



Insurance Banking & Construction

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Equal Remuneration Case - Australian Municipal, Administrative, Clerical & Services Union & Ors - Fair Work Act 2009 (Cth) - application for equal remuneration order (I, B, C)

Fletcher & Barnet, in the matter of Octaviar Ltd (Receivers & Managers App'd) (in liq) & Octaviar Administration Pty Ltd (in liq) (No 3) - Confidentiality order (B)

Reynolds v JP Morgan Administrative Services Australia Ltd (No 2) - Applications by non-parties to inspect documents (I, B)

Haulton Construction Services Pty Ltd (in liq) v Haulton Constructions (Aust) Pty Ltd - Corporations Act 2001 (Cth) - winding up order (C)

Hydrocool Pty Ltd v Hepburn (No 4) - Directors' duties (I, B, C)

Karam v Palmone Shoes Pty Ltd - Accident Compensation Act 1985 (Vic) - application for leave to appeal costs orders (I)

Hodgson v Amcor Ltd; Amcor Ltd v Barnes & Ors (No 2) - Legal professional privilege (I, B, C)



Manderson M & F Consulting (a firm) v Incitec Pivot Ltd (No 2) - Doctrine of breach of confidence - pleading of breach of confidence claim (I, B, C)

RDN Developments Pty Ltd v Shtrambrandt & Ors - Caveats (B, C)

Campbell v Bank of Queensland Ltd - Contracts - whether defendant protected by provisions of indemnity (B)

Ceresola TLS AG v Thiess Pty Ltd & John Holland Pty Ltd - Building contracts - applicant seeking interim injunction to restrain respondent from calling on bank guarantee (C)

Summaries with links (5 minute read)

Wednesday 18 May 2011

Equal Remuneration Case - Australian Municipal, Administrative, Clerical & Services Union & Ors [2011] FWAFB 2700

Full Bench of Fair Work Australia

Justice Giudice, President; Vice-President Watson; Snr. Deputy President Acton; Commissioner Harrison; Commissioner Cargill in Melbourne

Fair Work Act 2009 (Cth) - application for equal remuneration order under Part 2-7 made by Australian Municipal, Administrative, Clerical & Services Union (ASU) on its own behalf & on behalf of Health Services Union (HSU), The Australian Workers' Union of Employees, Queensland (AWU Queensland), United Voice (UV) & Australian Education Union (AEU) -employees of non-government employers in social, community & disability services industry throughout Australia (the SACS industry) - areas for further submissions at para. 292 of judgment.

[Equal Remuneration Case](#) (I, B, C)

Fletcher & Barnet, in the matter of Octaviar Ltd (Receivers & Managers App'd) (in liq) & Octaviar Administration Pty Ltd (in liq) (No 3) [2011] FCA 494

Federal Court of Australia

Stone J (in Sydney)

s50(1) *Federal Court of Australia Act* 1976 (Cth) - interlocutory application to vary non-disclosure order - confidentiality order to be neither discharged nor varied.



[Fletcher and Barnet](#) (B)

[Fletcher and Barnet](#) - decision 23 February 2011 - joint liquidators - application pursuant to s477(2B) *Corporations Act* 2001 (Cth) for approval to enter into litigation funding agreement - application under s50 *Federal Court of Australia Act* 1976 (Cth) for confidentiality orders;

[Fletcher and Barnet](#) - decision 7 April 2011 - application for approval of entry into investigation funding agreement - application for confidentiality order

Reynolds v JP Morgan Administrative Services Australia Ltd (No 2) [2011] FCA 489

Federal Court of Australia

Rares J (in Sydney)

Applications by non-parties to inspect documents - journalists - confidentiality - settlement agreement - public interest in settlement of litigation - applications refused.

[Reynolds](#) (I, B)

Haulton Construction Services Pty Ltd (in liq) v Haulton Constructions (Aust) Pty Ltd [2011] FCA 497

Federal Court of Australia

Gordon J (in Melbourne)

Corporations Act 2001 (Cth) - winding up order in relation to Haulton Constructions (Aust) Pty Ltd - appointment of liquidator.

[Haulton Construction Services](#) (C)

Hydrocool Pty Ltd v Hepburn (No 4) [2011] FCA 495

Federal Court of Australia

Siopis J (in Perth)

Directors' duties - whether breach of fiduciary duty by company director - whether senior employee owed a fiduciary duty to the company - causation - whether company entitled to receive equitable compensation - whether director improperly used his position to gain an advantage for himself or others - whether the director improperly used information obtained because of his position as a director to gain an advantage for himself and others - whether contraventions of s182(1) & s183(1) *Corporations Act* 2001 (Cth) - costs.

[Hydrocool](#) (I, B, C)



Karam v Palmone Shoes Pty Ltd [2011] VSCA 144

Court of Appeal of Victoria

Tate JA & Hargrave AJA

Accident Compensation Act 1985 (Vic) - application for leave to appeal costs orders - two proceedings brought by applicant heard together - whether two proceedings had become fused for purposes of awarding costs - leave to appeal granted - appeals to be expedited.

[Karam](#) (I)

[Karam](#) - decision Supreme Court of Victoria 23 February 2010 - costs - solicitor's lien - s134AB(30) & (31) *Accident Compensation Act 1985 (Vic)*;

[Karam](#) - decision Court of Appeal 29 September 2010: see 'Benchmark' I & IBC Friday 1 October 2010 - plaintiff had alleged two medical conditions, asthma & multiple myeloma, caused by exposure to adhesives & glues as a shoemaker - primary judge not satisfied as to causal link between employment & multiple myeloma - primary judge formally entered judgment for plaintiff in asthma case & for employer in cancer case - appeal on assessment of damages in asthma case dismissed - appeal in cancer case dismissed.

[Karam](#) - decision Supreme Court of Victoria 18 January 2010

Hodgson v Amcor Ltd; Amcor Ltd v Barnes & Ors (No 2) [2011] VSC 204

Supreme Court of Victoria

Vickery J

Legal professional privilege - detailed examination of principles & case law including [AWB Ltd v Cole \(No 5\)](#).

[Hodgson](#) (I, B, C)

[AWB](#) - decision Federal Court 18 September 2006

Manderson M & F Consulting (a firm) v Incitec Pivot Ltd (No 2) [2011] VSC 205

Supreme Court of Victoria

Croft J

Doctrine of breach of confidence - pleading of breach of confidence claim - identifying information capable of protection - defendant's application for summary judgment, alternatively, for permanent stay of proceedings - plaintiff's application to file fourth further amended statement of claim - claim has "no real prospect of success" within s63 *Civil Procedure Act 2010 (Vic)* - detailed examination of United Kingdom & Australian case law.

[Manderson M & F Consulting](#) (I, B, C)

[Manderson M & F Consulting](#) - decision 9 March 2010 - principles with respect to the pleading of a claim in a confidential information case

**RDN Developments Pty Ltd v Shtrambrandt & Ors [2011] VSC 130**

Supreme Court of Victoria

Croft J

Transfer of Land Act 1958 (Vic) - claim for compensation for lodging caveat without reasonable cause.

[RDN Developments](#) (B, C)

Campbell v Bank of Queensland Ltd [2011] QSC 122

Supreme Court of Queensland

de Jersey CJ

Contracts - Bank had provided line of credit facility to plaintiff - forged facsimile instruction for payment received & actioned by defendant - whether defendant protected by provisions of indemnity - "signed in accordance with the Customer's current authorities held by the Bank and in a form satisfactory to the Bank" - imputed instructions were not "signed in accordance with the customer's current authorities."

[Campbell](#) (B)

Ceresola TLS AG v Thiess Pty Ltd & John Holland Pty Ltd [2011] QSC 115

Supreme Court of Queensland

Daubney J

Building contracts - written agreement by which applicant agreed to provide eight tunnel forming machines for use in a construction project known as Airport Link Project - contract provides for bank guarantee in favour of respondent - applicant seeking interim injunction to restrain respondent from calling on bank guarantee - application dismissed.

[Ceresola](#) (C)

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