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ARTICLES

Managing the paper: Taming the Leviathan – *Hon Justice Peter Vickery*

Computers have revolutionised the way that way we store information and communicate. The internet phenomenon, which has led to the ability to network globally and instantaneously, has resulted in the proliferation of electronic communication and the capacity to generate, store and retrieve information on an unprecedented scale. There is, however, a downside. “Mega-litigation”, such as that arising out of large-scale construction and engineering projects, has a bad name for generating gargantuan volumes of documents at great cost to the parties. Computers are a major culprit in the excessive cost of civil litigation. This article analyses approaches to the management of documents, particularly in large cases. It commences with the question – why have discovery at all in common law jurisdictions, contrasted with the civil law approach? Techniques are considered which can be utilised to achieve a reasonable “cost-benefit” outcome. In an attempt to tame the “Leviathan”, the article also considers electronic means to efficiently manage documents in the course of litigation with a view to making the computer work to the advantage of the court, practitioners and litigants. 51

Reflections on ADR, judging and non-adversarial justice: Parallels and future developments – *Michael S King*

This article examines a range of separate but related developments in the legal system of Australia – including alternative dispute resolution, non-adversarial justice, restorative justice, therapeutic jurisprudence and problem-solving or solution-focused courts. Parallel to similar changes in other common law legal systems such as those of the United States, Canada, New Zealand, Ireland and the United Kingdom, these developments reflect the emergence of viewpoints and processes oriented towards more complete, inclusive, therapeutic and humane methods of resolving disputes and constitute a profound change in approach to legal problems and disputes. The author examines the history of these different developments, charts their interrelationships, summarises the available research on the effectiveness of different problem-solving courts and gives examples of overlap in method as well as philosophy. 76

To dream the impossible dream? Therapeutic jurisprudence in mainstream courts – *Pauline Spencer*

Mainstream courts are often characterised by large caseloads, limited time, backlogs, scarce resources and generalist staff and judiciary. In this article the author proposes that therapeutic jurisprudence approaches, which have been proven to be effective in specialist courts, should also be applied in mainstream courts where the vast majority of cases are heard. The challenge is to institutionalise therapeutic approaches, referred to as non-adversarial, problem-solving or solution-focused approaches, so that they are available evenly throughout mainstream courts and to ensure that innovations are sustainable over time. This article explores what systemic changes are needed to support a broader and deeper application of therapeutic jurisprudence in mainstream courts. 85

Antisocial personality disorder and therapeutic justice court programs – *Andrew Cannon, Rebekah Doley, Claire Ferguson and Nathan Brooks*

It has become commonplace for courts to supervise an offender as part of the sentencing process. Many of them have antisocial personality disorder (ASPD). The focus of this article is how the work of specialist and/or problem-solving courts can be informed by the insights of the psychology profession into the best practice in the treatment and management of people with ASPD. It is a legitimate purpose of legal work to consider and improve the wellbeing of the participants in the legal process. Programs designed specifically to deal with those with ASPD could be incorporated into existing drug courts, or implemented separately by courts to aid with reforming offenders with ASPD and in managing the re-entry of offenders into the community as part of their sentence. For the success of this initiative on the part of the court, ASPD will need to be specifically diagnosed and treated. Close cooperation between courts and psychologists is required to improve the effectiveness of court programs to treat people with ASPD and to evaluate their success.

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