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Special COVID-19 Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering COVID-19

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Executive Summary (1 minute read)

Palmer v State of Western Australia (FCA) - adjournment - constitutional law - COVID-19 - respondent sought adjournment of hearing - unavailability of expert - adjournment granted

Commissioner of Police v Gray (NSWSC) - public assembly - plaintiff sought order under s25 *Summary Offences Act 1988* (NSW) to prohibit public assembly - order refused

Gatto v Australian Broadcasting Corporation & Ors (No 1) (VSC) - vacation of trial date - 'mode of trial' - defamation - COVID-19 - plaintiff sought vacation of trial date and that proceeding be 're-fixed for trial by jury on the next available date' - application dismissed

Porter v Mulcahy & Co Accounting Services Pty Ltd (Ruling) (VSC) - vacation of trial date - COVID-19 - plaintiffs sought vacation of trial date - trial date vacated

Re Zenith Energy Ltd; Ex Parte Zenith Energy Ltd (WASC) - corporations - COVID-19 - plaintiff sought orders concerning 'proposed scheme of arrangement' - orders granted

Summaries With Link (Five Minute Read)

Palmer v State of Western Australia [2020] FCA 962

Federal Court of Australia

Rangiah J

Adjournment - constitutional law - COVID-19 - applicants brought proceedings in High Court,

seeking, 'inter alia', declaration that second respondent's directions prohibiting persons 'other than "exempt travellers"' from entering Western Australia were invalid - declaration of invalidity sought on basis directions contravened s92 Constitution - High Court remitted question for Federal Court of Australia's determination - respondents sought adjournment - agreement by parties that matter should be dealt with 'expeditiously' due to 'substantial national significance' - respondent's expert asked to assist in relation to Victorian outbreak of COVID-19 - expert not available to attend conference of experts - held: adjournment granted.

[Palmer](#)

Commissioner of Police v Gray [2020] NSWSC 867

Supreme Court of New South Wales

Adamson J

Public assembly - plaintiff, under s25 *Summary Offences Act 1988* (NSW), sought to prohibit public assembly from taking place at Civic Park in Newcastle - 'prohibition order' sought on basis of 'public health concerns' arising from COVID-19 - defendant's evidence was that march's purpose was 'to show solidarity with the Black Lives Matter (BLM) movement and with indigenous Australians who have died in police and prison custody and to stand against racism' - held: Court satisfied 'public interest in free speech and freedom of association' outweighed public health concerns - order refused.

[View Decision](#)

Gatto v Australian Broadcasting Corporation & Ors (No 1) [2020] VSC 420

Supreme Court of Victoria

Keogh J

Vacation of trial date - 'mode of trial' - defamation - COVID-19 - on 16/3/20, Court determined there would be 'no civil jury trials conducted' 'until further notice' - trial of proceeding had been fixed for hearing 'by judge alone' - plaintiff sought vacation of trial date and that proceeding be 're-fixed for trial by jury on the next available date' - r47.02 *Supreme Court (General Civil Procedure Rules) 2015* (Vic) - delay - held: trial to proceed without jury - application dismissed.

[Gatto](#)

Porter v Mulcahy & Co Accounting Services Pty Ltd (Ruling) [2020] VSC 430

Supreme Court of Victoria

Delany J

Vacation of trial date - COVID-19 - Court, due to COVID-19, unable to proceed with trial except as 'trial solely conducted by audio visual means' - plaintiffs sought vacation of trial date to 'provide a greater likelihood of a conventional hearing' - credit - s42E *Evidence (Miscellaneous Provisions) Act 1958* (Vic) - s22C *Evidence (Audio and Audio Visual Links) Act 1998* (NSW) - impact of 'stay at home directions (restricted areas) direction' on trial's conduct - s199(2)(a) *Public Health and Wellbeing Act 2008* (Vic) - interests of justice - 'overarching purpose' and objects in s9(1) *Civil Procedure Act* (Vic) - held: Court satisfied trial date should be vacated.



[Porter](#)

Re Zenith Energy Ltd; Ex Parte Zenith Energy Ltd [2020] WASC 266

Supreme Court of Western Australia

Hill J

Corporations - COVID-19 - plaintiff, pursuant to s411 *Corporations Act 2001* (Cth) (Corporations Act), sought orders concerning 'proposed scheme of arrangement (Scheme)' - whether 'substantial and procedural requirements' satisfied - 'virtual scheme meetings' - ss411(1) & 1319 Corporations Act - held: Court made orders for convening of 'two meetings' of plaintiff's members for consideration and voting on 'proposed Scheme' - Court made ancillary orders concerning meetings' 'convening and conduct'.

[Re Zenith Energy](#)

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The Lake Isle of Innisfree

By: William Butler Yeats

I WILL arise and go now, and go to Innisfree,
And a small cabin build there, of clay and wattles made;
Nine bean rows will I have there, a hive for the honey
bee,
And live alone in the bee-loud glade.

And I shall have some peace there, for peace comes
dropping slow,5
Dropping from the veils of the morning to where the cricket
sings;
There midnight 's all a-glimmer, and noon a purple
glow,
 And evening full of the linnet's wings.

I will arise and go now, for always night and day
I hear lake water lapping with low sounds by the shore;
10
While I stand on the roadway, or on the pavements gray,
I hear it in the deep heart's core.

[https://en.wikipedia.org/wiki/W. B. Yeats](https://en.wikipedia.org/wiki/W._B._Yeats)

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