

Wills and Estates

Thursday 15 August 2024

Session 4 – 1:45pm - 2:45pm

Panel: The effect of cognitive impairment on testamentary and inter vivos decision-making capacity

Legal professionals are fundamentally involved in assessing legal requirements necessary for an individual client's decision-making capacity and the ability to enter into transactions capable of being recognised at law. It is therefore critical for those professionals to understand those requirements and the effect that cognitive impairment has on decision making capacity. Our panellists will explore and discuss the effect of cognitive impairment in the context of decision making in different contexts. Testamentary and various inter vivos transactions will be explored, and elder abuse, vulnerabilities and complex family dynamics will be discussed. Recent cases and remedies will be examined.

Meet the speakers

Josephine Pignataro, Special Counsel, HWL Ebsworth Lawyers (moderator)

Josephine Pignataro is an Accredited Specialist in Wills & Estates, with 20 years of experience in the area of estates and succession law. She is also a trained Collaborative Estates Law Practitioner. Josephine acts for private clients in relation to estate planning, ranging from individuals and families with relatively simple structures to those with ultra-high net wealth. She also acts for individuals and companies on grants of representation and estate administration. As an Accredited Specialist, Josephine often deals with the administration of estates involving complex, urgent or unusual circumstances. She is also involved in estate litigation, with experience in family provision proceedings and probate proceedings dealing with the validity and rectification and construction of Wills. A respected practitioner in the field, Josephine was recognised by Doyle's Guide in the category Estate Litigation and Estate Planning – NSW in 2022.

Rodney Lewis AM, Senior Solicitor, Elderlaw Legal Services

Rodney Lewis has been a solicitor in Sydney for 55 years, and his law practice has involved acting on business and commercial law, property law, business litigation and wills and estate administration work for his clients. In 1999 he began lecturing university graduates and undergraduates part time in a new – Australian-first – course in Elder Law. A few years later, having identified a need, he wrote a book on the subject, which became a 550-page textbook, *Elder Law in Australia*, published by LexisNexis, Sydney, in 2004. The second edition was published in 2011, and the third edition is pending. Over the last 13 years he has presented 100 seminars and webinars to colleagues and others and has made many submissions and presentations to Parliamentary and other Inquiries.

Caroline Sims, Partner, Teece Hodgson & Ward Solicitors

Caroline Sims is an Accredited Specialist in Wills and Estates Law and dual qualified as a solicitor – in New South Wales, and in England and Wales. Her work includes complex estate planning, contentious trusts and estates litigation, trusts planning, statutory wills applications, and estate administration. Caroline also provides advice



(and representation with leave) for financial management and guardianship applications to NCAT and the NCAT Appeal Panel. She was rated as 'Recommended' in Doyle's Guide for Wills, Estates & Succession Planning Lawyers – NSW, 2023 and in Doyle's Guide for Estate Litigation Lawyers – NSW, 2023. She is a co-author with Richard Neal and Craig Birtles of the 10th edition of *Hutley's Australian Wills Precedents* (LexisNexis). Caroline's area of special interest is capacity and best interests litigation, including actions relating to elder abuse, management of property and finances, emergency medical treatment decisions, applications for appointment of professional deputy/appointee, and statutory will applications.