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12TH ANNUAL MELBOURNE FAMILY LAW CONFERENCE

When Inheritance Meets Family Law: Safeguarding Intergenerational Wealth

Family Violence as a Property Factor

Add Backs, Wastage and the New s 79 Landscape

Not Perfect — But Still Binding?
Enforcing Defective Financial Agreements Under s 90G(1A)

Statutory Disclosure, Practitioner Exposure and the New Risk Landscape

Asset Concealment, Forensic Strategy and Urgent Relief in Property Settlements

Managing Social Media Risk in Family Law Matters

Subpoenas and Sensitive Records: Navigating the Protected Confidences Regime

Strategic Decision-Making in Interim Parenting Hearings

Professional Skills:

Drafting Notices of Intention that Comply and Protect

Practice management:

Engagement Letters, Retainers and File-Opening Compliance

Ethics:

Negligence, Limitation Periods and Financial Agreements After R Lawyers v Mr Daily

A Two-day Conference
Thursday 4 & Friday 5 March 2027

Crown Melbourne or Online

Feedback from last year's conference:

"This is my 6th conference with TVED and each and every one has been very enjoyable and informative. Will definitely attend next year.

"Content was excellent and relevant. Speakers were uniformly good and knew their material and papers were excellent. Appreciated being able to obtain 3 compulsory topics alongside the substantive law topics covered.

"The entire event was very well organized, punctual and very both professional and entertaining. Real life anecdotes always make all the difference. there was a great group of colleagues attending.

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DAY 1 - THURSDAY 4TH MARCH 2027

Morning Theme: Testing the Property Pool

CHAIR: IAN KENNEDY AM, SENIOR PARTNER, KENNEDY PARTNERS, MELBOURNE, VIC

9.00 - 9.10am

Introduction and welcome

9.10 - 9.55am

Session 1: When Inheritance Meets Family Law: Safeguarding Intergenerational Wealth

The largest intergenerational wealth transfer in Australia's history is well underway, and family lawyers are increasingly seeing inheritances and family gifts drawn into property settlements following relationship breakdowns. Assets intended to preserve family wealth for future generations can quickly become exposed — even where received post-separation or long after a relationship began. This session examines how courts are treating inherited and gifted wealth, the vulnerabilities that arise in later-life and adult-child relationships, and the strategic tools available to protect family assets before they are placed at risk. It covers:

- The Family law court's approach to including inheritances in the property pool, and when a "2 pools" approach can be urged upon the court
- Pre-relationship owned property in the context of later-life relationships
- Risk of relationships being regarded as de facto relationships
- BFAs as the primary mechanism for ousting the court's jurisdiction and protecting separate property
- Common misconceptions about BFAs and trips and traps around enforceability of BFAs
- Technical requirements for valid BFAs
- Asset structuring and the Family Law Act
- Child Maintenance Trusts under s 102AG of the Income Tax Assessment Act 1936 as a vehicle for preserving family wealth for children
- Strategic estate planning to protect intergenerational wealth

Speaker: Paul Doolan, Partner, Barkus Doolan Winning, Sydney, NSW

9.55 - 10.05am Panel Comments and Questions

10.05 - 10.50am

Session 2: Family Violence as a Property Factor: Statutory Integration, Evidence and Outcomes

Family violence now operates as an express statutory consideration in property settlement determinations, marking a decisive shift from its former status as a limited, case-law based exception. The amended framework requires courts to engage directly with the economic and financial consequences of violence when assessing both contributions and future needs. This session examines how the integration of family violence into the statutory pathway is reshaping property outcomes, the evidentiary burdens practitioners face, and the strategic decisions required when violence is alleged or established. It covers:

- The expanded definition of family violence: economic abuse, financial coercion, and dowry abuse under s 4AB
- How the Kennon principle has been codified and reframed within the statutory assessment of contributions
- New factors for current and future circumstances under s 79(4) including economic effects of violence on earning capacity and financial security
- The distinction between automatic entitlement and impact-based assessment
- Evidentiary considerations including proving the effect of family violence on contributions and future needs
- Interaction with criminal proceedings and family violence intervention orders
- Strategic advice for clients who are victim-survivors of family violence in property settlements

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

10.50 - 11.00am Panel Comments and Questions

11.00 - 11.25am Networking Break and Morning Tea

DAY 1 - THURSDAY 4TH MARCH 2027

11.25am - 12.10pm

Session 3: Dissipated Assets After the Amendments: Add Backs, Wastage and the New s 79 Landscape

The 2025 amendments have fundamentally changed how courts deal with spending, losses and asset dissipation in property settlement proceedings. By confining the asset pool to existing legal and equitable interests and embedding material wastage into the statutory framework, the reforms have dismantled the traditional "add backs" approach and forced practitioners to rethink how dissipation arguments are pleaded, proved and answered. This session examines how courts are now dealing with dissipated assets in practice, and what this means for strategy, evidence and client advice in contested property matters. This session covers:

- The shift to "existing" legal and equitable interests under s 79(3) and why traditional add backs no longer form part of the asset pool
- How dissipated assets are now addressed through contributions and future circumstances under ss 79(4) and (5)
- Where material wastage sits in the amended statutory framework and how it is being characterised by courts
- The continuing relevance of Kowaliw v Kowaliw and the distinction between intentional, reckless and merely poor financial decision-making
- Gambling losses, lifestyle spending and business losses: evidentiary and forensic challenges in proving dissipation
- The practical difference between historical "add backs" and modern adjustments for contributions or future needs
- Strategic lessons from Shinohara v Shinohara and other post-amendment authorities
- How to plead, prove and defend dissipation arguments under the new regime

Speaker: Antonella Sanderson, Principal Solicitor/ Director, AccS(Fam), Family Law Matters, Sydney, NSW

12.10 - 12.20pm Panel Comments and Questions

12.20 - 1.05pm

Session 4: Not Perfect — But Still Binding? Enforcing Defective Financial Agreements Under s 90G(1A)

Binding financial agreements were once thought to live or die by strict statutory compliance. Section 90G(1A) has disrupted that certainty, giving courts a discretionary power to enforce agreements that are technically defective where it would be unjust and inequitable not to do so. For practitioners, this has materially altered both enforcement strategy and advice to clients seeking to escape poorly prepared agreements. This session examines how courts are exercising that discretion in practice, the limits of the safety net, and the professional risks that remain when compliance falls short. It covers:

- The statutory requirements for valid Binding Financial Agreements including independent legal advice and solicitor certification under ss 90B, 90C, and 90D
- Section 90G(1A) and the court's discretion to find non-compliant agreements binding where it would be unjust and inequitable not to do so
- The case of Whittle and the key factors considered by courts including initiation, absence of duress, performance of obligations, and parties' post-execution conduct
- The onus on the party seeking to enforce a non-compliant agreement to satisfy the court that it would be unjust and inequitable for the agreement not to be binding
- The court's case-by-case approach examining the nature and extent of non-compliance rather than broader financial circumstances of the parties
- Strategic considerations for practitioners including the continuing importance of full statutory compliance and the cost-benefit analysis of proper legal advice versus litigation risk
- Professional responsibility issues when advising clients who have already entered into non-compliant agreements or who are considering informal financial arrangements

Speaker: Tim Gough, Principal, Kennedy Partners and Accredited Family Law Specialist, Melbourne

1.05 - 1.15pm Panel Comments and Questions

1.15 - 2.15pm Luncheon

DAY 1 - THURSDAY 4TH MARCH 2027

Afternoon Theme: Evidence, Disclosure and Forensic Pressure Points

2.15 - 3.00pm

Session 5: Statutory Disclosure, Practitioner Exposure and the New Risk Landscape

The elevation of disclosure obligations from court rules into the Family Law Act 1975 has fundamentally changed the risk profile of family law practice. What was once a procedural expectation is now a statutory duty, with direct consequences not only for parties, but for practitioners who fail to properly advise, supervise and enforce compliance. As the amendments move from theory into everyday litigation, courts are taking a harder line on non-disclosure, partial disclosure and delay. This session examines how the statutory disclosure regime is operating in practice, where practitioners are being caught out, and how to manage the heightened forensic and professional risk. It covers:

- The codification of disclosure duties in ss 71B and 90RI for married and de facto couples and the relationship between the Act and the Federal Circuit and Family Court Rules 2021
- The temporal scope of the duty from pre-action preparation through to finalisation of proceedings and the obligation to provide timely, continuing disclosure
- The substantive scope requiring disclosure of "all information and documents" relevant to the issues, extending beyond prescribed lists in the Rules
- The extension of disclosure obligations to third parties and litigation guardians where relevant to the proceedings
- Consequences for non-compliance including property adjustments under ss 79 and 90SM, costs orders, contempt proceedings, and stay or dismissal of proceedings
- New statutory obligations for legal practitioners and FDRPs to inform clients about disclosure duties, potential consequences, and encourage compliance
- Best practice strategies for ensuring complete and timely disclosure including early gathering of documents, prompt responses to requests, and ongoing update

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

3.00 - 3.10pm Panel Comments and Questions

3.10 - 3.55pm

Session 6: Out of Sight, Out of Mind? Asset Concealment, Forensic Strategy and Urgent Relief in Property Settlements

Suspected asset concealment remains one of the most disruptive and strategically complex issues in family law property disputes. For experienced practitioners, the challenge is not identifying the obligation of disclosure, but knowing when and how to move quickly, what evidence is sufficient to justify intrusive relief, and how to protect a client's position without overreaching. This session examines advanced forensic and procedural strategies for dealing with hidden assets and deliberate non-disclosure in contested property matters. It will explore:

- How courts approach the duty of full and frank disclosure in practice, and when breaches materially affect outcomes
- Common concealment techniques encountered in modern property disputes, including asset transfers, cash withdrawals, third-party arrangements and manufactured liabilities
- Practical forensic steps to preserve and uncover evidence, including document preservation strategies, financial account monitoring and targeted evidentiary gathering
- The use of injunctive relief under the Family Law Act 1975 to restrain dealings with assets, including when interim or final orders are realistically available
- Ex parte applications in urgent cases: evidentiary thresholds, disclosure obligations and managing the risk of adverse consequences
- The consequences of non-compliance, including cost orders, adverse inferences and adjustments in the property settlement outcome
- Strategic judgment calls when advising clients who suspect concealment, including timing, proportionality and settlement leverage

Speaker: John Spender, Principal and Accredited Family Law Specialist, Kennedy Partners, Melbourne, Vic

3.55 - 4.05pm Panel Comments and Questions

DAY 2 - FRIDAY 5TH MARCH 2027

Morning Theme: Parenting Matters

CHAIR: GERARD HOLMES, BARRISTER, VICTORIAN BAR, MELBOURNE, VIC

9.00 - 9.05am

Introduction and welcome

9.05 - 9.50am

Session 7: Digital Evidence and Professional Responsibility: Managing Social Media Risk in Family Law Matters

Social media posts, comments, and private messages are increasingly tendered as evidence in family law proceedings, yet many clients remain unaware of how their online behaviour may undermine credibility, contradict claims, or demonstrate poor judgment in disputes before the court. In this session, attendees will gain an understanding of the evidentiary and strategic issues arising from social media in family law matters, including:

- The use of social media content as evidence in parenting and property proceedings and the court's approach to evaluating online behaviour
- Types of social media content that commonly damage cases including posts tending to support allegations of family violence, photographs contradicting claims about dates of separation, evidence of disparagement of the other parent
- Breaches of s.114Q (prohibition on publication), family law injunctions and state intervention orders
- The judicial approach to social media evidence in parenting disputes and how courts assess posts when determining parental capacity and child-focused decision-making
- Spoliation (intentional destruction/alteration of evidence) concerns and the risks of deleting posts including adverse inferences, preservation obligations, and potential contempt issues for non-compliance with 'take down' orders
- Subpoenas to social media platforms for past activity and the ability to recover deleted content through screenshots or third-party retention
- Best practice client advice on social media conduct during proceedings including privacy settings, tagging children, and the concept that private settings do not guarantee confidentiality
- Professional responsibility considerations when clients have already posted problematic content or when opposing parties tender social media evidence

Speaker: Michele Brooks, Barrister & Advanced Mediator, Victorian Bar

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 8: Subpoenas and Sensitive Records: Navigating the Protected Confidences Regime

The introduction of a statutory protected confidences regime has significantly altered how courts approach subpoenas for therapeutic and support records in family law proceedings. What was once largely governed by discretion and common law principles is now subject to a structured balancing exercise that places harm to protected confiders and children squarely in focus. For practitioners, this has immediate implications for subpoena practice, evidentiary strategy and advice to clients and third parties holding sensitive records. This session examines how the protected confidences framework is being applied in practice, where disputes are arising, and how lawyers can navigate this evolving area without overreaching or underestimating risk. It covers:

- The definition of protected confidence and the scope of professional relationships covered including health services and specialist family violence and sexual assault services
- The harm versus benefit test applied by courts when determining whether to protect information from disclosure or use as evidence
- Types of harm considered by courts including physical harm, psychological harm, mental distress, and financial harm
- Available directions to protect information including non-compliance with subpoenas, partial production, restricted inspection, and exclusion from evidence
- Who may apply for protective directions including protected confiders, confidants, professionals in possession of documents, and parents or Independent Children's Lawyers for children
- The application process through a Notice of Objection – Subpoena and the suspension of compliance obligations while applications are assessed
- Strategic considerations for practitioners advising clients, health professionals, or organisations served with subpoenas for sensitive therapeutic records

Speaker: Stephen Page, Director, Page Provan, Accredited Family Law Specialist, 2023 Queensland Law Society President's Medal Recipient

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

DAY 2 - FRIDAY 5TH MARCH 2027

11.15 - 12.00pm

Session 9: When Is Final Really Final? Reopening Parenting Orders After s 65DAAA

Final parenting orders were once treated as just that — final — with Rice v Asplund operating as a powerful gatekeeper against re-litigation. The introduction of s 65DAAA was widely assumed to entrench that position. Instead, emerging judicial interpretation suggests a more flexible, child-focused framework that may materially alter when and how final orders can be revisited. This session examines how courts are applying s 65DAAA in practice, what has truly changed since Rice v Asplund, and the strategic risks and opportunities this creates for practitioners advising on variation applications. It covers:

- The historical principle in Rice v Asplund as a threshold control on reopening final parenting orders
- Section 65DAAA of the Family Law Act and the two-stage test for reconsidering final parenting orders
- The distinction between "considering" whether there has been a significant change versus "finding" that such a change has occurred
- Whitehill & Talaska and the judicial interpretation that s 65DAAA does not require a positive finding of changed circumstances
- Rasheem & Rasheem and the fundamental criterion that reconsideration must be in the child's best interests regardless of whether circumstances have changed
- The practical implications for practitioners including whether the new test lowers the bar for reopening final orders and increases litigation risk
- Strategic considerations when advising clients on whether to seek variation of final parenting orders or defend against variation applications

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

12.00am - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

Afternoon Theme: 3 Compulsory CPD Topics

1.10 – 1.15pm

Introduction and welcome

1.15 - 2.05pm

Session 10: Professional Skills

Before you File: Drafting Notices of Intention that Comply and Protect

The pre-action procedures in sch 1 of the *Family Law Rules 2021* are mandatory steps with real costs consequences for non-compliance. This session takes a close look at what the rules require and how to draft correspondence that complies with the rules, including:

- What is required before any application is filed.
- The mandatory content of a notice of intention to start a proceeding.
- Why a notice that does not contain a genuine offer, or that is used to harass, polarise or entrench the other party, puts the practitioner at risk of a costs order.
- The distinction between the pre-action obligations in financial matters and those in parenting matters.
- How the duty of full and frank disclosure applies from the pre-action stage and what documents must be exchanged as part of pre-filing correspondence.
- Why practitioners must consider whether sending a notice of intention is genuinely a step toward resolution before doing so.
- How to approach a review of a draft notice of intention before it is sent to confirm it complies with sch 1 and reflects a genuine attempt to resolve the dispute.

Speaker: Olivia Grobtuch, Partner, Accredited Family Law Specialist, Kennedy Partners, Melbourne, Vic

2.05 - 2.15pm Panel Comments and Questions

DAY 2 - FRIDAY 5TH MARCH 2027

2.15 - 3.05pm

Session 11: Practice Management & Business Skills

Before You Take the Brief: Engagement Letters, Retainers and File-Opening Compliance

The amended Australian Solicitors' Conduct Rules commenced 1 July 2026, with a new Rule 12 setting out mandatory content requirements for retainer agreements — on top of existing costs disclosure obligations and, for some practices, new AML/CTF client identification steps. Getting the file-opening stage wrong creates downstream risk long before a matter reaches court: costs disputes, client complaints, and compliance gaps that are hard to fix retrospectively. This session sets out what a compliant, practical file-opening process looks like for a family law practice in 2026. It covers:

- What the new Rule 12 requires in retainer agreement content, and how it sits alongside existing costs disclosure obligations under the Legal Profession Uniform Law
- Common gaps in current retainer and engagement letter templates, and how to close them
- Practical file-opening systems: what to capture at intake, when, and how to evidence compliance if challenged
- Client identification and due diligence steps that now apply to some family law matters — including when trust money is held without a court order — and how to recognise if your practice is affected
- Building a firm-wide checklist so fee earners open files consistently, without needing to be compliance experts themselves
- Spotlight on clients using AI – understanding the risks to your practice and what should be included in your file opening procedures
- Reviewing and updating existing templates and precedents to reflect current requirements

Speaker: Fraser Bax, Partner & Head of Family Law Group, Thynne & Macartney, Brisbane, Qld

3.05 – 3.15pm Panel Comments and Questions

3.15 – 3.35pm Networking Break and Afternoon Tea

3.35 – 4.25pm

Session 12: Ethics

When Does the Clock Really Start? Negligence, Limitation Periods and Financial Agreements After R Lawyers v Mr Daily

The High Court's decision in R Lawyers v Mr Daily has fundamentally reshaped how limitation periods operate in lawyer negligence claims arising from financial agreements. By confirming that loss is suffered at separation — not at the time of drafting — the Court has extended the window of professional exposure for practitioners, with significant implications for risk management, file practices and professional indemnity insurance. This session examines how negligence claims in financial agreement matters now accrue, what clients must prove to establish loss, and how practitioners can respond to the altered risk landscape. It covers:

- The evidentiary burden on clients to establish loss in lawyer negligence claims beyond proving breach of duty and the requirement to demonstrate a detrimental difference
- The inadequacy of proving a "lost chance" of a better outcome and the need to establish a substantial prospect of a beneficial outcome on the balance of probabilities
- The necessity for clients to adduce evidence of what a properly drafted financial agreement would have contained and whether the other party would have agreed to those terms
- The accrual of the cause of action at the time of separation rather than at the time of entering into the financial agreement given that financial agreements are not enforceable until breakdown
- The statutory nature of financial agreements under ss, 90B, 90K, and 90KA and their unique characteristics distinguishing them from ordinary contracts
- Risk management implications for practitioners including comprehensive file notes of instructions, scenario planning for material changes in circumstances, and advising on section 90K hardship provisions
- Professional indemnity insurance considerations given the extended period between drafting and potential accrual of claims following separation

Speaker: Wendy Kayler-Thomson, Partner and Accredited Family Law Specialist, Forte Family Lawyers, Melbourne, Vic.

4.25 - 4.35pm Panel Comments and Questions

4.35pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference and conference papers. Refreshment breaks and lunch are included for delegates attending the face to face event.

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 in the lead-up to the conference (as they become available).

CPD

Lawyers: 10 CPD units/points (7 x substantive law, 1 x ethics, 1 x professional skills and 1 x practice management & business skills).

CPD Certificate

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

The Conference Venue

Crown Towers Melbourne
8 Whiteman Street, Southbank

Delegate Accommodation

Crown is offering a discount for conference delegates. You can book directly using the below links to one of the 3 hotels that make up Crown Melbourne.

Towers The Education Network – Crown Towers
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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).

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Please register me for the **12th Annual Melbourne Family Law Conference –** a 2-day conference to be held in Melbourne on Thursday 4 and Friday 5 March 2027.

Delegates have 2 options for attending the conference – both cost the same.

[ ] **Registration type 1**: Attend in person [code: MFLMAR27]

[ ] **Registration type 2**: Attend online [code: MFLMAR27LO]

[ ] **Early Bird Registration** – for registrations made on or before 18 December 2026 – **$2178** ($1980 + $198 GST)

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- 3 registrations – **5% discount** for each delegate
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Conference Papers : The papers from this conference will be available in electronic format approximately 1 week after the conference has been held. You can pre-order the papers now online via our website at www.tved.net.au.
The papers are **$198** ($180 + $18 GST) [code: E/PMFLMAR27].

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