



## Summary of Judgment

### *Robby Gordon Entertainment v CAMS [2018] VSC 600*

11 October 2018

The Victorian Supreme Court has refused to lift a suspension, imposed by the Confederation of Australian Motor Sport (CAMS) in May 2018, which has barred US-based Robby Gordon Entertainment from operating its ‘Stadium Super Truck’ races in Australia.

CAMS and Robby Gordon Entertainment agreed in February that the US promoter could operate ‘Stadium Super Truck’ races at Australian motor sporting events between February and December 2018, but CAMS could suspend the agreement if it ‘reasonably considered’ there was, or was likely to be, a breach of the agreement by Robby Gordon.

CAMS suspended Robby Gordon Entertainment’s rights after an incident at the Perth Barbagallo Raceway on 5 May 2018, when a racing truck rolled several times, and a wheel of the vehicle detached and struck an overhead pedestrian bridge at a height of approximately five metres and other debris from the vehicle was propelled and over a safety barrier and fencing. CAMS claimed the operation of Super Trucks had or was likely to breach Robby Gordon’s safety obligations, though it did not articulate its reasons until July 2018, when it cited eight incidents of concern.

On 5 October 2018, Robby Gordon Entertainment sought an injunction requiring CAMS to lift its suspension. The matter came before Justice John Digby as an urgent application ahead of a motor-sports racing event due to be held at the Gold Coast on 19 October 2018.

Justice Digby refused to lift the suspension. His Honour found:

- CAMS’ suspension power under the agreement was very broad, requiring only that (i) CAMS hold an opinion or belief that Robby Gordon Entertainment had breached or was likely to breach the agreement; and (ii) the facts which existed, or were likely to come into existence, were sufficient to have induced that opinion or belief in a reasonable person.
- There was evidence available to CAMS, including the detached wheel incident in Perth and several earlier safety incidents, as well as expert evidence going to safety concerns, upon which a reasonable person could conclude that Robby Gordon Entertainment had breached, or was likely to breach, its safety obligations under the agreement.

- The US promoter did not satisfy CAMS that the modification to its Super Trucks and other proposed operational changes were sufficient to ensure the safety of spectators, officials and drivers.
- Justice Digby considered in relation to the balance of convenience in this instance that the public interest in minimising the risk to spectators, officials and other drivers outweighed considerations of possible financial and reputational harm to Robby Gordon Entertainment in fulfilling its performance, sponsorship and broadcasting contracts associated with the 19 October 2018 Gold Coast racing event.

Justice Digby also stated he was ‘not satisfied on the state of the present evidence’ that Robby Gordon Entertainment’s proposals to modify its Super Truck vehicles, its racing rules, and to improve driver training would materially alleviate the justifiable serious safety concerns which CAMS had identified.

As a result, the application for an injunction was unsuccessful and, as things currently stand, Robby Gordon Entertainment’s rights to operate Super Truck races in Australia under its current contract remain suspended.

**NOTE: This summary is necessarily incomplete. The only authoritative pronouncement of the Court’s reasons and conclusions is that contained in the published reasons for judgment.**