

SOUTH AUSTRALIA CORPORATE COUNSEL DAY 2009

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and Expertise*

FRIDAY 27 MARCH 2009
Adelaide Convention Centre

Organised and promoted by the Australian Corporate Lawyers Association (ACLA) – the professional organisation for in-house lawyers.

This is the only South Australian legal conference organised by corporate lawyers for fellow corporate lawyers.

Don't miss this opportunity to:

- Hear from industry experts on topics of paramount interest to corporate lawyers
- Learn about performance, productivity and career development

Hear from:

Helen Gillies, ACLA Corporate Lawyer of the Year

Mark Bielecki, SA Regional Commissioner, ASIC

Kelly & Co. Lawyers

Professor Andrew Stewart

Fred Hawke, Clayton Utz

Chris Gray, Assistant Crown Solicitor

Alexandra Maddern, BHP Billiton Ltd

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SOUTH AUSTRALIA CORPORATE COUNSEL DAY 2009

8:25 **Conference registration**

8:45 **Welcome and opening from the chair**

Julian Grenfell, *President ACLA (SA division) Legal Counsel, Adelaide Brighton Ltd*

9:00 **Keynote address:**

In-house lawyers moving into executive roles

ACLA CORPORATE LAWYER OF THE YEAR: Helen Gillies,
Corporate Counsel, Sinclair Knight Merz

9:30 **Guiding your company through corporate regulation under current economic constraints: ASIC's perspective**

- How ASIC is responding to this crisis?
 - What regulatory changes are envisaged to meet the challenges?
 - Preserving the Australian financial market against internal and international forces – what are ASIC's current priorities?
 - Will changes to SA ASIC resourcing, powers and policy affect incidents of intervention and enforcement?
- ASIC's approach to short selling and disclosure
- In the aftermath of the collapse of global financial markets, how can in-house counsel assist the board?
- Assessing the post-November 2008 strategies and gazing into the crystal ball

Mark Bielecki, *SA Regional Commissioner, Australian Securities and Investments Commission*

9:55 **Condensed Trade Practices Act 1974 (Cth) (TPA) insights to keep you up to date**

- Mergers and acquisitions highlights
- Legal harmonisation of legislation – how does this affect consumer protection law impacts on SA businesses?
- What is the current state of government immunity after *ACCC v Baxter Healthcare Pty Limited*?
- Franchising agreements under Part IVB of the TPA
- Where does your organisation stand under the Birdsville Amendments?

Peter Campbell, *Partner, Technology, Media and Entertainment, Kelly & Co. Lawyers*

10:15 **Protecting your organisation's most important corporate asset - intellectual property**

- Understanding and applying the intellectual property fundamentals
 - IP audits
 - Ownership - employee and contractor agreements *UWA v Gray*
 - When is ownership automatic, and when to register?
 - Protection from operational risk
- Properly scoping intellectual property contracts
 - Licensing and assignments
 - Development of new intellectual property rights - ownership issues
 - Identifying key areas of intellectual property contractual risk

Luke Dale, *Partner, Corporate and Commercial and Lisa Jarrett*, *Senior Associate, Corporate & Commercial, Kelly & Co. Lawyers*



10:40 **Confidentiality and non-disclosure agreements for M&A transactions**

- What should be the scope of the confidentiality agreement?
- Are time limits appropriate?
- Any relevant ASX Listing Rule requirements?

Jamie Restas, *Partner Corporate and Commercial, Kelly & Co. Lawyers*

11:00 **Morning tea**

11:30 **Complying with industrial relations changes: your guide to Forward with Fairness and the National Employment Standards**

- How you will need to prepare your organisation for 1 January 2010 – the National Employment Standards framework
- Other time triggers which are important to your organisation
- Focussing on:
 - Australian Workplace Agreements (AWAs)
 - Individual Transitional Employment Agreements (ITEAs)
 - Collective workplace agreements
 - The global no-disadvantage test
 - Unilateral termination of collective agreements
- Award modernisation - establishment of the framework and rules within which this will occur
- Termination of executives
- Reviewing penalties for breach
- Dispute resolution alternatives
- Key issues for the public and private sectors

Professor Andrew Stewart, *The University of Adelaide Law School*

12:15 **Legally viable and commercially desirable: contract spotlight on indemnities and exclusions**

- Examining enforceable exclusion and limiting of liability for tort, equitable and statutory losses
- Preventing the use of unenforceable methods of excluding and controlling of liabilities
- Ensuring indemnities for breach of contract are effective
- Reflecting on *Environmental Systems Pty Limited v Peerless Holdings Pty Ltd* – categorising losses intended to be covered by provisions
- Comparing a breach of a duty of care with the failure to take reasonable care
- Analysing how proportionate liability schemes affect drafting
- Securing the position of your client with effective liquidated damages provisions
- Preventing unenforceability of a liquidated damages provision
- *State of Tasmania v Leighton Contractors Pty Ltd* – is there a special rule for government contracts?
- Drafting indemnities against liquidated damages
- Examining the practical impact of insurance issues on contract drafting

Fred Hawke, *Partner, Clayton Utz Melbourne*

1:00 **Networking lunch for speakers and delegates**

2:00 **Commercial dealings with government organisations**

- Understanding the relevance of government procurement guidelines
- Negotiating with government entities – what aspects are negotiable?
 - Standard form agreements
 - Processes for amending or updating the contract
 - Liquidated damages
 - Termination for convenience

Chris Gray, South Australian Assistant Crown Solicitor

2:45 **Gaining clarity on legal professional privilege**

- Revisiting the current scope of legal professional privilege rules applicable in South Australia
- The relevant test for common law waiver of privilege
 - Dominant purpose of two or more purposes for a communication
 - Substance over form test
 - Loss of privilege where the communication would have been made irrespective of the privileged purpose
- Flagging issues in relation to privilege in different jurisdictions eg where uniform evidence legislation does not apply
- Document control processes to assist retention of privilege

Alexandra Maddern, Senior Counsel, BHP Billiton Ltd

3:30 **Afternoon tea**

4:00 **Presenting to senior management**

In today's business world the ability to '*Stand up, speak up and persuade*' is more important than ever. We all need to sell three things: our product or service, our company and most importantly ourselves.

This presentation will focus on:

- Posture and body language to convey confidence
- How to grab and maintain the audience's attention
- Getting your message across succinctly

Sharon Ferrier, Persuasive Presentations

Panel discussion:

Advising your executives on crisis management

- 4:30
- An overview of the types of crisis requiring management
 - Advising the executive within your role – strategising for:
 - Risk assessment, prevention, OH&S and public liability – crisis auditing
 - Risk spreading and insurance aspects
 - Damage control – prioritising
 - The human element
 - Media relations
 - Preparing for legal consequences
 - Continuity of business operations and relations

Panel discussion:

Helen Gilles, Corporate Counsel, Sinclair Knight Merz

Michael Durrant, Partner, Kelly & Co. Lawyers

Tim Hughes, Partner & Principal, Hughes PR

Chris Bright, General Counsel & Company Secretary,

K&S Corporation Limited

Moderator:

Georgia Sherry, Corporate Lawyer,

Adelaide Research & Innovation Pty Ltd

5:10 **Closing remarks from the Chair**

5:20 **Networking drinks and canapés**

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