



City of Sydney Law Society



Seminars

A Regional Society of the Law Society of NSW

January-February 2006

Seminars

Obtain your CLE points **NOW** in areas relevant to your practice, keep up to date on Legislation, problem areas and possible solutions,
Court of Appeal trends from senior and pre-eminent practitioners.

The CSLS offers CLE as a service to its members at very modest cost recovery prices.
Refreshments provided and opportunities to meet like minded professionals.

FREE **LEGAL SEMINARS UNTIL 31 MARCH '06**

This offer is to members of the CSLS only. Members must be financial prior to attending the seminar. Members will save a minimum of \$44 for each seminar. Fill in the form, join now and **SAVE**.

Non-members of CSLS can also attend our seminars, but at a cost of \$55 if a Law Society of NSW member and \$66 for non-members (unless otherwise specified).

Registration form can be found at the end of the seminar notices.

FEBRUARY '06

Wesley Mission Church Law Forum: Child Protection

When: 23 February 2006, from 5:30pm.

Where: Wesley Mission, 220 Pitt Street, Sydney

Registration: Directly to Bryce Bridges bryce.bridges@wesleymission.org.au

MARCH '06

Police Powers - Past, Present, New - and Changing

When: Wednesday 1 March 2006, 5:30pm to 7:15 pm

Where: World Tower, Boardroom lvl 11, 87-89 Liverpool Street, Sydney

Speakers: **ANDREW HAESLER S.C.**, Deputy Senior Public Defender for NSW
who practices extensively in the Appellate Courts

GREG SMITH S.C., Deputy Director of Public Prosecutions for NSW

Important changes have occurred to police powers in 2005, including last December with "Cronulla" amendments. Find out the ramifications from those who know.

Chair: Anthony Restuccia, CSLS President

Venue provided by Peter Bollard & Associates

Electronic Conveyancing in Australia

When: Tuesday 7 March 2006, 5:30pm to 7:15pm

Where: World Tower, Boardroom lvl 11, 87-89 Liverpool Street, Sydney

Speakers: LES TAYLOR, Chairman of the National Steering Committee for establishing the National Governance Arrangements.
Former Chief Solicitor & General Counsel for Commonwealth

Bank.

SIMON LIBBIS, Executive Director of the National Office former Registrar of Titles of South Australia.

Will e-conveyancing benefit your practice and your client? How wide is its' application? Will it be costly? Voice your concerns to the experts **now** before it is set in concrete!

Chair: Anthony Restuccia, CSLS President

Venue provided by Peter Bollard & Associates

Legal Profession Regulation

Requirement of Section 176-Equal Employment, Harrassment, OH&S

This topic is a compulsory requirement for all solicitors to attend.

When: Thursday 9 March 2006, 5:30pm to 7:15 pm

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

Speaker: CHRIS RONALDS S.C., the leading Counsel expert in the field of discrimination & equal opportunity and human rights.

Chair: Nea Goodman, CSLS Treasurer

Small Firms Forum

When: 13 March 2006, 5:30pm (the Forum meets the 2nd Monday/month)

Where: Sydney Mechanics School of Arts, Lvl 1, Pitt Street, Sydney

This this discussion group is offered at no cost to members and non-members. Items for discussion are the various structures of legal practice, check list for compliance, costs etc.

Understanding the Legal Profession Act 2004

When: Tuesday 21 March 2006, 5:30pm to 7:15 pm

Where: World Tower, Boardroom lvl 11, 87-89 Liverpool Street, Sydney

Speaker: MICHAEL SLATTERY, Q.C. President of the Bar Association of NSW

Do you *really understand* this voluminous Act which effects your livelihood and that of barristers? This is a rare opportunity to appreciate the bigger picture, to know and understand the critical changes and to ask the questions.

Chair: Anthony Restuccia, CSLS President

Venue provided by Peter Bollard & Associates

Federal Industrial Relations Changes

When: Wednesday 22 March 2006, 5:30pm to 7:15pm
Where: Sydney Mechanics School of Arts, Lvl 1, Pitt Street, Sydney
Speakers: JOHN TREW QC, Industrial Relations Specialist practising in
appellate Courts
PETER PUNCH, Partner at Carroll & O'Dea Solicitors,
Industrial Relations Specialist, Author/Editor.

The most profound changes to our industrial relations law have been assented to. They could affect our practices in many ways. Challenges to the legislation have been instituted. What is happening? Where could it lead? This is your opportunity to find out from lawyers of considerable experience and insight in this field.

Chair: Anthony Restuccia, CSLS President

Law Week Breakfast 2006 - Opening the Door to the Law-The Sports Question

When: Tuesday 28 March 2006, 7:30am
Where: Universities & Schools Club, 60 Phillip Street, Sydney
Speaker: The Honourable Justice TRICIA M KAVANAGH

The Honourable Justice Tricia Kavanagh is a Justice of the Industrial Court, Arbitrator on the International Court for Sport and a Judge at the Sydney Olympics.

A distinguished sports person will act as commentator.

Don't miss out - book your place today!

Cost: Members \$44, Non-members \$55.

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 below address.
A tax invoice will be sent to you.

REGISTRATION FORM

Changing Police Powers - Wed 1 March '06, 5.30pm.

CSLS Memb: Free; Law Soc Memb:\$55; Non Memb: \$66.

E- Conveyancing - Tue 7 Mar '06, 5.30pm.

CSLS Memb: Free; Law Soc Memb:\$55; Non Memb: \$66.

Legal Profession Regulation 176 - Thu 9 Mar '06.

CSLS Memb: Free; Law Soc Memb:\$55; Non Memb: \$66.

Small Firms Forum - Mon 13 mar '06.

Free to members & non-members.

Legal Profession Act - Tue 21 Mar '06.

CSLS Memb: Free; Law Soc Memb:\$55; Non Memb: \$66.

Industrial Relations - Wed 22 Mar '06.

CSLS Memb: Free; Law Soc Memb:\$55; Non Memb: \$66.

Law Week Breakfast - Tue 28 Mar '06.

CSLS & Law Soc Memb: \$44; Non-Memb:\$55.

NEW MEMBER. I wish to take up immediate membership of CSLS and include the membership fee of \$77.00 (Group discounts available, contact us for details). My membership will be valid until 30 June 2006, 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 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: _____

**Please return this form with payment to : City of Sydney Law Society,
PO Box 523 Forestville 2087. Phone 9453 3511. Fax 9453 3522 Email
csls@optusnet.com.au**
Register early, seating limited. Did you include a membership application?

Newsletter

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

Vice President: John Newton johnnewton@tars.com.au

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

Secretary: Vonette Cornu vonette.cornu@sbs.com.au

Secretariat: PO Box 523, Forestville NSW 2087 Ph 9453 3511 Fax 9453 3522 Email
csls@optusnet.com.au

Presidents Message

2006 brings many changes for lawyers, including moves to electronic conveyancing Australia-wide, greater & stronger police powers, new Federal Industrial Relations laws

now assented to, pressure for equity and fairness in tort law in NSW. Following the release on 8 December 2005 of the Parliamentary Upper House Inquiry Report, reforms of governance in the legal profession in the United Kingdom and in Victoria could spell changes ahead for NSW. Retail leases changes are now in operation.

To help solicitors gain their necessary **MCLE points**, the City of Sydney Law Society will assist by holding **FREE LEGAL SEMINARS** until 31 March 2006 for members. If you are not yet a member, tick the "New Member box on the seminar registration form, and you will be able to enjoy member benefits as soon as it has been received by us with payment. Membership benefits extend beyond discounts on our seminars and events, and also include discussion forums, lobbying, actions and motions representing your concerns, special functions to make a difference. Come and join us.

We are fortunate that there were **Church Services** to mark the opening of the Law Term - Catholic and Anglican services were held on 30 January 2006, the Jewish service on 3 February and the Pan-Orthodox service on 7 February in Sydney, they were also held in some country centres. This ancient, traditional custom brings real benefits to our profession and is apt in light of the importance of civility in our society and profession, as expressed by Chief Justice Spigelman in his address at the opening of the Law Term this year.

Best wishes,
Anthony Restuccia
President

Federal Industrial Relations Changes

The Workplace Relations Amendment (Work Choices) Bill passed the Federal Parliament on 7th December 2005, and received Royal Assent on 14 December 2005. Most parts will not commence until around March 2006. However, three aspects commenced on assent:

- Schedule 1A: Australian Fair Pay Commission
- Schedule 3: School based apprenticeships and trainees
- Schedule 3A: Redundancy pay by small business employees

The Regulations to the Act have not yet been released.

The NSW Government filed a challenge to the validity of the Federal Workchoice Act in the High Court on 21.12.2005 relying on the Australian CONstitution which gives explicit power for regulation of industrial relations, and that industrial relations is to be shared between the Commonwealth and the States. The Commonwealth seeks to use s.51(xxxv) "corporations power". For a discussion paper, see www.fairgo.nsw.gov.au/FederalIRChanges . The hearing should occur in May 2006.

In so far as Legal Practices in NSW are concerned, it appears they are covered by NSW State Awards, unless it is an incorporated legal practice. Incorporated legal practices pass into the Federal Industrial Relations system and current State awards become Transitional Federal Agreements for a maximum period of three years. At the end of three years the transitional agreement lapse and the employers enter an Australian Workplace Agreement (and the Fair Pay and Conditions Standards apply) as a minimum.

If a legal firm employs administrative and support staff through a service company, it is probable that entity is transitioned into the new Federal system.

Corporate Lawyers will be covered by the Federal Legislation was will NSW Government lawyers employed by a State owned trading corporation which is now covered by the transitional provisions of the Work Choices Legislation.

Find out more on the Work Choice Act. Come to our free* seminar on Wednesday 22 March 2006 - see the CSLS program above for details.

*free to financial CSLS members. A charge applies to unfianancial and non-members.

Electronic Conveyancing. This is important.

Online conveyancing will be piloted in 2006, particularly in Victoria. It appears the paper shuffle before settlement day, manual drawing and depositing of bank cheques, and the need to meet in the same room to exchange documents and cheques will be a thing of the past (at least in Victoria soon and NSW thereafter).

Land Victoria, part of the Department of Sustainability & Environment will pilot the program for limited transactions (discharges and mortgages) and electronic settlement. Conveyancing information will be available electronically. Parties can check information supplied or follow the process - at any time, from anywhere! Funds may also be transferred electronically.

What are "LSP's"?

LSP's - Licensed Service Providers through commercial arrangements with clients will offer such things as:

- connection to electronic conveyancing by browser or web services
- specialised browser interfaces suited to particular client groups
- integration of electronic conveyancing with other business services (eg. title searches, electronic stamping)
- accreditation for new users, and refresher training for users
- distribution to users information bulletins
- technical and application support to users

LPS will be licenses by NSW Lands - see at www.lands.nsw.gov.au/ECNSW .

CSLS is running a CLE on this topic, come to our free* seminar on 7 March 2006 and ask questions.

*free to financial CSLS members. A charge applies to unfianancial and non-members.

Defending - Tort Law Costs - The Law Gazette (UK) 16.12.2005 reported Judges Defend solicitors after MP's attack

Top judges last week defended solicitors over allegations from the Constitutional Affairs Select Committee that they have helped create a compensation culture and driven up costs.

The Lord Chief Justice, Lord Phillips, denied there was a "compensation culture" in the UK noting an overall 5% drop in personal injury claims in the last year.

In response to complaints about disproportionate costs that outweighed claimants' damages, Lord Phillips argued defendants now had mechanisms to challenge extortionate success fees and other anomalies through the courts. He said "Solicitors are simply not allowed to run up enormous bills".

Senior Costs Judge Peter Hurst hit back at suggestions that there should be more cost capping where fees exceeded damages, saying it is often difficult for lawyers to predict the chances of success when they initially sign a client to a conditional fee agreement.

**CONTRACTS FOR SALE OF LAND
are available from CSLS at discounted prices.
Contact Michelle Khaper at L Rundle & Co on 9299 1828.**

Email mkhaper@lrundle.com.au

Support your Regional Law Society

Reform of Governance of the Legal Profession Victoria

In Victoria the Legal Services Board has taken over responsibility for

- administration and management of the trust account system
- maintenance of the Register of Legal Practitioners and the Register of Disciplinary Action
- Administration of funds under the Legal Profession Act 2004
- Determining claims against the Fidelity Fund, managing and investigation of claims
- Issue and renewal of practising certificates
- setting professional indemnity insurance requirements
- external administration of legal practices
- making and approving legal profession rules

See more at www.lsb.vic.gov.au/about.asp. Come to our Small Firms Forum discussion.

United Kingdom

The functions of the UK Law Society commencing January 2006 have been split into three:

- Representation
- Regulation Board
- Consumer Complaints Board

UK - New Conditional Fee Agreements

A new regime for conditional fee agreements and collective conditional fee agreements commenced in UK on 1 November 2005 as per the UK Law Society's Solicitors Costs Information and Client Care Code 1999. This complies with the mandatory requirements of s.58 of the Courts & Legal Services Act 1990 (UK) and s.27 Access to Justice Act, 1999 (UK). Thus agreements must be in writing (except for family law) and in the case of a success fee must specify the percentage increase exceed that specified by the Lord Chancellor (currently set at 100%). If the s.58 Courts & Legal Services Act (UK) requirements are not met then the agreement is unenforceable (and the losing party is not liable for the winning party's costs). To view copies of the UK

- Model Client Fee Agreement and client leaflet
- Guidance on the Solicitor's Practice (Client Care)

and other useful information in this area, go to

www.lawsociety.org.uk/professional/conduct/guidance/

Interesting cases

UK-Costs see **Deborah Garrett v Halton Borough Council (Liverpool County Court) 2005**

see also **Campbell v MGN Limited, House of Lords [2005] UKLR61 (20.10.05)** concerning success fees, costs recoverable, proportionate costs, practice note

UK-Costs: Musa King v Telegraph Group Ltd [Practice Note] 2005 1 WLR 2282

Held by Senior Costs Judge Hurst that City charge out rates cannot be recovered for work that could be done just as well elsewhere. Judge Hurst said:

"A city firm which undertakes work which could be competently handled by a number of central London solicitors is acting unreasonably and disproportionately if it seeks to

charge city rates."

He described "city work" as "normally heavy commercial or corporate work". The assessment of a defamation case *Musa King*, Master Hurst said "defamation is not city work" and is "never likely to be". Leading London media firm Carter Ruck claimed \$375 an hour for partners but was allowed only \$325. The ruling could impact on defamation and civil litigation as it is called for "a great deal more delegation to assistant solicitor level to introduce greater proportionality in costs." (see UK Law Gazette 16.12.2005 - breaking news).

CSLS Meetings

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

The CSLS gratefully acknowledges the support of the Commonwealth Bank

City of Sydney Law Society Inc | Email csls@optusnet.com.au
PO Box 523, Forestville NSW 2087
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."