



Monday, 25 November 2019

Daily Banking A Daily Bulletin listing Decisions of Superior Courts of Australia

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Executive Summary (1 minute read)

Rivas v Republic of Chile (FCA) - judicial review - extradition - application for review of magistrate's refusal to grant bail - application dismissed

Estates 77 Pty Ltd v Minister for the Environment (No 2) (FCA) - judicial review - environment and planning - 'Proposed Action' not exempt from required 'assessment and approval under' *Environment Protection and Biodiversity Conservation Act 1999* (Cth) - application dismissed

Royal and Sun Alliance Insurance Plc v DMS Maritime Pty Limited (QCA) - contract - insurance - deed of settlement - destruction of patrol boat by fire - insurer required to indemnify respondent for its liability to Commonwealth under deed of settlement - appeal dismissed

National Westminster Bank PLC v Jones (WASC) - service - jurisdiction - *Foreign Judgments Act 1991* (Cth) - defendants sought to set aside judgment registered in plaintiff's favour under s6 *Foreign Judgments Act 1991* (Cth) - application dismissed

Palmer v Citic Ltd [No 3] (WASC) - discovery - costs - determination of remaining issues concerning agreed discovery's timing and costs - orders made

Summaries With Link (Five Minute Read)

[Rivas v Republic of Chile \[2019\] FCA 1940](#)

Federal Court of Australia

Abraham J

Judicial review - extradition - bail - applicant sought bail pursuant to s15 *Extradition Act 1988* (Cth) - applicant submitted there were "special circumstances" to justify 'remand on bail' - magistrate refused application - applicant sought judicial review - 'real risk of flight' - 'test for bail in international extradition matters' - *Tsvetnenko v United States of America* [2019] FCAFC 74 - *United Mexican States v Cabal* [2001] HCA 60 - held: no error in magistrate's decision - application for review dismissed.

[Rivas](#)

Estates 77 Pty Ltd v Minister for the Environment (No 2) [2019] FCA 1935

Federal Court of Australia

McKerracher J

Judicial review - environment and planning - applicants sought to proceed with development ('Proposed Action') - respondent Minister decided Proposed Action was 'controlled action' under *Environment Protection and Biodiversity Conservation Act 1999* (Cth) (EPBCA) requiring 'assessment and approval under' EPBCA - applicant contended Proposed Action exempt due to s43A EPBCA on basis that before EPBCA commenced, Proposed Action was 'authorised by a specific environmental authorisation' - 'proper meaning' of 'specific environmental authorisation' - whether there was a specific environmental authorisation - held: Court not satisfied Proposed Action was exempt - application dismissed.

[Estates 77](#)

Royal and Sun Alliance Insurance Plc v DMS Maritime Pty Limited [2019] QCA 264

Court of Appeal of Queensland

Fraser & McMurdo JJA; Boddice J

Contract - insurance - deed of settlement - respondent contracted with Commonwealth in relation to the design, manufacture, production, delivery and maintenance of 'fleet of Armidale Class Patrol Boats' (patrol boat contract) - appellant insurer 'agreed to indemnify' respondent for liability under patrol boat contract 'for loss or damage to any vessel in' respondent's 'care, custody or control' for 'purpose of being worked upon' (insurance contract) - patrol boat, while in possession of respondent, was destroyed by fire - respondent became liable to Commonwealth for payment of sum under deed of settlement following patrol boat's loss - primary judge found appellant 'obliged to indemnify' respondent - appellant appealed - proper construction of patrol boat contract, deed of settlement and insurance contract - quantification of loss - mitigation - 'reasonable settlement' - held: appeal dismissed.

[Royal and Alliance Insurance](#)

National Westminster Bank PLC v Jones [2019] WASC 422

Supreme Court of Western Australia

Master Sanderson

Service - *Foreign Judgments Act 1991* (Cth) - Acting Master Whitby registered judgment in



plaintiff's favour against defendants under s6 *Foreign Judgments Act 1991* (Cth) - defendants sought to set registered judgment aside - defendants contended they were not served with document which plaintiff lodged in United Kingdom court - plaintiff contended defendants were served - whether defendants served - whether 'English court' had jurisdiction - held: Court satisfied that defendants were served and that English court had jurisdiction - application dismissed.

[National Westminster Bank](#)

Palmer v Citic Ltd [No 3] [2019] WASC 424

Supreme Court of Western Australia

Kenneth Martin J

Discovery - costs - defendants in two actions sought discovery concerning disputed document categories - parties resolved dispute concerning document categories - proceedings concerned determination of remaining issues - discovery's timing - 'timeline for discovery' - whether to extend time for completion of agreed discovery - costs - O4A r2 & O26 r7(2) *Rules of the Supreme Court 1971* (WA) - held: orders made concerning discovery - costs orders made.

[Palmer](#)

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