

Monday, 17 September 2018

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

 Follow @Benchmark_Legal

Search Engine

[Click here](#) to access our search engine facility to search legal issues, case names, courts and judges. Simply type in a keyword or phrase and all relevant cases that we have reported in Benchmark since its inception in June 2007 will be available with links to each case.

Executive Summary (1 minute read)

Pipikos v Trayans (HCA) - equity - doctrine of part performance - Court not satisfied requirement of 'unequivocal referability' should be relaxed - appeal dismissed

Mighty River International Limited v Hughes; Mighty River International Limited v Mineral Resources Limited (HCA) - corporations - voluntary administration - deed of company arrangement void - appeals dismissed

Ozmen Entertainment Pty Ltd v Neptune Hospitality Pty Ltd (No 3) (FCA) - judgments and orders - admiralty - joint venture - determination of four interlocutory applications in proceedings

Romanoski v Clean Solutions Pty Ltd (VSC) - evidence - video evidence - negligence - 'unfair prejudice' - probative value - Court satisfied to show jury video evidence

Summaries With Link (Five Minute Read)

Pipikos v Trayans [2018] HCA 39

High Court of Australia

Kiefel CJ; Bell, Gageler, Keane, Nettle, Gordon & Edelman JJ

Equity - doctrine of part performance - contract for sale of land - appeal concerned question whether doctrine of part performance applied where acts of part performance relied on were 'not unequivocally referable' to the 'kind of contract alleged' - whether Full Court of the Supreme Court of South Australia was correct to conclude the doctrine did not apply - whether

Benchmark

Court should 'relax' the requirement of 'unequivocal referability' stated in *Maddison v Alderson* (1883) 8 App Cas 467 - held: Court rejected appellant's arguments - Court not satisfied to relax 'unequivocal referability' requirement in favour of 'some broader principle of equity' - appeal dismissed.

[Pipikos](#)

Mighty River International Limited v Hughes; Mighty River International Limited v Mineral Resources Limited [2018] HCA 38

High Court of Australia

Kiefel CJ, Gageler, Nettle, Gordon & Edelman JJ

Corporations - voluntary administration - appeals concerned validity of deed of company arrangement (DOCA) - DOCA provided for 'moratorium on creditors' claims' - DOCA also required administrators to 'conduct further investigations' and report, within six months, to creditors 'concerning possible variations' to DOCA - Court of Appeal of the Supreme Court of Western Australia declared DOCA void, finding it contrary to object of Pt 5.3A *Corporations Act 2001* (Cth) (Corporations Act), that it 'invalidly sought to circumvent or sidestep' requirement in s39A(6), and failed to comply with 'alleged requirement' in s444A(4)(b) Corporations Act - new submission on appeal contended that DOCA was void because administrators had not formed opinions required by s438A(b) Corporations Act at relevant time - held: appeals dismissed.

[Mighty River](#)

Ozmen Entertainment Pty Ltd v Neptune Hospitality Pty Ltd (No 3) [2018] FCA 1411

Federal Court of Australia

Burley J

Judgments and orders - interlocutory applications - admiralty - joint venture - four interlocutory applications in proceedings - plaintiffs renewed application for appointment of receiver and manager - second plaintiff sought payment by defendant of profits under joint venture agreement - if second plaintiff entitled to payment from profits, defendant sought that it be entitled to allowances under joint venture agreement for second plaintiff's payment of shared costs - defendant sought that plaintiffs pay security for costs - held: Court granted application for appointment of a receiver and manager, refused application for payment of profits application, refused application for payment of shared costs, and granted defendant's application for security for costs.

[Ozmen](#)

Romanoski v Clean Solutions Pty Ltd [2018] VSC 526

Supreme Court of Victoria

Zammit J

Evidence - video evidence - negligence - plaintiff was employed by defendant - plaintiff sued defendant in negligence for alleged personal injury in course of employment - defendant filed notice of requirement for jury - plaintiff had 'significant criminal history' - defendant sought to show surveillance video of plaintiff - 'unfair prejudice' - whether video's probative value

Benchmark

'substantially outweighed' by danger to plaintiff of unfair prejudice - held: Court satisfied to show video evidence to jury.

[Romanoski](#)

[Click Here to access our Benchmark Search Engine](#)