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66TH ANNUAL ARMIDALE CLE CONFERENCE

Breakout sessions on:

Family Law, Property Law, Succession Law, Commercial Law, Estate Planning and Criminal Law

Compulsory subjects:

Ethics, Professional Skills, Practice Management

Armidale Ex-Services Club
Dumaresq Street, Armidale, NSW

Thursday 30 & Friday 31 January 2025

Feedback from last year's conference:

- It was a great conference with lots of practical knowledge and useful tips from the presenters.
- As usual good topical content, good opportunity to network, quite happy to attend in person.
- Great conference, thank you!
- Best value CLE around [apart from the free CLE our region arranges] but the networking is the real reason why Armidale is so valuable.
- Holding the conference on weekdays is preferred over the weekend and this change was a fantastic idea.



Your Trusted CPD Partner for 50 years

DAY 1 - THURSDAY 30 JANUARY 2025

11.30 - 11.40am

WELCOME AND OPENING REMARKS

Robert Clemente, Chief Executive, TEN The Education Network

11.40 - 12.40pm

Session 1: Keynote Address

HAVE DISCRETIONARY FAMILY TRUSTS FINALLY LOST THEIR APPEAL?

In the 1970's private family trusts became a common tax avoidance tool, but tax crackdowns, increasing compliance costs and generational change have all impacted the benefits of family trusts. This session will examine the place of the discretionary family trust in estate planning and whether it is still an attractive proposition, including:

- An analysis of the pro's and con's of family trusts in the current landscape
- Consequences of changing taxation treatment and potential governmental reforms
- Are compliance and costs outweighing benefits?
- The impact of generational change on family trust management and benefits
- Issues of control, loss of capacity and dispute management
- What to do with family trusts reaching their use by date?
- Strategies for reviewing and renewing family trust deeds and structures
- Are there more effective options for family asset protection and beneficial tax treatment?

Speaker: Greg Russo, AccS(Wills&Estates), Greg Russo Law, Melbourne, Vic

12.40 - 1.40pm

Session 2: Professional Skills

WHEN IN DOUBT ... A PRACTICAL GUIDE TO ASSESSING MENTAL CAPACITY

When many practitioners hear of a client losing capacity, they often think of an ageing client losing testamentary capacity. However, the skill of being able to assess whether your client (of any age) has mental capacity to provide instructions is a fundamental aspect of the role of every solicitor - not just those in wills and estates. This session examines the practicalities of assessing a client's mental capacity and provide guidance as to:

- The role of the lawyer and what signs they should look out for to identify if mental capacity is, or may soon become, a real and pressing issue
- The further enquiries lawyers are expected to make (and when) to inform their assessment of capacity (and cost implications of same)
- Discussing this with the client, charging for services undertaken in the process and how to manage confidentiality issues while making enquiries as to capacity and possible substitute decision makers
- The types of documents and records firms should be creating and retaining for use as potential evidence in court - what makes a good file note, and when may video recording be appropriate
- What to do when you receive medical opinions about capacity - what role does it play in the legal assessment of capacity and what have the Courts recently said about this?
- When and how to seek the appointment of a substitute decision maker

Speaker: Asheetha Jelliffe, Partner and Accredited Specialist, Wills and Estates Law, Bridges Lawyers, Sydney, NSW

1.40 - 2.40pm

Lunch

DAY 1 - THURSDAY 30 JANUARY 2025

2.40 - 3.40pm

Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B

STREAM A

Session 3A: Estate Planning

DAMNED IF YOU DO, DAMNED IF YOU DON'T: INCLUSION AND EXCLUSION IN ESTATE PLANNING

The premise underpinning estate planning is to provide for families and dependants post-death, but due to relationship breakdowns and for other reasons the decision-maker may have other plans. This session will examine the risks of exclusion or inadequate provision in estate planning and strategies for preventing challenges, including:

- The ability of the “excluded” and disappointed to make a claim - jurisdictional issues and differences
- Judicial decision-making trends in estate challenges - an analysis of recent cases
- Legal principles concerning family and dependants in estate planning
- Dealing with client’s emotion and estrangement issues
- What does “adequate provision” really mean? *Kornwasser v Spigelman* [2022] WASCA 215; *Mead v Lemon* [2017] WASCA 215
- Pre-empting potential challenges through other means including pre-death giving and restructuring
- Statements of wishes and other documented intentions - worth the paper they are written on?

Speaker: Cameron Cowley, Special Counsel, Roberts and Morrow, Armidale, NSW

STREAM B

Session 3B: Commercial Law

FOR YOUR EYES ONLY: NON-DISCLOSURE/CONFIDENTIALITY AGREEMENTS IN COMMERCIAL RELATIONSHIPS

It is not unusual for commercial negotiations to be preceded by the parties signing a non-disclosure (or confidentiality) agreement where they are to share sensitive information with each other. But if not drafted properly, their efficacy may be undermined. This session will cover:

- Is a non-disclosure agreement necessary? Helping your client to evaluate the commercial sensitivity of their information
- Key elements of non-disclosure agreements
- Essentials of ensuring the protection of sensitive information and intellectual property
- Considerations when deciding the term of a non-disclosure agreement
- Considerations of the flow of information and choosing the correct form of agreement
- Limitations of liability and damages
- Issues of consideration and remedies available for breach

Speaker: Hugh Smith, Special Counsel, Chamberlains Law Firm, Canberra, ACT

DAY 1 - THURSDAY 30 JANUARY 2025

3.40 - 4.40pm

Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B

STREAM A

Session 4A: Estate Planning

TRUST ME: PROTECTING VULNERABLE FAMILY MEMBERS IN THE ESTATE PLAN

Particular types of inter-vivos and testamentary trusts provide a very important vehicle for the ongoing support and protection of vulnerable family members and give comfort to the parents of children with special needs. This session will highlight key factors in advising on, establishing and managing these types of trusts, including:

- The suitability of trusts for vulnerable and special needs family members
- Considerations for establishing an inter-vivos or testamentary trust
- The difference between protective trusts and special disability trusts and the characteristics of each
- Statutory requirements for a Special Disability trust including purpose and eligibility
- Financial and taxation considerations, including pension impacts for both the donor and beneficiary
- Trust control issues and decision-making capabilities of the beneficiary
- Tips for guarding against undue influence and other vulnerabilities
- Trust assets including superannuation proceeds
- Accounting requirements, administration and ongoing management.

Speaker: Warwick Gilbertson, Partner, Turnbull Hill Lawyers, Sydney, NSW

STREAM B

Session 4B: Commercial Law

ESSENTIAL INSIGHTS INTO SOLAR AND WIND PROJECTS: LOOK BEFORE YOU LEAP

Over the past five years, the share of electricity generated by renewable energy in Australia has increased significantly to 35%, with the Federal Government announcing their desire for this figure to reach 82% by 2030. It is therefore not surprising that increasing numbers of farmers are being approached by solar and wind farm developers with offers to host wind and solar projects on their land. To understand the legal issues which can arise for rural host landowners, this session examines:

- The process for wind and solar projects:
 - What is involved at the construction, development and decommissioning stages of the process
 - Potential impacts on the landowner and other parties at each stage
- What to look for when it comes to license/access agreements, including access rights, easements, land use restrictions, remediation obligations and funding the decommission
- Practical legal solutions to managing the impact of solar panels and wind turbines on farm activities and neighbouring properties

Speaker: Lynn Teo, Special Counsel, McCullough Robertson, Sydney, NSW

4.40 - 5.00pm

Afternoon tea

DAY 1 - THURSDAY 30 JANUARY 2025

5.00 - 6.00pm

Session 5: Ethics and Professional Responsibility

PROFESSIONAL RISKS:

KEY INSIGHTS AND STRATEGIES FROM THE COALFACE

In this practical session, hear directly from Lawcover on the key ethical and professional dilemmas faced by practitioners today. Drawing from the most significant reported and unreported cases of the past year, this session offers invaluable best practices to help you navigate ethical and professional risks effectively and safeguard your practice from potential negligence claims.

This session qualifies as a Maintenance Event for the purposes of ongoing eligibility for Lawcover's Risk Management Education Program Discount

Speaker: Jennifer McMillan, Manager, Practice Support Services, Lawcover, Sydney, NSW

6.00pm

Close Day 1

6.30 - 9.00pm

Conference Cocktail Party

6.30-9PM CONFERENCE COCKTAIL PARTY

All delegates are invited to attend the conference cocktail party. There is no extra charge and you are welcome to bring spouses/spices at no extra charge. Many of the speakers will also attend the party and this will be a great opportunity for all to meet and mingle.

DAY 2 - FRIDAY 31 JANUARY 2025

9.00 -10.00am

Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B

STREAM A

Session 6A: Property Law

2025 CONVEYANCING UPDATE: RECENT DEVELOPMENTS AND REFORMS

It's never a dull moment in property law, and the reforms and developments continue to come in thick and fast. This session brings property lawyers up to speed, with a spotlight on the following:

- What's new – and what's coming up – in conveyancing?
- Update on the Property Stock and Business Agents Act, focusing on the amendments coming through with respect to agent obligations, licensing requirements and related guidelines
- Key takeaways from the Better Regulation Legislation Amendment (Miscellaneous) Bill 2024 and the Building, Development and Strata Legislation Amendment Regulation 2024
- Update on the review of the Design and Building Practitioners Act and the Residential Apartment Buildings (Compliance and Enforcement Powers) Act 2020
- Key learnings from Pafburn [2023] NSWCA 301 and High Court proceedings – duty of care and proportionate liability

Speaker: Tony Cahill, Legal Author & Commentator, Chatswood

STREAM B

Session 6B: Family Law

HAS VARYING FINAL PARENTING ORDERS BECOME A LOT MORE DIFFICULT?

The addition of a second limb to the test in *Rice v Asplund* (1979) FL90-725 adds a new challenge to applicants wishing to amend final parenting orders. This session will explore the new legislation with a view to determining how the outcomes for children and parents may change going forward, including:

- A re-examination of the *Rice v Asplund* test and the background to its codification
- Why the change?
- The new second limb “best interests” requirement and its application
- Will the change make it more difficult to bring fresh proceedings?
- What involvement will the children have in the process?
- Even where both parents consent to changes to their final parenting orders, will both limbs need to be satisfied?
- Does the previous case law still provide a precedent to application of the test?
- Applying for a variation of orders made prior to the amendments removing the presumption of shared parental responsibility– how to apply the amendments
- What recent cases tell us

Speaker: Adam Cooper, Principal, Cooper Family Law, Spring Hill, Qld

DAY 2 - FRIDAY 31 JANUARY 2025

10.00 -11.00am

Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B

STREAM A

Session 7A: Property Law

MASTERING THE HIDDEN CHALLENGES OF PROPERTY DUE DILIGENCE

Due diligence in property transactions is often seen as routine, but beneath the surface, it can reveal a host of unexpected complexities. Overlooking these hidden challenges can lead to significant legal and financial consequences. This session is designed to equip practitioners with the knowledge to navigate the intricate and sometimes obscure aspects of due diligence, with a focus on aboriginal heritage issues and water rights. It covers:

- Aboriginal heritage:
 - Understanding the scope and significance of Aboriginal heritage interests
 - Techniques for identifying Aboriginal heritage interests on the land
 - Best practices for managing risks when heritage items are identified, including legal protections and mitigation strategies
- Water rights:
 - Conducting thorough due diligence on water rights, an often-overlooked but critical aspect of land transactions
 - Addressing contracts and legal agreements that run parallel with water rights, ensuring all interests are properly secured

Speaker: Tony Cahill, Legal Author & Commentator, Chatswood

STREAM B

Session 7B: Family law

COERCIVE CONTROL AND THE NEW FAMILY LAW AMENDMENT BILL: WHAT FAMILY LAWYERS NEED TO KNOW

Domestic violence comes in many forms, including the growing recognition of coercive control. This session will explore the nature of coercive control, the impact of the new Family Law Amendment Bill 2024, and the role family law practitioners need to play in its identification and relevance to their clients' respective family law dispute, including:

- The origin and meaning of “coercive control” and identifying relevant behaviours
- State legislation and coercive control – definitions and offences
- How does the Family Law Act take into account of behaviour which can be described as coercive control?
- A discussion of indicative behaviours and examples, including the cases of Hannah Clark and Preethi Reddy
- Is withholding a child from seeing the other parent coercive control? *Carter & Wilson [2023] FedCFamC1A 9*
- The intersection of family law and coercive control and the obligations of legal practitioners
- How the courts are dealing with coercive control, including The Lighthouse Project
- The role of the National Principles to Address Coercive Control in Family and Domestic Violence (Commonwealth) and potential federal and State legislative reforms
- The impact of coercive control in relation to property settlements as a result of the new Family Law Amendment Bill 2024

Speaker: Malcolm Gittoes-Caesar, Accredited Family Law specialist, Lander & Rogers, Sydney, NSW

11.00 - 11.20am

Morning Tea

DAY 2 - FRIDAY 31 JANUARY 2025

11.20am - 12.20pm

Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B

STREAM A

Session 8A: Succession Law

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 NSW 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 Foundourakis* [2023] NSWSC 1374 and *Rijven v Lynam and Rijven* [2023] ACTSC 265

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

STREAM B

Session 8B: Criminal Law

RECENT DEVELOPMENTS IN SEXUAL OFFENSE CASES

With the rise in sexual assault charges, staying informed is critical. This practical session examines recent legal changes and offers criminal lawyers valuable strategies for preparing sexual assault trials in the District Court and hearings for sexual touching offences in the Local Court.

It covers:

- Effective trial and Local Court hearing preparation
- Key takeaways from the recent High Court decision of *Cook (A Pseudonym) v The King* [2024] HCA 26, particularly, regarding section 294CB of the Criminal Procedure Act, 1986
- Navigating the new child sex pre-record hearing requirements and practical considerations

Speaker: Manny Conditsis, Partner, Conditsis Lawyers, Sydney, NSW

DAY 2 - FRIDAY 31 JANUARY 2025

12.20 - 1.20pm

Concurrent Sessions – Delegates can choose to attend either Stream A or Stream B

STREAM A

Session 9A: Succession Law

UNDER THE INFLUENCE: DETECTING AND ADDRESSING UNDUE INFLUENCE IN SUCCESSION MATTERS

Undue influence stands as a persistent challenge in succession planning, casting a shadow of doubt over the intentions and wishes of testators. For succession lawyers, understanding the intricate nuances of undue influence is paramount in effectively safeguarding the integrity of the succession planning process and upholding the intentions of their clients.

This session explores:

- Deciphering undue influence: understanding its legal parameters
- Actual vs. Presumed undue influence
- Proving the unseen: evidentiary considerations in establishing undue influence
- Identifying issues that invalidate wills
- The ethical compass: obligations of practitioners in suspected cases of undue influence
- Standing and the burden of proof in allegations of undue influence
- Case update, including *Alexakis v Masters* (No. 2) [2023] NSWSC 509 and [No3] [2023] NSWSC and *Schwanke v Alexakis*; *Camilleri v Alexakis* [2024] NSWSCA 118 – has the door been closed on presumed undue influence in probate?

Speaker: Paul Evans, Partner, Makinson d'Apice Lawyers, Sydney, NSW

STREAM B

Session 9B: Criminal Law

BAIL REFORMS: STAYING AHEAD OF THE LATEST CHANGES

Stay up to date on the latest bail reforms with this essential session. Explore changes to bail rules, the expansion of show cause offences, and new electronic monitoring requirements. Topics covered include:

- New Section 22C of the Bail Act: Tougher bail rules for young offenders charged with serious offences:
 - understanding the 'high degree of confidence' test for granting bail to 14-18-year-olds
- Expansion of the list of show cause offences
- Recent judicial comments about the relevance of police views about bail
- Recent judicial comments about weight attributed to expressions of opinion or factual opinions
- New electronic monitoring requirements

Speaker: Michal Mantaj, Partner, Conditis Lawyers, Sydney, NSW

1.20 - 2.20pm

Lunch

DAY 2 - FRIDAY 31 JANUARY 2025

2.20 - 3.20pm

Session 10: Practice Management & Business Skills

GETTING YOUR HOUSE IN ORDER: PREPARING FOR THE NEW ANTI-MONEY LAUNDERING AND COUNTER-TERRORISM FINANCIAL LAWS

The Commonwealth Government recently introduced significant legislation expanding Australia's anti-money laundering and counter-terrorism laws. This round of reforms will not only expand the regime to include lawyers, but it will also create additional obligations to verify the source of money deposited into their accounts. These reforms are poised to be one of the most significant change to practice management impacting the legal profession. To help lawyers consider what these reforms will mean for their own practices, this session shall:

- Examination of the new Anti-Money Laundering and Counter-Terrorism Financing Amendment Bill 2024 – overview of the changes anticipated to come into effect with respect to lawyers, along with other professional service providers
- Scope of the new obligations of lawyers and challenges for compliance in practice
- Discuss the role lawyers will be expected to play to overcome these implementation challenges and outline practical steps to prepare for the changes and where to go for further guidance

Speaker: Robert Wyld, Consultant, Johnson Winter & Slattery, Sydney, NSW

3.20pm

Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference, conference papers, refreshment breaks and lunch on both conference days and the conference cocktail party.

Conference Papers

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

CPD Units

Delegates attending the conference (either face to face or live online) will earn their 10 CPD units for the current CPD year – including the 3 compulsory subjects.

The Conference Venue

Armidale Ex-Services Club

137 Dumaresq Street
Armidale, NSW

Conference Accommodation

Delegates are advised to make their own accommodation reservations.

City Centre Motel Armidale

146 Dangar Street, Armidale 2350
Ph: 02 6772 2351
Email: stay@citycentreamidale.com.au
www.citycentreamidale.com.au

The City Centre are offering delegates attending the conference a discounted rate which will include continental breakfast. Rates depend on the type of room. Please mention that you are attending the conference when making your booking.

Please note that the City Centre has advised that there is a high demand for rooms at this time and recommend securing your booking at the earliest to avoid disappointment.

Ex-Servies Motel (adjoining the conference venue)

At the time of finalising this brochure they have advised that they are fully booked, however, please make your own enquiries in case of cancellation. For bookings call (02) 6772 0918.

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. "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).
 - d. "live conference" means a conference other than a recorded conference.
 - e. "recorded conference" means a recording of a presentation or a series of presentations which you can view at a time of your choosing
 - f. "online" in relation to a conference means a conference you attend by viewing the conference over the Internet
 - g. "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.

Copyright

5. 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.
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8. You are entitled to watch a conference for private study and research only.

Conference cancellation by TEN – all conferences

12. TEN reserves the right to cancel a conference for any reason.
13. 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

14. 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

15. 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.

