

# Training Calendar

May – June 2009

NSW • QLD • VIC • WA

3 easy ways to register:

1. Select a practice area
2. Select a session and venue
3. Complete and return the registration form

Practice Area

Session title

## Family Law

Developing best practice and conforming to procedure in LAT in children's matters

Negotiating a settlement in financial proceedings and drafting consent orders and binding financial child support and de facto agreements

Family Law Update - New changes to the rules after 1 January 2009

Costs - Untangling the costs regime and drafting agreements

## Commercial Law

Assuring maximum recovery for professional costs and minimising disputes

Advanced Litigation Skills: Enhancing performance in the law - planning, strategising and maximising outcomes

## Drafting Essentials

Commercial Law: Perfecting affidavit preparation and exceptional drafting

IP Masterclass - Capture, Commercialise and Capitalise Business IP

Estate Planning - Perfecting Will instructions for blended families and Testamentary Trusts

Contract Law: Managing and allocating Risk – Drafting indemnities, limitations of liability, assignment of risk, insurance and agreed damages clauses

## Executive Programs

Harvard Law School Program on Negotiation

*Presented by current Harvard Law School Professor (Sydney only 4-5 June 2009 - Limited places)*

Special  
Offers



### Run these sessions in-house

Find out more, call Mariana Olivieri, Training Manager on ph 02 9422 2217 or email: [mariana.olivieri@lexisnexis.com.au](mailto:mariana.olivieri@lexisnexis.com.au)

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*"Useful tips, good content, very interactive and extremely helpful. Would highly recommend"*

- Crown Law Lawyer

*"The material provided was very relevant and comprehensive. One of the best family law training workshops I've been to"*

- Lawyer

*"Practical examples of documents is invaluable in practice"*

- Principal

*"It was excellent in every way"*

- Principal on Allan Swan, Estate Planning sessions

*"Excellent in every respect. Thorough knowledge of topic, very well presented"*

- Solicitor on Succession Law training session

*"One of the best employment law seminars I have attended"*

- Queensland Health Principal Lawyer

## Upcoming events 2009

- Contract Law
- Criminal Law
- Conveyancing and property law
- Estate Planning
- Anti Money Laundering
- Insurance Law
- Harvard Law School – Program on Negotiation

## Special Offer

### EARLY BIRD

Register 4 weeks before the event and receive 10% discount on all sessions registered. Quote Early bird -10% off when booking.



## Developing best practice and conforming to procedure in LAT in children's matters

### Session outline

A step-by-step guide to assist you when acting for a client in parenting proceedings.

Two important features of this session is the guide to conduct of parenting proceedings under the new LAT process and guidance when negotiating a settlement of parenting proceedings.

### Key benefits

Participants who complete this session will learn how to:

- Obtain instructions from the client that are relevant to issues to be determined by the court
- Where matters are resolved to draft consent orders or a parenting plan
- Apply for interim orders
- Conduct contested proceedings under Div. 12A of Part 7 of the *Family Law Act* (LAT proceedings).

### Who should attend

This session is for practitioners who are both new to Family Law and for more experienced practitioners particularly those seeking to improve on his/her drafting skills and case preparation

**Expert Facilitators:** Ian Serisier, *Special Counsel*, SWAAB Attorneys

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**Time: 9:00am - 5:00pm. Breaks are included**

### Key learning outcomes

### Content

#### Client engagement

- The first interview with your client
- Obtaining the first 'proof of evidence'
- 'Checklist': a step-by-step procedure to enable you to identify the relevant issues and formulating the case on behalf of your client to deal with those issues
- Identifying relevant S.60B and S.60CC issues
- Drafting the letter of engagement and solicitor/client cost arrangements
- Compliance with Family Dispute Resolution procedures

#### Pre-Filing Phase

- Negotiating a settlement and advising your client in relation to various dispute resolution procedures
- Consent orders or a Parenting Plan?
  - Drafting Consent Orders
- Preparing and drafting a Parenting Plan

#### Commencing Proceedings

- Drafting Parenting Orders
  - Compliance with the Family Law Rules

#### Interim Proceedings

- Drafting orders to be sought
- Obtaining instructions and drafting the Affidavit in Support of the Application
- Procedures in both the Family Court and Federal Magistrates Court

#### Determination Phases

- Specific requirements when preparing for a Day 1 LAT hearing
- Preparing your client's answers to the parenting questionnaire
- Preparing a List of Issues
- Determining whether there is a requirement to seek the appointment of an ICL?
- The role of the Family Consultant
- Is there a need to seek expert evidence?

#### Day 1 Hearing LAT Proceedings

- Docket Judge – His/her role
  - Briefing your client for the Day 1 Hearing
- Evidence at the Day 1 Hearing
  - What is the role of the Family Consultant at a Day 1 Hearing?

#### Preparing for the Final Hearing

- Obtaining proofs of evidence from third party witnesses
- Is further additional evidence from your client required?
- Subpoenas and third party production
- Briefing of Counsel
  - Drafting of Affidavits in LAT Proceedings
- Summary of Submissions
  - Other necessary preparation

**6 CLE/CPD POINTS**



## Negotiating a Settlement in Financial Proceedings and Drafting Consent Orders and Binding Financial Child Support and De Facto Agreements

### Session outline

Whilst in this session we will primarily deal with drafting of documentation where a financial matter is settled, we will also review the different procedures (Including alternate dispute resolution procedures) so as to endeavour to effect a settlement in the most expedient and cost-effective manner.

### Key benefits

Failure to properly document resolution of a Financial matter can have very serious consequences for lawyers and their clients (see for example the recent Full Court decision in *Black v. Black*).

As and from 1 July 2008 there is an entirely new regime for documenting Child Support Agreements and the new de facto jurisdiction in the Family Law Act (to commence on 1 March 2009) raises new issues in documenting financial settlements including agreements involving a 'non-spouse' party.

We will also look at 'hidden traps' such as revenue issues and 'follow up' procedures that often need to be addressed.

### Who should attend

This session has 'something for everyone' whether you are a practitioner who has just commenced a family law practice or someone who has been in practice for many years. We will be dealing with some significant recent trends and changes including child support and revenue issues.

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Expert Facilitators: Ian Serisier, *Special Counsel*, SWAAB Attorneys

Time: 9:00am - 5:00pm. Breaks are included

Key learning outcomes	Content
Negotiating 'the deal'	<ul style="list-style-type: none"> <li>Pre-action procedures</li> <li>Other forms of alternate dispute resolution</li> <li>Heads of agreement</li> <li>Mediation</li> <li>Negotiations</li> </ul>
Consent Orders or Binding Financial Agreement (BFA)	<ul style="list-style-type: none"> <li>Recent Full Court decision, <i>Black v. Black</i></li> <li>Advising your client: Consent orders or a BFA?</li> <li>Is the advice to be different if the proceedings are in the FMC?</li> <li>Consent orders made by a registrar. Delegated power. So what?</li> </ul>
Drafting BFA	<ul style="list-style-type: none"> <li>What covenants and recitals should be included in BFAs</li> <li>Drafting of the operative provisions of a BFA</li> <li>Third parties. Invited guests?</li> <li>Drafting a Binding Terminating Agreement</li> </ul>
Drafting of Consent Orders	<ul style="list-style-type: none"> <li>Practical tips for the drafting of Consent Orders</li> <li>How to ensure that the orders that you draft can be enforced</li> <li>What 'standard orders' are to be included in all terms of settlement</li> <li>The role of Notations and Recitals</li> <li>Federal Magistrates Court</li> <li>Third parties to consent orders?</li> </ul>
Child Support	<ul style="list-style-type: none"> <li>Understanding the new (post 1 July 2008) child support assessment formula</li> <li>Child support definitions and interpretations</li> <li>Drafting a Child Support Agreement after 1 July 2008</li> <li>Departure orders</li> <li>Drafting a Binding and a 'Terminating Child Support Agreement'</li> </ul>
<b>NEW</b> De Facto Proceedings	<ul style="list-style-type: none"> <li>Brief outline of the relevant parts of the Family Law Amendments (De Facto Financial and Other Measures) Bill 2008</li> <li>Drafting binding agreements and binding Terminating Agreements including agreements involving a 'non-spouse' party</li> </ul>

6 CLE/CPD POINTS



## Family Law Update - New changes to the rules after 1 January 2009

### Session outline

Family Law is an “ever changing world” for practitioners. The Year 2009 will be no exception and whilst all Family Law practitioners will be well aware that the new regime for determination of financial disputes between former de facto partners will, in most instances, now be determined under Part VIII B of the Family Law Act, the amending legislation also amends other parts of the Family Law Act including Part VIII A (financial agreements) and there have been significant amendments to Chapter 22 of the Rules (Appeals) as well as amendments to other Rules.

The Session will also include a timely look at third parties and Family Law proceedings and a recent High Court decision and its potential effect on S.85A Applications.

### Key benefits

Whilst financial proceedings involving former de facto partners might be considered as being similar to financial proceedings between parties to a marriage, there are some important and significant differences. The differences are not only in relation to requirements when commencing proceedings in a de facto matter but also in terms of documenting a settlement.

Appeals in Family Law proceedings are not limited to appeals to the Full Court. There are other appeals and reviews. Failure to comply with the amendments to Chapter 22 could have serious consequences for your client. There are also other amendments to the Rules (other than to Chapter 22).

Increasingly today proceedings in a Family Law Court either seek to join third parties to the proceedings or third parties seek to intervene. There are a number of important developments that practitioners need to be aware of including the effect of the recent decision of the Full Court in *Spry v. Kennon*.

### Who should attend

Whilst it might be thought that this session would attract only experienced Family Law practitioners, new and less experienced practitioners will also benefit from the session because irrespective of experience, “de facto proceedings” are going to become very much a “fact of life” for all Family Law practitioners and all Family Law practitioners need to be aware of changes to the Family Law Rules particularly the changes to Chapter 22.

**Expert Facilitators:** Ian Serisier, *Special Counsel*, SWAAB Attorneys

#### Key learning outcomes

Changes to the Family Law Rules effective 1 January 2009

De Facto financial proceedings in a Family Law Court after 1 March 2009

Family Law proceedings and third parties (Part VIII A of the Family Law Act)  
Nuptial settlements

#### Content

- Amendments to Chapter 22 of the Rules (Appeals)
- Other changes to the Rules to come into effect on 1 January 2009
- What is a de facto relationship?
- Same sex and opposite sex relationships
- What relationships are not covered by this legislation?
- Commencing proceedings
- Establishing that the parties lived in a de facto relationship
- Commencing proceedings out of time
- Documenting a settlement including a Binding Financial Agreement involving both “spouse parties” and a “non-spouse party”
- Preparing a pre-nuptial agreements
- Accrued jurisdiction of a Family Law Court
- Proceedings under Part VIII A of the Family Law Act
- Orders that can be made against third parties other than orders that can be made under Part VIII A
- Cross-vesting proceedings
- Intervention by third parties
- Setting aside a nuptial settlements - S.85A

**Time: 9:00am - 12:30pm. Break included**

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## Costs - Untangling the costs regime and drafting agreements

### Session outline

The amendments to Chapter 19 of the Family Law Rules that came into effect from 1 July 2008 have a very significant impact on lawyers who practice Family Law. Failure to properly understand and apply these new rules could have real financial consequences for family law practitioners.

**Failure to comply with rules and in particular disclosure could result in a practitioner facing possible disciplinary action.**

All family law practitioners need to have a proper understanding of the requirements of the Family Law Act and the Rules of the Family Court and Federal Magistrates Court that provide for party/party costs.

### Key benefits

Practitioners frequently come off “second best” in disputes with (former) clients over costs accounts. Learn how to minimise or eliminate your potential financial loss from a cost dispute with a former client.

Learn how to draw an Itemised Cost Account and enforce a party/party costs order.

A practical guide to obtaining “funding” to conduct and continue proceedings where your client (usually a wife) does not have access to the “family finances”.

The notes contain a precedent Cost Agreement and Engagement Letter.

### Who should attend

This session is designed to benefit all family law practitioners irrespective of their years in practice or experience and in particular those practitioners who have experienced the frustration of a former client who “challenges” your tax invoice.

All family law practitioners need a thorough knowledge of party/party costs and procedure.

**Expert Facilitators:** Ian Serisier, *Special Counsel*, SWAAB Attorneys

### Key learning outcomes

### Content

**Time: 9:00am - 12:30pm. Breaks are included**

Chapter 19 FL Rules	<ul style="list-style-type: none"><li>• Changes to Chapter 19 of the Family Law Rules after 1 July 2008 (solicitor/client costs)</li><li>• Solicitor/client costs in the Federal Magistrates Court</li></ul>
Solicitor/Client Cost Agreements	<ul style="list-style-type: none"><li>• Drafting a solicitor/client cost agreement</li><li>• Drafting the engagement letter and confirming instructions with the client</li><li>• Practice tips</li><li>• The rules in <i>Blythe v. Fanshaw</i></li><li>• Applicable legislation</li></ul>
Solicitor/client cost dispute	<ul style="list-style-type: none"><li>• Practical tips on dealing with a client who wants to challenge your tax invoice</li><li>• Procedures if you cannot resolve the dispute with your client</li></ul>
Obtaining a “Barro” order	<ul style="list-style-type: none"><li>• Practical tips to obtaining an order for security for costs (for your client against the other party)</li><li>• Drafting the application for a “Barro” order and the affidavit in support</li><li>• Is litigation funding a viable alternative?</li></ul>
Party/party costs	<ul style="list-style-type: none"><li>• Examination of the relevant provisions of the Family Law Act and the respective Rules of the Family Court and the Federal Magistrates Court</li><li>• Drawing an itemised cost account</li><li>• Procedure - taxation of party/party costs</li></ul>

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# Commercial Law



## Assuring maximum recovery for professional costs and minimising disputes

### Session outline

Essential issues of practice management are explored in this session as practitioners are guided through fundamental aspects of costs agreements. The session ensures participants are practicing in a manner compliant with current legislative provisions, protecting the integrity of the costs contract and with an ethical approach to the issue of costs.

### Key benefits

Assuring maximum recovery for professional costs; minimising legal costs disputes; avoiding the setting aside of a costs agreement, acquiring skills in estimating costs.

### Who should attend

Practitioners involved with the drafting of costs agreements, principals seeking to ensure the compliance of their procedures, litigation lawyers of all levels.

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Facilitated by Industry Experts and Facilitators:  
TBA

Time: 9:00am - 5:00pm. Breaks are included

### Key learning outcomes

### Content

Drafting effective compliant costs agreements	<ul style="list-style-type: none"><li>• What is a compliant costs agreement?</li><li>• Understanding the relevant provisions of the Legal Profession Act</li><li>• How the LPA impacts on you and your ability to recover costs</li></ul>
Finding and keeping "sophisticated clients"	<ul style="list-style-type: none"><li>• Identifying the nature of your client</li><li>• Recognising a "large corporation" within the definition of the Corporations Act</li><li>• Aspects and disclosure</li></ul>
Analysing costs agreements	<ul style="list-style-type: none"><li>• Analysing the elements of a costs agreement</li><li>• What is a compliant costs agreement?</li><li>• What you have to disclose and when</li><li>• General principles regarding what you need in a cost agreement - costs agreement Do's and Don'ts!</li></ul>
Untangle issues involved in conditional costs agreements	<ul style="list-style-type: none"><li>• Defining a successful outcome</li><li>• What are "Building reasonable grounds to anticipate success"?</li><li>• Issues surrounding payment of disbursements</li><li>• The cooling off period and right to seek independent legal advice</li></ul>
How to recover costs	<ul style="list-style-type: none"><li>• Maximising recovery of costs and minimising payments for successful clients</li><li>• How to avoid having your costs agreement set aside</li><li>• Recovering reviewed costs under a void agreement</li></ul>
Effective costs estimation	<ul style="list-style-type: none"><li>• What to estimate</li><li>• How to estimate</li><li>• When to estimate</li></ul>
Resolving costs disputes	<ul style="list-style-type: none"><li>• What you should know about the current assessment procedure in your state</li></ul>
Ethics - Practice management issues	<ul style="list-style-type: none"><li>• The ethics of time costing – hypotheticals</li></ul>

6 CLE/CPD POINTS

# Commercial Law



## Advanced Litigation Skills: Enhancing performance in the law - planning, strategising and maximising outcomes

### Session outline

The session enables greater confidence of practitioners in their approach to drafting pleadings, taking witness statements and presenting evidence in admissible form. Expert drafting techniques will be demonstrated, enabling participants to draft with greater appreciation of the functions and objectives of effective pleadings, as well as with accuracy, relevance and appreciation of common pitfalls.

### Key benefits

Equipping practitioners with essential litigation preparedness skills while enabling the implementation of process-driven methods of litigation preparation.

### Who should attend

Paralegals, lawyers, senior associates and anyone required to prepare pleadings and want to improve their skills.

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#### Facilitated by Industry Experts:

**Dr Robert Harper SC**, *Commercial Barrister, Queens Square Chambers, Sydney*  
**John Levingston**, *Commercial Barrister, Queens Square Chambers, Sydney*

**Peter King**, *Commercial Barrister, Queens Square Chambers, Sydney*  
**Marcus Pesman**, *Commercial Barrister, Queens Square Chambers, Sydney*

#### Key learning outcomes

#### Content

Time: 9:00am - 5:00pm. Breaks are included

Defining and drafting pleadings

- Initiating the process
  - Defining statements of claim and cross examination
  - Review summons and points of claim
- Defences
- Replies
- Stay of proceedings
  - International commercial arbitrations
  - Forum non-convenience
  - Anti-suit injunctions
  - Creating security for costs

Analysing discovery

- Particulars
- Interrogatories
- Notices to produce
- Subpoenas
- Privilege
  - Client legal privilege
  - Professional confidential relationships
  - Define other privileges

Executing effective affidavits

- Developing preliminary work
- Analysing formal matter
- Create compliant documents using the right style
- Detangling evidentiary issues
  - Effective note taking and documenting conversations
  - Discuss documents and other records
  - Review lay and expert witness
- The importance of review

Managing expert evidence

- Taking effective instructions to experts
  - Transparency as a strategic tool
- Defining opinion
- Formal requirements
  - Evidentiary rules
  - Rules of court
- Understanding Foreign Law
- Experts in conflict
  - Joint reports
  - Hot tubbing
- Limits on cross examination

6 CLE/CPD POINTS



# Drafting Essentials



## Perfecting Affidavits with preparation and exceptional drafting

### Session outline

The session enables greater confidence of practitioners in their approach to drafting affidavits. A lawyer drafting an affidavit must adhere to ethical standards of professional behaviour, and have a thorough knowledge of the law of the cause of action, the rules of court and the rules of evidence. On this foundation, affidavits should be systematically prepared for the purpose of giving evidence in chief at a court hearing, withstanding attack from objections and providing clear and persuasive evidence.

### Key benefits

By the end of the session participants will have an understanding of what is an affidavit, why they are used, their preparation and the professional obligations involved in preparing them.

### Who should attend

This session is ideal for in-house counsel, commercial Lawyers, senior associates, solicitors, trainee and junior lawyers.

#### Facilitated by industry Expert:

John Levingston, *Barrister, Arbitrator and Mediator, Queens Square Chambers*

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### Key learning outcomes

### Content

Time: 9:30am - 12:30pm. Break included

Affidavit, what, why and obligations

- What is an affidavit?
- Why are affidavits used?
- What are the professional obligations, skills and ethics

Preparation, preliminary, types of proceedings

- Purpose of the affidavit
- Systematic approach
- Risk Management
- Review the types of proceedings including
  - Ex parte and interlocutory proceedings
  - Hearsay evidence admissible
- Final hearing preparation
- Use of the pleadings
- Drawing the affidavit for the type of proceedings

Defining formal matters

- Importance of:
  - Deponent's information
  - Adjurations
  - Signature
  - Numbering
  - Avoiding irregularities

Importance of Style

- Perfecting your affidavits: Use of headings and contents
- Dealing with introductory matters including:
  - The role and authority of the deponent
  - Definitions
  - Reference to conversations and documents
  - Dates and numbers
  - Paragraph subject

Evidentiary requirements

- The standard of proof
- Rules of court
- W words
- Conversations and oral evidence
- Documentary evidence
  - Contemporaneous
  - Reviving memory
  - Records, computer, electronic, official & 20yrs +
  - Discretionary rules
  - Charts, summaries and other explanatory material
  - Annex or exhibit?
- Lay witness, commonsense, language and lay opinion
- Expert witness and opinion, formalities
- Will every witness make an affidavit?
- Admissibility and the relevant law
- Rules of evidence
- Perception
- An important exception – Oral evidence given on key matters
- Proving foreign law
- Incapacity and absent witnesses

The importance of review

- Things to avoid
- Privilege and self-incrimination
- Avoiding loss of privilege
- Potential objections on relevance, hearsay, opinion and conclusions
- Dealing with irregularities and drafting errors
- Dealing with objections and assumptions not in evidence

3 CLE/CPD POINTS

# Drafting Essentials



## IP Masterclass - Capture, Commercialise and Capitalise Business IP

### Session outline

The IP fundamentals session is designed to equip the practitioner with an ability to identify, capture and protect the intellectual property elements before they become costly mistakes upon which competitors may capitalise.

Agreements in this field go beyond 'boilerplate' provisions and demand an inquiry into the pedigree of the rights so that they may be properly presented in the IP agreement. This workshop aims to consider through practical examples and group discussion, some fundamental issues involving IP, which the draftsman must be aware of and apply to each new agreement. It is unreasonable to suggest that an IP agreement may be prepared from a mere instruction based on a client's understanding of their IP entitlements.

### Key benefits

By completion of the session participants will be able to identify key issues and trends in drafting intellectual property agreements and effectively provide advice. The workshop will propose a risk management model which the participants will be able to implement and appreciate. This will include the ability to identify the necessity to address preliminary matters of assignment and licences within the model.

### Who should attend

This session is ideal for all professionals with some existing experience in intellectual property including, commercial and business lawyers, IP lawyers, commercialisation managers, patent & trade mark attorneys, in-house Counsel, barristers, CEO's and All professionals interested in IP issues.

Expert Facilitators: Dr Dimitrios George Eliades, *Barrister*, Brisbane Bar

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### Key learning outcomes

### Content

Time: 9:00am - 12:30pm. Break included

Discuss IP due diligence

- Employee generated IP
- Outsourced IP creation
- What issues should be addressed when investigating the creation of the IP rights involved; What steps should be taken to reduce the exposure of your client to claims of entitlement inconsistent with the client's claim
- Issues from *Uni of Western Australia v Gray* (No 20) [2008] FCA 498 (17 April 2008)

Models and structure for commercialising IP

- Examining a **risk management** model for the exploitation of IP and the interaction of the concepts of '**authorised user**' in trade marks, '**exclusive licensee**' in patent and copyright law

Key drafting issues in IP licensing

- Examining a model agreement and the basic provisions, their variation and suitability taking into account the concept of a '**plurality of exclusive licensees**' and divisibility of certain rights

Drafting a technology licence agreement - building a model case

- A hypothetical focusing on issues in trade marks, copyright and patent law;
- Australian IP law is not in a vacuum but often reacts to international standards through convention agreements, the hypothetical will address the impact of such agreements on the proposed dealings

Key issues in enforcing IP Rights

- Agreement should properly address the role and rights of the parties seeking to enforce IP rights. In many cases these roles are imposed by statute and remarkably these are often overlooked in practice to the detriment of the party seeking to enforce these rights

Q&A Discussion

- As the format is a workshop forum, questions are invited as the circumstances arise. The session ends with a reinforcement of the basic principles and addressing any questions/conclusions which may have formulated over the course of the workshop as a whole

3 CLE/CPD POINTS

# Drafting Essentials



## Estate Planning - Perfecting Will instructions for blended families and Testamentary Trusts

### Session outline

The aim of the program is to equip practitioners with an understanding and the ability to apply knowledge and skills on the job to successfully take Will instructions for clients with both simple and complex circumstances. For example clients living in a blended family and clients who wish to include testamentary trusts to protect their beneficiaries' inheritance and to leave it in a tax effective way.

### Key benefits

By the completion of the session participants will be able to determine the best approach for clients when taking instruction taking into account their individual circumstances and to be in a position to draft the client's Will.

### Who should attend

All Estate Planning, Wills and Probate Lawyers, financial planners, accountants, fund managers and any practitioner responsible for private clients who are involved in estate planning.

### Learning outcomes

The aim of the session is to equip practitioners with an understanding and the ability to a client's will instructions (both complex and simple).

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### Expert Facilitator:

**Paul Evans**, Accredited Specialist Wills & Estates Law, Manager Trustee Services, NSW, National Australia Trustees, National Australia Bank

### Key learning outcomes

### Content

Time: 9:00am - 12:30pm. Break included

Recognising potential capacity issues	• What is the test? Is medical evidence required?
Reviewing the assets	• What does the Will maker own? He/she does not own the family trust but may be able to control it by the Will
Strategies for preserving the estate	• Protecting vulnerable beneficiaries
Identifying all beneficiaries	• Is a beneficiary to be excluded? Is a claim likely?

3 CLE/CPD POINTS

# Drafting Essentials



**Managing and allocating Risk – Drafting indemnities, limitations of liability, assignment of risk, insurance and agreed damages clauses**

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Session outline coming soon

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# Executive Programs Harvard Law School The Program on NEGOTIATION



Delivered by Expert Facilitator: Professor Guhan Subramanian,  
Professor of Law and Business at Harvard Law School



## Program overview

The Program on Negotiation at Harvard Law School has developed a powerful, practical and efficient approach that will improve your negotiation performance. The approach is called “mutual gains negotiation”.

The mutual gains framework combines the successful strategies of experienced negotiators with proven theory to help you: prepare for negotiations more effectively, focus on problems and not on personalities, avoid “win-lose” situations, and deal well with those who play outside the rules.

What steps can you take to achieve better outcomes in your negotiations with business partners, clients, vendors, peers, investors or employees? In situations where your skill as a negotiator may be the difference between success and failure for you and your organization, how can you improve your ability to: influence the behaviour of the other side, make better deals by creating better options, and walk away with more?

## Key benefits

You will be able to apply the concepts you learn and facilitate: improved working relationships, enhanced organisational effectiveness, enhanced personal effectiveness making better deals breaking through standoffs stalemates and deadlocks upon successful completion; participants will receive a certificate of completion from The Program on Negotiation at Harvard Law School, Harvard University.

## Who should attend

Chief Executive Officers, Chief Financial Officers, Managing Directors & General Managers, Business Development Manager, Principals, Partner, Senior Associates, Sales & Marketing Directors, HR Directors, In-house/Corporate Counsel.

## Program outline

### Day One Thursday, 4th June 2009

8.30am	Registration
9.00am	Introduction and Core Concepts in Negotiation Analysis
9.30-10.30am	<ul style="list-style-type: none"> <li>Claiming Value in Negotiation</li> <li>A Negotiation Exercise</li> <li>Negotiation Exercise Review</li> </ul>
10.30am	Morning tea
11.45am-1:00pm	<ul style="list-style-type: none"> <li>Effective Strategies for Claiming Value</li> <li>Fostering a Problem-Solving Approach to Negotiation</li> <li>A Negotiation Exercise</li> </ul>
1.00pm	Lunch and read afternoon assignment
2.15-4.15pm	<ul style="list-style-type: none"> <li>Effective Preparation – Learn a Systematic Framework</li> <li>Creating and Claiming Value</li> <li>A Negotiation Exercise</li> </ul>
4.15pm	Afternoon tea and Results Tabulation
4.30-5.30pm	<ul style="list-style-type: none"> <li>The Art &amp; Science of Negotiation</li> <li>Analysis of negotiation exercise</li> <li>Managing behind the table negotiations</li> </ul>
5.30pm	End of Day One

### Day Two Friday, 5th June 2009

8.30am	Registration
9.00-10.30am	<ul style="list-style-type: none"> <li>Multi-Party Negotiations: Core Principles of Coalitional Dynamics</li> <li>A Negotiation Exercise</li> </ul>
10.30am	Morning tea
11.00am-1.00pm	<ul style="list-style-type: none"> <li>Build a Winning Coalition</li> <li>Negotiation Exercise Review</li> <li>Competitive Bidding Situations: Playing Effectively in Auctions and Negotiauctions</li> </ul>
1:00pm	Lunch
2.00-3.30pm	<ul style="list-style-type: none"> <li>Strategies for Persuasion and Influence</li> <li>A Negotiation Exercise</li> </ul>
3.30pm	Afternoon tea
3.45-5.00pm	<ul style="list-style-type: none"> <li>Putting it all together</li> <li>Case Study Exercise on Internal Negotiations</li> </ul>
5.00pm	End of program

Sydney  
04/06/09 - 05/06/09  
Sydney CBD

**Due to the interactive nature of this program, limited seats are available. Register early to avoid disappointment.**

**>>REGISTER NOW**



### **About the Program on Negotiation at Harvard Law School**

The Program on Negotiation (PON) serves a unique role in the world negotiation community. is a dynamic, interdisciplinary research center dedicated to improving the theory and practice of negotiation and dispute resolution, PON draws from numerous fields of study, including law, business, government, psychology, economics, anthropology, the arts, and education.

Founded in 1983 and based at Harvard Law School, PON is a consortium of scholars and associates from Harvard University, Massachusetts Institute of Technology, Tufts University, and other Boston-area schools. In all its projects and activities, PON focuses on creating innovative ways to encourage new thinking in negotiation theory, help prepare graduates to assume leadership roles in the world community, and increase public awareness of successful negotiation processes.

### **Program faculty**



#### **Prof. Guhan Subramanian**

Guhan Subramanian is the Joseph Flom Professor of Law and Business at the Harvard Law School and the Douglas Weaver Professor of Business Law at the Harvard Business School. He is the first person to hold tenured appointments at both HLS and HBS. At HLS he teaches courses in negotiations and corporate law. At HBS he teaches courses in the MBA program as well as several executive education programs, such as Making Corporate Boards More Effective, Strategic Negotiations, and Changing the Game. He is the faculty chair for the JD/MBA program at Harvard University and a member of the Executive Committee of the Program on Negotiation at Harvard Law School.

Prior to joining the Harvard faculty he spent three years at McKinsey & Company in their New York, Boston, and Washington, D.C. offices. Professor Subramanian's research explores topics in negotiations, corporate dealmaking, and corporate governance. He has published articles in the Stanford Law Review, the Yale Law Journal, the Harvard Law Review, and the Journal of Legal Studies, among other places. He is also a co-author of Commentaries and Cases on the Law of Business Organisation, a leading textbook on corporate law. His work has been featured in the Wall Street Journal's "Heard on the Street" column, the New York Times, the American Lawyer, The Daily Deal, and Corporate Control Alert. He has been involved in recent public-company deals such as Oracle's \$10.3 billion hostile takeover bid for PeopleSoft; Cox Enterprises' \$8.9 billion freeze-out of the minority shareholders in Cox Communications; and the \$6.6 billion leveraged buyout of Toys "R" Us. He also advises individuals, boards of directors, and management teams on issues of dealmaking and corporate governance. Professor Subramanian holds an A.B. in Economics (magna cum laude) from Harvard College, where he was elected to Phi Beta Kappa; an M.B.A. from Harvard Business School; and a J.D. from Harvard Law School (magna cum laude), where he was an editor of the Harvard Law Review and a winner of the Ames Moot Court Competition. He is formerly a Fellow of the Harvard Negotiation Research Project and an Olin Fellow for research in law and economics, both at Harvard Law School. He is a member of the New York Bar Association and the American Law & Economics Association.

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# Expert Facilitators



## Family Law Expert facilitator



**Ian Serisier**, *Special Counsel, SWAAB Attorneys* was admitted to the NSW Bar in 1973 where he has practised almost exclusively in Family Law and De Facto Relationship disputes. He joined Swaab Attorneys in 2005 with more than 30 years' experience in the areas of practice. He is the co author with Marilyn Hauptman of Volume 4 Australian Family Law (Lexis-Nexis) and author of the Family Law Section of the Australian Encyclopaedia of Forms and Precedents. He and Marilyn Hauptman are regular presenters (on various topics of Family Law) at the State Legal Conference and Ian is also a presenter at the College of Law, University of NSW and other organisations. Ian is an accredited Family Law Mediator and Arbitrator and is on the panel of the NSW District Court as a Mediator in Property (Relationship) disputes.

## Commercial Law Expert facilitators



**John Levingston**, *Barrister, Arbitrator and Mediator, Queens Square Chambers Sydney* has practiced in commercial litigation since 1982 and prior to that he worked for the

Commonwealth from 1977. He is an Adjunct Professor of Law at the University of Canberra and a Conjoint Professor of Law at the University of Newcastle where he teaches Maritime and International Trade Law. He has worked on a number of government and professional committees and is a regular speaker at national and international conferences.



**Dr Robert R. I. Harper** *SC BA, LLB, PhD (Syd.) – Barrister at Law Queens Square Chambers Sydney* was admitted to the Role of Barristers on 20 December 1985 and commenced

practice in February 1986. He was appointed Senior Counsel for the State of New South Wales on 29 September 2004.

He appears mainly in the Supreme Court of NSW, the Federal Court of Australia, and on occasion the High Court of Australia. He conducts a general commercial equity practice specialising in Banking, Trade Practices, International Transport, Insurance, including Marine Insurance, Property, Insolvency, individual and corporate insolvency, and Equity. He has appeared as an expert witness on NSW law in the Supreme Court of Singapore



**Marcus Pesman**, *Barrister, Queens Square Chambers Sydney* specialises in corporate and commercial litigation. He has been involved in many large commercial cases, including

as junior counsel for News Corporation in the C7 litigation. Prior to going to the bar in 1998 he was a senior associate at Allens. He is presently entirely sleep deprived following the birth of his second son in October.



**Peter E King MA [Oxon]; BA [Hons][Syd]** is a barrister practicing in general commercial, equity and public law; author of various papers on international trade law,

carbon trading law, and water entitlements, former Chair of the World Heritage Committee of UNESCO, former MHR.

## Drafting Essentials Expert facilitators



**Dr Dimitrios G Eliades**, *Barrister, PD Connolly Chambers* has been in practice since October 1998 predominantly in the field of intellectual property and prior to that worked in real property law in sole practice from 1976-

1992. He specialised in commercialisation of intellectual property and litigation whilst working for J.W.Kenny and Associates. He is a LexisNexis Butterworth author of "Intellectual Property Patents and Related Rights Bulletin" and the "Copyright Bulletin" publications. He also writes for other IP publications including the IP Bulletin, has lectured by invitation at the Queensland University of Technology. He is a regular speaker at national and international events.



**John Levingston**, *Barrister, Arbitrator and Mediator, Queens Square Chambers, Sydney* has been in practice as a commercial lawyer since 1982 and prior to that worked for the Commonwealth in Trade and Resources

and the Trade Practices Commission. He is also an Adjunct Professor at the School of Law, University of Canberra and Conjoint Professor at the School of Law, Newcastle where his interests include Admiralty and International Trade Law. He is a regular speaker at International Conferences.

**Paul Evans**, *Estate Planning Manager, National Australia Trustees Limited*. He is an Accredited Specialist in Wills and Estates Law, an Associate Member of the London based Association of Contentious Trust and Probate Specialists and a member of the society of Trust and Estate Practitioners. After qualifying as a solicitor in England in 1992, Paul worked in London in the Private Client area specialising in inheritance tax mitigation, estate planning, administration of estates and charity law. He has worked at Perpetual Trustee Company Ltd, Sydney in 1994-95, and during that time he was admitted to practice in NSW. Returned to Sydney in 2002, and worked at Proctor Willaws in Lindfield, where he undertook estate planning, administration of estates and probate litigation. He is the NSW Manager of Trustee Services with National Australia Trustees Limited, and specialises in estate planning.

