



Friday, 20 December 2024

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)

Deeming v Pesutto (No 3) (FCA) - Court found Victorian opposition leader liable in defamation to a member of the Legislative Council



HABEAS CANEM

Merry Christmas from McGregor



Summaries With Link (Five Minute Read)

Deeming v Pesutto (No 3) [2024] FCA 1430

Federal Court of Australia

O'Callaghan J

Defamation - Deeming was a member of the Victorian Legislative Council, and a former member of the Victorian Parliamentary Liberal Party - she alleged Pesutto, leader of that Party, defamed her in a media release and various media interviews - held: various imputations along the lines that Deeming was unfit to belong to the Victorian Parliamentary Liberal Party because she knowingly associated with Neo-Nazis and white supremacists were carried - Pesutto admitted all pleaded imputations, if carried, were defamatory - having regard to the seriousness of the imputations carried, the extent of publication, the inherent probabilities, and the evidence of the actual impact of the publications, the defamatory publications had caused, or were likely to cause, serious harm to Deeming's reputation - defence of public interest failed because, although Pesutto subjectively believed his publications were in the public interest, that belief was not reasonable - defence of honest opinion failed in respect of some publications as it did not respond to the imputations Deeming had pleaded, and in respect of one publication as Pesutto's opinion, although honestly held, was not based on proper material - defence of *Lange* qualified privilege failed after concession by Senior Counsel for Pesutto that, on the current state of the authorities, it would not produce a better result that the public interest defence under s29A of the *Defamation Act 2005 (Vic)* - damages awarded for non-economic loss of \$300,000 - Court declined to award aggravated damages.

[Deeming](#)

[From Benchmark Friday, 20 December 2024]

Benchmark

INTERNATIONAL LAW

Executive Summary and (One Minute Read)

Khachatryan v Armenia (EUHR5S) - In a matter of first impression, the European Court of Human Rights found that a member state has an obligation to provide a mechanism whereby victims of domestic violence may seek compensation for non-pecuniary damage from the perpetrator of the violence

Summaries With Link (Five Minute Read)

Khachatryan v Armenia, Case 11829/16

European Court of Human Rights

Guyomar P, Elósegui, Harutyunyan, Felici, Zünd, Sârcu, & Šimáková JJ

In Armenia, the victim had been subjected to numerous events of serious physical and emotional abuse by her former spouse. He repeatedly threatened and insulted her. He also repeatedly beat her, breaking bones and causing concussions and other grievous injuries. The perpetrator was charged with aggravated torture of a person who was dependent on the perpetrator. However, he was convicted of non-aggravated torture and sentenced to 18 months imprisonment. He did not serve any time as he was exempted under an Amnesty Act. The victim of the abuse unsuccessfully launched civil legal proceedings seeking compensation for both pecuniary and non-pecuniary damage for emotional and psychological suffering due to ill-treatment. Armenian domestic law did not provide for compensation for non-pecuniary damages in this situation. The judgment was affirmed by the local court of appeal. Armenia is one of the 46 member states comprising the Council of Europe and is subject to the European Convention on Human Rights and the jurisdiction of the European Court of Human Rights. The victim sought review of the decision by the Armenian courts by alleging that Armenia had acted in violation of Article 3 of the *European Convention on Human Rights*, which states that 'No one shall be subjected to torture or to inhuman or degrading treatment or punishment'. The Court found that the Armenian criminal-law mechanisms were so defective in terms of protecting the victim that they amounted to a breach of Armenia's obligations under Article 3. The European Court said that Armenia had repeatedly failed to discharge its procedural obligation to respond adequately to the serious acts of domestic abuse. In a decision of first impression, the Court also found that Article 3 imposed an obligation on the state to allow claims by the victim against the perpetrator for compensation for non-pecuniary damages in matters of serious domestic abuse. The Court stated that Article 3 created a positive obligation on the part of a member state in respect of allowing claims for non-pecuniary damage from the perpetrators of such violence directly, or indirectly through the member state. The European Court awarded the victim €24,000 plus €2000 in costs as against Armenia.

[Khachatryan](#)



Poem for Friday

Somewhere

By Rev David Conolly

Somewhere,
unexpectedly,
hope is born.

A voice.
At first, only the cry
of a new-born
gulping for breath.

In time, a voice.

The voice speaks to
a world grown used to
darkness, despair.

The voice says,
*You are light for the world;
Let it shine.
Love, and forgive*

And suddenly, hope is born.

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