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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)

Brown Brothers v Pittwater Council (NSWCA) - contempt - bias - arguable defence to criminal charge of contempt - permission to withdraw guilty pleas - appeal allowed

Kronenberg v Bridge (No 2) (TASFC) - damages - interest - *Hungerfords v Walker* damages assessed on compound interest basis

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Summaries With Link (Five Minute Read)

Brown Brothers v Pittwater Council [2015] NSWCA 215

Court of Appeal of New South Wales

McColl & Macfarlan JJA; Tobias AJA

Bias - procedural fairness - contempt - appellant operated waste skip business on land zoned Light Industrial 4(b1) under *Pittwater Local Environmental Plan 1993* - in 2011 respondent charged two directors of appellant with contempt of court in respect of alleged activities in business in contravention of consent orders - appellant pleaded guilty to charges - directors each sought to withdraw their guilty pleas - directors contended they were made on basis of incorrect legal advice and that they had a viable defence - primary judge refused appellants leave to withdraw guilty pleas - held: prima facie primary judge ought to have recused herself on basis of adverse findings made in respect of director's credit in earlier proceedings but appellants had waived right to object by failing to object to primary judge continuing to hear withdrawal application - no denial of procedural fairness - appellants had pleaded guilty on basis of incorrect legal advice - it was arguable that on the proper construction consent orders there was real question about their guilt - appellant's pleas not attributable to a consciousness of guilt - appellants permitted to withdraw pleas of guilt - alternative would to condone a miscarriage of justice - exceptional case where public interest in finality of litigation and avoiding inconsistent decisions could not be permitted to perpetuate potential injustice - appeal allowed.

[Brown](#)

Kronenberg v Bridge (No 2) [2015] TASFC 9

Full Court of the Supreme Court of Tasmania

Blow CJ; Porter & Pearce JJ

Damages - interest - Court made final orders disposing of appeal - point of controversy concerned appellants' entitlement to damages in nature of interest in accordance with *Hungerfords v Walker* [1989] HCA 8 - appellants contended they were entitled to compound interest - respondent conceded only entitlement to simple interest - held: award of simple interest inadequate to compensate appellants for losses incurred due to respondent's contraventions of *Fair Trading Act 1990* (Tas) - appellants could only be properly compensated by award of compound interest - appropriate to assess appellants' *Hungerfords v Walker* damages on compound interest basis.

[Kronenberg](#)

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