



LEGACY LAW

Protecting the assets in your family tree

A recent case

Most Court cases are painful for one party (the losing party), but sometimes there are no winners.

I always loved James Joyce's story, [A Painful Case](#). We get marked by life one way or another.

Court cases are generally public as justice needs to be seen to be done. As a result, the door of the Court is open and members of the public, or even your neighbours, can pop in to see you in the witness box and to hear your lawyers explain your case.

At Legacy Law, we like to help people avoid such experiences but sometimes there is no other option. This happened recently.

A client was left out of his father's Will and, we say received inadequate provision during his life. As usual in such cases there was compulsory mediation but the offers made by the other side (the deceased's next wife) were totally inadequate and they refused to accept our reasonable offers.

We engaged top Counsel and managed the client's risk throughout the process. We told our client to answer "yes" or "no" or "I don't understand the question" or "I don't know" to questions he would be asked by the other side. We told him to let us argue his case – his role was to help the Court understand a difficult issue and set of facts. He did a good job.

His opposition, the executor of the deceased estate in question, could not help herself or maybe did not get as good advice. She started well, giving her name, address and occupation as "payroll executive".

When we asked her "Why did the deceased transfer 50% of the main asset to you on the day before he died, which reduced the estate to almost nothing?", she replied "Because he wanted to". Our Counsel beautifully replied "I see", leaving the Court to assess how much help she wanted to be.

When asked if the deceased discussed certain important financial matters with her, she said "he did not". "I see", said our Counsel. It was obvious for all to see that she was the financial person in that relationship.

There was no evidence from the deceased. A well drafted Affidavit could have assisted his widow's case as her evidence was not convincing. Instead, they put on evidence which showed our client was not always asking for money, even though the Court said he probably had a right to do exactly that.

The attempts by the deceased to make contact with our client were wholly inadequate.

We read most of the judgments in this area and this helps us do our job. It was a joy to read the judgment in this case. Do ask us if you would like to receive a link to the judgment.

Bottom line, our carefully drafted claim and submissions resulted in our client getting a substantial award and his costs paid from the Estate. We believe our work in defending and challenging Wills helps us draft documents that are more likely to be effective, even if challenged. Lawyers who don't are missing out. This is our after-sales service for your family!

LEGACY LAW PTY LIMITED

t 02 9188 3980 e dgriffin@legacylaw.com.au a Level 3, The Cooperage, 56 Bowman Street Pyrmont NSW 2009 | PO Box 68 Pyrmont NSW 2009 w www.legacylaw.com.au

ABN 58 600 167 959

Liability limited by a scheme approved under Professional Standards Legislation