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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)

Nettleton v Rondeau (NSWSC) - subpoena - motor vehicle accident - assessment of damages - residual earning capacity - subpoena impermissibly wide and indicative of impermissible fishing - subpoena set aside

Trombone Investments Pty Ltd v TBT (Victoria) Pty Ltd (VSC) - judicial review - leases and tenancies - summons for production of documents quashed - leave to appeal granted - appeal allowed

Registrar of Titles v MRSA (WASCA) - real property - transfer of land - deceit - fraud - dismissal of claim for contribution and indemnity - appeal allowed

Summaries With Link (Five Minute Read)

Nettleton v Rondeau [2015] NSWSC 1490

Supreme Court of New South Wales

Bellew J

Subpoena - plaintiff sought damages for injuries suffered in motor vehicle accident - Court entered verdict for plaintiff with damages to be assessed - plaintiff sought pursuant to r33.4 *Uniform Civil Procedure Rules 2005* (NSW) to set aside subpoena issued by defendant's solicitor in relation to plaintiff's investments - residual earning capacity - held: defendant entitled to seek production of documents which were relevant to residual earning capacity but only within bounds of what was permissible and accordance with fundamental principles on which parties were agreed - subpoena traversed some such principles - subpoena was impermissibly wide and indicative of impermissible fishing - subpoena set aside

[Nettleton](#)

Trombone Investments Pty Ltd v TBT (Victoria) Pty Ltd [2015] VSC 517

Supreme Court of Victoria

Daly AsJ

Judicial review - leases and tenancies - relief against forfeiture - plaintiff was tenant in building owned by first defendant pursuant to terms of lease - disputes arose between plaintiff and first defendant relating to issue of notice under s146 *Property Law Act 1958* alleging plaintiff breached lease- plaintiff sought leave to appeal from decision of Victorian Civil and Administrative Tribunal to quash three summonses for production of documents - approach to determination of whether documents sought by subpoena were 'relevant' - 'may be relevant to any legitimate issue in the proceeding' - whether unconscionable conduct of landlord must be directly linked to breach of tenant - s77 *Retail Leases Act 2003* (VSC) - *Australian Consumer Law* - held: Senior Member's conclusion infected by unduly narrow approach - leave to appeal granted - appeal allowed.

[Trombone](#)

Registrar of Titles v MRSA [2015] WASCA 204

Court of Appeal of Western Australia

Martin CJ; Newnes & Murphy JJA

Real property - deceit - respondent (Ms MRSA) forged father's signature on document appointing her as his attorney with power to sell land - respondent conveyed title to land to Western Australian Planning Commission and misappropriated money which Commission paid to obtain title - Mr Mrsa commenced proceedings against respondent and appellant - Mr MRSA died - respondent failed to file defence - judgment entered against her by default - Registrar claimed contribution and indemnity from respondent and from her sister who signed power of attorney as witness to father's signature - trial judge declined to assess damages due from Ms Mrsa to Mr MRSA's estate, upheld estate's claim against Registrar and ordered Registrar to pay damages to estate - trial judge dismissed Registrar's claims for contribution and indemnity -



trial judge found statutory scheme for compensation created *Transfer of Land Act 1893* (WA) impliedly excluded actions in deceit and any other claim in tort - trial judge considered State's loss due to obligation to compensate Mr Mrsa's estate not caused by respondent's deceit and that Registrar was not the appropriate party to claim relief - ss195, 199, 201 & 205 - held: each of trial judge's reasons for dismissing Registrar's claim was erroneous - appeal should be allowed - claim for contribution and indemnity upheld.

[Registrar of Titles](#)

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