



THE LAW LIBRARY OF VICTORIA

Library Bulletin

2 September
2016

Library News

The Australian experiment with human rights charters

Wednesday 21 September, 5.00-6.00pm

Chaired by The Honourable Justice Chris Maxwell AC, President of the Court of Appeal.

Introducing an Australian bill of rights has been politically fraught, but both the ACT and Victoria have proceeded to adopt legislative bills of rights -- the ACT Human Rights Act 2004 and the Victorian Charter of Human Rights and Responsibilities 2006.

Queensland is currently considering such a path. A decade on, what can we learn from the operation of the ACT and the Victorian legislation? How successful have these experiments proved in protecting human rights?

Professor Hilary Charlesworth is a Melbourne Laureate Professor at Melbourne Law School and Distinguished Professor at the Australian National University. She was chair of the ACT government's consultative committee on the introduction of human rights legislation.

All are welcome and entry is free. Bookings are required for this free public lecture. For details please visit www.lawlibrary.vic.gov.au/events.

Lyrical Lunchtimes in the Law Library

Thursday 15 September, 1.15pm

The Law Library of Victoria and BottledSnail Productions welcome you to enjoy the lunchtime classical concert series. All are welcome, entry is free and there is no need to register.

Twilight songs under the dome 2017

Thursday 24 November, 6.00-7.30pm

The Law Library of Victoria and BottledSnail Productions present a classical music event, Twilight songs under the dome 2017, with all profits donated to the Tristan Jepson Memorial Foundation. Further details to be provided.

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Judging for the People: A Social History of the Supreme Court in Victoria 1841-2016



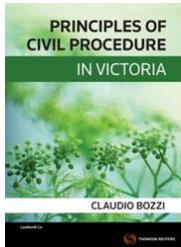
Judging for the People: A Social History of the Supreme Court in Victoria 1841-2016 has just been published. Copies of the book can be ordered from the Supreme Court Library, please phone 03 9603 6282 for details.

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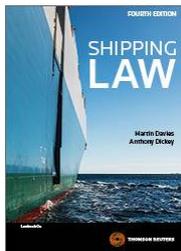
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New Books

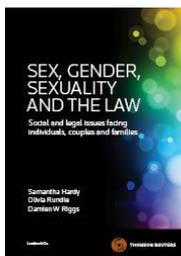
Following is a selection of new books in the Library collection. For details of more new books, see the Library Catalogue: https://courts.sdp.sirsidynix.net.au/client/en_AU/llv/



Bozzi, Claudio, *Principles of civil procedure in Victoria*
Thomson Reuters, NSW, 2016
Call number: 347.945 BOZ (Supreme Court Library)



Davies, Martin, *Shipping law*
4th ed, Thomson Reuters, NSW, 2016
Call number: 343.096 DAV.4 (Supreme Court Library)



Hardy, Samantha, *Sex, gender, sexuality and the law : social and legal issues faced by individuals, couples and families*
Thomson Reuters, NSW, 2016
Call number: 346.015 HAR (Magistrates' Court Library)



Jones, Clarke, *Efficacy, accessibility and adequacy of prison rehabilitation programs for Indigenous offenders across Australia*
Australasian Institute of Judicial Administration Incorporated, Victoria, 2016
Call number: 365.66 JON (Magistrates' Court Library)

Legislation

Victorian Bills

The following Victorian Bills received a second reading since the last Library Bulletin:

- [*Births, Deaths and Marriages Registration Amendment Bill 2016*](#)
- [*Corrections Legislation Amendment Bill 2016*](#)
- [*Crimes Amendment \(Carjacking and Home Invasion\) Bill 2016*](#)
- [*Equal Opportunity Amendment \(Religious Exceptions\) Bill 2016*](#)
- [*Estate Agents Amendment \(Underquoting\) Bill 2016*](#)
- [*Traditional Owner Settlement Amendment Bill 2016*](#)

Victorian Assents

The following Victorian Acts were assented to since the last Library Bulletin:

- [*Education and Training Reform Amendment \(Miscellaneous\) Act 2016 No. 42/2016*](#)
- [*Gene Technology Amendment Act 2016 No. 43/2016*](#)
- [*National Parks and Victorian Environmental Assessment Council Acts Amendment Act 2016 No. 44/2016*](#)
- [*Road Management Amendment \(Bus Stop Delivery Powers\) Act 2016 No. 45/2016*](#)
- [*Local Government Amendment Act 2016 No. 46/2016*](#)



EXHIBITIONS IN THE LIBRARY

Argus from 100 years ago

The Supreme Court Library has the Argus newspaper from 1916 on display.

The page is turned daily and provides an insight into what was happening 100 years ago to the day.

A snapshot is provided via the Law Library of Victoria Twitter account. You can follow these tweets via @lawlibraryvic #argus1916

Legislation

Proclamations

The following Victorian Act proclamations were made since the last Library Bulletin:

- *Building Legislation Amendment (Consumer Protection) Act 2016 No. 15/2016*
 - Sections 5, 16-18, 20-23, 25-27, 29-33, 38, 43, 55, 69, 70 came into operation on 1 September 2016 (VGG S26 23.8.2016)
- *Fines Reform and Infringements Acts Amendment Act 2016 No. 29/2016*
 - Pt 3 Div. 1 (ss 59, 60) came into operation on 1 September 2016 (VGG S26 23.8.2016)

The following Victorian Acts have come into operation by forced commencement since the last Library Bulletin:

- *Education and Training Reform Amendment (Miscellaneous) Act 2016 No. 42/2016*
 - Sections 1-3, 14 of this Act came into operation by forced commencement on 24 August 2016 (s. 2(1))
- *Local Government Amendment Act No. 46/2016*
 - Sections 1-4 of this Act came into operation by forced commencement on 31 August 2016 (s.2)
- *Road Management Amendment (Bus Stop Delivery Powers) Act 2016 No. 45/2016*
 - All provisions of this Act came into operation on operation by forced commencement on 24 August 2016 (s.2)

High Court Cases

CRIMINAL LAW - Appeal - Verdict - Not guilty of murder but guilty of manslaughter - Alleged mistake by foreperson - Requisite majority for verdict of not guilty of murder allegedly not reached - Report of foreperson to court officer disclosing alleged error - Statements as affidavits from jurors - Full Court quashed jury verdicts and ordered new trials on count of murder - Whether presumption of correctness of jury verdicts rebuttable in circumstances - Whether Full Court could reconsider perfected orders in original jurisdiction - Whether alleged mistake was material irregularity leading to unlawful verdicts - Whether alleged mistake by foreperson and acquiescence of jury an abuse of process - Whether inherent power to correct perfected orders in circumstances - Admissibility of jury statements to impeach verdicts - Consideration of distinction between verdict and judgment. Words and phrases - "abuse of process", "alternative offence", "functus officio", "inherent jurisdiction", "inherent power", "judgment", "majority verdict", "major offence", "material irregularity", "perfected", "unlawful verdict", "verdict".

NH v The Director of Public Prosecutions [DPP]: Jakaj, Rrok v The Director of Public Prosecutions [DPP]: Zefi, David v The Director of Public Prosecutions [DPP]: Stakaj, Dario v The Director of Public Prosecutions [DPP]

[\[2016\] HCA 33](#)

31/08/2016

CRIMINAL LAW - Criminal liability - Complicity - Extended joint criminal enterprise liability - Where appellants and fourth man involved in violent altercation, during which fourth man fatally stabbed victim - Where appellants tried with fourth man for murder - Where bases on which murder left to jury included extended joint criminal enterprise - Whether liability for murder on basis of extended joint criminal enterprise should have been left to jury - Whether extended joint criminal enterprise proper basis for conviction of murder.

CRIMINAL LAW - Appeal - Where appeal against conviction on ground jury verdict unreasonable or cannot be supported having regard to evidence - Where evidence appellants intoxicated - Whether Court of Criminal Appeal of Supreme Court of South Australia reviewed sufficiency of evidence.

CRIMINAL LAW - Criminal liability - Complicity - Extended joint criminal enterprise - Consideration of *McAuliffe v The Queen* (1995) 183 CLR 108; [1995] HCA 37 in light of *R v Jogee* [2016] UKPC 7; [2016] 2 WLR 681; [2016] 2 All ER 1 - Whether doctrine of extended joint criminal enterprise liability should be confined or abandoned.

HIGH COURT - Stare decisis - Whether *McAuliffe v The Queen* [1995] HCA 37; (1995) 183 CLR 108 should be reopened and overruled.

WORDS AND PHRASES - "accessorial liability", "common purpose", "complicity", "extended common purpose", "extended joint criminal enterprise", "joint criminal enterprise", "review of sufficiency of evidence", "unreasonable verdict", "verdict not supported by the evidence".

Miller v The Queen; Smith v The Queen; Presley v Director of Public Prosecutions for the State of South Australia

[\[2016\] HCA 30](#)

24/08/2016

CRIMINAL LAW - Criminal liability - Inconsistent verdicts - Where appellant drove person to brothel - Where person intended to commit robbery - Where person fatally stabbed victim and took money - Where appellant charged with murder and armed robbery with wounding - Where jury directions on armed robbery with wounding charge omitted element of foresight of use of knife to wound - Where appellant acquitted of murder and convicted of armed robbery with wounding - Whether conviction and acquittal inconsistent - Whether substituted verdict should be ordered - Whether new trial should be ordered. Evidence - Hearsay evidence - Evidence Act 1995 (NSW), s65(2)(d) - Where person made representation that appellant gave him knife - Whether representation made in circumstances that made it likely that the representation was reliable.

WORDS AND PHRASES - "circumstances that make it likely that the representation is reliable", "hearsay evidence", "inconsistent verdicts", "merciful verdict", "misdirection", "new trial", "substituted verdict".

CRIMINAL APPEAL ACT 1912 (NSW), s7, s8. Evidence Act 1995 (NSW), s65.

Sio, Daniel Jefferey v The Queen

20160824

[\[2016\] HCA 32](#)

24/08/2016

CRIMINAL LAW - Criminal liability - Where respondent's wife disappeared and body later found - Where respondent involved in sexual affair with another woman - Where some injuries to respondent's cheek likely caused by fingernails - Where respondent gave evidence at trial denying involvement in killing wife and disposing of body - Where jury convicted respondent of murder - Where Court of Appeal held hypothesis of unintentional killing not excluded by prosecution and substituted verdict of manslaughter - Where common ground on appeal that respondent killed his wife - Whether hypothesis consistent with innocence of murder open - Whether jury's verdict unreasonable - Whether jury entitled to be satisfied beyond reasonable doubt that respondent acted with intent to kill or cause grievous bodily harm when he killed his wife. Words and phrases - "circumstantial evidence", "hypothesis consistent with innocence", "intention", "intractably neutral", "lies", "motive", "post-offence conduct", "role of the jury", "unreasonable verdict", "whole of the evidence".

The Queen v Baden-Clay, Gerard Robert

[\[2016\] HCA 35](#)

31/08/2016

OCCUPATIONAL HEALTH AND SAFETY - Statutory duty - Occupational Health and Safety Regulations 2007 (Vic), regs 3.1.1, 3.1.2, 3.1.3 - Duties of employers in relation to hazardous manual handling tasks - Where primary school teacher tasked to use step ladder to remove papier mâché displays from pin-board on classroom wall - Where displays unstable or unbalanced, or difficult to grasp and hold - Where task constituted hazardous manual handling task - Where in course of task teacher fell from step ladder and injured knee - Whether evidence capable of supporting cause of action for breach of statutory duty - Whether risk of injury amounted to risk of musculoskeletal disorder "associated with a hazardous manual handling task" - Whether sufficient evidence for jury to infer it was reasonably practicable for employer to identify task as involving hazardous manual handling.

STATUTES - Interpretation - Remedial legislation - Occupational Health and Safety Act 2004 (Vic) - Where Act and Regulations intended to protect employees against risk of injury in course of work - Where legislation imposes civil penalties on employers for breach of statutory duty - Whether fact of civil penalty requires narrow interpretation of provision.

WORDS AND PHRASES - "associated with", "close connection", "combined in terms of circumstances", "combined in terms of classification", "hazardous manual handling task", "musculoskeletal disorder", "real risk", "reasonably practicable", "Shirt calculus".

OCCUPATIONAL HEALTH AND SAFETY ACT 2004 (Vic), s2(1), s4, s20, s21, s158.

OCCUPATIONAL HEALTH AND SAFETY REGULATIONS 2007 (Vic), r1.1.1, r1.1.5, r1.1.7, r3.1.1, r3.1.2, r3.1.3.

Deal, Kathryn v Father Pius Kodakkathanath

[\[2016\] HCA 31](#)

24/08/2016

STATUTES - Delegated legislation - Validity - Migration Act 1958 (Cth) - Offshore resources industry - Where amendments to Migration Act had effect of extending migration zone to non-citizens participating in or supporting offshore resources activity - Where amendments created specified visa requirements for such persons - Where amendments conferred power on Minister to make determination excepting operations and activities from extended migration zone - Where Minister's determination purported to except from migration zone, and specified visa requirements, all operations and activities to extent certain vessels or structures were used - Whether determination entirely negated operation of general rule in extending migration zone to non-citizens participating in or supporting offshore resources activity - Whether determination beyond power and invalid. Words and phrases - "Australian resources installation", "exception", "migration zone", "offshore resources activity".

The Maritime Union of Australia & Anor v Minister for Immigration and Border Protection & Anor

[\[2016\] HCA 34](#)

31/08/2016

Victorian Supreme Court Cases

Court of Appeal

ACCIDENT COMPENSATION - Transport accident - Low back injury - Causation - Whether transport accident was a cause of low back injury - Application conducted on basis that if causation established, then applicant's low back condition constituted serious injury within meaning of s93 of Transport Accident Act 1986 - Judge concluded that causation not established - Failure to deal appropriately with lay evidence and evidence of medical witnesses whose opinions favoured applicant's claim - Causation established - Application for leave to appeal granted - Appeal allowed - Applicant granted leave to commence proceeding - Transport Accident Act 1986, s93.

Principe, Salvatore v Transport Accident Commission

Hansen JA, Beach JA, and Cavanough AJA

[\[2016\] VSCA 205](#)

26/08/2016

CRIMINAL LAW - Appeal - Sentence - Dangerous driving causing serious injury (3 counts) - Guilty plea - Sentenced to aggregate sentence of 22 months' imprisonment with 5-year community correction order requiring supervision, drug and alcohol abuse assessment and treatment and participation in courses relating to offending behaviour - Whether sentence manifestly excessive - Whether principle of parsimony required sentencing judge not to impose sentence of imprisonment in circumstances - Sentencing Act 1991 s5 - Boulton v The Queen (2014) 46 VR 308; Greatorex v The Queen [2016] VSCA 136, discussed - Leave to appeal refused.

Bell, Gordon Frank v The Queen

Maxwell P, Redlich JA, and McLeish JA

[\[2016\] VSCA 203](#)

22/08/2016

CRIMINAL LAW - Bail - Show cause situation - Attempted murder - Appellant pleaded not guilty by reason of mental impairment - Appellant having established diagnosis of schizophrenia - Regular methamphetamine use and non-compliance with medication in period preceding alleged offending - Whether proposed bail condition that Health Clinic report non-compliance with medical regime desirable - Previous convictions and prior incidents involving dangerous conduct during psychotic episodes - Judge not satisfied cause shown - Judge satisfied appellant unacceptable risk of harm to others - Whether judge's conclusions open - Whether judge erred in considering a non-custodial supervision order not likely if appellant found not guilty due to mental impairment.

Wilson, Cheryl Anne-Marie v Director of Public Prosecutions [DPP]

Redlich JA, Kaye JA, and Cavanough AJA

[\[2016\] VSCA 204](#)

22/08/2016

PRACTICE AND PROCEDURE - Application for leave to appeal - Service of documents - Service of respondent's written case and list of authorities out of time - Directions - Directions made by Judicial Registrar - Directions made to facilitate progress of application for leave to appeal and appeal - Application to set aside orders of Judicial Registrar - Application refused - Supreme Court (General Civil Procedure) Rules 2015, r64.11 and r64.42.

Karam, Akram v Palmone Shoes P/L

Beach JA

[\[2016\] VSCA 208](#)

31/08/2016

TORTS - Appeal - Battery - Claims by prisoner against prison officers - Defences - Self-defence - Lawful authority - Defence provided by s 23 of the Corrections Act 1986 - Whether trial judge erred in finding defences established - No error established - Application for leave to appeal granted - Appeal dismissed - Corrections Act 1986, s23.

Russell, John Paton v Corrections Officer Reid & Ors

Osborn, Beach, and McLeish JJA

[\[2016\] VSCA 207](#)

31/08/2016

TORTS - Statutes - Statutory duty - Whether s4AA of Migration Act 1958 (Cth) creates independent and actionable statutory duty - Intention of the Parliament - Detention of minors - Parliament affirming as a principle that minors shall only be detained as a measure of last resort - Residence determination - Reference to minor being detained not including reference to minor residing at place in accordance with residence determination - No actionable statutory duty - Migration Act 1958 (Cth), s4, s4AA, s189, s197AB, s197AC, s197AE, s197AF and s474.

A S v Minister for Immigration and Border Protection

Warren CJ, Osborn JA, and Beach JA

[\[2016\] VSCA 206](#)

26/08/2016

Commercial Court

CONTRACT - Tenant of property when landlord in financial difficulty - Whether tenant agreed to purchase property and grant an option back - Whether contract existed before written agreement - Implied terms - Good faith - Co-operation - Whether contract required writing - Whether part performance - Mortgagee taking possession of the property - Whether loss of opportunity to exercise option - Damages.

ESTOPPEL - Equitable and promissory estoppel - Representation - Reliance - Detriment - Equitable compensation.

TORT - Trespass, conversion and detinue - Whether curtains, carpets and chandeliers chattels or fixtures - Whether plaintiff had right to possession of the items - Ownership of the items - Pleadings - Appropriate relief.

Thompson, Amanda Jane v Geminder Holdings P/L

Ginnane J

[\[2016\] VSC 495](#)

24/08/2016

CORPORATIONS - Winding up - Liquidators seek directions as to entitlement to funds - section 511 Corporations Act 2001 (Cth) - Directions given and orders made.

Erskine, Robyn-Lee and Gooding, Peter Andrew in Their Capacity as Joint and Several Liquidators of (ACN: 065 002 940 Pty Ltd) (in Liquidation) & Anor v Elan Media Partners Pty Ltd (ACN: 144 018 002) & Anor

Sifris J

[\[2016\] VSC 493](#)

01/09/2016

DECLARATORY RELIEF - Jurisdiction - Discretion - Circumstances where properly exercised - Proposed relief consented to or unopposed - No defences filed - Privilege against self-incrimination - Admissions - Proceeding settled subject to certain declarations being made - Supreme Court Act 1986 (Vic), s36.

ACN 113 603 357 Pty Ltd (Administrators Appointed) (ACN 113 603 357) (Formerly Koko Black Group Pty Ltd) and ACN 600 166 667 Pty Ltd (Administrators Appointed) (ACN 600 166 667) (Formerly Koko Black Chocolate Pty Ltd) v Kallure, Shivashankar Bhimareddy and Giriradder, Ranjana Basappa

Elliott J

[\[2016\] VSC 484](#)

12/08/2016

EVIDENCE - Admissibility - Witness examined regarding ownership of corporate assets - Whether conclusions of witness opinions or statements of observed facts - ASIC v Rich (2005) 190 FLR 242 - Whether, if opinions, admissible under s78 of the Evidence Act 2008 - La Trobe Capital & Mortgage Corporation Ltd v Hay Property Consultants Pty Ltd (2011) 190 FCR 299 - Whether unfairly prejudicial to defendants if admitted without qualification - Evidence Act 2008 s76-s79, s135-s136.

Yara Pilbara Fertilisers P/L v Oswal

Dodds-Streton JA

[\[2016\] VSC 440](#)

03/08/2016

PRACTICE AND PROCEDURE - Application for leave to appeal - Service of documents - Service of respondent's written case and list of authorities out of time - Directions - Directions made by Judicial Registrar - Directions made to facilitate progress of application for leave to appeal and appeal - Application to set aside orders of Judicial Registrar - Application refused - Supreme Court (General Civil Procedure) Rules 2015, r64.11 and r64.42.

DJM Nominees (AUST) P/L (ACN 102 549 422) & Anor (according to the schedule) v The Nutriron Bar P/L (ACN 166 123 315) & Ors (according to the schedule)

Randall AsJ

[\[2016\] VSC 436](#)

29/07/2016

PRACTICE AND PROCEDURE - Application for summary judgment pursuant to s 63 of the Civil Procedure Act 2010 (Vic) - Lysaght Building Solutions Pty Ltd v Blanalko Pty Ltd (2013) 42 VR 27 applied - Paragraphs of Statement of Claim struck out.

BREACH OF STATUTORY DUTY - Whether statutory duty created by s 40 of the Road Management Act 2004 (Vic) sounding in damages for breach - Principles to be applied - No statutory duty found - Whether statutory duty arising from alleged statutory duty owed by the defendant road authority to road users that could evidence negligence to a road contractor - Principles to be applied.

Quality Roads Pty Ltd v Baw Baw Shire Council

Vickery J

[\[2016\] VSC 477](#)

18/08/2016

PRACTICE AND PROCEDURE - Discovery - Legal professional privilege - Advice privilege - Litigation privilege - Dominant purpose - "Client" - Whether litigation anticipated - Class action - Investigation by solicitors before and after relationships with a client - Law firm as client - Earlier proceeding - Report by expert concerning some allegations in earlier proceeding - Voluntary confidential disclosure - Involuntary general publication - Compulsory discovery in this proceeding - Waiver - Inconsistent conduct - Communications concerning funding agreement with solicitors and internally - Funder - Legal advice to funder without formal retainer - Evidence Act 2008 (Vic), s117, s118, s119, s122, s126, s133.

IOOF Holdings Ltd v Maurice Blackburn P/L

Elliott J

[\[2016\] VSC 311](#)

25/08/2016

PRACTICE AND PROCEDURE - Self represented litigant - Lay person acting as counsel - Browne v Dunn (1893) 6 R 67 - Standard of proof - Evidence Act 2008 s140.

CONTRACT - Whether payment was made pursuant to an oral loan agreement - Whether payment was made pursuant to alleged oral agreements for performance of services.

CONTRACT - EMPLOYMENT - Whether the employment agreement was terminated by way of summary dismissal - Whether the employee was suspended - What were the grounds for termination - Was there any breach of fiduciary duties - Can the employer rely on matters not communicated to terminate the employee - What were the employee's legal entitlements under his employment contract - Was reasonable notice period required alternatively what is the appropriate quantum of damages.

Mimmo, Matt v Fernando, Warnakulasooriya Herbert Emmanuwel: Fernando, Warnakulasooriya Herbert Emmanuwel v AMR Hewitts PrintPackaging P/L

Cameron J

[\[2016\] VSC 510](#)

26/08/2016

PRACTICE AND PROCEDURE - Separate questions stated to be addressed upon and ruled upon by judgment sequentially at the conclusion of the whole of the evidence in a 'sequential trial' - Order for trial of three questions at the conclusion of the evidence in a first tranche of stated questions - Questions of pivotal importance to the determination of the real issues in dispute - Advantages of the 'sequential trial' model in commercial litigation of considerable complexity - Supreme Court (General Civil Procedure) Rules 2015, Rule 47.04 - Civil Procedure Act 2010 (Vic), s7, s8, s9, s47 and s49.

YING MUI P/L (ACN 009 992 449) and Ors; Amore Corporation P/L; Hoh, Kiang Po (Also Known As George Hoh); Hoh, Han Keyet; Sharikat Ying Mui Sdn Bhd v Hoh, Frank Kiang Ngan and Ors; Hoh, Pooi Yoke Lim; Hoh, Lynn Yook Lien; Hoh, Ian Han Lok; Lokit Investments P/L; LUMARKYE P/L (ACN 131 575 785); Frosthollow P/L (ACN 151 816 401); Olrey P/L (ACN 140 494 319)

Vickery J

[\[2016\] VSC 519](#)

31/08/2016

PRACTICE AND PROCEDURE - Service of originating process by agreement - Service interstate - Whether notice under Service and Execution of Process Act 1992 (Cth) ('SEPA') required - Whether writ validly served - Whether agreement for service constitutes a waiver of SEPA notice requirement - Service not effective.

PRACTICE AND PROCEDURE - Extending validity of writ - Whether good reason shown to extend validity of writ for service - Technical deficiency due to oversight in omitting SEPA notice - Plaintiff made reasonable but unsuccessful efforts to serve the Defendant - Good reason to extend writ shown.

Timbercorp Finance Pty Ltd (In Liq) v Allan, Grant Robert

Derham AsJ

[\[2016\] VSC 481](#)

26/08/2016

Common Law Division

ADMINISTRATIVE LAW - Application for leave to appeal from Victorian Civil and Administrative Tribunal on questions of law - whether parties to a major domestic building contract had agreed that the progress payments regime prescribed by the Domestic Building Contracts Act 1995 did not apply - whether plaintiff able to contend that defendants were estopped from insisting upon compliance with the statutory regime for progress payments - decision of Tribunal not attended by sufficient doubt to warrant the grant of leave to appeal - Victorian Civil and Administrative Tribunal Act 1998 s148 - Domestic Building Contracts Act 1995 s11, s40, s132 - Domestic Building Contract Regulations 2007 reg 12.

Imerva Corporation P/L (ACN 124 486 308) v Kuna, Anton & Kuna, Jaga

McDonald J

[\[2016\] VSC 461](#)

18/08/2016

ADMINISTRATIVE LAW - Judicial review - Medical panel - Inadequate Reasons - No reasoning in opinion about chronic pain syndrome - Syndrome raised by medical questions and by reference materials - Opinion as to capacity for work - Suitable employment - Whether panel failed to give consideration to relevant matters - Workplace Injury Rehabilitation and Compensation Act 2013 (Vic), s3, s302, s303, s304, s307, s313 - Accident Compensation Act 1985 (Vic), s5(1B).

Tan, Mui v Kotzman, Dr David & Ors

John Dixon J

[\[2016\] VSC 482](#)

25/08/2016

CONTRACT - Construction of settlement agreement - No point of principle - Electricity Generation Corporation v Woodside Energy Ltd (2014) 251 CLR 640 - Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd [2015] HCA 37 - Codelfa Construction Pty Ltd v State Rail Authority (NSW) (1982) 149 CLR 337

Hughes, David James (in his capacity as administrator ad colligendum bona of the estate of Yan, Lai Lin, deceased) v Wah, Wong Kai (aka Wong, Thomas) & Ors (according to the attached schedule)

McMillan J

[\[2016\] VSC 504](#)

25/08/2016

COSTS - Appeal from Costs Court - Client seeking taxation of barristers' fees paid by third party providing a fighting fund - Plaintiff's liability to solicitors assessed as 'nil' Whether costs 'wasted' by solicitors in engaging barristers - Whether Costs Court could order payment by solicitors of fees paid to barristers on basis of conduct of solicitors - Plaintiff's claim effectively for damages for negligence not disallowance of costs item that was useless - No error in reasoning - Legal Profession Act 2004, s1.2.1, s3.4.17, s3.4.31.

PRACTICE AND PROCEDURE - Appeal against decision of an associate judge sitting as the Costs Judge on a taxation - Whether reconsideration of the taxation a prerequisite to an appeal - No findings made regarding any item on a bill - Appropriate to bring appeal under O 77 - Supreme Court (General Civil Procedure) Rules 2005, r63.56, r63.57, O 77.06.

Tomasevic, Milan v Carbone, Nowicki & Anor

John Dixon J

[\[2016\] VSC 501](#)

29/08/2016

COSTS - Application for summary judgment, to strike out pleadings and for further particulars - Whether costs should follow event - Whether indemnity costs should be ordered - Whether order should be made that costs be taxable forthwith - No new statement of principle.

Bridge Bar Investments v Dog at the Bridge (No 2) (Costs)

John Dixon J

[\[2016\] VSC 521](#)

31/08/2016

COSTS - Where parties are executors of deceased estate - Where proceeding compromised without hearing on merits - Where both parties achieved a result - Whether costs of proceeding be paid personally or from the estate - Trustee Act 1958, s36(2) - Supreme Court (General Civil Procedure) Rules 2015, r63.26 - Re Beddoe [1893] 1 Ch 547 - Nolan v Collie (2003) 7 VR 287

Cody, Patricia Adrienne and Cody, Patrick Frances (as executors of the estate of Pierce Thomas Cody, deceased) v Cody, Pierce Patrick (as executor of the estate of Pierce Thomas Cody, deceased) (No 3)

McMillan J

[\[2016\] VSC 499](#)

23/08/2016

COSTS - Whether executors should be indemnified for their costs out of the estate - Whether defendants acted with prudence, care and diligence - Whether circumstances justify special costs order - Skaftouros v Dimos [2002] VSC 198 - Administration and Probate Act 1958, s28 CALDERBANK OFFER - Rejection of defendants' offer to settle proceeding - Whether rejection was unreasonable in the circumstances - Hazeldene's Chicken Farm Pty Ltd v Victorian Workcover Authority (No 2) (2005) 13 VR 435

Richards, John v Bagot Hughes, Keith Thomas and Mckerrell, Peter Donald (both personally and as executors of the will of Jadwiga Veerpol, deceased)

McMillan J

[\[2016\] VSC 513](#)

30/08/2016

CRIMINAL LAW - Mental Impairment - Major Review - Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (Vic), s27(2), s32(1)(a), s32(5) - Order confirmed. CRIMINAL LAW - Application for a suppression order - Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 (Vic), s75 - Application refused.

In the matter of an application for further review of a custodial supervision order of "B S"

Weinberg JA

[\[2016\] VSC 524](#)

31/08/2016

EVIDENCE - Discovery - Public interest immunity claimed over production of documents characterised foreign relations documents - Evidence Act 2008 (Vic), s130, s131A.

Kamasae, Majid Karami v Commonwealth of Australia (No 4) (PII - Sample foreign relations claims)

Macaulay J

[\[2016\] VSC 492](#)

19/08/2016

JUDICIAL REVIEW AND APPEALS - Appeal from the Magistrates' Court on a question of law under s109 of the Magistrates' Court Act 1989 (Vic) - Agreement between firm of solicitors and debt recovery agency - Construction of covenant by client not to give 'misleading, false, or insufficient details' about debts - Mount Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd (2015) 256 CLR 104 referred to - Claim that there was no evidence to support a finding that there had been a failure on the part of the client to give sufficient details - Azzopardi v Tasman UEB Industries Ltd (1985) 4 NSWLR 139 referred to - Whether any breach of covenant to provide sufficient details about debts amounted to repudiation giving rise to a right to claim commissions - Appeal dismissed.

George Defteros (trading as Defteros Lawyers) v Prushka Fast Debt Recovery Pty Ltd
Daly AsJ

[\[2016\] VSC 508](#)

30/08/2016

JUDICIAL REVIEW AND APPEALS - Rule 77.06 Supreme Court (General Civil Procedure) Rules 2015 - Appeal from Associate Judge - Application for leave to appeal from Magistrates' Court of Victoria under s 109 Magistrates' Court Act 1999 (Vic) - Order 58 - Whether question of law - Whether appeal grounds arguable - Appeal dismissed.

Guissine, Natan v Silver Top Taxi Service Pty Ltd (No 2)

Zammit J

[\[2016\] VSC 515](#)

01/09/2016

JUDICIAL REVIEW - Appeal to County Court following conviction and sentence by a magistrate - Traffic offences - s 61(1)(c) Road Safety Act 1986 - Clause 248 Road Safety Vehicle Regulations 2009 - Self represented litigant not permitted to use the Bar Table - Inherent right of a judge to regulate the proceedings of his or her court - O'Toole v Scott (1965) AC 939 - Gamester Pty Ltd v Lockhart (1993) 112 ALR 623 - Procedural fairness - Re Minister for Immigration and Multicultural Affairs; Ex parte Lam (2003) 214 CLR 1 - Obligations of a judge in a trial involving a self-represented litigant - Tomasevic v Travaglini & Anor [2007] VSC 337 - Appearance of impartiality - Reg v Leicester JJ ex p Barrow (1991) 2 QB 260 - Ebner v The Official Trustee in Bankruptcy (2000) 205 CLR 337 - Isbester v Knox City Council (2015) ALJR 609 - Fair-minded lay observer - British American Tobacco v Laurie (2011) 242 CLR 283 - Extent of knowledge of fair-minded lay observer - Johnson v Johnson (2000) 201 CLR 488.

Goldberg, David v Stocker, Deryck Geoffrey and County Court

J Forrest J

[\[2016\] VSC 503](#)

30/08/2016

PRACTICE AND PROCEDURE - Vexatious litigant - Whether to extend orders - General litigation restraint order - Interests of justice - Proceedings instituted without reasonable grounds - Proceedings foredoomed to fail - Orders extended indefinitely - Supreme Court Act 1986 s21 - Vexatious Proceedings Act 2014 s3, s29, s30, s33, s91.

The Attorney-General For The State Of Victoria v Julian Knight

J Forrest J

[\[2016\] VSC 488](#)

30/08/2016

REAL PROPERTY - Restrictive covenant - Application for modification - Covenant restricting, amongst other things, the erection of more than one dwelling on the land - Proposed development involving subdivision and construction of a second dwelling on the land - Whether precedent already set by previous developments - Whether modification will not substantially injure the persons entitled to the benefit - Application refused - Applicable legal principles - Property Law Act 1958 (Vic), s84(1)(c).

Oostemeyer, Sharon Kim v Powell, Malcolm & Ors

Riordan J

[\[2016\] VSC 491](#)

17/08/2016

STATUTORY INTERPRETATION - Power of Legislative Council to refer matter to Victorian Ombudsman under s16 of the Ombudsman Act 1973 - Jurisdiction of Victorian Ombudsman pursuant to s 16 to investigate matter referred - Whether either power of Legislative Council or jurisdiction of Victorian Ombudsman non-existent under statutory scheme as a whole - Referral valid - Jurisdiction available to investigate matter - Ombudsman Act 1973, s13, s13AAA, s13AA, s13AB, s14, s15, s15A, s15C, s15D, s15E, s15F, s16, s16A, s16B, s16C, s16D, s16E, s17, s19, s21, s23, s25AB, s27 - Independent Broad-Based Anti-Corruption Commission Act 2011, s4, s73 - Protected Disclosure Act 2012, s9, s26, s32, s53 - Constitution Act 1975, s94E

Glass, Deborah (in her capacity as Ombudsman for the State of Victoria) v President of the Legislative Council & Anor

Cavanough J

[\[2016\] VSC 507](#)

26/08/2016

SUCCESSION LAW - Wills, probate and administration - Construction of wills - Effect of testamentary disposition - General principles of construction - Ordinary meaning of words - Whether possible intestacy - Effect of legislation - *Fell v Fell* (1922) 31 CLR 268 - *Arnott v Kiss* [2014] NSWSC 1385 - Wills Act 1997, s46(3)

Wathen, Glen William v Wall, Catherine Anne (as executor and trustee of the estate of Norma Cathlyn Melbourne, deceased)

McMillan J

[\[2016\] VSC 514](#)

30/08/2016

TORTS - Misfeasance in Public Office - Plaintiff former head of The Police Association - Suspended from Victoria Police - Whether or not suspension constituted misfeasance in public office - Elements of the tort - Targeted malice - Whether or not suspensions invalid or unauthorised - whether or not prosecution of plaintiff invalid or unauthorised - Standard of proof - *Northern Territory v Mengel* (1994) 185 CLR 307 - *Sanders v Snell (No 2)* (2003) 130 FRC 149 - *Sanders v Snell* (1998) 197 CLR 329 - *Briginshaw v Briginshaw* (1938) 60 CLR 336.

TORTS - Malicious Prosecution - Elements of the tort - Whether or not proceedings initiated, instigated or continued against the plaintiff by the first defendant - Whether or not proceedings actuated by an improper purpose - meaning of improper purpose - Whether or not the defendants acted without reasonable and probable cause in prosecuting the plaintiff - Standard of proof - *A v New South Wales* (2007) 230 CLR 500 - *Commonwealth Life Assurance Society Ltd v Brain* (1935) 53 CLR 343.

Mullett, Paul v Chirstine Nixon, Keiran Walshe and Wayne Taylor

T Forrest J

[\[2016\] VSC 512](#)

31/08/2016

WILLS AND ESTATES - Application by plaintiff to admit seven pages of will instructions to probate - Whether testator intended the seven pages to be his final will - Standard of proof - Insufficient evidence to satisfy the burden of proof - *Fast v Rockman* [2013] VSC 18 - *Briginshaw v Briginshaw* (1938) 60 CLR 336 - Wills Act 1997, s9

Rennie, Peter Leslie v The Whippet Association of Victoria Inc

McMillan J

[\[2016\] VSC 496](#)

24/08/2016

Criminal Division

CRIMINAL LAW - Discharge of jury - Prejudicial reporting by media outlet - Whole jury discharged - High degree of necessity - Reporting of violent propensity not part of Crown case.

Aleluia, Mataio v The Queen

Lasry J

[\[2016\] VSC 497](#)

22/08/2016

CRIMINAL LAW - Evidence - Application by media for copies of CCTV footage tendered as exhibits - Application refused

Director of Public Prosecutions [DPP] v Woodhead, Easton George (Ruling No 3)

Jane Dixon J

[\[2016\] VSC 471](#)

02/11/2015

CRIMINAL LAW - Evidence - Application by media for copies of CCTV footage tendered as exhibits - Application refused - Open justice principles relevant to such an application discussed

Director of Public Prosecutions [DPP] v Woodhead, Easton George (Ruling No 2)

Jane Dixon J

[\[2016\] VSC 470](#)

02/11/2015

CRIMINAL LAW - Evidence - Murder - Incriminating conduct - Jury Directions Act 2015 (Vic) s18, s19, s20

Director of Public Prosecutions [DPP] v Woodhead, Easton George (Ruling No 1)

Jane Dixon J

[\[2016\] VSC 469](#)

26/10/2015

CRIMINAL LAW - Murder - Jury trial - Verdict of not guilty because of mental impairment - Declaration that person liable to supervision - Custodial supervision order made for a nominal term of 25 years - Crimes (Mental Impairment and Unfitness to be Tried) Act 1997

Director of Public Prosecutions [DPP] v Woodhead, Easton George

Jane Dixon J

[\[2016\] VSC 472](#)

26/08/2016

CRIMINAL LAW - Offender found not guilty by reason of mental impairment - Suppression order application - Public interest considerations - Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 s75

In the matter of an application under s75 of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 by Cavallari, Sestilio Tiziano

Hollingworth J

[\[2016\] VSC 478](#)

22/08/2016

CRIMINAL LAW - Sentence - Jury verdict - Acquitted of common law murder - Convicted of statutory murder - Fatal stabbing during armed robbery at home of deceased - Jury verdict consistent with lack of specific intent at the time of infliction of fatal wound - Offers to plead guilty to statutory murder rejected - Sentence of 17 years and 6 months' imprisonment with non-parole period of 13 years and 6 months - Crimes Act 1958 s3A

Director of Public Prosecutions [DPP] v Chounlamountry, Vatthana

Jane Dixon J

[\[2016\] VSC 509](#)

26/08/2016

CRIMINAL LAW - Sentence - Jury verdict - Murder of former de facto partner - Stabbing in public location - Disregard for family violence intervention order - Lack of remorse - Moderate prospects for rehabilitation - Sentence of 25 year's imprisonment with a non-parole period of 20 years

Director of Public Prosecutions [DPP] v McDermott, Craig

Jane Dixon J

[\[2016\] VSC 489](#)

17/08/2016

County Court of Victoria Cases

Following is a selection of cases recently handed down in the County Court of Victoria. These cases have been selected for inclusion by the presiding judge. If you would like your judgment added to the Library Bulletin, please email the reference librarian in your jurisdiction.

CONTRACT - Employment Law; plaintiff surgeon employed by defendant hospital as consultant under terms of contract which expired in 1999; argument between employee anaesthetist and surgeon over operation protocol; refusal by plaintiff to follow direction of Director of Medical Services to follow anaesthetist's protocol; also threat by plaintiff to take defamation proceedings against patient over complaint; plaintiff suspended then terminated by defendant; plaintiff sued for breach of contract; whether termination lawful; nature of employment relationship; whether expired contract still operative; whether plaintiff bound by defendant's code of conduct; whether plaintiff's behaviour amounted to serious or wilful misconduct.

Robbins v West Gippsland Healthcare Group

Judge Macnamara

[\[2016\] VCC 1265](#)

14 July 2016

CONTRACT - Sale of live cattle for export on CIF 'cost-plus' terms; whether buyer's liability limited to face value of letter of credit or by reference to US\$3.92 per kilogram of stock; whether buyer entitled to refund; effect of substitution of cattle different from those already constructively delivered; substitute cattle accepted, slaughtered and sold; no loss to buy proven; judgment for plaintiff seller.

Otway Livestock Exports Pty Ltd v Bakar Tnuva Limited Partnership

Judge Macnamara

[\[2016\] VCC 1264](#)

20 July 2016

LEGAL PRACTITIONERS - Costs agreement - "No win-no fee" - Whether costs agreement and disclosure statement should have been translated into the Serbian language - Whether the client breached the costs agreement by refusing to accept solicitor's advice to settle.

NEGLIGENCE - Whether solicitors breached its duty of care to client - Failure to issue proceedings in respect of other accidents, gynaecological injuries, and for home help and other services - Failure to advise that defence to Magistrates' Court complaint should be filed - Scope of damages claimed.

ACN 131 110 220 Pty Ltd v. Lakic

Judge Anderson

[\[2016\] VCC 725](#)

18 July 2016

PROPERTY - Whether agreement to subdivide property required to be in writing - whether agreement part performed - whether minute of meeting of trustee constitutes agreement to subdivide and transfer property - whether entitled to specific performance of agreement

TRUSTS - resulting trusts - whether money paid to purchase price - whether plaintiff precluded by laches - whether entitled to transfer of an aliquot in proportion to contribution to purchase price.

Vlahos v Vlahos Pty Ltd & Anor

Judge Cosgrave

[\[2016\] VCC 1250](#)

30 August 2016

Articles

Administrative Law

Judicial review - Error of law - Jurisdiction - Administrative law history - R v Bolton - UK
Murray, P. "Escaping the wilderness: R v Bolton and judicial review for error of law." (2016) 75(2) Cambridge L J 333-365.

Arbitration

Alternative dispute resolution - Workplace abuse - Bullying - Harassment - Legal representation - Benefits - Potential harm - Fair Work Act 2009 (Cth) - Australia
Ballard, A. and P. Easteal. "Alternative dispute resolution and workplace bullying: some pros and cons from the coalface." (2016) 41(2) Alt L J 105-109.

Constitutional Law

Consensus statement - Constitutional practitioners - Recognition - Tasmanian Aboriginal First Peoples - Reform - Constitution Act 1934 (Tas) - Tasmania - Australia
Gogarty, B. et al. "Consensus statement on the reform of the Tasmanian constitution." (2016) 35(1) U Tas L R i-vi.

Parliamentary committees - Government accountability - Ministerial staff - Compelled to appear - Minister - Invoked constitutional convention - McMullan Principle - Precludes advisors - Appearance - Evidence - Rationale - Australia
Finlay, L. "The McMullan principle: Ministerial advisors & parliamentary committees." (2016) 35(1) U Tas L R 69-94.

Courts

Access to justice - Civil litigation - Two tier justice system - IT literacy - UK
Rogers, M. "New online Court raises fears of a two-tier justice system." (2016) 160(30) Sol J 10-11.

Criminal Law & Procedure

Corruption - Transparency - Political donations - Defamation - Privacy - UK
Rowbottom, J. "Corruption, transparency, and reputation: the role of publicity in regulating political donations." (2016) 75(2) Cambridge L J 220-243 .

Trial by jury - Pre-trial publicity - Media prejudice - Social media - Internet - Jury decision-making - Judicial decision-making - Judicial advantage - Australia
McEwen, R. and J. Eldridge. "Judges, juries and prejudicial publicity: lessons from empirical scholarship." (2016) 41(2) Alt L J 110-114.

Family Law

De facto relationships - Definition - Multiple intimate relationships - Full time cohabitation not required - Public aspects of relationship - Implications - Jonah v White - Family Law Act 1975 (Cth), s 4AA - Australia
Fernando, M. and O. Rundle. "Love'em, keep'em leave'em: (non) application of de facto relationship laws to clandestine intimate relationships." (2016) 41(2) Alt L J 93-97.

International child abduction - Balancing - Comity - Best interest of the child - Judicial interpretation - Grave risk of harm - Hague Convention on Civil Aspects of International Child Abduction - Australia
Bozin, D. "The Hague Child Abduction Convention's grave risk of harm exception: Traversing the tightrope and maintaining balance between comity and the best interests of the child." (2016) 35(1) U Tas L R 24-42.

Human Rights

Bill of rights - History - Effective remedy - Legislative scrutiny - Judicial interpretation - Human Rights Act 2004 (ACT) - Charter of Human Rights and Responsibilities Act 2006 (Vic) - Comparative analysis - ACT - Queensland - Victoria - Australia
Williams, G. and D. Reynolds. "A human rights Act for Queensland? Lessons from recent Australian experience." (2016) 41(2) *Alt L J* 81-85.

Common law rights - Autochthony - Proportionality - Implied abrogation - Human Rights Act 1998 (UK) - Charter of the United Nations - Customary international law - UK
Bjorge, E. "Common law rights: balancing domestic and international exigencies." (2016) 75(2) *Cambridge L J* 220-243.

Disability discrimination - Hearing impaired - Jury duty - Convention on the Right of Persons with Disabilities - UN
Tully, S. "UN Committee considers participation of deaf people in jury duty." (2016) (25) *LSJ* 82-83.

Human rights - De Menezes case - Immigration detention - Chagos islanders - Student loans - Hillsborough inquest - Human Rights Act 1998 (UK) - UK
O'Nions, H. "New questions over the Human Rights Act." (2016) 160(30) *Sol J* 10-11.

Immigration law

Deportation - Convicted noncitizens - Risks - Recidivism - Arbitrary punishment - Migration Act 1958 (Cth) - Australia
Coyle, I. and P. Keyzer. "The removal of convicted noncitizens from Australia: is there only a 'minimal and remote' chance of getting it right?" (2016) 41(2) *Alt L J* 86-88.

Intellectual Property

Copyright - Moral rights - Art - Honour - Anthropology - Injuria - Copyright Designs and Patents Act 1988 (UK), s80 - UK
Cheng-Davies, T. "Honour in UK copyright law is not "A trim reckoning" - Its impact on the integrity right and the destruction of works of art." (2016) 36(2) *Oxford JLS* 272-303.

Jurisprudence

Common law - Doctrine of precedent - Decision-making - Judicial decision-making methods - Practice statement (Judicial Precedent) - *Willers v Joyce* - *Globe Motors v TRW Lucas Varity* - *Coral Reef Limited v Silverbond* - UK
Pickford, S. and V. Yip. "A firm foundation? Is the doctrine of precedent the unwavering foundation of common law." (2016) 166 (7709) *NLJ* 16-17.

English common law - Decision maker - Both sides of the argument - *audi alteram partem* - Lobbying - MP - *Energy Developments v Secretary of State for Communities and Local Government* - UK
Tafur, S. "Yes minister, but *audi alteram partem*." (2016) 141(27) *Sol J* 31.

Private law - Theory - Principle - Policy - Reasoning - Pluralist approach - UK
Plunkett, J. "Principle and policy in private law reasoning." (2016) 75(2) *Cambridge L J* 366-397.

Legal Aid

Access to justice - Denied - Cost - Self representation - Limited scope services - Comparative analysis - Australia - UK - USA - Canada

Castles, M. "Expanding justice access in Australia: the provision of limited scope legal services by the private profession." (2016) 41(2) Alt L J 115-120.

Access to justice - Restrictions - Legal aid - Funding reductions - Impact on courts - Australia

Wells, G. "Seeking justice." (2016) 43(7) Brief 20-22.

Legal Education

Law graduates - Oversupply - Employment - Australia

Douglas, M. and N. Van Hattem. "Australia's law graduate glut." (2016) 41(2) Alt L J 118-120.

Legal Profession

Law firms - Legal services - Pro bono work - Best Practice - Quality - Quantity - NSW - Australia

Southward, J. "What is best practice pro bono?" (2016) (25) LSJ 34-37.

Solicitors - Disciplinary proceedings - Settlement agreements - Trust exercise - UK
Heley, S. "Disciplinary proceedings inflict unnecessary damage." (2016) 160(32) Sol J 27.

Legal Systems

House of Representatives - Speaker - Historical origins - Independence - Control over debate - Reform - Australia

Harris, B. "Reforming the office of speaker." (2016) 41(2) Alt L J 89-92.

Medical Law

International - Surrogacy - Regulation - Surrogacy agreements - Legal status - Parents - Child - Nationality - Definition of mother - Definition of father - Surrogacy reward - WA - Australia

Nicholls, M. and R. Oakley. "Surrogacy for Western Australians." (2016) 43(7) Brief 12-13.

Practice & Procedure

Legal professional privilege - Challenge - Claims - Appropriate deponent - Affidavit - Uniform Civil Procedure Rules 1999 (Qld), r213 - Queensland - Australia

Downes, K. and J. Byrnes. "Privilege claims under the UCPR." (2016) 36(7) Proctor 26-27.

Property Law

Agency - Principal - Liability - Fraud - Cassegrain v Gerard Cassegrain & Co Pty Ltd - Schultz v Corwill Properties - Australia

Thampapillai, D. "The vexed question of agency and torrens fraud: the High Court in Cassegrain." (2016) 35(1) U Tas L R 43-68.

Torts

Negligence - Causation legal proof - Key Biscayne case - Agnew-Leinster Road - Cowaramup Bay 1996 - Bushfires at Brookton - Medical negligence - Breeched births - WA - Australia

Martin, K. "Topical matters pertaining to the tort of negligence - the attribution of blame." (2016) 43(7) Brief 38-43.

Reliance - Gist of the tort - Contributory negligence - Mitigation - Tort theory - UK

Murphy, J. "Misleading appearances in the tort of deceit." (2016) 75(2) Cambridge L J 301-332.

Road accidents - Liability - Car recording devices - Accident victims - Insurance claims - UK

Howard, C. "Will dashcams bring an end to road accident disputes?" (2016) 160(31) Sol J 27.

Technology - Driverless cars - Liability - Insurance - Car owner - Car manufacturer - Software developer - Cybersecurity issues - UK

Thompson, D. "The rise of the autonomous car." (2016) 160(32) Sol J 20-23.

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210 William Street
Melbourne VIC 3000