



City of Sydney Law Society



A Regional Society of the Law Society of NSW

21 December
2005

Newsletter

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At the outset, on behalf of the City of Sydney Law Society, I wish all members and their families, our supporters, be they from the Commonwealth Bank, the Judiciary, the Bar, other Solicitors particularly outside the heart of Sydney, and their families - from us to you - the joys of a wonderfilled Christmas season, to Jewish colleagues an enlightened Hanukkah, and a New Year promoting the honourable service of the law, the seeking for justice, the upholding of our independence and the hope for all of a safe and prosperous future.

Presidents Message

At the Annual General Meeting of the Society held on 17 November 2005, the following office bearers were elected unopposed:

President: Anthony (Rusty) Restuccia (Sole Practitioner)

Vice President: John Newton (TARS)

Secretary: Vonette Cornu (Corporate Counsel, SBS)

Treasurer: Nea Goodman (DoCS Legal Services)

I thank members for the honour of electing me as President. I have served the profession, my clients and the community for over 40 years and will endeavour to follow the example of innovative Past Presidents. I would firstly like to thank immediate Past President Victor Berger for his enthusiastic commitment to the needs of the Society in 2005 and his most generous hospitality. I also acknowledge with thanks the hard work of Brian Maher, our outgoing Secretary who has retired as General Counsel at the Public Trustee after 40 years. We wish him well in his retirement. Our thanks also go to Nea Goodman, who continues as Treasurer and M.C.L.E. organiser, who compiles our helpful Newsletter.

I also join with Victor Berger in thanking the outgoing Committee for their efforts in 2005 and to Marianne Atherton, our helpful Executive Officer. Our new, multi-disciplined Committee will include a number of new Councillors.

Our annual accounts audited by Lowy Wilcox & Co reported a profit. This was largely aided by the sponsorship from the Commonwealth Bank.

Annual Dinner 2005

The AGM was followed by the Annual Dinner. Our Guest of Honour, Chief Justice the Hon James Spigelman gave an entertaining speech on life and partnership prospects in big firms with liberal borrowings from Genesis in the Old Testament. This was truly a

unique insight. The State is fortunate to have a very multi-talented leader of the judiciary. The occasion prompted us with the opportunity to honour 11 of our Past Presidents of this Regional Society with Memorial Certificates for their commitment to fellow members of the legal profession. These Presidents were David Castle, Margaret Hole, Ken Brimaud, Pamela Suttor (two terms), Maurice May, Pat Fell, Ray Whitten, Nea Goodman, Peter Rosier, Dennis Bluth and Victor Berger.

Practical Seminars for busy Practitioners

November saw three of our Practical Seminars continue. Magistrate Roger Brown gave an extraordinary talk on Pleas/Sentences in the Local Court on 8 November 2005. Different certainly and as valuable was the seminar presented by John McDermott on "Conflict of Interest." Our third seminar, again presented very well by Costs Plus, was on the Legal Profession Act and Costs Disclosure. Look forward to more of our low cost, big benefits Practical Seminars in 2006. We will also continue our FREE forums in 2006 where members have the opportunity to raise practice concerns and hear the experience of other lawyers. Our forums cover property, immigration, wills & estates and small firms. Notice of forum dates will be included in future newsletters.

Early dates in 2006 for your diary

We will be presenting the popular Breakfast Seminar during Law Week 2006 on the developing subject of the community impact on judging sportspeople be they elite athletes of junior district officials. The date for this event is Tuesday 28 March 2006 at 7.30am. Venue details will follow.

On 17 February 2006, the Church Law Forum will discuss "Church Governance".

News & Views

The Law Society has launched the "1001 Conveyancing Answers," a practical aid for property lawyers.

The Opening of Term Church Services: Monday 30 January 2006.

The Legal Aid Commission is reviewing the duties and services of its Duty Roster Solicitors. Any comments or ideas, please let me know.

We are pressing for fair tort law reform, Costs reform, Mental Health reform etc.

Law Society information

Pam Suttor, a former President of CSLS, was successful at the recent Law Society elections. Our congratulations. We also congratulate all the successful candidates and wish them well under the leadership of the new President, the very committed June McPhie from Cooma based firm Blaxland Mawson & Rose. We note that Peter Johnstone from Blake Dawson Waldron is the new Senior Vice President. Charles Xuereb is the new Treasurer. We thank John McIntyre for his commitment as the outgoing President.

Membership

Please contact me or the Secretariat on the above numbers to send out an Application for Membership. Membership is worthwhile.

With best wishes,

Anthony Restuccia
President

Uniform Civil Procedure Act

The Hon Mr Justice Hamilton authored "*The New Procedure: Nuts & Bolts for Judicial Officers*" on 16 August 2005. A must read for all solicitors. Download at Bar Association Homepage.

Legal Profession Legislation: Comparative table NSW & Victoria, This is important

A copy of the current model Legal Profession provisions and comparative table (29 pages) containing information with respect to the model provisions and NSW and Victorian Legal Profession legislation is available on the Parliamentary Counsels's Office NSW Homepage www.pco.nsw.gov.au . The table provides a comparison between the structure and clause numbering of the new NSW and Victorian Legal Profession Act and clause numbering of the national model provisions on which much of the Acts are based.

UK Legal Profession Reform

The UK government published a White Paper on "The Reform of legal Services, Putting Consumers First" on 17 October 2005. The UK Law Society President said "*We have long promoted the need for a more flexible, consumer focused, legal services market and new business structures for delivering legal services. We recognise that the proposed oversight body - the Legal Services Board - could reinforce public confidence in the way lawyers are regulated*"

Source: www.lawsociety.org.uk/newsandevents/new/views+newsarticle.law?EWSID=

New Zealand Law

New 5th Edition of Legal Practice Manual, published by Auckland District Law Society - 8 volumes covering Legal Practice & Office Procedures, Employment, Health, Treaty & Personal/Human Rights, Conveyancing law, Property Law, Commercial & Company law, Estates, Wills & Trusts, Dispute Resolution & General Litigation, Civil & Criminal Procedures, Family Law.

Cost \$895 NZ (+GST) plus \$25 handling. Purchase online at www.adls.org.nz . Enquiries to sales@adls.org.nz

Trust Account Rules - the easy way

In New Zealand, monthly certificates, quarterly Trust Account Partner's Certificates can be "filed" online. The online Trust Account Scheme, is a financial assurance scheme certification program that assists alter NZLS Inspectorate at any early stage to any compliance problems.

Source: www.nz-lawsoc.org.nz/memqtrcert.asp

Migration Review Tribunal and Refugee Review Tribunal

The Principal Member Direction Number 2 effective from 5 October 2005, provides guidance on the efficient conduct of MRT and RRT reviews (see at respective homepages).

Legal Employment New Zealand

Check out current legal jobs in New Zealand at www.adls.org.nz/profession/lawnews/jobs2.asp (Auckland District Society News). Registration in New Zealand is pursuant to the *Australian Practitioners & The Trans Tasman Mutual Recognition Act 1997* (NZ) (TTMRA) see at www.nz-lawsoc.org.nz/osltranstasmra.asp for guidelines, model documents and information about occupational equivalence. Once admitted, a practising certificate can be obtained from a district law society in New Zealand.

New Comcare Guides

New *Comcare Guide* effect from 1 March 2006. There are two parts:
a) claims for permanent impairment other than defence related claims; and
b) defence related claims for permanent impairment.

Claims for Commonwealth compensation should be lodged prior to 1 March 2006. A report by ComCare SIG Chair, Vince Groen, is available on the ALA Public Affairs and Policy section (www.lawyersalliance.com.au)

Agents for Workers Compensation

Two successful Workcover tenders for services/agents announced on 31 October 2005 are:

Organisation: -	Premium Market Share: -
Allianz	22%
Cambridge Integrated Services	8%
CGU Insurance	21%
Empliyers Mutual	9%
GIO Insurance	16%
QBE Insurance	19%
Gallagher Bassett Services WC NSW	5%

Source: www.workcover.nsw.gov.au/Initiatives?SchemeDeseign/Consultations/new_agents..

Workers Compensation Commission

WCC Rules 2003, Rule 38(2), 40(2) and 44(3) concerning documents relied upon which are not filed with the Application, reply or Response require a statement of evidence - documents which are relied upon by which are not in possession of a party at the time of filing.

Case of Interest - Fishburn v Integral Energy [2005] NSW WCC PD 53

Deputy President Fleming found the information regardig document relied on, but not filed with the reply was so general as to be meaningless. The rules require documents to be clearly identified in the Statement.

Indexed rates for benefits under WCA 1987 applicable from 1 October 2005 can be

downloaded at www.legislation.nsw.gov.au .

MAA Facts & Figures of Interest Non Economic Loss cases

From 5 October 1999 to 30 June 2005, there was 1,081 general assessment matters where an assessor was required to conduct an assessment of damages and issue a certificate of these, 115 (0.63%) required an assessment of damages for non-economic loss. \$12.5 million in total was assessed for non-economic loss during that period (averaging \$110,000).

CARS Applications since 1.7.03

	Exemption	General	Special	Total
2003/04	1,720	2,837	246	4,803
2004/05	1,712	2,480	226	4,418

Source: MASS Bulletin (Vol. 5, no. 3)

Recent Cases of Interest

Heyward v Plymouth Hospital NSH Trust [2005] EWCA Crim 939

Occupational stress claim each party obtained a report from a consultant - use of risk assessments and implementation of steps to avoid injury. What evidence is to be adduced before rebuttal.

CSR Limited v Eddy [2005] HCA 64 (21 October 2005)

Considered compensation for plaintiff's inability to provide domestic assistance to wife. The High Court held that special damages could not be claimed for an inability to care for a disabled family member because of personal injuries. The NSW Dust Disease Tribunal had awarded Sullivan v Gordon damages to Mr Thompson after mesothelioma prevented him from caring for his disabled wife. Whether Sullivan v Gordon damages are analogous to Griffiths v Kerkemeyer considered.

Industrial Law NSW

Note the Industrial Law Changes regarding jurisdiction made on 9/12/2005.

**CONTRACTS FOR SALE OF LAND
are available from CSLS at discounted prices.**
Contact Kristan at L Rundle & Co on 9299 1828.
Email kmorris@lrundle.com.au

Support your Regional Law Society

CSLS Meetings

Meetings are generally held on the third Tuesday of the month. Members are invited to attend and raise issues for discussion. Contact the secretariat for meeting locations.

The CSLS gratefully acknowledges the support of the Commonwealth Bank

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