



Queensland
Law Society

DVD Program

Day 2



Succession and Elder Law Residential 2016

Saturday 5 November
Surfers Paradise Marriott Resort & Spa

1 CPD point
per hour viewed



Disc 1
46mins

Welcome remarks

Chair: **Scott Whitla**, Partner, McCullough Robertson Lawyers



STREAM 5A – SUCCESSION



Estate administration with a twist

This session will explore a range of estate administration issues as follows:

- insolvent estates and bankrupt beneficiaries
 - administering under *Bankruptcy Act* vs *Succession Act*
 - order of payment of debts
 - potential exclusions with life insurance and super.
- hotchpot clauses in estate administration
 - common types of hotchpot clauses
 - construing hotchpot clauses
 - evidence of the debt.
- appropriation
 - the law
 - timing issues
 - practice and procedure.

Presenter: **Ashleigh Poole**, Senior Associate, McCullough Robertson Lawyers and Accredited Specialist (Succession Law) – Qld

Chair: **Scott Whitla**, Partner, McCullough Robertson Lawyers

Disc 2
1hr 28mins

STREAM 5B & 6B SUCCESSION – ADVANCED



Unusual and contentious issues in FPAs

This advanced session will explore some of the more usual issues that can arise in family provision applications, such as:

- beneficiaries – to what extent can they rely on the executor to defend their interests?
- executor applicants
- litigation guardians
- overseas beneficiaries
- whether final orders are necessary
- bankrupt applicants
- when one beneficiary won't agree to a compromise
- death of the applicant or a beneficiary
- one party wanting to avoid a compromise prior to final orders
- where the only asset is the house
- options if not an eligible applicant
 - pseudo-FPA – attack the super? Are you eligible and what material might you need?
 - constructive / resulting trust
 - solemn form.

Presenters: **Caite Brewer**, Barrister, Queensland Bar and Accredited Specialist (Succession Law) – Qld

Prue Poole, Senior Associate, McInnes Wilson Lawyers and Accredited Specialist (Succession Law) – Qld

Chair: **Mark Crofton**, Deputy Public Trustee and Official Solicitor, Public Trustee Office Qld

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Disc 3
38mins



STREAM 5C ELDER

How to protect elderly clients by using QCAT

Clare Endicott is a Senior Member of the Queensland Civil and Administrative Tribunal, a position she has held since the tribunal commenced in 2009. Clare's role involves managing the guardianship and administration list and she is a unique source of knowledge about the do's and don't's in this jurisdiction. Clare will speak about:

- tips and traps in QCAT processes
- examples from decided cases
- significance of family conflict in appointments
- attorneys controlling principal's lives by isolating or manipulating relationships
- whether there is a role for private business as guardians or administrators
- how to make your practice more effective.

Presenter: Clare Endicott, Senior Member, Queensland Civil and Administrative Tribunal

Chair: Brian Herd, Partner, CRH Law

Disc 4
32mins



STREAM 6A SUCCESSION

Tips and tricks for early career succession lawyers

This session will provide a range of practical tips for those at the early stages of their journey as a succession lawyer, including:

- dealing with people in the midst of emotional estate disputes
- what skills might help you navigate highly emotive disputes
- how to battle stereotypes of young lawyers dealing with the elderly
- how to communicate effectively with the elderly (after all, we have an ageing population)
- what they can't teach you in law school
- overcoming the feeling of being overwhelmed with the breadth of succession law practice.

Presenter: Michele Davis, Solicitor, ACS Legal Solutions and owner of the LinkedIn group 'Australian Succession & Elder Lawyers'

Chair: Chloe Kopilovic, Councillor, Queensland Law Society and Lawyer, Ferguson Cannon Lawyers

Disc 5
43mins



STREAM 6C ELDER

Righting the wrongs of errant attorneys

This session will address options for compensation when attorneys behave badly, including:

- When can you apply for compensation?
- What liability is there for the attorney?
- Can a principal recover their assets?
- Relationship with FPAs.
- s106 and s107 compensation
- Alternative remedies.

Presenter: Frances Fredriksen, Senior Associate, McCullough Robertson Lawyers and Accredited Specialist (Succession Law) – Qld

Chair: Brian Herd, Partner, CRH Law

Disc 6
1hr 6mins



Plenary: Ethical issues in succession and elder law

Our guest presenter, barrister John White of the South Australian Bar, will consider some recent costs decisions in estate matters as an introduction to discussion of a lawyer's duties in succession litigation, and an approach to ethically meet, and if necessary moderate, a client's expectations.

Presenter: John White, Barrister, South Australian Bar

Chair: Michele Sheehan, Principal, enTrust Law and Accredited Specialist (Family Law) (Succession Law) – Qld

Disc 7
54mins



Plenary: Questions on notice

A popular feature of the Succession and Elder Law Residential program, this session provides an opportunity to have your questions on succession and elder law issues discussed anonymously by an experienced panel. Prior to the residential, you will have been asked to submit details of dilemmas you face in practice. You will also be welcome to place questions from the floor.

Facilitator: Tim Whitney, Consultant, McCullough Robertson Lawyers and Accredited Specialist (Succession Law) – Qld

Panellists: Brian Herd, Partner, CRH Law

Michele Sheehan, Principal, enTrust Law and Accredited Specialist (Family Law) (Succession Law) – Qld

Lee Nevison, Barrister, Queensland Bar

Closing remarks

Presenter: Christine Smyth, Deputy President, Queensland Law Society, Partner, Robbins Watson Solicitors and Accredited Specialist (Succession Law) – Qld

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