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

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### Executive Summary (1 minute read)

**Carey v Laikin** (SCC) - contempt - Mareva injunction - return of money to client - lawyer in contempt - erroneous permission to relitigate initial finding - appeal dismissed

**Michael v RJ Chalmers & Co;; Edwards v Causbrook & Associates;; Smidmore v RJ Chalmers & Co** (NSWSC) - discovery - misleading and deceptive conduct - discovery of documents ordered

**Quach v Health Care Complaints Commission** (NSWCA) - stay - cancellation of registration of medical practitioner - notices of motion dismissed

**Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd [No 3]** (WASC) - pleadings - contract or legally binding promise asserted in statement of claim not sustainable - paragraphs struck out

**Coffey LPM Pty Ltd v The Contaminated Sites Committee** (WASC) - costs - fourth defendant successful party in opposing appeal - appellant to pay fourth defendant's costs not including costs in relation to misconceived notice of contention

# Benchmark

## Summaries With Link (Five Minute Read)

### **Carey v Laikin 2015 SCC 17**

Supreme Court of Canada

McLachlin CJ; Abella, Rothstein, Cromwell, Moldaver, Karakatsanis and Wagner JJ

Contempt - respondent brought contempt proceedings against appellant lawyer alleging he breached terms of Mareva injunction by returning money to client for whom he was holding it in trust - injunction issued in course of litigation between respondent, client and related parties and enjoined any person with knowledge of order from disposing or dealing with assets of various parties, including client's - motions judge found lawyer in contempt - lawyer moved to reopen contempt hearing and filed new evidence - motions judge set aside previous finding of contempt - Court of Appeal allowed appeal and restored initial contempt finding - held: lawyer was in contempt - Court of Appeal correctly held motions judge erred in exercising discretion to permit lawyer to relitigate initial contempt finding, and erred in setting finding aside - appeal dismissed.

[Carey](#)

### **Michael v RJ Chalmers & Co.; Edwards v Causbrook & Associates.; Smidmore v RJ Chalmers & Co [2015] NSWSC 879**

Supreme Court of New South Wales

Hidden J

Discovery - misleading and deceptive conduct - plaintiffs were partners of law firm - plaintiffs together with wives and superannuation funds sued accountants for losses said to have been sustained by them by entering into recommended investments - plaintiffs sought order that defendants give discovery of certain categories of documents - Pt21 *Uniform Civil Procedure Rules 2005* - relevance - held: second defendant ordered to provide discovery of documents in categories sought relating to investments referred to in amended statement of claim.

[Chalmers](#)

### **Quach v Health Care Complaints Commission [2015] NSWCA 187**

Court of Appeal of New South Wales

Meagher JA

Stay - applicant sought declaration that decisions of New South Wales Civil & Administrative Tribunal were void, stay of order cancelling registration as medical practitioner, and that he be registered unconditionally as medical practitioner - held: order cancelling registration operated immediately - evidence was that practitioner's name removed from Register of Medical Practitioners - there was no continuing operation of that order which might be subject of stay - having regard to serious nature findings by NCAT and public interest it was not a case in which any discretion to grant a stay would have been exercised - application for extension of the time in which to bring "appeal for merits review" refused - any such application should have been brought by way of summons seeking leave to appeal - notices of motion dismissed.

[Quach](#)



**Wright Prospecting Pty Ltd v Hancock Prospecting Pty Ltd [No 3] [2015] WASC 231**

Supreme Court of Western Australia

Le Miere J

Pleadings - claim to entitlements in relation to mining tenements acquired by first defendant or its subsidiaries - first and second defendants sought to strike out parts of substituted statement of claim and reply - held: contract or legally binding promise asserted by plaintiff in paragraph of substituted statement of claim, which was foundation for the pleas in two subsequent paragraphs, was not sustainable - paragraphs of statement of claim struck out.

[Wright](#)

**Coffey LPM Pty Ltd v The Contaminated Sites Committee [2014] WASC 504**

Supreme Court of Western Australia

Chaney J

Costs - appeal dismissed in proceedings - fourth respondent had appeared in opposition to appeal at hearing of matter and relied substantially on submissions made by intervener - fourth respondent made submissions in relation to contentions in 'Notice of Contention' - fourth respondent sought an order for payment of its costs on basis it was a successful party to appeal for purposes of O 66 r1 *Rules of the Supreme Court 1971 (WA)* - held: fourth respondent was successful party in opposing appeal - appellant ordered to pay its costs not including costs in relation to notice of contention, which was misconceived.

[Coffey](#)

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