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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)

Warriner v Warriner (VSC) - testator's family maintenance - responsibility to make provision - freedom of testation - claim dismissed

Papale v Sucrogen Ltd (QSC) - joinder - contract - application to join third party to proceedings dismissed

Rodda v Ian Rodda Pty Ltd; Ian Rodda Pty Ltd v Rodda (SASC) - estoppel - equity - contract - family dispute concerning farming land and business - detrimental reliance on representations - remedies

Laing O'Rourke Australia Construction Pty Ltd v Samsung C & T Corporation (WASC) - construction contract - adjudicator misapprehended nature of function - determinations invalid and quashed

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Summaries With Link (Five Minute Read)

Warriner v Warriner [2015] VSC 314

Supreme Court of Victoria

Zammit J

Testator's family maintenance - oldest son of deceased made claim under Pt IV *Administration and Probate Act 1958* - deceased's estate consisted of property - deceased devised and bequeathed property to defendant - s91 - whether deceased had responsibility to make provision - adequacy of provision - held: taking into account circumstances including size of estate, plaintiff's relationship with deceased, plaintiff's financial need, defendant's mental health and pivotal role of property in maintaining defendant's stability, Court did not consider it should interfere with freedom of testation - application dismissed.

[Warriner](#)

Papale v Sucrogen Ltd [2015] QSC 192

Supreme Court of Queensland

Bond J

Joinder - plaintiffs were sugar growers who sued defendant sugar miller for conduct in breach of contractual obligations - miller sought to join company as third party pursuant to r194(2) *Uniform Civil Procedure Rules 1999* or that growers' proceeding and separate proceedings to be commenced by miller against company be heard together pursuant to r79 - held: Court not persuaded potential overlap between evidence which might be adduced in both proceedings justified exercise of discretion to give leave to issue third party proceeding, or to order that proceedings be heard together - no reason why miller could not commence separate proceeding against company - miller would suffer no great prejudice if proceeding not heard at same time - miller's proposed course would introduce undue complication, cost and delay - insufficient explanation for delay in bringing application - application dismissed.

[Papale](#)

Rodda v Ian Rodda Pty Ltd; Ian Rodda Pty Ltd v Rodda [2015] SASC 95

Supreme Court of South Australia

Nicholson J

Estoppel - equity - contract - family dispute between father and son concerning farming land and farming business - legal title to components of land held or controlled by father - business conducted through discretionary trusts under father's control - first plaintiff son and wife sought proprietary remedies recognising beneficial ownership of land and plant and equipment - son and wife also asserted an entitlement, with respect to money owing under beneficiary accounts of two trusts - estoppel by encouragement - constructive trusts - held: defendants made representations to plaintiffs through father regarding son's future ownership of land and equipment - defendants had resiled from representations - son and wife had reasonably relied on representations to detriment - no conduct to disentitle plaintiffs from equity's protection - plaintiffs entitled to a proprietary remedy - father had forgiven loan to plaintiffs and amount was



no longer owing - judgment for plaintiffs

[Rodda](#)

Laing O'Rourke Australia Construction Pty Ltd v Samsung C & T Corporation [2015]

WASC 237

Supreme Court of Western Australia

Mitchell J

Construction contract - parties entered into a Subcontract - Samsung terminated subcontract for convenience - parties entered into an 'Interim Deed' which provided Samsung make payments to Laing O'Rourke - one payment made under Interim Deed - adjudicator appointed under *Construction Contracts Act 2004 (WA)* determined Samsung must pay Laing O'Rourke amount - Samsung sought to quash determinations for jurisdictional error - held: adjudicator committed jurisdictional error by failing to resolve payment disputes by reference to terms of Subcontract before him - adjudicator misapprehended nature of his function - determinations not authorised by Act and invalid - leave to enforce the determinations refused.

[Laing](#)

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