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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)

**Woodside Energy Ltd v Zaghloul (No 2)** (FCAFC) - costs - unsuccessful appellant granted special costs order to compensate for considering respondent's arguments which were without merit and abandoned

**Kessly v Hasapaki** (NSWCA) - contempt - not open to trial judge to make declaration of contempt in appellant's absence when he had previously indicated intention to make practical orders - appeal allowed

## Summaries With Link (Five Minute Read)

### **Woodside Energy Ltd v Zaghoul (No 2) [2015] FCAFC 143**

Full Court of the Federal Court of Australia

Siopis, Rares & McKerracher JJ

Costs - Court dismissed appeal and ordered appellant to pay respondent's costs - appellant sought special costs order for costs thrown away due to have to address, consider and respond to notices and arguments raised by respondent - held: respondent's arguments manifestly without merit and almost entirely abandoned before or at hearing - it should have been obvious to respondent there was nothing in raised points - appellant entitled to some compensation for considering arguments - special costs order.

[Woodside](#)

### **Kessly v Hasapaki [2015] NSWCA 316**

Court of Appeal of New South Wales

Basten & Macfarlan JJA; Sackville AJA

Contempt - appellant sued respondent neighbour in Land and Environment Court after realising respondent's home encroached on her land - consent orders made pursuant to which appellant agreed to grant easement to respondent in return for payment of amount - respondent sought to have appellant committed for contempt of court for not complying with the orders - appellant sought adjournment application on basis she could not attend hearing of motion due to a recent operation - trial judge refused application and found appellant guilty of contempt - appellant appealed - s94 Civil Procedure Act 2005 (NSW) - s57 *Land and Environment Court Act 1979* (NSW), held: no error in the refusal of adjournment application but not open to trial judge to make declaration of contempt in appellant's absence, after he had previously indicated an intention to make practical orders which did not involve such a declaration - appeal allowed - declaration of contempt and costs orders set aside.

[Kessly](#)

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