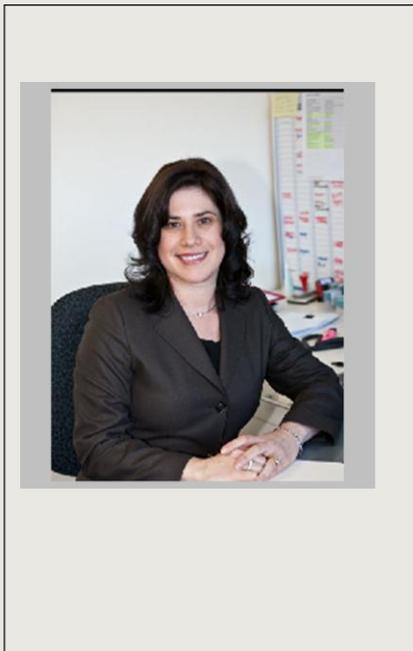


*Personal & Professional Legal Service –  
delivered expeditiously*



The end of the financial year has just passed and many of you will be gathering up all your expenses and receipts in order to provide your accountants with the information they need to prepare and finalise your tax returns with, hopefully, a big refund cheque to come back to you! It is also a good time to think about other important issues that you may need to address which relate to your legal and financial affairs.

We have been doing a lot of work with our clients to address their needs and wishes for the future. There are very important issues to consider and the community is exploding with disputes between family members over financial and care issues as their relatives age and gradually lose capacity.

We strongly encourage all our clients to make sure their wishes for the future are clear and properly documented to try to avoid these issues which often cause major family break ups and huge financial cost. Amanda has written about one such matter in which she is currently involved on the following pages.

Please don't put off putting in place effective, legal safeguards. It is easy and inexpensive to do and we can store the documentation safely until it is required. This is a complimentary service for our clients.

Amanda spoke recently at a community event run by Ku-ring-gai Council in regard to these issues and was inundated with questions from those in attendance. Clearly, there is much interest in this area and also much confusion. Please feel free to give Amanda a call if you have any questions about this or any other legal matter.

In these tougher economic times more and more property transactions are hitting difficulties. Amanda has written about one we have recently dealt with on the following pages. It is increasingly important to make sure you have the maximum legal protection in your property transaction and that you receive sound practical advice when issues arise. Amanda has over 25 years' experience in these type of transactions and is always available to discuss your concerns.



Alan is mainly focusing his efforts in the area of family relationships and the consequences that flow from their breakdown. It is an area of law that requires discretion, common sense, patience and a calm manner. Fortunately, Alan has these qualities in abundance. He has formed a group of like-minded professionals - psychologists, mediators, social workers, financial advisers and other lawyers, who are committed to the resolution of family disputes via collaboration rather than litigation. Compromise by both parties is required to enable a win/win situation for all including those most vulnerable - the children!

We have 30 clients currently involved in separation after marriage issues and see several more each week. An initial Family Law Consultation with Alan costs \$269 and the attendee will be receive detailed information about the process and possible outcomes, as well as have many questions and concerns addressed.

Dispute resolution with other parties such as business partners, customers, suppliers or even relatives is also a service we offer and we try hard to keep these matters out of court by aiming for a sensible resolution at minimum cost and stress.

Examples of some of our family law and dispute resolution matters are on the following pages.

For a little light relief we have included a story on the world's most expensive divorce settlements.

Please enjoy our latest newsletter. As always, feel free to pop in and say hello if you are passing by - or give us a call.

Kind regards

*Amanda and Alan*

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## AMANDA'S RECENT WAR STORIES

### **The importance of an effective Power of Attorney**

Last week I attended the Guardianship Tribunal to attend a hearing for a client with dementia. She is in her 80's and lives in a nursing home.

She appointed her husband as her power of attorney in 2007 but he passed away last year.

Now she has no capacity to appoint someone else.

Her daughter was thus forced to make an application to the NSW Guardianship Tribunal to be appointed her mother's financial manager.

A financial manager must report directly to the NSW Trustee and Guardian. There are rules and procedures to follow which are onerous and time consuming.

It is very important for everyone to have a Power of Attorney. It is also wise to appoint more than one person so that you are protected if one of your attorneys dies before you.

You never know if or when you may lose capacity. It can happen suddenly and without warning due to a stroke or car accident. Or it can be a slow progression due to dementia or other illness.

If you don't appoint someone to act for you the Guardianship Tribunal may appoint someone else. The Protective Commissioner can also be appointed if there is no-one else.

### **Conveyancing pitfalls – how do you uphold your rights when the other side refuses to settle?**

Our clients sold their home to a developer who had bought all the neighbour's properties as well. My clients then bought a new home.

Both their sale and purchase were to take place on the same day.

However, the developer had no intention of settling on that date because, as we subsequently found out, his bank would only provide funds for all his purchases on the same day which was a different date set by the sale contract.

Instead of being honest about this his solicitor made allegations that our client was somehow in breach of the contract to use as an excuse to delay settlement.

This led to serious inconvenience and financial hardship to my clients who were subsequently forced to take out bridging finance to complete the purchase of their new home. In addition, they were forced to pay penalty interest under their purchase contract.

This caused additional stress as they did not know when the developer intended to complete.

We took all the necessary legal steps to protect our clients and advised them of the strong legal position they were in.

Unfortunately, it is a sad fact that even with the strongest of legal cases the only way your rights can be enforced is by going to court.

Litigation is not only highly stressful, expensive and time consuming but there is no guarantee of success.

The developer was a bully and indicated he would fight my clients all the way. No doubt his solicitor would have used whatever legal technicalities available to delay the court process, break down my clients' resolve and cost them even more money, which they simply did not have.

Also, winning in court is not enough. You need to recover the money the court orders the other side pay. This can lead to further delays and cost. If the developer has no money or assets in his name then the win would be a pyrrhic victory indeed!

There are always risks involved in litigation and sometimes a commercial decision needs to be made that it is better to cut your losses and settle.

Therefore, after weighing up the pros and cons of fighting back my clients' decided that they would take the loss 'on the chin', settle the matter when the developer was finally ready and get on with their lives. They simply could not afford to take him on in a Supreme Court action when the outcome, in money terms, could not be guaranteed.

This matter shows that the law is not black and white and there is always a way for one party to make life difficult for the other despite the strength of their case.

Conveyancing is contract law, pure and simple and when matters go wrong, they really can become a huge mess. Clients really need practical and sound legal advice to navigate their way through it.

## SOME OF ALAN'S RECENT MATTERS

Many clients are involved in disputes after the breakdown of a personal or business relationship. Here is a small sample (with names changed to protect client confidentiality):

- Joe's wife left home five months ago with their four year old daughter. Joe has had no contact with them since and we are using all means possible, including police involvement, so Joe can have meaningful and significant access to his daughter again.

- Wanda left her husband a few years ago after their marriage broke down. They have an eleven year old daughter who is terrified of her father and wants nothing to do with him. Wanda wants to obtain sole care of her daughter.
- Zarah's ex-husband wasted significant family resources through various obsessions before their marriage ended. They also have two lovely children which Zahra cares for solely so we need to obtain the best possible property settlement on her behalf as well as court orders for sole parenting.
- Katie is divorced and has entered a new relationship. She needs to protect her assets for her children in case the new relationship does not last.
- Phoebe's business partner stole significant funds from their company before he was kicked out. Phoebe wants us to act in order to recover these funds using litigation and bankruptcy proceedings as a threat.
- Julie entered a contract to sell her house to a developer who pulled out at the last moment leaving Julie with significant losses. We are suing the developer to obtain compensation for her losses.

**We welcome your call or visit to discuss any issues you face. Now we hope you find the following divorce stories interesting:**

#### **The Murdochs:**

When a marriage goes sour, the process of divorce becomes increasingly more complicated when the couple's net worth is in the stratosphere.

The most expensive divorce in the world to date is between Australian media mogul Rupert Murdoch and his former wife, Anna. After a marriage of 32 years and three children together, the couple split up in 1999. Under the settlement, \$1.7 billion of Rupert's fortune (which included \$110 million in cash) went to Anna.

A mere 17 days after the divorce was finalized, Rupert wed Wendi Deng, 38 years his junior.

#### **The Cruises:**

The most high-profile divorce announcement this year was between celebrity couple Tom Cruise and Katie Holmes (aka TomKat).

Although Cruise publicly stated that he was "deeply saddened" by the divorce filing, it was finalized very quickly.

With some estimates placing Cruise's net worth at upwards of \$250 million, there was a silver lining for the "Mission Impossible" star. Thanks to a prenuptial agreement he probably

only lost a small portion of his wealth in the divorce settlement though no-one will ever know the details.

### **Our Services**

We offer a broad range of services across a range of legal disciplines:

- Property Law, Conveyancing and Leasing
- Wills and Administration of Estates
- Powers of Attorney and Appointments of Enduring Guardian
- Family Law
- Commercial Law
- Notary Public Services
- Intellectual Property
- Local Government and Planning

**For further information and updates please visit our:**

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**Our Blog:**

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