

additional payment for the acceleration.

Paula McCabe tells us that the High Court does not consider that the principles of contributory negligence and causation apply in assessing damages under section 82 of the *Trade Practices Act 1974* (Cth). The consequence is that to some extent a successful plaintiff will receive more damages than he or she would have had had the loss resulted from a breach of contract or tort. Kirby J dissented saying that '[p]roviding windfall gains to litigants is not part of the scheme of the legislation'.

Campbell Paine discusses the question of whether or not extrinsic evidence should be admitted to impugn the finding of an expert (in the cases referred to, valuers). The position varies in different states and the United Kingdom but the position would seem in NSW that the admission of such evidence will be unlikely. Megan Calder has written a note on the Victorian decision of *FGT Custodians Pty Ltd v Fagenblat*. The *ratio* of the case is that 'perceived bias or lack of independence is not sufficient to prevent an expert from giving evidence'. This mildly surprising proposition is subject to the *caveat* that the court will use its discretion in deciding what weight should be given to the evidence. The author expresses the further view that the recently promulgated codes of conduct for expert witness will not change the position. Continuing with this theme, a note from Sparke Helmore is a timely reminder of the care needed in dealing with the reports of expert witnesses.

In addition to the articles referred to above there are excellent pieces on: the *Architects Act 2002* (Qld), the NSW Land and Environment Court, industrial law and contracts. Julia Strettel's article on contracts warms your editor's heart. As a person who learned contract law from Anson, it is reassuring to see

that the rules of offer and acceptance are alive and well despite some body blows from Lord Denning in *Gibson v Manchester City Council* [1979] 1 WLR 294.

EDITOR'S NOTE

It has been drawn to our attention that in an article reproduced in issue #93 of the *ACLN* from the *Melbourne University Law Review (MULR)* entitled 'The interaction of directors' duties and sustainable development in Australia—setting off on the uncharted road', we identified the authors James McConvill and Martin Joy and referred to the fact that they were employed by the law firms Allens Arthur Robinson and Mallesons Stephen Jaques respectively. This information did not appear in the original *MULR* article and we gleaned it only after contacting the authors who did not request that we publish details of their employment.

As indicated in the editorial to issue #93, the article is one of considerable interest wherein the authors attempt to foresee future developments in the law. We acknowledge, and would like to emphasise, that the views expressed are not the views of Allens Arthur Robinson or Mallesons Stephen Jaques and publication of the details of authorship was not intended to convey that impression
