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A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Deputy Commissioner of Taxation v Clear Blue Developments Pty Ltd (No 2) - Costs - successful winding up application - professional costs - *Legal Profession Act 2007* (Qld): "government legal officer"

Hill v Forrester - Personal injuries - damages for gratuitous care - construction of s15(3) *Civil Liability Act 2002* (NSW) - appeal allowed

K & K Real Estate Pty Ltd v Adellos Pty Ltd - Contracts for sale of land - purchaser's appeal dismissed

Ange v Fairfax Media Publications Pty Ltd & Ors - Discovery of documents - adequacy of verified list of documents

Johnson & Anor v Clancy & Anor - Costs - discontinuance of proceedings

Spinoccia v Challenger - Application to set aside statutory demand granted

Sorrell & Anor v Kara Kar Holdings Pty Ltd & Ors - Contracts - share purchase - employment law - termination - notice



Summaries with links (5 minute read)

Wednesday 17 November 2010

Deputy Commissioner of Taxation v Clear Blue Developments Pty Ltd (No 2) [2010] FCA 1224

Federal Court of Australia

Logan J (in Brisbane)

Costs - *Legal Services Directions* 2005 (Cth) - successful winding up application pursuant to *Corporations Act* 2001 (Cth) - whether Deputy Commissioner of Taxation entitled to an order for its professional costs - *Legal Profession Act* 2007 (Qld): "government legal officer," "engaged in government work" - requirements of Federal Court Rules - no evidence provided of entitlement to practise in Queensland by purported solicitor on record - detailed analysis of legislation & case law in an interesting decision.

[Deputy Commissioner of Taxation](#)

[Deputy Commissioner of Taxation](#) - decision 5 November 2010

Hill v Forrester [2010] NSWCA 170

Court of Appeal of New South Wales

Tobias JA; Handley & Sackville AJA

Personal injuries - damages for gratuitous care - construction of s15(3) *Civil Liability Act* 2002 (NSW) - respondent had been awarded damages for personal injuries caused by appellant's dog - threshold of six continuous months care - appeal allowed - detailed analysis of legislation & case law in an interesting judgment - at para. 118 of judgment of Sackville JA: "I agree with the observations by Tobias JA that the drafting of s15(3) of the *Civil Liability Act* requires urgent legislative attention."

[Hill](#)

[Harrison](#) - see 'Benchmark' I & IBC Monday 2 June 2008 - decision Court of Appeal 29 May 2008 reported at 72 NSWLR 380 & considered in judgment above - personal injuries - statutory interpretation - appellant seeking leave to challenge *Roads & Traffic Authority v McGregor* [2005] NSWCA 388 & in turn, *Geaghan v D'Aubert* [2002] NSWCA 260 (see link below) in favour of adopting conflicting Queensland & Victorian Court of Appeal decisions on identical provisions in those jurisdictions - 151Z *Workers Compensation Act* 1987 - measure and remoteness of damages in actions for tort - loss of earnings and earning capacity - where loss of earning capacity attributed to injury & also to



drug use - whether attributing for drug use an error - claim for domestic assistance – s15(3) *Civil Liability Act 2002* - interpretation - rules of construction - words to be given literal and grammatical meaning - legislative history of the Act - previous state of law & mischief to be remedied - comprehensive consideration of legislation - comprehensive consideration of case law from Australia, the United Kingdom., Canada & the United States of America.

[Geaghan](#) - decision 13 August 2002 also considered in *Hill v Forrester* above.

K & K Real Estate Pty Ltd v Adellos Pty Ltd [2010] NSWCA 302

Court of Appeal of New South Wales

Giles & Young JA; Handley AJA

Contracts for sale of land - land at Oran Park - appeal dismissed - an interesting review of case law.

[K & K Real Estate](#)

[K & K Real Estate](#) - decision 22 October 2010 - purchaser's suit for specific performance - claim dismissed.

[Peter Turnbull & Co](#) - decision High Court 1 June 1954 considered above.

Ange v Fairfax Media Publications Pty Ltd & Ors [2010] NSWSC 1200

Supreme Court of New South Wales

Garling J

Production of documents - obligations of discovery - defamation proceedings - adequacy of verified list of documents - plaintiff to attend court for cross-examination on his affidavit verifying discovery list.

[Ange](#)

Johnson & Anor v Clancy & Anor [2010] NSWSC 1301

Supreme Court of New South Wales

Hallen AsJ

Costs - discontinuance of proceedings - plaintiffs to pay such of defendants' costs as, at the date on which the notice of discontinuance was filed, had been incurred by defendants in relation to each claim in respect of which proceedings have been discontinued - detailed consideration of principles & Australian case law.

[Johnson](#)



Spinoccia v Challenger [2010] NSWSC 1310

Supreme Court of New South Wales

Macready AsJ

Corporations Act 2001 (Cth) - application to set aside demand under s459G - plaintiff contending there were defects in the affidavit in support of the statutory demand: issue as to *jurat* in the affidavit plus source of deponent's knowledge not stated - demand set aside - detailed analysis of case law in an interesting decision.

[Spinoccia](#)

Sorrell & Anor v Kara Kar Holdings Pty Ltd & Ors [2010] NSWSC 1315

Supreme Court of New South Wales

Nicholas J

Contracts - plaintiffs claiming damages from second & third defendants alleging their repudiation of an agreement for sale & purchase of shares in first defendant - first defendant carried on business of manufacture & sale of trailers & horse floats - plaintiffs also claiming damages from first defendant for its termination of contracts under which each was employed by first defendant in its business - alternatively, plaintiffs claiming damages for alleged misleading or deceptive conduct by second & third defendants & their agent, the fourth defendant, in the course of negotiating the agreement in contravention of s42 *Fair Trading Act* 1987 (NSW) - whether wrongful dismissal by employer's termination of contract of employment without notice - compensation in lieu of notice - reasonable period for notice six months - claim for relocation expenses disallowed - verdict for plaintiffs against second & third defendants in sum of \$400,000, plus interest - verdict for first plaintiff against first defendant in sum of \$37,500 plus interest - verdict for second plaintiff against first defendant in sum of \$37,500 plus interest.

[Sorrell](#)

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