

Australian article round-up 2011: Arbitration

Continuing the Australian article round-up, readers may be interested in the following two articles raising points about arbitration:

- **Andrew Bell, 'Dispute Resolution and Applicable Law Clauses in International Sports Arbitration' (2010) 84 *Australian Law Journal* 116:**

Choice of law clauses and jurisdiction or arbitration agreements play a critical role in international commerce. They also play an increasingly important role in sporting disputes by reason of the ever-growing internationalisation and commercialisation of sport. The presence of such clauses does not, however, guarantee the elimination of interlocutory or adjectival contests concerning the law which will govern, and the forum or mode of dispute resolution that will apply, to the determination of an international sporting dispute. This article examines standard sports-related choice of law clauses and arbitration agreements, and considers the emerging jurisprudence in this field.

- **Geoffrey Fisher, 'Anti-Suit Injunctions to Restrain Foreign Proceedings in Breach of an Arbitration Agreement' (2010) 22 *Bond Law Review* 1:**

*The anti-suit injunction is the remedial device available in common law systems to restrain a party from instituting or continuing with proceedings in a foreign court. ... [A] recognised category for the issue of an anti-suit injunction is where a plaintiff has commenced proceedings in a foreign court in breach of a contractual promise, for example, in breach of an exclusive jurisdiction clause or an arbitration agreement. In this type of case there is a tension between the interests of comity on the one hand and the policy of upholding contractual undertakings on the other. The English Court of Appeal in *Aggeliki Charis Campania Maritima SpA v Pagnan SpA (The Angelic Grace)* can be regarded as having inaugurated a more liberal approach to the jurisdiction to grant an anti-suit injunction restraining breach of an arbitration agreement. The tension between comity and contractual bargain was largely resolved in favour of the*

latter. This paper examines the nature and extent of the liberalisation worked by The Angelic Grace and subsequent English decisions.