



City of Sydney Law Society



A Regional Society of the Law Society of NSW

June-July 2007

## Best Value for Seminars

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### Our coming seminars

- 27 June '07: Tips on Serving Hard-to-Find Defendants
- 4 July '07: An update on Food Law Changes
- 9 July '07: Small Firms Practice Forum
- 11 July '07: Automating a Small Firm Practice Increase Profits
- 18 July '07: The Changing Tide in the Law of Negligence

All these seminars are Spot Talk Seminars, FREE to CSLS Members. They are held on Wednesdays at 5:30pm for an hour. Non-members also 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 opportunities to meet like-minded practitioners.

**Join Today for a tax advantage**

**Registration & Membership form is at the end of the Seminar Notices.**

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**JUNE '07**

**- SPECIAL -**

**Tips on Serving Hard-to-Find Defendants**

**When: Wednesday 27 June 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**, Solicitor

Our speaker is a specialist in Strata Unit work and very experienced at debt collecting. He has introduced a number of unusual and accepted substituted service innovations. Save on your service fees, save on frustration. A critical subject.

**Chair: PETER KELSO of Bartier Perry, Author of "Book of Debt Collecting"**  
1 MCLE point.

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**JULY '07**

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### **An Update on Food Law Changes**

**When: Wednesday 4 July 2007**, 5:30pm to 6:30pm

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

**Speaker: DES SIBRAA**, a Legal Consultant in food to industry, a Solicitor for over 30 years, a former Chief Food Inspector for NSW, Author of the Practice Book "Food Law in NSW".

With the Food Authority of NSW, a more proactive role has emerged. With more prosecutions, public shaming techniques and indictable charges. Recently the first indictable case was finalised in the Supreme Court resulting in an \$800,000 Costs Order! A developing field of work.

**Chair: JOHN GALLUZZO, Barrister**  
1 MCLE point.

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### **Small Firms Practice Forum - What Concerns You?**

**When: Monday 9 July 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 consider the proposed national profession changes and ask can a co-operative society of legal firms assist small firms? We will also be discussing a Planning meeting with the Sydney City Council. Excellent practical value. No cost.

Chair: **Anthony Restuccia**, CSLS President

1.5 MCLE points.

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### **Automating a Small Firm Practice to Increase Profits**

**When: Wednesday 11 July 2007**, 5:30pm to 6:30pm

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

**Speaker: DAVID LEAMEY**, Barrister.

Our speaker was a Solicitor in a varied and busy sole practice for 11 years and is now a rising Barrister. By understanding properly the facilities available to lawyers, the result has been increased profits, less wasted costs, happier clients - and less stress. An illustrated presentation, for which you will be most grateful.

**Chair: KEN HARKNESS**, CSLS Secretary  
1 MCLE point.

### **The Changing Tide in the Law of Negligence**

**When: Wednesday 18 July 2007**, 5:30pm to 7:00pm

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

**Speaker: PETER STERNBERG**, Barrister.

Mr Sternberg is a Barrister with 23 years experience in Common Law, particularly in Tort and Negligence generally, and before the Court of Appeal and High Court. Recently he appeared in the High Court when it considered whether Wyong Shire Council v Stirt should be overruled. An exceptional opportunity.

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

### **OTHER SEMINARS TO NOTE**

#### **A CSLS SPECIAL: The Victims Compensation Tribunal**

**When: Wednesday 8 August 2007**, 5:30pm

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

**Speaker: Mr C BRAY**, Chairman of the V.C. Tribunal since 1994.

Issues: Understanding Assessments and Requirements

#### **Church Law Forum: Employment**

**When: Thursday 16 August 2007**, 5:30pm

**Where: Wesley Mission Centre**, 220 Pitt Street, Sydney.

Issues: Discrimination. Volunteers. Are Church Ministers employees?

Registrater directly with Bryce Bridges: ph 9263 5373, fax 9264 4686

#### **REGISTER HERE**

Send an email to Ann Parisi on [info@sydneycitylawyers.com.au](mailto:info@sydneycitylawyers.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**

Tips on serving hard-to-find Defendants - Wed 27 Jun '07.

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

An update on Food Law Changes - Wed 4 Jul '07.

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

Small Firms Forum - Mon 9 Jul '07.

Free to members & non-members.

Automating a Small Firms Practice....-Wed 11 Jul '07.

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

The changing Tide in the Law of Negligence - Wed 18 Jul '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 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

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I enclose payment of \$\_\_\_\_\_

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**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

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 :

City of Sydney Law Society,

GPO Box 1907 Sydney 2001. Phone 9266 0012.

Fax 9266 0062 Email [info@sydneycitylawyers.com.au](mailto:info@sydneycitylawyers.com.au)

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

### HELP AUSTLii CAMPAIGN

The availability of this outstanding service online is essential to law firms, Courts, law/HSC students, the public etc.

### NOW IS ACTION TIME

Contact:

Law Society of NSW, 170 Phillip Street, Sydney NSW 2000

E: [lawsociety@lawsocietynsw.asn.au](mailto:lawsociety@lawsocietynsw.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>

or Regional Law Society Presidents (list in Law Society Journal)

**AUSTLii enquiries David Vaile ph 9385 3589**

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## Newsletter

**President:** Anthony (Rusty) Restuccia [a\\_j\\_restuccia@yahoo.com.au](mailto:a_j_restuccia@yahoo.com.au)  
Mob. 0419 698 753, Fax 9439 5914

**Vice President:** Denis Mockler [dmockler@scm.com.au](mailto:dmockler@scm.com.au)

**Treasurer:** Nea Goodman [nea.goodman@community.nsw.gov.au](mailto:nea.goodman@community.nsw.gov.au)

**Secretary:** Ken Harkness [k.harkness@kmhc.com.au](mailto:k.harkness@kmhc.com.au)

**Secretariat:** GPO Box 1907, Sydney 2001 Ph 9266 0012

Fax 9266 0062 Email [info@sydneycitylawyers.com.au](mailto:info@sydneycitylawyers.com.au)

### *Presidents Message*

Ann Parisi is our new Executive Officer. We welcome her and thank Marianne Atherton for her 6 years of dedicated service, much appreciated.

### ***AUSTLII imposing restrictions***

Have you acted?

Since its financial problem became known in April 2007, funding support has increased with now over 80 institutional stakeholders plus a hundred individual supporting contributors of \$500 or less. But this has not been sufficient to stop restrictions being imposed already. AustLII policy is that "all institutions using AustLII's services or content for profit-making purposes or for business, professional or academic purposes, should make a contribution towards the costs of AustLII's operations. By this means, user charges are avoided and access by individual users remains cost-free. This obligation to contribute is the corollary of AustLII's stakeholder model, so to keep the costs to stakeholders low, their number must be as large as possible, in fairness to all".

The model is explicitly one where the better-off institutions in the community held fund free access to essential legal information eg the less well-off, in the interest of the rule of law and access to justice. The alternative model is for "all end-users are required to pay for access and hence many do not obtain it." The current model apart from fairness, also ensures that AustLII's is an independent provider of free access legal information.

It is hard to argue against the AustLII philosophy. The large institutions not contributing include State Law Societies, the NSW Government, the Bar Association, the NSW Courts. Hopefully, the NSW Government may find funds from its "miracle" budget.

The Law Society of NSW has also declined to assist although properly recognising "many practitioners use" AustLII. In March 2007, AustLII averaged 637,000 pages accessed ("hits") EACH DAY. NSW usage is 36%!! (according to an independent ratings agency, Hitswise). There is criticism of the legal profession's attitude. It is difficult to defend the Law Society of NSW with their profit of \$17 million last year, their accumulated funds exceeding \$39 million, with members fees increased this year, and the total annual budget of AustLII sought from ALL stakeholders throughout Australia is \$1,2 million, of which \$400,000 is the current deficit. NSW should contribute something.

Let us hope that the coming Law Council meeting can restore the good name of the profession by a fair and sizeable (if belated) contribution from the Law Societies. Members can contact the Law Society or myself to express their views. Contacting the State Government (Premier or Attorney General) would also be desirable.

### ***Membership Renewals***

Membership renewals have been sent to all members. Please renew your membership for your own benefit and in support of CSLS.

### ***A new Constitution***

The Law Society is preparing a new Constitution. We look forward to an effective role for Regional Law Societies and the opportunity to consider the proposed document at leisure.

### ***Problems***

Our State President has reminded members who are struggling with health, practice and work-life family commitments of Law Care and the Lawyers Assistance Program. Whatever other solutions eg psychiatric or counselling are properly to be offered, however, there is one other solution, if properly encouraged, which can also be effective ie. the Local Regional Law Society. These Societies meeting regularly, in whole or in part eg. as a small firm practice forums, develop friendships and fraternity. Trust gained can prevent personal disasters.

### ***Next Meeting of Regional Law Society Presidents***

Scheduled for Thursday 28 June 2007. Contact me if you wish to bring issues to that meeting.

With every best wish to all,

***Anthony Restuccia***  
**President**

***For Your Information***

***Professional indemnity insurance*** premium funding by Hunter has been queried in the context of it being associated with Allianz Insurance one of the main opponents of tort law reform. We now have Pacific.

At this time of year, professional indemnity insurance looms largely in our minds, together with whether or not to fund it via a commercial arrangement or pay up front. In NSW the Attorney General pursuant to s.403 LPA approves the type of professional indemnity insurance policies, the level of insurance and the terms of policies. In the UK there are several providers, and in respect of the NSW Bar Association, which is a very small pool by comparison there are several providers. To compare the benefits and differences in policies for PII 2007-2008 available for the Bar Insurance, you can peruse the NSW Bar Association Home Page. One of the mooted legal reforms is a standard policy of insurance nation wide.

Strangely, despite the return to the fold of the Large Law Firm Group (LLFG) firms in return for a seat on the Law Council of Australia boosting the income from membership fees, the Law Society has this year increased the membership fees by \$50. It is understood that the big firms have committed to three years of membership fees with the Law Society. We are pleased that the large firms are back.

The Large Law Firm Group (LLFG) represents the nine largest law firms in Australia, approximately 7,000 lawyers. The nine firms are: Allens Arthur Robinson, Blake Dawson, Clayton Utz, Corrs Chambers, Deacons, Freehills, Mallesons, Minters, DLP Phillips Fox. The LLFG will be represented on the Law Council of Australia by a single Director who will have a voting entitlement calculated in accord with the revised Law Council Constitution. The Law Council of Australia newsletter of April, 2007 reports that for at least the next three years all the practitioner principals and employees of the nine firms will be encouraged by those firms, via the payment of their membership fees to join their local law society.

*Stop Loss* the newsletter of Law Cover for December 2006 reported that as at the end of June 2006, 87 claims remained outstanding from the period of HIH run off period. As at that date the deficit in members funds was \$1.9 million. The Law Society as at that date held \$7.023 million in a special reserve for SMIF if required.

### ***Client Legal Privilege***

Recent controversies have highlighted the need to examine the balance between protections afforded by client legal privilege and the ability of federal investigatory bodies to search out the truth. The right has been described variously as "an important common law right", "fundamental human right". However the AWB and HIH Royal Commissions said the claims of privilege can be used to frustrate investigators.

Is your firm listed on the Austlii Solicitor Register? To contact the register and list your firm – [www.solicitors.net.au/contact.php](http://www.solicitors.net.au/contact.php), see at Austlii

### ***Legislation/Bills of Interest***

#### ***Fair Rights for Injured People Bill 2007***

Introduced by Ms Rhiannon, Legislative Council by Notice of Motion on 9 May, 2007. An Act to amend the civil liability, workers and motor accidents compensation legislation to establish a single consistent procedure for the recovery and quantification of common law damages for all fault based injuries, whether the injuries occur at work, while driving or in public areas.

### ***State of the Profession***

Solicitors with practicing details as at 3 May, 2007 21,596. % male solicitors 56.43 and 43.57% female. Interestingly 1, 703 or 8% had no practice details and are assumed to be unemployed. A break up by type of practice is:

Private Practice	15,622	72.34
Government	2,435	11.28
Corporate	3,539	16.39

And by location:

City	11,191	51.82%
Suburban	6,572	30.43%
Country	2,884	13.35%
Interstate & overseas	941	4.36%

### ***Bar Association CLE - The Rhetoric Seminar Series***

The Rhetoric Seminar Series has seven seminars which commenced on 28 May 2007 and is directed to the art of rhetoric with emphasis on its classical origins to illuminate:

- . nature and permissible limits of persuasion
- . the role of emotion in legal argument
- . the relevance of character of the advocate, the accused and the audience in the rhetorical dialectic
- . evolution of the barrister class as a discrete professional group engaging in the practice of rhetoric
- . The effect of changing institutional contexts on acceptable rhetorical systems.

Seminar 4: 10 July: *Between Virtu and Fortuna: Rhetoric in Machiavelli's The Prince and Cicero's on duties.*

Seminar 5: 23 July: *Changing Rhetoric of Barristers over the Last century*

(Panel: Branson J, Hughes, QC, Bathurst QC, Norton SC, Walker SC

Contact: Bar Association

### ***CONFERENCES (Overseas)***

9<sup>th</sup> International ADR Conference -- Cross Winds to Calm Waters at

Wellington, New Zealand 19-21 September, 2007. Contact LEADER.

E-mediation, telephone mediation, online dispute resolution, impact of new technologies, research, new concepts, practices and practice, government and the courts, environment and public policy, HR trends.

### 26<sup>th</sup> Annual Australian and NZ Law History Society Conference

21-23 September, 2007. Theme: Fence posts in Legal History. Key speaker: Professor Lobban, School of Law, Queen Mary, University of London. Contact: [ccollings6@une.edu.au](mailto:ccollings6@une.edu.au) (hosted by School of Law, Uni of New England, Armidale)

### ***New Publications***

#### ***Draft Template Contract with the Bar***

The Law Society of England & Wales published after consultation with the UK Bar Council, in March, 2007 a template contract (20 clauses – 17 pages). The template contract is directed to identifying the key elements of each engagement, save time by providing standard terms and conditions, lowers risk through increased security. See background paper and contract at [www.lawsociety.org.uk/newsandevents/news/majorcampaigns/view+newsarticl..](http://www.lawsociety.org.uk/newsandevents/news/majorcampaigns/view+newsarticl..)

#### ***Seminar on Recent Developments in Sentencing and Selected NSW Court of Criminal Appeal Sentencing Decisions*** (4 May 2007 and 17 March 2007)

Speeches, Seminar presentation by Director and Deputy Directors of DPP available at [www.odpp.nsw.gov.au/speeches/speeches.html](http://www.odpp.nsw.gov.au/speeches/speeches.html)

#### ***The State of Administrative Justice in Australia*** - Paper presented

Justice Downes, AM. on 7 May, 2007 – presented at Canadian Council of Administrative Tribunals, 4<sup>th</sup> International Conference, World Report, Vancouver (12 pages) at

[www.aat.gov.au/SpeechesPapersAndReserach/speeches/downes/StateAdminJus...](http://www.aat.gov.au/SpeechesPapersAndReserach/speeches/downes/StateAdminJus...)

## ***Cases of Interest***

***Golden Eagle International Trading v Zhang*** [2007] HCA (19 April, 2007)

(Gummow, Kirby, Hayne, Callinan and Crennan)

Held: affirms the law of Australia is now that the prospective life tables derived from ABS statistics should be used in preference to this historic life tables. The historic life tables are only a calculation of the ages at death of those who died during the period of collection of the statistics. The prospective tables, referred to as *Median Life Expectancies, Australia, 2007* use the medium mortality rate improvements assumed by the ABS in *Population Projections, Australia 2004 to 2101*. They assume a continued but declining rate of improvement in life expectancy.

To view the *Medium Life Expectancies, Australia 2007* Tables go to

[www.cumsar.com.au/PDF/LifeExpectancies2007.pdf](http://www.cumsar.com.au/PDF/LifeExpectancies2007.pdf).

## ***Recent Supreme Court Appeals from Registrar, Workers Compensation Commission***

*Rewitu v the Registrar of the WCC* [2007] NSWCA 441

*Tattersall v Registrar of WCC* [2007] NSWSC 453

## Arbitration/Mediation Case Lists

The LEADR ADR Case Law Review has recently been updated. Lists mediation and arbitration cases by name, citation, date of judgment and issues determined. Includes international cases, building and construction/progress payments case. Over 100 cases listed. See [www.leadr.com.au/update.htm](http://www.leadr.com.au/update.htm)

### **REMEMBER**

**Small firms are the backbone of the Law Society**

### **VERY 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**

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