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Daily Civil Law A Daily Bulletin listing Decisions of Superior Courts of Australia

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CIVIL (Insurance, Banking, Construction & Government)

Executive Summary (1 minute read)

In the matter of Boss Constructions (NSW) Pty Ltd (No 2) (NSWSC) - costs - corporations - dismissal of application to set aside statutory demand - plaintiffs to pay defendant's costs on ordinary basis - defendant granted lump sum costs order (I B C G)

Chandrasekaran v Western Sydney Local Health District (No 7) (NSWSC) - contract - misleading or deceptive conduct - injurious falsehood - defamation - determination of notices of motion (I B C G)

Morris-Harris-Keith v Hughes (NSWSC) - want of due despatch - defendants sought dismissal of plaintiff's proceedings for want of due despatch - application unsupported by notice of motion or affidavit - application dismissed (I B C G)

Andrews and Morrisy Developments Pty Ltd v Port Phillip City Council & Ors (VSC) - environment and planning - refusal to grant permit for 'multi-unit residential development' - leave to appeal refused (I B C G)

Global Spill Control Pty Ltd v Spill Station Australia Pty Ltd (WASC) - interlocutory injunction - plaintiff sought further interlocutory orders - Court granted interim interlocutory injunction in part - injunction's 'mandatory elements' refused (I B C G)

Jensen v Nationwide News Pty Ltd [No 10] (WASC) - defamation - plaintiff sought to strike

out certain pleadings - application concerning reply to defence to counterclaim - application dismissed (I B C G)

Sutherland v Bukoven (TASSC) - wills and estates - probate - defendant by counterclaim sought to prove '2010 will' - Court satisfied to grant probate in solemn form of 2010 will (B)

Summaries With Link (Five Minute Read)

In the matter of Boss Constructions (NSW) Pty Ltd (No 2) [2019] NSWSC 554

Supreme Court of New South Wales

Rees J

Costs - corporations - plaintiffs sought to set aside statutory demand - Court dismissed application - defendant sought its costs on ordinary basis and gross sum costs order - plaintiffs contended neither party should have costs, or that defendants were entitled only to certain costs - s98(4)(c) *Civil Procedure Act 2005* (NSW) - held: plaintiffs to pay defendant's costs on ordinary basis - lump sum costs order granted.

[View Decision](#) (I B C G)

Chandrasekaran v Western Sydney Local Health District (No 7) [2019] NSWSC 567

Supreme Court of New South Wales

Adamson J

Contract - misleading or deceptive conduct - injurious falsehood - defamation - action arising from first defendant's alleged termination of plaintiff's alleged agreement with second defendant 'locum agency' - determination of notices of motion - plaintiff sought that her claim be expedited and sought hearing date - first defendant sought costs order - plaintiff sought apology from first defendant for seeking order, 'subsequently withdrawn', for appointment of tutor for plaintiff - plaintiff sought gross sum costs order in respect of first defendant's application for appointment of tutor for plaintiff - plaintiff sought Medical Council's joinder, leave to join New South Wales, leave to join individual, and leave to amend pleadings - first defendant sought to set aside notices to produce - second defendant sought to set aside notices to produce - held: notices of motion determined.

[View Decision](#) (I B C G)

Morris-Harris-Keith v Hughes [2019] NSWSC 581

Supreme Court of New South Wales

Harrison J

Want of due despatch - plaintiff claimed damages from defendants for injury suffered in fall from premises' roof - defendants denied liability - plaintiff's solicitors 'required to withdraw' from proceedings - hearing date vacated - plaintiff did not appear on day of hearing date's vacation - defendants sought dismissal of proceedings for want of due despatch - r12.7 *Uniform Civil Procedure Rules 2005* (NSW) - held: defendants application unsupported by notice of motion or

affidavit - service of documents on plaintiff not established - application dismissed.

[View Decision](#) (I B C G)

Andrews and Morrisy Developments Pty Ltd v Port Phillip City Council & Ors [2019] VSC 337

Supreme Court of Victoria

Osborn JA

Environment and planning - Victorian Civil and Administrative Tribunal refused to grant application planning permit for 'multi-unit residential development' - Tribunal found proposal inconsistent with elements of neighbourhood's character identified by 'zone purpose' governing site - applicant sought to appeal, contending Tribunal erroneously failed 'to have any or any proper regard' to 'transitional height control exemption' - statutory construction - held: no failure by Tribunal failed to give exemption 'proper effect' - leave to appeal refused.

[Andrews and Morrisy Developments](#) (I B C G)

Global Spill Control Pty Ltd v Spill Station Australia Pty Ltd [2019] WASC 141

Supreme Court of Western Australia

Smith J

Interlocutory injunction - plaintiff sought further interlocutory orders - first, second and fourth defendants agreed Court could make orders on basis plaintiff had established prima facie case - first and second defendants disputed form of orders, objecting to certain expressions on basis their use would render injunctive orders incapable of enforcement - first, second and fourth defendants objected to 'mandatory form of orders' on grounds proposed notice's distribution would cause 'irreparable damage' to defendants - balance of convenience - whether damages adequate remedy - held: Court granted interim interlocutory injunction in part - injunction's mandatory elements refused.

[Global Spill Control](#) (I B C G)

Jensen v Nationwide News Pty Ltd [No 10] [2019] WASC 172

Supreme Court of Western Australia

Quinlan CJ

Defamation - pleadings - plaintiff sought to strike out certain pleadings - application concerned reply to defence to counterclaim - whether pleading should be struck out for lateness - whether prejudice arising from lateness - whether reply inconsistent with counterclaim - whether pleading embarrassing - O20, r11 *Rules of the Supreme Court 1971* (WA) - held: application dismissed.

[Jensen](#) (I B C G)

Sutherland v Bukoven [2019] TASSC 20

Supreme Court of Tasmania

Brett J

Wills and estates - probate - deceased 'made at least three wills' during lifetime - plaintiffs sought to prove '2003 will' - defendant by counterclaim sought to prove '2010 will' - plaintiffs

discontinued action - plaintiffs' defence to counterclaim struck out due to consent order - defendant pursued counterclaim - testamentary capacity - whether 'subsequent handwritten document' was 'testamentary instrument' which revoked or altered 2010 will - whether participation, or opportunity for participation, by 'all relevant interested parties' - *Estate Kouvakas; Lucas v Konakas* [2014] NSWSC 786 - held: Court satisfied to grant probate in solemn for of 2010 will.

[Sutherland](#) (B)

CRIMINAL

Executive Summary

Summaries With Link



The Poet

By: Yone Noguchi

Out of the deep and the dark,
A sparkling mystery, a shape,
Something perfect,
Comes like the stir of the day:
One whose breath is an odour,
Whose eyes show the road to stars,
The breeze in his face,
The glory of Heaven on his back.
He steps like a vision hung in air,
Diffusing the passion of Eternity;
His abode is the sunlight of morn,
The music of eve his speech:
In his sight,
One shall turn from the dust of the grave,
And move upward to the woodland.

https://en.wikipedia.org/wiki/Yone_Noguchi

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