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Daily Construction A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Thaler v Commissioner of Patents (FCA) - patent - applicant sought judicial review of decisions of respondent - erroneous determination that an "inventor" could not be 'an artificial intelligence system' - other decisions also erroneous - judicial review application upheld - respondent's determinations set aside

Roberts-Smith v Fairfax Media Publications Pty Limited (No 20) (FCA) - defamation - adjournment - respondents sought recommencement of trial on 26/7/21 for 'limited purpose' of hearing evidence of 'four Afghan witnesses' - *Public Health (COVID-19 Temporary Movement and Gathering Restrictions) Order 2021* - application granted

I and J Formwork Pty Ltd v Donya Constructions Pty Ltd (NSWSC) - security for costs - defendants sought security for costs in proceedings - plaintiff's 'sole director and shareholder' offered undertaking - plaintiff to pay security for costs in sum of \$100,000

Young v SMYBB Pty Ltd (t/as Best Bottlers Pty Ltd) (VSC) - negligence - statutory duty - plaintiff injured whilst working for defendant - plaintiff sued defendant in negligence and for breach of statutory duty - negligence claim failed - plaintiff succeeded on claim of breach of statutory duty

Summaries With Link (Five Minute Read)

[Thaler v Commissioner of Patents \[2021\] FCA 879](#)

Federal Court of Australia

Beach J

Patent - respondent determined patent application was non-compliant with reg 3.2C(2)(aa) *Patents Regulations 1991* (Cth) (Regulations), which required applicant to provide name of invention's inventor - applicant named 'artificial intelligence system' as inventor - respondent found artificial intelligence system 'could not be an inventor', finding s15(1) *Patents Act 1990* (Cth) and reg 3.2C(2)(aa) were 'inconsistent with an artificial intelligence machine being treated as an inventor' - respondent found applicant's application and its deficiencies 'incapable of remedy', that applicant did not comply with direction under reg 3.2C(4) Regulations, and that applicant's application 'had lapsed' - applicant sought judicial review of respondent's decision - whether an "inventor" could be 'an artificial intelligence system or device' - held: judicial review application upheld - respondent's determinations set aside.

[Thaler](#)

Roberts-Smith v Fairfax Media Publications Pty Limited (No 20) [2021] FCA 824

Federal Court of Australia

Besanko J

Defamation - adjournment - respondents sought recommencement of trial on 26/7/21 for 'limited purpose' of hearing evidence of 'four Afghan witnesses' - whether 'substantial risk' Afghan witnesses' evidence would 'become unavailable if' 'not taken soon' - importance of evidence as 'part of' 'respondents' case' - interests of justice - *Public Health (COVID-19 Temporary Movement and Gathering Restrictions) Order 2021* - held: application granted.

[Roberts-Smith](#)

I and J Formwork Pty Ltd v Donya Constructions Pty Ltd [2021] NSWSC 940

Supreme Court of New South Wales

Stevenson J

Security for costs - plaintiff brought proceedings against first defendant arising from contract between parties - defendants sought security for costs - plaintiff offered 'a personal undertaking by' 'sole director and shareholder' of plaintiff - 'weight to be given to' personal undertaking - assets' nature - whether undertaking 'sufficient reason' to decline to make order for security for costs - held: plaintiff to pay security for costs in sum of \$100,000.

[View Decision](#)

Young v SMYBB Pty Ltd (t/as Best Bottlers Pty Ltd) [2021] VSC 445

Supreme Court of Victoria

Forbes J

Negligence - statutory duty - plaintiff injured whilst working for defendant - plaintiff sued defendant in negligence and for breach of statutory duty - whether system 'reasonably safe' - whether activity which plaintiff undertook was "hazardous manual handling" - causation - *Workplace Injury Rehabilitation and Compensation Act Vic 2013* (Vic) - *Occupational Health and Safety Regulations 2007* - held: negligence claim failed - plaintiff succeeded on claim of breach

of statutory duty.
[Young](#)

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