

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.

Professor John Watson AM, Consultant Neurologist, Northern Neuroscience

Emeritus Professor Watson is Director of The Eccles Institute of Neuroscience at the Australian National University, with a distinguished academic career, including senior roles at the University of New South Wales and the University of Sydney. A respected consultant neurologist, he has served on subcommittees and panels for the National Health and Medical Research Council and the Commonwealth Department of Health. He is a Board Director and Chair of the Medical Advisory Committee at SAH. Professor Watson is dedicated to improving healthcare through value-based care and leadership development. An Expert Witness in complex cases, he was honoured as a Member of the Order of Australia for his contributions to neurology, medical education, and administration. As Deputy National Secretary for The Rhodes Scholarships in Australia, he supports the selection of students to study at Oxford. He was NSW Rhodes Scholar in 1977 and earned his Doctorate in Neurophysiology in 1981.

Rodney Lewis AM, Senior Solicitor, Elderlaw Legal Services

Rodney Lewis has been a solicitor in Sydney for 55 years, in the Hills District, Parramatta, Ryde and the city. His law practice involved business and commercial law, property law, business litigation and wills and estates law. In



1999 he was invited to engage in part time lecturing university graduates and undergraduates at Western Sydney University in a new - Australian first - course in Elder Law which he developed. A few years later, having identified a need, he authored a 550 page book on the subject called *Elder Law in Australia*, published by Lexis Nexis, Sydney in 2004. The second edition was published in 2011, and the third edition is pending. Over the last 12 years he has presented over 100 seminars and webinars 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.