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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)

Integrated Asset Management Pty Ltd v Trans Communications Pty Ltd (No 2) (NSWSC) - costs - unsuccessful defendants granted certificate under *Suitors' Fund Act 1951* (NSW) - costs order in defendants' favour refused in respect of notices filed by appellant

Nolan v Executive Director, Land Management Policy, Department of Environment and Primary Industries (VSCA) - administrative law - dismissal of committee member for breaches of *Victorian Public Entity Directors' Code of Conduct 2006* - appeal dismissed

Trkulja v Markovic (VSCA) - defamation - self-represented litigant - dismissal of claim - no breach of duty by judge to ensure fair trial - no denial of procedural fairness - appeal dismissed

Mandie v Memart Nominees Pty Ltd (No 2) (VSC) - costs - pleadings - conduct - permission to amend pleadings refused except for certain deletions consented to by defendant - plaintiffs to pay defendant's costs on indemnity basis taxed immediately

Nelson v Cyran (QCA) - judgments and orders - leave to commence enforcement proceedings against defendant - no error in exercise of discretion - appeal dismissed

Summaries With Link (Five Minute Read)

Integrated Asset Management Pty Ltd v Trans Communications Pty Ltd (No 2) [2015] NSWSC 1690

Supreme Court of New South Wales
Schmidt J

Costs - Court gave judgment for appellant in proceedings - parties in dispute as to costs - whether defendants should have certificate under *Suitors' Fund Act 1951* (NSW) - whether there should be order in defendants' favour as to costs of notice to admit facts and notice to admit authenticity of documents filed by appellant - held: Court satisfied discretion granted by s6 must be exercised in defendants' favour - justice did not permit costs order in relation to notices especially in absence of relevant transcript and reasons given for refusal of appellant's application for costs of notices.

[Integrated Asset Management](#)

Nolan v Executive Director, Land Management Policy, Department of Environment and Primary Industries [2015] VSCA 301

Court of Appeal of Victoria
Warren CJ; Tate & Kaye JJA

Administrative law - appellant was member of committee which managed, improved, maintained and controlled reserved Crown land - appellant removed from position on committee by respondent for breaches of *Victorian Public Entity Directors' Code of Conduct 2006* - appellant sought judicial review of respondent's decision - trial judge dismissed application - appellant appealed - held: no error in respondent's finding that appellant breached requirement in Code not to place himself in position of conflict of interest - no error in trial judge's interpretation of the Code's 'leadership and stewardship' requirement - no error in trial judge exercising discretion not to grant declaratory relief - appeal dismissed.

[Nolan](#)

Trkulja v Markovic [2015] VSCA 298

Court of Appeal of Victoria
Kyrou & Kaye JJA; Ginnane AJA

Defamation - self-represented litigant - procedural fairness - County Court judge dismissed appellant's claim against respondent on basis there was not sufficient evidence to establish respondent published the alleged defamatory - appellant alleged judge breached duty to ensure fair trial by failing to provide appropriate assistance to appellant as self-represented litigant - appellant also alleged he was denied procedural fairness - held: no breach of duty by judge to ensure fair trial - allegation of breach of duty must be considered in context of whole trial but no transcript of entire hearing available - only part of hearing which was transcribed demonstrated judge was scrupulously fair and provided extensive assistance to appellant - no denial of procedural fairness - appeal dismissed

[Trkulja](#)

Mandie v Memart Nominees Pty Ltd (No 2) [2015] VSC 622

Supreme Court of Victoria

McMillan J

Costs - pleadings - Court refused plaintiffs' application to amend statement of claim except deletions to which defendant consented - determination of costs orders - rr63.17 & 63.20 *Supreme Court (General Civil Procedure) Rules 2005 (VSC)* - held: defendant consented to the only substantive amendments for which leave given - deleted allegations should never have been made - plaintiffs should pay defendant's costs thrown away by reason of amendments for which leave granted - special costs order warranted in defendant's favour due to making of allegations which ought not to have been made, including allegations of fraud, delay caused and wasted costs - plaintiffs' conduct justified departure from r63.20 - plaintiffs to pay costs on indemnity basis to be taxed immediately.

[Mandie](#)

Nelson v Cyran [2015] QCA 226

Court of Appeal of Queensland

M McMurdo P, Morrison JA & North J

Judgments and orders - appellant was bouncer - respondent was wrongfully assaulted and injured when appellant preventing him from entering club - appellant convicted of unlawfully doing grievous bodily harm - respondent sought damages against appellant and owner of club, who employed appellant - proceedings served on appellant - before trial appellant could not be found - judgment entered against appellant in 2002 - respondent's solicitors did not locate appellant until 2012 - application was brought for leave to commence enforcement proceedings against appellant - application served on appellant in 2014 - primary judge ordered leave be granted - appellant sought to challenge order - ss12 & 13 *Civil Judgments Enforcement Act 2004 (WA)* - s105 *Service and Execution of Process Act 1992 (Cth)* - rr8, 93, 95(1), 371(1), 793 & 799 *Uniform Civil Procedure Rules 1999 (Qld)* - whether there was error of principle or mistake of fact which caused appellant substantial injustice - held: no grounds of appeal established error by primary judge in exercising his discretion to grant leave - appeal dismissed.

[Nelson](#)

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