

THE FIFTH ANNUAL MELBOURNE FAMILY LAW CONFERENCE

10
CPD UNITS
INCLUDING
COMPULSORIES

A TWO-DAY CONFERENCE ORGANISED BY
TELEVISION EDUCATION NETWORK PTY LTD

MARRIOTT HOTEL, MELBOURNE,
THURSDAY 13 AND FRIDAY 14 FEBRUARY 2020

Carving up the asset pool in property settlement matters
Adding back to the asset pool with add backs
The role of third parties in property matters
Binding the financial agreement
The problem of parental alienation
Contravention cases - when parents take their children
Online evidence in family law - what's in, what's out
Ex parte applications and injunctive relief to protect at risk property
When bankruptcy and family law collide

Ethics:

Managing difficult clients in family law

Practice Management & Business Skills:

Cost agreements, conflict-checking and cementing new relationships

Professional Skills:

Drafting and enforcing child support agreements

FEEDBACK FROM LAST YEAR'S CONFERENCE:

"Great topics, well organised and a great range of speakers. The gender equality of the speakers was terrific and should be commended by the organisers."

"Excellent content - much more relevant to my practice than family law intensives run by Family Law Section I usually attend."

"The content was excellent, practical, useful in very day practice. No 'filler' type presentations. Very pleased with content."



The professional development specialists

DAY 1 THURSDAY 13 FEBRUARY 2020

**TODAY'S CHAIR: GERRY HOLMES,
BARRISTER, VICTORIAN BAR,
MELBOURNE**

MORNING THEME: PROPERTY MATTERS

9.00 - 9.10am

Introduction and welcome

9.10 – 9.55am

Session 1: Carving up the Asset Pool in Property Settlement Matters

An essential component of property division is identifying and valuing the asset pool. However, determining the size of the asset pool can be difficult, particularly where parties have interests in companies, family trusts and SMSFs. This session examines these difficult issues, including:

- Identifying the relevant ownership structure
- Navigating complex company and trust arrangements – can they be brought into the pool?
- What if the party does not have a legal interest or entitlement in a trust but still receives a financial advantage – can the trust be attacked?
- Identifying relevant interests in a business – either owned personally, or through any form of corporate entity, trust or partnership structure

Speaker: Professor Patrick Parkinson, Dean of Law, TC Beirne School of Law, The University of Queensland, Brisbane

9.55 - 10.05am Panel Comments and Questions

10.05 – 10.50am

Session 2: Adding Back to the Asset Pool with Add Backs

Is it possible to add a sum of money back into an asset pool? While Stanford seemed to signal the death of add backs, the recent Full Court decision of Trevi & Trevi has breathed new life into the concept. This session brings you up to date on the current legal position, including:

- The impact of Stamford on add backs
- Can add backs be dealt with under section 75(2)?
- What is the status of legal fees paid out of the pool?
- Different categories of assets – are they treated differently?
- Case law update, including Trevi & Trevi

Speaker: Catherine Devine, Barrister, Victorian Bar, Melbourne

10.50 – 11.00am Panel Comments and Questions

11.00 – 11.25am Networking Break and Morning Tea

11.25am – 12.10pm

Session 3: When Three's a Crowd: The Role of Third Parties in Property Matters

While a property matter typically involves two warring former spouses, there has been a steady increase in the number of third party applications in the Family Court. This session examines the rights and responsibilities of third parties joined to a proceeding, and how a family lawyer should best navigate the process when acting for a third party. It covers:

- Who can be a third party?
 - Family members or business associates with an interest in property subject to the proceedings
 - Trustees or appointors of a family trust
 - Directors and shareholders of a family company Trustee of super fund
 - Trustee in bankruptcy
- Parent loans versus gifts
- Why should a third party be joined to the proceeding?
- Third party disclosure obligations
- When can orders be made against the third party?
- On what grounds can a third party resist orders being made affecting them?
- Strategies and procedural issues to consider when advising a third party

Speaker: Jacob Clancy, Lawyer, Clancy & Triado, Melbourne

12.10 – 12.20pm Panel Comments and Questions

12.20 – 1.05pm

Session 4: Binding the Financial Agreement

In a post Thorne v Kennedy landscape, clients may be wondering whether a financial agreement can be truly binding. While a completely watertight financial agreement may be a pipe dream, there are things you can do to increase their effectiveness. This session examines the Court's current approach with financial agreements and how you can draft a financial agreement that sticks. It covers:

- How to get it over the line - drafting strategies to prepare a common sense, financial agreement to protect and deliver certainty for your client
- What goes in and what stays out? The important question of disclosure, and when
- Defending a financial agreement:
 - What weapons are available when the threat of attack is pending?
- How have the lower courts applied the High Court's reasoning in Thorne v Kennedy?
- Lessons from recent cases

Speaker: Phillip Sorensen, Barrister, Queensland Bar, Brisbane

1.05 – 1.15pm Panel Comments and Questions

1.15 – 2.15pm Luncheon

DAY 1 THURSDAY 13 FEBRUARY 2020

AFTERNOON THEME: PARENTING ISSUES

2.15 – 3.00pm

Session 5: The Problem of Parental Alienation

It's not unusual in marriage or relationship breakdowns for an acrimonious dispute to arise between the respective couple. However, what happens when one party turns the children against the other party? This session covers:

- What is being said and how do you prove it? How parental alienation arises
- What are the implications for the parent being accused?
- Through the child's eyes – understanding the impact of parental alienation
- How the Courts might rule on parental alienation
- Practical strategies when advising clients

Speaker: Minal Vohra SC, Barrister, Victorian Bar, Melbourne

3.00 – 3.10pm Panel Comments and Questions

3.10 – 3:30pm Networking Break and Afternoon Tea

3.30 – 4.15pm

Session 6: Contravention Cases: When Parents Don't Comply

Recent high-profile examples have shone a spotlight on the challenges that arise when one parent fails to return a child in contravention of parenting orders. This session examines the myriad of evidentiary and procedural requirements involved in contravention proceedings. It covers:

- What does the Court consider to be a "reasonable excuse" in contravention cases?
- When is it time to act and alert the authorities?
- What is the procedure involved for legal representatives?
- What do you tell your client?
- When does "running late" cross over the criminal jurisdiction?
- What should be in the application and supporting application?
- Cost orders and penalties

Speaker: Suzanne Christie SC, Barrister, Culwulla Chambers, Sydney

4.15 – 4.25pm Panel Comments and Questions

DAY 2 FRIDAY 14 FEBRUARY 2020

**TODAY'S CHAIR: CATHERINE DEVINE,
BARRISTER, VICTORIAN BAR,
MELBOURNE**

**MORNING THEME: COURTROOM
PROCEDURES IN FAMILY LAW**

9.00 – 9.45am

Session 7: Online Evidence in Family Law – What's In, What's Out

In our increasingly digital age, it comes as no surprise that parties in both parenting and property matters are seeking to rely on online evidence. However, when is online evidence admissible, and most importantly, how do you formulate submissions to the Court that it is? This session considers the role of evidence on websites, social media and the cloud that your client argues is critical to their case:

- When is online evidence considered evidence in parenting matters?
- The role of social media and parenting matters
- Do lawyers have an obligation to conduct online searches for relevant evidence?
- What weight will the court give online evidence?
- What should you be telling your clients regarding social media usage?
- The role of the hearsay rule and online evidence
- When is online evidence considered evidence in property matters?
- How do you submit website material and other online evidence to the Court? Examining the procedural requirements
- The "Cloud" unpacked, a practical look at where your evidence may be stored, how it is provided to the Court, and its relevance to property matters
- Case law update on the role of online evidence

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

9.45 – 9.55am Panel Comments and Questions

9.55 – 10.40am

Session 8: Ex Parte Applications and Injunctive Relief - Practical Precautions to Protect At Risk Property

Protecting at risk matrimonial property often requires quick thinking and careful planning. Family lawyers need to be strategic in utilising the range of legal protections available for at risk property in a property dispute. This session explores the options, including:

- Caveat over land – parameters in family law disputes
- Injunctions to protect property – when can they be used?
- Property protection on an interim basis
- When will the Court exercise its discretion?
- Third party orders to prevent the disposal of assets
- Mareva Orders – how do they work and when are they required?

Speaker: Jeff Marhinin, Partner and Accredited Family Law Specialist, Barkus Doolan Family Lawyers, Sydney

10.40 – 10.50am Panel Comments and Questions

10.50 – 11.10am Networking Break and Morning Tea

11.10 - 11.55am

Session 9: When Bankruptcy and Family Law Collide

When relationship breakdown coincides with bankruptcy, a messy situation becomes a whole lot more complicated. This session examines how family law proceedings are impacted by bankruptcy of a party, including:

- Bankrupt's standing in family law proceedings
- Clawback powers – how this impacts family court proceedings
- Dealing with unsecured debts
- How are interests of a trustee in bankruptcy relevant to section 79 of the Family Law Act?
- Creditors versus non-bankrupt spouse
- Rights of creditors versus trustees in bankruptcy to set aside financial agreements
- Rights of trustees in bankruptcy under section 75(2)(ha) of the Family Law Act
- Case law update

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

11.55am – 12.05pm Panel Comments and Questions

12.05 – 1.00 pm Lunch

DAY 2 FRIDAY 14 FEBRUARY 2020

AFTERNOON THEME: COMPULSORY SUBJECTS

1.00 – 1.50pm

Session 10: Professional Skills

Drafting and Enforcing Child Support Agreements

Parties are increasingly choosing to enter into child support agreements to allow more flexibility and control in how their child's expenses will be met between them. However, getting the right child support agreement in place while navigating the procedural challenges can be difficult, particularly in light of recent reforms. This session sets out:

- Choosing the right type of child support agreement
- What to include in the agreement – a practical guide
- Estimating income and expenses for child support agreement purposes
- Understanding the new reforms - when is a Child Support Agreement cancelled or suspended?
- What constitutes a substantial change?
- When is an eligible carer no longer eligible?
- What are the implications of the reforms on each of the parents?
- Apportioning during the suspension period

Speaker: Brett Walker-Roberts, Director, Child Support Policy Advice Team, Child Support Program Branch, Department of Human Services, Adelaide

1.50 – 2.00pm Panel Comments and Questions

2.00 – 2.50pm

Session 11: Practice Management & Business Skills

Cost Agreements, Conflict-Checking and Cementing New Relationships in Family Law

Taking instructions from a new client sounds like a simple thing but far too often legal practitioners miss getting the crucial information. This session gives you an insight into best practice in conducting client interviews and covers:

- Conflict checking
- Recognising problematic areas:
 - Instructions for wills
 - Instructions from parents for financial agreements involving their children
- Cost disclosure – when is it necessary? Can you charge for the initial meeting without disclosing costs?
- Identifying imminent deadlines
- Client questionnaires – are they a good idea?
- Verifying the client's identity
- Confirming confidentiality and your file retention policy
- What are the next steps? Clear communication!
- Client instruction checklist
- Getting new clients to “stick” – how to ensure new clients stay

Speaker: Lino Marchetti, Barrister and Mediator, Victorian Bar, Melbourne

2.50 – 3.00pm Panel Comments and Questions

3.00 – 3.20pm Networking Break and Afternoon Tea

3.20 - 4.10pm

Session 12: Ethics

Managing Difficult Clients in Family Law: The Ethical Challenges

Clients want their matter dealt with efficiently, expeditiously and in a cost effective manner. This session looks at what to do when this takes an unethical turn with an improper or unreasonable client request, including:

- Duty of practitioner to comply with instructions
 - practical constraint
- Establishing your ethical credentials early in the solicitor / client relationship
- Identifying the ethical problem in client instructions
 - dealing with it early
- Communicating the ethical option – reeducating the client
- When the client instructs you not to disclose in a property matter and how to respond
- Balancing duty of care to court with duty to client – the duty not to mislead the court
- Learning how to say ‘no’ with emphasis but not bounce
- Ditching the client – ethics in severing contact
- Case study – Unreasonable client demands in parenting matters and family relocation

Speaker: Therese Borger, Barrister, Victorian Bar, Melbourne

4.10 – 4.20pm Panel Comments and Questions

4.20pm Conference Close

GENERAL INFORMATION

Conference Registration Fee

The registration fee includes attendance at the conference, online access to the conference papers and refreshment breaks and lunch.

The registration fee does not include any travel or accommodation. Delegates are advised to make their own travel arrangements.

Conference Papers

TEN no longer provides printed copies of conference papers at its events. Access to the papers will be available online to all delegates in the lead-up to the conference (as the papers become available), during the conference and for 30 days after the conference. The papers will be available in .pdf format for easy download to your local computer or portable device.

At the conference TEN will supply printed copies of the PowerPoint presentations.

CPD Units/Points

Lawyers (except WA): 10 CPD units (7 substantive law + the 3 compulsory subjects)

WA Lawyers: 6 CPD points (either 6 substantive law or a combination of substantive law and the compulsory subjects to the maximum of 6 CPD points you can claim from attending a conference)

The Conference Venue

Melbourne Marriott Hotel

Corner Exhibition & Lonsdale Streets, Melbourne

Phone: (03) 9662 3900

Conference Rate at the Melbourne Marriott Hotel

Television Education Network has organised a discount rate with the Marriott for delegates of 10% discount off the best rate available. **To access this rate please quote "LOKA" when making your booking.**

This rate is strictly subject to availability. Delegates are advised to make their own accommodation arrangements directly with the Melbourne Marriott Hotel.

If you encounter any problems booking your accommodation please do not hesitate to contact our Conference Executive, Jenna Pickrell, on (03) 8601-7729 or email: jenna@tved.net.au

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 room varies depending on where you are sitting. Light dress is generally OK, but it is advisable that you bring a jacket/long sleeved top in case you need it.)*

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.

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.

TEN is not responsible for financial loss incurred by you as a result of the cancellation or postponement of the conference as a result of strikes, natural disasters, and other Acts of God such as volcanic ash clouds in Australian airspace. We therefore strongly advise you to take out travel insurance if your attendance plans involve air travel or other significant travel to the conference venue.

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)
GPO Box 61, Melbourne, Victoria 3001
Fax (03) 9670 0588 Phone (03) 9670 2055 Enquiries Jenna Pickrell
Register online: <http://www.tved.net.au> – go to CONFERENCES

Please register me for the **5th Annual Melbourne Family Law Conference** – a 2-day conference to be held in Melbourne on Thursday 13 & Friday 14 February 2020 [conf code: MFLFEB20]

- Discount Registration** – for registrations made on or before **24 January 2020** – **\$1980** (\$1800 + \$180 GST)
- Full Price Registration** – **\$2145** (\$1950 + \$195 GST)
- Subscriber First Discount Registration** – I am a Subscriber First member and entitled to a **10% discount** off the full registration fee – **\$1930.50** (\$1755 + \$175.50 GST)

The papers from this conference will be available in electronic form only 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: PMFLFEB20].

Multiple registration discount? If you would like to send more than two people from your company to this conference, please ask Jenna about the discounts available for multiple registrations: The more you send, the greater the discount. jenna@tved.net.au or phone (03) 8601 7729.

One-day only? We do accept bookings for attending one day only (either day 1 or day 2). To organise a one-day booking, please contact Jenna Pickrell (details above).

Personal Details

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