



Friday, 30 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)

Palmer v McGowan (FCA) - pleadings - defamation - Mr McGowan, by interlocutory application, sought strike out of Mr Palmer's pleas of contextual truth - application granted in part (I B C G)

Barnden, in the matter of Millrange Pty Ltd (in liq) (FCA) - corporations - plaintiff sought 'pooling order' and 'notice order' - application granted (B)

Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales v Industrial Relations Secretary of New South Wales (NSWCA) - administrative law - industrial law - 'two industrial organisations' sought to quash decisions and orders of Industrial Relations Commission of New South Wales - amended summons dismissed (I B C G)

Bruno v R J & S M Fuller Family Partnership (VSCA) - work injury - consent order - dismissal of proceedings - application for extension of time to seek leave to appeal refused (I B C G)

Hunter Automotive Group Pty Ltd v Range Motors Pty Ltd (WASC) - joinder - consumer law - plaintiff sought to join company as second defendant to action - joinder refused - application dismissed (I B C G)

Summaries With Link (Five Minute Read)

Palmer v McGowan [2021] FCA 430

Federal Court of Australia

White J

Pleadings - defamation - corporations - COVID-19 - Mr Palmer, sued Mr McGowan, Premier of Western Australia, for defamation - Mr McGowan cross-claimed against Mr Palmer for defamation - Mr McGowan, by interlocutory application, sought strike out of Mr Palmer's pleas of contextual truth on basis pleas failed 'to disclose reasonable cause of action' or were 'likely to cause prejudice, embarrassment or delay' - r16.21 *Federal Court Rules 2011* (Cth) - *Murphy v Nationwide News Pty Limited (No 2)* [2017] FCA 781 - held: certain 'Contextual Imputations' struck out - application granted in part.

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

Barnden, in the matter of Millrange Pty Ltd (in liq) [2021] FCA 415

Federal Court of Australia

Jagot J

Corporations - plaintiff sought 'pooling order' and 'notice order' - whether 'just and equitable' to make pooling order - whether pooling order would 'materially disadvantage any eligible unsecured creditor' - whether appropriate to make notice order - s579E(1) *Corporations Act 2001* (Cth) - reg 5.6.65(1)(b) *Corporations Regulations 2001* (Cth) - *In the matter of Kirby Street (Holding) Pty Limited* [2011] NSWSC 1536 - held: application granted.

[Barnden](#) (B)

Public Service Association and Professional Officers' Association Amalgamated Union of New South Wales v Industrial Relations Secretary of New South Wales [2021] NSWCA 64

Court of Appeal of New South Wales

Bathurst CJ; Bell P & Leeming JA

Administrative law - industrial law - COVID-19 - 'two industrial organisations' (organisations) sought to quash decisions and orders of Industrial Relations Commission of New South Wales - litigation in Commission had result 'that there should be 0.3% increase in salaries payable with effect from the first full pay period commencing on or after 1 July 2020' - organisations had sought 2.5% increase - State had sought no increase on basis of COVID-19's 'economic impact' - whether jurisdictional error established - whether misconstruction of legislation by Commission concerning onus - whether denial of procedural fairness - whether failure to take relevant consideration into account - whether failure by Commission 'to take into account the fact that ordinarily increases greater than 2.5% may not be made' - whether decision 'legally unreasonable and/or irrational or illogical' - *Fiscal Responsibility Act 2012* (NSW) - *Industrial Relations Act 1996* (NSW) - held: amended summons dismissed.

[Public Service Association](#) (I B C G)



Bruno v R J & S M Fuller Family Partnership [2021] VSCA 106

Court of Appeal of Victoria

Beach JA

Work injury - settlement - consent order - application for extension of time to seek leave to appeal - applicant claimed damages for injuries allegedly sustained in course of employment with respondent - proceeding resolved - respondent obtained 'order by consent' from trial judge (Zammit J) dismissing proceeding - applicant sought to set settlement agreement aside - *Ierodionou* AsJ dismissed application - applicant sought extension of time to seek leave to appeal against Zammit J's orders - held: extension of time refused.

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

Hunter Automotive Group Pty Ltd v Range Motors Pty Ltd [2021] WASC 122

Supreme Court of Western Australia

Allanson J

Joinder - consumer law - plaintiff sought to join company as second defendant to action - whether presence of party necessary - effect of orders on 'the third party' - *News Ltd v Australian Rugby Football League Ltd* [1996] FCA 870 - O18 r6 *Rules of the Supreme Court* 1971 (WA) - held: joinder refused - application dismissed.

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

Summaries With Link



Crickets at Dawn

By: Leonora Speyer

ALL night the crickets chirp,
Like little stars of twinkling sound
In the dark silence.

They sparkle through the summer stillness
With a crisp rhythm: 5
They lift the shadows on their tiny voices.

But at the shining note of birds that wake,
Flashing from tree to tree till all the wood is lit—
O golden coloratura of dawn!—
The cricket-stars fade slowly, 10
One by one.

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