



THE LAW LIBRARY OF VICTORIA

Library Bulletin

31 March 2017

Library News

Switch On... in the Law Library: JADE
Tuesday 18 April, 1:15pm - 1:45pm

JADE is a free Australian current awareness service and legal research platform designed to make it easier to find, use, share and present accurate legal information. This session will enable you to perform faster-than-normal complex searches to identify case law, legislative points and keypoints in authorities.

General tour of the Supreme Court Library
Tuesday 11 April, 1:15pm - 1:45pm

Opened in 1884, the Supreme Court Library is of legal, architectural, historical and social significance and has one of the largest law collections in the State. This 30 minute tour is recommended for those who want a brief introduction to the Library and its history, exploring the magnificent Ground and First Floors.

SUBSCRIBE TO THE LIBRARY BULLETIN

If you would like to receive the Library Bulletin by email, please contact us at llv@courts.vic.gov.au

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.

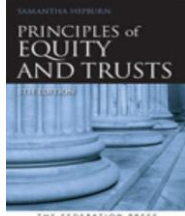
The book costs \$60 and there is a \$10 discount for members of the Royal Historical Society of Victoria (RHSV).

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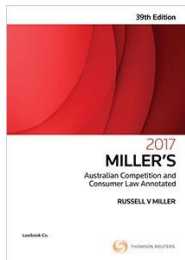
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New Books

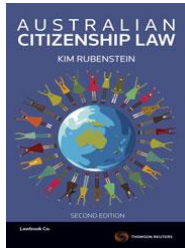
Following is a selection of new books in the Library collection. For details of more new books, see the Library Catalogue: https://courts.sdp.sirsidynix.net.au/client/en_AU/llv/.



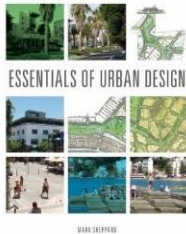
Hepburn, Samantha, *Principles of Equity and Trusts*
5th ed., Annandale, N.S.W., Federation Press, 2016
Call number: 346.004 HEP.5 (Supreme Court Library, Magistrates Court Library, VCAT Library)



Miller, Russell, *Miller's Australian Competition and Consumer Law annotated*
39th ed., Pyrmont, N.S.W., Thomson Reuters, 2017
Call number: 343.07 MIL.39 (Supreme Court Library and County Court Library)



Rubenstein, Kim, *Australian citizenship law*
2nd ed., Pyrmont, N.S.W., Thomson Reuters, 2017
Call number: 342.94083 RUB.2 (Supreme Court Library)



Sheppard, Mark, *Essentials of Urban Design*
Clayton South, Victoria, CSIRO Publishing, 2015
Call number: 711.4 SHE (VCAT Library)

Legislation

Victorian Bills

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

- [Crimes Legislation Amendment \(Public Order\) Bill 2017](#)
- [Family Violence Protection Amendment \(Information Sharing\) Bill 2017](#)
- [Land Legislation Amendment Bill 2017](#)
- [Mineral Resources \(Sustainable Development\) Amendment \(Latrobe Valley Mine Rehabilitation Commissioner\) Bill 2017](#)
- [WorkSafe Legislation Amendment Bill 2017](#)

Victorian Assents

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

- [Education and Care Services National Law Amendment Act 2017 No. 9/2017](#)
- [Urban Renewal Authority Victoria Amendment \(Development Victoria\) Act 2017 No. 10/2017](#)
- [Victorian Planning Authority Act 2017 No. 11/2017](#)
- [Wrongs Amendment \(Organisational Child Abuse\) Act 2017 No. 12/2017](#)

Proclamations

No Victorian Act proclamations have been made since the last Library Bulletin.

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

- [Sentencing \(Community Correction Order\) and Other Acts Amendment Act 2016 No 65/2016](#)
 - Sections 1-22, 25, 26 came in by forced commencement on 20 March 2017 (SG17 31.01.2017)



EXHIBITIONS IN THE LIBRARY

Argus from 100 years ago

The Supreme Court Library has the Argus newspaper from 1917 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 [#argus1917](https://twitter.com/lawlibraryvic)

High Court Cases

CONTRACT - Construction and interpretation of contracts - Long-term lease - Standard form contract - Where parties entered lease because unable to effect sale and purchase of land due to planning restrictions - Where standard form lease amended by parties - Where clause pertaining to payment of rates, taxes, assessments and other outgoings ambiguous - Whether parties intended lease to resemble sale and purchase of land - Whether lessee liable to pay all rates, taxes, assessments and other outgoings or only liable to pay those payable in lessee's capacity as tenant.

WORDS AND PHRASES - "commercial purpose and objects", "commercial sense", "deletions from standard form contract", "in respect of the said premises", "payable by the tenant", "reasonable businessperson".

Ecosse Property Holdings P/L v Gee Dee Nominees P/L

[\[2017\] HCA 12](#)

29/03/2017

LEGAL PRACTITIONERS - Negligence - Advocates' immunity from suit - Where settlement offer made and rejected on first day of trial - Where rejection of settlement offer followed by judicial decision - Where damages awarded lower than settlement offer - Where solicitor and barrister alleged to have given negligent advice in relation to settlement offer - Whether advice affected conduct of case in court by bearing upon court's determination of case - Whether advocate immune from suit.

HIGH COURT - Stare decisis - Whether *Attwells v Jackson Lalic Lawyers Pty Ltd* (2016) 90 ALJR 572; 331 ALR 1; [2016] HCA 16 should be reopened.

WORDS AND PHRASES - "advocates' immunity", "affecting the conduct of the case", "finality", "functional connection", "intimately connected", "judicial determination", "possibility of challenge to findings".

Kendirjian, David v Lepore, Eugene & Anor

[\[2017\] HCA 13](#)

29/03/2017

Victorian Supreme Court Cases

Court of Appeal

ACCIDENT COMPENSATION - Workplace injury - Serious injury - Serious injury application - Whether injury occurred in compensable circumstances - Evidence - Admission against interest - Admission constituted by acceptance of worker's claim form by employer's agent and payment of compensation - Nature and extent of admission - Significance of admission - Application to be determined upon whole of the evidence - Witnesses - Credibility of witnesses - Advantage of primary judge who sees and hears witnesses - Application of *Ansett Australia Ltd v Taylor* [2006] VSCA 171 - No error made by primary judge - Application for leave to appeal refused - Accident Compensation Act 1985, s134AB.

Sednaoui, Justin v Amac Corrosion Protection P/L

Priest and Beach JJA, Cameron AJA

[\[2017\] VSCA 66](#)

29/03/2017

CONTRACT - Successive facility agreements in respect of same loan facility - Whether second facility agreement replaced or merely amended first facility agreement - Manifest intention of parties, objectively ascertained, that second facility agreement constitute entire agreement - Second facility agreement replaced first facility agreement.

CONTRACT - Construction - Whether facility agreement came within meaning of 'mortgage documents' - 'Interest Commencement Date' and 'Repayment Date' governed by 'despatch' of mortgage documents - 'Mortgage documents' not 'despatched' until facility agreement sent to borrower.

CONTRACT - Whether first facility agreement had contractual 'life' until it was terminated by second facility agreement - Second facility agreement replaced first facility agreement - No continuing operation of first facility agreement.

CONTRACT - Borrowers' contractual obligation to pay costs - No entitlement to costs where nothing in fact owed.

PRACTICE AND PROCEDURE - Statutory interest - What constitutes a 'demand' - Assertion of right and intention to sue sufficient - Supreme Court Act 1986 s58.

Balanced Securities Ltd (ABN 54 083 514 685); Balanced Application P/L (ACN 116 175 047) v Dumayne Property Group P/L (ACN 122 056 535); Dumayne, Geoffrey Ernest; Dumayne, Jennifer Anne; Dumayne, Justin William Paul

Whelan and Ferguson JJA, and Cameron AJA

[\[2017\] VSCA 61](#)

23/03/2017

CONTRACT - Applicant made offer of compromise shortly before trial - Respondent abandoned liquidated damages claim after making additional discovery and expert accountant giving evidence - Applicant sought (but was refused) leave to withdraw offer - No sufficient change of circumstances - Applicant took risk offer might be accepted during trial - Not unjust to hold applicant to offer - Each case depends on its own facts - County Court Civil Procedure Rules 2015 Order 26 - *Scanrubby Pty Ltd v Caltex Petroleum Pty Ltd* [2001] NSWSC 411 applied; *H W Wilson Pty Ltd v Pitman* (Unreported, Full Court (Murphy, O'Bryan and McDonald JJ, 6 December 1990) considered; *Gaskins v British Aluminium Co* [1976] 1 QB 524; *Proetta v Times Newspapers Ltd* [1991] 1 WLR 337 distinguished - Appeal dismissed.

Project Gas Services P/L v Leaseplus Operations P/L

Tate, Ferguson, and McLeish JJA

[\[2017\] VSCA 55](#)

20/03/2017

CRIMINAL LAW - Appeal - Bail - Appellant subject to custodial supervision order - Source of jurisdiction to grant bail - Whether power to grant bail in Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 s28A(5)(a) applicable in circumstances where making of supervision order is not pending - Whether Criminal Procedure Act 2009 s310 confers power to grant bail pending appeal under Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 - Whether power to grant bail incidental to appellate court's power to stay orders subject to its jurisdiction - *Mexico v Cabal* (2001) 209 CLR 165, 180-1 [37]-[38], applied.

Richards (a Pseudonym), Neal v The Queen

Maxwell P and McLeish JA

[\[2017\] VSCA 57](#)

21/03/2017

CRIMINAL LAW - Appeal - Sentence - Aggravated burglary and associated offences - Frail and elderly victim assaulted, falsely imprisoned and robbed in own home - Total effective sentence of 9 years and 1 month's imprisonment with non-parole period of 6 years and 6 months not manifestly excessive.

Bux, Howard v The Queen

Osborn JA, Priest JA, and Kidd AJA

[\[2017\] VSCA 70](#)

30/03/2017

CRIMINAL LAW - Appeal - Sentence - Aggregate sentence for two offences founded on the same facts - Aggravated burglary and recklessly causing injury - Whether appropriate to impose an aggregate sentence - Whether offences varied significantly in seriousness so as to require transparency as to the sentence on each charge - R v Grossi (2008) 23 VR 500, 510 [39] applied - Seriousness not determined by maximum penalty - DPP v Frewstal Pty Ltd (2015) 47 VR 600; R v Fitzpatrick [2016] VSCA 63; R v Saxon [2014] VSCA 296 considered.

CRIMINAL LAW - Sentence - Attack on manager of hotel after entry into office with intent to assault - Confrontational burglary in private part of workplace - Whether less serious than confrontational aggravated burglary of private residence - Aggregate sentence of 2 years and 6 months' imprisonment with a non-parole period of 1 year and 3 months for aggravated burglary and recklessly causing injury - Intent to assault - Serious form of aggravated burglary - Serious example of recklessly causing injury - TS v The Queen [2014] VSCA 24; Joseph v The Queen [2014] VSCA 343; DPP v Anderson [2013] VSCA 45; Saltalamacchia v The Queen [2010] VSCA 83; Alexopoulos v The Queen [2010] VSCA 52; Cubullos v The Queen [2011] VSCA 380 considered - Leave granted but appeal dismissed.

Kerapa, Layen v The Queen

Redlich and Santamaria JJA

[\[2017\] VSCA 56](#)

20/03/2017

CRIMINAL LAW - Application by offender for leave to appeal against sentence - Applicant received a total effective sentence of nine years and six months' imprisonment with a minimum term of seven years - Whether total effective sentence, individual sentences and minimum term manifestly excessive - Total effective sentence included a sentence of eight years imprisonment for trafficking in a large commercial quantity of a drug of dependence - Current sentencing practices - Comparable cases - Whether current sentencing practices for trafficking in a large commercial quantity of a drug of dependence are inadequate - Not appropriate in the circumstances to decide that issue - Application refused - R v Kilic [2016] HCA 48 - Duncan v The Queen [2010] VSCA 92 - Dagher v The Queen [2011] VSCA 119 - Ibrahim v The Queen [2013] VSCA 227 - R v Nguyen, Ngyuen & Pham [2007] VSCA 165 - R v Nguyen [2008] VSCA 141 - R v Nguyen, Dang, Ly & Nguyen [2008] VSCA 235 - Kumar v The Queen [2013] VSCA 191.

Stanley, Stephen (a Pseudonym) v The Queen

Redlich and Ferguson JJA, and Beale AJA

[\[2017\] VSCA 54](#)

20/03/2017

CRIMINAL LAW - Application for leave to appeal against sentence - Dangerous driving causing death - Driving motor vehicle - Sentence 3y 6m - Whether manifestly excessive - Objective gravity of offending - Excessive speed - Failing to stop at traffic control signal - High moral culpability despite fear of being assaulted by another driver - Whether insufficient regard given to youth and prospects of rehabilitation - Leave refused.

Carroll, James William John v The Queen

Santamaria JA

[\[2017\] VSCA 62](#)

27/03/2017

CRIMINAL LAW - Application for leave to appeal against sentence - Murder of 16 year old girl in 1983 - Applicant sentenced to 27 years' imprisonment with non-parole period of 21 years - Whether judge erred in finding youth of applicant at time of offence only relevant 'to some limited extent' - Whether trial judge erred in failing to take into account sentencing practices at time of offence - Whether sentence manifestly excessive - Judge gave sufficient weight to applicant's youth at time of offence - Judge correct to consider 'current sentencing practices' under s5(2)(b) of Sentencing Act 1991 as practices at time of sentencing - Judge appropriately moderated sentence to accord with principle of 'equal justice' - *Stalio v The Queen* (2012) 46 VR 426 - Sentence within range of current sentences for murder - Application for leave to appeal dismissed.

Bradley, Steven v The Queen

Maxwell P, Weinberg and Tate JJA

[\[2017\] VSCA 69](#)

30/03/2017

CRIMINAL LAW - Application for leave to appeal against sentence - Two charges of dangerous driving causing death - Driving motor vehicle - Sentence 2y 6m - Whether manifestly excessive - Low moral culpability but high objective gravity - Serious example of offence - Leave refused.

Sharma, Ajay v The Queen

Santamaria JA

[\[2017\] VSCA 63](#)

27/03/2017

CRIMINAL LAW - Interlocutory appeal - Application for a permanent stay of proceedings - Allegations of sexual penetration of a child under 16, knowingly possessing child pornography and use of on-line information to transmit child pornography - Applicant aged 17 at the time of the alleged offending but not charged until he turned 19 - Whether loss of opportunity to be dealt with in the Children's Court constituted a breach of human rights under the Charter of Human Rights and Responsibilities - Right of a person charged with a criminal offence to be tried without unreasonable delay - Right to a fair trial - Right of a child to protection of his or her best interests - Whether a permanent stay at common law should be granted - *R v Nona* (2012) 6 ACTLR 203, *Nona v The Queen* (2013) 8 ACTLR 168, *Sabet v Medical Practitioners Board* (2008) 20 VR 414, *HM Advocate v R* [2004] 1 AC 462, *Attorney-General's Reference [No 2 of 2001]* [2004] 2 AC 72, discussed - *Jago v District Court (NSW)* (1989) 168 CLR 23, *Clark (a pseudonym) v The Queen* [2016] VSCA 96, followed - Charter of Human Rights and Responsibilities s17(2), s23(2), s24(1), s25(2)(c), s25(3), s38, s39 - Leave to appeal granted - Appeal dismissed.

Baker, Earl (a Pseudonym) v Director of Public Prosecutions [DPP] (and Attorney-General for the State of Victoria - Intervener, and Victorian Equal Opportunity and Human Rights Commission - Intervener)

Maxwell P, Tate and Beach JJA

[\[2017\] VSCA 58](#)

22/03/2017

CRIMINAL LAW - Renewal of application for leave to appeal against sentence - Manifest excess - Reckless conduct endangering life - Negligently causing serious injury by driving - Total effective sentence of six years and six months' imprisonment - Non parole period of four years - Leave to appeal refused.

Sadiq, Shameer v The Queen

Tate and Priest JJA

[\[2017\] VSCA 64](#)

27/03/2017

CRIMINAL LAW - Sentencing - 83 year old applicant pleaded guilty to 10 charges of historical sexual offending - Applicant sentenced to 8 years' and 6 months' imprisonment with non-parole period of 6 years and 6 months' imprisonment - Australian Bureau of Statistics data on life expectancy - Sentence not manifestly excessive - Application for leave refused.

Burgess, Harold Edward v The Queen

Redlich, Santamaria, and Ferguson JJA

[\[2017\] VSCA 59](#)

24/03/2017

JUDICIAL REVIEW - Review of refusal of coercive powers order - Organised crime offence - Systemic and continuing criminal activity - Meaning of - Whether systemic and continuing criminal activity must be extant at time when application for coercive powers order is made - Major Crime (Investigative Powers) Act 2004 s3AA(2)(b), s5, s8.

PRACTICE AND PROCEDURE - Application for judicial review of refusal of coercive powers order by judge of Supreme Court - Whether Supreme Court proper defendant - Supreme Court (General Civil Procedure) Rules 2015 r56.01.

McLeod-Dryden, Raymond v Supreme Court of Victoria (in its capacity under the Major Crime (Investigative Powers) Act 2004) and Victoria Legal Aid

Priest, Santamaria, and McLeish JJA

[\[2017\] VSCA 60](#)

23/03/2017

PRACTICE AND PROCEDURE - Application for leave to appeal against the grant of leave to further amend a statement of claim - Proper role of Court of Appeal in matters of practice and procedure - Case management role of the trial judge - Whether error demonstrated in the exercise of the trial judge's discretion - Whether substantial injustice - Whether proposed grounds of appeal have real prospect of success - Judgments of fact and degree - Leave to appeal refused - Swan Hill Chemicals Pty Ltd v M A & Tripodi Pty Ltd [2016] VSCA 264 applied.

Smith, Brendon and Donamis Consultants (Vic) P/L (ACN 125 343 268) v J Z Lee Interiors P/L (ACN 075 815 093)

Tate and Osborn JJA

[\[2017\] VSCA 65](#)

22/03/2017

PRACTICE AND PROCEDURE - Costs - Applications for non-party costs orders - Discretion to make non-party costs order - Whether discretion should be exercised to make non-party costs order - Interests of justice - Interests of justice not requiring non-party orders for costs - Supreme Court Act 1986, s24.

Wieland, David Charles & Anor v Texxcon P/L (ACN 120 272 880); Porz, Geoffrey Gordon & Anor v Texxcon P/L (ACN 120 272 880); Nominexx P/L (ACN 121 396 503) & Anor v Wieland, David Charles & Ors

Beach JA and Cameron AJA

[\[2017\] VSCA 73](#)

31/03/2017

TAXATION - Congestion levy - Levy imposed on each 'leviable parking space' - Whether blocked off parking spaces attract levy - Whether parking spaces 'set aside' for parking - Distinction between 'set aside' and 'use' - Space may be 'set aside' for parking whether or not it is in use - Purpose of person undertaking action - Intention that spaces remain available for use if required - Appeals dismissed - Congestion Levy Act 2005 s3, s8.

WORDS AND PHRASES - 'Set aside', 'use', 'is used'.

Secure Parking P/L (ACN 108 043 689) v Commissioner of State Revenue

Maxwell P, Tate and Whelan JJA

[\[2017\] VSCA 68](#)

30/03/2017

Commercial Court

CIVIL PROCEDURE - Settlement approval - Supreme Court Act 1986 (Vic) (the Supreme Court Act) s33V - Whether settlement of a group proceeding reasonable and fair - Whether legal costs are reasonable - Whether order as to payment of a compensation amount to litigation funder appropriate or necessary to ensure that justice is done in the proceeding - Section 33ZF the Supreme Court Act - Whether costs payable to litigation funder are reasonable - Sections 33V and 33ZF Supreme Court Act 1986 (Vic).

CIVIL PROCEDURE - Application under s37 of the Supreme Court Act by special purpose receivers appointed by the Court for power to settle proceedings - Whether receivers are justified in exercising such power in entering into a deed of settlement - Whether settlement is just and reasonable - Section 37 Supreme Court Act 1986 (Vic).

In the matter of Banksia Securities Ltd (receivers and managers appointed) (in liquidation) (ACN 004 736 458) Between: Bolitho, Laurence John v Banksia Securities Ltd (receivers and managers appointed) (in liquidation) (ACN 004 736 458) & Ors and In the matter of Banksia Securities Ltd (receivers and managers appointed) (in liquidation) (ACN 004 736 458) Between: Lindholm, John Ross and McCluskey, Peter Damien in their capacity as joint and several special purpose receivers of Banksia Securities Ltd (receivers and managers appointed) (in liquidation) (ACN 004 736 458) and Ors v Godfrey, Patrick John & Ors

Robson J

[\[2017\] VSC 148](#)

31/03/2017

CONTRACT - Payment of funds by plaintiff to third party - Character of the transaction - Investment by plaintiff directly or loan to first and second defendants supported by mortgage - Plaintiff's evidence preferred - Principles in *Masters v Cameron* (1954) 91 CLR 353 - Binding oral agreement with intention to later reduce to writing - Functional test - Agreement and later payment formed part of single transaction. AGENCY - Contract entered into by husband purportedly on wife's behalf - Authority to enter into transaction - Ratification of any excess of authority - 'Clear adoptive acts' by wife.

EQUITY - Unconscionable conduct - Enforcement of transaction against wife - Principle in *Yerkey v Jones* (1939) 63 CLR 649, *Garcia v National Australia Bank Ltd* (1998) 194 CLR 395, considered - Failure by plaintiff to explain transaction - Whether wife had sufficient understanding of purport and effect of the transaction - Onus of proof - Previous business experience - Consideration of circumstances of execution of transaction documents - Wife unable to discharge onus - Not unconscionable to enforce transaction.

Twenty Ninth Macorp Nominees P/L (ACN 054 037 991) v George, Norman; George, Pauline

Almond J

[\[2017\] VSC 136](#)

27/03/2017

CORPORATIONS - Corporations Act 2001 (Cth) s459H - Statutory demand - Setting aside a statutory demand based on an off-setting claim - What constitutes an off-setting claim - Sale of mortgaged property by controller - Allegation of sale at undervalue - Sale process not impugned - Valuation obtained by the defendant relied upon criticised.

Modeca Investments P/L (ACN 149 915 837) v Commonwealth Bank of Australia (ACN 123 123 124)

Randall AsJ

[\[2017\] VSC 119](#)

20/03/2017

CORPORATIONS - Section 247A of the Corporations Act 2001 (Cth) - Application by member - application to inspect books of the company - Pre-share purchase representations - Whether application seeks inspection in capacity as a member - Application granted.

Vanetsanos Panotis & Ors (according to the schedule attached) v Ausinca Resources Ltd (ACN 122 968 905)

Randall AsJ

[\[2017\] VSC 129](#)

22/03/2017

CORPORATIONS LAW - Application by receivers for directions under s424 of the Corporations Act 2001 (Cth) (Corporations Act) and the Court's inherent jurisdiction - Where insolvent company is the trustee of a corporate trading trust - Where sole business of the trustee was carrying on the business of the trust - Whether receivers are justified in distributing the receivership surplus in accordance with the priority regimes in s433, s556, s560 of the Corporations Act - What is meant by 'property of the company' for the purposes of the priority regimes in s433, s556, s560 of the Corporations Act - Whether a trustee's right on indemnity is a floating charge over the trust assets for the purposes of the priority regimes in s433, s556, s560 - Definition of 'floating charge' in s51C of the Corporations Act.

CORPORATIONS LAW - Whether receivers obliged to pay preferential accrued employee entitlements incurred by the trustee in carrying out the trust out of trust assets under s433 of the Corporations Act.

TRUSTS - Nature of the trustee's right of indemnity - Nature of trust creditors right of subrogation - Whether trustee's right of exoneration is 'property of the company' for the purposes of the priority regimes in the Corporations Act - Whether the property subject to the lien supporting the trustee's right of exoneration is 'property of the company' for the purposes of the priority regimes in the Corporations Act - Whether the trustee's right of indemnity or the property subject to the lien supporting the trustee's right of indemnity is available to creditors generally, or is only available for creditors of the trust to meet trust liabilities.

SECURITIES - Whether assets are properly categorised as circulating assets for the purposes of the Personal Properties Securities Act 2009 (Cth) (PPSA) - Section 340 definition of circulating assets.

SECURITIES - Whether party with a secured interest under the PPSA gave consent for asset to be used in the course of everyday business - Whether a 'retention of title' clause in a principal agreement gives rise to separate security agreements on each delivery of goods under the principal agreement.

STATUTORY INTERPRETATION/STARE DECISIS - Meaning of one common law of Australia - Whether a court's decision concerning the interpretation of state legislation is binding when interpreting in pari materia Commonwealth legislation when there are conflicting interpretations of the relevant term by state courts.

Re Amerind P/L (receivers and managers appointed) (in liquidation) Mathew James Byrnes and Andrew Stewart Reed Hewitt (in their capacity as joint and several receivers and managers of Amerind P/L (receivers and managers appointed) (in liquidation) Commonwealth Department of Employment; Carter Holt Harvey Wood Products (Australia) P/L; Alpine MDF Industries P/L; Brent Morgan in his capacity as liquidator of Amerind P/L (receivers and managers appointed) (in liquidation)

Robson J

[\[2017\] VSC 127](#)

23/03/2017

DISCOVERY - Preliminary discovery to identify a defendant - Standard of proof required - Absence of express requirement to show grounds for a belief that applicant may have right to obtain relief against unidentified wrongdoer - Implicit requirement textually and having regard to purpose of the rule - Test to be applied - Supreme Court (General Civil Procedure) Rules 2015, r32.03.

First National Group of Independent Real Estate Agents Ltd v McGuane, Bernard Michael

Mukhtar AsJ

[\[2017\] VSC 131](#)

23/03/2017

DUTIES - Transfer of dutiable property - Whether transfer of interests in partnership a 'transfer of dutiable property' - Nature of interest of a partner in partnership property - Duties Act 2000, s3, s7 and s10 - Commissioner of Stamp Duties (Queensland) v Livingston (1964) 112 CLR 12; CPT Custodian Pty Ltd v Commissioner of State Revenue (2005) 224 CLR 98; Commissioner of Taxation v Linter Textiles Australia Ltd (in liq) (2005) 220 CLR 592; Inland Revenue Commissioner v Gray [1994] STC 360; R v Toohey; ex parte Meneling Station Pty Ltd (1982) 158 CLR 327; Stow v Mineral Holdings (Aust) Pty Ltd (1977) 51 ALJR 672; BPG Caulfield Village Pty Ltd v Commissioner of State Revenue [2016] VSC 172; In Re Bourne; Bourne v Bourne [1906] 2 Ch 427; Re Bainbridge; ex parte Fletcher (1878) 8 Ch D 218; Watson v Ralph (1982) 148 CLR 646; Commissioner of State Taxation (SA) v Cyril Henschke Pty Ltd (2010) 242 CLR 508; Canny Gabriel Castle Jackson Advertising Pty Ltd v Volume Sales (Finance) Pty Ltd (1974) 131 CLR 321; Bolton v Federal Commissioner of Taxation [1965] ALR 481 at 485, 491; Hurst v Bryk [2002] 1 AC 185; McDonald v Dennys Lascelles Ltd (1933) 48 CLR 457 at 476; United Builders Pty Ltd v Mutual Acceptance Ltd (1980) 144 CLR 673; Hancock Prospecting Pty Ltd v Wright Prospecting Pty Ltd (2012) 45 WAR 29; and Sze Tu v Lowe [2014] 89 NSWLR 317.

Danvest P/L (ACN 096 067 006) & Anor v Commissioner of State Revenue

Croft J

[\[2017\] VSC 125](#)

31/03/2017

LAND TAX - Exemption - Land leased for outdoor sporting, outdoor recreational or similar outdoor activities available for use by members of the public where the proceeds of leasing are applied exclusively for charitable purposes - Land leased for public golf course - Meaning of 'Land' for the purposes of exempting provisions - Land Tax Act 2005, s71 - Commissioner of State Revenue v Famajohn Nominees Pty Ltd (1999) 43 ATR 29 - Applewood Residential Development Pty Ltd v Commissioner of State Revenue (2006) 64 ATR 291 - Capital Club Pty Ltd v Commissioner of State Revenue (2007) 17 VR 357 - Wines v Commissioner of State Revenue [2011] VCAT 310.

WORDS AND PHRASES - Meaning of 'Land' under the Land Tax Act 2005.

Lotus Projects P/L (ACN 162 174 521) v Commissioner of State Revenue

Croft J

[\[2017\] VSC 63](#)

17/03/2017

PRACTICE AND PROCEDURE - Application to amend statement of claim - Identification of the real issues is dispute between the parties - Whether new claim or particularisation of existing claim - Leave granted to insert further particulars - Leave otherwise refused. COSTS - Whether special costs order should be made - Whether proceeding should be stayed until prior costs orders satisfied.

Humphris, Clive Arthur and Humphris, Dorothy June v ConnectEast Nominee Company P/L (ACN 108 736 992) and ConnectEast P/L (ACN 101 213 263)

Riordan J

[\[2017\] VSC 104](#)

31/03/2017

PROPERTY - Warehousing premises - Alleged assignment of lease from company to plaintiff - Company in liquidation - Failure to exercise option to renew lease - Licence for plaintiff to occupy premises - Alleged right to remain in occupation.

PRACTICE AND PROCEDURE - Interlocutory injunction - Balance of convenience - Availability of alternative premises - Damages an adequate remedy - Application dismissed.

Trevorah, Walter v ANS Investments P/L & Ors

Elliott J

[\[2017\] VSC 149](#)

22/03/2017

TRUSTS AND TRUSTEES - Application by solvent responsible entity of three managed investment schemes for judicial advice - Supreme Court (General Civil Procedure) Rules 2005, r54.02.

TRUSTS AND TRUSTEES - Judicial advice - Scope of advice proceeding - Court's power discretionary.

In the matter of an application by AGW funds management Ltd (ABN 64149 301299) (in its capacity as responsible entity of each of the managed investment schemes listed in Schedule 1) for judicial advice and directions under rule 54.02 of the Supreme Court (general civil procedure) rules 2015 (Vic). AGW Funds Management Limited (ABN 64 149 301 299)

Sifris J

[\[2017\] VSC 124](#)

24/03/2017

Common Law Division

ADMINISTRATIVE LAW - Judicial review of a decision by VCAT upon review of decisions made by the Greyhound Racing Appeals and Disciplinary Board - Whether or not the Tribunal amended the particulars of a charge before it for review - Whether or not the Tribunal acted beyond power by amending the particulars of a charge - Leave to appeal granted - appeal allowed.

Dawson, David v Greyhound Racing Victoria

T Forrest J

[\[2017\] VSC 123](#)

21/03/2017

APPEAL - proceeding in Victorian Civil and Administrative Tribunal - application by lot owners for resolution of dispute with owners corporation over allocation of car parking constituting common property - owners corporation applied for joinder of solicitors for lot owners as concurrent wrongdoers - whether tribunal erred in law in deciding that no tenable claim in negligence existed against solicitors - scope of duty of care of solicitors acting generally in relation to purchase of lots in apartment building managed by owners corporation - whether leave to appeal should be granted - Victorian Civil and Administrative Tribunal Act 1998 (Vic) s148(1), Owners Corporation Act 2006 (Vic) pt 11, Wrongs Act 1958 pt IVAA.

Owners Corporation Plan No. PS 409234V v Barouche, Lisa , Krezel, Stephanie, Gl and Sanicki Lawyers P/L, Vernons Solicitors P/L

Bell J

[\[2017\] VSC 143](#)

31/03/2017

CONTEMPT - Contempt of Court - Sentence - Respondent refused to answer questions by falsely asserting an inability to remember when subpoenaed to attend on a voir dire in the trial of co-accused - Contempt admitted - Sentence of four months' imprisonment - Sentencing Act 1991 s5, s6AAA, s11, s14, s15, s16, s17, s18 - Supreme Court (General Civil Procedure) Rules 2015 O 75.

The Queen (on the application of the Registrar of the County Court of Victoria) v Sherwani, Hawre

McDonald J

[\[2017\] VSC 147](#)

31/03/2017

DEFAMATION - Defences - Application that defence of justification be withdrawn from the jury - Open to the jury to find defence made out on the basis of the plaintiff's evidence and the exhibits - Application refused - Defamation Act 2005, s25.

Sheales, Damian v The Age Company P/L & Ors (Ruling No 1)

John Dixon J

[\[2017\] VSC 150](#)

21/03/2017

EVIDENCE - Defamation - Jury trial - In final address, plaintiff invited Jones v Dunkel inferences on basis of defendants' failure to call expert evidence - Defence of substantial truth involved questions of science - Expert evidence not relevant - Plaintiff elected not to call his expert evidence - Absence of expert evidence explained - Inference not open that defendants feared expert evidence might harm the defence - Plaintiff's submission that inferences be drawn in his favour misconceived - Corrective jury direction given.

Sheales, Damian v The Age Company P/L & Ors (Ruling No 3)

John Dixon J

[\[2017\] VSC 152](#)

23/03/2017

JUDICIAL REVIEW AND APPEALS - Application for a review of a decision of a Judge of the County Court of Victoria - Law prohibiting the display of obscene figures in public places - Whether provision inconsistent with the implied freedom of political communication - Meaning of 'obscene' - Summary Offences Act 1966 s17(1)(b) - Application dismissed.

Fraser, Michelle v County Court of Victoria and Walker, Constable Brenton (and Attorney General for the State of Victoria - Intervener)

Emerton J

[\[2017\] VSC 83](#)

21/03/2017

JUDICIAL REVIEW AND APPEALS - Application for review of a decision of a Judge of the County Court of Victoria - Plaintiff found guilty of resisting a member of the police force pursuant to s52(1) of the Summary Offences Act 1966 (Vic) - Whether judge erred by failing to consider self-defence - Application for review dismissed.

Kok, Augustinus v Lomax, Darren John and County Court of Victoria

Emerton J

[\[2017\] VSC 82](#)

21/03/2017

LAND - Recovery of possession - Mortgagee seeking to recover possession of mortgaged land from persons in occupation as beneficiaries under a discretionary investment trust - Mortgagor company is trustee, purportedly pursuant to a tenancy agreement or licence - Mortgagor company in liquidation - Whether basis for the recognition of a tenancy - Whether defendants and other occupiers are mere licensees - *Cowell v Rosehill Racecourse Co Ltd* (1937) 56 CLR 605; *Galloway v National Australia Bank Limited* [2016] VSCA 330; *Balanced Securities Limited v Bianco & Ors* [2010] VSC 162.

PRACTICE AND PROCEDURE - Application for summary recovery of possession of land - Alternatively, recovery of possession under the Transfer of Land Act 1958 or at common law - Whether summary procedure to recover possession of the land available to mortgagee against third parties to the mortgage - Whether originating motion procedure appropriate to an action for the recovery of possession of land - Recovery of possession pursuant to Order 53 of the Rules available to the plaintiff in this case - Alternatively, originating motion procedure available in any event - Supreme Court (General Civil Procedure) Rules 2015, Order 53 - *Framlingham Aboriginal Trust v McGuinness and Chatfield* [2014] VSC 241, affirmed in *Framlingham Aboriginal Trust v McGuinness and Chatfield* [2014] VSC 354; *Pappas v Bowmark Pty Ltd* [1998] VSCA 120; *Byrne v Ritchie* [2009] VSC 114.

Tajon P/L (ACN 009 223 714) v Arvanitis, John; Arvanitis, Xenofon (Fonda)

Derham AsJ

[\[2017\] VSC 130](#)

23/03/2017

PRACTICE AND PROCEDURE - Appeal from an Associate Justice - Appeal under r77.06 of the Supreme Court (General Civil Procedure) Rules 2015 - *Applebee v Monash City Council* [2013] VSC 481 applied - Error demonstrated.

PRACTICE AND PROCEDURE - Application for extension of time to bring an action in negligence - Limitation of Actions Act 1974 (Qld) s11, s30 and s31 - Whether material fact of a decisive character relating to the right of action not within the means of knowledge of the plaintiff until after the relevant date - Injury caused by fall - Allegedly defective ladder - Plaintiff's knowledge of manufacture of ladder in Queensland - *Do Carmo v Ford Excavations Pty Ltd* (1984) 154 CLR 234 - *Queensland v Stephenson* (2006) 226 CLR 197 - Whether significant prejudice to first defendant - Whether fair trial likely - *Brisbane Regional Authority v Taylor* (1996) 186 CLR 541.

McGowan, Stephen v Hills Industries & Ors

Keogh J

[\[2017\] VSC 122](#)

21/03/2017

PRACTICE AND PROCEDURE - Application by the defendants for summary judgment - Whether abuse of process arises out of plaintiff's statement of claim - Application of Civil Procedure Act 2010 (Vic), s62, s63 and Supreme Court (General Civil Procedure) Rules 2015, Order 23 - Not a case in which res judicata or issue estoppel arises - Pleading insufficiently clear to determine whether abuse of process has occurred as a result of plaintiff's attempt to re-litigate the proceeding.

Taseska, Silvana v Carus, Henry Joseph and Henry Carus & Associates (The Trustee for HCA Trust ABN 97 872 505 795)

Daly AsJ

[\[2017\] VSC 113](#)

16/03/2017

PRACTICE AND PROCEDURE - Costs - Security for costs - Enlivening of jurisdiction - Discretionary factors to be taken into account - Delay - Proceeding listed for imminent trial on expedited basis - Discretionary balance against ordering security for costs against plaintiff - Corporations Act 2001 (Cth), s1335(1) - Supreme Court (General Civil Procedure) Rules 2015, r62.02 - US Realty Investments LLC No. 1 & Ors v Need [2013] VSC 590 - Trility Pty Ltd v Ancon Drilling Pty Ltd [2013] VSC 577 - Colmax Glass Pty Ltd v Polytrade Pty Ltd [2013] VSC 311.

Hera Project P/L (ACN 163 685 041) v Bisognin, Gino Andrew and Bisognin, Leah Joan
Judicial Registrar Matthews

[\[2017\] VSC 112](#)

17/03/2017

PRACTICE AND PROCEDURE - Cross-vesting application - Interests of justice - Jurisdiction of Courts (Cross-Vesting) Act 1987 (Cth) - Application to transfer proceedings from Supreme Court of Victoria to Supreme Court of Queensland - Whether Queensland is more appropriate forum - Case involving a seriously ill plaintiff - Application dismissed.

Petterson, Jennifer v Amaca P/L (formerly known as James Hardie & Co P/L)

Ierodiaconou AsJ

[\[2017\] VSC 134](#)

24/03/2017

PRACTICE AND PROCEDURE - Defamation trial before jury - Defendants' application during final address to amend particulars in respect of defence of substantial truth - Plaintiff's statements made during cross-examination clearly relevant to defence - Plaintiff's answers not anticipated - No substantial prejudice - Leave granted.

Sheales, Damian v The Age Company P/L & Ors (Ruling No 2)

John Dixon J

[\[2017\] VSC 151](#)

22/03/2017

PRACTICE AND PROCEDURE - Group proceedings - Application by defendants for order that proceeding no longer continue as a group proceeding - Whether group proceeding not an efficient and effective means of dealing with group members' claims - Whether otherwise appropriate to make order sought - whether in the interests of justice that proceeding no longer continue under Part 4A - Whether determination of common issues lacked utility to advance claims of group members - Supreme Court Act 1986 (Vic) s33N(1) - Inappropriate use of Civil Procedure Act 2010 (Vic) - inconsistent with purpose of the Act.

A S (by her litigation guardian Marie Theresa Arthur) v Minister for Immigration and Border Protection; Commonwealth of Australia; International Health and Medical Services P/L; Serco Australia P/L

J Forrest J

[\[2017\] VSC 137](#)

27/03/2017

PRACTICE AND PROCEDURE - Self-represented litigant - Refusal by Prothonotary to accept summons - Plaintiff seeking direction to the Prothonotary to accept the summons - Summons irregular in form - Application refused - No direction given to the Prothonotary to accept the summons - Supreme Court (General Civil Procedure) Rules 2015, rule 27.06 - Jiri Klement v Peter James Randles [2014] VSC 364 - Shaw v Yarranova Pty Ltd & Anor [2012] VSCA 189.

Gao, Peng Yuan v Zhu, Yu Jing

Zammit J

[\[2017\] VSC 105](#)

20/03/2017

SUBPOENA - Public Interest Immunity - Evidence Act 2008 (Vic) s130 - Production of documents - Manual of investigative techniques for Registered Training Organisation audits.

Charan, Atkinson Prakash v Nationwide News P/L

J Forrest J

[\[2017\] VSC 138](#)

28/03/2017

WILLS AND ESTATES - Application to admit an informal will to probate - competing application for letters of administration with an earlier will annexed - earlier will executed in accordance with s7 of the Wills Act - where deceased prepared informal will in anticipation of surgery - whether the deceased intended the informal will to be his will - testamentary intentions of the deceased - Wills Act 1997 s7, s9 - Re Lynch [2016] VSC 758.

In The Matter of the Will of Brown, Guy Murray, deceased. Between Bell, Judith Alison and Barley, Melanie June; In The Matter of the Will of Brown, Guy Murray, deceased.

Application by Bell, Judith Alison

Zammit J

[\[2017\] VSC 24](#)

15/02/2017

Criminal Division

CRIMINAL LAW - Application for bail - Applicant in both an exceptional circumstances and show cause situation - bail refused - Bail Act 1977 s4, s18, s18AB.

In the matter of an application for bail by Osama Elseyed

Beale J

[\[2017\] VSC 120](#)

17/03/2017

CRIMINAL LAW - Bail - Adjournment of two weeks - Children's Court - Bail refused - 16 year old applicant - Show cause - Unacceptable risk - One step process - Significant criminal history - Family circumstances - Applicant transferred from youth detention to adult custody - Applicant injured while in adult custody - Bail Act 1977 (Vic) s3B, s4(4), s5(1) - Children, Youth and Families Act 2005 (Vic) s362 - Bail granted on a provisional two week basis - Conditions of bail.

In the matter of the Bail Act 1977 and In the matter of an Application for Bail by J F

Lasry J

[\[2017\] VSC 139](#)

23/02/2017

CRIMINAL LAW - Bail - Show cause situation - Kidnapping, false imprisonment, intentionally causing injury, theft, assault in company and using dangerous article.

In the matter of the Bail Act 1977 (Vic) and In the matter of an Application for bail by Satatas, Philip

Kaye JA

[\[2017\] VSC 156](#)

29/03/2017

CRIMINAL LAW - Evidence - Admissions of guilt by accused out of court - Directions to jury - Whether jury should be directed that must be satisfied beyond reasonable doubt as to admissions - Jury Directions Act 2015 s61, s62.

Director of Public Prosecutions [DPP] v Asling, Stephen John (Ruling No 8)

Kaye JA

[\[2017\] VSC 84](#)

06/03/2017

CRIMINAL LAW - Murder - Application by accused to discharge jury - Application arising from newspaper article containing material not before jury - Application refused.

Director of Public Prosecutions [DPP] v Asling, Stephen John (Ruling No 5)

Kaye JA

[\[2017\] VSC 60](#)

15/02/2017

CRIMINAL LAW - Murder - Evidence - Admissibility - Attempt to revive memory in Court from statement - Whether events 'fresh in the memory' of the person - Statement made 12 years after events - s32, s66, s192 Evidence Act 2008.

CRIMINAL LAW - Murder - Evidence - Admissibility - Unfavourable witness - No unfairness to the Accused in granting limited leave to Crown to cross-examine - s38, s192 Evidence Act 2008.

Director of Public Prosecutions [DPP] v Asling, Stephen John (Ruling No 7)

Kaye JA

[\[2017\] VSC 77](#)

28/02/2017

CRIMINAL LAW - Murder - Evidence - Admissibility - Evidence Act 2008 s65(2)(d), s137.

Director of Public Prosecutions [DPP] v Asling, Stephen John (Ruling No 3)

Kaye JA

[\[2017\] VSC 41](#)

13/02/2017

CRIMINAL LAW - Murder - Evidence - Admissions by accused - Probative value outweighs any unfair prejudice - s90, s137 Evidence Act 2008.

Director of Public Prosecutions [DPP] v Asling, Stephen John (Ruling No 6)

Kaye JA

[\[2017\] VSC 70](#)

24/02/2017

CRIMINAL LAW - Murder - Evidence - Hearsay evidence - Maker of statements not available - Evidence Act 2008 s 65(2)(b), (c), (d), s66A, s137.

Director of Public Prosecutions [DPP] v Asling, Stephen John (Ruling No 2)

Kaye JA

[\[2017\] VSC 38](#)

09/02/2017

CRIMINAL LAW - Murder - Evidence - Hearsay statements by deceased witness - Whether first-hand hearsay - Whether made in circumstances making likely were reliable - Whether prejudicial - Evidence excluded - Evidence Act (Vic) 2008 s65(2)(d), s137.

Director of Public Prosecutions [DPP] v Asling, Stephen John (Ruling No 4)

Kaye JA

[\[2017\] VSC 42](#)

13/02/2017

CRIMINAL LAW - Murder - Evidence - Public interest immunity - Claims by Chief Commissioners of Victoria Police and of New South Wales Police - Evidence Act 2008 s130.

Director of Public Prosecutions [DPP] v Asling, Stephen John (Ruling No 1)

Kaye JA

[\[2017\] VSC 37](#)

02/02/2017

CRIMINAL LAW - Sentence - Aggravated burglary - Assault (x 5) - Joint criminal enterprise - 'Run-through' of house, late at night, by 13 men armed with dangerous weapons and wearing Rebels Motorcycle Club clothing - Serious example of aggravated burglary - Offender one of the organisers - Minor prior convictions - Youthful offender - Remorse - Stress and delay of two further trials on charge on which ultimately acquitted - Good prospects of rehabilitation - Need for general deterrence, denunciation and just punishment - Parity with co-accused - Total effective sentence of 6 years and 3 months' imprisonment with a non-parole period of 4 years and 3 months.

The Director of Public Prosecutions [DPP] v Fisher, Jamie

Hollingworth J

[\[2017\] VSC 21](#)

16/03/2017

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.

BUILDING CONTRACT - Contract providing for "Preliminary Works" to be performed prior to the contract became unconditional upon the approval of finance - Works performed by the contractor at the request of the superintendent and the principal - Alternative claims under the contract, and by way of quantum meruit.

Element Five Pty Ltd v. Kingsland Group Pty Ltd

[\[2017\] VCC 150](#)

Judge Anderson

16/03/2017

CONTRACT - Breach of agreement containing regular payment obligations - Whether total failure of consideration - Where party does not have legal title to goods to be transferred as consideration under agreement - Whether agreement void ab initio - Whether agreement void due to doctrine of mistake - Whether party estopped from avoiding agreement where party received benefit.

LCY Pty Ltd v Ma

[\[2017\] VCC 264](#)

Judge Cosgrave

22/3/2017

CONTRACT; NEGLIGENCE; BREACH OF STATUORY DUTY - Breach of contract and duty of care - Negligent misstatement - Pure economic loss - whether financial adviser owed duty of care to prospective client to avoid pure economic loss - Whether breach of statutory duties imposed on financial advisors - Accrual of cause of action and when time begins to run.

Darren Hewitt v Count Financial Limited

[\[2017\] VCC 236](#)

Judge Cosgrave

17/03/2017

PRACTICE AND PROCEDURE - Application by the plaintiffs to adjourn the trial - Refused by a Judicial Registrar - Application for a review of the decision of the Judicial Registrar and further application for an adjournment of the trial - Plaintiffs' failure to provide an adequate explanation for the failure of their previous solicitors to prepare the case for trial or for the recent change of solicitors - Review dismissed - Adjournment refused.

Boje & Anor v. Chinese Community Social Services Centre Incorporated

[\[2017\] VCC 249](#)

Judge Anderson

15/03/2017

PRACTICE AND PROCEDURE - Application to limit the scope of expert evidence - Scientific analysis - Earthen stormwater drain - Drainage system - Source of contamination - Chemical business - Production, laboratory and warehousing facility.

Greater Geelong City Council v Clariant (Australia) Pty Ltd (Ruling)

[\[2017\] VCC 147](#)

Judicial Registrar Gurry

02/03/2017

PRACTICE AND PROCEDURE - Costs - Offers of compromise - Whether the plaintiff “unreasonably fail[ed] to accept the offer[s]” - Rule 26.08(4) County Court Civil Procedure Rules 2008 (Vic) - Hazeldene’s Chicken Farm Pty Ltd v Victorian WorkCover Authority (No. 2) [2005] VSCA 298 applied.

Adventure Golf Systems Australia Pty Ltd v Belgravia Health & Leisure Group Pty Ltd (No. 2)

[\[2017\] VCC 274](#)

Judge Anderson

23/3/2017

PRACTICE AND PROCEDURE - Freezing order.

Australian Unicorn Agricultural Development Pty Ltd v Aufeng Investment Holdings Pty Ltd & Ors (Ruling)

[\[2017\] VCC 170](#)

Judge Smith

03/03/2017

Articles

Administrative Law

Automated systems - Computer processes - Rules - Decision making - Authority - Administrative Review Council - Australia
Justice Perry. "iDecide: administrative decision-making in the digital world." (2017) 91(1) ALJ 29-34.

Animals

Animal welfare - Sentience - Animal Welfare Act 1999 (NZ) - NZ
Robertson, I. and D. Goldsworthy. "To feel or not to feel; that is the legal question." [2017] (February) NZLJ 10-14.

Constitutional Law

Precedent - Citizenship - Aliens - Majority claims - Majority judgments - Singh v Commonwealth - High Court - Australia
Gava, J. "Losing our birthright: Singh v Commonwealth." (2016) 37(2) Adel LR 369-401.

Courts

Judges - Judicial independence - Judicial conduct - Objective test - Permanent Court of International Justice (PCIJ) - UK
Richardson Oakes, A. and H. Davies. "Justice must be seen to be done: a contextual reappraisal." (2016) 37(2) Adel L R 461-494.

Equity

Coherence - Liability - Stolen funds - Recovery - Barnes v Addy - Fistar v Riverwood Legion and Community Club Ltd - Australia
Aitken, L. "Recovering 'stolen money' - Barnes v Addy, money had and received, and the struggle for remedial coherence." (2017) 43(3) Aust Bar Rev 304-319.

Equitable estoppel - Causation - Threshold - Causal threshold - But for test - Sidhu v Van Dyke - Australia

Silink, A. "Causation in equitable estoppel." (2017) 43(3) Aust Bar Rev 320-346.

Human Rights

Privacy - Surveillance - Judicial review - Crowd funding - Liberty - Investigatory Powers Act 2016 (UK) - UK

Grey, E. "Liberty from snooping." (2017) 161(5) Sol J 17.

Legal History

History - Theft - Prosecution - Conviction - Sentencing - Statistics - Research study - WA - Victoria

Piper, A. and L. Durnian. "Theft on trial: prosecution, conviction and sentencing patterns in colonial Victoria and Western Australia." (2017) 50(1) A & NZ J Crim 5-22.

Legal Profession

Judges - Jurisdiction - Diversity - Specialists - UK

Samuels, A. "Wide of the mark?" (2017) 167(7734) NLJ 22.

Personalia - Chief Justice Robert French - Constitutional law - Voting cases - Political communication - Heads of power - High Court - Australia

Twomey, A. "The constitutional legacy of the High Court under Chief Justice French." (2017) 91(1) ALJ 23-28.

Personalia - Chief Justice Robert French - Executive spending - Judicial power - Asylum seekers - Executive detention - Offshore processing - High Court - Australia

Hobbs, H. et al. "The High Court under Chief Justice Robert French." (2017) 91(1) ALJ 53-71.

Personalia - Chief Justice Robert French - High Court - Australia
Chief Justice Martin. "Chief Justice Robert French AC." (2017) 91(1) ALJ 45-50.

Personalia - Ilmar Tammelo - Jurisprudence - Legal theory - Lecturer - Australia
Hon Michael Kirby. "Centenary of Ilmar Tammelo: influential scholar and teacher of jurisprudence." (2017) 43(3) Aust Bar Review 289-303.

Practice & Procedure

Dissent - Judicial dissent - Independence - Australia
McIntyre, J. "In defence of judicial dissent." (2016) 37(2) Adel L R 431-459.

Representative proceedings - Class actions - Common fund - Contingency fees - Litigation funding - Lawyers - Australia
Gamble, R. "Jostling for a larger piece of (class) action: litigation funders and entrepreneurial lawyers stake their claims." (2017) 46(1) CWLR 3-20.

Representative proceedings - Class actions - Costs - Damages - Law reform proposals - QLD - NSW - Victoria - Australia
Mayanja, J. "Of remedies, access to justice, the enforcement of private law and judicial efficiency: the need for a damages claims grouping procedure in all Australian jurisdictions." (2017) 43(3) Aust Bar Rev 347-362.

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