



Friday, 12 July 2024

Weekly Business Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Business Law

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Executive Summary (One Minute Read)

Re J. & B. Oscari Properties Pty Ltd (VSC) - oppression was established where a company's directors were deadlocked with the result that the company's sole asset was producing no income

HABEAS CANEM

The scent on the breeze



Benchmark

Summaries With Link (Five Minute Read)

Re J. & B. Oscari Properties Pty Ltd [2024] VSC 389

Supreme Court of Victoria

Irving AsJ

Oppression - a company's sole asset was a piece of commercial real property - there were four equal shareholders who were also the directors, being two brothers and their wife - one of the brothers separated from his wife separated, and the separated wife brought proceedings against the other three shareholders under s232, s233, s247A, and s461 of the *Corporations Act 2001* (Cth), alleging oppression - held: the language and history of s232 and its predecessors indicate the section is to be read broadly - the phrase in s232(e) "oppressive to, unfairly prejudicial to, or unfairly discriminatory against, a member" is to be viewed as a whole to ascertain whether there has been a degree of commercial unfairness that would justify the court making an order under the section - the evidence clearly established that the directors were in a state of deadlock and cannot maintain proper corporate governance of the company - due to disagreement between the directors, the property as not leased and so was generating no income, there was no agreement that would allow the property to be sold and, while the plaintiff and her former husband had indicated a willingness to sell their shares, the other couple had made no offer to buy them - an order as sought by the separated wife that she be made the sole director and have control of the sale of the property would bring about an end to the conduct that constituted oppression - the Court was not satisfied that it as necessary to appoint a receiver to sell the property because the separated wife had acknowledged her statutory and fiduciary obligations and had undertaken not to sell the property for less than the sworn valuation amount - orders made to this effect.

[Re J. & B. Oscari Properties Pty Ltd](#)

[From Benchmark Tuesday, 9 July 2024]

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INTERNATIONAL LAW

Executive Summary and (One Minute Read)

Moody v Netchoice (SCOTUS) - Lower court decisions upholding State statutes prohibiting social media companies from moderating content posted by third parties were reversed for failure to conduct proper First Amendment analysis

Summaries With Link (Five Minute Read)

Moody v Netchoice 603 US ____ (2024)

Supreme Court of the United States

The States of Florida and Texas enacted legislation that prohibited internet platforms from moderating third-party content based on content. The Supreme Court found serious First Amendment implications that the lower courts failed to properly consider. The cases were remanded to the courts below. The Court cited to *Miami Herald Publishing Co v Tornillo*, 418 US 241 (1974), where it was held that a Florida statute requiring newspapers to offer a right of reply violated the First Amendment because it consisted of compelled speech. Compelled speech can violate the First Amendment as much as suppression of speech. The Court said that government cannot meddle in speech by claiming that it is improving the marketplace of ideas. Here, the Court concluded that states were not likely to succeed in prohibiting the platforms from enforcing the platforms' own content moderation rules. The Court said that the States' attempt to better balance the mix of viewpoints on the internet by restricting content moderation amounted to an interference with speech decisions made by the private platforms. The Court added that a State cannot prohibit speech to rebalance the speech market. Inasmuch as the content moderation practices amounted to speech decisions by the platforms, the government was not free to enact laws that infringed those private speech rights.

[Moody](#)



Poem for Friday

Iceland

By Jonas Hallgrímsson (1807-1845)

Charming and fair is the land,
and snow-white the peaks of the jokuls [glaciers],
Cloudless and blue is the sky,
the ocean is shimmering bright,
But high on the lave fields, where
still Osar river is flowing
Down into Almannagorge,
Althing no longer is held,
Now Snorri's booth serves as a sheepfold,
the ling upon Logberg the sacred
Is blue with berries every year,
for children's and ravens' delight.
Oh, ye juvenile host
and full-grown manhood of Iceland!
Thus is our forefathers' fame
forgotten and dormant withal.

Jonas Hallgrímsson was born in Iceland on 16 November, 1807. He is a revered figure in Icelandic literature, writing in the Romantic style. His love of the Icelandic people and country side and pride in the national identity comes through his poetry. He was a promoter of the Icelandic Independence Movement. He was employed for a time by the sheriff of Reykjavik as a clerk. He studied law at the University of Copenhagen. He also worked as a defence lawyer. He founded the Icelandic periodical Fjölfnir first published in 1835. He died on 26 May 1845, after slipping on stairs and breaking his leg, the previous day. He died of blood poisoning aged 37 years. His birthday each year is recognised as the Day of the Icelandic Language.

Ég bið að heilsa, words by Jónas Hallgrímsson, composition by Ingi T. Lárusson
<https://www.youtube.com/watch?v=6OqbfGSJDUc>

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