

Australian Law Journal

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The mode of citation of this volume is
(2003) 77 ALJ [page]

Australian Law Journal Reports

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77 ALJR [page]

THE AUSTRALIAN LAW JOURNAL

Volume 77, Number 2

February 2003

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ARTICLES

LAW OF THE SURF

Professor Brian Fitzgerald and Master Joanne Harrison

As the weather heats up and thoughts turn to a trip to the beach for a refreshing swim and bodysurf one cannot help but think of the series of cases over the last 10 years concerning surf related injuries. It is timely especially in light of the current review of the law of negligence to consider the difficult question of liability and the surf. 109

AN ENGLISHMAN LOOKS AT THE TORRENS SYSTEM: ANOTHER LOOK 50 YEARS ON

M M Park and I P Williamson

In the 50 years since this Journal published Ruoff's widely-cited four-part article there has been much incremental change to the different Australian Torrens systems of registered land title in addition to some radical re-interpretation of title registration basics. Further, the basis for Ruoff's observations on the Australian systems has been wholly replaced by the Land Registration Act 2002 in early 2002. It is an opportune time to update "An Englishman ...". 117

CAN CONTRACT TRUMP ESTOPPEL?

Nick Seddon

Is it possible to preclude an estoppel arising from pre-contractual dealings by a suitably worded clause in the contract? The case law is divided, though no single case provides a definitive answer. The division of opinion reflects judicial attitudes to party autonomy in commercial dealings – the extent to which it is appropriate or not for a court to impose standards over the parties' express agreement. This article explores parallel doctrines and ideas, such as the parol evidence rule and its relation to entire agreement clauses, rectification, implied terms and collateral contract. The ultimate question is: is it unconscionable to agree not to rely on unconscionable conduct? 126

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 - 5. Austin, n 4, p 56.

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- In footnotes do not use *ibid* or *op cit*. The following style is preferred:
 - 6. Sheehy EA, Stubbs J and Tolmie J, “Defending Battered Women on Trial: The Battered Woman Syndrome and its Limitations” (1992) 16 Crim LJ 220.
 - 7. Sheehy et al, n 6 at 221.

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LAWBOOK CO.

© Thomson Legal & Regulatory Limited ABN 64 058 914 668 trading as Lawbook Co.

ISSN 0004-9611

Typeset by Lawbook Co., Pyrmont, NSW
Printed by Ligare Pty Ltd, Riverwood, NSW