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ARTICLES

Understanding and Navigating the Power Imbalance between Associates and Judges –
Katrina Bochner, Laura Stein and Chris Bleby

In 2020, the Supreme Court of South Australia established a Workplace Conduct Committee, which considered a range of potential issues between judges and court staff. In addition to reviewing workplace policies and procedures, the Committee considered the power relationships between judges and associates. This article explains an initiative of the Committee in devising a system of interviews with associates, the purposes of these interviews, the matters covered, and information derived. It then explains the principled basis for the Committee’s approach, derived from publicly available research. Critical to this approach is an understanding of the nature of the power imbalance between judges and associates, the constructive aspects of the power relationship and those aspects that are prone to abuse. The approach involves working to understand how the power relationship can be employed to constructive ends for associates and judges, and hopefully to improve the service that the courts provide to the community.

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The Continued Perplexity of the Model Litigant Guidelines: New Enforcement Strategies –
Zachary Oakes

The model litigant obligations are a set of guidelines that create a higher standard of conduct expected of government litigants. Conceptually, the obligations are warranted: government litigants have a comparative advantage against their litigation adversaries and that advantage should be curtailed. However, despite a clearly articulated standard, uncertainty exists as to enforcement when there is a lapse. In the case of such lapse, should litigants against the government be provided with a predictable remedy? Should there be a clearer enforcement procedure levelled on the government litigant acting beyond the expected standard? This article examines this uncertainty, and in doing so, highlights the continuing perplexity surrounding the model litigant obligations.

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SPEECH

Judicial and Administrative Review of Non-statutory State Executive Power –
Justice John Griffiths

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