

Banking

A Daily Bulletin listing Decisions of Superior Courts of Australia

Executive Summary (1 minute read)

Commissioner of Taxation v BHP Billiton Finance Ltd - Taxation - appeals dismissed

Australian Competition & Consumer Commission v Australia & New Zealand Banking Group Ltd - Interrogatories - loan arrangement services - the objective of interrogatories

McLaughlin v Dungowan Manly Pty Ltd - Contracts - whether leave should be granted to commence derivative suit – oppression

Tenth Vandy Pty Ltd v Natwest Markets Australia Pty Ltd (No 2) - Costs - dispute as to lease for retail premises - Offer of compromise - costs against a non-party

Priceline Pty Ltd v JHY Nominees Pty Ltd & Ors - Production of documents - legal professional privilege – waiver

Perpetual Trustee Company Ltd v Cowley & Anor - Costs against non-party - solicitor's duty to court

Snelgrove v Great Southern Managers Australia Ltd (in liq'n)(Receiver & Manager app'd) - *Corporations Act* 2001 (Cth) - winding up - proceedings against company in liquidation - proceedings to inspect books - leave required - insurance policy

Canberra Data Centres Pty Ltd v Vibe Constructions (ACT) Pty Ltd - Application for leave to file Amended Statement of Claim - importance of pleadings

Summaries with links (5 minute read)

Friday 19 March 2010

Commissioner of Taxation v BHP Billiton Finance Ltd [2010] FCAFC

Full Court of the Federal Court of Australia

Sundberg, Stone & Edmonds JJ - Sydney (heard in Melbourne)

Taxation - for decision appealed from, see 'Benchmark' B & IBC Wednesday 1 April, 2009 & link below - retention loans - whether loans were 'limited recourse debt' within ss243-20(1) or (2) *Income tax Assessment Act 1997* (Cth): held they were not - appeals dismissed.

[Commissioner of Taxation](#)

[BHP Billiton Finance](#) - decision 30 March 2009 - *Income Tax Assessment Act 1997* (Cth) - *Income Tax Assessment Act 1936* (Cth) - writing off of part of two debts - whether Finance, internal financier to the BHPB Group, was in the business of lending money &, if so, whether each loan was made by Finance in the course of that business - allowable deductions - comprehensive consideration of case law.

Australian Competition & Consumer Commission v Australia & New Zealand Banking Group Ltd [2010] FCA 230

Federal Court of Australia

Greenwood J (in Brisbane)

Interrogatories - loan arrangement services - the objective of interrogatories - objections to interrogatories - detailed consideration of case law from the United Kingdom & Australia.

[Australian Competition and Consumer Commission](#)

McLaughlin v Dungowan Manly Pty Ltd [2010] NSWSC 187

Supreme Court of New South Wales

Ward J

Contracts - repair & redevelopment of home unit building in Manly - whether leave should be granted to commence derivative suit - oppression - leave granted to commence derivative suit for breach of statutory duties - assessment of damages - extensive consideration of case law.

[McLaughlin](#)

Tenth Vandy Pty Ltd v Natwest Markets Australia Pty Ltd (No 2) [2010] VSC 70

Supreme Court of Victoria

Croft J

Costs - dispute as to lease for retail premises - Offer of compromise - Calderbank offer - effect of unaccepted offer - whether wholly successful defendant entitled to costs on an indemnity basis - costs against a non-party - case law considered.

[Tenth Vandy](#)

Priceline Pty Ltd v JHY Nominees Pty Ltd & Ors [2010] VSC 61

Supreme Court of Victoria

Croft J

Production of documents - legal professional privilege - waiver of privilege - *Evidence Act 2008* (Vic) - detailed consideration of Australian case law.

[Priceline](#)

Perpetual Trustee Company Ltd v Cowley & Anor [2010] QSC 65

Supreme Court of Queensland

Atkinson J

Costs against non-party - solicitor's duty to court - costs on indemnity basis.

[Perpetual Trustee](#)

Snelgrove v Great Southern Managers Australia Ltd (in liq'n)(Receiver & Manager app'd) [2010] WASC 51

Supreme Court of Western Australia

Le Miere J

Corporations Act 2001 (Cth) - winding up - proceedings against company in liquidation - leave required - proceedings to inspect books of a Registered Investment Scheme - leave required - insurance policy - plaintiff's applications granted.

[Snelgrove](#)

Canberra Data Centres Pty Ltd v Vibe Constructions (ACT) Pty Ltd [2010] ACTSC 20

Supreme Court of the Australian Capital Territory

Refshauge J

Application for leave to file Amended Statement of Claim & for security for costs - dispute arising out of building works - importance of pleadings - intelligibility of pleadings - comprehensive

review of text & case law from the United Kingdom, Hong Kong & Australia in an interesting decision.

[Canberra Data Centres](#)

Henrik Ibsen

b. Skien, Norway 20 March 1828 - d. Christiania (now Oslo) 23 May 1906

DR. STOCKMANN : That's just where you're wrong ! The majority *never* has right on its side - never, I say ! That's just one of those social fallacies which any fair-minded individualist has to fight against ! After all, who constitutes the majority in any country ? The wise men or the fools ? And it's the same all the world over - the fools are in an absolute and overwhelming majority - and you can't deny that ! But for heaven's sake don't suggest that it's right and proper for the fools to govern the wise ! (*Cries, boos and general uproar.*) Oh yes, you can shout me down - but you can't prove me wrong ! The majority has might, unfortunately - but it hasn't right ! It's I, and a few like me, who are right ! The minority's always right ! (*Renewed uproar.*)

From Act Four of 'An Enemy of the People.' In a letter to his publisher in September 1882, Ibsen wrote: " I have enjoyed writing this play, and I feel quite lost and lonely now that it is out of my hands. Dr. Stockmann and I got on so very well together; we agree on so many subjects. But the doctor is more muddle-headed than I am; and moreover he has other peculiarities that permit him to say things which would not be taken so well if I myself said them..."

[Henrik Ibsen - Wikipedia, the free encyclopedia](#)

[An Enemy of the People - Wikipedia, the free encyclopedia](#)