



City of Sydney Law Society



Seminars

A Regional Society of the Law Society of NSW

August 2007

Our Update Month

If you could be involved with

- * the Motor Accidents Authority claims
- * the Criminal Injuries Compensation claims
 - * Expert Evidence
 - * Strata Title and Management
 - * Small Firm Practice Forum
- * A Brief Introduction to the Complex Anti-Terrorism Laws

You

need the updated information from
our meeting in August

and there's more.....

* * * * *

Our coming seminars

- 1 Aug '07: Expert Evidence - The New Rule
- 8 Aug '07: The Victims Compensation Tribunal - From the Inside
- 15 Aug '07: Update on Strata Law
- 22 Aug '07: Small Firm Practice Forum - What Concerns You
- 29 Aug '07: A Brief Introduction to the Complex Anti-Terrorism Laws

Seminars are Spot Talk Seminars; COMPLIMENTARY TO CSLS Members. They are held on Wednesdays at 5:30pm for an hour. Non-members are welcome but at a cost of \$25 if a Law Society Member and \$35 for non-members (unless otherwise specified). The Forum is free to all legal practitioners. Refreshments provided and opportunity to meet like minded practitioners.

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AUGUST 2007

Expert Evidence - The New Rule

Every matter in Equity requiring expert evidence now requires first the approval of the Supreme Court Expert Evidence Judge, Justice Hamilton, pursuant to Part 31 rule 19. This Rule will apply to all courts. Learn how this revolutionary change, which can involve the Internet, can effect your cases, save costs and avoid judicial criticism.

When: Wednesday 1 August 2007: 5:30pm - 6:00pm

Where: Sydney Mechanics School of Arts, Level 1, 280 Pitt Street Sydney (between Park and Bathurst Streets) Sydney

Speaker: MR ROBERT COLOUHOUN, Barrister (T: 9252 7477)

Our speaker has practiced as a barrister for 29 years and is a former solicitor for 9 years, who has specialised in Family Provision and Deceased Estates and commercial litigation involving business, real estate and other agents.

Chair: **Anthony Restuccia**, CSLS President
1 MCLE point

The Victims Compensation Tribunal - From the Inside

The Chairman of the Victims Compensation Tribunal, Mr Cec Brahe is our guest at this meeting. He was appointed Magistrate in 1969, later Chairman of the Licensing Court, Deputy Chief Magistrate and in 1994 Chairperson of the Victims Compensation Tribunal. He was a former solicitor. In his present role he exercises various discretions not always appreciated. What does the Tribunal look for in making decisions.

When: Wednesday 8 August 2007: 5:30pm – 6:30pm

Where: Sydney Mechanics School of Arts, Level 1, 280 Pitt Street Sydney (between Park and Bathurst Streets) Sydney

SPEAKER: MR CEC BRAHE, Chairman of the Victims Compensation Tribunal

Chair: **Anthony Restuccia**, CSLS President (V.C.T Registrar T: 9374 3111)
1 MCLE point

Update on Strata Title Law

LEN ROBINSON is a solicitor and a former Strata Title Commissioner, a part time lecturer at the University of Western Sydney in Strata and Community Title Law and Management and author of the book on "Strata Title Units". He is a member of the UDIA Strata and Community Schemes Advisory Committee and Councillor on Blacktown City Council for last 19 years.

When: Wednesday 15 August 2007: 5:30pm – 6:30pm

Where: Sydney Mechanics School of Arts, Level 1, 280 Pitt Street Sydney (between Park and Bathurst Streets) Sydney

SPEAKER: MR LEN ROBINSON, Solicitor

Chair: **Ken Harkness**, CSLS Secretary
1 MCLE point

Small Firms Practice Forum - What Concerns You (note NEW DAY)

When: Wednesday 22 August 2007: 5:30pm – 7:15pm

Where: Sydney Mechanics School of Arts, Level 1, 280 Pitt Street Sydney (between Park and Bathurst Streets) Sydney

KEN HARKNESS will discuss his way of running a sole practitioner practice for profit. We will ask about concerns about the National Profession Regulations in anticipation of a Seminar next month, elimination of Police Briefs of evidence, enquiries about new practising methods - AND YOUR CONCERNS.

Chair: **Ken Harkness**, CSLS Secretary
1.5 MCLE point. FREE

A Brief Introduction to the Complex Anti-Terrorism Laws (pre A.P.E.C)

When: Wednesday 29 August 2007: 5:30pm – 6:30pm

Where: Sydney Mechanics School of Arts, Level 1, 280 Pitt Street Sydney (between Park and Bathurst Streets) Sydney

DAVID BERNIE has been admitted as a Barrister since 1988. He is the Vice President of the NSW Council for Civil Liberties. He has made submissions to and appeared before Parliamentary Committees in respect of anti-terrorism legislation. He has appeared in proceedings regarding ASIO and denial of passports. A talk to understand A.P.E.C and more.

SPEAKER: MR DAVID BERNIE, Barrister

Chair: **Romand Di Donato**, Council Member
1 MCLE point

OTHER SEMINARS TO NOTE

Church Law Forum: Employment

When: Thursday 16 August 2007; 5:30pm

Where: Wesley Mission Centre, 220 Pitt Street Sydney

Speakers: KATE EASTMAN, Barrister and **JACQUIE SEEMANN**, Solicitor

Issues: Discrimination, Volunteers. Are Church Ministers employees? The Church are employer?

Registrations: Directly with Bryce Bridges: Ph 9263 5373; Fax 9264 4686

The Anglo-Australasian Lawyers Society Breakfast

The Woolf Civil Reforms after 9 years

When: Thursday 16 August 2007; 7:30pm

Where: The Union, University & Schools Club, 25 Bent Street Sydney

Speaker: **The Rt Hon Sir Igor, Judge, President Queens Bench, Head of Criminal Justice**

Cost: \$55 per head

Registration and enquiries: Malcolm Longstaff Tel 9988 3563

REGISTER HERE

Send an email to Ann Parisi at info@sydneycitylawyers.com.au
or complete the registration 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 (please tick your attendance)

Expert Evidence – The New Rule - Wed 1 Aug '07

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

The Victims Compensation Tribunal - Wed 8 Aug '07

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

Update on Strata Title Law - Wed 15 Aug '07

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

Small Firm Practice Forum - Your Concerns - Wed 22 Aug '07

Free to Members and Non Members

A Brief Introduction to the Complex Anti-Terrorism Laws: Wed 29 Aug '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 2008, when a renewal notice will be sent to all members.

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

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

Payment details: (please complete and forward by fax or post)

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Please return this Registration Form with payment to:

City of Sydney Law Society (ABN 88 377 230 477)

GPO Box 1907, Sydney NSW 2001 Phone 9266 0012 Fax 9266 0062

Email info@sydneycitylawyers.com.au

MEMBERSHIP

NEW APPLICATION/RENEWAL OF MEMBERSHIP, complete and tick 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

Firm Name: _____

Firm Address/DX: _____

Private address: _____

Telephone: _____ Fax: _____

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

Please tick this box if you do not wish to have your contact details listed on our publicly accessible website.

REGISTER NOW

Please return this form with payment to:
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Register early, seating limited. Did you include a membership application?

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NOW IS ACTION TIME

Contact

Law Society of NSW 170 Phillip Street Sydney NSW 2000
e: lawsociety@lawsociety.asn.au

The Premier, NSW Parliament, Macquarie Street Sydney NSW 2000

Bar Association, 176 Phillip Street Sydney NSW 2000
web: <http://www.nswbar.asn.au>

To any Regional Law Society President (details listed in Law Society Journal)

AUSTLii enquiries David Vaile ph 9385 3589

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NEWSLETTER

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

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

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

Secretariat: GPO Box 1907 Sydney 2001

Tel 9266 0012 Fax 9266 0062

Email info@sydneycitylawyers.com.au

President's Message

New Administrative Arrangements

Following the resignation of Marianne Atherton for personal reasons, the Committee has appointed Ann Parisi as our new Executive Officer. Because of our relocation to the CBD our Secretariat telephone, fax and email are new, as you can see from the details above.

In addition the Secretariat Office is now located at Level 10, Henry Parkes Chambers, 299 Elizabeth Street Sydney (cnr Liverpool Street). One of the byproducts of the arrangement has been the late distribution of our Newsletter. My apologies.

We hope to have our website up soon.

AustLii Success

The CSLS Campaign for the support of AustLii has brought a pleasing response. At the June Conference of the Regional Law Society Presidents, the CSLS with the other Presidents, after a positive discussion recognising the importance of AustLii services especially to the country, unanimously supported a recommendation to the NSW Law Society for a minimum contribution of \$50,000 to AustLii. As a consequence the Law Society has agreed to give \$25,000 and another \$25,000 conditionally later. The Law Council has made a contribution of \$20,000. The Law Council has called upon lawyers to also contribute, as has the Law Society and the Bar Association of NSW. The Bar Association has yet to make a contribution although many barristers (like many solicitors) have contributed significantly.

Unfortunately the NSW Government has disappointed. It is a very substantial user of AustLii services. In March 2007, identifiable Government users accounted for over 500,000 "hits". Hopefully it will recognise that a contribution is fair and just.

Police Briefs - short term Police gain for long term injustice to others

Unfortunately the NSW Government has also disappointed many with its Criminal Procedure Amendment (Local Court Process Reforms), Act 2007 enacting that Police Briefs of Evidence are no longer required to be served in a number of cases, e.g. P.C.A, offensive conduct, Table 1 offences.

In these lastmentioned, a Brief will be served after the defendant has pleaded guilty (and lost the opportunity for certain discounts and reduced costs). The reason given is to enable Police to spend less time behind a desk and more time on front line policing. It is alleged many hours of police time are wasted preparing "thousands" of Briefs of Evidence often not used because the defendant pleads guilty. Police estimate the process from charging to finalisation even with pleas of guilty, can take up to 135 hours of police time !!! The Bill was prepared in consultation with the Police and the Attorney General without public consultation, without consultation with the Bar, the Law Society, Judiciary or research on the effectiveness of the 1997 Act which introduced the Briefs of Evidence in anticipation that it would meet requirements of fairness, reduce defended cases, increase pleas of guilty, reduce inconvenience to witnesses, save Police time and money and provide shorter, more focused hearings. The objectives of the 1997 Act were achieved.

Police bring no credit to themselves and the Government by ignoring principles of fairness and by withholding evidence to gain pleas and convictions. Hopefully this "reform" will soon be repealed.

The Police system with police investigating, police prosecuting, police curbing FOI/Whistleblowers and with ever expansive powers and a history of corruption, could eventually lose community respect amidst a trail of allegations and damaging enquiries, political and media manipulations. As elsewhere let police investigate, let the law prosecute, for the public protection and the common good of all.

Police Culture

I do not condemn police prosecutors. They are a part of the police culture and do their duty. Some would do well in the legal profession as many before have already shown. A cheaper, more transparent and more effective system can, however, be worked out with the D.P.P as recommended by past Judicial Inquiries and the Police Royal Commission.

Whilst on the point, why has the Law Society President supported a very senior Police Officer to the policy making Criminal Law Committee of the Law Society? Is it time to review the Committee structure of the Law Society?

Members will find the police briefs "reforming" statute are on the Parliamentary Website go to <http://www.parliament.nsw.gov.au/prod/parlment/nswbills.nsf/V3BillsHome>. Read the 1st and 2nd speech of the Government and Mr C Hartaker, MLA of the Opposition. Your Local Member might be informed of your opinion, and also your appropriate clients as you discuss costs.

If you have a view on any of the above, please let me know.

I hope to give you details soon of some outstanding events in September and October and opportunities through our coming Website.

In the meantime, support our weekly activities. Our service is for your advantage.

Best wishes to you all,

ANTHONY RESTUCCIA
President

For Your Information

Legal Aid Increase (NSW)

Legal Aid has increased fees from 1 July, 2007 to a base hourly rate of \$150/hour for State Family Law and State and Commonwealth Duty matters.

The State Civil Law "successful rate" paid to practitioners who secure costs in a costs jurisdiction in a State Civil Law matter, will be maintained at the current rate.

Enquiries to Lyndsay Brooker, Manager Legal Policy at lyndsay.brooker@legalaid.nsw.gov.au.

Corporations Legislation Amendment (Simpler Regulatory System) Act 2007

Act received Royal Assent on 28 June, 2007 and is the Government's response to recommendations made by the Banks Regulation Taskforce "Rethinking Regulation"

Report of the Taskforce on Reducing the Regulatory Burden on Businesses (April, 2006).

Provisions include:

- reporting obligations of companies
- disclosure requirements (of remuneration for key management personal)
- auditor independence requirements
- related party approval thresholds (payments at or below \$5,000) check it out.

Opportunities

Australian Mediation Association – specialist in preventative law

The Australian Mediation Association (AMA) invites all qualified primary dispute resolution practitioners and mediators to join the National Referral Panel to receive mediation cases. Membership is FREE. A referral application form is available at www.ama.asn.au. Further information at email: info@ama.asn.au

Registration as Family Dispute Resolution Provider

The Family Law Act requires all new parenting cases from 1 July, 2007 parties to attend family dispute resolution. The Court cannot hear an application for a parenting order unless a certificate under s.601 from a registered family dispute resolution provider is filed with the application for the order

Further the Commonwealth Attorney Generals Department is establishing a Family Dispute Resolution Register (online at www.familyrelationships.gov.au) to:

- assess the suitability of individuals to be authorized as family dispute resolution practitioners for the purposes of issuing certificate under s.601
- enable the public to locate registered family dispute resolution providers
- enable the courts to verify that certificates under s.6-1 are issued by persons authorities to do so
- allow the Attorney General department monitor compliance, compile reports on workforce stats relation to family dispute resolution services.

Registration packs available at www.familyrelationships.gov.au/fdr.

Training as a Family Dispute Resolution Practitioner is available at the Australian Institute of Relationship Studied: see at www.relationships.com.au

The Commonwealth AG's Department is working with the Community Services and Health Industry Skills Council and stakeholders to develop standards and qualifications. It is envisaged it will be necessary to have six compulsory units of the Vocational Graduate Diploma in Family Dispute Resolution (or assessed as having current competencies equal to those units)

New Legislation of Interest

Anti Discrimination Amendment (Offender Compensation) Bill 2007

(waiting assent 31/05/2007)

Provides that damages awarded to a person under the *Anti Discrimination Act 1977* as compensation for loss/damage suffered by reason of conduct of certain public sector agencies while the person was an offender in custody are not to be paid to the person and instead are to be paid in the Victims Compensation Fund to be used for the purposes of that Fund. Payment to Victims Compensation Fund discharges a public sector agency's liability to pay the damages concerned. The Bills applies to awards of compensation made on or after 29 May, 2007 (the date Bill introduced into Parliament)

Workplace Relations Amendment (A Stronger Safety Net) Bill 2007 – C'th

Bill establishes a fairness test to apply to collective agreements and AWA and variations lodged after 7 May, 2007. The Workplace Authority Director (formerly the Employment Advocate) is to be satisfied that:

- the agreement provides fair compensation to the employee in lieu of medication or removal of employee's protected award conditions
- in the case of a collective agreement – on balance the agreement provides fair compensation overall to employees in lieu of medication or removal of the employees protected award conditions. The Fairness Test does not apply to AWA's re employees earning over \$75,000.

Recent Cases of Interest

Workers Compensation Commission

Rewitu Pty Ltd v The Registrar of the WCC [2007] NSWSC 441 – Associate Justice Harrison, Supreme Court

Issue - how to calculate the 28 day appeal period under s.327 Workplace Injury Management & Workers Compensation Act 1998.

Recent Papers of Interest

35th Australian legal Convention March/2007: Speeches and Papers

Legal Professional Privilege a Century on: Professor Baxt

Legal Professional Privilege: an in house Perspective Mr. Irving, Counsel Telstra

Access to Justice/Access to Layers The Hon Justice James Spigelman AC

The State of the Profession: Mr. Bugg, President Law Council of Australia

All available at www.lawcouncil.asn.au/alc_2007.html

The Law of Consent and Sexual Assault – Discussion Paper May, 2007. By Criminal Law Review Division AG's Department available at www.lawlink.nsw.gov.au/clrd.

United Kingdom Developments – Courts on Line Services

(a) Money Claim online

Money Claim on Line, is the Court Service's internet based service for claimants and defendants. The Online service can be used to make or respond to a money claim. There is user guide.

(b) Possession Claim on Line (PCOL)

The Possession Claims online project aims to manage claims for possession of residential property for non payment of rent or mortgage. (see both at www.hmcourts-service.gov.uk/onlineservices/index.htm)

Directors Prosecuted

In the past 3 months alone, the Australia Securities and Investments Commission (ASIC) have prosecuted 124 directors in Australia, resulting in \$218,075 worth of fines being issued. Over the past 12 months ASIC have prosecuted 561 directors, which has resulted in a total of \$1. 1 million worth of fines - source Australian Financial Review p.50 Wed 4.7.2007

China Food Concerns

Des Sibraa our guest speaker on Food Law Update Seminar told us that Zheng Xiaoyu, former head of the State Food and Drug Administration of China from 1998 to 2005 was executed on 10 July 2007 for taking bribes worth \$988,000 from 8 companies to approve defective medicines and dereliction of duty "with deaths from Toxins" discovered in food, medicines and other products like toothpaste, dog food, other discoveries were fake milk food, food made from oil from human corpses, fake liquors etc. check Chinese imports

Mobile Phone Recycling

The Sydney Mechanics School of Arts is currently collecting, on its 3rd floor, old mobile phone handsets for recycling. The scheme is run by Envirofone which pays \$5 per handset. Money donated to Bush Heritage Fund - Enquiries 9262 7300

REMEMBER

Small Firms are the backbone of the Law Society

VERY URGENT

Downing Centre Local Court Pro Bono Duty Solicitor Roster

Solicitors are invited to join the Roster and attend one a month

Inquiries: Anthony Restuccia Tel 0419 698 753

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