

Benchmark

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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)

Treasury Wine Estates Vintners Ltd v Garrett (FCA) - corporations - statutory demands set aside - application for injunction refused

Re Estate of Wai Fun CHAN, Deceased (NSWSC) - Wills and estates - formal Will and video Will admitted to probate

Daniel v Van Zwol (SASCFC) - costs - succession - appellant to pay 90 per cent of first respondent's costs of appeal on party-party basis - appellant to bear own costs

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Summaries With Link (Five Minute Read)

Treasury Wine Estates Vintners Ltd v Garrett [2015] FCA 797

Federal Court of Australia

Davies J

Corporations - plaintiff sought orders that nine statutory demands for payment of debt served on it by defendant be set aside - plaintiff also sought that defendant be restrained from serving any additional statutory demand in connection with deed of settlement - ss459G, 459H & 459J

Corporations Act 2001 (Cth) - held: statutory demands served in contravention of s37AQ(1) and stayed by operation of s37AQ(2) - statutory demands served for improper purpose - genuine disputes existed - lack of standing - description of debt vague - if debt claim existed all claims had vested in trustee in bankruptcy - any claim made under certain clause of deed of settlement was not a "debt" which could be subject of a statutory demand - demands set aside - demands ineffective to achieve statutory purpose not a breach of Act in sense relevant to grant of injunction - application for injunction refused.

[Treasury](#)

Re Estate of Wai Fun CHAN, Deceased [2015] NSWSC 1107

Supreme Court of New South Wales

Lindsay J

Wills and estates - probate - application for orders admitting digital video disc (DVD) recording of oral statement of testamentary intentions deliberately recorded as 'video will' to probate - DVD served as codicil to formal Will - ss6 & 8 *Succession Act 2006* (NSW) - held: Court satisfied testatrix's formal will satisfied requirements of s6 and that DVD satisfied requirements of s8 for admission to probate as a codicil to Will - Court satisfied declaration should be made under s10(3)(c) insofar as s10 applied to video Will - testatrix knew and approved of dispositions she made in recording DVD - dispositions plainly given or made freely and voluntarily - Court satisfied any suspicious circumstances adequately and properly explained - both formal Will and video Will should be admitted to probate.

[Chan](#)

Daniel v Van Zwol [2015] SASCFC 93

Full Court of the Supreme Court of South Australia

Kourakis CJ; Stanley & Parker JJ

Costs - succession - appellant sought orders setting aside Master's judgment and orders on claim pursuant to *Inheritance (Family Provision) Act 1972* (SA) - Court allowed appeal to limited extent of adjusting award in favour of first respondent to provide he receive share of residual estate equal other beneficiaries - parties at issue as to appropriate order as to costs of appeal - held: principle that costs generally follow event applied to appeals under Act - appellant, in substance, failed on appeal - there should be reduction of amount of first respondent's costs payable by appellant due to fact that first respondent put submissions in oral argument against approach adopted by Court appellant in personal capacity pay 90 per cent of first respondent's

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costs of appeal on party-party basis - appellant to bear her own costs.

Daniel

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