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Insurance

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Dallas Buyers Club, LLC v iiNet Ltd (No 1) (FCA) - preliminary discovery - third party access to evidence filed by film copyright owner refused

Fisher v Channel Seven Sydney Pty Ltd (No 4) (NSWSC) - defamation - special jury verdict - assessment of damages

Rutland v Allianz Australia Insurance Ltd (NSWSC) - motor accidents compensation - psychiatric injury - decision of Medical Review Panel set aside

Summaries with links (5 minute read)

Dallas Buyers Club, LLC v iiNet Ltd (No 1) [2014] FCA 1232

Federal Court of Australia

Perram J

Discovery - owner of copyright in film sought preliminary discovery of documents - internet service providers were respondents to application - copyright owner was seeking to show it had identified IP addresses of persons who had been involved in file-sharing of film - copyright owner had filed affidavits and expert report in support of application - material had not been used in open court - third parties sought access to documents on Court file - r7.22 *Federal Court Rules 2011* (Cth) - held: no reason why access should not be granted to unrestricted documents presently on the file

- in relation to restricted documents, it was Court's usual practice to release material which had been used in open court - notions of justice did not require release of material in relation to evidence which had not been utilised at time of third party application - applications for access to evidence refused, except in relation to material used in Court.

[Dallas Buyers Club, LLC](#)

Fisher v Channel Seven Sydney Pty Ltd (No 4) [2014] NSWSC 1616

Supreme Court of New South Wales

Rothman J

Defamation - damages - plaintiff sued defendants for damages arising from broadcast of segment on television program which accused him of misconduct as a driver of a bus carrying school children - jury returned special verdict that two imputations proved true and five further imputations not proved true - jury determined untrue imputations had effect of defaming plaintiff, despite damage to reputation arising from truth of the two other imputations - assessment of damages in conformity with jury verdict - held: evidence demonstrated broadcast could be considered to have been published to world at large, and plaintiff was entitled to be compensated for that - damages sufficient to compensate fully without need for aggravated damages.

[Fisher](#)

Rutland v Allianz Australia Insurance Ltd [2014] NSWSC 1583

Supreme Court of New South Wales

Garling J

Motor accidents compensation - plaintiff's younger sister killed in motorcycle accident - plaintiff sued insurer for psychiatric injury and nervous shock - plaintiff challenged decision of Medical Review Panel to set aside medical Assessor's certificate and certify that plaintiff's whole person impairment was not greater than 10% - held: Review Panel failed to discharge its statutory function pursuant to s63 *Motor Accidents Compensation Act 1999* (NSW) because it failed to assess all matters afresh in respect of the plaintiff's whole person impairment - Review Panel failed to cause enquiries to be made of claimant as to what her job duties actually involved - Review Panel failed to accord procedural fairness to claimant - certificate of Review Panel set aside.

[Rutland](#)

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