

# **Expert Evidence: There is no magic in a family report**

**Judge ME Rackemann  
Planning and Environment Court of  
Queensland**

**QLS 29th Annual Family Law  
Residential  
8 August 2014**



# Role of Experts

- Not decision makers
- Not delegates of the Judge
- Just witnesses
- obligation to tell the truth  
(professional objectivity)

# Expert Evidence

- Don't be intimidated
- Expert evidence may be persuasive/unpersuasive or accepted/not accepted
- Scrutinize/challenge as for any other evidence

# Preparation for cross-examination

- Is the “expert” qualified?
- To what extent is that which the expert says:
  - A matter of expert opinion?
  - Within his/her field?
- Deconstruct, Deconstruct, Deconstruct
- Get help of your own expert if you have one

# Cross-Examination

- Be more analytical than aggressive
- Only kick an expert who is on the ground
- Play the “ball” more than the “man”
- Deconstruct:
- Reveal/challenge factual assumptions
- Reveal/challenge process of reasoning
- Test objectivity
- Use objective expert to your advantage

# Models for Management of Experts

- Traditional approach
- Single expert
- Concurrent evidence
- Managed joint meeting process
- ME Rackemann, "The Management of Experts" (2012) 21 *Journal of Judicial Administration* 168.
- ME Rackemann, "Expert Evidence Reforms - How are they working?" (2011) *Hearsay*, Issue 48: April 2011, [www.hearsay.org.au](http://www.hearsay.org.au) (paper delivered at the Bar Association of Queensland Annual Conference, Gold Coast, 5 March 2011)