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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)

Roberts v Investwell Pty Ltd (in liq) - Ss9, 588D & 588F *Corporations Act 2001* (Cth) - winding up - unfair preference - appeal dismissed (B)

The GEO Group Australia Pty Ltd t/as Junee Correctional Centre v WorkCover Authority of New South Wales - *Occupational Health & Safety Act 2000* (NSW) - application for orders in the nature of certiorari unsuccessful (I)

In the matter of Idylic Solutions Pty Ltd & Ors - Australian Securities & Investments Commission v Hobbs - s50 *Evidence Act 1995* (NSW) (I, B, C, G)

Re Atlantis Holdings Pty Ltd in its capacity as trustee of the Bruce James Lyon Family Trust - *Trustee Act 1925* (NSW) - whether judicial advice should be given (B)

Casquash Pty Ltd v NSW Squash Ltd (No 2) - Commercial leases - s129 *Conveyancing Act 1919* (Cth) - relief against forfeiture not appropriate (B)

Buchan v Nominal Defendant - s60 *Motor Accident Insurance Act 1994* (Qld) - appeal dismissed (I)



Pensini & Anor v Tablelands Regional Council & Anor - *Lands Act* 1994 (Qld) - statutory regime for road closure (C)

Newport Quays Pty Ltd & Ors v the Urban Renewal Authority & Ors - Application for pre-action disclosure (I, B, C, G)

Skilled Group Ltd v Barker - *Workers Rehabilitation & Compensation Act* 1988 (Tas) (I)

Summaries with links (5 minute read)

Roberts v Investwell Pty Ltd (in liq) [2012] NSWCA 134

Court of Appeal of New South Wales

Bathurst CJ, Beazley JA & Tobias AJA

Ss9, 588D & 588F *Corporations Act* 2001 (Cth) - winding up - Directors & Shareholders Agreement - payment to director - appellant contending payment was a payment in respect of a secured debt, did not constitute an unfair preference & was therefore not a voidable transaction - unfair preference - charge - case law from UK, Australia & New Zealand considered - appeal dismissed.

[Roberts](#) (B)

[Investwell](#) - decision Supreme Court of NSW 28 June 2011 - orders against defendant under s588FF(1)(a) *Corporations Act* 2001 (Cth) for payment to the company of \$164,306.83 plus interest & costs - orders for payment by first & second respondents to defendant of \$45,807 under the indemnity given by them to him.

The GEO Group Australia Pty Ltd t/as June Correctional Centre v WorkCover Authority of New South Wales [2012] NSWCA 150

Court of Appeal of New South Wales

Beazley, Whealy & Meagher JJA

Occupational Health & Safety Act 2000 (NSW) - whether notice providing particulars of offence had sufficiently identified the act or omission alleged - applicant contending jurisdictional error in Chief Industrial Magistrate's Court - applicant seeking orders in the nature of certiorari in relation to orders of that Court & the Full Bench of the Industrial Court - application unsuccessful.

[GEO Group Australia](#) (I)



In the matter of Idylic Solutions Pty Ltd & Ors - Australian Securities & Investments Commission v Hobbs [2012] NSWSC 568

Supreme Court of New South Wales

Ward J

S50 Evidence Act 1995 (NSW): proof of voluminous or complex documents - plaintiff ASIC seeking leave to adduce summaries under s50.

[Idylic Solutions](#) (I, B, C, G)

Re Atlantis Holdings Pty Ltd in its capacity as trustee of the Bruce James Lyon Family Trust [2012] NSWSC 112

Supreme Court of New South Wales

Rein J

Trustee Act 1925 (NSW) - applicant seeking judicial advice - whether judicial advice should be given - answer no.

[Atlantis Holdings](#) (B)

Casquash Pty Ltd v NSW Squash Ltd (No 2) [2012] NSWSC 522

Supreme Court of New South Wales

Pembroke J

Contracts - commercial leases - defendant lessor contending plaintiff lessee in breach of lease - lessee contending no breach and that, even if breach had occurred, it was entitled to relief against forfeiture under s129 *Conveyancing Act 1919 (Cth)* - relief against forfeiture not appropriate - extensive consideration of UK & Australian case law - declaration that exercise by lessee of its right of re-entry was valid.

[Casquash](#) (B)

Buchan v Nominal Defendant [2012] QCA 136

Court of Appeal of Queensland

Holmes & Fraser JJA; Fryberg J

S60 Motor Accident Insurance Act 1994 (Qld) - respondent claimed its costs of settling a dependency action from uninsured driver - primary judge gave judgment for respondent on its claim - appeal dismissed.

[Buchan](#) (I)



[Nominal Defendant](#) - decision Supreme Court of Queensland 30 November 2011: see Benchmark I & IBCG Friday 2 December 2011 - *Motor Accident Insurance Act 1994* (Qld) - fatal accident - plaintiff seeking to recover sum of \$769,863.27 from defendant pursuant to s60(1) - whether it was reasonable for plaintiff to compromise dependency claim on basis of likely finding, had the matter proceeded to trial, that defendant was driver of the motor cycle - judgment for plaintiff against defendant in sum of \$769,863.27 - interest fixed in amount of \$257,904.19.

Pensini & Anor v Tablelands Regional Council & Anor [2012] QCA 137

Court of Appeal of Queensland

McMurdo P, White JA & Wilson AJA

Lands Act 1994 (Qld) - statutory regime for road closure - appeal dismissed including appeal against costs.

[Pensini](#) (C)

Newport Quays Pty Ltd & Ors v the Urban Renewal Authority & Ors [2012] SASC 84

Supreme Court of South Australia

Judge Lunn, a Master of the Supreme Court

Contracts - Port Adelaide Waterfront Redevelopment Project Development Agreement - arbitration provision - application for pre-action disclosure by 3 plaintiffs & their parent companies collectively - threshold test for termination of contract in capricious or a bad faith manner - *Fair Trading Act 1987* (SA) - general discretion to order disclosure - pre-action disclosure ordered.

[Newport Quays](#) (I, B, C, G)

Skilled Group Ltd v Barker [2012] TASSC 27

Supreme Court of Tasmania

Tennent J

Workers Rehabilitation & Compensation Act 1988 (Tas) - a commissioner of the Workers Rehabilitation & Compensation Tribunal was asked to determine, as a preliminary issue, whether worker was precluded from maintaining his claim because of his failure to make it within 6 months of the cessation of his employment - the commissioner determined that the worker was not so precluded - on appeal, held claim for compensation not valid.

[Skilled Group](#) (I)

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