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EDITORIAL – *Editor: Andrew West*

Court Supervised Pro Bono Mediation 117

Family Law “Critical Incident List” 118

Domestic and Family Violence Practice Direction 118

Legal Services Commission Development 1 - Incorporated Legal Practices 119

Legal Services Commission Developments 2 - Claim Farming 120

A Code of Conduct for Expert Witnesses 121

The New Statutory Declaration Form 121

Professional Independence and the Integrity of Detachment 123

Hails, Farewells, Felicitations and Lamentations 124

CONVEYANCING AND PROPERTY LAW – *Editor: Bill Dixon*

Trust or Not? Caveatable Interest or Not? 127

CRIMINAL LAW – *Editor: Andrew West, BCom, LL.M (Adv)*

The Sovereign Individual 129

The Rogue Juror 132

ARTICLES

The Role of an Expert and the Role of Lawyers: Landel Pty Ltd v Insurance Australia Ltd – *Scott Kiel-Chisholm*

In Landel Pty Ltd v Insurance Australia Ltd, Dalton J provided significant insight for legal practitioners in relation to the involvement of experts in civil proceedings and the role lawyers play. The issues considered include oral exchanges of an expert’s view prior to being retained, multiple expert opinions in one report, conferences with experts, editing of expert reports by lawyers and consideration of alternatives to trial based on expert reports. This is important because the actions of lawyers should not impact on the expert’s ability to meet their obligation to the Court. This case is also significant because her Honour recognised what occurs in practice and provides the insight to enable lawyers to consider carefully the role they play. 136

“Intoxication” Cases Decided by the Queensland Mental Health Court – Russ Scott and Joseph Briggs

In Queensland, the unique Mental Health Court is constituted by a Supreme Court judge sitting alone who is assisted by two senior mental health clinicians. In adopting an inquisitorial approach, the Mental Health Court is not bound by the rules of evidence and may inform itself in relation to the matter before it in any way it considers appropriate. No party bears the onus of proof of any matter to be decided by the Mental Health Court and any matter, including whether the person was intoxicated at the relevant time, must be decided “on the balance of probabilities”. Because the Queensland Mental Health Court only considers expert evidence and the Court is assisted by two senior clinicians, this unique jurisdiction has developed considerable case authority on questions of criminal responsibility and intoxication.