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Articles

With an ageing and generally affluent population, there are greater prospects of elder financial abuse. By adopting sound procedures, the legal profession can act to prevent this abuse. This article explores the best actions that legal practitioners can take from the first engagement to the long-term retention of records.

This article argues that the oppositional decisions of Bryson J in *National Australia Bank Ltd v Rusu* and Perram J in *Australian Competition and Consumer Commission v Air New Zealand Ltd [No 1]* regarding the inclusion and exclusion, respectively, of a question of authentication under the Australian Uniform Evidence Law are each wrong or inadequate in the reasoning and substantiation provided for the respective position adopted. It is further argued that the line of High Court authority regarding the interpretation of the clause in s 55 of the Uniform Evidence Law is wrong. On these bases, we construe the provisions of the Uniform Evidence Law, and their geneses in reports of the Australian Law Reform Commission and the United States Federal Rules of Evidence. We conclude the Uniform Evidence Law provides for a question of authentication to be considered by the tribunal of law as a precursor to a question of relevance. We suggest our analysis displaces 20 years of law that either wrongly states or inadequately reasons as to the role of authentication under the Uniform Evidence Law. We contend this article offers the correct construction of authentication under the Uniform Evidence Law and refutes incorrect reasoning which has informed the approach to authentication under the Uniform Evidence Law since enactment.

This article explores issues relevant to the pleading of two distinct yet related causes of action: conspiracy by lawful means, and conspiracy by unlawful means. It considers how these causes of action should be pleaded. It is hoped that the article will be of value to those interested in these economic torts, and to practitioners considering how to plead a tortious conspiracy in litigation before an Australian court.

A family law financial agreement made pursuant to pt VIIIA for parties to a marriage and pt VIIIAB for de facto relationships, of the Family Law Act 1975 (Cth), make it possible for parties to enter into an agreement with respect to the alteration of their property in the event of separation without a court scrutinising the terms. Where a party alleges their genuine consent or judgment has been compromised an application can be made to the Federal Circuit Court of Australia or Family Court of Australia pursuant to ss 90K and 90KA of the Family Law Act seeking the intervention of the common law or equity to overturn the financial agreement in circumstances where conduct is found to vitiate the agreement in the form of duress, undue influence or unconscionable conduct. This article explores the context in which equitable intervention, namely duress, undue influence and unconscionable conduct, were considered and applied by the High Court of Australia in the 2017 decision of *Thorne v Kennedy* and analyses the impact of the decision for legal practitioners and parties when negotiating, drafting and signing a family law financial agreement.

Case Note