

Lauro v Minter Ellison [2020] SASC 137

<https://lawcasesummaries.com/knowledge-base/lauro-v-minter-ellison2020-sasc-137/>

Held

- There is no authority to support the contention that a plaintiff must warn a defendant of impending default judgment.

Quotes

"Charitopoulos does not stand for the proposition that a failure to so warn renders the default judgment irregular and liable to be set aside. However, counsel also relied on the general observations of Wells J in Cooling v Steel to the effect that the Court should ensure that a defendant (in that case, in a summary criminal proceeding) is apprised of their rights and duties at all times and 'be vigilant to keep the proceedings free of error or misunderstanding'.

The essence of the appellant's submission is that there is an established practice to warn before default judgment is entered, and that a failure to do so renders the judgment irregular. I do not accept this. Such a broad proposition would be contrary to the terms of rule 234(2) of the District Court Civil Rules 2006 (SA).

(Bleby J at paragraph [77] (emphasis added))