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## Daily Insurance A Daily Bulletin listing Decisions of Superior Courts of Australia

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### 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



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

[Romanoski](#)

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