

Friday, 30 July 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)

Australian Energy Regulator v HWF 1 Pty Ltd (FCA) - consumer law - proceeding against windfarm operator - parties agreed on terms for action's resolution including admissions of contravention by of r 4.4.3 and cl S5.2.2 *National Energy Rules* and agreement on declaration under s44AAG(1) *Competition and Consumer Act 2010* (Cth) - Court satisfied to grant order in terms which parties proposed (I B C G)

Kim v Anwar (NSWSC) - real property - caveat - costs - plaintiffs, under s74MA *Real Property Act 1900* (NSW), sought order that defendant withdraw caveat defendant lodged against title to property plaintiffs owned - application granted - parties to bear own costs (B C)

Trilogy Funds Management Limited as trustee and responsible entity of the Pacific First Mortgage Fund v CBRE (V) Pty Ltd (NSWSC) - negligence - trade practices - 'misleading or deceptive representations' - corporations - managed investment scheme - valuation - defendant sought dismissal of proceedings for abuse of process - notice of motion dismissed (I B C G)

Chronis v Karan & Ors (SASC) - wills and estates - applicant sought that Court pronounce 'force and validity of' deceased's will and that will be admitted to probate in solemn form - testamentary capacity - requisite knowledge and approval of will's contents - application granted (B)

Re Metalicity Ltd; Ex Parte Metalicity Ltd (WASC) - corporations - plaintiff sought orders

under s1322(4)(a) *Corporations Act 2001* (Cth) (Corporations Act) concerning contravention of s329(5) Corporations Act - relief granted (B)

Summaries With Link (Five Minute Read)

Australian Energy Regulator v HWF 1 Pty Ltd [2021] FCA 732

Federal Court of Australia

White J

Consumer law - proceeding against windfarm operator - parties agreed on terms for action's resolution including admissions of contravention by of r 4.4.3 and cl S5.2.2 *National Energy Rules* and agreement on declaration under s44AAG(1) *Competition and Consumer Act 2010* (Cth) - whether to make 'declaration by consent' - *Australian Competition and Consumer Commission v Real Estate Institute of Western Australia Inc* [1999] FCA 18 - *Forster v Jododex Australia Pty Ltd* [1972] HCA 61 - held: Court satisfied to grant order in terms which parties proposed.

[Australian Energy Regulator](#) (I B C G)

Kim v Anwar [2021] NSWSC 930

Supreme Court of New South Wales

Darke J

Real property - caveat - costs - plaintiffs, under s74MA *Real Property Act 1900* (NSW), sought order that defendant withdraw caveat defendant lodged against title to property plaintiffs owned - whether serious question to be tried concerning charge's existence - whether balance of convenience favoured caveat's removal to allow sale contract 'to proceed to completion' - whether to depart from usual costs order - held: application granted - parties to bear own costs.

[View Decision](#) (B C)

Trilogy Funds Management Limited as trustee and responsible entity of the Pacific First Mortgage Fund v CBRE (V) Pty Ltd [2021] NSWSC 883

Supreme Court of New South Wales

Williams J

Negligence - trade practices - 'misleading or deceptive representations' - corporations - managed investment scheme - valuation - abuse of process - proceedings concerned valuation of part of development - defendant sought dismissal of proceedings for abuse of process - *Tomlinson v Ramsey Food Processing Pty Ltd* (2015) 256 CLR 507 - *UBS AG v Tyne* (2018) 265 CLR 77 - held: notice of motion dismissed.

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

Chronis v Karan & Ors [2021] SASC 87

Supreme Court of South Australia

Parker J



Wills and estates - applicant sought that Court pronounce 'force and validity of' deceased's will and that will be admitted to probate in solemn form - whether testamentary capacity - whether 'requisite knowledge of' or approval of will's contents - *Roche v Roche* [2017] SASC 8 - held: application granted.

[Chronis](#) (B)

Re Metalicity Ltd; Ex Parte Metalicity Ltd [2021] WASC 256

Supreme Court of Western Australia

Hill J

Corporations - plaintiff sought orders under s1322(4)(a) *Corporations Act 2001* (Cth) (Corporations Act) concerning contravention of s329(5) Corporations Act - whether requirements of s1322(4)(a) Corporations Act satisfied - whether 'pre-conditions' in pre-conditions in s1322(6)(a) Corporations Act satisfied - whether 'substantial injustice' - whether 'discretionary reason to withhold relief' - held: relief granted.

[Re Metalicity](#) (B)

Summaries With Link



The Open Sea

By: Dorothea Mackellar

FROM my window I can see,
Where the sandhills dip,
One far glimpse of open sea.
Just a slender slip
Curving like a crescent moon— 5
Yet a greater prize
Than the harbour garden-fair
Spread beneath my eyes.

Just below me swings the bay,
Sings a sunny tune, 10
But my heart is far away
Out beyond the dune;
Clearer far the sea-gulls' cry
And the breakers' roar,
Than the little waves beneath 15
Lapping on the shore.

For that strip of sapphire sea
Set against the sky
Far horizons means to me—
And the ships go by 20
Framed between the empty sky
And the yellow sands,
While my freed thoughts follow them
Out to other lands.

All its changes who can tell? 25
I have seen it shine
Like a jewel polished well,
Hard and clear and fine;
Then soft lilac—and again
On another day 30
Glimpsed it through a veil of rain,
Shifting, drifting grey.

When the livid waters flee,



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Flinching from the storm,
From my window I can see, 35
Standing safe and warm,
How the white foam tosses high
On the naked shore,
And the breakers' thunder grows
To a battle-roar... 40

Far and far I look—Ten miles?
No, for yesterday
Sure I saw the Blessed Isles
Twenty worlds away.
My blue moon of open sea, 45
Is it little worth?
At the least it gives to me
Keys of all the earth!

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

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