



COMMERCIAL COURT

Trials Listed to Commence 5 - 16 Dec 2011

Monday 5 December

Case: *RCL Kalynda Pty Ltd & ors v Urbex Pty Ltd & ors*, S CI 2011 05286

Judge: Pagone J

Court: Courtroom 1 (Old High Court)

Description: A contract between the parties provides for a dispute resolution procedure culminating in 'expert determination'. The plaintiffs seek a series of declarations that would bring the dispute resolution procedure into effect. The declarations sought include (i) that a dispute has arisen, and (ii) that the plaintiffs have given a notice of the dispute in writing which adequately identifies the dispute.

Tuesday 6 December

Case: *Dr Claire Noone, Director of Consumer Affairs v Peter Mericka & ors*, S CI 2010 04660

Judge: Sifris J

Court: Courtroom 2 (Old High Court)

Description: The plaintiff alleges the defendants, a legal practitioner and two companies associated with him, are carrying on the business of an estate agent without being appropriately licensed in breach of section 12 of the *Estate Agents Act 1980* (Vic). The plaintiff also alleges that statements made on the defendants' websites indicating that the defendants are not required to hold a licence under the *Estate Agents Act 1980* (Vic) are misleading and deceptive contrary to the *Fair Trading Act 1999* (Vic).

The defendants deny breaching relevant legislation. Among other things, the defendants contend the activities impugned by the plaintiff are ordinary functions of an Australian legal practitioner within the meaning of s 5(2)(e) of the *Estate Agents Act 1980* (Vic).

Monday 12 December

Case: *Lend Lease Development Pty Ltd v Commissioner of State Revenue*, S CI 2011 02661, S CI 2011 02663, S CI 2011 02665, S CI 2011 02667, S CI 2011 02676-8

Judge: Pagone J

Court: Courtroom 1 (Old High Court)

Description: Appeals against assessments of stamp duty payable in respect of certain transactions involving the transfer of land.

The relevant parcels of land were purchased by the appellant from Vicurban (a statutory authority) pursuant to a development agreement. Each of the appeals concerns whether amounts allegedly paid by the appellant in respect of infrastructure and construction works pursuant to the contractual arrangements formed part of the consideration for the transfer of land for the purposes of s 20(1) of the *Duties Act 2000* (Vic).

Wednesday 14 December

Case: *In the matter of Willmott Forests Limited (receivers and managers appointed) (in Liquidation) (in its capacity as member of the scheme) & ors*, S CI 2011 03155

Judge: Ferguson J

Court: Courtroom 12

Description: An application by the Receivers of a company under s 1324 of the *Corporations Act 2001* (Cth) and s 37 of the *Supreme Court Act 1986* (Vic) seeking injunctions prohibiting the defendants procuring certain resolutions by members of a managed investment scheme (the Willmott Forests 1995-1999 Project (ARSN 089 598 612)).

Among other things, the plaintiffs contend that the relevant resolutions are beyond the power of approval conferred by s 601GC(1)(a) of the *Corporations Act* according to principles set-out in *Gambotto v WCP Limited* (1995) 182 CLR 432.