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ARTICLES

The litigation contract: The future roles of judges, counsel and lawyers in litigation – *Hon Marilyn Warren AC*

This article outlines some of the recent developments in civil procedure in the Supreme Court of Victoria, and considers what these will mean for the future roles of judges, barristers and solicitors in litigation. It suggests that it is time to reflect on these roles and to think about litigation in a more collaborative, less adversarial, way – as a contract between the Bench and the profession whereby the parties work cooperatively for the benefit of clients and in the interests of the administration of justice. It outlines the obligations of each party to the litigation contract and provides some recent examples of cases in which the just and timely resolution of the dispute has been achieved through effective collaboration. 51

The application of statutory time limitation provisions by analogy to claims in equity's exclusive jurisdiction – *Adrian O'Dea and Philippa O'Dea*

In an action brought in equity's exclusive jurisdiction, where the defendant seeks to rely by analogy on a statutory limitation period, does the court have a discretion to decline the application of the analogous time bar to the equitable proceeding? The question arose in *Gerace v Auzhair Supplies Pty Ltd* (2014) 87 NSWLR 435; [2014] NSWCA 181 and was answered in the negative. This article discusses the principles on which an analogous time bar is applied to an action in equity's exclusive jurisdiction, and suggests that this complex area is one which warrants further attention. 56

A functional approach to teaching pleadings – *Margaret Castles*

Teaching pleadings to law students who may not have set foot in a court, or have had cause to consider the nuts and bolts of relating facts to legal principles, can be challenging. Sometimes thought of as an "art" learned by practice and experience, most employers would expect a graduating law student to be able to make a fair effort at a simple pleading. Pleading is not just about following precedent and using the right phrases. It requires a deep understanding of the purpose of pleadings against the broader interests of justice access and fair and equitable legal process. This article proposes a suite of strategies for

exploring pleadings with students, emphasising an outcome that is effective for other users, but more importantly, which enables students to consider the myriad questions about relevance, evidence, proof, and outcome in a litigious case at the very start of the case.	69
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