

Christmas

A message from the Managing Partner

I feel like I say this every year, but the years do feel like they slip by in the blink of the eye - and here we are again with Christmas just around the corner.

Thank you for all your positive feedback on our first newsletter - from all accounts it has been well received.

This month we introduce you to our Commercial team (if you haven't already had dealings with them), and look at the legal ramifications associated with social networking sites.

As Summer is upon us it is also timely to be reminded about swimming pool safety and in this issue we have highlighted some disturbing new statistics on pools and drownings and outlined the

new pool fencing laws. As a parent, you might find these statistics upsetting but they highlight how important vigilance around pools is, especially when you have little ones.

The past twelve months have been rewarding for us as we have been privileged to work with so many great clients and at the end, feel like we made a difference.

Heading towards 2011 there are again many community and charity based activities we will be involved with and you can read more about this on page 4.

On a personal note, I wish to thank you for your continued support of us both professionally and personally and I appreciate

the generosity of those of you who were able to assist us support various charities.

I wish you all a wonderful holiday season with your families and hope that 2011 brings you both happiness and good health.

Travis



Christmas Holiday Office Hours

Our Office will be closed over the Christmas holiday period. We will close at 5pm on Thursday 23rd December and re-open at 9am on Tuesday 4 January 2011.

Should you need to contact us urgently please email us at mail@stolaw.com.au as we will be checking our emails regularly.

We would like to take this opportunity to wish you and your family a safe and happy festive season.



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Did you know....

- Child drownings in Queensland swimming pools account for one quarter of all paediatric injury deaths and is the most common cause of traumatic death for children aged one to four years.
- Approximately half of all drownings involving children under five years occur in residential swimming pools.
- For every child drowning, up to 14 children are taken to hospital emergency departments and four are admitted to hospital.
- Approximately 6-7% of children will develop neurological deficits and will be permanently disabled or die as a consequence of near drowning.
- It is estimated that for every child taken to a hospital emergency department, there are 10 near misses - that is, children suffering

immersion who are quickly rescued.

Source: QLD Government - 2010.



Meet our Commercial Team

Many of our readers will already be familiar with some of our Commercial team, but in case you haven't met them yet we thought we would introduce them to you.



Paul Kusy - Partner

Paul heads up the firm's Commercial and Property team and focuses on property development and the commercial sector. Paul has expertise in a wide range of fields including commercial property, sales and business acquisitions.



Cec O'Dea - Partner

Joining the firm as a solicitor in 1994, Cec has diverse expertise in all aspects of wills, estate administration, estate planning, business succession planning, insurance, commercial and estate litigation.



Trent Wakerley - Associate

Trent is a key member of our Commercial and Property team and handles a varied range of work including commercial agreements, property transactions, wills and estate administration and litigation.



Trish Wiffen - Paralegal

Joining our Commercial and Property team in mid 2008, Trish has over 30 years experience working in law firms.



Jessica Mitchell – Conveyancer

Jessica is an integral part of the Commercial and Property team and joined us in 2007 as a Conveyancing Clerk. Jessica handles all aspects of clients' needs when buying or selling residential property.



Megan Dunne – Conveyancer

Megan works closely with Jessica and also handles all aspects of clients' conveyancing needs.



Casey Jeffries – Conveyancer

Casey joined us this year and has quickly become an important part of the Commercial and Property team handling the conveyancing requirements for our North Brisbane clients.

What our Commercial team does

We specialise in ensuring your legal obligations are being met whilst working toward meeting your business objectives. We take the time to fully understand your operations and policies before supporting you with advice in the following fields:

- Business and Property Conveyancing
- Property Development.
- Franchising.
- Retail Shop Leases.
- Commercial Leases.
- Business Restructuring.
- Companies.
- Joint Venture and Shareholder Agreements.
- Mortgages and Securities.

Wills & Estate Planning

Our team offers an understanding approach in all areas of Wills and Estate Planning, Estate Administration and resolving Estate Disputes.

Planning for the transfer of your assets can involve the consideration of a number of issues to avoid potential pitfalls.

We can help you consider matters including:

- the payment of benefits from superannuation funds;
- assets owned personally;
- assets owned jointly;
- assets held in trusts or private companies;
- life insurance proceeds;
- complex family situations; and
- the needs of infant children.

We also offer services relating to:

- Powers of Attorney and Advance Health Directives;
- Estate Administration;
- Estate Litigation and Dispute Resolution on an affordable "no win/ no fee" basis;
- The QLD Civil and Administrative Tribunal; and
- Aged Care and Retirement Village Agreements.

To 'tweet' or not to 'tweet'?

Whilst the use of social networking sites may be growing, so too are the legal ramifications associated with such use.

Social-networking has indeed become part of "everyday life" with new uses and applications continuing to emerge. This article takes a glance at the emerging issue of social-networking in the legal space.

The use of social networking continues to grow with Facebook and MySpace boasting more than 350 million members between them. The list of issues, however, governing appropriate use of social networking and freedom of speech is growing too.

Historically, legal papers were served in person or via the post, and jurors kept their deliberations in strict confidence, but in 2010 things are a little different. The following are recent examples in which the world of social networking has played a part in the legal process.

October 2010 – Australian police undertake a national first when they serve court papers on a cyber-bully via social networking site, Facebook. Having previously tried to serve the papers in-person, via post and over the phone, police seek the court's permission to serve the papers via the social networking platform. A written and video copy of the order is sent to the man's inbox where he accepts the order and vows to delete his profile page.

October 2010 – A mother in a custody dispute discusses "ripping her husband off for another \$20,000"

The judge grants custody of the children to their father then orders the mother to pay \$15,000 of his approximate \$35,000 legal bill.

October 2010 – A British schoolboy is charged after killing a cat and later discussing the incident on his Facebook page.

October 2010 – A Brisbane man charged with murder may appeal

to have his case permanently stayed after prejudicial information is published on the internet.

March 2009 – A juror in Florida, USA, admits to the judge that he conducted internet research into the case. On questioning other jurors it became evident that eight others also researched the case. The judge declared a mistrial.

February 2009 – A juror in Arkansas, USA posts eight "tweets" on Twitter during court proceedings. The defence counsel seeks a motion for a mistrial when one discovered "tweet" reads, "I just gave away TWELVE MILLION DOLLARS of someone else's money."

2008 – A juror takes a picture of a murder weapon and posts it to his social networking page. The photo of a 15-inch double edged, saw-tooth knife sees the juror charged with contempt of court.

2006 – The New Hampshire Supreme Court, USA hears a motion to overturn a murder conviction based on pre-trial comments by a juror on his blog. The juror wrote, "...now I get to listen to all the local riff-raff try to convince me of their innocence."

Tips For Social Networking Use:

- Remember: You put it out there – forever!
- Getting divorced? Stay off Facebook!
- Be aware of privacy tools available to you and know how to use them.
- Know who is in your friend network and who you are adding.
- Don't drink and type – everyone in your network can see it!
- Always be vigilant about the information you post online.

New pool fencing laws effective December 2010

New laws for pool safety, including spas, came into effect in December for Queensland pool owners with the aim of reducing incidents of drowning and serious immersion injuries amongst young children.

Pool owners are currently required to ensure a pool is enclosed with compliant



fencing regardless of when the pool was built, with changes to the Building Act now requiring owners of a premises with a pool to obtain safety and compliance certificates from their local council or privately certified pool inspector.

The new laws will require pool owners to undertake compulsory pool inspections with new fines of up to \$16,500 for instances of non-compliance.

The laws also provide for the compliance of pool fencing for indoor pools, hotel, motel and caravan park pools as well as requiring fencing for portable pools deeper than 300mm.

Through the compliance and certificate program, the government will work to establish the state's first

swimming pool register with greater powers of entry for local government organisations to undertake compliance inspections.

A spokesman for Stirling Hinchliffe, Minister for Planning and Infrastructure, said pools will be inspected by councils and privately certified pool inspectors, with inspections costing the resident approximately \$90.

Since Queensland first introduced pool safety laws in 1991, the number of child drownings in the state has halved. The new legislation aims to reduce this number even further.

When buying or selling property, legal advice should be sought to ensure your best interests are protected.

What the laws mean to you...



If you are buying a property with a pool, ensure the seller has a valid compliance certificate. Making a pool compliant can cost much more than the price of an inspection when a pool is not deemed up-to-standard.

An owner must provide a prospective buyer or tenant with a copy of the pool safety certificate.

A Body Corporate must ensure they have a valid compliance certificate in their records that is updated on an annual basis.

In the community - heading into 2011

As we head towards the new year, 2011 is already shaping up to be another busy year with our continued involvement in many community events.

As a firm, being part of the community is part of the fibre of who we are and what we stand for and we are pleased to continue our association with



The Wandiny Room at Twin Waters set up for the Wishlist Spring Gala Lunch

Wishlist and the Spring Gala lunch, the Kawana Surf Club and also with Cystic Fibrosis Queensland, supporting the Tour de Kawana.



Cystic Fibrosis Tour de Kawana

The planning for the 2011 Wishlist Spring Gala lunch is already in full swing and believe it or not, is already shaping up to be bigger and

better than this year's event. We can't tell you too much yet but watch this space over the coming months as more details are unveiled.

The Tour de Kawana is always a highlight and we look forward to continuing our relationship with this wonderful charity and bike ride which is also a great day out for the whole family.



Moreton Bay Festival of Sails

On the North Brisbane front we have become a major sponsor of many of the Moreton Bay Council's major events including the Redcliffe Festival of Sails, the Urban Country Music Festival, the Pine Rivers Festival and the

Redcliffe First Settlement Festival. These events are held throughout the year and offer something for everyone, so make sure you get along and join in the fun as they promise to be a great day out.



Moreton Bay Festival of Sails

Neighbourhood Disputes Resolution Bill 2010

In October, a man from Morayfield, north of Brisbane, was charged with the assault of his neighbour, telling police '...he wouldn't trim the hedges.'

In Queensland, issues relating to trees and fences are the most common form of neighbourhood disputes. There is currently no statutory law in Queensland that provides for disputes relating to nuisance trees and laws relating to fencing date back to 1953.

As our population grows we find that we are living in closer spaces than ever before, prompting the Queensland Government to release a draft consultation paper on how neighbourhood disputes can be resolved.

The consultation materials provide for clearer guidance in the instance of a dispute through better definitions for trees and retaining walls, confirmation of the ownership of a tree and the

appointment of the Queensland Civil and Administrative Tribunal to assist in the resolution of neighbourhood disputes.

These changes are not yet law and are still being considered.

What does this mean for you?

- As a tree owner ('tree keeper') you are responsible for the cutting and removing of overhanging branches,

ensuring a tree does not cause damage or injury to a person or a person's property.

- Ownership of a fence on a property boundary is shared between neighbours.
- Before cutting down a tree it is best to contact your local government.
- An edging hedge is recognised as a fence.

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