



THE 16TH ANNUAL FAMILY LAW CONFERENCE

The Family Court and the Top End of Town

All's Fair in Love and War, except when it comes to Binding Financial Agreements

Counting the Cost of Family Violence on Property Settlements

The impact of Relationship Status on Judicial Decision Making

Challenging the Experts in Family Law Asset Valuations

Super-Size Me: Superannuation Splitting and Family Law

Factoring in Tax in Family Law Property Settlements

Child Relocation and Travel

Access and Overnight Stays in Parenting Arrangements

Parental Alignment, High Conflict and Family Law

The Year in Review: Brickbats or Bouquets for the new Family Court Process?

Have Costs become the Weapon of Choice for the Courts?

A Two-day Conference
Thursday 21 & Friday 22 July 2022

Palazzo Versace,
Gold Coast

Feedback from last year's conference:

- “Run professionally. Speakers high calibre and content always interesting and mostly very relevant.”
- “Lots of relevant and interesting talks, and very nice to be able to network with people face to face!”
- “Great relevant topics for the seminar sessions, beautiful venue & food. Really helpful staff.”



Leaders in online CPD for Lawyers

DAY 1 - THURSDAY 21 JULY 2022

**DAY 1 CHAIR: JACOB CLANCY,
SENIOR ASSOCIATE, CLANCY &
TRIADO, MELBOURNE**

MORNING THEME: PROPERTY AND FINANCIAL MATTERS

9.00 - 9.10am

Introduction and welcome

9.10 - 9.55am

Session 1: Big Money, Big Problems? The Family Court and the Top End of Town

Rising property values, globalisation of commerce, dual family income, inheritance and investment growth have seen the wealth of Australians rise considerably over the last few decades, and none more so than those at the top of the tree. This session will explore how the family courts are viewing property adjustment in very wealthy family separations, including:

- What does “just and equitable” mean in the context of wealthy families?
- Is there a presumption of equality of contribution as a starting point in property adjustments in high wealth cases?
- Court treatment of special contributions in high wealth cases
- How far and to what extent should the court examine family wealth behind the parties?
- Are family trusts doing their job in protecting assets?
- Recent cases including *Balken & Vyner* [2020] FamCA 955; *Rigby & Kingston (No 4)* [2021] Fam Ca 501

Speaker: Paul Doolan, Partner and Accredited Family Law Specialist, Barkus Doolan Family Lawyers, Sydney

9.55 - 10.05am Panel Comments and Questions

10.05 - 10.50am

Session 2: All's Fair in Love and War, except when it comes to Binding Financial Agreements

Fairness is an essential principle in family law, and yet when it comes to determining the validity of a binding financial agreement it seems the principle can be missing in action without implication. This session will explore the current thinking on fairness in binding financial agreements and whether the courts are finding alternatives to strike down “bad bargains”, including:

- What does “unfairness” mean in the context of binding financial agreements?
- Section 90G and the omission of a “fairness” requirement
- What is the difference between an unfair arrangement and unconscionable behaviour? *Thorne v Kennedy* [2017] HCA 49; *Saintclair & Saintclair* [2015] FamCAFC 245; *Gongsun & Paling* [2020] FamCAFC 244
- Failure to disclose as grounds for setting aside an agreement – will the new disclosure rules have a positive impact? Is failure to disclose a form of unfairness?
- Are the courts moving to a test of unfairness under a different name?

Speaker: Minal Vohral, Senior Counsel, Victorian Bar, Melbourne

10.50 - 11.00am Panel Comments and Questions

11.00 - 11.25am Networking Break and Afternoon Tea

11.25am - 12.10pm

Session 3: Counting the Cost of Family Violence on Property Settlements

The impact of family violence has been increasingly recognised by the courts in property settlement matters. This session examines the financial consequences of family violence, including:

- What circumstances are necessary to raise the Kennon argument?
- Can the Kennon argument apply to post-separation violence and conduct?
- What evidence is required to rely on the argument?
- The rise and recognition of emotional abuse and coercive control
- How the assessment on contributions is calculated: *Jabour & Jabour* [2019] FamCAFC 78; *Benson & Drury* [2020] FamCAFC 21; *Koch & Kest* [2021] FamCA 408

Speaker: Adam Cooper, Principal, Cooper Family Law, Brisbane

12.10 - 12.20pm Panel Comments and Questions

DAY 1 - THURSDAY 21 JULY 2022

12.20 - 1.05pm

Session 4: Same Same But Different? The impact of Relationship Status on Judicial Decision Making

Under the Family Law Act, de facto couples and married couples have virtually the same rights when it comes to the application of laws governing property and parental arrangements. However, do the cases tell a different tale? This session will examine trends in decision-making through a number of cases and provide guidance for case preparation with your client's specific circumstances in mind, including:

- The law is clear but is it reflected in the practical reality of the cases?
- How is the financially weaker party in a shorter de facto relationship or marriage treated?
- How are the courts viewing property adjustments in same sex relationships particularly when there are no children involved? How does this contrast with decisions involving heterosexual relationships?
- Is there a conservative/traditional bias in the courts towards married and/or heterosexual couples?
- Some tips for when you are advising clients who do not fall within the conservative/traditional dynamic

Speaker: Justine Woods, Partner and Accredited Family Law Specialist, Cooper Grace Ward Lawyers, Brisbane

1.05 - 1.15pm Panel Comments and Questions

1.15 - 2.15pm Luncheon

AFTERNOON THEME: DIVIDING UP THE ASSETS

2.15 - 3.00pm

Session 5: Challenging the Experts in Family Law Business Valuations

The volatile economic conditions coupled with ongoing trading performance uncertainty has increased reliance on business valuations in family law property proceedings. While expert valuers are often engaged, what happens where one party disagrees with the valuation? This session examines the process with a critical eye and provides strategies for review, including:

- The single expert valuation process and rules unpacked
- Key considerations in engaging a single expert
- What to do if one party doesn't agree with the valuation?
- How to effectively ask questions of the valuer
- When will a shadow expert be necessary?
- What are the typical problems with valuation reports?
- What errors are often found in valuation reports?
- When should different scenarios and updates be prepared?
- Worked examples

Speaker: Suzanne Delbridge, Director, Delbridge Forensic Accounting, Newcastle, NSW

3.00 - 3.10pm Panel Comments and Questions

3.10 - 3.55pm

Session 6: Super-Size Me: Superannuation Splitting and Family Law

Often one of the biggest assets in the property pool, superannuation has become an essential component in property settlements. This session will examine some of the increasingly complex issues in consideration and splitting of superannuation between the parties, including:

- Accessing superannuation details – recent reforms
- Practical and financial consequences of splitting super – is there a better way?
- Checking the fund rules – what to look for
- Joining the trustee to family court proceedings
- Managing super splitting involving multiple member funds
- Specific issues concerning SMSFs, defined benefit schemes, military pensions and other less common situations
- Recent cases

Speaker: Jacky Campbell, Partner and Accredited Family Law Specialist, Forte Family Lawyers, Melbourne

3.55 - 4.05pm Panel Comments and Questions

4.05 - 4.25pm Networking Break and Afternoon Tea

4.25 - 5.10pm

Session 7: Factoring in Tax in Family Law Property Settlements

Property settlements can often come with potential tax consequences. This session examines the thorny tax issues that can arise, including:

- Disposal of assets and CGT issues
- Tax issues involving the family home
- Unrealised and hidden tax liabilities you need to consider
- Spotlight on deemed dividends and Division 7A issues
- Spotting tax irregularities and other tax skeletons in the accounts
- Case studies

Speaker: Brett Hartley, Director and Accredited Family Law Specialist, Hartley Family Law, Brisbane

5.10 - 5.20pm Panel Comments and Questions

DAY 2 - FRIDAY 22 JULY 2022

**DAY 2 CHAIR: GERRY HOLMES,
BARRISTER, VICTORIAN BAR,
MELBOURNE**

MORNING THEME: CHALLENGES IN PARENTING MATTERS

9.00 – 9.05am

Introduction and welcome

9.05 - 9.50am

Session 8: The Long and Winding Road: Child Relocation and Travel

Both domestic and international relocations give rise to some specific issues. Emotions can run hot, and there can often be no middle ground. This session will examine some of these dilemmas and lessons from recent cases, including:

- Consent and relocation revisited: Commissioner of Police for State Central Authority of South Australia & Garnett [2021] FamCA 86
- What should be covered in relocation agreements and relocation orders?
- Can covid risks be used as a reason for preventing travel or relocation? Kingsley & Secretary, Department of Communities and Justice [No 2] [2021] Fam CA 308; Denham & Newsham [2021]FamCAFC 141
- Is air travel an unacceptable risk? Kardos & Harmon [2020] FamCA 328; Banham & Banham [2020] FCCA 1201
- How will vaccination of children (or failures to agree to vaccinate) impact travel between parents in overseas relocations?

Speaker: Jacob Clancy, Senior Associate, Clancy & Triado, Melbourne

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 9: How Young is too Young? Access and Overnight Stays in Parenting Arrangements

Parental relationships are largely forged while children are young, but when families break down, age can often be used as a weapon in limiting access. With this dilemma in mind and changing societal attitudes, the courts are rethinking parenting arrangements for young children. This session will examine the developments in this area, including:

- The starting point in access considerations
- The benefits and problems in overnight parenting arrangements – what does the research show?
- Is age the key or are there other considerations at play?
- How do the courts look at this issue – case examples discussed
- How do the courts view a child's desires when it comes to access?
- How often should access arrangements be reviewed?
- Effective use and management of family report writers in access cases

Speaker: Evelyn Young, Partner and Accredited Family Law Specialist, Mitchell Family Law, Melbourne

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

11.15 - 12.00pm

Session 10: Parental Alignment, High Conflict and Family Law

High conflict parenting remains a challenging issue for families and the courts. This session will examine both the social and legal background and developments in this area, including:

- What is high conflict parenting and what does the research show about its development, motivation and implications?
- Spotting coercive control and alienating behaviours
- Evidential considerations regarding parental alignment issues
- Legal implications of parental alignment issues for both parents
- How is parental alienation proved and what evidence is required?
- Practical tips for advising a client where high conflict parenting is present
- How have the courts traditionally dealt with parental alignment and has that changed over time?
- Lessons from cases including Goldman v Goldman [2018] FamCACF 65; Lankester v Cribb [2018] Fam CAFC 60; Chapple & Michel [2017] FCCA 177; Mitchell & Mitchell [2014] FCCA2526

Speaker: Dr Mark Sayers, Barrister, Queensland Bar, Brisbane

12.00 - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

DAY 2 - FRIDAY 22 JULY 2022

AFTERNOON THEME: LITIGATION AND THE FCFCOA

1.10 - 1.55pm

Session 11: The Year in Review: Brickbats or Bouquets for the new Family Court Process?

A year on from the biggest overhaul in family law since the new legislation in 1975, what can a review of the new regime tell us? This session will critically analyse the last year in family law practice and examine some of the biggest challenges and changes for practitioners in the new regime, including:

- Have the promises of improvement been delivered?
- Have strict timeframes impacted wait times?
- Tales from the coalface – what have been the biggest issues in practice?
- Has the foreshadowed flood of appeals from Judicial Registrars eventuated?
- Has there been a discernible move towards alternative dispute resolution and away from litigation?
- Is the national nature of the process a success?
- What has been the impact on costs?
- Has the profession's mind-set shifted with the changes?
- What's not working well and what are the options for improvement?

Speaker: Barry Frakes, Partner, Watts McCray Lawyers, Sydney

1.55 - 2.05pm Panel Comments and Questions

2.05 - 2.50pm

Session 12: Have Costs become the Weapon of Choice for the Courts?

In rolling out the new rules, the government and the courts have made it very clear that costs in family law matters are a significant issue which will be closely monitored and have consequences for practitioners. This session will examine why costs have become a central issue in family law and what the rule changes mean for practitioners, including:

- The compliance cost of new rules and process on practice
- Cost notices, disclosure and the focus on fair and reasonable costs – what does it mean?
- How will courts use their power to manage costs?
- The impact of costs crackdowns on practitioners – personal cost orders, indemnity costs and other consequences
- Recent cases and examples

Speaker: Stephen Page, Director and Accredited Family Law Specialist, Page Provan, Brisbane

2.50 - 3.00pm Panel Comments and Questions

3.00pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference and conference papers. Refreshment breaks and lunch on both conference days are included for those attending the conference in person.

TEN will be live streaming the conference. Delegates have the option of attending the conference in person or attending it online.

All delegates will receive recordings of all sessions regardless of registration type.

Conference Papers

TEN will not provide printed copies of the conference papers or Powerpoints. Access to the papers & Powerpoints will be available online to all delegates as they come available in the lead-up to the conference.

CPD

Lawyers (except WA): 11 CPD units (substantive law).

WA Lawyers: 6 CPD points (substantive law). WA practitioners can claim 6 CPD points being the maximum allowable by the LPBWA per event. TEN is an accredited QA provider.

CPD Certificate

All delegates attending the conference will receive a CPD Certificate confirming attendance.

The Conference Venue

Palazzo Versace Gold Coast

Sea World Drive, Main Beach

The Palazzo Versace is located in Main Beach in the heart of the Gold Coast, Queensland.

Conference Delegate Rate at Palazzo Versace

We have negotiated a special conference delegate rate with Palazzo Versace:

Superior Room (for single or twin share)

[this room rate includes a buffet breakfast for 1 person] [or \$387 for breakfast for 2]

\$345 (GST inc)

This rate is strictly subject to availability. **Delegates are advised to make their own accommodation arrangements directly with Palazzo Versace.**

Reservation link: <https://reservations.travelclick.com/106826?groupID=3280935>

Group access code: 2132206 (you will need to enter this code when booking online via the link above)

Phone: 1800 098 000 (toll free) Phone: (07) 5509 8000

Website: www.palazzoversace.com.au

Travelling to the Conference Venue

Delegates are advised to make their own travel arrangements.

Conference Dress

Smart casual attire is suitable (note: the temperature in the conference rooms can vary depending on where you are sitting. Short sleeves/summer tops are generally OK, but it is advisable that you bring a jacket/long sleeved top just in case you need it).

TERMS AND CONDITIONS

1. In these terms,
 - a. "TEN" means Television Education Network Pty Ltd
 - b. "you" means the person who has registered to attend or the person or persons who attend[s] the conference (if different from the person registered)
 - c. "Plan" means the COVID-Safe Plan for the conference described below.
 - d. "conference" means the live face to face or live or recorded online educational event or which you have registered (by whatever name called and includes conferences, masterclasses, webinars and webinar series).
 - e. "live conference" means a conference other than a recorded conference.
 - f. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
 - g. "online" in relation to a conference means a conference you attend by viewing the conference over the Internet
 - h. "face to face" in relation to a conference means a conference held in an external venue where you view the conference in the conference room

General – all conferences

2. TEN may change the program for a live conference as described in the brochure you have downloaded or in the TEN website without notice to you in any manner and at any time.
3. The information and opinions of presenters at the conference are not necessarily those of TEN and are in the nature of general information and not professional advice and you rely on these at their own risk. TEN is not responsible for the accuracy of the information or the correctness of the opinions offered by presenters at the conference.
4. TEN is not responsible for any financial or other losses incurred by you or for injury or damage to persons or property which occur at or in connection with the conference.

COVID SAFE PLAN – FACE TO FACE CONFERENCES

What happens if you are diagnosed with COVID-19 or you are otherwise unwell?

5. If the conference is held face to face, TEN will conduct the conference in accordance with a COVID Safe Plan. You agree to comply with that Plan at the conference. If you fail to comply with the Plan, you agree to leave the conference immediately at the request of a TEN staff member or venue staff member. If you leave under these circumstances, you will not be entitled to a refund of any part of the registration fee. TEN will not be responsible for any travel or accommodation costs or fees incurred by you in relation to the conference or as a result of you leaving the conference early.
6. The COVID safe plan will prevent your attendance at a face to face conference if you are diagnosed with COVID-19 prior to or during the conference and the infection has not been cleared by two negative PCR tests, if you have a fever (ie raised temperature) at the time of registration or if you have a respiratory illness (including a cold or cough) at the start of or during the conference. In these circumstances:
 - a. You will be entitled to attend the live online version of the conference and/or recorded online version if that is offered; or
 - b. If not, you will be entitled to a full refund of the registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

Conversion of face to face conferences to live online conferences

7. If the conference is being held face to face or face to face AND online, TEN reserves the right to convert the conference on no less than 24 hours' notice to a solely online conference or to cancel the conference or to postpone the conference to a later date if TEN determines that it is unable to hold the conference face to face on the date/s advertised for any one or more of the following reasons:
 - a. State or national border closures
 - b. Restrictions on movement of persons imposed on persons by any responsible authority in Australia
 - c. The inability or refusal of one or more presenters or TEN team members to attend the conference to present
 - d. In its opinion, it is unsafe to hold the conference face to face for any reason.
8. If TEN converts the conference from face to face only or to face to face and online to online only or postpones the conference or cancels the conference, TEN will not be responsible for any loss or damage you suffer as a result including any travel costs relating to the conference.
9. If TEN converts the conference from face to face to online or postpones the conference and as a result you are not able to attend you will be entitled to a full refund of registration fee paid or a credit equal to that fee to use for a future purchase of a TEN product.

Copyright

10. The copyright in materials prepared by presenters at a conference and made available to you by TEN is and remains the property of each presenter.
11. You are entitled to use those materials for private study and research only.
12. The copyright in the live stream and in any recording of a conference offered online is the property of TEN.
13. You are entitled to watch a conference for private study and research only.

Conference cancellation by TEN – all conferences

14. TEN reserves the right to cancel a conference for any reason.
15. If TEN cancels the conference, you will be entitled either to a refund of the registration fee you have paid or to a credit equal to that fee which you can use to purchase another TEN product within 12 months of the first day of the cancelled conference.

Cancellation by You – all conferences

16. Refunds for registration cancellation by you other than under Clause 6(b):
 - a. If notice of cancellation is actually received by TEN more than 10 days before the first day on which the conference is to be held, 85% of the registration fee you have paid
 - b. Otherwise, no refund.

Governing Law – all conferences

17. The agreement between TEN and you is governed by the laws in force in the State of Victoria and the courts and tribunals of that State have sole jurisdiction to determine disputes arising in relation to it.

