

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 2015.

The members of the Obligations Group in 2015 were:

- Associate Professor Katy Barnett
- Emeritus Professor Michael Bryan
- Mr Arlen Duke
- Mr Matthew Bell
- Mr Andrew Godwin
- Dr Linda Haller
- Dr Rosemary Langford
- Professor Ian Malkin
- Associate Professor Jeannie Paterson
- Professor Andrew Robertson

Graduate Research Students

MLS Research Higher Degree students affiliated with the Obligations Group in 2015 included Michael Crawford, Tobias Barkley, Robyn Honey, Kate Galloway, Grant Reithmuller and Paul Collins.

Visitors

In 2015 the Obligations Group hosted a number of international scholars working in the field, including Professor Andrew Gold of De Paul University, Dr Eric Descheemaeker of the University of Edinburgh, and Professor William Swadling of the University of Oxford.

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 2015.

Selected books

N Witzleb, **Elise Bant**, S Degeling and K Barker (eds.), *Remedies: Commentary and Materials* (6th ed.) (Sydney: Thompson Reuters, 2015).

Selected peer-reviewed articles

Elise Bant and Michael Bryan, 'Fact, Future and Fiction: Risk and Reasonable Reliance in Estoppel' (2015) *Oxford Journal of Legal Studies*, 1-26.

Elise Bant, 'Common Law and Statute: Interaction and Influence in Light of the Principle of Coherence' (2015) 38 *University of NSW Law Journal*, 362-386.

Matthew Bell and Jeremy Coggins, 'Beyond the Nutcracker Suite: International Harmonisation of Construction Industry Payment Legislation' (2015) 32 *International Construction Law Review*, 186-213.

Andrew Godwin and Ian Ramsay, 'The Asia Region Funds Passport Initiative' (2015) 7 *International Company and Commercial Law Review*, 236-243.

Andrew Godwin, 'Teaching Transactional Law: A Case Study from Australia with Reference to the US Experience' (2015) 16 *Transactions: The Tennessee Journal of Business Law* 2, 343-372.

Andrew Godwin and Ian Ramsay, 'Financial Products and Short-form Disclosure Documents: A Comparative Analysis of Six Jurisdictions' (2015) 10 *Capital Markets Law Journal* 2, 212-238.

Matthew Harding, 'Discretion and Taxonomy in Private Law' (2015) 3 *Judicial College of Victoria Journal*, 19-23.

Javad Asghari, Kristian Cywicki and **Wayne Jovic**, 'Enforcement of Adjudication Determinations' (2015) 31 *Building and Construction Law Journal* 4, 208-230.

Rosemary Teele Langford, 'Conflicts, Proactive Disclosure and section 181 of the *Corporations Act*' (2015) 33 *Company & Securities Law Journal*, 205-11.

Rosemary Teele Langford, 'General Law and Statutory Directors' Duties: "Unmixed Oil and Water" or "Integrated Parts of the Whole Law?" (2015) 131 *Law Quarterly Review*, 635-51.

Rosemary Teele Langford and Ian M Ramsay, 'Directors' Duty to Act in the Interests of the Company – Subjective or Objective?' (2015) *Journal of Business Law* 2, 173-82.

Jeannie Paterson and Gerard Brody, 'Safety Net Consumer Protection' (2015) 38 *Journal of Consumer Policy*, 331-355.

Selected book chapters and other publications

Elise Bant and **Jeannie Paterson**, 'Limitations on Defendant Liability for Misleading or Deceptive Conduct under Statute: Some Insights from Negligent Misstatement' in K Barker, W Swain and R Grantham (eds.), *The Law of*

Misstatements: 50 Years on from Hedley Byrne v Heller (Hart Publishing, 2015) 159-190.

Andrew Godwin, 'Surveying the Twin Peaks of Australia's Financial System' in Sheelagh McCracken and Shelley Griffiths (eds.) *Making Banking and Finance Law: A Snapshot* (Ross Parsons, 2015).

Andrew Robertson, 'The Assumption of Responsibility' in K Barker, R Grantham and W Swain (eds), *The Law of Misstatements: 50 Years on from Hedley Byrne v Heller* (Oxford: Hart Publishing, 2015), 49-82 (with J Wang).

Selected conference presentations

Elise Bant, 'Change of Position: The Outstanding Issues' paper presented via Skype at the Defences to Unjust Enrichment Conference, University of Oxford, 10 January 2015.

Andrew Godwin, 'Using Transactional and Experiential Techniques to Teach Corporations Law', Australian Corporate Teachers Association, Melbourne Law School, 1 February 2015.

Rosemary Teele Langford, 'Proactive Disclosure' as Part of Good Faith in the Corporate Law Context', paper presented at Corporate Law Teachers Association Conference, Melbourne Law School, 2 February 2015.

Katy Barnett and **Michael Bryan**, 'Lord Cairns's Act: A Case Study in the Unintended Consequences of Legislation,' paper presented at the 'Equity in the Age of Statutes' Conference, University of Melbourne, 27 February 2015.

Matthew Harding, 'Equity and Statute in Charity Law', paper presented by invitation at the 'Equity in the Age of Statutes Conference, University of Melbourne', 27 February 2015.

Jeannie Paterson, 'Unconscionable Conduct under Statute and in Equity', paper presented at the 'Equity in the Age of Statutes' Conference, University of Melbourne, 27 February 2015.

Elise Bant, 'Change of Position – Unjust Enrichment and *AFSL v Hills Industries*', paper presented at the Bar Association of Queensland Annual Conference, Gold Coast, 7 March 2015.

Matthew Bell, 'International Construction Law as a "Private Legal System"', paper presented at the Society of Construction Law Romania Conference, Bucharest, 20 March 2015.

Rosemary Teele Langford, 'Challenges Posed by Directors' Duties', panel presentation at joint seminar of the Centre for Corporations Law and Securities Regulation and Commercial Bar Association of Victoria, 3 May 2015.

Michael Crawford, 'The Peculiarity of Property,' paper presented at an Obligations Group seminar on 21 May 2015.

Matthew Harding, 'Equity and the Rule of Law', paper presented by invitation at the Judges and the Academy Workshop, Judicial College of Victoria, June 2015.

Matthew Bell and **Wayne Jovic**, 'Negligence Claims for Defective Building Work', paper presented at the RICS COBRA Conference, Sydney, 9 July 2015.

Matthew Harding, 'Trustees' Powers and Social Justice', paper presented by invitation at the Modern Studies in the Law of Trusts and Wealth Management Conference, Singapore Management University, July 2015.

Matthew Harding, 'Disgorgement of Profit and Fiduciary Loyalty' presented by invitation at the Compensation and Disgorgement Remedies Workshop, University of New South Wales, August 2015.

Matthew Harding, 'Trustees' Powers and Social Justice' presented by invitation at the Private Law and Power Symposium, University of Queensland, September 2015.

Andrew Godwin, 'Achieving Effective Disclosure', paper presented to the Banking and Financial Services Law Association, 1 September 2015.

Paul Collins, 'Liability for Profits in Breach of Contract', paper presented at an Obligations Group seminar, Melbourne Law School, 6 October 2015.

Matthew Harding, 'Fiduciary Undertakings' to be presented by invitation at the Contract, Fiduciaries and Status Symposium, McGill University, November 2015.

Engagement activities

The events calendar of the Obligations Group has been expanding each year. The lunchtime seminar series has continued to provide a regular focal point for Group members and colleagues. This year the Group hosted members of the judiciary and the academic community in its first roundtable event in July 2015. The format proved highly successful and two roundtable events are planned for 2016 to be co-hosted by the Obligations Group and the Victorian Court of Appeal on the invitation of President Chris Maxwell.

Below is an indicative list of events and activities hosted by the Obligations Group in 2015.

February 17	Lunchtime seminar	Dr Jason Varuhas of the University of New South Wales led a seminar on 'Recognising the Distinctiveness of the Common Law of Review'. Co-hosted with CCCS.
February 27	Conference	One day conference held at MLS on the theme 'Equity in the Age of Statutes'. Papers were presented by Obligations Group members Emeritus Professor Michael Bryan and Associate Professor Katy Barnett, Professor Matthew Harding, and Associate Professor Jeannie Paterson.
May 21	Lunchtime seminar	Obligations Group PhD student Michael Crawford led a seminar on 'The Peculiarity of Property'.
July 23	Lunchtime seminar	Dr Eric Descheemaeker of the University of Edinburgh led a seminar on 'Wrong and Harm: Two Models of Tort Law'.
July 27	Lunchtime seminar	Professor Andrew Gold of De Paul University led a seminar on 'Disgorgement and the Right to Do Wrong'.
July 28	Roundtable	Evening roundtable event on fiduciary duties attended by members of the judiciary and colleagues from other universities. Presentations by visiting Professor Andrew Gold, Professor Matthew Harding and Dr Rosemary Langford.
August 6	Public lecture	Professor William Swadling of the University of Oxford gave a very well-attended public lecture on 'Substance and Procedure in Equity'.
August 11	Lunchtime seminar	Professor Ben McFarlane of University College London led a seminar on 'Equitable Estoppel as a Cause of Action'
September	Lunchtime	Professor Sarah Worthington of the University of

16	seminar	Cambridge led a seminar on 'What is Equitable about Equitable Compensation?'
October 6	Lunchtime seminar	MLS LLM student Paul Collins led a seminar on 'Liability for Profits in Breach of Contract'.
November 10	Seminar	Seminar co-hosted by the Commercial Bar of Victoria, the Centre for Corporations Law and Securities Regulation and the Obligations Group at the Melbourne Commercial Arbitration and Mediation Centre. Emeritus Professor Michael Bryan will present on 'Recent Developments in the Law of Trusts'.
November 12	Lunchtime seminar	Vivi Tan of Victoria University will lead a seminar on contractual risk in off the plan sales.
December 2-4	Conference	The Obligations Group annual conference will run in 2015 from Wednesday 2 December to Friday 4 December. Due to increasing interest, this year the conference will run for three instead of two days. The theme for this year is Equity, and the conference will host over 40 scholars from 16 institutions in 3 countries.

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MELBOURNE LAW SCHOOL