

Friday, 18 September 2020

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

 Follow @Benchmark\_Legal

### Search Engine

[Click here](#) to access our search engine facility to search legal issues, case names, courts and judges. Simply type in a keyword or phrase and all relevant cases that we have reported in Benchmark since its inception in June 2007 will be available with links to each case.

### CIVIL (Insurance, Banking, Construction & Government)

### Executive Summary (1 minute read)

**Sovereign Hydroseal Pty Ltd v Steynberg (No 2)** (FCA) - preliminary discovery - patent - determination of final orders and costs (I B C G)

**V'landys v Australian Broadcasting Corporation** (FCA) - pleadings - discovery - interrogatories - defamation - applicant granted leave to amend statement of claim and limited discovery and interrogatories (I B C G)

**Owlstara v State of New South Wales** (NSWCA) - assault - battery - false imprisonment - appellant claimed damages for 'assault, battery and false imprisonment' arising from arrest by police officer - primary judge dismissed claim - appeal allowed (I B C G)

**Linney v Solomou (No 2)** (NSWSC) - wills and estates - succession - family provision - parties compromised dispute - parties sought consent orders - consent orders made (B)

**Lester Land Holdings Pty Ltd & Ors v The Development Assessment Commission & Anor** (SASC) - planning and development - judicial review - first defendant granted 'development plant consent' in second defendant's favour - development consent plan quashed (I B C G)

**Re Exore Resources Ltd; Ex Parte Exore Resources Ltd [No 2]** (WASC) - corporations law - scheme of arrangement - application for Court's approval of 'proposed scheme of arrangement'

- orders granted (B)

**Rock JV Pty Ltd v Thiess Pty Ltd** (WASC) - security for costs - application for 'further security for costs' - application granted (I B C G)

## Summaries With Link (Five Minute Read)

### **Sovereign Hydroseal Pty Ltd v Steynberg (No 2) [2020] FCA 1239**

Federal Court of Australia

McKerracher J

Preliminary discovery - patent - prospective applicants sought preliminary discovery and costs - Court found prospective applicants entitled to relief subject to narrowing of orders' scope and provision of security for costs - parties could not agree on orders' 'final form' and also sought costs' determination - r7.23 *Federal Court Rules 2011* (Cth) - held: orders made in terms of prospective applicants' minute 'save for the order' as to application's costs - prospective applicants to bear costs 'unless substantive proceedings' commenced 'within two months from' date discovery given - if proceedings 'brought within time', costs to be reserved.

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

### **V'landys v Australian Broadcasting Corporation [2020] FCA 1264**

Federal Court of Australia

Wigney J

Pleadings - discovery - interrogatories - defamation - applicant sought leave to amend statement of claim and orders for discovery and interrogatories - applicant sought to add new particulars of aggravated damages claim - principles concerning aggravated damages - whether particulars proposed by applicant were 'proper particulars' - s36 *Defamation Act 2005* (NSW) - held: applicant granted leave to amend statement of claim and limited discovery and interrogatories.

[V'landys](#) (I B C G)

### **Owlstara v State of New South Wales [2020] NSWCA 217**

Court of Appeal of New South Wales

Basten & Meagher JJA; Emmett AJA

Assault - battery - false imprisonment - damages - appellant claimed damages for 'assault, battery and false imprisonment' arising from arrest by police officer - primary judge found officer's conduct conformed with 'requirements of' *Law Enforcement (Powers and Responsibilities) Act 2002* (NSW) and conduct was thus lawful - appellant appealed - whether arrest of appellant authorised - whether reasonable of officer to 'train his firearm on' appellant - held: appellant's arrest unlawful - false imprisonment established - battery and assault established - appeal allowed.

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

**Linney v Solomou (No 2) [2020] NSWSC 1242**

Supreme Court of New South Wales

Ward CJ in Eq

Wills and estates - succession - family provision - parties compromised dispute - parties sought consent orders - parties sought proceedings' dismissal and order under s95 *Succession Act 2006* (NSW) approving plaintiff's release of 'rights to apply for a family provision order' - held: consent orders made.

[View Decision](#) (B)

**Lester Land Holdings Pty Ltd & Ors v The Development Assessment Commission & Anor [2020] SASC 170**

Supreme Court of South Australia

Parker J

Planning and development - judicial review - first defendant granted 'development plan consent' in second defendant's favour - plaintiffs sought judicial review - whether development application 'wrongly classified' - whether failure to refer 'additional material' and/or provide 'necessary information' - validity of 'impugned conditions' - whether development 'hypothetical' - whether legal unreasonableness - whether failure to consider 'set-back requirement in Principle of Development Control' - whether failure to consider, as required by s33(1)(a) *Development Act 1993* (SA) - balance of probabilities - held: development plan consent quashed.

[Lester Land Holdings](#) (I B C G)

**Re Exore Resources Ltd; Ex Parte Exore Resources Ltd [No 2] [2020] WASC 333**

Supreme Court of Western Australia

Vaughan J

Corporations law - scheme of arrangement - Court, pursuant to s411(1) *Corporations Act 2001* (Cth) (Corporations Act), made orders for convening of meeting for consideration of 'proposed scheme of arrangement' - proposed scheme of arrangement 'passed by the requisite majorities' - application, pursuant to s 411(4)(b) Corporations Act, for Court's approval of scheme - held: Court satisfied to make orders approving proposed scheme of arrangement.

[Re Exore](#) (B)

**Rock JV Pty Ltd v Thiess Pty Ltd [2020] WASC 324**

Supreme Court of Western Australia

Hill J

Security for costs - defendant sought 'further security for costs' of proceeding - whether defendant attempting to 'revisit, re?open or vary' 'previous consent orders' - whether amounts which were sought were 'covered by the court's previous orders' - whether plaintiff should provide further security - s1335 *Corporations Act 2001* (Cth) - O25 r1 *Rules of the Supreme Court 1971* (WA), held: plaintiff to provide further security for costs in amount of \$440,000.

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



## CRIMINAL

Executive Summary

Summaries With Link



## **The Rainbow**

**By:** William Wordsworth

MY heart leaps up when I behold  
A rainbow in the sky:  
So was it when my life began;  
So is it now I am a man;  
So be it when I shall grow old,                      5  
    Or let me die!  
The Child is father of the Man;  
I could wish my days to be  
Bound each to each by natural piety.

[https://en.wikipedia.org/wiki/William\\_Wordsworth](https://en.wikipedia.org/wiki/William_Wordsworth)

[Click Here to access our Benchmark Search Engine](#)