



Monday 13 February 2012

Insurance, Banking, Construction & Government

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Construction, Forestry, Mining & Energy Union v BHP Coal Pty Ltd (No 3) - Production of documents - respondent's application to set aside Notice to Produce (I, B, C, G)

Dennis v Chambers Investment Planners Pty Ltd - Discovery of documents - r20.21 *Federal Court Rules* 2011 (Cth) (I, B, C, G)

Sneddon v State of New South Wales - Personal injuries - s101(2)(r) *Supreme Court Act* 1970 (NSW) - "matter at issue" (I)

Patrick Stevedores Holdings Pty Ltd v DPP & Anor - ss130-132 *Occupational Health & Safety Act* 2004 (Vic) (I)

Dura (Australia) Constructions Pty Ltd v Victorian Managed Insurance Authority - Building contracts – preliminary questions are orders subject to appeal (I, C)

Taha v Shaq Industries Pty Ltd & Ors - Personal injuries - duty of care - pleadings (I)



Re Willmott Forests Ltd - s568, s568D(1) *Corporations Act* 2001 (Cth) - managed investment schemes (B)

Clone Pty Ltd v Players Pty Ltd (in liq'n, Receivers App'd) & Ors - Procedure - production of documents – s50 *Supreme Court Act* 1935 (SA) (I, B, C, G)

In the estate of Winter (dec'd) - Wills - referral from Registrar of Probates as to which testamentary documents of deceased should be admitted to probate (B)

Summaries with links (5 minute read)

Construction, Forestry, Mining & Energy Union v BHP Coal Pty Ltd (No 3) [2012] FCA 61

Federal Court of Australia

Collier J

Production of documents - respondent's application to set aside applicant's Notice to Produce - timing - relevance of documents described in Notice - onus of establishing relevance - Notice to Produce set aside - Australian case law considered.

[Construction, Forestry, Mining and Energy Union](#) (I, B, C, G)

Dennis v Chambers Investment Planners Pty Ltd [2012] FCA 63

Federal Court of Australia

Barker J

Discovery of documents - torts - contracts - financial advice - compliance documents - applicant's application for particular discovery under r20.21 *Federal Court Rules* 2011 (Cth) dismissed - comprehensive review of legislation & Australian case law.

[Dennis](#) (I, B, C, G)



Sneddon v State of New South Wales [2012] NSWCA 7

Court of Appeal of New South Wales

Barrett JA

Personal injuries - appellant, the plaintiff in the primary proceedings, seeking to appeal in respect of quantum of damages awarded against second respondent & in respect of verdict entered against her & in favour of first respondent the State - s101(2)(r) *Supreme Court Act 1970* (NSW): the State contending the \$100,000 threshold not met & that the appeal therefore incompetent & ought to be dismissed - first respondent's application dismissed - "matter at issue."

[Sneddon](#) (I)

[Supreme Court Act 1970 - s101](#)

Patrick Stevedores Holdings Pty Ltd v DPP & Anor [2012] VSC 31

Supreme Court of Victoria

Robson J

Ss130-132 *Occupational Health & Safety Act 2004* (Vic) - limitation period for prosecutions - immunity - procedural fairness - prohibition - comprehensive review of Australian legislation & case law.

[Patrick Stevedores Holdings](#) (I)

Taha v Shaq Industries Pty Ltd & Ors [2012] VSC 30

Supreme Court of Victoria

Beach J

Personal injuries - duty of care - police officer - present application concerns plaintiff's claims against third defendant, the State of Victoria, & fifth defendant - third & fifth defendants seeking summary judgment on basis proceeding failed to disclose a cause of action against them; alternatively, on basis claims pleaded against them had no real prospect of success - fifth defendant contending he did not owe plaintiff the duty of care alleged against him, & that therefore there should be judgment for fifth defendant against plaintiff; third defendant supports this contention - some paragraphs of amended statement of claim struck out - plaintiff granted leave to re-plead her claims against third & fifth defendants - case law from UK & Australia considered.

[Taha](#) (I)

**Re Willmott Forests Ltd [2012] VSC 29**

Supreme Court of Victoria

Davies J

Ss568 & 568D(1) *Corporations Act* 2001 (Cth) - managed investment schemes - forestry operations - members of MIS: 'Growers' - whether liquidators able to disclaim Growers' leases with the effect of extinguishing the Growers' leasehold estate or interest in the subject land - answer 'no' - consideration of UK & Australian case law.

[Re Willmott Forests](#) (B)

Clone Pty Ltd v Players Pty Ltd (in liq'n, Receivers App'd) & Ors [2012] SASC

Supreme Court of South Australia

Kourakis J

Procedure - production of documents - proceedings brought by Players parties to set aside orders of trial judge in relation to dispute over ownership of liquor & gaming licences - power to set aside perfected orders - whether setting aside sealed judgment on the ground agitated inconsistent with right of appeal given by s50 *Supreme Court Act* 1935 (SA) - internal documents privileged - rule of preclusion - comprehensive review of case law from UK & Australia.

[Clone](#) (I, B, C, G)

In the estate of Winter (dec'd) [2012] SASC 16

Supreme Court of South Australia

Gray J

Wills - referral from Registrar of Probates as to which testamentary documents of deceased should be admitted to probate - principles regarding implied revocation of earlier testamentary documents - whether intention to revoke second codicil established: answer 'no' - extensive consideration of UK & Australian case law.

[Winter](#) (B)

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