



Quiz

Issue Estoppel and Privies

1. Who commenced proceedings in the Federal Court against Ramsey?
 - a. The Fair Work Commission and the employees together
 - b. The employees
 - c. Only Tomlinson
 - d. Only the Fair Work Commission

2. What did the High Court find regarding issue estoppel?
 - a. The Fair Work Commission had commenced proceedings on behalf of Tomlinson and therefore Tomlinson was bound by the result of the Federal Court proceedings brought on his behalf
 - b. Tomlinson and the Fair Work Commission were not privies and therefore issue estoppel did not preclude Tomlinson from bringing the action
 - c. As Tomlinson was a witness in the Federal Court proceedings, he was sufficiently involved in the proceedings to be considered a privy of the Fair Work Commissioner and was therefore bound by the result
 - d. The High Court made no finding as to issue estoppel as it decided the case on other grounds

3. What did Tomlinson argue in respect to "sham" in the High Court?
 - a. That although a person may have intended to create a sham, there is no sham where the arrangements had legal consequences
 - b. That Ramsey's arrangements with Tempus were not a sham
 - c. That a court should not recognise a sham where it adversely affects a victim's rights in law
 - d. All of the above

4. What did the High Court find regarding abuse of process?
 - a. That abuse of process and issue estoppel are part of the same spectrum
 - b. That even though he was not precluded from bringing the action by reason of issue estoppel, the common law doctrine of abuse of process prevented Tomlinson from relitigating the issue in the District Court
 - c. Abuse of process was not argued and therefore the High Court did not make findings on the issue
 - d. Abuse of process was not relevant in circumstances where there was no issue estoppel

5. Which of the following statements is a true reflection of Nettle J's findings in his concurring judgment?
 - a. The meaning of "employer" can vary according to the circumstances
 - b. The meaning of "employer" is fixed and unchangeable
 - c. The meaning of "employer" depends on the particular wording of the statute under consideration
 - d. The meaning of "employer" must remain the same in circumstances where two courts are considering the same employment relationship as between a particular employee and employer

Answers:

1. d 2. b 3. d 4. c 5. a