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Daily Banking A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Heyday5 Pty Ltd v Cockram Constructions NSW Pty Ltd (NSWSC) - interlocutory injunction restraining defendants from calling on performance bond granted

Comaz (Aust) Pty Ltd v Commissioner of State Revenue (VSC) - administrative law - bias - denial of procedural fairness - matter remitted for re-trial

Suncorp Metway Ltd v Agnew (QSC) - service - possession - requirement of personal service dispensed with - substituted service ordered

Santos Offshore Pty Ltd v Apache Oil Australia Pty Ltd (WASC) - contract - joint venture - notice issued pursuant to clause of joint venture agreement invalid - declaration

Moran v Atrum Coal NL (WASC) - injunction - confidential information - extension of injunction refused

Summaries With Link (Five Minute Read)

Heyday5 Pty Ltd v Cockram Constructions NSW Pty Ltd [2015] NSWSC 884

Supreme Court of New South Wales

Stevenson J

Injunction - plaintiff subcontracted by defendants in relation to project - plaintiff sought to restrain first and second defendants from calling on performance bond - final relief sought by plaintiff was that defendants "return" bond on basis they were bound to release it on achievement of practical completion of the sub-contract - held: Court satisfied there was serious question to be tried whether there had been Practical Completion and plaintiff now entitled to return of bond - strong prima facie case for relief - balance of convenience was in plaintiff's favour - interlocutory injunction granted.

[Heyday5](#)

Comaz Pty Ltd v Commissioner of State Revenue [2015] VSC 294

Supreme Court of Victoria

Croft J

Administrative law - bias - procedural fairness - unrepresented litigant - plaintiff sought to appeal against orders of Victorian Civil and Administrative Tribunal affirming Commissioner of State Revenue's assessment relation to property transactions - procedural fairness - bias - fair hearing - duty to unrepresented litigant - Model Litigant Guidelines - held: conduct of proceeding before Tribunal established very strong likelihood that fair-minded lay observer might reasonably apprehend Senior Member did not bring impartial and unprejudiced mind to resolution of questions in dispute - VCAT failed to accord procedural fairness by refusing to allow evidence to be given relating to financial matters - proceedings remitted to VCAT for re-trial on all issues before different Tribunal member.

[Comaz](#)

Suncorp Metway Ltd v Agnew [2015] QSC 195

Supreme Court of Queensland

Jackson J

Service - possession - applicant claimed recovery of possession of land from defendant and payment of money owing pursuant to mortgage - applicant sought to dispense with requirement for personal service under r105 *Uniform Civil Procedure Rules 1999* - applicant had conducted property searches which revealed respondent's address - evidence suggested respondent lived at address - applicant's agents had attempted service at respondent's address on ten separate occasions - held: applicant had sufficiently demonstrated requirement of personal service under r105 should be dispensed with - substituted service ordered.

[Suncorp](#)

Santos Offshore Pty Ltd v Apache Oil Australia Pty Ltd [2015] WASC 242

Supreme Court of Western Australia



Pritchard J

Contract - joint venture - dispute concerning validity of notice issued by defendants pursuant to clause of joint venture for exploitation of petroleum production licence - plaintiff claimed some terms and conditions did not comply with requirements of clause with result notices or challenged conditions invalid - plaintiff sought declarations of invalidity and orders for specific performance requiring defendants to serve notice which complied with clause's requirements - right of pre-emption - held: challenged conditions failed to comply with clause's requirements - notices invalid - Court not persuaded it was appropriate case for orders for specific performance - declaration granted.

[Santos](#)

Moran v Atrium Coal NL [No 4] [2015] WASC 241

Supreme Court of Western Australia

Mitchell J

Injunction - confidential information - plaintiffs sought extension of injunction restraining defendant from disclosing information concerning loan agreements and securities plaintiffs entered, secured by securities in defendant - held: obligation to notify market operator of the information had arisen under s674 *Corporations Act 2001* - Court not satisfied injunction sought by plaintiffs would not require defendant to contravene s674 - inappropriate to grant injunction - extension of injunction refused.

[Moran](#)

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