



City of Sydney Law Society



Seminars

A Regional Society of the Law Society of NSW

March-April 2006

Seminars

The CSLS presents quality seminars on subjects relevant to your practice at modest (sometimes free) prices. Refreshments provided and opportunities to meet like minded professionals.

FREE
LEGAL SEMINARS CONTINUE TO 31 MARCH '06
and.....now
FREE

SPOT TALKS FOR APRIL 2006

Spot talks are 1 hour contemporary talks from 5:15-6:15pm. 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). Spot talks cost \$25 and \$35 respectively.

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

MARCH '06

Understanding the Legal Profession Act 2004

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

Where: NEW VENUE: Wesley Mission, Smith Room ground lvl, 220 Pitt 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 as they are and will affect you, and to ask the questions.

Chair: Anthony Restuccia, CSLS President

Federal Industrial Relations Changes

When: Wednesday 22 March 2006, 5:30pm to 7:15pm

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

Speakers: JOHN FERNON, S.C. 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? How does it affect you? 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 - Drugs Sport and the Law

When: Tuesday 28 March 2006, 7:30am

Where: University & 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.

- Are you interested in high profile sports?
- Are you a parent of children playing sports?
- Do you want detailed information of the Court of Arbitration for Sport - Formation, AOC anti-doping Code, CAS and Cases?

Chaired by the Hon Justice Michael Finnane.

Don't miss out - book your place today!

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

APRIL '06

Small Firms Forum

When: Monday 10 April 2006, 5:30pm to 7:15pm

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

These meetings have proved very successful. A discussion of similar-minded practitioners committed to making their practices a success. The meetings are offered at no cost to help practitioners. Items for discussion have been costs agreements, the right/best software, various structures of a legal practice, checklist for compliance etc. Join us.

Introducing FREE SPOT TALKS in April 2006

- the one hour specials for tired lawyers on your way home....:

The Unwritten Law

When: Tuesday 11 April 2006, Spot talk-5:15pm to 6:15pm

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

Speaker: LEN ATTARD, former Crown Prosecutor involved in Crown work for over 20 years, including the Bathurst Riots and other major trials.

Experienced lawyers acquire much knowledge and wisdom over many years. Learning to deal with rules, regulations, statutes and precedents, witnesses and clients, even fellow lawyers are the lot of memoirs and biographies, not

law books. However, books do not always tell the full story. Our speakers do.

Len Attard, recently retired, tells of his accumulated legal wisdom as a prosecutor - his unwritten law.

Chair: Anthony Restuccia, CSLS President

Methadone - consequences of a dangerous drug - Alternatives?

When: Thursday 27 April 2006, Spot talk-5:15pm to 6:15pm

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

Speaker: PHILIP O'GRADY, a Pharmacist for over 40 years and delegate to the 1999 NSW Drug Summit.

Methodone was introduced as part of a Harm Minimisation policy and as an alternative to heroin. But does it work and how? Why are Methadone deaths increasing? Is this another of the nails in the coffin of the Harm Minimisation Policy? What can society do with addicts? and the Courts? Philip O'Grady tells it as it is.

Chair: Anthony Restuccia, CSLS President

Church Law Forum - Industrial Relations Law. Affect on the Churches.

When: Thursday 18 May 2006, 5:30pm

Where: Wesley Mission, 220 Pitt Street, Sydney

Register directly with Bryce Bridges on bryce.bridges@wesley.mission.org.au

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

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.

Small Firms Forum - Mon 13 mar '06.

Free to members & non-members.

The Unwritten Law - Tue 11 Apr '06.

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

Methadone... - Thu 27 Apr '06.

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

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: _____

NEW MEMBERSHIP APPLICATION, add details below:

Full name: _____

Practicing Non-practicing
Law Society of NSW member? Yes No

Date of admission as legal Practitioner: _____

Practicing as: Solicitor Barrister Judicial officer

Private address: _____

Telephone: _____ Mobile: _____

Signature: _____

**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

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Presidents Message

Last month we offered **free seminars** to members, reduced costs for others. In April we offer you our **Free SPOT Talks**. This is a short meeting with a contemporary 1 hour talk from 5:15pm to 6:15pm - a short visit on the way home - a drink among like minded professionals while enjoying a very informative talk - and getting home reasonably early. These are free to members. Our two speakers for April, Len Attard and Philip O'Grady are well worth listening to.

Our seminars for March 2006 have had a good response. We are very grateful to Greg Smith, Andrew Haesler, Les Taylor, Simoon Libbis and Chris Ronalds for their excellent contribution to our Seminar Program. Please don't miss **Michael Slattery**, the Bar Council President, on our common concerns with the Legal Profession Act. Also find out how the Workchoices Legislation will affect **us**, we are privileged to have the experts **John Fernon S.C.** and **Peter Punch**.

Law Week (27-31 March) is upon us and our **Annual Law Week Breakfast** on Tuesday 28 March at 7.30am with its emphasis on Sport & Justice amidst the Commonwealth Games, the rugby and football dramas, racing and other active codes at present is very topical. An excellent function is assured.

Please tell us the future seminars and talks you would like to hear.

We were pleased to have our new State President June McPhie visit the February Council Meeting. We were updated about many things like the National Profession and the College of Law changes. Most lawyers from small firms consider the National legal profession of little benefit to their practice or themselves as lawyers. It is not doubted it will provide benefits to the large firms. Hopefully however, the inevitable associated rules and regulations will not add to the burden of an already overregulated profession - a profession underrated for its generosity to the less fortunate and excessively criticised for the greed of a few, and often ignored for its responsible service to its many satisfied clients.

Join us and help us to make the profession more appreciated, particularly the absolutely invaluable role played by small firms and by individual good lawyers in an increasingly divided society.

Best wishes,
Anthony Restuccia
President

For Your Information

Standard Directions for Family Provision Act matters:

Each party is to hand up to the Court at the Commencement of the hearing -

1. Chronology setting out relevant dates
2. Submissions dealing with issues in Dispute (briefly refer to any issue which is a substantial one in the proceedings). It can be assumed one of the issues each party must address is the way the plaintiff alleges he/she/they have been left without adequate or proper provision for maintenance, education, and advancement in life. The document should address what the failure to properly provide and set out the Order sought whether it be in terms of legacy or provision of particular property. If the claim is by reference to a sufficient provision to purchase accommodation then there should be a reference to the evidence in respect to this.
3. Parties to address by affidavit evidence the amount of costs of the parties which invariable impacts on the Orders that are made by the Court. Solicitor for each party shall in the week prior to the hearing file an affidavit setting out what the party's costs will be from the commencement until the conclusion of the proceedings. Such affidavit is to be served on the solicitor's client and other party before commencement of hearing.

Personal Injury Compensation

Legislative Council General Purpose Standing Committee No. 1

The Standing Committee released its report on 8 December 2005. The Chair of the Committee said:

"with the benefit of hindsight the Committee also believes the reforms went too far. Put simply under the current law in NSW injured individuals are in some instances limited in their access to compensation where community standards would suggest that they deserve greater recompense..."

There are 26 recommendations for change set out in the Report, including No.4 Discontinuance of the MAA Guidelines (AMA Guides 4th Ed), Workcover Guidelines based on the AMA Guides (5th Ed).

No.5 that a new personal injury compensation tribunal be established based on the Dust Diseases Tribunal to determine statutory and common law claims.

No.6 A new medical service to provide independent medical assessment of injuries for the new personal injury tribunal.

No.7/8 amend the MAA 10% WPI threshold for recovery of non economic loss under s.131 MAA and replace it with 15% of a most extreme case as under the Civil Liability Act, and similarly for the WCC threshold.

No.24 refer the medical negligence claims provisions of the Civil Liability Act to the NSW Law Reform Commission to ascertain whether the modified Bolam Rule operates appropriately.

We are planning a special evening on that Law Reform.

Retail Leases Amendment Acts (1.7.05 and 1.1.06)

On 1.7.05 the new section 14 came into operation and prohibits Retail lessors seeking/accepting "lease preparation expenses". Any lease provision doing so is void, Lessors can specifically seek \$77.50 for LPI fees.

s.45(3)(a) (old section) provided retail lessors could recover Mortgage Consent Costs. On 1.7.05 that sub section was omitted, and there is no prohibition section currently.

Interestingly a Retail Bond is established, with the landlord to give a section 16.0 receipt for the bond within 20 business days and send the bond in. Old current bonds are to be deposited by 1.4.06 (per section on 16D(2)).

There is also a new Disclosure Statement, and compulsory information to be included the compulsory "NSW Retail Tenant's Guide" can be downloaded at www.retail.nsw.gov.au.

Other highlights of the amendments: The Act no longer applies to 12 month leases (previously six months). The ADT Retail leases division has jurisdiction for misleading conduct; Specialists Retail Valuers created by the government to determine CMR (Current market rent), and a binding expert is by agreement or tribunal order, who can by s.32A review a CMR determination.

Destruction of Documents - Offence in Victoria

The Crimes (Document Destruction) Bill 2005 (Vic) was introduced into the Legislative Assembly in November, 2005. The Bill proposes a new criminal offence in Victoria in relation to destruction of documents likely to be required in legal proceedings. The Bill follows the decision of the Victorian Court of Appeal in British American Tobacco Australian Services Ltd v Cowell (rep. Estate of McCabe [2002] VSCA 1971. A person found guilty of such offence is liable to be sentenced to a maximum of 5 years in prison or a fine of 600 penalty points. A company can be fined 3,000 penalty points.

Using Technology in Your Practice

Information technology is an essential part of practice. e-business, e-conveyancing is growing, issues of cost effectiveness, saleability and security arise making issues of selection and implementation a minefield. The LS of England & Wales published **Software Solutions Guide 2006** (8th Edition) containing extensive information and including articles on risk management, compliance, security, business continuity and suggestions on how to select legal software. The online version is available at www.it.lawsociety.org.uk.

Workers Compensation Commission - latest statistics

The WCC released its quarterly review for October-December, 2005. It shows a drop of 15% in new dispute applications (from previous quarter) and a drop of 14% of the number of disputes resolved. There were 81 appeals from arbitrators and 247 from approved medical specialists. 2% of Arbitrator decisions were overturned on appeal and 5% of medical assessment certificates were revoked.

See at: www.wcc.nsw.gov.au/AboutUs/corpdocs/default.htm.

Legal Profession Act: Appointment of Managers/Receiver (UK)

In the UK "Intervention Agents" are similar to Managers/Receivers appointed under the LPA NSW.

In UK The LS issues a tender document, and from a review of the tenders maintains a "Panel of Intervention Agents" to conduct this work. In the case of "intervention" the UK LS takes possession of all client files/documents/accounting and financial records/information of the practice. The appointed Intervention Agent contacts clients and refers the files elsewhere in accord with the clients instructions, reconciles and verifies accounts. It is an immediate closure of the firm save in matters of conveyancing completions and imminent court hearings.

Professional Misconduct:

Law Society of NSW v Bouzanis [2006] NSWADT 55

Facts: failure to pay superannuation guarantee for employee for period 21 March, 2000 to 13 August, 2003 in the sum of \$9,532.51

Orders: Publicly reprimanded, fined \$10,000. Ordered to pay Law Society's costs. The Tribunal considered the Law Society mistook the nature of the offence,

underestimated its gravity. The employee was connected directly to the solicitor's practice, and his superannuation entitlements derived from his work completely within that practice. A systematic failure to comply with Revenue responsibilities could in an appropriate case warrant a significantly more severe penalty than ordered by the Tribunal.

Prothonotary of Supreme Court of NSW v Peter Sharpe [2006]27

Pleaded guilty to 39 indictable offences:

- i) 16 counts of knowingly, dishonestly with intent to gain advantage made improper use of position
- ii) 23 counts of make false misleading statements with intent to obtain a valuable thing

As a director of Tietyens Investment breached duty by causing it to enter into agreement by which his Legal Firm and its nominee company would reap substantial fees from the lending of contributories money, thus

- . Tietyens Investment fee \$6 million
- . Tietyens Solicitors contingency fee of \$18,000 per month
- . \$5,000 per month on account of Tietyens Solicitors loan fees

Struck off the Rolls, not a fit and proper person, not of good fame and character.

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

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

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