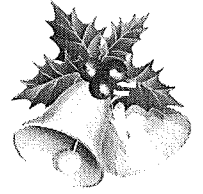


QuinLaw - December 2009 Newsletter



On 1 April 2009 a new era began when the practices of Catherine Quin and Trevor Knowsley amalgamated and are now known as QuinLaw.

Trevor's practice specialised in property and trust law while Catherine's area of speciality mainly covered Family Law. The combination of both areas of specialist practice ensures we are able to provide a comprehensive service to all our clients.

The year has since flown. There have been big changes in interpretation of Trustee actions, the effect of the new Enduring Powers of Attorney and Real Estate Agents Contracts. We will bring you more on these updates during 2010.

Collaborative Law

Catherine and Gordon often work together and collaborate on client matters.

Collaborative Law is the new way for solving disputes. Here the parties agree to work through the issues, in a way that is fair to both parties and to solve and resolve the issues mutually.

Catherine has been to seminars and study days on this process. It is exciting, fulfilling and cheaper for clients.

It isn't used in New Zealand yet but is used in UK, USA, Canada and Australia and will be here soon. Lawyers need to be trained and committed to the process, as do the clients. More about this as it develops ...



Front, left to right: Trevor Knowsley, Catherine Quin, Gordon Wilson
Back, left to right: Lisa Steffensen, Maree Cotter

OUR STAFF

Catherine Quin	- Principal - Solicitor
Trevor Knowsley	- Consultant/Solicitor
Gordon Wilson	- Staff Solicitor
Lisa Steffensen	- Registered Legal Executive
Maree Cotter	- Legal Executive
Maria McCracken	- Office Manager
Barbara Haakma	- Legal Secretary
Carole Probert	- Typist/Trust Administrator
Stephanie Patterson	- Receptionist/Accounts
Pauline Marfell	- Typist/Administrator

QuinLaw BARRISTERS & SOLICITORS

11a Robe Street, P O Box 3119, New Plymouth

Phone: 06 769 9687 * Fax: 06 769 9685 * Cell 021 444 678

Email: office@quinlaw.co.nz

catherine@quinlaw.co.nz * gordon@quinlaw.co.nz * trevor@quinlaw.co.nz

lisa@quinlaw.co.nz * maree@quinlaw.co.nz

Catherine Quin

Catherine hails from Wanganui but her father originally came from New Plymouth.

Catherine qualified as a Registered General and Obstetric Nurse in 1976 and has worked as a nurse in Palmerston North, Wellington and Dunedin and overseas including Africa.

Catherine qualified as a Solicitor from Otago University in 1987. She has worked as a lawyer since. During this time Catherine established a wide base of Court experience, Wills and Trusts.

Catherine has a particular interest in elder abuse matters and was instrumental in advocating and arranging for the Elder Abuse Service to be established here. She is Chairperson of the Advisory Panel for the Elder Abuse Service.

Catherine acts as voluntary solicitor for the Taranaki Society for the Blind, Taranaki Head Injury Society, Taranaki Brain Injury and Parents of Deaf Children Taranaki.

Catherine specialises in all areas of Family Law, Elder Protection, Protection of Personal and Property Rights, Conveyancing and Trusts.

Gordon Wilson

Gordon was appointed Staff Solicitor at QuinLaw in November 2008. Before Gordon decided to embark on a career in law he spent the previous 14 years working for two global corporations that operate in Taranaki.

"I decided it was time for a new challenge. My brother Douglas had been a lawyer with Chapman Tripp in Wellington and I had always wondered what would have happened if I had followed in his footsteps. The next thing I knew I was studying at Victoria University in 2004 at the same time as my teenage sons were attending Massey in Wellington. I'm sure the lads were relieved that they wouldn't run into dad in the café!"

Gordon is specializing in the areas of Family and Mental Health law and has a particular interest in relationship property. QuinLaw is confident Gordon's maturity combined with his broad work and life experience will assist him in understanding clients needs and finding ways to help meet them.

Trevor Knowsley

Trevor commenced work as a law clerk with Bell Gully & Co in 1962 and qualified at Victoria University with a degree of Bachelor of Laws.

During his time at Rainey Collins Armour & Bock in Wellington, Trevor spent a year on Court of Appeal reporting.

Trevor headed off on his OE with his wife Sue in 1970 and whilst in England worked in a legal office in Margate. After returning to NZ and working again in Wellington, Trevor and Sue moved to New Plymouth in 1974 where Trevor took up a partnership in the New Plymouth firm of Moss & Co.

On 1 October 1986 Trevor established the firm Trevor Knowsley on Devon St West and remained principal of the firm until 31 March 2009. The closing of the firm 'Trevor Knowsley' on 31 March 2009 and employment of Trevor and all the current staff at QuinLaw is the latest chapter. He is looking forward to slowing down the pace of work a little and planning further trips overseas.

Wills - the importance of doing it right

A Will is one of the most common, yet certainly one of the most important documents a lawyer is called upon to prepare. From your point of view it is almost certainly the most important document you will ever sign. This is why everyone needs to think about their Wills.

If you do not leave a Will, your family has no legal means of knowing your wishes and your property will be divided in a manner which is predetermined by the law and which may not be in accordance with your wishes.

While a Will is primarily about disposal of assets it can also appoint legal guardians for your infant children and set out any funeral provisions.

There are certain formalities which have to be observed in the way a Will is written, the way a Will is signed and strict legal requirements for witnessing and deciding who is a competent witness. Failure to observe these rules may result in a Will being invalid or result in certain people being disentitled from taking benefit under the Will.

Once a Will has been made it should not be left to gather dust. It is a document which needs to be reconsidered, particularly if your circumstances change. "While separation does not revoke an existing Will, remarriage does, it cancels your Will.

Do not be tempted to make your own Will. Do-it-yourself Will kits are available but should be avoided. Preparation of a Will may seem a simple matter, but as discussed above there are important legal issues to be considered. The best people to give that advice are solicitors and legal executives.

Trusts — a brief plain English explanation



In recent years there has been an increased interest in trusts as a means to retain the use and benefit of assets without actually owning them. A discretionary trust deed is the type of trust most often used. The trust deed (a written document) is tailor-made for your own circumstances, although there are a number of features which are common to discretionary trust deeds. The person who forms the trust is known as the 'settlor'. To create the trust, the settlor signs a trust deed and places assets into the trust. Initially this may be a nominal amount, for example \$100.00.

The trustees are the people who make all the decisions for the trust e.g. purchases and investments, how often distributions of income/capital are made and to whom they are made.

It is therefore vital to appoint appropriate persons as trustees, such as a close friend and/or a professional adviser in conjunction with yourselves. The trustees must only administer the trust assets for the benefit of those people named as beneficiaries in the trust deed.

Trusts can be a useful tool for a number of different needs. Business people should consider whether, in an environment where the law is increasingly holding individuals responsible for the actions of companies in which they hold office, their connections could expose them to a claim. A trust could help protect family assets from such claims.

Trusts are also useful in protecting assets in second marriages. Other uses of a trust include management of assets in situations where you have a concern that assets left as a gift under a Will might become relationship property for your child and his/her spouse.

It is never too late to establish a Family Trust. However, generally the sooner the better so that you can start benefiting from the advantages.

Relationship Property 'pre nup'/contracting out agreements

WHO CAN MAKE A CONTRACTING OUT AGREEMENT?

Any husband and wife, civil union partners, de facto partners or two persons contemplating entering into such a relationship may contract out of the provisions of the Property Relationships Act by making an agreement under the Property Relationships Act.

WHY ENTER INTO AN AGREEMENT?

The law change in 2002 states that at separation the assets are to be divided 50:50 in most circumstances (de facto only after 3 years together). With the change in the law from 2002 a Contracting Out Agreement is a good idea where one party has more assets than the other. Yes, it is socially awkward to talk about keeping your property separate before you enter into a relationship, or even during it. However, if you want to avoid the usual presumption of equal sharing of property that arises when the relationship ends, then the only way out of this is by an agreement. An agreement can also assist with asset, estate or tax planning.

An important point to note is it is also possible to include provision for reviewing Contracting Out Agreements over time. You might wish to provide that it be reviewed in the event of the birth of a child to the relationship or after so many years of a relationship. This is a common way out for people who want to protect assets from an early separation but still wish to have equal sharing if the relationship lasts 3, 5, 7 or 20 years.

WHAT IS INCLUDED IN AN AGREEMENT?

The agreement will set out what property is to be separate property and what is relationship property and can define shares in that property. The agreement can also deal with how property will be dealt with on death. For example the parties may agree that one person's house remains his sole property but does provide for the partner to live in it rent free for two years after death so then that gives that party sufficient time to re-organise his or her life.

Our office will be closed from 5pm on 22 December 2009 and will reopen on 18 January 2010.

There will be a skeleton staff for emergencies and conveyancing.

Please phone the office and leave a message.

*We wish you all a Merry Christmas and a Happy New Year
and look forward to seeing you in 2010*



**Family Law * Buying, Selling & Refinancing Property * Refinancing * Wills
Enduring Powers of Attorney * Estates * Trusts * Relationship Property
PPPR Applications * Senior Law Matters**