

CMC welcomes Dianne Miller

Dianne has recently joined the firm's business and commercial law team as an Associate Solicitor in our Camden office having relocated from the Northern Tablelands of NSW.

Dianne has over 7 years experience in legal offices working predominantly on commercial, corporate and taxation matters. In addition, Dianne has over 3 years experience working in securities within the banking and finance sector and has also worked in the area of GST advice and compliance with the Australian Taxation Office.

Admitted as a Legal Practitioner in 2006, Dianne has also performed the role of company solicitor for various companies and is committed to statutory corporate compliance for both listed and non-listed companies. Dianne has contract managed for many major commercial construction projects.

Dianne is currently undertaking a PhD (Taxation) at the University of New South Wales. Her research interests involve the taxation implications of the Australian Emissions Trading Scheme (Carbon Pollution Reduction Scheme).



Mistress laws or sensationalism?

New Commonwealth Laws for the division of property for "de-facto" couples who separated on or after 1 March 2009 have commenced. They apply to both heterosexual and same sex relationships, and these laws substantially change the way these matters are to be handled. These changes have been portrayed in the media as creating some form of rights for long term mistresses of married men to claim property settlement. This is not in fact a change brought about by the new laws. Under the old de-facto legislation such claims were possible in the rare case where the circumstances were appropriate. They still remain possible.

The de-facto changes mean that the law now applies uniformly to couples in all States and Territories except Western Australia and South Australia - although there are some circumstances where the law could apply to residents of those States as well. Usually the relationship needs to have lasted for 2 years or longer, but there are circumstances where a claim can be made even if the relationship lasted less than 2 years.

The new legislation means that de-facto matters are now dealt with under the Family Law Act, 1975. Proceedings are commenced in the Federal Magistrates Court or the Family Court of Australia. All couples now have the benefit of dealing with Courts and Court staff that specialise in this area. There are rules

that require disclosure and compulsory settlement conferences. Spousal maintenance is now available to all couples who qualify, and all couples now have access to the superannuation splitting laws that were previously only available to married couples. It is expected that de-facto wives will get better results under the new legislation and procedures than under the old system - but only time will tell.

It is still possible for couples to enter into their own private contracts so as to avoid Court. These are now to be called "Financial Agreements" and they can be entered into before, during or after the de-facto relationship. Couples who separated before 1 March 2009, can be covered by the new legislation, but only if they both consent to it.

Our expert team of family lawyers can provide more details if needed. Knowledge is power so don't be frightened to see us for more information.

Bill McGookin

Accredited Specialist in Family Law/Partner
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First Home Owner Grant Changes

The NSW and Australian Governments have made some changes to the First Home Owners Grant.

For contracts exchanged between 14 October 2008 and 30 June 2009 First Home Buyers may be entitled to receive up to \$24,000.

The Australian Government is offering first home buyers who purchase an established home a grant of \$14,000. This grant increases to \$21,000 if they were to build a new home or purchase a newly constructed home up until 30 June 2009.

The NSW Government is offering a further \$3,000 to first home buyers who are buying a newly constructed home or building their first home who enter into a contract between 11 November 2008 and 10 November 2009 - this payment is known as the "NSW New Home Buyers Supplement".

A "new home" is a home that has never been occupied as a place of residence by anyone including the builder. It must also be the first sale of that home and can include units or apartments.

"Substantially renovated" homes may be considered as a new home. Substantial renovations are those where the entire building or substantially all of the building has been removed or replaced. The home, since being substantially renovated, must not have been occupied as a place of residence by anyone including the builder.

There are no income or assets tests to qualify for these benefits.

Please contact either Chris Paul on 02 4655 3077 or Leanne Anderson on 02 4677 2500 for further information.

Leanne Anderson

Licensed Conveyancer
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Caldwell
Martin
Cox

Solicitors



Caldwell Martin Cox welcomes Di Miller to our professional team

Business Succession

If one of your directors/partners were to die or suffer from a serious disability would your business continue to operate cost-effectively? Businesses can often go into liquidation or bankruptcy because no agreement has been put in place that addresses these events. Therefore, it is exceptionally prudent to protect your business by entering into a Business Succession or Buy-Sell Agreement.

Whilst the continued operation of your business can be self-funded, it is becoming increasingly popular to take out insurance to fund the business succession plan.

If this strategy is adopted, there are several very important issues that need to be considered to ensure that any Agreement does not result in unintended serious taxation consequences. Any Business Succession Agreement needs to ensure that insurance proceeds are not treated as income and the cost base for capital gains purposes is maintained.

If you think that your business is not adequately protected against this catastrophe, then you should consider having a Business Succession Agreement expertly drafted to minimise your exposure to this risk.

For further information and assistance with your business succession please call Di Miller at our Camden office.

Dianne Miller
Associate Solicitor
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Important time limits apply to injuries received in a motor vehicle accident

If you have received injuries in a motor vehicle accident, you may be entitled to apply for compensation. There are very strict time limits that apply to claims for motor accidents and personal injuries.

1. The accident must be reported to the Police within 28 days.
2. Within six months of the accident a claim form must be lodged with the compulsory third party insurer of the vehicle claimed to have caused the injuries. This includes the provision to the insurer of a certificate from your treating Doctor setting out injuries sustained by you plus information from your employer or accountant regarding any wages lost by you.

These time limits are strictly applied and, if the insurer does not consent to their extension, it is necessary to approach a Court to seek to have them extended. Such applications are not readily granted by the Court.

The moral is that, if you do sustain injuries in a motor vehicle accident, even if you do not think they are severe at the time, make sure you report the accident to the Police within 28 days and, if necessary, lodge the claim form within 6 months.

Geoff Lloyd of our Camden office would be happy to advise you further in relation to any questions you may have in this regard.

Geoff Lloyd
Senior Associate Solicitor
Tel: 02 4655 3077
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Buying property jointly? There may be some pitfalls

It is not only people in domestic relationships who buy property together. Siblings, parents and their children, business partners, joint investors or even neighbours buying a holiday home together find it convenient to share their resources to buy property.

The possible pitfalls are endless. It is a regrettable fact of life that people who were once trusting and loyal friends can fall out or circumstances can change so dramatically as to create a problem with the joint ownership.

It is prudent for joint purchasers to create a written "co-ownership" agreement at the time of purchase. This agreement would set out what would happen in certain given events – such as a proposed sale. It could set out how each party contributes to improvements to the property or expenses. It can specify who can occupy the property or how disputes are to be resolved. There is no "off the shelf agreement" available for these situations. In each case your particular needs would be discussed and a tailor-made agreement prepared.

Without a written agreement parties in conflict usually end up in expensive Court battles that damage relationships beyond repair. A clear case of a stitch in time.....

See one of our solicitors if you would like more information.

Angus Cox
Accredited Specialist in Wills and Estates/Partner
Tel: 02 4677 1292
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Have you received a "Notice of Intention to Audit" from the Tax Office?

If so, it is important to receive the advice of both your Accountant and Solicitor. Don't lose potential avenues of appeal because you haven't sought legal advice. Please contact Dianne Miller if you need legal advice in relation to any area of taxation compliance.

Dianne Miller
Associate Solicitor
Tel: 02 4655 3077
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Need to update your company details?

Dianne Miller has been approved by ASIC to act as a Registered Agent. This service will allow us to make any changes to your company details on-line with ASIC, instantly. If you need to update your registered office, changes to officeholders or shareholders, or just need someone to take care of ASIC Annual Return obligations, please contact Di Miller at our Camden office on 02 4655 3077, email di@cmcox.com.au

Finding it hard to get to see us about a new legal matter?

Autumn 2009

Our Initial Fixed Fee Consultation is a very popular method of getting some quick, reliable and cost effective legal advice. Many clients have used this service before however for those who haven't, what we offer is:

- A consultation of up to one hour duration.
- At any one of our four conveniently located offices.
- With a solicitor who will listen to the issues and provide advice on how we can assist you.
- At a fixed cost of \$200, payable at the time of the appointment.

Did you know that most Initial Fixed Fee Consultations are capable of being conducted over the telephone?

Many of our clients have commitments to work and family, or a health issue that might prevent them from taking up the opportunity of our Initial Fixed Fee Consultation. We would like to remind you that, with a bit of planning, *most* Initial Fixed Fee Consultations can be conducted between you and the Solicitor over the telephone, during our usual office hours.

This means you can have all the benefits of a Consultation without having to get time off work, arrange for child minding or arrange transport.

Please contact our office to book a time that is convenient to you, with one of our experienced solicitors.

Changes to the law regarding challenges to Wills

The Succession Amendment (Family Provision) Act came into effect on 1 March 2009.

The major changes to the old Law are:

1. The time for making a claim to challenge the provisions of a Will (or the terms of intestacy) has been reduced from 18 months to 12 months from the date of death.
2. A new category of "eligible person" has been created. In addition to the existing categories of people who can challenge a Will, namely a spouse (including de facto spouse), a child, a former spouse and a grandchild or household member who was dependant on the deceased person, a person who has a "close personal relationship" with the deceased may now also make a claim on the Estate.
3. Mediation for the claim will be compulsory before the Court will hear the claim.

These matters are very complicated and emotional by nature. Angus Cox, a Partner in the firm is an Accredited Specialist in this area of the law, and can assist you in all aspects of these claims.

Angus Cox

Accredited Specialist in Wills and Estates/Partner
Tel: 02 4677 1292
angus@cmcox.com.au

Who should be the purchaser?

You have decided to buy that property. Now consider WHO should become the owner.

1. You – as individual(s)

Personal ownership is the most common form. It offers individuals who reside in their principal place of residence exemption from capital gains tax and land tax.

First home owners are also entitled to government funds and stamp duty.

One downside is that your home held in your own name is available to your personal creditors.

2. A Company

Companies are separate legal entities. They can own property and lodge tax returns like individuals. This method of ownership allows individuals to separate themselves from a business dealing so as to protect the family home.

One downside to a company owning your home is that there is no longer an exemption from CGT or land tax. In relation to an investment property, a company does not have the benefit of the 50% CGT discount which is available to individuals.

3. A Trust

Whilst not a separate legal entity, a trust can hold property on behalf of others (beneficiaries). It can be used to distribute profits and income so as to achieve a lesser taxation rate.

It should be remembered that trusts can only distribute profits and not losses and accordingly may not be suitable for negatively geared investments.

4. A Self Managed Super Fund

This can be a very attractive vehicle to purchase an investment property. You should speak to a financial adviser to get all the benefits.

Changing the manner in which a property is owned after you have bought it is usually an expensive process. It incurs additional stamp duty and legal fees so - get proper advice BEFORE you decide WHO will buy your next property.

Angus Cox

Accredited Specialist in Wills and Estates/Partner
Tel: 02 4677 1292
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What our clients are saying:

"Prompt, courteous and handled quickly."

"Basically, whilst I think lawyers overall may be paid too much (and barristers really are legends in their own lunch time) this firm is worth every cent. It's honest and quick acting and gets the job done."

Autumn 2009

Who's where and what do they do?

Area of Law	Camden	Narellan	Picton	Tahmoor
Conveyancing	Chris Paul Lyn Harrison	Bill McGookin	Angus Cox Leanne Anderson	Kristy Faida
Estate Planning	Chris Paul	Bill McGookin	Angus Cox Jillaine Duve	Kristy Faida
Family Law	Caroline Holt	Bill McGookin	Jillaine Duve	Kristy Faida
Commercial Leases	Chris Paul Dianne Miller		Angus Cox	
Leases, Sale and Purchase of Businesses	Chris Paul, Dianne Miller Caroline Holt		Angus Cox	
Court Matters /Damages	Caroline Holt Geoff Lloyd		Jillaine Duve	Kristy Faida
Criminal Law	Caroline Holt Geoff Lloyd		Jillaine Duve	Kristy Faida
Debt Recovery	Geoff Lloyd		Jillaine Duve	Kristy Faida
Bankruptcy/Insolvency	Geoff Lloyd			
Unfair Dismissal/ Employment Law	All enquiries to Chris Paul or Geoff Lloyd			
Family Provisions (challenging wills)	All enquiries to Angus Cox, Caroline Holt or Geoff Lloyd			
Personal Injury	All enquiries to Geoff Lloyd			
Workers Compensation	All enquiries to Geoff Lloyd			
Medical Negligence	All enquiries to Geoff Lloyd			

Our services include:

- wills and estate planning
- family law
- property law and conveyancing
- retail/commercial leases
- business law
- criminal law
- civil litigation
- employment law
- mediation and dispute resolution

Electronic Newsletters

If you would like to receive our newsletter by e-mail, please:-

Send an e-mail message to help@cmcox.com.au with the words "Newsletter" in the subject line, and provide your name and details in the message or subscribe from the Reading Room on our website www.cmcox.com.au

On receipt of your reply, we will delete your name from the "hard copy" mail list, and send you future newsletters by e-mail.



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This publication has been prepared for the purpose of quick information dissemination to Caldwell Martin Cox clients. Its contents should not be used as a basis for advice or formulating decisions.