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Executive Summary (1 minute read)

Mbuzi v Griffith University (FCAFC) - consumer law - contract - termination of doctoral candidature - appeal dismissed (I B)

Australian Competition and Consumer Commission v Australian Egg Corporation Ltd (FCA) - consumer law - allegations of cartel conduct against egg producers - one egg producer admitted conduct - allegations against other producers not made out (I B)

Forge Group Power Pty Ltd (in liq)(receivers and managers appointed) v General Electric International Inc (NSWSC) - personal property securities (PPS) law - lease was a PPS lease - defendants' interests in turbines vested in plaintiff before appointment of administrators - plaintiffs interest superior - declarations (I B C)

Sprayworx Pty Ltd v Homag Australia Pty Ltd (NSWSC) - evidence - bias - no reason not to hear expert witnesses - affidavits admitted - application to exclude evidence of witnesses dismissed - (I B C)

Philippiadis v Transport Accident Commission (VSCA) - transport accident - refusal of leave to commence proceedings in respect of transport accidents - leave to appeal refused (I)

Bendigo & Adelaide Bank Ltd v Capotondi (SASC) - real property - possession - bankrupt registered proprietor had no standing to oppose Court order - stay of execution of warrant of possession refused (B)

City of Belmont v Saldanha (WASC) - easements - City granted declaration that registered proprietors not entitled to erect fence - permanent injunction refused (B)

Summaries With Link (Five Minute Read)

Mbuzi v Griffith University [2016] FCAFC 10
Full Court of the Federal Court of Australia
Logan, Griffiths & Pagone JJ
Consumer law - contract - self-represented litigant - respondent terminated appellant's doctoral candidature - primary judge rejected appellant's causes of action against respondent and found appellant to be vexatious litigant - primary judge found termination of candidature did not contravene implied freedom of political communication and "due process" rights, did not constitute unconscionable conduct or involve misleading or deceptive conduct contrary to Australian Consumer Law, and did not breach of alleged contract between parties - ss18, 20, 21, 22 *Australian Consumer Law* - ss37AM, 37 AO, 37AO(1)(a), 37AO(2)(a), 37AO(2)(b), 37AO(3)(c), 37AO(3)(d), 37AO(6) & 51 *Federal Court of Australia Act 1976* (Cth) - held: appellant failed to make out any grounds of appeal - appeal dismissed.
Mbuzi (I B)

Australian Competition and Consumer Commission v Australian Egg Corporation Ltd [2016] FCA 69
Federal Court of Australia
White J
Consumer law - cartel conduct - ACCC alleged six respondents attempted to induce 19 egg producers in competition with at least one other, to limit egg supply in contravention of s44ZZRJ *Competition and Consumer Act 2010* (Cth) - ACCC alleged conduct called for coordinated and consolidated action to reduce egg supply and sought relief including declarations, penalties and injunctions - fourth respondent admitted he made attempt of kind alleged - crown immunity - actual or apparent authority - conduct on body corporate's behalf - held: ACCC failed to establish allegations - claims dismissed.
ACCC (I B)

Forge Group Power Pty Ltd (in liq)(receivers and managers appointed) v General Electric International Inc [2016] NSWSC 52
Supreme Court of New South Wales
Hammerschlag J
Personal property securities law - dispute arising from installation of turbine generator sets (turbines) - plaintiff entered lease with first defendant for rent of turbines for fixed term, and for provisions of services to plaintiff in relation to turbines - plaintiff went into voluntary liquidation after installation of turbines - plaintiff sought declaration pursuant to s267(2) *Personal Property Securities Act 2009* (Cth) (PPSA) that defendants' interests in turbines vested in plaintiff before

administrators' appointment and that its interest in turbines was superior to defendants' - whether PPSA engaged - whether lease a PPS lease - held: lease was PPS lease - defendants' interests in turbines vested in plaintiff immediately before administrators' appointment - plaintiff's interest superior to defendants' - declarations granted.
Forge (I B C)

Sprayworx Pty Ltd v Homag Australia Pty Ltd [2016] NSWSC 51
Supreme Court of New South Wales
Harrison J
Evidence - plaintiff purchased industrial sander from defendant - plaintiff alleged machine defective, and that it purchased machine on basis of representations which were false and misleading or negligently made - plaintiff complained experts were partial witnesses and that objectivity flawed by close relationship to defendant - plaintiff claimed witnesses were not independent - plaintiff claimed witnesses could not be taken to have provided unbiased opinion - whether demonstration of bias - held: no legitimate forensic reason not to hear witnesses - affidavits should be admitted.
Sprayworx (I B C)

Philippiadis v Transport Accident Commission [2016] VSCA 1
Court of Appeal of Victoria
Redlich & Kyrou JJA; Ginnane AJA
Transport accident - County Court judge refused leave under s93(4)(d) *Transport Accident Act 1986* (Vic) for applicant to commence proceedings in respect of two transport accidents in which he was injured - applicant contended judge gave too much weight to general practitioner's notes and failed to take all evidence into account - applicant also claimed judge's reasons inadequate - held: applicant failed to demonstrate decisions attended with sufficient doubt to warrant leave - applicant failed to demonstrate appeals had real prospect of success - application for leave to appeal refused.
Philippiadis (I)

Bendigo & Adelaide Bank Ltd v Capotondi [2016] SASC 11
Supreme Court of New South Wales
Master Dart
Real property - possession - plaintiff mortgagee obtained order for possession - bankrupt registered proprietor sought stay of execution of warrant of possession - held: property of bankrupt had vested in bankruptcy trustee - bankrupt had no legal standing in proceedings and no entitlement to oppose Court's order - bankruptcy trustee had not applied to prevent secured creditor exercising rights in respect of security - trustee supported sale of property - application for stay dismissed.
Bendigo (B)

City of Belmont v Saldanha [2016] WASC 37
Supreme Court of Western Australia

Allanson J
Easements - defendants were registered proprietors of property - two encumbrances on title including easement granted to plaintiff - defendants informed plaintiff of intention to build fence which would block easement - plaintiff sought to restrain defendants from obstructing easement - ss161, 187, 195 &196 *Land Administration Act 1997* (WA) - s33A *Public Works Act 1933* (WA) - s13 *Town Planning and Development Act 1928* (WA) - s129C *Transfer of Land Act 1983* (WA) - held: on proper interpretation of easement defendants not entitled to erect fence on portions of easement boundary - declaration - permanent injunction refused.
City of Belmont (B)

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