

A TEN POINT MASTERCLASS – GET YOUR 10 CPD UNITS

# Will Drafting and Administering the Estate Online Masterclass

Tuesday 15<sup>th</sup> March 2022  
Online

- Protecting Those Who Need It Most: Testamentary Trusts for Vulnerable Beneficiaries
- Tax Bombs in the Will
- Drafting Powers of Attorney – Getting the Tricky Clauses Right
- Family Provision Claims: Lessons from the Frontline
- When the Attorney Goes Rogue - Remedies Against Errant Attorneys
- Complicated Probate Proceedings – Some Complex Scenarios Explained

Earn 10 CPD units including the compulsory subjects – attend this one-day Masterclass and we'll supply 4 free on demand video webinars – 3 covering each of the compulsory subjects plus one other substantive law program to view at your leisure



Leaders in Online CPD for Lawyers and Accountants

## Morning Theme: Structuring and Drafting Essentials

9.00 – 9.05am	<p><b>Introduction and welcome</b>  <b>Chair: Chloe Kopilovic, Director, FC Lawyers, Brisbane, Qld</b></p>
9.05 – 9.55am	<p><b>Session 1: Protecting Those Who Need It Most: Testamentary Trusts for Vulnerable Beneficiaries</b></p> <p>The care and maintenance of vulnerable family members following the death of a parent or carer can be a significant source of concern. This session will explore the option of establishing a testamentary trust for the vulnerable and what needs to be in the trust deed, including:</p> <ul style="list-style-type: none"> <li>• Assessing the future needs of vulnerable family members and considering how they can best be accommodated on the death of a carer/parent</li> <li>• Assessing ongoing physical, accommodation, medical, financial, social and other support required</li> <li>• Trustee choice and ongoing issues of control and management</li> <li>• Factoring in equality (or not) of asset and income distribution and sibling relationship issues</li> <li>• When is a Special Disability Trust available and beneficial?</li> <li>• Considerations in drafting a SDT, including:             <ul style="list-style-type: none"> <li>○ Relevant legislation</li> <li>○ Eligibility</li> <li>○ Model Deed</li> <li>○ Limitations</li> <li>○ Impact on pensions and government benefits</li> <li>○ Ending of the trust and residual beneficiaries</li> </ul> </li> <li>• Common drafting errors in testamentary trusts for vulnerable beneficiaries and how to avoid them</li> </ul> <p><i>Speaker: Danny Adno, Partner, Holman Webb Lawyers, Sydney, NSW</i></p>
9.55 – 10.05am	<p><b>Questions and Discussion</b></p>
10.05 – 10.55am	<p><b>Session 2: Tax Bombs in the Will</b></p> <p>Many clients may be unaware that they are leaving a tax bomb in their will. This practical session examines some of the key tax issues to navigate when structuring a client's succession plan. It covers:</p> <ul style="list-style-type: none"> <li>• Understanding how a will provides opportunities for tax planning</li> <li>• Tax implications of non-resident status of intended beneficiaries</li> <li>• Leaving super to non-tax dependents</li> <li>• When will CGT be triggered?</li> <li>• Unpacking the recent excepted trust income reforms for minors</li> <li>• When stamp duty and land tax surcharges may apply on dispositions</li> <li>• Adjustments provisions in wills to deal with assets that have big capital gains</li> </ul> <p><i>Speaker: Paul Evans, Partner, Makinson d'Apice Lawyers, Sydney, NSW</i></p>
10.55 – 11.05am	<p><b>Questions and Discussion</b></p>



11.05 – 11.25am	Morning Tea Break
11.25am – 12.15pm	<p><b>Session 3: Drafting Powers of Attorney – Getting the Tricky Clauses Right</b></p> <p>There are many challenges in drafting a power of attorney. The consequences of poor drafting may be significant and fixing things later may not be an option. This session takes you through the best practice requirements in effective drafting of powers of attorney:</p> <ul style="list-style-type: none"><li>• Deciding on type of power of attorney</li><li>• Selecting an agent – eligibility requirements</li><li>• Drafting to reflect donor’s intentions</li><li>• Ensuring the power of attorney complies with legal requirements</li><li>• Deciding time frame it is to operate over</li><li>• Should you have a joint power of attorney?</li><li>• Providing for the death or incapacity of an attorney</li><li>• Key clauses – extent of power and limitations</li><li>• Conflicts clauses</li><li>• Case study – Checklist for clauses and practical examples of general and specific powers of attorney</li></ul> <p><i>Speaker: Darryl Browne, Principal, Browne Linkenbagh Legal Services, Leura, NSW</i></p>
12.15 – 12.25pm	Questions and Discussion
12.25pm – 1.10pm	Luncheon



## Afternoon Theme: Administering the Estate

1.10 – 1.15pm	<p><b>Introduction and welcome</b>                  Chair: Christian Teese, Special Counsel, Rigby Cooke Lawyers, Melbourne, VIC</p>
1.15pm – 2.05pm	<p><b>Session 4: Family Provision Claims: Lessons from the Frontline</b></p> <p>This session considers recent developments in family provision claims across different jurisdictions and the lessons practitioners can learn from recent cases. It includes:</p> <ul style="list-style-type: none"> <li>• Are judgements taking a harder line?</li> <li>• Are we seeing a more genuine assessment of the needs of the applicant?</li> <li>• Establishing financial need – what are the relevant factors in recent decisions</li> <li>• Cross jurisdictional issues emerging in family provision claims</li> <li>• Calderbank offers in family provision claims</li> <li>• Cost consequences when failing to establish financial need</li> <li>• Impact of living together despite separation</li> <li>• Lessons from recent cases, including <i>Cowap v Cowap</i> [2020]NSWCA 19; <i>Sarant v Sarant</i> [2020] NSWSC 1640</li> </ul> <p><i>Speaker: Monica Ross-Maranik, Consulting Principal, Keypoint Law, Sydney, NSW</i></p>
2.05 – 2.15pm	<p><b>Questions and Discussion</b></p>
2.15pm – 3.05pm	<p><b>Session 5: When the Attorney Goes Rogue - Remedies Against Errant Attorneys</b></p> <p>When an attorney does the wrong thing what are your options? What precautionary steps should be taken prior to this risk occurring? This session looks at the main issues, including:</p> <ul style="list-style-type: none"> <li>• Identifying rogue behaviour and then acting – when third parties should step in</li> <li>• Making tribunal applications over actions of errant attorneys</li> <li>• Actions for breach of fiduciary duty</li> <li>• Actions in conversion – is this a good idea?</li> <li>• When does behaviour justify a claim of fraud?</li> <li>• Damages claims against errant attorneys</li> <li>• Case update</li> </ul> <p><i>Speaker: Anthea Kennedy, Partner, Bridges Lawyers, Sydney, NSW</i></p>
3.05 – 3.15pm	<p><b>Questions and Discussion</b></p>
1.15 – 3.35pm	<p><b>Afternoon Tea Break</b></p>



3.35 – 4.25pm	<p><b>Session 6: Complicated Probate Proceedings – Some Complex Scenarios Explained</b></p> <p>This session examines some complicated probate matters and how to deal with them from a practical procedural perspective. It includes:</p> <ul style="list-style-type: none"><li>• Executor renunciation or where executor has lost capacity</li><li>• Applications if will does not allow executor to renounce</li><li>• Where executor is unwilling to apply for probate</li><li>• Application for probate where original will has been lost</li><li>• Application where a later will has been found after grant of probate</li><li>• Where beneficiary signed as witness to will</li><li>• Where there have been informal alterations to the will</li><li>• Rectification where will does not carry out testator’s intentions</li></ul> <p><i>Speaker: John Armfield, Barrister, Wentworth Chambers, Sydney, NSW</i></p>
4.25 – 4.35pm	<b>Questions and Discussion</b>
4.35pm	<b>Masterclass Close</b>



In addition, all delegates will receive the following on demand video webinars.

These webinars are being recorded in early 2022 and will be provided online for you to view at your leisure by 31.3.22 to make up the 10 CPD units.

<p>Substantive law - 1 unit</p>	<p><b>A Super-Size Complexity: Post Death Superannuation Distribution</b></p> <p>Personal superannuation assets are increasingly becoming more valuable and, in some instances, may exceed the value of assets forming part of the estate. There is often confusion about what happens to superannuation when the fund member dies, and this session will provide a guide to management of this non-estate asset, including:</p> <ul style="list-style-type: none"> <li>• What happens to the fund on the death of the member? The role of the trustee in decision-making</li> <li>• Binding and non-binding death benefit nominations (BDBNs) – impact and interplay with pensions</li> <li>• What are the consequences of an invalid BDBN and can a BDBN be overruled? <i>Munro v Munro (2015) 306 FLR 93; Re Narumon Pty Ltd [2018] QSC 185</i></li> <li>• In the absence of a BDBN, who can receive the super fund assets? Eligible superannuation beneficiaries</li> <li>• Dependents and non-dependents and tax consequences</li> <li>• Spotlight on adult children &amp; step children – how &amp; when to apply tests for inter-dependency and financial dependency?</li> <li>• Trustee discretion - how should it be exercised and can it be challenged?</li> <li>• Can superannuation be considered in family provision claims?</li> <li>• Preventing and managing conflict between the estate and the super fund</li> </ul>
<p>Professional Skills – 1 unit</p>	<p><b>Negotiating and Drafting Terms of Settlement in Wills and Estate Matters</b></p> <p>Negotiating and settling wills and estate disputes require refined skills. This session looks at what these are, with practical advice on implementation. It includes:</p> <ul style="list-style-type: none"> <li>• Understanding the timing of negotiations and its practical effects</li> <li>• Process and procedure in disclosing financials</li> <li>• Determining the property pool</li> <li>• Having some bargaining power whilst maintaining ethics and fairness</li> <li>• Knowing when to reach the settlement middle ground</li> <li>• Construction of terms of settlement - what to put in and what to leave out</li> <li>• How to ensure terms of settlement are binding</li> <li>• Case study - a settlement agreement checklist</li> </ul>



<p>Ethics - 1 unit</p>	<p><b>Practitioner Liability in Wills and Estate Matters - A Precautionary Approach</b></p> <p>This session examines some precautionary risk management tips for wills and estate practitioners to ensure they satisfy their ethical and professional obligations. It includes:</p> <ul style="list-style-type: none"> <li>• Liability of practitioner in wills and estate matters - an overview</li> <li>• Timeliness, prompt attention and file notes on will and estate matters</li> <li>• The lawyer's duty in drafting wills:             <ul style="list-style-type: none"> <li>○ to whom is it owed?</li> <li>○ how and when do the ethical challenges arise?</li> <li>○ recognising and managing conflicts of interest</li> </ul> </li> <li>• Liability to persons who do not receive an intended benefit under a will</li> <li>• Right of disappointed beneficiary to recover damages</li> <li>• Are there any limitations on the practitioner duty of care?</li> <li>• Ethical and professional risks in not clearly following client or court's instruction</li> <li>• Case update</li> </ul>
<p>Practice Management &amp; Business Skills - 1 unit</p>	<p><b>Cyber Security: Managing Cyber Risk and Control in Your Succession Law Practice</b></p> <p>No one wants to be the target of a cyber security attack. However, lawyers are particularly vulnerable and every succession lawyer has a professional obligation to be cyber safe. This session examines the key issues, and the unique risks succession lawyers face, including:</p> <ul style="list-style-type: none"> <li>• Understanding your cyber security risk</li> <li>• Has COVID-19 changed the risk profile?</li> <li>• Common threats explained and what practitioners should do to avoid a cyber attack when working from home</li> <li>• Warning clients about cyber security risks</li> <li>• Key cyber security checklists from an individual and firm audit perspective</li> <li>• Consequences of a successful cyber-attack or data breach</li> <li>• Case studies</li> </ul>



## GENERAL INFORMATION

### Masterclass Registration Fee

The registration fee includes attendance at the live online masterclass and 4 recorded webinars.

### Masterclass Papers

Access to the papers and PowerPoints will be available online to all delegates in the lead-up to the masterclass (as they become available). The materials will be available in .pdf format for easy download to your local computer or portable device.

### CPD – Lawyers

10 CPD units – 6 substantive law units from attending the Masterclass PLUS we will provide you with 4 free on demand video webinars – 3 covering each of the compulsory subjects (Ethics, Practice Management & Business Skills and Professional Skills) plus one other substantive law program - for you to view at your leisure prior to 31 March 2022. The recorded webinars will be made available for viewing by end February 2022.

**CPD  
Certificate**

All delegates will receive a CPD certificate confirming registration and the CPD units applicable





## Conference Terms & 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.



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.



# Registration Form

REGISTRATION IS SIMPLE: complete the form below and fax or post your registration to us or register online.

Television Education Network Pty Ltd (ABN 19 052 319 365)

Mail: GPO Box 61, Melbourne, Victoria 3001 Fax (03) 9670 0588 Phone (03) 8601 7700

Enquiries: Contact our Event Co-Ordinator, Hayley Williams-Cameron ([hayley@tved.net.au](mailto:hayley@tved.net.au)) [direct: (03) 8601 7730]

Register online: [www.tved.net.au](http://www.tved.net.au) – go to Masterclasses

Please register me for Will Drafting and Administering the Estate Online Masterclass to be held on Tuesday 15 March 2022. [code: SXWMAR22]

Delegates will receive 4 free on demand video webinars - 3 covering each of the CPD compulsory subjects + 1 additional substantive law unit to view at your leisure. Delegates will earn their 10 CPD units for the CPD year ending 31.3.22.

Early Bird Registration – for registrations paid on or before 25 February 2022 - \$990 (\$900 + \$90 GST)

Full Price Registration – \$1100 (\$1000 + \$100 GST)

Can't Attend – Purchase the Masterclass Papers

The papers from this masterclass will be available in electronic form only approximately 1 week after the masterclass has been held. You can pre-order the papers now online via our website at [www.tved.net.au](http://www.tved.net.au) [go to Conference Papers]. The papers are \$165 (\$150 + \$15 GST) [Code: PSXWMAR22].

## NAME & ADDRESS DETAILS

Mr/Mrs/Miss/Ms (circle appropriate) Name:.....

Position in Company/Firm:.....

Company/Firm:.....

Postal Address: .....

..... State..... Postcode:.....

Telephone: {.....}..... Mobile: {.....}.....

Email: .....

## PAYMENT DETAILS (Note: This form will be a Tax Invoice for GST when you make payment)

I enclose a cheque for \$..... payable to: Television Education Network Pty Ltd or

Please debit my:  Amex  Mastercard  Visa

Expiry Date ...../.....

Name on Card: \_\_\_\_\_ Signature: \_\_\_\_\_

