

# QUEENSLAND LAWYER

Volume 28, Number 3

December 2007

COMMERCIAL LAW – *Justice Peter Dutney*

**A V8 equity: The equity of redemption** ..... 117

CONVEYANCING AND PROPERTY LAW – *Bill Dixon*

**The requirement to “start a proceeding” to prevent the lapse of a caveat** ..... 120

CRIMINAL LAW – *Andrew West* ..... 122

**The conduct of a summary trial on a charge of obstructing police** ..... 122

HEALTH AND GUARDIANSHIP LAW – *Lindy Willmott and Dr Ben White*

**Law reform report examines role of confidentiality in guardianship system** ..... 127

TORT LAW – *Amanda Stickley*

**Occupiers’ liability for diving injuries: Dederer revisited** ..... 130

**Dentists and medical negligence** ..... 135

## ARTICLES

**The Federal Magistrates Court: A snapshot of its jurisdiction** – *George Kalimnios*

In the seven years since its inception, the Federal Magistrates Court of Australia has grown from an initial compliment of 12 federal magistrates to its present number of 52. It is now the largest Commonwealth court. Its jurisdiction covers a wide range of matters and overlaps with other courts, both Commonwealth and State. An appreciation of the various areas of jurisdiction exercised by the court is essential for any practitioner acting for a client who is contemplating litigation. This article attempts to outline those areas of jurisdiction for the benefit of Queensland practitioners. .... 138

REPORTS – *Federal Magistrate Michael Jarrett*

**Power v Lewis** (MagistratesCriminal law) ..... 146

**S v K** (Family law and child welfare) ..... 152

## BOOK REVIEWS –

*Lee’s Manual of Queensland Succession Law* by Preece AA ..... 160

*Settling with Indigenous People* by Langton M, Mazel O, Palmer L, Shain K and Tehan M ..... 161

*Regulating Health Practitioners* by Freckleton I ..... 162

*Mediation Law and Practice* by Spencer D and Brogan M ..... 163



# Guidelines for Contributors

## Submission and licence agreement instructions

All contributions to the journal are welcome and should be sent, with a signed licence agreement, to the Production Editor, *The Queensland Lawyer*, Lawbook Co., PO Box 3502, Rozelle, NSW 2039 (mail), 100 Harris St, Pyrmont, NSW 2009 (courier) or by email to [qldlawyer@thomson.com.au](mailto:qldlawyer@thomson.com.au), for forwarding to the Editor. Licence agreements can be downloaded via the internet at [http://www.thomson.com.au/support/as\\_contributors.asp](http://www.thomson.com.au/support/as_contributors.asp). If you submit your contribution via email, please confirm that you have printed, signed and mailed the licence agreement to the attention of the Production Editor at the mailing address noted above.

## Letters to the Editor

By submitting a letter to the editor of this journal for publication, you agree that Thomson Legal & Regulatory Limited, 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 for publication elsewhere.
- Personal details (name, qualifications, position) for publication and a delivery address, email address and phone number must be included with the manuscript.
- Manuscript must be submitted electronically via email or on disk in Microsoft Word format.
- Manuscript should not exceed 10,000 words for articles or 1,500-2,000 words for section commentary or book reviews. An abstract of 100-150 words is to be submitted with article manuscripts.
- Proof pages will be sent to contributors. Authors are responsible for the accuracy of case names, citations and other references. Excessive changes to the text cannot be accommodated.
- This journal complies with the Higher Education Research Data Collection (HERDC) Specifications for peer review. Each article is, prior to publication, reviewed in its entirety by a suitably qualified expert who is independent of the author.

## Style

1. **Levels of headings should be clearly indicated (no more than four levels).**
2. **Cases:**
  - Case citation follows case name. Where a case is cited in the text, the citation should follow immediately rather than as a footnote. Give at least two and preferably all available citations, the first listed being the authorised reference.
  - Australian citations should appear in the following order: authorised series; Lawbook Co./ATP series; other company series (ie CCH, Butterworths); media neutral citation.
  - "At" references should only refer to the best available citation, eg *Mabo v Queensland [No 2]* (1992) 175 CLR 1 at 34; 66 ALJR 408; 107 ALR 1.
  - Where only a media neutral citation is available, "at" references should be to paragraph, eg *YG v Minister for Community Services* [2002] NSWCA 247 at [19].
  - For international cases best references only should be included.
3. **Legislation should be cited as follows:**  
*Trade Practices Act 1974* (Cth), s 51AC. The full citation should be repeated in footnotes.
4. **Books should be cited as follows:**  
Macken JJ, O'Grady P, Sappideen C and Warburton G, *The Law of Employment* (5th ed, Lawbook Co., 2002) p 55.
  - In footnotes do not use *ibid* or *op cit*. The following style is preferred:
    4. Austin RP, "Constructive Trusts" in Finn PD (ed), *Essays in Equity* (Law Book Co, 1985).
    5. Austin, n 4, p 56.
5. **Journals should be cited as follows:**  
Odgers S, "Police Interrogation: A Decade of Legal Development" (1990) 14 Crim LJ 220.  
Wherever possible use official abbreviations not the full name for journal titles.
  - In footnotes do not use *ibid* or *op cit*. The following style is preferred:
    6. Sheehy EA, Stubbs J and Tolmie J, "Defending Battered Women on Trial: The Battered Woman Syndrome and its Limitations" (1992) 16 Crim LJ 220.
    7. Sheehy et al, n 6 at 221.
6. **Internet references should be cited as follows:**  
Ricketson S, *The Law of Intellectual Property: Copyright, Designs and Confidential Information* (Lawbook Co., subscription service) at [16.340], <http://www.subscriber.lawbookco.com.au> viewed 25 June 2002. Underline the URL and include the date the document was viewed.

For further information visit <http://www.thomson.com.au/legal/> or contact the Production Editor.

## SUBSCRIPTION INFORMATION

The *Queensland Lawyer* comprises six parts a year.

Customer service and sales inquiries:  
**Tel: 1300 304 195 Fax: 1300 304 196**  
**Web: [www.thomson.com.au/legal/p\\_index.asp](http://www.thomson.com.au/legal/p_index.asp)**  
**Email: [LRA.Service@thomson.com](mailto:LRA.Service@thomson.com)**

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

**HEAD OFFICE**  
100 Harris Street PYRMONT NSW 2009  
Tel: (02) 8587 7000 Fax: (02) 8587 7100



© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

ISSN 0312-1658

Typeset by Lawbook Co., Pyrmont, NSW

Printed by Ligare Pty Ltd, Riverwood, NSW