

Friday, 30 July 2021

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

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Executive Summary (1 minute read)

Roberts-Smith v Fairfax Media Publications Pty Limited (No 19) (FCA) - defamation - respondents sought variation of part of Court's order requiring them 'to arrange for an English/Pashto interpreter to be present in' Sydney courtroom - respondents sought variation enabling respondents to have English/Pashto interpreter 'envisaged in the order in Ontario, Canada' - variation of order granted

Tucker v McKee (FCA) - defamation - jurisdiction preliminary question - applicant claimed he was defamed by first and second respondents by publication of email - respondents raised preliminary question whether Court had jurisdiction 'to hear and determine' claim - Court lacked jurisdiction - proceeding dismissed

Wraydeh v Fairfax Media Publications Pty Limited; Wraydeh v Nationwide News Pty Limited (NSWCA) - defamation - proceedings arising from 'media releases' and 'Facebook publication' - appellant contended primary judge erroneously upheld 'qualified privilege' defence and erred specifically in consideration of it - appellant also challenged contingent damages' assessment and contended award of damages for defamatory imputations' publication was 'manifestly inadequate' - appeals dismissed

Summaries With Link (Five Minute Read)

Roberts-Smith v Fairfax Media Publications Pty Limited (No 19) [2021] FCA 818

Federal Court of Australia

Besanko J

Defamation - respondents to three proceedings sought variation of part of Court's order requiring them 'to arrange for an English/Pashto interpreter to be present in' Sydney courtroom - respondents sought variation enabling respondents to have English/Pashto interpreter 'envisaged in the order in Ontario, Canada' rather than Sydney courtroom - variation sought on basis of difficulty which respondents were having in securing services of 'appropriately qualified English/Pashto interpreter in Australia' - held: variation of order granted.

[Roberts-Smith](#)

[From Benchmark Monday, 26 July 2021]

Tucker v McKee [2021] FCA 828

Federal Court of Australia

Anastassiou J

Defamation - jurisdiction - preliminary question - applicant claimed he was defamed by first and second respondents by publication of email - respondents, by interlocutory application, raised preliminary question whether Court had jurisdiction 'to hear and determine' claim - respondents sought to set aside Originating Application and Amended Statement of Claim on basis there was no matter arising under federal law enlivening Court's jurisdiction - held: Court lacked jurisdiction - proceeding dismissed.

[Tucker](#)

[From Benchmark Tuesday, 27 July 2021]

Wraydeh v Fairfax Media Publications Pty Limited; Wraydeh v Nationwide News Pty Limited [2021] NSWCA 153

Court of Appeal of New South Wales

Bell P, Gleeson JA & Simpson AJA

Defamation - proceedings arising from 'media releases' and 'Facebook publication' - appellant contended primary judge erroneously upheld 'qualified privilege' defence and erred specifically in consideration of it - appellant also challenged contingent damages' assessment and contended award of damages of \$7,500 for defamatory imputations' publication was 'manifestly inadequate' - ss25 & 30 *Defamation Act 2005* (NSW) - whether 'occasion of privilege' - whether 'privileged communication' - credit - 'hurt and distress' - 'damage to reputation' - held: appeals dismissed.

[View Decision](#)

[From Benchmark Tuesday, 27 July 2021]

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The Open Sea

By: Dorothea Mackellar

FROM my window I can see,
Where the sandhills dip,
One far glimpse of open sea.
Just a slender slip
Curving like a crescent moon— 5
Yet a greater prize
Than the harbour garden-fair
Spread beneath my eyes.

Just below me swings the bay,
Sings a sunny tune, 10
But my heart is far away
Out beyond the dune;
Clearer far the sea-gulls' cry
And the breakers' roar,
Than the little waves beneath 15
Lapping on the shore.

For that strip of sapphire sea
Set against the sky
Far horizons means to me—
And the ships go by 20
Framed between the empty sky
And the yellow sands,
While my freed thoughts follow them
Out to other lands.

All its changes who can tell? 25
I have seen it shine
Like a jewel polished well,
Hard and clear and fine;
Then soft lilac—and again
On another day 30
Glimpsed it through a veil of rain,
Shifting, drifting grey.

When the livid waters flee,



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Flinching from the storm,
From my window I can see, 35
Standing safe and warm,
How the white foam tosses high
On the naked shore,
And the breakers' thunder grows
To a battle-roar... 40

Far and far I look—Ten miles?
No, for yesterday
Sure I saw the Blessed Isles
Twenty worlds away.
My blue moon of open sea, 45
Is it little worth?
At the least it gives to me
Keys of all the earth!

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

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