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ORTHODOXY LOST: THE (IR)RELEVANCE OF CAUSATION IN QUANTIFYING BREACH OF TRUST CLAIMS

Nicholas A Tiverios and Clare McKay

In *FHR European Ventures v Cedar Capital Partners* [2015] AC 250; [2014] UKSC 45, [45], the Supreme Court of the United Kingdom suggested that it would be “highly desirable” for common law jurisdictions to learn from each other, with a view to “harmonising the development of the common law round the world”. In many contexts, this observation holds merit. However, there are limits to the extent to which Australian courts should follow their English counterparts in developing the private law. This article argues that the Supreme Court of the United Kingdom’s recent decision in *AIB Group (UK) v Mark Redler & Co Solicitors* [2015] AC 1503; [2014] UKSC 58 was wrongly decided and should not be followed in Australia. Rather, consistent with orthodox principles, no causation requirement should be necessary for the quantification of loss in claims for breach of trust by misapplication of trust assets. 231

PRENATAL DUTY OF CARE: A CONSIDERATION OF THE CURRENT FORMULATION OF THE LAW AND THE VARIOUS POLICY ARGUMENTS

Casey Williamson

The question of whether a mother should be liable for harm inflicted upon her unborn child, garners heated debate over morality, ethics and the rule of law. The ever evolving scope of the duty of care relationship and the abolition of inter-familial immunity, precipitate the argument that a pregnant woman’s maternal duty of care to her unborn child is a reasonable progression in the law of torts. This article seeks to explore a mother’s tortious liability towards an unborn child and the various policy arguments for and against imposing such a duty of care. 249

TERRORISM, SHARI’A AND THE ISOLATING OF ISLAM

Neville Cox and Hannah O’Farrell

This article assesses the relationship between Shari’a law and terrorism and specifically the question of whether there is any legitimacy to the truism which is prevalent in western society that the actions of so-called Islamic terrorist groups are authorised by Shari’a. Having concluded that, in fact, behaviour with terrorist characteristics is condemned by Shari’a, the article assesses why the concept of a connection between Islamic law and terrorism is so accepted by many in the west and argues that this is the result of the actions and inactions both of forces within the Islamic and western worlds. 255

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