

Friday 12 April 2013

Insurance, Banking, Construction & Government

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Hayes (as Administrator), in the matter of Ply (ACT) Pty Ltd (Administrator Appointed) v Ply (ACT) Pty Ltd (Administrator Appointed) (FCA) - corporations - application for extension of time to convene second meeting of creditors - interests of unsecured creditors - application granted (B, C)

Cooper v Hobbs (NSWCA) - contract - evidence - dispute concerning proper characterisation of money transaction - failure to consider evidence material to critical issue - appeal allowed - new trial (B)

Lee v Woolworths Ltd (NSWSC) - limitation of actions - negligence - date of discoverability - plaintiff injured restacking boxes in trailer - proceedings against second defendant statute-barred - proceedings against third defendant not statute-barred (I)

Corby v Allen & Unwin Pty Limited (NSWSC) - defamation - determination of preliminary questions concerning imputations - certain imputations struck out - leave granted to replead certain imputations (I)



Duncan v The Honourable David Andrew Ipp AO QC and Ors (NSWSC) - administrative law - apprehended bias - plaintiff sought to restrain ICAC Commissioner from further participating in Inquiry - summons dismissed (I, C, G)

Summaries with links (5 minute read)

Hayes (as Administrator), in the matter of Ply (ACT) Pty Ltd (Administrator Appointed) v Ply (ACT) Pty Ltd (Administrator Appointed) [2013] FCA 313

Federal Court of Australia

Farrell J

Corporations - external administration - defendant company was building contractor specialising in commercial and multi unit residential buildings - application by administrator for orders pursuant to ss439A(6) & 447A(1) *Corporations Act 2001* (Cth) extending convening period for second meeting of creditors to allow time for finalisation of negotiations and preparation of deed of company arrangement - interests of unsecured creditors - held: administrator's actions had been diligent - extension of time would further the objects of Pt5.3A of the Act - application granted.

[Hayes](#) (B, C)

Cooper v Hobbs [2013] NSWCA 70

Court of Appeal of New South Wales

McColl & Meagher JJA; Bergin CJ in Eq

Contract - evidence - dispute concerning proper characterisation of money transaction between parties - held: failure to properly consider significance of evidence relevant to critical issue - real prospect that different conclusion would have been reached as to whether to accept witnesses' evidence if material had been properly considered - appeal allowed - matter remitted for new trial.

[Cooper](#) (B)

Lee v Woolworths Ltd [2013] NSWSC 238

Supreme Court of New South Wales

Fullerton J

Limitation of actions - negligence - date of discoverability - plaintiff injured re-stacking collapsed boxes in trailer - hearing of separate questions - whether proceedings statute-barred by operation of ss50C & 50D *Limitation Act 1969* (NSW) - whether plaintiff knew or ought to have known injury was caused by fault of defendants as required by s 50D(1)(b), *Baker-Morrison v State of New South*



Wales [2009] NSWCA 35 - held: proceedings against second defendant statute-barred - proceedings against third defendant not statute-barred.

[Lee](#) (I)

Corby v Allen & Unwin Pty Limited [2013] NSWSC 308

Supreme Court of New South Wales

Adamson J

Defamation - plaintiffs sued defendants for defamation in relation to book written by second defendant and published by first defendant - separate trial pursuant to r28.2 *Uniform Civil Procedure Rules* 2005 (NSW) regarding imputations pleaded by the plaintiff - held: certain imputations struck out - leave granted to replead certain imputations.

[Corby](#) (I)

Duncan v The Honourable David Andrew Ipp AO QC and Ors [2013] NSWSC 314

Supreme Court of New South Wales

Hoeben CJ at CL

Administrative law - apprehended bias - plaintiff sought orders restraining Commissioner from further presiding over or participating in Public Inquiry conducted by Independent Commission Against Corruption in relation to allocation of exploration licences - held: actions of Commissioner did not provide basis to suggest fair-minded observer might apprehend Commissioner might have predetermined matters under investigation – failure to establish second limb of *Ebner* test concerning apprehension of bias: *Ebner v Official Trustee in Bankruptcy* [2000] HCA 63 - court not satisfied independent observer might reasonably apprehend Commissioner might not be open to persuasion concerning matter subject of operation - summons dismissed.

[Duncan](#) (I, C, G)



Windy Nights

By Robert Louis Stevenson

Whenever the moon and stars are set,
Whenever the wind is high,
All night long in the dark and wet,
A man goes riding by.
Late in the night when the fires are out,
Why does he gallop and gallop about?

Whenever the trees are crying aloud,
And ships are tossed at sea,
By, on the highway, low and loud,
By at the gallop goes he.
By at the gallop he goes, and then
By he comes back at the gallop again.

[Robert Louis Stevenson](#)

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