



Supreme Court of NSW Court of Appeal

Decisions Reserved at 31 July 2020

| | Number | Case Name | Heard | Issues | Judgment Below |
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| 1 | 2019/196566 | Primary Securities Ltd v Aurora Funds Management Ltd | 13/02/2020 | CORPORATIONS – change of responsible entity of listed managed investment scheme said to have occurred by resolution at meeting called by members under s 252D of the Corporations Act 2001 (Cth) – first respondent was incumbent responsible entity and appellant was incoming responsible entity – first respondent brought proceedings alleging that the meeting and resolutions were invalid – primary judge found meeting was invalid – whether primary judge erred in finding that the meeting was procedurally deficient – whether primary judge erred in finding that substantial injustice within the meaning of s 1322(2) had been occasioned by the procedural irregularities of the meeting – whether primary judge erred in not finding that any substantial injustice could be cured by an order of the court – whether the primary judge erred in having regard to certain allegations made by the first respondent | In the matter of Aurora Funds Management Limited [2019] NSWSC 630 |

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| 2 | 2019/376331 | GAR v Attorney General for the State of NSW | 19/02/2020 | ADMINISTRATIVE LAW (judicial review) – applicant was convicted and sentenced for having sexual intercourse without consent with his former wife – applicant brought a number of applications under s 78 of the Crimes (Appeal and Review) Act 2001 (NSW) – primary judge, on fourth application, refused to consider or otherwise deal further with the application – whether primary judge erred in treatment of fresh evidence – whether primary judge erred in failing to find that fresh evidence overcame s 79(3)(a) of the Crimes (Appeal and Review) Act | GAR – Application for an inquiry into conviction pursuant to s 78 of the Crimes (Appeal and Review) Act 2001 [2019] NSWSC 982 |
| 3 | 2019/335705 | Lianos v Order of AHEPA NSW Inc | 27/02/2020 | CORPORATIONS – appellants were three members of first respondent – appellants brought proceedings challenging the validity of amendments to first respondent’s constitution and resolutions passed subsequent to the amendments – first respondent sought, in event that the constitutional amendments were invalid, orders under s 1322(4) of the Corporations Act 2001 (Cth) – foundational documents of first respondent were “complex and obscure” and record keeping was “patchy” – primary judge found in favour of first respondent – whether primary judge erred in making certain factual findings – whether primary judge erred in interpretation of foundational documents – whether primary judge erred in finding that the amendments to the constitution and certain resolutions passed thereafter were valid – whether primary judge erred in finding certain management members did not breach their fiduciary duties | In the matter of Order of AHEPA NSW Inc. [2019] NSWSC 1329 |

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| 4 | 2019/313960 | Macquarie International Health Clinic Pty Ltd v Sydney Local Health District | 28/02/2020 | CONTRACT – long-running dispute between appellant and respondent in relation to construction of private hospital and medical centre on respondent’s land – deed entered into between parties – respondent issued default and termination notices under deed – notices premised on non-compliance by appellant with construction timetables – appellant brought proceedings against respondent contending notices were invalid because respondent had no right to promulgate new timetables or failed to act in accordance with contractual obligation of good faith, or because the appellant complied with the timetables – primary judge found in favour of respondent – whether primary judge erred in making various findings of fact – whether primary judge erred in construing terms of deed – whether primary judge erred identifying the relevant question for the purposes of s 129(1) of the Conveyancing Act 1919 (NSW) | Macquarie International Health Clinic Pty Ltd v Sydney Local Health District [2019] NSWSC 1199 |
| 5 | 2019/267950 | Mohareb v Palmer | 5/03/2020 | ADMINISTRATIVE LAW (other) – Vexatious Proceedings Act – whether erred in finding that all of the applicant’s proceedings were commenced vexatiously – whether denied procedural fairness in being heard on application – whether primary Judge reversed onus of proof by requiring applicant to show that he was not vexatious – bias | Palmer v Mohareb [2019] NSWSC 975 |
| 6 | 2019/220052 | Carter v Hastings River Greyhound Racing Club | 19/03/2020 | TORTS (negligence) – appellant suffered injuries at respondent’s greyhound racing track while operating a catching pen gate – brought proceedings in negligence against respondent – primary judge found respondent not | Carter v Hastings River Greyhound Racing Club [2019] NSWSC 780 |

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| | | | | <p>liable – whether primary judge erred in finding operating the gate was a “dangerous recreational activity” within the meaning of s 5K of the Civil Liability Act 2002 (NSW) – whether primary judge erred in finding respondent had not breached its duty of care – whether primary judge erred in finding alleged breach of duty of care was not factually causative of appellant’s injuries – whether primary judge erred in finding harm was not within the scope of liability – whether primary judge erred in apportionment of liability for contributory negligence</p> | |
| 7 | 2019/292791 | Piatti v ACN 000 246 542 Pty Ltd | 23/03/2020 | <p>TORTS (negligence) – appellant is representative of deceased’s estate – deceased had been in the employ of first respondent and, both in the course of that work and other work, worked with asbestos sheets manufactured and supplied by second respondent – deceased died from mesothelioma – shortly before his death, deceased brought negligence proceedings against first and second respondents – appellant took over proceedings on deceased’s death – primary judge found in favour of appellant – whether primary judge erred in restricting damages for gratuitous domestic assistance to the number of hours provided by the deceased to his de facto spouse as at the date the liability for the disease arose, for the purposes of s 15B of Civil Liability Act 2002 (NSW)</p> | Piatti v ACN 000 246 542 Pty Ltd & Anor [2019] NSWDDT 7 |

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| 8 | 2019/150753 | The Owners - Strata Plan No 30791 v Southern Cross Constructions (ACT) Pty Limited (in liq) | 25/03/2020 | <p>TORTS (negligence) – excavation, shoring and piling works were undertaken for a residential development – works caused aesthetic and structural damage to nearby apartments – first appellant and lot owners of nearby apartments whose internal walls were affected commenced proceedings against first respondent, which was engaged to construct the development, second respondent, first respondent’s insurer, and third respondent, structural engineers – primary judge found respondents not liable for damage to apartments – whether primary judge erred in determining scope of respondents’ duty of care to appellants – whether primary judge erred in finding respondents did not breach their duty – whether primary judge applied the wrong test for causation – whether primary judge erred in finding respondents did not cause damage suffered – whether primary judge erred in making certain factual findings</p> | <p>The Owners – Strata Plan 30791 v Southern Cross Constructions (ACT) Pty Ltd (in liq) (No 2) [2019] NSWSC 440; The Owners – Strata Plan 30791 v Southern Cross Constructions (ACT) Pty Ltd (in liq) (No 3) [2019] NSWSC 560</p> |
| 9 | 2019/165631 | E Co (a pseudonym) v Q (a pseudonym); Q (a pseudonym) v A (a pseudonym) | 27/03/2020 | <p>EQUITY – third, fourth and fifth respondents are appellant’s sons – first and second respondents are companies of which sons are directors – respondents allege appellant encouraged the expectation that appellant would make his properties available for use in a family business until his death and leave the properties to his sons on his death – appellant disinherited his sons and sought to take possession of properties – sons brought, among other claims, a proprietary estoppel claim – primary judge found estoppel claim made out – whether primary judge took into account irrelevant considerations in finding</p> | <p>E Co v Q [2018] NSWSC 442; E Co v Q (No 2) [2018] NSWSC 445; E Co v Q (No 3) [2018] NSWSC 646; E Co [a pseudonym] v Q [a pseudonym] (No 4) [2019] NSWSC 429</p> |

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| | | | | <p>appellant encouraged expectation – whether primary judge erred in finding certain conduct of appellant encouraged expectation – whether primary judge erred in finding fifth respondent acted in reliance on expectation – whether primary judge erred in finding fourth and fifth respondents suffered detriment – whether primary judge erred in determination of relief to be granted</p> | |
| 10 | 2019/333199 | Australian Executor Trustees (SA) Limited v Kerr | 3/04/2020 | <p>EQUITY – appellant was trustee for respondent members of forestry scheme – appellant consented to the sale of trees and land and the discharge of the respondent’s security without receiving proceeds of sale and procuring alternative security – first respondent, as special purpose trustee for other members, brought proceedings against appellant for breach of trust – appellant conceded breach and primary judge found breach caused damage and that appellant was unable to rely on legal advice it received in relation to sale – whether primary judge erred in allocating the onus of proving causation – whether primary judge erred in certain findings on causation – whether primary judge erred in failing to make certain factual findings about the legal advice – whether primary judge erred in finding appellant was unable to rely on advice – whether primary judge erred in finding the encumbrances were trust property – whether primary judge erred in finding South Australian apportionment legislation, and not New South Wales apportionment legislation, applied to the respondent’s claims</p> | <p>Kerr v Australian Executor Trustees (SA) Ltd; Australian Executor Trustees (SA) Ltd v Fuller and others trading as Sparke Helmore Lawyers [2019] NSWSC 1279; Kerr v Australian Executor Trustees (SA) Ltd; Australian Executor Trustees (SA) Ltd v Fuller and others trading as Sparke Helmore Lawyers (No 2) [2019] NSWSC 1438</p> |

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| 11 | 2019/338853; 2020/99958 | Motor Yacht Sales Australia Pty Ltd v Blann | 22/04/2020 | CONTRACT – appellant in business of importing and selling luxury vessels – respondent purchased vessel from appellant – contract for sale contained a term that the boat would be berthed at Rose Bay Marina for three years at \$5,500 per month paid by the purchaser – appellant brought proceedings against respondent seeking to recover unpaid mooring fees – primary judge found in favour of respondent – whether primary judge erred in failing to find the contract contained an obligation on the respondent to pay the amount specified in the berthing clause or as varied – whether the primary judge erred in finding the respondent was not liable to pay the rent from the time the vessel was sold | Motor Yacht Sales Australia Pty Limited trading as The Boat Boutique Company v Robert Blann [2019] NSWDC 558 |
| 12 | 2019/216946 | Sica v Brophy | 24/04/2020 | TORTS (other) – appellant and respondent were neighbours and became engaged in a dispute – respondent struck appellant in the head and the force of the blow caused appellant to fall to the ground – respondent charged with and convicted of assault occasioning actual bodily harm – appellant brought proceedings seeking compensatory, aggravated and exemplary damages for assault and battery – primary judge found in favour of respondent – whether primary judge erred in finding respondent was acting in self-defence | Decision not available on Caselaw |
| 13 | 2019/313856 | RD Miller Pty Ltd v Roads and Maritime Services NSW | 24/04/2020 | LAND AND ENVIRONMENT – claim for compensation under Roads Act 1993 (NSW) – whether a “before and after” approach to construction is open – whether principle that | RD Miller Pty Ltd v Roads and Maritime Services [2019] |

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| | | | | a person cannot take advantage of their own wrong applies to compensation proceedings - refusal of leave to amend points of claim to allow both approaches - whether no reasonable cause of action – whether primary Judges erred in applying strict pleading principles when not a court of pleading |] NSWLEC 129 |
| 14 | 2019/278581 | Dickson v Northern Lakes Rugby League Sport & Recreational Club Inc | 1/05/2020 | TORTS (negligence) – appellant was subject to a “spear tackle” or “dangerous throw” instigated by second respondent when playing for his local Rugby League team – tackle was contrary to Laws of Rugby League – appellant sustained severe head injuries as a result of tackle – appellant brought proceedings against first respondent alleging it was vicariously liable for negligence of second respondent, who was a registered player of the first respondent – primary judge found in favour of respondents – whether primary judge erred in his reliance on Evidence Act 1995 (NSW) s 140(2) – whether primary judge erred in his reasoning about intention of legislature in enacting Civil Liability Act 2005 (NSW) – whether primary judge erred in conclusions made about expert evidence – whether primary judge erred in distinguishing between a neck injury intentionally caused in a spear tackle and a facial injury so caused – whether primary judge erred in disagreeing with the presumption that tort defendants intend the natural and probable consequences of their actions – whether primary judge erred in his interpretation of s 3B(1)(a) of the Civil Liability Act – whether primary judge erred in failing to apply the | Dickson v Northern Lakes Rugby League Sport & Recreational Club Inc & Anor (No 2) [2019] NSWDC 433 |

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| | | | | principle in <i>Browne v Dunn</i> – whether primary judge erred in identifying the relevant “intentional act” for purposes of s 3B(1)(a) – whether primary judge erred in characterisation of the end stages of the tackle – whether primary judge erred in his reasoning on credit of second respondent – whether primary judge erred in making various findings of fact – whether primary judge erred in failing to accept, consider or consider adequately certain evidence – whether primary judge relied upon an irrelevant consideration | |
| 15 | 2019/301298 | Meat Carter Pty Ltd v Melides | 4/05/2020 | WORKERS COMPENSATION – respondent was paid workers compensation benefits by appellant from 2014 – in 2017, respondent’s whole person impairment was assessed at 60% -- appellant proceeded to pay benefits at higher rate specified in s 38A of the Workers Compensation Act 1987 (NSW) from 2017 – respondent brought proceedings seeking payment of arrears of benefits at s 38A rate from 2014 – arbitrator held respondent not entitled to payment of arrears – on appeal, Presidential Member found in favour of respondent – whether Presidential Member misconstrued ss 32A and 38A of the Workers Compensation Act | Melides v Meat Carter Pty Limited [2019] NSWSC 48 |
| 16 | 2019/335449 | Mentink v Olsen | 4/05/2020 | EQUITY – appellant was daughter of respondent’s deceased’s wife – deceased had withdrawn some \$2.2 million and given that money to the appellant – respondent brought proceedings alleging, inter alia, that the appellant received that money by reason of undue | Olsen v Mentink [2019] NSWSC 1299 |

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| | | | | influence or unconscionability, that the deceased otherwise lacked capacity to make the transfer or that the \$2.2 million was an asset of the partnership operated as between the respondent and the deceased, such that the appellant held the monies on trust and was also liable for knowing assistance – primary judge found in favour of the respondent – whether primary judge erred in finding the transaction was affected by unconscionable conduct and undue influence – whether primary judge erred in making certain findings of fact – whether primary judge’s reasons were inadequate – whether primary judge erred in finding estoppel and change of position did not apply to a finding of undue influence | |
| 17 | 2019/277518 | Wright v Apthorpe | 5/05/2020 | COSTS – indemnity costs – applicant ordered to pay plaintiff’s and other defendant’s costs - where respondent plaintiff recovered less than offer – where notice of seeking indemnity costs was not given – where defendants failed on their defences – whether erred in not ordering costs on ordinary basis – whether erred in not requiring each defendant to pay their proportion of costs | Apthorpe v QBE Insurance (Australia) Ltd [2019] NSWDC 135; Apthorpe v QBE Insurance (Australia) Ltd [2019] NSWDC 390 |
| 18 | 2019/305409 | Scott v Ennis-Oakes | 7/05/2020 | CONTRACT – appellant purchasers and respondent vendor contracted for sale of land – subject land was lot in proposed subdivision of respondent’s land – contract imposed reasonable endeavours obligation on respondent to have subdivision plan registered within 12 months of contract date – contract gave either party right to rescind if subdivision not registered within that time – respondent | Scott v Ennis-Oakes [2019] NSWSC 1257 |

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| | | | | <p>purported to rescind contract on that basis – appellants accepted rescission was valid and brought proceedings seeking loss of bargain damages – primary judge found in favour of respondent – whether primary judge erred in failing to conclude that the respondent’s rescission entitled the appellants to loss of bargain damages – whether primary judge erred in finding the contract came to an end because of “supervening circumstances” – whether primary judge erred in construing contract – whether primary judge erred in finding the respondent did not breach the clause requiring her to register plan promptly</p> | |
| 19 | 2019/251630 | Alexandria Landfill Pty Ltd v Roads and Maritime Services | 8/05/2020 | <p>LAND & ENVIRONMENT – appellant asserted interest in various lands acquired by the respondent for the purposes of the WestConnex development project – appellant sought compensation under Land Acquisition (Just Terms Compensation) Act 1991 (Cth) – primary judge found compensation was owed for market value of land acquired and for disturbance by way of legal costs and valuation fees – whether primary judge erred in failing to have proper regard to the considerations in s 55 of the Act – whether primary judge erred in failing to provide any or adequate reasons in relation to certain matters – whether primary judge denied appellant procedural fairness – whether decision was affected by apprehended bias– whether primary judge erred in failing to find an issue estoppel arose – whether primary judge erred in interpretation of ss 57 and 59(1)(f) of the Act – whether primary judge erred in failing to address attribution of loss</p> | Alexandria Landfill Pty Ltd v Roads and Maritime Services [2019] NSWLEC 98 |

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| | | | | and attribution of conduct in relation to certain matters | |
| 20 | 2019/292994 | CXZ CXZ v Office of the Children's Guardian | 12/05/2020 | ADMINISTRATIVE LAW (other) – Children Protection (Working with Children) Act 2012 (NSW) – applicant found not guilty of murder in 1997 of stepmother’s partner on basis he was acting as an automaton – absence of criminal convictions since 1997 – whether Tribunal erred in adopting a “three step” process in assessing the clearance – whether erred in not applying statutory test in s30 – whether erred in not considering whether granting a clearance would pose a real and appreciable risk to children | Children’s Guardian v CXZ [2019] NSWSC 1083 |
| 21 | 2019/307949 | Lepcanfin Pty Ltd v Lepfin Pty Ltd | 14/05/2020 | CONTRACT – summary dismissal - dispute resolution provisions of Development Deed – dispute over whether applicant had waived its entitlement to receive an additional profit distribution of \$2.7M - where applicant’s case is that the Expert’s determination that the distribution was a penalty was outside the terms of the “waiver” dispute referred – whether no triable issue – whether dispute resolution provision preclude the applicant from seeking declarations about the proper construction of the Guarantees | Lepcanfin Pty Ltd v Lepfin Pty Ltd [2019] NSWSC 1328 |
| 22 | 2019/325559 | Bauer Media Pty Limited t/as Network Services Company v Khedrlarian | 18/05/2020 | WORKERS COMPENSATION – first respondent injured at work while on the premises of appellant – first respondent brought proceedings against appellant in the District Court for damages under the Workers Compensation Act 1987 (NSW) Pt 5 Div 3 – District Court judge found in favour of first respondent – Court of Appeal remitted | Decision not available on Caselaw |

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| | | | | proceedings to District Court – primary judge found in favour of the first respondent – whether primary judge erred in making certain factual findings – whether primary judge erred in treatment of evidence – whether primary judge erred applying ss 5B and 5D of the Civil Liability Act 2002 (NSW) – whether primary judge erred in apportioning liability to the second respondent – whether primary judge erred in assessing damages | |
| 23 | 2019/289986 | Davies v Whitehaven Coal Mining Ltd | 18/05/2020 | TORTS (negligence) – appellant was mine worker employed by respondent – appellant was injured in course of his work when he slipped and fell while dismounting from a load-haul-dump machine – appellant brought proceedings against respondent alleging negligence and breach of statutory duty – primary judge found in favour of respondent – whether primary judge erred in failing to find respondent breached its duty of care by, inter alia, modifying the machines – whether primary judge erred in making and failing to make certain factual findings – whether primary judge erred in findings on causation – whether primary judge erred in finding appellant was guilty of contributory negligence when he was acting in accordance with the system of work supplied to him | Davies v Whitehaven Coal Mining Ltd [2019] NSWSC 1125 |
| 24 | 2019/363801 | Forrest v Director of Public Prosecutions | 26/05/2020 | ADMINISTRATIVE LAW (judicial review) – applicant charged and convicted of dealing with the proceeds of crime in the Local Court – applicant unsuccessfully appealed to District Court – whether primary judge erred by failing to provide adequate reasons for refusing to state a case to the Court | Decision not available on Caselaw |

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| | | | | of Criminal Appeal under s 5B(2) of the Criminal Appeal Act 1912 (NSW) | |
| 25 | 2019/404200 | Sydney Local Health District v Macquarie International Health Clinic Pty Ltd | 29/05/2020 | TORTS (other) – long-running dispute between appellant and respondent in relation to construction of private hospital and medical centre on appellant’s land – appellant wrongfully terminated appellant’s lease and evicted appellant – respondent brought proceedings for, inter alia, damages for trespass to land – primary judge found in favour of the respondent – whether primary judge erred in application of the user principle – whether primary judge’s discretion not to permit appellant to advance certain arguments or to re-open the proceedings below miscarried – whether the primary judge erred in failing to consider certain evidence – whether primary judge erred in failing to have regard to causation and restitutionary principles – whether primary judge erred in making certain findings of fact – whether primary judge erred in adjusting award to take account of taxation – whether primary judge erred in assessing hypothetical earnings and costs of the hospital | Macquarie International Health Clinic Pty Ltd v Sydney Local Health District; Sydney Local Health District v Macquarie Health Corporation Ltd (No 12) [2019] NSWSC 916 |
| 26 | 2020/95805 | Wallis v Rudek | 29/05/2020 | EQUITY – equitable interest in property – family arrangement – transferee pays off mortgage on property – equity in property exceeds amount owing – transferor permitted to remain in property – licence agreement not signed – relationship breakdown – Baumgartner v Baumgartner equity recognised – equitable compensation granted | Wallis v Rudek [2020] NSWSC 162 |

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| 27 | 2019/335260 | Dyldam Developments Pty Ltd v Strata Plan 85305 | 2/06/2020 | BUILDING & CONSTRUCTION – claim for breach of statutory warranties and defective works – whether claim was within time if first and second interim occupation certificates were valid - whether erred in holding occupation certificate invalid – whether invalidity of certificate is a matter for the Land & Environment Court – whether issuing of occupation certificate determines completion of residential building work for purposes of Home Building Act 1989 (NSW) – whether NCAT exceeded its jurisdiction in determining the validity of the occupation certificate – whether interim occupation certificates were valid and not in breach of Environmental Planning and Assessment Act 1979 (NSW) | Dyldam Developments Pty Ltd v Owners of Strata Plan 85305 [2019] NSWCATAP 229 |
| 28 | 2019/393045 | Mangano v Bullen | 4/06/2020 | REAL PROPERTY – first respondent and the deceased, through an incorporated company, purchased a series of properties including one in which the pair resided – the company was eventually deregistered – some years later, the pair witnessed the affixing of the company’s seal on a transfer of the property to themselves as tenants in common – the transfer was registered and, shortly before his death, the deceased converted the tenancy in common to a joint tenancy – by survivorship, the first respondent became the sole registered proprietor – appellant, daughter of the deceased, brought proceedings alleging that the first respondent’s title to the property was defeasible by reason of fraud upon the National Companies and Securities Commission (the statutory owner of the property following the company’s | Mangano v Bullen [2019] NSWSC 1704 |

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| | | | | deregistration) – primary judge found in favour of the first respondent – whether primary judge erred in failing to decide the proceedings in accordance with the principles set down in <i>Cassegrain v Gerard Cassegrain & Co Pty Ltd</i> (2015) 254 CLR 425 and related case law – whether primary judge erred in making findings of fact contrary to or inconsistent with the evidence – whether primary judge erred in making inferences without a factual basis – whether the primary judgment otherwise contains errors of fact | |
| 29 | 2019/335719; 2019/335731; 2020/70625; 2020/70655 | Arcidiacono v The Owners - Strate Plan No 17719; Arcidiacono v The Owners - Strate Plan No 61233; Arcidiacono v The Owners - Strate Plan No 61233; Arcidiacono v The Owners - Strate Plan No 17719 | 4/06/2020 | REAL PROPERTY – appellants were registered proprietors of two parcels of land in the Sydney CBD – respondent brought proceedings against the appellants claiming various easements over the land – primary judge found partially in favour of the respondent – whether primary judge erred in holding that a right of carriageway by prescription had been established – whether primary judge erred in holding that certain easements were reasonably necessary and not inconsistent with the public interest within the meaning of s 88K of the Conveyancing Act 1919 (NSW) – whether primary judge erred in treatment of certain evidence | The Owners – Strata Plan No 61233 v Arcidiacono; The Owners – Strata Plan No 17719 v Arcidiacono [2019] NSWSC 1307 |
| 30 | 2019/308044 | White Constructions Pty Ltd v PBS Holdings Pty Ltd | 10/06/2020 | CONTRACT – appellant developer contracted with respondents for the design, approval and installation of sewerage system – appellant brought proceedings alleging respondents failed to prepare and submit satisfactory sewer designs within a reasonable time causing the | White Constructions Pty Ltd v PBS Holdings Pty Ltd [2019] NSWSC 1166 |

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| | | | | development to be delayed – primary judge found in favour of respondents – whether primary judge erred in various findings on each of duty, breach and causation – whether primary judge erred in making certain findings of fact – whether primary judge erred in obtaining the assistance of a specially qualified person under r 31.54 of the Uniform Civil Procedure Rules 2005 (NSW) – whether primary judge failed to accord appellant procedural fairness – whether primary judge’s reasons were inadequate – whether primary judge erred on the question of damages | |
| 31 | 2019/159993 | Capar v SPG Investments Pty Ltd | 10/06/2020 | TORTS (negligence) – appellant, a security guard at commercial premises, pursued an intruder on the premises – intruder threatened appellant with death – appellant brought proceedings in negligence against first respondent, owner of the premises, second respondent, which provided security services at the premises, and third respondent, appellant’s employer – primary judge found in favour of respondents – whether primary judge erred in finding neither first nor second respondent owed appellant a duty to take care not to cause mental harm – whether primary judge erred in characterising nature and extent of duty of care owed by first and second respondents – whether primary judge erred in characterising risk of harm – whether primary judge erred in finding first and second respondents did not breach duty of care – whether primary judge erred in finding ‘inherent risk’ defence made out – whether primary judge erred in finding third respondent | Capar v SPG Investments Pty Limited t/a Lidcombe Power Centre & Ors (No 5) [2019] NSWSC 507 |

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| | | | | did not breach duty of care – whether primary judge erred in making certain factual findings – whether primary judge erred in assessment of damages – whether primary judge failed to give adequate reasons | |
| 32 | 2019/404269 | DRJ v Commissioner of Victims Rights | 11/06/2020 | ADMINISTRATIVE LAW (judicial review) – applicants are Yazidi women who report having been subject to acts of violence, abduction and trafficking – applicants identified an Australian citizen as perpetrator of some of the offences committed against them – applicants applied for victims’ support under the Victims Rights and Support Act 2013 (NSW) – application dismissed by first respondent’s delegate – applicants unsuccessfully sought internal review – applicants applied to second respondent pursuant to s 51(2) of the Victims Rights and Support Act – Tribunal found in favour of first respondent – whether Tribunal erred in holding that “an act of violence” under the Victims Rights and Support Act meant one “in and of New South Wales” – whether Tribunal erred in the meaning given to “in and of New South Wales” in s 12(1)(b) of the Interpretation Act 1987 (NSW) – whether the Tribunal erred in holding an offence proscribed by the Criminal Code (Cth) by reason of s 15.4 cannot be an offence “in and of New South Wales” – whether Tribunal erred in failing to apply the presumption of similarity | DRJ v Commissioner of Victims Rights; DRK v Commissioner of Victims Rights; DRL v Commissioner of Victims Rights; DRM v Commissioner of Victims Rights; DRN v Commissioner of Victims Rights [2019] NSWCATAD 195 |
| 33 | 2020/45557 | Vickery v The Owners of Strata Plan No 80412 | 18/06/2020 | ADMINISTRATIVE (other) – loss of rent due to water ingress from common property - whether Tribunal has power to award damages to a lot owner for a breach of an Owners | Owners of Strata Plan 80412 v Pullicin [2020] NSWCATAP 5 |

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| | | | | Corporation statutory duty under s106(1) of Strata Schemes Management Act 2015 (NSW) to repair and maintain common property | |
| 34 | 2019/380876 | J and E Vella Pty Ltd v Hobson | 23/06/2020 | PROCEDURE – amendment of Statement of Claim – whether delay by plaintiff was intentional or accidental – whether erred in concluding that matter was ready for a hearing when discovery had not been completed - whether discretion miscarried in not granting leave to amend | In the matter of Beverage Freight Services Pty Ltd [2019] NSWSC 1684 |
| 35 | 2019/379366 | Council of the Law Society of New South Wales v Zhukovska | 23/06/2020 | DISCIPLINARY PROCEEDINGS – respondent solicitor found guilty of professional misconduct and unsatisfactory professional conduct in relation to dealings with an elderly client – Civil and Administrative Tribunal cancelled respondent’s practising certificate and made orders that a new certificate not be issued to her for 12 months – whether Tribunal erred in the test applied for determining whether to make an order for removal of the respondent’s name from the roll – whether Tribunal erred in making the orders it did in circumstances where it held the respondent was not presently a fit and proper person to practise and where it had not identified the conditions that ought attach to any re-issue to her of a practising certificate – whether Tribunal erred in holding it was not satisfied that the respondent’s conduct demonstrated she was permanently or indefinitely unfit to practise | Council of the Law Society of NSW v Zhukovska (No 2) [2019] NSWCATOD 196 |
| 36 | 2019/368360 | Zhiva Living Dural Pty Ltd v Hornsby Shire Council | 24/06/2020 | LAND AND ENVIRONMENT – development application for construction of a Seniors Living development in Dural – operation of Site Compatibility Certificate (SCC) rendering | Zhiva Living Dural Pty Ltd v Hornsby Shire Council (No 3) [2019] |

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| | | | | the proposed development permissible – refusal of Court to remit matter back to Commissioner after decision being set aside - denial or procedural fairness – whether failed to permit parties to address on issues not argued on appeal but which were determinative of appeal - whether erred in not remitting matter to Commissioner for reconsideration – whether Court had power under the SCC to exercise the other functions of the consent authority | NSWLEC 152 |
| 37 | 2019/274063 | Walton v Commonwealth Bank of Australia | 25/06/2020 | COSTS – no order for costs following discontinuance of proceedings – whether erred in failing to take into account applicant’s significant expenditure in defending proceedings – whether erred in holding that respondent’s proceedings did not lack any utility | Commonwealth Bank of Australia v Daleport Pty Ltd (in receivership)(No 6) [2019] NSWSC 958 |
| 38 | 2019/392094 | Minister for Education and Early Childhood Learning v Zonneville | 26/06/2020 | ADMINISTRATIVE LAW (other) – application by respondent under Government Information (Public Access) Act 2009 for access to information held by Minister – whether tribunal proceedings ought to have been dismissed as vexatious – whether proceedings brought for collateral purpose – whether the pattern of previous proceedings ought to have been taken into account – whether Tribunal decided matter on point on which parties had no prior notice | Zonneville v Minister for Education and Early Childhood Learning [2019] NSWCATAP 274 |
| 39 | 2020/42887; 2020/94657 | Carr v Council of the Law Society of NSW | 30/06/2020 | DISCIPLINARY – breach of undertaking to transfer trust monies of \$3,127 – whether breach of undertaking professional misconduct - whether trust monies were capable of being transferred without written authority of client - whether undertaking to transfer money from trust | Council of the Law Society of New South Wales v Carr [2020] NSWCATOD 5 |

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| | | | | account was an unqualified one - whether file note of alleged representations admissible when author not available to be cross-examined – whether finding of intention to mislead could be proved to the relevant standard – whether inference should have drawn that evidence would not have assisted Council’s case by not calling the author | |
| 40 | 2020/94599 | Massarani v Kriz | 2/07/2020 | DEFAMATION – summary dismissal of claim for want of proportionality between legal costs and interests at stake – whether erred in finding that proportionality in s60 of Civil Procedure Act 2005 (NSW) is a ground of power to dismiss proceedings – whether want of due dispatch under UCPR 12.7 includes a want of proportionality | Decision not available on Caselaw |
| 41 | 2020/72865 | Bangura v Director of Public Prosecutions (NSW) | 7/07/2020 | ADMINISTRATIVE LAW (judicial review) – applicant purported to have serious injuries arising from a minor motor vehicle collision in order to obtain a large insurance payment – applicant was convicted of obtaining financial advantage by deception in the Local Court – applicant appealed to the District Court on conviction and sentence – primary judge dismissed the conviction appeal and allowed the sentence appeal – whether applicant was denied procedural fairness – whether primary judge erred in taking into account the advantage enjoyed by the Local Court magistrate – whether primary judge’s reasons were inadequate | Decision not available on Caselaw |
| 42 | 2019/401260 | Owlstara v State of New | 9/07/2020 | TORTS (other) – appellant was arrested and detained by a police officer – appellant commenced proceedings against | Decision not available |

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| | | South Wales | | the respondent seeking damages for assault, battery and false imprisonment in relation to the conduct of the officer – primary judge found in favour of respondent – whether primary judge erred in finding the police officer had reasonable grounds to arrest the appellant – whether the primary judge erred in failing to find certain acts constituted assault or battery – whether the primary judge erred in accepting the evidence of the police officer – whether the primary judge erred in finding the arrest and detention were lawful and the assault or battery justified | on Caselaw |
| 43 | 2019/400796; 2020/108013 | Livers v Legal Services Commissioner | 10/07/2020 | DISCIPLINARY PROCEEDINGS – appellant solicitor made application for legal funding from WorkCover on behalf of client – application was allegedly false and misleading – respondent found appellant guilty of unsatisfactory professional conduct and professional misconduct – whether Tribunal’s findings were contrary to the evidence – whether Tribunal erred in considering the issue of whether the appellant altered the audiogram in isolation from the issue of whether the appellant misled or attempted to mislead the WorkCover Independent Review Office – whether Tribunal erred in finding the appellant altered the audiogram without having regard to the fact that his client had altered in like manner the client statement | Legal Services Commissioner v Livers [2019] NSWCATOD 180 |
| 44 | 2019/366615 | Oikos Constructions Pty Ltd v Oston | 11/07/2020 | BUILDING & CONTRUCTION – respondent home owners commenced proceedings against appellant builder for breach of statutory warranties under Pt 2C of the Home | Decision not available on Caselaw |

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| | | | | <p>Building Act 1989 (NSW) – primary judge found in favour the respondents – whether primary judge misconstrued the scope of works or purpose of the building contract – whether primary judge erred in excluding certain evidence – whether the primary judge erred in granting relief on bases outside the respondents’ pleaded case – whether the primary judge erred in making certain factual findings – whether primary judge erred in failing to reject the respondents’ claim on the basis that the warranty had already been enforced by a settlement reached between the respondents and a third party – whether the primary judge erred in finding the respondents had discharged their onus of proof – whether the primary judge erred in considering that a certain submission was not put by the appellant – whether the primary judge erred in assessing damages</p> | |
| 45 | 2020/12483 | Glover v Kaji Australia Pty Ltd | 14/07/2020 | <p>TORT (other) – appellant was facing bankruptcy after having made number of loans to a third party which were not repaid – the third party with the third to fifth respondents arranged for appellant to borrow \$115,000 from the first and second respondents – loan was secured by a mortgage over appellant’s home – appellant defaulted and the first and second respondents commenced proceedings seeking possession of the mortgaged property and judgment for the amount owing under the loan agreement – appellant cross claimed and joined the third to fifth respondents to the proceedings – cross claim alleged the loan agreement and mortgage were unjust and</p> | <p>Kaji Australia Pty Ltd v Glover (No 4) [2019] NSWSC 1779</p> |

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| | | | | unconscionable, that the third and fourth respondents had engaged in misleading and deceptive conduct and that all respondents were guilty of fraud and conspiracy – primary judge found in favour of the respondents – whether the primary judge erred in finding there was no evidence of fraud or conspiracy – whether the primary judge erred in making or failing to make certain factual findings – whether primary judge erred in failing to consider certain evidence and submissions | |
| 46 | 2020/84580 | Cruceanu v Vix Technology (Aust) Pty Ltd | 14/07/2020 | WORKERS COMPENSATION – appellant injured in the course of his employment with the respondent – dispute as to whether certain of the appellant’s injuries were sustained in the course of his employment – arbitrator found in favour of respondent – primary judge upheld arbitrator’s decision on appeal – whether primary judge erred in making factual findings not available on the evidence, or in failing to make factual findings compelled by the evidence – whether primary judge’s discretion miscarried – whether there was a constructive failure by the primary judge to exercise jurisdiction – whether primary judge erred in failing to find that the arbitrator’s drawing of a certain inference constituted a denial of procedural fairness – whether primary judge erred in finding arbitrator had neither failed to deal with one of appellant’s submissions nor taken into account an irrelevant consideration | Decision not available on Caselaw |
| 47 | 2019/401280 | Snell v Glatis | 15/07/2020 | CORPORATIONS – the first appellant and the deceased | In the matter of |

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| | | | | <p>were in a business partnership and formed a group of companies which included the third to sixth appellants – first respondent was son of the deceased and the second respondent held the deceased’s shares in the third to sixth appellants – respondents commenced an oppression suit under ss 232 and 233 of the Corporations Act 2001 (Cth) and asked that their shares be bought out – primary judge found in favour of the respondents – whether the primary judge erred in valuing respondents’ interests in the third to sixth appellants – whether the primary judge erred in ordering the first appellant to acquire certain shares – whether the primary judge erred in finding that certain of the first appellant’s conduct was oppressive – whether the primary judge erred in ordering the first appellant to pay to the first respondent unpaid dividends together with interest</p> | <p>Scientific Management Associates Pty Ltd ACN 008 560 316 [2019] NSWSC 1643</p> |
| 48 | 2020/174803 | Stewart v Uber Technologies Inc | 15/07/2020 | <p>PROCEDURE – representative proceedings were commenced in the Victorian Supreme Court against Uber Technologies Inc and related companies alleging unlawful means conspiracy – cognate representative proceedings were commenced in the NSW Supreme Court out of concern that the Victorian provision suspending limitation periods for group members might not suspend NSW limitation periods – whether the Court should, of its own motion, pursuant to s 5(2) of the Jurisdiction of Courts (Cross-Vesting) Act 1987 (NSW) transfer the whole of the NSW proceedings to the Supreme Court of Victoria to be heard and determined separately</p> | |

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| | | | | and in advance of all other questions in the proceedings | |
| 49 | 2020/45454 | Wilson v Chan & Naylor Parramatta Pty Ltd ATF Chan & Naylor Parramatta Trust | 15/07/2020 | COSTS – appellant commenced proceedings in the Civil and Administrative Tribunal against the first respondent for loss arising out of allegedly negligent advice in relation to a self-managed superannuation fund – proceedings were dismissed by Senior Member for being statute barred and outside the jurisdiction of the Tribunal – applicant appealed and Senior Member deferred issue of costs pending appeal – Appeal Panel held that the Tribunal lacked jurisdiction, transferred the proceedings to the Local Court and entered costs order against applicant – Senior Member entered costs order adverse to applicant – applicant appealed and sought judicial review in respect of both the decision of the Appeal Panel and the decision of the Senior Member on costs – primary judge found against applicant on each issue – whether Appeal Panel had power to order that the appellant pay the first respondent’s costs of the appeal – whether the Senior Member had power to order that the appellant pay certain of the first respondent’s costs of the proceedings at first instance – in the event that there was no power, what orders should be made | Wilson v Brisbane; Wilson v Chan & Naylor Parramatta Pty Ltd [2019] NSWSC 1598 |
| 50 | 2019/398947 | Fernandez v State of New South Wales | 20/07/2020 | CONTRACT – separate question – directives to Local Health District to obtain guarantee for payment of medical treatment for ineligible persons in hospital system – whether directives are invalid as being repugnant to s.17 of Health Services Act – whether directives impair the | Fernandez v State of New South Wales [2019] NSWSC 1736 |

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| | | | | obligation to provide “care and treatment” – whether failed to address a substantial argument on the question of repugnancy | |
| 51 | 2019/370858 | Tapp v Australian Bushmen's Campdraft & Rodeo Association Ltd | 21/07/2020 | TORT (negligence) – appellant sustained serious injuries while competing in a campdraft competition organised by the respondent – appellant brought proceedings alleging negligence and breach of contract on the part of the respondent in relation to the conditions of the surface of the arena – primary judge found in favour of respondent – whether primary judge erred in finding appellant had engaged in a dangerous recreational activity, and that the relevant risk was an obvious risk, within the meaning of the Civil Liability Act 2002 (NSW) s 5L – whether primary judge erred in identifying the relevant risk – whether the primary judge erred in finding the respondent had not breached its duty of care – whether the primary judge erred in failing to make certain factual findings – whether the primary judge erred in considering s 5G of the Civil Liability Act in circumstances where the respondent did not invoke the section – whether primary judge erred in finding a liability waiver form signed by the appellant contained a risk warning covering the relevant risk – whether the primary judge erred in finding s 3C and Pt 9 of the Civil Liability Act operated to exclude liability – whether the primary judge erred in finding there was no contract between the parties, and no occasion to imply to that putative contract statutory terms from the Competition and Consumer Act 2010 (Cth) and Australian Consumer | Tapp v Australian Bushmen’s Campdraft & Rodeo Association Ltd [2019] NSWSC 1506 |

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| 52 | 2019/298538; 2020/55990; 2019/297428 | Smith v Coles Supermarkets Australia Pty Ltd; Coles Supermarkets Australia Pty Ltd v Chandler Macleod Group Ltd; Ready Workforce (A Division of Chandler Macleod) Pty Ltd v Coles Supermarkets Australia Pty Ltd | 22/07/2020 | CONTRACT – appellant and respondent entered into labour hire agreement – a worker, alleged to be the employee of the respondent, was injured at the appellant’s premises – the worker brought proceedings against the appellant in respect of the injuries sustained – appellant cross claimed against the respondent – primary judge found in favour of the appellant on both claims– whether primary judge erred in awarding the appellant only nominal damages in the sum of \$100 for breach of contract – whether the appellant was denied procedural fairness | Decision not available on Caselaw |
| 53 | 2020/6348; 2020/55981; 2020/80241 | Gray v Coles Supermarkets Pty Ltd; Coles Supermarkets Australia Pty Ltd v Chandler McLeod Group Ltd; Coles Supermarkets Australia Pty Ltd v Chandler McLeod Group Ltd | 23/07/2020 | CONTRACT – appellant and respondent entered into labour hire agreement – a worker, alleged to be the employee of the respondent, was injured at the appellant’s premises – the worker brought proceedings against the appellant in respect of the injuries sustained – appellant cross claimed against the respondent – primary judge found in favour of the appellant on both claims– whether primary judge erred in awarding the appellant only nominal damages in the sum of \$100 for breach of contract – whether the appellant was denied procedural fairness | Decision not available on Caselaw |
| 54 | 2019/366237; 2020/133923 | Rinehart v Rinehart | 24/07/2020 | PROCEDURE – appellant was made the trustee of a trust in respect of which first respondent was formerly trustee – first respondent ordered to deliver to appellant all trust documents in her possession – first respondent brought a motion seeking, inter alia, an order that she be | Hancock v Rinehart [2019] NSWSC 1451 |

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| | | | | indemnified in respect of future costs associated with producing the documents – primary judge made the indemnity order – whether primary judge erred in finding first respondent entitled to indemnity in circumstances of the case – whether primary judge erred in holding a right of indemnity could exist in respect of a liability prior to the liability having been incurred – whether primary judge erred in holding first respondent, as a former trustee, was capable of being entitled to an indemnity – whether primary judge erred in holding that any right of indemnity justified the orders made | |
| 55 | 2019/401378 | Agha v Devine Real Estate Concord Pty Ltd | 24/07/2020 | CONTRACT – dissolution of jointly owned real estate business – restraint of trade - whether erred in finding that applicant had committed a serious criminal offence by modifying contact details of 905 customers – whether erred in finding that applicant had broken into the respondent’s premises when allegation had not been pleaded - whether information the subject of confidentiality clause could be breached when respondent had placed that information in the public domain – whether erred in finding restraint in contract when written contract not available – whether in length of time ordered for restraint | Devine Real Estate Concord Pty Ltd v Wajih [2019] NSWSC 786 |
| 56 | 2020/13590 | Magann v The Trustees of the Roman Catholic Church for the Diocese of Parramatta | 27/07/2020 | CONTRACT – in 2003, appellant commenced proceedings against the respondent for alleged historical child sexual assault – the claim was brought outside the limitation period then provided for by the Limitation Act 1969 (NSW) | Magann v Trustees of the Roman Catholic Church of the Diocese of Parramatta [2019] |

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| | | | | and was dismissed accordingly – in 2007, appellant entered into a deed of release with the respondent under which he received a money sum – subsequent legislative amendments removed any limitation period for child abuse actions – appellant commenced fresh proceedings against the respondent – respondent defended claim by reference to the deed of release – on a determination of separate questions, primary judge found deed of release extinguished the respondent’s liability – whether primary judge erred in finding the medical evidence was not sufficient to support a finding that the appellant lacked mental capacity to enter into the deed – whether primary judge erred in failing to find a basis to grant relief under the Contracts Review Act 1980 (NSW) – whether primary judge erred in failing to set aside the deed on the basis of unconscionable conduct – whether primary judge erred in the weight given to certain documentary evidence – whether primary judge erred in construing the deed – whether primary judge erred in a factual finding as to the date that payment under the deed was made | NSWSC 1453 |
| 57 | 2019/408771 | Noel Outerbridge t/as Century 21 Plateau Lifestyle v Hall | 27/07/2020 | CONTRACT – appellants were partners in a real estate trading business – respondents sold a property to a third party purchaser – appellants commenced proceedings against respondents for breach of contract claiming an entitlement to a real estate commission on the sale – primary judge found in favour of respondents – whether primary judge erred in failing to find the appellants were an effective cause of the sale – whether primary judge | Outerbridge trading as Century 21 Plateau Lifestyle Real Estate v Hall [2019] NSWDC 724; Outerbridge trading as Century 21 Plateau Lifestyle Real Estate v Hall (No 2) [2020] |

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| | | | | applied the wrong test for determining whether the appellants were an effective cause of the sale | NSWDC 8 |
| 58 | 2020/118038 | Lawrence v State of New South Wales | 28/07/2020 | ADMINISTRATIVE LAW (other) – orders made under Terrorism (High Risk Offenders) Act 2017 (NSW) – Constitution – whether orders invalid as contrary to principle that involuntary detention of citizen is permissible only as a consequential step in the adjudication of guilt for past acts – whether Act purports to direct the Supreme Court to proceed in a manner that does not ensure equality before the law and being incompatible with the Court’s role as repository of federal jurisdiction | State of New South Wales v Lawrence [2019] NSWSC 1441 |
| 59 | 2020/83474 | Megerditchian v Khatchadourian | 28/07/2020 | SUCCESSION – deceased owned home in which he and his son (the respondent) and the respondent’s family lived – deceased’s will left \$10,000 to his daughter (the appellant) and left the residue of his estate to the respondent – shortly after making his will, the deceased transferred the property into his and the respondent’s names as joint tenants – the respondent became sole owner of the property on the deceased’s death by survivorship – there were insufficient funds in the deceased’s estate to meet the \$10,000 legacy left to the appellant – appellant brought claim for family provision out of late father’s estate – given the lack of estate funds, appellant sought an order designating a half share of the property as the deceased’s notional estate under the Succession Act 2006 (NSW) Pt 3.3 – primary judge made an order for the provision of \$100,000 to the appellant by designating a half | Megerditchian v Khatchadourian [2019] NSWSC 1870 |

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| | | | | share of the property as the deceased's notional estate – whether primary judge approached the question of whether an order for family provision should be made incorrectly – whether primary judge had regard to irrelevant considerations or failed to have regard to relevant considerations – whether primary judge's discretion miscarried – whether the provision made by the primary judge was manifestly inadequate | |
| 60 | 2019/383494 | Schlaepher v Australian Securities and Investments Commission | 29/07/2020 | DEFAMATION – second respondent was an officer of the first respondent – statements were allegedly made by second respondent to certain stockbrokers about the conduct of the appellant and his day trading business – appellant brought proceedings against the respondents for defamation and injurious falsehood – primary judge found in favour of respondents – whether primary judge erred in failing to find that respondents published defamatory material – whether primary judge erred in finding that the appellant was not identified by one or more recipients of the relevant publications – whether the primary judge erred in failing to find that the relevant publications conveyed the imputations alleged – whether the primary judge erred in considering whether the imputations would be conveyed to the particular listeners rather than to the ordinary reasonable listener – whether the primary judge erred in finding that the recipients of the publications were not aware of certain extrinsic facts – whether the primary judge erred in upholding each the defence of qualified privilege at common law, of qualified privilege under | Schlaepfer v ASIC [2019] NSWSC 1644 |

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| | | | | statute and of justification | |
| 61 | 2019/389053 | Meetfresh Frnaching Pty Ltd v Ivanman Pty Ltd | 30/07/2020 | <p>CONTRACT – appellant represented to first respondent that it was authorised to grant in Australia franchises in Taiwanese dessert restaurant chain “Meet Fresh” – first respondent purportedly obtained a franchise from the appellant – first respondent received notice from a third party indicating that it was not entitled to use the name “Meet Fresh” or to operate its business – appellant purported to terminate the agreements – first respondent commenced proceedings against appellant alleging breach of contract and statutory unconscionable conduct and appellant cross claimed – primary judge found in favour of first respondent on both claims – whether primary judge erred in finding first respondent’s loss was caused by appellant – whether primary judge erred in failing to find the loss of the right to use the “Meet Fresh” was a frustrating event or covered by the “events beyond the Franchisor’s control” clause of the contracts – whether primary judge erred in finding appellant had contravened s 21 of the Australian Consumer Law – whether primary judge’s reasons were inadequate to support a finding of unconscionable conduct – whether primary judge erred in finding first respondent was not obliged in the circumstances to pay licence fees – whether primary judge erred in failing to find the second respondent, as first respondent’s guarantor, was liable to pay the licence fees</p> | Decision not available on Caselaw |
| 62 | 2019/3999301 | Bandelle Pty Limited v | 30/07/2020 | BUILDING AND CONSTRUCTION – statutory interpretation - | Sydney Capital Hotels |

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| | | Sydney Capitol Hotels Pty Ltd | | separate question – limitation on liability for defective building work - where primary Judge held that damage caused was in an accidental, incidental or indirect sense - whether the loss or damage arose out of or in connection with defective building work within the meaning of s6.10 of Environmental Planning & Assessment Act 1979 | Pty Ltd v Bandelle Pty Ltd [2019] NSWSC 1825 |
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