

ethics and risk management

11 March 2008

Marriott Hotel

Brisbane

The practice of the law is a perfectly distinct art
defined by ethics and controlled by risk management

8.00 Conference Registration

8.30

Welcome and Opening from the Chairperson

Drew Castley, Partner, DLA Phillips Fox

8:40

Legal Client Privilege and Internal Communications

In today's legal environment, in-house counsel serve as business advisors and strategists and in some cases internal legal teams are now larger than many mid-tier law firms.

- Defending the law and the company; distinguishing between legal and commercial advice regardless of whether or not it is called 'legal advice'
- Giving and obtaining legal advice; the difference between information and advice as it relates to professional privilege and the commercial value of lawyers
- Waiving privilege and determining the dominant purpose for which documents are created
- Advising the individual employee when obligations are ultimately to the company

Ian Bloemendal, Partner, Clayton Utz

10:10 Morning Tea

10:30

Advising on Joint Ventures: Ethical Considerations Involving In-house Counsel and Outside Interests

Using practitioners who understand and are part of the business can cost up to two-thirds less than sending work to external lawyers and be more effective, as long as ethical considerations are adequately managed.

- The role and use of in-house counsel:
 - discharging legal duties and obligations in roles of commercial responsibility
 - identifying where the responsibilities and obligations lie with advising the parent company or all body corporates involved
- Both sides of the coin: when bringing external expertise up the learning curve is more commercially efficient vs preventing exposure on the transaction side if and when volume decreases
- Avoiding exposure to liability arising in connection with the client's employees explaining the extent of personal representation being provided

Mark Hinson, Barrister

11:30

Reliance on Precedents and Templates: Reducing Risk by Avoiding Ineffective Clauses and Claims for Negligence

Your clients want faster turnaround and savings on legal spend. At the same time they want you to understand and focus on their business goals, without any slip in the quality of your work product.

- Recognising that no law firm or practice operates without delegation and operation under constraints on time commonly presents mistakes
- Allocation of risk and international issues associated with an over-reliance on precedents

Malcolm McBratney, Partner, McCullough Robertson

12.30 Networking Lunch for Speakers and Delegates

1.30

Professional Business: Ethics and Law Firms Listing on the ASX

- Profit and ethics, or profit vs ethics:
 - limited liability, asset protection and capital-raising
 - balancing obligations to the court, client and shareholder: considering effective management and prioritisation of the Legal Profession regulatory framework with the requirements of a director, officer or employee under the *Corporations Act 2001* (Cth)

Anthony Glynn SC, Barrister

2:15 Afternoon Tea

2:30

Liability and Managing Client Expectations

In Queensland almost one in every two claims occurs as a result of a simple communication failure between solicitor and client. The best form of risk management is for the practitioner to know *and* document the client thoroughly and respond promptly to the client's needs, desires, peculiarities, and level of sophistication.

- Managing client expectations by defining what you're doing and for whom
- Clarifying what the client expects
- Exercising caution when advising on complex issues or in stepping outside your area of expertise
- Being conscious of the evolving nature of the relationship with the client and discussing, seeking or confirming instructions accordingly

Peter Dunning SC, Barrister

3:15

PANEL DISCUSSION

Managing Concurrent and Successive Conflicts of Interest

Companies may now have multiple tiers of subsidiaries. This can easily result in a firm being placed in the potential position of acting for one client against another client, or acting for one client against a former client.

The realisation of such concurrent or successive conflicts of interest can surface before the lawyer is retained or sometime during the retainer.

- Work with senior practitioner/s with decades of experience in:
 - Defining and approaching conflicts of interest to ensure adequate disclosure in conflicts with multiple interests
- Identifying tenable solutions to the notion of a 'Chinese Wall' for keeping clients in-house
 - Managing the risk of knowing about subsidiaries and their relationship with parent companies

David North SC, Barrister

Stephen Keim SC, Barrister

4:30 Conference Close

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ABOUT THE PRESENTERS

Drew Castley, Partner, **DLA Phillips Fox** has acted in a number of high profile litigation matters including the Myer Centre valuation case. He also acted in a series of matters for solicitors in claims concerning 'commercial advice' regarding property transactions. Drew acts for a wide range of Australia and international insurers, and comes highly recommended as an advisor on risk management across an impressively large range of valuation practice areas.

Ian Bloemendal, Partner, **Clayton Utz** has particular experience in complex litigation matters involving both corporate entities and government bodies. He has been involved in software and domain name disputes, trade mark claims and national and international arbitrations, appeals and enforcements (such as *Sandline v PNG* matter). Ian is an experienced trainer, regularly presenting at industry seminars and also lectures at the Medical School on liability issues.

Malcolm McBratney, Partner, **McCullough Robertson** is head of the Corporate Division, Intellectual Property Group and the Biotechnology Group. As head of the IP Group, Malcolm advises on trade marks, patents, designs and copyright, internet and e-commerce strategies and issues relating to media and broadcasting.

Anthony Glynn SC, Barrister has more than 25 years experience and was admitted to the Queensland Bar in 1972 and appointed with silk in 1996. Anthony specialises in criminal and quasi-criminal litigation at both the trial and appellate level. Anthony has been vice-president and president of the Queensland Bar Council, as well as vice president of the Australian Bar Council.

David North SC, Barrister was appointed as senior counsel in 1996 and practices in Queensland, appearing in the High Court, Supreme and Federal Courts. His areas of practice include estates, property, personal injuries, administrative law, mediation and ADR. After having served for a number of years on the Council of the Bar Association of Queensland, Anthony is currently a member of the Bar Association's Ethics Subcommittee.

Stephen Keim SC, Barrister was admitted to the Bar in 1985 after 7 years as a solicitor, and took silk in 2004. In 2007, he experienced ethical rules up close and personal when a solicitor and the Commissioner of the Australian federal Police made complaints against Stephen for his release of his client, Dr. Haneef. Stephen is Deputy Chancellor of the Queensland University of Technology.

CONFERENCE DATE AND VENUE

11 March 2008
Marriott Hotel
515 Queen Street, Brisbane
QLD 4000
Ph: (07) 3303 8000
www.marriott.com.au

PROGRAM CHANGES

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- Graduates
- Solicitors
- Associates
- Senior Associates
- Consultants
- Special Counsel
- Partners
- Barristers

Official Publication:

Lawyers Weekly

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Please complete sections A, B and C

Conference code: PD2408

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C Delegate details (for additional delegates please photocopy form)

Mr/Ms/Dr _____
first name surname

Position _____

Organisation _____

Postal Address _____

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