

The Brief

Not your average legal Magazine. We talk Innovation. We breathe Strategy. We give a damn about Humanity.

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ISSUE 04



Submerged Complexity:
The Invisible Forces Shaping Outcomes

“The profession evolves when we look beyond the obvious.”



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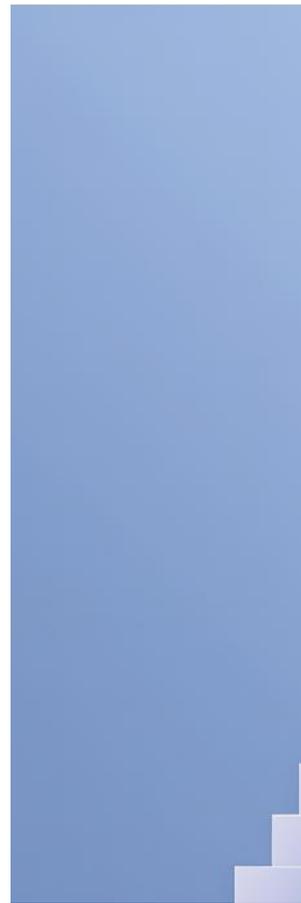
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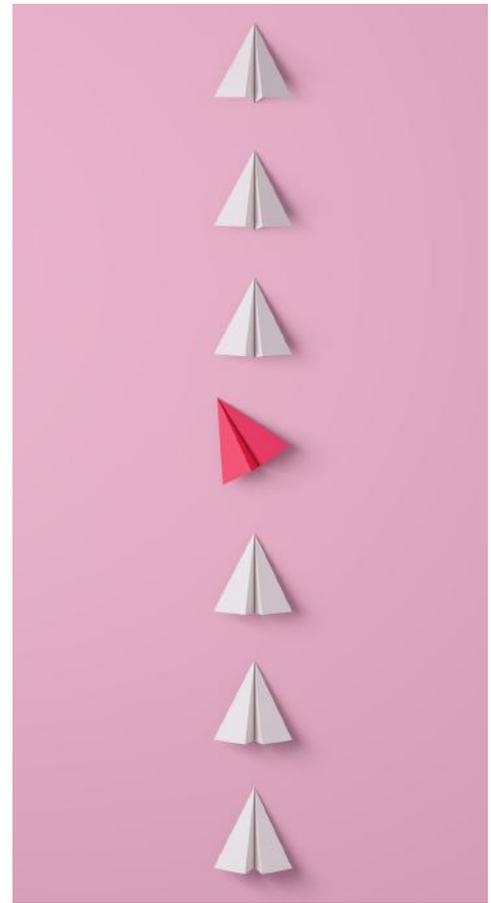
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From The Editor

As we release the Fourth Edition of The Brief, we do so with immense pride and deep gratitude.

This year has marked a milestone, not simply in publications, but in purpose. One year of excellence. One year of consciously changing narratives within family law. One year of elevating conversation, deepening thinking, and strengthening our profession.

When we first envisioned The Brief, it was never intended to be just another publication. It was designed as a forum for reflection, innovation and professional courage. A space where practitioners could pause amidst the demands of practice and reconnect with why they do this work.

Today, thousands of practitioners read The Brief every issue. That number is not just a statistic - it represents a living, breathing community of professionals committed to better outcomes for families, to ethical leadership, and to continual growth. It represents solicitors, barristers, mediators, judicial officers, academics and allied professionals who are collectively shaping the future of family law in Australia.

The feedback we have received over the past year has been humbling. Readers have told us that articles have influenced their case strategy, reshaped how they approach client care, inspired them to embrace technology, prioritise wellness, and rethink traditional models of practice.

Family law sits at the intersection of vulnerability and power. The way we practice matters. The way we lead matters. The narratives we choose to reinforce matters.

Over the past year, we have championed innovation, interdisciplinary thinking, wellbeing, ethical hiring, strategic advocacy, and the responsible integration of technology. We have amplified voices prepared to question convention and to reimagine what excellence in family law truly looks like.

But this is only the beginning.

Our commitment remains clear: to serve the profession with integrity, to foster a national community of thoughtful practitioners, and to continue elevating standards across education, practice and leadership.

To every contributor who has shared their expertise.
To every reader who has engaged deeply with the content.
To every practitioner striving to do better for families.
Thank you.

Together, we are not just practicing family law. We are shaping its future.

With gratitude and determination,
Amanda Little
Founder, Family Law Education Network

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EVIDENCE MATTERS





Written by The Honourable Judge Dillon Morley

This is not meant to be a learned treatise on the law of evidence. Rather, it is a short summary of some matters relating to the law of evidence which have come to my attention during my seven year tenure as a family law judge in the Federal Circuit Court of Australia and later the Federal Circuit and Family Court of Australia (Division 2).

During my thirty-four years in legal practice, both as solicitor and barrister, I developed a strong interest in and liking for the law of evidence. I am certainly no expert, but I realised early on in practice that an essential tool for competent performance in court, whether mention, interim hearing, or final hearing, is a thorough knowledge and understanding of the law of evidence – not comprehensive – that is for the experts such as Stephen Odgers, the editor from time to time of Cross on Evidence, and their Honours of the High Court – but thorough enough to prepare a matter for hearing so that the evidence sought to be presented for the client is admissible, and admitted, and thorough enough to ground and to meet objections and have the maximum chance of winning arguments on points of evidence during hearings.

In short, I came to believe firmly early on, and throughout my legal career up until now, that evidence matters.

Much of my career, and the whole of my judicial tenure, has been in family law, with a wide practice also in family provision, wills, probate, and administration of estate matters. They are areas where there are usually multiple issues, often many issues, and the evidential matrix can cover many years of the litigants' lives – unlike most of the rest of the areas of litigation and criminal practice, which usually revolve around evidence going to a single issue or event.

From early in my legal career, I made a determined effort to draft affidavits that complied as fully as possible with the law of evidence and to minimise deletion of my clients' and supporting witnesses' evidence-in-chief through successful objections and hearing.

“An essential tool for competent performance in court, whether mention, interim hearing, or final hearing, is a thorough knowledge and understanding of the law of evidence.”

During the past seven years as a Judge, I have been often disappointed by the standard of affidavits on final hearings. When the outcome of the hearing will so crucially affect the lives not only of the litigants, but also children as in parenting issues hearings, having passed swathes of a litigant's case in chief either struck out on objection as offending the law of evidence, or, if admitted into evidence, given minimal or no weight due to poor or no compliance with the law of evidence, is tantamount to tragic.

I offer the following as some comments, hints, and suggestions in relation to the place of the law of evidence in litigation under the Family Law Act 1975 (Cth) ("the FLA").

1. There have been occasions while I have been on the Bench when a comment has been made in a final hearing by the counsel, solicitor or advocate for a party that "the law of evidence does not apply in parenting matters under the Act". Heresy! For parenting matters under the FLA section 102NL(1) (prior to 10 June 2025 section 69ZT(1)) provides that certain sections of the Evidence Act 1995 (Cth) ("the EA") do not apply to child-related proceedings unless the court decides to apply one or more of those sections to all or part of the proceedings in the circumstances specified in subsection (3). I don't waste space by detailing them all here – read the section (ALWAYS read the legislation, over and over and over!), but they include the hearsay rule and exceptions, the opinion rule and exceptions, tendency and coincidence. But other than those sections of the EA specifically covered by section 102NL, the whole rest of the EA continues to apply in child-related proceedings, including very importantly, all of Part 3.11 dealing with discretionary and mandatory exclusions.

2. Leading on from the above point about section 102NL, it seems that most advocates in child-related hearings ignore the fact that Divisions 4 and 5 of Part 2.1 of the EA do not apply. Those parts deal with examination in chief and re-examination and cross-examination. For instance, section 37 that prohibits leading questions in examination in chief and re-examination, and section 39, which limits questions in re-examination to matters arising out of evidence given by the witness in cross-examination unless leave is granted, do not apply. The common law does not replace them (s 102NL(5)). What is the legislative intention behind section 102NL if those limits on questioning in those sections are applied rigidly in child related proceedings? Grounds for an advocate's argument to repair evidence in their case that strict application of those sections would prevent?

3. On its terms, section 102NL relates not only to child-related proceedings, but also to property or other non-child-related proceedings to exclude those sections of the EA referred to (1). Since the amendments took effect on 10 June 2025 it has been said to me in court during property settlement proceedings that those parts of the EA do not apply. Heresy! Those who have espoused a view have failed to properly read (or read it all) section 102ND, which provides that Part XI – Division 4, in which section 102NL is found, only applies to property or other non-child-related proceedings if the parties consent to Division 4 applying to the proceedings, or the court orders that Division 4 applies to the proceedings. Without that consent or court order, the whole of Division 4 of Part XI does not apply to property or other non-child-related proceedings and therefore section 102NL has no application in such proceedings.

4. Of course, even in proceedings in which section 102NL does apply, sections 55 and 56 of the EA relating to relevance still apply, as do the often very useful discretionary exclusion provisions in sections 135, 136 and 138. Those sections are golden for objections to evidence in parenting proceedings, or to limit the use of evidence admitted, but which would otherwise fundamentally offend the hearsay rule of the opinion rule.

5. Most affidavits, and almost all affidavits of parties, and final hearings are packed with Annexures. Rule 8.15 (3) of the Federal Circuit and Family Court of Australia (Family Law) Rules 2021 provides that a document to be used in conjunction with an affidavit must be identified in the affidavit, be filed as annexure or Exhibit to the affidavit, be paginated, that there be a statement signed by the person before whom the affidavit is made identifying it as a particular annexure or Exhibit referred to in the affidavit, "and must not be accepted as evidence in the proceedings unless and until it is separately tendered in evidence at the hearing of the application and accepted into evidence by the court." I have had a number of final hearings since the new rules came into effect where, despite my cautioning all the advocates about compliance with Rule 8.15, one or more of the advocates has failed to tender certain of the annexures or exhibits to their client's affidavit, and of supporting and/or expert witnesses where that failure has left significant gaps in the evidence and is blatantly an omission, not a deliberate forensic decision. Evidence matters! It's only evidence if it is admitted into evidence! Beware the effect of Rule 8.15!

6. I commented at the start of this article that the standard of drafting affidavits written in hearings before me can be lacking. The sworn or affirmed content of affidavits between the opening and the jurat's is evidence in chief. Presuming the deponent, especially if a party, has taken care and applied concentrated attention the content of the affidavit, their affidavit contains what they want to get across to the court as their evidence. The law of evidence applies to affidavits, subject to any application in the proceedings of section 102NL. There is no rule against objections to affidavit evidence in proceedings under the FLA. Knocking out damaging parts of the other side's evidence in chief can be a massive boost to your client's case. I always took objections when made, though not all Judges and Justices sitting in family law do so. I enjoyed objections immensely. It was a feast of the law of evidence, and evidence matters.

An affidavit drawn with care so as to render the contents as far as possible admissible under the full law of evidence must be to the benefit of your client's case. Affidavit text complying with the law of evidence means that the evidence has the maximum chance of being admitted where the relevant part of the law applies. Further than that, both in proceedings where the law of evidence applies, and in proceedings where a relevant part of the law of evidence does not apply due to section 102NL, evidence that does comply with the law of evidence has the greatest chance of being given maximum weight by the court.

Where paragraphs in affidavits begin with the words "I believe ...", or "I am concerned ...", or "I think ...", or other similar openings, the bells warning immediately ring loud that what follows must either offend the law of evidence, or if such is not applied in the proceedings, be of minimal if any weight as evidence.

Since early in my professional career, I have regarded as a timeless touchstone the articles entitled "Affidavits Part I" and "Affidavits Part II" by the then Justice Peter W Young in 66 ALJ at 163 and 298. I recommend them to you.

"All family law practitioners should make it their business to master the law of evidence and pay close attention to evidence matters – because in family law, evidence matters!"

7. The High Court of Australia made very clear in *Kuhl v Zurich Financial Services Australia Ltd* [2011] HCA 11, (2011) 243 CLR 361; (2011) 276 ALR 375 at [62] that "Witnesses are supposed to answer questions put by counsel responsively: they are supposed to give a full answer, but no more. It is one thing to say that a witness was not asked the right questions. It is another thing to say that a witness did not answer the questions that were asked. ... The duty of a witness is to tell the truth, the whole truth, and nothing but the truth so far as the questions asked seek it. The duty of a witness to answer questions responsively involves not only a negative duty (not to volunteer material for which the question does not call), but also a positive duty (to proffer all material within the witness's knowledge for which the question does call)." We all know that. Many as the time that counsel has followed a non-responsive answer with a verbatim repeat of the question, sometimes several times. But there is more to do than that. When you ask a question in cross examination and receive a non-responsive answer, it is usually the witness, often a party, thinking of the responsive answer in their mind, skipping straight over it and instead delivering an answer that explains why. A good cross examiner would never ask "Why?", for fear of being given a perfectly reasonable estimation. But all too often the non-responsive answer is regarded by some as evidence. It should not be. A non-responsive answer is a breach of the witness's duty. A non-responsive answer is a way of getting into evidence material that may otherwise never have any chance of getting in. An advocate's response to a non-responsive answer should be to immediately ask the court to pay no attention to the non-responsive answer and rule it as inadmissible, quoting the above authorities necessary. Why? There is the danger that on a later reading of a transcript the non-responsive nature of the answer may not be noticed sufficient to keep it out of evidence unless followed by a ruling sought and given. Do this enough times, and someone, usually the Bench, is going to get fed up with non-responsive answers and get strict with the non-responsive witness.

8. This list of evidence points in family law hearings could go on and on, but space does not permit. As you can tell, I am grieved by the growing impression in the profession that the law of evidence matters less and less in family law. It is a vastly wrong impression, and all family law practitioners should make it their business to master the law of evidence and pay close attention to evidence matters – because in family law, **evidence matters!**

A portrait of a middle-aged man with short, dark hair, wearing round glasses and a mustache. He is smiling and wearing a dark blue t-shirt. The background is a plain, light grey wall.

THE HUMAN SIDE OF LAW

What Behavioural Science Can Teach Lawyers

Photography provided by Colin Jowell



Written by Victoria Rebellato, based on an interview with Colin Jowell

Colin Jowell is a strategist and behavioural science expert. He is the Principal of Good Behaviour, a consultancy specialising in client and behavioural science, and holds a Master's in Behavioural Science from the London School of Economics. Colin is also the founder of BillWill, a platform designed to ensure a Letter of Wishes keeps up with our dynamic, digital lives. His work is driven by a commitment to empathy, ethical practice, and making hard moments a little easier for the people left behind.

Lawyers are trained to deal in logic, precedent, and risk. But the reality is that law is lived out in the messiness of human behaviour: grief, stress, fear, and bias. **Colin Jowell** — behavioural scientist, entrepreneur, and founder of **BillWill** — believes this gap between logic and behaviour is where lawyers can make the biggest difference.

In conversation with us, and through his own reflections, Jowell shares how behavioural science can transform the way lawyers guide clients, particularly in family law and estates, where decisions are most often made under duress.

A Career Shaped by Loss and Learning

Jowell didn't set out to reinvent how lawyers understand human behaviour. His early career was in branding and marketing, where he developed a knack for helping financial services firms communicate complex ideas.

But when his father became passed away, life changed.

"My undergrad many decades ago was a double major in psychology and economics, so I suppose I was always circling around the field," Jowell says. "But when my dad passed away, conversations naturally turned to 'bucket lists.' For me, that meant finally doing a Masters somewhere inspiring, and he left me the money to fulfil that dream."

He chose the London School of Economics, where the curriculum combined decision science with ethics and wellbeing. "They warned us on day one that the program had a high rate of people quitting their jobs. I laughed that off... but ultimately the pull of focusing only on work that made people's lives better was too strong. I did quit after all."

That period of grief and study left a mark. “It struck me how much grief shaped my own decisions. The impact of stress and grief on decision-making became irresistible to me. There was research out there, but still so much left to uncover, and that became the foundation of my work.”

Why Lawyers Need Behavioural Science

For Jowell, the connection to law is obvious. Both family law and estates involve people at their most vulnerable. Stress distorts thinking, and grief narrows focus.

“Lawyers often demonstrate their value by laying out every possible option. But under stress, the human brain doesn’t handle options well. It discounts future benefits, ignores consequences, and struggles to define what ‘best interests’ really are,” he explains.

He identifies three recurring “decision poisons” that lawyers will instantly recognise:

1. **Present bias** – discounting future benefits, opting for more immediate gratification
2. **Inattention to consequences** – ignoring knock-on effects, even if destructive later.
3. **Inattention to options** – failing to see or consider viable alternatives.

“Consistently, clients will get overwhelmed. They’ll make the decision that gets them out of discomfort in the short term, and to hell with the consequences. Anytime you hear the words, ‘it’s the principle of the thing,’ that’s just code for those three errors rearing their head.”

For lawyers, understanding these tendencies is essential to guiding clients toward decisions they won’t regret.

Why Clients Delay – and What Lawyers Can Do About It

One of the biggest frustrations for lawyers is clients delaying or avoiding decisions – whether signing a will or finalising a parenting plan. Jowell says the reasons are behavioural.

“Two main challenges: the perception of difficulty, and the appreciation of consequences,” he says.

On difficulty: “Behavioural science shows we act when things feel simple, easy, and default. Lawyers, out of duty, often add complexity: ‘Want a will? Well, here are three more things you need.’ That may be sound legal advice, but if the process feels harder than the online alternative, you’ve lost the client.”

On consequences: “People rarely grasp the impact of inaction until they’ve lived through it. Even when told stories of others’ experiences, our natural bias is ‘it won’t happen to me.’ This is where lawyers can learn from digital marketers: they don’t persuade you once, they keep re-engaging until you act. They exploit availability bias – the easier something comes to mind, the truer it feels. Lawyers can do the same.”

Family law, in particular, is a hotbed of conflict and denial. Jowell points to the importance of **preparation** – for both lawyer and client.

“Surprise tactics may work in a negotiation, but they’re destructive in conflict resolution. That’s why I value Collaborative Practice: it’s built on structure and preparation, not ambush.”

He also highlights what he calls Active Awareness. “Stress changes us at every level: brain function, hormones, thoughts, behaviours. A good lawyer recognises when a client simply isn’t capable of progress in that moment and allows time.”

This is more than strategy – it’s physiology. Mediation models recognise that people need time to move from rigid positions to underlying interests. Lawyers who understand this can better pace their advice, recognising when a break or shift in framing may achieve more than pressing forward.

Empathy as a Professional Tool

The legal profession often talks about empathy, but Jowell cautions against seeing it as a soft, immeasurable value.

“Digital interaction has stripped away many cues of human connection. Empathy used to be shown in small rituals: offering a coffee, noticing a pause in body language. Now we need to deliberately replace what’s missing,” he says.

Empathy is the essential bridge that turns complex technical advice into something usable. “In a world where technical knowledge is available to all, the key for the lawyer is how to make that knowledge simple and relevant – and I don’t think that’s possible without empathy.”

Reframing: From Legacy to Love

One of the most powerful behavioural techniques is reframing. In estate planning, conversations about death and incapacity can feel overwhelming.

“Shifting the focus from ‘your legacy’ to ‘the people you love’ changes the lens from self to others, which is often less confronting,” Jowell explains. His research paper, *Can Planning for Death Make You Happier?*, found that reframing reduced anxiety by highlighting care for others, not just self-image.

He shares a personal example: “When I appointed an enduring guardian, my lawyer asked me not just who would respect my wishes, but what the consequences of that responsibility would mean for them. That reframing made the decision clear – I chose a close friend rather than my partner. It was still my preference, but viewed through the impact on someone else, the right choice revealed itself.”

BillWill: Fighting the “Sludge”

Out of these insights came BillWill, Jowell’s tech platform to modernise the letter of wishes.

“Most people know behavioural science through nudges: how do we guide better decisions. But the flip side is just as powerful: sludge – the administrative burden that prevents good decisions. Death creates one of the heaviest administrative burdens imaginable. Much of what probate requires isn’t in a will, and traditional letters of wishes are outdated the moment they’re written.”

BillWill was designed to reduce that sludge. By automating updates of bank accounts, bills, and subscriptions, the platform leaves space for clients to focus on emotional wishes – care for children, messages for loved ones, or guidance for parents. And with AI, it’s moving further. “We’re now developing personalised, day-by-day guides for executors, and dynamic letters that adapt to changing family circumstances. A will can’t capture that, but a living, digital tool can.”

Meet Colin and hear his story at

**DISRUPTING
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Looking Ahead: A Profession Built on People

For Jowell, the future of law lies not in who has the most technical knowledge – technology is democratising that – but in who best understands people.

“As legal knowledge becomes increasingly accessible through technology, what sets great lawyers apart will be their ability to understand people and relationships. Behavioural science gives a structured, evidence-based framework to do just that.”

If he could leave lawyers with one principle, it would be the EAST framework: “You can influence behaviour by making it Easy, Attractive, Social, and Timely. And ‘easy’ is first for a reason.”

In the end, behavioural science doesn’t ask lawyers to change what they do – but to change how they do it. To recognise when clients are overwhelmed, to simplify, to reframe, and to lean into empathy. Because when law meets behaviour, outcomes improve not just legally, but humanly.

 **billwill**



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THE PEOPLE V. TRADITION

*Is Family & Estates Law Guilty
of Holding Itself Back?*

Written by Amanda Little

All rise.

The Court of Modern Practice is now in session.

The accused: **Tradition.**

Charged with:

- Inefficiency.
- Burnout.
- Inflated fees.
- Chronic resistance to innovation.

How does the accused plead?

Silence....

Well, before we rush to judgment, let us examine the evidence.

Exhibit A: The Billable Hour

The sacred untouchable pillar.
The gold standard.
The unquestioned metric of worth.

Six-minute units have shaped careers, cultures, and cortisol levels for decades. But let us ask the uncomfortable question:

Has the billable hour improved outcomes for clients - or merely incentivised time over value?

When exhaustion becomes a KPI and presenteeism becomes performance, we must wonder whether we are measuring productivity... or just pain tolerance.

Tradition taught us that long hours equal commitment. But perhaps long hours simply equal long hours, at the peril of lawyers personal health.

Exhibit B: The 48-Page Affidavit for an Interim Hearings

We've all seen it. The affidavit that recounts every text message since 2017. Every disagreement about school pick-ups. Every minor slight elevated to evidentiary significance.

Drafted till midnight. Filed with pride. But done without strategy. And subsequently skimmed through as much is irrelevant.

Somewhere along the way, volume became synonymous with strength.

But clarity, true advocacy -it lies in precision.

Is it tradition that demands length? Or insecurity that demands noise?

***“Are we measuring productivity...
or just pain tolerance?”***

Exhibit C: “We’ve Always Done It This Way”

Four of the most dangerous words in professional practice.

Tradition provides structure. Stability. Precedent. But when habit replaces reflection, we stop evolving.

Family law has changed. Families have changed. Society has changed. Yet too often our systems, workflows and firm cultures have not.

If innovation feels threatening, perhaps it is because it exposes how tightly we have tethered identity to process.

The question is not whether tradition has value. The question is whether we have confused familiarity with excellence?

But should the question be what is the future? How do we grab it with both hands? And how to ensure excellence into the future?

Exhibit D: Fear of AI & Technology

Enter the newest alleged disruptor. Artificial Intelligence – whispered about in corridors, banned in policies, quietly used after hours.

Some see risk. Some see replacement. Few see responsibility and many don't understand the reality of safe use.

Because the real threat is not AI. Used wisely, technology reduces cost, increases access to justice, and frees practitioners to focus on strategy, empathy and advocacy - the very human skills that cannot be automated.

Refusing to engage with innovation does not protect the profession, it limits the quality of the service the profession provides.

AI and technology must be used 'safely' in closed systems that protect fundamental rights, but the benefits of AI far outweigh the risk when mitigated correctly.



The Cross-Examination

Tradition has given us doctrine. Procedure. Safeguards. Which is essential to the functionality of our judicial system. It has protected due process and shaped generations of excellent lawyers.

But tradition was never meant to be a cage. It was meant to be a foundation.

When burnout is normalised, when fees escalate beyond reach, when access to justice is cost prohibitive and when young lawyers leave because sustainability feels impossible... We must ask: *are we honouring tradition – or hiding behind it?*

Enter: Disrupting Tradition – Innovative Strategies in Family & Wills Estates Law

On 26 & 27 March 2026, the Family Law Education Network will convene a different kind of courtroom.

Not one where precedent goes unchallenged, but one where it is respectfully interrogated. Disrupting Tradition is not about theatrics. It is about evolution.



Across plenary sessions and focused streams, spanning litigation strategy, family law, estate planning, estate litigation and administration, collaborative practice, business development and personal mastery – by leading judicial thinkers, innovators, practitioners and technologists will examine what is working, what is failing, and what must change.

You will hear from:

- Judicial leaders reflecting on how advocacy must evolve. (show pictures of the Judicial Officers speaking across all streams (or their names or whatever you like!)
- Practitioners redesigning dispute resolution frameworks.
- Innovators integrating AI responsibly and strategically.
- Firm owners reshaping culture, pricing and sustainability.
- Collaborative professionals redefining what “winning” means.

This is not disruption for disruption’s sake. It is a conversation about courage.

About designing practices that are profitable **and** humane.
Efficient **and** ethical.
Strategic **and** deeply client focused.

It is an invitation to interrogate our own assumptions – in community, not isolation.

Closing Submissions

Disruption is not rebellion.
It is responsibility.
It is the willingness to ask whether the systems we inherited still serve the families we represent – and the professionals we are becoming.
The future of family and estates law will not be shaped by those who cling to comfort.
It will be shaped by those willing to examine it.

Verdict

Tradition is not guilty.
But blind loyalty to it is.
Court adjourned to:

26 & 27 March 2027
ICC Sydney

Join the movement and be part of the future of law



Photography provided by Mia Madafferi

VASES, VICTORIES, AND VOLATILITY

Strategies for Managing High-Conflict Personalities

Written by Mia Madafferi



The toughest part of family law isn't drafting affidavits or knowing the legislation, it's managing the clients who turn every step into a battlefield. High-conflict personalities now sit at the centre of so many disputes. They drain billable hours, contest every invoice, escalate costs for the other party, fuel complaints and leave lawyers frustrated and exhausted.

These matters don't just impact the parties involved, they place significant pressure on lawyers and law firms. The constant volatility makes it harder to deliver strong outcomes, leaving lawyers feeling like they're constantly fighting fires instead of moving matters forward.

But as Mia Madafferi of Grey Rock Consulting explains, there are tools and strategies that can help lawyers manage these dynamics with confidence.

The Gap No One Is Talking About

Despite their prevalence, most lawyers were not taught about high-conflict personalities in law school, nor have they been trained to manage them in practice. The absence of this skill set costs firms heavily in wasted time, unnecessary applications, delayed settlements, dissatisfied clients, and higher complaint risk.

Lawyers are trained to understand the law, apply it to the particular facts of each matter, and to advocate for their client. But as Mia notes, even the strongest case strategy will fall apart if the personality dynamics are overlooked.

“You can have a rock-solid legal strategy, but if you ignore the personality you’re dealing with, it won’t matter,” she says.

This is where Mia steps in. A lawyer since 2006 and Australia’s first certified Master High Conflict Negotiation Coach by U.S. attorney and global authority Rebecca Zung, Mia specialises in equipping lawyers and clients alike to handle high-conflict dynamics with clarity, confidence and strategy.

A Practical Framework: Spot, Shift, Steer

Through her Spot, Shift, Steer framework, Mia helps lawyers and their clients cut through the chaos.

1. Spot the behaviours early, so you know who and what you are dealing with. High-conflict personalities rarely arrive with a label. Instead, lawyers must learn to pick up subtle cues. For instance, emotionally intelligent people can reflect and apologise after an outburst. High-conflict personalities deflect blame, twisting events so the fault always lies with someone else. “They’ll never take accountability,” Mia explains. “That’s one of the clearest signs.”

2. Shift the dynamic and adjust your approach. “You’re not dealing with someone who wants resolution,” Mia says. “You’re dealing with someone who wants to win and regain control.”

Traditional negotiation techniques often fail here. Instead, Mia works with lawyers to provide practical shifts that can be made and explain why they will be successful with each particular individual.

An example of a practical shift is understanding the importance of creative leverage. Here, Mia gives the example of a seemingly trivial object, a vase.

“If I told a high-conflict personality that I really wanted to keep my favourite vase, their energy would immediately go into making sure I didn’t get it.”

On its face, the vase seems trivial. But with a high-conflict personality, the vase isn’t about the vase, it’s about control. That’s why it can be turned into leverage, often unlocking concessions on far bigger issues such as parenting and finances.

“If your client can reach a point where they’re willing to let it go, that vase becomes a powerful bargaining chip because the other side is so fixated on ‘winning’ and ensuring your client doesn’t get it.”

Mia recognises that, when handled with care, this process has the power to create movement in disputes that might otherwise remain at a standstill, while also easing the emotional load for clients and reducing frustration for lawyers.

3. Steer the matter forward. Lawyers know the law, but in high-conflict matters, they are the anchor and must lead the matter. This means setting boundaries, anticipating tactics, and following through on consequences.

“If you say disclosure must be provided by Friday at 4pm or you’ll file an application, you have to follow through. Otherwise, they see you as a toothless tiger, and that’s heaven for them, as they learn they can get away with not complying.”

Steering also applies to client management. Mia highlights the importance of shielding clients from unnecessary emotional turmoil. For example, one lawyer she works with never simply forwards inflammatory correspondence. Instead, she filters it, explains its relevance, or irrelevance, and provides a plan. This steadiness reassures clients and prevents them from spiralling.

“You can have a rock-solid legal strategy, but if you ignore the personality, it will not matter.”

Dual Impact: For Lawyers and Their Clients

Mia's work strengthens both sides of the lawyer-client equation. For clients, she provides coaching to reduce fear, anger and overwhelm, to empower them through education and to provide clarity, making them easier to represent. She also prepares them for mediation or court, and helps with the day-to-day grind of communicating with their ex.

For lawyers, she delivers expert training and one-to-one lawyer coaching of her Spot, Shift, Steer Framework, including understanding the dynamics at play, working with the victim as a client, managing high-conflict clients and how to maintain boundaries, communication strategies, negotiating with high-conflict personalities and insights into drafting Court Orders and Parenting Plans.

The combined effect is transformative: clients stay calmer, lawyers feel less drained, and firms differentiate themselves in a competitive market. Instead of draining resources, these matters can be managed strategically, turning what used to be a liability into an opportunity for stronger outcomes and better retention.

"We know burnout and retention is an issue for law firms." Mia observes. "Intense workloads, the emotional stress of complex domestic abuse related matters, endless emails, poor boundaries and, in some instances, lack of support and mentorship, are some of the reasons the legal profession is facing retention issues. Unless firms address these challenges head-on, they risk losing highly skilled professionals who feel unsupported or emotionally depleted."

By equipping lawyers with the tools, skills and strategies for managing high-conflict matters, firms reduce complaints and client fallout, achieve quicker resolutions, ensure lawyers are spending their time on legal work and not managing emotional fallout, and support their people. For lawyers on the path to senior associate or partnership, these skills are invaluable. As Mia puts it: "This isn't going away. These personalities are everywhere, at work, at home, in court. Why wouldn't you upskill your team?"

"Unless firms address these challenges head-on, they risk losing highly skilled professionals."

A Path Forward

High-conflict personalities are not going to disappear. If anything, they are intensifying. Firms that deliberately build this skill set into their practice not only protect their staff, they gain a decisive edge in the market.

With Mia's Spot, Shift, Steer Framework, and with practical tools in their professional toolkit, lawyers can manage them without being consumed.

Ultimately, Mia believes the key lies in empowering lawyers to understand these personality dynamics so they can lead calmly, firmly, and strategically. "High-conflict personalities aren't going away. With Spot, Shift, Steer, lawyers finally have a framework that works - in court, in mediation, and in practice."





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BREAKING CYCLES, BUILDING CHANGE

An Interview with Nicki Boxtel

Written by Victoria Rebellato, based on an interview with Nicki Boxtel

When you meet Nicki Boxtel, her warmth and clarity immediately stand out. A Family Dispute Resolution Practitioner at a government funded service provider in Perth, Nicki brings to her work not only formal qualifications in psychology and neuroscience but also years of lived experience supporting families navigating trauma, conflict, and change. Her career path has been anything but linear—and it's precisely that winding journey that has equipped her with a unique perspective on family law and the urgent need for reform.

Nicki's path began far from the courtroom.

"I didn't finish high school," she recalls. "I became a beautician and didn't think I had the intelligence to do what I really wanted."

But life—and motherhood—pushed her to reconsider. At 13, she had written in a diary that she wanted to be a psychologist. Years later, with two young children, she rediscovered that dream and enrolled in university, majoring in neuroscience and cognitive psychology.

Her early career took her into women's refuges, working with victim survivors of family and domestic violence. Later, she stepped into the other side of the spectrum—running men's behaviour change programs in rehabilitation centres. "It was about working holistically," she explains, "holding men accountable while also supporting women and children. It was exhausting but incredibly meaningful."

Today, she sits at the intersection of law, psychology, and community support. While not a lawyer, Nicki is a qualified Family Dispute Resolution Practitioner, currently completing her postgraduate studies in psychology.

Seeing Beyond “Conflict”

One of Nicki’s biggest concerns is how the family court system often frames ongoing abuse after separation.

“Coercive control and post-separation abuse are frequently dismissed as just conflict,” she says. “But when you unpack it, it’s still abuse—financial manipulation, using children as leverage, intimidation. It’s not mutual conflict; it’s power and control.”

She stresses the need for better information-sharing between courts. “If criminal histories in the Magistrates Court aren’t considered in family law proceedings, then what’s the point of saying we take family violence seriously in the Family Court?”

Her approach is always trauma-informed and child-focused. Whether through shuttle mediation, staggered processes, or child-inclusive practice, she looks for ways to bring the child’s voice to the centre. “It’s not the separation that hurts children—it’s the conflict,” she says. “I always bring parents back to that question: If your child was sitting in this room, what would they be experiencing right now?”

Nicki is also careful to distinguish between high conflict families and those impacted by violence.

“If it’s just conflict, then education about the child’s experience is often enough. But when there’s coercion, fear, and power imbalance—that’s something else entirely. That’s family violence.”

For Nicki, addressing family violence requires a holistic, multi-layered response. “You can’t just focus on one part—it needs to be intervention, postvention, and prevention all at once. And we need more emphasis on behaviour change and accountability.”

Finding Fulfilment

Despite the heaviness of her work, Nicki remains motivated. “If I can walk away from a session knowing I’ve helped someone even a little, that’s enough to keep me going.”

Her days are varied: supervising a multidisciplinary team of mediators and counsellors, consulting on complex cases, and running high-conflict mediations herself. Networking and ongoing study also fuel her passion. “Staying connected and learning is what sustains me.”

Looking to the future, Nicki hopes to step further into the court system—perhaps as a single expert witness in family violence matters. “I want to use my expertise to influence systemic change,” she says simply.

For family law practitioners, Nicki offers a reminder: every case involves more than just legal rights and obligations. Behind each affidavit or mediation lies a family with its own history of struggle and resilience.

Her advice is simple but powerful:

- Always centre the child’s perspective.
- Be alert to coercive control disguised as “conflict.”
- Acknowledge the grey areas and resist the urge to see things as black and white.

“As practitioners, we have the chance to either reinforce harmful dynamics or help families take steps toward healing. That’s a responsibility we can’t take lightly.”

“When there is coercion, fear and power imbalance, that is not conflict. That is family violence.”



Photography provided by
Leona Bennett

TRAILBLAZER IN FAMILY LAW

A Conversation with Leona Bennett

Written by Victoria Rebellato, based on an interview with Leona Bennett

In the heart of the Sutherland Shire, family lawyer Leona Bennett is doing more than just running a thriving legal practice—she’s redefining what it means to be a practitioner, a businesswoman, and a community advocate. In a candid conversation with Victoria Rebellato, Leona reflects on her journey, the power of women’s networks, and the deep personal drive behind her work.

Leona, take us back to the beginning. How did your journey into family law start?

I’ve always had a strong interest in both psychology and law—those two areas just made sense together. While I was studying, I became really invested in understanding the turning points in women’s lives. My psychology thesis focused on that very theme, while my law thesis explored Battered Wives Syndrome. That early focus shaped so much of what I do now. When I had Justice Altobelli as a lecturer, I really connected with the subject matter in family law. It felt like the perfect intersection between my interests and values.

Your firm has grown significantly. How do you balance the passion for client work with business leadership?

I’m lucky—Simon, my husband, runs most of the business side, which frees me up to do what I love: practise family law. I’m still very hands-on with clients, in court, and in mediations. I also manage and mentor my team, so my days are a blend of leadership and legal work. It’s busy, but it’s a balance that works well for us.

What advice would you give to women who want to grow their careers or start their own firm?

Without hesitation: build your network early—and be intentional about it. When I started out, I was the only female solicitor in an all-male firm. Lovely people, but it was isolating. So I reached out to other local female family lawyers and created my own informal support group. That “brains trust” was absolutely vital. We still catch up to this day.

What I’ve found is that women network differently to men. My husband has always had a built-in network through rugby—guys he met at uni, sport connections, that old boys’ club energy. Where was the equivalent for women?

That’s what inspired “Women Supporting Women”, the networking and fundraising event we created. It’s not just about exchanging business cards. It’s about building real, value-aligned relationships across law, finance, health, and business. This year we brought together over 220 women, and the connections formed were genuine, lasting, and powerful. Women support each other differently—there’s strength in collaboration over competition.

You’ve also led some powerful community legal work, particularly around family violence. Tell us more.

Family violence is unfortunately a part of so many family law matters, and the way we, as practitioners, handle it can make all the difference. About four years ago, I felt that I wanted to give more than just sponsorship to local sports clubs. I reached out to The Family Co, a fantastic local organisation supporting women escaping domestic violence. That relationship has blossomed.

Photography provided by Leona Bennett



Now, we coordinate a legal advice roster where a group of lawyers—myself and my team of 8 family lawyers included—volunteer at The Family Co, the roster ensures that every fortnight local women are provided with free family law legal support. We also run quarterly legal information sessions for women going through or considering separation, helping them understand their rights and what to expect. It's about demystifying the process at a time when they feel most vulnerable.

What's your view on how the legal system is currently addressing family violence?

I think we're better than we were even five years ago—but we're still a long way from getting it right. The Family Court is starting to take a more trauma-informed approach. The EVATT list, for example, has been a really positive development. It removes some of the more harmful aspects of litigation for victims—separating parties during hearings, specialised registrars, more tailored processes.

But the system still has flaws. Just last week, I had a client cross-examined for four hours over her experience of violence in her criminal law proceedings. Her daughter was on the stand for two hours. The lines of questioning were cruel and completely missed the nuance of trauma. Victims are often shamed—either for having records ("you're calculated") or for not ("you're lying"). It's heartbreaking. And yet, the court expects them to present calm, cohesive, clinical evidence.

How do you navigate such sensitive cases in your practice?

First, you have to approach it with empathy and awareness. Victims of family violence rarely share their full story upfront. It can take months. That means lawyers need to be trained in how to ask the right questions. I've found that rephrasing questions to centre the children—like, "Have you ever felt your children were unsafe?"—often opens the door. Mothers will protect their children before they'll advocate for themselves.

Photography provided by Leona Bennett



We also need to educate our clients on how the system works and how their evidence will be received. It's not about manipulating the story—it's about helping them be heard. Training lawyers in trauma-informed interviewing should be mandatory. We're not counsellors, but we're often the first people these women tell the full truth to.

And what about when you act for someone accused of violence?

That can be equally complex. The key is not to judge, but to educate. I often explain not just what the law says, but how their actions might be perceived by the court. Sometimes clients have no idea how certain behaviours—like sending 50 texts in a day—come across in a legal context. I also bring it back to the children. If you're truly child-focused, then why pursue litigation that will only cause more harm?

Unfortunately, some lawyers act more like mouthpieces for their client's anger, fuelling conflict unnecessarily. I try to avoid that. I'll pick up the phone, talk to the other side, and see if we can de-escalate. We have enormous power to shape the tone of a matter—sometimes we forget that.

“Sometimes clients have no idea how their behaviour will be perceived by the court.”

With everything you do—legal work, mentoring, community events—what keeps you going?

Honestly? Right now, I am riding on the success of our Women Supporting Women event. At our event on 26 June 2025 we've had 220 women attend, over 160 auction items donated, and the energy behind the event was incredible. Last year we raised \$49,000 and this year we increased the amount to an amazing \$104,500. It was exhausting, but deeply fulfilling. Our next event will be 18 June 2026 for anyone interested in attending or being involved, please reach out.

Seeing women connect, seeing businesses step up and say, “Yes, I want to help,” and knowing those funds go directly to helping women in crisis—that motivates me every day.

Leona Bennett is more than a successful family lawyer. She's a connector, a strategist, and a fierce advocate for women—in the legal system and beyond. Her story reminds us that leadership isn't just about profit or prestige. It's about purpose, people, and impact.



SOUTHERNWATERS
legal

Photography provided by Angela Harbinson





LIFE AFTER LAW

*Bree Staines on Finding a New Path
in Legal Tech*

Written by Victoria Rebellato, based on an
interview with Bree Staines

For many lawyers, the idea of stepping away from practice feels unthinkable. Years of study, endless hours of client work, and the prestige of the profession tie law tightly to personal identity. But for family lawyer turned legal tech consultant Bree Staines, breaking that mould has been nothing short of liberating.

Her story is one of recognising the signs of burnout, seizing an unexpected opportunity, and discovering that life after law can still be meaningful, connected, and even more creative than the courtroom.

The Need for Change

Bree always knew she wanted to work in a people-based area of law. She gravitated toward family law during her legal studies, drawn to its human impact. A decade of private practice followed across firms of all sizes: a large Sydney outfit, a regional practice, and finally a boutique firm.

That mix of environments taught her the subtle differences in how business models shape client experiences. “Family law is always a balance of the law and the emotions of the client,” she explains. After ten years, regardless of the business model, the nature of the work began to weigh heavily. Partnership or opening her own practice - once the natural next step - no longer seemed appealing. “I wasn’t not enjoying family law,” Bree says, “but the day-to-day grind wasn’t something I was loving anymore.”

Taking the Leap Into Tech

Enter InfoTrack. Having used their products as a practitioner, Bree knew their reputation. When a role arose that blended her family law expertise with product development, she saw the chance for a “side step, not a back step.”

Her job now? Ideating and refining products for family lawyers. “It’s not a sales role,” she stresses. “It’s much more creative. I get to brainstorm what products could help practitioners, test ideas with other lawyers, and work with designers and developers to refine them. It’s a completely different way of using my skills.”

At first, she worried about the shift. “As a family lawyer, you don’t really think of yourself as creative. You’re about risk management and covering yourself, not generating ideas. I was nervous I wouldn’t be able to come up with anything useful. But being part of a collaborative team makes it exciting – your ideas don’t have to stand alone.”

The transition wasn’t just professional, but deeply personal. After years of billing in six-minute units, Bree had to retrain her brain to see value differently. “I still feel like I’m not working hard enough some days, because I’m not filling in timesheets,” she admits. “But now, success is about whether the product improves practice, not how many hours I’ve clocked in time recording.”

That shift has brought relief. “Meetings, brainstorming, and collaboration are actually what I’m paid to do now – it’s just a totally different mindset.”

Tech as a Partner, Not a Threat

Bree’s new vantage point has also reshaped her view of technology in family law. She confesses she was once resistant: “I liked my way of doing things. It felt safe.” Now she sees tech differently.

“The key is efficiency. Tech shouldn’t replace the lawyer-client relationship, it should protect it. If a system can automate the admin, organise the documents, or reduce the after-hours burden, then you’ve got more time to actually be the lawyer you want to be. That’s where tech really makes a difference.”



Balancing Motherhood and a New Career

Bree's leap into tech also coincided with motherhood. When her daughter Adeline was just four months old, the InfoTrack role appeared. Despite her initial vow to take a full year off, the opportunity felt right.

Now, she works part-time, building her days around family life, so she can be present at work and home. "I can still breastfeed, be there for bedtimes, and ease back in without daycare straight away. It's been the perfect balance".

Advice for Lawyers Contemplating a Change

So what would Bree say to the countless lawyers who quietly wonder if private practice is really for them?

"The biggest reminder I kept giving myself was: your job doesn't have to be your identity. Lawyers especially tie so much of their self-worth into their title. But it's not wrong to let that go. You're not throwing away your skills—you're just choosing a different way to use them."

And that identity shift can actually bring renewed energy. "When you make the choice, you feel more motivated to work toward what you want, not just what everyone else expects."

Bree's journey reflects a wider trend: lawyers seeking more sustainable, flexible, and creative careers. Whether through tech, consultancy, or alternative practice models, the message is clear—there is life after family law, and it can be deeply rewarding.

As Bree puts it: "You're allowed to get off the conveyor belt. There are other tracks, and they might just take you somewhere even better."

"You are not throwing away your skills. You are choosing a different way to use them."



THE CLIENT VIEW

What they carry with them, long after the matter ends.

“You explained it in a way that made sense. I finally felt steady.”

“You were calm when I wasn’t.”

“You treated me like a person, not a problem.”

Clients rarely remember the legislation you cited or the submissions you drafted.

They remember whether they felt heard. They remember whether they felt judged. They remember whether someone held steady when everything else felt uncertain.

Long after the orders are sealed and the file is closed, what stays with them is not the process.

It is the feeling of being supported when they needed it most.



Photography provided by Ami Gandhi

YOUR CLIENTS SEE IT. YOUR TEAM FEELS IT. THAT'S MARKETING.

Written by Ami Gandhi

Marketing is not just about bringing in clients. It is how your Law firm positions itself to support the people who need you most and how you build a workplace that reflects your values inside and out. In 2025, marketing is not just about what you say. It is about what you show, how you show up and whether that feels consistent to both your team and your audience.

Good marketing is not just about visibility. It is about relevance. It should attract the right clients, support the right referrals and strengthen your firm's voice in a space that is emotionally complex, competitive and rapidly changing.

Marketing Is an Internal Tool, Too

When done well, marketing is not just external. It shapes how your team sees the firm.

It sets the tone for your internal culture. Clear messaging helps everyone from your Receptionist to your Senior Associates understand what the firm stands for. That clarity influences how people communicate with clients, manage conflict and collaborate.

If your external marketing says one thing but your internal experience feels different, there is a disconnect and that erodes trust over time. Alignment matters. What your clients see should match what your team experiences. Marketing can help build that alignment.

Practical Applications Your Team Can Actually Use

1. **Build a Message Library** – Define 5–10 statements that sum up who you are and how you work. These should not be buzzwords. They should be true reflections of how you operate. Think: “We speak like humans, not like a legal textbook.” Or “We return calls. Every time.” Use this in training, content, onboarding and even hiring.
2. **Teach the Why Behind the What** – Instead of only telling team members to post on LinkedIn or send newsletters, explain the impact. Show how marketing helps potential clients feel safe. Show how content builds trust long before the first call.
3. **Use Marketing to Attract Talent** – Future team members are also checking your socials and website. They are asking, “Would I want to work here?” What story are you telling about your people, your values, your work-life culture?

The Future of Marketing in Family Law Is About Depth, Not Volume

In an industry where everyone claims to care, the firms that prove it, will stand out. Marketing should not feel like noise. It should feel like clarity. A few powerful posts that tell your story will go further than endless generic content.

It is also about adapting. Algorithms change. SEO evolves. But what remains true is this: people work with people. And clients hire people they trust. That trust starts with what they see, read and feel online.

Content Ideas That Actually Help Your Clients (and Team)

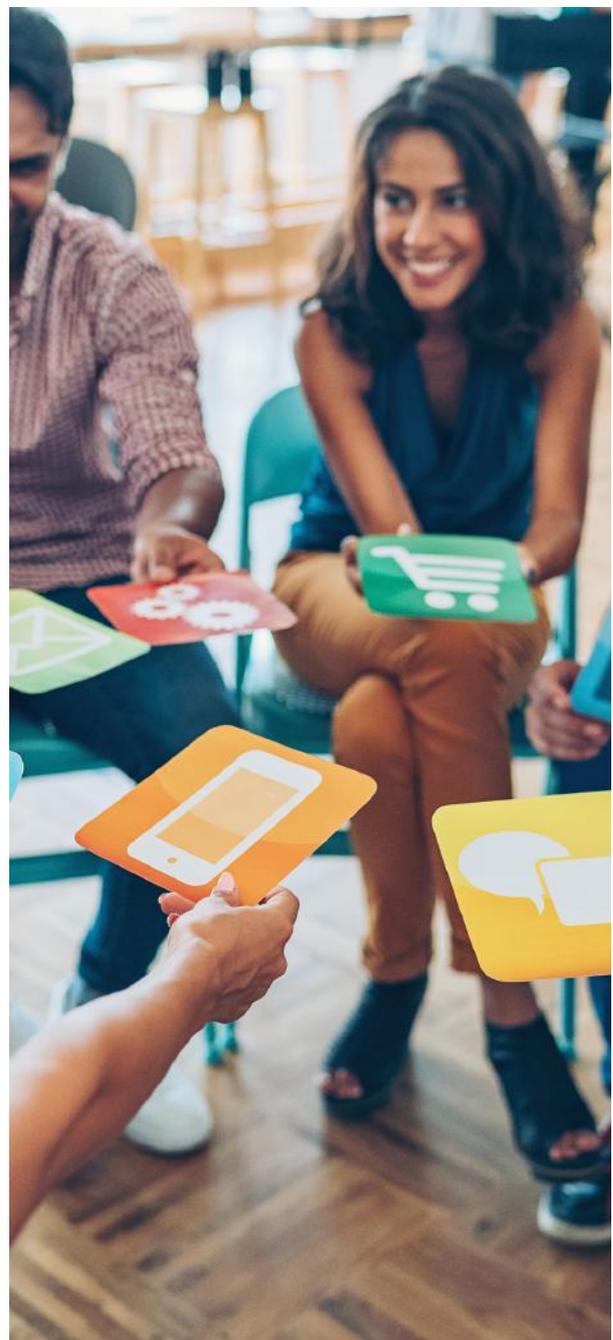
- A series on “What your first consult will look like” – sets expectations.
- A post explaining why you do not use aggressive legal language – shows your values.
- A behind-the-scenes look at how you manage emotionally complex matters – demonstrates your care.

- Internal case studies (private) that help junior lawyers understand how your firm handled a high-conflict matter with grace.

Final Thought

Marketing is not separate from your practice. It is part of how you serve your clients and support your team. In 2026, the firms that do it well will not just attract more work. They will build stronger, healthier practices inside and out.

If your message is clear, your values are consistent and your people are aligned marketing becomes more than a task. It becomes a tool that works across every part of your firm.



Free Checklist: The Law Firm Messaging Alignment

Want to make sure your internal and external messaging actually match? Use this free one-page checklist: "Is Your Firm Saying What It Stands For?"

It covers:

- The 7 must-have messages every firm should define;
- Internal alignment questions to ask your team; and
- Quick fixes for mixed messaging on social media, websites and email.

Use it in your next team meeting or onboarding session to make sure everyone is on the same page and that the page reflects who you really are.

Checklist: Is Your Firm Saying What It Stands For?

Is your firm really saying what it stands for inside and out?

Use this simple checklist to review whether your external message matches your internal culture. Share it with your team, use it during planning sessions, or revisit it quarterly as your practice evolves.

7 Must-Have Messages Every Firm Should Define

- Who you help and how?
- What makes your approach different?
- Your tone of voice (e.g. calm, direct, warm, reassuring)
- Your real values (not just "trusted and experienced")
- What will you never compromise on?
- How you want clients to feel after working with you?
- How will your team work together and communicate?

Internal Alignment Questions to Ask Your Team

- Does our team know what we stand for beyond "we are a Family Law firm"?
- Do new hires learn our messaging as part of onboarding?
- Are we clear about what kind of clients we do (and do not) work with?
- Does our internal culture reflect what we promise clients?
- Can every team member describe the firm in one sentence, and would it sound consistent?

Quick Fixes for Common Messaging Issues

- Update your **About page** to reflect your current tone, team and direction
- Write **short, conversational bios** for all team members
- Audit your last 5 social posts, do they sound human or templated?
- Replace legal jargon with **clear, everyday language** in client communications
- Ask a few trusted clients how they would describe your firm to someone. Their answers might surprise you, things like "you were calm and straight-talking," or "your website felt less cold than the others." If what they say does not align with how you want to be seen, it is time to close the gap. Use their language to refine your messaging and make sure your content reflects the experience you want clients to have.

Use this checklist in your next team meeting, marketing brainstorm, or onboarding session.

"Because the best marketing is not about being louder. It is about being aligned."



Photography provided by Jason Popelier



SMSF'S UNCOVERED

*What Law Firm Owners Need
To Know!*

Written by Victoria Rebellato, based on an
interview with Jason Popelier

Self-managed super funds (SMSFs) have become an increasingly popular alternative to traditional superannuation structures in Australia. For law firm owners and business professionals seeking greater control over their retirement savings, SMSFs offer flexibility and strategic advantages—particularly when it comes to property ownership and wealth accumulation. Jason Popelier, an experienced financial adviser, provides valuable insights into why SMSFs are appealing to business owners and the key factors to consider when setting one up.

Why Consider a Self-Managed Super Fund?

Jason explains that SMSFs are attractive to more sophisticated investors or those with specific asset strategies. One of the primary reasons business owners establish a SMSF is the ability to purchase commercial property through the fund. This allows them to effectively "pay rent to themselves" rather than a third-party landlord, reducing both costs and risk.

"Business owners can own their commercial property through a SMSF, which lowers the overall risk of ownership and rental expenses," Jason says. "It's a win on both sides—retirement growth and business cost savings."

However, SMSFs are not for everyone. Jason notes that SMSFs are governed by the Act Superannuation Industry (Supervision) Act 1993 (SIS Act) and monitored by the Australian Taxation Office (ATO). This regulatory oversight sets SMSFs apart from industry funds, which are overseen by the Australian Prudential Regulation Authority (APRA).

"Superannuation funds can't directly borrow money," Jason explains. "Originally, they could, but around 20 years ago, developers took advantage of this by using SMSFs for property development, which prompted regulatory changes. Now, SMSFs can only borrow under very specific conditions using a special purpose vehicle like a bare trust or a fixed unit trust."

Strategic Borrowing and Property Investment

While SMSFs can't directly borrow, Jason outlines how borrowing can still be achieved through structured arrangements. "If you borrow through a bare trust or a fixed unit trust, the asset must have a positive balance and meet loan-to-value ratio (LVR) requirements," he explains.

Business owners commonly use SMSFs to purchase commercial properties with favourable tax benefits. "A SMSF in the accumulation phase currently has a tax rate of 15%, which means after-tax dollars can be used to service a loan. That's significantly more leverage than if you borrowed personally through another entity."

This strategy can also serve as a retirement plan and a method to bring other partners into the firm. "It's a great way to enable partners to buy into the ownership of the building and build long-term equity."

The Role of Trustees and Governance

SMSFs require each member to be a trustee, which can be structured as individual trustees or a corporate trustee. Jason recommends using a corporate trustee, despite the higher initial setup costs.

"A corporate trustee makes administration easier and protects the fund in cases of succession or life events. If you have individual trustees, any change in membership would require updating all the investments held in the fund—a logistical nightmare," Jason explains.

From a governance perspective, trustees need to comply with strict regulations. "Each fund must be audited annually, and the trustees are personally responsible for ensuring the fund remains compliant with the SIS Act."

Jason highlights a case where a law firm partner who acted as a trustee suffered a serious health issue and was unable to manage the fund. "Because there was no successor nominated, the firm faced significant challenges in managing the fund's assets and obligations."

Auditing and Ongoing Compliance

One of the key obligations of a SMSF is the requirement to undergo an independent audit each year. The more complex the fund, the higher the cost of both accounting and audit fees.

"Every SMSF must have an annual audit performed by an independent auditor," Jason explains. "The more complicated the fund's structure and assets, the more expensive the audit process will be."

Jason highlights the key components of a SMSF audit:

- Trustees must prepare a set of financial statements and a tax return, usually completed by a specialist accounting firm with SMSF expertise.
- The accounting firm will compile an audit file, which includes work papers and other documentation for the auditor's review.
- The auditor will issue an opinion on whether the fund is compliant with the SIS Act and the fund's own investment strategy.

"The investment strategy is set by the members, who are also the trustees," Jason explains. "If the auditor identifies that the fund is operating outside of that strategy, they will flag it as a compliance issue."

The independence of the auditor is essential. Jason stresses that the tax agent preparing the financials and tax return cannot act as the auditor. "Your tax agent and auditor must be separate legal entities. If they're part of the same firm, it's a red flag for the ATO."

Jason warns that breaches can range from minor issues, such as failing to update trustee names on investments, to more serious compliance failures. "If you've taken money out of the fund without authorisation, that's a clear breach of the SIS Act. That could lead to penalties, higher tax rates, and even the fund being declared non-compliant."

Tax Benefits and Pitfalls

SMSFs offer some tax advantages, including capital gains tax (CGT) discounts. If an asset is held for more than 12 months, the tax rate on capital gains is reduced from 15% to 10%. However, non-compliance comes with severe penalties.

"If a fund is deemed non-compliant by the ATO, the tax rate can jump from 15% to 45%," Jason warns. "That could result in a massive tax bill and even reset the value of fund assets for CGT purposes."

For example, if a SMSF holds \$200,000 in assets and is declared non-compliant, the fund could face a \$90,000 tax bill. Trustees may also be banned from operating another SMSF in the future or face broader consequences if they hold directorships in other businesses. "The ATO takes compliance seriously," Jason warns.

Setting Up and Maintaining a SMSF

Setting up a SMSF involves creating a trust deed, appointing trustees, and registering the fund with the ATO. Jason advises that the process requires careful planning and alignment with long-term business and retirement goals.

"The ATO will review the fund's compliance history and the standing of its members before approving the registration," Jason says. "If any trustees have outstanding tax lodgements or compliance issues, the ATO may refuse registration."

Ongoing maintenance includes preparing financial statements, tax returns, and engaging an independent auditor to assess compliance. "The tax agent and auditor must be independent," Jason explains. "If they are part of the same entity, that's a red flag for the ATO."

Jason stresses that SMSFs require active involvement from trustees. "You need to be capable of managing your own affairs. SMSFs offer more flexibility, but they also require more oversight and responsibility."

Exiting a SMSF

Winding down an SMSF and rolling out funds into an industry fund is possible but involves additional complexity. "There are interim financial statements and tax returns required before a fund can be closed," Jason explains. "It's more costly and time-consuming than setting up a fund, but it's essential to get it right to avoid compliance issues."

In cases where one member wants to exit while others remain, the fund can continue with an interim balance rollover. Jason notes that siblings or business partners often take this approach when their investment goals change.

"The ATO takes compliance seriously"



Common Pitfalls and Red Flags

Jason highlights some key pitfalls to avoid with SMSFs.

1. Personal Use of Assets – "Some people brought holiday homes or artwork through SMSFs and personally benefit from them—this is strictly prohibited."
2. Compliance Failures – "Non-compliance can result in major tax penalties and even disqualification from future SMSFs."
3. Insurance Gaps – "SMSFs offer fewer insurance options compared to industry funds, which could expose members to risk."
4. Asset Valuation – "SMSFs require accurate asset valuations for properties or private investments to effectively calculate member balances, especially when calculating pensions".

Jason also stresses the importance of reviewing insurance when rolling into an SMSF.

"If you have existing insurance through an industry fund, it may not transfer to the SMSF, leaving you without coverage."

Is a SMSF Right for You?

SMSFs offer significant benefits, but they aren't suitable for everyone. Jason advises that SMSFs are most viable for individuals or firms with higher balances or specific investment goals.

"Once your balance reaches around \$350,000 to \$400,000, a SMSF becomes more cost-effective," he explains. "Before that point, the costs of setting up and maintaining a SMSF may outweigh the benefits unless you have a strategic purpose—like buying commercial property."

Jason's advice for anyone considering a SMSF is to carefully assess their long-term goals, governance capacity, and compliance obligations.

"SMSFs give you more control—but with that control comes greater responsibility."

SMSFs offer law firm owners a powerful tool for building wealth and securing their financial future. However, they require strategic planning, ongoing management, and strict adherence to compliance requirements. Jason's insights underscore the importance of understanding both the opportunities and the obligations involved in setting up a SMSF. For those willing to navigate the complexities, SMSFs can provide unparalleled flexibility and financial leverage—helping law firms secure long-term stability and growth.



PARENTING COORDINATION

Supporting Parents Beyond Agreement and Orders

Written by Stephanie Azzi

Once a parenting agreement or Court Orders are in place, many parents assume their conflict will naturally subside. However, communication problems and disagreements about day-to-day parenting rarely disappear simply because an agreement has been signed or because orders are made. In reality, many parents have little understanding of what effective shared parenting looks like or how to implement it in their daily routines. It is often the smaller, routine decisions—rather than major issues—that create ongoing tension. For family law practitioners, assisting parents who frequently return for guidance on minor disputes can be challenging. This raises an important question: how can parents build resilience and reduce their dependence on legal intervention?

A parenting coordinator (PC) can play a valuable role in this process. PC's support families by helping parents manage everyday co-parenting issues, improve communication, and develop joint decision-making skills. Their involvement can significantly reduce conflict and minimise the need for repeated legal assistance, ultimately saving parents time, stress, and money. Parenting coordination is designed to promote healthier co-parenting relationships and reduce the risk factors that affect children's adjustment after separation.

Unlike mediators, who typically operate in a confidential, time-limited process that ends once an agreement is reached or negotiations break down, parenting coordinators work with families over a longer period in a non-confidential setting. Their role includes identifying parenting challenges, educating parents about the effects of separation on children, monitoring compliance with parenting plans or Orders, managing emerging conflict, and making recommendations when parents are unable to agree. PC's may also consult with other professionals involved with the family to ensure appropriate ongoing support.



Parents usually engage a PC voluntarily or through a Court Order for several months to a few years. PC's provide support both in scheduled sessions and as issues arise, allowing problems to be addressed promptly. Through continued guidance, dispute resolution and case management, parenting coordinators help families progress after separation and create more stable, low-conflict environments for their children.

Ultimately, parenting coordination offers a structured, child-focused framework that empowers parents to manage day-to-day challenges more effectively while reducing conflict and reliance on ongoing legal intervention.

Meet Stephanie at

**DISRUPTING
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Innovative Strategies in Family & Estates Law



A CLEANING BUSINESS CASE STUDY

How a few accounting signals changed the valuation and the settlement conversation

Written by Daniel Nott

HALL CHADWICK 

Case Snapshot

A couple co-owned a multi-entity cleaning services group. Before and after their separation, profits decreased, costs increased, and cash flow became tight. The less involved spouse was concerned that value was leaking through related subcontractors, intercompany transfers, and personal travel charged to the business.

This issue was not about proving wrongdoing. It focused on valuation: what is the business worth when the numbers reflect the actual situation?

Signals That Move Valuation

With a multi-entity group structure, certain accounting signals often explain sudden performance shifts:

Margins fell while revenues held:

This can indicate that subcontractor rates increased, or the mix changed without any operational cause.

Subcontractor spend spiked:

New vendors, rate jumps, or duplication, especially to related parties, deserve further investigation.

Intercompany transactions increased:

Round sum transfers and management fees can shift profit between entities, and in this case funds were moved from the shared entity to others where one spouse had no financial interest or control.

Travel and entertainment climbed:

This area often contains personal expenses hidden in the P&L.

System behaviour changed:

Changes in user roles and backdated edits clustered around the separation date can suggest timing effects on reported profit.

These signals impact the key valuation inputs: maintainable earnings (a sustainable level of future profit), normalised expenses (removing non-commercial or personal costs), and risk (how reliable those maintainable earnings are once you consider items such as customer concentration, dependence on related-parties, key person exposure, accuracy of records etc).

Normalisation evidence: what to ask for and why

Ask for:

- Financial records, access to accounting system for all related entities
- Bank statements (including related entities/owners)
- Subcontractor agreements
- Intercompany agreements & journals
- System audit logs
- Payroll, travel and entertainment expenses, card holders.
- Related party register
- Corporate structure chart

Each item links to a valuation lever (earnings, normalisation, or risk) and speeds agreement on what is commercial.

By examining each signal, the forensic accountant can differentiate genuine operating costs from personal or related party expenses.

Risk (for valuation purposes): the uncertainty that maintainable earnings will be realised and evidenced over time; higher uncertainty lowers the multiple (or increases the discount rate).

What the Forensic Work Showed

We examined the signals and connected them to valuation factors:

- Testing subcontractor rates revealed premium pricing for related parties.
- Intercompany journals were lacking documentation, particularly for ongoing management fees. The adjustments made reallocated profit to the entity that actually performed the work.
- An expense review eliminated personal travel and entertainment costs from the P&L.
- Cash tracing linked bank movements to ledger entries to verify where money flowed and why.

The result was a normalisation schedule and valuation based on maintainable earnings.

Why it mattered for settlement

Maintainable earnings drive value. Inflated subcontractor costs or unsupported management fees depress maintainable earnings and understate the asset. Removing these inflated figures restored the financial position and improved equity for the spouse with less access to funds and financial knowledge. Importantly, both parties could negotiate from a shared factual basis, with clear adjustments that could be explained in correspondence and, if necessary, in court.

What to Take Forward

- Focus on signals that change value.
- Look across all related entities
- Explain adjustments simply: what changed, why it's non-commercial, and how it affects maintainable earnings.

Rule 7.08(2)(a): a substantial body of opinion

Rule 7.08(2)(a) allows for adversarial evidence to be adduced or tendered if the single expert's opinion is contrary to a substantial body of opinion. As Kent J observed in *Salmon and Ors & Salmon* [2020] FamCAFC 134 at [35], this hurdle can only be cleared when "a contrary opinion is founded upon identified and accepted methodology recognised within the field, or some identified and recognised field of expertise different to that founding the expert single opinion". It was further clarified at [27] that "a mere difference of opinion, particularly in the area of valuation, would not ordinarily be sufficient to engage the discretion to permit expert evidence other than the jointly appointed single expert." An adversarial expert must point to an authoritative source of valuation theory or practice. In circumstances where the boundary between valuation methodology and legal principle is blurred (such as when a business valuation expert must consider the concept of "value to owner"), it should be considered whether a reference to legal authority may suffice.

Wilson J further clarified in *Keevers & Keevers* [2021] FedCFamC1F 338 at [39] that "the precise issue in respect of which contrary opinion exists must be identified". For this reason, care must be taken to dissect the disagreement between experts into precise, specific technical and factual issues.

Rule 7.08(2)(b): matters not known to the single expert

Rule 7.08(2)(b) provides a basis of adversarial evidence to be tendered when “another expert witness knows of matters, not known to the single expert witness, that may be necessary for determining the issue”. It most commonly applies where the single expert overlooks a key comparable sale, misses a relevant characteristic of the asset that is being valued, or makes assumptions outside their qualifications and expertise; for example, a business valuation expert opining on remuneration or specialist taxation issues.

In *Bergman & Bergman* [2022] FedCFamC2F 1313, O’Shannessy J considered whether an adversarial expert’s knowledge of the ranking of series and dams - information not known to the single expert - was a sufficient basis to admit adversarial evidence. Whilst noting at [31] that the ranking may be “immaterial and of little weight,” the application was ultimately granted on the basis that it may be necessary to determine value.

Similarly, in *Valentina & Malley* [2023] FedCFamC2F 1167, five comparable sales relied upon by the adversarial expert but omitted by the single expert were found to engage r 7.08(2)(b). Although O’Shannessy J queried whether cross-examination alone could resolve the issue, his Honour ultimately held it was not efficient for the single expert to learn of these matters for the first time during cross-examination. *Bergman* and *Valentina* both affirm that care should be taken to carefully brief a single expert, as any omissions of information that would affect value can be capitalised on to allow to a second opinion.

Rule 7.08(2)(c): a special reason

Rule 7.08(2)(b) permits adversarial evidence to be adduced or tendered where there is a special reason. What constitutes a special reason is not exhaustively defined and will turn on the circumstances of the case. However, existing case law indicates that the court may be persuaded where there is a risk of an evidentiary vacuum, where multiple factors cumulatively support the application (that is, an aggregate of various reasons), and/or where doing so would serve the interests of justice.

The risk of an evidentiary vacuum

In *Moretto & Cosola* [2022] FedCFamC1F 433 at [30], Riethmuller J accepted the wife’s application to tender adversarial evidence on the basis that “it [was] difficult to avoid the conclusion that there is a real risk of an “evidentiary” vacuum arising in [the] case if the [wife’s] contentions as to value [were] correct”. This was because “the value contended by the [wife] was well outside the range ascribed by the single expert”. The difference between the expert opinions was \$750k, with the total assets assessed as being at least over \$3m. Riethmuller J further noted at [31] that he was persuaded that the wife established a special reason given that there was “a real risk that she will be unable to effectively put her case to the value of the [husband’s] property if she is limited to cross-examination of the single expert”, reasoning that this point was “reasonably arguable” and “involves an amount so great that the additional litigation costs are not disproportionate”.

It should be noted that in *Moretto*, reference was given by Riethmuller J to a range of values ascribed by the single expert. In circumstances where cross-examination can move the single expert up and down within the ‘range’ of their comparable sales evidence and/or the range of inputs within their valuation report, it can be arguable that there is no need for adversarial evidence to be put before the court.

When the interests of justice are compromised and the differences are vast: discretion is broader, and an aggregate of reasons can be considered

As Kent J explains in *Salmon and Ors & Salmon* [2020] FamCAFC 134 at [27], “a mere difference of opinion, particularly in the area of valuation, would ordinarily not be sufficient to engage the discretion to permit expert evidence other than the jointly appointed single expert.” However, as the Full Court accepted in *Neales & Neales* [2022] FedCFamC1A 41 at [40], the “cumulative aspect” of several complaints together combined with a significant divergence between the opinions of two valuers can form the basis for a special reason. In other words, the overall thrust of the argument must be considered, in addition to the individual grounds argued pursuant to r 7.08(2). As Schonell J recently held in *Persson* at [53], “the Rules are not to be construed as a straitjacket restricting the interests of justice”. Where the interests of justice are at stake, an application for adversarial evidence should be accepted.

In *Sarka & Sarka* [2024] FedC1FamC1F 804 at [37], Schonell J explained that:

“[...] r 7.08 cannot be read in isolation and must be read with r 7.02 and in particular r 7.02(c), which specifically provides:

to ensure that, if practicable and without compromising the interests of justice, expert evidence is given on an issue by a single expert witness.”

When it comes to wide interpretation of a special reason, size matters

As Wilson J states in *Minke & Minke* (No 3) [2024] FedCFamC1F 860 at [14], “the size of discrepancies and the amounts the subject of expert evidence is one issue pointing to the existence of a special reason”. Several recent decisions illustrate that significant discrepancies in value, particularly in high-value property pools, have tipped the scales in favour of leave. In each, proportionality has played a crucial role:

- In *Neales*, the single expert valued the properties between \$33.835m and \$34.190m, whereas the proposed adversarial expert valued them at \$22.465m.

A significant difference in values was also seen in *Persson*, where the single expert valued one of the properties at \$8m on an ‘as is’ basis, and between \$75m and \$90m on the assumption that it could be rezoned and subdivided. The adversarial expert subsequently valued the same property at \$13.7m on the ‘as is’ basis, and \$126.5m assuming the “as if” basis.

- In *Keevers*, the single expert assessed a value of \$52.97m for the Family Trust. The adversarial expert expressed a range of values between \$37.39m to \$46.39m.
- In *Verdon & Verdon* [2020] FamCA 24, the difference between the single expert and adversarial expert’s valuations was \$8m.

In short: the greater the difference, the more likely it is that excluding adversarial evidence will compromise the interests of justice.

A third option: where it is necessary for the court to have a range of opinion

In *Woodcock & Woodcock* (No 5) [2023] FedCFamC1F 894, an argument was mounted by the wife’s solicitors that an adversarial expert’s opinion should be tendered for the valuation of a beneficiary’s right to due consideration, pursuant to r 7.04(2)(e). At [2], a summary of the arguments advanced included:

- (a) that it was a novel asset;
- (b) that there is no Australian valuation authority on the issue;
- (c) that there are no comparable sales available;
- (d) that the discretionary trusts in issue are “very idiosyncratic”, and that it is for this very reason that a value must be assigned to the husband’s rights as a beneficiary;
- (e) that the valuation of a right may not be “beyond the actuarial arts”;
- (f) that the beneficiary’s right to due consideration is “property” for the purposes of the Family Law Act 1975;
- (g) that no presumption exists that a single (or adversarial) expert should be ordered to provide evidence of such a right; and
- (h) as opposed to the evidence adduced from a single expert, evidence adduced from one or more adversarial witnesses would allow for the “range of opinion” detailed in r 7.04(2)(e).





Photography provided by Mia Madafferi

INNOVATING THE LEGAL BACK OFFICE

*How Maria Masterantonio Built
Digimaster*

Written by Maria Masterantonio



When Maria Masterantonio describes her path into the legal industry, it's anything but linear. From a struggling student who stumbled into typing wills, to working in London's Magic Circle firms, to founding her own business, Maria's story is one of resilience, adaptability, and a keen eye for opportunity. Today, she is the founder and director of Digimaster, a company that delivers outsourced secretarial, document, and administrative support to law firms across New Zealand, Australia, and beyond.

Maria's first legal job came by chance—an office junior role in a firm that seemed glamorous compared to the alternatives. She worked her way from reception to secretarial roles, eventually landing in marketing just as law firms were first allowed to advertise. That early adaptability became a career hallmark.

A move to London opened her eyes further. “Working in the Magic Circle was the biggest eye-opener,” she recalls. “I realised that global business wasn’t out of reach and that innovation often thrives in smaller, more agile markets like New Zealand.”

At Freshfields, Maria supported deals for household names like Virgin, Rothschilds, and Seagrams. The experience instilled a lifelong focus on efficiency, systems, and global thinking—all of which would later underpin her business.

Returning to New Zealand, Maria pivoted into legal recruitment and training, developing a passion for connecting people with the right roles. She later established her own consulting and training business, but the Global Financial Crisis of 2009 wiped out her work overnight.

“It was humbling,” she admits of the time she spent on government benefits. “But it taught me resilience.” From that low point, she rebuilt, eventually launching Digimaster. What began as a reclusive, word-of-mouth typing service grew into a sophisticated operation with a national virtual team.

That mix of resilience and innovation carried into Digimaster, where Maria balances people and technology in equal measure. She is candid about the challenges of positioning her business. “We don’t fit anywhere—we’re not a law firm, we’re not software. We’re the humans behind the technology,” she explains.

Her team works across multiple practice management systems, tailoring outputs to the preferences of individual lawyers. They also leverage AI tools—speech-to-text, bundling software, and discovery programs—to increase accuracy and speed. But Maria sees technology as both ally and rival.

“When Dragon Dictate came in, I lost half my turnover overnight,” she says. “Since then I’ve watched technology like a hawk. It’s our biggest aid and our biggest competitor.” She believes the legal industry must learn from the past: just as the arrival of email created overwhelm in the 1990s, today’s flood of AI tools risks drowning practitioners. Her role, she says, is often that of a guide—testing, curating, and advising firms on what tools actually add value.

At its heart, Digimaster is about freeing lawyers from admin so they can focus on clients. The business provides law firms with experienced secretaries and document specialists who type, format, and proof legal documents; handle Legal Executive tasks; support litigation and arbitration as well as Property and Commercial work; and manage trust accounting. In short, Digimaster is a virtual back office that allows firms to operate leaner, smarter, and more efficiently.

Growing a virtual team across New Zealand, Australia and abroad also taught Maria to prioritise trust, communication, and empowerment. “My biggest learning as a leader was to get out of my own way,” she reflects. “I had to stop micromanaging, empower everyone, and really encourage questions. That’s very different in a virtual environment—it takes trust, not just proximity.”

She fosters connection with annual team retreats, cross-generational mentoring, and simple but effective rules—like the “666 Rule”: six minutes to solve a problem yourself, six minutes to ask a colleague, and then escalate to her as leader.

Maria’s advice to others considering starting their own ventures in law is straightforward: embrace resilience, keep an eye on efficiency, and don’t be afraid of technology. “You’ll have setbacks—financial, personal, or professional. But every downturn is an opportunity to rebuild smarter. Keep watching the trends, but remember people and relationships are at the heart of this profession.”

Her vision for Digimaster is ambitious: expanding across New Zealand, Australia, Singapore, and London, supporting firms to strip away administrative burdens so lawyers can focus on clients. She also sees potential in rethinking law firm structures, with flexible hot-desking models that accommodate the increasing number of women in law.

Ultimately, Maria’s journey embodies what innovation in the legal industry looks like: part grit, part adaptability, and part refusal to accept tradition as the only way forward. As she puts it, “We’re here to do the grunt work so lawyers can focus on clients.”



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