



Friday, 9 May 2025

Weekly Defamation Law

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

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Executive Summary (One Minute Read)

Michelmores v Brown (No 5) (WASC) - Court had previously upheld defamation claim - Court held defendants in contempt for breach of order not to repeat the defamatory imputations



HABEAS CANEM

New puppy - 2018

Summaries With Link (Five Minute Read)

Michelmore v Brown (No 5) [2025] WASC 152

Supreme Court of Western Australia

Solomon J

Contempt of court - solicitors' former clients sent two emails impugning her integrity and professional competence - first defendant sent first email to WA Governor, Chief Justice, Attorney-General, Police Commissioner, Legal Practice Board, and third party who had expressed interest in retaining the solicitor - second defendant, on behalf of third defendant, with involvement of first defendant, sent second email to same recipients, associates of most Supreme Court judges and registrars, Magistrates Court, ACCC, and members of WA and Commonwealth Parliaments - solicitor sued in defamation - Court found defendants liable, awarded damages, and restrained defendants from repeating the defamatory imputations - plaintiff now applied for second defendants to be committed for contempt for breaching the restraint against repeating the defamatory imputations - held: unless the alleged disobedience involves deliberate defiance or is contumacious, disobedience of a court order involves a civil (rather than a criminal) contempt - however the criminal standard of proof applies to both civil and criminal contempt - contempt application is not an interlocutory application, so hearsay evidence is not admissible - Court satisfied beyond reasonable doubt second defendants had breached the order, that they had been informed of the order, and that they were aware of the order - second defendants genuinely held grievances regarding the legal system, but avenues of grievance do not include disobedience to, or contravention of, court orders - Court satisfied second defendants had committed the contempts alleged - Court would now hold hearing as to punishment.

[Michelmore](#)

[From Benchmark Friday, 9 May 2025]

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INTERNATIONAL LAW

Executive Summary and (One Minute Read)

Mousse v Commission Nationale de L'Informatique et des Libertes (CNIL), SNCF Connect (EUCJ1C) - The practice of the French national railway SNCF of requiring online ticket purchasers to indicate their title as either Monsieur (Mr) or Madame (Ms) was in violation of the *European Union General Data Protection Regulation* (GDPR) because the collection of this information was not necessary for the performance of the contract for passenger travel and violated the principle of minimisation of data collection

Summaries With Link (Five Minute Read)

Mousse v Commission Nationale de L'Informatique et des Libertes (CNIL), SNCF Connect, Case C-394/23

European Court of Justice

Lenaerts P, von Danwitz VP, Arastey Sahún, Kumin, & Ziemele JJ

When purchasing a ticket online, patrons of the French national rail, the SNCF, were required to tick a box designating gender identity: either Monsieur or Madame. Arguing that this practice violated the *European Union General Data Protection Regulation* (GDPR), Mousse, an association, filed a complaint with the French data protection authority - the Commission Nationale de L'Informatique et des Libertes (CNIL). After the CNIL rejected the claim, Mousse brought an action before the highest administrative body in France, the Council of State, to have the CNIL determination annulled. In response, the Council of State referred the matter to the European Court of Justice for a preliminary ruling. Under the GDPR, data collection must be limited to what is necessary for the performance of a contract and the legitimate interests of the party collecting the data (the data controller). Here, the SNCF argued that it collected the data because it facilitated personal communication with ticket purchasers. The European Court disagreed with the SNCF, and stated that the collection of personal data must be objectively indispensable in order to enable the proper performance of the contract or necessary for the legitimate interests of the data collector. The Court found that personalisation of commercial communications based on gender as indicated in a purchaser's title did not appear to be objectively indispensable to enable the proper performance of rail transportation. Nor was the data strictly necessary for the legitimate interests of the SNCF. The Court found that the SNCF could instead communicate with patrons by means of generic expressions that have no correlation with gender identity. Under EU law, the matter now reverts to the French Council of State to dispose of the matter in accord with the decision made by the European Court of Justice.

[Mousse](#)



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Poem for Friday

Warm Summer Sun

By Mark Twain (1835-1910)

Warm summer sun,
Shine kindly here,
Warm southern wind,
Blow softly here.
Green sod above,
Lie light, lie light.
Good night, dear heart,
Good night, good night.

Mark Twain, was the pen name of American writer and essayist Samuel Langhorne Clemens. Clemens was born in Florida, Missouri, on 30 November 1835, the sixth of seven children, only four of whom survived into adulthood. His father was a lawyer. Clemens was raised in Hannibal, Missouri. His father, by then a Judge, died when Clemens was 11 years old. After leaving school at age 11 he was an apprentice typesetter to a printer, writing articles, and educating himself in the evening in the public libraries in the cities he lived in. He was later a riverboat pilot, and then a miner for Orion in Nevada. Through his wife Olivia Langdon, Twain became friends with Frederick Douglass, Harriet Beecher Stowe, and William Dean Howells. He part-owned the Buffalo Express. He had a love of science, but lost substantial sums investing in new inventions. Mark Twain's famous novels included the *Adventures of Tom Sawyer* and the *Adventures of Huckleberry Finn*. Ernest Hemingway wrote that "*All modern American literature comes from one book by Mark Twain called Huckleberry Finn*". Mark Twain suffered a deep depression after his son Langdon died at 19 months, in 1872, and then his daughter Susy died in 1896, wife Olivia died in 1904, daughter Jean died on Christmas Eve 1909, and his good friend Henry Rogers died on 20 May 1909. Mark Twain died at the age of 74, on 21 April 1910 of a heart attack. Halley's Comet had passed the earth in the year of his birth in 1835, and passed the earth again in the year of his death in 1910. Mark Twain has been called "*The father of American Literature*".

Mark Twain's very quotable observations include:

"Only two things we'll regret on deathbed – that we are a little loved and little travelled."

"Twenty years from now you will be more disappointed by the things you didn't do than by the ones that you did do"

"Man is the only animal that blushes. Or Needs to."

"A full belly is little worth where the mind is starved."



"Travel is fatal to prejudice"

"The secret of getting ahead is getting started"

"Always do right, it will gratify some people and astonish the rest,"

"Kindness is the language which the deaf can hear and the blind can see"

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