

# Motions and Mentions

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## Equity Division - Short Notice List

"The short notice list has been established by the court with a view to affording to parties the opportunity of having their matters heard on short notice in circumstances where, by virtue of a settlement or a necessary adjournment, a Judge of the Division has become available. As I understand it from my discussions with the Registrar, matters are not put into this list without the consent of the parties and without an assurance from the parties that the matters are ready to proceed. I am also informed by the Registrar that it is his usual practice to enquire of those who seek to have their matters heard in this list as to whether there is any likelihood that the parties or their witnesses will not be available within some three or four months of the matter being placed in the list.

The purpose of this list is, so far as possible, to allow judicial time which becomes available to be utilised for the benefit of litigants. On several occasions when matters have been referred to me from this list, there have been applications for adjournments based on the unavailability of the parties, the unavailability of counsel or a lack of preparedness of the case. Each and every one of these matters flies in the face of the requirements of the practice direction to which I have already referred and to the practice, as I understand it, which obtains before the Registrar prior to his listing a matter in this list. As I have had occasion to say on several occasions recently, probably the most precious commodity which the court has to offer is the availability of judicial time. If matters are placed in the short matters list and are then sought to be adjourned for the reasons to which I have referred, the consequence is that the opportunity to obtain another matter in the list for that day, consistently with giving the three days' notice is lost, and thus other litigants are deprived of the opportunity of having their cases heard.

The comments I have just made are intended to be of general application, and I believe that they reflect the attitude of the court and that, to some extent, they may be useful to parties in plotting their courses when seeking to have a matter placed in the short notice list." □

(Rofe J, *Burke v Cameron* 25 July 1991)

## Advocacy Institute

The new Australian Advocacy Institute will begin its work in November when two advocacy workshops are held in Brisbane under the auspices of the Institute.

The Institute has been established by the Law Council of Australia in response to growing demands by the legal profession for advocacy training.

The Brisbane workshops - one for the Queensland Bar and the other for the Australian Securities Commission - will be conducted by the Chairman of the Institute's Board, Mr Justice George Hampel, and Mrs Felicity Hampel. Mrs Hampel is a member of the Institute's Teaching Committee.

Workshops will also be held in November in Melbourne in conjunction with the Leo Cussen Institute.

The announcement at the 27th Australian Legal Convention in Adelaide in September of the Law Council's decision to

establish the Institute has attracted wide interest, and inquiries about the Institute's programmes have been received from government and academic organisations as well as from the legal profession.

The Board at its first meeting asked the Teaching Committee to draw up a programme of workshops and other activities for 1992. In the meantime, action has been taken to incorporate the Institute and to set up administrative arrangements within the Law Council Secretariat.

The Institute is planning a training workshop for teachers of advocacy to be held at the Leo Cussen Institute in Melbourne in February. Experienced advocates from all parts of Australia who wish to develop advocacy teaching skills and become involved in the Institute's programmes will be welcome.

The Board of the Institute, appointed by the Law Council Executive, is Mr Justice Hampel (Chairman), and Messrs Alex Chernov QC, Geoffrey Davies QC, Barry O'Keefe QC, John Chaney and Chris Crowley.

The Teaching Committee appointed by the Board is Mrs Felicity Hampel (Vic), Mr Sydney Tilmouth QC (SA), Mr Philip Greenwood (NSW), Mr Hugh Selby (ACT) and Mr Laurie Robson (Vic). All are experienced in advocacy training.

The aims of the Australian Advocacy Institute are to improve the standards of advocacy throughout Australia, to provide an Australia-wide forum in which ideas and experience in advocacy can be shared, and to develop Australian materials and methods for teaching and appraising advocacy skills.

The Institute will not take over work already being done by others, but will work with them and complement and assist their programmes. It will also conduct teacher-training workshops and provide other workshops at all levels as the need arises.

Information about the Institute can be obtained from the Secretary-General of the Law Council of Australia, Peter Levy, on (06) 247 3788. Details of the Institute's programmes for 1992 will be announced shortly. □

## Practitioners Warned

In a series of directions hearings in July the Chief Justice of the High Court said the Court would not tolerate blatant non-compliance with the Court's rules.

In two of the cases, Mason CJ said he had contemplated sending the relevant Court papers to the Law Society.

The hearings were held, Mason CJ said, "to demonstrate that the Court is not prepared to tolerate non-compliance with its rules".

In each of the cases, an application for special leave had not been accompanied by an affidavit, and in at least one case the application had not been served on the appropriate Director of Public Prosecutions.

Mason CJ said there was "absolutely no justification for not filing the affidavit along with the application for special leave except, perhaps, if the party has been unable to obtain a copy of the judgments of the Court of Criminal Appeal".

He required an undertaking from counsel on behalf of his solicitor that the application for special leave would now be prosecuted with all due diligence. (1991) 11 Leg. Rep. Page 1

## Child Support Liaison Groups

The Family Law Section of the Law Council of Australia has established a network of National and State Child Support Liaison Groups. This article sets out some information concerning this important project.

Following the implementation of Stage II of the Child Support Scheme, it became readily apparent that there were a number of teething problems, not only in relation to the implementation of the Child Support (Assessment) Act but also the way in which the profession and the agency interacted. Although the Family Law Section initially opposed the introduction of the administrative formula, it recognised that once the legislation had been passed, it was necessary for the profession to throw its support behind the scheme, ensuring that difficulties were identified and solved as quickly as possible.

Recognising that this might best be done on a co-operative basis, it was suggested to the Child Support Agency that a network of liaison groups might be established.

The proposal was warmly endorsed by the Child Support Agency and the first meeting of the National Child Support Liaison Group was held in October 1990.

The National Group has met on four occasions since and it proposes to continue meeting every 2 or 3 months. The objects of the National Liaison Group are:

- To formulate and publish rulings and guidelines which apply nationally;
- To formulate national policies;
- To discuss amendments to the Act;
- To organise seminars on a national basis;
- To supervise State Liaison Group meetings; and
- To determine issues of principle which apply nationally.

State Liaison Groups have now also been established. These groups comprise representatives from both the Agency and the profession in each State. Most State Liaison Groups have now met at least once and the feedback so far suggests that a good working relationship has been established. The co-operative approach augurs well for the future.

- The objectives of State Liaison Groups are to:
- Facilitate communication on a state basis;
  - Organise seminars on a state basis;
  - Organise the publication of Notices issued by the state branches of the agency; and
  - Deal with specific cases on a state by state basis which raise issues of principle.

The range and complexity of topics discussed at both national and state meetings underlines the need for such a network.

Even though the project has only been operating for a short time, a number of significant developments have already occurred, including:

- A national round of seminars conducted jointly with the Agency and with the full co-operation of the Court;
- Improvements to the letters which the Agency sends to payers and payees;
- An opportunity for the profession to comment on the Child Support Amendment Bill;
- The development of a Child Support Agreement which is

“user friendly” and which facilitates the use of such agreements;

• The development of a computer software package containing the formula;

• A significant improvement in communication between the agencies and the profession.

It is important that cases which identify problems in the system should be brought to the attention of State representatives so that such cases may be discussed at State Liaison Group meetings. A number of cases have already been resolved after being raised at Liaison Group meetings. Thus, members are encouraged to ring State representatives if you believe that you have a case which identifies an issue of principle which if discussed might lead to an improvement in the operation of the scheme.

A better understanding by the profession of the Agency and its problems (for example the sheer logistics of the operation) will almost certainly lead to better relations between the profession and the Agency. It is an important part of the network's role to ensure that members of the profession are educated about the difficulties which the Agency faces. The “them and us” mentality should be abandoned in favour of a more co-operative approach.

Mr Mark Le Poer Trench is a NSW representative of the network who can be contacted for further information at Lachlan Macquarie Chambers, 16 George Street, Parramatta NSW 2150. DX 28500 Parramatta. Telephone (02) 635 1000. □

## Gay and Lesbian Legal Rights Service

A newly community legal service known as the Gay and Lesbian Legal Rights Service has been established at 74 Oxford Street, Paddington. The need for such a specialised service was identified by members of the gay and lesbian communities of Sydney. It was established in response partly to the increase in violence against gay men and lesbians, but also to provide a specific sympathetic service and better equip the community to address continuing discrimination in the law and through the operation of the law. Members who wish to act as volunteers to provide information about the law and available options for resolving particular legal problems and, where appropriate, to refer people to other lawyers, should contact either Bruce Grant or Carol Ruthchild at PO Box 9, Darlinghurst NSW 2010. Phone (02) 360 6650. □

## Fourth Australian Business Lawyers' Conference

The Business Law Section of the Law Council of Australia is holding its Fourth Australian Business Lawyers' Conference at the Manly Pacific Hotel, Sydney from 22-24 March 1992. The theme of the Conference is “Opportunities - The Way Ahead”. For additional information contact Carol O'Sullivan, Law Council of Australia.

Telephone (06) 247 3788 Fax (06) 248 0639. □

## NSW Therapeutic Medicines Information Centre

The Centre provides comprehensive and current information on drugs and disease states to professionals. The term drugs is all encompassing and may refer to therapeutic medicines or substances of abuse.

To facilitate the rapid retrieval of information, the Centre has a variety of sophisticated resources which are constantly updated. Resources include an extensive medical reference library, medical and pharmaceutical journals, on-line computer access to a number of medical and toxicological databases (for example Medline, Toxline, Embase) together with microfiche services.

The Centre is located at St Vincent's Hospital, Darlinghurst and is staffed by two clinical specialist pharmacists, a medical librarian and a secretary. A panel of specialist consultants from NSW hospitals and universities are also available to the Centre for expert clinical advice.

If you would like to obtain more information about this service, please contact Debbie Leibbrandt, NSW Therapeutic Medicines Information Centre, PO Box 766, Darlinghurst NSW 2010. Telephone (02) 361 3011 Fax (02) 360 1005. □

## Alternative Dispute Resolution

In November 1991, the Chief Justice's Policy and Planning Subcommittee on Court-Annexed Mediation (Clarke JA, Wood and Bryson JJ and Mr W Soden, the Court's Chief Executive Officer and Principal Registrar) issued a long and detailed report. The main recommendations are:

• A three-year pilot project in use of court-annexed alternative dispute resolution.

• The project's aims are to use ADR to reduce existing case backlogs and to establish ADR structures within the Court on a long-term basis, with emphasis on mediation.

The pilot project will involve many of the cases in the Equity and Common Law Divisions. In the first year, cases will be allocated to mediation or arbitration, if appropriate, at callovers and directions hearings. Where mediation is ordered, a case will not be able to proceed to hearing unless the parties first attempt with reasonable diligence to mediate their dispute. In the second year, referral officers will vet files after the defence is filed and make recommendations to the Court about the appropriateness of ordering ADR.

In the third year, proceedings will not be permitted to be commenced in the Common Law Division in motor vehicle and industrial accident personal injury cases and occupier liability cases without certification that pre-filing mediation has been attempted. Mediation will also be required in most Equity Division cases, except perhaps complex company law cases. In particular, mediation will be required in family or neighbour cases; vendor/purchaser cases; partnership disputes and Family Provision Act cases.

The report recommends the use of registrars and deputy registrars (after mediation training) as mediators and also the use of a panel of external mediators appointed on the basis of nominations by the Law Society, the Bar Association and ADR organisations.

It is understood that the Subcommittee's report has been approved by the Chief Justice for submission to the Department of the Attorney General. □

## Graphic Evidence

Photographs, graphs, plans and models have long been an integral part of presenting and explaining evidence in Court. However, the preparation of these graphic aids has mostly been on an 'ad hoc' basis.

A recently established company, appropriately named "Graphic Evidence", specialises in the visual presentation of evidence, using a range of media from conventional ink drafting to video film.

Operating from the office of an architectural company in Balmain, Graphic Evidence combines technical and presentation skills with the experience gained from involvement as advisers and witnesses in numerous cases. Accordingly, they are familiar with Court procedures and, in particular, they are aware of matters which relate to the proof and admissibility of documents and models.

Importantly, they are also aware of the time constraints which are often imposed by the Courts (and Counsel) and have the resources to ensure that deadlines are met.

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