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CURRENT ISSUES – *Editor: Justice François Kunc*

Two New Chief Justices	77
AI – Practice Notes and Other Developments	77
The Curated Page	82

CONVEYANCING AND PROPERTY – *Editors: Robert Angyal SC and Brendan Edgeworth*

When Is a Strata Bylaw “Unjust”: Owners Corporation SP6534 v Elkhouri [2024] NSWCA 279?	83
---	----

ENVIRONMENTAL LAW – *Editor: Justice Rachel Pepper*

Commonwealth	87
Significant Environmental Decisions of the High Court	88
Significant Environmental Decisions of the Federal Court	90
New South Wales	95
Significant Environmental Decisions in NSW	96
Northern Territory	99
Queensland	99
Victoria	103
Western Australia	105

AROUND THE NATION: NORTHERN TERRITORY – *Editor: Hon Dean Mildren AM RFD KC*

Update	107
--------------	-----

AROUND THE NATION: WESTERN AUSTRALIA – *Editor: The Hon Kenneth Martin KC*

Important Decision	109
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ARTICLES

RESOLVING STATUTORY OVERLAP IN THE SUPERANNUATION SYSTEM

M Scott Donald and Aryan Mohseni

Australia's national superannuation system enlivens a complex collage of Commonwealth and State laws and regulatory regimes. It therefore provides an opportunity to explore the operation of legislative devices designed to resolve issues of overlap in a practical setting of considerable consequence. This article assesses two of these devices: s 350 of the *Superannuation Industry (Supervision) Act 1993* (Cth) and s 5E of the *Corporations Act 2001* (Cth), and identifies the crucial role played by s 109 of the Australian Constitution in the curatorial process governed by those provisions. The article is also concerned with the potential for less obvious examples of regulatory overlap to go unnoticed, and examines specific examples that illustrate this potential. 114

THE INCREASING INTERSECTION OF CLASS ACTION AND REGULATORY PROCEEDINGS AND ITS IMPLICATIONS FOR THE OPERATION AND UTILITY OF AUSTRALIA'S CLASS ACTION REGIME

Simon Hochreiter

A recent consensus has emerged between courts and practitioners which indicates that the intersection of class action and regulatory proceedings is becoming more prevalent. The intersection of such proceedings creates challenges for Australian courts, parties and practitioners who are burdened with their co-ordination and disposition. It also poses thought-provoking questions regarding the utility of class action proceedings, in the limited circumstances where the relief which they seek is akin to that sought in a parallel regulatory proceeding. This article considers these issues in the context of a suite of recent high-profile parallel class action and regulatory proceedings. It also examines why the notable increase in intersecting class action and regulatory proceedings has emerged. 132

BOOK REVIEWS – Editor: Angelina Gomez

The American Law Institute: A Centennial History, edited by Andrew S Gold and Robert W Gordon 149

Sister Liguori: The Nun Who Divided a Nation, by Jeff Kildea 151

Australian Law Journal Reports

HIGH COURT REPORTS – Staff of Thomson Reuters

DECISIONS RECEIVED IN NOVEMBER/DECEMBER 2024

Defteros v Google LLC ([2024] HCASJ 6) (<i>High Court and Federal Court</i>)	206
Elisha v Vision Australia Ltd ([2024] HCA 50) (<i>Damages; Employment Law</i>)	171
Newett, Re ([2024] HCASJ 9) (<i>High Court and Federal Court</i>)	210
Pafburn Pty Ltd v Owners – Strata Plan No 84674 ([2024] HCA 49) (<i>Professions and Trades; Torts</i>)	148

