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

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Executive Summary (1 minute read)

Lewis (liquidator), in the matter of Concrete Supply Pty Ltd (in liq) (FCA) - corporations - applicants retained law firm without Court's 'prior approval' - applicants sought retrospective approval and direction - application granted (B)

Miller v Jones (No. 6) (NSWSC) - negligence - medical negligence - footballer injured in France - reconstruction of ligament of knee by surgeon in France - law of France - fault and causation established - verdict for plaintiff (B I)

Great Northern Developments Pty Ltd v South West Eco Developments Pty Ltd & Ors (QSC) - separate determination - summary judgment - pleadings - mortgage - plaintiff sought to amend claim - plaintiff sought separate determination of questions between plaintiff and third defendant prior to trial or summary judgment on same part of claim - leave to amend granted - application otherwise dismissed (I B C G)

Gympie Regional Council v Kemp & Anor (QSC) - lease - real property - plaintiff lessor claimed entitlement to cancel lease under s65 *Land Act 1994* (Qld) or terminate lease under lease's terms - declaration and orders granted (I B C G)

Courtney v Pinnacle Media Group Ltd & Ors (QSC) - defamation - joinder - service - action against defendants located in Cayman Islands - plaintiff sought to join two 'proposed defendants' also located in Cayman Islands - waiver of requirement to serve proposed defendants refused - balance of application adjourned (I B C G)

Dallimore v Return to Work Corporation of South Australia (SASC) - workers compensation - whole person impairment - leave to appeal against determination of Full Bench granted (I B C G)

Stanford v Dermejian (ACTSC) - damages - assessment of damages - motor vehicle accident - judgment for plaintiff in sum of \$493,168 (I B)

Summaries With Link (Five Minute Read)

Lewis (liquidator), in the matter of Concrete Supply Pty Ltd (in liq) [2020] FCA 841

Federal Court of Australia

White J

Corporations - applicants were joint and several liquidators of company (Concrete Supply) - applicants retained law firm in relation to 'investigation and pursuit of potential claims against the directors of Concrete Supply and against others' - applicants considered they should have first obtained approval of Court to retain law firm - applicants sought Court's approval and direction pursuant to cl 90?15 Insolvency Practice Schedule (Corporations) it was appropriate for them to retain the law firm - law firm had acted for and continued to act for creditor of Concrete Supply - whether s477(2B) *Corporations Act 2001* (Cth) (Corporations Act) applicable - whether to grant retrospective approval - whether necessary to grant extension of time - prejudice - held: application granted.

[Lewis](#) (B)

Miller v Jones (No. 6) [2020] NSWSC 736

Supreme Court of New South Wales

Bellew J

Negligence - medical negligence - plaintiff injured ligament of knee (ACL) while participating in 'rugby league match in France' - defendant surgeon performed reconstruction of ACL - plaintiff came back to Australian and undertook training - plaintiff 'noticed pain and discomfort in' knee - surgeon 'diagnosed instability and a tear of the medial meniscus' - plaintiff contended instability and tear due to defendant's negligent surgery - defendant denied liability - parties agreed issues were to be determined according to law of France - whether 'requisite fault' by defendant established - causation - whether defendant mispositioned ACL - whether positioning of ACL was 'outside the appropriate range' - whether, as result of fault, plaintiff suffered damage and loss - held: fault established - as result of fault, plaintiff suffered damage and 'lost the opportunity to return to his career as a rugby league footballer' - verdict for plaintiff.

[View Decision](#) (B I)

Great Northern Developments Pty Ltd v South West Eco Developments Pty Ltd & Ors [2020] QSC 172

Supreme Court of Queensland

Dalton J

Separate determination - summary judgment - pleadings mortgage - plaintiff sought separate determination of questions between plaintiff and third defendant prior to trial or summary judgment against third defendant on same part of claim in respect of which separate determination sought - plaintiff sought to amend claim - 'two related proceedings' with 'considerable overlap' - whether appropriate to answer separate questions or grant summary judgment 'without disclosure and a trial' - whether issues were 'part of a wider, complicated set of facts' that were 'spread between' the proceedings - held: leave to amend claim grant - application otherwise dismissed.

[Great Northern Developments](#) (I B C G)

Gympie Regional Council v Kemp & Anor [2020] QSC 169

Supreme Court of Queensland

Flanagan J

Lease - real property - plaintiff by counterclaim entered lease with defendants by counterclaim - lease was over land on which caravan park located - plaintiff lessor contended it was entitled to cancel lease under s65 *Land Act 1994* (Qld) or terminate lease under lease's terms - plaintiff sought declaratory relief - plaintiff claimed entitlement to relief on basis defendants had breached terms of lease, primarily concerning 'failure to construct and install new infrastructure at the caravan park' - held: plaintiff entitled to declaratory relief - declaration and orders granted.

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

Courtney v Pinnacle Media Group Ltd & Ors [2020] QSC 50

Supreme Court of Queensland

Bradley J

Defamation - joinder - service - plaintiff brought proceeding against seven defendants located in Cayman Islands - plaintiff sought to add 'eighth and a ninth defendant', also located in Cayman Islands, 'without prior notice' - whether to waive requirement that eighth and ninth 'proposed defendants' be served - deficiencies in pleading - absence of 'proper contradictor' - rr5, 69 & 70 *Uniform Civil Procedure Rules 1999* (Qld) - held: waiver of requirement to serve proposed defendants refused - balance of application adjourned.

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

Dallimore v Return to Work Corporation of South Australia [2020] SASC 100

Supreme Court of South Australia

Doyle J

Workers compensation - applicant injured at work - injuries 'included pulmonary hypertension' - applicant sought compensation - Deputy President made assessment of 29% whole person impairment due to pulmonary hypertension - Full Bench allowed appeal, determining applicant did not have 'rateable impairment for pulmonary hypertension' - Full Bench's determination 'turned on its construction of' 'American Medical Association Guides to the Evaluation of

Permanent Impairment (Fifth Edition)' (Guides) - applicant sought to appeal on grounds concerning construction of ss43 & 43A *Workers Rehabilitation and Compensation Act 1986* (SA) and Guides - whether question of law raised by proposed appeal grounds - held: leave to appeal granted.

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

Stanford v Dermejian [2020] ACTSC 151

Supreme Court of the Australian Capital Territory

Crowe AJ

Damages - assessment of damages - motor vehicle accident - plaintiff injured in motor vehicle accident - defendants admitted liability - plaintiff contended injuries and 'related disabilities' had caused 'loss of her capacity to work at' 'anticipated level' and that she would 'suffer significant financial losses' - defendants contended plaintiff had exaggerated her claims, that 'accident was minor' and that accident was not the cause of plaintiff's 'employment difficulties' - medical evidence - whether 'underlying degenerative condition' - credit - general damages - out of pocket expenses - loss of earning capacity - *Griffiths v Kerkemeyer* - loss of superannuation - held: judgment for plaintiff in sum of \$493,168.

[Stanford](#) (I B)



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Peace

By: Samuel Greenberg

The blue faded purple Horizon mount
Seemed to bellow the vallies in mists
Of enriching ensueing divine shadowings
Where may this be? perhaps unpopulated
Craggs of stepping rocks, where thought
Slumbers, inhaled thought, unbearing
Real earth, that refines, e'en the insects muse
Royalty defies the haunt they chose
Therein mingles wild prespective charms
As immortelle's thorny entangled growth
Mongst the field of oaks pressing steep
Twilight's vail, Milky way's fence, the deep
Lionized eagle hisses o'er this scene
Birds, wild swans, glide paly o'er a charming stream

[Samuel Greenberg](#)

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