

# The Australian

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## Divorce challenge

- **PREJUDICE:** Susannah Moran
- From: The Australian
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### **Prejudice:**Susannah Moran. **WELCOME to 2009.**

There's no doubt it will be a challenging year ahead, but as in any economic cycle, there are always areas that will thrive. Insolvency lawyers have been waiting 15 years for their time in the sun and others, such as divorce lawyers, have also noticed an upturn in business.

Rumpole creator Sir John Mortimer, who died last Friday, once commented on his preference for clients on murder charges rather than deal with squabbling spouses.

"Matrimonial clients hate each other so much and use their children to hurt each other in beastly ways," he said.

"Murderers have usually killed the one person in the world that was bugging them and they're usually quite peaceful and agreeable."

Brisbane lawyer Clarissa Rayward says January is traditionally the month when people decide to put an end to an unhappy marriage.

Although those at the very top end tend to endure each other through the tough times rather than risk selling assets in a falling market, Prejudice came across an intriguing set of interim spousal orders: after a lengthy marriage a couple are splitting and the wife wanted \$10,000 a week.

Apart from wanting paid golf lessons and needing \$2000 a week for clothes and shoes, there was also the demand for \$36,240 a year for "beverages". That works out at \$99 a day. Prejudice wonders if she's a bottle-of-Bollinger-a-day lady (it's on sale for \$99 at Vintage Cellars), in which case, good luck to her; or perhaps she has the habit of a couple of bottles of gin a day, in which case it would surely be irresponsible for the courts to allow such a stipend. Pity the poor husband for having to support such a lifestyle.

Despite being worth several hundred million dollars, he must have had a terrible year in 2007, because he declared only \$47 income to the tax office. In the end, the wife got \$6214 a week plus a Visa bill paid off. Despite his financial woes, we suspect the husband will be able to scrape together a few dollars to hire a top silk for the battle ahead.

### **Urgent and secret**

CHRISTMAS Eve is usually a pretty quiet time of year in the office. But in Sydney, Justice Margaret Stone spent part of her day hearing a matter involving the Australian Crime Commission and a company known only as AB Limited.

The parties appeared in court again last week and Prejudice, which always enjoys popping in to the courts, stopped by. Sadly some lawyers are not always happy to see us.

The crime commission kicked off by asking Justice Peter Jacobson that the court be closed. Clearly there was top-secret business ahead that the public shouldn't be allowed to hear.

When Prejudice asked what section of the Act the crime commission was relying on to close the court, there was much consternation and discussion by the seven lawyers/officers from the crime commission who were in court (must have been a slow day in the office).

It was all too secretive to talk about, Justice Jacobson was told.

"Surely you can disclose the section of the Act?" he asked. More frantic whispering and the "members of the public" were told we would be assisted by s29A of the Act.

There is nothing in s29A that says the crime commission can shut a court on a whim without further information or reasons. It does deal with the disclosure of a summons or notice (generally prohibited). Justice Jacobson rightly pointed out that if the crime commission wanted the court closed it would first have to make an application under s50 of the Federal Court Act.

The crime commission didn't do this and the media was allowed to stay. It wasn't that exciting: AB Ltd wanted to set aside a notice to produce documents and the crime commission wanted the case thrown out of court.

But the matter was urgent according to the crime commission and it wanted its documents by the beginning of February. Jacobson agreed to leave the bench for a short period to consider the arguments.

The crime commission troupe apparently used the break to have a closer look at their Act because on return, its barrister said her instructions had changed and the matter was no longer deemed urgent.

Also, they had discovered an extension of time could not be granted after the date of compliance had passed, which was on December 17. Woopsy. So Justice Stone shouldn't have been bothered on Christmas Eve. Or as the crime commission put it: the proceedings were "unnecessary". No wonder they wanted the court shut.

#### **Award winners**

CONGRATULATIONS to Adam Arnold and Sarah Dorn, winners of the tertiary section of the national essay competition run by Francis Forbes Society for Legal History and supported by The Australian. For more details and to read the essays in full, go to the Legal Affairs section at [www.theaustralian.com.au](http://www.theaustralian.com.au)

*Chris Merritt is on leave until February 9. Until then, email [morans@theaustralian.com.au](mailto:morans@theaustralian.com.au)*

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