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NEWSLETTER

23 September 2016

Credit Applications - Directors Beware: Are you signing as a Guarantor?

The recent New South Wales Supreme Court decision of *Temperzone Australia Pty Ltd v Amabile* [2016] NSWSC serves as a stark reminder for Directors that most personal guarantees accompanying credit applications are enforceable and should not be executed without due consideration of the extent of the Director's personal liability.

This case illustrates the importance for Directors of companies to read credit applications carefully to ensure that they understand the full extent of their rights and obligations that flow from the document.



Jacques Nel
Special Counsel

[Jacques Nel](#) (Special Counsel) & [Lornagh Howarth](#) (Law Clerk) summarise this case and lessons learned. Read [here](#).

How can a person lacking testamentary capacity change their Will?

It is well known that a person with capacity can at any time change their Will. However, what happens when a Will maker wishes to change their Will but subsequently loses testamentary capacity?

In such instances, the Supreme Court has the power to authorise a Will to be made, altered or revoked for a person without testamentary capacity. [VMH v SEL](#) is a recent decision of the Supreme Court of Queensland which saw the making of such an order.



Andrew Lind
Director

[Andrew Lind](#) (Director), [Michael Burgess](#) (Lawyer) & [Nicola Goodwin](#) (Law Clerk) discuss this case and the lessons learned [here](#).

The Wealth of a Party's Family is Irrelevant in Property Settlements or Spousal Maintenance Orders

The recent decision of *Kaiser v Kaiser* [2016] FCCA 1903 has held that the affluence of an ex-husband's family ought not to have a bearing on his liability under the Family Law Act 1975 (Cth) to financially maintain his ex-wife. Ms Kaiser ("the wife") sought an order to have Mr Kaiser ("the husband") purchase her a 1.5 million dollar home in Melbourne, as well as pay spousal maintenance,

Fiona Manderson - Special Counsel

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despite the former couple's asset pool only totalling \$50 000. This was on the premise that Mr Kaiser's family, whom the Court regarded as "well-known prominent business people and philanthropists in Melbourne", were of such a heritage as to have "implications for his [the husband's] financial capacity to pay spousal maintenance".



Emario Welgampola
Special Counsel

The case is illustrative that marrying into a wealthy family will not necessarily guarantee a wife or husband the same affluent lifestyle he or she enjoyed in marriage by virtue of kinship, post separation.

[Emario Welgampola](#) (Special Counsel) & [Lornagh Howarth](#) (Law Clerk) discuss the case of Kaiser v Kaiser [here](#).

VIDEO BLOG: Construction Law - BCIPA s20A(2) Notice

In this video blog, we speak with [Jacques Nel](#) (Special Counsel) regarding Building & Construction Industry Payments Act (BCIPA) and a s20A(2) Notice.

Jacques VLOG provides an example of how BCIPA works when making a payment claim and noting various deadlines. This VLOG is particularly useful for Builders, Contractors and those that work in the Building & Construction industry.



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