

# Benchmark

Friday, 25 September 2015

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

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### Executive Summary (1 minute read)

**Lazarus, Lazarus and Lazarus v Director of the Independent Commission Against Corruption (No 2)** (NSWSC) - dismissal - delay - proceedings dismissed for want of due despatch

**Ligon Sixty-Three Pty Ltd v ClarkeKann (No 2)** (QSC) - costs - plaintiff to pay proposed defendants' costs of unsuccessful joinder application - defendant to pay plaintiff's costs of application to strike out relevant parts of defence

**Chiguvare v Seven Network (Operations) Ltd** (ACTSC) - pleadings - defamation - defective pleadings - paragraphs of statement of claim struck out with leave to file amended statement of claim

Sydney, Australia

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## Summaries With Link (Five Minute Read)

### Lazarus, Lazarus and Lazarus v Director of the Independent Commission Against Corruption (No 2) [2015] NSWSC 1390

Supreme Court of New South Wales

Bellew J

Dismissal - defendant sought that proceedings be dismissed pursuant to r12.7 *Uniform Civil Procedure Rules 2005* (NSW) for want of due despatch - delay - failure to comply with orders of Court to file amended statement of claim - s56 *Civil Procedure Act 2005* (NSW) - held: delay was catalyst for exercise of power under r12.7- delay should be assessed against entirety of circumstances of proceedings - plaintiffs' failure to comply with Court's most recent orders has resulted in delay sufficient to attract operation of r12.7 given proceedings' history - to allow proceedings to continue at odds with facilitation of just, quick and cheap resolution of issues - proceedings dismissed.

[Lazarus](#)

### Ligon Sixty-Three Pty Ltd v ClarkeKann (No 2) [2015] QSC 274

Supreme Court of Queensland

P McMurdo J

Costs - Court refused plaintiffs' application for joinder of proposed defendants to proceedings, and struck out relevant parts of defence - plaintiff sought that defendant pay its costs of plaintiff's application to strike out relevant parts of defence - defendant did not resist such order - proposed defendants sought that plaintiff should pay their costs of application to join them on indemnity basis - plaintiff conceded it should pay costs but resisted payment of indemnity costs - proposed defendants had offered to compromise application by order that application be dismissed with no order as to costs - held: Court not persuaded plaintiff's rejection of offers so unreasonable as to warrant award of indemnity costs - plaintiff was able to make own assessment of merits of its joinder applications - Court not persuaded defendant should bear costs of the plaintiff's applications to join parties.

[Ligon](#)

### Chiguvare v Seven Network (Operations) Ltd [2015] ACTSC 285

Supreme Court of the Australian Capital Territory

Mossop AsJ

Pleadings - defamation - plaintiff alleged she was defamed by television broadcast - pleading alleged plaintiff was defamed by segment on "sham marriages" - defendant sought to strike out imputations in statement of claim on basis they disclosed no reasonable cause of action, were imprecise and embarrassing, or did not differ in substance - held: certain imputations did not make clear what plaintiff's complaints actually were - paragraphs of statement of claim struck out with leave to file amended statement of claim.

[Chiguvare](#)

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## **Voices of the Air**

By Katherine Mansfield

But then there comes that moment rare  
When, for no cause that I can find,  
The little voices of the air  
Sound above all the sea and wind.

The sea and wind do then obey  
And sighing, sighing double notes  
Of double basses, content to play  
A droning chord for the little throats—

The little throats that sing and rise  
Up into the light with lovely ease  
And a kind of magical, sweet surprise  
To hear and know themselves for these—

For these little voices: the bee, the fly,  
The leaf that taps, the pod that breaks,  
The breeze on the grass-tops bending by,  
The shrill quick sound that the insect makes.

[KatherineMansfield](#)

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