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Insurance, Banking, Construction & Government

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Grimaldi v Chameleon Mining NL (No 2) – ss9 & 1317H *Corporations Act* 2001 (Cth) - directors' duties (I, B, C, G)

Rogan-Gardiner v Woolworths Ltd - Employment contracts - notice of termination - damages - appeal dismissed (I, B, C, G)

Highway Hauliers Pty Ltd v Maxwell (the authorised, nominated representative on behalf of various Lloyds underwriters) – s54(1) *Insurance Contracts Act* 1984 (Cth) - damages (I, B, C, G)



Summaries with links (5 minute read)

Grimaldi v Chameleon Mining NL (No 2) [2012] FCAFC 6

Full Court of the Federal Court of Australia

Finn, Stone & Perram JJ

Ss9 & 1317H *Corporations Act* 2001 (Cth) - statutory interpretation - directors' duties - *de facto* director or officer - fiduciary obligations - knowledge of corporation - consideration of the appropriate equitable relief to be awarded against a third party who knowingly participates in another's trust or fiduciary wrongdoing - account of profits - interest - *Barnes v Addy* (1874) LR 9 Ch App 244 - constructive trusts & tracing - a lengthy decision with comprehensive consideration of legislation, text & case law from UK, USA, Singapore, Australia, Canada & New Zealand - appeal dismissed - as to cross-appeals, see par 780 and 781 of judgment - "director," "officer,"

[Grimaldi](#) (I, B, C, G)

[Grimaldi](#) - decision Federal Court 1 August 2011;

[Chameleon Mining NL](#) - decision 20 October 2010: see Benchmark Monday 25 October 2010 - director's duties - indemnification of officers in breach of duties - *Corporations Act* 2001 (Cth) - tracing - account of profits - equitable compensation - cross-claims - indemnity or contribution in equity - applicant alleging three of its former directors & a fourth person said to have been a *de facto* or shadow director, were guilty of breaches of their fiduciary duties to the company - case law from the UK, the USA & Australia considered.

Rogan-Gardiner v Woolworths Ltd [2012] WASCA 31

Court of Appeal of Western Australia

McLure P, Newnes JA, Allanson J

Employment contracts - employer's obligation to give reasonable notice of termination - length of required notice - assessment of damages - appeal dismissed.

[Rogan-Gardiner](#) (I, B, C, G)

[Rogan-Gardiner](#) - decision Supreme Court of Western Australia 22 October 2010: see Benchmark Tuesday 26 October 2010 - restructuring of defendant company - plaintiff's position abolished while she was on maternity leave - offers by employer of alternative positions were declined - no breaches of implied good faith term & implied term regarding redundancy - breach of reasonable notice term - Effect of *Minimum Conditions of Employment Act* 1993 (WA) - damages - causation - damages claimed in relation to future employment prospects - depressive illness - medical records - damages limited to value of salary & benefits for appropriate notice period, which His Honour found to be four months - detailed examination of UK & Australian case law.



Highway Hauliers Pty Ltd v Maxwell (the authorised, nominated representative on behalf of various Lloyds underwriters) [2012] WASC 53

Supreme Court of Western Australia

Corboy J

S54(1) *Insurance Contracts Act* 1984 (Cth) - damage to vehicles under commercial vehicle policy - whether insurer entitled to refuse indemnity - answer 'no' - damages - remoteness - mitigation - lost chance - detailed examination of UK & Australian case law.

[Highway Hauliers](#) (I, B, C, G)

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