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

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Executive Summary (1 minute read)

Zurich Insurance PLC UK Branch v International Energy Group Ltd (UKSC) - negligence - insurance - employee with mesothelioma - insurer's liability to indemnify employer - rule of proportionate recovery - appeal allowed

Rodriguez & Sons Pty Ltd v Queensland Bulk Water Supply Authority t/as Seqwater (No 3) (NSWSC) - pleadings - class action - flood - plaintiff permitted to file further amended statement of claim

Hall v ASIC (VSC) - corporations - company restored to register of companies

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Summaries With Link (Five Minute Read)

Zurich Insurance PLC UK Branch v International Energy Group Ltd [2015] UKSC 33

Supreme Court of the United Kingdom

Lord Neuberger, Lord Mance, Lord Clarke, Lord Sumption, Lord Reed, Lord Carnwath & Lord Hodge

Negligence - insurance - employee was negligently exposed to asbestos dust by employer - employee contracted mesothelioma - before his death from mesothelioma employee sued respondent as successor in title of employer and recovered compensation - during the 27 years of employee's exposure employer had two identifiable liability insurances one of which was with Midland Assurance Ltd - appellant (Zurich) was successor to Midland - appellant maintained it was only liable to meet 22.08% of respondent's loss and defence costs because Midland only insured employer for 6/27ths of 27 year period - trial judge ordered Zurich to meet 22.08% of compensation but 100% of defence costs - Court of Appeal ordered Zurich to pay 100% of both compensation and defence costs - Zurich appealed - appeal was from Guernsey where there was no equivalent of *Compensation Act 2006*, which had reversed ruling in *Barker v Corus* [2006] UKHL 20 that each employer was only liable pro rata to period which exposure by it bore to total of all periods of exposure - held: rule of proportionate recovery established in *Barker* remained part of common law in Guernsey - Zurich's appeal allowed in respect of compensation but dismissed in relation to defence costs - trial judge's order restored.

[Zurich](#)

Rodriguez & Sons Pty Ltd v Queensland Bulk Water Supply Authority t/as Seqwater (No 3) [2015] NSWSC 838

Supreme Court of New South Wales

Beech-Jones J

Pleadings - class action - flood - claim arising from alleged negligent operation of dams - plaintiff sought leave to file further amended statement of claim - consideration of objections to grant of leave by certain defendants including alleged disparity between definition of class and the pleaded case, alleged failure to sufficiently identify alleged acts and admissions of flood engineer, deficiency of pleaded breaches of "Flood Mitigation Manual" by flood engineers, and complaint concerning cross referencing between particulars of various breaches and parts of expert report - hydrolic expert evidence - held: plaintiff granted leave to file further amended statement of claim.

[Rodriguez](#)

Hall v ASIC [2015] VSC 362

Supreme Court of Victoria

Sifris J

Corporations - plaintiffs sought order pursuant to s230 *Companies Act 1928* (Vic) (1928 Act) that company be restored to register because its deregistration as preventing a multi-lot property development - if company re-registered under 1928 Act plaintiffs would seek to have



company brought within current Corporations legislation - held: application was many decades after deregistration but not out of time and specifically permitted and reserved - Court's jurisdiction survived repeal of 1928 Act - it was just that the company be restored to register - company restored to register of companies.

[Hall](#)

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