



Law News

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Continuing Legal Education

Branding to be a major issue

By Catriona MacLennan

Branding is likely to be one of the biggest issues facing lawyers in the run-up to implementation of the law changes contained in the *Lawyers and Conveyancers Bill*, Morrison Kent partner Phil Ahern told an ADLS Practice Development and Marketing seminar.

However, Mr Ahern cautioned practitioners not to let an undue preoccupation with the potential consequences of the bill distract them from their primary focus on looking after their existing client base.

"If they do that, transitional issues in terms of competition should be minimised."

Mr Ahern said there was a risk that, if lawyers became too preoccupied with the legislation, they would lose their focus.

Practitioners who would in future be working solely in non-reserved areas of practice would need to determine as a matter of branding whether or not they would still practise as lawyers.

Mr Ahern said he strongly advocated maintaining the lawyer brand.

In any situation of competition it was important to identify points of difference as to why a consumer would choose one service provider over another.

Being a "lawyer" could well be an important such point.

Law societies accordingly needed to consider how the "lawyer" brand could be enhanced.

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Raynor Asher QC seems to enjoy handing over the presidency of the Auckland District Law Society to Stephen Bryers at the Society's AGM which was held last Friday. At the meeting, which was attended by about 20 practitioners, Mr Bryers thanked the outgoing president for his excellent leadership over the previous year.



Raynor Asher QC (left) addresses the Valedictory Sitting for Justice Robert Fisher (right) to mark his retirement from the judiciary. Justice Fisher has served as a High Court judge since April 1989. (Report Page 9)

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Key duty to society

Britain's Attorney-General says that for the funding of terrorist atrocities to be dealt with effectively, lawyers have to accept that they have obligations to society which they must discharge even while acting for a particular client.

"Lawyers have a responsibility to society to inform the appropriate regulatory authorities where they reasonably suspect that their advice is being sought for the purpose of furthering the financing of terrorism," Lord Goldsmith QC said at an International Bar Association conference in San Francisco.

There is nothing inconsistent in this with a lawyer's professional standards and ethics. In such cases the greater duty is to society.

Three pearls of wisdom from retiring High Court judge

In his valedictory address at the Auckland High Court last week Justice Fisher told assembled members of the judiciary and professions there where three things he had "picked up" during his time on the bench which he wished to pass on.

"They are instinctively understood by great advocates but not necessarily by those who are still on the way up," said Justice Fisher.

"The first is that you should always be able to write down the essentials of your case on one sheet of paper. All the other details have to feed into that single page. Peter Jackson can consciously juggle a vast array of details at once. The ordinary human mind is not capable of it. If we are to have any chance of fully understanding the relationship between different elements in a case we have to reduce them to a manageable number. In my experience one page is about the maximum. Advocates who have found and understood the key elements of their case run the case from that commanding position. Those who have not are doomed to wander forever in a jungle of undifferentiated detail. So get it all onto one page.

"The second is that the law is a bunch of principles, not a bunch of cases. It is not possible to apply legal authorities directly to the facts of the particular case before us. We have to extract principles from the cases first. Only the principles can then be applied to the current case.

Always state the legal proposition on which you rely before referring to any authorities that may authenticate or illustrate your proposition. Authorities divorced from propositions are a confusing cloud of balloons.

"The third is always try to see your case through the eyes of a newcomer. This is partly a matter of communication. You have lived with the case for a long time. The judge or jury knows nothing about it. It is no use talking to the court in ways that presuppose prior knowledge or understanding on their part. But there is a more important reason for envisaging how the case will look to a newcomer. A newcomer will be deciding the case. So if you can see your case through that person's eyes, you will understand the apparent strengths and weaknesses of your case, and how you can best address them".

Special partnerships

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unused. He said it was unclear why the ministry was advocating adoption of the New South Wales model instead of the United States one.

It is understood that the majority of submissions on the document favoured the Delaware model.

Mr Lines said tax changes taking effect from 1 April 2004 should in themselves result in some freeing up of special partnerships.

However, he queried whether such changes were premature when work on a new special partnerships model still had a long way to go.

He said special partnerships combining pass-through tax treatment and limited liability would be a preferred vehicle for many different types of investment, including musicals, syndicated property investment and portfolio investment.

"I think it's quite exciting. I see it as a potential opportunity for fund managers."

Pass-through tax treatment involves the income or loss of each partner being attributed to that person and tax being paid on that sum, as the special partnership is not taxed as a separate legal entity.

The losses of the special partnership can be claimed directly and set off against other income.