

LEGAL} EAGLES CLE
Continuing Legal Education for Criminal Lawyers

**PAPER BY PETER HAMILL SC
PRESENTED AT LEGAL EAGLES CLE CONFERENCE
NHA TRANG VIETNAM 16/1 – 22/1/2013**

JUDICIAL BULLYING

Written materials

1. Scheme of talk.
2. List of authorities on judicial officer misconduct.
3. Diagram of the complaints process.
4. Judicial Commission of New South Wales Guide for Complainants.
5. Instructions for Lodging a Complaint Against a Judicial Officer.
6. Transcript of Kevin Coorey's application for discharge due to trial Judge's interjections.

SCHEME OF TALK

Judicial Bullying by Peter Hamill SC

Identifying bullying

The reasons why bullying is so common in the Court room

The mischief created by bullying

- Personal
- Systemic

Standards of Judicial Conduct and recent examples of failures to meet those standards

Lay persons responses to bullying

Examples of bullying from the cases

The appearance of justice

Reasonable apprehension of bias

Dealing with bullying

- The client's interests
- The well-being of the lawyer

Dealing with the bullying in the Court room

Appeals

Making a submission that the Judge is disqualified

Personal, professional and collegiate support

Complaints

LIST OF AUTHORITIES AND REFERENCES

Judicial Bullying by Peter Hamill SC

Legislation

Courts Legislation Amendment (Judicial Complaints) Bill 2012 (Cth)

Judicial Officers Act 1986 (NSW)

Cases

R v Grassby (1989) 168 CLR 1

Livesey v New South Wales Bar Association (1983) 151 CLR 288

Ebner v Oficial Trustee in Bankruptcy (2000) 205 CLR 337

R v Charter [2002] VSCA 214

R v Chow (1992) 63 A Crim R 316

Galea v Galea (1990) 19 NSWLR 263

Gem v The Queen [2010] VSCA 168

Jones v National Coal Board [1957] 2 QB 55

R v Lars (aka Larsson); R v Da Silva; R v De Fatima, R v Steve (1994) 73 A Crim R 91

Love v R (1983) 9 A Crim R 1

R v Mawson [1967] VR 205

Michael v The State of Western Australia [2007] WASCA 100

The Queen v O'Brien [2001] VSCA 157

Articles and reports

The Australian Institute of Judicial Administration Incorporated, *Guide to Judicial Conduct* (2002).

The Judicial Commission of New South Wales, *Report of the Conduct Division to the Governor Regarding Complaints Against His Honour Magistrate Brian Maloney* (6 May 2011)

<<http://www.judcom.nsw.gov.au/publications/conduct-division-report-2>>

The Judicial Commission of New South Wales, *Report of an Inquiry by a Conduct Division of the Judicial Commission of NSW in relation to Magistrate Jennifer Betts* (21 April 2011)

<<http://www.judcom.nsw.gov.au/publications/conduct-division-report-1>>

Douglas R. Richmond, *'Bullies on the Bench'* (2012) 72 Louisiana Law Review 325-360.

Jeffrey Phillips SC, *'Judicial Bullying'* (Speech delivered at the Hilton Sydney, 17 December 2010)
<http://www.jeffreyphillipssc.com/wp-content/uploads/2010/09/Statutory-Criminal-and-Employment-Remedies-for-Bullying-Jeffrey-Phillips-SC.pdf>