



Friday, 16 October 2020

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

 Follow @Benchmark_Legal

Search Engine

[Click here](#) to access our search engine facility to search legal issues, case names, courts and judges. Simply type in a keyword or phrase and all relevant cases that we have reported in Benchmark since its inception in June 2007 will be available with links to each case.

Executive Summary (1 minute read)

Australian Securities and Investments Commission v Big Star Energy Limited (No 3) (FCA) - corporations - 'continuous disclosure obligations' - directors' duties - breaches of ss674(2) & 180(1) *Corporations Act 2001* (Cth) - declarations and orders to be made

Rasley (Singapore) Pte Ltd v Financial & Energy Exchange Ltd (FCA) - corporations - discovery - plaintiff sought to inspect categories of defendant's documents - application granted in part

Aramax Nominees Pty Ltd and Primax Nominees Pty Ltd v Australia and New Zealand Banking Group Limited & Ors (NSWSC) - pleadings - corporations - eighth and ninth plaintiffs sought to amend Commercial List Statement - leave refused

Pitard v One Managed Investment Funds Ltd (VSC) - trusts - plaintiff sought declarations that debts were not 'Collateral' under 'security deeds' - application dismissed

McLeod & Anor v Alokaily (QSC) - corporations - liquidators sought declarations that payments made by company to its respondent director were 'voidable transactions' and that respondent pay the money to company - orders granted

Mirabela Nickel Ltd (In Liquidation) (Receivers and Managers Appointed) v Mining Standards International Pty Ltd [No 3] (WASC) - pleadings - sale agreement - defendant sought to amend defence - amendments allowed subject to vacation of trial dates and relisting

of proceedings

Summaries With Link (Five Minute Read)

Australian Securities and Investments Commission v Big Star Energy Limited (No 3) [2020] FCA 1442

Federal Court of Australia

Banks-Smith J

Corporations - plaintiff sought 'declarations and orders' concerning 'alleged breaches' by company (Antares) of 'continuous disclosure obligations' - plaintiff also contended second defendant was involved in Antares' contraventions and that second defendant breached duties as director of Antares - plaintiff sought relief against second defendant - whether contraventions or breach of duty - held: Antares contravened s674(2) *Corporations Act 2001* (Cth) (Corporations Act) - second defendant contravened s180(1) Corporations Act - declarations and orders to be granted.

[Australian Securities and Investments Commission](#)

[From Benchmark Tuesday, 13 October 2020]

Rasley (Singapore) Pte Ltd v Financial & Energy Exchange Ltd [2020] FCA 1462

Federal Court of Australia

Jackson J

Corporations - plaintiff sought to inspect documents of defendant for purpose of investigating its concerns concerning 'share issues' made by defendant, leases between defendant and 'related party' and 'other related party transactions' - whether 'good faith' and 'proper purpose' - whether 'case for investigation' - consideration of categories of documents - s247A *Corporations Act 2001* (Cth) - held: application granted in part.

[Rasley](#)

[From Benchmark Wednesday, 14 October 2020]

Aramax Nominees Pty Ltd and Primax Nominees Pty Ltd v Australia and New Zealand Banking Group Limited & Ors [2020] NSWSC 1369

Supreme Court of New South Wales

Stevenson J

Pleadings - corporations - guarantees - eighth and ninth plaintiffs, pursuant to s64 *Civil Procedure Act 2005* (NSW), sought to amend Commercial List Statement - whether 'Proposed Amended Commercial List Statement' contained 'irrelevant allegations' - whether eighth and ninth plaintiffs explained why allegations were relevant - held: leave refused.

[View Decision](#)

[From Benchmark Monday, 12 October 2020]

Pitard v One Managed Investment Funds Ltd [2020] VSC 666

Supreme Court of Victoria

McDonald J

Trusts - plaintiff was beneficiary of discretionary trust - parties had lodged proofs of debt with liquidators of trust's 'former trustee' - proofs of debt concerned balance of plaintiff's loan account with trustee and 'unpaid present entitlements from' trustee - defendant claimed 'security interest' concerning the debts as 'Collateral' under 'security deeds' - plaintiff sought declarations neither loan account's balance or unpaid present entitlements were 'Collateral' under security deeds - sufficiency of evidence - utility - s85 *Constitution Act 1975* (Vic) - s36 *Supreme Court Act 1986* (Vic) - s1305 *Corporations Act 2001* (Cth) - held: application dismissed.

[Pitard](#)

[From Benchmark Friday, 16 October 2020]

McLeod & Anor v Alokaily [2020] QSC 308

Supreme Court of Queensland

Bowskill J

Corporations - liquidators sought declarations that payments made by company to its respondent director were 'voidable transactions' due to being "unreasonable director-related transactions" under s588FDA(1) *Corporations Act 2001* (Cth) (*Corporations Act*) and order that respondent pay the money to company under s588FF(1) *Corporations Act* - applicants alternatively contended payments by company to respondent were "uncommercial transactions" under s588FB *Corporations Act* - held: unreasonable director-related transactions established - respondent to pay money to company - respondent to pay to company amount subject of 'unsecured director's loan' - orders granted.

[McLeod](#)

[From Benchmark Wednesday, 14 October 2020]

Mirabela Nickel Ltd (In Liquidation) (Receivers and Managers Appointed) v Mining Standards International Pty Ltd [No 3] [2020] WASC 372

Supreme Court of Western Australia

Hill J

Pleadings - sale agreement - defendant, under O21 r5(2) *Rules of the Supreme Court 1971* (WA) (Rules), sought to amend defence - delay - explanation for 'late amendment' - *Soia v Bennett* [2011] WASC 59 - 'good faith' - whether amendment defective - prejudice - need for adjournment if leave granted - balance of parties' interests - held: amendments allowed subject to vacation of trial dates and relisting of proceedings.

[Mirabela](#)

[From Benchmark Friday, 16 October 2020]



Benchmark

To the Nightingale

By: John Milton

O NIGHTINGALE, that on yon bloomy spray
Warblest at eve, when all the woods are still;
Thou with fresh hope the lover's heart dost fill,
While the jolly Hours lead on propitious May.
Thy liquid notes that close the eye of day,
First heard before the shallow cuckoo's bill,
Portend success in love; O, if Jove's will
Have linked that amorous power to thy soft lay,
Now timely sing, ere the rude bird of hate
Foretell my hopeless doom, in some grove nigh;
10
As thou from year to year, hast sung too late
For my relief, yet had'st no reason why:
Whether the Muse or Love call thee his mate,
Both them I serve, and of their train am I.

5

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

[Click Here to access our Benchmark Search Engine](#)