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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)

Pilato as liquidator of Energy Services Invironmental Pty Ltd (in liq) v Wallace (FCA) - deed of settlement - plaintiffs sought to enforce deed of settlement against defendants - orders granted as sought by plaintiffs (I B C G)

Venerable Dr Peter Carlsson v Right Reverend John Ford (FCA) - human rights - unlawful discrimination - malicious prosecution - defamation - application sought interim injunction against first and second respondents - interim injunction refused (I B C G)

Wilson v Lord Howe Island Board (NSWSC) - equity - plaintiff sought relief concerning 'Rodent Eradication Project (REP)' - construction of permit from Australian Pesticides & Veterinary Medicines Authority - relief refused (I B C G)

Re Application by Geoffrey James Bird (QSC) - vexatious proceedings - applicant sought 'leave to issue an originating application' to set vexatious proceedings order aside - leave refused (I B C G)

Lake Laurel Pty Ltd & Ors v Nichols Constructions Pty Ltd & Ors (No 3) (QSC) - costs - loan agreement - defendants to pay successful third plaintiff's costs on indemnity basis (I B C G)

Sand Volley Australia Pty Ltd v Director of Liquor Licensing (WASC) - administrative law - liquor licensing - refusal of 'special facility licence' under *Liquor Control Act 1988* (WA) - appeal

allowed - decision quashed - application to be reconsidered (I B C G)

Targett v Von Stieglitz (TASSC) - wills and estates - succession - executors sought determination whether executors obliged to make interest payments on 'specific monetary bequests' - bequests carried interest from 12 months after testator's death (B)

Summaries With Link (Five Minute Read)

Pilato as liquidator of Energy Services Invironmental Pty Ltd (in liq) v Wallace [2019] FCA 958

Federal Court of Australia

Griffiths J

Corporations - deed of settlement - plaintiffs sought to enforce deed of settlement against defendant - whether Court had jurisdiction to enforce deed of settlement's terms - *A G Cowley Holdings Pty Ltd v Central City Pty Ltd* [2010] FCA 199 - whether Court satisfied defendant was in default of deed of settlement - whether defendant should pay costs incurred by plaintiffs - whether defendant should pay interest on settlement sum - held: Court satisfied to grant orders sought by plaintiffs.

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

Venerable Dr Peter Carlsson v Right Reverend John Ford [2019] FCA 912

Federal Court of Australia

Besanko J

Human rights - unlawful discrimination - malicious prosecution - defamation - applicant, under s46PO *Australian Human Rights Commission Act 1986* (Cth) (AHRCA), sought interim injunction against first and second respondents pending determination of applicant's proceeding - whether applicant had 'arguable case' - balance of convenience - provision in s46PO(8) AHRCA that Court could not require giving of undertaking as condition of grant of interim injunction - held: application refused.

[Venerable Dr Peter Carlsson](#) (I B C G)

Wilson v Lord Howe Island Board [2019] NSWSC 724

Supreme Court of New South Wales

Ward CJ in Eq

Equity - plaintiff sought 'declaratory and final injunctive relief; concerning 'Rodent Eradication Project (REP)' which defendant had commenced on 'Lord Howe Island Group' - construction of permit 'obtained from' Australian Pesticides & Veterinary Medicines Authority - whether manner of proposed carrying out of REP would breach permit - whether risk to native birds - whether risk of 'serious harm to small children' - held: Court declined to grant relief - claim dismissed.

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

Re Application by Geoffrey James Bird [2019] QSC 148

Supreme Court of Queensland

Brown J

Vexatious proceedings - applicant sought 'leave to issue an originating application' to set vexatious proceedings order aside - Court made vexatious proceedings order on 27/2/04 - *Vexatious Proceedings Act 2005* (Qld) - whether basis to grant leave to issue application - held: no 'arguable basis' showing 'change of circumstance' since vexatious proceedings order made - leave to issue application refused.

[Re Application by Geoffrey James Bird](#) (I B C G)

Lake Laurel Pty Ltd & Ors v Nichols Constructions Pty Ltd & Ors (No 3) [2019] QSC 152

Supreme Court of Queensland

Bowskill J

Costs - third plaintiff claimed against defendants for amount owing under loan agreement - plaintiff sought separate determination of three of five bases on which third plaintiff claimed money payable - defendant agreed in respect of two bases - dispute not resolved by separate questions' determination - Court found third plaintiff succeeded on remaining three claims - defendants contended third plaintiff should pay costs of separate questions' determinations - whether to depart from ordinary rule that costs follow event - rr483 & 681 *Uniform Civil Procedure Rules 1999* (Qld) - held: defendants to pay third plaintiff's costs on indemnity basis.

[Lake Laurel](#) (I B C G)

Sand Volley Australia Pty Ltd v Director of Liquor Licensing [2019] WASC 209

Supreme Court of Western Australia

Acting Justice Strk

Administrative law - liquor licensing - appellant unsuccessfully sought 'special facility licence' under *Liquor Control Act 1988* (WA) - appellant appealed - whether Liquor Commission misconstrued 'sports arena' in reg 9A(11) *Liquor Control Regulations* - whether Liquor Commission erroneously found appellant had not 'demonstrated to a satisfactory degree' that it was in public interest that licence be granted - held: appeal allowed - decision quashed - application to be reconsidered.

[Sand Volley](#) (I B C G)

Targett v Von Stieglitz [2019] TASSC 25

Supreme Court of Tasmania

Holt AsJ

Wills and estates - succession - interest - executors, under s64 *Administration of Probate Act 1935* (Tas) and r604 *Supreme Court Rules 2000* (Tas), sought determination concerning whether they had obligation to make interest payments on two 'specific monetary bequests' under deceased's will - if executors required to make interest payments, executors sought determination of period of payments - common ground that if interest payable, it was payable at four per cent per annum - held: Court found bequests carried interest from 12 months after

testator's death.

[Targett \(B\)](#)

CRIMINAL

Executive Summary

Summaries With Link



Benchmark

The Snow-Storm

By: Ralph Waldo Emerson

Announced by all the trumpets of the sky,
Arrives the snow, and, driving o'er the fields,
Seems nowhere to alight: the whited air
Hides hills and woods, the river, and the heaven,
And veils the farm-house at the garden's end.
The sled and traveller stopped, the courier's feet
Delayed, all friends shut out, the housemates sit
Around the radiant fireplace, enclosed
In a tumultuous privacy of storm.

Come see the north wind's masonry.
Out of an unseen quarry evermore
Furnished with tile, the fierce artificer
Curves his white bastions with projected roof
Round every windward stake, or tree, or door.
Speeding, the myriad-handed, his wild work
So fanciful, so savage, nought cares he
For number or proportion. Mockingly,
On coop or kennel he hangs Parian wreaths;
A swan-like form invests the hidden thorn;
Fills up the farmer's lane from wall to wall,
Maugre the farmer's sighs; and, at the gate,
A tapering turret overtops the work.
And when his hours are numbered, and the world
Is all his own, retiring, as he were not,
Leaves, when the sun appears, astonished Art
To mimic in slow structures, stone by stone,
Built in an age, the mad wind's night-work,
The frolic architecture of the snow.

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

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