



Insurance Banking & Construction

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Steel v Beks - *Building & Construction Industry Security of Payment Act 1999* (NSW) - payment claims & s17(2) notices not served (I, C)

Vero Insurance Ltd v Nicejade Pty Ltd - s601AH(2) *Corporations Act 2001* (Cth) (I, C)

Gillies v Downer EDI Ltd - Client legal privilege (I, B)

Whitegum Petroleum Ltd v Bernadini Pty Ltd - Leases - test of whether a party to a lease has exercised an option to renew the lease (B)

Celtic Capital Pty Ltd v Cityview Corporation Ltd - *Corporations Act 2001* (Cth) - application for remedial orders validating a share issue (B)

Peacock v Jones - Criminal law - appeal allowed from conviction by magistrate for dangerous driving causing grievous bodily harm (I)

Eclipse Resources Pty Ltd v Department of Environment & Conservation - *Environmental Protection Act 1986* (WA) - amendment of licenses - show cause application (C)



Summaries with links (5 minute read)

Tuesday 7 December 2010

Steel v Beks [2010] NSWSC 1404

Supreme Court of New South Wales

Macready AsJ

Building & Construction Industry Security of Payment Act 1999 (NSW) - plaintiff, a supplier of temporary building structures, seeking declarations that two adjudication certificates null & void & orders restraining enforcement of judgment that had resulted from the filing of the certificates - payment claims & s17(2) notices not served.

[Steel](#) (I, C)

[Chase Oyster Bar](#) - decision NSW Court of Appeal 24 September 2010: see 'Benchmark Tuesday 28 September 2010 - *Building & Construction Industry Security of Payment Act 1999* (NSW) - certiorari - adjudication application not made in compliance with s17(2)(a) - *Brodyn Pty Ltd v Davenport* (2004) 61 NSWLR 421 - constitutional law - comprehensive consideration of text, legislation & case law;

[Chase Oyster Bar](#) - decision Supreme Court 21 April 2010: see 'Benchmark' C & IBC Friday 30 April 2010 - challenge to adjudicator's determination - date of service of payment claim - issue to be referred to the Court of Appeal for determination - plaintiff submitting that reasoning of Court of Appeal in *Brodyn Pty Ltd v Davenport* (2004) 61 NSWLR 421 could no longer be supported in light of subsequent High Court case *Kirk v Industrial Relations Commission of New South Wales* (2010) 239 CLR 531;

[Chase Oyster Bar](#) - decision Supreme Court 24 September 2010;

[Brodyn](#) - reported at 61 NSWLR 421 - decision Court of Appeal of New South Wales 3 November 2004 - *Home Building Act 1989* (NSW) - effect of absence of licence

Vero Insurance Ltd v Nicejade Pty Ltd [2010] NSWSC 1407

Supreme Court of New South Wales

Barrett J

s601AH(2) *Corporations Act 2001* (Cth) - order by consent setting aside order directing reinstatement of registration of deregistered company (& other orders) - order by consent dismissing proceedings.

[Vero Insurance](#) (I, C)

[Vero Insurance](#) - decision 1 June 2010: see 'Benchmark' I, C & IBC Thursday 3 June 2010 - deregistered company - application for order directing reinstatement - policy of insurance under *Home Building Act 1989* (NSW) - whether applicant a person aggrieved - applicant has claim by subrogation against deregistered company - s18C *Home Building Act 1989* (NSW) refers to limitation period of seven years from 'the completion of the work' - occupation certificate - orders directing reinstatement & for winding up.

**Gillies v Downer EDI Ltd [2010] NSWSC 1323**

Supreme Court of New South Wales

Garling J

Client legal privilege - waiver of privilege - expert's report referring to contents of letter - plaintiff in affidavit refers to receipt of legal advice from his solicitor in conference - solicitor's file note - letter to be produced in unredacted form - His Honour not prepared to order that file note be produced for inspection.

[Gillies](#) (I, B)

Whitegum Petroleum Ltd v Bernadini Pty Ltd [2010] WASCA 229

Court of Appeal of Western Australia

Buss, Newnes & Murphy JJA

Leases - test of whether a party to a lease has exercised an option to renew the lease - by majority, appeal dismissed.

[Whitegum Petroleum](#) (B)

[Whitegum Petroleum](#) - decision WA Supreme Court 25 May 2010

Celtic Capital Pty Ltd v Cityview Corporation Ltd [2010] WASC 357

Supreme Court of Western Australia

Master Sanderson

ss254E(1) & 1322(4)(d) *Corporations Act* 2001 (Cth) - application for remedial orders validating a share issue - application granted.

[Celtic Capital](#) (B)

Peacock v Jones [2010] WASC 358

Supreme Court of Western Australia

Blaxell J

Criminal law - appeal from conviction by magistrate for dangerous driving causing grievous bodily harm - intersection collision at dusk between appellant's vehicle & motorcycle - appeal allowed - order for retrial.

[Peacock](#) (I)



Eclipse Resources Pty Ltd v Department of Environment & Conservation [2010] WASC 360

Supreme Court of Western Australia

Corboy J

Environmental Protection Act 1986 (WA) - certiorari - mandamus - application for an order to show cause - applicant had requested amendment of licenses - show cause application granted.

[Eclipse Resources](#) (C)

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