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PRETTY, PRICY, PERILOUS? DEMYSTIFYING NON-FUNGIBLE TOKENS AND HIGHLIGHTING SOME KEY LEGAL CONCERNS

Mark Giancaspro

There is currently a great deal of hype surrounding non-fungible tokens (NFT), fuelled largely by several high-profile and high-priced purchases. NFTs, which harness blockchain technology and represent digitally tokenised versions of assets, are largely misunderstood by regulators, lawyers, and even their users. Although they tend to have aesthetic and sentimental appeal, NFTs are also something of a legal anomaly. This article seeks to explain, in comprehensible terms, what NFTs are, and to highlight some of the key concerns that arise from their use across a variety of legal fields including contract, consumer, corporate,

taxation and intellectual property law. It is ultimately concluded that users should, for the reasons provided, exercise great caution when entering the NFT market. 457

DEVELOPMENT OF THE REFLECTIVE LOSS PRINCIPLE AND THE NEED FOR EXCEPTIONS IN AUSTRALIA

Dominic Rawlings

The reflective loss principle is an English common law rule, founded in policy, which prevents personal recovery by shareholders against a wrongdoer for loss that is not distinct from the company's, such as a diminution in share value. Despite Australian courts adopting this principle, seemingly without scrutiny, recent Australian jurisprudence has diverged from the latest English approach by maintaining the dual policy justification of the principle, namely the prevention of both double recovery and the circumvention of the rule in *Foss v Harbottle*. This article proposes that the uniform application of this principle may give rise to injustices by denying shareholders from recovering loss to which they are ought to be entitled. The solution? Expanding the categories of exceptions to circumstances where the two policy considerations are not engaged, for example, when the wrongdoer is insolvent, and where the company and wrongdoer have entered into a covenant not to sue. 468

A "DUTY TO DISCLOSE" FOR SERVICE OFFENCES? HOLCOMBE AND ITS IMPLICATIONS FOR AUSTRALIAN MILITARY LAW

Brendan Walker-Munro

Military forces around the world occupy a unique position among other employers: they have their own administration system, their own justice system, their own prison system. Yet much of the operation of these independent systems goes unnoticed by members of the public and unrecognised by broader justice frameworks. Such blindness can have tragic results. On 5 November 2017, a former United States Air Force (USAF) airman Devin Kelley opened fire in the First Baptist Church in Sutherland Springs, Texas, killing 26 and wounding another 22. In the civil litigation which followed, the US District Court found the USAF partly liable for failing to disclose a conviction for Kelley which would have prevented him from legally purchasing the firearm used in the shooting. So, under what circumstances might a military force owe a duty of care to the public to notify it of such circumstances? This article engages with that question (particularly examining Australian military law) to mount the argument that in certain circumstances the Australian Defence Force (ADF) may owe a duty of care to civilian authorities to notify them of certain conduct by ADF members. 485

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