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Insurance

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Gardner v Persse (SASC) - legal practitioners - appellant falsely held herself out as entitled to practise law - conviction recorded - appeal dismissed

Boat Harbour Beach Blue Waters Pty Ltd v Matthews Properties Pty Ltd (TASSC) - damages - interlocutory judgment for damages to be assessed set aside

Summaries with links (5 minute read)

Gardner v Persse [2014] SASC 174

Supreme Court of South Australia

Nicholson J

Legal practitioners - appellant charged with falsely holding herself out as being entitled to practise law contrary to s21(1) *Legal Practitioners Act 1981* (SA) - appellant appealed against Magistrate's decision to refuse application pursuant to s16 *Criminal Law (Sentencing) Act 1988* (SA) to refrain from recording a conviction - held: open to Magistrate to not be satisfied appellant unlikely to reoffend in similar manner - Magistrate's discretion to refrain from recording conviction under s16 not enlivened - any further inquiry as to whether conviction should be recorded was otiose.

[Gardner](#)

Boat Harbour Beach Blue Waters Pty Ltd v Matthews Properties Pty Ltd [2014] TASSC 59

Supreme Court of Tasmania

Holt AsJ

Damages - proportionate liability - plaintiff sought to set aside interlocutory judgment for damages to be assessed which it obtained against first defendant as result of failure to comply with order - plaintiff concerned that first defendant may be without funds or insurance and that judgment may deprive it of opportunity of pursuing other defendants because of proportionate liability provisions contained in *Civil Liability Act 2002* (Tas) - held: existence of judgment put plaintiff at risk of being unable to recover damages against defendants as claimed - plaintiff at risk that first defendant would not be able to satisfy judgment against it either directly or through insurer - first defendant did not oppose making of order setting aside judgment against it - other defendants not compromised in ability to defend claims against them by reason of entry of judgment or by reason of delay in applying to have it set aside - pleadings disclosed causes of action against other defendants - setting aside judgment and leaving plaintiff free to pursue other defendants not without purpose - judgment set aside.

[Boat Harbour Beach Blue Waters Pty Ltd](#)

The Snow-Storm

By Ralph Waldo Emerson

Announced by all the trumpets of the sky,
Arrives the snow, and, driving o'er the fields,
Seems nowhere to alight: the whited air
Hides hills and woods, the river and the heaven,
And veils the farmhouse at the garden's end.
The steed and traveler stopped, the courier's feet
Delayed, all friends shut out, the housemates sit
Around the radiant fireplace, enclosed
In a tumultuous privacy of storm.

Come see the north wind's masonry
Out of an unseen quarry evermore
Furnished with tile, the fierce artificer
Curves his white bastions with projected roof
Round every windward stake, or tree, or door.
Speeding, the myriad-handed, his wild work



So fanciful, so savage, nought cares he
For number or proportion. Mockingly,
On coop or kennel he hangs Parian wreaths;
A swan-like form invests the hidden thorn;
Fills up the farmer's lane from wall to wall,
Maugre the farmer's sighs; and, at the gate,
A tapering turret overtops the work.
And when his hours are numbered, and the world
Is all his own, retiring, as he were not,
Leaves, when the sun appears, astonished Art
To mimic in slow structure, stone by stone,
Built in an age, the mad wind's night-work,
The frolic architecture of the snow.

[Ralph Waldo Emerson](#)

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