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The Element of Good Faith as a Framework for Ethical Practice in Court-connected Mediation – *Dr John Woodward*

The growth of mediation as a dispute resolution process when conducted in the shadow of the law has witnessed an increase in calls for the development of a code of ethics for guidance of the legal profession in mediation practice. This article identifies the source of ethical requirements for lawyers practicing mediation in Australia and considers the notion of “good faith” as a basis upon which to formulate a framework for ethical practice by lawyers in court-connected mediation. 132

A Final Resolution to the Question of Leave to Appeal from Costs Orders in the Federal Court – *Brandon Smith and Andrew Ray*

Given recent and divergent court decisions, whether a party requires leave to appeal from a final costs order in the Federal Court of Australia remains unclear. On one view, such orders are interlocutory in nature, with leave to appeal required by the operation of s 24(1A) of the *Federal Court of Australia Act 1976* (Cth). On the other, however, costs orders made at the final disposition of the proceeding (or which finally determine any outstanding costs issues in dispute) may fall outside traditional conceptions of “interlocutory orders”. If correct, the latter view would expose parties (and the Court) to significant and protracted delays where parties would be able to delay the finalisation of (and possibly fragment) proceedings by appealing costs orders to the Full Court. This article analyses the current treatment of costs orders in the Federal Court, with regard to historic jurisprudence concerning the definitions of interlocutory and final orders. It argues that leave to appeal from costs orders should be necessary and legislative amendment is required to put the issue beyond dispute. 142

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