

Thomas Hurley's high court judgements

May 2015

EQUITY

Trusts – requirements of express trust

In *Korda v Australian Executor Trustees (SA) Ltd* [2015] HCA 6 (4 March 2015) all members of the High Court concluded the Court of Appeal (Vic) had erred in concluding commercial agreements for a timber plantation investment scheme were such that the corporate trustees received funds on an express trust for the investors in the scheme: French CJ; Hayne with Kiefel JJ; Gageler J; Keane J. Consideration of requirements to create express trust. Appeal allowed.

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Thomas Hurley's federal court judgements

May 2015

FEDERAL COURT

Civil procedure in proceedings for civil penalty

In *Construction, Forestry, Mining & Energy Union v BHP Coal Pty Ltd* [2015] FCAFC 25 (6 March 2015) a Full Court considered how the civil pleading rules apply in proceedings for a civil penalty under the Fair Work Act 2009 (Cth). The Court concluded the primary judge had erred by finding the appellant union had promulgated an overtime policy contrary to the award rather than the document containing it.

BANKRUPTCY

After acquired property

In *Di Cioccio v Official Trustee in Bankruptcy* [2015] FCAFC 30 (11 March 2015) a Full Court concluded shares purchased by an undischarged bankrupt from income below the actual income threshold were after acquired property within s116(1) of the *Bankruptcy Act* 1966 (Cth) that vested in the Trustee in Bankruptcy.