



Friday, 13 December 2019

## Weekly Corporate Governance A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Corporate Governance Law

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### Executive Summary (1 minute read)

**Australian Securities and Investments Commission v Merlin Diamonds Limited (No 2)** (FCA) - corporations - 'non-party shareholders/noteholders' in defendant sought to inspect copy of report which defendant's provision liquidators prepared - leave to inspect granted - 'limited suppression order' made

**Schlaepfer v ASIC** (NSWSC) - defamation - injurious falsehood - claims arising from alleged publication of oral statements - judgment for defendants

**Re Red Lancer Pty Ltd (In Liq); Ex Parte Bumbak** (WASC) - corporations - liquidator sought direction he was justified in entering and performing 'Settlement Agreement' and approval of entry into Settlement Agreement - application granted

## Summaries With Link (Five Minute Read)

### **Australian Securities and Investments Commission v Merlin Diamonds Limited (No 2) [2019] FCA 2094**

Federal Court of Australia

O'Bryan J

Corporations - 'non-party shareholders/noteholders' in defendant sought, pursuant to r2.32 *Federal Court Rules 2011* (Cth), to inspect copy of report which defendant's provision liquidators prepared - provisional liquidators, under s37AF *Federal Court of Australia Act 1976* (Cth), sought that parts of report be suppressed - held: Court granted leave for non-party shareholders/noteholders' to inspect report' - Court made 'limited suppression order' concerning aspect of report.

[Australian Securities and Investments Commission](#)

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### **Schlaepfer v ASIC [2019] NSWSC 1644**

Supreme Court of New South Wales

Fagan J

Defamation - injurious falsehood - first plaintiff brought defamation action in respect of 'statements alleged to have been published orally by' second defendant officer of first defendant - first and second plaintiffs also made injurious falsehood claim arising from 'substantially the same published matter' - 'oral statements to brokers' - identification of first plaintiff - 'imputations and true innuendos' - justification - qualified privilege - elements of injurious falsehood - damages - *Australian Securities and Investments Commission Act 2001* (Cth) - *Corporations Act 2001* (Cth) - *Defamation Act 2005* (NSW) - held: judgment for defendants.

[Schlaepfer](#)

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### **Re Red Lancer Pty Ltd (In Liq); Ex Parte Bumbak [2019] WASC 450**

Supreme Court of Western Australia

Vaughan J

Corporations - winding up - plaintiff liquidator sought, pursuant to s90-15 *Insolvency Practice Schedule (Corporations)* direction he was justified in entering and performing 'Settlement Agreement' - plaintiff also sought, pursuant to s477(2B) *Corporations Act 2001* (Cth), approval of entry into Settlement Agreement - *Re McDermott and Potts (in their capacities as joint and several liquidators of Lonnex Pty Ltd (in liq))* [2019] VSCA 23 - held: application granted.

[Re Red Lancer](#)

[From Benchmark Thursday, 12 December 2019]

# Benchmark

## The Jumblies

**By:** Edward Lear

They went to sea in a Sieve, they did,  
In a Sieve they went to sea:  
In spite of all their friends could say,  
On a winter's morn, on a stormy day,  
In a Sieve they went to sea!  
And when the Sieve turned round and round,  
And every one cried, 'You'll all be drowned!'  
They called aloud, 'Our Sieve ain't big,  
But we don't care a button! we don't care a fig!  
In a Sieve we'll go to sea!'  
Far and few, far and few,  
Are the lands where the Jumblies live;  
Their heads are green, and their hands are blue,  
And they went to sea in a Sieve.

II

They sailed away in a Sieve, they did,  
In a Sieve they sailed so fast,  
With only a beautiful pea-green veil  
Tied with a riband by way of a sail,  
To a small tobacco-pipe mast;  
And every one said, who saw them go,  
'O won't they be soon upset, you know!  
For the sky is dark, and the voyage is long,  
And happen what may, it's extremely wrong  
In a Sieve to sail so fast!'  
Far and few, far and few,  
Are the lands where the Jumblies live;  
Their heads are green, and their hands are blue,  
And they went to sea in a Sieve.

III

The water it soon came in, it did,  
The water it soon came in;  
So to keep them dry, they wrapped their feet



# Benchmark

In a pinky paper all folded neat,  
And they fastened it down with a pin.  
And they passed the night in a crockery-jar,  
And each of them said, 'How wise we are!  
Though the sky be dark, and the voyage be long,  
Yet we never can think we were rash or wrong,  
While round in our Sieve we spin!  
Far and few, far and few,  
Are the lands where the Jumblies live;  
Their heads are green, and their hands are blue,  
And they went to sea in a Sieve.

## IV

And all night long they sailed away;  
And when the sun went down,  
They whistled and warbled a moony song  
To the echoing sound of a coppery gong,  
In the shade of the mountains brown.  
'O Timballo! How happy we are,  
When we live in a sieve and a crockery-jar,  
And all night long in the moonlight pale,  
We sail away with a pea-green sail,  
In the shade of the mountains brown!  
Far and few, far and few,  
Are the lands where the Jumblies live;  
Their heads are green, and their hands are blue,  
And they went to sea in a Sieve.

## V

They sailed to the Western Sea, they did,  
To a land all covered with trees,  
And they bought an Owl, and a useful Cart,  
And a pound of Rice, and a Cranberry Tart,  
And a hive of silvery Bees.  
And they bought a Pig, and some green Jack-daws,  
And a lovely Monkey with lollipop paws,  
And forty bottles of Ring-Bo-Ree,  
And no end of Stilton Cheese.

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Far and few, far and few,  
Are the lands where the Jumblies live;  
Their heads are green, and their hands are blue,  
And they went to sea in a Sieve.

VI

And in twenty years they all came back,  
In twenty years or more,  
And every one said, 'How tall they've grown!'  
For they've been to the Lakes, and the Terrible Zone,  
And the hills of the Chankly Bore;  
And they drank their health, and gave them a feast  
Of dumplings made of beautiful yeast;  
And everyone said, 'If we only live,  
We too will go to sea in a Sieve,—  
To the hills of the Chankly Bore!'  
Far and few, far and few,  
Are the lands where the Jumblies live;  
Their heads are green, and their hands are blue,  
And they went to sea in a Sieve.

[https://en.wikipedia.org/wiki/Edward\\_Lear](https://en.wikipedia.org/wiki/Edward_Lear)

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