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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)

Australian Competition and Consumer Commission v Adepto Publications Pty Ltd (FCA) - trade practices - misleading and deceptive conduct - application for court to make proposed declarations and injunctions and to approve agreed pecuniary penalties - orders made (I, B, G)

Railcorp NSW v Registrar of the WCC of NSW (NSWSC) - judicial review - workers compensation - application for judicial review of decisions of Registrar to appoint alternative medical specialist and to refuse to allow appeal from assessment - application refused (I, G)

Sydney Building Group Pty Ltd v Edwards (NSWSC) - judgments and orders - application for payment into solicitor's trust account of money held in nominated bank account - no legitimate basis to continue interim orders depriving plaintiff of benefit of costs judgments - order made (I, B, C)



Hussein v NSW Land and Housing Corporation (NSWSC) - leases and tenancies - appeal from Tribunal's decision to dismiss claim for compensation for breaches of residential tenancy agreement - no denial of procedural fairness or other error - amended summons dismissed (I, B, C)

Brown v Owners Corporation SP021532U & Anor (Ruling No. 2) (VSC) - costs - plaintiff sought order that costs of proceedings be taxed on indemnity basis - defendants plainly unreasonable in refusing to accept plaintiff's offer of compromise - application granted (I)

Maguire v Queensland Racing Ltd (QSC) - pleadings - limitations - applicant sought extension of time to appeal summary judgment and dismissal of application for directions and costs - non-compliant pleadings - no prospects of success - application refused (I)

Aloi v Shire of Mundaring (WASC) - pleadings - real property - application for interlocutory injunction restraining first defendant from evaluating or accepting offer to purchase its land - threshold for interlocutory relief not met - application dismissed (B, C)

Summaries with links (5 minute read)

Australian Competition and Consumer Commission v Adepto Publications Pty Ltd

[2013] FCA 247

Federal Court of Australia

Cowdroy J

Trade practices - misleading and deceptive conduct - application for declarations and injunctions and to approve pecuniary penalties by consent misleading and deceptive conduct - s52 *Trade Practices Act 1974* (Cth) - conduct consisted of deceiving small business proprietors into believing they had agreed to purchase advertising space for publication of advertisements and had thereby incurred liability to make payment when there was no such obligation - held: proposed declaratory relief, injunctive relief and pecuniary penalties were within appropriate range - orders made.

[ACCC](#) (I, B, G)

**Railcorp NSW v Registrar of the WCC of NSW [2013] NSWSC 231**

Supreme Court of New South Wales

Harrison AsJ

Judicial review - workers compensation - employee injured during course of employment by plaintiff - application for judicial review - where Registrar had ordered appointment of alternative Approved Medical Specialist (AMS) and refused to allow plaintiff's appeal against AMS assessment - held: Registrar's decision to appoint alternative AMS was valid - no issue estoppel created by first medical assessment to restrict determination of any subsequent assessment - application for judicial review refused.

[Railcorp NSW](#) (I, G)

Sydney Building Group Pty Ltd v Edwards [2013] NSWSC 205

Supreme Court of New South Wales

Fullerton J

Judgments and orders - stay - costs - plaintiff sought order that all money held in nominated bank account be paid into its solicitor's trust account - money had been deposited following defendants applications for interim stay orders - plaintiff prevented from enforcing costs judgments obtained in CTTT proceedings and Court of Appeal proceedings - held: no legitimate basis to continue interim orders the effect of which was to deprive plaintiff of benefit of costs orders - orders made.

[Sydney Building Group](#) (I, B, C)

Hussein v NSW Land and Housing Corporation [2013] NSWSC 213

Supreme Court of New South Wales

Fullerton J

Administrative law - residential tenancies agreement - self-represented litigant - applicant sought order quashing decision of CTTT to dismiss claim for compensation for alleged breaches by first defendant of residential tenancies agreement, and order for Tribunal to redetermine application for compensation according to law - applicant's right of appeal: s65 *Consumer, Trader and Tenancy Tribunal Act 2001* (NSW) - held: court not satisfied applicant was denied procedural fairness or that decision was otherwise infected by jurisdictional error of the kind with which s65 was concerned - amended summons dismissed.

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

**Brown v Owners Corporation SP021532U & Anor (Ruling No. 2) [2013] VSC 127**

Supreme Court of Victoria

Dixon J

Costs - plaintiff served offer of compromise in accordance with O26 *Supreme Court (General Civil Procedure) Rules 2005* (Vic) - offer was less favourable to plaintiff than verdict returned by jury - plaintiff sought order that his costs of proceedings, including reserved costs, be taxed on indemnity basis - defendants contended plaintiff's costs should be taxed on party/party basis to time of service of offer of compromise and only thereafter on indemnity basis - held: plaintiff made genuine offer to settle - rejection by defendants of offer was plainly unreasonable - application granted.

[Brown](#) (I)**Maguire v Queensland Racing Ltd [2013] QCA 60**

Court of Appeal of Queensland

Muir JA; MA Wilson and Douglas JJ

Pleadings - negligence - summary judgment - limitations - self-represented litigant - applicant claimed damages for losses arising from alleged negligence of respondent in its management of licensed handlers and trainers - applicant sought extension of time to appeal orders granting summary judgment to respondent and dismissal of application for directions and costs - statement of claim failed to comply with *Uniform Civil Procedure Rules 1999* (Qld) - pleadings in nature of evidence rather than material facts - dubious relevance - absence of identifiable cause of action - no damages flowing from alleged conduct - primary judge's decision to give summary judgment justified - no prospects of success if extension of time granted - application refused.

[Maguire](#) (I)**Aloi v Shire of Mundaring [2013] WASC 101**

Supreme Court of Western Australia

K Martin J

Interlocutory injunction - real property - sale of land - plaintiffs sought interlocutory injunction restraining first defendant from evaluating or accepting offer to purchase its land - held: true grievance of plaintiffs hinged on an asserted economic threat of potential rival shopping centre, not merely a sale of land by first respondent - arguments were of insufficient merit to raise potential serious questions or show *prima facie case* - balance of convenience against plaintiffs - sale



of land did not address plaintiff's true concerns as to harm - threshold for grant of interlocutory relief not satisfied - application refused.

[Aloi](#) (B, C)

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