The National Legal Eagle

Volume 14
Issue 2 *Spring 2008*

Article 6

10-1-2008

Another successful mooting season at Bond

David Field
Bond University, David_Field@bond.edu.au

Follow this and additional works at: http://epublications.bond.edu.au/nle

Recommended Citation
Field, David (2008) "Another successful mooting season at Bond," *The National Legal Eagle*: Vol. 14: Iss. 2, Article 6.
Available at: http://epublications.bond.edu.au/nle/vol14/iss2/6

This Journal Article is brought to you by the Faculty of Law at ePublications@bond. It has been accepted for inclusion in The National Legal Eagle by an authorized administrator of ePublications@bond. For more information, please contact Bond University's Repository Coordinator.

Another Successful Mooting Season at Bond

Associate Professor David Field
Faculty of Law
Bond University

A report on the 2008 Bond University High Schools' Mooting Competition, proudly supported by 'SpartaMatrix'

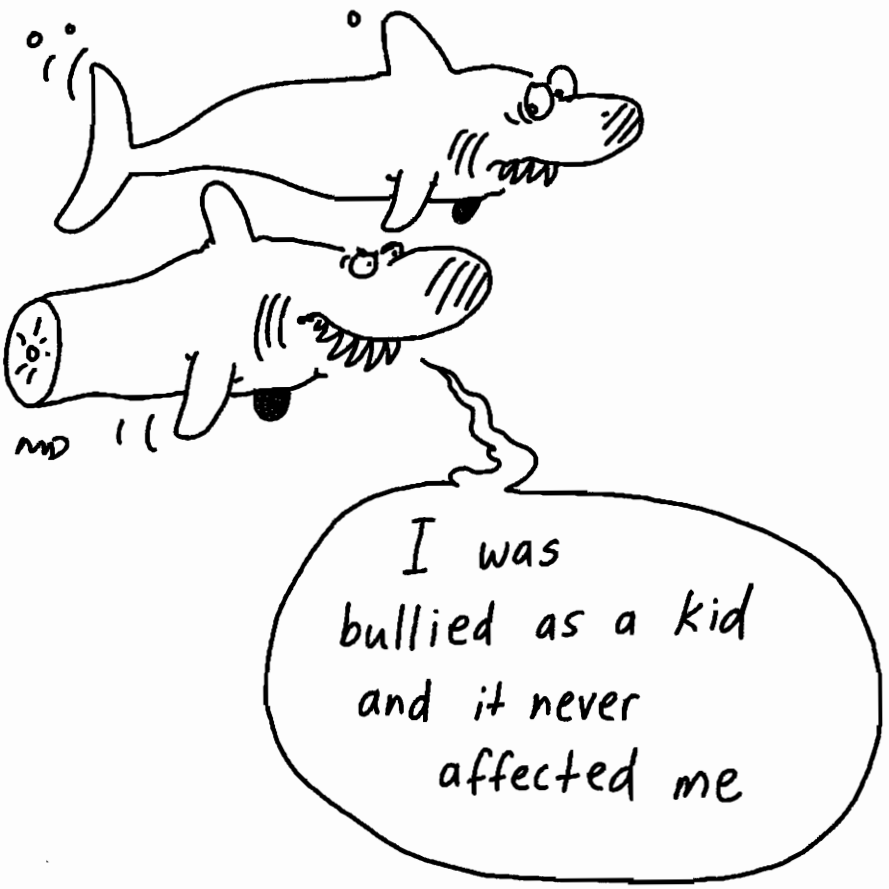
Another year, and another round of high school moots under the auspices of Bond University's Faculty of Law. Next year will be the twentieth such annual competition to be sponsored by Bond, and in the eighteen years which have intervened since the very first of them back in 1989, the number of participating schools has multiplied fifteen-fold, from 8 in its inaugural year to 120 in 2008.

As usual, the search was for a topic which not only reflected a current area of uncertainty in the law, but was also of topical interest to the Year 11 and 12 students taking part, and so the organisers dived back into the subject area which had left so many questions unanswered in the previous year, namely the legal liability of a school for activities by students which cause loss or injury to others. In 2007, mooters had explored the liability to other students at the school, and this year the limits were pushed further, in order to examine whether or not the liability of the school might extend to loss or injury to third parties who have no direct relationship with the school.

Both the regional round problem and the new one drafted specially for the final round were created out of the precedent set by the New South Wales Supreme Court in *Cox v State of New South Wales* [2007] NSWSC 471. There it was held that a school authority was liable in damages to a young man, then 18 years of age, for the educational and career opportunities he had lost as the result of depression, anxiety disorder and post-traumatic stress disorder brought on by being the victim of bullying during his primary school days, which the school had taken inadequate steps to prevent.

The regional round hypothetical problem followed this theme, but with a strange twist to the plot, in that the person claiming the damages was the person who had been the bully. The legal argument for the plaintiff was that the principle was the same, and that if the school had taken appropriate steps to end the bullying once they became aware of it, the person responsible for it would not have been seriously injured in a frenzied attack when the bullying victim finally 'snapped'. The counter-argument for the defendants was that this was pushing the liability of school authorities too far.

From Darwin to Adelaide, and from Cairns to Canberra, this issue was argued backwards and forwards in front of the team of Law Faculty academics who travelled around the country to act as role-play judges in a make-believe appeal hearing. Between them they chose the twelve best Australian regional finalists, who on Saturday 26 July 2008 all travelled to Bond University on Queensland's Gold Coast to battle out the finals, joined by two teams from Malaysia whose schools were the regional finalists in the extended competition which the Bond Law Faculty has been sponsoring in that country for four years, and which this year attracted 20 participating schools and colleges.



Published by ePublications@bond, 2008

The boat had been pushed further out from established law in the scenario set for the finals' teams to ponder. In this new scenario, the victim (a Ms Potter) had been seriously injured when the car she was driving swerved off the road and hit a power pole as she tried to avoid a shower of bottles thrown at her car by Rupert Grin, a 15 year old student at the fictional Bunya Ridge College. Rupert had been seriously drunk at the time, having purchased alcohol from a nearby hotel after slipping out, late that evening, from a dormitory at a school camp. It was argued on behalf of Ms Potter that the school owed a duty of care to her, to prevent students 'escaping' from the supervision and control of staff attending the camp, and that this was particularly true in the case of Rupert, who had a track record for misbehaving while drunk during school activities. Rupert had only just been allowed to attend the camp after a plea on his behalf by his parents, and the teachers supervising the camp had been told to 'keep a close eye on Rupert'.

The counter-argument, for the school, was to the effect that to impose such strict legal liability on the school, which had done all it reasonably could to prevent Rupert's escape, would be to inflict on schools a higher duty of care in respect of 15 year olds than is owed to the public at large even by their parents, and that this extension to the law could not be justified as a matter of public policy.

After seven hours of intense mooting, the judges (again drawn from Bond Law academics cheerfully giving up a day of their weekend) selected, as the grand finalists, the teams from Nudgee College, Brisbane, and Brighton Grammar School, Melbourne. After a delay of some ninety minutes, while the grand finalists drew breath and revised their legal arguments, the final encounter took place in the Bond Law Faculty's 'state of the art' Moot Court 1, which had been used to good effect all day, with its closed circuit cameras beaming the event 'live' to the overflow of proud parents and friends, plus fascinated school mooters whose teams had not made it through to the very end, who were comfortably installed in a nearby lecture theatre.

The 'fresh' judges for the grand final were Judge John Newton of the Queensland District Court at Southport, Senior Member Bernard McCabe of the Administrative Appeals Tribunal in Brisbane (a former Associate Professor of Law at Bond), and current Associate Professor Bobette Wolski, a 'legal skills' specialist on the LLB and JD law courses at Bond.

After a further hour of gripping legal argument, the winning team was announced as Brighton Grammar School. In addition, as is the tradition with these events, the three best advocates of the day were selected for partial scholarships to study Law at Bond, (subject to academic merit confirmation). This year, they were William Mosley of Brighton Grammar School ('Outstanding Advocate'), and Lloyd Wicks from St Peter's College, Adelaide, and Lucinda Brabazon of Brisbane Girls Grammar School ('Best Advocates').

At the end of a very long and tiring day for all involved, students, parents, teacher-coaches and academic staff from Bond retired to the University Club for the 2008 Moot Dinner, as another successful Bond University High Schools' Mooting Competition was chalked up on the scoreboard.

Future challenge:

If your school is interested in taking part in the 2009 Bond University High Schools' Mooting Competition, please contact Cherie Daye, Events Manager for the Bond Law Faculty, on cdaye@bond.edu.au.

The contents of this publication are intended as general legal information only and should not form the basis for legal advice of any kind. © The Law Society of New South Wales1998.
Published by The Law Society of New South Wales, 170 Phillip St. Sydney NSW 2000. Telephone: 9926 0333. Co-Editor Robyn Cross, Email: rnc@lawsocnsw.asn.au Written by Bond University. October 2008.
National Legal Eagle is produced by Insight Print Services Suite 1104, Level 11, 109 Pitt Street Sydney NSW 2000 Phone 9221 7411 Fax 9221 4242