



THE LAW LIBRARY OF VICTORIA

Library
Bulletin
17 August
2018

Library News

Tour of the Supreme Court Library for legal professionals
Tuesday 28 August, 1.15pm-2.15pm

Take a tour and get to know the history, architecture and collection of the Supreme Court Library. This 60 minute tour is recommended for the legal profession, exploring all four levels of the Library and showcasing the range of current and historical resources that are available in the collection. Due to the instructional nature of the tour (identifying resources and explaining how and when to use them), participants are eligible to claim CPD points on completion of the tour.

All are welcome and entry is free. To register for this tour please email libraryevents@supcourt.vic.gov.au

Switch on... Legislation - Victorian Parliamentary Procedure
Thursday 6 September, 1.15pm-1.40pm

The Law Library of Victoria invites you to attend our Switch On... information sessions. These twenty-five minute sessions are suited to judicial officers, court staff, legal professionals, law students, and anyone with an interest in law.

This session, presented by the staff of the Office of the Chief Parliamentary Counsel, will inform you about the Victorian legislative process. Find out the facts behind the process, from setting the legislative program, drafting of Bills, and the passage of Bills from Parliament through to the commencement of legislation.

All are welcome and entry is free. To register please email libraryevents@supcourt.vic.gov.au

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).

Contents

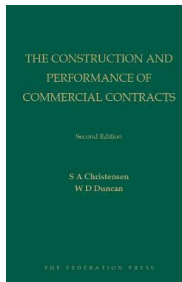
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New Books

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/.

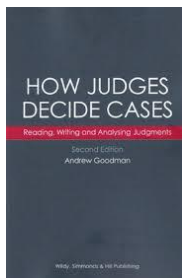
Judicial officers and court staff can borrow any of the books listed. Contact your jurisdictional librarian to request an item.

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



Christensen, S. A., Duncan, W. D., *The construction and performance of commercial contracts*
2nd ed., Leichhardt, The Federation Press, 2018
Call number: 346.022 CHR.2 (Supreme Court Library)

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



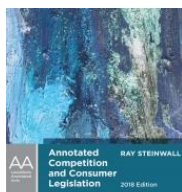
Goodman, Andrew, *How judges decide cases: reading, writing and analysing judgments*
2nd ed., London, Wildy, Simmonds & Hill Publishing, 2018
Call number: 347.014 GOO.2 (Magistrates' Court Library)

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



Pearce, D. C., *Interpretation acts in Australia*
Chatswood, LexisNexis, 2018
Call number: 348.022 PEA (Supreme Court Library)

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



Steinwall, Ray, *Annotated competition and consumer legislation*
2018 ed., Chatswood : LexisNexis Butterworths, 2018
Call number: 346.078 KEA.10 (Supreme Court Library)

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

Legislation

Victorian Bills

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

- [Building Amendment \(Registration of Building Trades and other Matters\) Bill 2018](#)
- [Gambling Regulation Amendment \(Wagering and Betting\) Bill 2018](#)
- [Mineral Resources \(Sustainable Development\) Amendment Bill 2018](#)
- [Open Courts and Other Acts Amendment Bill 2018](#)
- [Residential Tenancies Amendment Bill 2018](#)
- [Transport Legislation Amendment \(Better Roads Victoria and Other Amendments\) Bill 2018](#)

Victorian Assents

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

- [Education Legislation Amendment \(Victorian Institute of Teaching, TAFE and Other Matters\) Act 2018 No. 31/2018](#)
- [Justice Legislation Amendment \(Terrorism\) Act 2018 No. 32/2018](#)
- [Justice Legislation Amendment \(Family Violence Protection and Other Matters\) Act 2018 33/2014](#)
- [Owners Corporations Amendment \(Short-stay Accommodation\) Act 2018 34/2018](#)
- [Victorian Industry Participation Policy \(Local Jobs First\) Amendment Act 2018 35/2018](#)



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

Proclamations

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

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

- Justice Legislation Amendment (Family Violence Protection and Other Matters) Act 2018 No. 33/2018
 - Sections 1, 2, 30, 107 of this Act came in by forced commencement on 15 August 2018 s.2(1)

- Education Legislation Amendment (Victorian Institute of Teaching, TAFE and Other Matters) Act 2018 No. 31/2018
 - Sections 1-3, 38-40, 42, 43, 45, 50-53, 65, 72(1), 85 of this Act came in by forced commencement on 8 August 2018 s.2(1)
- Justice Legislation Amendment (Terrorism) Act 2018 No. 32/2018
 - Sections 1, 2, 100-103, 114-117, 131 of this Act came in by forced commencement on 8 August 2018 s.2(1)
- Victorian Industry Participation Policy (Local Jobs First) Amendment Act 2018 No. 35/2018
 - Sections 1-19 of this Act came in by forced commencement on 15 August 2018 s.2

High Court Cases

CRIMINAL LAW - Appeal against conviction - Where cannabis and drug paraphernalia found at four properties including respondent's home - Where \$120,800 in cash found at respondent's home - Where respondent charged with cultivation and trafficking of cannabis found at three properties not including his home - Where Crown alleged offences of trafficking constituted of possession of cannabis on particular date for purpose of sale - Where evidence of cash led as evidence respondent engaged in business of cultivating cannabis for sale - Whether evidence of cash wrongly admitted at trial.

WORDS AND PHRASES - "accoutrements of drug trafficking", "business of trafficking", "cash", "drug trafficking", "indicia of trafficking", "intermediate appellate court", "possession", "profit making enterprise", "propensity", "purpose of sale", "tendency". Drugs, Poisons and Controlled Substances Act 1981 (Vic), ss 4, 5, 70(1), 71AC, 72A. Evidence Act 2008 (Vic), ss 55, 56, 136, 137. Jury Directions Act 2015 (Vic), ss 12, 15, 16.

The Queen v Falzon, Romano

Kiefel CJ, Bell, Keane, Nettle and Gordon JJ

[\[2018\] HCA 29](#)

8 August 2018

CRIMINAL LAW - Appeal against sentence - Where appellant convicted of murder - Where primary judge found it probable that appellant acting under influence of some psychosis at time of offence - Where primary judge not satisfied appellant possessed intention to kill - Where primary judge's discretion miscarried by giving primary significance to standard non-parole period - Where Court of Criminal Appeal excised power to re-sentence - Where prosecutor conceded there was no issue with primary judge's factual findings - Where Court of Criminal Appeal found primary judge's findings open - Where Court of Criminal Appeal rejected primary judge's finding that appellant had suffered temporary psychosis which precluded forming intention to kill - Where Court of Criminal Appeal took into account evidence of appellant's progress since sentence on the "usual basis" as discussed in *Betts v The Queen* (2016) 258 CLR 420 - Where Court of Criminal Appeal failed to put appellant on notice of inclination not to act on concession made by prosecution - Whether denial of procedural fairness - Whether miscarriage of justice. Words and phrases - "circumstance of aggravation", "concession", "miscarriage of justice", "new evidence", "objective seriousness", "procedural fairness", "re-sentencing", "unchallenged factual findings", "usual basis". Criminal Appeal Act 1912 (NSW), s 6(3).

D L v The Queen

Bell, Keane, Nettle, Gordon and Edelman JJ

[\[2018\] HCA 32](#)

8 August 2018

MIGRATION - Refugee Review Tribunal - Review of decisions - Where first and second respondents sought review by Refugee Review Tribunal ("Tribunal") of decision of delegate of appellant to refuse applications for protection visas - Where respondents failed to respond to invitations from Tribunal to appear or provide submissions - Where s 426A(1) of Migration Act 1958 (Cth) empowered Tribunal to proceed to make decision on review without taking further action to allow or enable respondents to appear - Where Tribunal made decision to proceed under s 426A(1) - Whether Tribunal's decision to proceed in absence of respondents was legally unreasonable.

APPEAL - Rehearing - Where primary judge held decision of Tribunal was legally unreasonable - Where Full Court of Federal Court dismissed appeal from primary judge's decision, holding that appellant was required to demonstrate error in reasoning of primary judge akin to that required in appeals from discretionary judgments - Whether principles stated in *House v The King* (1936) 55 CLR 499 apply to appeal from decision on judicial review that administrative decision is legally unreasonable.

WORDS AND PHRASES - "appeal by way of rehearing", "appealable error", "discretionary", "discretionary decision", "discretionary power", "evaluative approach", "evaluative judgment", "evaluative process", "legally unreasonable", "standard of appellate review", "unreasonable". Migration Act 1958 (Cth), ss 425, 425A, 426A, 441A, 441C, 476.

Minister for Immigration and Border Protection v SZVFW & Ors

Kiefel CJ, Gageler, Nettle, Gordon and Edelman JJ

[\[2018\] HCA 30](#)

8 August 2018

PARLIAMENTARY ELECTIONS (CTH) - Senate - Court of Disputed Returns - Application to reopen perfected orders of Court declaring applicant was incapable of being chosen as a Senator - Where applicant alleges Senate was inquorate when Senate resolved to refer applicant to Court of Disputed Returns - Where arguments were available on original reference - Whether preconditions for reopening have been met. Words and phrases - "reopen". Parliamentary Privileges Act 1987 (Cth), s 16(3).

Re Culleton

Kiefel CJ

[\[2018\] HCA 33](#)

10 August 2018

TAXATION - Division 207 in Pt 3-6 of Income Tax Assessment Act 1997 (Cth) - Where trustee passed resolutions purporting to distribute franking credits to beneficiaries of trust separately from and in different proportions to income comprising franked distributions - Where directions made by Supreme Court of Queensland pursuant to s 96 of Trusts Act 1973 (Q) concerning the resolutions - Whether directions determined against Commissioner of Taxation the application of Div 207.

WORDS AND PHRASES - "deemed assessment", "determine conclusively", "directions", "franked distribution", "franking credit", "imputation credit", "income tax return", "judicial advice", "notice of amended assessment", "notionally allocated", "streaming", "tax offset". Income Tax Assessment Act 1936 (Cth), ss 95, 97. Income Tax Assessment Act 1997 (Cth), Div 207. Taxation Administration Act 1953 (Cth), Pt IVC. Trusts Act 1973 (Q), s 96.

Federal Commissioner of Taxation v Thomas; Federal Commissioner of Taxation v Martin Andrew P/L; Federal Commissioner of Taxation v Thomas Nominees P/L and Federal Commissioner of Taxation v Thomas

Kiefel CJ, Bell, Gageler, Keane, Nettle, Gordon and Edelman JJ

[\[2018\] HCA 31](#)

8 August 2018

Victorian Supreme Court Cases

Court of Appeal

CONSTITUTIONAL LAW - Appeal - Validity of Commonwealth and State Acts - Whether Supreme Court of Victoria is an unlawful court - Whether Queen of Australia exists - Whether Constitution Act 1975 (Vic) validly enacted - Whether oath of allegiance unlawful or invalid - Validity of the appointment of Governors of Victoria - Whether enactments treasonous - Applicant's arguments without merit.

PRACTICE AND PROCEDURE - Application for leave to appeal out of time - Application refused by judicial registrar - Review of judicial registrar's decision - Proposed appeal having no real prospect of success - Application for leave to appeal totally without merit - Judicial registrar correct in refusing extension of time - Proceeding futile - Supreme Court (General Civil Procedure) Rules

2015, rr 64.14, 64.15 and 64.42 - Supreme Court Act 1986, ss 14C and 14D.

Sill, Jeffrey Craig v City of Wodonga

Beach JA

[\[2018\] VSCA 195](#)

8 August 2018

CONTRACTS - Australian Consumer Law - Contract for supply of services - Right to terminate contract for 'major failure' pursuant to Australian Consumer Law, s 267(3)(a) - Whether right to terminate contract exercised - Goods connected with services deemed rejected on termination of contract pursuant to Australian Consumer Law, s 270(1)(c) - Acceptance of goods connected with services inconsistent with termination of contract - Australian Consumer Law, ss 267, 269, 270; Australian Consumer Law and Fair Trading Act 2012, s 8.

JUDICIAL REVIEW - Appeal on question of law - Question of law founds jurisdiction of Court to hear appeal - No question of law articulated in originating process - Notice of appeal requires setting out of questions of law - Victorian Civil and Administrative Tribunal Act 1998, s 148; Supreme Court (Miscellaneous Civil Proceedings) Rules 2008, r 4.06(1)(b)(v).

Coliban Heights P/L (ACN 123 150 738) v Citisolar Vic P/L (ACN 143 558 061)

Tate, Kyrou and McLeish JJA

[\[2018\] VSCA 191](#)

7 August 2018

CONTRACTS - Construction - Consultancy agreement in respect of property development project - Consultant entitled to 20 per cent net profit - Agreement terminated prior to completion of project - Whether net profit entitlement contingent on completion of project - Whether sale of undeveloped property constitutes completion of project - Consultant entitled to hourly rate for work performed - Hours claimed in invoice pursuant to agreement - Evidence as to certain hours claimed in invoice rejected - Evidence of additional hours not claimed in invoice - Whether evidence of additional hours made up shortfall in invoice - Consultant entitled to monthly payment 'in advance' - Whether monthly payments to be deducted from hourly rate claim.

COSTS - Calderbank offers - Whether reasonable not to accept offers - Whether offers so unclear as to be incapable of acceptance - *Hazeldene's Chicken Farm Pty Ltd v Victorian WorkCover Authority* [No 2] (2005) 13 VR 435 applied; *Little v Saunders* [2004] NSWSC 655 distinguished.

Sim Development P/L (ACN 165 339 524) and Cai, Hong (aka Roy Cai) v Greenvale Property Group P/L (ACN 159 975 498)

Kyrou, McLeish and Niall JJA

[\[2018\] VSCA 201](#)

13 August 2018

COSTS - Whether separate groups of respondents could have been jointly represented - Overlapping issues common to all respondents - Separate issues concerning each respondent group - Individual representation of each respondent group justified.

COSTS - Indemnity costs - Judge at first instance found proposed claims had no prospect of success and gave summary judgment - Application for leave to appeal dismissed on the basis that no prospect of success - Fraud claims not open as a matter of law, even if factual basis established - Indemnity costs awarded.

COSTS - Respondent group with benefit of security for costs order - Evidence that respondents' costs on a standard basis exceeded the amount of the security paid into Court - Respondent group sought an order that its costs of the application for leave to appeal be fixed at the amount of that security - Abandonment of any claim to costs exceeding amount of security - Costs fixed in the amount of the security.

Bodycorp Repairers P/L (ACN 068 589 408) and Murdaca, Antonio v Australian Associated Motor Insurers Ltd (ACN 004 791 744) & Ors (No 3)

Whelan, Niall and Hargrave JJA

[\[2018\] VSCA 192](#)

7 August 2018

CRIMINAL LAW - Appeal - Conviction - Applicant convicted of five charges of committing an indecent act with a child under 16 - Alleged inconsistencies between evidence given by complainant at VARE and at special hearing - Evidence of defence witnesses regarding collateral matters 'unchallenged' at trial - Whether verdict unreasonable or unable to be supported having regard to the evidence - Application for leave to appeal granted - Appeal dismissed - *Ward (a Pseudonym) v The Queen* [2017] VSCA 37 considered.

Goillon, Jason v The Queen

Whelan, Hargrave and Weinberg JJA

[\[2018\] VSCA 194](#)

8 August 2018

CRIMINAL LAW - Appeal - Conviction - Verdict of guilty on charge of attempted anal rape - No verdict reached on vaginal rape charge - Where acts occurred in close temporal proximity - Inconsistent verdicts - Whether jury's decisions are reasonably reconcilable - Pillay v The Queen (2014) 43 VR 327 applied - Application for leave granted - Appeal dismissed.

Crofts, Michael Leigh v The Queen

Priest, Hargrave and Weinberg JJA

[\[2018\] VSCA 197](#)

9 August 2018

CRIMINAL LAW - Appeal - Sentence - Charge of armed robbery - Judge's departure from earlier sentencing indication constituted failure to accord procedural fairness - Parity - Prior sentence served interstate erroneously not taken into account - Breach of principle of totality - Application for leave to appeal refused.

Mendelle, Amos v The Queen

Coghlan and Weinberg JJA

[\[2018\] VSCA 204](#)

8 August 2018

CRIMINAL LAW - Appeal - Sentence - Infanticide, murder and attempted murder - Mother caused the death of three children and attempted to kill a fourth - Guilty plea - Traumatic life - Major depressive disorder as a consequence of having given birth to youngest child - Post-traumatic stress disorder - Total effective sentence of 26 years and 6 months' imprisonment, with non-parole period 20 years - Whether manifestly excessive - Appeal allowed - Total effective sentence of 18 years' imprisonment with non-parole period of 14 years substituted.

Guode, Akon v The Queen

Ferguson CJ, Priest and Beach JJA

[\[2018\] VSCA 205](#)

16 August 2018

CRIMINAL LAW - Appeal - Sentence - Recklessly causing serious injury and intentionally causing injury (three charges) - Three applicants and a co-offender assaulted four victims - Public violence - Objective seriousness of offending - Whether sentences manifestly excessive - Whether unacceptable disparity - Applications for leave to appeal against sentence refused.

Apineru, Andrew v The Queen; Maele, Maele v The Queen; Maele, Leti v The Queen

Priest and Beach JJA

[\[2018\] VSCA 206](#)

15 August 2018

CRIMINAL LAW - Sentence - Application for leave to appeal - Attempting to traffic a large commercial quantity of a drug of dependence - Amount 250 times the applicable large commercial quantity - Convicted following trial - Sentenced to 15 years' imprisonment with non-parole period of 11 years and 6 months - Errors asserted by applicant not reasonably arguable - Whether sentence manifestly excessive - Manifest excess not reasonably arguable - No reasonable prospect that sentence would be reduced on appeal - Application for leave to appeal refused.

Pham, Anthony v The Queen

Priest and Beach JJA

[\[2018\] VSCA 200](#)

9 August 2018

CRIMINAL LAW - Sentence - Appeal - Obtaining financial advantage by deception - 'Rolled up' charge involving 25 transactions - Bogus insurance claims - Payment on bogus claims exceeded \$200,000 - Applicant pleaded guilty - Sentenced to one year and nine months' imprisonment with non-parole period of 12 months - Whether manifestly excessive - Relatively youthful offender suffering depression and anxiety - General deterrence, denunciation and punishment relevant - Leave to appeal refused.

Leimonitis, Anna v The Queen

Priest and Weinberg JJA

[\[2018\] VSCA 198](#)

CRIMINAL LAW - Sentence - Appeal - Recklessly causing serious injury - Victim struck to face with a rock or brick - Applicant sentenced to 6 months' imprisonment with 24 month community correction order - Whether manifestly excessive - Leave to appeal against sentence refused.

McKeon-Muller, Tony v The Queen

Priest and Weinberg JJA

[\[2018\] VSCA 199](#)

8 August 2018

CRIMINAL LAW - Appeal - Sentence - Arson - Sentence of 12 months' imprisonment combined with a Community Correction Order ('CCO') of 5 years' duration - Whether manifestly excessive - Whether sentencing judge was required to invite counsel to make submissions on length of CCO - Possible tension between *Boulton v The Queen* (2014) 46 VR 308 and *Barbaro v The Queen* (2014) 253 CLR 58 - Application for leave to appeal refused.

Hach, Gavin v The Queen

Tate and Hargrave JJA

[\[2018\] VSCA 196](#)

7 August 2018

CRIMINAL LAW - Sentence - Application for leave to appeal - One charge of indecent act with a child under 16, two charges of production of child pornography, one charge of using a carriage service for child pornography, one charge of theft, one charge of possession of child pornography and one summary offence of 'upskirting' - Plea of guilty - No prior convictions - Moderate-High Risk of reoffending - Some remorse - Limited insight - Importance of general deterrence - Total effective sentence of 3y 5m - Non-parole period of 2y 6m - Manifest excess - Leave refused.

Finley, Adrian Robert v The Queen

Tate and Hargrave JJA

[\[2018\] VSCA 202](#)

6 August 2018

CRIMINAL LAW - Sentence - Leave to appeal - Parity - Leave granted.

Williamson, Adam v The Queen

Whelan JA

[\[2018\] VSCA 193](#)

7 August 2018

PRACTICE AND PROCEDURE - Court of Appeal - Applications - Filing - Power of Registrar - Application to reopen proceeding after judgment - Applicant had sought special leave to appeal to High Court - Special leave refused - Registrar refused to accept application for filing - Applicant sought judicial direction to Registrar to accept application - Final judgment - No power to reopen - Election - Issue estoppel - Application for direction refused - *Burrell v The Queen* (2008) 238 CLR 218 applied - Supreme Court (General Civil Procedure) Rules 2015 r 64.43(1), (5).

Bodycorp Repairers P/L v Oakley Thompson & Co P/L (No 2)

Maxwell P

[\[2018\] VSCA 203](#)

16 August 2018

Commercial Court

BUILDING CONTRACTS - Building and Construction Industry Security of Payment Act 2002 (Vic) - Where 'final claim' issued after termination of contract - Whether valid reference date - No reference date existed such that jurisdictional error made - Whether further error committed in failing to assess alleged defects which existed at time of earlier adjudication but only identified subsequently - Further jurisdictional error found.

Vanguard Development Group P/L (ACN 167 084 648) as trustee for the Taylor Family Trust No. 2 v Promax Building Developments P/L (ACN 114 054 741) and O'Brien, John Kennedy J

[\[2018\] VSC 386](#)

6 August 2018

CONSTITUTIONAL LAW - GROUP PROCEEDINGS - Validity of orders approving settlement of group proceedings - Where settlement binds group members in respect of issues not the subject of the group proceedings - Whether orders approving settlement determined hypotheticals or otherwise breached rules of natural justice - Re Judiciary & Navigation Acts (1921) 29 CLR 257 - Leeth v Commonwealth (1992) 174 CLR 455 - Dimitrov v Supreme Court of Victoria (2017) 92 ALJR 12 - Supreme Court Act 1986 Part 4A.

PRACTICE AND PROCEDURE - DEEDS AND OTHER INSTRUMENTS - Enforcement of deed of settlement - Whether summary procedure appropriate - Barratt v Rees [2014] VSCA 327 - Roberts v Gippsland Agricultural & Earthmoving Contracting Co Pty Ltd [1956] VLR 555 - Seachange Management Pty Ltd v Pital Business Pty Ltd (2009) 23 VR 396.

COURTS AND JUDICIAL SYSTEM - GROUP PROCEEDINGS - Consequences of being a group member - Clarke (as Trustee of the Clarke Family Trust) v Great Southern Finance Pty Ltd (Receivers and Managers Appointed) (in liquidation) [2014] VSC 516 - Byrne v Javelin Asset Management Pty Ltd [2016] VSCA 214 - Bendigo and Adelaide Bank Ltd v Pekell Delaire Holdings Pty Ltd (2017) 118 ACSR 592; [2017] VSCA 51 - Timbercorp Finance Pty Ltd (in liq) v Collins (2016) 259 CLR 212 - ABL Custodian Services Pty Ltd v Freer [2018] VSC 355 - Bendigo and Adelaide Bank Ltd v Lonergan [2018] VSC 357.

Bendigo and Adelaide Bank Ltd (ACN 068 049 178) v Laszczuk, Mark Simon; Bendigo and Adelaide Bank Ltd (ACN 068 049 178) v Cairncross, Tiffany Michelle

Croft J

[\[2018\] VSC 388](#)

10 August 2018

CONTRACTS - Interpretation of deed of assignment - Interpretation of a commercial instrument - Whether drafting errors prevail over commercial purpose.

CONTRACTS - Remedies - Contractual interest - Non-merger clause - Whether contractual interest recoverable after judgment - Whether contractual interest displaces statutory interest.

COSTS - Interpretation of costs agreement - Default position of party-party costs - Award of solicitor-client costs - Whether plain and unambiguous language required for recovery of costs beyond standard party-party costs.

MORTGAGES - Enforcement costs - Third party claim - Whether litigating the costs of mortgage recovery related issues is a secured cost.

Down Town Visuals v Panorama Investments

Digby J

[\[2018\] VSC 427](#)

3 August 2018

CORPORATIONS - Whether Pt IVAA of the Wrongs Act 1958 (Vic) 'picked up' by s 79 of the Judiciary Act 1903 (Cth) - Corporations Act 2001 (Cth), ss 180, 1317S, 1318, 1317H - Wrongs Act 1958 (Vic), Pt IVAA - Judiciary Act 1903 (Cth), s 79 - Dartberg Pty Ltd v Wealthcare Financial Planning Pty Ltd (2007) 164 FCR 450 followed.

PRACTICE AND PROCEDURE - Joinder - Alleged concurrent wrongdoer - Application by defendant to join alleged concurrent wrongdoer as defendant - Claim under Corporations Act 2001 (Cth), s 180 - Whether arguable the claim is an apportionable claim - Whether arguable that the party sought to be joined is a concurrent wrongdoer - Wrongs Act 1958 (Vic) Pt IVAA, ss 24, 24AE, 24AF, 24AH, 24AI, 24AL - Supreme Court (General Civil Procedure) Rules 2015 (Vic), r 9.06(b)(i).

Yeo & Ors v Freeman & Ors

Gardiner AsJ

[\[2018\] VSC 448](#)

14 August 2018

COURTS AND JUDICIAL SYSTEM - Group proceedings - Right of group member to opt out - Court powers concerning group membership - Femcare Ltd v Bright (2000) 172 ALR 729 - Clarke v Great Southern Finance Pty Ltd (in liq) [2014] VSC 569 - Clarke v Great Southern Finance Pty Ltd (in liq) (No 2) [2012] VSC 338 - Supreme Court Act 1986, ss 33J, 33KA.

Murray & Anor v Great Southern Managers Aust Ltd & Ors (an Application by Garry James Parker)

Croft J

[\[2018\] VSC 416](#)

10 August 2018

DEFAMATION - Publication - Defendant falsely denied publication.

DEFAMATION - Defences - Justification - Particulars of justification incapable of meeting sting of imputations - Particulars not established on evidence - Defamation Act 2005 (Vic), s 25.

DEFAMATION - Defences - Qualified privilege - Where publication denied - Where publication anonymous - Common law qualified privilege - No duty or reciprocity of interest - Statutory qualified privilege - Publication not reasonable - Defendant actuated by malice - Defamation Act 2005 (Vic), s 30.

DEFAMATION - Damages - Defendant aggravated plaintiffs' damage in circumstances of publication and since publication - Defamation Act 2005 (Vic), s 34.

DEFAMATION - Other remedies - Injunction - Special circumstances warranting imposition of injunction.

Moroney, Denis & Ors v Zegers, Karel

John Dixon J

[\[2018\] VSC 446](#)

16 August 2018

JURISDICTION - Whether proceeding still on foot - Whether proceeding brought to an end by July 2015 Orders - Effect of Settlement Implementation Deed - Court's jurisdiction to hear and determine Summons - Whether Court clearly satisfied that justice can be done - *Roberts v Gippsland Agricultural Earthmoving Contracting Co Pty Ltd* [1956] VLR 555 applied - *Seachange Management Pty Ltd v Pital Business Pty Ltd* (2009) 23 VR 396. EXPERT DETERMINATION - Expert determination final and binding in the absence of manifest error - Whether manifest error - Commercial contracts - Objective approach to contractual interpretation - Ordinary commercial meaning - Reasonable business person - Language used by the parties - Context - Commercial purpose or object to be secured - *Australian Broadcasting Commission v Australian Performing Rights Association* (1973) 129 CLR 99 considered and applied - *Mt Bruce Mining Pty Ltd v Wright Prospecting Pty Ltd* (2015) 256 CLR 104 considered and applied.

Ugrinovski, Robert v Naumovski, Vlado & Ors

Almond J

[\[2018\] VSC 437](#)

8 August 2018

PRACTICE AND PROCEDURE - Application for leave to file third further amended statement of claim - Allegations made in respect of third parties - Risk of prejudice - Leave granted - Supreme Court (General Civil Procedure) Rules 2015 (Vic) r 36.01.

Cargill Australia Ltd (ACN 004 684 173) v Viterro Malt P/L (ACN 096 519 658) & Ors and Cargill, Incorporated & Ors (No 10)

Elliott J

[\[2018\] VSC 439](#)

2 August 2018

PRACTICE AND PROCEDURE - Deeds and other instruments - Enforcement of deed of settlement - Whether summary procedure appropriate - *Barratt v Rees* [2014] VSCA 327 - *Roberts v Gippsland Agricultural & Earthmoving Contracting Co Pty Ltd* [1956] VLR 555 - *Seachange Management Pty Ltd v Pital Business Pty Ltd* (2009) 23 VR 396.

COURTS AND JUDICIAL SYSTEM - Consequences of being a group member - *Clarke (as Trustee of the Clarke Family Trust) v Great Southern Finance Pty Ltd (Receivers and Managers Appointed) (in liquidation)* [2014] VSC 516 - *Byrne v Javelin Asset Management Pty Ltd* [2016] VSCA 214 - *Bendigo and Adelaide Bank Ltd v Pekell Delaire Holdings Pty Ltd* (2017) 118 ACSR 592; [2017] VSCA 51 - *Timbercorp Finance Pty Ltd (in liq) v Collins* (2016) 259 CLR 212 - *ABL Custodian Services Pty Ltd v Freer* [2018] VSC 355 - *Bendigo and Adelaide Bank Ltd v Lonergan* [2018] VSC 357.

Bendigo and Adelaide Bank Ltd (ACN 068 049 178) and ABL Nominees P/L in its capacity as trustee for the Lighthouse Trust No 12 (ACN 106 756 521) v Haque, MD Monirul

Croft J

[\[2018\] VSC 406](#)

10 August 2018

PRACTICE AND PROCEDURE - Interlocutory Injunction - Mortgagee power of sale - Principles to be applied - Serious question to be tried - Balance of convenience - Whether 'general rule' in *Inglis v Commonwealth Trading Bank of Australia* to be applied invariably.

El-Saafin, Hassan and El-Saafin, Mohamad v Franek, Mark; Dixon, Stephen Robert; Bise, Ahmed and MAG Financial And Investment Ventures P/L (ACN 625 790 623)

Lyons J

[\[2018\] VSC 450](#)

15 August 2018

PRACTICE AND PROCEDURE - Summary judgment - Defendant admits debt - Civil Procedure Act 2010 (Vic), s 61 - Application for summary judgment allowed.

PRACTICE AND PROCEDURE - Interest on judgment sum - Claim by successful plaintiff for entitlement to be paid interest under the Penalty Interest Act 1983 (Vic) - Supreme Court Act 1986 (Vic), s 58 - Whether a statutory demand constitutes a 'demand for payment' - Whether demand need be served on all parties - Whether 'good cause to the contrary' shown for not ordering interest from earliest proper demand - Whether four and a half year delay between demand and issuing proceedings constitutes 'good cause to the contrary' - Interest period reduced - Whether interest rate should be reduced - Interest rate not reduced.

Cumner, Victor Leslie v Bird, John; Bird, Sharon and JSB Equipment P/L (ACN 093 740 768)

Matthews JR

[\[2018\] VSC 443](#)

17 August 2018

PRACTICE AND PROCEDURE - Trial commenced - Documents called for during cross-examination - Recent events concerning possible sale or partial disposal of business, including the business the subject of the proceeding - Discovery - Relevance of requested documents - Documents relating to value of global and Australian businesses - Supreme Court (General Civil Procedure) Rules 2015 (Vic) r 29.08 - Application granted.

Cargill Australia Ltd (ACN 004 684 173) v Viterra Malt P/L (ACN 096 519 658) & Ors and Cargill, Incorporated & Ors

Elliott J

[\[2018\] VSC 433](#)

6 August 2018

Common Law Division

COSTS - Costs of defendants' strike out application and plaintiff's application under s 23B of the Limitation of Actions Act 1958 (Vic) sought by defendants from plaintiff - Costs of proceeding sought by defendants on an indemnity basis - Defamation Act 2005 (Vic) s 40 - Civil Procedure Act 2010 (Vic) s 29 - Plaintiff sought that there be no order as to costs - Whether any special circumstances warranting a departure from usual position that defendants ought have their costs of the proceeding - Plaintiff ordered to pay defendants' costs of proceeding on a standard basis - Consideration of principles relevant to the award of indemnity costs - Consideration of relevance of factors including plaintiff's late service of s 23B application, failure to comply with Court orders and failure to accept prior settlement offer - Application that costs be paid by plaintiff's solicitor - *Gdanski v Palms Court Management Pty Ltd* [2017] VSCA 348, referred to - No order for indemnity costs, or any order that the costs be paid by the solicitor.

PRACTICE AND PROCEDURE - Application by plaintiff to restrain defendants' counsel from continuing to represent the defendants - Plaintiff was a client of defendants' counsel 14 years prior - Consideration of factors relevant to exercising discretion to restrain a legal practitioner from acting for a former client - Application dismissed.

Brott, Issac Alexander v FGD P/L t/as Farrar Gesini & Dunn (ABN 44 075 255 006); Thomson, Petranella and Rosenbaum, Norman (No 2)

Daly AsJ

[\[2018\] VSC 424](#)

2 August 2018

COSTS - Family provision - Where plaintiff obtained judgment for further provision not more favourable than defendant's offer of compromise - Where judgment amount marginally less than defendant's offer of compromise - Whether appropriate to otherwise order in all the circumstances - Supreme Court (General Civil Procedure) Rules 2015, r 26.08(3).

Smith, Elizabeth Ruth v Thwaites, Alan Keith (Executor of the Will and Trustee of the Estate of Margaret Mary Williams deceased) (No 3)

McMillan J

[\[2018\] VSC 431](#)

6 August 2018

COSTS - Property law - Application for removal of caveat - Caveat removed - Application for costs against non-party - Application dismissed - Non-party application for indemnity costs on costs application - Plaintiffs and defendant pay non-party's standard costs on costs application - *Sekhon & Anor v Chandyokey & Anor* [2018] VSC 327.

Sekhon, Amritaa and Sekhon, Aman v Chandyokey, Veena and Registrar of Titles

T Forrest J

[\[2018\] VSC 435](#)

7 August 2018

DEFAMATION - Pleadings - Defences - Justification - Hore-Lacy form - Imputations - Vagueness and generality - Pleading of post-publication conduct - Application for leave to amend refused - Defendant granted leave to replead.

Fenn, Ashley and Ethan Affordable Housing Ltd (ACN 135 818 245) v Australian Broadcasting Corporation 510

McDonald J

[\[2018\] VSC 449](#)

15 August 2018

ESTOPPEL - Issue estoppel - Whether same question decided in earlier proceeding - Findings by County Court in claim for weekly payments for work injury - Subsequent common law claim - No issue estoppel.

Tomasevic, Milan v State of Victoria (Department of Education & Early Childhood Development) (formally known as Department of Education)

Ginnane J

[\[2018\] VSC 428](#)

3 August 2018

JUDICIAL REVIEW - Application by worker for judicial review of a medical panel's opinion in respect of questions concerning her capacity for work - Plaintiff lodged successful WorkCover claim in respect to psychological injury caused by workplace bullying - Plaintiff's weekly payment entitlement subsequently terminated on basis that she was not incapacitated for work - Plaintiff self represented in examination before Panel and in present proceeding - Whether Panel failed to take into account relevant considerations - Finding that Panel took into account all relevant considerations that had been drawn to its attention - Panel not obliged to account for aspects of plaintiff's history and condition not drawn to its attention - Whether Panel took account of irrelevant considerations - Finding that plaintiff's job search activities were not an irrelevant consideration - Whether Panel denied procedural fairness - No denial of procedural fairness - Panel not obliged to take an active investigative role - Reasons adequate - Wingfoot Australia Partners Pty Ltd v Kocak [2013] HCA 43, referred to - Whether a medical panel's notes are to be preferred over a plaintiff's evidence as evidence of what occurred during an examination - Karabinis v Bendrups and ors [2017] VSC 648, applied - Whether any gaps or errors in Panel's notes go to a matter fundamental to the Panel's determination - Finding that any discrepancies between Panel's notes and plaintiff's evidence were largely minor and trivial - No error of law established - Proceeding dismissed.

Chang, Ying Kwan v Neill, Dr Diane; Adlard, Dr Steven and Doward International P/L

Daly AsJ

[\[2018\] VSC 403](#)

1 August 2018

JUDICIAL REVIEW AND APPEALS - Appeal from the Magistrates' Court on a question of law under s109 of the Magistrates' Court Act 1989 (Vic) - Booking agreement for provision of broadcast radio advertising services - Construction of agreement - Whether and when payment required - Whether payment obligation dependent upon non-broadcast in circumstances where payment not made in advance.

McDonald Murholme P/L (ACN 084 260 131) v Victorian Radio Network P/L (ACN 095 736 753)

Sloss J

[\[2018\] VSC 434](#)

8 August 2018

PRACTICE AND PROCEDURE - Client legal privilege - Disclosure in the course of taxation of costs - Whether waiver of privilege - Whether waiver limited - Privilege waived without limitation - Evidence Act 2008 (Vic), s 122; *Mann v Carnell* (1999) 201 CLR 1; *Giannarelli v Wraith* (No 2) (1991) 171 CLR 592; *Goldman v Hesper* [1988] 3 All ER 97 explained.

PRACTICE AND PROCEDURE - Implied undertaking - Whether implied undertaking applicable to documents voluntarily inspected in the course of taxation of costs - Whether circumstances warranting a release of the implied undertaking if applicable - Implied undertaking not applicable - But if applicable, undertaking released - *Springfield Nominees Pty Ltd v Bridgelands Securities Ltd* (1992) 38 FCR 217; *Liberty Funding v Phoenix Capital Ltd* (2005) 218 ALR 283; *Hearne v Street* (2008) 235 CLR 125; *Ambridge Investments Pty Ltd v Baker & Ors* (No 3) [2010] VSC 545; *Barrow v McLernon & Anor* [2012] VSC 134.

PRACTICE AND PROCEDURE - Stay of execution - Whether stay of execution of costs order warranted - Stay granted - Rule 66.14 of the Supreme Court (General Civil Procedure) Rules 2015 (Vic) considered.

Perton, Jane Elizabeth (nee Warring) as trustee of the Port Eagle Investment Trust v Walters, Lynne Margaret

Derham AsJ

[\[2018\] VSC 445](#)

14 August 2018

REAL PROPERTY - Co-ownership of land - Statutory application for sale of co-owned land and division of proceeds - Determination of nature and extent of co-ownership - Formation of non-commercial but profit making partnership between co-owners as friends - Purchase of beach house as leisure asset - Co-owners registered as tenants in common in equal shares - Whether interest of two owners held on resulting trust for third co-owner - Money to purchase land originated from third co-owner being in charge of partnership affairs - Dispute over identifying source of money - Whether presumption of resulting trust in favour of third owner was rebutted by intention to treat source money as partnership funds and intention for land to be beneficially owned by all three co-owners - Objective evidence and admissions of intention - Finding by Victorian Civil and Administrative Tribunal that presumption of resulting trust rebutted and no other basis for construing a trust - Appeal from finding dismissed - Appeal allowed residually on Tribunal's omission to consider statutory claim for sale and adjustment of interests according to payment of certain expenses - Property Law Act 1958 (Vic) (No 6344), ss 225, 228, 233.

Miller, James Edward v Martin, Ian Donald; Martin, Teresa; Brabham, Ross Harold and Brabham, Margaret

Mukhtar AsJ

[\[2018\] VSC 444](#)

10 August 2018

Criminal Division

CRIMINAL LAW - Application for bail - 13 year old applicant - Bail not opposed - Whether applicant has demonstrated exceptional circumstances - Applicant's age significant in assessing whether applicant has demonstrated exceptional circumstances - Bail Act 1977 (Vic) ss 3B(1), 4A, 4B, 4E(1)(a).

In the matter of the Bail Act 1977 (Vic) and In the matter of an application for bail by J O

T Forrest J

[\[2018\] VSC 438](#)

7 June 2018

CRIMINAL LAW - Application for bail - Charges of rape, rape by compelling sexual penetration, sexual assault, making a threat to kill - Applicant had prima facie entitlement to bail - Bail refused - Bail Act 1977.

In the matter of the Bail Act 1977 and In the matter of an application by Guirguis, Carl Champion J

[\[2018\] VSC 430](#)

16 July 2018

CRIMINAL LAW - Sentence - Manslaughter by criminal negligence - Duty of care owed - Failure to seek medical assistance for wife seriously injured - Very serious instance of offence - Prolonged period over which offending occurred - Diagnoses of anti-social personality disorder; adjustment disorder; and low general intellectual functioning with mild intellectual development disorder - Verdins principles - Whether causal connection between mental impairment and offending - Moral culpability - Plea of guilty - Weight to general deterrence and denunciation - Less weight to specific deterrence and protection of community - Sentence of eleven years' imprisonment with non-parole period of eight years - But for plea of guilty, sentence of thirteen years' imprisonment with non-parole period of ten years - Sentencing Act 1991 - Crimes Act 1958 - R v Blackwell [2013] VSC 499 - Reid v R (2010) 29 VR 446; [2010] VSCA 234 - R v Jagroop (2009) 22 VR 80; [2009] VSCA 46 - R v Verdins (2007) 16 VR 269; [2007] VSCA 102.

The Queen v Naddaf, Mohamed

Champion J

[\[2018\] VSC 429](#)

20 July 2018

CRIMINAL LAW - Sentence - Murder - Guilty plea - Accused aged 76 years - No relevant prior history - Otherwise of exemplary character - Early stages of dementing illness - Verdins - Specific deterrence and prospects of rehabilitation of little moment - General deterrence and denunciation given significant weight - Sentence of 17 years' imprisonment with non-parole period of 12 years.

The Queen v Pavlis, Peter

Taylor J

[\[2018\] VSC 440](#)

9 August 2018

CRIMINAL LAW - Sentence - Murder - Plea of guilty - Offender struck deceased to head with knuckledusters - Offender disposed of body of deceased in disused mineshaft - Various factual matters in dispute - Where co-offender gave evidence in contested plea - Whether offender had intention to cause death or really serious injury at the time of offence - Serious instance of murder - Sentence of 24 years' imprisonment with non-parole period of 19 years.

The Queen v Kelson, Thomas

Tinney J

[\[2018\] VSC 442](#)

10 August 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.

PRACTICE AND PROCEDURE - Costs - Calderbank offers - Whether terms of offers made expressed with sufficient clarity - Whether there should be an apportionment of costs payable by the successful party in respect of issues abandoned at trial.

Mailmail v Atar and Anor (No 2)

[\[2018\] VCC 1175](#)

Judge A Ryan

08/08/2018

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.

Arbitration

Default proceeding - Non-attendance - Non-participation - Unwilling- Model Law on International Commercial Arbitration, Art 25 - Australia

Jasmine, L. "Default proceedings in arbitration." (2018) 29(1) ADRJ 46-51.

Family dispute resolution - Family dispute resolution practitioners - Centralised mediation database - Australia

Judge Harman. "The field of dreams." (2018) 29(1) ADRJ 33-45.

Mediation - Court-ordered mediation - Mandatory mediation - Civil justice system - Costs - Von Marburg v Aldred (No 3) - Waterhouse v Perkins - Victoria

Retrot, A. "Costs, claims and counter-claims or victims, vindication and victory: the "real issue" and the case for mediation in Von Marburg v Aldred (No3)." (2018) 29(1) ADRJ 52-57.

Mediation - Mediator - Apology - Admissions of fault - Redress - Sincerity - Intent - Victims - Legal implications - Australia

Carroll, R.et.al. "Apologies, mediation and the law: resolution of civil disputes." (2018) 29(1) ADRJ 21-32.

Constitutional Law

Government - Executive governments - "Crown" - Commonwealth - British Constitution - History - UK

Allen, J. "The office of the crown." (2018) 77(2) Cambridge L J 298-320.

Judicial review - Constitutional theory - Democracy - Legitimacy - Supreme Court - UK

Khushal Murkens, J. "Judicious review: the constitutional practice of the UK Supreme Court." (2018) 77(2) Cambridge L J 349-374.

Contract Law

Building and construction contracts - Principal contractor - Recourse to security - Defective building works - Latent defects - Liability - Compensation - Dedert Corporation v United Dalby Bio-Refinery Pty Ltd - Victoria

Wall, H. "Defects and demands." (2018) 92(8) LIJ 42-45.

Courts

Judiciary - Judges - Tribunals - Jurisdiction - Legal profession - Role - Function - Future directions - UK

Gasztowicz, S. "One court, one judiciary?" (2018) 168(7800) NLJ 18-19.

Criminal Law & Procedure

Corporate homicide - Corporate crime - Corporate responsibility - Slavery - Supply chain - Bribery Act 2010 (UK) - Modern Slavery Act 2015 (UK) - UK

Reurts, N. "Corporate criminal liability in the supply chain: a coherent divergence." [2018] (8) *Crim L R* 633-645.

Criminal offences - Criminalisation - Delegated legislation - Administrative action - Statutory instruments - Penalties - Legislative process - Legislative power - UK
Leverick, F. and J. Chalmers. "Criminal law in the shadows: creating offences in delegated." (2018) 38(2) *Legal Studies* 221-241.

Sentencing - Judiciary - Judges - Jury - Jurors - Opinions - Public attitudes - Punitiveness - Breach of trust - Survey - Research study - Australia

Warner, K.et.al. "Aggravating and mitigating factors in sentencing: comparing the." (2018) 92(5) *ALJ* 374-391.

Serious crime - Organised crime - Proceeds of crime - Confiscation of profits - Confiscation orders - Literary proceeds orders - Proceeds of Crime Act 2002 (Cth) - Schapelle Corby - David Hicks - Ben Cousins - Mark "Chopper" Read - Australia

Skead, N. "Hear no evil, see no evil, speak no evil ... and, read no evil: confiscation of literary proceeds under Australian criminal property confiscation legislation." (2018) 92(5) *ALJ* 360-373.

Terrorism - Terrorists - Terrorist financing - Terrorist organisations - Charities - Misuse of funds from charities - Charitable status - Australian Charities and Not-for-profits Commission Act 2012 (Cth) - Anti-Money Laundering and Counter Terrorism Financing Act 2006 (Cth) - Comparative law - Canada - UK - US - Australia

Rose, G. "Regulating humanitarian assistance by Australian charities: legal." (2018) 92(4) *ALJ* 273-292.

Environmental Law

Sustainable development - Biodiversity conservation - Environment protection - Judicial decision - Judicial application - Intergenerational equity - Environment Protection and Biodiversity Conservation Act 1999 (Cth) - Australia

Justice Preston. "What's equity got to do with the environment?" (2018) 92(4) *ALJ* 257-272.

Jurisprudence

Constitution - Jurisdiction - Judicial decisions - Legitimacy - Regulation - Internet - Copyright - *Moberg v 33T LLC* - *Lenz v Universal Music* - Digital Millennium Copyright Act (US) - US -UK

Reed, C. "Why judges need jurisprudence in cyberspace." (2018) 38(2) *Legal Studies* 263-278.

Legal Profession

Courts - Judicial appointments - Judges - Judicial accountability - Acting judges - UK
Blackham, A. and G. Appleby. "The growing imperative to reform ethical regulation of former." (2018) 67(3) *ICLQ* 505-546.

Judicial assistants - Associates - Law clerks - Judges - Roles - Case management - Courts - Court of Appeal - UK

Semakula, J. "Day in the life of a judicial assistant." [2018] (Jul) *Counsel* 20-21.

Judiciary - Judges - Judicial leadership - Public relations - Role - Judicial diversity - Accountability - Functions - Supreme Court - Research study - UK

Hunter, R. and E. Rackley. "Judicial leadership on the UK Supreme Court." (2018) 38(2) *Legal Studies* 191-220.

Judiciary - Judges - Titles - Non-judicial titles - "The Honourable" - Retirement - High Court - UK

Zellick, G. "How 'honourable' are High Court judges?" (2018) 168(7803) *NLJ* 17-18.

Local Government

Adverse possession - Road - Public highway - Public roads - Anderson

Bradley, R. "Highway robbery? adverse possession of roads." (2018) 92(8) LIJ 30-33.

Practice & Procedure

Parliament - Criminal justice - Criminal offences - Contempt - Parliamentary process - Separation of powers - Courts - Judiciary - Legislature - Parliamentary Privileges Act 1987 (Cth) - Demicoli v Malta - UK - WA - Australia

Chief Justice Martin. "Natural justice in the parliamentary sphere: should parliaments." (2018) 45(6) Brief 22-30

Property Law

Airspace - Air rights - Landowners - Developers - Multi-level apartments Subdivision - Population growth - Housing density - Legal implications - Sale of Land Act 1962 (Vic) - Future challenges - Victoria **Palbas, N.** "The sky is not only the limit, it's the solution." (2018) 92(8) LIJ 38-41.

Torts

Contributory fault - Contributory negligence - Serious injury - Road traffic accidents - Children - Mental capacity - Personal injuries - Litigation - Damages - Best interests - Best interest of the child - United Nations Convention on the Rights of the Child, Art3 - Human rights - Probert v Moore - Jackson v Murray - UK

Barnes Macfarlane, L. "Rethinking childhood contributory negligence: "blame", "fault" -." [2018] (2) Juridical Review 75-97.

Defamation - Privacy - Data protection - Personal information - Search engine providers - Google - Publisher - Search results - "Right to be forgotten" - Data Protection Act 1998 (UK) - NT1 & NT2 v Google LLC - UK

Rogers, H. "Researching the point of no [search] return." [2018] (Jul) Counsel 29-30.

Motor vehicles - Driverless cars - Automated vehicles - Insurance - Liability - "Driver" - Duty of care - Standard of care - Safety standards - R v MacDonagh - Law reform - Australia

Pyman, E. "The liability blind spot: civil liability's blurred vision of." (2018) 92(4) ALJ 293-314.

Vicarious liability - Negligence - Sports participation - Professional sports - Amateur sports - Contact sport - Violence - Injuries - Employment - Insurance - Sporting organisations - Condon v Basi - Mohamud v Wm Morrison Supermarkets Plc - UK

Morgan, P. "Vicarious liability and the beautiful game: liability for professional." (2018) 38(2) Legal Studies 242-262.

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