



14<sup>th</sup> Annual Queensland Law Society Personal Injuries Conference  
Pullman, Brisbane King George Square  
Friday 17 October 2014, 8:15am

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**The Hon Tim Carmody**  
**Chief Justice**

Many thanks Ian. It is a pleasure for me to be here.

This is the fourteenth year this conference has been held but the first in scenario rather than lecture format.

I will do nothing to undermine the philosophy of that approach by subjecting you to yet another tired old law lecture but I would like to add my weight to the cause of acquiring knowledge from active participation and observation as well as passive attendance; that is by doing as well as seeing and listening.

The development of best practice methods of explaining how the law works is an ongoing challenge, but clinical legal study via simulation exercises and the like is growing in popularity. It gives perspective and dimension to issues as well as providing an opportunity for experiential and experimental learning and applying problem solving techniques which, in a legal context, is likely to be more helpful than many rival options in transmitting the knowledge, understanding and practical skills needed for providing quality legal services in the rapidly changing and increasingly complex world of personal injuries where the risk of error is a ongoing occupational hazard.

Interactive learning in Australia modelled on medical training programs is a relatively new innovation. Professor Jeff Giddings, Director of Professionalism at Griffith Law School has recently written a valuable book on the subject entitled "Promoting Justice through Clinical Legal Education" with a foreword by Chief Justice Robert French AC (2013 Justice Press Melbourne).



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Chief Justice French says that the "...importance of clinical education to student motivation of a grounded understanding of the law at work in society cannot be under-estimated".

At its core, according to Professor Giddings, clinical legal education including through the use of realistic simulated scenarios, is "about transferring knowledge and learning, by doing and reflecting" (3).

A pioneering American advocate of a practice-based approach to advanced education, as distinct from the library-focused case and lecture method was Jerome Frank. As early as the 1930's he and other Yale and Harvard academics were calling for law students to be given the opportunity of seeing "legal operations" just as medical students had to observe surgical procedures in the study of anatomy. The first clinical law program did not commence in this country, however, until 1975 at Monash University.

Clinical methodologies treat the law as a complex system and focus on the effects laws and legal process have on people – that is, clients and the wider community.

Martin Krygier says – rightly, I think, that it is not enough to know the legal rules to practice law. You have to understand the reasons for the rule and what their intended purpose is (14).

You will have the benefit of well-designed simulations and scenario role play, experienced presenters, accredited specialists and panel experts on hand to ensure you get the most out of every session and to guide discussion on relevant issues and topics.

There is an array of vexed issues facing personal injuries and compensation practitioners in this over regulated area of the law which has seen a wave of dubious tort law reforms in the last 20 years from the introduction of the *Motor Vehicle Insurance Act* pre-proceeding process in 1994 through the related changes via *Personal Injuries Proceedings Act 2002* and the *Civil Liability Act 2003* and to the revised *Workers Compensation and Rehabilitation Act 2003*.



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With a combined 1,184 sections plus schedules in these statutes the increasing degree of difficulty will result in a corresponding higher demand for specialisation, improved service delivery to clients as well as more practical and affordable justice outcomes.

The implications for common law claims of the 5% impairment threshold and the proposed no fault National Injury Insurance Scheme (NIIS) in 2016 are yet to fully emerge but again they will probably raise rather than lower the pressure of client and community expectation of personal injuries law and the lawyers practising it.

Thus, upskilling, continuing professional development, problem solving and innovative alternative resolution practices and processes will only become even more important in the foreseeable future.

The profession's failure to keep up is likely to be reflected in a reversal of the current downward trend in claims of the professional indemnity scheme.

Soak up as much knowledge and information as you can about taking instructions, gathering evidence, drafting pleadings, disclosure, trial and tribunal proceedings – you are going to need it in facing the uncertainties and conundrums generated by the complicated legal situations of real clients.

Hopefully, what you get and take from this conference will put you in a competitive position to confidently accept and overcome these challenges to professional performance and increase levels of client satisfaction and community confidence.

Good luck and all the best.

The conference is now officially open.