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

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### Executive Summary (1 minute read)

**Redbro Investments Pty Ltd v Ceva Logistics (Australia) Pty Ltd** (NSWCA) - negligence - workplace injury - equal apportionment of liability between employer and third party - appeal dismissed

**Pi v State of New South Wales** (NSWSC) - pleadings - malicious prosecution - false imprisonment - wrongful arrest - statement of claim struck out - defamation action dismissed

**Mackay Sugar Ltd v Quadrio** (QCA) - contract - concluded and binding supply contract under *Sugar Industry Act 1999* (Qld) - appeal allowed

**AME Hospitals Pty Ltd v Dixon** (WASCA) - contract - negligence - extension of time to bring action against doctor and company - appeals dismissed

### Summaries with links (5 Minute Read)

**Redbro Investments Pty Ltd v Ceva Logistics (Australia) Pty Ltd [2015] NSWCA 73**

Court of Appeal of New South Wales

Basten & Leeming JJA; Simpson J

Negligence - workplace injury - truck driver employed by appellant - truck driver director of employer - employer owned prime mover driven by worker - respondent contracted with employer to haul trailers - worker claimed that, while loading trailer in Perth he fell and was injured - respondent was held liable to worker on basis worker's contributory negligence was

# Benchmark

one third - respondent sued employer for statutory contribution - primary judge apportioned liability equally between respondent and employer - employer submitted injury had not occurred in way respondent and worker contended - employer challenged primary judge's acceptance of worker as witness of truth - employer also contended corporate structure which permitted respondent to seek contribution after compromising worker's personal claim against it should result in nil or minimal contribution - primary judge rejected employer's submissions - submissions in substance repeated on appeal - commercial reality - s151Z *Workers Compensation Act 1987* (NSW) - held: no error shown in primary judge's reasoning - employer's appeal dismissed.

[Redbro](#)

## **Pi v State of New South Wales [2015] NSWSC 324**

Supreme Court of New South Wales

Harrison J

Pleadings - malicious prosecution - wrongful arrest - false imprisonment - defamation - NSW sought to strike out statement of claim - whether current statement of claim should be struck out in whole or in part - whether plaintiff should be entitled to replead his case - whether claim in defamation should be dismissed as an abuse of process - held: no version of plaintiff's statement of claim ever put in proper form - latest version was patently embarrassing and failed to formulate or plead a cause of action known to the law - NSW entitled to require plaintiff to formulate his various claims in proper manner - claims in defamation not maintainable - absolute privilege was complete answer to defamation claims - claims in defamation dismissed - statement of claim struck out with leave to file and serve amended statement of claim.

[Pi](#)

## **Mackay Sugar Ltd v Quadrio [2015] QCA 41**

Court of Appeal of Queensland

Carmody CJ; Fraser & Phillipides JJA

Contracts - statutory interpretation - trial judge declared respondent had not committed to concluded and binding contract with appellants in terms of "Tableland Collective Cane Supply and Processing Agreement" - declaration based on conclusion respondent had not complied with *Sugar Industry Act 1999* (Qld) - whether trial judge erred in holding respondent had not signed a *supply contract* as required by s31(5) - whether trial judge erred in holding a prerequisite for a binding contract that parties intended to be legally bound was satisfied - held: respondent manifested assent to entering contract by signing execution page - respondent signed written supply contract in accordance with s31 - appeal allowed.

[Mackay](#)

## **AME Hospitals Pty Ltd -v- Dixon [2015] WASCA 63**

Court of Appeal of Western Australia

McLure P; Buss & Newnes JJA

Negligence - contract - limitations - Master granted respondent extension of time under s36 *Limitation Act 2005* (WA) to commence action against doctor and company for breach of



# Benchmark

contract or negligence in connection with respondent's birth - proper construction of s39 and its application to facts and circumstances - *injury - physical cause - aware - ought reasonably to have become aware - attributable to* - held: at time limitation period expired, respondent's father not aware of physical cause of respondent's encephalopathy or cerebral palsy and not aware either injury attributable to conduct of a person - Court's power to extend time enlivened - Master granted extension of time by order within 3 year period in s39(4) - Master had power to make order within proper exercise of discretion - appeals dismissed.

[AME](#)

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