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ARTICLES**NON-DISCLOSURE: TRADE PRACTICES ACT, S 52****Peter Gillies**

Section 52 can impose liability on account of non-disclosure, or “silence”. This liability is broader than that imposed at general law. This article examines the significant markers which chart this head of liability. Key issues include: the significance of silence per se in contrast to half-truths; whether non-disclosure in the context of pre-contractual negotiations is more or less significant than non-disclosure in other contexts; the role of the general law principles in applying Trade Practices Act 1974 (Cth), s 52 in this context; and whether the party sought to be made liable under s 52 on account of non-disclosure must be shown to have acted advertently. 653

SOUTH PACIFIC SMALL ISLAND COUNTRIES: INITIATING CIVIL PROCEEDINGS**Dr Jennifer Corrin Care**

During the colonial era, many far-flung countries inherited complex rules of civil procedure from England. Those rules, which have since undergone extensive reform in their country of origin, are still in place in some of the small island countries of the South Pacific. This article explains how proceedings are initiated in the superior courts of Kiribati, Solomon Islands and Tuvalu and compares this with the initiating process in Fiji Islands, Tonga, Samoa, and Vanuatu. It highlights some of the problems that arise from the obscure wording of the rules and discusses some of the relevant case law, both within the region and in countries with similar rules. Recent changes in regional rules are discussed and suggestions for simplifying regional procedure are advanced. 665

TRUSTEE'S DUTY TO EXERCISE REASONABLE CARE: FIDUCIARY DUTY?

Antony Goldfinch LLM

Whether or not a trustee's duty to exercise reasonable care is a fiduciary duty is not merely an academic question. For example, in recent times courts have justified the application to breaches of this duty, by way of analogy, the common law concepts of causation and remoteness on the ground that the duty is not a fiduciary duty. The application of these concepts has been questioned in the High Court of Australia decision of *Youyang Pty Ltd v Minter Ellison Morris Fletcher* (2003) 212 CLR 484. This article analyses the nature of the trustee's duty to exercise reasonable care and discusses recent authorities on this issue. 678

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7. Sheehy et al, n 6 at 221.

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