ANNUAL REPORT 2016

ABOUT THE OBLIGATIONS GROUP

The Obligations Group at Melbourne Law School supports research and scholarly discourse on the law of obligations, which includes the law of contract, tort, unjust enrichment and restitution, equity and trusts, property, remedies and private law theory. The group provides a forum for academic discussion of these topics and facilitates interaction between academics and practitioners on issues of current interest.

PEOPLE

Professors Elise Bant and Matthew Harding continued in their roles as joint convenors of the Obligations Group in 2016. The members of the Obligations Group in 2016 were:

- Professor Graeme Austin
- Associate Professor Katy Barnett
- Mr Matthew Bell
- Dr Alysia Blackham
- Emeritus Professor Michael Bryan
- Mr Arlen Duke
- Mr Andrew Godwin
- Dr Linda Haller
- Dr Rosemary Langford
- Professor Ian Malkin
- Dr Wendy Ng
- Associate Professor Jeannie Paterson
- Professor Andrew Robertson
- Associate Professor Jason Varuhas

GRADUATE RESEARCH STUDENTS

MLS Research Higher Degree students affiliated with the Obligations Group in 2016 included Michael Crawford, Tobias Barkley, Robyn Honey, Kate Galloway, Grant Reithmuller and Paul Collins.
VISITORS

In 2016 the Obligations Group hosted a number of international scholars working in the field, including Assistant Professor Kathryn Chan from the University of Victoria, Canada, who visited from 4 to 9 April 2016 and Associate Professor Paul Miller of McGill University, who visited from 22 April to 1 May.

RESEARCH AND TEACHING

Obligations Group members teach in the areas of Equity and Trusts, Property, Private Law Theory, Consumer Law, Contract Law, Remedies, Tort and Restitution. Members also produce a substantial number and range of publications each year. Members draw on their research also to contribute to public debate on topical issues arising in this field. Below is an indicative list of publications produced by members of the Obligations Group over 2016. This is a short, representative selection only, in order to illustrate the range and quality of members’ publications and presentations. For a full statement of research and publication activities, please refer to their individual research profiles.

SELECTED BOOKS

- **Michael Bryan**, SE Degeling, MS Donald & VJ Vann, *A Sourcebook on Equity and Trusts in Australia* (Melbourne, CUP 2016)

SELECTED PEER-REVIEWED ARTICLES


• Matthew Harding, ‘Charitable Trusts and Discrimination: Two Themes’ (2016) 2 Canadian Journal of Comparative and Contemporary Law 227

• Matthew Harding, ‘Equity and the Rule of Law’ (2016) 132 Law Quarterly Review 278


• Jeannie Paterson and Elise Bant, ‘In the Age of Statutes, Why Do We Still Turn to the Common Law Torts?: Lessons from the Statutory Prohibitions on Misleading Conduct in Australia’ (2016) Torts LJ (forthcoming)

• Andrew Robertson, “The Limits of Interpretation in the Law of Contract’ (2016) 47 Victoria University of Wellington Law Review 327-343


SELECTED BOOK CHAPTERS AND OTHER PUBLICATIONS

• Elise Bant and Jeannie Paterson, Submission to the Australian Consumer Law Review regarding findings and recommendations arising from the grant project, Remedies at Common Law and under the Australian Consumer Law: Evolution and Revolution (www.consumerlaw.gov.au)


• Matthew Harding, ‘Fiduciary Undertakings’ in Paul B Miller and Andrew S Gold (eds), *Contract, Status, and Fiduciary Law* (Oxford University Press, Oxford, 2016) 71


• Matthew Harding, ‘Disgorgement of Profit and Fiduciary Loyalty’ in Simone Degeling and Jason Varuhas (eds), *Equitable Compensation and Disgorgement of Profit* (Hart, Oxford, 2016) 19


• Andrew Robertson, ‘The Foundations of Implied Terms: Logic, Efficacy and Purpose’ in Simone Degeling, James Edelman and James Goudkamp (eds), *Contract in Commercial Law* (Sydney, LawBook Co, 2016) 143-166

**SELECTED CONFERENCE PRESENTATIONS**


• **E Bant**, ‘Causation and Misleading Conduct’, presented at Kings College London, 4 July 2016


• **Matthew Bell**, ‘Freedom of Contract: the Balancing Act’, Peking University, Tsinghua University, Fudan University, Shanghai Jiao Tong University, China, March 2016

• **Matthew Bell**, ‘Construction Law Masterclass’, Law Institute of Victoria, Melbourne, 27 May 2016

• **Matthew Bell**, ‘Consumer-focused regulation of residential construction: Australia’, Construction, Consumers and the Law Conference, King’s College London, UK, 9 June 2016


• **Michael Bryan**, ‘The Inferred Trust: An Unhappy Marriage of Contract and Trust’, Public Lecture, Current Legal Problems Series, University College London, 5 May 2016
• Michael Bryan, ‘Maitland and the Unfinished Revolution in Equity’, Obligations VIII: Revolutions in Private Law, University of Cambridge, 19-22 July 2016


• Andrew Godwin, ‘Asian Litigants attitudes to adversarial litigation and mediation’, Victorian Bar, Melbourne, 24 March 2016


• Andrew Godwin, ‘Asia in the Courtroom’, Commercial Court of the Supreme Court of Victoria, Melbourne, 15 February 2016

• Matthew Harding, ‘Recent Reforms to Australian Charity Law’, Australian National Law Reform Conference, ANU, April 2016


• Rosemary Langford, ‘Client letters as a means of refining legal analysis and writing’, Legal Writing Symposium, 10 December 2015


• Andrew Robertson, ‘The Limits of Interpretation in the Law of Contract’, public lecture at Victoria University of Wellington, 23 February 2016

• Andrew Robertson, ‘Equitable Estoppel Revolutions’, Obligations VIII: Revolutions in Private Law, University of Cambridge, 19-22 July 2016

• Andrew Robertson, ‘Policy in Causation and Remoteness in the Law of Negligence’, Obligations Group Remedies Conference, Melbourne Law School, 7-9 December 2016

• Andrew Robertson, ‘Implied Contract Terms in the Common Law’, Lund University Centre for Business Law, 19 December 2016


• Jason N E Varuhas, Panel Discussion on Damages and Human Rights with Professor Brice Dickson (Queen’s Belfast), Mr James Lee (KCL) and Dr Paul Daly (Montreal), University of Montreal, 26 May 2016

• Jason N E Varuhas, Panel Discussion on Damages and Human Rights with Professor Claudia Geiringer (VUW), Hon Justice Matthew Palmer (NZ High Court), and Mr Chris Curran (Partner, Russel McVeigh), Victoria University of Wellington, 1 June 2016

• Jason N E Varuhas, Panel Discussion on Damages and Human Rights with Professor Carol Harlow (LSE), Professor Christopher Forsyth (Cambridge), and Professor Robert Stevens (Oxford), SLS Annual Conference, Oxford, 5-9 September 2016
**ENGAGEMENT ACTIVITIES**

The events calendar of the Obligations Group has been expanding each year. Lunchtime and evening seminars and workshops have continued to provide a regular focal point for Group members and colleagues. Below is an indicative list of events and activities hosted by the Obligations Group in 2016.

<table>
<thead>
<tr>
<th>Date</th>
<th>Type</th>
<th>Description</th>
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<tbody>
<tr>
<td>22 March</td>
<td>Lunchtime seminar</td>
<td>Emeritus Professor Michael Bryan (Melbourne Law School) led a seminar on ‘Contract Law Trumping Trusts Law: The Problem of the Inferred Commercial Trust’.</td>
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<td>26 April</td>
<td>Lunchtime discussion</td>
<td>The Group held a lunchtime discussion on the nature of fiduciary obligations and fiduciary relationships with Associate Professor Paul Miller, visiting from McGill University.</td>
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<tr>
<td>11 May</td>
<td>Lunchtime seminar</td>
<td>Professor David F. Partlett (Emory University) led a seminar on ‘Apple: Privacy, Security and Surveillance’. Co-hosted with CMCL and IPRIA.</td>
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<td>1 June</td>
<td>Obligations VIII Conference Preparation Workshop</td>
<td>The Group led a preparation workshop for those presenting at the Obligations VIII Conference in Cambridge. Elise Bant, Jeannie Paterson, Katy Barnett and Michael Bryan all presented papers on a wide range of topics that included issues of contract, tort, equity, unjust enrichment, remedies and consumer law.</td>
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<tr>
<td>13 July</td>
<td>Public lecture</td>
<td>The penalties doctrine in international construction contracting: where to from here? presented by Doug Jones, AO (Melbourne Law School). Co-hosted with the Society of Construction Law Australia, the Australian Centre for International Commercial Arbitration, the Chartered Institute of Arbitrators Australia and Corrs Chambers Westgarth.</td>
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<tr>
<td>2 September</td>
<td>Evening seminar</td>
<td>‘The Future of Unjust Enrichment and Restitution Law in Australia’: panel discussion with Professor Keith Mason, Professor Elise Bant and Emeritus Professor Michael Bryan.</td>
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<td>7 December</td>
<td>Colloquium</td>
<td>Colloquium event presented by Professor Elise Bant and Associate Professor Jeannie Paterson on their ARC Discovery project ‘Remedies under the Australian Consumer Law: Evolution and Revolution’.</td>
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<tr>
<td>7-9 December</td>
<td>Annual Conference</td>
<td>Annual Obligations Group Conference. The 2016 theme is ‘Remedies’. This year's conference involved 26 speakers and over 50 registered attendees from across Australia, New Zealand, Hong Kong and Singapore.</td>
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