Illawarra Hotel Company Pty Ltd v Walton Construction Pty Ltd (No 3) (NSWCA) - indemnity costs - leave to re-open part of Court’s decision on assessment of costs refused

Bobolas v Waverley Council (NSWCA) - stay - application to set aside discharge of stay of order requiring Council to remove waste outside property refused

Illawarra Hotel Company Pty Ltd v Walton Construction Pty Ltd (No 3) [2014] NSWCA 130

Court of Appeal of New South Wales
Meagher, Barrett & Ward JJA

Costs - assessment - appellant sought leave to re-open part of Court’s decision rejecting its submission that part of costs awarded to it at first instance should have been assessed on indemnity basis due to respondent’s unreasonable refusal to accept settlement offers - in reaching its view Court had accepted pleadings were in state of flux - appellant contended Court had misapprehended its true position - held: misapprehension as to extent of amendments to cross-summons did not mean there was any misapprehension as to substantive matter that went to exercise of relevant discretion as to basis of assessment of costs - notice of motion dismissed.

Illawarra Hotel Company
Bobolas v Waverley Council [2014] NSWCA 131

Court of Appeal of New South Wales
Meagher & Gleeson JJA; Sackville AJA

Stay – applicants who occupied premises sought to set aside primary judge’s discharge of orders staying operation of order requiring Council to remove waste stored at property - rr36.15, 36.16 & 51.5 Uniform Civil Procedure Rules 2005 (NSW) - s46(4) Supreme Court Act 1970 (NSW) - procedural fairness - held: applicants’ arguments did not identify any reviewable error of kind to which s46(4) was directed or any irregularity, illegality or want of good faith which would justify setting aside of orders made by primary judge - application dismissed.

A Bird Song
By Christina Rossetti

It's a year almost that I have not seen her:
Oh, last summer green things were greener,
Brambles fewer, the blue sky bluer.

It's surely summer, for there’s a swallow:
Come one swallow, his mate will follow,
The bird race quicken and wheel and thicken.

Oh happy swallow whose mate will follow
O'er height, o'er hollow! I'd be a swallow,
To build this weather one nest together.

Christina Rossetti

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