



The LSLC Shell

Winter 2009 Issue 1 Volume 4



Lynda's Corner:

Welcome to our first LSLC Shell Newsletter for 2009. This edition comes at the time of our 5th birthday. I started the practice in July 2004 from the spare room at home with no clients. We now have over 400 clients and have cemented our place as the lawyer of choice for growing SMEs. I take the opportunity to thank our loyal clients, some of whom have been with me since the very beginning like SED Consulting, Dog Rocks, Shine Group, Mozi, Nortan and D&C Design to name a few. Some of our clients have grown so big that they now need in house lawyers and I was sad to bid farewell to Endota Spa early in the year. Our number 1 client for many years, I decided not join the girls in house to focus on the needs of my other clients but I thank both Belinda and Mel for their loyal support of LSLC over the years. It was a pleasure to help the business grow into the national franchise juggernaut it is today.

We put this newsletter on hold in 2008 while I awaited the birth of Elijah who arrived on 15 October 2008. He is the love of my life and my greatest achievement. I struggled at first to juggle work and motherhood but have now found a good balance. I am in the office Mondays, Wednesdays and Fridays. The lovely Hilda, who many of you would have now spoken to or met personally, runs the show every day and ensures I get messages on my days at home.

I hope to use this issue to get reacquainted with you all and reassure you that I am very much back in the biz. There is also an article providing an update on the new unfair dismissal laws under the Fair Work Act 2009.

Happy Birthday to us and Happy New Financial Year to you all.

I hope 2009/10 brings you all much success and happiness.

Here is a pic of my Elijah taken a couple of months ago.

Regards, Lynda ☺



LSLC News:

Xmas 2008 Top 10

Last December saw the continuation of the LSLC tradition of rewarding its top 10 clients (although we stretched it to a Top 12 this time). The winners listed below in no particular order received a celebration hamper with Glenmorangie scotch and other goodies:

1. **Endota Spa** - national day spa franchise network.
2. **Shine Group** - formerly Sunny, the boys have restructured their Company into a brand driven business which now houses a number of brands including SunnyLIFE, Jethro & Jackson & Coconut Grove.
3. **Arrive On Time** - This appliance repair mobile franchise has now successfully established its franchise system and documentation and is franchising nationally.
4. **Pole Divas** - a pole dancing school franchise also franchising nationally.

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LSLC News Contd:

5. **SED Consulting Group** - national management consulting franchise.
6. **Miacci** - importers of Italian leather handbags and shoes.
7. **Amethyst Artspace** - a unique online art gallery.
8. **Pegboard Software** - software development company whose core product is web design and management software.
9. **Candy Hair** - a new retailing phenomenon providing hairdressing, beauty and party services for children. Now open at Southland.
10. **Silly Yak Foods** - gluten free food manufacturer and wholesaler. Recently sold its retail café business.
11. **Natural Instinct** - makers of natural instinct and organic instinct natural hair care products, body and laundry products.
12. **Puchalski, Kris** - private client entrusting all of his wills and conveyancing needs to LSLC.

LSLC Pro Bono Work

Lynda has been doing semi pro bono work one the second Thursday of each month at the Box Hill TAFE Business Enterprise Centre (BEC), having been appointed to a panel of legal advisers who provide free advice to start up businesses on a range of issues such as intellectual property, leasing and contracts. Lynda is enjoying the opportunity to give back to the larger community but the experience also makes her appreciate her own “very switched on” clients all the more!

LSLC New Fees as of 1 September 2009

As of 1 September 2009, our hourly rate will increase to \$270 + GST.

Whilst we are very conscious of remaining the best value for money law firm around, like all businesses we need to ensure we continue to make some money in the face of ever increasing overheads such as lease market reviews and huge increases in professional indemnity insurance.

We will still offer fixed fees for most of our services which are still great value. Please ask about our fixed fee packages when calling about your next matter.

A new Disclosure Statement will be sent out to everyone in a separate email for your records.



LSLC Client Profile - Introducing Aprelo

This year Lynda has had the pleasure of working with Gabrielle Aitken and Richard Everett on the establishment of their new business Aprelo. Gabrielle and Richard had this to say about their experience of working with LSLC....

“Aprelo is a wellbeing and lifestyle brand with a vision to empower our clients to live with health, wealth, love and happiness. As a start-up business, we were extremely fortunate to be referred to Lynda before our inception. The referee called Lynda a “God Send” for their business and our experience to date has certainly been the same. From the first consultation, Lynda has demonstrated a commitment to really understanding our business vision and a genuine interest and concern for how we achieve it so as to maximise value for all stakeholders and minimise our risk.

In the 8 months that we have been working with Lynda she has provided legal guidance around company set-up, trademark registration and supplier contract negotiation. She has developed customised legal documentation based on our unique business, including a confidentiality agreement and client services agreement. Lynda has a refreshing approach and operates with a level of integrity that is rare in the legal profession. She has intuition, empathy and understanding, combined with strong business acumen and legal know-how. We highly recommend Lynda as a legal consultant and are very grateful that we have her to assist Aprelo with achieving our business goals.

Gabrielle Aitken & Richard Everett, Founders, Aprelo Pty Ltd.”

The Aprelo website is coming soon. Go to www.aprelo.com for some great products and services which will improve your life and business wellbeing.



Feature Article - New Unfair Dismissal Rules for Small Business

Under Workchoices, it seemed that anyone could be sacked for any reason but under the new Fair Work Act 2009, unfair dismissal laws have been resurrected and there are new rules that apply to all small businesses as of 1 July 2009, which you should all be aware of.

A Small Business = business with less than 15 full time equivalent employees (but from 1 Jan 2011 this will be based on 15 employees by head count.)

An employee of a Small Business can only make an unfair dismissal claim if they have been employed for at least 12 months.

Small Business employers must comply with the Fair Dismissal Code, which outlines a procedure for Employer's to ensure that they are not unfairly dismissing an employee. The main gist of the Code is as follows:

- Summary dismissal (ie: dismissal on the spot with no notice) is allowed for theft, fraud, violence or serious breach of OH&S procedure
- For other dismissals:
 - The Employer must give a warning (preferably written although this is not mandatory) giving reasons as to why the employee at risk of dismissal;
 - The Employer must give the employee the opportunity to respond to the warning and reasonable chance to rectify behaviour
 - The Employee can have person present at warning meeting but not a lawyer
 - The Employer should keep evidence of compliance with the Code

You don't need to give multiple warnings but the warning should be in writing and you should give the employee a reasonable time to rectify their behaviour. Employers may need to provide extra training to an employee for example to allow them the best chance to avoid dismissal.

The Unfair Dismissal Claims process has also been streamlined and can be summarised as follows:

- The employee must lodge a claim with Fair Work Australia ("FWA") within 14 days
- FWA makes enquiries and organises informal conferences to reach a mediated resolution
- FWA decides outcome in a conference or at a formal hearing
- Legal representation is permitted but only with FWA's permission
- Decisions are made mostly in a conference setting - where natural justice principles apply

The remedies for unfair dismissal are:

- Reinstatement unless it is not in interests of either party; OR
- Capped compensation which is a maximum of 6 months pay + allowances or if more than \$54,150 then \$54,150.

For Non Small Businesses an employee must be employed for at least 6 months to be able to make a claim and they must either be employed under an award or agreement or earning less than \$108,300 a year.

There is a Checklist for Compliance with Fair Dismissal Code for Small Businesses on the www.fairwork.gov.au website. It would be helpful for you all to print this off and use it if/whenever you need to dismiss an employee.

If you have any questions about the new Fair Work Act or need to review or implement employment agreements, please contact Lynda at LSLC. If you have any queries about unfair dismissal claims then we would also be pleased to refer you to a specialist in this area.

This newsletter is for information purposes only. Nothing in it should be construed as legal advice or relied upon as such. If you have a specific legal query please contact us on 9885 5105 or e-mail info@lslc.com.au. ©2009 Lynda Slavinskis Lawyers & Consultants