



## **CONFERENCE 2022**

7 - 12 JULY

MEANJIN

*sponsored by*



## **NEGOTIATION**

Round 1

# **Ellis Martin v Chadwick and Michael Pty Ltd**

**Jurisdiction:**

**Queensland**

**Problem Author:**

***Maddison Nicholls***

# Ellis Martin v Chadwick and Michael Pty Ltd

## AGREED FACTS

Ellis Martin was a senior auditor at Chadwick and Michael Pty Ltd (“**C&M**”). C&M employs 50 staff and has offices in Brisbane, Sydney, and Melbourne. Ellis was employed by the Brisbane office as a graduate, commencing on 15 July 2017. Since then, he climbed the ranks to senior auditor and was on a remuneration package of \$125,000 p.a. (excluding superannuation).

On Thursday last week, C&M hosted a 25<sup>th</sup>-anniversary ball at the Y Hotel in Brisbane. In attendance were C&M’s major clients, business leaders, and of course, C&M’s employees from each of their offices. The event was catered and had a generously stocked open bar. During the ball, Ellis became inebriated to the extent that he had difficulty forming coherent sentences. He was seen by senior managers staggering to the bar and ordering several drinks at a time. There was no evidence that he was denied service of alcohol at the event or that anyone intervened. As the night went on, there was an awards ceremony for the C&M’s top performers. Just before the MC could announce the national top performer, Ellis jumped onto his table and yelled at the topic of his lungs, “F\*\*\* John Chadwick”. John Chadwick (the Managing Partner) looked on with disgust. This outburst put the MC in an uncomfortable position as Ellis had won the national top performer award. Reluctantly, the MC announced that Ellis was the winner. The announcement did not register for Ellis, who was struggling to get off the table safely.

After the ball, Ellis and some of his colleagues from the Brisbane office decided to meet up at Big Ben’s bar in Fortitude Valley. While at the bar, Ellis proceeded made series of unwanted advances toward a female colleague named Li. Initially, Li shut down Ellis’ advances and laughed them off. However, Ellis’ conduct escalated when he started touching Li inappropriately. Li was visibly distressed. Before the situation could get worse, Li’s co-worker Emily intervened. Emily discretely asked Li if she wanted a lift home. Li accepted Emily’s offer. Unbeknownst to Li, Emily reported the incident to HR.

When Ellis got into the office the following day, he was quickly ushered into the HR Manager’s Office, where the HR Manager and John Chadwick were waiting. After a brief discussion, Ellis was advised that his employment had been terminated with immediate effect due to his misconduct and that he would receive pay in lieu of notice. Ellis went back to his desk to collect his belongings, handed in his identification card and parking fob, then left the office. Later that day, Ellis received an e-mail from the HR Manager with a letter confirming his employment had been terminated. The letter referred to the incident at the Y Hotel and Big Ben’s as the reasons for the dismissal.