

# Ethics Essentials in Legal Practice

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# What we are seeing around the grounds -4 themes



Witnesses

Money

Signing &  
Witnessing

Settlement –  
withdraw  
allegation



# Emerging themes

- AML/CTF
- AI
- BEING COURTEOUS & SENSITIVE TO CONTEXT

# Witnesses

## ASCR – rr.23-27:

- No property rule;
- integrity of evidence;
- witness under XXM;
- lawyer as witness

## Not a code:

- Other obligations.

## Recently:

Victoria v Villan [2022]  
VSCA 106

- Witness called in client's case, who is not your client
- Followed LIV 2017 Guidelines: [51]
- Not enough: [62]

# Money

Client lacks capacity to understand TOE & invoices –

- took money anyway – c.\$95k
- whether can issue an invoice if client loses capacity
- professional misconduct:
- *LSCC v Butler* [2023] WASAT 124, [24], [109], [215]-[220], [232]
  - What about fluctuating capacity? – [236]

Cites *LSC v Pennisi* [2023] QCAT 118

- Obligations of solicitor to ascertain capacity
- NB - costs only appeal [2023] QCA 234



# More Money

- Failing to pay counsel's fees:
  - *LSCC v Khosa* [2023] WASAT 90
  - *Quinones v Council of LS of NSW* [2023] NSWCATOD 43



# Signing and witnessing

## Care with facsimile/electronic signatures:

- *SRA v Langley* -- Case No 12494-2023 (SDT, Eng.)

## Witnesses have to “witness”:

- Pre-signing LPAs etc as ‘witness’:
  - *SRA v Marzan* -- Case No.12480-2023 (SDT, Eng)
- Sorting out some Will ‘witnesses’ later:
  - *Council of LS of NSW v FZK* [2023] NSWCATOD 154

# Settling -- withdrawal of allegations

- Offer to settle a dispute on condition of withdrawal of:
  - criminal complaint - professional misconduct:
    - *Legal Profession Board of Tasmania v W* [2023] TASFC 1
  - professional conduct complaint – breach of 2011 Principle 6:
    - “behave in a way that maintains the trust the public places in you and in the provision of legal services”
    - cf ASCR r.5
    - *SRA v Hudson* – Case No.11581.2016 (SDT, Eng.)



# Other failures: mostly about court process

## Baseless caveats:

- *Victorian LSC v Fong* [2024] VCAT 103

## Baseless allegations of judicial bias & against practitioners?

- *Odtojan v Condon* [2023] NSWCA 129, [80]
- Whether can escape by claiming to be a mere McKenzie Friend?
- Whether can escape by being the actual litigant?

## Misuse of documents obtained in other proceedings:

- *Ndou v Council of the LS of NSW* [2023] NSWCATOD 129

# Emerging themes

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- AML/CTF: it's coming!

Eg: *SRA v Dentons* [2025] EWHC 535 (Admin)

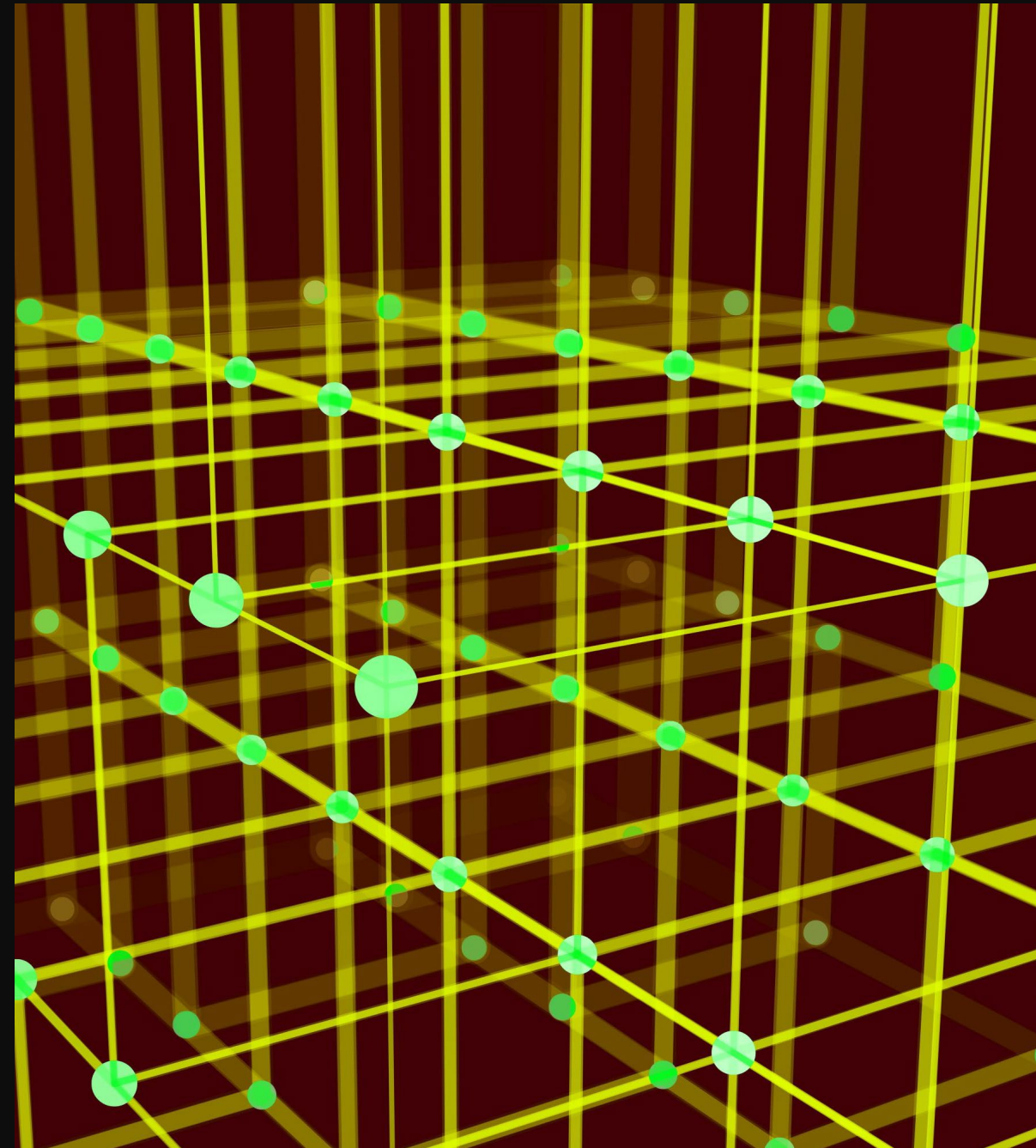
- AI: KNOWING ITS USES/ABUSES

Eg NSWSC PD, *Valu v Minister (No 2)* [2025] FedCFamC2G 95

- BEING COURTEOUS, SENSITIVE TO CONTEXT

Eg *Legal Services Commissioner v Kirin* [2024] QCAT 489

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# Questions?

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