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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)

Shuetrim v FSS Trustee Corporation (NSWSC) - contract - insurance - superannuation - plaintiff entitled to total and permanent disablement benefits under policies

Metgasco Ltd v Minister for Resources and Energy (NSWSC) - judicial review - unlawful suspension of operations at gas exploration well - decisions quashed

Daunt v Daunt (VSCA) - constructive trust - evidence - transfer of property from parents to child - no undue influence - appeal dismissed

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Summaries With Link (Five Minute Read)

Shuetrim v FSS Trustee Corporation [2015] NSWSC 464

Supreme Court of New South Wales

Stevenson J

Contract - insurance - plaintiff was member of superannuation fund - trustee of fund effected insurance policies with second defendant (MetLife) and third defendant (TAL) - plaintiffs sought declarations TAL and MetLife “constructively denied” his claims under policies by not having made any decision until certain dates, and that decisions themselves were “void and of no effect” - plaintiff also sought declarations he satisfied definition of “Total and Permanent Disablement” in policies and orders TAL and MetLife pay him amounts with interest under s 57 *Insurance Contracts Act 1984* - held: no breach of insurers’ duty of good faith and good dealings - plaintiff sustained onus of showing he satisfied definitions of TPD in policies - plaintiff entitled to total and permanent disability benefits.

[Shuetrim](#)

Metgasco Ltd v Minister for Resources and Energy [2015] NSWSC 453

Supreme Court of New South Wales

Button J

Judicial review - plaintiff sought judicial review of decision of Minister by delegate to suspend operations approved under Petroleum Exploration License at gas exploration well pursuant to s22(3A) *Petroleum (Onshore) Act 1991* (NSW) - construction of Act and instruments created pursuant to Act - lawfulness of delegate’s decisions - ss3, 22, 22(3A), 22(3A)(b), 22(3B)(b), 22(6), 22(6)(a), 22(6)(b), 22(6)(c), 22(7) & 136A - held: decision to suspend (the first decision) was invalid because it was not preceded by compliance with procedural fairness regime under Act - decision to confirm the first decision was invalid because it purported to confirm a decision that was itself invalid - second decision was also separately invalid on various grounds - decisions quashed.

[Metgasco](#)

Daunt v Daunt [2015] VSCA 58

Court of Appeal of Victoria

Redlich, Santamaria & Kyrou JJA

Constructive trust - evidence - parents (Mr and Mrs Daunt) were registered proprietors of property - parents had three children - parents transferred property to respondent son and Mr Daunt - appellant son lodged caveat on title to property - appellant claimed respondent owed a fiduciary duty to parents by being power of attorney - appellant claimed respondent exercised undue influence over parents to procure transfer of property to himself to defeat legitimate claims of co-beneficiaries of parents’ estate, being appellant and sister - primary judge dismissed proceedings - ss91 & 178 *Evidence Act 2008* - held: trial judge erred in relying on evidence of VCAT’s refusal to appoint administrator - determination inadmissible without certificate - respondent rebutted presumption of undue influence - appeal dismissed.

[Daunt](#)

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