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ARTICLES

Civil procedure and commercial arbitration reforms in Victoria – Hon Robert Clark, Attorney-General of Victoria

Appellate judgments – the need for clarity – Justice James Allsop

Some ethical issues: A view from the bench – Hon Justice John Griffiths

The Federal Court of Australia may largely lay claim in this country to the adoption of the docket system for the hearing and pre-trial management of cases. A designated judge manages designated proceedings from commencement to disposition. But there can be issues arising out of this case management system, which can be exacerbated particularly when dealing with litigants in person. Indeed, litigants in person raise special issues of their own. One such issue is what leniency, if any, self-represented litigants should receive in relation to matters of practice and procedure and how to ensure an opposing practitioner is not unfairly disadvantaged. A further issue is that of civility – by practitioner and self-represented litigant alike. Justice Griffiths of the Federal Court discusses these and other similar issues in this article.

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Remedies in commercial litigation – Justice Robert McDougall

Commercial litigation has grown in importance for a variety of reasons and particularly in Australia since the enactment of the Trade Practices Act 1974 (Cth) – now the Australian Competition and Consumer Act 2010 (Cth). However, largely the remedies available have remained the same. Significantly, these are remedies that developed at a very early time in our law. In this article, Justice McDougall in an address to Young Lawyers on business law gives a most helpful summary of the equitable remedies and of some of their limitations. In the course of his most interesting coverage he raises an intriguing question – not resolved anywhere – of whether there can be such a thing as an interlocutory declaration.

How to conduct a hearing – Hon Peter Heerey AM QC

In this most entertaining article, originally given as an address, the Hon Peter Heerey AM QC sets out various issues that arise out of the conduct of a hearing. While the article's specific context is administrative appeals, the discussion on expert evidence is most insightful and useful in the civil litigation context. Other discussions of relevance to civil litigation include time limits on cross examination and the value of cross examination itself. It ought not to be overlooked that much civil litigation in Australia today is conducted before tribunals so discussion of matters arising in the administrative law context is not out of place. Nor is literary reference out of place either, as will be seen.

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In locals we trust – foreigners pay cash: Rethinking security for costs against foreign residents – *Michael John Raine*

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