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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)

**Dunkerley v Comcare** (FCA) - administrative law - no entitlement to compensation for medical treatment or incapacity - appeal dismissed

**Jeffrey and Curnow v Giles; Giles v Jeffrey and Curnow** (VSCA) - damages - defamation - damages so low as to be inappropriate - appeal allowed

# Benchmark

## Summaries With Link (Five Minute Read)

### **Dunkerley v Comcare [2015] FCA 392**

Federal Court of Australia

Perram J

Administrative law - Comcare decided applicant not entitled to compensation for medical treatment expenses or incapacity for work under *Safety, Rehabilitation and Compensation Act 1988* - Administrative Appeals Tribunal refused application for review - Comcare and AAT concluded injury had resolved by certain date was also supplanted by non-compensable injury suffered on subsequent date - ss5A(2), 54 & 57 *Safety, Rehabilitation and Compensation Act 1988* - held: no error law in AAT's treatment of evidence - Comcare and AAT not bound by medical certificates accompanying claim form - Comcare had not behaved inappropriately - in any event a breach of model litigant requirements had no consequences in civil litigation - appeal dismissed.

[Dunkerley](#)

### **Jeffrey and Curnow v Giles; Giles v Jeffrey and Curnow [2015] VSCA 70**

Court of Appeal of Victoria

Warren CJ, Tate JA & Ginnane AJA

Damages - defamation - costs - appellants defamed by statements made by respondent - appellants appealed against award of damages as manifestly inadequate - respondent seeks leave to appeal against order she pay appellants' costs of proceeding on basis she was not given opportunity to refer judge to offer of compromise she made - held: damages were so low as to be inappropriate - no error in refusal to award aggravated damages however behaviour relied upon in support of claim for aggravated damages should be taken into account in award of compensatory damages - question of interest to be further argued and determined in pending application under s29 *Civil Procedure Act 2010* - appeal allowed - respondent refused leave to appeal.

[Jeffrey](#)

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