

Grasping the nettle

By Brian Hilliard



I am very late in getting my president's page to *Precedent's* long-suffering editor, Renée Harris. She has reminded me a number of times of my commitment and I have continually put it off. I say to myself that I have more important things to do running my practice and seeing clients, but in reality it is just fear that prevents me from putting pen to paper again.

I was prompted to think about why I find it so difficult to bring myself to tackle these bi-monthly statements by a decision made a few years ago in Tasmania involving a solicitor who had to explain himself for not having attended to a file for a number of years. This occurred against a background of an application to take another step in a proceeding. Unfortunately the judge involved in the case took it upon herself to set out very large portions of the solicitor's affidavit in the judgment. In particular, I recall reading words to the following effect:

"I found it difficult to talk to the client; whenever I thought about the file I felt sick; I would feel uncomfortable, I would have a physical reaction and so I tried to avoid thinking about it. Sometimes I would come back from lunch and I would see a note from my secretary that the client had called and I would again feel ill. The longer this went on, the worse it became; I would wake up in the middle of the night thinking about it. I dreaded going to work in the morning in case the client called, or a document or a letter came in on the file. I seriously

thought about leaving the law because of this one file. At the same time, the remainder of my practice progressed normally."

I recall thinking, as I read the judgment, "There but for the grace of God go I." I don't know about you, but I have had similar experiences in my own practice, although never to the same extent as in this case. A file lurks on the edge of your desk; sometimes you see it clearly, but more often than not it's partially covered by mail or documents. You think about the task on the way into work and say I will definitely do that today, but as soon as you arrive more mail hits your desk, court beckons or the phone rings, and it gets shelved. Eventually, you extend a shaking arm and open the front cover and, quite often, you find that the task at hand is not nearly as complicated or problematic as you had feared; within a relatively short period it's done, and your desk is clear of landmines for the present.

And so, this morning, I have faced my demons and put pen to paper. To be honest there is no pen, there is no paper, there is merely a dictaphone and I am talking to myself in my office and I wonder why it was so hard, why could I not do this for such a long time? I suppose my real fear is that you won't find this interesting, that you won't appreciate it, that it will disappoint you. Well, readers, I hope I haven't, and that you get something out of this. If you have one of those files, but you have said to yourself, I might just read the president's column in *Precedent*, I will get to that file later today, well, maybe now is the time, my

friend...grasp the nettle, deal with that difficult file – it's probably not as bad as you think.

This is my last column for *Precedent*, as I step down as president at the end of June. The next president is Greg Barns, and I know that he has no problems with this part of the job. Greg is a regular writer of opinion pieces for newspapers and internet blogs and I am sure he will keep you far more entertained than I have. Certainly, my respect for his abilities has grown markedly over the last 12 months – and never more than when I have sat down to confront this column. ■

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