

TORT LAW REVIEW

Volume 23, Number 3

November 2015

ARTICLES

Wilkinson v Downton: New work for an old tort to do? – *Professor Anthony Gray*

The Supreme Court of the United Kingdom recently reconfirmed in *Rhodes v OPO* [2015] UKSC 32 the continued existence and viability of a claim for intentionally caused emotional injury, recognised in the classic case of *Wilkinson v Downton*. Previously, the continued existence of the principle had been doubted in that jurisdiction, as is currently the case in Australia. This article considers the recent UK decision in light of previous cases in that jurisdiction, considers the current position in Australia and North America, some parameter issues, and possible future uses of this tort. 127

The normal measure of damages for tortious damage to chattels under English law – *Dr John Ren*

In *Coles v Hetherington* [2015] 1 WLR 160; [2013] EWCA Civ 1704, the English Court of Appeal held that the normal measure of damages for tortious damage to chattels is diminution in value and reasonable cost of repair is simply evidence for the measure. This article argues that the decision departs from the previous law, which was, according to the weight of the authorities, that the normal measure be reasonable cost of repair. This article also argues that reasonable cost of repair is the better measure because it is a more reliable and direct way of carrying out restitutio in integrum than diminution in value, and it does not lead to the problems as a result of using diminution in value as the normal measure of damages. 148

The tort of intimidation and breach of contract – *Nathan Tamblyn*

The first part of this article argues that a tort of intimidation is needed to fill gaps left by other torts. This includes threats to do something lawful, which could sound in intimidation, when made out of malice, as an instance of abuse of rights. The second part of this article argues that a full role for the tort of intimidation produces no inconsistency or tension with contract law where what is threatened is breach of contract. Damages for breach of contract, and damages in tort for intimidation, are mutually exclusive alternatives. And while rescission for duress in contract law, and damages in the tort of intimidation, might be available on the same facts, they are alternative remedies which look in opposite directions. 164

Upkeep claims for wrongful birth, wrongful conception or wrongful fertilisation? IVF mix-up in the Singapore High Court: *ACB v Thomson Medical Pte Ltd* [2015] SGHC 9 – *Ronald JJ Wong*

In the landmark decision of *ACB v Thomson Medical Pte Ltd* [2015] SGHC 9, the Singapore High Court recently rejected a claim for upkeep costs of a child who was conceived with the sperm of someone other than the intended father during an In-Vitro Fertilisation procedure, what the author terms a “wrongful fertilisation” case. This article analyses the arguments and legal reasoning in the decision, with reference to case law in various jurisdictions on wrongful birth, wrongful conception and wrongful adoption. 172

VOLUME 23 – 2015

Table of Authors	187
Table of Cases	189
Index	199