



NEW SOUTH WALES
BAR ASSOCIATION

Surrounding Circumstances in Contractual Interpretation: the State of the Law

Presenter:

John Eldridge, Lecturer,
The University of Sydney

Chair:

Greg Tolhurst

NSW Bar Association

Common Room

1.00pm - 2.00pm

Monday 15 October

1 HOUR SEMINAR
1 CPD POINT IN THE SUBSTANTIVE LAW,
PRACTICE AND PROCEDURE, AND
EVIDENCE STRAND

For several decades, the High Court's pronouncements on the subject of contractual interpretation have generated confusion in intermediate appellate courts and caused considerable academic debate. The key difficulty relates to the question of when recourse may be had to evidence of 'surrounding circumstances' as an aid to construction. In particular, a controversy has emerged in recent years as to whether it is necessary to point to 'ambiguity' as a precondition to the use of such evidence as an aid to construction. Though this question is fundamental and of some considerable importance, the task of answering it is far from straightforward. The object of this paper is to explain the nature of the difficulty in respect of this question, and to consider a number of recent developments both in the High Court and in intermediate appellate courts. In doing so, it is sought to offer an assessment of the present state of the law and a view as to its likely future development.

REGISTRATION NOT REQUIRED

For more information, please contact Tiffany McDonald
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