

# WORKPLACE REVIEW

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## ARTICLES

### **Cross-examination, a Judge’s Perspective** – *Richard Burbidge QC*

No matter what area of litigation, cross-examination is a valuable tool to uncover the reliability and veracity of oral testimony. A cross-examiner is always looking for inconsistencies in the evidence, changes in the evidence presented, and considering why seemingly available, relevant evidence has not been called by the other side. The motor vehicle case discussed in this article raises all these concerns and examines how they were dealt with by the judge in the matter, who is the author of the article. .... 75

### **The Centrality of Contractual Terms in Employment Law: *Construction, Forestry, Maritime, Mining and Energy Union v Personnel Contracting Pty Ltd* and *ZG Operations Australia Pty Ltd v Jamsek*** – *Dr Ryan Haddrick*

In two recent decisions, the majority of the High Court has emphatically stated that courts look to the legally enforceable contractual terms of a relationship to ascertain whether the relationship is one of employee and employer, or one of principal and independent contractor. Dr Haddrick critically examines the reasoning adopted by the High Court, and argues that the plurality in *Construction, Forestry, Maritime, Mining and Energy Union v Personnel Contracting Pty Ltd* has given greater commercial certainty to parties who wish to establish an independent contractor relationship, while affirming that a relationship that is truly (ie, contractually) an employment relationship remains one, if the contractual terms evince such a relationship. .... 79

### **Bar Crazyness** – *Jeffrey Phillips SC*

Combating the scourge of sexual harassment, discrimination and bullying in the workplaces of the legal profession, should not be done at the expense of abandoning fundamental principles of natural justice, argues Jeff Phillips. .... 97

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