

Friday, 23 April 2021

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)

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Registered Organisations Commissioner (No 2) (FCAFC) - industrial law - pecuniary penalties - respondent sought to set aside and vary 'second order' in respect of pecuniary penalties - application dismissed (I B C G)

Murphy v Nationwide News Pty Ltd (FCA) - defamation - proceedings arising from article written by second respondent and published by first respondent - one of five imputations conveyed - plaintiff entitled to 'some relief' - matter stood over (I B)

SPIC Pacific Hydro Pty Ltd v Chief Commissioner of State Revenue (NSWSC) - taxation - land law - fixtures - proceedings arising from acquisition by plaintiff - Duties Notice of Assessment revoked - matter remitted - submissions invited concerning orders' form (I B C G)

Roache & Anor v Johansen (SASC) - negligence - applicants sought 'separate and preliminary' determination of "per quod claims" - application dismissed (I B C G)

Nunis v Do (WASC) - cross-vesting - family law - corporations - proceedings transferred to Family Court of Western Australia (I B C G)

Ex Parte Jack Robert James as liquidator of Bluegold Corporation Pty Ltd (In Liq) (WASC) - corporations - winding up - liquidator sought order for termination of winding up

of company - order granted (B)

Summaries With Link (Five Minute Read)

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Registered Organisations Commissioner (No 2) [2021] FCAFC 56

Full Court of the Federal Court of Australia

Bromberg, Rangiah & Bromwich JJ

Industrial law - pecuniary penalties - respondent sought to set aside and vary 'second order' in respect of pecuniary penalties - respondent contended there was inconsistency in reasons of Full Court which resulted in error in second order - whether inconsistency in reasons led to error in orders - r39.05(e) or (h) Federal Court Rules 2011 (Cth) - held: application dismissed.

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

Murphy v Nationwide News Pty Ltd [2021] FCA 381

Federal Court of Australia

Lee J

Defamation - second respondent wrote article which was published by first respondent - plaintiff contended article conveyed five defamatory imputations - plaintiff sought damages and order that respondents 'be enjoined from continuing to publish the imputations or from publishing them in the future' - onus - s140 *Evidence Act 1995* (Cth) - 'justification defence' - whether 'separate Hore-Lacy defence' - 'variant imputation' - 'ravages of age' - 'associated deafness' - 'non-appearance issue' - 'incapacity issue' - assessment of damages - reputation - general damages - non-economic loss - whether to award aggravated damages - whether to grant injunction - ss25, 34 & 35 *Defamation Act 2005* (NSW) - held: one of five imputations conveyed - plaintiff entitled to 'some relief' - matter stood over.

[Murphy](#) (I B)

SPIC Pacific Hydro Pty Ltd v Chief Commissioner of State Revenue [2021] NSWSC 395

Supreme Court of New South Wales

Payne JA

Taxation - land law - fixtures - defendant issued Duties Notice of Assessment (Assessment) to plaintiff concerning acquisition by plaintiff - plaintiff's objection to Assessment disallowed - plaintiff, by summons, sought review of Assessment - acquisition of "Sales Securities" defined in agreement between plaintiff purchaser and vendor companies - s97(1)(a) *Taxation Administration Act 1996* (NSW) - whether any of 'plant and equipment' were 'fixtures' - 'landholder' - valuation of interests - whether s163G *Duties Act 1997* applied - held: Assessment revoked - matter remitted - submissions invited concerning orders' form.

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

Roache & Anor v Johansen [2021] SASC 39

Supreme Court of South Australia

Bampton J

Negligence - first applicant cyclist injured in collision with vehicle driven by respondent - first applicant by litigation guardian and second applicant wife claimed damages in negligence ("the personal injury claims") - applicant also made claims pursuant to 'per quod servitium amisit' ("the per quod claims") - applicants sought 'separate and preliminary' determination of the per quod claims - r151.1(2) *Uniform Civil Rules 2020* (SA) - s54(2) *Civil Liability Act 1936* (SA) - whether claims time-barred - whether claims misconceived - interests of justice - held: application dismissed.

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

Nunis v Do [2021] WASC 115

Supreme Court of Western Australia

Smith J

Cross-vesting - family law - corporations - first defendant sought strike out, summary dismissal, permanent stay or transfer of proceedings to Family Court of Western Australia - s5(4) *Jurisdiction of Courts (Cross-vesting) Act 1987* (WA) - whether 'more appropriate' for Family Court of Western Australia to determine proceedings - interests of justice - held: second defendant removed as party to proceedings - proceedings transferred.

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

Ex Parte Jack Robert James as liquidator of Bluegold Corporation Pty Ltd (In Liq) [2021] WASC 98

Supreme Court of Western Australia

Acting Master Strk

Corporations - liquidator of 'Bluegold Corporation' sought termination of company's winding up - s482(1) *Corporations Act 2001* (Cth) - Court's power to make order - r2.8 *Supreme Court (Corporations) (WA) Rules 2004* (Cth) - whether 'valid reason' to exercise discretion - held: order for termination of winding up of company granted.

[Ex Parte Jack Robert James](#) (B)

Summaries With Link



The Vine

By: James Thomson (1834–1882)

THE WINE of Love is music,
And the feast of Love is song:
And when Love sits down to the banquet,
Love sits long:

Sits long and arises drunken, 5
But not with the feast and the wine;
He reeleth with his own heart,
That great, rich Vine.

[https://en.wikipedia.org/wiki/James_Thomson_\(poet,_born_1834\)](https://en.wikipedia.org/wiki/James_Thomson_(poet,_born_1834))

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