the other party that are inconsistent with the agreed common purpose and expectations of the parties to the contract. But all the while, the parties have the capacity to exercise their rights in their own interests"

Workers Compensation Disputes Decreasing

The Workers Compensation Commission's quarterly review for October-December 2006 shows that it received 1,852 applications to resolve disputes during that period, a 37.2% decrease from the 2,947 disputes received in the September, 2006 quarter. See at www.nsw.gov.au/NR/rdonlyres/OE47E19E-OEBC-42C9-85DB (December 2006 quarterly review).

UK Profession grows Diverse

The UK LS annual statistical report just released reveals women now account for 43% of certificate holders and ethnic minorities make up 9% of the profession. The trend is continuing with 3/5ths of new admissions being women and 1/5th from an ethnic minority.

Local Court: Civil Practice Note 2 and 3 of 2007, effective 1 March 2007

The Chief Magistrate has published three new practice notes:

Practice Note 3/2007:

Applies to the General Division and requires a list of witnesses and an estimate of the time required for examination and cross examination of witnesses.

Practice Note 2/2007

Applies to claims of \$20,000 or less. The Court will place a maximum limit on the costs to be awarded between parties. Practice Note 10/2007 - Criminal Representations for withdrawal and time standards for matters being dealt with summarily.

See at www.lawlink.nsw.gov.au/lc (at "Legal Resources")

Queensland Workers Compensation Decisions online

Access to up-to-date workers' compensation appeals is available online at QWCDEC. The database was launched in February by the Queensland Attorney General. The data base also contains Queensland Industrial Magistrate and Industrial Relations Commission workers compensation decision since 1 July, 1999. The database can be searched by name, date, injury type, magistrate or commissions. Either the full decision can be selected or a summary, see at www.qcomp.com.au and selection "legal professionals link followed by the QWCDec link.

New Divorce Forms and Kits

The Federal Magistrates Court released new forms via Practice Direction no.1 of 2007.

See at <http://www.fmc.gov.au/services/html/od0107.html>.

The new forms include:

Application for Divorce

Response to Divorce

Affidavit of Service by Post and Hand

Acknowledgement of Service (Divorce)

Affidavit Proving Signature (Divorce).

The new forms do not result in any substantive changes. Available at "What's New Section" at www.familylawcourts.gov.au. Old forms will be accepted until 30 June, 2007.

Unlawful Termination Assistance Scheme (UTAS)

The Unlawful Termination Assistance Scheme (UTAS) has been established to financially assistance eligible persons alleging unlawful termination. A grant of up to \$4,000 (including GST) is payable towards independent legal advice on the merits of the claim. The LS has signed a Memorandum of Understanding with the Commonwealth to establish a Register of Legal Practitioners.

To be included in the Register, see Terms and Conditions at www.workchoices.gov.au.

Law Council Trial of Online Dispute Resolution

The Law Council has commenced an online chatroom style mediation facility on its website, developed by TheClaimRoom.com (TCE). The technology can be seen at www.themediationroom.com. For further information contact Hendryk Flaegel at

hendryk.flaegal@lawcouncil.asn.au

Opportunities in India

The LS of England & Wales delegation to India signed a Memorandum of Understanding with the Society of Indian Law Firms and The Bar Association of India in January, 2007 Mumbai. see at

www.lawsociety.org.uk/newsandevents/news/view+newsarticle.lawNEWSID=317164 or contact professionalupdate@lawsociety.org.uk.

New Legislation of Interest

Corporate Manslaughter and Corporate Homicide Bill 2006/2007

The marshaled list of amendments were moved on Third Reading on 27 February, 2007. See at www.publications.parliament.uk/pa/pabills/200607/corporate_mansalquther_an...

Legal Services Bill 2006-2007

Amendments were moved on 7 March 2007 to the Bill which makes provision for the establishment of the Legal Services Boards and functions, to make provision for and in connection with regulation of persons who carry on certain legal activities; to make provision for the establishment of the Office for Legal Complaints and for a scheme to determine legal complaints see as above.

UK New Publications -

The LS of UK Book Shop has a number of new interesting publications: Contact The Law Society Shop 113 Chancery Lane London WC2A 1PL, email lawsociety@prolog.uk.com.

Key Criminal Cases 2006 by Andrew Keogh (144 pages)

Cases organized alphabetically within subject areas, case digest of essential ruling and supported by electronic updates.

Published 1 March, 2007, Cost 29.92 pounds

Solicitors & Money Laundering – A Compliance Handbook by Peter Camp (320 pages)

Forward by Sir Stephen Lander, Chair Serious Organized Crime Agency UK. Revised edition – practical test, detailed commentary on amendments made to primary legislation, Proceeds of Crime Act 2002 that came into effect in 2005 and 2006. Book includes useful forms/precedents, extracts of relevant Acts – solicitors overview of money laundering, authorized disclosures, failure to disclosure, disclosures which prejudice an investigation, confiscation and civil recovery orders, reporting suspicious, hot to spot money laundering activities in solicitors practice

Published 27 February, 2007. Cost 54.95 pounds

Civil Litigation Handbook – 2nd Edition by Burn and Peysner (448 pages)

Updated edition – comprehensive and authoritative – leading practitioner's explain how to run effective, profitable litigation business in the post Woolf era. Contains useful tools including precedent letters and forms. Part 1 – strategic and practical aspects of running litigation practice; Part 2 – day to day running of litigation cases

Published 1 February, 2007, Cost 59.95 pounds

Software Solutions 2007 – A guide to Legal Software Suppliers

The LS of England & Wales has published its 9th Edition of the above booklet.

Downloadable from the LS of UK site, or alternative contact

professionalupdate@lawsociety.org.uk

URGENT:
Downing Centre Local Court. Pro Bono Duty Solicitor Roster
Solicitors invited to join the Roster and attend once a month.

Inquiries: Anthony Restuccia Tel 0419 698 753

CONTRACTS FOR SALE OF LAND
are available from CSLS at discounted prices.
Contact Marianne Atherton on 9453 3511 or the President Anthony Restuccia.
Email: csls@optusnet.com.au

Your Regional Law Society serves you,
Support your Regional Law Society
Email us your ideas and opinions
Attend our functions
Invite others to join

Support our Sponsors:
CORPORATE EXPRESS for incorporating companies
www.corporateexpress.com.au

City of Sydney Law Society Inc | Email csls@optusnet.com.au
GPO Box 1907, Sydney 2001
Tel (02) 9453 3511 | Fax (02) 9453 3522

"This email is sent to you because you are either a member of the City of Sydney Law Society or because you are a lawyer practicing in the City of Sydney Law Society's "region" - which is the Central Business District of Sydney. The City of Sydney Law Society does not approve of unauthorised emails; nor do we want to upset or annoy anyone who does not wish to receive emails from us. Typically we email those on our email list about once every fortnight and our emails are limited to matters of interest to our members, newsletters, invitations to seminars and other events and messages from our very valuable sponsor, the Commonwealth Bank. Please let us know if you do not want us to continue sending emails by using the link below. If you do not do this we will assume, until we hear from you to the contrary, that you are happy to remain on our email list. The City of Sydney Law Society will not use, or allow the use of, its email list for any purpose other than that described in this message."