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EDITORIAL	87
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ARTICLES

The old rule, the true rule and contract administration notices in construction – *Andrew Mewing*

Recently there has been a trend towards a non-technical or commercial approach to contract administration notices in construction. This trend appears driven by a similar approach to the interpretation of contracts, including the progressive creep away from the restriction on examining surrounding circumstances (the Codelfa “true rule”). The High Court of Australia recently breathed life into the true rule, creating an apparent re-divergence of the laws of England and Australia. What does this mean for the approach to contract administration notices in Australia? This article argues that a non-technical approach is still to be preferred, and in the process embarks on a critical analysis of the issues involved in the contract interpretation debate. 88

Contractors’ global loss of productivity claims – *David McAndrew*

Contractor’s loss of productivity claims are notoriously difficult to prosecute, defend and determine. They are typically pleaded and prosecuted as a global claim, (often a total cost claim) and therefore raise difficult issues in relation to causation, including the pleading and proof of the causal link between (1) the alleged employer breaches, (2) the consequent disruption/loss of productivity, and (3) the global loss claimed. Rather than set out the causal link between the individual breaches and the specific loss attributable to each breach in a conventional manner, the contractor’s case is that the causal links set out above are to be inferred. There are many useful articles and authorities in relation to the pleading and proof of global claims per se. However, what appears to be lacking is a summary of all of the key issues relating to global claims for loss of productivity. The purpose of this article is to provide a “road map” in relation to these claims. 107

REPORTS

Phontos v Tresedar Pty Ltd	128
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EGL Management Services v Northern SEQ Distributor-Retailer Authority	133
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