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Weekly Corporate Governance

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Executive Summary (1 minute read)

Rusca Bros Services Pty Ltd v Dlaw Pty Ltd, in the matter of Rusca Bros Services Pty Ltd (No 2) (FCA) - corporations - statutory demand - application to set aside statutory demand allowed

MCCA Asset Management Ltd v Kamata Homes Pty Ltd (admins apptd) (VSC) - corporations - application for termination of Deed of Company Arrangement - application granted

Barboutis v The Kart Centre Pty Ltd (WASCA) - corporations - 'extension application' - acting master dismissed application to wind up respondent - appellants sought extension of period for determination of application to 'primary court' - extension application refused

Summaries With Link (Five Minute Read)

Rusca Bros Services Pty Ltd v Dlaw Pty Ltd, in the matter of Rusca Bros Services Pty Ltd (No 2) [2019] FCA 1865
Federal Court of Australia
Markovic J
Corporations - statutory demand - plaintiff, under s459G *Corporations Act 2001* (Cth) (Corporations Act),.sought to set aside statutory demand which defendant served on it - plaintiff relied principally on ss459H & 459J Corporations Act - whether genuine dispute established - whether off-setting claim established - whether demand issued for 'improper purpose' - whether debt 'not due and payable' on basis 'costs assessment application' was incomplete - *Legal Profession Uniform Law* (NSW) - *Legal Profession Uniform Law Application Act 2014* (NSW) - *Legal Profession Uniform Law Application Regulation 2015* (NSW) - held: statutory demand set aside.
Rusca
[From Benchmark Monday, 18 November 2019]

MCCA Asset Management Ltd v Kamata Homes Pty Ltd (admins apptd) [2019] VSC 742
Supreme Court of Victoria
McDonald J
Corporations - plaintiffs sought termination of Deed of Company Arrangement (DOCA) - whether 'material omissions from' reports to creditors provided before meeting at which DOCA approved - whether in public interest to terminate DOCA - whether 'discretionary considerations' favoured DOCA's termination - ss445D & 447A *Corporations Act 2001* (Cth) - *Insolvency Practice Schedule (Corporations)* - held: Court satisfied to terminate Deed of Company Arrangement.
MCCA
[From Benchmark Tuesday, 19 November 2019]

Barboutis v The Kart Centre Pty Ltd [2019] WASCA 184
Court of Appeal of Western Australia
Mitchell & Vaughan JJA
Corporations - appellants sought to wind up respondent - acting master dismissed application - appellants appealed - appellant sought extension of time for determination of application to primary court pursuant to s459R(2) *Corporations Act 2001* (Corporations Act) ('extension application') - whether s459R Corporations Act had any application to Court's exercise of its appellate jurisdiction - whether 'proper basis' to extend period for application's determination - held: extension application dismissed.
Barboutis
[From Benchmark Tuesday, 19 November 2019]

To Flush, My Dog
By: Elizabeth Barrett Browning

LOVING friend, the gift of one,
Who, her own true faith, hath run,
Through thy lower nature ;
Be my benediction said
With my hand upon thy head,
Gentle fellow-creature !

Like a lady's ringlets brown,
Flow thy silken ears adown
Either side demurely,
Of thy silver-suited breast
Shining out from all the rest
Of thy body purely.

Darkly brown thy body is,
Till the sunshine, striking this,
Alchemize its dulness, —
When the sleek curls manifold
Flash all over into gold,
With a burnished fulness.

Underneath my stroking hand,
Startled eyes of hazel bland
Kindling, growing larger, —
Up thou leapest with a spring,
Full of prank and curvetting,
Leaping like a charger.

Leap ! thy broad tail waves a light ;
Leap ! thy slender feet are bright,
Canopied in fringes.
Leap — those tasselled ears of thine
Flicker strangely, fair and fine,
Down their golden inches

Yet, my pretty sportive friend,
Little is 't to such an end
That I praise thy rareness !
Other dogs may be thy peers
Haply in these drooping ears,

And this glossy fairness.

But of thee it shall be said,
This dog watched beside a bed
Day and night unweary, —
Watched within a curtained room,
Where no sunbeam brake the gloom
Round the sick and dreary.

Roses, gathered for a vase,
In that chamber died apace,
Beam and breeze resigning —
This dog only, waited on,
Knowing that when light is gone,
Love remains for shining.

Other dogs in thymy dew
Tracked the hares and followed through
Sunny moor or meadow —
This dog only, crept and crept
Next a languid cheek that slept,
Sharing in the shadow.

Other dogs of loyal cheer
Bounded at the whistle clear,
Up the woodside hieing —
This dog only, watched in reach
Of a faintly uttered speech,
Or a louder sighing.

And if one or two quick tears
Dropped upon his glossy ears,
Or a sigh came double, —
Up he sprang in eager haste,
Fawning, fondling, breathing fast,
In a tender trouble.

And this dog was satisfied,
If a pale thin hand would glide,
Down his dewlaps sloping, —
Which he pushed his nose within,
After, — platforming his chin

On the palm left open.

This dog, if a friendly voice
Call him now to blyther choice
Than such chamber-keeping,
Come out ! ' praying from the door, —
Presseth backward as before,
Up against me leaping.

Therefore to this dog will I,
Tenderly not scornfully,
Render praise and favour !
With my hand upon his head,
Is my benediction said
Therefore, and for ever.

And because he loves me so,
Better than his kind will do
Often, man or woman,
Give I back more love again
Than dogs often take of men, —
Leaning from my Human.

Blessings on thee, dog of mine,
Pretty collars make thee fine,
Sugared milk make fat thee !
Pleasures wag on in thy tail —
Hands of gentle motion fail
Nevermore, to pat thee !

Downy pillow take thy head,
Silken coverlid bestead,
Sunshine help thy sleeping !
No fly 's buzzing wake thee up —
No man break thy purple cup,
Set for drinking deep in.

Whiskered cats arointed flee —
Sturdy stoppers keep from thee
Cologne distillations ;
Nuts lie in thy path for stones,
And thy feast-day macaroons

Turn to daily rations !

Mock I thee, in wishing weal ? —
Tears are in my eyes to feel
Thou art made so straightly,
Blessing needs must straighten too, —
Little canst thou joy or do,
Thou who lovest greatly.

Yet be blessed to the height
Of all good and all delight
Pervious to thy nature, —
Only loved beyond that line,
With a love that answers thine,
Loving fellow-creature !

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

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