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CUTTING THE GORDIAN KNOT OR ENTANGLING IT FURTHER?

David Birch and Alice Zheng

In *Westport Insurance Corporation v Gordian Runoff Ltd* (2011) 244 CLR 239, the High Court expanded the scope for judicial review of arbitration awards under the Commercial Arbitration Act 1984 (NSW). In doing so, the High Court expressly overturned a number of decisions of the New South Wales Court of Appeal. This article argues that the High Court's reasoning is based on a misrepresentation of the previous case law and discusses the possible implications of the High Court's alternative construction. This article then considers the relevance of the High Court's decision to judicial review under the Commercial Arbitration Act 2010 (NSW). It contends that the 2010 legislation evinces an unambiguous preference for restricting judicial review of arbitration awards that should not be curtailed by the High Court's decision in *Gordian Runoff*. 748

NOMINEE BOARD MEMBERS: A DUTY OF CONFIDENTIALITY?

Laura Free

A lot of angry discussion often breaks out if members of an organisation consider that a committee member has broken faith by breaching confidentiality. This article shows that the issues involved are complex, especially where there are umbrella organisations with a head office and various sub-branches. 768

COMPETING APPROACHES TO BENEFICIARY ACCESS TO TRUST
INFORMATION: PERHAPS NOT SO MUCH OF "A FORK IN THE ROAD"

Thomas Kaldor

There is currently widespread disagreement regarding the principled basis on which a beneficiary may access trust information. Two main approaches have emerged: on one approach a beneficiary is entitled to access trust documents because it has a proprietary interest in those documents; the other approach holds that the court has a discretion to determine the nature and extent of a beneficiary's right to access information in each particular case as part of its inherent jurisdiction to supervise the administration of trusts. Judges and commentators in each of the two camps have argued that their approach represents the correct (and only) way forward for the development of equitable doctrine. This article suggests that the differences between the two approaches are less substantial than has been previously thought, and that in effect, courts have always employed a discretionary approach. Following this reconciled approach, the overarching principle is that beneficiary access to trust information forms part of the court's inherent jurisdiction to supervise the administration of trusts, while the nature of a beneficiary's proprietary rights is a factor that may be relevant to the exercise of the court's discretion. 775

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