

# CURRENT FAMILY LAW

Volume 14, Number 3

December 2009

LAW ON THE MOVE ..... 125

CHILD SUPPORT ON THE MOVE ..... 130

## ARTICLES

### **Same-sex law reforms and notions of parenthood – Alexandra Harland**

The *Family Law Amendment (De Facto Matters and Other Measures) Act 2008* (Cth) introduced not only the financial aspects of de facto relationship breakdown into the *Family Law Act 1975* (Cth), but also changed a number of the parenting provisions in the *Family Law Act* in significant respects for same-sex couples and surrogate families. The amendments commenced on 21 November 2008 to much less publicity. It is timely to look at the parenting provisions in the *Family Law Act* in the context of same-sex parenting and to ask the question: what should our notion of parenthood be? This article will examine those changes and also look at same-sex parenting reforms which have occurred in the last two years. It will also examine some of the parenting provisions in the *Family Law Act* itself and cases which discuss those sections. .... 132

### **The ethics of collaborative practice – Maxine Evers**

Collaborative practice is emerging as a legitimate option in family law disputes. Its impressive growth over almost two decades indicates that it is likely to continue as a form of dispute resolution, both in terms of the numbers of practitioners and clients practising under the collaborative law framework and the expansion of areas of law suited to this process. One of the fundamental principles of collaborative practice is the engagement of professionals to assist and support the parties in resolving disputes. This article considers the role of legal and non-legal professionals in collaborative practice. An analysis and assessment of ethical issues in collaborative practice demonstrates the benefits of an ethical framework for a coherent set of protocols based on both lawyers' and non-lawyers' common objectives and shared values. The article concludes with a recommendation that there needs to be continuing discussion concerning the intersection of ethics and collaborative practice. .... 139

### **Family dispute resolution and family violence in the family law system – Deborah Kirkwood and Mandy McKenzie**

Under the current family law system in Australia, it is compulsory for separating parents to attempt family dispute resolution (FDR) prior to taking their parenting dispute to court. There is an exemption for family violence. However, this article will argue that there are several reasons why many victims of violence undertake FDR. Due to a number of well-documented concerns with FDR in the context of family violence, it is imperative that FDR service providers effectively respond to clients affected by family violence. Specific policies and practices are outlined that can enhance the safety of clients and their children. .... 149

CASENOTES –

<b>Re Susan</b> (Discharge of adoption order) .....	158
<b>Commissioner of Taxation v Worsnop</b> (Property settlement; Husband's tax liability due to tax evasion; Interests of wife and Commissioner of Taxation) .....	163
<b>Suell v Suell</b> (Procedure; Application to reopen proceedings; New evidence) .....	169
TABLE OF CASENOTES AND CASES CITED .....	173
INDEX .....	176

# Submission requirements

All contributions to the journal are welcome and should be emailed to the Production Editor, *Current Family Law*, at [LTA.cfl@thomsonreuters.com](mailto:LTA.cfl@thomsonreuters.com) for forwarding to the Editor.

## Licences

- It is a condition of publication in the journal that contributors complete a licence agreement. Licence agreements can be downloaded at [http://www.thomsonreuters.com.au/support/as\\_contributors.asp](http://www.thomsonreuters.com.au/support/as_contributors.asp) and emailed with the submission or mailed separately to the Production Editor, *Current Family Law*, Thomson Reuters (Professional) Australia Limited, PO Box 3502, Rozelle, NSW 2039.

## Letters to the Editor

- By submitting a letter to the Editor of this journal for publication, you agree that Thomson Reuters, trading as Lawbook Co, may edit and has the right to, and may license third parties to, reproduce in electronic form and communicate the letter.

## Manuscript

- Manuscript must be original, unpublished work that has not been submitted or accepted for publication elsewhere, including for online publication.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript on a separate page.
- Manuscript must be submitted electronically via email in Microsoft Word format.
- Manuscript should not exceed 8,000 words for articles and 2,000 words for section commentary or book reviews.
- An abstract of 100-150 words must be included at the head of articles.
- Authors are responsible for the accuracy of case names, citations and other references. Proof pages will be emailed to contributors but excessive changes cannot be accommodated.
- **Graphics** (diagrams and graphs) to be grayscale; in .jpeg format; no more than 12 cm in width; within a box; of high resolution (at least 300 dpi); font is to be Times New Roman, no more than 10pt. The heading for a graphic should be placed outside the box.

## Peer review

- Contributors have the option of having their articles peer reviewed prior to acceptance and publication. Each peer-reviewed article will be reviewed in its entirety by a suitably qualified expert who is independent of the author. Reviewers are not given the names or firm details/institutional affiliations of authors and vice versa.

## Style

1. **Levels of headings** must be clearly indicated (no more than four levels).
2. **Unpointed style** is to be used – there are no full stops after any abbreviation or contraction.
3. **Cases:**
  - Where a case is cited in the text, the citation follows immediately after the case name, not as a footnote.
  - Authorised reports must be cited where published, and one other reference can be used in addition.
  - For “at” references use media-neutral paragraph numbers within square brackets whenever available.
  - For international cases best references only should be used.
4. **Legislation** is cited as follows:
  - *Trade Practices Act 1974* (Cth), s 51AC (including in full within footnotes).
5. **Books** are cited as follows:
  - Ross D, *Ross on Crime* (3rd ed, Lawbook Co, Sydney, 2006) pp 100-101.
  - In footnotes do not use ibid or op cit. Repeat author surname and add footnote reference to first mention.
    - <sup>1</sup> Hayton D, “Unique Rules for the Unique Institution, The Trust” in Degeling S and Edelman J (eds), *Equity in Commercial Law* (Lawbook Co, Sydney, 2005) p 284.
    - <sup>2</sup> Hayton, n 1, p 286.
6. **Journals** are cited as follows:
  - Kirby M, “The Urgent Need for Forensic Excellence” (2008) 32 Crim LJ 205.
  - In footnotes do not use ibid or op cit. Repeat author surname and add footnote reference to first mention.
    - <sup>3</sup> Trindade R and Smith R, “Modernising Australian Merger Analysis” (2007) 35 ABLR 358.
    - <sup>4</sup> Trindade and Smith, n 3 at 358-359.
  - Wherever possible use official journal title abbreviations.
7. **Internet references** are cited as follows:
  - Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co, subscription service) at [16.340], <http://www.thomsonreuters.com.au/default.asp> viewed 25 June 2007. Underline the URL and include the date the document was viewed.

## SUBSCRIPTION INFORMATION

The *Current Family Law* comprises four parts a year.

**For further information on how to subscribe:**

Visit [www.thomsonreuters.com.au](http://www.thomsonreuters.com.au)

Tel: 1300 304 195

Email: [LTA.Service@thomsonreuters.com](mailto:LTA.Service@thomsonreuters.com)

**Advertising inquiries:**

Contact Andrew Parsons on (02) 8587 7462 or email [a.parsons@thomsonreuters.com](mailto:a.parsons@thomsonreuters.com)

**Editorial inquiries:** Tel: (02) 8587 7000

**Customer service and sales inquiries:**

Tel: 1300 304 195 Fax: 1300 304 196

Web: [www.thomsonreuters.com.au](http://www.thomsonreuters.com.au)

Email: [LTA.Service@thomsonreuters.com](mailto:LTA.Service@thomsonreuters.com)

**Head Office**

100 Harris Street PYRMONT NSW 2009

Tel: (02) 8587 7000 Fax: (02) 8587 7100



**THOMSON REUTERS**

© 2009 Thomson Reuters (Professional) Australia Limited  
ABN 64 058 914 668

Lawbook Co.

Published in Sydney

ISSN 1037-6631

Typeset by Thomson Reuters (Professional) Australia Limited, Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW