

Issues Update

As 2009 gets into swing the Territory legal profession is as usual dealing with a number of challenges. These challenges are mixed with a number of positive developments.

To start with the “good” news

Most would be pleased with the announcement of increased court funding announced in the Northern Territory budget 2009, both for the Nichols Place Magistrates Court complex and other courts. New magistrates will be welcome. The Deputy Chief Minister and Attorney-General, Hon Dawn Lawrie, MLA is keen to see more significant improvements in Alice Springs. Money is being spent on corrections initiatives. It is necessary that there is corresponding increases in legal aid funding and that of related services so that defendants and others caught up in the system are properly represented and the new system can work effectively.

There are other new challenges in the “Indigenous” area.

One of the “challenges” is the announcement of the Northern Territory Government to provide additional funding for 20 so called “reservoirs of opportunity” (their words) on 20 major remote communities. Minister Jenny Macklin has indicated the Commonwealth is looking at winding back some of the aspects of the Northern Territory Emergency Response in part so that it is more consistent with the *Racial Discrimination Act*. The discussion paper is available from the Society or the FACHSIA website and comments are

sought.

The Native Title System is also being reviewed

There is a lot for the legal profession to get across and the Society’s Indigenous Issues Committee will be looking at these and other proposed changes and working with the Law Council of Australia’s Indigenous Issues Working Group which, incidentally, has a significant NT membership.

The issues of Mandatory disclosure under the *Domestic and Family Violence and Care and Protection of Children Act* are areas of current major concern.

The Society is currently processing Practising Certificate applications and most professional indemnity insurance renewals have or are being processed.

One issue that has come up in the renewal process was the impact of the Global Financial Crisis (“GFC”) on the Northern Territory and its likely effect on the claims experience as well as the Professional Indemnity Insurance market generally.

Whilst there was a premium increase under the Northern Territory scheme it was not as large as in some schemes.

However it is probable that there will be continuing premium pressure caused by general market conditions including matters out of our control. However, it is possible that some commercial arrangements made before the “GFC” and ensuing



Barbara Bradshaw,
Law Society Chief Executive Officer
bbradshaw@lawsocnt.asn.au

credit crunch could come under pressure and, as the advice provided by professionals, under scrutiny.

Professionals, with Professional Indemnity Insurance cover, can be an obvious target of those affected when such arrangements come “to grief”.

Law practices should continually look at two issues:

1. The need to minimise risk in your practice and hopefully therefore claims.
2. The need to notify the broker whenever there is a circumstance, even if it should subsequently eventuate that the circumstance never becomes a claim.

The Claims Management Committee, of which I am a member, continually reviews claims and circumstances, with a view to managing those more effectively and developing strategies to minimise them in the future.

FOR THE RECORD

QBE, Marsh Pty Ltd and I will be reviewing the 2009 renewal in July 2009. At this time work will begin on the 2010 renewal. It is a continual process.

The repercussions of the GFC and related events have some way to go. Greg Medcraft, an ASIC Commissioner, was recently in Darwin and spoke at a CPD and to the Regional Liaison Committee meeting about his organisation's responses. Initiatives include an increased concentration on

corporate governance, focus at a local and international level on such, sometimes synthetic, products such as margin loans, hedge funds, securitisation arrangements and credit derivatives and likely increased regulatory action. One development is the new national consumer credit legislation, set to commence in October 2009.

This list of matters is not exhaustive. There are matters such as the review of court procedures both at the Supreme

Court and Federal Court level, the new *Unit Titles Scheme Act*, the Northern Territory Law Reform Committee Review of Committals, the so called "Bikies" legislation, the Cross Border Justice Act and other various Harmonisation initiatives.

The CLANT Bali Conference 2009 will provide a welcome opportunity to discuss a number of these matters (though hopefully not the Unit Titles Scheme Act) and I am looking forward to attending.

Congratulations!

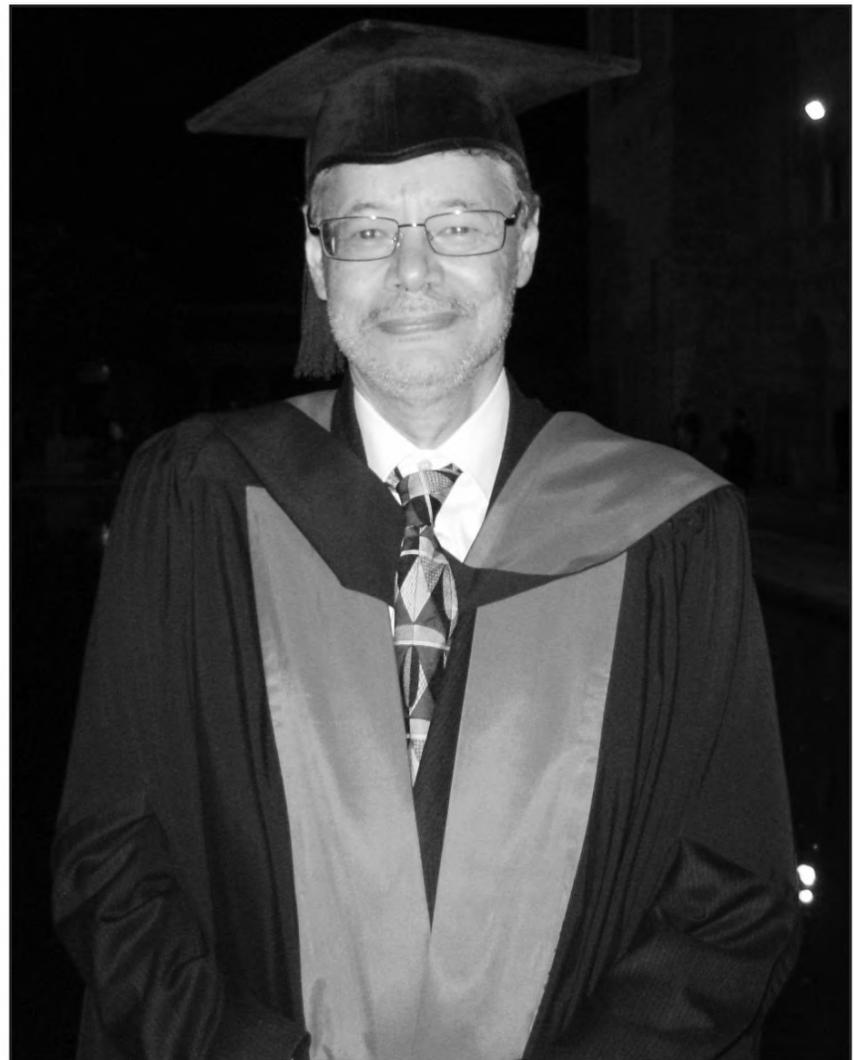
Balance is pleased to congratulate Doctor Stephen Herne (B Juris/Lib (WA), LL.M (Syd)) on the awarding to him of a PHD by the University of Western Australia for his thesis "A JURISPRUDENCE OF DIFFERENCE-THE DENIAL OF FULL RESPECT OF NATIVE TITLE".

Doctor Herne joined the the Department of Law as a Policy Officer in 1983. He spent some time as Director Policy and began some studies for his PHD in 1989. He is now a senior lawyer in the Aboriginal Land Division of the Northern Territory Department of Justice which would have benefited significantly from his research.

Stephen showed considerable persistence and hard work in his grueling journey to the completion of the thesis in what turned out to a complex topic. His close circle of friends and colleagues, including lawyers such as myself, who feel they can never aspire to the standard of his brilliant achievement and his level of dedication and application, congratulate him.

His wife, Julie Fisher (Librarian at the Department of Justice), who he married around the

beginning of this process also deserves congratulations for the support provided to Stephen.



Doctor Stephen Herne.