

"Success Together"

Welcome to our Winter Newsletter

We hope you find the information interesting and useful. Our website provides more articles and information on the firm and its areas of practice.

[Visit our website](#)

Office Update

The first half of 2010 has seen a very significant increase in new work in the areas of residential conveyancing, which is now showing a marked slowdown, and in general commercial work. Unfortunately there has also been an increase in business disputes and insolvency which highlights the inconsistencies in business performance and the economy. The soon-to-be-announced election will hopefully relieve some of the uncertainty around at the moment.

Staff

As many of you already know, Nigel Collins joined the firm on 1 February 2010 to service your needs in litigation, both civil and commercial, as well as employment law. Nigel can assist you with most court and tribunal matters including debt recovery, contract breaches, business disputes, personal injury claims, business and personal insolvency, and employment disputes for both employers and employees. Nigel has brought a new level of knowledge, experience and efficiency to the firm, enhancing client service.

[Read more about Nigel](#)

Office Open Day 2010 – Free Advice

A quick reminder of our Open Day this **Saturday 3 July 2010 from 9am to 4pm**. For clarity, the consultations are designed to discuss a situation where you are unsure of your rights and whether you wish to pursue them, and not for discussing or providing us with instructions in an ongoing matter or for instructing us in a matter that you would ordinarily undertake, e.g. making a Will. To make an appointment with Kerry or Nigel, please call **now** as there are limited times available for the half-hour consultations.

Identity Fraud – ID Requirements

You will undoubtedly have read, seen and heard about the significant and increasing level of identity fraud with credit cards etc, but there are many other instances where Transfers and Mortgages have been fraudulently signed by one spouse on behalf of the other.

A recent case highlights the lengths to which some people will go. In one instance, a woman presented herself to a solicitor's office as "Mary Brown" and instructed him to prepare a Will leaving everything to "her sister Alice Brown". It turned out that the woman presenting herself was in fact the sister, Alice, and was attempting to leave everything that her sister owned to herself. This was not discovered until after Mary Brown's death and the position was salvaged, however it led to a negligence claim against the solicitor for failing to have the client provide adequate identification.

The Qld Law Society and the profession's indemnity insurer now audit solicitors' offices to ensure that they obtain appropriate identification documents for each and every client. We have been obtaining ID (drivers' licences and credit cards) where documents are required to be witnessed, however must now adopt a policy of all clients providing such documents.

We are sure you will appreciate that it is better to provide these than find out you have been defrauded. If you have not already done so, please ensure that you provide us with appropriate identification when next we see you. We will take photocopies of your documents and scan them so that they are held electronically. The documents will not be used in any manner other than for identification of clients when receiving instructions or signing documents.

Case Update

Bamford's Case – The Final Decision!

The High Court has upheld the Federal Court's decision in its entirety. The ATO's appeal on the definition of "net income" was lost as was Bamford's appeal on how to calculate a "share" when making distributions under a Trust.

[Read the full article](#)

[Read the High Court Judgment](#)

You should contact us to review and update your Trust Deed, if necessary.

Family Law and Estate Planning

Separation

Separation is always a stressful time. However, there are several things that you should consider doing to safeguard your position and avoid later complications. These include severing any joint tenancy, reviewing your Will and documenting any settlement.

[Read the full article](#)

A Binding Financial Agreement Versus a Will

The Court of Appeal decision in *Hills v. Clarke* [2008 QCA 159] highlights the effectiveness of good Estate planning and in particular how a properly prepared Binding Financial Agreement (BFA) under the Family Law Act can defeat a Family Provision Claim (contested share) against a Will.

In this case a BFA signed eight years before the deceased's death, and before the marriage, was taken into account by the court in considering the "totality of the relationship" between the deceased and her widower. The claim failed and the widower was ordered to pay costs.

Please contact Nigel to discuss how we can help you to try to protect your children's and other beneficiaries' inheritance by the use of a BFA.

Wills, Marriage and Intestacy

[Read this full article](#)

Personal Injuries Claims and Costs

No Win/No Fees: Is it in your best interest?

Did you know that a lawyer legally should not – and financially would not – take on a personal injuries claim where there is little or no prospect of success? Lawyers must advise you, among many other things, on the basics of such a claim – your prospects of success, the likely amount of compensation you will receive and the legal costs likely to be incurred by you.

By entering in to a “no win/no fee” arrangement, a lawyer is then able to legally charge you an additional 50% of the professional costs incurred to compensate for the risk of not being paid at all.

Further, where the outlays are likely to be substantial for a significant claim, litigation funding will often be required, costing you additional fees and interest on the amount borrowed.

We therefore recommend that you give serious consideration to the real impact before entering into a “no win/no fee” arrangement.

We can offer the same arrangement, but ethically do not believe it is in your best interest to do so. To discuss the above, please contact Nigel.

Directors' Duties and Responsibilities

Directors, and those who undertake the “role” of a director even though not elected as a director, have diverse and significant duties and responsibilities.

[Read the full article](#)

National Consumer Credit Regime

The Federal Minister for Financial Services, Superannuation and Corporate Law, Chris Bowen MP, used the occasion of World Consumer Day 15 March 2010 to remind Australians about the commencement on 1 July 2010 of the new National Consumer Credit regime following the effective referral of consumer credit powers from the states and territories to the Commonwealth. The registration process began on 1 April 2010.

For updates and further information visit:

www.treasury.gov.au/consumercredit

www.asic.gov.au/credit

Quotable quotes

A man should look for what is, and not for what he thinks should be.

Albert Einstein

A satisfied customer is the best business strategy of all.

Michael Lebouef

A business absolutely devoted to service will have only one worry about profits. They will be embarrassingly large.

Henry Ford

The worst part of success is to try to find someone who is happy for you.

Bette Midler

I am not young enough to know everything.

Oscar Wilde

CPI March 2010 Quarter

Brisbane's consumer price index rose 0.7% in the March 2010 quarter with an annual increase of 3.0% to March 2010.

If you wish to discuss any of these articles, have any comments or need advice on any matter, please contact us.

Liability limited by a scheme approved under professional standards legislation.

FEEDBACK: We welcome your comments on our Newsletter and its contents. Is it useful? What sort of information would you like to see included/excluded? We also welcome comments on our quality of service and ways to improve it.

IMPORTANT NOTICE: This is not advice and clients should not act solely on the basis of information herein, which constitutes general comments on various legal and commercial issues. Clients should consult the appropriate advisors before acting upon any matter herein.

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