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(articles, case notes and book review included in this part are linked to the two LexisNexis platforms)

CONTENTS

Articles

Up in *Armes*: The need for a map of strict liability for the wrongdoing of another in tort

— *Christine Beuermann*

1

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The current tests for imposing strict liability for the wrongdoing of another in tort are unhelpful. Not only do they provide judges with insufficient guidance as to how the tests are to be applied, but there is considerable uncertainty as to specific circumstances in which each of the different tests are to be applied. The confusion faced by the various judges in *Armes v Nottinghamshire County Council* is therefore understandable. This article outlines how focusing on the different relationships which give rise to the different types of strict liability for the wrongdoing of another in tort can provide a way through the confusion and assist judges to develop the law in a more consistent and coherent way.

'A hazy shade of liability': Duty of care of universities to prevent hazing

— *D K Srivastava, Aashish Srivastava and Neerav Srivastava*

25

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Hazing is an 'inhumane', cruel, and barbaric practice that is rampant in higher educational institutions. 2017 was a 'deadly' year in the United States and India. In Australia it is 'endemic'. The US has criminalised it. In India there are university anti-hazing regulations and hazing has been largely criminalised. These steps have proved inadequate. In Australia it has been proposed that hazing be criminalised and that there be stronger university governance. In the US, traditionally a no duty rule was applied in the law of negligence. Universities did not owe a duty to students for harm to students as a result of third party conduct. This changed in 1991 when it was held that universities owe a duty to students to prevent hazing. We submit such a duty applies in India and Australia. An 'inherent' aspect of negligence is that A is generally under no duty to prevent harm to B by C. For a duty to be imposed is 'exceptional'. It arises in the case of institutions as they have assumed responsibility for student safety and often have capacity to control many aspects of student life. Students should have private recourse against universities for their negligent failure to prevent hazing.

Illegality as a defence in negligence: Judge Gilbert's Formula
— *Justin Tan*

49

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This article seeks to find the best formula for the illegality defence in negligence. It does so step-by-step, finding the formula that best balances precision and fairness in each of three respects: (1) defining what suffices as a sufficiently illegal act of the plaintiff; (2) defining the required link between such act and the plaintiff's injury; and (3) giving effect to the policy aims of the defence in a negligence claim. Ultimately, this article proposes a formula consisting of three rules and a host of guidelines for the first and third rules. In particular, this article also shows why the Canadian formula based on inconsistency in the law is unsatisfactory and should be rejected.

Case Notes

Domestic care services and *Lord Campbell's Act* — A
comment on *Coote v Kelly*
— *Christopher Chiam*

77

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In *Nguyen v Nguyen*, the High Court allowed the relatives of a deceased to claim damages for domestic services that were previously provided to them. This head of damages has formed an important part of many claims brought under Lord Campbell's Act. However, recent case law has suggested that these damages have been abolished by the Civil Liability Act 2002 (NSW). This article analyses the cogency of this claim, and suggests that on the proper construction of the Act, these damages are still available.

How to prove what never was: *AVWest Aircraft Pty Ltd v Clayton Utz* and evidence of what company directors would have done — *Michael Douglas*

86

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Book Review

Damages and Compensation Culture by Eoin Quill and
Raymond J Friel (eds)
— *Prue Vines*

94

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