

THE AUSTRALIAN LAW JOURNAL

Volume 93, Number 3

March 2019

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ARTICLES

PROPORTIONATE LIABILITY IN COMMERCIAL CASES: PRINCIPLES AND PRACTICE

Graeme S Clarke QC

Under the proportionate liability statutes, the court apportions legal responsibility for causing the plaintiff loss and damage between concurrent wrongdoers, when it is just to do so. The circumstances in which the court makes an apportionment are limited. Strategic decisions by the plaintiff as to how it makes its claims, and by the defendant as to how it claims an apportionment, are critical to whether the plaintiff can avoid an apportionment, or the defendant can obtain one. Aspects of statutory construction are unresolved. It is unclear whether the purposes of the proportionate liability regimes are being achieved. 188

BARBARO IN QUEENSLAND: EXCEPTIONALISM AGAIN?

H G Fryberg QC

In 2016 the Queensland Parliament passed legislation designed to restore the practice of prosecutors making submissions to a sentencing judge as to the appropriate sentence or range of sentences of imprisonment, a practice prohibited by the decision of the High Court in *Barbaro v The Queen*. This article considers whether the legislation achieves that objective (it does, despite its wording); how sentencing judges may use such a submission (as part of the sentencing process); and whether any such submission can be received in the course of sentencing for an offence against a law of the Commonwealth (it can, and if the legislation is to be complied with, it must be received). 214

CAN SCHOOLS BE LIABLE TO THEIR STAFF AND STUDENTS FOR SUN-RELATED INJURY?

David Hertzberg

This article considers the ways in which a school may be liable to its staff or students for sun-related injuries. First, the article considers the possibility of schools’ liability to students in negligence in respect of severe sunburn or skin cancer. The analysis provides an avenue to explore the application of the principles of negligence to a claim of this kind, and concludes that students will face significant challenges in bringing claims against their school. Second, the article considers schools’ liability to employees under the Workers Compensation Act 1987 (NSW), examining the operation of the legislative scheme in respect of skin cancer. 228

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