

Unconscionable Conduct, The Laws of Australia

Edited by Paul Vout
Pp. 1-LXVI, 1-572

THE book originally appeared in the title of *Unfair Dealing In The Laws Of Australia Encyclopaedia*. It provides a comprehensive analysis of the concepts of the misrepresentation, estoppel, duress, undue influence and unconscionable dealing. Its sections are referenced to the related titles and subtitles in the Laws of Australia,

I found the book easy to follow as it led me through the various topics, and the format employed was designed to express in simple terms the un-simple. To give one example in relation to inducement the authors' wrote [35.2.4x]:

The onus of proving the inducement is on the recipient, his understanding of the representation must be the subject of evidence. This is ordinarily satisfied by calling the representee or his servant or agent to

give direct oral evidence to the effect which the representation had on his mind.

That simple proposition is supported by reference to a number of cases which are cited in the footnotes. It is evident from the footnotes that the authors have done much research. The propositions that are developed are supported by reference to decided cases. For a practitioner, this is a very important starting point, whether it be the writing of an opinion or the presentation of the case before the Court. A further example may given in reference to unconscionability, where in Chapter 3 they explore in detail the various notions of unconscionability such as the exploitation of vulnerability, the abuse of the position of trust or of confidence, the harsh and oppressive exercise by one party of his or her rights, the denial of obligation and the unjust retention of property.

This is a book I would thoroughly recommend for any person whose practice involve the application of commercial law. The views of the authors are expressed succinctly and are of valuable assistance.

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