

Monday, 10 August 2015

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

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### Executive Summary (1 minute read)

**Seven Network (Operations) Ltd v Endemol Australia Pty Ltd** (FCA) - injunction - copyright - Seven denied injunction restraining Nine from broadcasting or communicating episodes of reality television program

**Lanka Graphite Ltd (formerly Viculus Ltd)** (FCA) - corporations - extension of time of compliance with bid condition - declaration bid condition satisfied

**Woodlawn Capital Pty Ltd v Motor Vehicles Insurance Ltd** (NSWCA) - stay - investment management agreement - conditional stay of execution of judgment granted

**Drake v Wight & Strickland Lawyers** (NSWSC) - summary dismissal - trusts and trustees - advocates' immunity - amended statement of claim and proceedings dismissed

**In the Estate of Louis Matthews (deceased)** (SASC) - Wills and estates - succession - Registrar directed to accept combined proceedings

# Benchmark

## Summaries With Link (Five Minute Read)

### **Seven Network (Operations) Ltd v Endemol Australia Pty Ltd [2015] FCA 800**

Federal Court of Australia

Nicholas J

Injunction - copyright - Seven broadcast reality television show My Kitchen Rules - Seven alleged that by producing and broadcasting episodes of television show, Hotplate, Nine was infringing Seven's copyright in various original literary and dramatic works - Seven sought interlocutory injunction restraining Nine from broadcasting or otherwise communicating any further episodes of Hotplate until determination of proceeding - held: Court satisfied Seven had reasonably arguable case but Court did not accept it had a strong prima facie case, which was important consideration when considering balance of convenience - balance of risk of injustice by granting or withholding interlocutory relief weighed in Nine's favour - application for interlocutory relief dismissed.

[Seven](#)

### **Lanka Graphite Ltd (formerly Viculus Ltd) [2015] FCA 798**

Federal Court of Australia

Davies J

Corporations - plaintiff (Viculus) sought order under s1332(4)(d) *Corporations Act 2001* (Cth) extending time provided for it to satisfy bid condition of its takeover bid for company (Euro) and declaration that bid condition satisfied - circumstances leading to need for extension of time - far reaching consequences if takeover bid void - Euro's support of takeover bid and application - no substantial injustice - absence of opposition by ASIC - held: Court had power under s1322(4)(d) to extend time limit for compliance with bid condition - Court satisfied that order and declaration sought should be made.

[Lanka](#)

### **Woodlawn Capital Pty Ltd v Motor Vehicles Insurance Ltd [2015] NSWCA 227**

Court of Appeal of New South Wales

Beazley P

Stay - applicant funds manager appealed against judgment entered for in sum of \$4,893,115.11 - sum principally represented pre-judgment interest payable pursuant to *Civil Procedure Act 2005* (NSW) in respect of sums found to be owed to defendant client - applicant sought stay of execution - principal issue on appeal was proper construction of clause of Investment Management Agreement - question was whether clause released applicant from liability for payment of pre-judgment interest - fair balance of rights of parties - held: stay should be ordered on basis of possibility that applicant may be forced into liquidation should it not pay judgment sum, or at least amount claimed in statutory demand - stay subject to conditions granted.

[Woodlawn](#)

### **Drake v Wight & Strickland Lawyers [2015] NSWSC 1090**



Supreme Court of New South Wales

Harrison AsJ

Summary dismissal - advocates' immunity - trusts and trustees - bankruptcy - claim arising from retainer entered into between parties for provision of legal services in respect of claim made against plaintiffs - defendant sought orders that amended statement of claim be dismissed pursuant to r13.4 *Uniform Civil Procedure Rules 2005*.

[Drake](#)

## **In the Estate of Louis Matthews (deceased) [2015] SASC 112**

Supreme Court of South Australia

Gray J

Succession - family provision - application to combine proceedings in civil and testamentary causes jurisdictions of Court - deceased died in 2014 - deceased left Will - probate in respect of Will granted - plaintiff was deceased's mother who sought order pronouncing against validity of Will and an order revoking grant - alternatively alternative, she seeks provision out of estate pursuant to *Inheritance (Family Provision) Act 1972 (SA)* - Registrar of Probates referred matter to Court pursuant to r20(1) *Supreme Court Civil Rules 2006 (SA)* - significant risk of multiplicity of proceedings - held: in cases such as present, where there was significant risk of multiplicity of proceedings, separation of jurisdictions must give way to terms of s27 *Supreme Court Act 1935 (SA)* Court made order directing Registrar to accept proceedings for action for revocation combined with claim pursuant to *Inheritance (Family Provision) Act 1972 (SA)*.

[Matthews](#)

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