

ROUNDTABLE

Spring 2018

JUDGES CORRECT MISLEADING STATEMENTS



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FLPAA

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MESSAGE FROM THE PRESIDENT



Dear FLPA member

After a whirlwind two years, the time has now come to write my final message in Roundtable as President of FLPA.

My two year term will come to an end at the AGM, which is to be held on 7 November 2018. It has been a great privilege to lead FLPA and serve FLPA members.

Over a busy term with many FLPA events, the most significant milestone was launching our own flagship event, with the first Family Law Retreat held in May 2018. After many years, the Retreat is part of the evolution of FLPA's professional development program. Such was the success of this event and the feedback from members and sponsors, dates have been confirmed for the Family Law Retreat 2019. Planning is now well underway for next year's Retreat and beyond. I look forward to seeing how the Retreat continues to evolve in the years to come.

Behind the scenes, there is so much happening that is unseen which makes FLPA tick along for members, including organising events, fielding enquiries from various stakeholders and the public, preparing interesting information to our members and preparing this magazine.

This work isn't possible without the significant support of the FLPA Executive and Board Members, FLPA's Secretariat at Office Logistics and Caroline Thurlow from Altitude PR. Thank you all for the many hours of your time dedicated to FLPA's operation.

Over this time, we have also continued to see family law in the spotlight, including in the media. Commentary is now regular on the way we work as family law professionals and the proposed legislature changes to the system in which we work.

FLPA has and will continue to be involved in consultations about the proposed changes to the family law system, including the ALRC review, with the Family Law Section of the Law Council of Australia and various other stakeholders and

in distributing information to members. As a volunteer organisation, FLPA's resources have been stretched to their limits and we encourage members to get involved and provide their input and feedback when calls are made.

It has been an absolute privilege to work with such a dedicated and committed FLPA team and I again thank all the Board for their significant efforts.

With the upcoming AGM, I encourage members to nominate including early career members interested in being involved, being of service and making a difference. Fresh ideas and faces are integral to FLPA's continued evolution.

I look forward to seeing you at one of the final FLPA events of 2018, including the not-to-be-missed FLPA Christmas party to celebrate the year's achievements.

Warm regards

A handwritten signature in blue ink, appearing to be 'FC' with a flourish, representing Fiona Caulley.

Fiona Caulley
President



LAST CHANCE TO RENEW YOUR FLPA MEMBERSHIP FOR 2018/19

We know when you're busy, time can get away and items on your 'to do' list like renewing your FLPA membership can slip your mind.

But if you haven't renewed your FLPA membership for 2018/19, this is your absolute last chance. And don't let it lapse! At \$99 per year, it's the best value membership you will get in town! You must renew to receive FLPA benefits including the discounted member rates at FLPA events.

If you haven't renewed, you have until 1 October. You will then continue to receive emails and benefits from FLPA.

To renew your membership, go to www.flpa.org.au and click on **Member Login** (top right) to log in to your profile using your email and password and follow the prompts on your profile screen. If you do not know your password, click on 'Forgot Password' and you will receive an email with a link to create a new password.

If you are having trouble with this login or online renewal, please contact membership@flpa.org.au or call the FLPA secretariat on (07) 3077 6650. If you believe you have renewed your membership and continue to receive renewal notices, please contact us so we can investigate further.

BILLS TO REFORM AUSTRALIAN FAMILY COURT SYSTEM INTRODUCED

On 23 August 2018 *The Federal Circuit and Family Court of Australia Bill 2018*, and *Federal Circuit and Family Court of Australia (Consequential Amendments and Transitional Provisions) Bill 2018* were introduced into the Australian Parliament.

If passed, the bills will result in significant structural reform of Australia's family court system by merging the current Federal Circuit Court of Australia and the Family Court of Australia into a new Federal Circuit and Family Court of Australia. It is proposed this new Court will operate from 1 January 2019.

The Federal Circuit Court and Family Court of Australia will comprise of two divisions: Division 1 will be a continuation of the Family Court, while Division 2 will

be a continuation of the Federal Circuit Court. A new Family Law Appeal Division will be established in the Federal Court of Australia to hear all appeals in family law matters from the Federal Circuit Court and Family Court of Australia and appeals in federal family law matters from the Family Court of Western Australia.

It has now been referred to a Senate Committee that will report back to Parliament on 26 November 2018.

FLPA has been invited to attend a roundtable to discuss the proposed changes to the structure of the Family Courts. If you have any input or feedback regarding these changes, we invite all FLPA members to provide comments to membership@flpa.org.au by 15 October 2018.

FAMILY COURT JUDGES RESPOND TO THE ATTORNEY GENERAL – FACT NOT FICTION

In late August, FLPA received a document 'Fact not Fiction' from Judges of the Family Court of Australia responding to several recent assertions made by the Attorney-General [in an article published in The Australian](#) on 3 August 2018.

Co-written by a number of Judges of the Court, an excerpt from the document is below:

There can be few more important issues within a democracy than the abolition of a court that has existed for over 40 years. The public has a right to expect that any such decision would take place after considerable consultation and analysis, including of the opinions of those whose expertise and experience should inform that analysis.

The arguments informing any public debate about such an issue should be formed by reference to facts.

The independence of the judiciary is fundamental to a healthy democracy. Consequently, judges are expected to remain silent even in the face of stringent criticism. Judges usually rely upon the Attorney-General to defend them from unfair criticism. However, when the Attorney-General is not prepared to do so and criticises

the Court on the basis of alleged facts, judges have no option but to speak up in their own defence and to correct misleading statements.

This document addresses some of the misinformation promulgated on and from the Attorney-General's announcement on 30 May 2018 as to proposed structural reform of the federal courts including that contained in the Attorney-General's "fact sheet" and the Attorney-General's opinion article titled "Structural reform, not more judges, needed" published in The Australian on 3 August 2018.

To read the full document, please [click here](#).

In early September, the Commonwealth Attorney-

General, the Hon. Christian Porter MP wrote to the Family Law Section of the Law Council of Australia outlining his detailed response to the document written by a number of judges of the Family Court of Australia regarding the statistical performance of both courts.

A [copy of the response](#) is published on the Family Law Section's website.



FLPA'S SUPPORT OF THE NSW BAR ASSOCIATION PAPER

Recently, the New South Wales Bar Association released a discussion paper ***A Matter of Public Importance: Time for a Family Court of Australia 2.0*** and a [media release](#), on the benefits of preserving a specialist family court in Australia.

The discussion paper outlines a proposal for structural reform of the Federal Courts that maintains a specialist Family Court of Australia 2.0 as an alternative to the restructure proposed by the Commonwealth Attorney General. Both the discussion paper and media release are intended to encourage a national conversation about the benefits of preserving a specialist family court in Australia and the need to consider whether this alternate model

will streamline resourcing, reduce costs and provide greater consistency.

FLPA has previously advocated for and lobbied the Government, along with other practitioner's associations and stakeholders, for greater funding to meet the increased need for the services of the Courts. FLPA has been involved and continues to be involved in consultation as to the reforms to the family law system, as part of the ongoing Australian Law Reform Commission ("ALRC") review.

FLPA will continue to advocate and support any changes which will assist to streamline resourcing and provide greater consistency for Australian families.

FLPA invites feedback from members about these issues and the discussion paper by email to membership@flpa.org.au so that any feedback may be taken into account when formulating FLPA's responses to these reforms, including as part of the ALRC Review.

LOOKING FOR A PSYCHOLOGIST? OR A FAMILY REPORT WRITER?



LOOKING FOR A PSYCHOLOGIST? OR A FAMILY REPORT WRITER?

If you're looking for a psychologist, family report writer or other practitioner who is specialist in family law, FLPA's website has a list for you to search.

On the home page, just click on **Find a Member**, and narrow down your search based on Profession, Region and other criteria.

If you are not listed and would like to list yourself on the FLPA Member Directory, you need to login and update your details. If you have trouble with

this, please send a quick email to membership@flpa.org.au and they will assist you to make the changes or can do it for you.



FANCY YOURSELF AS A FAMILY LAW PRESENTER?

FLPA members are a wonderful resource full of knowledge and insightful perspective. Our Family Law Retreat and professional development events throughout the year are testament to this.

FLPA is inviting expressions of interest for more fabulous speakers to present on topics they are passionate about at events such as the Family Law Retreat, next year's Twilight Seminars and Lunchbox Webinars.

FLPA's aim is to deliver a professional development program which is practical and informative, and encourages our members to think outside the box. As a sign of the times and continuing changes in the professional development space, FLPA is always looking for ways to deliver this information to our members in a new, fresh and dynamic style which engaging.

We are also often approached by other organisations to recommend great speakers, as we recently have been for the ACT Law Society.



If you think you would be interested in speaking or presenting on family law, **please send us a 2-minute video** which tells us a little about you and your proposed topic to membership@flpa.org.au for the attention of our Professional Development Committee.

We look forward to hearing from you!

FLPA'S UPCOMING BOARD ELECTIONS AND AGM – CALLS FOR NOMINATIONS

FLPA's Annual General Meeting and executive committee elections will be held on Wednesday 7 November 2018.

Call for nominations are now open through a **nomination form** and will close at 5pm on Wednesday 10 October 2018. Like last year, voting will be online. This has been a fabulous improvement making it easier for members to participate and have their vote counted.

FLPA events and services are a direct result of the commitment, drive and dedication of FLPA Board members. Board members donate their time and work tirelessly to plan and deliver FLPA's numerous professional development and social events throughout the year.

PRACTICAL PREPARATION FOR CROSS-EXAMINATION

FLPA members were treated to an extended interactive and practical Twilight on 21 June 2018 to build participants' cross-examination skills.

Held in five court rooms at the Commonwealth Law Courts Building, the highly successful event was sold out, attracting both senior and junior barristers, solicitors and family consultants.

FLPA Committee member Shannon Daykin said participants received the benefit of insightful and practical feedback from judicial officers and senior members of the profession during the practical part of the workshop and afterwards in a group setting.

"Participants received valuable hands-on experience in running and being part of cross-examination which can be applied in practice for both lawyers and family consultants," said Shannon.

FLPA would again like to thank His Honours Judge Jarrett and Judge Coates of the Federal Circuit Court, Dr Jacoba Brasch QC, Keith Wilson QC, Greg Shoebridge, Trent Waller, David Hugall, Erylin Rees,



The Board has eight sub-committees which keep the organisation thriving: professional development, Retreat, social, regional, early careers, court services, submissions, and marketing, media and sponsorship. Fresh ideas and faces are integral to FLPA's continued evolution.

All members who would like to be part of FLPA's administration are encouraged to nominate or to support and nominate a colleague. Please keep an eye out for emails on calls for nominations from members wanting to be elected on the FLPA committee.



Jeff Perry, Tom FitzGerald and Peter Jordan for their extraordinary talents in facilitating and presenting as well as for their generous knowledge and perspective.

For this event, no video recordings were taken. Don't miss the next one!

EARLY CAREERS GROW CONFIDENCE IN THE COURTROOM

For the first time, FLPA and Queensland Young Lawyers (QYL) collaborated and co-hosted a new full day advocacy workshop *Confidence in the Courtroom* on 27 July 2018 which was a fabulous success.

Tailored for junior solicitors (1 – 3 years PAE), with interactive and observational components, the workshop began on the right note with an inspiring speech from Justice Murphy on the importance of good advocacy.

Appearing in mock duty and divorce lists with Judge Jarrett and Registrar Kane, participants were provided a factual scenario and asked to seek contested orders and directions.

The day concluded with two mock interim hearings with Justice Forrest and Justice Carew, where participants were able to observe experienced counsel.

For many junior practitioners, this workshop was their very first court appearance.

It afforded them the opportunity to practice appearances and seek directions, with the benefit of thoughtful feedback from the Bench.

A number of senior practitioners, both counsel and solicitors, observed the appearances and were then able to debrief with the participants and provide individual feedback.

The same factual scenario was used in the interim hearings, so the participants could observe their “case” run by an experienced barrister and



appreciate the importance of their appearance in the duty list to facilitate that hearing.

FLPA and QYL are incredibly grateful to Justice Murphy, Justice Forrest, Justice Carew, Judge Jarrett and Registrar Kane for dedicating their time and their involvement in this event.

We also thank mentors Karen Oakley, Greg Shoebridge, Sarah Minnery, Bruce Dodd and Harry McDonald, who also appeared in the mock interim hearings.

Finally, thank you to those volunteers from both FLPA and QYL who made this workshop a great success.

.VINCENTS

business & entity valuations?

superannuation valuations?

tax advice & structuring?

our backyard.

Your Forensic Accounting Experts - Peter Haley | John Thynne | Ben Gordon

Click to find out more >>

VINCENTS' PARTNERS DISSECT FAMILY LAW VALUATIONS



FLPA Treasurer Peter Haley and fellow Vincents partner John Thynne offered expert insights into business valuations at a FLPA Twilight seminar and webinar on 9 August 2018.

Sometimes making numbers sound interesting and exciting can be difficult, but John and Peter managed just that as they delved into some of the more complex cases and scenarios.

Both accredited business valuation specialists, Peter and John discussed the importance of the right instructions from the lawyers to ensure the experts' scope will assist in settling the matter.

They discussed the question "If the single expert had received a wider scope to cover some of the issues, could have the result been different?"

Using interesting case studies, Peter and John explored how a business could be classed as 'property' or a 'financial resource' and how a business can end up having a 'negative value'.

During this discussion, they threw around the conundrum of how you treat a business that can't be sold through another interesting case study.

Other areas the seminar covered were whether business infrastructure was a valuable asset or a



sunk cost, whether income tax can be taken into account on Division 7A loans, and whether a written report was the best use of your expert?

The PowerPoint presentation for this seminar is available on the FLPA website in the members only section.

If you would like to listen to this webinar and claim 1 CLE point, login in to the FLPA Webinar Shop at <http://www.flpa.org.au/webinar-shop/> and buy for immediate viewing.

TECHNICAL TAX LAW UNTANGLED AT TWILIGHT

More than 50 FLPA members attending and 40 registered for the webinar were pleased to hear from tax experts Frances Becker and Melinda Peters from McCullough Robertson on Thursday 13 September.

Sharing the presentation, ex family lawyer now tax senior associate Frances Becker discussed the complexities and more recent changes of Division 7A loans and specifically s109J and its relationship with Division 7A.

Frances also explained the complexities of an advancement and whether it is a loan or a gift using cases such as Chaudhary v Chaudhary (2017).



Special counsel Melinda Peters delved into the detail of rollovers and whether CGT is applicable. She also worked through details affecting trusts specifically discretionary trusts and family trusts.

If you missed this webinar, and you'd like to know more details, you can download the PowerPoint in the members only section – Presentation and Papers. You can also purchase the video in the Webinar Shop and still earn your CLE points.



AN EVENING WITH JUDGE DEMACK IN ROCKHAMPTON

Regional FLPA members in Rocky and surrounding areas of Yeppoon and Gladstone were treated to a twilight seminar on 22 June 2018 where they could get up close with Her Honour Judge Anne Demack.

Well attended at the Empire Hotel by more than 20 practitioners, participants were able to hear the perspectives of the well-known Federal Circuit Judge, who was formally a barrister in private practice in Rockhampton.

Judge Demack now shares her time in the Federal Circuit Court Brisbane Registry as well as the Rockhampton Registry and Mackay circuit.

At the informal Friday night seminar, Judge Demack answered questions on all things family law – from her perspective on the Federal Circuit Court Practice Direction No. 2 of 2017 as well as some recent interesting first instance and Full Court decisions.

Judge Demack also discussed the plans for the new Federal Circuit Court courthouse in Rockhampton and provided participants practical tips on appearing routinely before her Honour, particularly on how to prepare your client for the court process and drafting court material.

**ADVERTISE
HERE!**

WEBINAR SHOP – LATEST CLE VIDEOS ONLINE



FLPA's webinar shop has all the latest Twilight webinars and Lunchtime webinars for purchase.

If you need to update your learnings or gain your CLE points and you've missed some of the latest FLPA professional development events, take a look online and see what interests you.

The latest additions include:

- Untangling technical tax law twilight – Frances Becker and Melissa Peters (September)
- Family Law Valuations twilight – Peter Haley and John Thynne (August)
- Involving financial planners in Family Law settlements Lunchbox – Helen Baker (May)
- Popular 10 pages or less presentations (FREE) – Two presentations to choose from (March)
- Child Support Applications in the Court twilight – Judge Cassidy and Christopher Bishop (March)

<https://www.flpa.org.au/webinar-shop/>

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FLPA is now on Facebook! **Follow us** for information, news, professional development information and competitions.

WANT TO ADVERTISE YOUR BUSINESS IN ROUNDTABLE?

FLPA's Roundtable newsletter is offering appropriate businesses the opportunity to communicate with FLPA's 900 plus members. FLPA will consider advertising applications from businesses that are relevant to family law practitioners. These would include mediators, accountants, financial services, social services and other professional services as well as personal businesses relevant our members, such as personal training. If you are interested in advertising your business, space is limited to only three advertisers.

Please contact roundtable@flpa.org.au for the advertising rate card and policy.

UPCOMING **FLPA EVENTS** & OTHER EVENTS

JUST A FEW FINAL EVENTS TO ROUND OUT 2018. WATCH OUT ON FLPA'S FACEBOOK PAGE AND IN YOUR INBOX. DON'T MISS THEM.

AN EVENING WITH JUDGE MIDDLETON - TWILIGHT IN TOWNSVILLE

This seminar will provide an opportunity for networking as well as an informal Q & A session with his Honour Judge Steve Middleton canvassing topics on all things family law. Judge Middleton will also provide practical tips for the practitioners appearing routinely before his Honour in relation to how his Honour's list will be managed, preparing your client for the court process and drafting court material.

WHEN: 5.15pm Thursday 15 November 2018

WHERE: To be confirmed

COST: \$50 FLPA members
\$70 Non-member

For more information and online registration: [Twilight Seminar in Townsville](#)

AIFLAM ARBITRATION TRAINING WORKSHOP

This workshop is timed to precede the National Family Law Conference.

WHEN: Monday 1 October and Tuesday 2 October 2018

TIME: 8.30am - 4.30pm with webinars and pre-reading before the course.

WHERE: Brisbane Convention and Exhibition Centre

More information and Registration at the AIFLAM website.



3RD INDEPENDENT CHILDREN'S LAWYERS CONFERENCE

FLPA is proud to support this conference important conference and encourages members to attend.

Third
Independent
Children's Lawyers
Conference

Honouring the role... the conversation continues.

WHEN: Tuesday, 2 October 2018

WHERE: Brisbane Convention Centre

<https://icl.gov.au/product/third-independent-childrens-lawyers-conference-1/>

18TH NATIONAL FAMILY LAW CONFERENCE

18th
NATIONAL
FAMILY LAW
CONFERENCE



Brisbane plays host to the 18th National Family Law Conference from 2-5 October. We invite members to visit the conference website for further information.

WHEN: 2-5 October 2018

WHERE: Brisbane

www.familylaw2018.com.au

THE POLITICS OF FAMILIES AND FAMILY LAW WITH AMANDA VANSTONE AND ANNABEL CRABB

**THE POLITICS OF
FAMILIES AND
FAMILY LAW**

WITH AMANDA VANSTONE
& ANNABEL CRABB

THUR 4TH OCT
12:30PM - 2:00PM

Plaza Terrace Room,
Brisbane Convention
and Exhibition Centre

TICKETS \$95 PP

Members of the wider profession are invited to join delegates of the 18th National Family Law Conference for the Chair's lunch.

BOOK NOW →

Family Law Section
Law Council
of Australia



WHEN: 12.30pm - 2.00pm, Thursday 4 October 2018

TICKETS: \$95 per person

WHERE: Plaza Terrace Room, Brisbane Convention and Exhibition Centre

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FLPA CHRISTMAS COCKTAIL PARTY

It's on again and it's not going to disappoint FLPA members. Lock in the date so you don't miss the now infamous FLPA end-of-year celebration.

WHEN: late November / early December

WHERE: A great new venue unveiling in Brisbane!

More information to come

TWILIGHT SEMINAR / WEBINAR

In the final twilight of the year, barrister Murray Green will present on non-conventions in property and parenting matters in mediation.

WHEN: 5.30pm, Thursday 8 November 2018

WHERE: Grant Thornton

More information to come

FLPA ANNUAL GENERAL MEETING

More information about nominations and voting to come

WHEN: 5.30pm, Wednesday 7 November 2018

WHERE: Grant Thornton

CHILD SUPPORT CARE ESTIMATOR



Australian Government
Department of Human Services

child support

The below button takes you to the Child Support Agency's Care Estimator and Child Support/FTB Estimator. Bookmark it for easy access and reference.

[View website](#)

TITLES OFFICE



The Titles Office website for industry professionals includes: the **Land Titles Practice Manual** (how to complete and lodge land registry forms), **The fee calculator** (calculates the lodgement fees payable on land registry forms), and the latest land registry forms.

CASE WATCH



FLPA's library of family law cases continues to grow in Case Watch thanks to our army of FLPA members. Don't forget to log in to the **member section** of the FLPA website to check out the cases reviewed.

If you would like to volunteer to write a case for Case Watch, please email your interest to roundtable@flpa.org.au.

JOIN FLPA'S LINKEDIN GROUP

If you're on LinkedIn, don't forget to follow FLPA's group. It's a closed group, open only to FLPA members. [Click here to find the group.](#)

www.flpa.org.au

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