



Anderson Rice News Spring 2008 Edition

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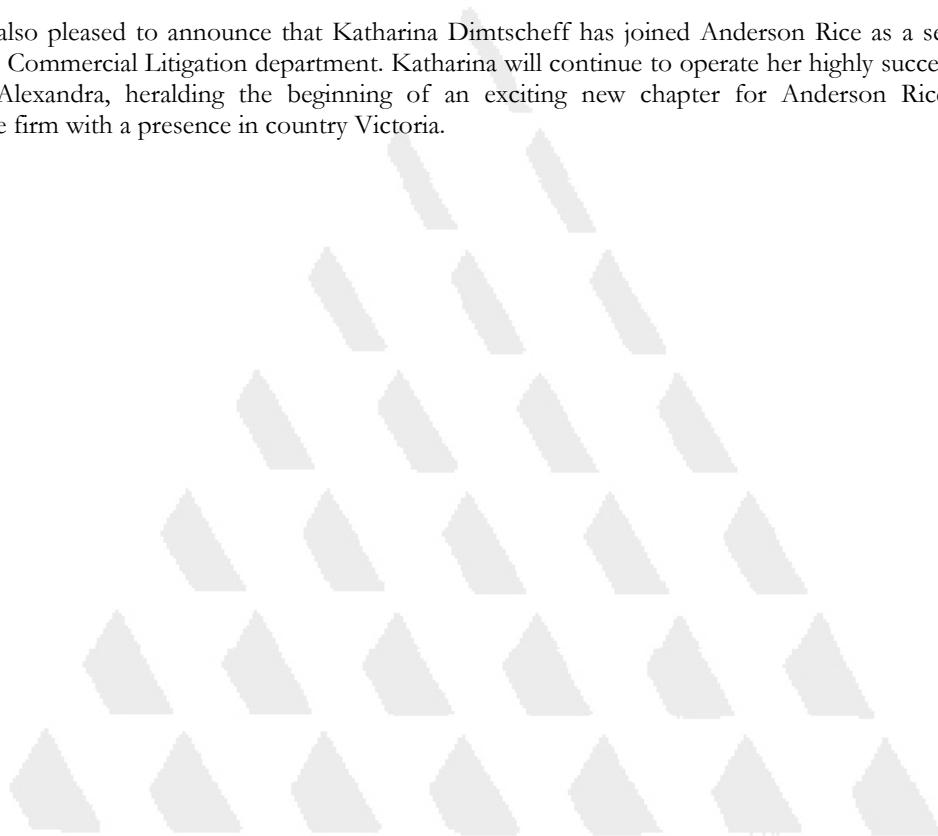
Recent Appointments

Miranda Ball

Anderson Rice welcomes the appointment of its newest Partner, Miranda Ball, who joined the firm in October. Formerly a Senior Associate at Madgwicks Lawyers, Miranda specialises in White Collar Crime and Insolvency.

Katharina Dimtscheff

The firm is also pleased to announce that Katharina Dimtscheff has joined Anderson Rice as a senior lawyer in the Commercial Litigation department. Katharina will continue to operate her highly successful practice in Alexandra, heralding the beginning of an exciting new chapter for Anderson Rice by providing the firm with a presence in country Victoria.



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Succession Planning - Ensuring the Continuity of Your Business

Michael Coldham

Have you provided for your businesses' future?

The voluntary departure of a director or partner can come about from a variety of reasons, retirement, sale of business, death or agreement. It is a much better exercise to develop a plan than to go through the dissolution of the partnership, which may be the only option in the event that an agreement does not exist, or the parties are unable to agree how to move forward or in the tragic event of premature death. The involuntary departure is a much easier issue, subject to the health of the business co-owner, as you can make provision by way of various classes of insurance.

I have found that a weakness exists in many business arrangements in the failure to address business succession issues in the event of an involuntary or voluntary departure by a principal of the business. Failure to deal satisfactorily with this fundamental business management issue can lead to expensive litigation, loss or diminution of a valuable asset (ie the equity in the business), or even the failure of the business itself, eg because the continuing principals are unable to finance the buy-out of the exiting principal or are embroiled in litigation.

Unfunded business succession arrangements can be addressed in a separate, but related, partnership, unit holders' or shareholders' agreement. These are all important issues.

Where the departure is involuntary, eg because of the death, total and permanent disablement or traumatisation of a principal, in many cases the solution is to find funding mechanisms such as the various forms of insurance. There is one word of caution and that is the fact that your accountant or financial advisor must be involved in this process to protect the business from capital gains and taxation issues.

In Australia, some 97% of all businesses are classified as family and privately owned. Together, these account for a combined wealth of around 4.3 trillion Australian dollars. Of these, a significant proportion will meet the Australian Bureau of

Statistics' definition of a 'small business' – that is, a business employing less than 20 people. As such, a considerable amount of wealth is tied up in small business. However one of the key concerns for this sector is the level of preparedness for succession planning that it has in place. A 2006 study by the Royal Melbourne Institute of Technology (or RMIT University), found that 81% of the owners and operators of family businesses (and the majority of these would meet the Australian Bureau of Statistics' definition of a small business) plan to retire over the next ten years.

Of further concern from the RMIT University's 2006 study is that when it comes to business succession planning, 80.3% of the current Managers of these family businesses have no documented management succession plans; 75.2% have no documented ownership succession plans, and 65.1% indicate that the family has not agreed upon the succession plans and succession of the next CEO.

Anderson Rice will assist small business owners to develop strategies to exit their businesses in a manner that realises maximum value and marketability of their business while ensuring business continuity.

Along with assisting owners as mentioned above, by following the process, the skills of small business owners and their advisers will be enhanced in the key areas of changing leadership, retirement funding and maximising the saleability of the business, along with obtaining an awareness of key skills that will underpin the entire succession planning process – such as risk, project and stakeholder management.

In broad terms, succession planning relates to the planning process undertaken by a business owner or leader to determine the best means of exit from ownership and/or leadership of the business, and which also ensures the continuity of the business.



The Succession Plan is the formal document that should arise as a result of working through the various steps involved in the succession planning process. The Succession Plan should set out all the key elements that were considered and decided in the planning processes.

The definition of succession planning refers to the process to ensure continuity of the business. Whilst most people presume succession (of either ownership or leadership within the business) occurs when the current owner or leader retires, retirement is just one of many events that can trigger succession.

For instance, what would happen in the event an owner and leader of a business suddenly died? Would the business still be able to survive? More to the point, would the value of the business to the owner's estate be lost if an appropriate succession plan has not been put in place?

In general, succession planning is needed for both planned and unplanned succession. Planned succession is something that an owner is able to plan in advance for. The two main examples of this type of succession are retirement and sale of the business. Unplanned succession refers to situations where succession occurs generally as a result of unpreventable circumstances. The three main examples of this type of succession are death, total permanent disability or incapacity. Such circumstances may include bankruptcy, physical or mental disablement.

A good succession plan will encompass both planned components of succession, such as when the owner intends to exit the business, and how – along with appropriate estate planning and replacement leadership strategies should unplanned succession occur. By having the

succession plan cover these points, the chances for continuity of the business are greatly improved vis-à-vis where no succession plan has been put in place. After all, a death can quickly reduce the likelihood for continuity in the business, especially when there is nobody capable of assuming leadership and running the day-to-day affairs of the business.

There are many stages to the process to develop a good succession plan. The first is thinking about and finding an answer for the question "what do I want to do with my business?". The answer hopefully is to develop it, secure it and make provision for my retirement and the future of the business.

We at Anderson Rice can provide you with "The Plan", we can provide you with the necessary Financial Advice and we can liaise with your accountant or guide you in an appropriate appointment in that regard to meet your needs in this area.

It is just like making a Will. We have too many stories to tell of people who die without a will and the problems that causes for people and their families. There is no excuse for people in business not to have a succession plan, not to have the proper financial guidance and to invest in their retirement the same way as one would invest in the making of business today.

If you would like any information, advice or guidance in this area of the Law please contact Michael Coldham on 03 9676 2601 or email mrc@andrice.com.au

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Introducing our New Recruits - Miranda Ball and Katharina Dimtscheff.

Matthew Jacobs

An interview with the Newest Members of the Anderson Rice Team

Interview with Miranda Ball, newly appointed Partner at Anderson Rice:

So Miranda, why did you choose a career in the law?

My year 11 teacher, Mrs Chamberlain. I liked her classes!

Where did you study law and how did you find the experience? Any particularly vivid memories of life as a law student?

I studied at Deakin University - it's a great course. Very practical with lots of moots and mediations.

What do you enjoy the most about being a legal practitioner?

I love the adrenalin rush of litigation - it's like sport.

What do you enjoy the least?

I like it all!

You seem to have worked in a diverse group of practice areas, but have settled on White Collar Crime and Insolvency, why those two areas in particular?

White collar crime is something I fell into about 6 years ago. I have been working on files at the centre of Operation Wickenby for many years which has resulted in me conducting High Court applications, Legal Professional Privilege claims, Proceeds of Crime examinations, Australian Crime Commission examinations and DPP defence litigations. Mistakes can not be made whilst working in white collar crime - the consequences are huge. It's high pressure, however you get to work with the best barristers in the country. And it's a busy area given that money laundering and tax fraud are becoming more and more prevalent and more and more regulated.

Insolvency, I also love, and have worked on both sides - both in the administration of businesses and the winding up of companies. It's great because you get to work with a diverse range of people and entities - clients, liquidators, barristers, solicitors etc.

Previous clients include Kylie Minogue, Nicky Hilton, and Vanessa Amorosi. What was it like providing advice to such high-profile celebrities...? You must have a story or two to share about these experiences...?

With many of these clients, you are dealing with their agents who are relaying their client's instructions. It can be high pressure as the consequences of making a mistake are huge and highly publicised. Again, a great training background for me.

What about interests outside law? What are your 3 favourite extra-curricular activities?

I grew up playing tennis and went on the professional circuit at 16. At 18 I travelled the world on my own playing tournaments in Asia and Europe. I also played club tennis in Germany. It was tough but a great learning experience. So tennis was my main focus but now I am trying a new sport to fill that void - Surf life saving. I arrive at work on a Monday morning covered in bruises from board paddling on the weekend. Ocean Grove is the club I will be competing for - I am currently training every day.

Music is my other true love - I am in an acoustic duo - we do weddings, functions, corporate events etc. Have been performing in the duo for over ten years.

What attracted you to the idea of joining Anderson Rice?

It's the perfect size - not too big, not too small. At that size we can handle big files but at a better price and with one on one attention. I also wanted to continue working in the area of insolvency and white collar crime - both are areas in which Anderson Rice has considerable experience.

How do you feel your appointment adds value to the firm? In other words, what do you bring to the firm that makes your appointment of value to our clients?

I am very client focused - I like the client to feel like they can call me at any time and on any day. There is nothing worse than lawyers who are uncontactable. From my experience, Anderson Rice, being a smaller firm, already engage in this conduct however I would like to ensure it continues with all of our solicitors.



Most memorable moment of your career?

The Dianne Brimble inquest. I had briefed the late Peter Hayes QC to cross examine a mystery witness on behalf of a client. It was the most astounding cross examination I have ever seen - just brilliant.

A moment you would like to forget...?

They have all been good!

Congratulations on your appointment as a Partner here at Anderson Rice. I think it's fair to say that you're relatively young compared to many in the same position. How are you coping with that? Has it changed the way you operate and if so, how?

Relatively young, yes. However I have been running my own files for many years and those files have been complex and highly publicised. I have gained the most amazing experiences in the law - it has been a brilliant training ground.

Aspirations for future...?

Continue to grow Anderson Rice in the area of insolvency and white collar crime.

Finally, if you were an animal, what animal would you be and why?

A border collie - Unfortunately I too have a lot of energy, am very loyal and tend to be a bit obsessive (which is useful in the law!) - the true traits of a border collie!

Interview with Katharina Dimtscheff, newly appointed senior lawyer at Anderson Rice:

So Katharina, why did you choose a career in the law?

I enrolled in law because I was a teenager and my parents wanted me to study medicine. Law was offered to me as well, I was flattered and happy for the opportunity to remain within parental guidelines regarding a profession, and still being independent of parental edicts.

Where did you study law and how did you find the experience? Any particularly vivid memories of life as a law student?

I studied Law and Arts at Melbourne University part-time and forged a career in Hospital management during my part time studies. As I was often posted at country hospitals solving some serious financial or personnel problems, keeping up with my studies was hard work! My most vivid memory was the Family Law paper which was 50 percent of the

final mark. This was the first ever move away from 'exam only process' at the University. I chose a very novel topic - a proposal to legislate for single child families. I think that this made me an environmentalist before my time! The view I took was that Australia did not have enough arable land or water for a growing population.

I got my mark, (out of 100), I rushed to the lecturer to see what I could do to improve the mark. He laughed at me, and told me what an idiot I was. The mark was out of 50.

What do you enjoy the most about being a legal practitioner?

Getting it right, and solving the impossible problem.

What do you enjoy the least?

Settling too soon when it is only because the client is afraid of the litigation process.

You seem to have worked in a diverse group of practice areas, do you have a favourite and if so, why?

I would have to say 'toxic torts', for outside of the law I am most interested in the fields of medicine and science. I also enjoy working in the area of estates and succession planning for the opportunity to solve personal and frequently very complex commercial issues. Town planning also has huge rewards. If one gets it right, and leaves permanent visible proof of that positive outcome, it is most rewarding. Take for example the development along the Yarra River which brought it back to life. This was achieved against great opposition. What a beautiful asset it is to Melbourne.

What about interests outside law? What are your 3 favourite extra-curricular activities?

Science, music, literature, theatre, dressage, polo and ballroom dancing.

What attracted you to the idea of joining Anderson Rice?

Anderson Rice and I go back to my early student days. I very nearly became a member of the Firm then. When I got a second opportunity I jumped at it. It helped that the members of the firm have retained a love of life, which many lawyers lose when travelling on their career paths.

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*How do you feel your appointment adds value to the firm?
In other words, what do you bring to the firm that makes
your appointment of value to our clients?*

I feel my appointment gives the firm the opportunity to provide services to clients outside its traditional CBD-based business core, ensuring the capacity to service a provider broader and more diverse range of clients.

How does working at inner-city firm like Anderson Rice compare to working in your practice in Alexandra?

I work in a combination of the best of both worlds. I have all the benefits of the resources I need at my fingertips to be the best lawyer I can whilst maintaining the 'tree change' choice I made in 2000.

Most memorable moment of your career?

I had a top secret clearance from the Commonwealth Government whilst working as

the corporate lawyer for Commonwealth Aircraft Corporation. Whenever I ran an international based case, it would be classified as "top secret", and required a permanent Federal police escort, and travel by private plane.

A moment you would like to forget...?

My articles, I was on of the first women in the law and the firm I was with didn't know what to do with me.

Aspirations for future...?

To not retire from the law, and to produce the opera I have written.

Finally, if you were an animal, what animal would you be and why?

The wolf, it is intelligent, fast, gentle in truth, and has no natural enemies.

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The New Victorian Workers' Wages protection Act 2007.

Edward Liu

What employers need to know regarding the power to deduct wages

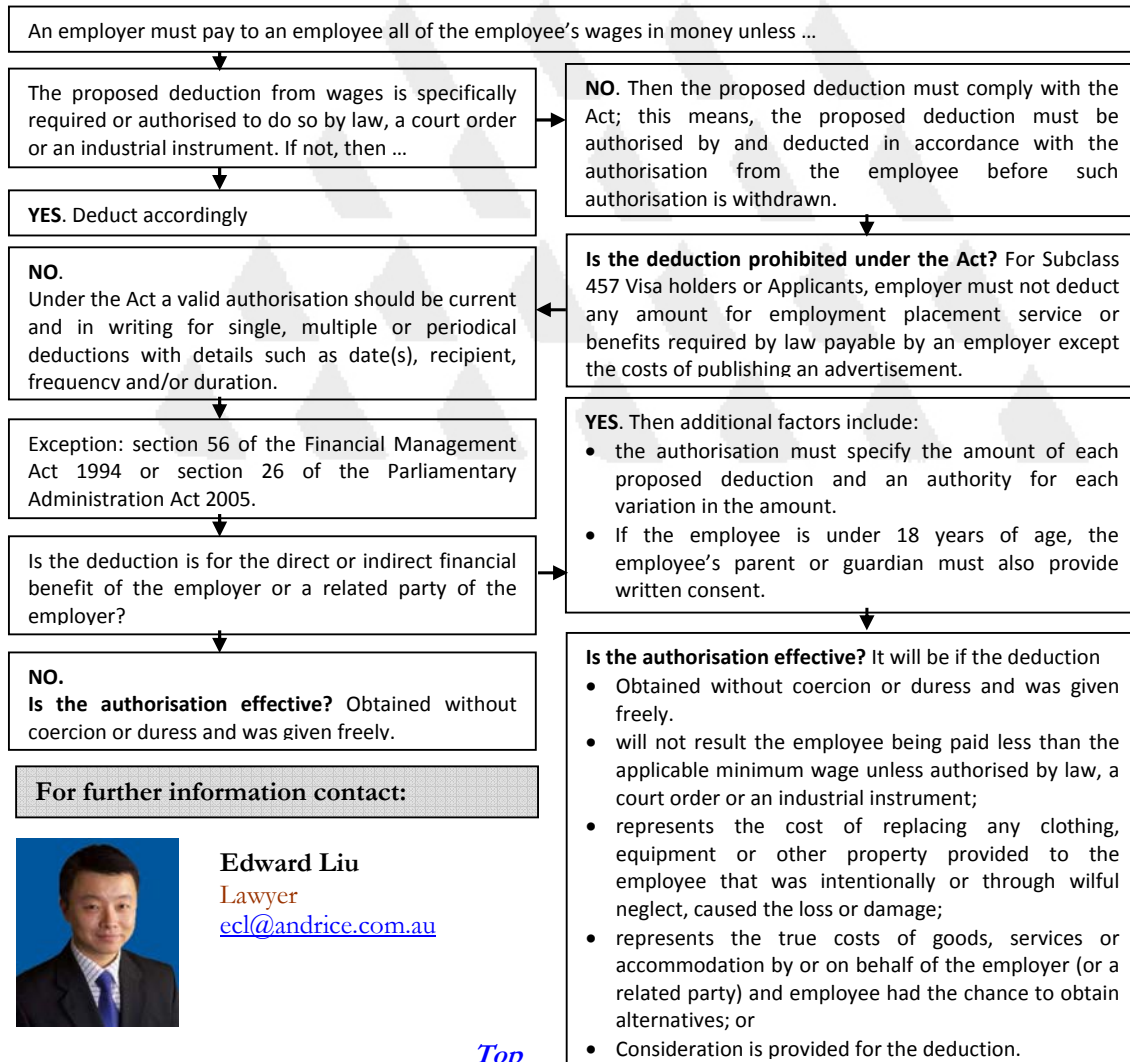
Effective from 1 December 2008, the default source of power to deduct wages of Victorian employees will be found in the new Victorian Workers' Wages protection Act 2007 ("Act").

The Act is consistent with and supplements the Workplace Relations Act 1996 ("WRA") on the relevant subject matter.

The following flowchart below provides some preliminary guidance and is based on two essential terms defined in section 3 of the Act:-

1. "deduction means any amount comprising part of an employee's wages that is not paid to the employee including (but not limited to) any amount withheld in accordance with a salary sacrifice arrangement or paid to another person on behalf of the employee."

2. "wages means the amount to which an employee is entitled in respect of services performed by the employee including (but not limited to) salary, income, allowances, overtime payments, leave payments, termination payments, bonuses, gratuities and commissions but not including payments in kind or the value of payments in kind (for example, the provision of a motor vehicle or other goods or services) made in accordance with a remuneration package agreed between the employee and the employer." service fee. This makes taking legal action relatively inexpensive. Target does however have access to the full service of Anderson Rice to support its activities when required.



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TARGET COLLECTIONS PTY LTD

Providing a total credit management service
Licensed Commercial Agent 830

Anderson Rice created Target Collections approximately 11 years ago primarily, to provide a debt recovery service to its own clients.

We recognise that there is a significant difference between a law firm and a mercantile agency in terms of cost. Having regard to the increased need for debt recovery services it was agreed to extend Target's services to the public.

Since taking this decision Target Collections has grown in leaps and bounds and is now geared up to handle large volume recoveries for debts of any size.

The advantage of using a mercantile agency such as Target compared to using a law firm is simple. Target specialises in making demand calls and negotiating settlements without charging for time. A telephone demand by a solicitor would be costly, if indeed you could find one who will make the call.

Instead of paying fees for time and all communications, Target Collections conducts all recovery action at NO COST until a payment is made – and then it is a small percentage of the payment that is charged (commission) – usually only 15%. There is considerable incentive for Target to collect the debts as if they are written off there is no fee payable to Target.

Target does not charge solicitor fees for preparation of legal documents and only charges disbursements such as the court filing fee and

service fee. This makes taking legal action relatively inexpensive. Target does however have access to the full service of Anderson Rice to support its activities when required.

Genuine negotiation by telephone is essential to achieving results. Debt recovery is a specialist area and requires the use of tactics to persuade the debtor to part with cash. This does not simply involve writing letters to the debtor nor just issuing legal proceedings.

Trained staff qualified to undertake collections with diplomacy and in line with ACCC and ASIC guidelines are an essential part of what Target has to offer.

Target Collections utilises state of the art collections software in conjunction with electronic issue of documents via the Magistrates' Court. This technology allows Target to deliver speedy results.

Target is well geared to provide advice in relation to credit documentation, enforcement of securities and the legal process.

A full description of all services provided by Target can be viewed at www.targetcollections.com.au Simply click the "TAKE ACTION NOW" link to get the ball rolling with collection of your debts or call our Target Manager Daryl Frith on 03 9672 2686 for more information.

For further information contact:



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