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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)

Jane Doe 1 v Dowling (No 3) (NSWSC) - defamation - interlocutory injunction - suppression orders - orders sought by plaintiffs granted

Olson v Keefe (FCA) - service - confirmation of service of amended originating application on two citizens of USA and one USA company granted

Cushman & Wakefield (NSW) Pty Ltd v Farrell (NSWCA) - contract - corporations - calculation of payment due to employee following termination of employment - proper construction of employment contract - employer's appeal allowed in part

CSR Limited v Morrison (NSWSC) - cross-vesting - proceedings commenced in Dust Diseases Tribunal of New South Wales transferred to Supreme Court of Queensland

Summaries With Link (Five Minute Read)

Jane Doe 1 v Dowling (No 3) [2017] NSWSC 126

Supreme Court of New South Wales

Walton J

Defamation - interlocutory injunction - suppression orders - plaintiffs sought that statements made by defendant in article and article obtained by link within article be removed from publication - plaintiffs also sought to restrain defendant from publishing imputations appearing in amended statement of claim concerning third and fourth plaintiffs - serious question to be tried -

whether prospect of defence of justification - s7 *Court Suppression and Non-publication Orders Act 2010* (NSW) - 'rules concerning the making of interlocutory injunctions in defamation cases' in *ABC v O'Neill* [2006] 227 CLR 57 - held: Court satisfied orders sought should be granted.

[Jane Doe 1](#)

Olson v Keefe [2017] FCA 101

Federal Court of Australia

Bromwich J

Service - applicant sought order under r10.43(6) *Federal Court Rules 2011* (Cth) confirming service of amended originating application on two citizens of USA and one USA company (first, second and third respondents) - fourth respondent was Australian company - whether proper to join foreign respondents - whether 'service of the kind carried out' was permitted - explanation for failing to seek leave - held: order confirming service granted.

[Olson](#)

Cushman & Wakefield (NSW) Pty Ltd v Farrell [2017] NSWCA 24

Court of Appeal of New South Wales

Macfarlan & Ward JJA; Emmett AJA

Contract - corporations - respondent's employment with appellant terminated - dispute concerned quantification of payment due to respondent - no dispute appellant entitled to terminate respondent's employment without cause - appellant paid redundancy payment to respondent - respondent successfully contended he was underpaid and entitled to further amount calculated by reference to service with a 'related company' - appellant unsuccessfully contended it overpaid respondent and sought amount by way of restitution - construction of contract - ambiguity - 'following the Initial Period' - s50 *Corporations Act 2001* (Cth) - held: primary judge erred in construction of contract - respondent entitled to termination payment he received by reference to service with appellant - appellant had no claim to restitution - appeal allowed in part.

[Cushman](#)

CSR Limited v Morrison [2017] NSWSC 123

Supreme Court of New South Wales

McCallum J

Cross-vesting - first defendant sued second defendant in the Dust Diseases Tribunal of New South Wales in relation to alleged asbestos exposure causing mesothelioma - cross-defendant sought transfer of proceedings to Supreme Court of Queensland pursuant to ss8 & 5(2) *Jurisdiction of Courts (Cross-Vesting) Act 1987* (NSW) - parties consented to application - interests of justice - held: 'all of the relevant activity' was situated in Queensland - Court satisfied proceedings should be determined by Supreme Court of Queensland - order granted.

[CSR Limited](#)

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