



REGIONAL
LAW SOCIETY
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THE LAW SOCIETY
OF NEW SOUTH WALES

The Blue Mountains Law Society

2023 SUCCESSION CONFERENCE

A three-day conference organised by the Blue Mountains Law Society
at the Hydro Majestic, Medlow Bath NSW

FRIDAY 8, SATURDAY 9 & SUNDAY 10 SEPTEMBER 2023

PROUDLY SPONSORED BY



NSW Trustee
& Guardian



DAY ONE – FRIDAY 8 SEPTEMBER 2023

12.45-1.15pm

REGISTRATION

1.15-3.15pm

Workshop: Will drafting from a litigator's perspective

This session will cover:

1. Testamentary capacity – issues the contested probate cases raise for the estate planner.
2. Knowledge and approval – why the process is important.
3. Checklists: Nature and estimated value of assets; Beneficiaries; Companies, trusts and superannuation.
4. Executors and substitute executors.
5. Dispositions: Pecuniary legacies; Personal property; Real property; Company, superannuation and trust interests; Class gifts; Life interests, rights of residence; Charitable gifts; Residue; and Substitution.
6. Family provision advice, s 100 Succession Act 2006 (NSW) statements and other testator evidence.
7. Mutual wills agreements.

This Workshop is sponsored by BNR Partners

Craig Birtles is a barrister at Two Wentworth Chambers practicing in estate litigation and general equity matters. He is a co-author of C Birtles, C Sims & R Neal, *Hutley's Australian Wills Precedents 10th Edition 2021*. Craig was named as a preeminent junior counsel in Estate Litigation in the 2023 Doyle's Guide, and the 2024 Best Lawyers, Lawyer of the year in the Trusts & Estates practice area.

3.15-3.30am

AFTERNOON TEA

3.30-5.15pm

Workshop: Will drafting from a litigator's perspective *continued*

DAY TWO – SATURDAY 9 SEPTEMBER 2023

8.30-9.00am

REGISTRATION / ARRIVAL TEA & COFFEE

9.00-10.00am

OPENING

Justice Mark Leeming has served as a Judge of Appeal of the Supreme Court of New South Wales for the last ten years. He has published numerous articles, as well as having written or co-written ten books, including as co-author the current editions of Meagher Gummow and Lehane's "Equity: Doctrines and Remedies" (5th ed 2015) and Jacobs' "Law of Trusts in Australia" (8th ed 2016).

10.00-11.10am

Unusual aspects of Inheritance on Intestacy

This session will explore the intricacies of intestacy including multiple spouses, intestate estates of Indigenous persons and bona vacantia.

Jennifer Vuu TEP is a Senior Associate at HWL Ebsworth specialising in complex grants and estate administration. She holds a Master of Applied Law (Wills and Estates). In 2022, Jennifer was recognised by Doyle's Guide as a Wills, Estates & Succession Planning Rising Star.

11.10-11.30am

MORNING TEA

11.30am-12.30pm

Challenging Different types of Trustee's decision

Are the restrictions imposed on challenging a trustee's decision, expressed in *Karger v Paul* [1984] VicRp 13; [1984] VR 161 now easier to satisfy, as some cases have suggested? Are the grounds for challenge the same for all types of trustee decision – and in particular are decisions by some superannuation trustees treated differently to decisions by other types of trustee?

Adjunct Prof Joe Campbell was appointed to the Supreme Court in 2001. He sat as a judge in the Equity Division until he was appointed to the Court of Appeal in 2007. After retiring from the Court at the end of 2012, he has been an Adjunct Professor at Sydney University lecturing principally in equity, but also in interpretation, property and commercial law and legal history. Some of his publications can be found at https://papers.ssrn.com/sol3/cf_dev/AbsByAuth.cfm?per_id=2171051.

12.30pm-12.45pm

LAWCOVER (SPONSOR)

12.45-1.35pm

LUNCH

1.35-2.50pm

The peaks and valleys of testamentary capacity; the medical experts' view.

This session is a moderated panel discussion of matters relevant to expert evidence in capacity cases. The panel will discuss topics such as:-

Screening tools: what are they, what are the differences, what do they do, and how are they relevant to a solicitor's consideration of mental capacity or testamentary capacity? What can't they do?

Various terms such as dementia, brain injury, neurodegenerative brain disease, and MCD, and how they fit with *Banks v Goodfellow*.

How can issues such as medication and stressful life events lead to reduced cognitive functioning?

What are the signs for a solicitor to be concerned about lack of mental or testamentary capacity?

How should a solicitor get the right medical assistance when concerned about a client's mental or testamentary capacity?

1.35-2.50pm (continued)	<p>The peaks and valleys of testamentary capacity; the medical experts' view <i>(continued)</i></p> <p>Jane Needham SC has significant experience in probate and succession cases as well as in succession planning and estate administration.</p> <p>Jane Lonie is a clinical neuropsychologist with over 25 years of experience assessing, diagnosing and helping to manage cognitive impairment.</p> <p>Chris Ryan is a psychiatrist at St Vincent's Public Hospital and an Associate Professor at the Universities of Sydney and New South Wales. His research interests include the intersection of medicine and the law.</p> <p>Prof John Watson is Director, The Eccles Institute of Neuroscience, ANU; Emeritus Professor of Medicine, University of NSW; Honorary Visiting Medical Practitioner (Neurology), Royal Prince Alfred Hospital and Honorary Professor of Medicine, Sydney University.</p>
2.50-3.20pm	<p>The Public Guardian in practice: appointment to decision-making</p> <p>This session explores practical considerations for lawyers in advising their clients on the statutory role of the Public Guardian, including the application process; the functions and effect of appointment and the principles that guide decision-making.</p> <p>Jevan Griffiths is the Solicitor for the NSW Public Guardian, and former Tipstaff to the Hon. Justice Hallen, the Succession List Judge in the Supreme Court of NSW.</p>
3.20-4.00pm	AFTERNOON TEA
4.00-5.30pm	<p>Panel discussion facilitated by Darryl Browne</p> <p>Various speakers will discuss topical cases, developments and issues including those raised by attendees at the conference.</p>
6.30pm	DRINKS OUTSIDE THE BALLROOM FOR THOSE ATTENDING THE CONFERENCE DINNER
7.00pm	<p>CONFERENCE DINNER AND SIR ANTHONY MASON ORATION BY NOEL PEARSON</p> <p>THIS DINNER IS SPONSORED BY LAWCOVER (THE DINNER INCLUDES A THREE COURSE MEAL, DRINKS AND ENTERTAINMENT)</p>

DAY THREE – SUNDAY 10 SEPTEMBER 2023

8.30-9.00am	ARRIVAL TEA & COFFEE
9.00am-10.00am	<p>Waste not, want not: Rights and Remedies in preservation of an estate</p> <p>Each of the Common Law, Equity, Probate and Protective jurisdictions provides remedies and procedures to address problems arising from mismanagement of an estate. They include the relatively unknown tort of <i>Devastavit</i> and remedies for a breach of trust or, more generally, a breach of fiduciary obligations. The standing of a person who complains of a breach of duty by an executor or administrator (by whatever name known), or a failure or refusal of an executor or administrator to pursue a third party, depends on the nature of the complaint and the remedy sought.</p> <p>Justice Geoff Lindsay was appointed to the Supreme Court of NSW in 2012, assigned to the Equity Division of the Court. He has been the Editor of the Australian Bar Review since 1996 and a Fellow of the Australian Academy of Law since 2012. He was admitted to the NSW Bar in 1979. He was appointed Senior Counsel in 1994.</p>
10.00-11.00am	<p>Assisted Dying and Advance Care Directives</p> <p>The NSW <i>Voluntary Assisted Dying Act 2022</i> (due to commence on 28 November 2023) will be discussed and compared with equivalent Acts in other jurisdictions. The role and effect of Advance Care Directives across different States will also be compared (legislative and common law such as <i>Hunter and New England Area Health Service v A</i> [2009] NSWSC 761), and will include a discussion as to how the Assisted Dying and ACD regimes interact.</p> <p>Jennifer Dixon is a Practice Leader and heads up the Private Clients Team at Moores. She holds an honours degree in law and a diploma of financial services. She is an accredited specialist in Wills and Estates in Victoria, accredited by the Law Institute of Victoria; and as a Fellow SMSF Association Specialist Advisor / FSSA.</p>
11.00-11.15am	NSW TRUSTEE & GUARDIAN (SPONSOR)
11.15-11.35am	MORNING TEA
11.35am-12.35pm	<p>The estate planning and estate administration challenges with crypto assets (including NFTs, DeFi and crypto currencies)</p> <p>What are cryptoassets? How are they acquired? What is their value? How are they stored, accessed and transferred? How will an LPR (whether executor, administrator, attorney or financial manager) and/or trustee access and administer cryptoassets when incapacity or death of the owner occurs? As a legal practitioner, what do you need to be aware of?</p> <p>Kimberley Martin B.A. LL.B. (Hons), LL.M, TEP is a Director at WMM Law in Hobart, Tasmania. Kimberley is widely published in the area of digital assets and crypto assets, and is currently a member of the STEPs international Digital Asset Special Interest Group Steering Committee.</p>
12.35-1.35pm	<p>What is the interest of a member in a regulated superannuation fund on their death?</p> <p>Nicholas Beaumont SC practices from 12 Wentworth Selborne Chambers, Sydney. He was called to the Bar in 2000 and took silk in 2013. Prior to coming to the Bar, Nick was a solicitor at Freehill Hollingdale & Page, and was the Director of Research for Chief Justice Gleeson in the Supreme Court of New South Wales.</p>
1.35-2.15pm	CONFERENCE CLOSE – LUNCH

Registration is simple; complete the form below and email or post your registration to us:

Blue Mountains Law Society C/- Browne Linkenbagh Legal Services, 21 Grose Street, Leura 2780
Phone: (02) 4784 2177 Email: slee@browne-link.com.au Enquires: Shani Lee

Please register me for the **2023 Succession Conference** – to be held at the Hydro Majestic, Medlow Bath on **Saturday 9 & Sunday 10 September 2022 (with a half day workshop on Friday 8 September 2023)**

- Early Bird Registration for Sat 9 & Sun 10 Sep 2023** – \$850.00
(for registrations made on or before Friday 28 July 2023)
- Full Price Registration for Sat 9 & Sun 10 Sep 2023** – \$950.00
- Current Blue Mountains Law Society Members' Registration for Sat 9 & Sun 10 Sep 2023** – \$735.00
- Workshop: Will drafting on Fri 8 Nov 2023** – \$350.00
- Young Lawyer/Law Student for conference & workshop** – \$550.00
(limited availability)
- I cannot attend the conference, but **wish to purchase the conference papers** – \$250.00
(note: the papers will not be available for dispatch until approx. 2 weeks after the conference has been held)
- Dinner** – \$150.00 per person.
(This includes a three-course meal, drinks and entertainment)

PERSONAL DETAILS

Mr / Mrs / Miss / Ms First Name

Last Name

Preferred Name for nametag (*if different from above*)

Position

Firm Name

Email

Postal Address

Phone Fax

PAYMENT DETAILS

Cheque
I enclose cheque for \$.....
payable to **Blue Mountains Law Society Inc**

Direct or Internet Bank Deposit
Blue Mountains Law Society
Commonwealth Bank of Australia
BSB: 062 559 Account No: 10249336

GENERAL CONFERENCE INFORMATION

Conference Registration Fee: The registration fee includes attendance at the conference, conference papers, refreshment breaks and lunch. The registration fees do not include any travel or accommodation.

The Conference Venue: The Ballroom, Hydro Majestic Hotel, Great Western Highway, Medlow Bath.

Conference Accommodation: Delegates are advised to make their own accommodation arrangements directly with the Hydro Majestic. Hotel Reservations: (02) 4782 6885 Email: reservations@hydromajestic.com.au
Website: www.hydromajestic.com.au

Conference Dress: Smart casual attire is suitable.