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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)

Revill v John Holland Group Pty Ltd (FCA) - joinder - jurisdiction - competency - applicant sought to appeal from refusal 'to join two parties as respondents to' proceeding - application was incompetent - application dismissed (I B C G)

Sapphire Group Pty Ltd v Luxotico HK Ltd (NSWSC) - trade marks - service - private international law - defendants sought orders under rr11.6 or 12.11 *Uniform Civil Procedure Rules 2005* (NSW) setting aside service or dismissal of proceedings for want of jurisdiction - motion dismissed (I B C G)

The Estate of Genevieve Bryan (NSWSC) - wills and estates - probate - plaintiff, by notice of motion, sought leave to 'adduce expert evidence' from psychiatrist in probate proceedings - notice of motion dismissed (B)

Re Credit Clear Ltd (VSC) - security for costs - corporations - trusts and trustees - defendants, under r60.02 *Supreme Court (General Civil Procedure) Rules 2015* (Vic) or s1335(1) *Corporations Act 2001* (Cth), sought security for costs against second plaintiff - application granted (I B C G)

Threat Project Group Pty Ltd v James McCrea as trustee for The J&P Trust (WASC) - discovery - corporations - share sale agreement - first to eighth defendants sought discovery of 'category of documents' - relevance - application granted (I B C G)

Summaries With Link (Five Minute Read)

Revill v John Holland Group Pty Ltd [2021] FCA 558

Federal Court of Australia

McKerracher J

Joinder - jurisdiction - competency - applicant sought to appeal from refusal 'to join two parties as respondents to' proceeding - applicant contended Court was 'empowered to grant leave to appeal' under s24(1A) *Federal Court of Australia Act 1976* (Cth) (*Federal Court of Australia Act*) - respondent contended Court lacked discretion to grant leave by 'operation of' s 24(1AA)(b)(i) *Federal Court of Australia Act* and fact that decision was 'decision not to join parties' - respondent filed notice of objection to applicant's competency - held: application was incompetent - application dismissed.

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

Sapphire Group Pty Ltd v Luxotico HK Ltd [2021] NSWSC 589

Supreme Court of New South Wales

Rees J

Trade marks - service - private international law - plaintiff sought orders restraining defendants 'from exploiting trademarks registered in the People's Republic of China' - alternatively plaintiffs sought damages - defendants sought orders under rr11.6 or 12.11 *Uniform Civil Procedure Rules 2005* (NSW) setting aside service or dismissal of proceedings for want of jurisdiction - whether plaintiffs entitled to serve, without leave, originating process on first defendant outside Australia - whether Court had jurisdiction - whether Court was 'clearly inappropriate forum' - whether Court should decline exercise of jurisdiction - held: motion dismissed.

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

The Estate of Genevieve Bryan [2021] NSWSC 567

Supreme Court of New South Wales

Hallen J

Wills and estates - probate - plaintiff was nephew of deceased - plaintiff, by notice of motion, sought leave to 'adduce expert evidence' from psychiatrist in probate proceedings - joint expert had been appointed - neither expert had met deceased during life time - whether to make orders under *Court Suppression and Non-publication Orders Act 2010* (NSW) - testamentary capacity - whether plaintiff, if refused leave and lost case, would have 'legitimate sense of grievance judged objectively' - rr31.19 & 31.44 *Uniform Civil Procedure Rules 2005* (NSW) - held: notice of motion dismissed.

[The Estate](#) (B)

Re Credit Clear Ltd [2021] VSC 287

Supreme Court of Victoria

Gardiner AsJ

Security for costs - corporations - trusts and trustees - defendants, by summons, sought security for costs against second plaintiff - r60.02 *Supreme Court (General Civil Procedure) Rules 2015* (Vic) - impecuniosity - "overlap" - s1335(1) *Corporations Act 2001* (Cth) - *Colmax Glass Pty Ltd v Polytrade Pty Ltd* [2013] VSC 311 - held: application granted.

[Re Credit Clear](#) (I B C G)

Threat Project Group Pty Ltd v James McCrea as trustee for The J&P Trust [2021] WASC 169

Supreme Court of Western Australia

Archer J

Discovery - corporations - share sale agreement - first to eighth defendants sought discovery of 'category of documents' - O26 *Rules of the Supreme Court 1971* (WA) - *Singh v Friedman* [2013] WASC 78 - *Roe v The State of Western Australia* [2013] WASC 130 - relevance - issue of 'alleged reliance' on representations - held: application granted.

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

Summaries With Link



Trees in the Garden

By: D. H. Lawrence

Ah in the thunder air
how still the trees are!

And the lime-tree, lovely and tall, every leaf silent
hardly loses even a last breath of perfume.

And the ghostly, creamy coloured little tree of leaves
white, ivory white among the rambling greens
how evanescent, variegated elder, she hesitates on the
green grass
as if, in another moment, she would disappear
with all her grace of foam!

And the larch that is only a column, it goes up too tall to
see:
and the balsam-pines that are blue with the grey-blue
blueness of
things from the sea,
and the young copper beech, its leaves red-rosy at the ends
how still they are together, they stand so still
in the thunder air, all strangers to one another
as the green grass glows upwards, strangers in the silent
garden.

Lichtental

[https://en.wikipedia.org/wiki/D. H. Lawrence](https://en.wikipedia.org/wiki/D._H._Lawrence)

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