

A TEN POINT MASTERCLASS – GET YOUR 10 CPD UNITS

# Wills & Estates 10 Point Online Masterclass

Tuesday 12 November 2024  
Online

- Mutual Wills and the Lessons from Re Miglic
- Rights, Entitlements and Status of Step-Children to the Estate and Super
- Ensuring a Past De Facto Cannot Claim on the Estate
- Family Provision Claims and the lessons from Jurak
- Consequences of Broken Promises for Estate Administration
- Death Benefits - They Can be Challenging and They Are Being Challenged

Earn 10 CPD units including the compulsory subjects - attend this one-day live online 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 & Accountants

9.00 – 9.10am	<b>Introduction and Welcome</b>  <b>Morning Chair: Edward Skilton, Principal, Sladen Legal, Melbourne, Vic</b>
9.10 – 10.00am	<b>Session 1: Gone but not Forgotten: Mutual Wills and the Lessons from <i>Re Miglic</i></b>  In the recent decision of <i>Re Miglic</i> , the plaintiffs succeeded in proving that an oral agreement made over 30 years ago, between deceased parties, was in fact a mutual wills agreement. This significant decision raises many interesting considerations for practitioners in many areas of practice and is set to have wide sweeping ramifications. To help succession lawyers understand the impact of <i>Re Miglic</i> on their own practice, this session shall summarise the facts of the decision and break down the useful lessons to be learned from the decision in relation to: <ul style="list-style-type: none"><li>• How the Court assesses evidence in relation to the testamentary intention of people long deceased, with a spotlight on rules of evidence in relation to hearsay evidence and practicalities of evidence of recollections over a long period of time</li><li>• The role and weight of evidence from beneficiaries who stand to gain from the outcome</li><li>• When the recollection of the substance of communications rather than precise words may be sufficient to establish an agreement</li><li>• The giving of evidence by a solicitor and issues surrounding intentional waiver of privilege</li><li>• The challenges to proving the existence of a mutual wills agreement and how these were overcome in, or maybe impacted by, <i>Re Miglic</i></li></ul> <b>Speaker: Greg Russo, Principal, Greg Russo Law, Melbourne, Vic</b>
9.55 – 10.10am	<b>Questions and Discussion</b>
10.10 – 11.00am	<b>Session 2: I'm a Step-Child, Can I Claim? The Rights, Entitlements and Status of Step-Children to the Estate and Super</b>  Step-children, though often beloved members of blended families, can become significant points of contention in succession planning. This session shall breakdown the complex web of rights, entitlements and status that step-children navigate when it comes to inheritance and superannuation. It covers: <ul style="list-style-type: none"><li>• Step-children eligibility to make a family provision claim under different state laws, including how different states have approached the definition of step-child, relevance of dependency</li><li>• The status of step-children for superannuation purposes</li><li>• The divergence between ATO and the common law in terms of how step-children are dealt with in Interpretative Decisions, including whether they continue to be one after the death of their biological parent)</li></ul>

	<ul style="list-style-type: none"> <li>• Steps that could be taken when drafting a will to appropriately deal with step-children</li> <li>• Lessons from recent cases involving step children</li> </ul> <p><b>Speaker: Christian Teese, Special Counsel, Rigby Cooke Lawyers, Melbourne, Vic</b></p>
11.00 – 11.10am	<b>Questions and Discussion</b>
11.10 – 11.30am	<b>Morning Break</b>
11.30am – 12.20pm	<p><b>Session 3: To the Bitter End: Ensuring a Past De Facto Cannot Claim on the Estate</b></p> <p>The end of a spousal relationship is relevant in many legal forums, from the obvious family law ramifications through to social security, superannuation, trust and estate administration implications. For couples who were married, the divorce certificate provides evidence of the end of the parties’ legal relationship as spouses. However, for parties in a de facto relationship, the end is usually not so clean cut nor as easy to prove. This session explores:</p> <ul style="list-style-type: none"> <li>• An overview of the circumstances in which termination of a relationship may be relevant in a wills and estate context, including impact on superannuation, BDBNs, family provision claim eligibility, life insurance</li> <li>• Practical case studies highlighting the difficulties with proving the end of a relationship - what evidence does the Court actually require to meet the threshold and does that threshold change when separation is in dispute?</li> <li>• How the Court has dealt with this issue in recent decisions, including <i>Corbisieri v NM Superannuation Pty Ltd</i> [2023] FCA 1319 and <i>GFR v SRP</i> [2023] TASSC 15; <i>GFR v SRP</i> [2024] TASFC 2</li> </ul> <p><b>Speaker: Kimberley Martin, Director, WMM Law, Hobart, Tas</b></p>
12.20 – 12.30pm	<b>Questions and Discussion</b>
12.30 – 1.15pm	<b>Lunch Break</b>



1.15 – 1.20pm

## Introduction and welcome

**Afternoon Chair: Justine Taylor, Principal Director, Uther Webster & Evans Solicitors, Sydney, NSW**

1.20pm – 2.10pm

## Session 4: Family Provision Claims and the lessons from *Jurak*

Family provision claims are the most common form of litigation for many wills and estate practitioners. However, in light of the sheer volume of such cases being heard around Australia, it can be difficult to stay on top of recent trends and practice developments. And as the important recent decision of *Jurak v Latham* has demonstrated, mistakes can be costly - for the estate, client and lawyer. To help busy practitioners stay up to date, this session explores:

- The perpetual problem of how to assess quantum in family provision claims - best practice guidance
- Spotlight on *Jurak v Latham*:
  - who falls within the definition of an interested person with reference to recent case law
  - what may constitute proper notice and the variety of manners in which such notice could now be provided, including use of social media
  - why it is important to comply with the notice provisions - what are the potential consequences for the estate, client and lawyer if proper notice is not given
  - examine the practical options available to lawyers when faced with difficult circumstances - what should you do if an interested person is identified but unresponsive?
- Lessons from other key cases, including *Papatoniou v Foundouradkis* [2023] NSWSC 1374 and *Rijven v Lynam and Rijven* [2023] ACTSC 265

**Speaker: John Armfield, Barrister, Second Floor Wentworth Chambers, Sydney, NSW**

2.10 – 2.20pm

## Questions and Discussion



2.20pm – 3.10pm

### **Session 5: Made to be Broken? The Consequences of Broken Promises for Estate Administration**

While some may say that promises are made to be broken, it doesn't mean there won't be serious legal consequences as a result, particularly in the context of wills and a contested estate! This session shall take a deeper dive into cases involving broken promises and look closely at:

- The equitable claims which could potentially arise from a broken promise and the elements required to prove promissory estoppel, constructive trust etc
- The facts which gave rise to successful claims of promissory estoppel, and what steps could have been taken to identify and manage this during the testator's lifetime
- How the court approached the equitable claims in recent cases including *Kramer v Stone*, *Reeves and Scaff* and the practical aspects of such cases

***Speaker: Prue Poole, Director, Cornford-Scott Lawyers, Brisbane, Qld***

3.10 – 3.20pm

### **Questions and Discussion**

3.20 – 3.40pm

### **Afternoon Break**



3.40 – 4.30pm

### **Session 6: Death Benefits - They Can be Challenging and They Are Being Challenged**

Superannuation death benefit challenges can be complex and costly and they are on the rise. This session uses cases, some directly relating to SMSFs and some not, however all with key lessons to take away to assist with minimising the risk of a death benefit from an SMSF being disputed in the future, including:

- Who can make a binding death benefit nomination (BDBN)? (Re Rentis Pty Ltd [2023] PSC 252)
- Can a BDBN expire in an SMSF? (Hill v Zuda Pty Ltd [2022] HCA 21)
- Why are BDBNs being disputed? (incl. Williams v Williams & Anor [2023] QSC 90; Cantor Management Services Pty Ltd v Booth SASCFC 122; van Camp v Bellahealth Pty Ltd [2024] NSWSC 7; Carbisieri v NM Superannuation Pty Ltd [2023] FCA 1319)
- Does Owies case have an impact on determining who is to receive a death benefit from an SMSF? (Owies v JJE Nominees Pty Ltd [2022] VSCA 142)
- When to pay to the estate and when to pay to the individual (Wan v BT Funds Management Ltd [2022] FCA 302)
- Dealing with conflicts of interest when a trustee is a potential death benefit beneficiary (Wareham v Marsella [2020] VSCA 92)
- Key lessons to take away from case decisions

***Speaker: Stephen Lynch, Director, Somerville Legal, Sydney, NSW***

4.30 – 4.40pm

### **Questions and Discussion**

4.40pm

### **Masterclass Close**



**In addition, all delegates will receive 4 on-demand video webinars.**

These webinars will be provided online by end February 2025 for you to view at your leisure by 31.3.25 to make up the 10 CPD units.

<p>Substantive law – 1 unit</p>	<p><b>Applying for Judicial Advice in Estate Matters: Strategy and Procedure</b> – with Justine Taylor, Accredited Specialist Wills &amp; Estates, Uther Webster &amp; Evans Solicitors, Sydney</p> <p>While it is generally known that judicial advice may be sought with respect to questions involving the administration of a trust estate, a raft of further questions arise when it comes to applying. For example:</p> <ul style="list-style-type: none"> <li>• When should judicial advice be considered?</li> <li>• When is it appropriate to apply?</li> <li>• How do you apply for judicial advice?</li> <li>• What exactly is involved?</li> <li>• Can the Court refuse?</li> <li>• Is there risk is not applying?</li> <li>• What orders can be made?</li> <li>• What is the benefit of seeking judicial advice in succession law matters?</li> </ul> <p>This session shall explore the answers to the questions and discuss cases providing guidance in this area including the High Court decision of <i>Macedonian Orthodox Community Church, Bideena Pty Ltd</i> [2016] NSWSC 735, <i>Northey v Juul</i> [2014] NSWSC 464 and <i>Doolan</i> [2023] NSWSC.</p>
<p>3 CPD Compulsory units</p>	<p><b>Succession Law – 3 CPD Compulsories – a set of 3 one-hour video webinars</b></p> <p>You will receive the recordings from our February 2025 compulsory subjects webinars for family lawyers. It will provide 1 unit each for:</p> <ul style="list-style-type: none"> <li>• Ethics</li> <li>• Professional Skills</li> <li>• Practice Management &amp; Business Skills</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.

#### CPD – Lawyers

**10 CPD units** – 6 substantive law units for 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 2025. The recorded webinars will be made available for viewing by end February 2025.

Please check your CPD rules to ensure that you are able to claim 4 CPD units from viewing recorded webinars. Most states have allowance for claiming CPD for viewing recorded webinars.

**[WA practitioners please note that TEN is not able to verify that you have viewed the recorded webinars. TEN is an accredited CPD provider].**

CPD  
Certificate

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





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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 31.3.25.

- Discount Registration – for registrations paid on or before 15 October 2024 - \$990** (\$900 + \$90 GST)
- Full Price Registration – \$1210** (\$1100 + \$110 GST)

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