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CASENOTES – *David Spencer*

Hurworth Nominees Pty Ltd v ANZ Banking Group Ltd 69

Franks v Western Australia 71

Law Council trial of online dispute resolution 72

ARTICLES

A discussion of apology and its use in alternative dispute resolution – *Deanna Foong*

This article begins by explaining what defines an effective apology. It outlines the value of apologies, and discusses some of the impediments to making apologies. Finally, it looks at some legal measures, and mediation as a forum which might encourage apologetic behaviour. 73

Lawyers' participation in mediation – *Chiara-Marisa Caputo*

In the last 10 years, mediation and litigation have formed an increasingly direct relationship. Some commentators are concerned that the merging of these two diverse dispute resolution cultures may distort the underlying values of mediation. This article will explore what role, if any, exists for lawyers as representatives of disputants in mediation, if the principles of facilitative mediation are to be preserved. It is argued that there is often an advantage in a lawyer's participation in his or her client's mediation. However, if the principles of mediation are to be maintained, lawyers must adopt different perspectives, behaviours and skills to those typically employed in court. 84

Mediation accreditation: Using online role-plays to teach theoretical issues – *Kathy Douglas*

Proposals for the accreditation of mediators have progressed recently with the acceptance of plans for a national mediator accreditation system. Under the scheme, mediators will be asked to complete learning in a variety of areas in order to meet accreditation requirements. Yet, many mediators are trained through short courses, often three to five days in duration. This may mean that the opportunity to learn deeply of theoretical issues, such as power regarding the practice of mediation, is constrained. This article explores the possibility of providing online learning to supplement face-to-face teaching in mediation courses. The benefits of engaging mediation students in active learning opportunities online are highlighted and the teaching and learning strategies of online mediation role-plays is discussed. 92

Alternative dispute resolution in residential tenancy cases – *Frances Gibson*

Legislation in Australian States and Territories provides for the use of alternative dispute resolution (ADR) in Tenancy Tribunals prior to adjudication stage. This article outlines these provisions in three jurisdictions and canvasses concerns as to the use of ADR in

tenancy cases. Despite power imbalances between landlords and tenants, approaches such as mediation and conciliation have proved to be productive ways of approaching tenancy disputes in other jurisdictions, even where matters are at tribunal or court stage. Legislation and practice in tenancy cases in three Australian jurisdictions are considered – Victoria, New South Wales and the Australian Capital Territory. Through interviews with tenancy advocates, Tribunal Members and observation of tenancy proceedings, it is concluded that despite the apparent availability of structured ADR in Australian legislation for tenancy cases, jurisdictions vary widely in opportunities offered for tenants or landlords to try and resolve their disputes with the assistance of any mediation or conciliation process. Evaluation of effectiveness of current models should be undertaken to develop a national best practice model. 101

Lessons learned on the road – teaching restorative justice to marginalised individuals and communities in Fiji – *Peni Moore*

In countries such as Fiji where community and national conflict have not been dealt with in healthy and non-violent ways, and justice seems secondary to politicised power and control, diverse individuals and communities are in great need of healing, where harms need to be acknowledged and responsibility admitted in order to remove the guilt and shame that prevents Fiji from moving forward in a positive, healing way. This article will look at teaching restorative justice to minority communities in order to deal with conflict by allowing the victims to participate fully in the process. 110

Forces to foster co-operative contracting in construction projects – *Tak Wing Yiu*

The construction industry is plagued by an increasingly adversarial atmosphere. Lack of co-operation has been identified as one of the major causes of inefficiency in the industry. Promoting co-operative contracting behaviour has long been advocated as a means to improve performance within construction projects. This article presents the results obtained from a survey of 100 construction professionals, with the aim of identifying significant forces that foster co-operative contracting forces in construction projects. The Relative Importance Index (RII) was employed to rank these forces. Based on the RII, the top five most significant forces were identified. They were then divided into three main categories: (1) experience of previous dealings; (2) degree of openness; and (3) degree of involvement. The results obtained from this study shall provide groundwork for further research area of co-operative contracting behaviour. 113

Mediator ethics: To teach or not to teach – *Jennifer Butler*

Practitioners in mediation face a wide range of ethical dilemmas on a daily basis. However, ethics is often neglected in the teaching of mediation courses in favour of more substantive issues. These substantive issues are often more easily taught than issues of ethics, which some argue can't be taught at all. This article argues that ethics should be taught in mediation courses. There is discussion of the requirements of the National Mediation Standard. The article also contains a critique of various methods of teaching ethics and a recommendation as to which methods are best used for teaching ethics in mediation. 119

BOOK REVIEW – reviewed by *David Spencer*
Resolving Conflict: A Practical Approach by Greg Tillett and Brendan French 126

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