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## Daily Composite Insurance, Banking, Construction & Government A Daily Bulletin listing Decisions of Superior Courts of Australia

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### Executive Summary (1 minute read)

**Sanna v Wyse and Young International Pty Ltd (No.1)** (NSWSC) - legal practitioners - motion to restrain barrister from appearing in matter refused (I)

**Sanna v Wyse and Young International Pty Ltd (No.2)** (NSWSC) - real property - caveats - no serious question to be tried - caveats removed (B C)

**Malvina Park Pty Ltd t/as Firths the Superannuation Lawyers v Pollard** (NSWSC) - solicitors' costs - law firm refused freezing order in respect of legal costs claimed to be payable by client (I)

**Pryor v Latham**(NSWSC) - pleadings - defamation - certain imputations struck out (I)

**Holloway v Department of Human Services** (VSC) - judicial review - Medical Panel's Certificate of Determination and Reasons for Determination issued outside 30 day period prescribed by *Wrongs Act 1958* (Vic) quashed (I G)

**Whyte v McLuskie**(QSC) - corporations - examinees' challenges to validity of summonses failed - application dismissed (B)

**Australia & New Zealand Banking Group Ltd v Menzel**(QSC) - real property - caveats - registered mortgagee of land granted removal of caveats (B)

## Summaries With Link (Five Minute Read)

### **Sanna v Wyse and Young International Pty Ltd [2015] NSWSC 580**

Supreme Court of New South Wales

Darke J

Legal practitioners - defendants and their sole director sought to restrain barrister from appearing in proceedings as counsel for plaintiff - barrister had previously acted for director and had been on friendly terms with him - held: Court not persuaded barrister possessed any confidential information that was or may be relevant to the issues - Court not persuaded it was appropriate case to exercise inherent jurisdiction to restrain legal practitioner from acting - Court did not think a fair-minded reasonably informed member of public would conclude proper administration of justice required barrister should not appear - no reason to think that barrister would be unable to discharge obligations with independence and objectivity - motion refused.

[Sanna](#) (I)

### **Sanna v Wyse and Young International Pty Ltd (No.2) [2015] NSWSC 581**

Supreme Court of New South Wales

Darke J

Real property - caveats - successive caveats - plaintiff was registered proprietor of lot - plaintiff sought orders under s74MA *Real Property Act 1900* requiring defendants to withdraw caveats lodged in respect of property - plaintiff was judgment debtor to company - plaintiff wished to borrow money on security of property in order to pay judgment debt - plaintiff denied he owed money to defendants - s74O held: no serious question to be tried - defendants would not be granted interlocutory injunctions against plaintiff to protect interests claimed - caveats removed.

[Sanna](#) (B C)

### **Malvina Park Pty Ltd t/as Firths the Superannuation Lawyers v Pollard [2015] NSWSC 578**

Supreme Court of New South Wales

Schmidt J

Solicitors' costs - freezing orders - law firm sought freezing order under r25.2 *Uniform Civil Procedure Rules 2005* in terms consistent with Practice Note SC Gen 14 in respect of legal costs claimed to be payable by client - law firm had acted for client on personal injury claim - claim settled in client's favour - held: law firm did not establish danger of disposal of assets - basis for freezing order not established - orders sought refused.

[Malvina](#) (I)

### **Pryor v Latham [2015] NSWSC 529**

Supreme Court of New South Wales

McCallum J

Pleadings - defamation - action for defamation arising from publication of article written for newspaper by former leader of Federal Australian Labor Party who was now regular columnist - plaintiff was also columnist - plaintiff claimed article was defamatory of her - defendants

objected to certain imputations - rr14.30, 28.2 *Uniform Civil Procedure Rules 2005* - held: two imputations not capable of arising from matter complained of and struck out - other imputations to go to jury.

[Pryor](#) (I)

## **Holloway v Department of Human Services [2015] VSC 184**

Supreme Court of Victoria

McDonald J

Judicial review - plaintiff sought to quash determination of medical panel on basis it erred by issuing Certificate of Determination and Reasons for Determination outside 30 day period prescribed by s28LZG(3)(a) *Wrongs Act 1958* - whether determination of medical panel convened pursuant to Act was invalid if given outside of the 30 day period - held: Court bound to follow judgment in *Mikhman v Royal Victorian Aero Club and Ors* [2012] VSC 42 which answered precisely same question in affirmative unless Court satisfied that it was plainly wrong - Court not satisfied judgment plainly wrong - if Court determining question unaided it would have come to same conclusion - Certificate of Determination and Reasons for Determination quashed.

[Holloway](#) (I G)

## **Whyte v McLuskie [2015] QSC 132**

Supreme Court of Queensland

Burns J

Corporations - managed investments - winding up - examination summonses issued by Court and served on examinees - examinees contended summonses issued beyond power or were abuse of process of the Court - examinees sought discharge of summonses out of time - examinees also sought access to affidavit material filed in support of issue of summonses - ss596B & 601NF(2) *Corporations Act 2001* - held: no substance to examinees' challenge to summonses - application dismissed.

[Whyte](#) (B)

## **Australia & New Zealand Banking Group Ltd v Menzel [2015] QSC 127**

Supreme Court of Queensland

P McMurdo J

Real property - caveats - applicant was registered mortgagee of parcels of land owned by respondents - owner sought removal of caveats - whether application should be further adjourned - whether serious case to be tried on cause of action said to be foundation of caveat - onus - ss84 & 85 *Property Law Act 1974* - held: adjournment of application refused - respondents failed to demonstrate serious case to be tried - balance of convenience favoured removal of caveats - respondents failed to discharge onus - caveats lodged by respondents removed.

[ANZ](#) (B)



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