

**Professor Marius de Waal of the Law Faculty at the University of Stellenbosch**

spoke about the potential confusion between the legal figures of *modus*, suspensive condition, and resolutive condition when drafting wills and trust deeds. He pointed out how testators can mean to achieve one goal, but that inaccurate drafting could lead to that goal not being achieved because the wording used created different obligations for heirs and beneficiaries from those intended. An example is where more than one of these legal figures are combined, e.g. "I bequeath my farm to my son A if he obtains his LLB degree within five years after my death. On acquiring the farm, A must pay R500 000 to my daughter B. If A fails to pay the money to my daughter within two years after acquiring the farm, A will forfeit the farm and it must go to my brother C." In this case the testator created a suspensive condition + *modus* + resolutive condition + fideicommissum in one paragraph.

**Mr James Faber from the Law Faculty at the University of the Free State**

dealt with the tension between the requirement that a will must be in

writing and in hard copy on the one hand, and the technological advances in communication and document management on the other. He referred to developments in countries like Australia, New Zealand, the United States and Canada. In Australia wills created on smartphones and of which only an electronic copy exists, has been accepted by the courts in some of the federal states. He also referred to the need to authorise someone to be able to access one's electronic accounts, records, and social media profiles after death. Valuable material may stored in cyberspace, e.g. photographs, documents relating to patents and other intellectual property.

**Professor Leon van Vuuren of the Ethics Institute of South Africa** posed some challenging questions about ethical behaviour. He quoted David Steward who said: "*An ethical dilemma occurs when we face two choices, both of which lead to less than desirable consequences.*" A conflict of interest can arise where professional duty and personal financial interests demand diverging actions. He also quoted Paul

Tillich: "*Goodness without knowledge is weak. Knowledge without goodness is dangerous.*" Prof van Vuuren suggested a quick ethics test consisting of five questions – Is it legal/procedural? How will it look in a newspaper? Is it consistent with my professional values? Is it fair to all? If I do it, will I feel bad? If one is uncomfortable with the answer to any of these questions, it is a good indication that it is a slippery slope.

**The Chief Master of the High Court, Adv. Lester Basson** spoke about trends in the number of deceased estates reported and trusts registered per annum. He also reported on progress with the process to move to a paperless regulatory and compliance process in the offices of the Master across the country. Adv. Basson shared his vision of a paperless environment, with the exception of the documents which are by law required to be in hard copy.

*The day was concluded with an hour long panel discussion in which all speakers took part and the audience could ask questions.*