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WHAT IS DISCLOSURE AND HOW CAN IT AFFECT MY CASE?

For participants involved in civil litigation in Queensland, one of many important steps is that of disclosure. In broad terms, disclosure refers to the process of exchanging documents that are relevant to the issues in dispute in a proceeding. This article briefly examines 'disclosure obligations' under the Queensland Court Rules (*Uniform Civil Procedure Rules 1999* or 'UCPR').

When and how must disclosure be made?

In general terms, disclosure must be effected by delivering a list of the relevant documents to the other party or

parties involved in a dispute. The list of documents is an approved form under the UCPR and can be obtained from the QLD Courts website. If copies of any documents in the list are requested, a party must provide (at their cost) a copy of that document to the party requesting within 14 days.

The UCPR provides that in most cases, disclosure must be made within '28 days after the close of pleadings'. Pleadings are the court documents filed by the parties that define the issues to be determined by the Court. In many cases, the filing by the Plaintiff of a

'Reply' marks the 'close of pleadings' for the purpose of the disclosure rules, however, this can vary in some cases.

Read the full article on our website, www.creeveyrussell.com.au



A DUCK BY ANY OTHER NAME: THE EVER PRESENT QUESTION AS TO EMPLOYEE CLASSIFICATION



Most litigation lawyers have had to explain to a client at some point in their career why that very expensive contract they had drawn up saying that Joe

Bloggs is a contractor and not an employee doesn't get them out of that unfair dismissal claim. Most lawyers have their favourite go to in that situation, whether it be Issacs J 'disregarding the parties' labels' in *Curtis v Perth and Freemantle Bottle Exchange Co Ltd* (1914) 18 CLR 17, the plurality's consternation over who actually owns a bicycle in *Hollis v Vabu Pty Ltd* (2001) 207 CLR 21, Gray J's duck-masked roosters in *Re Porter; Re Transport Workers Union of Australia* (1989) 34 IR 179, or, my personal

favourite, Shakespeare's rose by another name.

A more troubling and contemporary question, however, has arisen: when is a TV reality show contestant an employee?

Arbitrator Burge of the Workers Compensation Commission of New South Wales recently had to consider that question.

Read the full article on our website, www.creeveyrussell.com.au

EVERYTHING YOU WANTED TO KNOW ABOUT CALDERBANK OFFERS

Every lawyer has heard of them. Most lawyers have delivered at least one. Few lawyers understand what they are drafting and the consequences of getting it wrong.

There are two central reasons why a party to litigation would deliver a *Calderbank* offer (or, as the author has endearingly heard them called, a “call to bank” offer) – either (1) they want to avoid the ever increasing legal costs that well run litigation incurs, or (2) they reckon they’re on a good run and want to set things up for a shot at indemnity costs when the judgment inevitably comes down in their favour.

However, a properly crafted *Calderbank* offer, unless it involves simply the payment of a sum and a reciprocal release of liability (and even then), can be incredibly difficult to draft.

Read the full article on our website, www.creeveyrussell.com.au

CLASS ACTIONS IN QUEENSLAND

The burial of maintenance and champerty in QLD or their death throes.

Has the last dice been rolled by those opposed to the class (representative) action in Queensland?

In a forlorn attempt to argue that litigation funding agreements were unlawful and unenforceable (as being contrary to public policy), Gladstone Ports Corporation Ltd recently opposed declarations sought in the Queensland Supreme Court as to the validity of the funding agreements in that case.

The Representative Action regime was given a sound endorsement by the Supreme Court in Rockhampton last month.

Read the full article on our website, www.creeveyrussell.com.au

ISABELLA KING ADMITTED AS A SOLICITOR



Isabella King has made the transition from law clerk to solicitor following her recent admission as a legal practitioner to the Supreme Court of Queensland.

Isabella is a highly valued member of our dispute resolution group, assisting clients with a wide variety of matters across our Toowoomba and Brisbane offices. Isabella is looking forward to continuing to work with our litigation and crime and misconduct divisions whilst developing strong relationships with new and existing clients.

YOUR LITIGATION TEAM



Dan Creevey
Principal



Tom Rynders
Partner



Josh Mountford
Associate



Samantha Robinson
Lawyer



Isabella King
Lawyer

OUR SERVICE TO YOU

We offer solution-focused strategies, clear communication, and well-practiced dispute resolution techniques. Our proactive litigation team always aims to resolve disputes before they spiral out of control.

But when the only way to resolution is through litigation, our team of expert lawyers will be ready to provide the sound strategies you need to get the best possible outcome. We will also provide you with reassurance and guidance through professional communication and support.