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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)

Noy v Secretary, Department of Social Services (FCA) - social security - rejection of application for age pension - appeal against Tribunal's decision dismissed (I B C G)

Parke v Rubenstein (No 2) (FCA) - defamation - application for interlocutory orders - 'honest opinion' - discovery - 'dux litis' - interlocutory application dismissed (I)

Winston v Commonwealth of Australia (NSWSC) - limitations - negligence - action arising from collision of HMAS Melbourne and USS Frank E Evans in 1969 - extension of time to bring proceedings granted (I)

Coonwarra Pty Ltd v CornoNero Pty Ltd; GJB Building Pty Ltd v AI & PB Property Ltd (Ruling) (VSC) - contract - corporations - loan agreements - application for hearing of two proceedings together - application granted (I B C G)

MLG Oz Ltd v Warden B Ayling [No 2] (WASC) - judicial review - mining - application for judicial review of warden's decision to grant miscellaneous licence - application dismissed (I B C G)

Pennock v City of Busselton (WASC) - judicial review - planning and development - applicants sought judicial review of respondent's decision under planning scheme to approve 'proposed development' - application refused (I B C G)

Summaries With Link (Five Minute Read)

Noy v Secretary, Department of Social Services [2021] FCA 83

Federal Court of Australia

Snaden J

Social security - applicant sought review of 'rejection of his age pension application' - 'authorised review officer' (ARO) affirmed rejection - applicant sought review of affirmation by Administrative Appeals Tribunal - Tribunal affirmed ARO's decision - applicant appealed - whether failure to take relevant evidence into account - whether s24 *Social Security Act 1991* (Cth) - whether legal unreasonableness - "member of a couple" - held: appeal dismissed.

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

Parke v Rubenstein (No 2) [2021] FCA 107

Federal Court of Australia

White J

Defamation - application for interlocutory orders - applicant sought that 'honest opinion' defence be struck out, and, if order granted, to file 'amended reply', that first respondent 'be dux litis in the proceeding' and that 'first respondent make discovery of particular documents' - r16.21 Federal Court Rules 2011 (Cth) - s29 Defamation Act 2005 (SA) - held: interlocutory application dismissed.

[Parke](#) ()

Winston v Commonwealth of Australia [2021] NSWSC 62

Supreme Court of New South Wales

Harrison J

Limitations - negligence - action arising from collision of HMAS Melbourne and USS Frank E Evans in 1969 - plaintiff, pursuant to s60G *Limitation Act 1969* (NSW) sought extension of time to commence proceedings - 'PTSD and associated psychological or psychiatric disabilities' - held: Court satisfied it was 'just and reasonable to order' extension of limitation period 'up to and including 29 October 2019'

[View Decision](#) (I)

Coonwarra Pty Ltd v CornoNero Pty Ltd; GJB Building Pty Ltd v AI & PB Property Ltd (Ruling) [2021] VSC 59

Supreme Court of Victoria

Nichols J

Contract - corporations - loan agreements - directors' duties - application under r9.12 *Supreme Court (General Civil Procedure Rules 2015)* (Vic) for hearing of two proceedings together - 'intersections between the proceedings' - prejudice - delay - held: application granted.

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

MLG Oz Ltd v Warden B Ayling [No 2] [2021] WASC 28

Supreme Court of Western Australia

Allanson J

Judicial review - mining - warden granted miscellaneous licence to company (GFSG Pty Ltd) which covered land subject of 'an existing miscellaneous licence held by applicant - applicant sought review of decision of warden - whether grant of the miscellaneous 'injuriously affects' miscellaneous licence held by applicant - whether to permit amendment to include second ground of review - no challenge to finding of warden of 'no injurious affection' - 'implied powers of control or management' - ss91 & 117 Mining Act 1978 (WA) - *Re Roberts; Ex parte Western Reefs Ltd v Eastern Goldfields Mining Co Pty Ltd* (1990) 1 WAR 546 - held: application dismissed.

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

Pennock v City of Busselton [2021] WASC 29

Supreme Court of Western Australia

Allanson J

Judicial review - planning and development - applicants sought judicial review of respondent's decision under planning scheme to approve 'proposed development' - *Australian Unity Property Ltd v City of Busselton* [2018] WASCA 38 - 'height prescription' - delay - 'absence of power to approve a non-complying development' - held: application refused.

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

Summaries With Link



IX

By: Emily Dickinson

AN altered look about the hills;
A Tyrian light the village fills;
A wider sunrise in the dawn;
A deeper twilight on the lawn;
A print of a vermilion foot; 5
A purple finger on the slope;
A flippancy fly upon the pane;
A spider at his trade again;
An added strut in chancery;
A flower expected everywhere; 10
An axe shrill singing in the woods;
Fern-odors on untravelled roads,—
All this, and more I cannot tell,
A furtive look you know as well,
And Nicodemus' mystery 15
Receives its annual reply.

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

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