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Insurance

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Executive Summary (1 minute read)

Rinehart v Rinehart (FCA) - suppression - trusts - interim orders suppressing statement of claim refused

The Herald & Weekly Times Ltd v Jessop (VSCA) - accident compensation - serious injury - no error in loss of earning capacity analysis - appeal dismissed

H & G MacDonald Carriers Pty Ltd v Carson (VSC) - accident compensation - medical panel breached rules of natural justice - panel's answers quashed

Sanrus Pty Ltd v Monto Coal 2 Pty Ltd (QSC) - pleadings - joint venture - paragraphs of statement of claim not struck out

Doyle (WA) Pty Ltd v ING Real Estate Joondalup BV (WASCA) - work injury - trip and fall in shopping centre - employer refused indemnity from shopping centre owner

Summaries with links (5 minute read)

Rinehart v Rinehart [2014] FCA 1241
Federal Court of Australia
Jacobson J
Suppression order - dispute between children of first respondent Georgina Hope Rinehart (GHR) and their mother as to GHR's alleged misconduct in administration of trust of which children were beneficiaries - respondents sought interim suppression orders under s37AI *Federal Court of Australia Act 1976* (Cth) - respondents sought to suppress contents of originating application and statement of claim and certain associated documents - abuse of process - whether harm would be occasioned in dealings with lenders and investors - scope of arbitration agreements/releases - held: respondents failed to establish credible case that proceeding constituted an abuse of process - counter-parties sophisticated commercial organisations well able to distinguish between allegations and factual findings - substance of allegations significantly in public domain - futile to make suppression order - interim suppression orders revoked - confidential addendum to statement of claim suppressed.
Rinehart

The Herald & Weekly Times Ltd v Jessop [2014] VSCA 292
Court of Appeal of Victoria
Neave & Kyrou JJA; Ginnane AJA
Accident compensation - serious injury - assessment of pre-injury earning capacity - employer appealed from decision in which County Court judge granted leave to worker to bring proceeding against employer for damages - order made pursuant to s134AB(16)(b) *Accident Compensation Act 1985* (Vic) - necessity for worker to establish that, due to workplace injury, earning capacity decreased by 40 per cent or more - whether judge misconstrued s134AB(38)(f)(ii) in relation to loss of earning capacity analysis - held: judge correctly concluded worker satisfied statutory test in ss134AB(38)(e) & 134AB(38)(f) - appeal dismissed.
The Herald & Weekly Times Ltd

H & G MacDonald Carriers Pty Ltd v Carson [2014] VSC 586
Supreme Court of Victoria
Bell J
Judicial review - accident compensation - Magistrates' Court of Victoria referred questions concerning worker's medical condition to medical panel pursuant to s45(1) *Accident Compensation Act 1985* (Vic) - employer sought review of panel's answers - current work capacity - held: panel determined worker had no current work capacity on grounds of dependence on medication - that proposition had never been put or tested - opinion of panel in this regard came

'out of the blue' - employer did not have opportunity to address determinative issues - panel breached rules of natural justice and committed jurisdictional error - answers quashed.
H & G MacDonald Carriers Pty Ltd

Sanrus Pty Ltd v Monto Coal 2 Pty Ltd [2014] QSC 282
Supreme Court of Queensland
Boddice J
Pleadings - plaintiffs sued defendants for breach of contract arising from conduct in breach of joint venture agreement - defendants sought that paragraphs of plaintiffs' proposed amended consolidated statement of claim be struck out - held: defendants did not establish paragraphs contained irrelevant allegations or would prejudice or delay fair trial - allegations not so tenuous they should be struck out - no basis to strike out claim for damages - application dismissed.
Sanrus Pty Ltd

Doyle (WA) Pty Ltd v ING Real Estate Joondalup BV [2014] WASCA 215
Court of Appeal of Western Australia
Buss, Murphy & Mazza JJA
Work injury damages - employer pursuant to s93 *Workers' Compensation and Injury Management Act 1981* (WA) sought to recover amount from shopping centre owner in respect of liability to an employee for worker's compensation arising from injury suffered by employee at work - primary judge dismissed claim - significance of subsequent alterations - ss5B & 5F *Civil Liability Act 2002* (WA) - held: primary judge did not err in finding potential danger was clear to pedestrians or in weighing the elements of s5(4) *Occupiers Liability Act 1985* (WA) - appeal dismissed.
Doyle (WA) Pty Ltd

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