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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)

Construction, Forestry, Maritime, Mining and Energy Union v DP World Sydney Ltd (No 2) (FCAFC) - costs - 'DP World' sought order under s570(2) *Fair Work Act 2009* (Cth) (B C G)

Pfizer Ireland Pharmaceuticals v Samsung Bioepis AU Pty Ltd (No 2) (FCA) - preliminary discovery - determination of remitted issues - confidentiality - costs (I B C G)

Gilmore Finance Pty Ltd v Aesthete No 3 Pty Ltd (NSWCA) - subpoena - first appellant sought to set aside subpoenas and notice to produce - notice of motion dismissed (B C I G)

In the matter of Cresco Opus Fund No 4 Pty Limited (Administrator Appointed) (NSWSC) - corporations - winding up - two applications - application to wind up company on insolvency ground - adjournment application - adjournment refused - company to be wound up in insolvency (I B C G)

MR Group Investments Pty Ltd v Back (No 2) (NSWSC) - costs - parties agreed on orders for resolution of two notices of motion - costs of motions to be 'costs in the cause' (I B C G)

Baker v Chief Executive, Department of Natural Resources and Mines (QCA) - environment and planning - statutory interpretation - *Vegetation Management Act 1999* (Qld) - appeal against 'preliminary determinations' of President of Queensland Civil and Administrative Tribunal - error not established - appeal dismissed (I B C G)

Jimei Investment Holding Pty Ltd v Chen (WASC) - caveat - application for extension of operation of caveat refused (I B C G)

Summaries With Link (Five Minute Read)

Construction, Forestry, Maritime, Mining and Energy Union v DP World Sydney Ltd (No 2) [2019] FCAFC 114

Full Court of the Federal Court of Australia

Rares ACJ, Jagot and Bromwich JJ

Costs - Court dismissed applicant's 'application for relief' under s39B *Judiciary Act 1903* (Cth) - 'DP World' sought order under s570(2) *Fair Work Act 2009* (Cth) (Fair Work Act) on basis applicant instituted proceeding 'without reasonable cause' - DP World contended applicant's challenges 'were doomed to fail' and that 'there was no real controversy' concerning 'correct principles to be applied' under s443(5) Fair Work Act - whether 'question of general importance' - whether applicant acting without reasonable cause - held: application dismissed.

[Construction](#) (B C G)

Pfizer Ireland Pharmaceuticals v Samsung Bioepis AU Pty Ltd (No 2) [2019] FCA 657

Federal Court of Australia

Burley J

Preliminary discovery - costs - 'Pfizer' unsuccessfully sought 'preliminary discovery orders' and 'accompanying order' against 'SBA' - Full Court allowed Pfizer's appeal - issues of preliminary discovery orders' scope, confidentiality, and costs remitted - parties resolved issue concerning scope - dispute concerning content of paragraphs of 'confidentiality undertaking' - r7.23 *Federal Court Rules 2011* (Cth) - s43(2) *Federal Court of Australia Act 1976* (Cth) - held: orders concerning confidentiality made - 'Prospective Respondent' to pay 50% of costs of 'Prospective Applicants'.

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

Gilmore Finance Pty Ltd v Aesthete No 3 Pty Ltd [2019] NSWCA 181

Court of Appeal of New South Wales

Simpson AJA

Subpoena - first appellant sought to set aside 'six subpoenas and a notice to produce' which respondent issued concerning costs order - relevance - legitimate forensic purpose - 'ill health' of Mr Gilmore - issue of extent to which Mr Gilmore's ill health affected Mr Gilmore's ability of to instruct solicitors concerning appeal - whether respondent had shown that documents "might materially assist" determination of issue concerning Mr Gilmore's ill health - whether 'unduly oppressive' to require production - client legal privilege - held: notice of motion dismissed.

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

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In the matter of Cresco Opus Fund No 4 Pty Limited (Administrator Appointed) [2019]

NSWSC 941

Supreme Court of New South Wales

Rees J

Corporations - winding up - plaintiff sought to wind up defendant on insolvency ground - two applications - voluntary administrator of defendant, under s440A(2) *Corporations Act 2001* (Cth), sought winding up application's adjournment - if adjournment application did not succeed, administrator accepted it was 'appropriate to make the orders' which plaintiff sought - adjournment was sought until day after proposed 'second meeting of creditors' or until day after proposed day of issue of 'section 439A report' to creditors - interests of creditors - *Deputy Commissioner of Taxation v Alternative Business Solutions (Aust) Pty Limited (administrators appointed)* (2006) 24 ACLC 425 - held: adjournment refused - defendant to be wound up in insolvency.

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

MR Group Investments Pty Ltd v Back (No 2) [2019] NSWSC 945

Supreme Court of New South Wales

Adamson J

Costs - parties agreed on orders for resolution of two notices of motion ('the Subpoena Motion' and 'the Evidence Motion') - determination of 'outstanding costs issue' - defendants sought that notices of motions' costs 'be costs in the cause' - plaintiffs sought that costs of plaintiffs be costs in the cause - conduct - 'usual conduct of the proceedings' - 'monetary ceiling' under Law Society of New South Wales Scheme (Scheme) - whether Scheme could be considered in making costs orders - held: order made as sought by defendants - costs to be costs in the cause -

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

Baker v Chief Executive, Department of Natural Resources and Mines [2019] QCA 128

Court of Appeal of Queensland

Gotterson & Philippides JJA; Boddice J

Environment and planning - appellant owned 'rural property' - appellant sought 'external review' in Queensland Civil and Administrative Tribunal (QCAT) of decisions of respondent's delegate under *Vegetation Management Act 1999* (Qld) (VMA Act) - appellant appealed against 'preliminary determinations' of 'jurisdictional questions' by President of QCAT - appellant contended President erred in interpretation of ss20B & 54B VMA Act - statutory interpretation - "vegetation clearing offence" - *Sustainable Planning Act 2009* (Qld) - held: no error in President's determinations - appeal dismissed.

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

Jimei Investment Holding Pty Ltd v Chen [2019] WASC 267

Supreme Court of Western Australia

Smith J

Caveat - application sought extension of caveat's operation - whether claim of caveator 'has or may have substance' - whether evidence of 'equitable interest' in land - whether 'procedural defects' - whether 'substantive defects' - ss138B & 138C *Transfer of Land Act 1893* (WA) - held: application dismissed.

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

CRIMINAL

Executive Summary

Summaries With Link



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It was a hard thing to undo this knot

By: Gerard Manley Hopkins

It was a hard thing to undo this knot.
The rainbow shines, but only in the thought
Of him that looks. Yet not in that alone,
For who makes rainbows by invention?
And many standing round a waterfall
See one bow each, yet not the same to all,
But each a hand's breadth further than the next.
The sun on falling waters writes the text
Which yet is in the eye or in the thought.
It was a hard thing to undo this knot.

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

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