

Legal update: *Solicitors v Barristers* (2005) LIV 2506

(The "Inaugural Reclink Legal Challenge Football Cup" Case, 25 June 2005)



By **Jacinta Cullum**,
Solicitor,
Henty Jepson
& Kelly

An age-old feud between the two branches of our noble profession was sent to trial on 25 June 2005, when a team of Solicitors battled it out against a team of Barristers, in a footy match at Punt Road Oval.

The blockbuster not only raised in excess of \$8000 for charity Reclink (see www.reclinkfooty.com for more info), but also some age-old questions. Would the tireless preparation and attention to detail Solicitors pride themselves on, be enough to conquer the "on your feet" experience of those from the Bar? Could these men who are known for their more for their brains, just as easily prove a point with their brawn?

Jacinta Cullum (while tending the sausage sizzle, and running out oranges at half-time) investigated the situation, and reports . . .

The parties to the dispute gave their appearances in accordance with the Rules, some running very close to the boundary line, however, sporting various strange mismatched ensembles, others in (rather too) tight shorts or crazy coloured socks.

Umpire J commenced proceedings with a blow of his judicial whistle and the grudge match began. Despite the slippery conditions, a surprising amount of skill and enthusiasm abounded in the evidence given by both sides. However, the Barristers and their "silky skills" (pun definitely intended) had a much more convincing argument on the day, the jury coming back with a verdict in their favour.

The Solicitors were sentenced to 12 months of hanging their heads in shame, having being beaten by their be-robed opponents.

Asked to comment on their victory, one of the Barristers was quoted as saying, "We're just taking it one wig at a time".

The Solicitors have subsequently lodged an appeal, on the ground that the decision was "just not footy" (similar to the "vibe of it" precedent laid down in "The



Illustration: Emily Eaton

Castle case"). The matter is due to be re-heard at about the same time next year. Any other practitioners wishing to lend their assistance in the further hearing of the matter (in a playing, or volunteer capacity) should keep their eyes glued to all LIV publications . . . ■

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decision making that is in the best interests of the children, and because it is a landmark example of comparative legal study transforming Australian legal processes.¹⁵ ■

1. This article examines the role of judges in the CCP; it is not a step-by-step guide to the CCP. For a detailed description of the proceedings in the CCP program, see Justice Mark Le Poer Trench, "Children's Cases Project", 11th National Family Law Conference, Gold Coast, September 2004.
2. For obiter dicta on how children's proceedings differ from typical inter-partes litigation see *Reynold v Reynolds* (1973) 1 ALR 318 at 323 (per Mason J) and *M and M* (1988) 166 CLR 69 at 76.
3. *Family Law Act 1975* (Cth) s65E.
4. Geoffrey Davies, "A blueprint for reform: some proposals of the Litigation Reform Commission and their rationale" (1996) 5(4) *Journal of Judicial Administration* 201; Chief Justice Diana Bryant, "The Future of the Family Court", The Third Annual Austin Asche Oration, 23 November 2004 8.
5. Standing Committee of Family and Community Affairs, House of Representatives, *Every Picture Tells A Story: Report on the*

inquiry into child custody arrangements in the event of family separation (2003) 65-66.

6. Danny Sandor, "A fresh approach to children's hearings" (2004) 42(4) *Law Society Journal* 54, 54.
7. Family Court of Australia, "Practice Direction No. 2 of 2004 - The Children's Cases Program"; Le Poer Trench J, above note 1 above, 412-417; Bryant CJ, above note 4 above, 14-18.
8. Note 7 above.
9. The child must consent to being interviewed.
10. Note 7 above.
11. Note 7 above.
12. Gayle Meredith, "The Children's Cases Program pilot: was it a success and is it the way of the future?" (2005) 18(2) *Australian Family Lawyer* 11, 14.
13. Family Court of Australia, "The Children's Cases Program: News and Reviews", September 2004 2.
14. Deputy Chief Justice John Faulks, cited in Bryant CJ, above note 4 above, 5.
15. The CCP will be trialled in the Family Court of Australia at Melbourne from 3 October 2005. Participation in the CCP is voluntary and requires the consent of all parties. In order for the CCP program (or a variant of it) to become the standard process for determining children's disputes, amendments to the *Family Law Act 1975* (Cth) are required.