Opening Remarks

James, Nickolas

Good morning ladies and gentlemen. My name is Professor Nick James, and I am the Executive Dean of the Faculty of Law here at Bond. Welcome to the Gold Coast, welcome to Bond University, and welcome to the 2016 Dispute Resolution Research Forum.

I would like first to acknowledge the traditional people on whose land we are gathered, and pay my respects to Elders past and present.

I am delighted to formally welcome you to this event.

I am delighted because it gives me the opportunity to show off to all of you our wonderful campus. Yes, it is like this every day. Yes, the students really are as happy as they appear to be. Yes, they do still come to class even though the beach is only 10 minutes that way.

I am also delighted to welcome you because this is a chance for me to catch up with some dear colleagues and friends who I have not seen in a while.

And I am particularly delighted to welcome you because the topic of this research forum has significance for me personally – as a lawyer, as an academic and as a teacher.

Like many legal academics, I attended law school at a time when the curriculum was dominated by legalism and adversarialism. We studied the law: legal rules, legal principles and legal doctrines. We studied legislation, and we studied case law. Appellate case law. Pages, and pages and pages of it. Sometimes we heard about the law's moral foundations, or about law's social, cultural or political contexts. But not often, and usually only when our lecturer was inclined to bring it to our attention as an aside. ADR was at best a footnote to civil procedure. It wasn't something to be too concerned about – everyone knew that it wasn't going to be on the exam.

All of this fuelled the false perception, held by many, that the law was limited to the rules, and that legal practice was about using those rules to win cases, regardless of the consequences.

Things have certainly changed. For the better. There are still elements of the curriculum mired in doctrinalism and adversarialism. But amongst those engaged in informed debate about how legal curricula should be structured and how law should be taught, it is now generally accepted that litigation and adversarialism should be contrasted with and contextualised by alternative approaches to dispute resolution.

And we are even moving past the position that ADR is an essential adjunct to litigation within the curriculum, and towards the understanding that litigation sits alongside negotiation, mediation, conciliation and arbitration as one option for resolving disputes, and one that is not always the most appropriate option. This is transforming the way we prepare our students for practice. We no longer teach law in a manner that assumes that every lawyer is a litigator, and every legal matter is resolved in the courtroom. We no longer assume that the law can be studied and understood in isolation from its professional, social, cultural and political contexts. We now are teaching our law students how to solve problems and resolve disputes using means far gentler, far less destructive and far more human than legalistic adversarialism. Here at Bond, for example, dispute resolution is one of the fundamental skills embedded within and integrated into our compulsory curriculum, and we ensure that every law student is taught how to resolve disputes using non-adversarial means.

So here we are, at this year's Dispute Resolution Research Forum, which Bond Law is delighted to host. Today you will together try to find answers to some very challenging questions.

- What is the role of emotional intelligence in mediation?
- How can lawyers engage in truly effective collaborative practice?
- How can family dispute resolution be practised in a way that respects the variety of faiths and cultures within the Australian community?
- How can we minimise the harm to children in family dispute resolution process?

The answers that you discover will help all of us – as lawyers, mediators, scholars and teachers – to better understand how conflicts can be resolved non-violently, non-aggressively, and in a manner that allows all concerned – parties and advisors – to act in a manner consistent with their closely held moral and ethical values. Your challenge is to find out whether and how lawyers and mediators can simultaneously resolve conflicts, mend relationships, help and respect others, behave honestly, act with integrity, do good, be good. This is a worthy endeavour, the worthiest. I wish you the very best of luck. Thank you.