



THE LAW LIBRARY OF VICTORIA

Library Bulletin

7 July 2017

Library News

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

Take a tour and get to know the history and architecture of the Supreme Court Library. This 30 minute tour is recommended for those who want a brief introduction to the Library and its heritage, exploring the Ground and First Floors.

Tour of the Library for legal professionals
Tuesday 25 July, 1:15pm - 2:15pm

This 60 minute tour of the Supreme Court Library is targeted at the legal profession, exploring all four levels of the Library and showcasing the range of current and historical resources and materials that are available in the collection.

To RSVP please email: libraryevents@supcourt.vic.gov.au.

More information: <https://www.lawlibrary.vic.gov.au/services/events>.

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).

Contents

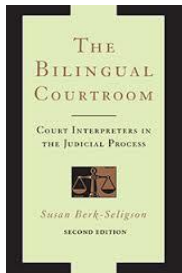
New Books	3
Legislation	4
High Court Cases	6
Victorian Supreme Court Cases	7
Court of Appeal	7
Commercial Court	13
Common Law Division	16
Criminal Division	19
County Court of Victoria Cases	20
Magistrates' Court of Victoria Cases	22
Articles	23
Arbitration	23
Constitutional Law	23
Corporations Law	23
Criminal Law & Procedure	23
Employment Law	24
Human Rights	24
Torts	24

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/.

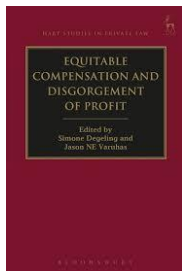
Judicial officers and court staff can borrow any of the books listed. Contact your jurisdictional librarian to request an item.

Members of the legal profession and the public can request any of the books to read on site at the Supreme Court Library.



Berk-Seligson, Susan, *The bilingual courtroom: Court reporters in the judicial process*
2nd ed., The University of Chicago Press, Chicago, 2017
Call number: 347.735014 BER.2 (County Court Library)

[Link to the book in the catalogue](#)



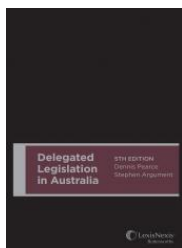
Degeling, Simon and Varuhas, Jason NE (editors), *Equitable Compensation and Disgorgement of Profit*
Hart Publishing, Oxford, UK, 2017
Call number: 346.004 EQU (Supreme Court Library)

[Link to the book in the catalogue](#)



Katsh, Ethan and Rabinovich-Einy, Orna, *Digital Justice*
Oxford University Press, New York, New York, 2017
Call number: 347.09 KAT (VCAT Library)

[Link to the book in the catalogue](#)



Pearce, D.C. and Argument, S., *Delegated legislation in Australia*
5th ed., LexisNexis Butterworths, Chatswood, N.S.W., 2017
Call number: 348.023 PEA.5 (Supreme Court Library)

[Link to the book in the catalogue](#)



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 [@lawlibraryvic](https://twitter.com/lawlibraryvic) [#argus1917](https://twitter.com/lawlibraryvic)

Legislation

Victorian Bills

No Victorian Bills have received a second reading since the last Library Bulletin.

Victorian Assents

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

- [*Bail Amendment \(Stage One\) Act 2017*](#), No. 26/2017
- [*Parliamentary Budget Officer Act 2017*](#), No. 27/2017
- [*State Taxation Acts Amendment Act 2017*](#), No. 28/2017
- [*Appropriation \(2017-2018\) Act 2017*](#), No. 29/2017
- [*Appropriation \(Parliament 2017-2018\) Act 2017*](#), No. 30/2017

Proclamations

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

- *Children Legislation Amendment (Reportable Conduct) Act 2017* No. 4/2017
 - Sections 4-16, 18 of this Act came into operation on 1 July 2017 (SG216 27.6.2017)
- *Corrections Legislation Amendment Act 2016* No. 57/2016
 - Section 16 of this Act came into operation on 28 June 2017 (SG216 27.6.2017)
- *Creative Victoria Act 2017* No. 14/2017
 - Sections 1-17 of this Act came into operation on 1 July 2017 (SG206 20.6.2017)
- *Lord Mayor's Charitable Foundation Act 2017* No. 15/2017
 - Sections 1-39 of this Act came into operation 1 July 2017 (SG206 20.6.2017)
- *Small Business Commission Act 2017* No. 16/2017
 - Sections 1-72 of this Act came into operation 1 July 2017 (SG216 27.6.2017)
- *Victorian Planning Authority Act 2017* No. 11/2017
 - Sections 1-104 of this Act came into operation on 1 July 2017 (SG150 16.5.2017)

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

- *Appropriation (2017-2018) Act 2017 No. 29/2017*
 - Sections 1-10 of this Act came in by forced commencement on 27 June 2017 s.2
- *Appropriation (Parliament 2017-2018) Act 2017 No. 30/2017*
 - Sections 1-7 of this Act came in by forced commencement on 27 June 2017 s.2
- *Compensation Legislation Amendment Act 2016 No. 73/2016*
 - Sections 4, 8, 11(2), 13, 14, 20 of this Act came in by forced commencement on 1 July 2017 s. 2(3)
- *Police and Justice Legislation Amendment (Miscellaneous) Act 2016 No. 54/2016*
 - Section 23 of this Act came in by forced commencement on 1 July 2017 s. 2(2)
- *State Taxation Acts Amendment Act 2017 No. 28/2017*
 - Parts 1 (sections 1, 2), Part 2 Division 6 (sections 42-44), Part 9 (section 98) of this Act came in by forced commencement on 27 June 2017 s.2(1)
 - Part 2 Division 1-4 (sections 3-40), Division 9 (section 47), Part 3 (sections 48, 49), Parts 5, 6 (sections 68-79), Part 7 Divisions 1-4 (sections 80-89), Part 8 (sections 93-97) of this Act came in by forced commencement on 28 June 2017 s.2(2)
 - Part 2 Division 5 (section 41), Divisions 7, 8 (sections 45, 46) of this Act came in by forced commencement on 01 July 2017 s.2(3)

High Court Cases

No High Court cases were delivered this fortnight.

Victorian Supreme Court Cases

Court of Appeal

BUILDING AND CONSTRUCTION - Major domestic building contract - Whether progress payments governed by schedule in contract or by schedule prescribed by the Domestic Building Contracts Act 1995 - Statute permits parties to depart from prescribed schedule where parties agree and 'do so in the manner set out in the regulations' - Regulations require warning of change to legal rights to be signed by building owner - Requirement has objective of consumer protection - Signature must demonstrate clearly that owners understand effect on legal rights - Initials at foot of page insufficient - Estoppel unavailable to preclude owners from relying on builders' contravention - *Tudor Developments Pty Ltd v Makeig* (2008) 72 NSWLR 624 considered - *R v Moore*; *ex parte Myers* (1884) 10 VLR 322, *Campbell v DPP* (Cth) [1995] 2 VR 654, *Waugh v Kippen* (1986) 160 CLR 156, *Nelson v Nelson* (1995) 184 CLR 538 discussed - *Re Brunswick NL*; *Blossomtree Pty Ltd v Brunswick NL* (1990) 2 ACSR 625 distinguished - Domestic Building Contracts Act 1995 s40, s132, s133 - Domestic Building Contracts Regulations 2007 regs 12(a) and (b), Forms 1 and 2 - Leave to appeal granted - Appeal dismissed.

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

Tate, Kyrrou, and McLeish JJA

[\[2017\] VSCA 168](#)

29/06/2017

CONTEMPT - Publication of statements regarding matters before Court of Appeal - Where statements prima facie serious breach of sub judice rule - Whether conduct should be referred for prosecution for contempt - Full and unqualified apologies adequately purged contempt.

Director of Public Prosecutions [DPP] (Cth) v Besim, Sevdet; Director of Public Prosecutions [DPP] (Cth) v M H K (a Pseudonym)

Warren CJ, Weinberg and Kaye JJA

[\[2017\] VSCA 165](#)

23/06/2017

COURTS AND JUDGES - Apprehended bias - Interlocutory finding that claim had no real prospect of success - Finding overturned on appeal - Whether judge ought to have recused herself from finally determining claim - Whether claim now advanced on basis not previously argued - Judge's criticism of party's conduct - Whether unreasonable - No reasonable apprehension of bias in circumstances - Judge's discretion to recuse in any event - Whether refusal to do so reviewable - Appeal dismissed.

Mandie, Edward Nicholas; Mandie, Jane Elisabeth; Mandie, Isabella; Amanda Mandie; Mandie, Nicholas Elliott and Mandie, Daniella (a person under a disability being a minor by her litigation guardian Amanda Mandie) v Memart Nominees P/L (ACN 005 024 617) (as trustee for the David Mandie Family Trust)

Whelan and McLeish JJA, and Cameron AJA

[\[2017\] VSCA 177](#)

04/07/2017

CRIMINAL LAW - Appeal - Bail pending appeal against sentence - Whether exceptional circumstances shown - Significant proportion of custodial sentence unlikely to expire before appeal determined - No evidence of real risk of injustice - Third party hardship not exceptional - Bail refused - R v Zoudi (2005) 14 VR 580 applied.

Lane, Leslie Charles v The Queen

Maxwell P and Ferguson JA

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

23/06/2017

CRIMINAL LAW - Appeal - Conviction - Extension of time application - Delay - Bowling v The Queen [2013] VSCA 87; Kumar v The Queen [2014] VSCA 102; Kentwell v The Queen (2014) 252 CLR 601 applied - Trafficking large commercial quantity of drug of dependence, namely ephedrine - Whether verdict unsafe and unsatisfactory - Circumstantial evidence of intention to possess ephedrine for sale - Kural v The Queen (1987) 162 CLR 502 referred to.

CRIMINAL LAW - Appeal - Sentence - Election to renew application for leave - Applicant's role in criminal enterprise - Whether sentence of 15 years' imprisonment with non-parole period of 10 years for trafficking 27 times large commercial quantity of ephedrine manifestly excessive - Leave refused.

Mueller, Wilhelm Bruno v The Queen

Redlich JA, Weinberg JA, and McLeish JA

[\[2017\] VSCA 132](#)

13/06/2017

CRIMINAL LAW - Appeal - Conviction - Sexual offending against child complainant - Complainant now adult - Re-trial after appeal - Whether trial judge erred in permitting previously recorded evidence of complainant to be tendered - Whether complainant should have been recalled - Criminal Procedure Act 2009 s381 and s385.

CRIMINAL LAW - Appeal - Conviction - Sexual offending against child complainant - Tendency evidence - Whether error in admitting tendency evidence - Whether error in failure to sever indictment - Evidence Act 2008 s97(1)(b) and s101(2) - Criminal Procedure Act 2009 s193 and s194 - Hughes v The Queen [2017] HCA 20; IMM v The Queen (2016) 257 CLR 300; Velkoski v The Queen (2014) 45 VR 680; JLS v The Queen (2010) 28 VR 328, discussed.

CRIMINAL LAW - Appeal - Conviction - Sexual offending against child complainant - Whether substantial miscarriage of justice because of admission of 'previous representation' made by complainant - Whether 'previous representation' concerned events 'fresh in the memory of the person' - Previous representation elicited via guessing game - Evidence Act 2008 s66.

CRIMINAL LAW - Appeal - Conviction - Sexual offending against child complainant - Substantial miscarriage of justice - Convictions set aside - Whether new trial should be ordered - Criminal Procedure Act 2009 s277(1) - R v Bartlett [1996] 2 VR 687; Director of Public Prosecutions (Nauru) v Fowler (1984) 154 CLR 627 - New trial ordered.

Bauer, Dennis (a Pseudonym) v The Queen (No 2)

Priest, Kyrrou, and Kaye JJA

[\[2017\] VSCA 176](#)

30/06/2017

CRIMINAL LAW - Appeal - Mental impairment - Supervision orders - Person declared liable to supervision - Court required to make supervision order - Whether custodial or non-custodial supervision order - Whether power to make non-custodial supervision order depends on certification of availability of services - Whether court should specify 'person having the supervision of' person subject to order - Appeal allowed - Non-custodial supervision order substituted - DPP nominated as supervisor - Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 s26, s29, s41, s47.

Richards, Neal (a Pseudonym) v The Queen (No 2)

Maxwell P, Santamaria and McLeish JJA

[\[2017\] VSCA 174](#)

30/06/2017

CRIMINAL LAW - Appeal - Sentence - Multiple burglaries and thefts - Sentence one year and nine months' imprisonment with three-year community correction order - Procedure for warning applicant if Court considers more severe sentence may be imposed - Alerting applicant to risk prior to hearing - Two of three grounds abandoned - Parity - Offending clearly distinguishable from that of co-offenders - Leave to appeal refused - Criminal Procedure Act 2009 s281(3).

McLean, Jack Donald v The Queen

Maxwell ACJ, Redlich and Kyrou JJA

[\[2017\] VSCA 142](#)

22/06/2017

CRIMINAL LAW - Application for leave to appeal - Sentence - Multiple sexual offences against daughter, niece and granddaughter over many years - Representative and course of conduct charges - Serious sexual offender - Total effective sentence 18y 9m - Non-parole period 14y 3m - Sentencing judge found no causal connection between offender's extremely low intellectual functioning and offending - Whether finding open on the evidence - Applicability of Verdins principles - Whether sentence manifestly excessive - Leave refused - O'Connor v The Queen [2014] VSCA 108 and DPP v O'Neill (2015) 47 VR 395 referred to.

Harmon, Clayton (a Pseudonym) v The Queen

Ashley, Redlich, and Tate JJA

[\[2017\] VSCA 169](#)

29/06/2017

CRIMINAL LAW - Application for leave to appeal - Whether making of forfeiture order in relation to certain items valid - No nexus between relevant items and commission of 'the offence' - Error conceded - Forfeiture order invalid - Issue of return - Child pornography identified on each item - Impractical to identify and delete offending material - No order for return of items - Confiscation Act 1997 s3, s32, s33 - Crimes Amendment (Sexual Offences) Act 2016, considered - Gollan v Nugent (1988) 166 CLR 18, considered.

Antonielli, Vincent Anthony v The Queen

Weinberg and Whelan JJA

[\[2017\] VSCA 164](#)

27/06/2017

CRIMINAL LAW - Conviction - Attempted murder - Application for extension of time - Application for leave to appeal - Whether verdict unreasonable or cannot be supported having regard to the evidence - Victim shot - Defence hypothesis that principal prosecution witness fired the gun - 'No case' submission rejected - Prasad direction given - Extension of time granted - Leave to appeal granted - Appeal dismissed.

Rapovski, Denis v The Queen

Ashley and Priest JJA, and Croucher AJA

[\[2017\] VSCA 175](#)

30/06/2017

CRIMINAL LAW - Conviction - Murder - Applicant attacked victim late at night outside McDonald's restaurant - Applicant hurled victim head-first to ground and then repeatedly kicked and stomped on head and neck - Whether trial judge erred by improperly directing jury regarding need for unanimity as regards act or acts causing death - Whether failure to provide complete transcript of charge resulted in substantial miscarriage of justice - Whether failure of trial counsel to put rarity of injury to expert resulted in substantial miscarriage of justice - Whether trial judge erred by improperly directing jury regarding incriminating conduct - Whether verdict unsafe or unsatisfactory - Leave to appeal against conviction refused.

CRIMINAL LAW - Sentence - Murder - Applicant sentenced to twenty years' imprisonment with non-parole period of 16 years - Whether sentence manifestly excessive - Brutal and senseless attack - Sentence within range - Leave to appeal against sentence refused.

Zandipour, Kyle Sirous v The Queen

Warren CJ, Weinberg JA, and Kaye JA

[\[2017\] VSCA 179](#)

07/07/2017

CRIMINAL LAW - Sentence - Crown appeal - Offence of doing acts in preparation for, or planning, terrorist act contrary to s101.6 of Criminal Code (Cth) - whether a warning under s105A.23 of Criminal Code (Cth) must be given by the court in person - whether the application of the continuing detention provisions under s105A of Criminal Code (Cth) is relevant to re-sentencing - Court ordinarily not required to engage in speculation about the possible future exercise of an administrative or judicial discretion that might affect an offender at the completion of the non-parole period or after service of the sentence - Muldrock v The Queen (2011) 244 CLR 120 - Director of Public Prosecutions v Ellis (2005) 11 VR 287.

Director of Public Prosecutions (Cth) [DPP] v Besim, Sevdet; Director of Public Prosecutions (Cth) [DPP] v M H K (a Pseudonym) (No 3)

Warren CJ, Weinberg JA, and Kaye JA

[\[2017\] VSCA 180](#)

07/07/2017

INTENTIONAL TORTS - Appeal - Conspiracy - Unlawful means conspiracy - Pecuniary loss - Requirement to prove pecuniary loss as an element of the tort of unlawful means conspiracy - Whether expenses associated with investigating the conspiracy constitutes pecuniary loss - Whether expense of obtaining advice and taking steps to set aside agreement entered into pursuant to the conspiracy constitutes pecuniary loss - Loss of opportunity claims - Pecuniary loss established in relation to expenses incurred in setting aside agreement entered into pursuant to conspiracy and in relation to loss of opportunity claims.

Bennett, Alexandra Ann & Ors (according to the Schedule attached) v Estate of Talacko, Jan Emil (deceased) & Ors (according to the Schedule attached); Talacko, Jan (as executor of the estate of Helena Talacko) v Bennett, Alexandra & Ors (according to the Schedule attached)

Beach and McLeish JJA, and Keogh AJA

[\[2017\] VSCA 163](#)

27/06/2017

LAND - Caveat - One of two joint proprietors of land executed a charge in respect of his interest in the land - Chargee lodged a caveat prohibiting 'absolutely' the registration of any instrument affecting its estate or interest under the charge - Whether the judge erred in deciding that the caveat impermissibly affected the interest of the joint proprietor who did not execute the charge and that the balance of convenience favoured the removal of the caveat - Appeal allowed - Sections 89(1), 90(3) of the Transfer of Land Act 1958.

PRACTICE AND PROCEDURE - Standing to sue - Whether a discrepancy in the name of the limited partner of a limited partnership of which the appellant was the general partner affected the appellant's entitlement to lodge a caveat - Effect of conclusive certificate under s58 of the Partnership Act 1958.

Lawrence & Hanson Group P/L v Young, John Stanley & Young, Mary Anne

Redlich and Kyrou JJA, and Keogh AJA

[\[2017\] VSCA 172](#)

30/06/2017

LANDLORD AND TENANT - Retail premises - Premises comprised cold and cool storage warehouse and transport facility - Meaning of 'retail provision of services' under Retail Leases Act 2003 - 'Ultimate consumer' test, nature of service provided and whether generally available to any person for a fee relevant considerations in determining whether premises used for retail provision of services - 536 Swanston Street Pty Ltd v Harbrut Pty Ltd (1988) V ConvR ¶54-323, Wellington v Norwich Union Life Insurance Society Ltd [1991] 1 VR 333, FP Shine (Vic) Pty Ltd v Gothic Lodge Pty Ltd [1994] 1 VR 194, Fitzroy Dental Pty Ltd v Metropole Management Pty Ltd [2013] VSC 344, Global Tiger Logistic Pty Ltd v Chapel Street Trust (Unreported, Victorian Civil and Administrative Tribunal, Member Rowland 24 October 2012) considered - Retail Leases Act 2003 s4, Retail Tenancies Reform Act 1998, Retail Tenancies Act 1986.

IMCC Group (Australia) P/L v CB Cold Storage P/L

Warren CJ, Ferguson JA, and Kaye JA

[\[2017\] VSCA 178](#)

05/06/2017

PROBATE - Application for revocation of grant of probate - Standing to seek revocation - Applicants would not benefit from probated will or any preceding wills - Applicants sought to invalidate all wills - Applicants entitled to benefit in case of intestacy - Whether benefit upon intestacy sufficient to establish standing to seek revocation - Whether applicant for revocation required to show prima facie case in order to establish standing - Kipping v Ash (1845) 1 Rob Ecc 270; 163 ER 1035; Re Devoy; Fitzgerald v Fitzgerald [1943] St R Qd 137; Re Gillard [1949] VLR 378; Re Culina; Poulos v Pellicer [2004] NSWSC 504, considered - Supreme Court (Administration and Probate) Rules 2014 O 11 - Appeal allowed.

Gardiner, James Alexander; Borrack, Sarah Jane and Gardiner, Charles George v Hughes, Lachlan Owen Stuart and Sles, Kerrie Louise (as executors of the Will of the late Douglas William Gardiner, deceased) and Sles, Zoe May (a minor, by her litigation guardian Kerrie Louise Sles)

Tate, Kyrou, and McLeish JJA

[\[2017\] VSCA 167](#)

29/06/2017

PROPERTY - Fraud and forgery allegations - Irreconcilable accounts between family members - Whether incontrovertible facts rendered trial judge's factual findings glaringly improbable - Sufficiency of reasons - Evidence and submissions at trial not referred to in the judgment - Requirements as to reasons considered.

Between: Lam, Hau and Lam, Phuong Thuong; Pacific Far East P/L (ACN 071 762 420); Tran, Loan; Registrar of Titles. Between: Lam, Hau and Nguyen, Mai; Pacific Far East P/L (ACN 071 762 420); Vien Dong Tourist Service (Aust) P/L (ACN 107 549 502); Tran, Loan Whelan, Santamaria, and Kaye JJA

[\[2017\] VSCA 173](#)

30/06/2017

TRUSTS - Presumption of resulting trust - Principles - Beneficiary contributed to purchase price of property acquired in name of trustee of a trust established by beneficiary's father - Presumption not rebutted - Leave to appeal granted - Appeal dismissed.

CONTRACT - Oral agreement for transfer of interest in land - Statute of Frauds not satisfied - Principles relating to part performance - Sufficient acts of part performance established.

Vlahos P/L and Vlahos, Andrew v Vlahos, James

Tate, Kyrou, and McLeish JJA

[\[2017\] VSCA 166](#)

29/06/2017

WILLS - Application for letters of administration with will annexed - Whether handwritten note made by deceased in China an informal will under Victorian law or a valid will under Chinese law - Note a valid will under Chinese law - Appeal allowed - Wills Act 1997 s9, s17.

WILLS - Testamentary capacity - Applicable standard of proof - *Briginshaw v Briginshaw* (1938) 60 CLR 336 - Evidence Act 2008 s140(2).

PRIVATE INTERNATIONAL LAW - Choice of law - Deceased an Australian citizen domiciled in China - Will made in China - Will disposed of part of deceased's personal estate - No real estate - Whether validity of will governed by Australian law or Chinese law - Whether intestacy provisions of Australian law or Chinese law apply - Whether Victoria appropriate forum.

EVIDENCE - Proof of foreign law - Whether expert evidence necessary - Evidence Act 2008 s174.

PRACTICE AND PROCEDURE - Partial intestacy - Assets in Victoria and China - Effect of order of Supreme Court of Victoria granting letters of administration in respect of a will that disposed of only part of deceased's personal estate in Victoria.

In the matter of the Will and Estate of Tang, Ming Zheng (also known as Tang Ming Zheng and James Tang), deceased. Zhang, Bi Xia (also known as Zhang Bi Xia)

Kyrou and McLeish JJA

[\[2017\] VSCA 171](#)

30/06/2017

Commercial Court

ARBITRATION - PRACTICE AND PROCEDURE - Subpoena for examination of a person not party to the arbitration agreement - Whether reasonable grounds for the issue of the subpoena are required - Role of the Court in assisting arbitral tribunals - *Delphi Petroleum Inc v Derin Shipping & Trading Ltd* (1993) 73 FTR 241 - *ASADA v 34 Players and One Support Person* [2014] VSC 635 - Commercial Arbitration Act 2011 s27, s27A.

Aurecon Australasia P/L (ACN 005 139 873) v B.M.D. Constructions P/L (ACN 010 126 100)
Croft J

[\[2017\] VSC 382](#)

07/06/2017

BARRISTER - Claim for fees - Lien - Fruits of litigation.

PRACTICE AND PROCEDURE - Interlocutory application - Declaration of lien - Freezing order.

INJUNCTION - Freezing order over a specified fund.

Howells, Stephen v Talacko, Jan (Personally, and also as executor of the estate of Helena Marie Talacko)

Judd J

[\[2017\] VSC 353](#)

27/06/2017

CONTRACT - Estate agent - Written sale authorities - Exclusive authority - General authority - Compliance with statutory requirements - Claim for commission - Whether property "sold" - Terms of exclusive authority - Errors in authority - Required notification not provided - Estate Agents Act 1980 (Vic) (as at 2014), s47A, s48, s49A, s50.

Hamilton Finley P/L (ACN 162 350 450) v Aojia Investment P/L (ACN 145 492 468)

Elliott J

[\[2017\] VSC 319](#)

05/06/2017

CORPORATIONS - Managed Investment Scheme - Deed of Settlement - Sale of assets - Approval required under s477(2B) of the Corporations Act 2001 (Cth) - Deed of Settlement made subject to approval by court.

Primary Securities Ltd v Willmott Forests Ltd (Receivers & Managers Appointed) (In Liquidation) & Ors

Judd J

[\[2017\] VSC 375](#)

27/06/2017

CONTRACT - Unilateral mistake - Equitable right to rescission where other party exploits a 'serious mistake' - Whether Bank was aware of customer's mistaken understanding of terms of fresh loan - Held: Bank was not aware of a 'serious mistake' and did not deliberately set out to ensure that customer did not become aware of this mistake - Taylor v Johnson (1983) 151 CLR 422 considered and applied.

TRADE PRACTICES - Misleading or deceptive conduct - Representation alleged to have been made to a party about the terms of an executory contract - Representation must be made with sufficient precision - Conduct to be assessed in the light of all relevant facts and circumstances - Whether Bank made representations about a loan which differed from the terms of that loan - Held: no representation was made giving rise to misleading or deceptive conduct - Australian Securities and Investments Commission Act 2001 (Cth) s12DA(1) - Butcher v Lachlan Elder Realty Pty Ltd (2004) 218 CLR 592 considered and applied.

TRADE PRACTICES - Statutory unconscionability - Whether statutory unconscionability requires 'moral obloquy' as distinct from mere unfairness or unreasonableness - Whether there was a 'moral taint' to Bank's conduct in not explaining terms of fresh loan to customer with sufficient clarity - Held: (1) moral obloquy required; (2) Bank's conduct not unconscionable - Australian Securities and Investments Commission Act 2001 (Cth) s12CB(1) - Violet Home Loans Pty Ltd v Schmidt (2013) 44 VR 202; Director of Consumer Affairs (Vic) v Scully (No 3) [2012] VSC 444; [2013] VSCA 292 considered and applied.

EQUITY - Vitiating factors - General law unconscionability - Whether customer with mistaken understanding of terms of fresh loan was under a 'special disadvantage' - Requires 'close consideration of the facts' - Equitable relief requires both (1) a disabling condition and (2) 'unconscientious taking advantage' by the other party - Inequality in bargaining power an important but not decisive factor - Held: (1) there was no special disadvantage; (2) there was no 'victimisation or exploitation' - Australian Securities and Investments Commission Act 2001 (Cth) 12CA(1) - Blomley v Ryan (1956) 99 CLR 362; Commercial Bank of Australia Ltd v Amadio (1983) 151 CLR 447; Kakavas v Crown Melbourne Ltd (2013) 250 CLR 392 considered and applied.

CONSUMER PROTECTION - Whether a credit contract between Bank and customer was one to which Consumer Credit (Victoria) Code applied - Whether credit contract was 'carried over instrument' and subject to National Credit Code - Held: Consumer Credit (Victoria) Code applied and credit contract was carried over instrument - Consumer Credit (Victoria) Act 1995 (Vic); National Consumer Credit Protection Act 2009 (Cth).

CONSUMER PROTECTION - National Credit Code s76(1) - 'Unjust transaction' - Court to have regard to the public interest - Factors to have regard to under s76(2) - Customer did not seek legal advice before signing loan agreement - Whether Bank discouraged customer from seeking independent legal advice before signing loan agreement - Whether Bank exerted unfair pressure or used unfair tactics or otherwise engendered an unjust transaction - Held: neither of the loan agreements nor their provisions are the product of unfair conduct on the part of the Bank - National Consumer Credit Protection Act 2009 (Cth).

CONTRACT - Restitution - Change of position - Good faith and reliance on receipt of money - Whether restitution unjust because of misrepresentations as to loan amount - David Securities Pty Ltd v Commonwealth Bank of Australia (1992) 175 CLR 353; Dextra Bank & Trust Co Ltd v Bank of Jamaica [2002] 1 All ER (Comm) 193 considered.

EQUITY - Subrogation - Payment out of a prior security by third party - Unconscionability of denying proprietary interest where third party presumably intended paying-out to be for own benefit - Subrogation only available absent sufficient remedy at law or in equity - Bofinger v Kingsway Group Ltd (2009) 239 CLR 269; Aged Care Services Pty Ltd v Kanning Services Pty Ltd (2013) 86 NSWLR 174 considered.

Commonwealth Bank of Australia (ABN 48 123 123 124) v Stephens, Owen Bruce (By original proceeding) Stephens, Owen Bruce v Commonwealth Bank of Australia (ABN 48 123 123 124)

Sloss J

[\[2017\] VSC 385](#)

29/06/2017

CORPORATIONS - Application to set aside statutory demand served by solicitor on former client who had requested bill in itemised form under s187 of the Legal Profession Uniform Law - Demand set aside pursuant to s459 of Corporations Act (2001) (Cth) - *Jarena v Sholl Nicholson* (1996) 136 ALR 427, *Callite v Adams* [2001] NSWSC 52 applied - Order for costs sought by plaintiff on a special basis - Circumstances warranted order being made that defendant pay costs on an indemnity basis.

Ausurv Operations P/L (ACN 600 403 012) v Swanston Joe P/L (ACN 159 576 468) (Costs)

Gardiner AsJ

[\[2017\] VSC 389](#)

30/06/2017

CORPORATIONS - Corporations Act 2001 (Cth), s447A(1) - Application by administrators for further extensions of convening periods of companies in administration - Administrators conducting orderly sale of stock to obtain optimum prices for the benefit of creditors - Order made for further extensions.

Ex Parte. Secatore, Bruno Antony Robert (In his capacity as Joint and Several Administrator of Rhodes & Beckett P/L ACN 118 576 364 (Administrators Appointed) and Herringbone P/L (ACN 135 481 953) (Administrators Appointed); Targett, Luke Christopher (in his capacity as joint and several Administrator of Rhodes & Beckett P/L (ACN 118 576 364) (Administrators Appointed) and Herringbone P/L (ACN 135 481 953) (Administrators Appointed); Juratowitch, Daniel Peter (in his capacity as joint and several Administrator of Rhodes & Beckett P/L (ACN 118 576 364) (Administrators Appointed) and Herringbone P/L (ACN 135 481 953) (Administrators Appointed)

Gardiner AsJ

[\[2017\] VSC 388](#)

30/06/2017

CORPORATIONS - Voluntary administration - Application by administrators of a group of companies for extensions of convening periods of second meetings of creditors required by s439A(6) of the Corporations Act 2001 (Cth) - Order made for extensions of convening periods and other ancillary orders.

In the matter of Acquire Learning P/L ACN 168 523 279 (Administrators Appointed) Acquire Learning & Careers P/L ACN 159 509 323 (Administrators Appointed) And Acquire Retail P/L ACN 167 927 693 (Administrators Appointed). Wight, Barry; Kaso, Sam and Bruno Secatore in their capacities as Joint and Several Administrators of Acquire Learning P/L ACN 168 523 279 (Administrators Appointed) and Ors (according to the attached schedule)

Gardiner AsJ

[\[2017\] VSC 376](#)

28/06/2017

INSOLVENCY - Corporations Act 2001 (Cth) - Voluntary administration - Application for extensions of time for convening periods of second creditors' meetings of group of companies under administration - Corporations Act 2001 (Cth), s439A(6) - Complex administrations requiring lengthy investigations to enable compilation of informative reports required by s439(4) of the Corporations Act 2001 (Cth) - Order for extensions of four months justified.

In the matter of Victoria Station Corporation P/L (ACN 104 082 797) (administrators appointed) & Ors (according to the attached schedule) Carrafa, Michael & Ors (according to the attached schedule)

Gardiner AsJ

[\[2017\] VSC 371](#)

23/06/2017

PRACTICE AND PROCEDURE - Costs against a bankrupt - 'Provable debt' - Whether an application for costs is an application in a legal proceeding in respect of a provable debt or constitutes a fresh step in such a proceeding - Whether a Counterclaim is a separate legal proceeding - Indemnity costs orders - *Foots v Southern Cross Mine Management Pty Ltd* [2007] 234 CLR 52 - Bankruptcy Act 1966, s58, s60 and s82 - Civil Procedure Act 2010, s29 and s30 - Supreme Court (General Civil Procedure) Rules 2015, Rules 25.02(6) and 63.28.

Panorama Investments P/L (ACN 148 905 864) v Summit Tower P/L & Ors (see attached Schedule of Parties)

Digby J

[\[2017\] VSC 390](#)

29/06/2017

Common Law Division

APPEAL - Leave to appeal from Victorian Civil and Administrative Tribunal - Statutory requirement to apply for leave no later than 28 days after Tribunal's order - Deliberate decision not to seek leave to appeal - Change of thinking - Application filed 877 days after expiration of limitation period - Court's statutory discretion to extend time - Absence of any explanation to excuse inordinate delay - Application refused - Victorian Civil and Administrative Tribunal Act 1998 s148(2), (5).

MEDICAL PRACTITIONERS AND SERVICES - Workplace compensation litigation - Plaintiff's attendance for medico legal report by psychiatrist - Diagnosis of a recognised mental disorder - Person's statutory right of access to 'health information' held by health service provider - Request for information to discover unstated matters taken into account in making diagnosis - Apparent object of testing or questioning the diagnosis - Impermissible statutory request - Health Records Act 2001 s25, s28, s29, s33.

In the matter of an application for leave to appeal under s148 of the Victorian Civil and Administrative Tribunal Act 1998. Between: Kitson, Keith v Dennerstein, Lorraine

Mukhtar AsJ

[\[2017\] VSC 381](#)

29/06/2017

COSTS - Interlocutory costs - Pleading amendment - Costs thrown away and costs of directions hearing - Whether court should otherwise order under r63.17 - Whether immediate taxation should be directed - Civil Procedure Act 2010 (Vic), s8(1), s9(1), Supreme Court (General Civil Procedure) Rules 2015 (Vic), r63.17, r63.20.1.

Duffy, Andrew Peter & Anor v Marr, Graeme David & Anor

John Dixon J

[\[2017\] VSC 384](#)

29/06/2017

COSTS - Where the plaintiff seeks costs on an indemnity basis from the defendants - Where the first defendant seeks no adverse costs orders - Where the second defendant seeks costs on an indemnity basis from the plaintiff - No point of principle.

In the matter of an application pursuant to section 116A of the Transfer of Land Act 1958. Lutar, Helena (as executor of the estate of Lina Chojnacki) v Carley, Antony John and Carley, Lucy Cathleen

McMillan J

[\[2017\] VSC 366](#)

23/06/2017

DEFAMATION - Damages - Trial by jury - Publications stating barrister negligently stated facts to Racing Stewards Tribunal - Defence of justification not established - Other defences withdrawn during trial - Damages - Serious Imputation - Mass media distribution - Reputation not put in issue - Mitigating factors - Aggravating factors - Defamation Act 2005 (Vic), s22, s34, s35.

Sheales, Damian v The Age Company P/L & Ors

John Dixon J

[\[2017\] VSC 380](#)

29/06/2017

ESTATES - Where deceased died in 1985 - Where administrator of estate died in 2008 without finalising estate - Where defendant has de facto control of the remaining asset of the estate - Where defendant refused to distribute estate property to next of kin on basis of alleged family arrangement during lifetime of deceased's children - Where no written document recording alleged family arrangement exists - Where plaintiff next of kin by inheritance seeks distribution of estate property.

In the matter of the intestate estate of Henry, Edna Elsie, deceased and In the matter of sections 48 and 51(2)(a) of the Trustee Act 1958. Henry, Mark and Marsh, Rayner (as one of the executors of the Will of Joseph John Henry, deceased) v Henry, Brian (as representing himself and all the other next of kin of Edna Elsie Henry)

McMillan J

[\[2017\] VSC 378](#)

22/06/2017

FAMILY PROVISION - Application by stepchild - Father of plaintiff married to the testatrix - Father died before the testatrix - summary judgment sought for the defendant on the basis that plaintiff not a 'stepchild' as at the date of the testatrix's death - Summary judgment refused - Arguable that Queensland and Tasmanian cases inapplicable or wrongly decided - Administration and Probate Act 1958, s90 - Re Burt [1988] 1 Qd R 23 distinguished - Re John [2000] 2 Qd R 322 not followed.

In the matter of Part IV of the Administration and Probate Act 1958. And in the matter of the Will and Estate of Trembath, Olga Serjogin (also known as Olga Serjogin) (in the Will called Olga S Trembath). Trembath, Scott Bennett v Trembath, Dimitri George (in the Will called Dimitri G Trembath) (as the Executor of the Will of Olga Serjogin Trembath, deceased)

Lansdowne AsJ

[\[2017\] VSC 369](#)

23/06/2017

PROPERTY LAW - Nature of freehold interest in land - Power of registered proprietor to control entry onto land - Extent of 'land' - Interference with right of possession by incursion into airspace over land - Bernstein v Skyviews and General Ltd [1978] 1 QB 479 considered.

TORT - Trespass to land - Trespass to airspace - Extent of right to possession of airspace over land - Residential property - Development of neighbouring land - Cranes - Oversailing - Weathervaning - Anchor Brewhouse Developments Ltd v Berkley House (Docklands Developments) Ltd [1987] 2 EGLR 173; LJP Investments Pty Ltd v Howard Chia Investments Pty Ltd (1989) 24 NSWLR 490; Graham v K D Morris & Sons Pty Ltd [1974] Qd R 1 applied.

REMEDIES - Injunction - Relevant discretionary considerations for refusing grant of injunction - Adequacy of damages - Reckless disregard for plaintiff's rights - Shelfer v City of London Electric Lighting Co [1895] 1 Ch 287 considered.

Janney, Haydn Christopher and Foti, Carol Suzanne v Steller Works P/L (ACN 611 246 032)

Riordan J

[\[2017\] VSC 363](#)

09/06/2017

PRACTICE AND PROCEDURE - Pleadings - Application to strike out pleadings pursuant to the Supreme Court (General Civil Procedure) Rules 2015 (Vic), r23.02 - Legal Profession Uniform Law Application Act 2014 (Vic), Schedule 1, Legal Profession Uniform Law, Chapter 6, s366 - Whether section renders pleading of plaintiffs' claim untenable - Board of Fire Commissioners of NSW v Ardouini, (1961) 109 CLR 105; Australian National Airlines Commission v Newman, (1987) 162 CLR 466; Suatu Holdings Pty Ltd v Australian Postal Corporation, (1989) 86 ALR 532; and Puntoriero v Water Administration Ministerial Corporation, (1999) 199 CLR 575 followed.

Rowson, Mark; Nelson, Darroll v Alpass, Alan

Derham AsJ

[\[2017\] VSC 401](#)

07/07/2017

PROPERTY - Restrictive covenant - Application to modify - Property Law Act 1958 (Vic) s84(1)(c) - Modification sought to increase number of dwelling houses permitted on land - Burden on applicant to show that those with benefit of covenant will not be substantially injured - Oostemeyer v Powell [2016] VSC 491, applied - Failure to provide specific plans - Absence of objectors - Burden of proof not discharged - Application refused.

Scerri, Katherine; Magro, Tessie; Magro, Rita and Borg, Michelina (as legal personal representatives of Giovanna Scicluna, deceased)

Ierodiaconou AsJ

[\[2017\] VSC 368](#)

21/06/2017

TORTS - Nuisance - Private - Spray drift damage to neighbouring vineyard because of herbicide spraying - Unreasonable and substantial interference with use and enjoyment of land.

TORTS - Negligence - Pure economic loss arising from herbicide spray drift - Reasonable foreseeability - Scope of duty of care - Risk of harm significant - Causation - Breach established.

DAMAGES - Quantum - Whether cost of total replacement of vineyard and consequential losses necessary and reasonable - No claim for diminution in value of plaintiff's interest in land - Costs of remediation - Costs of rehabilitation and mitigation - Need for replacement of trellis and irrigation infrastructure - Proper replanting timeline - Hypothetical yields and prices in counterfactual scenario - Past and future income losses - Discount rate.

Riverman Orchards P/L (ACN 087 671 118) (As Trustee for the A&C Caccaviello Family Trust) v Hayden, Rodney James

John Dixon J

[\[2017\] VSC 379](#)

28/06/2017

Criminal Division

CRIMINAL LAW - Murder - Sentence - Plea of guilty - Pre-mediated killing - Significant planning - Acts causing death out of proportion to motive - Mixed anxiety and depression - Remorse - Reasonably good prospects for rehabilitation - Sentence of 18 years with minimum of 15 years - 6 AAA Sentencing Act 1991 (Vic).

The Queen v Snell, Lanie

Lasry J

[\[2017\] VSC 394](#)

30/06/2017

CRIMINAL LAW - Sentence - Attempt to pervert the course of justice - Guilty plea at earliest reasonable opportunity - Less serious example of offending - Offender unaware that principal offence involved the death of a person - Good prospects of rehabilitation - Offender placed on Community Corrections Order - One special condition of 150 hours' unpaid community service.

The Queen v Panagiotidis, Bill

Beale J

[\[2017\] VSC 395](#)

26/06/2017

CRIMINAL LAW - Sentence - Manslaughter - Arson - Guilty plea - Serious example of a serious offence - Prior criminal history - Reasonable prospects of rehabilitation - General and specific deterrence - Sentenced to 10 years and six months' imprisonment with minimum of seven years and three months - 324 days pre-sentence detention.

The Queen v Balla, Nuri

T Forrest J

[\[2017\] VSC 392](#)

30/06/2017

CRIMINAL LAW - Sentence - Manslaughter - Single stab wound to the chest - Victim unarmed - Victim trying to break up fight between two groups of youths at party - Offender 17 at time of offence - Prior convictions - Early plea - Remorse - Hardship of time spent on remand in Grevillea Unit at Barwon Prison - Some prospects of rehabilitation - Sentenced to 8 years' imprisonment with a non-parole period of 4 years 9 months.

The Director of Public Prosecutions [DPP] v Mitchell, Tom (a Pseudonym)

Hollingworth J

[\[2017\] VSC 315](#)

28/06/2017

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.

APPLICATION TO SET ASIDE DEFAULT JUDGMENT - Whether default judgment irregularly entered - Service by post - Express post system - Delivered in the ordinary course of post - Snapping on judgment - Requirements for valid payment claim - Whether the construction work has been sufficiently identified - Whether inclusion of excluded amounts - Whether issue of final claim able to be served.

Geotech Pty Ltd v Premier Developments Pty Ltd

[\[2017\] VCC 874](#)

Judicial Registrar Burchell

30/06/2017

CONTRACT - Where Council offered to fund the defendant's costs of being represented in the third party proceeding against the Council - Whether contract was entered into - Whether intention to into legal relations - Whether there was consideration - Meaning of "third party proceeding in context" - If contract exists, whether it has been fully executed.

PRACTICE AND PROCEDURE - Where application to amend statement of claim to raise new causes of action at start of trial - Where application to amend earlier orders in relation to amendments to pleadings under R. 36.07 of the County Court Civil Procedure Rules 2008 (the 'slip rule').

PRACTICE AND PROCEDURE - Application for recusal of judge on basis of bias - Whether a reasonable perception of bias.

Janover v Muto & Anor

[\[2017\] VCC 811](#)

Judge Marks

22/06/2017

COSTS - Application for indemnity costs.

Victorian WorkCover Authority v Origin Energy Limited & Anor (Ruling)

[\[2017\] VCC 813](#)

Judge Morrish

26/06/2017

COSTS - Application for summary judgment.

Russell v Stag Tonkin & Co (Ruling No. 2)

[\[2017\] VCC 814](#)

Judge Saccardo

21/06/2017

PRACTICE AND PROCEDURE - Application to set aside default judgment.

Oakland York Pty Ltd v SG Precision Coatings Pty Ltd & Anor

[\[2017\] VCC 865](#)

Judge Woodward

28/06/2017

PRACTICE AND PROCEDURE - Defamation - Pre-trial proceedings - Change of venue - Balance of convenience - Public figure - Local newspaper article - Social media.

Mirabella v Price & Anor (Ruling)

[\[2017\] VCC 794](#)

Judicial Registrar Gurry

20/06/2017

PRACTICE AND PROCEDURE - Discovery of documents - Application by plaintiff seeking further and better discovery of documents from defendant.

Wickham v State of Victoria (Ruling)

[\[2017\] VCC 707](#)

Judicial Registrar Gurry

06/06/2017

PRACTICE AND PROCEDURE - Freezing order.

Wireline Wholesale v Jordan Infinity Group Pty Ltd

[\[2017\] VCC 846](#)

Judge Woodward

26/06/2017

TAKING OF ACCOUNTS - Real estate partnership - Winding up - Taking of accounts - Entitlement to commissions - Adjustment to partners' capital accounts.

MW Corp Pty Ltd & Anor v Sabata Lalita Nominees Pty Ltd

[\[2017\] VCC 832](#)

Judicial Registrar Burchell

28/06/2017

Magistrates' Court of Victoria Cases

CIVIL.

Selective Meat Traders v Purcell & Anor

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

Magistrate MacCallum

16/06/2017

Articles

Listed below are articles indexed by the Library from journals added to our collection over the last two weeks.

Members of the Judiciary and Court staff please contact your Court Librarian if you require copies. Members of the Legal Profession and the public can view the journals in the Supreme Court Library.

Arbitration

Trans-Pacific Partnership - Investor state dispute settlement mechanism - Sovereignty - Member states - Corporate interests - Public interest - Restriction - Government regulation - Affordability - USA - Australia - NZ - Canada - Japan - Singapore - Brunei - Chile - Malaysia - Mexico - Peru - Vietnam

Abbas, M. and Riaz, S. Investor-state dispute settlement mechanism: the Trojan horse of the Trans-Pacific partnership and its practical applications. (2017) 28(2) ADRJ 81-88.

Conflict resolution - Culture - Etic approach - Emic approach - Pre-mediation instrument - Communications - Face concerns - Power distance - Australia

Anderson, D. and Knight, D. Managing the inter-cultural dimensions of a mediation effectively - a proposed pre-mediation intake instrument. (2017) 28(2) ADRJ 89-105.

Family dispute resolution - Confidentiality - Admissibility - Limitations - Australia

Judge Harman. Mediation confidentiality: origins, application and exceptions and practical implications. (2017) 28(2) ADRJ 106-120.

Court connected - Alternative Dispute resolution - Judiciary - Constitutional function - Imbalance - competing - Public interest - Australia

Windeyer, M. Settlement in court-connected ADR and the constitutional function of the judiciary: an imbalance between two competing public interests. (2017) 28(2) ADRJ 135-142.

Constitutional Law

Proportionality - Dignity - Human rights - Equality before the law - Australia
Justice Bell. Equality, proportionality and dignity: the guiding principles for a just legal system. (2017) 42(1) Alt LJ 4-8.

Free speech - Freedom of expression - Social media - Duties - Responsibilities - Self-regulation - Criminal law - Data law - Defamation law - Private information - Traditional media - UK

Spearman, R. Free speech and e-media. [2017] (June) Counsel 26-28.

Corporations Law

Market manipulations prohibitions - Judicial analysis - Standard of proof - Questionable trading - Balance of probabilities - Securities Market Act 1988 (NZ), s11B-11C - NZ

Kavanagh, L. et al. Financial Markets Authority v Warminger [2017] NZHC 327. [2017] (June) NZLJ 184-189.

Criminal Law & Procedure

Criminal law - Common law principles - Injurious performance art - Dangerous exhibitions - Australia

Bennett, T. Tortured genius: The legality of injurious performance art. (2017) 42(1) Alt LJ 24-28.

Sentencing considerations - "Manifestly unjust" test - Life imprisonment - Aggravated murder - Second strike murder - Third strike murder - R v Harrison - R v Turner - R v Kingi - Sentencing Act 2002 (NZ), s102, s104 - NZ
Conder, T. et al. Manifestly unjust. [2017] (June) NZLJ 177-181.

Employment Law

Employment protections - Self employed contractor - Worker status - Service delivery - Online platforms - Pimlico Plumbers v Smith - Taylor Review - UK
Milsom, C. Uber'ising the workforce: drivers couriers and freelance plumbers; have the leaks in employment protection being repaired. [2017] (June) Counsel 30-32.

Human Rights

Courts - Primacy - Interpretative obligations - Avoid - Consideration - Proportionality - R v Hansen - Mangawhai Ratepayers Association and Residents Association Inc. v Kaipara District Council - R v Harrison - Electoral - NZ
Bullock, D. The wane of s 5 of the New Zealand Bill of Rights Act 1990. [2017] (June) NZLJ 164-166, 181.

Constitutional law - Legality principle - Fundamental rights - Common law - Bill of rights - Andrew Inglis Clark -USA - Australia
Meagher, D. The judicial evolution (or counter-revolution) of fundamental rights protection in Australia. (2017) 42(1) Alt LJ 9-13.

Corporate responsibility - Business - Complex web of production - Supply chain - Regulation - Australia
Nolan, J. Business and human rights: the challenge of putting principles into practice and regulating global supply chains - Australia. (2017) 42(1) Alt LJ 42-46.

Torts

Negligence - Duty of care - Police officers - Immunity - Family violence - Violence against women - Australia
Vallins, N. Police responses to family violence: recasting a duty of care. (2017) 42(1) Alt LJ 29-34.

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