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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)

Condor Fresh Pty Limited v Pacific International Lines (Pte) Ltd (FCA) - service - service out of jurisdiction - plaintiff sought leave to serve sought leave to serve Originating Application on defendant in Republic of Singapore - leave granted (I B C G)

Motorola Solutions, Inc. v Hytera Communications Corporation Ltd (Second Adjournment) (FCA) - adjournment - patent - COVID-19 - respondents sought adjournment of proceeding's 'part-heard trial' - application dismissed (B C I G)

Naidu v State of New South Wales (NSWCA) - workers compensation - refusal of extension of time to appeal against rejection of 'lump sum compensation' claim - extension of time to seek leave to appeal - leave to appeal refused (I B)

Zepinic v Health Care Complaints Commission (NSWCA) - administrative law - refusal to reinstate applicant as a psychologist - leave to appeal refused (I B G)

Elanor Operations Pty Ltd v Chief Commissioner of State Revenue (NSWSC) - subpoena - discovery - three notices of motion - plaintiffs to provide discovery as sought 'with some amendments' - 'Subpoenas Motion' dismissed - 'Notices to Produce Motion' dismissed (I B C G)

Kinglake Friends of the Forest Inc. v VicForests (No 2) (VSC) - environmental law - interim injunction - application for extension of interim relief - application granted ()

Duncan v Gibson (QSC) - wills and estates - succession - family provision - plaintiff sought 'declaratory and other relief' concerning document 'said to be the last Will' of plaintiff's deceased mother - Court to hear parties concerning orders' form and costs (B)

Project 88 TPF Pty Ltd v Open Projects Group Pty Ltd (QSC) - costs - indemnity costs - corporations - application to set aside statutory demand served granted - 'two interlocutory applications' - costs determined (B C I G)

Summaries With Link (Five Minute Read)

Condor Fresh Pty Limited v Pacific International Lines (Pte) Ltd [2020] FCA 993

Federal Court of Australia

SC Derrington J

Service - service out of jurisdiction - plaintiff, pursuant to leave r10.43 *Federal Court Rules 2011* (Cth), sought leave to serve Originating Application on defendant in Republic of Singapore - jurisdiction - '*in personam action* on a general maritime claim' - 'alleged contraventions of Australian Consumer Law' - whether compliance with r10.43(1) *Federal Court Rules 2011* (Cth) - whether 'prima facie case' - held: leave granted.

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

Motorola Solutions, Inc. v Hytera Communications Corporation Ltd (Second Adjournment) [2020] FCA 987

Federal Court of Australia

Perram J

Adjournment - patent - COVID-19 - respondents sought adjournment of proceeding's 'part-heard trial' - *Evidence Act 1995* (Cth) - *Federal Court Rules 2011* (Cth) - *Hague Convention on the Taking of Evidence Abroad in Civil or Commercial Matters* - witnesses of respondents located in China - obtaining evidence from witnesses - whether 'contrary to Chinese law' for Court take evidence from witnesses by video-link - availability and willingness of witnesses to travel to Macau to give evidence - travel risks during COVID-19 pandemic - held: application dismissed.

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

Naidu v State of New South Wales [2020] NSWCA 147

Court of Appeal of New South Wales

Basten & Leeming JJA

Workers compensation - Workers Compensation Commission refused to grant extension of time to applicant to appeal from arbitrator's rejection of 'lump sum compensation' claim - ss66 & 67 *Workers Compensation Act 1987* (NSW) - applicant sought to appeal - whether 'exceptional circumstances' warranting extension of time - whether challenges to Deputy President's

decision warranted leave to appeal - held: extension of time to seek leave to appeal - leave to appeal refused.

[View Decision](#) (I B)

Zepinic v Health Care Complaints Commission [2020] NSWCA 146

Court of Appeal of New South Wales

Macfarlan & McCallum JJA

Administrative law - New South Wales Civil and Administrative Tribunal (Occupational Division) refused to reinstate applicant as psychologist - primary judge dismissed appeal - applicant sought to appeal - whether 'arguable basis' to challenge decision of primary judge - 'spent convictions argument' - *Criminal Records Act 1991* (NSW) - s163B *Health Practitioner Regulation National Law* (NSW) - held: leave to appeal refused.

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

Elanor Operations Pty Ltd v Chief Commissioner of State Revenue [2020] NSWSC 840

Supreme Court of New South Wales

Ward CJ in Eq

Subpoena - discovery - three notices of motion - plaintiffs sought to set aside 'certain notices to produce' ('Notices to Produce Motion') and 'certain subpoenas' ('Subpoenas Motion') - defendant sought that plaintiffs provide discovery of documents ('Discovery Motion') - Discovery Motion 'in effect superseded' Notices to Produce Motion - determination of Discovery Motion and Subpoenas Motion - held: plaintiffs to provide discovery as defendant sought 'with some amendments - Subpoenas Motion dismissed - Notices to Produce Motion dismissed.

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

Kinglake Friends of the Forest Inc. v VicForests (No 2) [2020] VSC 418

Supreme Court of Victoria

John Dixon J

Environmental law - interim injunction - plaintiff sought 'declaration and a permanent injunction' concerning 'timber harvesting' by defendant - plaintiff contended defendant's timber harvesting contravened *Sustainable Forests (Timber) Act 2004* (Vic), *Code of Practice for Timber Production 2014* and *Management Standards and Procedures for timber harvesting operations in Victoria's State Forests 2014* - plaintiff sought extension of interim relief which had already been granted by Court - whether serious question to be tried - balance of convenience - 'risk of injustice' - period of relief sought - *Bradto Pty Ltd v State of Victoria* [2006] VSCA 89 - held: application granted.

[Kinglake](#) ()

Duncan v Gibson [2020] QSC 204

Supreme Court of Queensland

Boddice J

Wills and estates - succession - family provision - plaintiff sought 'declaratory and other relief'

concerning document 'said to be the last Will' of plaintiff's deceased mother - whether deceased had affixed signature - whether testamentary capacity - whether deceased and first defendant were in de facto relationship - whether deceased made adequate provision - whether first defendant entitled to 'unpaid wages and other sums' - s41(1) *Succession Act 1981* (Qld) - held: Court to hear parties concerning orders' form and costs.

[Duncan](#) (B)

Project 88 TPF Pty Ltd v Open Projects Group Pty Ltd [2020] QSC 208

Supreme Court of Queensland

Ryan J

Costs - corporations - statutory demand - applicant sought to set aside statutory demand served on it by respondent - Court granted application - parties agreed respondent should pay applicant's costs of application to set statutory demand aside - applicant sought indemnity costs order on basis of its invitation to respondent to withdraw statutory demand. - parties also in dispute concerning costs orders in respect of 'two interlocutory applications' - held: costs determined.

[Project 88](#) (B C I G)

CRIMINAL

Executive Summary

Summaries With Link

Benchmark

Misconceptions

By: Robert Browning

THIS is a spray the Bird clung to,
Making it blossom with pleasure,
Ere the high tree-top she sprung to,
Fit for her nest and her treasure.
O, what a hope beyond measure 5
Was the poor spray's, which the flying feet hung to,—
So to be singled out, built in, and sung to!

This is a heart the Queen leant on,
Thrill'd in a minute erratic,
Ere the true bosom she bent on, 10
Meet for love's regal dalmatic.
O, what a fancy ecstatic
Was the poor heart's, ere the wanderer went on—
Love to be saved for it, proffer'd to, spent on!

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

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