



Tuesday, 31st March 2009

9.30 am - 1.15 pm

This seminar will provide a practical guide to the legal and procedural issues of representing a party in proceedings under the Family Provision Act and the realities of family disputes.

We will also examine potential dispute issues in relation to the administration of estates – including failure to secure and manage estate assets, taxation issues, superannuation and sale and disposal of assets.

Finally we examine issues concerning disputing the validity of a Will. That is, issues of establishing testamentary capacity, what evidence is required to displace a prima facie case of capacity and due execution and an examination of issues of undue influence

Part A - Client Issues

- Identifying the client and concerns
- Effective communication and its barriers
- Barriers to a valid Will
- Reasonableness of client wishes
- Appropriateness of a Will
- Mental health issues of client
- Age and infirmity
- Importance of independent advice to avoid disputes in the future

Part B - Disputing validity of formal Wills

- General nature of a Will
- Onus of establishing the validity of the Will
- If the Will is rational on its face

Part C - Inheritance Act applications

- Evidentiary requirements of a successful claim
- Persons entitled to claim

- Basis for a claim
- How to meet requirements
- Failure to meet evidentiary onus
- Commencing proceedings
- Recent Supreme Court directions
- Outline of court documentation
- Specific issue of DNA testing

Part D - Informal Will Disputes

- Standard of proof
- Scope and operation
- Types of informal Wills
- Court made Wills
- Jurisdiction of other states
- Commencing proceedings
- Process of resolution
- Outline of court documentation



Competency Area 3
Legal Knowledge: substantive law

CPD Points: 3.5

About the Presenter

The presenter at this seminar will be Patrick Mugliston, barrister. Patrick has been involved extensively in relation to the administration of estates and advising in relation to executor's duties having been State Manager of National Australia Trustees. He has tutored civil procedure and lectured in criminal and contract law. His experience includes probate and inheritance cases. He is currently a barrister at Francis Burt chambers.

Tuesday, 31st March 2009

2.00 pm - 5.45 pm

This seminar will focus on the way ethics has an impact on the conduct of litigation from the first instructions through to trial and terminating a retainer.

With the enactment and promulgation of the *Legal Profession Act 2008 (WA)* the Legal Practice Board of WA resolved to reconsider the existing ethical guide for Western Australian practitioners and put in place formal regulations to address ethical standards for lawyers.

The Conduct Rules adopted by the Law Society of Western Australia and the Western Australian Bar Association will remain relevant to members of those bodies but certificated practitioners will need to observe the new Legal Practice Board regulations.

This seminar will look at the Conduct Rules and the Law Council of Australia's Model Rules of Professional Conduct and Practice as they are likely to be the foundation stones for the new regulations. If the regulations from the Legal Practice Board are available, this seminar will consider those regulations too.

The seminar will be presented in both a lecture format and problem solving or discussion format.

Topics will include:

- Obligations to clients on instructions, confidential information and costs
- Commencing actions, pleadings, discovery and interlocutory processes
- Trial and witness preparation
- Professional courtesies and obligations as advocate and adversary
- Terminating retainers and handing back information



Competency Area 2
Values: Ethics & Professional Responsibility

CPD Points: 3.5

About the Presenter

The presenter at this seminar will be Craig Slater, Barrister, Francis Burt Chambers. Craig practices in all areas and in all jurisdictions. In particular, he practices in Commercial Law, Equity, Trade Practices and Corporations Law. Craig is the convenor of the Law Society of Western Australia's Quality Practice Standard committee which administers the Society's QPS scheme. Craig is also a member of the Law Society of Western Australia's Ethics committee.

Mandatory Continuing Education Scheme

There is now a mandatory continuing education scheme in operation in Western Australia. To comply with this scheme, most certified practitioners are required to earn a minimum of 10 CPD points in each CPD period (1 April to 31 March).

Competency Areas

CPD points are to be made up from three Competency Areas:



Competency Area 1 - Legal Skills and Practice
Those skills and attributes relevant to or necessary for an individual practitioner's practice.



Competency Area 2 - Values
Ethics and professional responsibility.



Competency Area 3 - Legal Knowledge
Substantive Law

Practitioners of less than five years post-admission experience, are required to complete a minimum of 4 CPD points in Competency Area 1 and a minimum of 4 CPD points in Competency Area 2 in each CPD period.

Practitioners of five years of more post-admission experience are required to complete a minimum of 2 CPD points in Competency Area 1 and a minimum of 2 CPD points in Competency Area 2 in each CPD period.

QA Provider

CPDS is an organisation that has been approved by the Legal Practice Board of Western Australia as a quality assured provider of professional development activities.

Enquiries

For all enquiries regarding application of CPD points to individual seminars:
Continuing Professional Development Seminars
Postal Address: PO Box 598, North Melbourne, VIC 3051
Telephone: (03) 9328 2688
Facsimile: (03) 9328 4688
Email: seminars@cpds.com.au
Website: www.cpd.com.au

Please note that the above is provided for informational purposes only and is based on information supplied by the Legal Practice Board of Western Australia at the time of publication. Practitioners should make their own enquiries before relying on the information supplied above.

- Disputing Estates
- Disloyal Employees
- Ethics in Litigation
- Conducting a Jury Trial

CPDS Seminars March 2009

Perth

Duxton Hotel
1 St Georges Terrace

Disloyal Employees – what can an Employer do?

Tuesday, 31st March 2009

9.30 am - 1.15 pm

During the course of the employment relationship all employers are vulnerable to the risk of disloyal, disgruntled or 'soon to be departing' employees and the damage that they can do.

Accordingly, it is before the employment relationship commences that a prudent employer should think carefully about what terms and conditions should govern the relationship and those that should apply after the relationship has come to an end.

Indeed, in the absence of expressed terms in the contract of employment operating post employment, an employer is usually in a much weaker position after the employment is over.

This seminar examines the protections available to an employer to protect itself from a disloyal employee and what practical measures can be taken to reduce the risks and damage such employees can inflict.

In particular the seminar will discuss the damage disloyal employees can inflict, including:

- Taking employer's information for their own use or for the benefit of a new employer
- Soliciting clients, suppliers or other staff members
- Acts of sabotage

Sources of protection open to an employer will also be considered including:

- The duty of fidelity and good faith to the employer
- The duty to disclose misdeeds
- Confidentiality obligations and the classes of information courts will protect in the absence of a relevant contractual term
- Obligations under the Corporations Act 2001 (Cth)

The seminar will also provide practical tips to protect an employer including:

- Confidentiality and restraint of trade clauses in a contract of employment and how they should be drafted to reduce the risk of a court finding such clauses to be void
- Prudent human resources strategies
- The collection of evidence in support of an employer's claim
- Court proceedings and what are the range of remedies



**Competency Area 3
Legal Knowledge: substantive law**

CPD Points: 3.5

About the Presenter

The presenter at this seminar will be Jason Raftos. Jason is a senior associate with Minter Ellison Perth's HR & IR team. During the course of his practice Jason has been involved in major civil litigation, industrial prosecutions, public sector employment issues and due diligences. Jason has also assisted clients and provided advice in various HR/IR matters, including right of entry, industrial action, freedom of association, managing under performing employees, termination of employment, discrimination, contractors, minimum conditions of employment, privacy and surveillance issues.

www.cpbs.com.au

Conducting a Jury Trial – A Unique Audience

Tuesday, 31st March 2009

2.00 pm - 5.45 pm

In Western Australia the only situation where you will receive a judgment following a trial, without any reasons given, is in a trial before a Judge and jury.

Trials by Judge and jury have been conducted in Western Australia for a long time, however, in more recent years the practice and procedure as well as the rules of evidence applicable in a criminal trial have become more complex and strictly regulated by statute.

How does a lawyer prepare for a trial by jury and what difference does having 12 untrained judges really make?

Issues regarding jury confidentiality, security of juries and even the use by the State of the recently enacted propensity evidence provisions have all had a significant bearing on the way in which practitioners must operate in their conduct of trials before a jury.

The simple application of the same principles taken from trials before Judges or Magistrates to a trial before a jury is no longer sufficient to ensure a successful outcome. Greater attention to issues of admissibility and the appropriate content for the direction by trial judges must become part of the working knowledge and understanding of the practitioner practising in jury trials.

Cross-examination of witnesses and the presentation of opening and closing addresses as well as tactical considerations of when to ask questions or take up an opportunity to speak to the jury are matters which require careful attention and should be decided well in advance of the trial.

Additional issues such as the defence lawyer dilemma of whether to call their client, how prosecutors should deal with problematic or inconsistent witnesses are issues that vex even the most senior of practitioners when conducting trials before juries.

This seminar is designed to assist solicitors and barristers who do or would like to conduct trials before a jury with the following:

- To become more familiar with the procedures applicable in trials before a jury
- To be aware of the evidential and legal issues that arise in trials before a jury
- To avoid inadvertent conduct that may cause a trial to be aborted
- To gain useful strategies and tactical guidance
- To gain confidence to appear in this unique and exciting jurisdiction



**Competency Area 1
Legal Skills and Practice**

CPD Points: 3.5

About the Presenter

The presenter at this seminar will be Linda Black. Linda has been admitted to practice for 14 years and practised both as a defence lawyer and a prosecutor at the State Director of Public Prosecutions before going to the Independent Bar in 2006. With a practice heavily centred on criminal trials before a Judge and jury, Linda has a vast array of knowledge and "handy hints" to draw on to assist practitioners entering this jurisdiction for the first time, or those seeking to improve their skills and success rate in that jurisdiction.

www.cpbs.com.au

Registration Form & Tax Invoice

Please Register me for:

- Disputing Estates
- Ethics in Litigation
- Disloyal Employees - what can Employer do?
- Conducting a Jury Trial - A Unique Audience

Registration Fees \$375 each seminar

Registration fees are inclusive of 10% GST. A tax invoice will be issued upon payment. Discounts are also available for early registration, online registration and group bookings – see below for details.

Name: _____

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Complete this registration form with your credit card details and fax it to: (03) 9328 4688 or post with cheque attached to:

CPDS
PO Box 598
North Melbourne, VIC 3051

Venue

Duxton Rooms 2 & 3
Duxton Hotel
1 St Georges Terrace
Perth

Discounts

A discounted registration fee of \$345 is available for all registrations received at least 30 days prior to the date of the seminar. A group discount of 10% off the full registration fee is offered for bookings of three or more persons from the same firm. Please send all registrations together clearly labelled "group booking". The online discount of \$30 per registration is also still available. You can search and register for all CPDS seminars at www.cpbs.com.au.

Cancellations

Registrations may be cancelled up to 14 days prior to the seminar or workshop and a refund will be provided but an administrative fee of \$44 will be deducted. No refunds will be available within 14 days of the seminar or workshop. Should a seminar or workshop be cancelled by CPDS for any reason, a full refund of all fees paid will be made. CPDS reserves the right to cancel or reschedule courses, and to change speakers or revise content as necessary.

Mandatory CPD Schemes

If this particular educational activity is relevant to your immediate or long term needs in relation to your professional development and practice of the law, then you should claim one "unit" for each hour of attendance, refreshment breaks not included. Further Information is provided on the back of this brochure.

Enquiries

For all enquiries regarding the course content or registration: Continuing Professional Development Seminars
ABN 17 126 054 466
Postal Address: PO Box 598, North Melbourne, VIC 3051
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