

Thursday, 13 June 2019

Daily Civil Law A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Phonographic Performance Company of Australia Limited v Copyright Tribunal of Australia (FCAFC) - administrative law - copyright - Copyright Tribunal of Australia lacked jurisdiction to order licence scheme's variation to include certain rights - relief granted - matter remitted (B C I G)

Spectur Limited, in the matter of Spectur Limited (FCA) - corporations - application for extension of period to give 'cleansing notices' under s708A(5) *Corporations Act 2001* (Cth) granted (I B C G)

Jonsson, in the matter of Institute for Aboriginal Development (Aboriginal Corporation) (administrator appointed) (FCA) - corporations - administrator sought 8-week extension of convening period in administration - extension granted (I B C G)

South 32 Ltd v Allfab Constructions Pty Ltd (NSWCA) - negligence - occupier's liability - proceedings settled between appellants and injured worker - appellants sought 'statutory contribution' from respondent - challenge to finding that worker would not have established breach against respondent - appeal dismissed (I B C G)

Jarosz v State of New South Wales (NSWSC) - public roads - nuisance - 'W10' not a public road - nuisance claim failed - mandatory injunction requiring nuisance to be remedied - amended statement of claim dismissed (I B C G)

Attorney-General v Copper Mines of Tasmania Pty Ltd (TASFC) - work accident - evidence - respondent sought that coroner be prohibited from receiving evidence - proceedings succeeded in part - Attorney-General as intervenor appealed - appeal allowed - cross-appeal dismissed (I B C G)

Hargrave v Singh (ACTSC) - negligence - plaintiff pedestrian struck by taxi which first defendant was driving - defendants liable - 10% reduction for contributory negligence - judgment for plaintiff in sum of \$275,082.26 (I)

Summaries With Link (Five Minute Read)

Phonographic Performance Company of Australia Limited v Copyright Tribunal of Australia [2019] FCAFC 95

Full Court of the Federal Court of Australia

Besanko, Middleton & Burley JJ

Administrative law - copyright - Copyright Tribunal of Australia (Tribunal) varied 'licence scheme' - applicant sought review of Tribunal's decision, seeking declarations - applicant contended Tribunal not empowered under s154(4) *Copyright Act 1968* (Cth) to vary licence scheme to include rights which applicant did not hold and did not have authority or power to grant - applicant also contended 'variation order' not "reasonable in the circumstances" - held: Tribunal lacked jurisdiction to order licence scheme's variation 'to include the non-PPCA rights' - matter remitted.

[Phonographic](#) (B C I G)

Spectur Limited, in the matter of Spectur Limited [2019] FCA 867

Federal Court of Australia

Colvin J

Corporations - company (Spectur), at time of issue of shares, did not give 'cleansing notice' under s708A(5) *Corporations Act 2001* (Cth) (Corporations Act) - Spectur, pursuant to s1322(4)(d) Corporations Act, sought extension of period to give cleansing notices - whether 'substantial injustice' if extension of period granted - whether 'proper basis' to grant extension - whether to give 'retrospective operation' to cleansing notice - held: extension of time granted - order granting retrospective operation refused.

[Spectur](#) (I B C G)

Jonsson, in the matter of Institute for Aboriginal Development (Aboriginal Corporation) (administrator appointed) [2019] FCA 862

Federal Court of Australia

Derrington J

Corporations - administrator of Institute for Aboriginal Development (Aboriginal Corporation) sought 8-week extension of convening period in administration - whether Court had power to

grant extension of convening period in respect of company incorporated under *Corporations (Aboriginal and Torres Strait Islander) Act 2006* (Cth) - whether to grant extension - held: Court satisfied to grant extension of convening period - orders made.

[Jonsson](#) (I B C G)

South 32 Ltd v Allfab Constructions Pty Ltd [2019] NSWCA 132

Court of Appeal of New South Wales

Leeming JA; Emmett & Simpson AJJA

Negligence - occupier's liability - appellants operated 'coal preparation plant' - Mr Corbett employed by company which appellants had engaged for provision of services - Mr Corbett 'injured in a workplace accident' - appellants consented to judgment against them - appellants sought 'statutory contribution' from respondent 'maintenance contractor' - primary judge found Mr Corbett would not have established breach by respondent - appellants appealed - whether primary judge failed to engage with appellants' 'principal case' - ss5B & 5D *Civil Liability Act 2002* (NSW) - held: appeal dismissed.

[View Decision](#) (I B C G)

Jarosz v State of New South Wales [2019] NSWSC 692

Supreme Court of New South Wales

Darke J

Public roads - nuisance - plaintiffs sought declaration that 'W10' was a public road, that first defendant or second defendant was 'road authority for W10' responsible for W10's maintenance - plaintiffs contended road's condition constituted a nuisance and sought mandatory injunction requiring first defendant or second defendant 'to remedy the nuisance' - whether W10 had become a public road - held: W10 not public road - nuisance claim failed - relief refused - amended statement of claim dismissed.

[View Decision](#) (I B C G)

Attorney-General v Copper Mines of Tasmania Pty Ltd [2019] TASFC 4

Full Court of the Supreme Court of Tasmania

Blow CJ, Pearce J, Marshall AJ

Work accident - evidence - coroners - miner employed by respondent - miner killed at mine at which he was working - mine operated and leased by respondent - coroner commenced inquest into miner's death - respondent contended there would be a denial of procedural fairness if coroner received evidence from 'mining consultant' - respondent sought that coroner be prohibited from receiving the evidence - proceedings succeeded in part - Attorney-General as intervenor appealed - respondent cross-appealed - held: appeal allowed - cross-appeal dismissed.

[Attorney-General](#) (I B C G)

Hargrave v Singh [2019] ACTSC 139

Supreme Court of the Australian Capital Territory

Burns J

Negligence - plaintiff pedestrian contended he was struck by taxi which first defendant was driving - defendants admitted taxi which first defendant was driving struck plaintiff - defendants denied collision caused by first defendant's negligence - alternatively defendants alleged contributory negligence by plaintiff - intoxication - s95 *Civil Law (Wrongs) Act 2002* (ACT) - held: judgment for plaintiff against defendants - 10% reduction for contributory negligence - judgment for plaintiff in sum of \$275,082.26.

[Hargrave](#) (1)

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