



Firm News

Senior Lawyer joins the Firm

Amy Blackley joins the firm this month as a Senior Lawyer in our Group. Working with Kevin, April and the team, Amy brings a wealth of commercial, estate planning, tax and superannuation experience with her. Amy also has experience in Tax having worked as a Tax Consultant at KPMG in Melbourne.



Melissa Purcell also joins this team as a Probate Clerk (replacing Allison Donald on maternity leave). Melissa is currently studying law and previously worked at the Telecommunications Legal Ombudsman.

A New Specialist!

Kevin Roache became an Accredited Specialist in Wills & Estate Planning with the Law Institute of Victoria this month. Now concentrating his practice on this area of law Kevin will work closely with Amy Blackley and April Murphy in providing clients with complex business succession planning advice, asset protection, trust structuring, estate planning, probate, Powers of Attorney and Wills.



Litigation Case Over

Many of you would know our Chief Litigator Bernie Cummins who has been occupied full time for the past 8 months preparing for trial 7 cases which were to be heard concurrently in the Federal Court.



These cases were in their 6th year before the Courts having involved contested interlocutory applications and appeals with Queens Counsel, junior barristers, solicitors, numerous parties, some from overseas, and no less than 3 substantial mediations conducted at the Federal Court in Melbourne.

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Aby assisted by one of our junior litigators, Susan Threlfall, the matters concluded earlier this month. Our clients were a small group of Goulburn Valley tomato growers who were taking action against a huge international middle eastern agricultural company and its Australian distributor.

The tomato growers claimed in excess of \$16 million for damages for economic loss. The claims were based on breaches of contract and breaches of Trade Practices legislation. Coming off the back end of a 9 month Supreme Court trial last year in another major Trade Practices dispute involving petrol price fixing in Geelong, Bernie has certainly had his hands full and is well versed on Trade Practices issues. But he is now back in general litigation practice and available to assist clients with any form of commercial dispute including negotiation or mediation of matters no matter how large or small they might be!

Kathryn Egan, General Manager

Geelong's First Resident Patent Attorney

Our Intellectual Property Lawyer Julien Uyttenhove qualified as a Patent Attorney this month. This is a fabulous achievement and will enable Julien to conduct work as a Patent Attorney including applications, drafting, filing and prosecutions. Julien is already a Registered Trade Marks Attorney and handles all areas of IP from Trademark Searches and Registrations (both nationally and internationally) to the Commercialisation of inventions, as well as IT and Trade Practices Law.



Workplace Relations Seminar

This month our seminar will be held on Thursday 26 October at 7.30am on "Getting the documentation right! Employment contracts, policies, procedures, job descriptions and the importance of the paper trail to protect your business".

Cost \$20 including breakfast. Registration is essential so call Lindsay on 5273 5236.

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Disclaimer

The information contained in this newsletter is for general information only and should not be construed as legal advice. Formal legal advice relating to the particular circumstances should be sought in all situations.

Credit Reporting

Many people believe that the *Privacy Act 1988* provides protection from credit reporting in instances of bad debts. If you are one of these people, think again.

Section 18E of the Privacy Act ("the Act") allows a credit reporting agency ("CRA"), such as Baycorp Advantage or Dunn & Bradstreet, to keep detailed records of any Court judgments entered against a company or individual. This information is permitted to be retained for a period of 5 years from the date on which the Court judgment was made.

The Coulter Roache litigation department has experienced an increased number of enquiries from judgment debtors who have actually paid the judgment debt in full, but whose credit record remains marred by an adverse credit report. Such a credit report can obviously have serious ramifications for companies engaged in business tenders/negotiations and individuals attempting to seek finance.

To make matters worse, the Act also permits CRAs to retain other information on an individual credit file such as:

- instances where a cheque for \$100.00 or more that has been presented and dishonoured twice;
- any bankruptcy orders made, and;
- any instance where an individual has guaranteed a payment to be made by a borrower and the borrower has defaulted in making payment.

Unless there has been some error in recording the information on the individual's credit report, then the Act enables the CRA to retain a record of the subject information for a specified period of time.

Please call us if you believe you have experienced an erroneous adverse credit report.

For further information call Simone Welsh, Litigation Lawyer, on 5273 5291.



Superannuation Death Benefit Nominations

An important consideration for all superannuation fund members is the nomination of beneficiaries to receive the proceeds of superannuation funds in the event of their death. Death benefits from superannuation funds do not by law form part of the deceased member's estate. Usually it is up to the trustee of the superannuation fund to determine to whom the benefit should be paid.

There are two types of nominations which can be made: non-binding and binding.

Your personal circumstances or preferences will determine which is the more appropriate in your situation.

Non-binding nominations are used only as a guide by trustees of a superannuation fund to allow the member to nominate their preferred beneficiaries. The nomination is not definitive and the trustee can still exercise discretion to distribute the fund proceeds to one dependent over another.

Binding nominations are available only by some superannuation funds. These nominations are binding on the trustee provided it is a valid nomination. The beneficiary nominated must be one of your dependents or your legal personal representative (in the event that fund is to be distributed in accordance with your Will) and a nomination is completed every three years.

For further information call Amy Blackley, Senior Lawyer on 5273 5251.



Business Structures & Investments

The firm's corporate structuring business - CR Corporate - can now set up Superannuation Fund Deeds and Updates. Order/request forms can be obtained from James Robertson on 5273 5288, or email info@crporate.com.au. Alternatively you may wish to order on line via our firm website at www.coulterroache.com.au by clicking onto the CR Corporate Tab (your completed order form can now be printed out).

This business is run by our Commercial Partner Tom White and also sets up companies, and Unit, Hybrid and Discretionary Trusts.

The structures are often used to house property investments and businesses to minimise capital gains tax. The business provides a 24 hour turn around service (except for Superannuation documents).



For further information call Tom White on 5273 5271 or James Robertson on 5273 5288.

For further information

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