

THE LAW LIBRARY OF VICTORIA

Library
Bulletin
8 June 2018

Library News

Rare Book Week 2018: Legal Luminaries and their books
Friday 6 July, 1.00pm-2.00pm

As part of Melbourne Rare Book Week 2018, the Law Library of Victoria brings together a discussion panel of eminent members of the legal community to share their passion for books. Held annually in the iconic Supreme Court Library, this session is intended to celebrate the richness of the written word and the beauty of the book. After presentations from panellists, audience members will be invited to offer questions to the panel to stimulate further discussion.

All are welcome and entry is free. Bookings are required, visit Eventbrite at <https://www.eventbrite.com.au/e/rare-book-week-2018-legal-luminaries-and-their-books-tickets-44616857221?aff=es2> for more details.

Holdings List updated

A complete list of the Supreme Court Library's [Holdings List of journals, law reports and legislation](#) (PDF, 3MB) has been updated and is available to library users.

The Holdings List is a guide to the shelf location of titles and also notes if there is an online version available to use in the library. Please update any versions you have as they are now out of date.

SUBSCRIBE TO THE LIBRARY BULLETIN

If you would like to receive the Library Bulletin by email, please contact us at lv@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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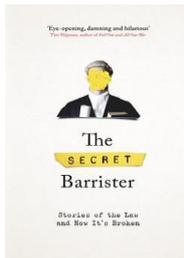
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New Books

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/.

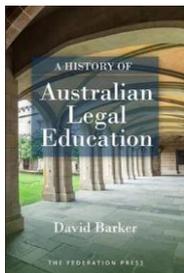
Judicial officers and court staff can borrow any of the books listed. Contact your jurisdictional librarian to request an item.

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



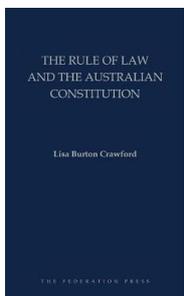
The secret barrister: stories of the law and how it's broken
London, Macmillan Press, 2018
Call number: 364.941 SEC (County Court Library)

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



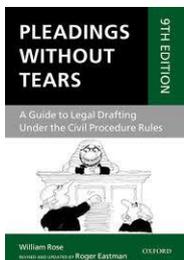
Barker, David, *A history of Australian legal education*
Annandale, The Federation Press, 2017
Call number: 340.0711 BAR (Supreme Court Library)

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



Crawford, Lisa Burton, *The rule of law and the Australian constitution*
Annandale, The Federation Press, 2017
Call number: 342.94 CRA (Supreme Court Library)

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



Rose, William, *Pleadings without tears: a guide to legal drafting under the civil procedure rules*
9th ed., Oxford, Oxford University Press, 2017
Call number: 347.41072 ROS.9

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

Legislation

Victorian Bills

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

- [Justice Legislation Amendment \(Family Violence Protection and Other Matters\) Bill 2018](#)
- [Public Administration Amendment \(Public Sector Redundancies and Other Matters\) Bill 2018](#)
- [Treasury and Finance Legislation Amendment Bill 2018](#)

Victorian Assents

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

- [Justice Legislation Amendment \(Access to Justice\) Act 2018 No. 15/2018](#)
- [Offshore Petroleum and Greenhouse Gas Storage Amendment Act 2018 No. 16/2018](#)
- [Planning and Environment Amendment \(Distinctive Areas and Landscapes\) Act 2018 No. 17/2018](#)
- [Legal Identity of Defendants \(Organisational Child Abuse\) Act 2018 No. 18/2018](#)
- [Parks Victoria Act 2018 No. 19/2018](#)

Proclamations

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

No Victorian Acts have come into operation by forced commencement since the last Library Bulletin.



EXHIBITIONS IN THE LIBRARY

Argus from 100 years ago

The Supreme Court Library has the Argus newspaper from 1918 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 #argus1918

High Court Cases

(No High Court judgments were delivered in the last fortnight)

Victorian Supreme Court Cases

Court of Appeal

CONTRACT - Sale of land - Agreement to purchase - Whether intended to be immediately binding - Whether specifically enforceable - Application for leave to appeal refused - *Masters v Cameron* (1954) 91 CLR 353 applied.

PRACTICE AND PROCEDURE - Appeal - Leave to appeal - Application by non-party to proceeding - Agreement for sale of land between vendor and first purchaser - Trial judge ordered specific performance - Applicant second purchaser of same land - Applicant made submissions at trial - Interests affected by order made - Discretionary considerations - Applicant's agreement included provision for rescission if prior agreement binding - Applicant's solicitors assisted vendor's attempt to thwart prior agreement - Leave to appeal refused - Supreme Court Act 1986 s 14C - *Kennedy v Shire of Campaspe* [2015] VSCA 47 applied.

Molonglo Group (Australia) P/L (ACN 109 342 547) v Cahill, Peter Joseph and Registrar of Titles. Molonglo Group (Australia) P/L (ACN 109 342 547) v Cahill, Peter Joseph and Kiversun P/L (ACN 006 035 570)

Maxwell ACJ, Whelan and Kyrou JJA

[\[2018\] VSCA 147](#)

07/06/2018

CONTRACT - Partnership - Undocumented partnership agreement between brothers to conduct cattle farm - Respondent worked full-time on farm while applicant worked in finance industry - Respondent contributed all his capital to partnership - Whether partnership agreement included terms for payment to respondent of remuneration and interest on capital - Principles for inferring and implying contractual terms - Quantum of remuneration - Whether interest compound or simple - Appeal dismissed - Partnership Act 1958 ss 28, 48 - *Grocon Constructors (Victoria) Pty Ltd v APN DF2 Project 2 Pty Ltd* [2015] VSCA 190 applied.

STATUTE OF LIMITATIONS - Respondent claimed remuneration from commencement of partnership - Parties agreed to taking of accounts and making of adjustments to entitlements from 1991 - Applicant subsequently pleaded limitation defence for period preceding 6 years before respondent's claim for remuneration - Whether limitation defence waived - Appeal dismissed - Limitation of Actions Act 1958 s 5(1).

Uren, Bruce Norman v Uren, Noel Murray

Santamaria, Kyrou and Ashley JJA

[\[2018\] VSCA 141](#)

01/06/2018

COSTS - Costs of appeal to Court of Appeal - Limited success on appeal - Nine grounds of appeal - Applicant successful on threshold ground establishing Court's jurisdiction - Applicant successful on single substantive ground - Successful ground raised for first time in oral argument - Successful ground did not alter penalty imposed on applicant. COSTS - Costs of appeal to Trial Division - Applicant unsuccessful on 20 grounds of appeal and additional grounds raised for first time in oral argument - Respondent awarded costs - No basis to disturb costs order.

COSTS - Indemnity certificate under Appeal Costs Act 1998, s 4 - Applicant ordered to pay 85 per cent of respondent's costs of appeal - Whether applicant can apply for certificate to be granted to respondent in respect of 'notional' costs of applicant's partial success on appeal - Only respondent can apply for certificate - Appeal Costs Act 1998, ss 4, 6.

McSteen, Christopher v Architects Registration Board of Victoria (No 2)

Maxwell ACJ, Priest JA, McLeish JA

[\[2018\] VSCA 136](#)

25 May 2018

CRIMINAL LAW - Appeal - Conviction - Aggravated burglary - Circumstantial case - Whether verdict unsafe and unsatisfactory - Whether acquittals of co-accused inconsistent with applicant's conviction - Rational explanation for acquittals of co-accused - Leave refused - Criminal Procedure Act 2009 s 276(1)(a) - R v Baden-Clay (2016) 258 CLR 308 applied.

CRIMINAL LAW - Appeal - Sentence - Aggravated burglary, reckless conduct endangering life, intentionally causing injury and breach of community correction order - Applicant sentenced to 11 years' imprisonment with non-parole period of 7 years 6 months - Totality - Whether orders for cumulation disproportionate - Grave example of home invasion aggravated burglary - Firing of rifle in vicinity of occupants - Leave refused.

Sovolos, Dimi v The Queen

Maxwell ACJ, Priest and Kyrou JJA

[\[2018\] VSCA 149](#)

07/06/2018

CRIMINAL LAW - Appeal - Conviction - Contempt of Chief Examiner under s 49(1) of the Major Crime (Investigative Powers) Act 2004 on the basis of a 'refusal to be sworn' - Relationship between s 36 and s 49 of the Major Crime (Investigative Powers) Act 2004 - Whether Chief Examiner required to attempt to administer oath to witness - Whether Chief Examiner required to identify terms of oath and affirmation - Leave to appeal refused - Major Crimes (Investigative Powers) Act 2004 s 36, s 49 - Fehon v Domican (2002) 127 A Crim R 592 distinguished.

CRIMINAL LAW - Appeal - Sentence - Contempt of the Chief Examiner - Sentenced to 8 months' imprisonment - Whether sentence manifestly excessive - Purpose of Major Crime (Investigative Powers) Act 2004 is to enable evidence to be obtained about serious organised crime offences - Where applicant adhered to 'code of silence' and had relevant prior conviction - Where applicant subject to restrictive management regime in custody - Leave to appeal refused.

Murray, Michael v The Chief Examiner

Whelan, Beach and Niall JJA

[\[2018\] VSCA 144](#)

04/06/2018

CRIMINAL LAW - Appeal - Conviction - Indecent assault, sexual penetration of child under 16 - Two complainants - Whether verdicts unsafe and unsatisfactory - Unfavourable prosecution witness - Leave to prosecutor to cross-examine after defence counsel's cross-examination - Aggregate of errors - Whether substantial miscarriage of justice - Duties of prosecutor - Leave to appeal granted - Appeal allowed - Evidence Act 2008 s 38, Criminal Procedure Act 2009 s 276.

Meyer, Conor (a Pseudonym) v The Queen

Maxwell ACJ, Priest and Kaye JJA

[\[2018\] VSCA 140](#)

31/05/2018

CRIMINAL LAW - Appeal - Conviction - Plea of guilty to charge of aggravated burglary on agreed basis - Agreed aggravation was recklessness as to presence of person in building - Indictment erroneously referred to aggravation by possession of offensive weapon - Error not apprehended by defence counsel or prosecutor - Crown concession that appeal should be allowed - Appeal allowed - Conviction set aside - Conviction for agreed offence substituted - Criminal Procedure Act 2009 s 277(1)(c) applied.

CRIMINAL LAW - Appeal - Sentence - Total effective sentence of 2 years for charge of aggravated burglary, 2 charges of theft, charge of reckless conduct endangering serious injury and summary charge of driving while disqualified - Whether sentence of 18 months for aggravated burglary charge excessive - Whether lesser sentence should be imposed for substituted aggravated burglary charge - Applicant sentenced to same sentence as that imposed by sentencing judge for original aggravated burglary charge.

Kargar, Iman v The Queen

Whelan, Priest and Kyrou JJA

[\[2018\] VSCA 148](#)

07/06/2018

CRIMINAL LAW - Appeal - Conviction - Rape (3 charges) - Complicity - Relevance of applicant's intoxication to complicity charges - Discussions between trial judge and counsel about jury directions - Jury directions - No direction sought about relevance of applicant's intoxication to complicity charges - No direction given about relevance of applicant's intoxication to complicity charges - Whether substantial and compelling reasons for giving direction - No substantial or compelling reason for giving direction - Rational forensic decision by trial counsel not to seek direction - Crimes Act 1958, ss 34C, 37G, 37H(1)(a), 38, 323(1)(a), 324 and 324C - Jury Directions Act 2015, ss 11, 12, 15, 16, and 47(3)(b)(i).

CRIMINAL LAW - Appeal - Conviction - Rape (3 charges) - Complicity - Consent - Whether complainant consented - Whether applicant reasonably believed complainant consented - Complainant's evidence of saying 'No' - Whether any alleged deficiencies in complainant's evidence, coupled with statements made by complainant, coupled with complainant's intoxication and applicant's good character required jury to acquit - Whether jury must have entertained reasonable doubt - Application for leave to appeal granted - Appeal dismissed.

Keogh, Ryan James v The Queen

Beach and McLeish JJA and Emerton AJA

[\[2018\] VSCA 145](#)

06/06/2018

CRIMINAL LAW - Appeal - Sentence - Dangerous driving causing death and serious injury - Whether applicant's intellectual disability mitigated moral culpability - Whether disability analogous to youth in assessing moral culpability for driving offences - Whether evidence addressed effect of applicant's disability on offending - *Muldrock v The Queen* (2011) 244 CLR 120; *DPP v Borg* (2016) 258 A Crim R 172 distinguished; *DPP v Whittaker*; *DPP v Neethling* considered.

CRIMINAL LAW - Appeal - Sentence - Whether reception of new evidence necessary to avoid miscarriage of justice - Whether new evidence showed applicant's disability affected offending - *Betts v The Queen* (2016) 258 CLR 420 applied.

CRIMINAL LAW - Appeal - Sentence - Evidence of effect of applicant's disability on imprisonment - Evidence of deterioration of mental health in prison - Evidence of placement in protection in prison - Whether evidence demonstrated true significance of facts in existence at time of sentence - Whether evidence represents matters taken into account at sentencing - *R v Wooden* (2006) 45 MVR 227; *R v Rollo* [2006] VSCA 154; *R v Rostom* [1996] 2 VR 97 distinguished; *R v Nguyen* [2006] VSCA 184; *R v McLachlan* (2004) 8 VR 403 applied.

Nicholson, Bradley v The Queen

Whelan and McLeish JJA

[\[2018\] VSCA 146](#)

06/06/2018

CRIMINAL LAW - Application for leave to appeal - Conviction - Prosecutor's closing address - Statements 'not supported by evidence', 'inaccurate' or 'inflammatory' - Use of rhetorical questions - Discrediting of Crown witness without proper foundation - Whether substantial miscarriage of justice - Complaints did not result in substantial miscarriage of justice, separately or in combination - Leave to appeal allowed - Appeal dismissed - *Bugeja v The Queen* (2010) 30 VR 493; *De Vries v The Queen* [2013] VSCA 210; *Basic v The Queen* (2015) 251 A Crim R 91; *Spence v The Queen* [2016] VSCA 113 considered.

Smith, Paul Frederick v The Queen

Whelan, Beach and McLeish JJA

[\[2018\] VSCA 139](#)

30/05/2018

CRIMINAL LAW - Application for leave to appeal against conviction - Theft - Aggravated burglary - Attempted armed robbery - Circumstantial evidence as to identity of intruder in two home invasions in same street on same night - Fingerprints - Whether verdicts unsafe and unsatisfactory - Whether reasonably open to the jury to be satisfied beyond reasonable doubt of the applicant's identity or whether jury obliged to come to a different conclusion - Application refused.

Madul, Peter v The Queen

Osborn, Niall and Ashley JJA

[\[2018\] VSCA 142](#)

01/06/2018

CRIMINAL LAW - Interlocutory appeal - Murder - DNA evidence - Whether crime scene examiner's opinion that knife had apparent blood staining is admissible - Whether probative value outweighed by risk of unfair prejudice - Applicant's DNA evidence found on implements which might have been used to kill the deceased - Whether expert evidence of direct DNA transference admissible - Whether probative value outweighed by risk of unfair prejudice - Appeal allowed in part - Evidence Act 2008 ss 55, 56 and 137.

Ramaros, Ashley (a Pseudonym) v The Queen

Priest, Kyrou and Ashley JJA

[\[2018\] VSCA 143](#)

Priest, Kyrou and Ashley JJA

04/06/2018

PLANNING AND ENVIRONMENT - Application for leave to appeal on questions of law from a decision of the Trial Division upon an appeal from the Victorian Civil and Administrative Tribunal - Application for planning permits to construct three broiler farms classified as 'Class B' by the permit applicant - Victorian Code for Broiler Farms 2009 ('Code') specified separation distances from sensitive uses - Classification depended on compliance with separation distances - Where sensitive uses constructed on neighbouring land following lodgement of permit applications for Class B broiler farms - Whether new sensitive uses were to be taken into account in determining broiler farm classification - Whether the Code required a departure from the usual practice that permit applications be determined on the basis of the facts in existence at the time of the permit decision - Proper construction of the Code - Planning and Environment Act 1987 ss 5, 60, 77, 84B, 85 - Victorian Civil and Administrative Tribunal Act 1998 ss 98, 127 - Leave to appeal granted in part and appeal allowed.

WORDS AND PHRASES - 'property'.

Forbes, Maurice; Forbes, Barry; Liston, Peter; Liston, Pauline and Smith, Peter v Vukadinovic, Michael; Mount Alexander Shire Council; Yarwood, Mark; Brasser, Mark; Brasser, Kim; Gaita, Raimond; Gaita, Yale; Addlem, Ian; Keats, Jason; Connelly, Brendon; Walker, Shelley; La Greca, Joe; La Greca, Sue; Hodgetts, Grant; Mccallum, Cathy; Liston, Toby; Liston, Sarah; Baker, Peter; Baker, Shane; Baker, Maree; Baker, Amber; Appleby, Louise; Wilson, Rob; Adlem, Jarod; Adlem, Kerry; Shellie, Ron; Shellie, Heather; Pickering, Roy; Pickering, Linda; Daniel, Lyndsay; Daniel, Abby; Millar, Alan; Brasser, Noel and Purcell, J

Tate and Niall JJA and Emerton AJA

[\[2018\] VSCA 138](#)

05/05/2018

Commercial Court

CIVIL PROCEDURE - Group proceedings - Application by a litigation funder that a group member who had entered into a funding agreement with the litigation funder, be restrained from appealing against an order by the Court, that a settlement of the group proceeding be approved under s 33V of the Supreme Court Act 1986 - The group member having objected to the approval of the settlement - Claim by the litigation funder, that under the terms of the funding agreement signed by the group member, the group member was contractually bound not to appeal - Held that application should be dismissed - Held that the litigation funder had waived the contractual right, if any, by agreeing to a court order that group members (whether or not they had signed a funding agreement) were entitled to object to, and be heard on the application for approval of the settlement - Further held, that it is implicit in a group member having the right to object and appear, upon the hearing by the plaintiff in a group proceeding for an order that the settlement be approved by the Court under s 33V of the Supreme Court Act 1986, that the objecting group member has such appeal rights that the law affords, in the event that the objection is unsuccessful, or for such other ground that the law recognises.

CIVIL PROCEDURE - Group proceedings - In considering an application for approval of a settlement of a group proceeding under s 33V of the Supreme Court Act 1986, whether or not group members object, is a relevant and significant factor, but by no means determinative - Re Banksia Securities Limited (recs and mgrs apptd) [2017] VSC 148 (31 March 2017) considered - Re Banksia Securities Ltd (recs and mgrs apptd) (in liq) (No 2) [2018] VSC 47 (16 February 2018) considered.

WAIVER - Principles of waiver addressed - Commonwealth v Verwayen (1990) 170 CLR 394 considered - Uren v Uren [2018] VSCA 41 considered.

ANSHUN ESTOPPEL - considered.

Australian Funding Partners Ltd (ACN 167 628 597) v Botsman, Wendy Diane

Robson J

[\[2018\] VSC 303](#)

07/06/2018

CONSUMER LAW - Alleged misleading or deceptive conduct - Whether defendant's advertisements breach Australian Consumer Law (sch 2 to the Competition and Consumer Act 2010 (Cth)) - False or misleading representations - Whether representations liable to mislead as to performance characteristics of services - held advertisement did not convey pleaded representations - Claim dismissed.

Telstra Corporation Ltd v Singtel Optus PIL (No 2)

Robson J

[\[2018\] VSC 280](#)

30/05/2018

CORPORATIONS - Civil penalty provisions - Corporations Act 2001 (Cth) ss 1317E - Declaration of contravention - No declaration sought by Plaintiffs - No formal election made by Plaintiffs - Compensation granted on equitable not statutory basis.

EQUITY - Availability of declaratory relief - No utility in repeating earlier findings of the Court as declarations - Earlier orders annexed to judgment - Declarations made in respect of certain other issues - Constructive trust declared over certain real property - Indemnity granted in respect of Plaintiffs' liability to repay loans secured against assets of trust - Purpose of indemnity to provide finality and assist incoming trustee - Whether interest payable on money received by trust - Interest already accounted for in disgorgement of profits - Sixth defendant liable to disgorge profits - Calculation of interest on compensation - Interest calculated at mercantile rate from payment date.

TRUSTS - Constructive trusts - Whether constructive trust remedial or institutional - Constructive trust institutional - Appointment of trustee considered.

Ying Mui P/L (ACN 009 992 449) & Ors v Hoh, Frank Kiang Ngan & Ors; Hoh, Frank Kiang Ngan & Ors v Hoh, Kiang Po (also known as George Hoh) & Ors (Relief)

Vickery J

[\[2018\] VSC 214](#)

04/05/2018

PRACTICE AND PROCEDURE - Appeal from Associate Justice - Subpoena to produce documents - Objection by party to inspection by other party - Legal professional privilege - Application of ss 117 to 119 of the Evidence Act 2008 (Vic) - Adequacy of reasons - Third party adviser - Common law principles - Operation of s 131A of the Evidence Act 2008 (Vic).

Alphington Developments P/L (ACN 164 529 864) v Amcor Ltd (ACN 000 017 347) (No 2)

Connock J

[\[2018\] VSC 293](#)

01/06/2018

PRACTICE AND PROCEDURE - Application for the Court to decline to exercise jurisdiction - Nature of the residual discretion of the Court under rule 7.04(1) of the Supreme Court Rules 2015 - Whether the Civil Procedure Act 2010 requires the Court to have regard to enforceability of the judgment in a jurisdiction in which the Defendant has assets - Whether judgment of this Court would be enforceable in England - *Regie National des Usines Renault SA v Zhang* (2002) 210 CLR 491 - *Agar v Hyde* (2000) 201 CLR 552 - *Lysaght Building Solutions Pty Ltd v Blanalko Pty Ltd* (2013) 42 VR 27 - *Netglory Pty Ltd v Caratti* [2013] WASC 364 - Administration of Justice Act 1920 (UK) - Foreign Judgments (Reciprocal Enforcement) Act 1933 (UK) ss 4, 6, 7 - Civil Jurisdiction and Judgments Act 1982 (UK) s 33 - Civil Procedure Act 2010 ss 7, 8 - Reciprocal Enforcement of Foreign Judgments (Australia) Order 1994 (UK) - Supreme Court (General Civil Procedure) Rules 2015 rr 7.02, 7.04, 8.08.

Bendigo and Adelaide Bank Ltd (ACN 068 049 178) v Quine, Peter Croxton

Croft J

[\[2018\] VSC 272](#)

01/06/2018

PRACTICE AND PROCEDURE - Security for costs - Whether jurisdiction enlivened - Whether reason to believe company will be unable to pay costs - Onus in establishing threshold jurisdictional question - Held that threshold jurisdiction not enlivened - Livingspring Pty Ltd v Kliger Partners (2008) 20 VR 377 - US Realty Investments LLC No.1 & Ors v Need [2013] VSC 590 - Corporations Act 2001 (Cth), s 1335 - Supreme Court (General Civil Procedure) Rules 2015 (Vic), r 62.02(1)(b).

Roth Morgan Kolomanski P/L (ACN 078 032 032) v Candlebrush Investments P/L (ACN 098 141 854)

Matthews JR

[\[2018\] VSC 288](#)

01/06/2018

Common Law Division

ADMINISTRATIVE LAW - Appeal - Victorian Civil and Administrative Tribunal - application for working with children assessment notice - Decision of VCAT to direct Secretary to issue assessment notice to 'category A applicant' - Finding that respondent a low risk to children - Whether Deputy President failed to consider whether 'giving the notice' would not pose 'an unjustifiable risk to the safety of children' - Whether Deputy President failed to consider the 'paramount consideration' of 'protection of children from sexual and physical harm' - Whether Deputy President erred by making typographical error - Whether Deputy President applied the Category C standard not Category A standard - Whether Deputy President conflated 'any type of child-related work' and 'reasonable person' tests - Whether Deputy President failed to consider 'all the circumstances' in assessing 'the public interest' - Appeal dismissed - Victorian Civil and Administrative Tribunal Act 1998 (Vic) s 148 - Working with Children Act 2005 (Vic), ss 1A and 26A.

Secretary to the Department of Justice and Regulation v V T N

Richards J

[\[2018\] VSC 296](#)

05/06/2018

ADMINISTRATIVE LAW - Judicial Review - Medical Panel - Jurisdictional Error - Failure to assess impairment pursuant to Wrongs Act 1958 pt VBA - Failure to assess aggravation of pre-existing injury as a potentially compensable injury - Failure of statutory duty - Decision quashed - Chua v Lowthian [2009] VSC 582 - Wrongs Act 1958 pt VBA, ss 28LL, 28LWE, 28LZG. ADMINISTRATIVE LAW - Judicial Review - Interpretation of AMA Guides - Applicable Principles - Classes of Hernia-related Impairment - Grammatical Construction - Contextual Approach - Relevant United States authority - Requirement of a palpable defect - Heinz Co Australia Ltd v Kotzman [2009] VSC 311 - Wrongs Act 1958 ss 28LB, 28LH.

Adams, Alan v Wadesley, Dr Jane; Feletar, Dr Marie; Usatoff, Associate Professor Val; Albury Wodonga Health and Schwalb, Dr Heinrich

Ierodiaconou AsJ

[\[2018\] VSC 304](#)

07/06/2018

ADMINISTRATIVE LAW - Opinion of Medical Panel - Judicial review - Jurisdictional error - Failure to take into account a relevant consideration - Prior low back condition - Consent orders sought by worker and employer quashing opinion - Court satisfied consent order should be made - Opinion quashed - Questions referred to new Panel - Workplace Injury Rehabilitation and Compensation Act 2013 (Vic) - *Kovalev v Minister for Immigration and Multicultural Affairs* (1999) 100 FCR 323 - *Irwin v Military Rehabilitation and Compensation Commission* (2009) 174 FCR 574 - *Ward v Corrimal-Balgownie Collieries* (1938) 61 CLR 120 - *Walsh v Department of Human Services* [2014] VSCA 244 (3 October 2014).

Murugesu, Visawanathan v Ruban P/L and Ernest, Associate Professor David and Medical Panel constituted by Holmes, A/Prof; Neill, Dr; Thevathasan, Dr; Homolka, Dr and Hardidge, Mr

Keogh J

[\[2018\] VSC 276](#)

29/05/2018

COSTS - Where plaintiff successful - Costs follow the event - Whether indemnity costs appropriate - No point of principle.

Wright, Steven William (in his capacity as executor of the estate of Dawn Lorraine Wright, deceased) v Ausfund Legal P/L (ACN 007 164 570) trading as Dellios West & Co

McMillan J

[\[2018\] VSC 279](#)

29/05/2018

Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 - Section 33 - Review of non-custodial supervision order - Homicide - Paranoid schizophrenic - Applicable considerations - Order revoked.

In the matter of the Crimes (Mental Impairment and Unfitness to be Tried) Act 1997 In the matter of a review of a non-custodial supervision order pursuant to s 32(5) of the Crimes (Mental Impairment & Unfitness to be Tried) Act 1997. Re MP (No 2)

Priest JA

[\[2018\] VSC 299](#)

04/06/2018

DAMAGES - Mitigation of damage - Motor vehicle accident - Order of magistrate that plaintiff entitled to hire-car expenses for 52 days - Appeal on grounds of error of law - Unexplained delay by insurer in making write-off payment - Whether plaintiff had taken reasonable steps to mitigate her damage - Whether magistrate erred in law by applying subjective rather than objective standard of reasonableness - Whether reasonable for plaintiff to wait until after write-off payment made by defendant's insurer to buy replacement vehicle - Damages for loss of use of vehicle as represented by hire-car expenses when vehicle of innocent motorist damaged or written off - Impecuniosity or lack of means of plaintiff - Whether and how taken into account when assessing whether plaintiff had taken reasonable steps to mitigate loss - Plaintiff had modest amount in quasi-partnership business account - Whether entitled to exercise commercial prudence by not using those funds to purchase replacement vehicle before insurer had made write-off payment - Magistrates' Court Act 1989 (Vic) s 109(1).

Fallon, Vincent v Johnston, Jessica

Bell J

[\[2018\] VSC 273](#)

30/05/2018

DEFAMATION - Application by defendants for leave to amend defence to add defence of honest opinion under s 31 of the Defamation Act 2005 (Vic) ('Act') - Plaintiffs are senior medical officers and academics at Monash Health and Monash University - Alleged defamation concerned letter sent by defendants to, first, doctors and, later, in identical terms to non-medical staff - Emails sent by a third party to recipients of letter in the month prior to circulation of letter ('earlier emails') - Plaintiffs opposed application on basis that the alleged opinion is incapable of arising from the letter the subject of the proceedings, is substantially different from the plaintiffs' meanings, does not meet the sting of the plaintiffs' meanings and is not stated or referred to in the alleged defamatory publication - Whether defendants are able to rely upon earlier emails to satisfy the requirement that their opinion be based upon material stated or referred to in the letter or 'notorious' to the letter's recipients - *Hanks v Johnston* [2015] VSC 570, referred to - Whether alleged facts can be 'notorious' in context of a limited audience and outside context of a mass media publication - Pleading not hopeless and issues raised should go to trial - Defendants granted leave to amend defence substantially in the form proposed.

Ptasznik, Ronald v Australian Medical Association (Victoria) Ltd (ACN 064 557 678) and Mirabelli, Frances; Stuckey, Stephen v Australian Medical Association (Victoria) Ltd (ACN 064 557 678) and Mirabelli, Frances

Daly AsJ

[\[2018\] VSC 275](#)

30/05/2018

DEFAMATION - Application by defendants for leave to amend defence to provide further particulars of contextual truth defence and to add a fourth contextual imputation - Plaintiff claimed article published by defendants gave rise to defamatory imputation that plaintiff was a shameless cheat who had fraudulently obtained a disability support pension - Article concerned plaintiff's appeal to the Administrative Appeals Tribunal ('AAT') in respect of decision of the Department of Social Services to refuse his application for indefinite portability of his Disability Support Pension - Defendants relied on defences under ss 26 and 29(4) of the Defamation Act 2005 (Vic) ('Act') - Plaintiff sought orders under Rule 23.02 of the Supreme Court (General Civil Procedure) Rules 2015 ('Rules') striking out the contextual truth defence - Whether particulars to imputations support truth of contextual imputations alleged in defence - Whether particulars to imputations are confusing and embarrassing, likely to cause delay or prejudicial to the plaintiff - Whether defendants' pleaded contextual imputations are capable of 'swamping' the plaintiff's pleaded imputation so as to establish a defence under s 26 of the Act - Whether permissible to justify an imputation by relying upon a finding of another person - Section 91 of the Evidence Act 2008 (Vic) - *Hunt v Times Newspapers Ltd* [2012] EWHC 110 (QB), referred to - Whether defendants' allegations are not so untenable or foredoomed to fail that the proposed amendments ought not be allowed - *EWC Payments Pty Ltd v Commonwealth Bank of Australia* [2014] VSC 4, applied - Defendants granted leave to amend in part - Defendants' summons adjourned for further hearing - Costs reserved.

Al Sesalim, Dean v The Herald and Weekly Times PIL (ACN 004 113 937) and Carson, Vanda

Daly AsJ

[\[2018\] VSC 264](#)

25/05/2018

EQUITY - Fiduciary duty - Whether a former company director misused his position by usurping maturing business opportunities for himself and related entities - Effect and circumstances of resignation - Scope of fiduciary obligations that survive termination of fiduciary office - Factors to be considered - *Chan v Zacharia* (1984) 154 CLR 178, applied - *Canadian Aero Service Limited v O'Malley* [1974] RCS 592, applied - *Courtney Polymers v Deang* [2005] VSC 318, applied - No breach of fiduciary duty - No dishonest and fraudulent design.

CORPORATIONS - Statutory duties of directors, other officers and employees - Whether an employee sending to himself a mixed list of business and personal contacts constitutes a misuse of confidential information - Whether a mixed list of personal and business contacts developed by an employee in the course of his employment possessed the necessary quality of confidence - *Del Casale & Ors v Artedomus (Aust) Pty Ltd* [2007] NSWCA 172, applied - No contravention - Whether an employee retaining company documents and later using them in an unrelated business venture contravened any statutory obligation - Contravention established - Corporations Act 2001 (Cth), ss 181, 182 and 183.

EVIDENCE - Inferences - Where defendants elected not to lead any evidence at trial - Distinction between an inference that may help to reach a finding that is open on the evidence and one that is sought to be used to resolve pure conjecture - *Jones v Dunkel* (1959) 101 CLR 298, applied.

Advanced Fuels Technology P/L (ACN 079 473 699) v Blythe, Sean Darrell & Ors (According to the attached schedule)

Macaulay J

[\[2018\] VSC 286](#)

30/05/2018

EQUITY - Promissory estoppel - Proprietary estoppel - Whether parents promised or represented certain assets to pass to plaintiff and her sister upon the death of both parents - Whether defendant's response constitutes representations - Whether promises or representations sufficiently certain - Whether plaintiff reasonably relied on the promise or representations - Whether plaintiff acted to her detriment on the promise or representations - *Giumelli v Giumelli* (1999) 196 CLR 101 - *Harrison v Harrison* [2011] VSC 459 - *Sidhu v Van Dyke* (2014) 251 CLR 505.

EQUITY - Common intention constructive trust - *Muschinski v Dodds* (1985) 160 CLR 583 - *Baumgartner v Baumgartner* (1987) 164 CLR 137.

McDonald, Margaret v Dunscombe, John Francis

[\[2018\] VSC 283](#)

McMillan J

31/05/2018

JUDICIAL REVIEW - Application for extension of time to seek judicial review of opinion of a medical panel - Lengthy delay - Only broad and general assertions to explain the delay - No arguable case for judicial review if the extension granted - Extension refused - Supreme Court (General Civil Procedure) Rules 2015 r 56.02.

O'Neill, Cyprian v Holmes, Professor Alexander and Hayman, Dr Brendan (Medical Panel) and Randstad P/L

Lansdowne AsJ

[\[2018\] VSC 292](#)

31/05/2018

JUDICIAL REVIEW - Magistrates' Court - Order that garnisheed sum be repaid - Judicial review of order - Stay application - Stay refused.

PRACTICE AND PROCEDURE - Magistrates' Court default judgment on loan agreement - Garnishee order executed - Default judgment set aside by consent - Magistrate's order for repayment of amount garnisheed - Judicial review application of Magistrate's order - Stay application for repayment order - Stay refused.

R.A.C.V. Finance Ltd (ABN 82 004 292 291) v Shayne Gordon Formica and Magistrates' Court of Victoria

Ginnane J

[\[2018\] VSC 271](#)

16/05/2018

JUDICIAL REVIEW AND APPEALS - Appeal pursuant to Criminal Procedure Act 2009, s 272 - Whether magistrate misconstrued the definition of 'forensic procedure' in s 464 of the Crimes Act 1958 - Whether a police search of an arrested person involving the removal of the person's clothing, a 'strip search', amounted to an unlawful 'physical examination of the body' - Error of law - Appeal allowed - Crimes Act 1958, ss 464, 464R, 464S and 464T.

CRIMINAL PROCEDURE - Police search powers - Consideration of common law power to conduct a 'safety and evidence' search - *Botton v Winn*, Supreme Court of Victoria, Phillips J (unreported) 18 December 1987, considered - *Lindley v Rutter* [1981] QB 128, considered.

STATUTORY INTERPRETATION - Whether legislation has by implication altered the general common law - Whether enactment of Crimes (Amendment) Act 1993 abrogated the common law power to conduct a 'safety and evidence' search.

Director of Public Prosecutions [DPP] (on behalf of Robert Baker) v Tupper, Jason

Macaulay J

[\[2018\] VSC 285](#)

30/05/2018

PLANNING - Call in of proceedings in the Victorian Civil and Administrative Tribunal by the Minister for Planning - Efficacy of call in notices - Compulsory conference - Privative clauses - Meaning of expressions 'in the nature of', 'directions hearing', 'preliminary hearing' and 'interlocutory hearing' in sch 1 cl 58(3) and 58(5) of the Victorian Civil and Administrative Tribunal Act 1989 (Vic).

Hudson Yards P/L (ACN 610 403 417) v Minister for Planning; Port Phillip City Council; Transport for Victoria and VicRoads Corporation. Between La Esquina P/L (ACN 615 887 128) and Minister for Planning; Port Phillip City Council; Transport for Victoria and Environment Protection Authority

Garde J

[\[2018\] VSC 277](#)

03/05/2018

PRACTICE AND PROCEDURE - Application for summary judgment on the basis that causes of action are statute barred - Whether plaintiff's claim has no real prospect of success having regard to whether the relevant limitation provision bars the claims - *Lysaght Building Solutions Pty Ltd (t/as Highline Commercial Construction) v Blanalko Pty Ltd* (2013) 42 VR 27; *Wardley Australia Ltd v Western Australia* (1992) 175 CLR 514.

LIMITATION OF ACTIONS - Administration action - Application by beneficiary of the will of the deceased pursuant to s 15 of the Administration and Probate Act 1958 (Vic) that an executrix named in the will prove the will or renounce - Alternatively the plaintiff be appointed administrator with will annexed - Plaintiff claims entitlement to personal property in the estate of the deceased (shares in a private company) - Whether executrix assented to a vesting in the plaintiff of the shares more than 15 years before commencement of proceeding - Whether claim to the personal property statute barred under s 22 of the Limitation of Actions Act 1958 (Vic) ('LAA') - Whether s 21 of the LAA applicable - *In re Johnson*; *Sly v Blake* (1885) 29 Ch D 964; *Attenborough v Solomon* [1913] AC 76; *Meyepa Chetty v Supramanian Chetty* [1916] 1 AC 603; *Ryan v Davies Bros* (1921) 29 CLR 527; *Ministry of Health v Simpson* [1951] AC 251.

Simmons, Peter v Ross, Jacqueline Anne (as executor of the estate of Kimlarn Elizabeth Simmons); Ross, Jacqueline Anne; Deveson, Christine Helen and Messer, Shona Meredith (as executors of the estate of Elizabeth Ross); Ross, Jacqueline Anne (in her personal capacity); Deveson, Christine Helen (in her personal capacity) and Messer, Shona Meredith (in her personal capacity)

Derham AsJ

[\[2018\] VSC 306](#)

08/06/2018

PRACTICE AND PROCEDURE - Application for preliminary determination of identified questions - Whether plaintiff's claims barred by a deed of release - Whether defendants' conduct in trade and commerce - Whether representations could constitute misleading conduct - Whether a proper basis for fairly determining preliminary questions demonstrated - Supreme Court (General Civil Procedure) Rules 2015 (Vic), r 47.04.

Taylor, Jackson v McLachlan, Gillon & Ors

John Dixon J

[\[2018\] VSC 298](#)

06/06/2018

PRACTICE AND PROCEDURE - Pleadings - Objections to amended defence - Whether amendments withdraw admissions - Whether further particulars required - Whether amendments not responsive to amended statement of claim.

Roo-Roofing P/L and Matsuh P/L (ACN 105 461 818) v The Commonwealth (Ruling No 4)

John Dixon J

[\[2018\] VSC 300](#)

06/06/2018

PRACTICE AND PROCEDURE - Summary judgment - Plaintiff seeks summary judgment on claims for possession and for mesne profits - Whether defendant has real prospects of success on his defence - Civil Procedure Act 2010 (Vic), ss 61 and 63 - Lysaght Building Solutions Pty Ltd v Blanalko Pty Ltd (2013) 42 VR 27 - Daniel Simon Hausman and Lance Vincent Hodgkinson v Abigroup Contractors Pty Ltd (2009) 29 VR 213 - Application for summary judgment allowed - Mesne profits payable for damages from the date of defendant's occupation of the land without lawful entitlement - Mesne profits calculated by reference to the previous rent payable for the land - Wilson v Kelly (1957) VR 142 - Lollis v Loulatzis [2007] VSC 547.

Padella P/L (ACN 005 248 091) v Elliott, Richard

Matthews JR

[\[2018\] VSC 301](#)

06/06/2018

REAL PROPERTY - Restrictive covenant - Application by plaintiff to enforce covenant - Covenant purported to impose 'height limitations' in Civil Aviation Safety Authority Manual of Standards Part 139 - Covenant found to impose height limit on construction - Woolcock St Investments Pty Ltd v CDG Pty Ltd (2004) 216 CLR 515 - Russell Maynard Clare & Ors v Eva Bedelis [2016] VSC 381 considered.

PRACTICE AND PROCEDURE - Application to reopen evidence - Application rejected - Evidence Act 2008 (Vic) ss 67, 69 - Inspector-General in Bankruptcy v Bradshaw [2006] FCA 22 considered.

EQUITY - Estoppel - Defendant alleged plaintiff estopped from enforcing covenant - Not established - Unreasonable for defendant to adopt assumption.

MISLEADING OR DECEPTIVE CONDUCT - Defendant alleged misleading representations by plaintiff - Alleged representations did not occur - Defendant alleged misrepresentation by silence - Defendant's expectation that plaintiffs inform it of certain facts not was reasonable - Henjo Investments Pty Ltd v Collins Marrickville Pty Ltd (1988) 39 FCR 546 - Demagogue Pty Ltd v Ramensky (1992) 39 FCR 31 - Miller & Associates Insurance Broking Pty Ltd v BMW Australia Finance Ltd (2010) 241 CLR 357 - Rafferty v Madgwicks (2012) 203 FCR 1 considered.

Baum, Garry Maxwell and Baum, Patricia Anne v Barport P/L ACN 169 464 313. Barport P/L ACN 169 464 313 v Baum, Garry Maxwell and Baum, Patricia Anne

Cameron J

[\[2018\] VSC 291](#)

01/06/2018

Criminal Division

CONTEMPT - Examination under Major Crime (Investigative Powers) Act 2004 - Contempt - Refusal to be sworn or to make an affirmation - No explanation for contempt - Totality - Major Crime (Investigative Powers) Act 2004 ss 36(2) and 49(1)(b).

The Queen (on the application of the Chief Examiner) v Brigham, Alex (a Pseudonym)

Champion J

[\[2018\] VSC 284](#)

27/04/2018

CRIMINAL LAW - Sentencing - False accounting - Concurring in falsification of debit note - Plea of guilty - Commission payment under oral agreement disguised as reimbursement of agent's expenses - Sales employee in middle management acting on instructions of senior management - Falsification done in commercial interests of company, not in personal interests of employee - Falsification done with intention to gain for another person, not employee - Employee believed the other person was legally entitled to payment as commission - But employee knew that debit note was false - Elements of offence of false accounting - Gravity of offending - Specific deterrence - General deterrence - Impact of publicity upon employee - Employee in grievous ill-health - Otherwise of exemplary character - Long career ruined - Strong evidence of remorse - Plea of guilty entered as soon as elements of offence judicially determined in pre-trial ruling - High utility and more than timely - Strong co-operation between defence and prosecution in preparing for trial and conduct of proceeding generally - Suspended sentence still available despite abolition of that kind of sentence - Crimes Act 1958 (Vic) s 83, Sentencing Act 1991 (Vic) s 27(1) and (1A).

Commonwealth Director of Public Prosecutions [CDPP] v Gerathy, Clifford John

Bell J

[\[2018\] VSC 289](#)

01/06/2018

CRIMINAL LAW - Sentence - Murder - Plea of not guilty - Trial - Accused gave sworn evidence - Jury's verdict of guilty - Issues including intent, voluntariness and self-defence - Sentencing consistent with jury verdict - Whether belief in necessity - Whether reasonable response in the circumstances - Remorse - Prospect of deportation of limited relevance - Sentence of 23 years' imprisonment - Minimum term 17 years.

The Queen v Dhakal, Hari Prasad

Lasry J

[\[2018\] VSC 295](#)

01/06/2018

Costs Court

COSTS - Disclosure obligations - Legal Profession Uniform Law 2014 (Vic), ss 74(1), 174(3), 175 and 178(1)(a).

Frigger, Angela Cecilia Theresa and Frigger, Hartmunt Hubert Josef v Madgwicks (a Firm)

Gourlay JR

[\[2018\] VSC 281](#)

04/06/2018

County Court of Victoria Cases

Following is a selection of cases recently handed down in the County Court of Victoria.

These cases have been selected for inclusion by the presiding judge. If you would like your judgment added to the Library Bulletin, please email the reference librarian in your jurisdiction.

CONTRACT - Claims for unpaid commissions by real estate agent employed by real estate agency - Whether breach of restraint clause - Whether breaches of contract or fiduciary duty entitling agency to damages.

CONFIDENTIAL INFORMATION - Alleged misuse of confidential information - Whether information confidential - *Wright v Gasweld Pty Ltd* (1991) 22 NSWLR 317.

Gagliardi v KP Hicks

[\[2018\] VCC 745](#)

Judge Marks

29/05/2018

CONTRACT - Storage of outdoor furniture at commercial storage facility - Occupancy agreement in the name of company in liquidation - Occupancy later terminated for non-payment of storage charges - Other companies claimed ownership and entitlement to the return of the stored furniture - Whether outstanding storage charges must first be paid - Equitable lien - Relationship between individual who arranged the storage and companies claiming return of the stored furniture - Whether operator of the storage facility entitled to dispose of the stored furniture - Part 4.2 Australian Consumer Law and Fair Trading Act 2012 (Vic).

Scandi International Pty Ltd & Anor v Larkfield Industrial Estate Pty Ltd

[\[2018\] VCC 584](#)

Judge Anderson

04/05/2018

COSTS - Calderbank offer - Whether claim pursued in wilful disregard of known facts or clearly established law - Costs of particular part of the proceeding.

Butler v Dickson (No 2)

[\[2018\] VCC 718](#)

Judge A Ryan

23/05/2018

DEFAMATION - ASSESSMENT OF DAMAGES - Whether plaintiff guilty of disreputable conduct - Whether a relevant consideration upon assessment - Significance of other adverse factors affecting the plaintiff's reputation and feelings - Mitigating effect of apology - Apology late and after conclusion of election campaign - Limited effect in mitigation - Effect of defence of justification based on alternative meaning.

Mirabella v Price & Anor

[\[2018\] VCC 650](#)

Judge Macnamara

16/05/2018

PRACTICE AND PROCEDURE - Costs - Claim and counterclaim - Multiple parties and issues -
“Calderbank” offers of compromise.

Scandi International Pty Ltd & Anor v Larkfield Industrial Estate Pty Ltd (No 2)

[\[2018\] VCC 628](#)

Judge Anderson

09/05/2018

Magistrates' Court of Victoria Judgments

Following is a selection of judgments recently handed down in the Magistrates' Court of Victoria.

These judgments have been selected for inclusion by the presiding Magistrate. If you would like your judgment added to the Library Bulletin, please email the reference librarian in your jurisdiction.

CRIMINAL DIVISION - Notice of Constitutional matter - *Chan v Harris* (No.3) [2011] FCA 342 - Section 78B Judiciary Act 1903 not intended to apply where notice arguable, frivolous or vexatious - *Sill v City of Wodonga* [2017] VSC 671 - No legal basis to submissions challenging the validity of the charges.

Cardinia Shire Council V Kraan

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

Magistrate M MacCallum

21/12/2017

CRIMINAL DIVISION - Building Act 1993 sections 16 and section 118 - Elements of the charges - Whether proof of mens rea required - Whether statutory offences of strict or absolute liability.

Cardinia Shire Council V Kraan

[\[2017\] VMC 25](#)

Magistrate M MacCallum

21/12/2017

Articles

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

Members of the Judiciary and Court staff, please contact your jurisdictional librarian if you require copies. Members of the legal profession and the public can view the journals in the Supreme Court Library.

Banking Law

Crowd funding - Public fundraising - Financial service - Corporations Amendment (Crowd-sourced Funding) Act 2017 (Cth) - Regulation - Australia
Meloni, A. and T. Chong. "Crowd-sourced funding in Australia." (2018) 45(4) Brief 8-14.

Courts

Electronic trials - Court room technology - Real-time transcription - Video-link evidence - Electronic evidence - E-bundles - Cloud technology - Time saving - Paperless courtroom - Challenges - Change - UK
Fletcher, M. and H. Pugh. "Trial technology (Pt 3)." (2018) 168(7789) NLJ 18.

Electronic trials - Court room technology - Real-time transcription - Video-link evidence - Electronic evidence - E-bundles - Cloud technology - Time saving - Paperless courtroom - Challenges - Roles - UK
Fletcher, M. and H. Pugh. "Trial technology (Pt 4)." (2018) 168(7790) NLJ 15-17.

Electronic trials - Court room technology - Real-time transcription - Video-link evidence - Electronic Paperless courtroom - Challenges - Costs - UK
Fletcher, M. and H. Pugh. "Trial technology (Pt 2)." (2018) 168(7788) NLJ 16.

Criminal Law & Procedure

Defences - Plea - Insanity - Personality disorders - Mental disorders - Psychopathy - Psychopathic mental disorder - Lack of capacity - Criminal Procedure (Scotland) Act 1995 (Scotland), s51A - R v Porter - R v MacKay - Scotland
Barnes, S. "Re-evaluating the exclusion of psychopathy from the mental disorder defence in Scots law." [2018] (1) Juridical Review 1-21.

Emojis - Social media - Email - Instant messaging - Text messaging - Digital images - Digital speech - Electronic communication - WhatsApp - Evidence - Criminal trials - Legal interpretation - Nichol v Nichol - Australia
Allman, K. "When is an not an?" (2018) 44 LSJ 31-34.

Sentencing - Sentencing guidelines - Children - Young persons - Domestic violence - Weapons - Terrorism - Law reform proposals - Domestic Violence and Abuse Bill 2018 (UK) - UK
Padfield, N. "More consultations on sentencing." [2018] (6) Crim L R 427-429.

Employment Law

Self-employed contractors - Independent contractors - Worker status - Employment protections - Service delivery - Online platforms - Employment contracts - Uber - Independent Contractors Act 2006 (Cth) - Bates van Winkelhof v Clyde & Co - Uber BV v Aslam - O'Connor v Uber - Kaseris v Rasier Pacific - Law reform proposals - Comparative analysis - USA - UK - Australia
Fogliana, C. "The gig economy: rescuing the scapegoat." (2018) 45(4) Brief 19-29.

Human Rights

International human rights - Historical human rights abuses - Political influence - Government - Admissibility - Ratione temporis - Right to justice - Victims - Next of kin - Comparative analysis - EU - Africa
Sweeney, J. "The elusive right to truth in transitional human rights jurisprudence." (2018) 67(2) ICLQ 353-387

Legal Aid

Access to justice - Costs - Funding cuts - Minority groups - Human rights - Bach Commission Report 2017 (UK) - Law reform proposals - Comparative analysis - UK - NSW - Australia
McCrossin, J. "Radical plans for a hostile environment." (2018) 44 LSJ 40-43.

Practice & Procedure

Interpreters - Courts - Tribunals - Accuracy - Language - Fairness - Immigrants - Interpretation - Training - Proposed standards - Australia
Olbrich, S. "Recommended national standards for working with interpreters in courts and tribunals." (2018) 30(4) JOB 36-38.

Restitution

Special issue - Unjust enrichment - Comparative analysis - Canada - Scotland - Ireland - Germany - Spain - South Africa - Malaysia - Singapore
Chambers, e.al. Special issue "The global futures of unjust enrichment." [2017] (25) RLR 3-120.

Unjust enrichment - History - Pavey & Matthews v Paul - Roxborough v Rothmans of Pall Mall Australia - Equuscorp v Haxton - Commonwealth v Verwagen - Australia
Bant, E. "The evolution of unjust enrichment and restitution law in the High Court of Australia." [2017] (25) RLR 121-135.

Sports Law

Concurrent jurisdiction - Sports violence - Prosecution - Public interest - Sportspersons - Sports governing bodies - Crown Prosecution Service - R v Barnes - UK
Living, B. "Sports violence "concurrent jurisdiction" and the decision to bring a criminal prosecution." [2018] (6) Crim L R 431-449.

Succession

Deceased estate - Equitable lien - Transfer of trusteeship - Right of retention - Administration of Estates Act 1971 (UK), s10(1) - Meritus Trust Company Ltd v Butterfield Trust (Bermuda) Ltd - Lemery Holdings Ptd Ltd v Reliance Financial Services Pty Ltd - Australia - UK
Purkis, K. "Rights of retention." (2018) 168(7790) NLJ 13.

INFORMATION SESSIONS

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