# Recent Article Entitled "Pleading and Proving Foreign Law in Australia"

James McComish, my Australian Conflict of Laws.net co-editor, has recently had published an article entitled "Pleading and Proving Foreign Law in Australia" in volume 31(2) of the *Melbourne University Law Review*. The abstract reads:

> *Foreign law lies at the heart of private international law. After all, a true conflict of law cannot be resolved unless and until the content of foreign law is established. Despite this, the pleading and proof of foreign law remain among the most under-explored topics in Australian private international law. In light of the High Court of Australia's significant change of direction on choice of law since 2000, most notably in cases such as John Pfeiffer Pty Ltd v Rogerson, Regie Nationale des Usines Renault SA v Zhang and Neilson v Overseas Projects Corporation of Victoria Ltd, it is all the more important to answer some of the basic questions about the pleading and proof of foreign law. Who pleads foreign law? What law do they plead? Are they obliged to do so? How do they prove its content? When can local law be applied in the place of foreign law? This article addresses these and related questions with a particular focus on Australian law as it has developed since 2000. It concludes that Australian courts take a more robust and pragmatic approach to these issues than might be supposed. In particular, the so-called presumption of identity is a label that masks a much richer and more complex reality.*

The article's full citation is (2007) 31(2) *Melbourne University Law Review* 400.