

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)

Caason Investments Pty Ltd v Cao (FCAFC) - pleadings - corporations - representative proceedings - primary judge should not have refused leave to amend statement of claim to include pleadings of 'market-based' causation - appeal allowed

Marmax Investments Pty Ltd v RPR Maintenance Pty Ltd (FCAFC) - contract - franchise agreement - rights and obligations in relation to operation of franchise businesses - two appeals - one appeal allowed - other appeal allowed in part

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Summaries With Link (Five Minute Read)

Caason Investments Pty Ltd v Cao [2015] FCAFC 94

Full Court of the Federal Court of Australia

Gilmour, Foster & Edelman JJ

Pleadings - corporations - applicants brought representative proceeding pursuant to Pt IVA *Federal Court of Australia Act 1976* (Cth) - claim under s729 *Corporations Act 2001* (Cth) for compensation for loss or damage resulting from misstatement in or omission from disclosure document - primary judge refused leave to amend statement of claim to include pleadings of 'market-based' causation as distinct from 'reliance-based' causation (rejected amendments) - orders shut out applicants from pleading market-based causation in respect to ss 728-729 Corporations Act case - Group Member definition - Prospectus claims - misleading or deceptive conduct claims - Proper Test contention - Ingot contention - Profile Statement contention - Policy contention - Group Member definition contention - held: it could not be said rejected amendments which reflected causation theory were incapable of succeeding or liable to be struck out - primary judge rejected other bases on which it was contended proposed amendments should not be allowed - no basis for rejecting proposed amendments - primary judge shouldn't have refused to grant leave to make rejected amendments - appeal allowed.

[Caason](#)

Marmax Investments Pty Ltd v RPR Maintenance Pty Ltd [2015] FCAFC 127

Full Court of the Federal Court of Australia

Middleton, Foster & Gleeson JJ

Contract - franchise agreement - Marmax Investments Pty Ltd (Marmax) and Spanline Weatherstrong Building Systems Pty Ltd (Spanline) appealed from two decisions of single judge - dispute between Spanline, Marmax and RPR Maintenance Pty Ltd (RPR) over parties' rights and obligations in connection with Spanline franchise businesses operated by Marmax and RPR - Marmax and Spanline ordered to pay RPR damages for breach of contract - Marmax ordered to indemnify RPR for costs incurred to bring proceeding against it - Spanline to pay RPR additional damages and damages for RPR's costs of proceedings against it - held: primary judge erred in finding contractual relationship between Marmax and RPR under sub-franchise agreement after certain date - Marmax's conduct working in RPR's territory during certain period did not breach sub-franchise agreement - Marmax's "incursions" into RPR's territory did not breach transfer of business agreement - Marmax not liable to pay damages to RPR - Marmax's appeal allowed on certain grounds - primary judge erroneously found Spanline breached contractual obligations to RPR by not taking "reasonable and available" steps to ensure RPR's territory remained exclusive - Spanline did not breach obligations to RPR by failing to adequately investigate RPR's complaints about Marmax's activities - Spanline did not breach contract by failing to demand Marmax give full disclosure of work done in RPR's territory - permission given by Spanline to Marmax to perform work in RPR's territory was breach of contract which caused RPR loss - Spanline's appeal allowed in part.

[Marmax](#)



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On First Looking into Chapman's Homer

BY John Keats

Much have I travell'd in the realms of gold,
And many goodly states and kingdoms seen;
Round many western islands have I been
Which bards in fealty to Apollo hold.
Oft of one wide expanse had I been told
That deep-brow'd Homer ruled as his demesne;
Yet did I never breathe its pure serene
Till I heard Chapman speak out loud and bold:
Then felt I like some watcher of the skies
When a new planet swims into his ken;
Or like stout Cortez when with eagle eyes
He star'd at the Pacific—and all his men
Look'd at each other with a wild surmise—
Silent, upon a peak in Darien.

[Keats](#)

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