

# THE 14<sup>TH</sup> ANNUAL FAMILY LAW CONFERENCE

OUR REGULAR TWO DAY CONFERENCE  
DELIVERED **ONLINE** IN FOUR PARTS  
**OVER FOUR HALF DAYS**

## **Part 1: Property Matters in Family Law**

Wednesday 5 August 2020 [1.30 to 4.20pm]

## **Part 2: Navigating Difficult Parenting & Relationship Matters**

Thursday 6 August 2020 [1.30 to 4.20pm]

## **Part 3: Protecting At-risk Property in Family Law Matters**

Thursday 13 August 2020 [1.30 to 4.20pm]

## **Part 4: Court Room Procedures in Family Law**

Thursday 20 August 2020 [1.30 to 4.20pm]

### **FEEDBACK FROM LAST YEAR'S CONFERENCE:**

*"Content is always good and pitched at an experienced practitioner so it is interesting and challenging. I rely on the conference to update me on things I might have missed and it always comes through even if just to confirm I haven't missed anything."*

*"Very informative, have left the conference knowing more than when I arrived."*

*"Appreciate having the conference material as reference into the future."*

*"Great speakers, well timed, very interesting."*

*"High calibre of speakers and papers. Detailed analysis of complex issues presented in digestible way - making it useful for everyday practice."*

*"Content was great and sufficiently advanced to learn something from every presentation."*



Leaders in online CPD for lawyers

# PART 1: WED 5 AUGUST 2020

**CHAIR: THE HONOURABLE RODNEY K BURR AM, RETIRED JUSTICE, FAMILY COURT OF AUSTRALIA, ADELAIDE**

**THEME: PROPERTY MATTERS IN FAMILY LAW**

**1.30 – 1.35pm**

Introduction and welcome

**1.35 – 2.15pm**

## **Session 1: The Impact of COVID-19 on Property Law Settlements**

As COVID-19 sweeps the globe, clients have watched the sudden and vicious decline in the value of their assets. How will this impact family law property settlements, and what should you be advising your clients to do now? This session examines the practical challenges family lawyers need to navigate in the current landscape, including:

- Managing property settlements agreed to but not finalised by the parties
- How to manage valuation issues with real property
- Decreasing business valuations and timing issues
- Navigating evidentiary requirements during uncertain times
- Issues with superannuation splits
- Dealing with estimations and contingencies in income information
- Tips and tricks for practitioners

*Speaker: Barry Berger, Partner, Accredited Specialist in Family Law, Berger Kordos Lawyers, Melbourne*

**2.15 – 2.25pm Questions and Discussion**

**2.25 – 2.30pm Short break**

**2.30 – 3.10pm**

## **Session 2: A Fair Share: Financial Resources and Property Settlements**

The term 'financial resource' is a moving feast and has been interpreted widely by the Courts. This session provides an update on the Courts' latest approaches and examines some of the more challenging issues involving financial resources. It covers:

- Defining what is a financial resource – thinking beyond property and income
- What do you ask the other party to produce?
- Section 75(2) of the Family Law Act and future financial benefit – what's in and what's out
- Dealing with "not known" values
- Lessons from recent cases

*Speaker: Gerry Holmes, Barrister, Victorian Bar, Melbourne*

**3.10 – 3.20pm Questions and Discussion**

**3.20 – 3.30pm Short break**

**3.30 – 4.10pm**

## **Session 3: Understanding Contributions – A Short and Long Term Perspective**

This session looks at financial and non-financial contributions in short and long term relationships and provides an up to the minute update on the Court's approach to contributions. It includes:

- Initial contributions – revisiting *Pierce v Pierce* (1999) and *Fields v Smith* (2015)
- What are the differing approaches on initial contribution?
- Impact of subsequent losses during marriage on initial contribution
- Post separation contributions – how are these taken into account?
- Big money cases – are they in a spate category?
- Inheritances and windfall gains – how are they treated?
- Special contributions and their impact on property settlement
- Is there a process of weighting contributions?
- Quantifying the homemaker contribution
- Can legal fees be added back into asset pool
- Case update

*Speaker: Monica Blizzard, Director & Accredited Family Law Specialist, KHQ Lawyers, Melbourne*

**4.10 – 4.20pm Questions and Discussion**

**4.20pm Part One Close**

# PART 2: THURS 6 AUGUST 2020

**CHAIR: ADAM COOPER, PRINCIPAL,  
COOPER FAMILY LAW, BRISBANE**

**THEME: NAVIGATING DIFFICULT PARENTING  
AND RELATIONSHIP MATTERS**

**1.30 – 1.35pm**

Introduction and welcome

**1.35 – 2.15pm**

## **Session 4: De Facto Relationships: Not as Clear Cut as You Think**

Whilst there are four gateway criteria for assessing whether a de facto relationship exists, there are still ambiguities in the law. This session brings you up to date on the recent cases regarding de facto relationships, including:

- Current status of the law in finding existence of de facto relationship
- What do you need to prove the existence of de facto relationship?
- The importance of living arrangements
- Impact of COVID-19 on proving de facto relationships
- The importance of documentary evidence in assessing de facto relationships
- Risk factors and degrees of separation – what to look for
- Proving the start and end of de facto relationships
- Case studies – Finding a de facto relationship where you least expect it

*Speaker: Jacob Clancy, Associate, Clancy & Triado, Melbourne*

**2.15 – 2.25pm Questions and Discussion**

**2.25 – 2.30pm Short break**

**2.30 – 3.10pm**

## **Session 5: Making Dollars and Sense out of Spousal Maintenance**

The recent case of Blevins has struck fear in the hearts of many clients, and highlights a party's ability to bring a further application for spousal maintenance some 20 years after separation. This session examines in the ins and outs of spousal maintenance, lessons from recent cases, and what practitioners should be doing now to help provide certainty to clients. It covers:

- Types of spousal maintenance agreements – interim, urgent or part of the settlement
- When is a party entitled to spousal maintenance?
- Adjusting for disparities between income or earning capacities of the parties
- Final spousal maintenance orders – are they ever truly final?
- Is it possible to have a third bite of the cherry on spousal maintenance matters?
- Out of time applications for spousal maintenance
- Case update, including Blevins v Blevins [2019] FCCA 1923

*Speaker: Melanie Wilson, Senior Associate, Clancy & Triado, Melbourne*

**3.10 – 3.20pm Questions and Discussion**

**3.20 – 3.30pm Short break**

**3.30 – 4.10pm**

## **Session 6: Relocation Disputes: Home is Where the Heart Is**

Relocation disputes are challenging for clients and practitioners alike. When clients seek to relocate across state or international lines, emotions can run high. This session examines how to best navigate the process, including:

- The process for making – and responding to – relocation applications
- Is there a right to relocate? – issues with best interests of the child
- Factors other than best interests of the child to consider
- The impact of s60CC FLA
- Key issues in relocation matters:
  - Safety
  - Security
  - Employment
  - Finances
- Evidential issues in relocation matters
- Relocation impacts on property settlements
- Case study: managing relocation disputes during a pandemic
- Case update

*Speaker: Sally Nicholes, Principal, Nicholes Family Law, Melbourne*

**4.10 – 4.20pm Questions and Discussion**

**4.20pm Part Two Close**

# PART 3: THURS 13 AUGUST 2020

**CHAIR: JACOB CLANCY, ASSOCIATE,  
CLANCY & TRIADO, MELBOURNE**

**THEME: PROTECTING AT-RISK PROPERTY IN  
FAMILY LAW MATTERS**

**1.30 – 1.35pm**

Introduction and welcome

**1.35 – 2.15pm**

## **Session 7: Section 90K and the Enforcement of Financial Agreements**

Section 90K of the Family Law Act sets out a number of grounds upon which a financial agreement may be set aside. Chief amongst these is a “material change in circumstances” arising from some aspect of the care, welfare and development of a child of the marriage. Sounds simple in theory, but section 90K can be difficult to apply in practice. This session examines the following:

- Does the financial agreement take into account the possibility of a young couple having a child?
- How should the change in circumstances of a child being brought into the relationship to be dealt with in the agreement?
- Understanding the court’s approach to Section 90K
- Satisfying the ‘hardship’ requirement
- Impact of COVID-19: will changes in personal circumstances or the economy result in the agreement being set aside or varied?
- Case update

*Speaker: Liz Weldon, Partner & Accredited Family Law Specialist, Mitchell Family Law, Melbourne*

**2.15 – 2.25pm Questions and Discussion**

**2.25 – 2.30pm Short break**

**2.30 – 3.10pm**

## **Session 8: Third Parties in Property Settlements: Invited Guests and Gatecrashers**

Third-party involvement in property settlement matters is becoming increasingly common, with complex family financial structures leading to more litigation involving third parties such as trusts, companies and creditors. This session looks at practical and procedural issues with the joining or intervention of third parties, including:

- What is required in establishing a cause of action against a third party?
- Family Court rules on third party proceedings
- Operation of Part VIII AND S90 AE FLA
- Joinder application – Applications to bind companies or trusts
- The company as third party – piercing the corporate veil
- Parties seeking to assert or protect interests in property
- Responding to an application – the strike out application in response
- Third party proceedings impact on property settlements
- Vesting of trusts – Court powers that impact third parties
- Cost orders on third party proceedings
- Case studies

*Speaker: Jim Mellas, Barrister, Victorian Bar, Melbourne*

**3.10 – 3.20pm Questions and Discussion**

**3.20 – 3.30pm Short break**

**3.30 – 4.10pm**

## **Session 9: Family Court Orders: Breaches and Enforcement**

Breaches of Family Court orders often arise in property matters. Whether there is a reasonable excuse is often in dispute. This session looks at practical and procedural requirements in enforcing court orders including:

- Dealing with breaches of court orders – what are your options?
- Who can apply for an enforcement hearing?
- Preparing for and attending the enforcement hearing
- Standard of proof in enforcement hearings
- How to address the ‘reasonable excuse’ defense
- Is the pandemic a valid excuse?
- Financial disclosure and enforcement
- Enforcement of property orders – case studies
- What enforcement matters can be dealt with by the registrar?
- Cost issues

*Speaker: Catherine Devine, Barrister, Victorian Bar, Melbourne*

**4.10 – 4.20pm Questions and Discussion**

**4.20pm Part 3 Close**

# PART 4: THURS 20 AUGUST 2020

**CHAIR: MINAL VOHRA, SENIOR COUNSEL, VICTORIAN BAR, MELBOURNE**

**THEME: COURT ROOM PROCEDURES IN FAMILY LAW**

**1.30 – 1.35pm**

Introduction and welcome

**1.35 – 2.15pm**

## **Session 10: Putting Your Best Foot Forward with Family Law Interim Hearings**

Significant court delays are an unfortunate reality for family law clients, and are likely to worsen as a result of COVID-19. With parties often stuck in limbo without a resolution for years, getting the right interim decisions is now more important than ever. This session looks at how you can maximise your returns and ensure you achieve a productive outcome for your client. It covers:

- Interim orders – what can they achieve?
- What is the court looking for during interim hearings?
- Defended interim hearings – key issues to consider
- Can the parties agree on some issues?
- Tips and tricks for various types of interim hearings:
  - parenting
  - property
  - other
- Navigating COVID-19 court room procedures for interim hearings
- The role of evidence at interim hearings
- Preparing interim hearing affidavits
- Appeals from interim hearings – practical and procedural issues

*Speaker: Suzanne Christie, Senior Counsel, Culwulla Chambers, Sydney*

**2.15 – 2.25pm Questions and Discussion**

**2.25 – 2.30pm Short break**

**2.30 – 3.10pm**

## **Session 11: The Family Law Litigation Tool Box: Strategies and Procedure in a COVID-19 Landscape**

This session looks at some of the less commonly used 'tools of the trade' in family law litigation and how they can be utilized for maximum effect. With the courtroom landscape constantly changing due to COVID-19, it is vital practitioners are across all the available weapons on their armoury. This session covers:

- Using litigation 'tools' strategically – tips and tricks of the trade in a COVID-19 landscape:
  - How to effectively tender documents via video link
  - Witness integrity issues when cross-examining online
  - When will a decision be open to attack due to credibility issues or lack of fair hearing?
- Notice to admit – when to use it
- Discovery in family law matters
- Using interrogatories – understanding procedural requirements
- FOI request – getting information from Medicare and other regulators
- Case study – Serving someone on Facebook

*Speaker: Johannes Schmidt, Barrister & Accredited Mediator, Melbourne*

**3.10 – 3.20pm Questions and Discussion**

**3.20 – 3.30pm Short break**

**3.30 – 4.10pm**

## **Session 12: Drafting Water Tight Consent Orders in Family Law Matters**

The coronavirus pandemic has provided many parties with the impetus to reach agreement and bypass lengthy court delays and uncertainty. However, care still needs to be taken. The session looks at the key issues in ensuring watertight consent orders, including:

- The nature of consent orders – an overview
- Understanding the importance of the 'what if' factor in drafting consent orders
- Essential inclusions in consent orders
- Careful and comprehensive drafting – what does this really mean?
- Drafting consent orders on property matters
- Parenting matters and consent orders
- Case study – consent order drafting check list
- Practical case studies

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

**4.10 – 4.20pm Questions and Discussion**

**4.20pm Conference Close**

# GENERAL INFORMATION

## Conference Registration Fee

The registration fee includes attendance at the conference, online access to the conference materials and recordings of each of the sessions provided after the conference.

## Conference Materials

Access to the conference materials (papers and Powerpoints) will be available online to all delegates in the lead-up to the conference (as the materials become available), during the conference and for 30 days after the conference. The materials will be available in .pdf format for easy download to your local computer or portable device.

## Lawyers - CPD Units/Points

**Lawyers (except WA):** 7 CPD units (substantive law)

**WA Lawyers:** 6 CPD points (substantive law)

**Family Law Accredited Specialists:** 12 units/hours

## CPD Certificate

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

## Online Conference Delivery

The conference will be delivered online. Delegates will receive a link to login and attend each of the 4 parts of this online conference.

This online conference will be delivered in a style similar to a live conference. There are Chairs for each part to introduce speakers and facilitate question time and the online portal allows delegates to pose questions to the speakers via the chat facility.

## Cancellation Policy

Cancellations must be received in writing at least 10 days prior to the Conference for a 85% refund. Substitute delegates accepted at any time.

If a registration was purchased as part of a group discount the cancellation of that registration may affect the discount level for other members of the group. The amount of the refund will be adjusted to recoup any adjustment required to the overall registration fees for that group.

## Conference Terms

Program subject to change without notice. The information and views presented in the conference are not necessarily those of TEN and participants rely on these at their own risk. TEN is not responsible for any financial or other losses incurred by delegates or for injury or damage to persons or property. TEN's maximum liability for conference cancellation or any other loss or liability is the refund of the registration fee paid.

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Registration is simple; complete the form below and fax or post your registration to us or register online.

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Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **14th Annual Family Law Conference** – a 2-day online conference to be delivered over 4 half day afternoons on 5th, 6th, 13th & 20th August 2020 [conf code: GFLAUG20]

[ ] **Early Bird Registration** – for registrations made on or before 17 July 2020 – **\$1540** (\$1400 + \$140 GST)

[ ] **Full Price Registration** – **\$1815** (\$1650 + \$165 GST)

[ ] **Subscriber First Discount Registration** – I am a Subscriber First member and entitled to a **10% discount** off the full registration fee – **\$1633.50** (\$1485 + \$148.50 GST)

The papers from this conference will be available in electronic form 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](http://www.tved.net.au). The papers are **\$198** (\$180 + \$18 GST) (Code: PGFLAUG20).

**Multiple registration discount?** Discounts are available for multiple registrations: The more you send, the greater the discount. You can access the discount by registering using the “multiple registrations” option online, or contact our Conference Manager, Jenna Pickrell, to organise your registrations: [jenna@tved.net.au](mailto:jenna@tved.net.au) or phone (03) 8601 7729.

- 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.

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