



Quiz

Preliminary Discovery

1. How is an application for preliminary discovery in NSW determined?
 - a. By reference to rule 5.2 of the Uniform Civil Procedure Rules (NSW)
 - b. By reference to Federal Court Rule Order 15A, Rule 6
 - c. By reference to rule 63 of the Uniform Civil Procedure Rules NSW
 - d. All of the above
2. Which test is applied in the Federal Court for an application for preliminary discovery?
 - a. Whether there is a reasonable cause to believe that the applicant has or may have the right to claim
 - b. Whether it appears to the court that the applicant may be entitled to a claim for relief
 - c. Whether the court deems it reasonably likely that the documents to be inspected will indicate a successful cause of action
 - d. Whether or not the court, giving weight to all circumstances of the matter, considers the inspection of the documents a fishing expedition
3. What was the decision of Parker J at first instance in the case of *O'Connor v O'Connor* [2018] NSWCA 214?

- a. His Honour refused the application for preliminary discovery as the applicants could not establish that there was a reasonable cause to believe that the defendant was obligated to disclose a potential deal for sale of the company
 - b. His Honour refused the application for preliminary discovery as he considered the categories of discovery being sought too broad
 - c. His Honour approved the application for preliminary discovery as the applicant was entitled to view documents relating to the claim and also the quantum of a claim and defenses available.
 - d. Both A and B
- 4. Which of the following can be taken away from the Court of Appeal decision in O'Connor v O'Connor [2018] NSWCA 214?
 - a. The documents of discovery only relate to an applicant's entitlement to make a claim, but not to documents going to the quantum of a particular claim
 - b. The determination for an application for preliminary discovery under Rule 5.3 does not involve a determination of the merits of any claim for relief
 - c. The test under Rule 5.3 is whether or not there is a reasonable cause of action not whether the court considered that a cause of action may exist
 - d. Both B and C
- 5. What did the Court of Appeal order in relation to costs in O'Connor v O'Connor [2018] NSWCA 214?
 - a. That Morgan and Michael were to pay the costs of the respondents to the application
 - b. That Morgan and Michael were able to recover their costs both at first instance and on appeal
 - c. That Morgan and Michael were able to recover their costs at first instance but not on appeal

- d. That the respondents must pay the costs of the appeal, but that Morgan and Michael were to pay their costs at first instance**

Answers:

1. A 2. B 3. D 4. B 5. B