



Thursday, 4 December 2014

## Insurance

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

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## Executive Summary (1 minute read)

**Norfeld Pty Ltd v Amanda Lee Jones trading as Watermark Patent and Trademark Attorneys** (NSWCA) - solicitors' fees - appellant ordered to pay sum to solicitor - leave to appeal refused

**Greenacre Business Park Pty Ltd v Deliver Australia Pty Ltd** (NSWSC) - costs - defence and cross-claim raised on false basis - director of defendant personally liable for plaintiffs' costs

**Carolán v Fairfax Media Publications Pty Ltd** (NSWSC) - pleadings - defamation - ambiguity - rulings on objections to imputations

## Summaries with links (5 minute read)

**Norfeld Pty Ltd v Amanda Lee Jones trading as Watermark Patent and Trademark Attorneys [2014] NSWCA 408**

Court of Appeal of New South Wales

Ward JA & Sackville AJA

Solicitors' fees - Magistrate ordered appellant to pay solicitor \$75 000 for outstanding legal fees - primary judge dismissed appeal - appellant sought leave to appeal on grounds of denial of procedural fairness - held: leave to appeal from judgment where quantum in dispute less than \$100,000 and small amount in dispute usually refused where no question of principal - no question

of general principal or public importance - amount in issue relatively small - primary judge's conclusion there was no denial of procedural fairness not attended by sufficient doubt to warrant grant of appeal - interests of justice did not support grant of leave to appeal - leave to appeal refused.

[Norfeld Pty Ltd](#)

## **Greenacre Business Park Pty Ltd v Deliver Australia Pty Ltd [2014] NSWSC 164**

Supreme Court of New South Wales

White J

Costs - plaintiffs sought non-party costs order against director of defendant company in liquidation on indemnity basis and in specified gross sum- basis for application was that director was responsible for defendant's raising defence and cross claim based on matters director knew were untrue - held: Court satisfied defence and cross-claim propounded on basis director knew to be false - order should be made that director personally be liable for plaintiffs' costs on indemnity basis - plaintiff entitled to a specified gross sum instead of assessed costs - qualification that director should not personally be liable for costs plaintiffs would, in any event, have had to incur to obtain judgment.

[Greenacre Business Park Pty Ltd](#)

## **Carolan v Fairfax Media Publications Pty Ltd [2014] NSWSC 1628**

Supreme Court of New South Wales

McCallum J

Pleadings - defamation - action arising out of publication of articles in newspaper - defendant objected to imputations pleaded by plaintiff - defendant contended one imputation capable of being understood in two different ways and that another was not reasonably capable of being conveyed by the matter complained of - ambiguity - held: original imputation had potential ambiguity - ambiguity could be cured by amending imputation - Court persuaded imputation reasonably capable of being conveyed - rulings given.

[Carolan](#)

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