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Senior Executive Appraisal: Will the Mini-trial Cement Its Place in Alternative Dispute Resolution? – *Adele Carr*

Senior Executive Appraisal (SEA) was introduced in Australia nearly 30 years ago as an adaption of the mini-trial to resolve disputes arising from commercial contracts. Its use and success is relatively unknown due to its confidential process and its limitation to high-value disputes. Despite the apparent lack of popularity compared to more traditional forms of Alternative Dispute Resolution, SEA offers a flexible form of dispute resolution process that incorporates facilitative, advisory and determinative characteristics. Further, the involvement of senior management in the dispute resolution process, after informal negotiations have failed, ensures that issues are objectively assessed and addressed collaboratively. As more complex and costly contracts arise, the early involvement of senior management is pivotal to ensure that a dispute does not derail the completion of a contract. 235

Investor-State Dispute Settlement Mechanism and Its Ramifications for Public Health: An Analysis – *Muhammad Zaheer Abbas and Shamreeza Riaz*

The Investor-State Dispute Settlement (ISDS) provisions in an International Investment or Free Trade Agreement enable foreign investors to file claims in an international arbitration forum against governments if laws and/or policies adopted by a member state contradict with profits of foreign investors. This controversial mechanism is of pivotal importance for corporations because it empowers them to bring direct claims without requesting their home state to bring claims on their behalf. This pro-investor mechanism has serious implications for governments of member states that choose to adopt pro-public health or pro-public interest measures. Such measures are prone to challenge by corporations if they negatively impact their profits. This article endeavours to highlight overall potential impact of the ISDS mechanism on public health policy-making of member states. After a general overview, this article specifically focuses on the following three issues: (1) access to essential medicines; (2) tobacco control regulations; and (3) protection of environment. 244

Not Commercial but Good Sense: The Case for Facilitating Faith-based and Community Arbitration in Australia – *Nadav Prawer, Nussen Ainsworth and Matt Harvey*

A wide range of faith, sporting and community-based systems of dispute resolution continue to operate in Victoria and Australia. These dispute resolution systems are of vital importance to upholding religious, sporting and cultural frameworks and to removing disputes of all sizes from the civil justice system. However, while faith-based and community-based dispute resolution processes (FBDR and CBDR) have the potential to provide efficient and culturally sensitive resolutions to disputes the existing compliance regimen of the Commercial Arbitration Act 2011 (Vic) and equivalent legislation in other jurisdictions make the rendering of enforceable awards expensive and unwieldy. Similarly, existing legislation does not properly capture the needs of non-professional sporting bodies in facilitating appropriate resolution of disputes within leagues, within clubs and between players. This results in a dichotomy of efficiency or civil enforceability. This article argues the case for supporting FBDR and CBDR and their adoption and co-option into Australia's justice system through the development of suitable frameworks. The article contends that FBDR and CBDR are core components of a modern, socially integrated civil justice framework and that hostility to private systems of dispute settlement should be abandoned in favour of the broad benefits to be found in cost savings, satisfaction and speed. The article considers the history of the interaction of FBDR within the Commercial Arbitration Act 2011 (Vic) and its predecessor legislation, as well as that of other jurisdictions in Australia. 252

Can Conflict Coaching Make a Difference to Conflict Outcomes in Hierarchical Organisational Structures? – *Karina Ewer*

Substantial amounts of a manager's time is focused on managing workplace conflict. Workplace health and safety and the psychological safety of staff have developed along strategically different lines, leaving the mental health of employees to be managed through formal internal grievance processes. In hierarchical organisations, grievance management is underlined by positional power and a resultant lack of trust in conflict management systems. Recently conflict management systems have been forced to move toward more interest-based frameworks. Can conflict coaching help make a difference? Can hierarchical structures maintain required formal grievance procedures and concurrently develop a culture of trust in more informal processes? Does conflict coaching offer sufficient skills for managers and employees to manage their conflict issues now and into the future? This article explores these questions to weigh the needs of hierarchical organisations against the conflict management needs of their employees. 260

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