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Executive Summary (1 minute read)

In the matter of Ambient Advertising Pty Ltd (in liq) (NSWSC) - corporations - winding up - appointment of special purpose liquidator

Re IPR Nominees Pty Ltd (VSC) - trusts and trustees - judicial advice - it was appropriate for trustee to defend substantive proceeding unconditionally

In the estate of Czerny (deceased) (SASC) - Wills and estates - litigation guardian permitted to enter compromise agreement on behalf of deceased's grandchildren

Dean v Collins [No 2] (WASCA) - succession - family provision - erroneous dismissal of claim - appeal allowed

Hitchcock v Goldspan Investments Pty Ltd [No 3] (WASC) - pleadings - leave to strike out statement of claim granted in part

Summaries With Link (Five Minute Read)

In the matter of Ambient Advertising Pty Ltd (in liq) [2015] NSWSC 1079
Supreme Court of New South Wales
Robb J
Corporations - winding up - plaintiff was largest unrelated creditor of first defendant company in liquidation - second defendants were sued in capacity as liquidators - plaintiff sought appointment of special purpose liquidator and orders to enable special purpose liquidator to execute funding agreement under which funder would provide funding to company, and to enable special purpose liquidator to carry out special purposes - funder was plaintiff's director - s477(2B) *Corporations Act 2001* (Cth) - held: Court satisfied it would be beneficial to administration of winding up and in creditors' interest for special purpose liquidator to be appointed - Court satisfied it had jurisdiction to appoint additional or special purpose liquidator in manner sought plaintiff notwithstanding liquidation was creditors' voluntary winding up - orders ought under s477(2B) made.
Ambient

Re IPR Nominees Pty Ltd [2015] VSC 395
Supreme Court of Victoria
Bell J
Trusts and trustees - judicial advice - trustee sought Court's advice as to whether it should defend proceeding in which minor beneficiaries sought relief against it in relation to trust - r54.02 *Supreme Court (General Civil Procedure) Rules 2005* (Vic) - held: relief and remedy sought was wide ranging and would affect administration of trust and distribution of benefits between beneficiaries in fundamental way - Court determined it was appropriate for trustee to defend substantive proceeding unconditionally.
IPR

In the estate of Czerny (deceased) [2015] SASC 111
Supreme Court of South Australia
Gray J
Wills and estates - application for admission of Will to probate - deceased executed formal will drafted by solicitors (2013 Will) - deceased unhappy with Will and executed a will kit Will - subsequently deceased wanted to revert to 2013 Will, destroyed her copy of will kit Will and arranged for other copy to be destroyed - following deceased's death search identified folder of personal papers including photocopy of 2013 Will and letter to niece in envelope titled "additions to my will" - letter consisted of writings of testamentary nature - whether Court should allow litigation guardian of deceased's grandchildren to enter compromise reached between parties - held: contested hearing could put grandchildren in worse position than compromise - appropriate in all circumstances for litigation guardian to enter compromise on grandchildren's behalf - terms of compromise approved.
Czerny

Dean v Collins [No 2] [2015] WASCA 151
Court of Appeal of Western Australia
Martin CJ, Buss JA & Cheney J
Succession - family provision - Master dismissed appellant's application under s6(1) *Family Provision Act 1972* (WA) for financial provision from estate of late mother - Master found appellant failed to establish adequate provision not made for appellant's proper maintenance, support, education or advancement in life - held: Master erred in determining jurisdictional question on basis of failure to demonstrate greater need than beneficiaries under Will - appeal allowed - costs orders set aside.
Dean

Hitchcock v Goldspan Investments Pty Ltd [No 3] [2015] WASC 277
Supreme Court of Western Australia
Allanson J
Pleadings - first and fourth defendants sought leave to strike out plaintiff's statement of claim on basis it disclosed no reasonable cause of action - claims for breach of fiduciary duty, breach of shareholder agreement and breach of consumer laws - ss8, & 20 *Australian Consumer Law* (Cth) - ss10 & 11A *Fair Trading Act 1987* (WA) - O29 r8 Rules of the Supreme Court 1971 (WA) - ss51AC & 52 *Trade Practices Act 1974* (WA) - held: certain pleas struck out - application allowed in part.
Hitchcock

Snow flakes. (45)
BY EMILY DICKINSON

I counted till they danced so
Their slippers leaped the town –
And then I took a pencil
To note the rebels down –
And then they grew so jolly
I did resign the prig –
And ten of my once stately toes
Are marshalled for a jig!

Emily Dickinson

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