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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)

**Australian Competition and Consumer Commission v ACN 117 372 915 Pty Ltd (in liq) (formerly Advanced Medical Institute Pty Ltd) (FCA)** - consumer law - treatments for premature ejaculation and erectile dysfunction - unconscionable conduct - declarations and orders

**Commonwealth Bank of Australia v The Right Reverend Ian Palmer, Bishop of the Diocese of Bathurst (NSWSC)** - privilege - no waiver of legal professional privilege by bank - Court declined to order production of documents

**Raskopoulos v Jensen Laundry Systems Australia Pty Ltd (NSWSC)** - pleadings - negligence - crush injury in laundromat - leave to file amended statement of claim

**Electricity Generation and Retail Corporation t/as Synergy v Woodside Energy Ltd (WASC)** - costs - special costs orders granted pursuant to s280(2) *Legal Profession Act 2008* (WA)

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## Summaries With Link (Five Minute Read)

### **Australian Competition and Consumer Commission v ACN 117 372 915 Pty Ltd (in liq) (formerly Advanced Medical Institute Pty Ltd) [2015] FCA 368**

Federal Court of Australia

North J

Consumer law - unconscionable conduct - contract - AMI offered treatments for premature ejaculation and erectile dysfunction advertised to result in longer lasting sex - ACCC alleged AMI engaged in unconscionable conduct contrary *Trade Practices Act 1974* (TPA) and *Australian Consumer Law* - ACCC also alleged refund term unfair and void under ACL - ss21, 22, 23, 24, 25, 27, 232, 239, 240, 243, 246 & 250 *Competition and Consumer Act 2010* - ss97 & 14 *Evidence Act 1995* - ss51AB & 80 TPA - held: AMI's conduct unconscionable - contract term unfair - CEO made all critical decisions relating to business of AMI - CEO responsible for AMI's unconscionable conduct - orders and injunctions made - CEO excluded for seven years from continuing main role in business of AMI which involved the unconscionable conduct - declarations and orders made.

[AMI](#)

### **Commonwealth Bank of Australia v The Right Reverend Ian Palmer, Bishop of the Diocese of Bathurst [2015] NSWSC 450**

Supreme Court of New South Wales

Rein J

Legal professional privilege - bank was seeking to recover amount under asserted letter of guarantee given by Bishop in respect of loans to fund - defendants' solicitors served notice to produce on bank - whether legal professional privilege in respect of two documents had been waived by bank by reason of banks' pleadings and content of affidavit of bank manager - held: bank had not made assertions about content of privileged communications while at the same time seeking to maintain privilege - bank was not making assertions about its state of mind or bank manager's state of mind in circumstances where confidential information likely to have affected that state of mind - bank had not waived privilege - Court declined to order production of documents.

[Commonwealth](#)

### **Raskopoulos v Jensen Laundry Systems Australia Pty Ltd [2015] NSWSC 427**

Supreme Court of New South Wales

Bellew J

Pleadings - plaintiff employed in commercial laundry sued defendant for injuries suffered when crushed between two machines - plaintiff sought leave to file amended statement of claim to add particulars of negligence - s64 *Civil Procedure Act 2005* - held: amendments not inconsistent with substance of pleadings originally framed or with matters already raised in expert evidence served by plaintiff - leave granted to file amended statement of claim.

[Raskopoulos](#)



**Electricity Generation and Retail Corporation t/as Synergy v Woodside Energy Ltd [2014]**

**WASC 469**

Supreme Court of Western Australia

Martin CJ

Costs - Court refused leave to appeal from an arbitral award fixing price at which gas would be sold to buyer by sellers - sellers sought orders pursuant to s280(2) *Legal Profession Act 2008* (WA) - general effect of orders sought would be to permit taxing officer to award costs without being limited by applicable costs determinations in respect of general hourly rates for particular classes of practitioner, maximum amounts specified in respect of various items, or maximum hours specified in relation to those items - held: complexity of issues litigated, financial significance of issues, and legal resources applied by each party to litigation leave no room for any doubt whatsoever that order under s280(2) appropriate - special costs orders granted.

[Electricity](#)



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## **Swallows**

By Leonora Speyer

They dip their wings in the sunset,  
They dash against the air  
As if to break themselves upon its stillness:  
In every movement, too swift to count,  
Is a revelry of indecision,  
A furtive delight in trees they do not desire And in grasses  
that shall not know their weight.

They hover and lean toward the meadow  
With little edged cries;  
And then,  
As if frightened at the earth's nearness, They seek the  
high austerity of evening sky And swirl into its depth.

[Leonora Speyer](#)

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