

Friday, 26 June 2015

Weekly Construction Law Review A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd [2015] HCA 21 (HCA) - discovery - contempt - appellant corporation amenable to order to make discovery under r29.07(2) *Supreme Court (General Civil Procedure) Rules 2005* (Vic) - appeal dismissed

Watpac Construction NSW Pty Limited v Taylor Thompson Whitting (NSW) Pty Ltd (NSWSC) - contract - specific performance - defendant required to submit dispute to expert determination in accordance with dispute resolution procedure

Summaries With Link (Five Minute Read)

Construction, Forestry, Mining and Energy Union v Boral Resources (Vic) Pty Ltd [2015] HCA 21

High Court of Australia

French CJ; Kiefel, Bell, Gageler, Keane & Nettle JJ

Discovery - contempt - Boral sought to punish appellant for contempt of Court by establishing blockade of construction site in disobedience of Court orders - Boral sought discovery of documents concerning whether appellant authorised employee to establish blockade - whether appellant corporation amenable to order under r29.07 *Supreme Court (General Civil Procedure) Rules 2005* (Vic) to make discovery of particular documents in proceedings - appellant argued terms of r29.07 not sufficiently clear to oblige it to disadvantage itself as defendant in proceedings which were either criminal or quasi-criminal - held: appellant's argument failed because contempt proceeding against appellant was a civil proceeding to which r29.07 applied according to its tenor - appeal dismissed.

[Construction](#)

[From Benchmark Thursday, 18 June 2015]

Watpac Construction NSW Pty Limited v Taylor Thompson Whitting Pty Ltd [2015] NSWSC 780

Supreme Court of New South Wales

Ball J

Contract - specific performance - dispute resolution clause - defendant agreed to provide consultancy services to plaintiff in connection with construction of building, television studios and facilities - plaintiff sought orders requiring defendant to submit dispute between them to expert determination in accordance with dispute resolution clause in agreement - held: parties did not abandon dispute resolution procedure - meeting was not pre-condition to expert determination procedure - no jurisdictional error by expert - complaints in relation to expert determination agreement failed - plaintiff entitled to orders sought in summons.

[Watpac](#)

[From Benchmark Monday, 22 June 2015]



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Fireflies in the Garden

By Robert Frost

Here come real stars to fill the upper skies,
And here on earth come emulating flies,
That though they never equal stars in size,
(And they were never really stars at heart)
Achieve at times a very star-like start.
Only, of course, they can't sustain the part.

[Robert Frost](#)

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