



City of Sydney Law Society



A Regional Society of the Law Society of NSW

September 2007

SPECIAL ANNOUNCEMENT

ANTHONY RESTUCCIA, PRESIDENT, AND THE COMMITTEE OF THE CITY OF SYDNEY LAW SOCIETY with the co-operation of the **Hon JUSTICE R BLANCH, AM**, Chief Judge of the District Court of NSW and **His Honour GRAEME HENSON**, Chief Magistrate of NSW

invites

District Court Judges, Magistrates, Solicitors, Barristers

to a

Cocktail Celebration

on

Friday 12 October 2007, 5:30pm

at

The Downing Centre Courts, 143 - 147 Liverpool Street Sydney

REGISTRATION FORM INSIDE - Book early, limited places

- MORE GREAT NEWS INSIDE -

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Our Coming Seminars

- 12 Sept 2007: Excellence in Local Court Pleas -The Relevance of Ockham's Razor in the Local Court
- 19 Sept 2007: Finding Our Way Through the Planning Law Minefield in Conveyancing
- 26 Sept 2007: Small Firms Practice Forum - What Concerns You? - Trees and More
- 2 Oct 2007: How Will Small Firms be Affected by the National Legal Profession Regulation and its aim of harmonising Laws, Rules and Regulations?
- 12 Oct 2007: Cocktail Celebration for District Court Judges, Magistrates, Barristers and Solicitors

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Seminars are Spot Talk Seminars: COMPLIMENTARY TO CSLS Members. They are held normally 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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SEPTEMBER 2007

EXCELLENCE IN LOCAL COURT PLEAS - The relevance of Ockham's Razor in the Local Court

BERNARD BRASSIL, our Speaker is an accredited Criminal Law Specialist. He has been a solicitor for 28 years in both city and country, 6 years of which he was acting for Aboriginal defendants through the Aboriginal Legal Service. He has been a sole practitioner for over 15 years and is currently a criminal law consultant. He has appeared for many thousands of defendants. He sees a plea as an art form where you do not waste words nor the Court's time. Essential for solicitors who want an effective result.

WHEN: Wednesday 12 September 2007: 5:30pm - 6:30pm

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

SPEAKER: *BERNARD BRASSIL, Solicitor*

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

FINDING OUR WAY THROUGH THE PLANNING LAW MINEFIELD IN CONVEYANCING

The mines our Speaker will expose in this talk could lead to calamities for your clients and importantly also for you if not defused. Be alert to their danger. An essential talk for both solicitors acting for purchasers and vendors, and mortgagees.

WHEN: Wednesday 19 September 2007: 5:30pm – 6:30pm

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

SPEAKER: BILL HENNINGHAM, Solicitor

Chair: *Gerard Depul*, CSLS Councillor. 1 MCLE point

SMALL FIRMS PRACTICE FORUM - WHAT CONCERNS YOU? - TREES AND MORE

There is more to trees than overhang or slippery leaves.

There is new legislation and the appropriate forum is now the Land and Environment Court. There are other significant changes. Our guest visitor **MARION CARPENTER**, a Barrister and Environmental Law specialist.

As usual you can raise other matters of concern. We have referred matters to the Law Society with CSLS support. THESE ARE GOOD PRACTICAL MEETINGS - AT NO COST.

WHEN: Wednesday 26 September 2007: 5:30pm – 7:15pm

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

SPEAKER: MARION CARPENTER, Barrister

Chair: *Peter Kelso*, President CSLS. 1.5 MCLE points: Free to members and Non-Members

OCTOBER 2007 /span>

A MUST GO MEETING

HOW WILL SMALL FIRMS BE AFFECTED BY THE NATIONAL LEGAL PROFESSION REGULATION AND ITS AIM OF HARMONISING LAWS, RULES AND REGULATIONS?

It is said that the push for a National Legal Profession will result in the Law Council of Australia becoming the 'one voice' of the Profession with State Law Societies chapters of the peak body. The Law Council also would become the regulator as well as the professional association, similar to NSW but to include barristers. How can this concentration of power at the National level help small firms? How will it "enhance consumer protection and economic efficiency?" This is a matter ALL solicitors must understand and debate. **Our seminar is important to you.**

WHEN: Tuesday 2 October 2007: 5:30pm – 7:30pm (note new day - Tuesday)

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

SPEAKERS: STEVEN MARK, The Legal Services Commissioner of NSW;
BRUCE CUTLER, The Large Firms Representative on the Law Council of Australia and a partner at Freehills; **CHARLES CAWLEY**, Secretary of the Law Society of NSW

Chair: *Anthony Restuccia*, President CSLS. 2 MCLE points

INVITATION

COCKTAIL CELEBRATION

to

District Court Judges, Magistrates, Solicitors, Barristers

for

Friday 12 October 2007; 5:30pm

at

The Downing Centre Courts, 143- 147 Liverpool Street Sydney

REGISTRATION FORM - Book early, limited places

COCKTAIL CELEBRATION - Fri 12 Oct '07

CSLS Members: \$29.00

Bar Association of NSW Members: \$29.00

Law Society of NSW Member only: \$35.00

Non Members: \$40.00

Judge, Judicial Officer: GUEST, complimentary attendance

Magistrate: GUEST, complimentary attendance

RSVP 10 Oct 2007
Dress: Lounge Suit

I ATTACH A LIST OF NAMES OF ALL THOSE INCLUDED ON THIS REGISTRATION FORM
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City of Sydney Law Society,
PO Box 1907 Sydney NSW 2001
Phone 9266 0012 Fax 9266 0062
Email info@sydneycitylawyers.com.au

Register early, places are limited

OTHER EVENTS TO NOTE

ANNUAL GENERAL MEETING AND DINNER OF THE LAW SOCIETY OF NSW

The Law Society will hold its Annual General Meeting at 4:30pm on 25 October 2007 at the Law Society Building, 170 Phillip Street Sydney. It will be followed by the Law Society Dinner at The Art Gallery of NSW, Art Gallery Road, The Domain, Sydney at 7pm.

Enquiries: The Law Society of NSW Telephone 9926 0333

SEMINARS

REGISTER NOW

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)

[] Excellence in Local Court Pleas - Wed 12 Sept '07

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

Finding Our Way Through the Planning Law Minefield in Conveyancing - Wed 19 Sept '07

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

Small Firms Practice Forum - What Concerns You - Wed 26 Sept '07

Free to members & non-members

National Legal Profession Regulation - Tues 2 Oct '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.

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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

For membership application, complete form below and return with payment

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.

WHAT'S WRONG ?

We would like to start a COLUMN FOR CHANGE.

Solicitors see clients/public UNFAIRLY dealt with by the law,
by regulation, by rules, by judicial bias, by government policy, by restrictions on the
right to know (F.O.I), on whistleblowers,
on food labeling, planning law etc etc. This year the State Government policy planned to
cut Downing Centre Courts staff and reduce more country courts - This was wrong.

Tell us what's wrong. **Email** info@sydneycitylawyers.com.au

C O R P O R A T E



EXPRESS



Special Offer Exclusively For City of Sydney Law Society Members:

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There are heaps of reasons to have Corporate Express look after your company incorporations... We save you time and money on tedious compliance paperwork, and give you all the documentation your client needs, in one simple step.

But right now, for City of Sydney Law Society members, there's another great reason:

You can try our full-service Company Incorporation Process for the cost of a do-it-yourself, over the Internet Incorporation.

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Call our Incorporation Hotline on (02) 9261 2100. We'll fax or email you a simple form, and we'll make sure you've got all the details we need to complete your application. Fax or email back the form, and we do the rest...

You'll have your **ACN in 45 minutes** and your company minutes, registers and compliance info (in one of our famous binders) on your desk, ready to present to your client, when you need it.

That's it. All done with one 3-minute phone call. It's easy—it's the way it should be, because you've got better things to do than compliance paperwork.

Here's what to do right now:

Pick up the phone and call our Incorporation Hotline on (02) 9261 2100 and tell whoever answers you want the "City of Sydney Law Society Member's First Time Offer".

Then leave the rest to us.

Suite 506, Level 5, 267 Castlereagh Street, Sydney NSW 2000
admin@corporateexpress.com.au www.corporateexpress.com.au
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NEWSLETTER

CITY OF SYDNEY LAW SOCIETY

President: Anthony (Rusty) Restuccia a_j_restuccia@yahoo.com.au
Mob 0419 698 753 Fax 9439 5914

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

A TIME FOR CELEBRATIONS

Law Fund has agreed to be our second major SPONSOR. Law Fund is well known to some members who have been using its lending facilities to obtain the home loan (and interest) best for their clients from the many lenders who are available to Law Fund.

The Lawyers Cocktail Celebrations is on again this year. Over 150 enjoyed it last year. Space is not unlimited - **12 October 2007; 5:30pm**. Join Us.

Website

The City of Sydney Law Society Website is up and functioning. Our web editor is Ken Harkness, Honourary Secretary. I thank Peter Rosier and Ken Harkness for their efforts in establishing our Website. More in the next CSLS Newsletter.

Life Membership

The CSLS Committee will recommend to the next General Meeting that Life Membership Awards be given to CSLS members who have practised for over 30 years and have made a meritorious contribution to the progress of the Legal Profession.

The Law Society Elections - Vote Please

The election is being held late September to closure of the ballot on 22 October 2007 at 2pm. Results announced on 25 October 2007 at the Law Society AGM. We, as always, urge you to strongly vote for members of the City of Sydney Law Society. If you have any queries you can ring the Law Society Secretary, our Honourary Secretary, other officer bearers or myself.

eXpd8 is a new software company which has placed an advertisement in this issue of

the Newsletter. We will be demonstrating the eXpd8 software on 7 November 2007.

Regional Law Societies Underutilised by Law Society

There are 29 Regional Law Societies throughout NSW - all constitutionally linked to the Law Society of NSW, although with little prescribed powers or functions and with no funding from the Law Society, even for administration. Each is an independent body with its own created Constitution for operations and officer bearers. It is the legal voice of the region, eg it can make recommendations about its regional courts and provide local comment on possible changes to the law, such as tort reform, or organise MCLE, forum discussion groups, dinners or delegate actions to local solicitors.

Regional Law Societies are an outstanding and a positive asset to the local region. How depends on the local practitioners making proposals, programs, ideas to the Regional Law Society. They are presently underutilised by the Law Society. They should be the policy-arm of the NSW Law Society with issues and policies being normally considered by ALL Regional Law Societies prior to the finalisation of policy by the Law Society. They can liaise with local politicians, local organisations, individuals/lawyers for local improvements in law and legal facilities - be a life-force for the good, and an agent for justice and the protection of individual rights.

Strengthening the Regional Law Societies' role and consulting their knowledge and experience before deciding important policies and issues can only improve the effective lobbying of the NSW Law Society - for our benefit and for the people we serve.

Best wishes to you all,

ANTHONY RESTUCCIA
President

FOR YOUR INFORMATION

SUPREME COURT: EQUITY DIVISION – NEW PRACTICE

An Expert Evidence List has been instituted in the Equity Division before Hamilton J at 9am each Wednesday. Any case in which expert evidence is to be called is referred to this List for Directions concerning the evidence. Rule 31.19 UCPR – expert evidence may be adduced at trial only in accordance with the Court's Direction. The Direction as to valuation evidence in Family Provision Act and Property Relationship Act cases will be that the parties obtain estate agents' estimates (which will be admitted in those cases under the Practice of the Court). Full valuations must not be obtained except by special Direction of the Court.

NEW CASES OF INTEREST

Black v Garnock [2007] HCA 31

Conveyancing, Execution against land, recording writ for levy of property. Registrar General refused to register transfers. Purchasers sought injunction to restrain Sheriff from executing writ. Query whether purchasers now need to caveat on exchange to protect interest in purchase.

Legal Aid Means Test Threshold

As from 3 September, 2007 the means test thresholds will increase the income and asset test. See at www.legaid.nsw.gov.au

Professional Conduct

Legal Services Commission v Flynn [2007] NSWADT 186

The solicitor was admitted on 19 December, 1986. The allegations were

1. falsely attested documents not signed in his presence;
2. accepted a Real Property Act transfer as the solicitor for the transferee when the transferee was not his client and he did not have the authority of the transferee to accept the transfer;
3. acted in a conflict of interest;
4. appropriated in satisfaction of costs and disbursements monies held on trust for his client without authority

Held: Grounds 1, 3 and 4 - guilty of professional misconduct

Ground 2 - guilty of unsatisfactory professional conduct

Penalty: Fined \$4,000 and in default PC suspended until paid and to pay the Legal Services Commissioner costs in the sum of \$2,500

Law Society of NSW v Orford [2007] NSWADT 134

Considers what is an appropriate response to a request for further and better particulars in conduct matters

Copyright, Intellectual Property Seminars

The Australian Copyright Council provides seminars in Sydney at minimal cost (around \$75 for non members). See at www.copyright.asn.au/events.

NSW Lifetime Care & Support Scheme – FREE

Information and training workshops will be held in Sydney on 11 September, 5 October and 29 October and at other NSW centres. Free, morning tea, lunch, afternoon tea provided. Registrations/Enquiries to fwotton@lifetimedcare.nsw.gov.au or 1300 738 586

Family Law Parenting Article

Naomi Holtring offers a short synopsis available at www.intermediate.com.au/media/CompulsoryFamilyDisputeResolution.pdf. – based on knowledge that parenting matters are best kept out of the courtroom. From July 1, 2007 certificates issued by Registered Family Dispute Resolution Practitioners are required for all new parenting matters, prior to filing. Compliance certificates will state that parties did or did not make a genuine effort to resolve their dispute. Parties who do not make a genuine effort, may be liable for costs. There are exceptions where the child or a parent may be at risk of abuse.

NEWS FROM LAW SOCIETY OF ENGLAND & WALES

The LS Annual Conference scheduled to take place in Harrogate in October, 2007 has been cancelled. Instead President Elect Andrew Holroyd will make a keynote speech at the opening of the legal year dinner on 1 October 2007.

Money Laundering

The UK LS publishes The Gatekeeper – anti money laundering update (subscribe at www.moneylaundering@lawsociety.org.uk) includes current case law and updates on the activities of the SOCA (Serious Organised Crime Agency). Recent decisions worth a read concerning in particular involvement of solicitors:

Zambia v Meer Care & Deasi (a firm) [2007] EWHC 952 (Ch)

Case provides detailed discussion on what steps the court considers a reasonable and honest solicitor should take to protect themselves from being involved in money laundering and associated activities

Personal Internet Security

The House of Lords Science and Technology Committee published on 24 July, 2007 Personal Internet Security. The report argued that it is not realistic for individuals alone to be responsible for their personal internet security and that key organisations with a stake in the internet should do more in the face of growing threats (see at www.publications.parliament.uk.pa).

E-conveyancing consultation

The Land Registry of UK launched a further consultation and invited comments on the Electronic Conveyancing Rules 2008. (see at www.landreg.gov.uk At Practice and e_conveyancing headings). Major changes to the Law and Practice include:

- shorter leases must now be registered
- voluntary registration available for new types of interest in land
- changes affect protection of third party interest
- the law of adverse possession (squatters rights) reformed.

Criminal Procedure Rules: impact on solicitor's duties to the client (Practice Note: Published 16 August, 2007) 17 pages. Available at www.lawsociety.org.uk/accessibility

Practice advice service booklets:

- i. **Contentious Costs** (published 29/6/2006) – covers charging, contentious business agreements, assessment of solicitor/client costs and billing the client and
- ii. **Payment by Results** – Practice Advice Service (published July, 2007) 59 pages

LEGAL AID

Recent amendments to the State Civil Law Policies from 21 September 2007

The Legal Aid NSW Board has approved the expansion of the State Civil Law Policies to include legal aid for representation before the Mental Health Review Tribunal for Continued Treatment Orders and Community Treatment Orders under the **Mental Health Act, 1990**. For more information about the policy see Policy Outline at 6.15 Mental Health Matters.

The Legal Aid NSW Board has approved the expansion of the State Civil Law Policies to make legal aid available for representations in relation to the review and extension of treatment orders under the **Drug and Alcohol Treatment Act, 2007** pilot which commenced on 1 September 2007 for a period of 12 months. For full details of the

policy please refer to paragraph 6.17 of Policy Outline.



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Julian Walthew

t| 0409 714 551

e| jwalthew@expd8.com.au

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e| Info@expd8.com.au
w| www.expd8.com.au
Support number: +61 2 9612 3309



REMEMBER

Small Firms are the backbone of the Law Society

* * * * *

URGENT

Downing Centre Local Court. Pro Bono Duty Solicitor Roster
Solicitors are invited to join the Roster and attend once a month.

Inquiries: Anthony Restuccia Tel 0419 698 753

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**Your Regional Law Society serves you,
Support your Regional Law Society**

Email us your ideas and opinions
Attend our functions

Invite others to join

Support our Sponsor:

CORPORATE EXPRESS for incorporating companies

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