



Insurance Banking & Construction

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Ricegrowers Ltd, in the matter of Ricegrowers Ltd - *s411 Corporations Act 2001 (Cth)* - proposed scheme of arrangement (B)

Australian Licensed Aircraft Engineers Association v International Aviation Service Assistance Pty Ltd (No 2) - *Fair Work Act 2009 (Cth)* - pecuniary penalty - pre-judgment interest on compensation (I, B, C)

James v Chief Commissioner of State Revenue - Discovery & interrogatories - public interest immunity (I, B, C)

North Sydney Leagues' Club Ltd v Synergy Protection Agency Pty Ltd (formerly Joseph Merhi Industries Pty Ltd) t/as Synergy Protection Agency - Contracts - calculating expectation damages - valuing expected revenue - Hudson* formula (I, B, C)

Queens Lake Village Pty Ltd v Queens Lake Village Residents Association - *Retirement Villages Act 1999 (NSW)* - *Retirement Villages Regulation 2009* - statutory interpretation - contracts - insurance expenses & business overhead costs (I, B)



Chaseling v TVH Australasia Pty Ltd - Personal injuries - work injury - load of cartoned fell from forklift truck - s3 *Motor Accidents Compensation Act 1999* (NSW) - damages (I)

Summaries with links (5 minute read)

Thursday 28 April 2011

Ricegrowers Ltd, in the matter of Ricegrowers Ltd [2011] FCA 408

Federal Court of Australia

Stone J (in Sydney)

s411 *Corporations Act 2001* (Cth) - application for orders approving company convening separate meetings for A Class & B Class shareholders to consider proposed scheme of arrangement & directions as to conduct of meeting - orders sought by plaintiff made.

[Ricegrowers](#) (B)

Australian Licensed Aircraft Engineers Association v International Aviation Service Assistance Pty Ltd (No 2) [2011] FCA 394

Federal Court of Australia

Barker J (in Perth)

Fair Work Act 2009 (Cth) - pecuniary penalty under s546 - calculation of pre-judgment interest on compensation amounts to be awarded.

[Australian Licensed Aircraft Engineers Association](#) (I, B, C)

[Australian Licenced Aircraft Engineers Association](#) - decision 8 April 2011: see 'Benchmark' Tuesday 12 April 2011 - *Fair Work Act 2009* (Cth) & other legislation - termination of employment of union member - alleges breaches by IASA of the general protection provisions of Pt 3-1 - whether adverse action taken against employee by employer in breach of s340(1) & s346(1) - s361 reverse onus not discharged - admissibility of evidence - jurisdictional issues including as to "workplace instruments" - contraventions of s340 & s346 established - compensation order - costs - "regulate" - extensive examination of legislation & Australian case law.

James v Chief Commissioner of State Revenue [2011] NSWSC 331

Supreme Court of New South Wales

Gzell J



Production of documents - discovery & interrogatories - notice to produce - some documents to be produced in redacted form, others the defendant relieved from production on basis of public interest immunity.

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

North Sydney Leagues' Club Ltd v Synergy Protection Agency Pty Ltd (formerly Joseph Merhi Industries Pty Ltd) t/as Synergy Protection Agency [2011] NSWSC 286

Supreme Court of New South Wales

Einstein J

Contracts - assessment of damages - calculating expectation damages - adjustment for inflation - valuing expected revenue - fixed costs - variable costs - overhead costs - *Hudson** formula - pro-rata expenses.

[North Sydney Leagues' Club](#) (I, B, C)

[North Sydney Leagues' Club](#) - decision Supreme Court 7 April 2010: see 'Benchmark' Monday 12 April 2010 - damages -determination of separate question - fixed overhead costs should be taken into account in determining net profit - detailed consideration of text & case law from the United Kingdom & Australia;

[Synergy Protection Agency](#) - decision Court of Appeal of New South Wales 9 June 2009 - contracts in relation to provision of security services - matter remitted to Commercial List of Equity Division Supreme Court of N.SW for assessment of damages payable to the appellant in respect of the respondent's breach of contract;

[North Sydney Leagues Club](#) - decision Supreme Court 9 May 2008: see 'Benchmark' B & IBC Tuesday 13 May 2008 - contract - construction of agreement - business commonsense test - sensible commercial operation - defendant carried on business as provider of security services to clubs & other organisations - whether agreement compelled plaintiff to use defendant's services to exclusion of any other provider of the same or similar services.

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**Hudson's Building & Engineering Contracts*

In the District Court of New South Wales...

Queens Lake Village Pty Ltd v Queens Lake Village Residents Association [2011] NSWDC 21

District Court of New South Wales

Levy SC DCJ

Retirement Villages Act 1999 (NSW) - *Retirement Villages Regulation 2009* - statutory interpretation - contracts - appeal from decision of Retirement Villages Division of Consumer, Trader & Tenancy Tribunal - appellant owner & operator of retirement village at Laurieton - dispute as to certain insurance expenses & business overhead costs - permissibility of operator including in its annual



budget for payment by residents two items of likely expenditure for the village in the forthcoming year - appeal dismissed - an interesting decision.

[Queens Lake Village](#) (I, B)

Chaseling v TVH Australasia Pty Ltd [2011] NSWDC 24

District Court of New South Wales

Levy SC DCJ

Personal injuries - work injury - palletted load of cartoned forklift spare parts fell from the tynes of employer's moving forklift truck - crushing injury to lower right leg - whether injuries caused by owner or driver of forklift truck in the use or operation of a motor vehicle within s3 Motor Accidents Compensation Act 1999 (NSW) - no contributory negligence - damages -verdict for plaintiff in sum of \$712,275.

[Chaseling](#) (I)

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