

# SOLARI & STOCK

## LAWYERS

NEWSLETTER • DECEMBER 2021

### YEAR IN REVIEW

2021 has certainly been a challenging year for most of us, with multiple lockdowns, working and schooling from home, and the temporary removal of the freedoms we seemed to take for granted. With the final end of lockdowns just a few months ago, we adjust back to what our new normal will be, just in time for the lead up to Christmas and spending much needed time with our family and friends.

Solari and Stock will be closed for the Christmas/ New Year period from 1pm Thursday 23rd December and we will reopen at 9am Monday 10th January 2022. During this time our phones will not be monitored, however, you can email your query to [law@solariandstock.com.au](mailto:law@solariandstock.com.au) and we will get back to you upon our return.

In keeping with our previous newsletter, we have selected a number of articles produced by our Solari and Stock lawyers relating to a variety of topics and we hope that these articles provide you some assistance.

Articles include: Top Tips for Separated Parents at Christmas, Changes in NSW regarding paper Certificates of Title, A New Family Court-The Federal Circuit and the Family Court of Australia, Why and When Should you Update your Will and Estate Plan and we introduce our newest Family Law Team Member-Kirstin Attard.

If you require an appointment with one of our Team or would like to discuss any of these articles further, please contact us on 8525 2700 to discuss appointment options or send an email to [law@solariandstock.com.au](mailto:law@solariandstock.com.au).

### WELCOME KIRSTIN TO THE SOLARI AND STOCK TEAM

Kirstin was admitted as a Solicitor of the Supreme Court of NSW in 2017. She has recently joined Solari and Stock Family Law Team where she will spend her time working on Family Law matters under the guidance of Riccarda Stock.

Kirstin completed her Juris Doctor at University of Technology in 2017 and completed her Graduate Diploma of Legal Practice with the College of Law.

Kirstin also holds a Bachelor Degree in International and Global Studies from the University of Sydney.

Kirstin spent three years working as an Associate to an Appeals Judge of the Family Court of Australia (now Division 1 of the Family and Federal Circuit Court of Australia). This experience has provided her with a unique perspective and practical understanding of family law, the court system and resolving complex legal disputes.

Kirstin has spoken on family law matters at various family law practitioners & associations in NSW.

We trust you will join us in welcoming Kirstin to the Solari and Stock team.



Our team of experienced lawyers can provide you with expert legal advice for all your legal needs including

- Business & Commercial Law
- Leases – Commercial, Industrial
- Sale & Purchase of Businesses
- Litigation
- Franchising
- Environmental & Local Government Law
- Family Law
- Property & Parenting Settlements
- Divorce
- De Facto Relationships
- Spouse Maintenance
- Child Support
- Estate Planning
- Wills, Powers of Attorney & Enduring Guardianships
- Deceased Estates
- Property Law & Conveyancing

## TOP TIPS FOR SEPARATED PARENTS AT CHRISTMAS

As we are fast approaching the 'Silly Season', we need to seriously think about taking care of ourselves and our children at Christmas! Emotions are often high at Christmas and especially so for separated families. Here are some of our Top Tips:

1. **Be Kind** - Whilst Christmas is a time for joy and celebration it can often be a difficult time for families dealing with grief and/or separation. Christmas is a time where children (whether young or adult) are often reminded that their family are not altogether. Be Kind even if it is hard to do so. Regardless of the situation, try and be kind to the other parent and remember that your children are always watching you and that they model themselves on your behaviour. It will help your children to hear a 'Hello' or a 'Happy Christmas' to their other parent. You could even encourage or help them to buy or make a Christmas present for their other parent.
2. **Plan your Care Arrangements for your Children for the Christmas and the School Holidays well in advance** - If you have not already worked out when your children are going to be spending time with you over the Christmas period or during the school holidays this will need to be sorted out ASAP! The earlier you have this arranged the better. If you & the more organised person (out of the two) it might be an idea for you to send them a draft calendar which clearly marks out the days of when the children are in your care and the days that they be in the other parent's care and ask them what they think. Look to see what your court orders say (if you have Court Orders). There's nothing worse than leaving it to the last minute and having arguments about what is happening on Christmas Day right before it!
3. **Communicate with your Ex Partner** - Open a dialogue with your ex-partner about Christmas, whether by phone, email, text message or in person. Talk about important issues over Christmas:
  - Are either of you comfortable seeing or spending time with each other as a family over Christmas?
  - Can we divide the Christmas shopping between us this year?
  - Do we have to work out whose house Santa is going to this year?
  - What presents are you buying for the

children, so we don't double up? (But sometimes kids are ok to double up and have the same toy at both houses!)

- Should we talk about how much money we are spending on the children at Christmas? (to avoid no one going over the top and making the other parent look bad).

You would be surprised how much these small gestures help your ability to communicate with each other in the future.

4. **Be Kind to yourself** - Whilst most of the focus during Christmas and the school holidays, is on your children-find time to have time to be kind to yourself. Buy yourself a Christmas present, a Massage, a Hammock and some good reading material! Think about enrolling your children in activities or organising play dates (with either family members or friends) or vacation care or school holiday activities, so you can also have time to yourself. The children will do better in your care if you're looking after yourself!
5. **Reach out for help if you're struggling** - If Christmas is a difficult time for you, reach out to family and/ or friends for extra support. In response to Covid19, the government has extended the coverage of funding for counselling sessions with Psychologists through Medicare allowing up to 20 subsidised sessions per year. Don't be afraid to ask for help and if you do need help, find the free services available.
6. **Give** - Reach out to help others that are in need at Christmas – Teach your children to give and be charitable, especially at Christmas. Think about ways that you can help your children help others who are less fortunate than yourself, whether it involves donating to your local Salvation Army, St Vincent's De Paul, Red Cross, or buying a present to put under the Christmas Tree at your local Kmart. It will help your children grow emotionally and will make them feel good about themselves.

If you need assistance with trying to Plan Ahead for the Christmas period, whether about trying to resolve your care arrangements for your children, or financial issues, feel free to contact us.

*Article written by Nicole Quirk  
Photo by Jonathon Borba on Unsplash*





## CHANGES IN NSW REGARDING PAPER CERTIFICATES OF TITLE

The *Real Property Amendment (Certificates of Title) Act 2021* came into effect on 11 October 2021 and from this date, paper Certificates of Title were abolished and NSW Land Registry Services cancelled all paper Certificates of Title. All property dealings will now have to be lodged electronically in NSW.

All current Certificates of Title have no legal effect and the Registrar General will no longer issue paper Certificates of Title for any reason.

### What does this mean for unregistered mortgages and how can you protect your interest under an unregistered mortgage?

Unregistered mortgages secured by possession of a Certificate of Title will no longer be able to be secured this way as Certificates of Title are now electronically held and the paper title deed no longer has any legal effect.

The owner of the property can deal with the property without your knowledge or consent.

There are 2 ways in which to protect your interest as a lender pursuant to an unregistered mortgage:

1. Register the mortgage, if the loan terms permit this; or
2. Register a caveat to protect your interest under the mortgage.

### Registering a Caveat to protect your unregistered mortgage

You may also register a caveat rather than registering a mortgage to protect your interest. A caveat should always be lodged quickly after the loan has been advanced and the unregistered mortgage is granted as the order of registration of documents on the title deed determines the priority of interests regardless of the date the loan was advanced.

Both a mortgage or a caveat must be lodged electronically by a member of the electronic conveyancing platform PEXA who would need to ensure that all requirements are observed.



Article written by Valentina Abouzeid | Photo by Lewis Keegan on Unsplash



## A NEW FAMILY LAW COURT - THE FEDERAL CIRCUIT AND FAMILY COURT OF AUSTRALIA

From 1 September 2021 the Family Court of Australia and the Federal Circuit Court of Australia merged into a new amalgamated court now known as the Federal Circuit and Family Court of Australia ("FCFCOA").

### The family law jurisdiction

The FCFCOA will be a new structure that is modern, fair and focuses on risk, responsiveness and earlier resolution, by:

- Improving early risk identification and safety of children and vulnerable parties
- Encouraging smarter ways to separate with less acrimony, less cost and more dispute resolution, where it is safe to do so
- Expecting compliance with court orders
- Enhancing national access to justice for vulnerable parties and regional communities through the use of technology, and
- Aiming to resolve up to 90% of cases within 12 months.

Prior to commencing proceedings, parties are required to:

1. Comply with the pre-action procedures for both parenting and financial matters contained in the new rules
2. Take genuine steps to attempt to resolve their issues prior to commencing proceedings, unless it is unsafe to do so or a relevant exemption applies. A Genuine Steps Certificate in the approved form must be filed with an Initiating Application or Response to Initiating Application.

Failure to comply with the relevant pre-action procedures may result in the application being adjourned or stayed until the failure to comply is rectified.

Navigating the Family Law system can be incredibly challenging at the best of times so it is essential, if you are experiencing any family law issues yourself, that you seek experienced legal advice to assist you in navigating these challenges as the family law landscape undergoes significant change.

Our dedicated Family Law Solicitors are ready, willing and able to assist you with your Family Law concerns. If you would like further information, please do not hesitate to contact one of our experienced Solicitors.

## WHY AND WHEN SHOULD YOU UPDATE YOUR WILL AND ESTATE PLAN?

Signing your Will is not a “one and done” event. It requires regular review and updating as your circumstances change.

Key events that should trigger a review may include:

- If you get married, enter into a de facto relationship or divorce
- If your assets change, for example, by an inheritance received or property or assets purchased or disposed of
- When there is the birth of a child or when children named in your Will attaining the age of majority
- If there are changes to your wider family that may impact on the gifts in your Will
- If key people named in your Will die or are unable to act for you.

There may be many other situations that would warrant a review of your Will. My general advice to my clients is to have a look at your Will at least once each year, say at Christmas time, to check that you are still happy with all the terms.

When you review your Will, you should also take a look at your wider estate plan. An effective estate plan means that all of your assets pass to your intended beneficiaries, including those which cannot or will not be transferred under your Will.

You need to consider for example, assets held in a superannuation fund, a family trust or a company. It may be necessary to complete other documents such as trust deeds and binding death nomination to ensure that your assets are appropriately dealt with and that every part of your estate plan works together. In some circumstances, what may seem like a minor change to a Will can actually revoke or invalidate other documents that are in place. Therefore, it is important that you seek appropriate advice.

In addition to reviewing your Will, consideration should also be given to Powers of Attorney and Appointment of Enduring Guardians. Both documents are an important part of an effective estate plan, and are not reserved for the old or infirm.

If you would like advice on how to create or update your estate plan, please do not hesitate to contact us.



Article written by Rebecca Exley | Photo by John Jennings on Unsplash



*These articles are for the benefit of our clients and business associates. The document is not intended to be a definitive analysis of legislation or professional advice. You should take advice before any course of action is pursued.  
Did you find this newsletter useful? If yes, please feel free to forward it onto a business colleague or friend.*

**SOLARI & STOCK**  
LAWYERS

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