

Monday, 17 August 2015

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

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Executive Summary (1 minute read)

Greer v Pickering (NSWSC) - professional negligence - claim against solicitor arising from preparation of contract for purchase of property and residential agreement - negligence not established - claim dismissed

BH Apartments v Sutherland Nominees (VSC) - corporations - request by high-value creditor that administrators convene meeting - high-value creditor required to pay costs of both calling and holding meeting - appeal dismissed

Spencer v Burton (QCA) - costs - respondent to pay successful appellant's costs of and incidental to appeal

Pramoko v Grande Enterprises Ltd (WASCA) - trade practices - contract - misleading and deceptive conduct - reasonable grounds for making representation not established - appeal dismissed

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Summaries With Link (Five Minute Read)

Greer v Pickering [2015] NSWSC 1131

Supreme Court of New South Wales

Adamson J

Professional negligence - solicitors' duties - plaintiff claimed damages against second defendant solicitor for breach of retainer and negligence arising from preparation of contract for purchase of property, and residential tenancy agreement in respect of property - plaintiff claimed damages for legal costs, repair costs and loss of rental income - refusal of tenant to vacate - operation of methylamphetamine laboratory on property - alleged failure to include express term - Pt 1, Pt 4, ss 5A, 5B, 5C, 5D, 5E, 5R, 5S, 34 & 35 *Civil Liability Act 2002* (NSW) - ss66W, 74, 84, 118 & 129 *Conveyancing Act 1919* (NSW) - Pt 4, s2A *Landlord and Tenant Act 1899* (NSW) - *Criminal Assets Recovery Act 1990* (NSW) - s8 *Residential Tenancy Act 2010* (NSW) - held: plaintiff failed to establish breach of contract or duty of care - plaintiff failed to establish factual causation or scope of liability within meaning of s5D *Civil Liability Act* - even if Court had found solicitor breached contract or was negligent in failing to include clause in contract for sale, Court would not have awarded claimed damages because if she had asserted her rights expeditiously she would not have suffered losses claimed - judgment for solicitor.

[Greer](#)

BH Apartments v Sutherland Nominees [2015] VSC 381

Supreme Court of Victoria

Bell J

Corporations - company (Sutherland Nominees) was being administered pursuant to deed of company arrangement under pt 5.3A *Corporations Act 2001* (Cth) - high-value creditor (BH Apartments) under s445F(1)(b) requested administrators convene meeting of creditors - meeting convened - reg 5.6.15(1)(a) *Corporations Regulations 2001* (Cth) required BH Apartments as requestor of meeting to lodge security for payment of costs of convening meeting - administrators nominated security which BH Apartments lodged - reg 5.6.15(1)(b) required BH Apartments to pay costs of 'convening the meeting' - administrators required BH Apartments to pay further sum - BH Apartments contended 'convening the meeting' covered costs of calling but not holding meeting and refused to pay - Magistrate upheld administrators' interpretation of reg 5.6.15(1)(b) - interpretation of regulation - held: Magistrate correctly decided that expression 'convening the meeting' included costs of both calling and holding the meeting - appeal dismissed.

[BH Apartments](#)

Spencer v Burton [2015] QCA 145

Court of Appeal of Queensland

Holmes & Gotterson JJA; A Lyons J

Costs - Court allowed appellant's appeal - appellant submitted that as successful party they were entitled to costs on standard basis under rr681 & 766(1)(d) *Uniform Civil Procedure Rules*

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1999 (Qld) - appellant sought that respondent pay costs of and incidental to appeal - respondent did not oppose to pay appellant's costs of appeal and notice of contention but argued that order be limited to amount of indemnity prescribed in s14(1) *Appeal Costs Fund Regulation 2010* (Qld) - held: Court satisfied usual rule in awarding costs to successful party in litigation should apply - respondent should pay appellant's costs of appeal on standard basis - respondent did not establish sufficient basis for limiting respondent's obligation to pay costs to amount of indemnity - orders made.

[Spencer](#)

Pramoko v Grande Enterprises Ltd [2015] WASCA 157

Court of Appeal of Western Australia

Martin CJ, Newnes JA & Beech J

Trade practices - contract - appellant appealed from decision in which he was found to have engaged in misleading and deceptive conduct - appellant challenged trial judge's conclusion that he failed to establish that he had reasonable grounds for making representation at the time it was made - representation had been found to be implied from provision in a contract executed by parties - *Corporations Act 2001* (Cth) - s9 *Fair Trading Act 1987* (WA) - *Supreme Court Act 1935* (WA) - held: appellant failed to establish reasonable grounds for making representation - appeal dismissed.

[Pramoko](#)

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