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

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CIVIL (Insurance, Banking, Construction & Government)

Executive Summary (1 minute read)

Heath v LawTap Pty Ltd (FCA) - preliminary discovery - defamation - prospective applicant sought preliminary discovery orders requiring provision by LawTap Pty Ltd of "all documents or things in its possession or control relating to the description of an unknown person" 'who posted allegedly defamatory comments' concerning prospective applicant and prospective applicant's business 'under various pseudonyms' - application granted (I B C G)

CLSA Australia Pty Ltd v Golden Energy and Resources Limited (NSWSC) - disclosure - contract - corporations - parties entered agreement under which plaintiff 'agreed to provide corporate advisory services to' defendant - proceedings concerned entitlement of plaintiff 'to certain contingent success fees' - determination of competing motions for documents' disclosure - 'partial disclosure granted (I B C G)

Seketa v Gadens Lawyers & Ors (VSC) - evidence - client legal privilege - waiver - plaintiff by summons sought that third defendant produce documents for inspection - documents claimed 'to be subject to client legal privilege' - waiver not established - summons dismissed (I B C G)

Turba Trium Pty Ltd v First Mortgage Capital Pty Ltd (QCA) - summary judgment - mortgage - possession - obtained judgment for recovery of possession of land from appellant - appellant was ordered to pay costs of proceeding on indemnity basis - appellant appealed - held: appeal dismissed - costs to be assessed on indemnity basis (I B C G)

Total Lifestyle Windows Pty Ltd v Aniko Constructions Pty Ltd & Anor (QSC) - security of payments - plaintiff made 'adjudication application under' *Building Industry Fairness (Security of Payment) Act 2017* (Qld) - adjudicator found in first defendant's favour in respect of claims - adjudicator's decision voids to extent of certain paragraphs - adjudication application remitted (I B C G)

Summaries With Link (Five Minute Read)

Heath v LawTap Pty Ltd [2021] FCA 485

Federal Court of Australia

Mortimer J

Preliminary discovery - defamation - prospective applicant, pursuant to r7.22 *Federal Court Rules 2011* (Cth) (Rules), sought preliminary discovery orders requiring provision by LawTap Pty Ltd ('Law Tap') of "all documents or things in its possession or control relating to the description of an unknown person" 'who posted allegedly defamatory comments' concerning prospective applicant and prospective applicant's business 'under various pseudonyms' - Law Tap, pursuant to r12.01(1) Rules, filed 'submitting notice' - held: application granted.

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

CLSA Australia Pty Ltd v Golden Energy and Resources Limited [2021] NSWSC 510

Supreme Court of New South Wales

Stevenson J

Disclosure - contract - corporations - parties entered agreement under which plaintiff 'agreed to provide corporate advisory services to' defendant - proceedings concerned entitlement of plaintiff 'to certain contingent success fees' - determination of competing motions for documents' disclosure - consideration of categories of documents - relevance - held: 'partial disclosure granted'.

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

Seketa v Gadens Lawyers & Ors [2021] VSC 245

Supreme Court of Victoria

Derham AsJ

Evidence - client legal privilege - waiver - plaintiff by summons sought that third defendant produce documents for inspection - documents claimed 'to be subject to client legal privilege' - whether waiver of privilege - issue waiver - 'something more' - ss122 & 133 *Evidence Act 2008* (Vic) - held: waiver of privilege not established - summons dismissed.

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

Turba Trium Pty Ltd v First Mortgage Capital Pty Ltd [2021] QCA 100

Court of Appeal of Queensland

McMurdo & Mullins JJA; Bradley J



Summary judgment - mortgage - possession - obtained judgment for recovery of possession of land from appellant - appellant was ordered to pay costs of proceeding on indemnity basis - appellant appealed - s84 *Property Law Act 1974* (Qld) - r292 *Uniform Civil Procedure Rules 1999* (Qld) - whether 'valid claim to recover possession' - whether 'evidence established the mortgage was defective' - held: appeal dismissed - costs to be assessed on indemnity basis.

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

Total Lifestyle Windows Pty Ltd v Aniko Constructions Pty Ltd & Anor [2021] QSC 92

Supreme Court of Queensland

Martin J

Security of payments - plaintiff and first defendant entered agreement - plaintiff claimed against defendant for payments for work and expenses - plaintiff made 'adjudication application under' *Building Industry Fairness (Security of Payment) Act 2017* (Qld) - adjudicator considered three claims - adjudicator found in first defendant's favour on all claims - whether adjudicator's decision invalidated by jurisdictional error - held: adjudicator's decision void to extent of certain paragraphs - adjudication application remitted.

[Total Lifestyle](#) (I B C G)

Summaries With Link



The Four Lakes of Madison

By: Henry Wadsworth Longfellow

FOUR limpid lakes,—four Naiades
Or sylvan deities are these,
In flowing robes of azure dressed;
Four lovely handmaids, that uphold
Their shining mirrors, rimmed with gold,
To the fair city in the West.

5

By day the coursers of the sun
Drink of these waters as they run
Their swift diurnal round on high;
By night the constellations glow 10
Far down the hollow deeps below,
And glimmer in another sky.

Fair lakes, serene and full of light,
Fair town, arrayed in robes of white,
How visionary ye appear! 15
All like a floating landscape seems
In cloud-land or the land of dreams,
Bathed in a golden atmosphere!

https://en.wikipedia.org/wiki/Henry_Wadsworth_Longfellow

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