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Clause for concern: The referral of unsuitable disputes to expert determination in Australian construction contracts – *David Wood*

Parties are increasingly turning to expert determination as a means of resolving general disputes arising under construction contracts. This article contends that this trend is an undesirable response to the current inefficiency of commercial arbitration and litigation in Australia. Expert determination is most effective in circumstances where the dispute falls within the expert's technical qualifications, and a more formal process in the nature of a judicial enquiry is not required. It is hoped that Australia's ongoing domestic commercial arbitration reforms will once again make arbitration the preferred mechanism for resolving general disputes arising under construction contracts. This in turn could encourage parties to employ expert determination in the more selective and appropriate way suggested. 377

Fixed time/price contracting: Rethinking adversarialism – can you have your cake and eat it? – *Marko Misko and Shannon Radomski*

This article proposes the development of a new standard form fixed time/price collaborative contract; combining the benefits of a risk allocation providing legal certainty of time, cost and quality outcomes with the commercial flexibility and opportunities of relationship contracting. Central to this approach is the use of a PRISM (a proactive risk and issue settlement model) to promote the commercial resolution of all risks and issues before they give rise to contractual claims and disputes. 389

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