

Wednesday, 10 December 2014

Insurance

A Daily Bulletin listing Decisions of Superior Courts of Australia

 Follow @Benchmark_Legal

Search Engine

[Click here](#) to access our search engine facility to search legal issues, case names, courts and judges. Simply type in a keyword or phrase and all relevant cases that we have reported in Benchmark since its inception in June 2007 will be available with links to each case.

Executive Summary (1 minute read)

Little v McCarthy (QSC) - damages - motor vehicle accident - economic loss - damages assessed

Findley v Morand (QSC) - defamation - extension of time to bring proceedings granted

Insurance Australia Ltd t/as NRMA Insurance v Iuli (ACTCA) - insurance - insurer's appeal from interlocutory decision of Master incompetent

Summaries with links (5 minute read)

Little v McCarthy [2014] QSC 274

Supreme Court of Queensland

McMeekin J

Damages - motor vehicle accident - first plaintiff claimed damages for personal injuries suffered in motor vehicle accident - liability admitted - plaintiff sought large amount of damages, just over \$1,000,000 - defendants contended proper assessment should be quite modest - a little over \$60,000 - first plaintiff's case had none of the usual features associated with a million dollar personal injuries' claim - contest principally over economic loss - application of provisions in *Civil Liability Act 2003* (Qld) and *Civil Liability Regulation 2003* (Qld) - credit - effect of injury on earning capacity - damages assessed at \$254,560.42.

[Little](#)

Findley v Morand [2014] QSC 297

Supreme Court of Queensland

A Wilson J

Limitations - defamation - applicant had rented property from respondents - applicant sought extension of time to bring defamation proceedings against respondents arising from alleged posting of entries in tenancy database - first entry lodged 9/3/11 - second entry lodged 25/1/12 - ss10AA & 32A *Limitation of Actions Act 1974* (Qld) - whether not reasonable in circumstances for plaintiff to have commenced action in relation to matter complained of within one year from the date of publication - held: applicant's evidence sufficient to establish that he was not alerted to alleged defamatory statements in the database until June 2014 - too late to save any remedy he might have had in respect of first entry on 9/3/11 as three year period had already expired by time applicant discovered it however extension of time warranted under s32A to permit him to file proceedings for defamation by 25/1/15.

[Findley](#)**Insurance Australia Ltd t/as NRMA Insurance v Iuli [2014] ACTCA 50**

Court of Appeal of New South Wales

Penfold, Burns & Ross JJ

Insurance - motor vehicle accident - vehicle ran out of control - first defendant cyclist injured when he fell from bike after colliding with debris created by accident 40 minutes later when vehicle was still in position but not moving - driver held a CTP policy with appellant insurer issued under *Road Transport (Third Party Insurance) Act 2008* (ACT) - Master refused to declare that accident involving cyclist was not a motor accident within the meaning of s7 - held: appeal to Court of Appeal was not competent - Master's refusal of declaration sought by appellant was an interlocutory order - any appeal lay, not to the Court of Appeal, but to a single judge of the Supreme Court - matter not within jurisdiction of Court of Appeal and should be referred to single judge for further consideration.

[Insurance Australia Ltd t/as NRMA Insurance](#)

[Click Here to access our Benchmark Search Engine](#)