

10th Annual Wills & Estates NSW

Practical guidance for estate planning and preservation

16 February 2012, The Grace Hotel Sydney

Program highlights

- Manage wealth preservation priorities and protect estate operations from financial abuse risk
- Discover options that are potentially more tax attractive than the cornerstone Testamentary Trust
- Uncover the doctrine of ademption and what occurs when an attorney disposes of assets given in a will
- Understand the implications of *Hitchcock v Pratt* [2010] NSWSC 1508 on international and interstate estate planning
- Ascertain the critical issues and requirements for international wills

Speakers

- **Richard Neal**, Partner, **Teece Hodgson & Ward Solicitors**, Accredited Specialist, Wills & Estates Law
- **Michael Perkins**, Principal, **Andreyev Doman**, Lecturer, Estate Planning, Faculty of Law, **University of Technology Sydney**
- **Robert Monahan**, Special Counsel, **Australian Executor Trustees**, Accredited Specialist, Wills & Estates Law
- **Peter Bobbin**, Principal, **Argyle Partners**
- **John Stinson**, Partner, **Diamond Conway Lawyers**, Accredited Specialist, Wills & Estates Law and Business Law
- **John Armfield**, Barrister, **Wentworth Chambers**
- **Michael Kobras**, Partner, **Schweizer Kobras**, Accredited Specialist, Business Law
- **Jennifer McMillan**, Lecturer, Wills & Estates, **The College of Law**, Accredited Specialist, Wills & Estates Law

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10th Annual Wills & Estates NSW

Practical guidance for estate planning and preservation

Thursday, 16 February 2012

8:30	Registration	10:35	Avoiding the Testamentary Trust for better options There is no doubt that in Australia today the Testamentary Trust is the cornerstone of modern estate planning, but is this the right answer? Find out when the Testamentary Trust is nothing more than a useful back-up that should stand behind the better options available to meet the needs of clients. <ul style="list-style-type: none">• Tax attractive? Yes, but what is more tax attractive?• Pitfalls in establishment? What are these and how may these be avoided?• Modern twists on the Testamentary Trust can achieve modern personal needs for the client• Where the Testamentary Trust is to be used and what should supplement its operation? Peter Bobbin, Principal, Argyle Lawyers 0.75 CPD/MCLE point
9:00	Opening remarks from the Chair Paul Evans, Senior Associate, Makinson & d'Apice, Accredited Specialist, Wills & Estates Law	11:20	Morning tea
9:05	Keynote address: Managing wealth preservation priorities and financial abuse risk in estate operations <ul style="list-style-type: none">• Managing financial abuse risk in trust formation and operation• Navigating financial resource arguments in challenging trust operations• Establishing trustee independence from beneficiary interests• Establishing welfare accountability between trustee and beneficiaries• Have wealth preservation priorities sounded the death knell of the appointors' role? Michael Perkins, Principal, Andreyev Doman, Lecturer, Estate Planning, Faculty of Law, University of Technology Sydney 0.75 CPD/MCLE point	11:35	Testamentary Capacity <ul style="list-style-type: none">• Capacity – the Banks v Goodfellow test in contemporary probate litigation• The solicitor's role in ascertaining capacity• Increased life expectancy and its impact on the proliferation and complexity of testamentary capacity litigation• <i>D'Apice v Gutkovich</i> (No.2) [2010] NSWSC 1333; <i>Manning v Hughes</i> [2010] NSWSC 226; <i>Petrovski v Nasev</i> [2011] NSWSC 1275 John Armfield, Barrister, Wentworth Chambers 0.75 CPD/MCLE point
9:50	Testamentary Trusts – drafting issues and vulnerable beneficiaries <ul style="list-style-type: none">• Drafting Testamentary Trusts to take account of the wishes of the willmaker and needs of the beneficiary• Trusts for vulnerable beneficiaries, including superannuation alternatives• Testamentary Trusts and 'Family Provision' claims• Choice of Trustee Robert Monahan, Special Counsel, Australian Executor Trustees, Accredited Specialist, Wills & Estates Law 0.75 CPD/MCLE point	12:20	Court made wills for those who lack testamentary capacity <ul style="list-style-type: none">• The critical issues about which the court must be satisfied, namely that:<ul style="list-style-type: none">– The person whose will is to be made lacks testamentary capacity– The proposed will is reasonably likely to be the one that the person would have made– It is appropriate for the order to be made– The person bringing the application is the appropriate person to do so– All persons with a legitimate interest in the application have been notified• The procedures for obtaining the order and having the will made John Stinson, Partner, Diamond Conway Lawyers, Accredited Specialist, Wills & Estates Law and Business Law 0.75 CPD/MCLE point

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1:05 Networking lunch for speakers and delegates

2:05 **Ademption – what happens when an attorney disposes of assets given in a will?**

- Understanding the doctrine of ademption and the recognised exceptions
- Statutory rights and remedies for disappointed beneficiaries in NSW and Queensland
- Recent developments in case law, including *Power v Power* [2011] NSWSC 288 and *Simpson v Cunning* [2011] VSC 466

Jennifer McMillan, *Lecturer, Wills & Estates, The College of Law, Accredited Specialist, Wills & Estates Law*

0.75 CPD/MCLE point

2:50 **Mutual Wills – blended families**

Mutual wills will be explained and explored in the context of blended family situations (for both affluent and less affluent parties), as a tool to ensure each party's own family can ultimately receive an inheritance.

Mark Squire, *Principal, Boulton, Julian, Squire Solicitors*

0.75 CPD/MCLE point

3:35 **International Wills**

- UNIDROIT Convention providing a Uniform Law on the Form of an International Will 1973
- Standing Committee of Attorneys-General July 2010
- Requirements
- Who can act
- Annex to the Convention

Richard Neal, *Partner, Teece Hodgson & Ward Solicitors, Accredited Specialist, Wills & Estates Law*

0.75 CPD/MCLE point

4:20 Afternoon tea

4:35 **Implications of *Hitchcock v Pratt* on international and interstate estate planning**

- Interstate testators with immovable property in NSW
- Overseas testators with property in NSW and the effect of renvoi
- Overseas and interstate claimants to family provision in respect of property in NSW
- NSW claimants to family provision in respect of property outside NSW

Michael Kobras, *Partner, Schweizer Kobras*

0.75 CPD/MCLE point

5:20 Closing remarks from the Chair

Who should attend?

- Wills and probate lawyers
- Estate planning lawyers
- Trustees
- Barristers
- Financial planners
- Taxation advisers working in the area of estate planning
- Accountants

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10th Annual Wills & Estates NSW

16 February 2012
The Grace Hotel Sydney
77 York Street
Sydney NSW 2000

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Locked Bag 2222, Chatswood Delivery
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* Advanced price, team discounts and any other discount cannot be taken concurrently

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D

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☐ Commercial Litigation – NSW, 7 March 2012
☐ Legal Intensive 2012 – NSW, 15 March 2012
☐ Government Tendering & Contract Negotiation Workshop – ACT, 27 March 2012
- For more information on these products call 1800 772 772

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