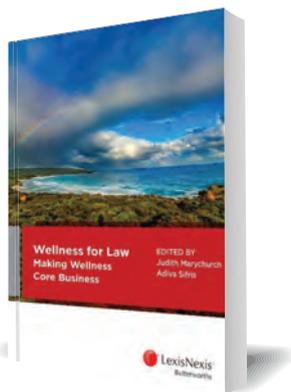


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This month's books cover Governor Macquarie and his wife Elizabeth, Indigenous treaty, wellness, and unconscionable conduct in consumer and commercial contracts.



Wellness for Law: Making Wellness Core Business

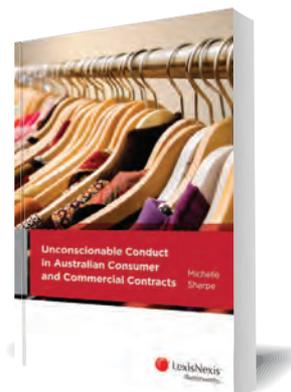
Judith Marychurch and Adiva Sifris (eds), LexisNexis Butterworths 2020, pb \$95

Ask a practitioner, a student, a student adviser or a law academic, what are the greatest challenges for the legal profession? The answer might be about issues of time and career uncertainty, when more appropriately the manifestation of this is the epidemic of stress (anxiety and depression). The acuteness of this issue starts at law school, through the profession (and support staff), to the bench. All of us would know someone who has been affected, and we probably have the regret of “if only we had known”. But we do know, the research shows at least 25 per cent of students and professionals admit to “unwellness”. This is not just a professional issue, it affects families and the community.

The book is a product of a consortium of almost 50 different contributors giving their own unique insights and experiences of teaching, working, interacting and having to assist colleagues, friends and others in troubled times. This study puts together first the idea of “wellness” (hope, health, satisfaction, relationships), recognising the signs of when something is wrong, both personally and by colleagues. Then the action available with processes and work culture to assist; perhaps with a consideration of what is going on in the workplace, eg, massive unpaid overtime expected and inappropriate time constraints? More fundamentally can we better equip students in curriculum that promotes wellness, awareness and personal skills and knowledge of what to do when stressed? Further, there are some interesting proposals in recognising “distress” and advice for a “safer” workplace and work practices, eg, peer mentoring and life work balances, such as music (perhaps singing in the ‘habeas chorus’).

Hopefully, this wonderful gathering of studies, observations and advice on pinpointing the seriousness of wellness, and strategies to achieve that, might be reflected in students armed with more than just legal knowledge, and a profession more attuned, aware and cooperative in making law a safer and healthier profession.

David Parker, law lecturer



Unconscionable Conduct in Australian Consumer and Commercial Contracts

Michelle Sharpe, LexisNexis Butterworths, 2018, pb \$136

This small book of six chapters in 314 pages by Dr Michelle Sharpe of the Victorian Bar provides a good and concise legal guide to practitioners and students on the legal consequences of conduct which may be unconscionable.

The first chapter on conscience in contract law provides an outline of the emergence of the relevant legal theory. It goes back to Aristotle (about 320BC) and includes case law going back to the 14th and 15th century (not too much of it).

The other five chapters introduce the law of duress (chapter 2), undue influence (chapter 3), unconscionable conduct (chapter 4), the legislation on unconscionable conduct, unjust contracts and unfair terms (chapter 5) and remedies and defences (chapter 6). Included is discussion of the classics such as *Amadio*, *Garcia*, many ACCC and ASIC cases and whether “moral obloquy” is a synonym of unconscionable. Missing is the classic *Fleetwood Mac* case (1974). There are some pedantic issues such as the spelling of “focuses”, consistency in the citation of legislation and whether or not to use *austlii* media neutral citations.

The book was published in 2018, so it includes the *Treasury Legislation Amendment Act* which extended unfair contract terms to small business in 2015. It was published before the conclusion of the Hayne Banking Royal Commission in 2019 which recommended extending the unfair contract terms provisions in the *ASIC Act* to insurance contracts. This has now been implemented in the *Financial Sector Reform (Hayne Royal Commission Response – Protecting Consumers (2019 Measures)) Act 2020* (Cth) which will take effect in April 2021. I would suggest working all the Royal Commission comments on unconscionable conduct in banking, credit, guarantees, financial services and insurance into a second edition to be released as soon as possible.

The book has a table of cases of 20 pages, a table of statutes of seven pages and an index of 24 pages. ■

Paul Latimer, adjunct professor, Swinburne Law School