



Insurance Banking & Construction

A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Pharm-a-Care Laboratories Pty Ltd v Commonwealth of Australia (No 8) - Representative proceeding - Administrator's application for variation of clause in Settlement Distribution Scheme (I, B)

Zoltaszek v Downer EDI Engineering Pty Ltd - *Disability Discrimination Act 1992* (Cth) - self-represented litigant (I, B, C)

MST Investment Corporation Ltd (Liquidators App'd), in the matter of MST Investment Corporation Ltd - *Corporations Act 2001* (Cth) - application under s447A & s439A(6) for extension of time of convening period for second meeting of creditors (B)

Amaca Pty Ltd v Doughan - *Dust Diseases Tribunal Act 1989* (NSW) - asbestosis - assessment of damages - appeal dismissed (I, C)

Trust Company Ltd ATF Opera House Car Park Infrastructure Trust No 1 v the Valuer-General (No 4) - Land valuation - final orders (B, C)



Perry & Anor v Powercor Australia Ltd - Production of documents - legal professional privilege (I, B, C)

Simpson v Simpson & Ors - Wills - "issue" - declaration of constructive trust (B)

In the matter of an application for a variation of bail by Khandelwal - Application for bail variation refused (B)

Barton v Australian Capital Territory (Territory & Municipal Services) - *Freedom of Information Act* 1989 (ACT) - preliminary discovery - email (I)

Summaries with links (5 minute read)

Wednesday 6 July 2011

Pharm-a-Care Laboratories Pty Ltd v Commonwealth of Australia (No 8) [2011] FCA 745

Federal Court of Australia

Flick J (in Sydney)

Representative proceeding - Administrator's application for variation of clause in Settlement Distribution Scheme - "Loss Assessment Process" - claims in foreign currency - Philippine pesos - Chinese renminbi - administration costs - application granted.

[Pharm-a-Care Laboratories](#) (I, B)

Zoltaszek v Downer EDI Engineering Pty Ltd [2011] FCA 744

Federal Court of Australia

Flick J (in Sydney)

Disability Discrimination Act 1992 (Cth) - appeal from Federal Magistrates Court - interpreter in court at hearing - appeal dismissed - extensive consideration of text & case law as to duties of judicial officers to self-represented litigants - an interesting decision.

[Zoltaszek](#) (I, B, C)



MST Investment Corporation Ltd (Liquidators App'd), in the matter of MST Investment Corporation Ltd [2011] FCA 711

Federal Court of Australia

Stone J (in Sydney)

Corporations Act 2001 (Cth) - application under s447A & s439A(6) for extension of time of convening period for second meeting of creditors - orders sought by plaintiff to be made.

[MST Investment Corporation](#) (B)

Amaca Pty Ltd v Doughan [2011] NSWCA 169

Court of Appeal of New South Wales

Giles & McColl JJA, Sackville AJA

Dust Diseases Tribunal Act 1989 (NSW) - asbestosis - assessment of damages - factual findings - whether complaint of procedural unfairness made out - appeal dismissed.

[Amaca](#) (I, C)

[Doughan](#) - decision Dust Diseases Tribunal of New South Wales 3 September 2010 - quantum of damages - plaintiff a retired builder - car accident in 2004: proceedings against the insurer of the other motor vehicle were settled - judgment for plaintiff in sum of \$369,079.

Trust Company Ltd ATF Opera House Car Park Infrastructure Trust No 1 v the Valuer-General (No 4) [2011] NSWLEC 111

Land & Environment Court of New South Wales

Pain J

Land valuation - final calculations of parties' respective valuers - final orders made for the four appeals - four appeals upheld.

[Trust Company](#) (B, C)

[Trust Company](#) - decision 17 May 2011 - inputs for hypothetical development method;

[Trust Company](#) - decision 11 March 2011: see 'Benchmark' I & IBC Monday 21 March 2011 - *Valuation of Land Act* 1916 (NSW) - the Court did not have jurisdiction in these Class 3 appeals to determine whether reascertainments out of which the proceedings arise were not authorised by s14A(6);

[Trust Company](#) - reported at 178 LGERA 1 - decision 26 August 2010: see 'Benchmark' B, C & IBC Wednesday 22 September 2010 - reported Decision: 178 LGERA 1 - *Valuation of Land Act* 1916 (NSW) - *Bennelong Point (Parking Station) Act* 1985 (NSW) - whether Opera House car park lot a stratum or land - no definition of land in the *Valuation of Land Act*; definition of stratum in s4 of that Act - car park lot should be valued as land under s6A of the VL Act - Australian case law considered.

**Perry & Anor v Powercor Australia Ltd [2011] VSC 308**

Supreme Court of Victoria

Robson J

Production of documents - legal professional privilege - application for inspection of discovered reports on cause of fire at Coleraine on Black Saturday - *Electricity Safety Act 1998* (Vic) - inspection ordered.

[Perry](#) (I, B, C)**Simpson v Simpson & Ors [2011] QSC 196**

Supreme Court of Queensland

Lyons J

Wills - "issue" - child of testatrix died at hands of his son, a grandchild of testatrix - whether a child of the grandchild was entitled to the share of the estate that the grandchild would have taken but for his criminal conduct - declaration of constructive trust.

[Simpson](#) (B)**In the matter of an application for a variation of bail by Khandelwal [2011] ACTSC 95**

Supreme Court of the Australian Capital Territory

Nield AJ

Criminal Code 1995 (Cth) - variation to bail conditions sought to allow applicant to travel overseas - applicant has been charged with dishonestly obtaining financial advantage from a Commonwealth entity, the Australian Taxation Office - application refused.

[Khandelwal](#) (B)**Barton v Australian Capital Territory (Territory & Municipal Services) [2011] ACTSC 94**

Supreme Court of the Australian Capital Territory

Ryan J

Freedom of Information Act 1989 (ACT) - preliminary discovery - s230(4) *Road Transport (General) Act 1999* (ACT) - letter had been sent by Road Transport Authority of ACT to plaintiff which, in essence, informed him that defendant had received information indicating plaintiff "may no longer comply with the required medical standards to hold a driver licence." - requirement that plaintiff attend for medical examination - defendant had refused to grant plaintiff access to email on public interest grounds - appeal dismissed.

[Barton](#) (I)



[Freedom of Information Act 1989](#) - *Freedom of Information Act 1989 (A.C.T.)*

[Road Transport \(General\) Act 1999](#) - *Road Transport (General) Act 1999 (ACT)*

[s230 Road Transport \(General\) Act 1999](#) (*ACT*)

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