



Friday, 23 October 2015

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

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Executive Summary (1 minute read)

Hurd v Zomojo Pty Ltd (FCAFC) - corporations - directors' duties - breach of service agreement - damages - appeal dismissed - application to quash judgments and order also dismissed

Hamilton v State of New South Wales (NSWSC) - client legal privilege - misfeasance in public office - documents were subject of client legal privilege - privilege not waived

Greek Orthodox Community of South Australia Inc v Pashalis (SASC) - defamation - newspaper article defamatory of certain plaintiffs - defence of statutory qualified privilege failed - damages

Vadasz v Gadaleta Steel Fabrication Pty Ltd (SASC) - contract - steel and welding services - no contractual right to claim - amount due and payable reduced - appeal allowed in part

Lindner v The Corporation of the City of Marion (SASC) - summary judgment - approval of development application - no reasonable cause of action against planning authority - summary judgment granted

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Summaries With Link (Five Minute Read)

Hurd v Zomojo Pty Ltd [2015] FCAFC 147

Full Court of the Federal Court of Australia

Besanko, Gilmour & Beach JJ

Corporations - directors' duties - applicant managing director found to have breached services agreement - applicant sought extension of time to appeal against judgments on liability and judgment on quantum and relief - applicant also sought to quash the judgments and orders - ss20(1A), 27 *Federal Court of Australia Act 1976* (Cth) - standing - Constitutional writs - assertions of bias, errors of fact, lack of procedural fairness - held: extension of time granted - grounds of appeal not made out - appeal dismissed - application to quash judgments and orders dismissed.

[Hurd](#)

Hamilton v State of New South Wales [2015] NSWSC 1430

Supreme Court of New South Wales

Harrison AsJ

Client legal privilege - misfeasance in public office - Director of Public Prosecutions sought he be excused from producing documents pursuant to r1.9 *Uniform Civil Procedure Rules 2005* (NSW) on basis documents subject to client legal privilege - NSW Commissioner of Police sought that subpoena to produce issued by plaintiff be set aside under r33.4 - ss118 & 119 *Evidence Act 1995* (NSW) - onus - held: documents were subject of client legal privilege - privilege not waived - not a case where interests of justice should dictate result should be otherwise - costs was only issue to be decided in respect of notice of motion of NSW Commissioner of Police - both parties had compromised - parties to bear own costs.

[Hamilton](#)

Greek Orthodox Community of South Australia Inc v Pashalis [2015] SASC 122

Supreme Court of South Australia

Blue J

Defamation - Greek Orthodox Community and others sued defendant publisher of newspaper for defamation arising out of publication of article - defendant admitted publication but denied pleaded imputations or that they were defamatory - defendant pleaded statutory qualified privilege - ss22 & 28 *Defamation Act 1974* (NSW) - held: article was defamatory of second, third and seventh plaintiffs but not Greek Orthodox Community or remaining plaintiffs - defence of statutory qualified privilege failed - damages awarded in plaintiffs' favour.

[Greek Orthodox Community](#)

Vadasz v Gadaleta Steel Fabrication Pty Ltd [2015] SASC 162

Supreme Court of South Australia

Nicholson J

Contract - appellant engaged respondent to undertake certain steel and welding services -

appellant challenged respondent's entitlement to be paid invoiced amount of \$70,168.01 - Magistrate made allowance for \$10,000 part payment and reduction of \$1,496.55 on account of errors in invoices - Magistrate found appellant liable, pursuant to contract, to pay respondent sum of \$58,671.46 for work performed - appellant appealed - held: respondent had no contractual entitlement to claim - all hours of work performed by respondent's employees to be charged out at agreed rate of \$75 per hour plus GST - appeal allowed in part - amount due and payable reduced.

[Vadasz](#)

Lindner v The Corporation of the City of Marion [2015] SASC 152

Supreme Court of South Australia

Parker J

Summary judgment - plaintiffs brought claim in relation to defendant's decision to grant approval for development on land under *Development Act 1993* (SASC) - plaintiffs claimed defendant failed to assess development application correctly - defendant sought summary judgment on basis no reasonable cause of action, or dismissal of statement of claim or strike-out of certain parts of statement of claim - ss3, 35, 38, 38(3), 38(5), 86(1)(b) & 86(1)(f) - held: allegation of jurisdictional error served no purpose without application for judicial review - no reasonable basis for allegation of breach of duties or constructive fraud, or aiding or abetting on a fraud - no reasonable basis for claim of nuisance or conspiracy or fraud on a power - summary judgment granted.

[Lindner](#)



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A Complaint

By William Wordsworth

There is a change—and I am poor;
Your love hath been, nor long ago,
A fountain at my fond heart's door,
Whose only business was to flow;
And flow it did; not taking heed
Of its own bounty, or my need.

What happy moments did I count!
Blest was I then all bliss above!
Now, for that consecrated fount
Of murmuring, sparkling, living love,
What have I? shall I dare to tell?
A comfortless and hidden well.

A well of love—it may be deep—
I trust it is,—and never dry:
What matter? if the waters sleep
In silence and obscurity.
—Such change, and at the very door
Of my fond heart, hath made me poor.

[William Wordsworth](#)

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