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LIST OF PUBLICATIONS

(as at October 2022, and in descending chronological order per category)

BOOKS

1. *The Modern Doctrines of Champerty and Maintenance* (Oxford University Press, 2023, forthcoming – submission of manuscript in Jul 2022)
2. *Principles of Tort Law* (2nd edn, Cambridge University Press, 2020) lxxiii + 1,036 pp
3. *Class Actions and Government* (Cambridge University Press, 2020) lxii + 412 pp
4. *Principles of Tort Law* (Cambridge University Press, 2016), lxxix + 1,047 pp (18 chapters), plus 10 further chapters available at: www.cambridge.org/mulheron, under the ‘Resources’ tab
5. *Medical Negligence: Non-Patient and Third Party Claims* (Ashgate Publishing, London, 2010), xlix + 419pp
6. *The Modern Cy-Près Doctrine: Applications and Implications* (Routledge Cavendish, London, 2006), lxi + 337pp
7. *The Class Action in Common Law Legal Systems: A Comparative Perspective* (Hart Publishing, Oxford, 2004), lxxvii + 535pp

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8. ‘*Third Party Funding, Class Actions, and the Question of Regulation: A Topical Analysis*’ (2022) 2 *Mass Claims Journal* 5–18
9. ‘*Further Impetus for a Statutory Class Action, Post-Lloyd v Google*’ (2022) *Civil Justice Quarterly* [forthcoming]
10. ‘*The Tort of Malicious Prosecution of Civil Proceedings: A Critique and a Proposal*’ (2022) 42 *Legal Studies* 470–90
11. ‘*A Priceless Opportunity: Class Actions post-Merricks v Mastercard Inc*’ (2021) 1 *Mass Claims Journal* 49–64

12. **'Creating, and Distributing, Common Funds Under the English Representative Rule'** (2021) 32 *King's Law Journal* 381–413
13. **'Asserting Personal Jurisdiction over Non-resident Class Members: Comparative Insights for the United Kingdom'** (2019) 15 *J of Private International Law* 445–489
14. **'Revisiting the Class Action Certification Matrix in Merricks v Mastercard Inc'** (2019) 30 *King's Law Journal* 396–425
15. **'Joining the United Kingdom's Class Action as a Non-Resident: A Legislative Drafting Conundrum'** (2020) 39 *Civil Justice Quarterly* 69–89
16. **'Restitutionary Relief in Competition Law Class Actions: An Evolving Landscape'** [2018] *Restitution L Rev* 1–41
17. **'The Mere Mirage of a Class Action? A Challenge to Merricks v Mastercard Inc'** (2018) 37 *Civil Justice Quarterly* 216–256 (co-authored with Douglas Edlin)
18. **'The United Kingdom's New Opt-out Class Action'** (2017) 37 *Oxford Journal of Legal Studies* 814–843
19. **'Has Montgomery Administered the Last Rites to Therapeutic Privilege? A Diagnosis and a Prognosis'** [2017] *Current Legal Problems* 149–188
20. **'Legislating Dangerously: Bad Samaritans, Good Society, and the Heroism Act 2015'** (2017) 80 *Modern Law Review* 88–109
21. **'A Spotlight on the Settlement Criteria Under the United Kingdom's New Competition Class Action'** (2016) 35 *Civil Justice Quarterly* 1–15
22. **'A Channel Apart: Why the United Kingdom has Departed from the European Commission's Recommendation on Class Actions'** (2015) 17 *Cambridge Yearbook of European Legal Studies* 36–65
23. **'Third Party Funding and Class Actions Reform'** (2015) 131 *Law Quarterly Review* 291–320
24. **'England's Unique Approach to the Self-Regulation of Third Party Funding: A Critical Analysis of Recent Developments'** (2014) 73 *Cambridge LJ* 570–597
25. **'The Damages-Based Agreements Regulations 2013: Some Conundrums in the "Brave New World" of Funding'** (2013) 32 *Civil Justice Quarterly* 241–55
26. **'The Recognition, and Res Judicata Effect, of a United States Class Actions Judgment in England: A Rebuttal of Vivendi'** (2012) 75 *Modern Law Review* 180–211
27. **'Rewriting the Requirement for a "Recognized Psychiatric Injury" in Negligence Claims'** (2012) 32 *Oxford J of Legal Studies* 1–36

28. **'Recent Milestones in Class Actions Reform in England: A Critique and a Proposal'** (2011) 127 *Law Quarterly Rev* 288–315
29. **'A Missed Gem of an Opportunity for the Representative Rule'** [2012] *European Business L Rev* 49–60
30. **'Opting In, Opting Out, and Closing the Class: Some Dilemmas for England's Class Actions Law-Makers'** (2011) 50 *Canadian Business LJ* 376–408
31. **'Trumping Bolam: A Critical Legal Analysis of Bolitho's "Gloss"'** (2010) 69 *Cambridge LJ* 609–638
32. **'Emerald Supplies Ltd v British Airways plc: A Century Later, the Ghost of Markt Lives On'** (2009) 8 *Competition LJ* 159–179
33. **'Cy-Près Damages Distributions in England: A New Era for Consumer Redress'** (2009) 20 *European Business L Rev* 307–342
34. **'The Case for an Opt-out Class Action for European Member States: A Legal and Empirical Analysis'** (2009) 15 *Columbia J of European Law* 419–462
35. **'The "Primary Victim" in Psychiatric Illness Claims: Reworking the "Patchwork Quilt"'** (2008) 19 *King's College LJ* 81–112
36. **'Third Party Funding of Litigation: A Changing Landscape'** (2008) 27 *Civil Justice Quarterly* 312–341 (co-authored with Peter Cashman)
37. **'Justice Enhanced: Framing an Opt-out Class Action for England'** (2007) 70 *Modern Law Review* 550–580
38. **'A New Framework for Privacy? A Reply to Hello!'** (2006) 69 *Modern Law Review* 679–713
39. **'Some Difficulties with Group Litigation Orders—and Why a Class Action is Superior'** (2005) 24 *Civil Justice Quarterly* 40–68
40. **'From Representative Rule to Class Action: Steps rather than Leaps'** (2005) 24 *Civil Justice Quarterly* 424–449
41. **'Some Comparative Observations On Res Judicata for Canada's Newest Class Action Regime'** (2004) 30 *Manitoba LJ* 171–195
42. **'The Defence of Therapeutic Privilege'** (2003) 11 *J of Law and Medicine* 201–213
43. **'Secondary Victim Psychiatric Illness Claims Revisited'** (2003) 14 *King's College LJ* 213–224
44. **'Contributory Negligence: Should Professional Fiduciaries Accept All the Blame?'** (2003) 19 *Tolley's J of Professional Negligence* 422–438

45. *'The March of Pure Economic Loss ... but to Different Drums'* (2003) 7 *Canberra L Rev* 87–108
46. *'Access to Essential Infrastructure: Proposals and Precepts for Part IIIA of the TPA'* (2003) 77(9) *Law Institute Journal* 34–38 (co-authored with Brenda Marshall)
47. *'Declarations Under Part IIIA of the Trade Practices Act: The Case for Abolishing the Public Interest Criterion'* (2003) 15 *Bond L Rev* 284–301 (co-authored with Brenda Marshall)
48. *'Declarations of Essential Services Under Part IIIA of the Trade Practices Act: A 'Discipline' on Access Reform'* (2003) 31 *University of Western Australia L Rev* 226–265 (co-authored with Brenda Marshall)
49. *'Access to Essential Facilities under Section 36 of the Commerce Act 1986: Lessons from Australian Competition Law'* (2003) 9 *Canterbury L Rev* 248–267 (co-authored with B Marshall)

Prize: Winner of The Hon Rex Mason Prize (for best New Zealand legal article of 2003)
50. *Web Companion for Equity and Trusts* (Butterworths Sydney 2002) electronic, available at www.lexisnexis.com.au/aus/academic/default.asp, by subscription only (approx 80,000 words).
51. *'Loans, Losses and Liability: Lessons from Foreign Currency Litigation in Australia'* (2000) 11 *J of Banking and Finance Law and Practice* 175–200 (co-authored with Brenda Marshall)
52. *'Twelve Factors to determine whether a Medical Risk is Material'* (2000) *National L Rev* 1 (available online at: <http://pandora.nla.gov.au/parchive/2001/Z2001-Mar-13/web.nlr.com.au/nlr/HTML/Articles/mulheron/mulheron.htm>)
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54. *'Juries, Medical Negligence and Causation in the High Court of Australia'* (2000) 8 *Tort L Rev* 19–23 (co-authored with John Gordon)
55. *'The Availability of Exemplary Damages in Negligence'* (2000) 4 *Macarthur L Rev* 61–85
56. *'The Money in the Briefcase: Flack and Title to Sue in Conversion'* (2000) 5 *Deakin L Rev* 205–216
57. *'Exemplary Damages in Tort: An International Comparison'* (2000) 2 *University of Notre Dame Australia L Rev* 17–51
58. *'The Interplay of Quiet Enjoyment and Assignment'* (2000) 8 *Australian Property LJ* 181–184
59. *'The MUA Litigation: Marrying Injunctive Relief and Labour Supply Contracts'* (1999) 6 *James Cook University L Rev* 152–164
60. *'Solicitors' Conflicts of Duty and Interest: Some Recent Cases'* (1999) 1 *University of Notre Dame*

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61. ‘*New Forays of Equitable Remedies into Commercial “Personal Service” Contracts*’ (1999) 4 *Newcastle L Rev* 19
62. ‘*Charging for Admission: A Lawyer’s Guide to Access Pricing under Part IIIA of the Trade Practices Act 1974*’ (1998) 6 *Trade Practices LJ* 132–141 (co-authored with Brenda Marshall)
63. ‘*Partnership Land and Caveats—An Uneasy Alliance*’ (1998) 18 *Queensland Lawyer* 212–219
64. ‘*Access to “Essential Facilities” under Part IIIA of the Trade Practices Act: Implementing the Legislative Regime*’ (1998) 10 *Bond L Rev* 99–117 (co-authored with Brenda Marshall)
65. ‘*Quantum Meruit upon Discharge for Repudiation*’ (1997) 16 *Australian Bar Rev* 150–180
66. ‘*Good Faith and Commercial Leases: New Opportunities for the Tenant*’ (1996) 4 *Australian Property LJ* 223–250
67. ‘*Survey Evidence in Passing-off and Trademark Litigation—Admissibility and Weight*’ (1996) 26 *Queensland Law Society Journal* 449–460
68. ‘*Criminal Enforcement of Environmental Law: Limitations and “Flat Earth Thinking” Sanctions*’ (1996) 26 *Queensland Law Society Journal* 427–444

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69. ‘*Lord Woolf, Multi-Party Situations, and Limitation Periods*’, in A Higgins *et al* (eds), *The Civil Procedure Rules at Twenty* (OUP, Oxford, 2020), ch 11, 133–51
70. ‘*Duties in Contract and Tort*’ in J Laing and J McHale (eds), *Principles of Medical Law* (4th edn, OUP, Oxford, 2017) (updating of Mulheron’s 3rd edn chapter), ch 3
71. ‘*Class Actions and Law Reform: Insights from Australia and England, a Quarter of a Century Apart*’ in D Graves and H Mould (eds), *25 Years of Class Actions in Australia* (Ross Parsons, Sydney, 2017), ch 14, 303–23
72. ‘*Recent United Kingdom and French Reforms of Class Actions: An Unfinished Journey*’ in E Lein *et al* (eds), *Collective Redress in Europe: Why and How?* (BIICL, London, 2015), Pt II, 97–115
73. ‘*Damages-based Agreements*’ in R Pirozzolo (ed), *Litigation Funding Handbook* (Law Society of England and Wales, London, 2014), ch 7, 105–119
74. ‘*In Defence of the Requirement for Foreign Class Members to Opt-in to an English Class Action*’ in D Fairgrieve and E Lein, *Extraterritoriality and Collective Redress* (OUP, Oxford, 2012), ch 14, 245–266
75. ‘*The Impetus for Class Actions Reform in England Arising From the Competition Law Sector*’

in S Wrška *et al* (eds), *Collective Actions: Enhancing Access to Justice and Reconciling Multilayer Interests?* (CUP, Cambridge, 2012), ch 15, 385–412

76. **‘Disgruntled Customers and Bank Charges: Class Actions (Reform) Activity’** in S Grundmann *et al*, *Financial Services, Financial Crisis and General European Contract Law: Failure and Challenges of Contracting* (Wolters Kluwer, The Hague, 2011), ch 11, 279–298
77. **‘Duties in Contract and Tort’** in A Grubb, Laing and J McHale (eds), *Principles of Medical Law* (3rd edn, OUP, Oxford, 2010) (updating of 2nd edn chapter), ch 3, 133–192
78. **‘Costs Shifting, Security for Costs, and Class Actions: Lessons from Elsewhere’** in D Dwyer (ed), *The Tenth Anniversary of the Civil Procedure Rules* (OUP, Oxford, 2010) ch 10, 183–228
79. **‘Medical Negligence, Secondary Victims, and Psychiatric Illness: Family Tragedies and Legal Headaches’** in R Probert (ed), *Family Life and the Law* (Ashgate, London, 2007), ch 5, 61–76

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80. ***An Analysis of Questionnaire Feedback from Legal Practitioners: Third Interim Report*** (authored as Official Monitor of the Disclosure Pilot in the Business and Property Courts, 25 February 2020)
81. ***The Damages-based Agreements Regulations Reform Project 2019: An Independent Review of the DBA Regulations 2013*** (co-authored, with Nicholas Bacon QC, as independent reviewer of the DBA Regulations, Oct 2019)
82. ***An Empirical Study of the Disclosure Pilot: Second Interim Report*** (authored as Official Monitor of the Disclosure Pilot in the Business and Property Courts, 1 July 2019)
83. ***Court Processes and the CE File: First Interim Report*** (authored as Official Monitor of the Disclosure Pilot in the Business and Property Courts, 26 March 2019)
84. ***The Law and Practicalities of Before-the-event Insurance: An Information Paper*** (principal author, as Chair of the Civil Litigation Review Working Group of the Civil Justice Council, Oct 2017), ix + 168 pp [Nov 2017]
85. ***Concurrent Expert Evidence and ‘Hot-tubbing’ in English Litigation Since the ‘Jackson Reforms’: A Legal and Empirical Study*** (principal author (excluding App D), as Chair of the Civil Litigation Review Working Group of the Civil Justice Council, 25 Jul 2015), xii + 80 pp + App D (available at: <https://www.judiciary.gov.uk/wp-content/uploads/2011/03/cjc-civil-litigation-review-hot-tubbing-report-20160801.pdf>)
86. ***The Damages-based Agreements Reform Project: Drafting and Policy Issues*** (principal author, as Chair of the Damages-based Agreements Working Group of the Civil Justice Council, Aug 2015), xi + 145 pp (available at: <https://www.judiciary.gov.uk/wp-content/uploads/2015/09/dba-reform-project-cjc-aug-2015.pdf>)

87. ***Victims of Human Rights Abuses by Transnational Companies*** (commissioned by Oxfam, Cafod, and UK Amnesty Intl, London, 5 Sep 2011), 27 pp (available at: <http://corporate-responsibility.org/recent-publications/recent-publications/>)
88. ***Costs and Funding of Collective Actions: Realities and Possibilities*** (commissioned by the European Consumers' Organisation (BEUC), Brussels, Feb 2011), vii + 133 pp
89. ***Draft Rules of Court for Collective Proceedings*** (co-author, as a member of a working group commissioned by the Ministry of Justice, draft rules released Feb 2010) (available at: http://www.civiljusticecouncil.gov.uk/files/CJC_Draft_Rules_for_Collective_Actions_Feb_2010.pdf)
90. ***Improving Access to Justice Through Collective Actions: Developing a More Efficient and Effective Procedure for Collective Actions: Final Report*** (A Series of Recommendations to the Lord Chancellor, November 2008), 488 pp (contributing author to Report) (available at: http://www.civiljusticecouncil.gov.uk/files/Improving_Access_to_Justice_through_Collective_Actions.pdf)
91. ***Competition Law Cases under the Opt-out Regimes of Australia, Canada and Portugal*** (commissioned by the Department of Business, Enterprise and Regulatory Reform, October 2008), ix + 76 pp (available at: <http://www.berr.gov.uk/files/file49008.pdf>)
92. ***Reform of Collective Redress in England and Wales: A Perspective of Need*** (commissioned by the Civil Justice Council of England and Wales, February 2008), ix + 163 pp (available at: <http://www.judiciary.gov.uk/NR/rdonlyres/D6AF1588-20FA-4286-8447-0B80E6471EDA/0/reformofcollectiveredress.pdf>)

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93. ***'The Damages-Based Agreements Regulations 2013: A Rocky Road Ahead?'*** (Practical Law Co, article identifier: 4-523-7972, Feb 2013) 1–7
94. ***'Building Blocks and Design Points for an Opt-out Class Action'*** [2008] *J of Personal Injury Law* 308–325
95. ***'Antitrust Litigation: A White Paper Tinged with Green?'*** *Brussels Agenda*, May 2008 (the invited 'Viewpoint' contribution)
96. ***'Australia's National Access Regime: Review and Recommendations'*** (2003) 6(4) *Global Competition Rev (The International J of Competition Policy and Regulation)* 30–34 (co-authored with Brenda Marshall)
97. ***'Twenty Bricks Towards a Chinese Wall'*** (2001) 23(1) *Bulletin of the Law Society of South Australia* 33–35
98. ***'Golf, Kangaroos and Negligence "Down Under"'*** (2000) 144 *Solicitors' Journal* 494–495

99. *'Arguments For and Against the Construction of Chinese Walls'* (2000) 22(8) *Bulletin of the Law Society of South Australia* 18–20
100. *'Anyone for Golf? ... But mind the Kangaroos'* (2000) 27 (5) *Brief (Journal of the Law Society of Western Australia)* 18–20, and reprinted by request of the Hong Kong Lawyer Editorial Board in (2000/Sep) *Hong Kong Lawyer* 38–39, and with the author's permission
101. *'Progress Certificates—Deduction for Defects'* (1999) 66 *Australian Construction Law Newsletter (ACLN)* 58–59
102. *'Solicitors' Conflicts of Duty and Interest: Three Different Conundrums'* (1999) 21(9) *Bulletin of the Law Society of South Australia* 34–36
103. *'Solicitors' Conflicts: The Other Scenarios'* (1999) 21(10) *Bulletin of the Law Society of South Australia* 29–31
104. *'Nine Lives for a Contractor to Avoid or Reduce Liquidated Damages'* (1998) 61 *Australian Construction Law Newsletter* 18–34
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