

PROVIDING YOUR

10

CPD UNITS

9TH ANNUAL FAMILY LAW CONFERENCE

Validity and Enforcement of Financial Agreements

The Assessment of Initial Contributions Over Time

Trusts in Family Law – A Trustee’s Perspective

Managing Valuation Issues in a Volatile Market

Safety Concerns and Parental Capacity

The Impact of Family Violence in Property Settlements

Saying Goodbye to ‘Shared Parental Responsibility’: Are Better Days Ahead?

Managing Limitation Periods and Applications to Proceed out of Time

Managing and Responding to Defective Applications

PROFESSIONAL SKILLS:

Running Interim Spousal Maintenance Claims in FCFCOA

PRACTICE MANAGEMENT:

Legal Innovation in Family Law: Embracing Disruption in the Digital Era

ETHICS: The Ethics of Acting in your Client’s Best Interests –
When Have You Gone Too Far?

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REGISTRATION
OPTIONS

FACE TO FACE
OR ONLINE

A Two-day Conference
Thursday 7 & Friday 8 March 2024

Crown Towers Melbourne

Feedback from last year’s conference:

- Overall content was very relative and practical, speakers were engaging and included recommendations which could be implemented into our practices.
- Always interesting, relevant, helps me appreciate my skills and learn new information.
- Each topic was narrow and specific allowing a more detailed and in-depth analysis of the issue being discussed. The presenters were clearly experts and knowledgeable in their fields.



Leaders in online CPD for Lawyers & Accountants

DAY 1: THURSDAY 7 MARCH 2024

CHAIR DAY 1: THE HON. NAHUM MUSHIN AM, MELBOURNE, VIC

MORNING THEME: DIVIDING UP THE ASSETS

9.00 - 9.10am

Introduction and welcome

9.10 - 9.55am

Session 1: Untying the Knot: Validity and Enforcement of Financial Agreements

Financial agreements play a pivotal role in determining the division of assets and financial responsibilities between parties, offering a degree of certainty and security. However, their validity and enforceability may be subject to attack if certain legal requirements are not met. This session explores various strategies for challenging the validity of financial agreements, as well as essential drafting techniques to enhance their enforceability and safeguard the interests of parties involved. It covers:

- Key considerations and best practices to maximise the validity, enforceability and longevity of agreements
- Identifying potential vulnerabilities: common grounds for attacking the validity of financial agreements, including:
 - technical flaws
 - duress and unconscionable conduct
 - adequacy of disclosure
 - contractual and equitable flaws
- Lessons from recent cases
- Tips and common traps

Speaker: John Spender, Principal, Kennedy Partners, Melbourne, Vic

9.55 - 10.05am Panel Comments and Questions

10.05 - 10.50am

Session 2: From Erosion to Springboards: The Assessment of Initial Contributions Over Time

The approach of the Court to the assessment of initial contributions and the weight that ought to be properly placed on initial contributions at trial has changed over time. From early arguments of erosion to later discussion of springboards – the language employed when discussing how the Court should assess initial contributions is vital, as use of an incorrect term could arguably lead the court into error. To assist practitioners, this session will explore:

- The arguments surrounding the appropriate assessment of initial contributions in property settlement matters
- The current views within the profession as to the 'erosion' and 'springboard' arguments and the preferred approach to assessing the relevance of the impact of time to initial contributions
- The scenarios in which a just and equitable outcome may arguably call for an assessment of initial contributions that merits 'special' recognition

Speaker: Philip Sorensen, Barrister, Brisbane, Qld

10.50 - 11.00am Panel Comments and Questions

11.00 - 11.25am Networking Break and Morning Tea

11.25am - 12.10pm

Session 3: Trusts in Family Law – A Trustee's Perspective

Trusts are relatively common in property settlement proceedings. But should you approach the matter differently when you are acting for the Trustee? This session focuses on the strategic and practical implications of running a property settlement case involving a third-party trust from the perspective of acting for the trustee and will explore the following:

- When - and when not to - intervene if you are acting for a trustee and when (and how) a third party may be joined
- Obligations of the trustee - in equity, corporations law and in family law proceedings
- Common scenarios where trustee's obligations conflict with family law
- Responding to requests for information, documents and subpoenas on behalf of trustee
- Role of the trustee in disclosure, valuation of a trust and its underlying assets

Speaker: Monique Robb, AccS[Fam], Partner, Lander & Rogers, Sydney, NSW

12.10 - 12.20pm Panel Comments and Questions

DAY 1: THURSDAY 7 MARCH 2024

12.20 - 1.05pm

Session 4: When the Price is not Right: Managing Valuation Issues in a Volatile Market

The stress of family law property settlement litigation can bring out the worst in parties at the best of times, let alone when the economic climate is uncertain. This often leads to disputes about the value of assets and how declining value should be treated by the courts and addressed in final property settlement orders. This session will explore:

- Issues impacting valuations, including timing to trial and valuation methodologies
- How expert witnesses approach valuation of property and businesses when valuations fluctuate
- Strategies for managing uncertainty in terms of the asset pool during family law litigation and settlement negotiations and in final orders

Speaker: Joseph Box, Partner and Accredited Business Valuation Specialist and Forensic Accounting Specialist, Grant Thornton, Brisbane, Qld

1.05 - 1.15pm Panel Comments and Questions

1.15 - 2.15pm Luncheon

AFTERNOON THEME: SAFETY CONCERNS AND FAMILY VIOLENCE

2.15 - 3.00pm

Session 5: Safety Concerns and Parental Capacity: Revisiting 'Re Andrews' in Light of Keane

The 'Re Andrews principle' suggests that the capacity of a parent to provide care to their child is impaired when that parent raises safety concerns from the child spending time with the other parent and the court subsequently orders this to occur. In recent years, the application of this principle has been expressed in a variety of ways creating confusion and inconsistency across the profession. This session will examine the following:

- The cases which have applied the Re Andrews principle and analyse the relevant facts which impacted the application of the principle in each case
- How the issue was discussed, and the guidance provided, by the Full Court in *Keane & Keane* [2021] FamCAFC 1
- Practical tips and insights into what practitioners should do when faced with this scenario in their matters including what to do when a judge appears to be incorrectly applying the principle

Speaker: Rachell Davey, AccS(Fam), Partner, Lander & Rogers, Melbourne, Vic

3.00 - 3.10pm Panel Comments and Questions

DAY 1: THURSDAY 7 MARCH 2024

3.10 - 3.55pm

Session 6: The Impact of Family Violence in Property Settlements

Is it rare these days to run a Kennon argument. The evidence required coupled with the further trauma experienced by the victim-survivor giving that evidence does not usually outweigh the minimal adjustment which may be ordered if the Court accepted a Kennon argument. However, recent legislative change may make Kennon arguments more relevant than ever. This session examines the current and future landscape, including:

- Understanding the proposed reforms contained in draft Family Law Amendment Bill (No. 2) 2023
- What is required to successfully run a Kennon argument and practical issues practitioners and clients face when attempting to run Kennon arguments
- When allegations of violent or abusive conduct don't meet the Kennon test – what are the pros and cons of including them in affidavit evidence – fault by the back door?
- Acting for the alleged perpetrator – what can you do
- What are the cases over the last few years telling us about the Kennon claim – are there any trends
- Legal remedies which may exist outside the Family Law Act, including tortious claim for damages, and how such claims may affect and be dealt with as part of a family law property settlement

Speaker: Cathie Blanchfield, Principal, Blanchfield Nicholls, Sydney, NSW

3.55 - 4.05pm Panel Comments and Questions

DAY 2: FRIDAY 8 MARCH 2024

CHAIR DAY 2: BARRY BERGER, ACCS(FAM), DIRECTOR, DIGNITY. EDR, MELBOURNE, VIC

MORNING THEME: COURTROOM PROCEDURES

9.00 - 9.05am

Introduction and welcome

9.05 - 9.50am

Session 7: Saying Goodbye to 'Shared Parental Responsibility': Are Better Days Ahead?

The Family Law Amendment Bill 2023 introduces sweeping changes to the way in which parenting matters are determined by the Court. This practical session explores the key changes and how they will impact future parenting matters, including:

- Prioritising children's safety concerns in parenting matters
- Ending the presumption of 'shared parental responsibility'
- Understanding the new factors – what do they mean in practice?
- How will a child's views be given greater prominence?
- The ongoing role of independent children's lawyers

Speaker: The Hon. Justice Suzanne Christie, Federal Circuit and Family Court of Australia, Sydney, NSW

9.50 - 10.00am Panel Comments and Questions

10.00 - 10.45am

Session 8: How Late is Too Late? Managing Limitation Periods and Applications to Proceed Out of Time

Limitation periods and applications to proceed out of time are critical issues in family law proceedings. Missing a limitation period can have severe consequences, including the loss of important rights and entitlements. At the same time, it can be challenging to determine when an application to proceed out of time is appropriate and how to effectively manage such applications. This practical session explores the key strategies and best practices for managing limitation periods and applications to proceed out of time, including:

- How late is too late? And does it matter why? The legal requirements of s.44 of the Family Law Act and the circumstances in which the court has authority to consider out of time applications
- Consequences of missing a limitation period for you and your client
- The factors the court considers when deciding whether to grant an application to proceed out of time
- Evidence that should be presented in support of an application to proceed out of time
- Practical and strategic guidance on running (and defending) out of time applications in practice
- How the law has been applied in recent cases, focusing on the facts in matters which supported a finding of hardship in favour of the applicant

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

10.45 - 10.55am Panel Comments and Questions

10.55 - 11.15am Networking Break and Morning Tea

DAY 2: FRIDAY 8 MARCH 2024

11.15 - 12.00pm

Session 9: Managing and Responding to Defective Applications in Family Law Proceedings

The management and response to defective applications in family law proceedings can present significant challenges for family lawyers. Such applications can be time-consuming, expensive, and can cause unnecessary delays in the court process. At the same time, the consequences of failing to respond appropriately to defective applications can be severe, leading to adverse outcomes for clients. This practical session outlines how practitioners can maximise the benefits from the extensive range of tools and mechanisms available in family law when they are served with a defective or incomplete application. It covers:

- The rules and court procedure of summary disposal and strike out applications and when it may (or may not) be appropriate to run them
- Tips for how to successfully run (and defend) a strikeout application in the family law courts
- Suggestions for drafting pleadings to protect against such applications
- A guide on what to do when faced with a defective application filed by your client
- Minimising the impact of such applications on clients

Speaker: Elaine Clarke, Director, Accredited Specialist Family Law, Newnhams Solicitors, Sydney, NSW

12.00am - 12.10pm Panel Comments and Questions

12.10 - 1.10pm Lunch

AFTERNOON THEME: 3 COMPULSORY CPD TOPICS

1.10 - 2.00pm

Session 10: Professional Skills

Show Me the [Interim] Money: Running Interim Spousal Maintenance Claims in FCFCOA

It is no secret that a primary goal of the FCFCOA is to encourage dispute resolution and reduce the time of parties to resolve their dispute whether by settlement or following a contested trial. However, for many the new case management pathways and procedures have not resulted in more expedient resolution. This raises the question of what happens in the meantime? This session will explore how interim issues in property settlement matters ought to be managed and will discuss:

- The difference between the intention and the reality of the new pathways and what lies ahead in the future
- Whether interim spousal maintenance claims have a role to play in the new system and how practitioners should navigate this
- Steps that practitioners could take to assist the Court reduce the number of procedural hearings required in a matter
- The Court's view in relation to interim property settlement applications in the new system

Speaker: Jacky Campbell, AccS(Fam), Partner, Forte Family Lawyers, Melbourne, Vic

2.00 - 2.10pm Panel Comments and Questions

DAY 2: FRIDAY 8 MARCH 2024

2.10 - 3.00pm

Session 11: Practice Management & Business Skills

Legal Innovation in Family Law: Embracing Disruption in the Digital Era

Artificial Intelligence (AI) has emerged as a transformative force across industries, and family law is no exception. With its potential to automate processes, streamline decision-making, and improve efficiency, AI is reshaping the practice of family law. This session explores the evolving role of AI and other legal innovations in the field of family law, examining applications, benefits and challenges to the practice of family law. Key topics covered include:

- Demystifying AI and other legal innovations and the implications for the family law profession
- AI-powered tools and techniques for Family Lawyers:
 - leveraging AI for efficient and accurate document analysis, such as contracts, agreements, and financial records
 - utilizing AI algorithms for data-driven insights in child custody, support calculations, and property division matters
- Collaboration between AI and human expertise – where to draw the line?
- Ethical considerations and guidelines for AI-assisted legal practice in the sensitive domain of family law
- Addressing Challenges and Maximizing Benefits
 - strategies for successful integration of AI tools, training, and maintaining human connection in client interactions

Speaker: Maggie Yie-Quach, Senior Associate, Lander & Rogers, Sydney, NSW

3.00 – 3.10pm Panel Comments and Questions

3.10 – 3.30pm Networking Break and Afternoon Tea

3.30 – 4.20pm

Session 12: Ethics

The Ethics of Acting in Your Client's Best Interests – When Have You Gone Too Far?

The ethical duty to act in the best interests of clients is a paramount principle for lawyers, driving their professional conduct and reputation. However, recent High Court decisions have shed light on the potential consequences when this duty is taken to extremes. This paper delves into the intricate ethics surrounding advocating for clients and explores the delicate balance between zealous representation and overstepping ethical boundaries. By examining case examples and their implications, this session will navigate the nuanced territory where acting in the client's best interests can go too far. This session will examine:

- Understanding the ethical duty: Exploring the foundational principle of acting in the client's best interests and its significance in legal practice
- The ethical rules, codes of conduct, and professional standards that provide guidance on maintaining the appropriate balance in advocating for clients
- Zealous advocacy vs. overzealous representation: Differentiating between appropriate advocacy and behaviour that exceeds ethical limits
- Framework for family lawyers to make sound ethical judgments when faced with challenging situations where the line between zealous advocacy and overstepping exists
- Examining recent High Court decisions and their lessons for practitioners: spotlight on *Thorne v Kennedy* and *Stubbies v James 2*

Speaker: Evelyn Young, AccS(Fam), Principal, Lighthouse Family Lawyers, Melbourne, Vic

4.20 - 4.30pm Panel Comments and Questions

4.30pm 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 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 (except WA): 10 CPD units for attending the conference including the 3 compulsory CPD units.

WA Lawyers: 6 CPD points (take your pick - all substantive law or a mix of substantive law and compulsory subjects). WA practitioners can claim 6 CPD points for attending the conference (being the maximum allowable per event by the LPBWA).

CPD Certificate

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

The Conference Venue

Crown Towers Melbourne

8 Whiteman Street, Southbank

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
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 - b. Otherwise, no refund.

Governing Law – all conferences

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REGISTRATION FORM TAX INVOICE*

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) trading as TEN The Education Network.
GPO Box 61, Melbourne, Victoria 3001
Phone (03) 8601 7700 Enquiries Hayley Williams-Cameron (03) 8601 7730
Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **9th Annual Melbourne Family Law Conference** – a 2-day conference to be held in Melbourne on Thursday 7 & Friday 8 March 2024

Delegates have 2 options for attending the 2024 conference – both cost the same.

- Registration type 1:** Attend in person [code: MFLMAR24]
 Registration type 2: Attend online [code: MFLMAR24LO]
 Early Bird Registration – for registrations made on or before 15 December 2023 – **\$1903** (\$1730 + \$173 GST)
 Discount Registration – for registrations made on or before 16 February 2024 – **\$2013** (\$1830 + \$183 GST)
 Full Price Registration – **\$2178** (\$1980 + \$198 GST)

Discounts are available for multiple registrations: The more you send, the greater the discount. You can access the discount by contacting our Event Coordinator, Hayley Williams-Cameron, to organise your registrations – email hayley@tved.net.au or phone (03) 8601 7730.

- 3 registrations – **5% discount** for each delegate
- If you register 4 people at the same time you are entitled to a **10% discount** for each delegate
- If you register 5 people or more people at the same time you are entitled to a **15% discount** for each delegate.

One-part only? We do accept bookings for attending one day only (either day 1 or day 2). To organise a one-day booking, please contact Hayley: hayley@tved.net.au or phone (03) 8601 7730.

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/PMFLMAR24).

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