



Friday, 8 June 2018

## Weekly Family Law Selected from our Daily Bulletins covering Family Law

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### Executive Summary (1 minute read)

**Causey & Causey** (FamCAFC) - family law - final orders - matrimonial pool - assessment of contributions manifestly unjust - wife's appeal allowed

**Gupta & Gupta (No. 2)** (FamCAFC) - family law - parenting orders - dismissal of contravention application - vexatious proceedings orders - no error established - father's appeal dismissed

**Crick & Bennett** (FamCAFC) - family law - declaration of de facto relationship between parties for certain period - appeal dismissed

**Pandelis & Pandelis** (FamCAFC) - family law - property settlement orders - "two pool" approach - post-separation tax liabilities - form of orders - appeal allowed

**Rilak & Tsocas** (FamCAFC) - family law - bias - application for recusal of judge from hearing of matter - application refused

### Summaries With Link (Five Minute Read)

**Causey & Causey [2018] FamCAFC 81**

Full Court of the Family Court of Australia

Murphy J

Family law - wife appealed against orders of primary judge that wife retain former matrimonial home, each party retain personal possessions, and that wife pay sum to husband - wife

contended it was manifestly unjust to order her to pay cash sum, that it was not open to primary judge to find parties' contributions were equal to separation date, and that primary judge failed to have regard to wife's 'material contributions' - held: primary judge erroneously found no evidence to support finding other than equal contributions to separation date - primary judge's assessment of contributions manifestly unjust - wife not required to pay cash sum to husband - former matrimonial home transferred to wife - parties each to retain superannuation interests - parties each to retain property they currently owned or possessed - paragraph of primary judge's orders set aside - appeal allowed.

[Causey](#)

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### **Gupta & Gupta (No. 2) [2018] FamCAFC 77**

Full Court of the Family Court of Australia

Pascoe CJ, Ryan & Aldridge JJ

Family law - father appealed against two sets of orders which primary judge made: parenting orders; and dismissal of father's contravention application in which primary judge made vexatious proceedings orders against him - father contended primary judge made factual errors and failed to consider father's evidence - father also complained concerning primary judge's conduct - held: no error established by primary judge in principle or approach - primary judge did not fail to take relevant factor into account, or take irrelevant factor into account - primary judge did not make factual errors - orders' result was not 'clearly wrong or unreasonable or plainly unjust' - appeal dismissed.

[Gupta](#)

[From Benchmark Friday, 8 June 2018]

### **Crick & Bennett [2018] FamCAFC 68**

Full Court of the Family Court of Australia

Ainslie-Wallace, Aldridge & Watts JJ

Family law - primary judge made declaration under s90RD *Family Law Act 1975* (Cth) (Family Law Act) that there was a de facto relationship between parties for certain period - appellant appealed - definition of de facto relationship in s4AA Family Law Act - whether respondent failed to discharge onus to establish existence of de facto relationship for period - whether finding of de facto relationship unsustainable - whether failure to give adequate reasons for preference of evidence of one party - 'presented as a couple' - 'an assessment of all of the circumstances of the relationship' - held: no error in finding of de facto relationship - appeal dismissed.

[Crick](#)

[From Benchmark Friday, 8 June 2018]

### **Pandelis & Pandelis [2018] FamCAFC 66**

Full Court of the Family Court of Australia

Thackray, Murphy & Watts JJ

Family law - primary judge made property settlement orders - primary judge adopted “two pool” approach - husband appealed - husband contended orders were ‘incapable of being performed’ and ‘inoperable’ - appellant also contended contributions’ determination was ‘wrong and against the weight of the evidence’, that assessment of factors under s75(2) *Family Law Act 1975* (Cth) was ‘wrong and excessive’, and that primary judge erred by failing to give reasons for not including husband’s post-separation tax liabilities in “balance sheet” or otherwise to consider them in his favour - held: there was merit in grounds of appeal in respect of post-separation taxation liabilities and errors in orders’ formulation - appeal allowed.

[Pandelis](#)

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## **Rilak & Tsocas [2018] FamCAFC 70**

Full Court of the Family Court of Australia

Ainslie-Wallace J

Family law - bias - appellant sought that judge recuse himself from hearing of matter - appellant contended judge had been involved in ‘six appeals instituted by her’ and had “rejected all of her applications” - appellant contended that she did not have faith in judge, felt judge was ‘impermissibly prejudiced against her’, and would not afford justice to her - held: judge not satisfied that she should disqualify herself for apprehended bias - application refused.

[Rilak](#)

[From Benchmark Friday, 8 June 2018]



# Benchmark

## The Word

**By:** Ella Wheeler Wilcox

Oh, a word is a gem, or a stone, or a song,  
Or a flame, or a two-edged sword;  
Or a rose in bloom, or a sweet perfume,  
Or a drop of gall is a word.

You may choose your word like a connoisseur,  
And polish it up with art,  
But the word that sways, and stirs, and stays,  
Is the word that comes from the heart.

You may work on your word a thousand weeks,  
But it will not glow like one  
That all unsought, leaps forth white hot,  
When the fountains of feeling run.

[https://en.wikipedia.org/wiki/Ella\\_Wheeler\\_Wilcox](https://en.wikipedia.org/wiki/Ella_Wheeler_Wilcox)

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