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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)

Wavehill (on behalf of the Wubalawun Group) v Northern Territory of Australia (FCA) - native title - judgments and orders - consent determination - Court satisfied to make determination by consent (I B C G)

Nine Network Australia Pty Ltd v Tabbaa (NSWCA) - security for costs - defamation - applicant sought security for costs of three appeals - notice of motion dismissed (I)

Pahuja v TCN Channel Nine Pty Ltd (No 4) (NSWSC) - defamation - justification - contextual truth - imputations - publication of reserved reasons for rulings during trial (I)

Sreckovic v Sreckovic (NSWSC) - wills and estates - succession - adult child of deceased sought provision from deceased mother's estate and/or notional estate - lump sum provision of \$100,000 granted (B)

Nuttvia Australia Pty Ltd v Ixom Operations Pty Ltd (VSC) - corporations - application to set aside statutory demand - application dismissed (I B C G)

Knights Capital Group Ltd - v - Bajada And Associates Pty Ltd [No 3] (WASC) - security for costs - first defendant to counter-claim sought further provision of security for costs - Court satisfied to grant security for costs in sum of \$150,000 (I B C G)

S & J Holdings (WA) Pty Ltd as trustee for Steven Gledich Testamentary Trust v Sandra Stefanovich as trustee for Sandra Stefanovich Testamentary Trust (WASC) - judgments and orders - pleadings - corporations - oppression - application for substitution of plaintiff granted (I B C G)

Summaries With Link (Five Minute Read)

Wavehill (on behalf of the Wubalawun Group) v Northern Territory of Australia [2018] FCA 1602

Federal Court of Australia

White J

Native title - judgments and orders - consent determination - applicant sought determination of native title over area - parties reached agreement on application - parties sought that Court make 'determination of native title by consent' - whether Court satisfied of matters in s87 *Native Title Act 1993* (Cth) - whether determination set out details of matters in s225 of the Act - held: Court satisfied to make determination by consent.

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

Nine Network Australia Pty Ltd v Tabbaa [2018] NSWCA 243

Court of Appeal of New South Wales

White JA

Security for costs - defamation - respondents sued applicant in defamation - one respondent brought two proceedings - other respondent brought one proceeding - primary judge found in applicant's favour in each proceeding - applicant, pursuant to r51.50 *Uniform Civil Procedure Rules 2005* (NSW), sought security for costs of appeals from the three judgments - honest opinion - public interest - s31 *Defamation Act 2005* (NSW) - held: appeals were not 'hopeless or unarguable' - no special circumstances warranting security for costs - notice of motion dismissed.

[View Decision](#) (I)

Pahuja v TCN Channel Nine Pty Ltd (No 4) [2018] NSWSC 1575

Supreme Court of New South Wales

McCallum J

Defamation - publication of reserved reasons for rulings during trial - application concerning justification - r29.11 *Uniform Civil Procedure Rules 2005* (NSW) - whether Court should 'take a verdict' - 'special verdict' - application by defendants concerning certain imputation - evidence's capacity to prove imputations - application concerning contextual truth defence - ss25 & 26 *Defamation Act 2005* (NSW) - held: reserved reasons published.

[View Decision](#) (I)

Sreckovic v Sreckovic [2018] NSWSC 1597

Supreme Court of New South Wales

Hallen J

Will and estates - succession - family provision - plaintiff adult child of deceased sought provision from deceased mother's estate and/or notional estate under Ch 3 *Succession Act 2006* (NSW) - application not brought in time - no provision made for plaintiff in Will - defendant was deceased's other child - plaintiff's 'character and conduct' - plaintiff's relationship with deceased - defendant's competing claim - statements by deceased - provision's 'adequacy and propriety' - held: plaintiff permitted to make application out of time - will did not make adequate provision for plaintiff - lump sum of \$100,000 granted in plaintiff's favour.

[View Decision](#) (B)

Nuttvia Australia Pty Ltd v Ixom Operations Pty Ltd [2018] VSC 632

Supreme Court of Victoria

Matthews JR

Corporations - statutory demand - plaintiff, pursuant to s459G *Corporations Act 2001* (Cth), sought to set aside statutory demand which defendant had served on it - plaintiff contended statutory demand should be set aside on basis of genuine dispute as to debt's existence or for 'some other reason' - ss459H & 459J *Corporations Act* - whether 'substantial injustice' to plaintiff if statutory demand maintained - held: Court not satisfied plaintiff had established genuine dispute or some other reason to set demand aside - proceeding dismissed.

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

Knights Capital Group Ltd v Bajada And Associates Pty Ltd [No 3] [2018] WASC 323

Supreme Court of Western Australia

Pritchard J

Security for costs - first defendant to counter-claim sought further provision of security for costs - whether Court's discretion to order security for costs enlivened - determination of quantum - 'costs represented by the counter-claim' - overlap between action's issues and counter-claim - held: Court satisfied to grant security for costs in sum of \$150,000.

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

S & J Holdings (WA) Pty Ltd as trustee for Steven Gledich Testamentary Trust v Sandra Stefanovich as trustee for Sandra Stefanovich Testamentary Trust [2018] WASC 320

Supreme Court of Western Australia

Kenneth Martin J

Judgments and orders - pleadings - corporations - oppression - plaintiff sought orders for substitution of plaintiff and leave to file and serve an Amending Originating Process - standing - *Supreme Court (Corporations) (WA) Rules 2004* (WA) - ss232 & 233 *Corporations Act 2001* (Cth) - held: Court satisfied to grant application for substitution - substituted plaintiff to file and serve statement of claim.

[S & J Holdings](#) (I B C G)



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CRIMINAL

Executive Summary

Summaries With Link



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Love's Good-Morrow

By: Thomas Heywood

Pack, clouds away! and welcome day!
With night we banish sorrow;
Sweet air, blow soft, mount larks aloft
To give my love good-morrow!
Wings from the wind to please her mind,
Notes from the lark I'll borrow;
Bird, prune thy wing, nightingale, sing,
To give my love good-morrow;
To give my love good-morrow;
Notes from them both I'll borrow.

Wake from thy nest, Robin Redbreast,
Sing birds in every furrow;
And from each hill, let music shrill
Give my fair love good-morrow!
Blackbird and thrush in every bush,
Stare, linnnet, and cock-sparrow!
You pretty elves, amongst yourselves,
Sing my fair love good-morrow;
To give my love good-morrow,
Sing birds in every furrow.

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

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