

# Family law and superannuation update

By George Brzostowski\*

The new powers given to Courts exercising jurisdiction under the *Family Law Act 1975* to make orders in relation to spouses' superannuation have been in force for nearly a year. The speculations as to how they will work, or what they actually mean, have become a little clearer.

The most authoritative recent case, and the only reported decision of the Full Court so far on this area of law, is that of *Hickey v Hickey and the AG for the Commonwealth* (2003) FLC ¶ 93-143.

That case did not however involve defined benefit schemes, nor did it give guidance as to how ultimately the Courts will treat the values of pensions, either in the payment phase, or in the growth phase. For this we can get some immediate first instance guidance from the decision by Faulks J in *McGrath v McGrath* (payment phase) and decisions by Coleman J in *Cahill v Cahill*, and in *Lance v Lance*,

(the latter two cases involving a mixture of both payment phase and defined benefit growth phase schemes).

The decision by Justice Moore in *Levick v Levick* SY3054 of 2001 (January 2003) is an interesting application of the provisions to an accumulation case, where Her Honour goes through calculations examining the tax consequences of a person taking his super before or after turning age 55.

## Levick v Levick

In this early case, Justice Moore made assessments of relative

contributions. She then analysed the outcomes if that percentage was applied to non-superannuation assets and examined the outcome. Her Honour then examined what would have happened if the superannuation was split in the same ratio. The wife wanted more of existing assets.

Her Honour applied the values arrived at by way of valuations of both existing assets and superannuation, without

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## Cutting down the paper trail - not the forests

**Law firms are massive users of paper products. Even medium-sized firms consume millions of sheets of copy paper each year.**

Lawyers For Forests (LFF) has developed and published an information kit - *"Becoming Forests Friendly: An Eco-Kit For Law Firms"* - aimed at helping law firms to reduce paper usage.

The eco-kit details easy, cheap and effective ways for firms to reduce the impact on the environment particularly Australia's native forest resources.

According to LFF, much of the paper consumed by law firms is bleached brilliant white and made from native forrests, including old growth and plantations that may not be sustainably managed.

The environmental benefits that result from law firms reducing paper use are significant. Firms that reduce

paper use can also achieve direct financial savings.

The kit sets out a process for a law firm to become "forest-friendly". This involves an initial commitment and an environmental audit to gauge the firm's environmental impacts (examples are provided), leading to practical changes in the firm's management of its paper use. The kit includes an up-to-date and detailed assessment of current options in Australia for paper, office equipment and fit-outs.

The kit also sets out other elements of an environmentally-friendly law firm, giving practical suggestions for change. Resources and useful contacts are also included.

The eco-kit is for anyone working in a law firm, from a managing partner to an articulated clerk, who would like to encourage change.

The Eco-Kit can be downloaded and

printed from the LFF website at: [www.lawyersforforests.asn.au](http://www.lawyersforforests.asn.au).

LFF, a Victorian-based association of legal professionals, is available to facilitate the implementation of the kit within a law firm.

In future, Lawyers For Forests also envisages promoting the Eco-Kit to other professions and business sectors.

The eco-kit was developed with the assistance of funding from the Victorian Law Foundation and is supported by The Wilderness Society.

For further information about the Eco-Kit or Lawyers For Forests, please email [fff@lawyersforforests.asn.au](mailto:fff@lawyersforforests.asn.au). ①