



AGIS - Articles

Australian Government
Attorney-General's Department

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Published Date From 13/11/2013 To 26/11/2013

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ADMINISTRATION OF JUSTICE

AGIS No: 20132899
Title: Suppression orders after Fairfax v Ibrahim : implications for internet communications.
Authors: FITZGERALD, Brian
FOONG, Cheryl
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 175-191
Abstract: Use of suppression orders to prevent risk of prejudice to the administration of justice - forms of suppression orders - significance of 'notice and takedown' procedure - considerations by a court when deciding if a suppression order is necessary.
Legal Cases: Fairfax Digital Australia & New Zealand Pty Ltd v Ibrahim (2012) 293 ALR 384
General Television Corp Pty Ltd v Director of Public Prosecutions (2008) 19 VR 68
John Fairfax & Sons v Police Tribunal of New South Wales (1986) 5 NSWLR 465
Legislation: Broadcasting Services Act 1992 (CTH)
Subjects: ADMINISTRATION OF JUSTICE
COURT ORDERS
Jurisdictions: AUSTRALIA

ADOPTION

AGIS No: 20132901
Title: Marriage equality in New Zealand.
Authors: GEDDIS, Andrew
Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 151-154
Abstract: Background to legislative changes in New Zealand legalising same-sex marriage - protection of the rights of religious celebrants who do not want to solemnise unions - adoption by same-sex couples.
Legislation: Adoption Act 1955 (NZ)
Marriage (Definition of Marriage) Amendment Act 2013 (NZ)
Marriage Act 1955 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)
Subjects: ADOPTION
LAW REFORM
SAME SEX MARRIAGE
Jurisdictions: NEW ZEALAND

ADVERTISING

AGIS No: 20132837
Title: Neither adopt nor endorse : liability for misleading and deceptive conduct for publication of statements by intermediaries or conduits.
Authors: WITHANA, Radhika
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 152-164

Abstract: Recent High Court decision on liability under s 52 of the Trade Practices Act (TPA) for the publication of statements by one party but authored by another - allegations against Google - misleading and deceptive conduct by displaying advertisements on behalf of advertisers - authorities relating to intermediaries or conduits - relationship between s 52 and s 85 (3) of the TPA.

Legal Cases: Australian Competition and Consumer Commission (ACCC) v Trading Post Australia Pty Ltd (2011) 197 FCR 498
Google Inc v Australian Competition and Consumer Commission (ACCC) (2013) 294 ALR 404
Yorke v Lucas (1985) 158 CLR 661

Legislation: Trade Practices Act 1974 (CTH)

Subjects: ADVERTISING
INTERNET AND PUBLISHING

Jurisdictions: AUSTRALIA

ALCOHOL

AGIS No: 20132835

Title: Social development in children with Foetal Alcohol Spectrum Disorders.

Authors: PARKINSON, Samantha
MCLEAN, Sara

Source: CHILDREN AUSTRALIA 38 (3) September 2013 : 124-128

Abstract: Impact of exposure to prenatal alcohol on childhood social development - problems with social cognition and social information processing - vulnerability to victimisation, exploitation, peer pressure and interaction with criminal justice system - early detection and intervention improve social skills.

Subjects: ALCOHOL
CHILDREN

AGIS No: 20132953

Title: The right to drink? Wrong...

Authors: GOLDFLAM, Russell

Source: BALANCE (3) 2013 : 12-13

Abstract: Banned Drinkers Register in the Northern Territory - no human right to consume or possess alcohol - introduction of the Alcohol Mandatory Treatment Bill - criticisms of the Bill.

Subjects: ALCOHOL
LAW REFORM

Jurisdictions: AUSTRALIA, Northern Territory

ARBITRATION

AGIS No: 20132860

Title: Arbitrating financial "star wars".

Authors: PAPE, Bryan

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 174-181

Abstract: Use of arbitration to resolve financial disputes involving over-the-counter" (OTC) derivatives - purpose of OTC derivatives - characteristics of different types of derivatives - introduction of central clearing parties and effect on arbitrating disputes - non-centrally cleared derivatives - types of disputes - role of arbitral bodies.

Subjects: ARBITRATION
FINANCIAL SERVICES

ASYLUM

AGIS No: 20132893

Title: Hidden men : bearing witness to mandatory detention in Australia.

Authors: FLEAY, Caroline
BRISKMAN, Linda

Source: REFUGEE SURVEY QUARTERLY 32 (3) 2013 : 112-129

Abstract: Process of bearing witness - overview of mandatory detention policy in Australia - experiences in detention - claims processing - boredom and barriers to communication - traumatised asylum seekers.

Subjects: ASYLUM
DETENTION
REFUGEES

Jurisdictions: AUSTRALIA

AUSTRALIAN COMPETITION AND CONSUMER COMMISSION

AGIS No: 20132960

Title: Australian Competition and Consumer Commission (ACCC) v Hewlett-Packard Australia Ltd Pty.

Authors: TYNAN, Daniel
GAREY, Matthew

Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 32-34

Abstract: False and misleading statements to consumers and retailers about consumer guarantee rights - conduct - consumer guarantees - penalties by consent.

Legal Cases: Australian Competition and Consumer Commission (ACCC) v Hewlett-Packard Australia Pty Ltd [2013] FCA 653

Australian Securities and Investments Commission (ASIC) v Ingleby (2013) 93 ACSR 274

NW Frozen Foods Pty Ltd v Australian Competition and Consumer Commission (1996) 71 FCR 285

Legislation: Trade Practices Act 1974 (CTH)

Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
PENALTIES

Jurisdictions: AUSTRALIA

AGIS No: 20132961

Title: Determining the "local" in the local retail supermarket market : Woolworths acquisitions.

Authors: REES, Anne
Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 35-36
Abstract: ACCC decision in the acquisition of a supermarket by Woolworths - impact of purchase on local retail market - determination of the meaning of local - distance not the only test - importance of access.
Legislation: Competition and Consumer Act 2010 (CTH)
Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
COMPETITION LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132959
Title: Off-field conduct lands Collingwood a penalty.
Authors: REES, Anne
Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 30-31

Abstract: Advertising of membership package by Collingwood Football Club - misleading advertisement - administrative action taken by Australian Competition and Consumer Commission - issue of infringement notice - factors that determine if administrative or court action taken.
Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
CONSUMERS
Jurisdictions: AUSTRALIA

AGIS No: 20132842
Title: The telco "fine print" project.
Authors: PATERSON, Jeannie Marie
GADIR, Jonathan
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 219-222

Abstract: Recent report by the Australian Competition and Consumer Commission provides summary of contract terms used in various industries - concern about terms that did not comply with unfair contract term laws - consumer contracts for telecommunication products - entire agreement clauses - unilateral variation clauses - supplier right to terminate - consumer right to terminate.

Legislation: Competition and Consumer Act 2010 (CTH)
Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
TELECOMMUNICATIONS
UNJUST CONTRACTS
Jurisdictions: AUSTRALIA

AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION

AGIS No: 20132847
Title: Latest changes to the banning order regime : were the amendments really needed?
Authors: NEHME, Marina

Source: COMPANY AND SECURITIES LAW JOURNAL 31 (6) September 2013 : 341-364

Abstract: Banning orders in the financial services industry - suspension or revocation of licences - issue of stop orders - application of orders in the past - difficulties in maintaining bans - legislative changes to the banning order regime to improve upholding of bans on individuals.

Legislation: Corporations Act 2001 (CTH)
Corporations Amendment (Future of Financial Advice) Act 2012 (CTH)

Subjects: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
FINANCIAL SERVICES

Jurisdictions: AUSTRALIA

BANKING

AGIS No: 20132863

Title: Interpreting the UCP.

Authors: TYREE, Alan L

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 220-223

Abstract: Documentary letter of credits (DLC) - Uniform Customs and Practices for Documentary Credits (UPC) - relationship between DLC and UPC - incorporation by reference - implied terms and construction - return of documents.

Legal Cases: Attorney General of Belize v Belize Telecom Ltd [2009] UKPC 10
Fortis Bank SA/NV v Indian Overseas Bank [2010] EWHC 84 (Comm)
Leonie's Travel Pty Ltd v Qantas Airways Ltd (2010) 183 FCR 246

Subjects: BANKING
INTERNATIONAL TRADE

AGIS No: 20132864

Title: Preservation and suspension clauses in guarantees : when will they be effective?

Authors: FLANNERY, Angela
KARTHIGEYAN, Mano

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 224-228

Abstract: Enforcement of guarantees - court interpretation of standard clauses - operation of preservation clauses - suspension clauses - challenges to validity of clauses.

Legal Cases: Bakota Holdings Pty Ltd v Bank of Western Australia Ltd [2011] NSWSC 1277
O'Brien v Bank of Western Australia Ltd [2013] NSWCA 71

Legislation: Corporations Act 2001 (CTH)

Subjects: BANKING
CONTRACTS
GUARANTORS

Jurisdictions: AUSTRALIA

AGIS No: 20132920
Title: Where a negligent service provider fails to protect the lender's interests in a loan transaction : High Court decision casts doubt on lender's ability to recover its loss in full.
Authors: WESTON-SCHEUBER, Kylie
Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 153-157
Abstract: Proportionate liability where multiple parties responsible for economic loss or damage - recovery of loss in full against service provider where lender unable to rely on security - recent High Court decision alters recovery ability - borrower/guarantor 'concurrent wrongdoer' - limitation of recovery against negligent service provider.
Legal Cases: Hunt & Hunt Lawyers v Mitchell Morgan Nominees Pty Ltd (2013) 296 ALR 3
St George Bank Ltd v Quinerts Pty Ltd (2009) 25 VR 666
Legislation: Civil Liability Act 2002 (NSW)
Subjects: BANKING
GUARANTORS
LIABILITY
LOANS
NEGLIGENCE
Jurisdictions: AUSTRALIA

BAR ASSOCIATIONS

AGIS No: 20132826
Title: REGIONAL peace through strategic assistance : an update from the Law Council of Australia.
Source: ETHOS (229) September 2013 : 22-24
Abstract: Strengthening the legal profession in the Asia-Pacific region by the Law Council of Australia - development of bars in South Pacific - needs survey of the legal profession - professional conferences - pro bono work in the Asia-Pacific - other projects.
Subjects: BAR ASSOCIATIONS
DEVELOPING COUNTRIES
LEGAL CONFERENCES
LEGAL PROFESSION
PRO BONO SERVICES
Jurisdictions: ASIA PACIFIC

AGIS No: 20132894
Title: Why Rome and not Hong Kong : the Australian Bar at large.
Authors: FRENCH, Robert
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 91-101
Abstract: Discussion on the location of the Australian Bar Association Conference - internationalisation of legal practice - influence of Roman law on Australian legal tradition - opportunities for cross-border practice in the Asian region - need to consider a major Asian capital for next conference.

Subjects: BAR ASSOCIATIONS
LEGAL CONFERENCES
LEGAL HISTORY

Jurisdictions: ASIA
AUSTRALIA

BULLYING

AGIS No: 20132952

Title: Workplace bullying & the Fair Work Commission.

Authors: CHEONG, Peggy

Source: BALANCE (3) 2013 : 4-5

Abstract: Proposed changes to Fair Work Commission's (FWC) powers to deal with workplace bullying - parliamentary committee recommendations on workplace bullying - definition of workplace bullying - reasonable management practices and bullying - application to FWC deal with complaint - priority of applications - orders by the FWC - penalties - referral to state and territories health and safety regulators for investigation - importance for employers to keep up to date.

Legislation: Fair Work Act 2009 (CTH)

Subjects: BULLYING
WORKING CONDITIONS

Jurisdictions: AUSTRALIA

CHIEF JUSTICE

AGIS No: 20132917

Title: Wavering alternations of valour and caution : commercial and regulatory litigation in the French CJ High Court.

Authors: SPENDER, Peta

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 111-130

Abstract: Commercial and regulatory litigation in the High Court after the appointment of Chief Justice Robert French - judicial method and certainty - role of the High Court - authority of courts - public or private model of appellate litigation - justificatory ascent - judicial caution and valour - case law.

Legal Cases: Aon Risk Services Australia Ltd v Australian National University (2009) 239 CLR 175
Australian Securities and Investments Commission (ASIC) v Hellicar (2012) 286 ALR 501
Equuscorp Pty Ltd v Haxton; Equuscorp Pty Ltd v Bassat; Equuscorp Pty Ltd v Cunningham's Warehouse Sales Pty Ltd (2012) 246 CLR 498
International Litigation Partners Pte Ltd v Chameleon Mining NL (2012) 246 CLR 455
Jeffery & Katauskas Pty Ltd v Rickard Constructions Pty Ltd (2009) 239 CLR 75
Roadshow Films Pty Ltd v iiNet Ltd (2011) 284 ALR 222

Subjects: CHIEF JUSTICE
HIGH COURT
JUDICIARY
LITIGATION

Jurisdictions: AUSTRALIA

CHILDREN

AGIS No: 20132884

Title: Children and refusal of medical treatment : in urgent need of reform.

Authors: LENNINGS, Nicholas

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 122-141

Abstract: Ability of children to refuse medical treatment - "mature minor" principle - statutory regulation - refusal of medical treatment at common law - parental rights - parens patriae jurisdiction - NSW Law Reform Commission report - competency - understanding and intelligence - nature of decision to refuse treatment.

Legal Cases: Gillick v West Norfolk and Wisbech Area Health Authority (1986) AC 112

Re T (Adult : Refusal of Treatment) (1992) 4 All ER 649

Re W (A Minor) (1992) 4 All ER 627

Subjects: CHILDREN

MEDICAL LAW

Jurisdictions: AUSTRALIA

UNITED KINGDOM

AGIS No: 20132957

Title: Domestic violence and the impact on children's lives.

Authors: BOSHIER, Peter

WADEMAN, Jennifer

Source: NEW ZEALAND FAMILY LAW JOURNAL 7 (11) September 2013 : 259-263

Abstract: Overview of research on the nature and extent of consequences of domestic violence for children - protection of children from incidence and effects of domestic violence - helping children who are victims of family abuse - speech delivered at 6th World Congress on Family Law and Children's Rights.

Legislation: Domestic Violence Act 1995 (NZ)

Subjects: CHILDREN

DOMESTIC VIOLENCE

Jurisdictions: NEW ZEALAND

AGIS No: 20132872

Title: Double standards in special medical research : questioning the discrepancy between requirements for medical research involving incompetent adults and medical research involving children.

Authors: STEPANOV, Nikola A

SMITH, Malcolm K

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 47-52

Abstract: Approval of medical research in Australia - differences in safeguards for research involving children and incompetent adults - ethical justification for medical research.

Legislation: Guardianship and Administration Act 1986 (VIC)

Subjects: CHILDREN
MEDICAL ETHICS
MEDICAL RESEARCH
Jurisdictions: AUSTRALIA
UNITED STATES

AGIS No: 20132832
Title: Issues and challenges for service agencies in monitoring educational outcomes for children in out-of-home care.
Authors: SMITH, Lisa Joanne
MCLEAN, Sara
Source: CHILDREN AUSTRALIA 38 (3) September 2013 : 100-105
Abstract: Impact of out-of-home care on the educational experience of children - educational journey - roadblocks to education - effects of roadblocks - implications for future practice and monitoring.
Subjects: CHILDREN
EDUCATION
Jurisdictions: AUSTRALIA

AGIS No: 20132943
Title: Key social issues in the development of Australian family law : research and its impact on policy and practice.
Authors: MALONEY, Lawrie
WESTON, Ruth
HAYES, Alan
Source: JOURNAL OF FAMILY STUDIES 19 (2) August 2013 : 110-138
Abstract: Key social changes impacting on Australian families - workforce participation by women - changing perceptions of fatherhood - recognition of existence and destructive consequences of family violence and child abuse - rights of the child - recent major amendments to Australian family law - shared parental responsibility - evaluation of amendments by Australian Institute of Family Studies.
Legislation: Family Law Act 1975 (CTH)
Family Law Amendment (Shared Parental Responsibility) Act 2006 (CTH)
Family Law Reform Act 1995 (CTH)
Subjects: CHILDREN
DOMESTIC VIOLENCE
FAMILY LAW
SHARED PARENTING
WOMEN
Jurisdictions: AUSTRALIA

AGIS No: 20132833
Title: Playful aggression in early childhood settings.
Authors: HART, Jennifer L
TANNOCK, Michelle T

Source: CHILDREN AUSTRALIA 38 (3) September 2013 : 106-114
Abstract: Definitions of serious aggression and playful aggression - sociodramatic play theory and childhood development - benefits of playful aggression - supporting playful aggression.
Subjects: CHILDREN

AGIS No: 20132834
Title: Primary school children's imitation of sexualised music videos and artists.
Authors: EY, Lesley-Anne
CUPIT, C. Glenn
Source: CHILDREN AUSTRALIA 38 (3) September 2013 : 115-123
Abstract: Observation of children at primary school discos - direct imitation of sexual and non-sexual dress and behaviours as seen in music videos - prevalence and nature of sexualised behaviours - impact of behaviours on children's socio-sexual development.
Subjects: CHILDREN
SEXUAL BEHAVIOUR
Jurisdictions: AUSTRALIA

AGIS No: 20132835
Title: Social development in children with Foetal Alcohol Spectrum Disorders.
Authors: PARKINSON, Samantha
MCLEAN, Sara
Source: CHILDREN AUSTRALIA 38 (3) September 2013 : 124-128
Abstract: Impact of exposure to prenatal alcohol on childhood social development - problems with social cognition and social information processing - vulnerability to victimisation, exploitation, peer pressure and interaction with criminal justice system - early detection and intervention improve social skills.
Subjects: ALCOHOL
CHILDREN

CHILDRENS EVIDENCE

AGIS No: 20132958
Title: Natural justice and judicial meetings with children : documenting practice within the New Zealand Family Court.
Authors: CALDWELL, John
TAYLOR, Nicola
Source: NEW ZEALAND FAMILY LAW JOURNAL 7 (11) September 2013 : 264-271
Abstract: Study of judicial interviewing of children in New Zealand - natural justice implications of judicial interviewing - confidentiality of interview - disclosure to other parties involved - recording discussion with child - feedback to parties on judicial meeting - judiciary natural justice concerns.

Subjects: CHILDRENS EVIDENCE
FAMILY COURT
JUDICIAL PROCESS
JUDICIARY
NATURAL JUSTICE
Jurisdictions: NEW ZEALAND

CLASS ACTIONS

AGIS No: 20132918
Title: Class action settlement hurdles.
Authors: LEGG, Michael
Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 131-140

Abstract: Steps in settling a class action - identifying the group members who will participate in the settlement - settlement approval by relevant court - cases where steps refused by court - appropriate timing for identifying group members - 'closing the class' - structuring strong and weak claims to pass 'fair and reasonable' requirement.

Legal Cases: Peterson v Merck Sharp & Dohme (Aust) Pty Ltd (No 6) [2013] FCA 447
Winterford v Pfizer Australia Pty Ltd [2012] FCA 1199

Legislation: Federal Court of Australia Act 1976 (CTH)

Subjects: CLASS ACTIONS
COURT RULES AND PROCEDURE

Jurisdictions: AUSTRALIA

AGIS No: 20132828
Title: Federal Court rejects proposed settlement of Vioxx class action.
Authors: NICOLETTI, Teresa
JUNG, Alisha
Source: AUSTRALIAN PRODUCT LIABILITY REPORTER 24 (2) October 2013 : 18-22

Abstract: Settlement of class action refusal - settlement unfair and unreasonable in interests of group - settlement approval assessment - case law - duty of care - breach of Trade Practices Act - negligence - proposed settlement - reasons for refusal.

Legal Cases: Merck Sharp & Dohme (Australia) Pty Ltd v Peterson (2011) 196 FCR 145
Peterson v Merck Sharp & Dohme (Aust) Pty Ltd (No 6) [2013] FCA 447
Peterson v Merck Sharp & Dohme (Australia) Pty Ltd (2010) 184 FCR 1

Legislation: Therapeutic Goods Act 1989 (CTH)
Trade Practices Act 1974 (CTH)

Subjects: CLASS ACTIONS
DUTY OF CARE
NEGLIGENCE

Jurisdictions: AUSTRALIA

CODES OF PRACTICE

AGIS No: 20132888
Title: Rights and research : an examination of research under New Zealand's Code of Health and Disability Services Consumers' Rights.
Authors: WADSWORTH, Lydia
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 187-193
Abstract: Background of the Code of Health and Disability Services Consumers' Rights - research and the Code - health research - disability research - research not covered by the Code.
Legislation: Health and Disability Commissioner Act 1994 (NZ)
Subjects: CODES OF PRACTICE
MEDICAL RESEARCH
Jurisdictions: NEW ZEALAND

COMMERCIAL LAW

AGIS No: 20132911
Title: Proceedings on the commercial list : a guide to content and processes.
Authors: DOWNES, Kylie
Source: PROCTOR 33 (7) August 2013 : 34-35
Abstract: Commercial List established in Supreme Court of Queensland - hearings and determination of proceedings of a commercial nature - matters suitable for the Commercial List - applying for listing - management by Commercial List judge.
Subjects: COMMERCIAL LAW
COURT RULES AND PROCEDURE
Jurisdictions: AUSTRALIA, Queensland

AGIS No: 20132926
Title: Termination for convenience clauses : the role of good faith following Trans Petroleum v White Gum.
Authors: CURTIN, Ben
Source: COMMERCIAL LAW QUARTERLY 27 (1) March / May 2013 : 26-32
Abstract: Termination for convenience clauses - recent decision rejected notion clause is subject to implied obligation to act in good faith - analysis of case law consider termination for convenience clauses - drafting suggestions to support or alter the position at common law.
Legal Cases: Kellogg Brown & Root Pty Ltd v Australian Aerospace Ltd [2007] VSC 200
Sundararajah v Teachers Federation Health Ltd (2011) 283 ALR 720
Trans Petroleum (Australia) Pty Ltd v White Gum Petroleum Pty Ltd (2012) 268 FLR 433
Legislation: Trade Practices Act 1974 (CTH)
Subjects: COMMERCIAL LAW
CONTRACTS
Jurisdictions: AUSTRALIA

COMMUNICATION SKILLS

AGIS No: 20132919
Title: Understanding the client's perspective : overcoming the failure to communicate effectively.
Authors: WOLSKI, Bobette
Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 141-152
Abstract: Communication skills for lawyers - effective communication fundamental in many aspects of legal practice - components of communication - listening skills - non-verbal communication - impediments to effective communication - techniques for improving communication between lawyers and clients.
Subjects: COMMUNICATION SKILLS
LAWYER CLIENT RELATIONSHIP

COMPANY DIRECTORS

AGIS No: 20132851
Title: Is implementing fiduciary duties in a civil law country feasible? The case of China.
Authors: XU, Guangdong
ZHOU, Tianshu
Source: COMPANY AND SECURITIES LAW JOURNAL 31 (6) September 2013 : 378-398
Abstract: Overview of fiduciary duties - legal provisions for directors' duties under China's Corporate Law - enforcement of directors' duties by the courts - lack of flexibility in decisions - innovations in implementing fiduciary duties.
Legislation: Company Law 1993 (CHINA)
Subjects: COMPANY DIRECTORS
FIDUCIARY
Jurisdictions: CHINA

AGIS No: 20132935
Title: The impact of soft law on social change : measurable objectives for achieving gender diversity on boards of directors.
Authors: KLETTNER, Alice
CLARKE, Thomas
BOERSMA, Martijn
Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 138-165
Abstract: Company responses to the amendments of the Principles of Corporate Governance relating to gender diversity - empirical analysis of gender disclosures in ASX 200 companies annual reports - mandatory quotas and voluntary targets - increase in women on boards but not in senior executive teams - analysis of each amendment - comparison with European countries.
Subjects: COMPANY DIRECTORS
CORPORATE GOVERNANCE
GENDER INEQUALITY
WOMEN

Jurisdictions: AUSTRALIA
EUROPE

AGIS No: 20132934

Title: The James Hardie directors : a case of missing directors and misdirections by law.

Authors: GLASBEEK, Harry

Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 107-137

Abstract: Role played by judicial decision-making in underscoring values and norms in law - pursuit of rights in adversarial system - James Hardie directors case - argument that in a capitalist system, capitalist favouring decisions will be handed down - way in which evidence is dealt with - regulatory law - misdirection by law.

Legal Cases: Australian Securities and Investments Commission (ASIC) v Hellicar (2012) 286 ALR 501

Australian Securities and Investments Commission (ASIC) v Macdonald (No 11) (2009) 256 ALR 199

Australian Securities and Investments Commission v Macdonald (No 12) (2009) 259 ALR 116

Legislation: Corporations Act 2001 (CTH)

Subjects: COMPANY DIRECTORS

EVIDENCE

JUDICIAL PROCESS

Jurisdictions: AUSTRALIA

AGIS No: 20132849

Title: The liability-sanction relationship : a case study in the effectiveness of the corporate regulatory regime.

Authors: NICOLAE, Maria

Source: COMPANY AND SECURITIES LAW JOURNAL 31 (6) September 2013 : 365-377

Abstract: Effectiveness of the Corporations Act in regulating the conduct of company directors - effectiveness of regulation determined by liability-sanction relationship - examination of case law - recommendations for more appropriate sanctions under certain circumstances.

Legal Cases: Australian Securities and Investments Commission v Healey (No 2) (2011) 196 FCR 430

Australian Securities and Investments Commission v Vizard (2005) 145 FCR 57

Legislation: Corporations Act 2001 (CTH)

Subjects: COMPANY DIRECTORS

CORPORATIONS LAW

LIABILITY

Jurisdictions: AUSTRALIA

AGIS No: 20132936

Title: The 'two strikes' rule on the remuneration report : threats and opportunities for boards.

Authors: CHAPPLE, Larelle
HUBNER, Tereaze

Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 166-180

Abstract: Shareholder votes on company remuneration reports - recent Australian move from 'non-binding' vote to 'two strikes' rule - threats and opportunities of the new rule - impact of the rule on board recruitment - international comparison.

Legislation: Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004 (CTH)

Subjects: COMPANY DIRECTORS
CORPORATE GOVERNANCE

Jurisdictions: AUSTRALIA

COMPENSATION

AGIS No: 20132907

Title: Ademption redemption : restoring loss of benefit in a deceased estate.

Authors: WILLIAMS, Richard
BASSETT, Sandra

Source: PROCTOR 33 (7) August 2013 : 14-15

Abstract: Considerations relevant to determining amount of compensation for loss of benefit - claims under s 107 of the Powers of Attorney Act - case law.

Legal Cases: Neuendorf v Public Trustee of Qld (as Executor of Estate of Dickfos) (dec'd) [2013] QSC 156

Legislation: Powers of Attorney Act 1998 (QLD)
Succession Act 1981 (QLD)

Subjects: COMPENSATION
POWER OF ATTORNEY

Jurisdictions: AUSTRALIA, Queensland

COMPETITION LAW

AGIS No: 20132841

Title: A bid-rigging arrangement, an exclusion from a competitive sale process and a former premier.

Authors: HAMBLETON, Jennifer
BISCOE, Diana

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 211-218

Abstract: Prohibitions on cartel conduct - cross-border third party bidding arrangement under the Competition and Consumer Act (CCA) - judicial guidance on application of s 44ZZRD(3) (c) of the CCA - meaning of 'event of a request for bids' - extraterritorial reach of the CCA - breach of s 18 - accessorial liability - damages.

Legal Cases: Norcast S.AR.L v Bradken Ltd (No 2) (2013] FCA 235

Legislation: Competition and Consumer Act 2010 (CTH)

Subjects: COMPETITION LAW

Jurisdictions: AUSTRALIA

AGIS No: 20132961
Title: Determining the "local" in the local retail supermarket market : Woolworths acquisitions.
Authors: REES, Anne
Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 35-36
Abstract: ACCC decision in the acquisition of a supermarket by Woolworths - impact of purchase on local retail market - determination of the meaning of local - distance not the only test - importance of access.
Legislation: Competition and Consumer Act 2010 (CTH)
Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
COMPETITION LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132839
Title: Division 1A of the Competition and Consumer Act 2010 (Cth) : a critique.
Authors: WENDON, Nicholas
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 181-205
Abstract: Effectiveness of Div 1A in addressing anti-competitive price-signalling and information disclosures - recent law reform - risks and benefits of information disclosure - approaches taken in different jurisdictions - unilateral disclosures - per se prohibitions - hub and spoke arrangements.
Legal Cases: Apco Service Stations Pty Ltd v Australian Competition and Consumer Commission (2005) 159 FCR 452
Australian Competition and Consumer Commission v Leahy Petroleum Pty Ltd (2007) 160 FCR 321
Legislation: Competition Act 1998 (UK)
Competition and Consumer Act 2010 (CTH)
Sherman Anti-Trust Act 1890 (US)
Subjects: COMPETITION LAW
LIABILITY
PRICE CONTROL
Jurisdictions: AUSTRALIA
UNITED KINGDOM
UNITED STATES

AGIS No: 20132840
Title: International networks : QANTAS and Emirates co-ordination agreement.
Authors: LORD, Nicola
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 206-210
Abstract: Application to authorise a co-ordination agreement - allow cooperation across global airline networks - agreement may give effect to cartel or exclusionary provision - factors for granting authorisation provisions likely to give benefit to public - benefit outweigh any detriment.
Legislation: Competition and Consumer Act 2010 (CTH)

Subjects: COMPETITION LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132844
Title: Merger review change in China.
Authors: BRIDGES, Tom
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 223-227

Abstract: Development of merger control regime in China - overview of merger review - notifications of certain "business concentrations" or mergers based on turnover thresholds - new draft regulations - restrictive conditions on concentrations - remedies - standards for simple merger cases - recent decisions - trends and outlook.

Legislation: Anti-Monopoly Law 2008 (CHINA)
Subjects: COMPETITION LAW
MERGERS
MONOPOLIES
Jurisdictions: CHINA

CONSTITUTIONAL LAW

AGIS No: 20132904
Title: Habeas corpus in New Zealand : procedure and Constitution.
Authors: BERKELEY, Richard
Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 166-181

Abstract: Historical background of habeas corpus - procedural context of reforms - inherent jurisdiction - judicial review - interpretation of habeas corpus - the body - detention - legality - release.

Legal Cases: Bennett v Superintendent , Rimutaka Prison (No 2) (2002) 1 NZLR 616
Taunoa v Attorney-General (2008) 1 NZLR 429
Zaoui v Attorney-General (2005) 1 NZLR 577

Legislation: Bail Act 2000 (NZ)
Habeas Corpus Act 2001 (NZ)
Subjects: CONSTITUTIONAL LAW
HABEAS CORPUS
STATUTORY INTERPRETATION
Jurisdictions: NEW ZEALAND

AGIS No: 20132903
Title: House of Representatives retains its control over money bills despite minority government.
Authors: MCCLELLAND, Robert
Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 161-165
Abstract: Bills appropriating revenue or money must originate in the House of Representatives - constitutional and historical background for this arrangement - standing orders - laws appropriating revenue or moneys.

Legal Cases: Combet v Commonwealth of Australia (2005) 224 CLR 494
Pape v Commissioner of Taxation (2009) 238 CLR 1

Legislation: Constitution (CTH)

Subjects: CONSTITUTIONAL LAW
HOUSE OF REPRESENTATIVES
MONEY

Jurisdictions: AUSTRALIA

CONSTITUTIONAL REFORM

AGIS No: 20132856

Title: Economic, social and cultural rights : a proposal for a constitutional peg in the ground.

Authors: BAIRD, Natalie

Source: NEW ZEALAND LAW JOURNAL September 2013 : 289-292

Abstract: Constitutional protection of economic, social and cultural rights (ESCR) - existing protection framework - limitations of current framework - standard objections to constitutional recognition of ESCR - future constitutionalisation of ESCR.

Legislation: Human Rights Act 1993 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)

Subjects: CONSTITUTIONAL REFORM
HUMAN RIGHTS

Treaties: International Covenant on Civil and Political Rights
Universal Declaration of Human Rights

Jurisdictions: NEW ZEALAND

CONSTRUCTION INDUSTRY

AGIS No: 20132941

Title: An examination of the independent certification process of a construction contract.

Authors: BACKSTROM, Michelle

Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 406-416

Abstract: Binding nature of a construction contract certificate in the context of tradition contracts - review of decision of certifier - interpreting the terms of the contract - impact on public private partnerships - response of courts to certification - drafting considerations.

Legal Cases: Beaufort Developments (NI) Ltd v Gilbert-Ash (NI) Ltd (1999) AC 266
Northern Regional Health Authority v Derek Crouch Construction Co Ltd (1984) 2 All ER 175
WMC Resources Ltd v Leighton Contractors Pty Ltd (1999) 20 WAR 489

Subjects: CONSTRUCTION INDUSTRY
CONTRACTS

Jurisdictions: AUSTRALIA

AGIS No: 20132944
Title: Parry v Navaroo Constructions : printed condition and sunset clause operating at different points in time held not inconsistent.
Authors: JEBEILE, Maged
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 2-5
Abstract: Construction of 'off the plan' contract for sale - effect of standard form printed conditions and special conditions - right of rescission - sunset clause - legal principles of construction of contract - case law.
Legal Cases: Parry v Navaroo Constructions Pty Ltd [2013] NSWSC 249
Subjects: CONSTRUCTION INDUSTRY
CONTRACTS
Jurisdictions: AUSTRALIA

AGIS No: 20132939
Title: The availability of liquidated damages following determination of the construction contract.
Authors: HAVELOCK, Rohan
Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 385-405
Abstract: Liquidated and ascertained damages (LAD) provision in commercial construction contracts - competing concerns between contractor and employer - approaches taken in case law - merits of these approaches in relation to situation - comparison of standard form construction contracts in Australia, New Zealand and internationally - availability of general damages as an alternative to LAD.
Legal Cases: British Glanzstoff Manufacturing Co Ltd v General Accident Fire and Life Assurance Co Ltd (1912) SC 591
Hall v Van Der Heiden (No 2) [2010] EWHC 586
Re Yeadon Waterworks Co v Binns & Wright (1895) 72 LT 538
Subjects: CONSTRUCTION INDUSTRY
CONTRACTS
DAMAGES
LIQUIDATION
Jurisdictions: AUSTRALIA
NEW ZEALAND

AGIS No: 20132938
Title: Why the sound and fury? Enforcing security of payment adjudication determinations.
Authors: MASON, Brian
Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 372-384
Abstract: Enforcement of unpaid adjudication determinations as a judgment debt - recent Federal Court decision upholding constitutional validity of arrangement - Kable principle - judicial process - prevention of exercise of federal judicial power - jurisdictional error.
Legal Cases: Birdon Pty Ltd v Houben Marine Pty Ltd (2011) 197 FCR 25
Kable v Director of Public Prosecutions (NSW) (1996) 189 CLR 51

Legislation: Building and Construction Industry Security of Payment Act 1999 (NSW)
Constitution (CTH)
Subjects: CONSTRUCTION INDUSTRY
DEBTS AND DEBTORS
JUDICIARY
Jurisdictions: AUSTRALIA

CONSUMER PROTECTION

AGIS No: 20132829
Title: Defective goods revisited : "safety defect" under the Australian Consumer Law.
Authors: WHITE, Stephen
BAILEY, Allison
Source: AUSTRALIAN PRODUCT LIABILITY REPORTER 24 (2) October 2013 : 23-28
Abstract: Overview of safety defects - claims for defects - types of safety defects - design or formulation - manufacture - instructions and product literature - defences for safety defects.
Legal Cases: Gliderol International Pty Ltd v Skerbic (2009) 170 ACTR 1
Merck Sharpe & Dohme (Aust) Pty Ltd v Peterson (2011) 196 FCR 145
Middleton v Erwin (2009) 52 MVR 218
Legislation: Competition and Consumer Act 2010 (CTH)
Trade Practices Act 1974 (CTH)
Subjects: CONSUMER PROTECTION
PRODUCTS SAFETY
Jurisdictions: AUSTRALIA

AGIS No: 20132962
Title: When sales tactics cross into the territory of unconscionable conduct : Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd.
Authors: COUTINHO, Jeh
Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 37-39
Abstract: Determining when sales tactics become unconscionable conduct - centrality of community values - expectation of fairness and honesty - case law.
Legal Cases: Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd (2013) 133 ALD 134
Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd [2013] FCAFC 90
Subjects: CONSUMER PROTECTION
SALE OF GOODS
UNCONSCIONABLE CONDUCT

CONSUMERS

AGIS No: 20132959
Title: Off-field conduct lands Collingwood a penalty.
Authors: REES, Anne
Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 30-31

Abstract: Advertising of membership package by Collingwood Football Club - misleading advertisement - administrative action taken by Australian Competition and Consumer Commission - issue of infringement notice - factors that determine if administrative or court action taken.

Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
CONSUMERS

Jurisdictions: AUSTRALIA

AGIS No: 20132845
Title: Progress with New Zealand's consumer law reform.
Authors: BERKHAN, Matthew
TROTMAN, Lindsay
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 228-236

Abstract: Overview of the Consumer Law Reform Bill - consolidation of current framework of consumer statutes - purpose statements - amendments to the Fair Trading Act and Consumer Guarantees Act.

Legislation: Consumer Guarantees Act 1993 (NZ)
Fair Trading Act 1986 (NZ)

Subjects: CONSUMERS
LAW REFORM

Jurisdictions: NEW ZEALAND

CONTRACTS

AGIS No: 20132946
Title: Accommodation for care arrangements : the murky (legal) world of family accommodation arrangements.
Authors: WEBB, Eileen
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 6-7

Abstract: Increase in family accommodation arrangements - family members providing care for relatives in exchange for accommodation - "assets for care" - verbal agreements - lack of "contract" - importance of recording terms of agreement - case law.

Legal Cases: Worthington v Worthington [2013] WASC 220

Subjects: CONTRACTS
FAMILIES

Jurisdictions: AUSTRALIA

AGIS No: 20132941
Title: An examination of the independent certification process of a construction contract.

Authors: BACKSTROM, Michelle
Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 406-416
Abstract: Binding nature of a construction contract certificate in the context of tradition contracts - review of decision of certifier - interpreting the terms of the contract - impact on public private partnerships - response of courts to certification - drafting considerations.
Legal Cases: Beaufort Developments (NI) Ltd v Gilbert-Ash (NI) Ltd (1999) AC 266
Northern Regional Health Authority v Derek Crouch Construction Co Ltd (1984) 2 All ER 175
WMC Resources Ltd v Leighton Contractors Pty Ltd (1999) 20 WAR 489
Subjects: CONSTRUCTION INDUSTRY
CONTRACTS
Jurisdictions: AUSTRALIA

AGIS No: 20132822
Title: Anti-avoidance : a new implied term for contracts of employments?
Authors: BINDON, Prue
Source: ETHOS (229) September 2013 : 10-12
Abstract: Implied terms in contract of employment - anti-avoidance term - restraint of employer engaging in tactics to avoid operation of exact term that provide benefit to employee - argument for anti-avoidance term - judicial response - implications.

Legal Cases: Sunny Tadjudin v Bank of America, National Association (2009) 4 HKLRD 662
Sunny Tadjudin v Bank of America, National Association (2010) 3 HKLRD 417
Sunny Tadjudin v Bank of America, National Association [2008] HKCFI 1025
Subjects: CONTRACTS
EMPLOYMENT
Jurisdictions: HONG KONG

AGIS No: 20132896
Title: Contractual construction : surrounding circumstances and the ambiguity gateway.
Authors: MARTIN, Kenneth
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 118-139
Abstract: Rule of contractual construction in Codelfa - 'ambiguity threshold' and the admittance of evidence of surrounding circumstances - analysis of reasons in Codelfa - implications of subsisting 'ambiguity threshold'.
Legal Cases: Codelfa Construction Pty Ltd v State Rail Authority (NSW) (1982) 149 CLR 337
Royal Botanic Gardens and Domain Trust v South Sydney City Council (2002) 240 CLR 45
Western Export Services Inc v Jireh International Pty Ltd (2011) 282 ALR 604
Subjects: CONTRACTS
Jurisdictions: AUSTRALIA

AGIS No: 20132897
Title: Establishing the scope and terms of contracts.

Authors: DOUGLAS, F M
CONDE, J C
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 140-152
Abstract: Construction and interpretation of contracts - offers and counter-offers - terms of contracts and representations - certainties - surrounding facts and post-contractual acts.
Legal Cases: Brambles Holdings Ltd v Bathurst City Council (2001) 53 NSWLR 153
Forrest v Australian Securities and Investments Commission (ASIC); Fortescue Metals Group Ltd v Australian Securities and Investments Commission (2012) 291 ALR 399
Western Export Services Inc v Jireh International Pty Ltd (2011) 282 ALR 604
Subjects: CONTRACTS
Jurisdictions: AUSTRALIA

AGIS No: 20132921
Title: Is the vendor's solicitor the stakeholder of deposit monies? An Irish perspective.

Authors: BERGIN-CROSS, Caroline
Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 158-160
Abstract: Non-completion of contracts for sale - deposit paid to vendor's solicitor - failure to return deposit - vendor in liquidation - parties entitled to deposit monies.
Legal Cases: Edgell v Day (1865) LR 1 CP 80
Ellis v Goulton (1893) 1 QB 350
Leemac Overseas Investments Ltd v Harvey (1973) IR 160
Subjects: CONTRACTS
LIQUIDATION
SOLICITORS
Jurisdictions: IRELAND

AGIS No: 20132944
Title: Parry v Navaroo Constructions : printed condition and sunset clause operating at different points in time held not inconsistent.
Authors: JEBEILE, Maged
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 2-5
Abstract: Construction of 'off the plan' contract for sale - effect of standard form printed conditions and special conditions - right of rescission - sunset clause - legal principles of construction of contract - case law.
Legal Cases: Parry v Navaroo Constructions Pty Ltd [2013] NSWSC 249
Subjects: CONSTRUCTION INDUSTRY
CONTRACTS
Jurisdictions: AUSTRALIA

AGIS No: 20132864
Title: Preservation and suspension clauses in guarantees : when will they be effective?

Authors: FLANNERY, Angela
KARTHIGEYAN, Mano
Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 224-228
Abstract: Enforcement of guarantees - court interpretation of standard clauses - operation of preservation clauses - suspension clauses - challenges to validity of clauses.
Legal Cases: Bakota Holdings Pty Ltd v Bank of Western Australia Ltd [2011] NSWSC 1277
O'Brien v Bank of Western Australia Ltd [2013] NSWCA 71
Legislation: Corporations Act 2001 (CTH)
Subjects: BANKING
CONTRACTS
GUARANTORS
Jurisdictions: AUSTRALIA

AGIS No: 20132924
Title: Remoulding pre-contracts in China : essentials and framework.
Authors: WEI, Shen
YU, Kenny
Source: COMMERCIAL LAW QUARTERLY 27 (1) March / May 2013 : 3-14
Abstract: Recent issuing of judicial interpretation on Article 42 of PRC Contract Law - clarification of ambiguities on sales contract - overview of Article 42 - regulation of pre-contractual liability - remoulding of 'good faith framework'.
Legislation: Contract Law (CHINA)
Subjects: CONTRACTS
LIABILITY
STATUTORY INTERPRETATION
Jurisdictions: CHINA

AGIS No: 20132825
Title: Sham contracting in employment : save your client, and yourself.
Authors: WILSON, John
Source: ETHOS (229) September 2013 : 18-20
Abstract: Engagement of independent contractors instead of employees - contractors treated like employees - sham arrangement provisions of the Fair Work Act - consequences of contravention of provisions - accessory liability of directors and lawyers.
Legal Cases: Fair Work Ombudsman v Happy Cabby Pty Ltd [2013] FCCA 397
Legislation: Fair Work Act 2009 (CTH)
Subjects: CONTRACTS
EMPLOYMENT
Jurisdictions: AUSTRALIA

AGIS No: 20132926
Title: Termination for convenience clauses : the role of good faith following Trans Petroleum v White Gum.

Authors: CURTIN, Ben
Source: COMMERCIAL LAW QUARTERLY 27 (1) March / May 2013 : 26-32
Abstract: Termination for convenience clauses - recent decision rejected notion clause is subject to implied obligation to act in good faith - analysis of case law consider termination for convenience clauses - drafting suggestions to support or alter the position at common law.
Legal Cases: Kellogg Brown & Root Pty Ltd v Australian Aerospace Ltd [2007] VSC 200
Sundararajah v Teachers Federation Health Ltd (2011) 283 ALR 720
Trans Petroleum (Australia) Pty Ltd v White Gum Petroleum Pty Ltd (2012) 268 FLR 433
Legislation: Trade Practices Act 1974 (CTH)
Subjects: COMMERCIAL LAW
CONTRACTS
Jurisdictions: AUSTRALIA

AGIS No: 20132947
Title: Termination rights and the need for clear communication between parties.
Authors: BLUE, Christopher
MERRETT, Sarah
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 9-10
Abstract: Effect of a due diligence special condition in a contract for the sale of land - terms of special condition - advising special condition satisfied - timing of termination of contract - termination of contract after fulfilment of special condition - need for clear communication.
Legal Cases: Northbound Property Group Pty Ltd v Carosi [2013] QSC 159
Subjects: CONTRACTS
PROPERTY LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132939
Title: The availability of liquidated damages following determination of the construction contract.
Authors: HAVELOCK, Rohan
Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 385-405
Abstract: Liquidated and ascertained damages (LAD) provision in commercial construction contracts - competing concerns between contractor and employer - approaches taken in case law - merits of these approaches in relation to situation - comparison of standard form construction contracts in Australia, New Zealand and internationally - availability of general damages as an alternative to LAD.
Legal Cases: British Glanzstoff Manufacturing Co Ltd v General Accident Fire and Life Assurance Co Ltd (1912) SC 591
Hall v Van Der Heiden (No 2) [2010] EWHC 586
Re Yeadon Waterworks Co v Binns & Wright (1895) 72 LT 538
Subjects: CONSTRUCTION INDUSTRY
CONTRACTS
DAMAGES
LIQUIDATION

Jurisdictions: AUSTRALIA
NEW ZEALAND

CORONERS

AGIS No: 20132866
Title: Stillbirth and the law : options for law reform and issues for the coronial jurisdiction.

Authors: FRECKELTON, Ian
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 7-26
Abstract: Legal issues in relation to stillbirth law reform - stillbirth in the context of criminal, civil and coronial law - extending coronial jurisdiction - 'born alive' rule - legislative review in South Australia - law reform.

Legal Cases: Attorney General, Re Judicial Review [2013] NIQB 52
Barrett v Coroner's Court of South Australia (2010) 108 SASR 568

Subjects: CORONERS
LAW REFORM
MEDICAL LAW

Jurisdictions: AUSTRALIA
CANADA
NEW ZEALAND
NORTHERN IRELAND

CORPORATE GOVERNANCE

AGIS No: 20132935
Title: The impact of soft law on social change : measurable objectives for achieving gender diversity on boards of directors.

Authors: KLETTNER, Alice
CLARKE, Thomas
BOERSMA, Martijn

Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 138-165

Abstract: Company responses to the amendments of the Principles of Corporate Governance relating to gender diversity - empirical analysis of gender disclosures in ASX 200 companies annual reports - mandatory quotas and voluntary targets - increase in women on boards but not in senior executive teams - analysis of each amendment - comparison with European countries.

Subjects: COMPANY DIRECTORS
CORPORATE GOVERNANCE
GENDER INEQUALITY
WOMEN

Jurisdictions: AUSTRALIA
EUROPE

AGIS No: 20132936

Title: The 'two strikes' rule on the remuneration report : threats and opportunities for boards.

Authors: CHAPPLE, Larelle
HUBNER, Tereaze

Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 166-180

Abstract: Shareholder votes on company remuneration reports - recent Australian move from 'non-binding' vote to 'two strikes' rule - threats and opportunities of the new rule - impact of the rule on board recruitment - international comparison.

Legislation: Corporate Law Economic Reform Program (Audit Reform and Corporate Disclosure) Act 2004 (CTH)

Subjects: COMPANY DIRECTORS
CORPORATE GOVERNANCE

Jurisdictions: AUSTRALIA

CORPORATIONS LAW

AGIS No: 20132925

Title: Practice in the Corporations List of the Supreme Court of NSW.

Authors: BLACK, Ashley

Source: COMMERCIAL LAW QUARTERLY 27 (1) March / May 2013 : 15-25

Abstract: Aspects of practice in the Corporations List - structure of the Corporations List - urgent applications - discovery and notices - conduct of hearing - evidence - mediation - representation by directors - oppression proceedings - statutory derivative actions - applications to set aside - approvals - winding up - release of liquidators - proposed reforms to regulation of insolvency practitioners.

Legislation: Australian Securities and Investments Commission Act 2001 (CTH)
Corporations Act 2001 (CTH)
Cross-Border Insolvency Act 2008 (CTH)

Subjects: CORPORATIONS LAW
COURT RULES AND PROCEDURE
SUPREME COURT

Jurisdictions: AUSTRALIA, New South Wales

AGIS No: 20132849

Title: The liability-sanction relationship : a case study in the effectiveness of the corporate regulatory regime.

Authors: NICOLAE, Maria

Source: COMPANY AND SECURITIES LAW JOURNAL 31 (6) September 2013 : 365-377

Abstract: Effectiveness of the Corporations Act in regulating the conduct of company directors - effectiveness of regulation determined by liability-sanction relationship - examination of case law - recommendations for more appropriate sanctions under certain circumstances.

Legal Cases: Australian Securities and Investments Commission v Healey (No 2) (2011) 196 FCR 430
Australian Securities and Investments Commission v Vizard (2005) 145 FCR 57

Legislation: Corporations Act 2001 (CTH)

Subjects: COMPANY DIRECTORS
CORPORATIONS LAW
LIABILITY
Jurisdictions: AUSTRALIA

COSTS

AGIS No: 20132909
Title: Costs effective : the new provisions in the Planning and Environment Court.

Authors: WYLIE, Keith
Source: PROCTOR 33 (7) August 2013 : 20-21
Abstract: Amendment to the Sustainable Planning Act on costs provisions - promotion of mediation and resolution - application of costs provisions - dissuading commercial competitor appeals to delay development - prevention of unmeritorious appeals.

Legislation: Sustainable Planning Act 2009 (QLD)
Sustainable Planning and Other Legislation Amendment Act 2012

Subjects: COSTS
Jurisdictions: AUSTRALIA, Queensland

AGIS No: 20132915
Title: Settlement offers on appeals : when might costs be awarded on the indemnity basis?

Authors: JACKSON, Sheryl
Source: PROCTOR 33 (7) August 2013 : 40-41
Abstract: Appeals - offer to settle - offer reject as less favourable to appellant - costs awarded on indemnity basis - applicability of Uniform Civil Procedure Rules and Defamation Act - refusal of unreasonable offer.

Legal Cases: Deepcliffe Pty Ltd v Council of the City of Gold Coast [2001] QCA 396
Roberts v Prendergast [2013] QCA 89
Tector v FAI General Insurance Co Ltd (2001) 2 Qd R 463

Legislation: Defamation Act 2005 (QLD)
Subjects: COSTS
INDEMNITY
Jurisdictions: AUSTRALIA, Queensland

COUNTER TERRORISM

AGIS No: 20132905
Title: What future for Australia's control order regime?
Authors: BURTON, Lisa
WILLIAMS, George
Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 182-208

Abstract: Overview of the control order regime in Australia and the United Kingdom - process of making a control order - grounds on which orders can be made - measure imposed by order - use of the Australian control order regime - comparison of Australian and UK systems - UK reforms - introduction of Terrorism Prevention and Investigation Measures (TPIM) - comparison of Australian control orders and TPIM - future of control orders in Australia.

Legal Cases: Al-Kateb v Godwin (2004) 219 CLR 562
Jabbour v Thomas (2006) 165 A Crim R 32
R v Thomas (2006) 163 A Crim R 567

Legislation: Anti-Terrorism Act (No. 2) 2005 (CTH)
Anti-Terrorism Crime and Security Act 2001 (UK)
Criminal Code Act 1995 (CTH)
Prevention of Terrorism Act 2005 (UK)

Subjects: COUNTER TERRORISM

Jurisdictions: AUSTRALIA
UNITED KINGDOM

COURT ORDERS

AGIS No: 20132899

Title: Suppression orders after Fairfax v Ibrahim : implications for internet communications.

Authors: FITZGERALD, Brian
FOONG, Cheryl

Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 175-191

Abstract: Use of suppression orders to prevent risk of prejudice to the administration of justice - forms of suppression orders - significance of 'notice and takedown' procedure - considerations by a court when deciding if a suppression order is necessary.

Legal Cases: Fairfax Digital Australia & New Zealand Pty Ltd v Ibrahim (2012) 293 ALR 384
General Television Corp Pty Ltd v Director of Public Prosecutions (2008) 19 VR 68
John Fairfax & Sons v Police Tribunal of New South Wales (1986) 5 NSWLR 465

Legislation: Broadcasting Services Act 1992 (CTH)

Subjects: ADMINISTRATION OF JUSTICE
COURT ORDERS

Jurisdictions: AUSTRALIA

COURT RULES AND PROCEDURE

AGIS No: 20132918

Title: Class action settlement hurdles.

Authors: LEGG, Michael

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 131-140

Abstract: Steps in settling a class action - identifying the group members who will participate in the settlement - settlement approval by relevant court - cases where steps refused by court - appropriate timing for identifying group members - 'closing the class' - structuring strong and weak claims to pass 'fair and reasonable' requirement.

Legal Cases: Peterson v Merck Sharp & Dohme (Aust) Pty Ltd (No 6) [2013] FCA 447
Winterford v Pfizer Australia Pty Ltd [2012] FCA 1199
Legislation: Federal Court of Australia Act 1976 (CTH)
Subjects: CLASS ACTIONS
COURT RULES AND PROCEDURE
Jurisdictions: AUSTRALIA

AGIS No: 20132925
Title: Practice in the Corporations List of the Supreme Court of NSW.
Authors: BLACK, Ashley
Source: COMMERCIAL LAW QUARTERLY 27 (1) March / May 2013 : 15-25
Abstract: Aspects of practice in the Corporations List - structure of the Corporations List - urgent applications - discovery and notices - conduct of hearing - evidence - mediation - representation by directors - oppression proceedings - statutory derivative actions - applications to set aside - approvals - winding up - release of liquidators - proposed reforms to regulation of insolvency practitioners.

Legislation: Australian Securities and Investments Commission Act 2001 (CTH)
Corporations Act 2001 (CTH)
Cross-Border Insolvency Act 2008 (CTH)
Subjects: CORPORATIONS LAW
COURT RULES AND PROCEDURE
SUPREME COURT
Jurisdictions: AUSTRALIA, New South Wales

AGIS No: 20132911
Title: Proceedings on the commercial list : a guide to content and processes.
Authors: DOWNES, Kylie
Source: PROCTOR 33 (7) August 2013 : 34-35
Abstract: Commercial List established in Supreme Court of Queensland - hearings and determination of proceedings of a commercial nature - matters suitable for the Commercial List - applying for listing - management by Commercial List judge.
Subjects: COMMERCIAL LAW
COURT RULES AND PROCEDURE
Jurisdictions: AUSTRALIA, Queensland

CRIMINOLOGY

AGIS No: 20132927
Title: Community studies using ethnographic techniques : still relevant to criminology?
Authors: PUTT, Judy
Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 475-489
Abstract: History of community studies using ethnographic research techniques in criminology - Australian experience - benefits of ethnographic research - policy and practice implications.

Subjects: CRIMINOLOGY
RESEARCH

AGIS No: 20132932

Title: Covert ethnography in criminology : a submerged yet creative tradition.

Authors: CALVEY, David

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 541-550

Abstract: Covert ethnographic research as a legitimate and innovative voice in criminology - perceived ethical transgressions of covert research - covert ethnographies in the study of deviance, criminality and illicit subculture - criticism of strict adherence to informed consent - ethical safeguards stifle creative forms of ethnography - niche position of covert ethnography in criminology.

Subjects: CRIMINOLOGY
ETHICS
RESEARCH

AGIS No: 20132929

Title: Ethnography as practice : is validity an issue?

Authors: CHAN, Janet

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 503-516

Abstract: Validity of qualitative research - concept of ethnography as a form of social practice - research practice and researching practice - practising ethnography - consideration of three ethnographic criminal justice studies - ethics of criminal justice research.

Subjects: CRIMINOLOGY
RESEARCH

Jurisdictions: AUSTRALIA

AGIS No: 20132928

Title: Participatory action research with high-risk groups : best practice for researchers' safety and data integrity.

Authors: VAN DEN EYNDE, Julie

VENO, Arthur

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 491-501

Abstract: Overview of methodology developed to conduct community conflict resolution intervention - participant action research - immersion in community studied - 'insider-outsider' methodology - issues for insiders - construction of research team - experiences with outlaw motorcycle clubs.

Subjects: CRIMINOLOGY
RESEARCH

Jurisdictions: AUSTRALIA

AGIS No: 20132933

Title: The uneasy relationship between criminology and qualitative research.

Authors: TRAVERS, Max

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 551-557
Abstract: Future of qualitative research in criminology - evaluation of qualitative methods texts - ethnography and discourse analysis - combining quantitative and qualitative methods - research methods teaching.
Subjects: CRIMINOLOGY
RESEARCH

DAMAGES

AGIS No: 20132819
Title: Case note : Kelly v Galafassi.
Authors: PALLAVICINI, Stephen
BOUSTANI, Marie
Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 220-222
Abstract: Property purchase - orders for specific performance - repudiation - damages - mitigation of loss.
Legal Cases: Kelly v Galafassi [2013] NSWSC 680
Ogle v Comboyuro Investments Pty Ltd (1976) 136 CLR 444
Subjects: DAMAGES
PROPERTY LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132939
Title: The availability of liquidated damages following determination of the construction contract.
Authors: HAVELOCK, Rohan
Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 385-405
Abstract: Liquidated and ascertained damages (LAD) provision in commercial construction contracts - competing concerns between contractor and employer - approaches taken in case law - merits of these approaches in relation to situation - comparison of standard form construction contracts in Australia, New Zealand and internationally - availability of general damages as an alternative to LAD.
Legal Cases: British Glanzstoff Manufacturing Co Ltd v General Accident Fire and Life Assurance Co Ltd (1912) SC 591
Hall v Van Der Heiden (No 2) [2010] EWHC 586
Re Yeardon Waterworks Co v Binns & Wright (1895) 72 LT 538
Subjects: CONSTRUCTION INDUSTRY
CONTRACTS
DAMAGES
LIQUIDATION
Jurisdictions: AUSTRALIA
NEW ZEALAND

DATA PROTECTION

AGIS No: 20132843
Title: Big data analytics : evolving business models and global privacy regulation.

Authors: LEONARD, Peter
Source: PRIVACY LAW BULLETIN 10 (1) September 2013 : 2-5
Abstract: Adequacy of national privacy laws for regulation of data analytics - will laws regulate socially beneficial uses of big data without playing "Big Brother" - allowance for socially beneficial uses and application of big data - need for changes in regulation to be made without threatening privacy protections for individuals - comparison between United States and European Union big data debate - concern that bad big data practices will impact public perception and prompt more prescriptive regulation.

Subjects: DATA PROTECTION
PRIVACY

Jurisdictions: EUROPEAN UNION
UNITED STATES

DEBTS AND DEBTORS

AGIS No: 20132938
Title: Why the sound and fury? Enforcing security of payment adjudication determinations.

Authors: MASON, Brian
Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 372-384

Abstract: Enforcement of unpaid adjudication determinations as a judgment debt - recent Federal Court decision upholding constitutional validity of arrangement - Kable principle - judicial process - prevention of exercise of federal judicial power - jurisdictional error.

Legal Cases: Birdon Pty Ltd v Houben Marine Pty Ltd (2011) 197 FCR 25
Kable v Director of Public Prosecutions (NSW) (1996) 189 CLR 51

Legislation: Building and Construction Industry Security of Payment Act 1999 (NSW)
Constitution (CTH)

Subjects: CONSTRUCTION INDUSTRY
DEBTS AND DEBTORS
JUDICIARY

Jurisdictions: AUSTRALIA

DETENTION

AGIS No: 20132893
Title: Hidden men : bearing witness to mandatory detention in Australia.

Authors: FLEAY, Caroline
BRISKMAN, Linda

Source: REFUGEE SURVEY QUARTERLY 32 (3) 2013 : 112-129

Abstract: Process of bearing witness - overview of mandatory detention policy in Australia - experiences in detention - claims processing - boredom and barriers to communication - traumatised asylum seekers.

Subjects: ASYLUM
DETENTION
REFUGEES
Jurisdictions: AUSTRALIA

DEVELOPING COUNTRIES

AGIS No: 20132826
Title: REGIONAL peace through strategic assistance : an update from the Law Council of Australia.
Source: ETHOS (229) September 2013 : 22-24
Abstract: Strengthening the legal profession in the Asia-Pacific region by the Law Council of Australia - development of bars in South Pacific - needs survey of the legal profession - professional conferences - pro bono work in the Asia-Pacific - other projects.
Subjects: BAR ASSOCIATIONS
DEVELOPING COUNTRIES
LEGAL CONFERENCES
LEGAL PROFESSION
PRO BONO SERVICES
Jurisdictions: ASIA PACIFIC

DISPUTE RESOLUTION

AGIS No: 20132846
Title: Introduction of external dispute resolution schemes.
Authors: ALEXANDER, Charles
KOSTER, Elisabeth
GIBBS, Amy
Source: PRIVACY LAW BULLETIN 10 (1) September 2013 : 6-9
Abstract: Release of draft Guidelines for Recognising External Dispute Resolution Schemes under s 35A of the Privacy Act 1988 - provision grants discretion to allow a recognised "external dispute resolution scheme" (EDR) for privacy related complaints - establishment, benchmarks and issues facing EDR schemes - consideration of existing EDR schemes - final Guidelines due for publication in September 2013.
Legislation: Privacy Act 1988 (CTH)
Subjects: DISPUTE RESOLUTION
PRIVACY
Jurisdictions: AUSTRALIA

DOMESTIC VIOLENCE

AGIS No: 20132957
Title: Domestic violence and the impact on children's lives.
Authors: BOSHIER, Peter
WADEMAN, Jennifer

Source: NEW ZEALAND FAMILY LAW JOURNAL 7 (11) September 2013 : 259-263

Abstract: Overview of research on the nature and extent of consequences of domestic violence for children - protection of children from incidence and effects of domestic violence - helping children who are victims of family abuse - speech delivered at 6th World Congress on Family Law and Children's Rights.

Legislation: Domestic Violence Act 1995 (NZ)

Subjects: CHILDREN
DOMESTIC VIOLENCE

Jurisdictions: NEW ZEALAND

AGIS No: 20132943

Title: Key social issues in the development of Australian family law : research and its impact on policy and practice.

Authors: MALONEY, Lawrie
WESTON, Ruth
HAYES, Alan

Source: JOURNAL OF FAMILY STUDIES 19 (2) August 2013 : 110-138

Abstract: Key social changes impacting on Australian families - workforce participation by women - changing perceptions of fatherhood - recognition of existence and destructive consequences of family violence and child abuse - rights of the child - recent major amendments to Australian family law - shared parental responsibility - evaluation of amendments by Australian Institute of Family Studies.

Legislation: Family Law Act 1975 (CTH)
Family Law Amendment (Shared Parental Responsibility) Act 2006 (CTH)
Family Law Reform Act 1995 (CTH)

Subjects: CHILDREN
DOMESTIC VIOLENCE
FAMILY LAW
SHARED PARENTING
WOMEN

Jurisdictions: AUSTRALIA

DRUG ABUSE

AGIS No: 20132868

Title: Opioid regulation : time to reconsider the nomenclature and approach.

Authors: MENDELSON, Danuta
MENDELSON, George

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 27-38

Abstract: Increase in death due to ingestion of opioid analgesics - outdated legislative control of prescriptions and administration - overview of statutory framework in Victoria - notifications and permits for drugs of dependence - medical terminology.

Legislation: Drugs, Poisons and Controlled Substances Act 1981 (VIC)
Narcotic Drugs Act 1967 (CTH)
Poisons Act 1971 (TAS)

Subjects: DRUG ABUSE
DRUG CONTROL
LAW REFORM
Jurisdictions: AUSTRALIA

DRUG CONTROL

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Authors: MENDELSON, Danuta
MENDELSON, George
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Abstract: Increase in death due to ingestion of opioid analgesics - outdated legislative control of prescriptions and administration - overview of statutory framework in Victoria - notifications and permits for drugs of dependence - medical terminology.
Legislation: Drugs, Poisons and Controlled Substances Act 1981 (VIC)
Narcotic Drugs Act 1967 (CTH)
Poisons Act 1971 (TAS)
Subjects: DRUG ABUSE
DRUG CONTROL
LAW REFORM
Jurisdictions: AUSTRALIA

DUTY OF CARE

AGIS No: 20132874
Title: Disclosure of material risk as systems-error tragedy : Wallace v Kam (2013) 87 ALJR 648; [2013] HCA 19.
Authors: FAUNCE, Thomas
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 53-65
Abstract: Medical duty to disclose material risk prior to operation - recent High Court decision - tragic systems context - use of elements classical literature to analyse legislative context.
Legal Cases: Rogers v Whitaker (1992) 175 CLR 479
Rosenberg v Percival (2001) 205 CLR 434
Wallace v Kam (2013) 87 ALJR 648
Legislation: Civil Liability Act 2002 (NSW)
Subjects: DUTY OF CARE
LITERATURE
MEDICAL LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132828
Title: Federal Court rejects proposed settlement of Vioxx class action.

Authors: NICOLETTI, Teresa
JUNG, Alisha

Source: AUSTRALIAN PRODUCT LIABILITY REPORTER 24 (2) October 2013 : 18-22

Abstract: Settlement of class action refusal - settlement unfair and unreasonable in interests of group - settlement approval assessment - case law - duty of care - breach of Trade Practices Act - negligence - proposed settlement - reasons for refusal.

Legal Cases: Merck Sharp & Dohme (Australia) Pty Ltd v Peterson (2011) 196 FCR 145
Peterson v Merck Sharp & Dohme (Aust) Pty Ltd (No 6) [2013] FCA 447
Peterson v Merck Sharp & Dohme (Australia) Pty Ltd (2010) 184 FCR 1

Legislation: Therapeutic Goods Act 1989 (CTH)
Trade Practices Act 1974 (CTH)

Subjects: CLASS ACTIONS
DUTY OF CARE
NEGLIGENCE

Jurisdictions: AUSTRALIA

AGIS No: 20132865

Title: Lender liability : is there a duty of care to warn or guard against risk of loss?

Authors: WINTER, Richard

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 229-232

Abstract: No common law duty of care imposed on lenders to warn of risk of loss - assumption of responsibility for financial advice and vulnerable borrowers - fiduciary duty.

Legal Cases: Cambridge Gas Transport Corp v Official Committee of Unsecured Creditors of Navigator Holdings plc (2007) 1 AC 508
Rubin v Eurofinance SA; New Cap Reinsurance Corp (in liq) v Grant (2013) 1 AC 236

Subjects: DUTY OF CARE
FIDUCIARY
LOANS

Jurisdictions: AUSTRALIA

EDUCATION

AGIS No: 20132832

Title: Issues and challenges for service agencies in monitoring educational outcomes for children in out-of-home care.

Authors: SMITH, Lisa Joanne
MCLEAN, Sara

Source: CHILDREN AUSTRALIA 38 (3) September 2013 : 100-105

Abstract: Impact of out-of-home care on the educational experience of children - educational journey - roadblocks to education - effects of roadblocks - implications for future practice and monitoring.

Subjects: CHILDREN
EDUCATION

Jurisdictions: AUSTRALIA

ELECTRONIC MAIL

AGIS No: 20132912
Title: A workplace right : by email : decision places 'substance' before 'form'.
Authors: RICHARDSON, Kristy
Source: PROCTOR 33 (7) August 2013 : 36-37
Abstract: 'Complaint' or 'enquiry' by employee is not limited to formal or specified mechanisms - email enquiries about conditions of employment - jurisdiction of court not limited to current employees - definition of workplace right.

Legal Cases: Devonshire v Magellan Powertronics Pty Ltd [2013] FMCA 207
Legislation: Fair Work Act 2009 (CTH)
Subjects: ELECTRONIC MAIL
WORKING CONDITIONS
Jurisdictions: AUSTRALIA

EMPLOYMENT

AGIS No: 20132822
Title: Anti-avoidance : a new implied term for contracts of employments?
Authors: BINDON, Prue
Source: ETHOS (229) September 2013 : 10-12
Abstract: Implied terms in contract of employment - anti-avoidance term - restraint of employer engaging in tactics to avoid operation of exact term that provide benefit to employee - argument for anti-avoidance term - judicial response - implications.

Legal Cases: Sunny Tadjudin v Bank of America, National Association (2009) 4 HKLRD 662
Sunny Tadjudin v Bank of America, National Association (2010) 3 HKLRD 417
Sunny Tadjudin v Bank of America, National Association [2008] HKCFI 1025
Subjects: CONTRACTS
EMPLOYMENT
Jurisdictions: HONG KONG

AGIS No: 20132880
Title: Sham contracting : ODCO triumphs, but no one is left smelling sweet.
Authors: SELLECK, Sean
Source: EMPLOYMENT LAW BULLETIN 19 (6) September 2013 : 89-93
Abstract: Case of Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd regarding sham contracting - use of the ODCO system to employee workers as independent contractors as opposed to employees - facts of the case.

Legal Cases: Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd (No 2) [2013] FCA 582
Legislation: Fair Work Act 2009 (CTH)
Subjects: EMPLOYMENT
EMPLOYMENT LAW

Jurisdictions: AUSTRALIA

AGIS No: 20132825

Title: Sham contracting in employment : save your client, and yourself.

Authors: WILSON, John

Source: ETHOS (229) September 2013 : 18-20

Abstract: Engagement of independent contractors instead of employees - contractors treated like employees - sham arrangement provisions of the Fair Work Act - consequences of contravention of provisions - accessorial liability of directors and lawyers.

Legal Cases: Fair Work Ombudsman v Happy Cabby Pty Ltd [2013] FCCA 397

Legislation: Fair Work Act 2009 (CTH)

Subjects: CONTRACTS
EMPLOYMENT

Jurisdictions: AUSTRALIA

EMPLOYMENT LAW

AGIS No: 20132879

Title: Legal representation in unfair dismissal cases.

Authors: LATHAM, Ian

Source: EMPLOYMENT LAW BULLETIN 19 (6) September 2013 : 86-88

Abstract: Increase in self representation before the Fair Work Commission - may reflect the modest awards of compensation, payment of legal costs or a general trend towards self representation - courts and tribunals have a duty to ensure self litigants are treated fairly - meaning of provisions in the Fair Work Act 2009.

Legislation: Fair Work Act 2009 (CTH)

Subjects: EMPLOYMENT LAW
UNFAIR DISMISSAL

Jurisdictions: AUSTRALIA

AGIS No: 20132881

Title: Liability for workers compensation : do injuries result from an employer's "administrative action" which is "reasonable"? The case of Lombardo v Comcare.

Authors: BITTAR, Saide

Source: EMPLOYMENT LAW BULLETIN 19 (6) September 2013 : 95-98

Abstract: Compensation sought due to a depressive disorder caused by not receiving an offer of redundancy - Comcare denied the injury on the basis it was caused by "reasonable administrative action taken in a reasonable manner" - background and facts of case - considerations and decision.

Legal Cases: Lombardo v Comcare [2013] AATA 470

Legislation: Safety, Rehabilitation and Compensation Act 1988 (CTH)

Subjects: EMPLOYMENT LAW
WORKERS COMPENSATION

Jurisdictions: AUSTRALIA

AGIS No: 20132880
Title: Sham contracting : ODCO triumphs, but no one is left smelling sweet.
Authors: SELLECK, Sean
Source: EMPLOYMENT LAW BULLETIN 19 (6) September 2013 : 89-93
Abstract: Case of Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd regarding sham contracting - use of the ODCO system to employee workers as independent contractors as opposed to employees - facts of the case.

Legal Cases: Fair Work Ombudsman v Quest South Perth Holdings Pty Ltd (No 2) [2013] FCA 582
Legislation: Fair Work Act 2009 (CTH)
Subjects: EMPLOYMENT
EMPLOYMENT LAW
Jurisdictions: AUSTRALIA

ENTERPRISE BARGAINING

AGIS No: 20132898
Title: Four burgeoning IR issues for 2013 and beyond : adverse action; social media & workplace policy; trade union regulation (after the HSU affair); and the QANTAS aftermath.
Authors: FLOYD, Louise
SPRY, Max
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 153-174
Abstract: Analysis of four significant developments in industrial law - adverse action - social media policy - trade union regulation - impact of the QANTAS dispute.

Legal Cases: Board of Bendigo Regional Institute of Technical and Further Education v Barclay (2012) 290 ALR 647
Linfox Australia Pty Ltd v Stutsel [2012] FWAFB 7097
Legislation: Fair Work Act 2009 (CTH)
Subjects: ENTERPRISE BARGAINING
INDUSTRIAL LAW
SOCIAL MEDIA
TRADE UNIONS
Jurisdictions: AUSTRALIA

ESTOPPEL

AGIS No: 20132820
Title: Can you make your promises come true?
Authors: MACKAY, Steven
Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 223-224
Abstract: Estoppel - legal rights of parties in absence of a contract - estoppel by encouragement - relief granted under estoppel - reliance on a promise reasonable in circumstances - case law.

Legal Cases: Van Dyke v Sidhu [2012] NSWSC 118
Van Dyke v Sidhu [2013] NSWCA 198
Subjects: ESTOPPEL
PROPERTY LAW
Jurisdictions: AUSTRALIA

ETHICS

AGIS No: 20132931
Title: Applying ethical principles in researching a vulnerable population : homeless women in Brisbane.
Authors: MENIH, Helena
Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 527-539
Abstract: Ethics of ethnographic research within vulnerable populations - ethical issues during fieldwork - exclusion criteria - recruitment process - informed consent - participant-researcher relationship - research safety.
Subjects: ETHICS
RESEARCH
Jurisdictions: AUSTRALIA

AGIS No: 20132932
Title: Covert ethnography in criminology : a submerged yet creative tradition.
Authors: CALVEY, David
Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 541-550
Abstract: Covert ethnographic research as a legitimate and innovative voice in criminology - perceived ethical transgressions of covert research - covert ethnographies in the study of deviance, criminality and illicit subculture - criticism of strict adherence to informed consent - ethical safeguards stifle creative forms of ethnography - niche position of covert ethnography in criminology.
Subjects: CRIMINOLOGY
ETHICS
RESEARCH

ETHNIC GROUPS

AGIS No: 20132967
Title: Policing at the margins : fostering trust and cooperation among ethnic minority groups.
Authors: MURPHY, Kristina
Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 184-199
Abstract: Role of procedural justice policing in promoting trust and cooperation in ethnic groups - survey of three ethnic minorities - implementing procedural justice in practice - directions for future research.
Subjects: ETHNIC GROUPS
POLICE
Jurisdictions: AUSTRALIA

EUTHANASIA

AGIS No: 20132914
Title: Euthanasia and assisted suicide : the social, ethical, moral and legal dilemma.

Authors: SAXTON, Andrew
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 420-423
Abstract: Appeals from relatives seeking to avoid prosecution for assisted suicide - Department of Public Prosecutions policy - case law.
Legal Cases: The Queen on the Application of Mrs Jane Nicklinson (in her own right and as administratrix of the Estate of Mr Tony Nicklinson Deceased), Mr Paul Lamb, the Ministry of Justice and Ors; linked with The Queen on the Application of AM v Director of Public Prosecutions [2013] EWCA Civ 961
Subjects: EUTHANASIA
SUICIDE
Treaties: European Convention on Human Rights
Jurisdictions: AUSTRALIA
UNITED KINGDOM

EVIDENCE

AGIS No: 20132838
Title: Evidential issues in brand appropriation litigation.
Authors: GILLIES, Peter
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 165-180
Abstract: Brand appropriation litigation - claims of trade mark infringement - breach of s 18 of the Australian Consumer Law - commission of the tort of passing off - points of intersection an distinction - evidential issues - intention to mislead - consumer confusion - reputation in a product - expert evidence - empirical evidence - case law.

Legal Cases: Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (2006) 228 ALR 719
Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (No 4) (2006) 229 ALR 136
Red Bull Australia Pty Ltd v Sydneywide Distributors Pty Ltd (2001) 53 IPR 481
Twentieth Century Fox Film Corp v South Australian Brewing Co Ltd (1996) ATPR 41-483
Legislation: Competition and Consumer Act 2010 (CTH)
Trade Practices Act 1974 (CTH)
Subjects: EVIDENCE
LITIGATION
PASSING OFF
TRADE MARKS
Jurisdictions: AUSTRALIA

AGIS No: 20132934

Title: The James Hardie directors : a case of missing directors and misdirections by law.

Authors: GLASBEEK, Harry

Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 107-137

Abstract: Role played by judicial decision-making in underscoring values and norms in law - pursuit of rights in adversarial system - James Hardie directors case - argument that in a capitalist system, capitalist favouring decisions will be handed down - way in which evidence is dealt with - regulatory law - misdirection by law.

Legal Cases: Australian Securities and Investments Commission (ASIC) v Hellicar (2012) 286 ALR 501
Australian Securities and Investments Commission (ASIC) v Macdonald (No 11) (2009) 256 ALR 199
Australian Securities and Investments Commission v Macdonald (No 12) (2009) 259 ALR 116

Legislation: Corporations Act 2001 (CTH)

Subjects: COMPANY DIRECTORS
EVIDENCE
JUDICIAL PROCESS

Jurisdictions: AUSTRALIA

EXPERT EVIDENCE

AGIS No: 20132940

Title: Judicial comment on expert testimony.

Authors: SAXTON, Andrew
HAYES, Joanne

Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 428-431

Abstract: Courts are entitled to reject practitioners and expert evidence on the question of breach of duty of care - case law - concern by medical profession about uncertainty of the judicial process.

Legal Cases: Cox v Fellows [2013] NSWCA 206

Subjects: EXPERT EVIDENCE
JUDICIAL OPINIONS
MEDICAL EVIDENCE

Jurisdictions: AUSTRALIA

FAMILIES

AGIS No: 20132946

Title: Accommodation for care arrangements : the murky (legal) world of family accommodation arrangements.

Authors: WEBB, Eileen

Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 6-7

Abstract: Increase in family accommodation arrangements - family members providing care for relatives in exchange for accommodation - "assets for care" - verbal agreements - lack of "contract" - importance of recording terms of agreement - case law.

Legal Cases: Worthington v Worthington [2013] WASC 220

Subjects: CONTRACTS
FAMILIES
Jurisdictions: AUSTRALIA

FAMILY COURT

AGIS No: 20132958
Title: Natural justice and judicial meetings with children : documenting practice within the New Zealand Family Court.
Authors: CALDWELL, John
TAYLOR, Nicola
Source: NEW ZEALAND FAMILY LAW JOURNAL 7 (11) September 2013 : 264-271
Abstract: Study of judicial interviewing of children in New Zealand - natural justice implications of judicial interviewing - confidentiality of interview - disclosure to other parties involved - recording discussion with child - feedback to parties on judicial meeting - judiciary natural justice concerns.
Subjects: CHILDRENS EVIDENCE
FAMILY COURT
JUDICIAL PROCESS
JUDICIARY
NATURAL JUSTICE
Jurisdictions: NEW ZEALAND

FAMILY LAW

AGIS No: 20132943
Title: Key social issues in the development of Australian family law : research and its impact on policy and practice.
Authors: MALONEY, Lawrie
WESTON, Ruth
HAYES, Alan
Source: JOURNAL OF FAMILY STUDIES 19 (2) August 2013 : 110-138
Abstract: Key social changes impacting on Australian families - workforce participation by women - changing perceptions of fatherhood - recognition of existence and destructive consequences of family violence and child abuse - rights of the child - recent major amendments to Australian family law - shared parental responsibility - evaluation of amendments by Australian Institute of Family Studies.
Legislation: Family Law Act 1975 (CTH)
Family Law Amendment (Shared Parental Responsibility) Act 2006 (CTH)
Family Law Reform Act 1995 (CTH)
Subjects: CHILDREN
DOMESTIC VIOLENCE
FAMILY LAW
SHARED PARENTING
WOMEN
Jurisdictions: AUSTRALIA

FIDUCIARY

AGIS No: 20132851
Title: Is implementing fiduciary duties in a civil law country feasible? The case of China.
Authors: XU, Guangdong
ZHOU, Tianshu
Source: COMPANY AND SECURITIES LAW JOURNAL 31 (6) September 2013 : 378-398
Abstract: Overview of fiduciary duties - legal provisions for directors' duties under China's Corporate Law - enforcement of directors' duties by the courts - lack of flexibility in decisions - innovations in implementing fiduciary duties.
Legislation: Company Law 1993 (CHINA)
Subjects: COMPANY DIRECTORS
FIDUCIARY
Jurisdictions: CHINA

AGIS No: 20132865
Title: Lender liability : is there a duty of care to warn or guard against risk of loss?
Authors: WINTER, Richard
Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 229-232
Abstract: No common law duty of care imposed on lenders to warn of risk of loss - assumption of responsibility for financial advice and vulnerable borrowers - fiduciary duty.
Legal Cases: Cambridge Gas Transport Corp v Official Committee of Unsecured Creditors of Navigator Holdings plc (2007) 1 AC 508
Rubin v Eurofinance SA; New Cap Reinsurance Corp (in liq) v Grant (2013) 1 AC 236
Subjects: DUTY OF CARE
FIDUCIARY
LOANS
Jurisdictions: AUSTRALIA

FINANCIAL SERVICES

AGIS No: 20132860
Title: Arbitrating financial "star wars".
Authors: PAPE, Bryan
Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 174-181
Abstract: Use of arbitration to resolve financial disputes involving over-the-counter" (OTC) derivatives - purpose of OTC derivatives - characteristics of different types of derivatives - introduction of central clearing parties and effect on arbitrating disputes - non-centrally cleared derivatives - types of disputes - role of arbitral bodies.
Subjects: ARBITRATION
FINANCIAL SERVICES

AGIS No: 20132847
Title: Latest changes to the banning order regime : were the amendments really needed?

Authors: NEHME, Marina

Source: COMPANY AND SECURITIES LAW JOURNAL 31 (6) September 2013 : 341-364

Abstract: Banning orders in the financial services industry - suspension or revocation of licences - issue of stop orders - application of orders in the past - difficulties in maintaining bans - legislative changes to the banning order regime to improve upholding of bans on individuals.

Legislation: Corporations Act 2001 (CTH)

Corporations Amendment (Future of Financial Advice) Act 2012 (CTH)

Subjects: AUSTRALIAN SECURITIES AND INVESTMENTS COMMISSION
FINANCIAL SERVICES

Jurisdictions: AUSTRALIA

FREEDOM OF INFORMATION

AGIS No: 20132951

Title: Civil penalties for breach of privacy : coming soon!

Authors: TSACALOS, Ashley
VERZI, Vanessa

Source: PRIVACY LAW BULLETIN 10 (2) October 2013 : 28-30

Abstract: Amendments to the Privacy Act - guidance, monitoring and advice related functions of the Office of the Australian Information Commissioner (OIAC) - new powers and functions of the Information Commissioner.

Legislation: Freedom of Information Act 1982 (CTH)

Public Service Act 1999 (CTH)

Subjects: FREEDOM OF INFORMATION
PRIVACY

Jurisdictions: AUSTRALIA

AGIS No: 20132948

Title: Rethinking right to information and privacy regulation in Queensland.

Authors: BURRILL, Melissa
CLARKE, Helen

Source: PRIVACY LAW BULLETIN 10 (2) October 2013 : 22-24

Abstract: Initiatives regarding transparency and accountability in Queensland government - Open Government Policy Forum - release of discussion papers on reviews of the Right to Information Act 2009 and Information Privacy Act 2009 - key issues - public interest test - Queensland government plan to release a comprehensive reform package by the end of 2013.

Legislation: Information Privacy Act 2009 (QLD)

Right to Information Act 2009 (QLD)

Subjects: FREEDOM OF INFORMATION
PRIVACY
Jurisdictions: AUSTRALIA, Queensland

GENDER INEQUALITY

AGIS No: 20132935
Title: The impact of soft law on social change : measurable objectives for achieving gender diversity on boards of directors.
Authors: KLETTNER, Alice
CLARKE, Thomas
BOERSMA, Martijn
Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 138-165
Abstract: Company responses to the amendments of the Principles of Corporate Governance relating to gender diversity - empirical analysis of gender disclosures in ASX 200 companies annual reports - mandatory quotas and voluntary targets - increase in women on boards but not in senior executive teams - analysis of each amendment - comparison with European countries.
Subjects: COMPANY DIRECTORS
CORPORATE GOVERNANCE
GENDER INEQUALITY
WOMEN
Jurisdictions: AUSTRALIA
EUROPE

GENETICS

AGIS No: 20132882
Title: A curious exception : (no) legal remedies for negligent pre-birth genetic testing.
Authors: CLEARY, Thomas
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 102-109
Abstract: Ability to claim compensation for negligent pre-birth genetic testing in New Zealand - claims under statutory compensation scheme - pregnancy as personal injury - genetic condition as personal injury - remedies in torts of wrongful birth or wrongful life.
Legal Cases: Allenby v H [2012] NZSC 33
Rolls-Royce New Zealand Ltd v Carter Holt Harvey Ltd (2005) 1 NZLR 324
South Pacific Manufacturing Co Ltd v New Zealand Security Consultants & Investigations Ltd (1992) 2 NZLR 282
Legislation: Accident Compensation Act 2001 (NZ)
Subjects: GENETICS
MEDICAL NEGLIGENCE
Jurisdictions: NEW ZEALAND

AGIS No: 20132891

Title: Australian reforms enabling disclosure of genetic information to genetic relatives by health practitioners.

Authors: OTLOWSKI, Margaret

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 217-234

Abstract: Legislative developments on the disclosure of genetic information to genetic relatives - background and implementation of reforms - introduction of enabling guidelines - circumstances under which disclosure is permitted - protocols under the guidelines - guidelines within an international context - challenges and limitations.

Legal Cases: Liss v Watters [2010] QCCS 3309
Pate v Threlkel (1995) 661 So 2d 278
Safer v Estate of Pack 677 A 2d 1188 (1996)

Subjects: GENETICS
MEDICAL ETHICS
MEDICAL PRACTITIONERS

Jurisdictions: AUSTRALIA

GOODS AND SERVICES TAX

AGIS No: 20132853

Title: Tax update.

Authors: COLEMAN, James

Source: NEW ZEALAND LAW JOURNAL September 2013 : 283-284

Abstract: GST payments made in error - resolution of incorrect payments not straightforward - dependent on facts and identity of party benefiting - case law.

Legal Cases: James, Ex parte; In re Condon (1874) LR 9 Ch App 609
Stiassny v Commissioner of Inland Revenue [2012] NZSC 106
Strategic Finance Ltd (in receivership and in liq) v Bridgman [2013] NZCA 357

Subjects: GOODS AND SERVICES TAX

Jurisdictions: NEW ZEALAND

GUARANTORS

AGIS No: 20132861

Title: Improving the ability of guarantors to make a real choice : lenders' practices in taking third party guarantees.

Authors: MCGILL, Denise
HOWELL, Nicola

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 182-202

Abstract: Remedies commonly sought by guarantors of business debts challenging their guarantee - review of case law on third party guarantors - guarantee by wife - guarantee by parents - guarantee of a debt of a stranger - company director guarantee on loan to company - key issues - protections for guarantors under the Code of Banking Practice.

Legal Cases: Agripay Pty Ltd v Byrne [2011] 2 Qd R 501
Commercial Bank of Australia Ltd v Amadio (1983) 151 CLR 447
Spina v Permanent Custodians Ltd (2009) 14 BPR 26,923
Wenczel v Commonwealth Bank of Australia
[2006] VSC 324

Legislation: Australian Securities and Investments Commission Act 2001 (CTH)

Subjects: GUARANTORS
LOANS

Jurisdictions: AUSTRALIA

AGIS No: 20132864

Title: Preservation and suspension clauses in guarantees : when will they be effective?

Authors: FLANNERY, Angela
KARTHIGEYAN, Mano

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September
2013 : 224-228

Abstract: Enforcement of guarantees - court interpretation of standard clauses - operation of
preservation clauses - suspension clauses - challenges to validity of clauses.

Legal Cases: Bakota Holdings Pty Ltd v Bank of Western Australia Ltd [2011] NSWSC 1277
O'Brien v Bank of Western Australia Ltd [2013] NSWCA 71

Legislation: Corporations Act 2001 (CTH)

Subjects: BANKING
CONTRACTS
GUARANTORS

Jurisdictions: AUSTRALIA

AGIS No: 20132920

Title: Where a negligent service provider fails to protect the lender's interests in a loan
transaction : High Court decision casts doubt on lender's ability to recover its loss in full.

Authors: WESTON-SCHEUBER, Kylie

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 153-157

Abstract: Proportionate liability where multiple parties responsible for economic loss or damage -
recovery of loss in full against service provider where lender unable to rely on security -
recent High Court decision alters recovery ability - borrower/guarantor 'concurrent
wrongdoer' - limitation of recovery against negligent service provider.

Legal Cases: Hunt & Hunt Lawyers v Mitchell Morgan Nominees Pty Ltd (2013) 296 ALR 3
St George Bank Ltd v Quinerts Pty Ltd (2009) 25 VR 666

Legislation: Civil Liability Act 2002 (NSW)

Subjects: BANKING
GUARANTORS
LIABILITY
LOANS
NEGLIGENCE

Jurisdictions: AUSTRALIA

HABEAS CORPUS

AGIS No: 20132904
Title: Habeas corpus in New Zealand : procedure and Constitution.
Authors: BERKELEY, Richard
Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 166-181
Abstract: Historical background of habeas corpus - procedural context of reforms - inherent jurisdiction - judicial review - interpretation of habeas corpus - the body - detention - legality - release.
Legal Cases: Bennett v Superintendent , Rimutaka Prison (No 2) (2002) 1 NZLR 616
Taunoa v Attorney-General (2008) 1 NZLR 429
Zaoui v Attorney-General (2005) 1 NZLR 577
Legislation: Bail Act 2000 (NZ)
Habeas Corpus Act 2001 (NZ)
Subjects: CONSTITUTIONAL LAW
HABEAS CORPUS
STATUTORY INTERPRETATION
Jurisdictions: NEW ZEALAND

HEALTH CARE

AGIS No: 20132942
Title: "Competence" and the Health Practitioner Regulation National Law (Victoria) Act 2009.
Authors: GEYER, Carol
COURTNEY, Anita
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 432-436
Abstract: Professional misconduct against a registered nurse by the Victorian Civil and Administrative Tribunal - background and Australian Health Practitioner Regulation Agency (AHPRA) investigation - introduction of the National Law across each state an territory while NSW has retained their health profession councils - case law.
Legal Cases: Nursing and Midwifery Board of Australia v Yun Yun Chen [2013] VCAT 1413
Legislation: Health Practitioner Regulation National Law (Victoria) Act 2009 (VIC)
Subjects: HEALTH CARE
MEDICAL NEGLIGENCE
PROFESSIONAL NEGLIGENCE
Jurisdictions: AUSTRALIA

AGIS No: 20132876
Title: Is whistleblowing now mandatory? The impact of mandatory reporting law on trust relationships in health care.
Authors: HEWITT, Jayne
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 82-101

Abstract: Trust in health care relationships - mandatory reporting of professional incompetence similar to mandated whistleblowing - negative effect of mandatory reporting on development of interpersonal working relationships and trust.

Legislation: Health Practitioner Regulation National Law Act 2009 (QLD)
Medical Practice Amendment Act 2008 (NSW)

Subjects: HEALTH CARE
PROFESSIONAL NEGLIGENCE
WHISTLEBLOWING

Jurisdictions: AUSTRALIA

AGIS No: 20132889

Title: The international right to health : state obligations and private actors in the health care system.

Authors: O'BRIEN, Paula

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 194-209

Abstract: Role of private sector in health systems under the international right to health - obligations of states using private actors in health systems - health needs - health principles - health governance.

Subjects: HEALTH CARE
HUMAN RIGHTS

Treaties: International Covenant on Economic, Social and Cultural Rights

HIGH COURT

AGIS No: 20132895

Title: Reflections on the High Court : its judges and judgments.

Authors: MASON, Anthony

Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 102-117

Abstract: Changing attitudes to judicial conferencing in the High Court - joint and separate judgments - justices in the High Court - relationship between separate and joint judgment on a case - experience in Hong Kong - personal dynamics - achievements of the High Court - Court's status and jurisdiction - special leave applications - deciding important questions of law - judicial minimalism.

Legal Cases: Amalgamated Society of Engineers v Adelaide Steamship Co Ltd (1920) 28 CLR 129
Hoyt's Pty Ltd v Spencer (1919) 27 CLR 133

Subjects: HIGH COURT
JUDGMENTS
JUDICIARY

Jurisdictions: AUSTRALIA
HONG KONG

AGIS No: 20132917

Title: Wavering alternations of valour and caution : commercial and regulatory litigation in the French CJ High Court.

Authors: SPENDER, Peta

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 111-130

Abstract: Commercial and regulatory litigation in the High Court after the appointment of Chief Justice Robert French - judicial method and certainty - role of the High Court - authority of courts - public or private model of appellate litigation - justificatory ascent - judicial caution and valour - case law.

Legal Cases: Aon Risk Services Australia Ltd v Australian National University (2009) 239 CLR 175
Australian Securities and Investments Commission (ASIC) v Hellicar (2012) 286 ALR 501
Equuscorp Pty Ltd v Haxton; Equuscorp Pty Ltd v Bassat; Equuscorp Pty Ltd v Cunningham's Warehouse Sales Pty Ltd (2012) 246 CLR 498
International Litigation Partners Pte Ltd v Chameleon Mining NL (2012) 246 CLR 455
Jeffery & Katauskas Pty Ltd v Rickard Constructions Pty Ltd (2009) 239 CLR 75
Roadshow Films Pty Ltd v iiNet Ltd (2011) 284 ALR 222

Subjects: CHIEF JUSTICE
HIGH COURT
JUDICIARY
LITIGATION

Jurisdictions: AUSTRALIA

HOUSE OF REPRESENTATIVES

AGIS No: 20132903

Title: House of Representatives retains its control over money bills despite minority government.

Authors: MCCLELLAND, Robert

Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 161-165

Abstract: Bills appropriating revenue or money must originate in the House of Representatives - constitutional and historical background for this arrangement - standing orders - laws appropriating revenue or moneys.

Legal Cases: Combet v Commonwealth of Australia (2005) 224 CLR 494
Pape v Commissioner of Taxation (2009) 238 CLR 1

Legislation: Constitution (CTH)

Subjects: CONSTITUTIONAL LAW
HOUSE OF REPRESENTATIVES
MONEY

Jurisdictions: AUSTRALIA

HUMAN RIGHTS

AGIS No: 20132856

Title: Economic, social and cultural rights : a proposal for a constitutional peg in the ground.

Authors: BAIRD, Natalie

Source: NEW ZEALAND LAW JOURNAL September 2013 : 289-292

Abstract: Constitutional protection of economic, social and cultural rights (ESCR) - existing protection framework - limitations of current framework - standard objections to constitutional recognition of ESCR - future constitutionalisation of ESCR.

Legislation: Human Rights Act 1993 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)
Subjects: CONSTITUTIONAL REFORM
HUMAN RIGHTS
Treaties: International Covenant on Civil and Political Rights
Universal Declaration of Human Rights
Jurisdictions: NEW ZEALAND

AGIS No: 20132836
Title: The ASEAN Human Rights Declaration 2012.
Authors: SHANAHAN RENSHAW, Catherine
Source: HUMAN RIGHTS LAW REVIEW 13 (3) 2013 : 557-579
Abstract: Overview of the ASEAN Human Rights Declaration (AHRD) - comparison with the Universal Declaration of Human Rights and other relevant declarations - commentary on articles of the AHRD - solidarity rights - self-determination and Indigenous rights.

Subjects: HUMAN RIGHTS
Treaties: ASEAN Human Rights Declaration
Universal Declaration of Human Rights
Jurisdictions: ASEAN

AGIS No: 20132889
Title: The international right to health : state obligations and private actors in the health care system.
Authors: O'BRIEN, Paula
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 194-209
Abstract: Role of private sector in health systems under the international right to health - obligations of states using private actors in health systems - health needs - health principles - health governance.
Subjects: HEALTH CARE
HUMAN RIGHTS
Treaties: International Covenant on Economic, Social and Cultural Rights

INDEMNITY

AGIS No: 20132915
Title: Settlement offers on appeals : when might costs be awarded on the indemnity basis?
Authors: JACKSON, Sheryl
Source: PROCTOR 33 (7) August 2013 : 40-41
Abstract: Appeals - offer to settle - offer reject as less favourable to appellant - costs awarded on indemnity basis - applicability of Uniform Civil Procedure Rules and Defamation Act - refusal of unreasonable offer.
Legal Cases: Deepcliffe Pty Ltd v Council of the City of Gold Coast [2001] QCA 396
Roberts v Prendergast [2013] QCA 89
Tector v FAI General Insurance Co Ltd (2001) 2 Qd R 463
Legislation: Defamation Act 2005 (QLD)

Subjects: COSTS
INDEMNITY
Jurisdictions: AUSTRALIA, Queensland

INDUSTRIAL ACCIDENTS

AGIS No: 20132883
Title: Work-related musculoskeletal injury and suicide : opportunities for intervention and therapeutic jurisprudence.
Authors: DAVIS, Marie-Claire
IBRAHIM, Joseph Elias
RANSON, David
AND, others
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 110-121
Abstract: Existence of common trajectory from work-related musculoskeletal injury to suicide - pathway mediated by three critical events - unsuccessful return to work - development of chronic pain or disability - suicidal ideation in the context of chronic pain - moderating factors - opportunities for intervention.
Subjects: INDUSTRIAL ACCIDENTS
SUICIDE

INDUSTRIAL LAW

AGIS No: 20132898
Title: Four burgeoning IR issues for 2013 and beyond : adverse action; social media & workplace policy; trade union regulation (after the HSU affair); and the QANTAS aftermath.
Authors: FLOYD, Louise
SPRY, Max
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 153-174
Abstract: Analysis of four significant developments in industrial law - adverse action - social media policy - trade union regulation - impact of the QANTAS dispute.
Legal Cases: Board of Bendigo Regional Institute of Technical and Further Education v Barclay (2012) 290 ALR 647
Linfox Australia Pty Ltd v Stutsel [2012] FWA 7097
Legislation: Fair Work Act 2009 (CTH)
Subjects: ENTERPRISE BARGAINING
INDUSTRIAL LAW
SOCIAL MEDIA
TRADE UNIONS
Jurisdictions: AUSTRALIA

INSOLVENCY

AGIS No: 20132908
Title: Insolvency : a refresher : are you ready to help in tough times?

Authors: O'BRIEN, Paul
Source: PROCTOR 33 (7) August 2013 : 16-19
Abstract: Situations that may give rise to insolvency under the Corporations Act - indicators of insolvency - actions that can be taken and the view of these by a court - available resources - asset sales - credit resources - business prospects - debts due and payable - temporary lack of liquidity.
Legislation: Corporations Act 2001 (CTH)
Subjects: INSOLVENCY
Jurisdictions: AUSTRALIA, Queensland

AGIS No: 20132818
Title: The impact of insolvency on leases.
Authors: BEEKINK, Peter
Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 211-219
Abstract: Consequences of tenant insolvency on landlord - voluntary administration - proof of debt - recovery of rent - receivership - liquidation - deregistration of company - key corporate insolvency issues.
Legislation: Corporations Act 2001 (CTH)
Subjects: INSOLVENCY
LANDLORD AND TENANT
Jurisdictions: AUSTRALIA

INTELLECTUAL PROPERTY

AGIS No: 20132869
Title: #TRADEMARK and other challenges trending in trade marks practice.
Authors: TURNER, Alexandra Eleni
Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 90-95
Abstract: Challenges for legal practitioners when advising on the registrability of trade marks containing words with a colloquial meaning or a popular phrase - need for practitioners to keep up with trends in language - word structures and punctuation - use of the "hashtag".
Legal Cases: Phone Directories Co Australia Pty Ltd v Telstra Corp Ltd (2011) 94 IPR 300
Re Application by Westco Jeans (Aust) Pty Ltd (1989) 16 IPR 493
Subjects: INTELLECTUAL PROPERTY
LANGUAGE
SOCIAL MEDIA
TRADE MARKS

AGIS No: 20132867
Title: Beyond.com : the Trademark Clearinghouse and the expanding gTLD digital name space : what does it all mean for trade mark owners?
Authors: HARRIS, Sonia
Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 82-89

Abstract: Role, capabilities and key services of the Trademark Clearinghouse (TMCH) in the Top Level Domain (gTLD) environment - implications of gTLD expansion for trade mark owners - need for a controlled response to the evolving digital landscape.

Subjects: INTELLECTUAL PROPERTY
TRADE MARKS

AGIS No: 20132878

Title: Global trend spotting : protecting artistic works in fashion and design products.

Authors: BEKENS, Emma
CHRISTOU, Sophia

Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 104-107

Abstract: Copyright and design infringement in the fashion industry - offshore production of goods has increased the problem - current protection by intellectual property legislation.

Legislation: Copyright Act 1968 (CTH)
Designs Act 2003 (CTH)

Subjects: INTELLECTUAL PROPERTY
TRADE MARKS

Jurisdictions: AUSTRALIA

INTERNATIONAL LAW

AGIS No: 20132900

Title: The dominance of uniformity of outcome in Australian choice of law : is it time to relax the grip?

Authors: GARNETT, Richard

Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 192-215

Abstract: Uniformity of outcome - arguments for and against in the context of international and interstate choice of law rules in Australia - developments in the United States and the European Union and the place of the principle of uniformity in choice of law.

Legal Cases: John Pfeiffer Pty Ltd v Rogerson (2000) 203 CLR 503
McKain v RW Miller & Co (SA) Pty Ltd (1991) 174 CLR 1
Regie Nationale des Usines Renault SA v Zhang (2002) 210 CLR 491

Subjects: INTERNATIONAL LAW
UNIFORM LAW

Jurisdictions: AUSTRALIA
EUROPEAN UNION
UNITED STATES

INTERNATIONAL TRADE

AGIS No: 20132863

Title: Interpreting the UCP.

Authors: TYREE, Alan L

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 220-223

Abstract: Documentary letter of credits (DLC) - Uniform Customs and Practices for Documentary Credits (UPC) - relationship between DLC and UPC - incorporation by reference - implied terms and construction - return of documents.

Legal Cases: Attorney General of Belize v Belize Telecom Ltd [2009] UKPC 10
Fortis Bank SA/NV v Indian Overseas Bank [2010] EWHC 84 (Comm)
Leonie's Travel Pty Ltd v Qantas Airways Ltd (2010) 183 FCR 246

Subjects: BANKING
INTERNATIONAL TRADE

INTERNET AND PUBLISHING

AGIS No: 20132837

Title: Neither adopt nor endorse : liability for misleading an deceptive conduct for publication of statements by intermediaries or conduits.

Authors: WITHANA, Radhika

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 152-164

Abstract: Recent High Court decision on liability under s 52 of the Trade Practices Act (TPA) for the publication of statements by one party but authored by another - allegations against Google - misleading and deceptive conduct by displaying advertisements on behalf of advertisers - authorities relating to intermediaries or conduits - relationship between s 52 and s 85 (3) of the TPA.

Legal Cases: Australian Competition and Consumer Commission (ACCC) v Trading Post Australia Pty Ltd (2011) 197 FCR 498
Google Inc v Australian Competition and Consumer Commission (ACCC) (2013) 294 ALR 404
Yorke v Lucas (1985) 158 CLR 661

Legislation: Trade Practices Act 1974 (CTH)

Subjects: ADVERTISING
INTERNET AND PUBLISHING

Jurisdictions: AUSTRALIA

INVESTMENTS

AGIS No: 20132937

Title: A review of risk disclosure obligations for complex unlisted managed investment schemes.

Authors: SERPELL, Andrew J

Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 181-195

Abstract: Law and policy relating to risk disclosure and managed investment schemes - regulation of investment risk - mandatory risk disclosure obligations - case law - ASIC policy relating to risk disclosure - disclosure principles and benchmarks - advertising standards.

Legal Cases: Woodcroft-Brown v Timbercorp Securities Ltd (in liq) (2011) 253 FLR 240

Legislation: Corporations Act 2001 (CTH)

Subjects: INVESTMENTS
RISK MANAGEMENT
Jurisdictions: AUSTRALIA

JUDGMENTS

AGIS No: 20132895
Title: Reflections on the High Court : its judges and judgments.
Authors: MASON, Anthony
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 102-117
Abstract: Changing attitudes to judicial conferencing in the High Court - joint and separate judgments - justices in the High Court - relationship between separate and joint judgment on a case - experience in Hong Kong - personal dynamics - achievements of the High Court - Court's status and jurisdiction - special leave applications - deciding important questions of law - judicial minimalism.

Legal Cases: Amalgamated Society of Engineers v Adelaide Steamship Co Ltd (1920) 28 CLR 129
Hoyt's Pty Ltd v Spencer (1919) 27 CLR 133

Subjects: HIGH COURT
JUDGMENTS
JUDICIARY

Jurisdictions: AUSTRALIA
HONG KONG

JUDICIAL OPINIONS

AGIS No: 20132940
Title: Judicial comment on expert testimony.
Authors: SAXTON, Andrew
HAYES, Joanne
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 428-431
Abstract: Courts are entitled to reject practitioners and expert evidence on the question of breach of duty of care - case law - concern by medical profession about uncertainty of the judicial process.

Legal Cases: Cox v Fellows [2013] NSWCA 206

Subjects: EXPERT EVIDENCE
JUDICIAL OPINIONS
MEDICAL EVIDENCE

Jurisdictions: AUSTRALIA

JUDICIAL PROCESS

AGIS No: 20132958
Title: Natural justice and judicial meetings with children : documenting practice within the New Zealand Family Court.
Authors: CALDWELL, John
TAYLOR, Nicola

Source: NEW ZEALAND FAMILY LAW JOURNAL 7 (11) September 2013 : 264-271

Abstract: Study of judicial interviewing of children in New Zealand - natural justice implications of judicial interviewing - confidentiality of interview - disclosure to other parties involved - recording discussion with child - feedback to parties on judicial meeting - judiciary natural justice concerns.

Subjects: CHILDRENS EVIDENCE
FAMILY COURT
JUDICIAL PROCESS
JUDICIARY
NATURAL JUSTICE

Jurisdictions: NEW ZEALAND

AGIS No: 20132934

Title: The James Hardie directors : a case of missing directors and misdirections by law.

Authors: GLASBEEK, Harry

Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 107-137

Abstract: Role played by judicial decision-making in underscoring values and norms in law - pursuit of rights in adversarial system - James Hardie directors case - argument that in a capitalist system, capitalist favouring decisions will be handed down - way in which evidence is dealt with - regulatory law - misdirection by law.

Legal Cases: Australian Securities and Investments Commission (ASIC) v Hellicar (2012) 286 ALR 501
Australian Securities and Investments Commission (ASIC) v Macdonald (No 11) (2009) 256 ALR 199
Australian Securities and Investments Commission v Macdonald (No 12) (2009) 259 ALR 116

Legislation: Corporations Act 2001 (CTH)

Subjects: COMPANY DIRECTORS
EVIDENCE
JUDICIAL PROCESS

Jurisdictions: AUSTRALIA

JUDICIAL REVIEW

AGIS No: 20132906

Title: Judicial review of public consultation processes : a safeguard against tokenism?

Authors: EDGAR, Andrew

Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 209-224

Abstract: Public consultation process requirements and administration - scope of judicial review of public consultation processes - case law - problems avoided and benefits missed in restraining review.

Legal Cases: Kioa v West (1985) 159 CLR 550
Project Blue Sky Inc v Australian Broadcasting Authority (1998) 194 CLR 355
Scurr v Brisbane City Council (No 5) (1973) 133 CLR 242

Legislation: Administrative Decisions (Judicial Review) Act 1977 (CTH)
Legislative Instruments Act 2003 (CTH)
Subjects: JUDICIAL REVIEW
Jurisdictions: AUSTRALIA

JUDICIARY

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Subjects: CHILDRENS EVIDENCE
FAMILY COURT
JUDICIAL PROCESS
JUDICIARY
NATURAL JUSTICE
Jurisdictions: NEW ZEALAND

AGIS No: 20132895
Title: Reflections on the High Court : its judges and judgments.
Authors: MASON, Anthony
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 102-117
Abstract: Changing attitudes to judicial conferencing in the High Court - joint and separate judgments - justices in the High Court - relationship between separate and joint judgment on a case - experience in Hong Kong - personal dynamics - achievements of the High Court - Court's status and jurisdiction - special leave applications - deciding important questions of law - judicial minimalism.

Legal Cases: Amalgamated Society of Engineers v Adelaide Steamship Co Ltd (1920) 28 CLR 129
Hoyt's Pty Ltd v Spencer (1919) 27 CLR 133
Subjects: HIGH COURT
JUDGMENTS
JUDICIARY
Jurisdictions: AUSTRALIA
HONG KONG

AGIS No: 20132917
Title: Wavering alternations of valour and caution : commercial and regulatory litigation in the French CJ High Court.
Authors: SPENDER, Peta

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 111-130

Abstract: Commercial and regulatory litigation in the High Court after the appointment of Chief Justice Robert French - judicial method and certainty - role of the High Court - authority of courts - public or private model of appellate litigation - justificatory ascent - judicial caution and valour - case law.

Legal Cases: Aon Risk Services Australia Ltd v Australian National University (2009) 239 CLR 175
Australian Securities and Investments Commission (ASIC) v Hellicar (2012) 286 ALR 501
Equuscorp Pty Ltd v Haxton; Equuscorp Pty Ltd v Bassat; Equuscorp Pty Ltd v Cunningham's Warehouse Sales Pty Ltd (2012) 246 CLR 498
International Litigation Partners Pte Ltd v Chameleon Mining NL (2012) 246 CLR 455
Jeffery & Katauskas Pty Ltd v Rickard Constructions Pty Ltd (2009) 239 CLR 75
Roadshow Films Pty Ltd v iiNet Ltd (2011) 284 ALR 222

Subjects: CHIEF JUSTICE
HIGH COURT
JUDICIARY
LITIGATION

Jurisdictions: AUSTRALIA

AGIS No: 20132938

Title: Why the sound and fury? Enforcing security of payment adjudication determinations.

Authors: MASON, Brian

Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 372-384

Abstract: Enforcement of unpaid adjudication determinations as a judgment debt - recent Federal Court decision upholding constitutional validity of arrangement - Kable principle - judicial process - prevention of exercise of federal judicial power - jurisdictional error.

Legal Cases: Birdon Pty Ltd v Houben Marine Pty Ltd (2011) 197 FCR 25
Kable v Director of Public Prosecutions (NSW) (1996) 189 CLR 51

Legislation: Building and Construction Industry Security of Payment Act 1999 (NSW)
Constitution (CTH)

Subjects: CONSTRUCTION INDUSTRY
DEBTS AND DEBTORS
JUDICIARY

Jurisdictions: AUSTRALIA

LAND TITLES

AGIS No: 20132817

Title: Adverse possession of minerals in land.

Authors: WEBB, Eileen

Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 208-210

Abstract: Extinguishing of title of minerals by possession of land by another party - adverse possession - tort of conversion - case law.

Legal Cases: Payne v Dwyer [2013] WASC 271
Legislation: Limitation Act 1935 (WA)
Limitation Act 2005 (WA)
Transfer of Land Act 1893 (WA)
Subjects: LAND TITLES
MINES AND MINERALS
Jurisdictions: AUSTRALIA, Western Australia

LANDLORD AND TENANT

AGIS No: 20132949
Title: Case note : retail leases, executory contracts and sale of reversion : Cooma Clothing Pty Ltd v Create Invest Develop Pty Ltd.
Authors: PALLAVICINI, Stephen
BOUSTANI, Marie
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 12-14
Abstract: Transfer of retail leases - question of whether transfer resulted in binding legal agreement - guarantors for the performance of lease.
Legal Cases: Cooma Clothing Pty Ltd v Create Invest Develop Pty Ltd [2013] VSCA 106
Legislation: Retail Leases Act 2003 (VIC)
Subjects: LANDLORD AND TENANT
LEASES
PROPERTY LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132821
Title: Falling across the finish line : exercising land options : a judicial disdain for exact words?
Authors: JONES, Stephen E
Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 225-226
Abstract: Put and call option in a tenanted commercial property - call option device for revenue saving or convenience - exercising the call option - compliance with options - bases for judicial decision - case law.
Legal Cases: C & P Syndicate Pty Ltd v Reddy [2013] NSWSC 643
Subjects: LANDLORD AND TENANT
PROPERTY LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132818
Title: The impact of insolvency on leases.
Authors: BEEKINK, Peter
Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 211-219

Abstract: Consequences of tenant insolvency on landlord - voluntary administration - proof of debt - recovery of rent - receivership - liquidation - deregistration of company - key corporate insolvency issues.

Legislation: Corporations Act 2001 (CTH)

Subjects: INSOLVENCY
LANDLORD AND TENANT

Jurisdictions: AUSTRALIA

LANGUAGE

AGIS No: 20132869

Title: #TRADEMARK and other challenges trending in trade marks practice.

Authors: TURNER, Alexandra Eleni

Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 90-95

Abstract: Challenges for legal practitioners when advising on the registrability of trade marks containing words with a colloquial meaning or a popular phrase - need for practitioners to keep up with trends in language - word structures and punctuation - use of the "hashtag".

Legal Cases: Phone Directories Co Australia Pty Ltd v Telstra Corp Ltd (2011) 94 IPR 300
Re Application by Westco Jeans (Aust) Pty Ltd (1989) 16 IPR 493

Subjects: INTELLECTUAL PROPERTY
LANGUAGE
SOCIAL MEDIA
TRADE MARKS

AGIS No: 20132870

Title: Slang resources for lawyers.

Authors: GIVONI, Sharon

Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 96-97

Abstract: List of Australian slang resources in hardcopy and online.

Subjects: LANGUAGE
TRADE MARKS

Jurisdictions: AUSTRALIA

LAW FIRMS

AGIS No: 20132955

Title: Keeping a watchful eye : supervision in law practices.

Authors: GRAINGER, Kellie

Source: BALANCE (3) 2013 : 21-25

Abstract: Supervision of legal practitioners and support staff in a legal practice - sources of obligation - consequences of lack of supervision - adequate supervision arrangements - supervision as an opportunity.

Legal Cases: Baker v Legal Services Commissioner [2006] 2 Qd R 249
Law Society of New South Wales v Foreman (1991) 24 NSWLR 238
Legal Services Commissioner v Keddie [2012] NSWADT 106

Legislation: Legal Profession Act 2006 (NT)

Subjects: LAW FIRMS
LAW OFFICE MANAGEMENT

Jurisdictions: AUSTRALIA, Northern Territory

AGIS No: 20132824

Title: Women in partnership : a yin-yang balance.

Authors: REY, Sarah
IERODIACONOU, Mary-Jane

Source: ETHOS (229) September 2013 : 16-17

Abstract: Establishment of law firm - business models - staff flexibility - no budget targets - key lessons - success.

Subjects: LAW FIRMS
WOMEN AND THE LAW

Jurisdictions: AUSTRALIA

LAW OFFICE MANAGEMENT

AGIS No: 20132955

Title: Keeping a watchful eye : supervision in law practices.

Authors: GRAINGER, Kellie

Source: BALANCE (3) 2013 : 21-25

Abstract: Supervision of legal practitioners and support staff in a legal practice - sources of obligation - consequences of lack of supervision - adequate supervision arrangements - supervision as an opportunity.

Legal Cases: Baker v Legal Services Commissioner [2006] 2 Qd R 249
Law Society of New South Wales v Foreman (1991) 24 NSWLR 238
Legal Services Commissioner v Keddie [2012] NSWADT 106

Legislation: Legal Profession Act 2006 (NT)

Subjects: LAW FIRMS
LAW OFFICE MANAGEMENT

Jurisdictions: AUSTRALIA, Northern Territory

LAW REFORM

AGIS No: 20132901

Title: Marriage equality in New Zealand.

Authors: GEDDIS, Andrew

Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 151-154

Abstract: Background to legislative changes in New Zealand legalising same-sex marriage - protection of the rights of religious celebrants who do not want to solemnise unions - adoption by same-sex couples.

Legislation: Adoption Act 1955 (NZ)
Marriage (Definition of Marriage) Amendment Act 2013 (NZ)
Marriage Act 1955 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)

Subjects: ADOPTION
LAW REFORM
SAME SEX MARRIAGE

Jurisdictions: NEW ZEALAND

AGIS No: 20132868
Title: Opioid regulation : time to reconsider the nomenclature and approach.
Authors: MENDELSON, Danuta
MENDELSON, George
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 27-38
Abstract: Increase in death due to ingestion of opioid analgesics - outdated legislative control of prescriptions and administration - overview of statutory framework in Victoria - notifications and permits for drugs of dependence - medical terminology.

Legislation: Drugs, Poisons and Controlled Substances Act 1981 (VIC)
Narcotic Drugs Act 1967 (CTH)
Poisons Act 1971 (TAS)

Subjects: DRUG ABUSE
DRUG CONTROL
LAW REFORM

Jurisdictions: AUSTRALIA

AGIS No: 20132845
Title: Progress with New Zealand's consumer law reform.
Authors: BERKHAN, Matthew
TROTMAN, Lindsay
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 228-236
Abstract: Overview of the Consumer Law Reform Bill - consolidation of current framework of consumer statutes - purpose statements - amendments to the Fair Trading Act and Consumer Guarantees Act.

Legislation: Consumer Guarantees Act 1993 (NZ)
Fair Trading Act 1986 (NZ)

Subjects: CONSUMERS
LAW REFORM

Jurisdictions: NEW ZEALAND

AGIS No: 20132866
Title: Stillbirth and the law : options for law reform and issues for the coronial jurisdiction.
Authors: FRECKELTON, Ian
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 7-26

Abstract: Legal issues in relation to stillbirth law reform - stillbirth in the context of criminal, civil and coronial law - extending coronial jurisdiction - 'born alive' rule - legislative review in South Australia - law reform.

Legal Cases: Attorney General, Re Judicial Review [2013] NIQB 52
Barrett v Coroner's Court of South Australia (2010) 108 SASR 568

Subjects: CORONERS
LAW REFORM
MEDICAL LAW

Jurisdictions: AUSTRALIA
CANADA
NEW ZEALAND
NORTHERN IRELAND

AGIS No: 20132953

Title: The right to drink? Wrong...

Authors: GOLDFLAM, Russell

Source: BALANCE (3) 2013 : 12-13

Abstract: Banned Drinkers Register in the Northern Territory - no human right to consume or possess alcohol - introduction of the Alcohol Mandatory Treatment Bill - criticisms of the Bill.

Subjects: ALCOHOL
LAW REFORM

Jurisdictions: AUSTRALIA, Northern Territory

LAWYER CLIENT RELATIONSHIP

AGIS No: 20132919

Title: Understanding the client's perspective : overcoming the failure to communicate effectively.

Authors: WOLSKI, Bobette

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 141-152

Abstract: Communication skills for lawyers - effective communication fundamental in many aspects of legal practice - components of communication - listening skills - non-verbal communication - impediments to effective communication - techniques for improving communication between lawyers and clients.

Subjects: COMMUNICATION SKILLS
LAWYER CLIENT RELATIONSHIP

LEADERSHIP

AGIS No: 20132964

Title: The role of trust and transparency in the pursuit of procedural and organisational justice.

Authors: SCHAFER, Joseph A

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 131-143

Abstract: Role of trust and transparency in internal and external aspects of police operations - definition of trust and transparency - establishing and maintaining trust and transparency in police forces - contemporary consideration using historical examples - effect of internal trust and transparency on external trust and transparency - procedural justness depends on organisationally just internal operations.

Subjects: LEADERSHIP
POLICE

LEASES

AGIS No: 20132949

Title: Case note : retail leases, executory contracts and sale of reversion : Cooma Clothing Pty Ltd v Create Invest Develop Pty Ltd.

Authors: PALLAVICINI, Stephen
BOUSTANI, Marie

Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 12-14

Abstract: Transfer of retail leases - question of whether transfer resulted in binding legal agreement - guarantors for the performance of lease.

Legal Cases: Cooma Clothing Pty Ltd v Create Invest Develop Pty Ltd [2013] VSCA 106

Legislation: Retail Leases Act 2003 (VIC)

Subjects: LANDLORD AND TENANT
LEASES
PROPERTY LAW

Jurisdictions: AUSTRALIA

LEGAL AID

AGIS No: 20132823

Title: Tiggasay! Tiggasay! Legal aid in Bangladesh.

Authors: SWEENEY, Paul R

Source: ETHOS (229) September 2013 : 14-15

Abstract: Overview of legal aid services in Bangladesh - case load - village court system - community service announcements.

Subjects: LEGAL AID

Jurisdictions: BANGLADESH

LEGAL CONFERENCES

AGIS No: 20132826

Title: REGIONAL peace through strategic assistance : an update from the Law Council of Australia.

Source: ETHOS (229) September 2013 : 22-24

Abstract: Strengthening the legal profession in the Asia-Pacific region by the Law Council of Australia - development of bars in South Pacific - needs survey of the legal profession - professional conferences - pro bono work in the Asia-Pacific - other projects.

Subjects: BAR ASSOCIATIONS
DEVELOPING COUNTRIES
LEGAL CONFERENCES
LEGAL PROFESSION
PRO BONO SERVICES
Jurisdictions: ASIA PACIFIC

AGIS No: 20132894
Title: Why Rome and not Hong Kong : the Australian Bar at large.
Authors: FRENCH, Robert
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 91-101
Abstract: Discussion on the location of the Australian Bar Association Conference - internationalisation of legal practice - influence of Roman law on Australian legal tradition - opportunities for cross-border practice in the Asian region - need to consider a major Asian capital for next conference.
Subjects: BAR ASSOCIATIONS
LEGAL CONFERENCES
LEGAL HISTORY
Jurisdictions: ASIA
AUSTRALIA

LEGAL FEES

AGIS No: 20132954
Title: Breaking up can be hard to do : can you be paid if you end the retainer early?
Authors: GRAINGER, Kellie
Source: BALANCE (3) 2013 : 16-20
Abstract: Overview of retainers - ending a retainer - when a retainer can be ended - sending a bill when ending a retainer - case law.
Legal Cases: Baker v Legal Services Commissioner [2006] 2 Qd R 249
Legislation: Legal Profession Act 2006 (NT)
Subjects: LEGAL FEES
LEGAL SERVICE DELIVERY
Jurisdictions: NORTHERN IRELAND

LEGAL HISTORY

AGIS No: 20132894
Title: Why Rome and not Hong Kong : the Australian Bar at large.
Authors: FRENCH, Robert
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 91-101
Abstract: Discussion on the location of the Australian Bar Association Conference - internationalisation of legal practice - influence of Roman law on Australian legal tradition - opportunities for cross-border practice in the Asian region - need to consider a major Asian capital for next conference.

Subjects: BAR ASSOCIATIONS
LEGAL CONFERENCES
LEGAL HISTORY

Jurisdictions: ASIA
AUSTRALIA

LEGAL PROFESSION

AGIS No: 20132827

Title: Best practice : supervision of non-principal subordinates.

Authors: REIS, Rob

Source: ETHOS (229) September 2013 : 25-27

Abstract: Disciplinary action against law practice - supervision of junior employee - failure to act on client complaint - fund withdrawal without client authority or opportunity to object - Rule 35 of the Legal Profession (Solicitors) Rule - orders - supervisory responsibilities.

Legislation: Legal Profession Act 2006 (ACT)

Subjects: LEGAL PROFESSION

Jurisdictions: AUSTRALIA, Australian Capital Territory

AGIS No: 20132956

Title: Disciplinary decisions over the last 12 months.

Authors: GRAINGER, Kellie

Source: BALANCE (3) 2013 : 26-29

Abstract: Disciplinary complaints under s 499 of the Legal Profession Act - engaging in legal practice without current certificate - non-compliance with trust account requirements - failure to properly advise client - lack of costs disclosure - non-responsiveness to Society.

Legislation: Legal Profession Act 2006 (NT)

Subjects: LEGAL PROFESSION

Jurisdictions: AUSTRALIA, Northern Territory

AGIS No: 20132826

Title: REGIONAL peace through strategic assistance : an update from the Law Council of Australia.

Source: ETHOS (229) September 2013 : 22-24

Abstract: Strengthening the legal profession in the Asia-Pacific region by the Law Council of Australia - development of bars in South Pacific - needs survey of the legal profession - professional conferences - pro bono work in the Asia-Pacific - other projects.

Subjects: BAR ASSOCIATIONS
DEVELOPING COUNTRIES
LEGAL CONFERENCES
LEGAL PROFESSION
PRO BONO SERVICES

Jurisdictions: ASIA PACIFIC

LEGAL SERVICE DELIVERY

AGIS No: 20132916
Title: At your service : but can you guarantee that?
Authors: WATSON, Giles
Source: PROCTOR 33 (7) August 2013 : 46-47
Abstract: Guarantee of service level by law firms - compensation or redress expected where guarantee not met - specific attribute guarantees - general client satisfaction guarantees - implementing service guarantees - risk.
Subjects: LEGAL SERVICE DELIVERY
Jurisdictions: AUSTRALIA, Queensland

AGIS No: 20132954
Title: Breaking up can be hard to do : can you be paid if you end the retainer early?
Authors: GRAINGER, Kellie
Source: BALANCE (3) 2013 : 16-20
Abstract: Overview of retainers - ending a retainer - when a retainer can be ended - sending a bill when ending a retainer - case law.
Legal Cases: Baker v Legal Services Commissioner [2006] 2 Qd R 249
Legislation: Legal Profession Act 2006 (NT)
Subjects: LEGAL FEES
LEGAL SERVICE DELIVERY
Jurisdictions: NORTHERN IRELAND

LEGISLATION

AGIS No: 20132848
Title: Little joy for privacy victims this quarter : NSW privacy cases May-July 2013.
Authors: JOHNSTON, Anna
Source: PRIVACY LAW BULLETIN 10 (1) September 2013 : 11
Abstract: Exemptions in NSW privacy legislation blamed for privacy complainants loss of cases - need for loopholes in legislation to be fixed.
Legislation: Privacy and Personal Information Protection Act 1998 (NSW)
Subjects: LEGISLATION
PRIVACY
Jurisdictions: AUSTRALIA, New South Wales

AGIS No: 20132945
Title: Private faces in public spaces : privacy and the Victorian sexting inquiry.
Authors: ARNOLD, Bruce Baer
SMITH, Benjamin
Source: PRIVACY LAW BULLETIN 10 (2) October 2013 : 18-21

Abstract: Victorian Law Reform Committee report on sexting - definition of sexting - peer-to-peer sexting by minors - consideration of child pornography - recommendation of statutory change to Victorian criminal law.

Legislation: Criminal Code Act 1995 (CTH)

Subjects: LEGISLATION
PRIVACY
SOCIAL MEDIA

Jurisdictions: AUSTRALIA, Victoria

LEGITIMACY

AGIS No: 20132965

Title: The drivers of police legitimacy : some European research.

Authors: HOUGH, Mike
JACKSON, Jonathan
BRADFORD, Ben

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 144-165

Abstract: Programme of survey work on procedural justice theory in Europe - procedural justice theory within framework of compliance theories - concept of legitimacy - 'trust in justice' module of 5th European Social Survey - types of public trust related to perceptions of legitimacy - relation to self-reported compliance and cooperation with police.

Subjects: LEGITIMACY
POLICE

Jurisdictions: EUROPE

LIABILITY

AGIS No: 20132839

Title: Division 1A of the Competition and Consumer Act 2010 (Cth) : a critique.

Authors: WENDON, Nicholas

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 181-205

Abstract: Effectiveness of Div 1A in addressing anti-competitive price-signalling and information disclosures - recent law reform - risks and benefits of information disclosure - approaches taken in different jurisdictions - unilateral disclosures - per se prohibitions - hub and spoke arrangements.

Legal Cases: Apco Service Stations Pty Ltd v Australian Competition and Consumer Commission (2005) 159 FCR 452
Australian Competition and Consumer Commission v Leahy Petroleum Pty Ltd (2007) 160 FCR 321

Legislation: Competition Act 1998 (UK)
Competition and Consumer Act 2010 (CTH)
Sherman Anti-Trust Act 1890 (US)

Subjects: COMPETITION LAW
LIABILITY
PRICE CONTROL

Jurisdictions: AUSTRALIA
UNITED KINGDOM
UNITED STATES

AGIS No: 20132924

Title: Remoulding pre-contracts in China : essentials and framework.

Authors: WEI, Shen
YU, Kenny

Source: COMMERCIAL LAW QUARTERLY 27 (1) March / May 2013 : 3-14

Abstract: Recent issuing of judicial interpretation on Article 42 of PRC Contract Law - clarification of ambiguities on sales contract - overview of Article 42 - regulation of pre-contractual liability - remoulding of 'good faith framework'.

Legislation: Contract Law (CHINA)

Subjects: CONTRACTS
LIABILITY
STATUTORY INTERPRETATION

Jurisdictions: CHINA

AGIS No: 20132849

Title: The liability-sanction relationship : a case study in the effectiveness of the corporate regulatory regime.

Authors: NICOLAE, Maria

Source: COMPANY AND SECURITIES LAW JOURNAL 31 (6) September 2013 : 365-377

Abstract: Effectiveness of the Corporations Act in regulating the conduct of company directors - effectiveness of regulation determined by liability-sanction relationship - examination of case law - recommendations for more appropriate sanctions under certain circumstances.

Legal Cases: Australian Securities and Investments Commission v Healey (No 2) (2011) 196 FCR 430
Australian Securities and Investments Commission v Vizard (2005) 145 FCR 57

Legislation: Corporations Act 2001 (CTH)

Subjects: COMPANY DIRECTORS
CORPORATIONS LAW
LIABILITY

Jurisdictions: AUSTRALIA

AGIS No: 20132920

Title: Where a negligent service provider fails to protect the lender's interests in a loan transaction : High Court decision casts doubt on lender's ability to recover its loss in full.

Authors: WESTON-SCHEUBER, Kylie

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 153-157

Abstract: Proportionate liability where multiple parties responsible for economic loss or damage - recovery of loss in full against service provider where lender unable to rely on security - recent High Court decision alters recovery ability - borrower/guarantor 'concurrent wrongdoer' - limitation of recovery against negligent service provider.

Legal Cases: Hunt & Hunt Lawyers v Mitchell Morgan Nominees Pty Ltd (2013) 296 ALR 3
St George Bank Ltd v Quinerts Pty Ltd (2009) 25 VR 666

Legislation: Civil Liability Act 2002 (NSW)

Subjects: BANKING
GUARANTORS
LIABILITY
LOANS
NEGLIGENCE

Jurisdictions: AUSTRALIA

LIQUIDATION

AGIS No: 20132921

Title: Is the vendor's solicitor the stakeholder of deposit monies? An Irish perspective.

Authors: BERGIN-CROSS, Caroline

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 158-160

Abstract: Non-completion of contracts for sale - deposit paid to vendor's solicitor - failure to return deposit - vendor in liquidation - parties entitled to deposit monies.

Legal Cases: Edgell v Day (1865) LR 1 CP 80
Ellis v Goulton (1893) 1 QB 350
Leemac Overseas Investments Ltd v Harvey (1973) IR 160

Subjects: CONTRACTS
LIQUIDATION
SOLICITORS

Jurisdictions: IRELAND

AGIS No: 20132939

Title: The availability of liquidated damages following determination of the construction contract.

Authors: HAVELOCK, Rohan

Source: BUILDING AND CONSTRUCTION LAW JOURNAL 29 (5) October 2013 : 385-405

Abstract: Liquidated and ascertained damages (LAD) provision in commercial construction contracts - competing concerns between contractor and employer - approaches taken in case law - merits of these approaches in relation to situation - comparison of standard form construction contracts in Australia, New Zealand and internationally - availability of general damages as an alternative to LAD.

Legal Cases: British Glanzstoff Manufacturing Co Ltd v General Accident Fire and Life Assurance Co Ltd (1912) SC 591
Hall v Van Der Heiden (No 2) [2010] EWHC 586
Re Yeadon Waterworks Co v Binns & Wright (1895) 72 LT 538

Subjects: CONSTRUCTION INDUSTRY
CONTRACTS
DAMAGES
LIQUIDATION
Jurisdictions: AUSTRALIA
NEW ZEALAND

LITERATURE

AGIS No: 20132874
Title: Disclosure of material risk as systems-error tragedy : Wallace v Kam (2013) 87 ALJR 648; [2013] HCA 19.
Authors: FAUNCE, Thomas
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 53-65
Abstract: Medical duty to disclose material risk prior to operation - recent High Court decision - tragic systems context - use of elements classical literature to analyse legislative context.

Legal Cases: Rogers v Whitaker (1992) 175 CLR 479
Rosenberg v Percival (2001) 205 CLR 434
Wallace v Kam (2013) 87 ALJR 648
Legislation: Civil Liability Act 2002 (NSW)
Subjects: DUTY OF CARE
LITERATURE
MEDICAL LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132963
Title: Organisational and procedural justice : a review of the literature and its implications for policing.
Authors: ROBERTS, Karl
HERRINGTON, Victoria
Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 115-130
Abstract: Systematic review of literature examining organisational and procedural justice in policing - how organisational and procedural justice works - implications for policing - management and leadership - interactions with the public - interactions with criminal justice stakeholders.
Subjects: LITERATURE
POLICE
RESEARCH

LITIGATION

AGIS No: 20132838
Title: Evidential issues in brand appropriation litigation.
Authors: GILLIES, Peter

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 165-180

Abstract: Brand appropriation litigation - claims of trade mark infringement - breach of s 18 of the Australian Consumer Law - commission of the tort of passing off - points of intersection an distinction - evidential issues - intention to mislead - consumer confusion - reputation in a product - expert evidence - empirical evidence - case law.

Legal Cases: Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (2006) 228 ALR 719
Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (No 4) (2006) 229 ALR 136
Red Bull Australia Pty Ltd v Sydneywide Distributors Pty Ltd (2001) 53 IPR 481
Twentieth Century Fox Film Corp v South Australian Brewing Co Ltd (1996) ATPR 41-483

Legislation: Competition and Consumer Act 2010 (CTH)
Trade Practices Act 1974 (CTH)

Subjects: EVIDENCE
LITIGATION
PASSING OFF
TRADE MARKS

Jurisdictions: AUSTRALIA

AGIS No: 20132917

Title: Wavering alternations of valour and caution : commercial and regulatory litigation in the French CJ High Court.

Authors: SPENDER, Peta

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 111-130

Abstract: Commercial and regulatory litigation in the High Court after the appointment of Chief Justice Robert French - judicial method and certainty - role of the High Court - authority of courts - public or private model of appellate litigation - justificatory ascent - judicial caution and valour - case law.

Legal Cases: Aon Risk Services Australia Ltd v Australian National University (2009) 239 CLR 175
Australian Securities and Investments Commission (ASIC) v Hellicar (2012) 286 ALR 501
Equuscorp Pty Ltd v Haxton; Equuscorp Pty Ltd v Bassat; Equuscorp Pty Ltd v Cunningham's Warehouse Sales Pty Ltd (2012) 246 CLR 498
International Litigation Partners Pte Ltd v Chameleon Mining NL (2012) 246 CLR 455
Jeffery & Katauskas Pty Ltd v Rickard Constructions Pty Ltd (2009) 239 CLR 75
Roadshow Films Pty Ltd v iiNet Ltd (2011) 284 ALR 222

Subjects: CHIEF JUSTICE
HIGH COURT
JUDICIARY
LITIGATION

Jurisdictions: AUSTRALIA

LOANS

AGIS No: 20132861

Title: Improving the ability of guarantors to make a real choice : lenders' practices in taking third party guarantees.

Authors: MCGILL, Denise
HOWELL, Nicola

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 182-202

Abstract: Remedies commonly sought by guarantors of business debts challenging their guarantee - review of case law on third party guarantors - guarantee by wife - guarantee by parents - guarantee of a debt of a stranger - company director guarantee on loan to company - key issues - protections for guarantors under the Code of Banking Practice.

Legal Cases: Agripay Pty Ltd v Byrne [2011] 2 Qd R 501
Commercial Bank of Australia Ltd v Amadio (1983) 151 CLR 447
Spina v Permanent Custodians Ltd (2009) 14 BPR 26,923
Wenczel v Commonwealth Bank of Australia [2006] VSC 324

Legislation: Australian Securities and Investments Commission Act 2001 (CTH)

Subjects: GUARANTORS
LOANS

Jurisdictions: AUSTRALIA

AGIS No: 20132865

Title: Lender liability : is there a duty of care to warn or guard against risk of loss?

Authors: WINTER, Richard

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 229-232

Abstract: No common law duty of care imposed on lenders to warn of risk of loss - assumption of responsibility for financial advice and vulnerable borrowers - fiduciary duty.

Legal Cases: Cambridge Gas Transport Corp v Official Committee of Unsecured Creditors of Navigator Holdings plc (2007) 1 AC 508
Rubin v Eurofinance SA; New Cap Reinsurance Corp (in liq) v Grant (2013) 1 AC 236

Subjects: DUTY OF CARE
FIDUCIARY
LOANS

Jurisdictions: AUSTRALIA

AGIS No: 20132920

Title: Where a negligent service provider fails to protect the lender's interests in a loan transaction : High Court decision casts doubt on lender's ability to recover its loss in full.

Authors: WESTON-SCHEUBER, Kylie

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 153-157

Abstract: Proportionate liability where multiple parties responsible for economic loss or damage - recovery of loss in full against service provider where lender unable to rely on security - recent High Court decision alters recovery ability - borrower/guarantor 'concurrent wrongdoer' - limitation of recovery against negligent service provider.

Legal Cases: Hunt & Hunt Lawyers v Mitchell Morgan Nominees Pty Ltd (2013) 296 ALR 3
St George Bank Ltd v Quinerts Pty Ltd (2009) 25 VR 666

Legislation: Civil Liability Act 2002 (NSW)

Subjects: BANKING
GUARANTORS
LIABILITY
LOANS
NEGLIGENCE

Jurisdictions: AUSTRALIA

MARKETING

AGIS No: 20132854

Title: Advertising ethical business.

Authors: DAY, John-Luke

Source: NEW ZEALAND LAW JOURNAL September 2013 : 286-288

Abstract: Criticisms of ethical labelling on food - legal advice to clients making ethical claims - green and ethical marketing - fair trading - recommended principles for ethical or social responsibility claims.

Subjects: MARKETING
PACKAGING AND LABELLING LAWS

Jurisdictions: NEW ZEALAND

MEDIA

AGIS No: 20132966

Title: Procedural justice and simulated policing : the medium and the message.

Authors: LEE, Murray
MCGOVERN, Alyce

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 166-183

Abstract: Use of social media and other forms of new communication technology by police - 'simulated policing' - communications as a new form of simulated policing - reality television - relationship between procedural justice, new communication technologies and police-media-public intersection.

Subjects: MEDIA
POLICE
SOCIAL MEDIA

Jurisdictions: AUSTRALIA

MEDICAL ETHICS

AGIS No: 20132891

Title: Australian reforms enabling disclosure of genetic information to genetic relatives by health practitioners.

Authors: OTLOWSKI, Margaret

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 217-234

Abstract: Legislative developments on the disclosure of genetic information to genetic relatives - background and implementation of reforms - introduction of enabling guidelines - circumstances under which disclosure is permitted - protocols under the guidelines - guidelines within an international context - challenges and limitations.

Legal Cases: Liss v Watters [2010] QCCS 3309
Pate v Threlkel (1995) 661 So 2d 278
Safer v Estate of Pack 677 A 2d 1188 (1996)

Subjects: GENETICS
MEDICAL ETHICS
MEDICAL PRACTITIONERS

Jurisdictions: AUSTRALIA

AGIS No: 20132872

Title: Double standards in special medical research : questioning the discrepancy between requirements for medical research involving incompetent adults and medical research involving children.

Authors: STEPANOV, Nikola A
SMITH, Malcolm K

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 47-52

Abstract: Approval of medical research in Australia - differences in safeguards for research involving children and incompetent adults - ethical justification for medical research.

Legislation: Guardianship and Administration Act 1986 (VIC)

Subjects: CHILDREN
MEDICAL ETHICS
MEDICAL RESEARCH

Jurisdictions: AUSTRALIA
UNITED STATES

MEDICAL EVIDENCE

AGIS No: 20132940

Title: Judicial comment on expert testimony.

Authors: SAXTON, Andrew
HAYES, Joanne

Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 428-431

Abstract: Courts are entitled to reject practitioners and expert evidence on the question of breach of duty of care - case law - concern by medical profession about uncertainty of the judicial process.

Legal Cases: Cox v Fellows [2013] NSWCA 206

Subjects: EXPERT EVIDENCE
JUDICIAL OPINIONS
MEDICAL EVIDENCE

Jurisdictions: AUSTRALIA

MEDICAL LAW

AGIS No: 20132885
Title: A minority report : homebirth in Australia before and after the 2009 Maternity Services Review.
Authors: SKERMAN, Jindalae Kim
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 142-158
Abstract: History of birth in Australia - "medicalisation" of birth - rise of natural birth - return to homebirths - models of maternity care - safety of homebirth - risks - birthing and fetal rights.
Subjects: MEDICAL LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132884
Title: Children and refusal of medical treatment : in urgent need of reform.
Authors: LENNINGS, Nicholas
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 122-141
Abstract: Ability of children to refuse medical treatment - "mature minor" principle - statutory regulation - refusal of medical treatment at common law - parental rights - parens patriae jurisdiction - NSW Law Reform Commission report - competency - understanding and intelligence - nature of decision to refuse treatment.

Legal Cases: Gillick v West Norfolk and Wisbech Area Health Authority (1986) AC 112
Re T (Adult : Refusal of Treatment) (1992) 4 All ER 649
Re W (A Minor) (1992) 4 All ER 627
Subjects: CHILDREN
MEDICAL LAW
Jurisdictions: AUSTRALIA
UNITED KINGDOM

AGIS No: 20132874
Title: Disclosure of material risk as systems-error tragedy : Wallace v Kam (2013) 87 ALJR 648; [2013] HCA 19.
Authors: FAUNCE, Thomas
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 53-65
Abstract: Medical duty to disclose material risk prior to operation - recent High Court decision - tragic systems context - use of elements classical literature to analyse legislative context.
Legal Cases: Rogers v Whitaker (1992) 175 CLR 479
Rosenberg v Percival (2001) 205 CLR 434
Wallace v Kam (2013) 87 ALJR 648
Legislation: Civil Liability Act 2002 (NSW)
Subjects: DUTY OF CARE
LITERATURE
MEDICAL LAW
Jurisdictions: AUSTRALIA

AGIS No: 20132866
Title: Stillbirth and the law : options for law reform and issues for the coronial jurisdiction.
Authors: FRECKELTON, Ian
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 7-26
Abstract: Legal issues in relation to stillbirth law reform - stillbirth in the context of criminal, civil and coronial law - extending coronial jurisdiction - 'born alive' rule - legislative review in South Australia - law reform.
Legal Cases: Attorney General, Re Judicial Review [2013] NIQB 52
Barrett v Coroner's Court of South Australia (2010) 108 SASR 568
Subjects: CORONERS
LAW REFORM
MEDICAL LAW
Jurisdictions: AUSTRALIA
CANADA
NEW ZEALAND
NORTHERN IRELAND

MEDICAL NEGLIGENCE

AGIS No: 20132942
Title: "Competence" and the Health Practitioner Regulation National Law (Victoria) Act 2009.
Authors: GEYER, Carol
COURTNEY, Anita
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 432-436
Abstract: Professional misconduct against a registered nurse by the Victorian Civil and Administrative Tribunal - background and Australian Health Practitioner Regulation Agency (AHPRA) investigation - introduction of the National Law across each state and territory while NSW has retained their health profession councils - case law.
Legal Cases: Nursing and Midwifery Board of Australia v Yun Yun Chen [2013] VCAT 1413
Legislation: Health Practitioner Regulation National Law (Victoria) Act 2009 (VIC)
Subjects: HEALTH CARE
MEDICAL NEGLIGENCE
PROFESSIONAL NEGLIGENCE
Jurisdictions: AUSTRALIA

AGIS No: 20132882
Title: A curious exception : (no) legal remedies for negligent pre-birth genetic testing.
Authors: CLEARY, Thomas
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 102-109
Abstract: Ability to claim compensation for negligent pre-birth genetic testing in New Zealand - claims under statutory compensation scheme - pregnancy as personal injury - genetic condition as personal injury - remedies in torts of wrongful birth or wrongful life.

Legal Cases: Allenby v H [2012] NZSC 33
Rolls-Royce New Zealand Ltd v Carter Holt Harvey Ltd (2005) 1 NZLR 324
South Pacific Manufacturing Co Ltd v New Zealand Security Consultants &
Investigations Ltd (1992) 2 NZLR 282

Legislation: Accident Compensation Act 2001 (NZ)

Subjects: GENETICS
MEDICAL NEGLIGENCE

Jurisdictions: NEW ZEALAND

MEDICAL PRACTITIONERS

AGIS No: 20132891

Title: Australian reforms enabling disclosure of genetic information to genetic relatives by health practitioners.

Authors: OTLOWSKI, Margaret

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 217-234

Abstract: Legislative developments on the disclosure of genetic information to genetic relatives - background and implementation of reforms - introduction of enabling guidelines - circumstances under which disclosure is permitted - protocols under the guidelines - guidelines within an international context - challenges and limitations.

Legal Cases: Liss v Watters [2010] QCCS 3309
Pate v Threlkel (1995) 661 So 2d 278
Safer v Estate of Pack 677 A 2d 1188 (1996)

Subjects: GENETICS
MEDICAL ETHICS
MEDICAL PRACTITIONERS

Jurisdictions: AUSTRALIA

MEDICAL PROFESSION

AGIS No: 20132875

Title: Determining the risk of recidivism in previously de-registered health practitioners.

Authors: WARFE, Laurie

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 67-81

Abstract: De-registration of medical practitioners due to serious professional misconduct - fit and proper person - risk of recidivism of professional misconduct - assessing and measuring risk.

Legal Cases: Ex parte Tziniolis; Re Medical Practitioners Act (1966) 67 SR (NSW) 448

Legislation: Health Practitioner Regulation National Law Act 2009 (QLD)

Subjects: MEDICAL PROFESSION
PROFESSIONAL NEGLIGENCE
REPEAT OFFENDERS

Jurisdictions: AUSTRALIA

AGIS No: 20132887

Title: Medical malpractice and the professional legal responsibility of the sports physician.

Authors: VERZELETTI, Andrea

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 179-186

Abstract: Sports medicine and specialists - standards of care - professional negligence - pre-participation screening - assessing injuries - guidelines for sports physicians - duty to communicate - privacy - doping.

Subjects: MEDICAL PROFESSION
SPORT

MEDICAL RESEARCH

AGIS No: 20132872

Title: Double standards in special medical research : questioning the discrepancy between requirements for medical research involving incompetent adults and medical research involving children.

Authors: STEPANOV, Nikola A
SMITH, Malcolm K

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 47-52

Abstract: Approval of medical research in Australia - differences in safeguards for research involving children and incompetent adults - ethical justification for medical research.

Legislation: Guardianship and Administration Act 1986 (VIC)

Subjects: CHILDREN
MEDICAL ETHICS
MEDICAL RESEARCH

Jurisdictions: AUSTRALIA
UNITED STATES

AGIS No: 20132886

Title: Jabs and barbs : ways to address misleading vaccination and immunisation information using currently available strategies.

Authors: WARDLE, Jon
STEWART, Cameron
PARKER, Malcolm

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 159-178

Abstract: Publication of anti-vaccine information by three groups - Australian Vaccination Network - homoeopaths - chiropractors - regulation of publication - combating misleading vaccination information.

Legislation: Health Care Complaints Act 1993 (NSW)
Health Practitioner Regulation National Law 2009 (NSW)
Health Practitioner Regulation National Law Act 2009 (QLD)

Subjects: MEDICAL RESEARCH
PUBLIC HEALTH

Jurisdictions: AUSTRALIA

AGIS No: 20132888

Title: Rights and research : an examination of research under New Zealand's Code of Health and Disability Services Consumers' Rights.
Authors: WADSWORTH, Lydia
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 187-193
Abstract: Background of the Code of Health and Disability Services Consumers' Rights - research and the Code - health research - disability research - research not covered by the Code.
Legislation: Health and Disability Commissioner Act 1994 (NZ)
Subjects: CODES OF PRACTICE
MEDICAL RESEARCH
Jurisdictions: NEW ZEALAND

AGIS No: 20132890
Title: Scoping the ethics of dementia research within an Australian human research context.
Authors: DOWSON, Leslie
DOYLE, Colleen
RAYNER, Victoria
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 210-216
Abstract: Ethical issues in conducting research with people with dementia - literature review - capacity to give consent - assent rather than consent by participants - Australian research guidance.
Subjects: MEDICAL RESEARCH
MENTAL ILLNESS
Jurisdictions: AUSTRALIA

MENTAL HEALTH

AGIS No: 20132923
Title: New Zealand High Court rules on challenge to smoke-free policy.
Authors: GORDON, Alison
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 424-426
Abstract: Smoke-free policy challenged by a District Health Board (DHB) - basis of the application for judicial review – legality of the DHB's smoke-free policy - allegations the policy was discriminatory - case law.
Legal Cases: B v Waitemata District Health Board [2013] NZHC 1702
Taylor v Attorney-General [2013] NZHC 1659
Taylor v the Manager of Auckland Prison [2012] NZHC 3591
Legislation: New Zealand Bill of Rights Act 1990 (NZ)
Subjects: MENTAL HEALTH
PUBLIC HEALTH
Jurisdictions: NEW ZEALAND

MENTAL ILLNESS

AGIS No: 20132871
Title: Disorders, sublime menu : the DSM-5.

Authors: SULLIVAN, Danny
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 39-46
Abstract: Primary changes in the Diagnostic and Statistical Manual of Mental Disorders fifth edition (DSM-5) - development of DSM-5 - personality disorders - schizophrenia - intellectual and developmental disorders - addictions and related disorders - paraphilia and paraphilic disorders - future issues.

Subjects: MENTAL ILLNESS
PSYCHIATRY

AGIS No: 20132890
Title: Scoping the ethics of dementia research within an Australian human research context.

Authors: DOWSON, Leslie
DOYLE, Colleen
RAYNER, Victoria
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 210-216
Abstract: Ethical issues in conducting research with people with dementia - literature review - capacity to give consent - assent rather than consent by participants - Australian research guidance.
Subjects: MEDICAL RESEARCH
MENTAL ILLNESS
Jurisdictions: AUSTRALIA

MERGERS

AGIS No: 20132844
Title: Merger review change in China.
Authors: BRIDGES, Tom
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 223-227
Abstract: Development of merger control regime in China - overview of merger review - notifications of certain "business concentrations" or mergers based on turnover thresholds - new draft regulations - restrictive conditions on concentrations - remedies - standards for simple merger cases - recent decisions - trends and outlook.

Legislation: Anti-Monopoly Law 2008 (CHINA)
Subjects: COMPETITION LAW
MERGERS
MONOPOLIES
Jurisdictions: CHINA

MINES AND MINERALS

AGIS No: 20132817
Title: Adverse possession of minerals in land.
Authors: WEBB, Eileen

Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 208-210

Abstract: Extinguishing of title of minerals by possession of land by another party - adverse possession - tort of conversion - case law.

Legal Cases: Payne v Dwyer [2013] WASC 271

Legislation: Limitation Act 1935 (WA)
Limitation Act 2005 (WA)
Transfer of Land Act 1893 (WA)

Subjects: LAND TITLES
MINES AND MINERALS

Jurisdictions: AUSTRALIA, Western Australia

MONEY

AGIS No: 20132903

Title: House of Representatives retains its control over money bills despite minority government.

Authors: MCCLELLAND, Robert

Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 161-165

Abstract: Bills appropriating revenue or money must originate in the House of Representatives - constitutional and historical background for this arrangement - standing orders - laws appropriating revenue or moneys.

Legal Cases: Combet v Commonwealth of Australia (2005) 224 CLR 494
Pape v Commissioner of Taxation (2009) 238 CLR 1

Legislation: Constitution (CTH)

Subjects: CONSTITUTIONAL LAW
HOUSE OF REPRESENTATIVES
MONEY

Jurisdictions: AUSTRALIA

MONOPOLIES

AGIS No: 20132844

Title: Merger review change in China.

Authors: BRIDGES, Tom

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 223-227

Abstract: Development of merger control regime in China - overview of merger review - notifications of certain "business concentrations" or mergers based on turnover thresholds - new draft regulations - restrictive conditions on concentrations - remedies - standards for simple merger cases - recent decisions - trends and outlook.

Legislation: Anti-Monopoly Law 2008 (CHINA)

Subjects: COMPETITION LAW
MERGERS
MONOPOLIES

Jurisdictions: CHINA

NATURAL JUSTICE

AGIS No: 20132958
Title: Natural justice and judicial meetings with children : documenting practice within the New Zealand Family Court.
Authors: CALDWELL, John
TAYLOR, Nicola
Source: NEW ZEALAND FAMILY LAW JOURNAL 7 (11) September 2013 : 264-271
Abstract: Study of judicial interviewing of children in New Zealand - natural justice implications of judicial interviewing - confidentiality of interview - disclosure to other parties involved - recording discussion with child - feedback to parties on judicial meeting - judiciary natural justice concerns.
Subjects: CHILDRENS EVIDENCE
FAMILY COURT
JUDICIAL PROCESS
JUDICIARY
NATURAL JUSTICE
Jurisdictions: NEW ZEALAND

AGIS No: 20132902
Title: The insecurity of fairness in security cases.
Authors: GROVES, Matthew
Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 155-160
Abstract: Use of security assessments in the granting of protection visas - variable nature of fairness - adverse security findings by Australian Security Intelligence Organisation (ASIO) officers - natural justice and ASIO assessments.
Legal Cases: Minister for Immigration and Multicultural Affairs; Ex parte Lam (2003) 214 CLR 1
Plaintiff M47/2012 v Director-General of Security (2012) 292 ALR 243
Legislation: Australian Passports Act 2005 (CTH)
Australian Security Intelligence Organisation Act 1979 (CTH)
Migration Act 1958 (CTH)
Subjects: NATURAL JUSTICE
REFUGEES
Jurisdictions: AUSTRALIA

NEGLIGENCE

AGIS No: 20132828
Title: Federal Court rejects proposed settlement of Vioxx class action.
Authors: NICOLETTI, Teresa
JUNG, Alisha
Source: AUSTRALIAN PRODUCT LIABILITY REPORTER 24 (2) October 2013 : 18-22

Abstract: Settlement of class action refusal - settlement unfair and unreasonable in interests of group - settlement approval assessment - case law - duty of care - breach of Trade Practices Act - negligence - proposed settlement - reasons for refusal.

Legal Cases: Merck Sharp & Dohme (Australia) Pty Ltd v Peterson (2011) 196 FCR 145
Peterson v Merck Sharp & Dohme (Aust) Pty Ltd (No 6) [2013] FCA 447
Peterson v Merck Sharp & Dohme (Australia) Pty Ltd (2010) 184 FCR 1

Legislation: Therapeutic Goods Act 1989 (CTH)
Trade Practices Act 1974 (CTH)

Subjects: CLASS ACTIONS
DUTY OF CARE
NEGLIGENCE

Jurisdictions: AUSTRALIA

AGIS No: 20132920

Title: Where a negligent service provider fails to protect the lender's interests in a loan transaction : High Court decision casts doubt on lender's ability to recover its loss in full.

Authors: WESTON-SCHEUBER, Kylie

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 153-157

Abstract: Proportionate liability where multiple parties responsible for economic loss or damage - recovery of loss in full against service provider where lender unable to rely on security - recent High Court decision alters recovery ability - borrower/guarantor 'concurrent wrongdoer' - limitation of recovery against negligent service provider.

Legal Cases: Hunt & Hunt Lawyers v Mitchell Morgan Nominees Pty Ltd (2013) 296 ALR 3
St George Bank Ltd v Quinerts Pty Ltd (2009) 25 VR 666

Legislation: Civil Liability Act 2002 (NSW)

Subjects: BANKING
GUARANTORS
LIABILITY
LOANS
NEGLIGENCE

Jurisdictions: AUSTRALIA

OCCUPATIONAL HEALTH

AGIS No: 20132859

Title: Predicting HSE fines.

Authors: WOODFIELD, Alan
HICKSON, Stephen
MENCLOVA, Andrea

Source: NEW ZEALAND LAW JOURNAL September 2013 : 312-315

Abstract: Model of estimating health and safety in employment sentencing - predicting decisions in specific cases - predicting fines generally - uses for predicted fines.

Legal Cases: Department of Labour v Hanham & Philp Contractors Ltd (Unreported, NZ High Ct., 26 November 2007)

Legislation: Health and Safety in Employment Act 1992 (NZ)
Health and Safety in Employment Amendment Act 2002 (NZ)
Sentencing Act 2002 (NZ)
Subjects: OCCUPATIONAL HEALTH
SENTENCING
Jurisdictions: NEW ZEALAND

PACKAGING AND LABELLING LAWS

AGIS No: 20132854
Title: Advertising ethical business.
Authors: DAY, John-Luke
Source: NEW ZEALAND LAW JOURNAL September 2013 : 286-288
Abstract: Criticisms of ethical labelling on food - legal advice to clients making ethical claims - green and ethical marketing - fair trading - recommended principles for ethical or social responsibility claims.
Subjects: MARKETING
PACKAGING AND LABELLING LAWS
Jurisdictions: NEW ZEALAND

PASSING OFF

AGIS No: 20132838
Title: Evidential issues in brand appropriation litigation.
Authors: GILLIES, Peter
Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 165-180
Abstract: Brand appropriation litigation - claims of trade mark infringement - breach of s 18 of the Australian Consumer Law - commission of the tort of passing off - points of intersection an distinction - evidential issues - intention to mislead - consumer confusion - reputation in a product - expert evidence - empirical evidence - case law.
Legal Cases: Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (2006) 228 ALR 719
Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (No 4) (2006) 229 ALR 136
Red Bull Australia Pty Ltd v Sydneywide Distributors Pty Ltd (2001) 53 IPR 481
Twentieth Century Fox Film Corp v South Australian Brewing Co Ltd (1996) ATPR 41-483
Legislation: Competition and Consumer Act 2010 (CTH)
Trade Practices Act 1974 (CTH)
Subjects: EVIDENCE
LITIGATION
PASSING OFF
TRADE MARKS
Jurisdictions: AUSTRALIA

PATENTS

AGIS No: 20132877
Title: OxyContin : the formulation for success.
Authors: BARRETT, Joel
Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 100-103
Abstract: Patent term extensions compensate patentees of pharmaceutical substances for only benefiting from a small part of the patent monopoly period - new active pharmaceutical ingredients (APIs) are covered by patents and entitled to a term extension - inventive formulations of a known API are also eligible - case against owner of OxyContin regarding term extension.
Legal Cases: Spirit Pharmaceuticals Pty Ltd v Mundipharma Pty Ltd [2013] FCA 658
Legislation: Patents Act 1990 (CTH)
Subjects: PATENTS
Jurisdictions: AUSTRALIA

PENALTIES

AGIS No: 20132830
Title: Agreed penalties in doubt.
Authors: REES, Anne
Source: AUSTRALIAN PRODUCT LIABILITY REPORTER 24 (2) October 2013 : 29-30
Abstract: System of 'agreed penalties' in civil penalty cases - established system - difficulties in determining penalties within a range similar to court penalties.
Legal Cases: Australian Securities and Investments Commission v Ingleby (2013) 93 ACSR 274
NW Frozen Foods Pty Ltd v Australian Competition and Consumer Commission (1996) 71 FCR 285
Subjects: PENALTIES
Jurisdictions: AUSTRALIA

AGIS No: 20132960
Title: Australian Competition and Consumer Commission (ACCC) v Hewlett-Packard Australia Ltd Pty.
Authors: TYNAN, Daniel
GAREY, Matthew
Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 32-34
Abstract: False and misleading statements to consumers and retailers about consumer guarantee rights - conduct - consumer guarantees - penalties by consent.
Legal Cases: Australian Competition and Consumer Commission (ACCC) v Hewlett-Packard Australia Pty Ltd [2013] FCA 653
Australian Securities and Investments Commission (ASIC) v Ingleby (2013) 93 ACSR 274
NW Frozen Foods Pty Ltd v Australian Competition and Consumer Commission (1996) 71 FCR 285
Legislation: Trade Practices Act 1974 (CTH)

Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
PENALTIES
Jurisdictions: AUSTRALIA

PEOPLE TRAFFICKING

AGIS No: 20132855
Title: Experiences of trafficked persons : an Indonesian sample.
Authors: JOUDO LARSEN, Jacqueline
ANDREVSKI, Hannah
LYNEHAM, Samantha
Source: TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE (449) May 2013 : 1-8
Abstract: International Organization for Migration (IOM) development of the Counter Trafficking Module (CTM) Database to record data on victims of trafficking - contains victims experiences, nature of trafficking process, patterns of exploitation, abuse and assistance provided by IOM - need for more reliable data collection in other countries to complement CTM database to better inform anti-trafficking efforts.
Subjects: PEOPLE TRAFFICKING
Jurisdictions: INDONESIA
SOUTH EAST ASIA

AGIS No: 20132852
Title: Exploitation of Indonesian trafficked men, women and children and implications for support.
Authors: LYNEHAM, Samantha
JOUDO LARSEN, Jacqueline
Source: TRENDS AND ISSUES IN CRIME AND CRIMINAL JUSTICE (450) May 2013 : 1-7
Abstract: Range of exploitative situations across industries - how should victim services respond - research by the International Organization for Migration (IOM) Indonesia Counter-Trafficking Module (CTM) - exploitation in sex and non-sex labour industries - requirement for tailored support needs based on gender, age and type of exploitation.
Subjects: PEOPLE TRAFFICKING
Jurisdictions: INDONESIA

PEOPLE WITH DISABILITIES

AGIS No: 20132913
Title: 'Reasonable adjustment' in the workplace : employer obligations and assistance for employees with a disability.
Authors: PAYNE, Clayton
MAYO, Dominique
Source: PROCTOR 33 (7) August 2013 : 38

Abstract: Legislative requirements to consider the provision of 'reasonable adjustment' to accommodate people with a disability - types of changes that can be considered reasonable adjustments - exemption for unjustifiable hardship - financial assistance availability.

Legislation: Anti-Discrimination Act 1991 (QLD)
Disability Discrimination Act 1992 (CTH)

Subjects: PEOPLE WITH DISABILITIES
WORKING CONDITIONS

Jurisdictions: AUSTRALIA

PERSONAL PROPERTY SECURITIES

AGIS No: 20132862

Title: Dealings in collateral under the Personal Property Securities Act 2009 (Cth) : in search of a "harmonious whole".

Authors: WHITTAKER, Bruce

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 203-219

Abstract: Approach Australian courts should take in interpreting the Personal Property Securities Act (PPSA) - recent NSW Supreme Court decision - capacity of PPSA to produce meaningful outcomes using traditional statutory interpretation principles - perfected security interest in collateral - areas of uncertainty - suggestions for reform.

Legal Cases: Re Maiden Civil (P&E) Pty Ltd; Albarran v Queensland Excavation Services Pty Ltd [2013] NSWSC 852

Legislation: Personal Property Securities Act 1999 (NZ)
Personal Property Securities Act 2009 (CTH)

Subjects: PERSONAL PROPERTY SECURITIES
STATUTORY INTERPRETATION

Jurisdictions: AUSTRALIA

POLICE

AGIS No: 20132963

Title: Organisational and procedural justice : a review of the literature and its implications for policing.

Authors: ROBERTS, Karl
HERRINGTON, Victoria

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 115-130

Abstract: Systematic review of literature examining organisational and procedural justice in policing - how organisational and procedural justice works - implications for policing - management and leadership - interactions with the public - interactions with criminal justice stakeholders.

Subjects: LITERATURE
POLICE
RESEARCH

AGIS No: 20132967

Title: Policing at the margins : fostering trust and cooperation among ethnic minority groups.

Authors: MURPHY, Kristina

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 184-199

Abstract: Role of procedural justice policing in promoting trust and cooperation in ethnic groups - survey of three ethnic minorities - implementing procedural justice in practice - directions for future research.

Subjects: ETHNIC GROUPS
POLICE

Jurisdictions: AUSTRALIA

AGIS No: 20132966

Title: Procedural justice and simulated policing : the medium and the message.

Authors: LEE, Murray
MCGOVERN, Alyce

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 166-183

Abstract: Use of social media and other forms of new communication technology by police - 'simulated policing' - communications as a new form of simulated policing - reality television - relationship between procedural justice, new communication technologies and police-media-public intersection.

Subjects: MEDIA
POLICE
SOCIAL MEDIA

Jurisdictions: AUSTRALIA

AGIS No: 20132965

Title: The drivers of police legitimacy : some European research.

Authors: HOUGH, Mike
JACKSON, Jonathan
BRADFORD, Ben

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 144-165

Abstract: Programme of survey work on procedural justice theory in Europe - procedural justice theory within framework of compliance theories - concept of legitimacy - 'trust in justice' module of 5th European Social Survey - types of public trust related to perceptions of legitimacy - relation to self-reported compliance and cooperation with police.

Subjects: LEGITIMACY
POLICE

Jurisdictions: EUROPE

AGIS No: 20132964

Title: The role of trust and transparency in the pursuit of procedural and organisational justice.

Authors: SCHAFER, Joseph A

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 131-143

Abstract: Role of trust and transparency in internal and external aspects of police operations - definition of trust and transparency - establishing and maintaining trust and transparency in police forces - contemporary consideration using historical examples - effect of internal trust and transparency on external trust and transparency - procedural justness depends on organisationally just internal operations.

Subjects: LEADERSHIP
POLICE

POWER OF ATTORNEY

AGIS No: 20132907

Title: Ademption redemption : restoring loss of benefit in a deceased estate.

Authors: WILLIAMS, Richard
BASSETT, Sandra

Source: PROCTOR 33 (7) August 2013 : 14-15

Abstract: Considerations relevant to determining amount of compensation for loss of benefit - claims under s 107 of the Powers of Attorney Act - case law.

Legal Cases: Neuendorf v Public Trustee of Qld (as Executor of Estate of Dickfos) (dec'd) [2013] QSC 156

Legislation: Powers of Attorney Act 1998 (QLD)
Succession Act 1981 (QLD)

Subjects: COMPENSATION
POWER OF ATTORNEY

Jurisdictions: AUSTRALIA, Queensland

PRICE CONTROL

AGIS No: 20132839

Title: Division 1A of the Competition and Consumer Act 2010 (Cth) : a critique.

Authors: WENDON, Nicholas

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 181-205

Abstract: Effectiveness of Div 1A in addressing anti-competitive price-signalling and information disclosures - recent law reform - risks and benefits of information disclosure - approaches taken in different jurisdictions - unilateral disclosures - per se prohibitions - hub and spoke arrangements.

Legal Cases: Apco Service Stations Pty Ltd v Australian Competition and Consumer Commission (2005) 159 FCR 452
Australian Competition and Consumer Commission v Leahy Petroleum Pty Ltd (2007) 160 FCR 321

Legislation: Competition Act 1998 (UK)
Competition and Consumer Act 2010 (CTH)
Sherman Anti-Trust Act 1890 (US)

Subjects: COMPETITION LAW
LIABILITY
PRICE CONTROL

Jurisdictions: AUSTRALIA
UNITED KINGDOM
UNITED STATES

PRIVACY

AGIS No: 20132843
Title: Big data analytics : evolving business models and global privacy regulation.

Authors: LEONARD, Peter

Source: PRIVACY LAW BULLETIN 10 (1) September 2013 : 2-5

Abstract: Adequacy of national privacy laws for regulation of data analytics - will laws regulate socially beneficial uses of big data without playing "Big Brother" - allowance for socially beneficial uses and application of big data - need for changes in regulation to be made without threatening privacy protections for individuals - comparison between United States and European Union big data debate - concern that bad big data practices will impact public perception and prompt more prescriptive regulation.

Subjects: DATA PROTECTION
PRIVACY

Jurisdictions: EUROPEAN UNION
UNITED STATES

AGIS No: 20132951

Title: Civil penalties for breach of privacy : coming soon!

Authors: TSACALOS, Ashley
VERZI, Vanessa

Source: PRIVACY LAW BULLETIN 10 (2) October 2013 : 28-30

Abstract: Amendments to the Privacy Act - guidance, monitoring and advice related functions of the Office of the Australian Information Commissioner (OIAC) - new powers and functions of the Information Commissioner.

Legislation: Freedom of Information Act 1982 (CTH)
Public Service Act 1999 (CTH)

Subjects: FREEDOM OF INFORMATION
PRIVACY

Jurisdictions: AUSTRALIA

AGIS No: 20132846

Title: Introduction of external dispute resolution schemes.

Authors: ALEXANDER, Charles
KOSTER, Elisabeth
GIBBS, Amy

Source: PRIVACY LAW BULLETIN 10 (1) September 2013 : 6-9

Abstract: Release of draft Guidelines for Recognising External Dispute Resolution Schemes under s 35A of the Privacy Act 1988 - provision grants discretion to allow a recognised "external dispute resolution scheme" (EDR) for privacy related complaints - establishment, benchmarks and issues facing EDR schemes - consideration of existing EDR schemes - final Guidelines due for publication in September 2013.

Legislation: Privacy Act 1988 (CTH)

Subjects: DISPUTE RESOLUTION
PRIVACY

Jurisdictions: AUSTRALIA

AGIS No: 20132848

Title: Little joy for privacy victims this quarter : NSW privacy cases May-July 2013.

Authors: JOHNSTON, Anna

Source: PRIVACY LAW BULLETIN 10 (1) September 2013 : 11

Abstract: Exemptions in NSW privacy legislation blamed for privacy complainants loss of cases - need for loopholes in legislation to be fixed.

Legislation: Privacy and Personal Information Protection Act 1998 (NSW)

Subjects: LEGISLATION
PRIVACY

Jurisdictions: AUSTRALIA, New South Wales

AGIS No: 20132850

Title: OAIC releases new guidance on Australian Privacy Principles.

Authors: BEATTY, Andrea
BANSAL, Abhishek

Source: PRIVACY LAW BULLETIN 10 (1) September 2013 : 12-13

Abstract: Draft Australian Privacy Principles (APPs) Guidelines released by the Office of Australian Information Commissioner (OAIC) - APPs list rules for collection, use, disclosure, access and correction of personal information - APPs will replace the National Privacy Principles in March 2014 - concept of bundled consents - organisations compliance with APPs.

Legislation: Privacy Act 1988 (CTH)

Subjects: PRIVACY

Jurisdictions: AUSTRALIA

AGIS No: 20132950

Title: Privacy reform : what to do with existing customers and clients?

Authors: NGUYEN, Clara

Source: PRIVACY LAW BULLETIN 10 (2) October 2013 : 25-27

Abstract: Reforms to privacy legislation commencing in 2014 - entities holding personal information may have to obtain consent from clients to use information that doesn't currently require consent for use - issues to consider.

Legislation: Privacy Act 1988 (CTH)

Privacy Amendment (Enhancing Privacy Protection) Act 2012 (CTH)

Subjects: PRIVACY

Jurisdictions: AUSTRALIA

AGIS No: 20132945

Title: Private faces in public spaces : privacy and the Victorian sexting inquiry.

Authors: ARNOLD, Bruce Baer
SMITH, Benjamin

Source: PRIVACY LAW BULLETIN 10 (2) October 2013 : 18-21

Abstract: Victorian Law Reform Committee report on sexting - definition of sexting - peer-to-peer sexting by minors - consideration of child pornography - recommendation of statutory change to Victorian criminal law.

Legislation: Criminal Code Act 1995 (CTH)

Subjects: LEGISLATION
PRIVACY
SOCIAL MEDIA

Jurisdictions: AUSTRALIA, Victoria

AGIS No: 20132948

Title: Rethinking right to information and privacy regulation in Queensland.

Authors: BURRILL, Melissa
CLARKE, Helen

Source: PRIVACY LAW BULLETIN 10 (2) October 2013 : 22-24

Abstract: Initiatives regarding transparency and accountability in Queensland government - Open Government Policy Forum - release of discussion papers on reviews of the Right to Information Act 2009 and Information Privacy Act 2009 - key issues - public interest test - Queensland government plan to release a comprehensive reform package by the end of 2013.

Legislation: Information Privacy Act 2009 (QLD)
Right to Information Act 2009 (QLD)

Subjects: FREEDOM OF INFORMATION
PRIVACY

Jurisdictions: AUSTRALIA, Queensland

PRO BONO SERVICES

AGIS No: 20132910

Title: Law within reach : QPLICH takes rural, regional and remote initiative.

Authors: GOONETILLEKE, Anusha
WOLHUTER, Alexandra

Source: PROCTOR 33 (7) August 2013 : 22-23

Abstract: Initiatives in rural, regional and remote (RRR) areas by the Queensland Public Interest Law Clearing House (QPLICH) - improve access to quality pro bono legal assistance - use of technology - outreach services - NSW Cooperative Legal Service Delivery program model - future of QPLICH's RRR work - how private practitioners can get involved.

Subjects: PRO BONO SERVICES
RURAL COMMUNITIES

Jurisdictions: AUSTRALIA, Queensland

AGIS No: 20132826

Title: REGIONAL peace through strategic assistance : an update from the Law Council of Australia.

Source: ETHOS (229) September 2013 : 22-24

Abstract: Strengthening the legal profession in the Asia-Pacific region by the Law Council of Australia - development of bars in South Pacific - needs survey of the legal profession - professional conferences - pro bono work in the Asia-Pacific - other projects.

Subjects: BAR ASSOCIATIONS
DEVELOPING COUNTRIES
LEGAL CONFERENCES
LEGAL PROFESSION
PRO BONO SERVICES

Jurisdictions: ASIA PACIFIC

PRODUCTS SAFETY

AGIS No: 20132829

Title: Defective goods revisited : "safety defect" under the Australian Consumer Law.

Authors: WHITE, Stephen
BAILEY, Allison

Source: AUSTRALIAN PRODUCT LIABILITY REPORTER 24 (2) October 2013 : 23-28

Abstract: Overview of safety defects - claims for defects - types of safety defects - design or formulation - manufacture - instructions and product literature - defences for safety defects.

Legal Cases: Gliderol International Pty Ltd v Skerbic (2009) 170 ACTR 1
Merck Sharpe & Dohme (Aust) Pty Ltd v Peterson (2011) 196 FCR 145
Middleton v Erwin (2009) 52 MVR 218

Legislation: Competition and Consumer Act 2010 (CTH)
Trade Practices Act 1974 (CTH)

Subjects: CONSUMER PROTECTION
PRODUCTS SAFETY

Jurisdictions: AUSTRALIA

PROFESSIONAL NEGLIGENCE

AGIS No: 20132942

Title: "Competence" and the Health Practitioner Regulation National Law (Victoria) Act 2009.

Authors: GEYER, Carol
COURTNEY, Anita

Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 432-436

Abstract: Professional misconduct against a registered nurse by the Victorian Civil and Administrative Tribunal - background and Australian Health Practitioner Regulation Agency (AHPRA) investigation - introduction of the National Law across each state and territory while NSW has retained their health profession councils - case law.

Legal Cases: Nursing and Midwifery Board of Australia v Yun Yun Chen [2013] VCAT 1413

Legislation: Health Practitioner Regulation National Law (Victoria) Act 2009 (VIC)

Subjects: HEALTH CARE
MEDICAL NEGLIGENCE
PROFESSIONAL NEGLIGENCE

Jurisdictions: AUSTRALIA

AGIS No: 20132875

Title: Determining the risk of recidivism in previously de-registered health practitioners.

Authors: WARFE, Laurie

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 67-81

Abstract: De-registration of medical practitioners due to serious professional misconduct - fit and proper person - risk of recidivism of professional misconduct - assessing and measuring risk.

Legal Cases: Ex parte Tziniolis; Re Medical Practitioners Act (1966) 67 SR (NSW) 448

Legislation: Health Practitioner Regulation National Law Act 2009 (QLD)

Subjects: MEDICAL PROFESSION
PROFESSIONAL NEGLIGENCE
REPEAT OFFENDERS

Jurisdictions: AUSTRALIA

AGIS No: 20132876

Title: Is whistleblowing now mandatory? The impact of mandatory reporting law on trust relationships in health care.

Authors: HEWITT, Jayne

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 82-101

Abstract: Trust in health care relationships - mandatory reporting of professional incompetence similar to mandated whistleblowing - negative effect of mandatory reporting on development of interpersonal working relationships and trust.

Legislation: Health Practitioner Regulation National Law Act 2009 (QLD)
Medical Practice Amendment Act 2008 (NSW)

Subjects: HEALTH CARE
PROFESSIONAL NEGLIGENCE
WHISTLEBLOWING

Jurisdictions: AUSTRALIA

PROPERTY LAW

AGIS No: 20132820

Title: Can you make your promises come true?

Authors: MACKAY, Steven
Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 223-224

Abstract: Estoppel - legal rights of parties in absence of a contract - estoppel by encouragement - relief granted under estoppel - reliance on a promise reasonable in circumstances - case law.

Legal Cases: Van Dyke v Sidhu [2012] NSWSC 118
Van Dyke v Sidhu [2013] NSWCA 198

Subjects: ESTOPPEL
PROPERTY LAW

Jurisdictions: AUSTRALIA

AGIS No: 20132819
Title: Case note : Kelly v Galafassi.
Authors: PALLAVICINI, Stephen
BOUSTANI, Marie
Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 220-222

Abstract: Property purchase - orders for specific performance - repudiation - damages - mitigation of loss.

Legal Cases: Kelly v Galafassi [2013] NSWSC 680
Ogle v Comboyuro Investments Pty Ltd (1976) 136 CLR 444

Subjects: DAMAGES
PROPERTY LAW

Jurisdictions: AUSTRALIA

AGIS No: 20132949
Title: Case note : retail leases, executory contracts and sale of reversion : Cooma Clothing Pty Ltd v Create Invest Develop Pty Ltd.
Authors: PALLAVICINI, Stephen
BOUSTANI, Marie
Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 12-14

Abstract: Transfer of retail leases - question of whether transfer resulted in binding legal agreement - guarantors for the performance of lease.

Legal Cases: Cooma Clothing Pty Ltd v Create Invest Develop Pty Ltd [2013] VSCA 106

Legislation: Retail Leases Act 2003 (VIC)

Subjects: LANDLORD AND TENANT
LEASES
PROPERTY LAW

Jurisdictions: AUSTRALIA

AGIS No: 20132821
Title: Falling across the finish line : exercising land options : a judicial disdain for exact words?
Authors: JONES, Stephen E

Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 225-226

Abstract: Put and call option in a tenanted commercial property - call option device for revenue saving or convenience - exercising the call option - compliance with options - bases for judicial decision - case law.

Legal Cases: C & P Syndicate Pty Ltd v Reddy [2013] NSWSC 643

Subjects: LANDLORD AND TENANT
PROPERTY LAW

Jurisdictions: AUSTRALIA

AGIS No: 20132816

Title: Stamp duty on call option nominations : NSW changes and jurisdictional differences.

Authors: JEBEILE, Maged

Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 202-207

Abstract: Proposed changes to stamp duty in the State Revenue Legislation Amendment Bill 2013 - treatment of nomination clauses in call options in NSW - assessing duty - novation or transfer - nominations under put and call options - position in other jurisdictions - case law.

Legal Cases: CTI Joint Venture Co Pty Ltd v Chief Commissioner of State Revenue [2013] NSWSC 20

Legislation: Duties Act 1997 (NSW)
Stamp Duties Act 1920 (NSW)

Subjects: PROPERTY LAW
STAMP DUTIES

Jurisdictions: AUSTRALIA, Australian Capital Territory
AUSTRALIA, New South Wales
AUSTRALIA, Queensland
AUSTRALIA, Western Australia

AGIS No: 20132947

Title: Termination rights and the need for clear communication between parties.

Authors: BLUE, Christopher
MERRETT, Sarah

Source: AUSTRALIAN PROPERTY LAW BULLETIN 28 (1) September 2013 : 9-10

Abstract: Effect of a due diligence special condition in a contract for the sale of land - terms of special condition - advising special condition satisfied - timing of termination of contract - termination of contract after fulfilment of special condition - need for clear communication.

Legal Cases: Northbound Property Group Pty Ltd v Carosi [2013] QSC 159

Subjects: CONTRACTS
PROPERTY LAW

Jurisdictions: AUSTRALIA

PSYCHIATRY

AGIS No: 20132871

Title: Disorders, sublime menu : the DSM-5.
Authors: SULLIVAN, Danny
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 39-46
Abstract: Primary changes in the Diagnostic and Statistical Manual of Mental Disorders fifth edition (DSM-5) - development of DSM-5 - personality disorders - schizophrenia - intellectual and developmental disorders - addictions and related disorders - paraphilia and paraphilic disorders - future issues.
Subjects: MENTAL ILLNESS
PSYCHIATRY

PUBLIC HEALTH

AGIS No: 20132886
Title: Jabs and barbs : ways to address misleading vaccination and immunisation information using currently available strategies.
Authors: WARDLE, Jon
STEWART, Cameron
PARKER, Malcolm
Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 159-178
Abstract: Publication of anti-vaccine information by three groups - Australian Vaccination Network - homoeopaths - chiropractors - regulation of publication - combating misleading vaccination information.
Legislation: Health Care Complaints Act 1993 (NSW)
Health Practitioner Regulation National Law 2009 (NSW)
Health Practitioner Regulation National Law Act 2009 (QLD)
Subjects: MEDICAL RESEARCH
PUBLIC HEALTH
Jurisdictions: AUSTRALIA

AGIS No: 20132923
Title: New Zealand High Court rules on challenge to smoke-free policy.
Authors: GORDON, Alison
Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 424-426
Abstract: Smoke-free policy challenged by a District Health Board (DHB) - basis of the application for judicial review – legality of the DHB's smoke-free policy - allegations the policy was discriminatory - case law.
Legal Cases: B v Waitemata District Health Board [2013] NZHC 1702
Taylor v Attorney-General [2013] NZHC 1659
Taylor v the Manager of Auckland Prison [2012] NZHC 3591
Legislation: New Zealand Bill of Rights Act 1990 (NZ)
Subjects: MENTAL HEALTH
PUBLIC HEALTH
Jurisdictions: NEW ZEALAND

REFUGEES

AGIS No: 20132893
Title: Hidden men : bearing witness to mandatory detention in Australia.
Authors: FLEAY, Caroline
BRISKMAN, Linda
Source: REFUGEE SURVEY QUARTERLY 32 (3) 2013 : 112-129
Abstract: Process of bearing witness - overview of mandatory detention policy in Australia - experiences in detention - claims processing - boredom and barriers to communication - traumatised asylum seekers.
Subjects: ASYLUM
DETENTION
REFUGEES
Jurisdictions: AUSTRALIA

AGIS No: 20132892
Title: Refugee resettlement in Australia : what we know and need to know.
Authors: FOZDAR, Farida
HARTLEY, Lisa
Source: REFUGEE SURVEY QUARTERLY 32 (3) 2013 : 23-51
Abstract: Refugee resettlement and integration objectives - Australian humanitarian intake and government-funded services - barriers to social inclusion - research on resettlement dimensions - economic, health, socio-cultural and spatial.
Subjects: REFUGEES
Jurisdictions: AUSTRALIA

AGIS No: 20132902
Title: The insecurity of fairness in security cases.
Authors: GROVES, Matthew
Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 155-160
Abstract: Use of security assessments in the granting of protection visas - variable nature of fairness - adverse security findings by Australian Security Intelligence Organisation (ASIO) officers - natural justice and ASIO assessments.
Legal Cases: Minister for Immigration and Multicultural Affairs; Ex parte Lam (2003) 214 CLR 1
Plaintiff M47/2012 v Director-General of Security (2012) 292 ALR 243
Legislation: Australian Passports Act 2005 (CTH)
Australian Security Intelligence Organisation Act 1979 (CTH)
Migration Act 1958 (CTH)
Subjects: NATURAL JUSTICE
REFUGEES
Jurisdictions: AUSTRALIA

REPEAT OFFENDERS

AGIS No: 20132875

Title: Determining the risk of recidivism in previously de-registered health practitioners.

Authors: WARFE, Laurie

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 67-81

Abstract: De-registration of medical practitioners due to serious professional misconduct - fit and proper person - risk of recidivism of professional misconduct - assessing and measuring risk.

Legal Cases: Ex parte Tziniolis; Re Medical Practitioners Act (1966) 67 SR (NSW) 448

Legislation: Health Practitioner Regulation National Law Act 2009 (QLD)

Subjects: MEDICAL PROFESSION
PROFESSIONAL NEGLIGENCE
REPEAT OFFENDERS

Jurisdictions: AUSTRALIA

RESEARCH

AGIS No: 20132931

Title: Applying ethical principles in researching a vulnerable population : homeless women in Brisbane.

Authors: MENIH, Helena

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 527-539

Abstract: Ethics of ethnographic research within vulnerable populations - ethical issues during fieldwork - exclusion criteria - recruitment process - informed consent - participant-researcher relationship - research safety.

Subjects: ETHICS
RESEARCH

Jurisdictions: AUSTRALIA

AGIS No: 20132927

Title: Community studies using ethnographic techniques : still relevant to criminology?

Authors: PUTT, Judy

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 475-489

Abstract: History of community studies using ethnographic research techniques in criminology - Australian experience - benefits of ethnographic research - policy and practice implications.

Subjects: CRIMINOLOGY
RESEARCH

AGIS No: 20132932

Title: Covert ethnography in criminology : a submerged yet creative tradition.

Authors: CALVEY, David

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 541-550

Abstract: Covert ethnographic research as a legitimate and innovative voice in criminology - perceived ethical transgressions of covert research - covert ethnographies in the study of deviance, criminality and illicit subculture - criticism of strict adherence to informed consent - ethical safeguards stifle creative forms of ethnography - niche position of covert ethnography in criminology.

Subjects: CRIMINOLOGY
ETHICS
RESEARCH

AGIS No: 20132929

Title: Ethnography as practice : is validity an issue?

Authors: CHAN, Janet

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 503-516

Abstract: Validity of qualitative research - concept of ethnography as a form of social practice - research practice and researching practice - practising ethnography - consideration of three ethnographic criminal justice studies - ethics of criminal justice research.

Subjects: CRIMINOLOGY
RESEARCH

Jurisdictions: AUSTRALIA

AGIS No: 20132963

Title: Organisational and procedural justice : a review of the literature and its implications for policing.

Authors: ROBERTS, Karl
HERRINGTON, Victoria

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 115-130

Abstract: Systematic review of literature examining organisational and procedural justice in policing - how organisational and procedural justice works - implications for policing - management and leadership - interactions with the public - interactions with criminal justice stakeholders.

Subjects: LITERATURE
POLICE
RESEARCH

AGIS No: 20132928

Title: Participatory action research with high-risk groups : best practice for researchers' safety and data integrity.

Authors: VAN DEN EYNDE, Julie
VENO, Arthur

Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 491-501

Abstract: Overview of methodology developed to conduct community conflict resolution intervention - participant action research - immersion in community studied - 'insider-outsider' methodology - issues for insiders - construction of research team - experiences with outlaw motorcycle clubs.

Subjects: CRIMINOLOGY
RESEARCH
Jurisdictions: AUSTRALIA

AGIS No: 20132933
Title: The uneasy relationship between criminology and qualitative research.
Authors: TRAVERS, Max
Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 551-557
Abstract: Future of qualitative research in criminology - evaluation of qualitative methods texts - ethnography and discourse analysis - combining quantitative and qualitative methods - research methods teaching.
Subjects: CRIMINOLOGY
RESEARCH

AGIS No: 20132930
Title: Understanding 'back stage' and 'front stage' work in restorative justice conferences : the benefits of using ethnography techniques.
Authors: BRUCE, Jasmin
Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 517-526
Abstract: Analysis of restorative justice facilitation practice using ethnographic techniques - dramaturgical analysis - application of theatrical term 'front stage' and 'back stage' to restorative justice practices - benefits of dramaturgical framework and ethnographic techniques in the study of restorative justice organisation - influence of 'back stage' work to restorative conferences.
Subjects: RESEARCH
RESTORATIVE JUSTICE
Jurisdictions: AUSTRALIA

RESTORATIVE JUSTICE

AGIS No: 20132930
Title: Understanding 'back stage' and 'front stage' work in restorative justice conferences : the benefits of using ethnography techniques.
Authors: BRUCE, Jasmin
Source: CURRENT ISSUES IN CRIMINAL JUSTICE 25 (1) July 2013 : 517-526
Abstract: Analysis of restorative justice facilitation practice using ethnographic techniques - dramaturgical analysis - application of theatrical term 'front stage' and 'back stage' to restorative justice practices - benefits of dramaturgical framework and ethnographic techniques in the study of restorative justice organisation - influence of 'back stage' work to restorative conferences.
Subjects: RESEARCH
RESTORATIVE JUSTICE
Jurisdictions: AUSTRALIA

RISK MANAGEMENT

AGIS No: 20132937
Title: A review of risk disclosure obligations for complex unlisted managed investment schemes.
Authors: SERPELL, Andrew J
Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 181-195
Abstract: Law and policy relating to risk disclosure and managed investment schemes - regulation of investment risk - mandatory risk disclosure obligations - case law - ASIC policy relating to risk disclosure - disclosure principles and benchmarks - advertising standards.
Legal Cases: Woodcroft-Brown v Timbercorp Securities Ltd (in liq) (2011) 253 FLR 240
Legislation: Corporations Act 2001 (CTH)
Subjects: INVESTMENTS
RISK MANAGEMENT
Jurisdictions: AUSTRALIA

RURAL COMMUNITIES

AGIS No: 20132910
Title: Law within reach : QPLICH takes rural, regional and remote initiative.
Authors: GOONETILLEKE, Anusha
WOLHUTER, Alexandra
Source: PROCTOR 33 (7) August 2013 : 22-23
Abstract: Initiatives in rural, regional and remote (RRR) areas by the Queensland Public Interest Law Clearing House (QPLICH) - improve access to quality pro bono legal assistance - use of technology - outreach services - NSW Cooperative Legal Service Delivery program model - future of QPLICH's RRR work - how private practitioners can get involved.
Subjects: PRO BONO SERVICES
RURAL COMMUNITIES
Jurisdictions: AUSTRALIA, Queensland

SALE OF GOODS

AGIS No: 20132962
Title: When sales tactics cross into the territory of unconscionable conduct : Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd.
Authors: COUTINHO, Jeh
Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 37-39
Abstract: Determining when sales tactics become unconscionable conduct - centrality of community values - expectation of fairness and honesty - case law.
Legal Cases: Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd (2013) 133 ALD 134
Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd [2013] FCAFC 90

Subjects: CONSUMER PROTECTION
SALE OF GOODS
UNCONSCIONABLE CONDUCT

SAME SEX MARRIAGE

AGIS No: 20132901
Title: Marriage equality in New Zealand.
Authors: GEDDIS, Andrew
Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 151-154
Abstract: Background to legislative changes in New Zealand legalising same-sex marriage - protection of the rights of religious celebrants who do not want to solemnise unions - adoption by same-sex couples.
Legislation: Adoption Act 1955 (NZ)
Marriage (Definition of Marriage) Amendment Act 2013 (NZ)
Marriage Act 1955 (NZ)
New Zealand Bill of Rights Act 1990 (NZ)
Subjects: ADOPTION
LAW REFORM
SAME SEX MARRIAGE
Jurisdictions: NEW ZEALAND

SENTENCING

AGIS No: 20132859
Title: Predicting HSE fines.
Authors: WOODFIELD, Alan
HICKSON, Stephen
MENCLOVA, Andrea
Source: NEW ZEALAND LAW JOURNAL September 2013 : 312-315
Abstract: Model of estimating health and safety in employment sentencing - predicting decisions in specific cases - predicting fines generally - uses for predicted fines.
Legal Cases: Department of Labour v Hanham & Philp Contractors Ltd (Unreported, NZ High Ct., 26 November 2007)
Legislation: Health and Safety in Employment Act 1992 (NZ)
Health and Safety in Employment Amendment Act 2002 (NZ)
Sentencing Act 2002 (NZ)
Subjects: OCCUPATIONAL HEALTH
SENTENCING
Jurisdictions: NEW ZEALAND

SEXUAL BEHAVIOUR

AGIS No: 20132834
Title: Primary school children's imitation of sexualised music videos and artists.

Authors: EY, Lesley-Anne
CUPIT, C. Glenn

Source: CHILDREN AUSTRALIA 38 (3) September 2013 : 115-123

Abstract: Observation of children at primary school discos - direct imitation of sexual and non-sexual dress and behaviours as seen in music videos - prevalence and nature of sexualised behaviours - impact of behaviours on children's socio-sexual development.

Subjects: CHILDREN
SEXUAL BEHAVIOUR

Jurisdictions: AUSTRALIA

SHARED PARENTING

AGIS No: 20132943

Title: Key social issues in the development of Australian family law : research and its impact on policy and practice.

Authors: MALONEY, Lawrie
WESTON, Ruth
HAYES, Alan

Source: JOURNAL OF FAMILY STUDIES 19 (2) August 2013 : 110-138

Abstract: Key social changes impacting on Australian families - workforce participation by women - changing perceptions of fatherhood - recognition of existence and destructive consequences of family violence and child abuse - rights of the child - recent major amendments to Australian family law - shared parental responsibility - evaluation of amendments by Australian Institute of Family Studies.

Legislation: Family Law Act 1975 (CTH)
Family Law Amendment (Shared Parental Responsibility) Act 2006 (CTH)
Family Law Reform Act 1995 (CTH)

Subjects: CHILDREN
DOMESTIC VIOLENCE
FAMILY LAW
SHARED PARENTING
WOMEN

Jurisdictions: AUSTRALIA

SOCIAL MEDIA

AGIS No: 20132869

Title: #TRADEMARK and other challenges trending in trade marks practice.

Authors: TURNER, Alexandra Eleni

Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 90-95

Abstract: Challenges for legal practitioners when advising on the registrability of trade marks containing words with a colloquial meaning or a popular phrase - need for practitioners to keep up with trends in language - word structures and punctuation - use of the "hashtag".

Legal Cases: Phone Directories Co Australia Pty Ltd v Telstra Corp Ltd (2011) 94 IPR 300
Re Application by Westco Jeans (Aust) Pty Ltd (1989) 16 IPR 493

Subjects: INTELLECTUAL PROPERTY
LANGUAGE
SOCIAL MEDIA
TRADE MARKS

AGIS No: 20132898

Title: Four burgeoning IR issues for 2013 and beyond : adverse action; social media & workplace policy; trade union regulation (after the HSU affair); and the QANTAS aftermath.

Authors: FLOYD, Louise
SPRY, Max

Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 153-174

Abstract: Analysis of four significant developments in industrial law - adverse action - social media policy - trade union regulation - impact of the QANTAS dispute.

Legal Cases: Board of Bendigo Regional Institute of Technical and Further Education v Barclay (2012) 290 ALR 647

Linfox Australia Pty Ltd v Stutsel [2012] FWAFB 7097

Legislation: Fair Work Act 2009 (CTH)

Subjects: ENTERPRISE BARGAINING
INDUSTRIAL LAW
SOCIAL MEDIA
TRADE UNIONS

Jurisdictions: AUSTRALIA

AGIS No: 20132945

Title: Private faces in public spaces : privacy and the Victorian sexting inquiry.

Authors: ARNOLD, Bruce Baer
SMITH, Benjamin

Source: PRIVACY LAW BULLETIN 10 (2) October 2013 : 18-21

Abstract: Victorian Law Reform Committee report on sexting - definition of sexting - peer-to-peer sexting by minors - consideration of child pornography - recommendation of statutory change to Victorian criminal law.

Legislation: Criminal Code Act 1995 (CTH)

Subjects: LEGISLATION
PRIVACY
SOCIAL MEDIA

Jurisdictions: AUSTRALIA, Victoria

AGIS No: 20132966

Title: Procedural justice and simulated policing : the medium and the message.

Authors: LEE, Murray
MCGOVERN, Alyce

Source: JOURNAL OF POLICING, INTELLIGENCE AND COUNTER TERRORISM 8 (2) October 2013 : 166-183

Abstract: Use of social media and other forms of new communication technology by police - 'simulated policing' - communications as a new form of simulated policing - reality television - relationship between procedural justice, new communication technologies and police-media-public intersection.

Subjects: MEDIA
POLICE
SOCIAL MEDIA

Jurisdictions: AUSTRALIA

SOCIAL WELFARE

AGIS No: 20132831

Title: Sanctuary in action.

Authors: CLARKE, Annaley

Source: CHILDREN AUSTRALIA 38 (3) September 2013 : 95-99

Abstract: Overview of the Sanctuary Model - trauma-informed model of care for human services - building safety and promoting recovery from adversity - practice examples from use in Australian context - links between model and practice.

Subjects: SOCIAL WELFARE

Jurisdictions: AUSTRALIA

SOLICITORS

AGIS No: 20132921

Title: Is the vendor's solicitor the stakeholder of deposit monies? An Irish perspective.

Authors: BERGIN-CROSS, Caroline

Source: JOURNAL OF CIVIL LITIGATION AND PRACTICE 2 (3) September 2013 : 158-160

Abstract: Non-completion of contracts for sale - deposit paid to vendor's solicitor - failure to return deposit - vendor in liquidation - parties entitled to deposit monies.

Legal Cases: Edgell v Day (1865) LR 1 CP 80
Ellis v Goulton (1893) 1 QB 350
Leemac Overseas Investments Ltd v Harvey (1973) IR 160

Subjects: CONTRACTS
LIQUIDATION
SOLICITORS

Jurisdictions: IRELAND

SPORT

AGIS No: 20132857

Title: America's Cup litigation.

Authors: BARRY, Jacob

Source: NEW ZEALAND LAW JOURNAL September 2013 : 306-308

Abstract: History of the America's Cup yacht race - deed of gift - terms for the race - disputing challenger of record - disputing the venue and dates - rules and construction of boats.

Subjects: SPORT

AGIS No: 20132887

Title: Medical malpractice and the professional legal responsibility of the sports physician.

Authors: VERZELETTI, Andrea

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 179-186

Abstract: Sports medicine and specialists - standards of care - professional negligence - pre-participation screening - assessing injuries - guidelines for sports physicians - duty to communicate - privacy - doping.

Subjects: MEDICAL PROFESSION
SPORT

STAMP DUTIES

AGIS No: 20132816

Title: Stamp duty on call option nominations : NSW changes and jurisdictional differences.

Authors: JEBEILE, Maged

Source: AUSTRALIAN PROPERTY LAW BULLETIN 27 (10) August 2013 : 202-207

Abstract: Proposed changes to stamp duty in the State Revenue Legislation Amendment Bill 2013 - treatment of nomination clauses in call options in NSW - assessing duty - novation or transfer - nominations under put and call options - position in other jurisdictions - case law.

Legal Cases: CTI Joint Venture Co Pty Ltd v Chief Commissioner of State Revenue [2013] NSWSC 20

Legislation: Duties Act 1997 (NSW)
Stamp Duties Act 1920 (NSW)

Subjects: PROPERTY LAW
STAMP DUTIES

Jurisdictions: AUSTRALIA, Australian Capital Territory
AUSTRALIA, New South Wales
AUSTRALIA, Queensland
AUSTRALIA, Western Australia

STATUTORY INTERPRETATION

AGIS No: 20132862

Title: Dealings in collateral under the Personal Property Securities Act 2009 (Cth) : in search of a "harmonious whole".

Authors: WHITTAKER, Bruce

Source: JOURNAL OF BANKING AND FINANCE LAW AND PRACTICE 24 (3) September 2013 : 203-219

Abstract: Approach Australian courts should take in interpreting the Personal Property Securities Act (PPSA) - recent NSW Supreme Court decision - capacity of PPSA to produce meaningful outcomes using traditional statutory interpretation principles - perfected security interest in collateral - areas of uncertainty - suggestions for reform.

Legal Cases: Re Maiden Civil (P&E) Pty Ltd; Albarran v Queensland Excavation Services Pty Ltd [2013] NSWSC 852

Legislation: Personal Property Securities Act 1999 (NZ)
Personal Property Securities Act 2009 (CTH)

Subjects: PERSONAL PROPERTY SECURITIES
STATUTORY INTERPRETATION

Jurisdictions: AUSTRALIA

AGIS No: 20132904

Title: Habeas corpus in New Zealand : procedure and Constitution.

Authors: BERKELEY, Richard

Source: PUBLIC LAW REVIEW 24 (3) September 2013 : 166-181

Abstract: Historical background of habeas corpus - procedural context of reforms - inherent jurisdiction - judicial review - interpretation of habeas corpus - the body - detention - legality - release.

Legal Cases: Bennett v Superintendent , Rimutaka Prison (No 2) (2002) 1 NZLR 616
Taunoa v Attorney-General (2008) 1 NZLR 429
Zaoui v Attorney-General (2005) 1 NZLR 577

Legislation: Bail Act 2000 (NZ)
Habeas Corpus Act 2001 (NZ)

Subjects: CONSTITUTIONAL LAW
HABEAS CORPUS
STATUTORY INTERPRETATION

Jurisdictions: NEW ZEALAND

AGIS No: 20132924

Title: Remoulding pre-contracts in China : essentials and framework.

Authors: WEI, Shen
YU, Kenny

Source: COMMERCIAL LAW QUARTERLY 27 (1) March / May 2013 : 3-14

Abstract: Recent issuing of judicial interpretation on Article 42 of PRC Contract Law - clarification of ambiguities on sales contract - overview of Article 42 - regulation of pre-contractual liability - remoulding of 'good faith framework'.

Legislation: Contract Law (CHINA)

Subjects: CONTRACTS
LIABILITY
STATUTORY INTERPRETATION

Jurisdictions: CHINA

SUICIDE

AGIS No: 20132914

Title: Euthanasia and assisted suicide : the social, ethical, moral and legal dilemma.

Authors: SAXTON, Andrew

Source: AUSTRALIAN HEALTH LAW BULLETIN 21 (8) October 2013 : 420-423

Abstract: Appeals from relatives seeking to avoid prosecution for assisted suicide - Department of Public Prosecutions policy - case law.

Legal Cases: The Queen on the Application of Mrs Jane Nicklinson (in her own right and as administratrix of the Estate of Mr Tony Nicklinson Deceased), Mr Paul Lamb, the Ministry of Justice and Ors; linked with The Queen on the Application of AM v Director of Public Prosecutions [2013] EWCA Civ 961

Subjects: EUTHANASIA
SUICIDE

Treaties: European Convention on Human Rights

Jurisdictions: AUSTRALIA
UNITED KINGDOM

AGIS No: 20132883

Title: Work-related musculoskeletal injury and suicide : opportunities for intervention and therapeutic jurisprudence.

Authors: DAVIS, Marie-Claire
IBRAHIM, Joseph Elias
RANSON, David
AND, others

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 110-121

Abstract: Existence of common trajectory from work-related musculoskeletal injury to suicide - pathway mediated by three critical events - unsuccessful return to work - development of chronic pain or disability - suicidal ideation in the context of chronic pain - moderating factors - opportunities for intervention.

Subjects: INDUSTRIAL ACCIDENTS
SUICIDE

SUPREME COURT

AGIS No: 20132925

Title: Practice in the Corporations List of the Supreme Court of NSW.

Authors: BLACK, Ashley

Source: COMMERCIAL LAW QUARTERLY 27 (1) March / May 2013 : 15-25

Abstract: Aspects of practice in the Corporations List - structure of the Corporations List - urgent applications - discovery and notices - conduct of hearing - evidence - mediation - representation by directors - oppression proceedings - statutory derivative actions - applications to set aside - approvals - winding up - release of liquidators - proposed reforms to regulation of insolvency practitioners.

Legislation: Australian Securities and Investments Commission Act 2001 (CTH)
Corporations Act 2001 (CTH)
Cross-Border Insolvency Act 2008 (CTH)

Subjects: CORPORATIONS LAW
COURT RULES AND PROCEDURE
SUPREME COURT

Jurisdictions: AUSTRALIA, New South Wales

TELECOMMUNICATIONS

AGIS No: 20132858

Title: International mobile roaming charges.

Authors: VOON, Tania

Source: NEW ZEALAND LAW JOURNAL September 2013 : 309-311,316

Abstract: Regulation of international mobile roaming charges - OECD recommendations on roaming charges - International Telecommunications Union regulations - World Trade Organisation rules - bilateral discussions - implications of WTO rules - GATS coverage - most-favoured-nation obligations - compliance - economic integration agreements.

Subjects: TELECOMMUNICATIONS
TRADE LAW

AGIS No: 20132842

Title: The telco "fine print" project.

Authors: PATERSON, Jeannie Marie
GADIR, Jonathan

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 219-222

Abstract: Recent report by the Australian Competition and Consumer Commission provides summary of contract terms used in various industries - concern about terms that did not comply with unfair contract term laws - consumer contracts for telecommunication products - entire agreement clauses - unilateral variation clauses - supplier right to terminate - consumer right to terminate.

Legislation: Competition and Consumer Act 2010 (CTH)

Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
TELECOMMUNICATIONS
UNJUST CONTRACTS

Jurisdictions: AUSTRALIA

TERRORISM

AGIS No: 20132922

Title: Explaining a turning point in Australian jihadism.

Authors: ZAMMIT, Andrew

Source: STUDIES IN CONFLICT AND TERRORISM 36 (9) 2013 : 739-755

Abstract: Shift in jihadist plots in Australia from externally guided to self-starting - jihadism in Australia - difference with other Western democracies - explanations for shift based on Al Qaeda's structure, strategy and local radicalisation - other explanations for the shift.

Subjects: TERRORISM

Jurisdictions: AUSTRALIA

TRADE LAW

AGIS No: 20132858
Title: International mobile roaming charges.
Authors: VOON, Tania
Source: NEW ZEALAND LAW JOURNAL September 2013 : 309-311,316
Abstract: Regulation of international mobile roaming charges - OECD recommendations on roaming charges - International Telecommunications Union regulations - World Trade Organisation rules - bilateral discussions - implications of WTO rules - GATS coverage - most-favoured-nation obligations - compliance - economic integration agreements.
Subjects: TELECOMMUNICATIONS
TRADE LAW

TRADE MARKS

AGIS No: 20132869
Title: #TRADEMARK and other challenges trending in trade marks practice.
Authors: TURNER, Alexandra Eleni
Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 90-95
Abstract: Challenges for legal practitioners when advising on the registrability of trade marks containing words with a colloquial meaning or a popular phrase - need for practitioners to keep up with trends in language - word structures and punctuation - use of the "hashtag".
Legal Cases: Phone Directories Co Australia Pty Ltd v Telstra Corp Ltd (2011) 94 IPR 300
Re Application by Westco Jeans (Aust) Pty Ltd (1989) 16 IPR 493
Subjects: INTELLECTUAL PROPERTY
LANGUAGE
SOCIAL MEDIA
TRADE MARKS

AGIS No: 20132867
Title: Beyond.com : the Trademark Clearinghouse and the expanding gTLD digital name space : what does it all mean for trade mark owners?
Authors: HARRIS, Sonia
Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 82-89
Abstract: Role, capabilities and key services of the Trademark Clearinghouse (TMCH) in the Top Level Domain (gTLD) environment - implications of gTLD expansion for trade mark owners - need for a controlled response to the evolving digital landscape.
Subjects: INTELLECTUAL PROPERTY
TRADE MARKS

AGIS No: 20132838
Title: Evidential issues in brand appropriation litigation.
Authors: GILLIES, Peter

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 165-180

Abstract: Brand appropriation litigation - claims of trade mark infringement - breach of s 18 of the Australian Consumer Law - commission of the tort of passing off - points of intersection an distinction - evidential issues - intention to mislead - consumer confusion - reputation in a product - expert evidence - empirical evidence - case law.

Legal Cases: Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (2006) 228 ALR 719
Cadbury Schweppes Pty Ltd v Darrell Lea Chocolate Shops Pty Ltd (No 4) (2006) 229 ALR 136
Red Bull Australia Pty Ltd v Sydneywide Distributors Pty Ltd (2001) 53 IPR 481
Twentieth Century Fox Film Corp v South Australian Brewing Co Ltd (1996) ATPR 41-483

Legislation: Competition and Consumer Act 2010 (CTH)
Trade Practices Act 1974 (CTH)

Subjects: EVIDENCE
LITIGATION
PASSING OFF
TRADE MARKS

Jurisdictions: AUSTRALIA

AGIS No: 20132878

Title: Global trend spotting : protecting artistic works in fashion and design products.

Authors: BEKENS, Emma
CHRISTOU, Sophia

Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 104-107

Abstract: Copyright and design infringement in the fashion industry - offshore production of goods has increased the problem - current protection by intellectual property legislation.

Legislation: Copyright Act 1968 (CTH)
Designs Act 2003 (CTH)

Subjects: INTELLECTUAL PROPERTY
TRADE MARKS

Jurisdictions: AUSTRALIA

AGIS No: 20132870

Title: Slang resources for lawyers.

Authors: GIVONI, Sharon

Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 96-97

Abstract: List of Australian slang resources in hardcopy and online.

Subjects: LANGUAGE
TRADE MARKS

Jurisdictions: AUSTRALIA

AGIS No: 20132873
Title: The use and abuse of trade marks.
Authors: GREENHALGH, Christine
WEBSTER, Elizabeth
Source: AUSTRALIAN INTELLECTUAL PROPERTY LAW BULLETIN 26 (4) October 2013 : 98-99
Abstract: Consumer purchasing based on a product with a particular trade mark - product loyalty - company takeovers, often by competitors - consumers often unaware of product ownership and there is no obligation on the new trade mark owner to advertise the change - questions whether trade marks are being used anti-competitively.
Subjects: TRADE MARKS
Jurisdictions: AUSTRALIA

TRADE UNIONS

AGIS No: 20132898
Title: Four burgeoning IR issues for 2013 and beyond : adverse action; social media & workplace policy; trade union regulation (after the HSU affair); and the QANTAS aftermath.
Authors: FLOYD, Louise
SPRY, Max
Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 153-174
Abstract: Analysis of four significant developments in industrial law - adverse action - social media policy - trade union regulation - impact of the QANTAS dispute.
Legal Cases: Board of Bendigo Regional Institute of Technical and Further Education v Barclay (2012) 290 ALR 647
Linfox Australia Pty Ltd v Stutsel [2012] FWAFB 7097
Legislation: Fair Work Act 2009 (CTH)
Subjects: ENTERPRISE BARGAINING
INDUSTRIAL LAW
SOCIAL MEDIA
TRADE UNIONS
Jurisdictions: AUSTRALIA

UNCONSCIONABLE CONDUCT

AGIS No: 20132962
Title: When sales tactics cross into the territory of unconscionable conduct : Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd.
Authors: COUTINHO, Jeh
Source: COMPETITION AND CONSUMER LAW NEWS 29 (3) October 2013 : 37-39
Abstract: Determining when sales tactics become unconscionable conduct - centrality of community values - expectation of fairness and honesty - case law.

Legal Cases: Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd (2013) 133 ALD 134
Australian Competition and Consumer Commission (ACCC) v Lux Distributors Pty Ltd [2013] FCAFC 90

Subjects: CONSUMER PROTECTION
SALE OF GOODS
UNCONSCIONABLE CONDUCT

UNFAIR DISMISSAL

AGIS No: 20132879

Title: Legal representation in unfair dismissal cases.

Authors: LATHAM, Ian

Source: EMPLOYMENT LAW BULLETIN 19 (6) September 2013 : 86-88

Abstract: Increase in self representation before the Fair Work Commission - may reflect the modest awards of compensation, payment of legal costs or a general trend towards self representation - courts and tribunals have a duty to ensure self litigants are treated fairly - meaning of provisions in the Fair Work Act 2009.

Legislation: Fair Work Act 2009 (CTH)

Subjects: EMPLOYMENT LAW
UNFAIR DISMISSAL

Jurisdictions: AUSTRALIA

UNIFORM LAW

AGIS No: 20132900

Title: The dominance of uniformity of outcome in Australian choice of law : is it time to relax the grip?

Authors: GARNETT, Richard

Source: AUSTRALIAN BAR REVIEW 37 (2) September 2013 : 192-215

Abstract: Uniformity of outcome - arguments for and against in the context of international and interstate choice of law rules in Australia - developments in the United States and the European Union and the place of the principle of uniformity in choice of law.

Legal Cases: John Pfeiffer Pty Ltd v Rogerson (2000) 203 CLR 503
McKain v RW Miller & Co (SA) Pty Ltd (1991) 174 CLR 1
Regie Nationale des Usines Renault SA v Zhang (2002) 210 CLR 491

Subjects: INTERNATIONAL LAW
UNIFORM LAW

Jurisdictions: AUSTRALIA
EUROPEAN UNION
UNITED STATES

UNJUST CONTRACTS

AGIS No: 20132842

Title: The telco "fine print" project.

Authors: PATERSON, Jeannie Marie
GADIR, Jonathan

Source: AUSTRALIAN JOURNAL OF COMPETITION AND CONSUMER LAW 21 (3) September 2013 : 219-222

Abstract: Recent report by the Australian Competition and Consumer Commission provides summary of contract terms used in various industries - concern about terms that did not comply with unfair contract term laws - consumer contracts for telecommunication products - entire agreement clauses - unilateral variation clauses - supplier right to terminate - consumer right to terminate.

Legislation: Competition and Consumer Act 2010 (CTH)

Subjects: AUSTRALIAN COMPETITION AND CONSUMER COMMISSION
TELECOMMUNICATIONS
UNJUST CONTRACTS

Jurisdictions: AUSTRALIA

WHISTLEBLOWING

AGIS No: 20132876

Title: Is whistleblowing now mandatory? The impact of mandatory reporting law on trust relationships in health care.

Authors: HEWITT, Jayne

Source: JOURNAL OF LAW AND MEDICINE 21 (1) September 2013 : 82-101

Abstract: Trust in health care relationships - mandatory reporting of professional incompetence similar to mandated whistleblowing - negative effect of mandatory reporting on development of interpersonal working relationships and trust.

Legislation: Health Practitioner Regulation National Law Act 2009 (QLD)
Medical Practice Amendment Act 2008 (NSW)

Subjects: HEALTH CARE
PROFESSIONAL NEGLIGENCE
WHISTLEBLOWING

Jurisdictions: AUSTRALIA

WOMEN

AGIS No: 20132943

Title: Key social issues in the development of Australian family law : research and its impact on policy and practice.

Authors: MALONEY, Lawrie
WESTON, Ruth
HAYES, Alan

Source: JOURNAL OF FAMILY STUDIES 19 (2) August 2013 : 110-138

Abstract: Key social changes impacting on Australian families - workforce participation by women - changing perceptions of fatherhood - recognition of existence and destructive consequences of family violence and child abuse - rights of the child - recent major amendments to Australian family law - shared parental responsibility - evaluation of amendments by Australian Institute of Family Studies.

Legislation: Family Law Act 1975 (CTH)
Family Law Amendment (Shared Parental Responsibility) Act 2006 (CTH)
Family Law Reform Act 1995 (CTH)

Subjects: CHILDREN
DOMESTIC VIOLENCE
FAMILY LAW
SHARED PARENTING
WOMEN

Jurisdictions: AUSTRALIA

AGIS No: 20132935

Title: The impact of soft law on social change : measurable objectives for achieving gender diversity on boards of directors.

Authors: KLETTNER, Alice
CLARKE, Thomas
BOERSMA, Martijn

Source: AUSTRALIAN JOURNAL OF CORPORATE LAW 28 (2) September 2013 : 138-165

Abstract: Company responses to the amendments of the Principles of Corporate Governance relating to gender diversity - empirical analysis of gender disclosures in ASX 200 companies annual reports - mandatory quotas and voluntary targets - increase in women on boards but not in senior executive teams - analysis of each amendment - comparison with European countries.

Subjects: COMPANY DIRECTORS
CORPORATE GOVERNANCE
GENDER INEQUALITY
WOMEN

Jurisdictions: AUSTRALIA
EUROPE

WOMEN AND THE LAW

AGIS No: 20132824

Title: Women in partnership : a yin-yang balance.

Authors: REY, Sarah
IERODIACONOU, Mary-Jane

Source: ETHOS (229) September 2013 : 16-17

Abstract: Establishment of law firm - business models - staff flexibility - no budget targets - key lessons - success.

Subjects: LAW FIRMS
WOMEN AND THE LAW

Jurisdictions: AUSTRALIA

WORKERS COMPENSATION

AGIS No: 20132881

Title: Liability for workers compensation : do injuries result from an employer's "administrative action" which is "reasonable"? The case of Lombardo v Comcare.

Authors: BITTAR, Saide

Source: EMPLOYMENT LAW BULLETIN 19 (6) September 2013 : 95-98

Abstract: Compensation sought due to a depressive disorder caused by not receiving an offer of redundancy - Comcare denied the injury on the basis it was caused by "reasonable administrative action taken in a reasonable manner" - background and facts of case - considerations and decision.

Legal Cases: Lombardo v Comcare [2013] AATA 470

Legislation: Safety, Rehabilitation and Compensation Act 1988 (CTH)

Subjects: EMPLOYMENT LAW
WORKERS COMPENSATION

Jurisdictions: AUSTRALIA

WORKING CONDITIONS

AGIS No: 20132912

Title: A workplace right : by email : decision places 'substance' before 'form'.

Authors: RICHARDSON, Kristy

Source: PROCTOR 33 (7) August 2013 : 36-37

Abstract: 'Complaint' or 'enquiry' by employee is not limited to formal or specified mechanisms - email enquiries about conditions of employment - jurisdiction of court not limited to current employees - definition of workplace right.

Legal Cases: Devonshire v Magellan Powertronics Pty Ltd [2013] FMCA 207

Legislation: Fair Work Act 2009 (CTH)

Subjects: ELECTRONIC MAIL
WORKING CONDITIONS

Jurisdictions: AUSTRALIA

AGIS No: 20132913

Title: 'Reasonable adjustment' in the workplace : employer obligations and assistance for employees with a disability.

Authors: PAYNE, Clayton
MAYO, Dominique

Source: PROCTOR 33 (7) August 2013 : 38

Abstract: Legislative requirements to consider the provision of 'reasonable adjustment' to accommodate people with a disability - types of changes that can be considered reasonable adjustments - exemption for unjustifiable hardship - financial assistance availability.

Legislation: Anti-Discrimination Act 1991 (QLD)
Disability Discrimination Act 1992 (CTH)

Subjects: PEOPLE WITH DISABILITIES
WORKING CONDITIONS

Jurisdictions: AUSTRALIA

AGIS No: 20132952
Title: Workplace bullying & the Fair Work Commission.
Authors: CHEONG, Peggy
Source: BALANCE (3) 2013 : 4-5
Abstract: Proposed changes to Fair Work Commission's (FWC) powers to deal with workplace bullying - parliamentary committee recommendations on workplace bullying - definition of workplace bullying - reasonable management practices and bullying - application to FWC deal with complaint - priority of applications - orders by the FWC - penalties - referral to state and territories health and safety regulators for investigation - importance for employers to keep up to date.

Legislation: Fair Work Act 2009 (CTH)
Subjects: BULLYING
WORKING CONDITIONS
Jurisdictions: AUSTRALIA