

Friday, 8 October 2021

Daily Civil Law A Daily Bulletin listing Decisions of Superior Courts of Australia

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CIVIL (Insurance, Banking, Construction & Government)

Executive Summary (1 minute read)

Charisteas v Charisteas (HCA) - family law - apprehended bias - property - appeal against property orders - apprehended bias established - appeal allowed (I B C G)

Edwards v The Queen (HCA) - criminal law - appellant convicted 'of six counts of aggravated sexual intercourse with a person aged above 10 and under 14 years' - appellant contended miscarriage of trial due to failure by prosecutor to provide 'hard drive containing a copy of data stored on the appellant's mobile telephone' - appeal dismissed (I B C G)

Gold Titan Pty Ltd v Lopez (FCA) - contract - consumer law - defamation - two proceedings arising from 'formation and dissolution of a trading relationship between' 'Evagroup' and 'Cemimax' - breach of contractual confidentiality obligation - breach of 'equitable obligation of confidence' - breach of s18 Australian Consumer Law - defamation not established - no basis for offsetting by Evagroup of Invoice to Evagroup for 'Cemimax products' (I B C G)

Barbour v Trustees of the De La Salle Brothers (NSWSC) - cross-vesting - plaintiff alleged 'sexual assault and abuse' was perpetrated on him by persons while plaintiff resided in Queensland at 'BoysTown Beaudesert' - defendant sought proceedings' transfer to Supreme Court of Queensland - proceedings transferred (B C I)

Carroll v Goff (VSCA) - wills and estates - probate - application for grant of probate was dismissed and costs awarded against applicant - application for leave to appeal - leave to

appeal granted - appeal dismissed (B)

Summaries With Link (Five Minute Read)

Charisteas v Charisteas [2021] HCA 29

High Court of Australia

Kiefel CJ; Gageler, Keane, Gordon & Gleeson JJ

Family law - property - apprehended bias - appeal concerned whether Court should set aside '2018 Property Orders' on basis of 'reasonable apprehension of bias arising from' 'private communications' of trial judge with 'wife's barrister' and whether trial judge could exercise 'power under' s79 *Family Law Act 1975* (Cth) when Crisford J had already made the '2011 Property Orders' had already been made by Crisford J - Full Court found no apprehended bias and dismissed appeal against 2018 Property Orders - whether apprehended bias - "strike[s] at the validity and acceptability of the trial and its outcome" - 'proper understanding and application of' ss79 & 79A *Family Law Act 1975* (Cth) - *Concrete Pty Ltd v Parramatta Design & Developments Pty Ltd* (2006) 229 CLR 577 - held: apprehended bias established - appeal allowed.

[Charisteas](#) (I B C G)

Edwards v The Queen [2021] HCA 28

High Court of Australia

Kiefel CJ; Keane, Edelman, Steward & Gleeson JJ

Criminal law - appellant convicted 'of six counts of aggravated sexual intercourse with a person aged above 10 and under 14 years' - appellant contended miscarriage of trial due to failure by prosecutor to provide 'hard drive containing a copy of data stored on the appellant's mobile telephone' ('Cellebrite Download') in advance of trial to appellant's lawyers - 'principal issue' was whether verdict was 'miscarriage of justice' under s6(1) *Criminal Appeal Act 1912* (NSW) - whether failure by prosecution to 'provide "full and proper" disclosure of' Cellebrite Download to appellant before trial - s142 *Criminal Procedure Act 1986* (NSW) - 'obligation of disclosure' - held: appeal dismissed.

[Edwards](#) (I B C G)

Gold Titan Pty Ltd v Lopez [2021] FCA 918

Federal Court of Australia

Abraham J

Contract - employment - consumer law - defamation - two proceedings arising from 'formation and dissolution of a trading relationship between' 'Evagroup' and 'Cemimax' - Mr Lopez was employed by Evagroup until Mr Lopez resigned - after resignation Mr Lopez 'immediately established' business ('Imperial Flooring') 'whish sold Cenimax products' - Mr Titus was Cenimax's 'national sales director' - Evagroup brought proceedings against Mr Lopez, Imperial Flooring, Cemimax and Mr Titus - held: Mr Lopez breached contractual confidentiality obligation

- Mr Lopez and Imperial Flooring breached 'equitable obligation of confidence' - Imperial Flooring and Mr Lopez breached s18 Australian Consumer Law - defamation not established - no basis for offsetting by Evagroup of Invoice to Evagroup for 'Cemimax products'.

[Gold Titan](#) (I B C G)

Barbour v Trustees of the De La Salle Brothers [2021] NSWSC 1254

Supreme Court of New South Wales

Cavanagh J

Cross-vesting - plaintiff alleged 'sexual assault and abuse' was perpetrated on him by persons while plaintiff resided in Queensland at 'BoysTown Beaudesert' - defendant sought proceedings' transfer to Supreme Court of Queensland under s5(2) *Jurisdiction of Courts (Cross-vesting) Act 1987* (NSW) - *Personal Injuries Proceedings Act 2002* (Qld) - *Bankinvest AG v Seabrook* (1988) 14 NSWLR 711 - interests of justice - held: proceedings transferred.

[View Decision](#) (B C I)

Carroll v Goff [2021] VSCA 267

Court of Appeal of Victoria

Maxwell P, Kennedy & Walker JJA

Wills and estates - probate - application for grant of probate was dismissed and costs awarded against applicant - application for leave to appeal - whether denial of 'right to fair hearing' - whether 'failure to identify that interest in Tura Beach property had no monetary value to estate' - whether codicil erroneously interpreted - whether indemnity costs order erroneously awarded - held: leave to appeal granted - appeal dismissed.

[Carroll](#) (B)

Summaries With Link



Sonnet To The White-Bird Of The Tropic

By: Helen Maria Williams

BIRD of the Tropic! thou, who lov'st to stray
Where thy long pinions sweep the sultry Line,
Or mark'st the bounds which torrid beams confine
By thy averted course, that shuns the ray
Oblique, enamour'd of sublimer day:
Oft on yon cliff thy folded plumes recline,
And drop those snowy feathers Indians twine,
To crown the warrior's brow with honours gay.
O'er trackless oceans what impels thy wing?
Does no soft instinct in thy soul prevail?
No sweet affection to thy bosom cling,
And bid thee oft thy absent nest bewail?--
Yet thou again to that dear spot canst spring,
But I no more my long-lost home shall hail!

https://en.wikipedia.org/wiki/Helen_Maria_Williams

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