

Friday, 19 December 2014

Banking

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Neale v Commonwealth Bank of Australia (NSWCA) - appeal - extension of time to seek dismissal for incompetency refused - dismissal for want of prosecution refused - guillotine order

Schultz v Bank of Queensland (QSC) - guarantee - equity - wife not relieved of obligations on basis of *Yerkey v Jones*

Summaries with links (5 minute read)

Neale v Commonwealth Bank of Australia [2014] NSWCA 443

Court of Appeal of New South Wales

Leeming JA

Appeal - competency - bank was successful judgment creditor in proceedings brought by applicant and his company - bank sought that appeal be dismissed as incompetent or for want of prosecution - requirement that, if well-funded, sophisticated, regular litigant is to object to competency of appeal brought by litigant in person, objection should be made promptly - ability to fund appeal - held: bank had not explained why it did not make prompt objection - extension of time to seek dismissal of proceedings as incompetent refused - appeal not self-evidently hopeless - severe prejudice if applicant denied right of appeal on merits of very substantial judgment - there had been some explanation for delay and non-compliance with Court procedure - no particular prejudice to bank - guillotine order made.

[Neale](#)



Schultz v Bank of Queensland [2014] QSC 305

Supreme Court of Queensland

Jackson J

Guarantee - plaintiff wife claimed she should be relieved of obligation to pay bank under guarantee she gave for loan made to family trust controlled by former husband - claim made in reliance on *Yerkey v Jones* equity - held: no special disadvantage - wife did not have any of the alleged material misunderstandings relied upon - no basis for alternative claim of unconscionable conduct by bank - claim dismissed - bank succeeded on counterclaim for possession.

[Schultz](#)

The Veil

Bravely re-living
half-remembered,
half-invented
childhoods,
we summon the Babe
to help us draw
the veil of celebration
over
everything.

And yet,
behind the veil,
our hearts cry out
for a world
re-made,
not veiled.

So did he.

And showed us how.

Reason enough
to celebrate,
I'd say.

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