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Insurance

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Hart Security Australia Pty Ltd v Boucousis (NSWSC) - equity - directors' duties - company's claims against director and law firm failed

Hall v TCN Channel Nine Pty Ltd (NSWSC) - defamation - leave to amend pleading to include defendant's contextual imputations

McVey v GJ & LJ Smith Pty Ltd (VSCA) - accident compensation - no error in opinion of medical panel - panel not bound by earlier opinion - appeal dismissed

Summaries with links (5 minute read)

Hart Security Australia Pty Ltd v Boucousis [2014] NSWSC 1654

Supreme Court of New South Wales

Darke J

Equity - directors' duties - Hart alleged its director breached duties owed to it and that, as a consequence, it lost opportunity to enter contract to provide services to company - Hart further alleged partners of law firm were also liable to pay compensation for loss of opportunity - Hart contended law firm knowingly assisted director's breaches of fiduciary duty and partners, H were persons involved in the contraventions - held: claims against director and law firm failed - director not engaged in any breach of fiduciary duty amounting to a dishonest and fraudulent design - no

question arose of accessorial liability under second limb of *Barnes v Addy* - director not in contravention of any of the duties imposed on him by ss181(1), 182(1) & 183(1) *Corporations Act 2001* (Cth) - no question arose of liability as person involved in contravention - amended statement of claim dismissed.

[Hart Security Australia Pty Ltd](#)

Hall v TCN Channel Nine Pty Ltd [2014] NSWSC 1604

Supreme Court of New South Wales

McCallum J

Defamation - pleadings - action arising out of television broadcast - plaintiff sought to amend pleading to include three of defendant's contextual imputations as additional imputations of which he complained - effect of amendment would be to preclude defendants from relying on those three imputations as contextual imputations - s26 *Defamation Act 2005* (NSW) - held: there was no property in an imputation - leaving aside apparent unfairness of depriving defendants of aspect of defence, application to amend would readily be granted in accordance with accepted principle - although plaintiff's original imputations and adopted contextual imputations technically met requirement of differing in substance, Court considered that defendants had respectable prospect of persuading jury that even plaintiff's original imputations were substantially true - leave to amend granted.

[Hall](#)

McVey v GJ & LJ Smith Pty Ltd [2014] VSCA 293

Court of Appeal of Victoria

Santamaria, Beach & Kyrou JJA

Accident compensation - truck driver injured when struck by engine hood of truck - truck driver applied for lump sum impairment benefit pursuant to s98C *Accident Compensation Act 1985* (Vic) for schizophrenia injury he claimed he sustained as result of incident - truck driver appealed from dismissal of application for judicial review of opinion of medical panel - truck driver contended medical panel did not assess schizophrenia injury in accordance with s91 and failed to give effect to an early medical opinion obtained in relation to County Court proceedings for compensation for physical injuries suffered in incident in accordance with s68(4) - held: primary judge correctly dismissed judicial review application insofar as it alleged panel did not assess schizophrenia injury in accordance with s91 - judge correctly held medical panel not bound to give effect to earlier medical opinion - appeal dismissed.

[McVey](#)

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