

ADJUDICATION CASE DATA BASE



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TOPIC INDEX	CASE NAME <i>(Hyperlinked – word version only – not available in pdf)</i> - CITATION : <i>(On-line web source)</i> : Bullet point summary.	JUDGE	Year/M/D	COURT
Adjudicator listing	Rahmanian, M. v Building & Construction Industry Payments Agency [2006] QCCTB 83 Review of decision of adjudication registrar to refuse application for registration as adjudicator. Brisbane. 24th May 2006.	Spender Mrs G	2006.05.24	Queensland Commercial & Consumer Tribunal - Building
Appointment : judicial review - bias	Peekhrst P/L v Wallace [2007] QSC 159 Generally where review sought of decision made by adjudicator under BCIPA 2004 – Whether proper acceptance of appointment of the adjudicator – Whether adjudication application served – whether adjudicator satisfied himself that there was service of the adjudication application – whether adjudicator biased. Application to set aside statutory demand for debts based on judgment obtained pursuant to BCIPA 2004 – Where no application to set aside judgment obtained pursuant to s. 31(4) – Where no proceedings instituted pursuant to s. 100 – Where applicant delayed in submitting a list of defects – Whether in all the circumstances Court should exercise its discretion to set aside statutory demand.	Douglas J	2007.07.06	Supreme Court of Queensland, at Brisbane
Cherry picking disputes : double jeopardy	Hitachi Ltd v O'Donnell Griffin P/L [2008] QSC 135 Adjudication considered selected larger variation claims but not numerous small claims – where applicant/respondent sought an order that adjudication decision was void – whether having regard to legislative intent, s 26 Payments Act requires an adjudicator to examine each and every variation in a large claim – whether the adjudicator acted bona fides – whether the adjudicator observed procedural fairness. Whether same dispute before subsequent adjudicator.	Skoien AJ	2008.06.17	Supreme Court of Queensland at Brisbane
Costs	Nautilus Pools P/L v Rollo, G. A. [2005] QCCTB 62 Taxation – Costs.	Morzone Mr D.P.	2005.04.28	Commercial and Consumer Tribunal Brisbane
Costs – indemnity – strike out	Western Queensland Regional CDEP Ltd v GE Constructions P/L [2007] QCCTB 4 Application for indemnity costs – proceeding struck out – conduct of applicant.	Morzone D	2007.01.11	Queensland CCT - Building List. Brisbane.
Costs – set aside	Vis Constructions Pty Ltd & Ors v Cockburn and Kilfoy Cabinets [2007] QSC 243 Application for costs following successful application to set aside adjudication award.	Jones J	2007.04.19	Supreme Court of Queensland

Costs :	Greg Beer t/a G & L Beer Covercreting v J M Kelly (Project Builders) P/L [2008] QCA 82 Where the respondent opposes the costs orders proposed in the reasons - where the respondent sought to uphold orders of the primary judge which were found to be erroneous - whether costs of the appeal should be costs in the cause or should be reserved pending the outcome of District Court proceedings - where grounds in the notice of contention were left undecided - where the grounds will be determined in the District Court - whether there should be an order as to costs at first instance.	Holmes JJA Muir JJA Mackenzie AJA	2008.04.11	Court of Appeal. Supreme Court of Queensland
Costs of double appeal	Tamawood Ltd v Paans [2005] QCA 111 CCT - Construction dispute : Costs - where person successful in Tribunal - where defendants ordered by Tribunal to pay damages - where no order for costs made in favour of the person - where all parties appealed to the District Court - then to CA.	Willeams JJA; Keane JJA; Philippides J.	2006.04.15	Court of Appeal. Supreme Court of Queensland. Brisbane..
Costs of double appeal	Tamawood Ltd v Paans [2005] QCA 111 CCT - Construction dispute : Costs - where person successful in Tribunal - where defendants ordered by Tribunal to pay damages - where no order for costs made in favour of the person - where all parties appealed to the District Court - then to CA.	Willeams JJA; Keane JJA; Philippides J.	2005.04.15	Court of Appeal. Supreme Court of Queensland. Brisbane..
Declaration	Multiplex Ltd v Qantas Airways Ltd [2006] QCA 337 Application for declaration that respondent had no entitlement to deduct liquidated damages from various progress payments due under a construction contract - opposed : court required to make assumptions contrary to appellant's other submissions - application refused at 1st instance- whether judge erred in declining to declare the rights of the parties to payment of the amounts claimed by respondent as liquidated damages.	McMurdo P, Keane JA and Mullins J.	2006.09.08	Court of Appeal. Supreme Court of Queensland at Brisbane.
Delay and disruption : J.R.	Abel Point Marina (Whitsunday P/L v O'Brien [2007] QSC 91 Application for judicial review of decision of adjudicator made under BCISPA 2004 – where contractor’s claim for costs of delay or disruption allowed by adjudicator. Certification and EOTs.	Mullins J	2007.03.19	Supreme Court of Queensland, at Brisbane
Enforcement : Invalid notice	Development Dynamics (Queensland) v Davies Projects P/L [2007] QDC 145 Court held that the applicant had no right to submit a payment claim - so despite the failure of the employer to issue a payment schedule the decision was not enforceable.	Rackemann DCJ	2007.06.08	District Court of Queensland,, at Brisbane
EOT & entitlement to progress payment :	Hervey Bay (JV) P/L v Civil Mining and Construction P/L [2008] QSC 58 Payments – appeal from decision of an adjudicator – validity of a decision about entitlement to a progress payment – entitlement to progress payment where no extension of time was claimed : entitlement to progress payments – entitlement to delay costs – where parties have modified the standard conditions of contract– entitlement to extensions of time – power of Superintendent to grant extensions of time – effect of modification of the standard terms upon the powers of the Superintendent. 14th April 2008	McMurdo J.	2008.04.14	Supreme Court of Queensland
Error of law	McAlpine v Wieland [2008] QDC 76 Whether findings of Commercial and Consumer Tribunal amounted to an error of law. 8th April 2008	Nase DCJ.	2008.04.08	District Court of Queensland
Error of law : judicial review - enforceability	Intero Hospitality Projects P/L v Empire Interior (Australia) P/L [2007] QSC 220 Adjudicator determined that the relevant construction contract was the first contract concluded and that a subsequent contract did not count because it was induced by duress. If this was an error - as seems likely - it is an error adjudicator entitled to make. Any challenge must be through s100 litigation proceedings. In the meantime decision enforceable.	De Jersey CJ	2007.08.23	Supreme Court of Queensland, at Brisbane

Estoppel	Ramzy Quality Homes P/L v Shahin, M Sharifi, P. [2005] QCCTB 9 Parties to a contract – estopped by correction. Mr P. 7 th March 2005	Lohrisch Mr P	2005.03.07	Commercial and Consumer Tribunal Brisbane
Failed appeal	KNJ P/L v Dare Sutton Clarke P/L [2006] QCA 105 Challenge to enforcement judgment : Asserted that admissions in court were incorrect and sought to introduce these as additional grounds for appeal where original challenge failed. Held : No grounds to resist enforcement.	Williams JA	2006.04.11	Court of Appeal Supreme Court Queensland. Brisbane
Illegality – right to payment	Cant Contracting P/L v Casella [2006] QCA 538 Council issued a stop work order – pursuant to the BCISPA 2004 (Qld): respondent sought progress payments by way of a payment claim – appellants did not serve a corresponding payment schedule on the respondent – summary judgment was awarded against the appellants – If respondent did not hold an appropriate licence at the time construction was carried out – was summary judgement enforceable?	Williams and Jerrard JJA and Philip McMurdo J.	2006.12.15	Court of Appeal. Supreme Court of Queensland at Brisbane.
Insolvency :	Cavanah v Advance Earthmoving ; Haulage P/L [2008] FMCA 427 Bankruptcy notice – set aside – judgment upon which the notice was founded was not a final judgment – counter-claim – set-off or cross-demand. Brisbane. 18th April 2008	Burnett FM.	2008.04.18	Federal Magistrates Court of Australia at Brisbane.
Interpretation of rules	Greg Beer t/a G & L Beer Covercreting v J M Kelly (Project Builders) P/L [2008] QCA 35 Interpretation : where the appellant carried out works for the respondent under a licence class “Painting and Decorating” – where a condition restricted the licence to “residential spray on painting” – construction of s 42(1) Queensland Building Services Authority Act 1991 (Qld) – whether “licence of the appropriate class” can be read subject to any work-restrictive condition on a licence – limitations of the power of the court when construing a statute, to interfere with the language chosen by the legislature. whether s 30(3) Queensland Building Services Authority Act 1991 (Qld) authorised the creation of a class of licence of “painting and decorating restricted to residential spray on painting” – whether, alternatively s 29 of Sch 1 of Mutual Recognition (Queensland) Act 1992 allowed the creation of the specific class of “painting and decorating restricted to residential spray on painting.”	Holmes JJA Muir JJA Mackenzie AJA	2008.02.29	Court of Appeal. Supreme Court of Queensland
Judicial review – pro and con	Altys Multi-Services Pty Ltd v Grandview Modular Building Systems P/L [2008] QSC 026 Judicial review of adjudication under BCISPA 2004; Disadvantages in review procedure ; preferability of curial litigation.	Skoien AJ.	2008.02.22	Supreme Court of Queensland
Judicial review : error of law	J J McDonald & Sons Eng. Pty Ltd v Neil Gall : RICS DRS QLD : CEP M Pty Ltd. [2005] Adj.Soc Application for judicial review. 2 : 1, whether the decision sought to be reviewed was a decision of an administrative character made under an enactment. 2, the propriety of the decision pursuant to s23 of the BCISPA 2004. Held : If there was an error of law, it was one the adjudicator was entitled to make. Application failed.	Dutney J	2005.10.17	Supreme Court of Queensland
Judicial review : governing construct	Intero Hospitality Projects PIL v Empire Interior (Australia) PIL & Peter James Hanlon [2008] QCA 83 Where the second respondent adjudicator made a decision under the BCISPA 2004 – where the primary judge dismissed the applicant’s application for a statutory order of review of the decision – where the underlying object of the BCISPA 2004 is to provide a mechanism for swift interim adjudications – where the court may dismiss an application for judicial review where it would be “inappropriate” to grant the application under s 48 Judicial Review Act 1991 (Qld) – whether the application for leave to appeal under s 13(b) Judicial Review Act 1991 (Qld) should be dismissed.) – where there was a dispute between the parties as to which document formed the basis of their agreement – where the adjudicator found that the earlier agreement governed the parties, as the later subcontract was signed under duress – whether the adjudicator was capable of maintaining a finding of common law duress.	Holmes JJA Muir JJA Chesterman J.	2008.04.11	Court of Appeal. Supreme Court of Queensland

Jurisdiction	Brehmer Bricklaying P/L v Ampcorp P/L [2007] QDC 092 Claim for outstanding sums in respect of supply of goods and bricklaying services. Held : Joint jurisdiction between magistrates court and Tribunal.	McGill DCJ	2007.05.25	District Court of Queensland,, at Brisbane.
Jurisdiction	Northside Roofing Pty Ltd v Pires Constructions Pty Ltd [2007] QDC 172 DCJ Commercial and Consumer Tribunal - whether a “court of competent jurisdiction” - whether proceedings pursuant to s.19 (1) (a) of the BCISPA 2004 are matters for the Tribunal or for a Court.	Durward SC	2007.01.17	District Court of Queensland
Jurisdiction – error of law	G W Enterprises P/L v Xentex Industries P/L [2006] QSC 399 J.R. Jurisdictional Matters – whether the adjudicator failed in his duty to afford natural justice and acted without jurisdiction. Error of Law – whether the adjudicator’s decision is void or voidable due to an error of law.	Lyons J	2006.12.20	Supreme Court of Queensland. Brisbane.
Jurisdiction : two claims : same adjudication	Doolan v Rubikcon (Qld) P/L [2007] QSC 168 Contracts – Building, engineering and related contracts – Remuneration – Statutory regulation of entitlement to and recovery of progress payments – Adjudicator ordered payment of money claimed in two identical claims – Identical claims not allowed under act – No jurisdiction to decide claims – Order invalid.	Fryberg J	2007.07.10	Supreme Court of Queensland, at Brisbane
Jurisdiction of tribunal	Haggarty Group P/L v Harmony Property Group P/L [2006] QCCTB 6 Whether Tribunal a Court for the purposes of the BCISPA 2004. Mr A Moon. 25th January 2006.	Moon Mr A	2006.01.25	Queensland Commercial & Consumer Tribunal - Building
Jurisdiction on jurisdiction	BMD Major Projects P/L v Wagstaff Piling P/L & Karyn Reardon [2005] QSC Application for declaration that there was no contract between the parties and that the payment claim was invalid. Whilst accepting that the applicant had a strong case, it was for the adjudicator to determine these issues. If unhappy with the outcome further litigation is permitted.	Phillipides J	2005.06.07	Supreme Court of Queensland. Brisbane
Licence - construction	Greg Beer T/A G & L Beer Covercreting v JM Kelly (Project Builders) Pty Ltd [2007] QDC 242 DCJ BCISPA 2004 : Construction of “licence of the appropriate class” in s 42 of the <i>Queensland Building Services Authority Act 1991</i> – whether read subject to restrictive conditions	Martin SC	2007.10.22	District Court of Queensland
Natural Justice – jurisdictional fact	Abel Point Marina (Whitsundays) P/L v Thomas Uher [2006] QSC 295 BCISPA application for JR. where adjudicator did not provide an opportunity to provide further information – whether adjudicator bound to follow procedures set out in the Act – whether a breach of natural justice / error of law – whether sufficient evidence or other material to justify adjudicator’s decision – whether the adjudicator made a decision in relation to a jurisdictional fact.	Wilson J	2006.10.11	Supreme Court of Queensland, at Brisbane
Nomination : Avoidance of bias	Abel Point Marina (Whitsunday P/L v O Brien [2007] QSC 146 Direction to the parties that any application for a replacement adjudicator be accompanied by a request for the appointment of a different adjudicator to avoid any challenges on grounds of bias. HHJ Mullins. Supreme Court of Queensland Civil Jurisdiction. Brisbane. 23rd April 2007:	Mullins J	2007.04.23	Supreme Court of Queensland, at Brisbane
Non-payment	Marshall, B. v Stimson, S. t/a SAS Roofing [2008] QCCTB 6 Building dispute – defective roofing works – non-payment of contract price – effect of adjudicator’s decision pursuant to the BCISPA 2004.	Ms C Heyworth-Smith	2008.01.16	Commercial Consumer Tribunal Queensland

Outstanding balance on contract price	Chowhan, S.R. v Coral Homes P/L [2006] QCCTB 111 Application to recover the balance of a contract price relating to the construction of a domestic dwelling.	Moon Mr AJ	2006.06.30	Commercial Consumer Tribunal Queensland
Payment certificate : Late issue : validity	Daysea P/L v Watpac Australia P/L [2001] QCA 49 Construction of contract - implied conditions – progress claim - where principal's representative issued payment certificate after the specified 14 day period but within 28 days - whether appellant liable to pay balance in accordance with payment certificate - construction of clause 42.1 of AS 4300-1995 - a payment certificate issued outside the 14 day period is a nullity.	Davies JA, Williams JA, Mackenzie J :	2001.02.23	Court of Appeal : Supreme Court of Queensland
Payment claim : meaning of	Pioneer Sugar Mills Pty Ltd ACN v United Group Infrastructure Pty Ltd [2005] QSC 354 Application for declaratory relief to establish that a payment claim delivered by the respondent dated 14th November 2005 is not a payment claim that is subject to the regime for assessment and adjudication established by the BCIPA 2004.	Byrne J	2005.11.25	Supreme Court of Queensland. Brisbane.
Payment schedule - validity	Minimax Fire Fighting Systems Pty Ltd v Bremore Engineering (WA Pty Ltd) & Ors [2007] QSC 333 Where the first respondent sent the applicant an invoice for building work completed – where the applicant sent an email to the first respondent refusing to accept the invoice and suggesting the parties meet to discuss the claim and amount payable – where in response the first respondent applied under s21 BCISPA 2004 for an adjudication of the dispute – where the second respondent was appointed as adjudicator – where the applicant argued that the appointment was precluded on the grounds that the applicant had issued a payment schedule to the first respondent as defined under the Act – whether the applicant's email constituted a payment schedule under s18 of the Act – whether the second respondent should have granted the applicant an opportunity to make submissions regarding the nature of the email. Where the court's jurisdiction to hear the appeal was founded under Part 3 of the <i>Judicial Review Act 1991</i> (Qld) – where under ss13 and 48 the court could dismiss an application for review if the applicant was afforded an opportunity for review by another court, tribunal, authority or person, or if the interests of justice made it appropriate to do so – whether the mechanisms available to the applicant under s100 BCISPA 2004 enlivened the power granted under ss13 and 48	Chesterman J	2007.11.14	Supreme Court of Queensland
Pre-Act contract	CBQ P/L v Russell Welsh & Ian Hammett Electrical P/L [2006] QSC 235 Administrative Law – Statutory Review : Where applicant sought a review of adjudication of the BCIPA 2004 (Qld) – where contract concluded before 1st October 2004 – where written contract after 1st October 2004.	Cullinane J.	2006.06.19	Supreme Court of Queensland at Townsville.
Prior adjudication valuations	Bezzina Developers P/L v Deemah Stone (Qld) P/L [2008] QCA 213 Where s 27 BCISPA 2004 requires that where a subsequent adjudication occurs in which work is valued that was valued in a previous adjudication, the adjudicator must use the same value unless the claimant or respondent satisfies the adjudicator concerned that the value of the work has changed since the previous decision – where neither the appellant or the first respondent informed the second respondent that the third respondent had valued work the subject of the second respondent's adjudication – whether in the context of the statute as a whole, the adjudicator is obliged to take into account an earlier adjudication only where the adjudicator is informed of the earlier adjudication decision.	McMurdo P Keane JA Fraser JA	2008.08.01	Court of Appeal. Supreme Court of Queensland
Progress	Cant Contracting P/L v. Con & Michelle Lyndsay Casella [2006] QSC 242 Building, engineering & related contracts – Remuneration – recovery on quantum meruit : General statutory right of debt recovery under s 19 BCISPA 2004 (Qld) – where no payment schedule delivered – unlicensed builder – whether statutory right of recovery is qualified by s 42 Queensland Building Services Authority Act 1991.	de Jersey CJ	2006.09.01	Supreme Court of Queensland, at Brisbane

Progress payment : ownership of goods	Roadtek, Department of Main Roads v Philip Davenport and Whitsunday Crushers Ptd Ltd [2006] QSC 047 Review of adjudicator's decision under BCIPA 2004 : supply & delivery of goods – defects asserted – defects disputed – adjudicator made no findings re defects – whether adjudicator erred in finding property in the materials had not passed to the applicant & thus an improper exercise of power. Application dismissed.	Mackenzie J	2006.03.17	Supreme Court of Queensland : Brisbane.
Quantum meruit	Grey, A.W. v Little, A. M. [2005] QCCTB 185 Money claimed under a domestic building contract or quantum meruit – formation of contract - nature and extent of contract - Scope of works and variations - standard of work – time to complete defective work – breach of condition or warranty – termination – early possession – enclosed stage - damages – interest - costs.	Morzone Mr D	2005.12.14	Commercial and Consumer Tribunal Brisbane
Refund	Auscoast Builders P/L v Mark Jason Smith t/as Mainline Tiling & Paving Contractors [2007] QCCTB 94 Claim for refund of money - paid under compulsion of adjudication under BCISPA 2004 – no express agreement about rate of charge – reasonable fee implied – interest and costs. Mr D P Morzone 23rd July 2007.	Morzone Mr D P	2007.07.23	Commercial and Consumer Tribunal Brisbane
Relevant person	F K Gardner & Sons Pty Ltd v Dimin Pty Ltd [2006] QSC 243. Contracts : Building, engineering & related contracts : Other matters :- Whether applicant is a person to whom s 17 of the BCIPA (Qld) (2004) applies.	Lyons J.	2006.09.01	Supreme Court of Queensland. Brisbane.
Review of adjudication	Vis Constructions Ltd v Cockburn [2006] QSC 416 Application to review adjudication decision under BCISPA 2004 – whether decision is regulated by the rules of natural justice & set aside the decision – under the Act the adjudicator must have regard to the construction contract – adjudicator found that there was a construction contract between claimant and builder – builder under no obligation to perform work – whether a contract existed – whether adjudicator had jurisdiction to make decision . Adjudicator made a finding as to existence of a contract – finding on a basis not suggested by applicant or respondent – applicant denied the opportunity to be heard – whether a fair hearing denied to the applicant.	Jones J	2006.12.15	Supreme Court of Queensland. Cairns
Security of costs	Covecorp Constructions P/L v Indigo Projects P/L [2007] QSC 262 Construction claim : where defendant/applicant sought security for costs – where order for security for costs previously made – where effective delay in making application – whether application amounted to an application to vary a previous order – whether UCPR 675 satisfied – whether counterclaims have effect on quantum ordered for security – whether order should be made.	Martin J	2007.09.19	Supreme Court of Queensland, at Brisbane
Service : address	Henderickus Ruthergus Johonus Vanbeelen t/a Concreting & Construction v Blackbird Energy P/L [2006] QDC 285 Building contracts – remuneration – progress claim. Building and Construction Industry Payments Act 2004 ss 17,18, 80 and 100 - Whether posting to a post office box was a posting to a place of business.	Brabazon QC	2006.06.23	District Court of Queensland, Brisbane.
Set aside	Phoenix Project Development Pty Ltd v On Hing Pty Ltd [2006] QDC 075 Whether decision of adjudicator under BCIPA Act 2004 void or a nullity – Court's power to set aside judgment entered after adjudication.	Wilson SC, DCJ Alan	2006.04.11	Queensland District Court.

Set aside : applicability of JR in Queensland – Brodyn contrasted	State of Queensland v Epoca Constructions P/L & Phillip Davenport [2006] QSC 324 Judicial Review – Review Decision – decisions to which JR legislation applies – where the applicant sought judicial review of a decision by an adjudicator under the BCIPA 2004 (Qld) – whether JR under the Judicial Review Act 1991 (Qld) excluded – whether the adjudicator’s decision is of an administrative character so as to be reviewable under Part 3 of the JRA 1991. JR – Grounds of Review - Generally – whether the application for JR ought to be dismissed in the exercise of discretion under ss 12, 13, 30 or 48 of the JRA. JR – Grounds of Review – Error of Law – whether the adjudicator erred in failing to observe the provisions of the BCIPA – whether error made by adjudicator in consideration of BCIPA and application and construction of the construction contract	Philippides J	2006.10.31	Supreme Court of Queensland, at Brisbane
Set off : Security : Appeal	Greg Kern & Co P/L - ATF The Tiffany Trust v Building & Civil Contractors P/L [2007] QDC 059 Appeal from Tribunal decision 5K - construction dispute : Appeal on point of law for asserted failure to consider application for security to the tune of 80K.	Brabazon J QC	2007.03.30	District Court of Queensland,, at Brisbane.
Settlement : Duress	Mitchell v Pacific Dawn P/L [2007] QCA 074 Where plaintiffs pleadings alleged duress, illegitimate pressure and unconscionable conduct arising out of the same facts - whether references to illegitimate pressure and unconscionable conduct should be struck out : where parties compromised contract - where plaintiff alleged contract was varied prior to compromise - whether judgment as to compromise of contract created issue estoppel in relation to alleged prior variation.	De Jersey CJ, Keane JA Mullins J :	2007.03.17	Court of Appeal. Supreme Court of Queensland at Brisbane.
Settlement : Duress	Mitchell v Pacific Dawn P/L [2006] QSC 198 Outstanding progress payments : Settlement Agreement : Undue influence : Economic Duress. Chesterman J. Supreme Court of Queensland. Brisbane. Trial Division. 18th August 2006	Chesterman J	2006.08.18	Supreme Court of Queensland at Brisbane.
Settlement : Duress	Mitchell v Pacific Dawn P/L [2003] QCA 526 Settlement Agreement : Progress payments. Duress. Retrial ordered.	McPherson JA Mackenzie J Wilson J	2003.11.28	Court of Appeal. Supreme Court of Queensland at Brisbane.
Settlement : Duress	Mitchell v Pacific Dawn P/L [2003] QSC 086 Settlement Agreement : Stage Payments : Economic Duress established.	Ambrose J BW	2003.04.04	Supreme Court of Queensland at Brisbane.
Stay – adjudication & court proceedings	RJ Neller Building P/L v Ainsworth [2008] QDC 129 Where respondent to adjudication brought proceeding in District Court arising out of same contract as adjudication – where proceeding in District Court brought after adjudicators certificate served on respondent to adjudication but before adjudicators certificate filed in District Court – whether enforcement warrant issued upon judgment in District Court on filing of adjudication certificate should be stayed.	Dodds DCJ	2008.06.25	District Court of Queensland
Stay appealed – appeal rendered irrelevant by events	Blackbird Energy P/L v. Vanbeelen [2007] QCA 060 Where the respondent obtained interim judgment in the District Court under the Building and Construction Industry Payments Act 2004 (Qld) - where issues between parties subsequently resolved in a common law proceeding - where interim decision subject to appeal permanently stayed - whether appeal should proceed where issues on appeal purely hypothetical - whether appeal should proceed in relation to costs of interim judgment only.	Williams JJA Keane JJA Helman J	2007.03.02	Court of Appeal. Supreme Court of Queensland at Brisbane.

Stay of payment out	On Hing Pty Ltd v Phoenix Project Development Pty Ltd [2006] QDC 159 Application for stay or payment payment of monies paid into court following an adjudication under BCIPA 2004 : previous refusal of applicant's application to set aside adjudicator's order : whether stay of payment out to respondent should be ordered. Application refused..	Wilson SC Alan	2006.06.08	District Court of Queensland, Brisbane.
Strike out – counter claims	Wolbers v Day & Co P/L [2007] QDC 103 Striking out counter claims : BCISPA 2004 - defendant denying Act applies, and serving counterclaim - whether denial that Act applies negates its effect - whether counterclaim should be struck out.	Wilson DCJ Allan	2007.05.25	District Court of Queensland,, at Southport
Subcontractors Charges Act 1974	Ed Ahern Plumbing P/L v J M Kelly (Project Builders) P/L : Toga Development No31 P/L [2007] QSC 99 Where notice of claim of charge :- referred to annexed statement of account showing calculation of the amount claimed by the subcontractor : served without annexed statement of account : as served was the notice to be considered for the purpose of determining whether the notice was valid : lacked particulars of the amount claimed : Where money sought to be charged by subcontractor and amount of subcontractor's claim ascertainable with reasonable certainty from notice of claim of charge without annexure : Where validity of notice of claim of charge not affected by want of form:- Where proceeding not commenced within statutory time period - where charge extinguished.	Mullins J	2007.05.03	Supreme Court of Queensland, at Brisbane
Substantial default	Nautilus Pools P/L v Rollo, G. A. [2004] QCCTB 152 Contractual Obligations – Pool Depths; Constructed Depths – Breach of Contract & Estoppel; Effective Termination; Damages: Rectification, Completion & Delay; Assessment; Interest on Damages;	Morzone Mr D.P.	2004.10.19	Commercial and Consumer Tribunal Brisbane.
Substitution of decision	Hervey Bay (JV) P/L v Civil Mining and Construction P/L No2 [2008] QSC 128 Application to determine the correct sum due where adjudicators decision previously set aside by the court. The court declined since there were on-going disputes as to what was due.	McMurdo J.	2008.05.07	Supreme Court of Queensland
Summary enforcement	Impulse Electrical (Aust) P/L v Mother Natures Chermside P/L [2007] QDC 023 Successful application for summary enforcement of amended second stage payment with revised / varied contract price.	Forde J	2007.03.02	District Court of Queensland,, at Brisbane
Termination	Drew, J. v Fabre, J. [2004] QCCTB 148 Domestic building dispute - notice to builder to recommence work - failure to comply - notice to builder to remedy substantial breach - failure to comply - right of owner to terminate contract with builder.	Ms J Schafer	2004.10.14	Commercial and Consumer Tribunal Brisbane
Termination of contract	Clemens v Flower [2006] QCA 265 Dwelling house – respondent in breach of the contract by taking possession and control of the property before a final payment to the applicant was due – the final amount due was in contention – whether the applicant was, as a consequence, permitted to terminate the contract – whether (with reference to the contract) referral of the matter to the Commercial and Consumer Tribunal (albeit outside of the five working days specified in clause 28.5) meant that the applicant could not validly terminate the contract, until the Tribunal had made a determination on the issues.	McMurdo P, Williams JA and White J.	2006.07.28	Court of Appeal. Supreme Court of Queensland.
UCPR r166(4)&(5)	Melco Engineering P/L v Eriez Magnetics P/L [2007] QSC 198 UCPR r.166 – where contractual dispute as to terms and performance of contract – where respondent alleges applicant has not complied with r.166 (4) UCPR – whether applicant is deemed to have admitted facts pursuant to r.166 (5) UCPR – whether applicant must re-plead facts to comply with r.166 (4) UCPR.	Dutney J	2007.07.30	Supreme Court of Queensland, at Mackay

Unenforceable
DBCA Contract
: BCISPA not
Applicable

Gemini Nominees P/L v Queensland Property Partners P/L The Keith Batt Family Trust [2007] QSC 20

Builder & owner entered into a written cost plus contract for renovation works to house property –payment claim served by builder under BCISPA 2004 – where owner did not serve payment schedule – no fair and reasonable estimate of total amount builder was likely to receive under the contract given to owner pursuant to s 55 DBCA 2000 – whether contract unenforceable under s 55(3) DBCA 2000 (Qld) is a contract to which BCISPA 2004 (Qld) applies.

Mullins J

2007.02.13

Supreme Court of
Queensland, at
Brisbane