

Friday, 12 October 2018

Weekly Family Law Selected from our Daily Bulletins covering Family Law

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Executive Summary (1 minute read)

Wellen & Wellen (FamCAFC) - family law - costs - property proceedings - adjournment not sought by either party - husband's appeal against costs orders allowed - husband and wife to pay own costs of adjournment

Otero & Otero (FamCAFC) - family law - mother appealed against parenting orders - lack of procedural fairness and inadequacy of reasons established - appeal allowed

Zubic & Zubic (FamCAFC) - family law - property settlement proceedings - application for extension of time to file Summary of Argument granted - husband ordered to pay wife's costs thrown away due to adjournment - costs fixed

Ryder & Bonham (FamCA) - family law - costs - appointment of experts by consent - husband's delay and non-compliance justified costs order in wife's favour - indemnity costs refused

Tao & Sterling (FamCA) - family law - application for decree of nullity of marriage - respondent was married to another person at the time he married applicant - decree of nullity granted

Summaries With Link (Five Minute Read)

Wellen & Wellen [2018] FamCAFC 192
Full Court of the Family Court of Australia

Murphy, Aldridge & Kent JJ

Family law - costs - property proceedings between husband and wife did not proceed - primary judge ordered that husband pay wife's costs thrown away due to matter's adjournment - primary judge ordered that costs be paid on indemnity basis - husband appealed against costs orders - whether adjournment had been sought by either party - whether adequate reasons for making indemnity costs order - held: neither party had sought adjournment - adjournment had occurred against wishes of parties - there had been no costs thrown away by adjournment - each party to pay own costs of adjournment.

[Wellen](#)

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Otero & Otero [2018] FamCAFC 188

Full Court of the Family Court of Australia

Aldridge J

Family law - parenting orders - mother appealed against interim parenting orders made by primary judge - father sought to file Application in an Appeal seeking leave to adduce further evidence, namely a psychiatrist's report - whether lack of procedural fairness - adequacy of reasons for 'unsupervised time' order - held: leave to file Application in an Appeal refused - lack of procedural fairness and inadequacy of reasons established - appeal allowed - certain orders set aside.

[Otero](#)

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Zubcic & Zubcic [2018] FamCAFC 189

Full Court of the Family Court of Australia

Aldridge J

Family law - property settlement proceedings - Application in an Appeal - costs - gross sum costs order - husband sought extension of time to file Summary of Argument - 'short extension' of time unopposed - wife sought quantification of costs thrown away which Court ordered husband to pay on indemnity basis due to adjournment - husband sought that costs be assessed or 'fixed in lower amount' - held: extension of time to file Summary of Argument - Court fixed costs in sum of \$16,948.33.

[Zubcic](#)

[From Benchmark Friday, 12 October 2018]

Ryder & Bonham [2018] FamCA 781

Family Court of Australia

Gill J

Family law - costs - wife sought appointment of experts for purpose of property's valuation and indemnity costs in respect of her application - wife contended husband's non-compliance had necessitated the application, and that while experts were appointed by consent, husband had 'prolonged the issue' - whether 'one of the most extreme cases' warranting an indemnity



costs order - held: husband's delay and non-compliance justified a costs order against him, but did not warrant an indemnity costs order - husband to pay wife's costs as agreed or assessed.

[Ryder](#)

[From Benchmark Friday, 12 October 2018]

Tao & Sterling [2018] FamCA 774

Family Court of Australia

Berman J

Family law - nullity - applicant sought decree of nullity as to marriage between her and respondent - application made on basis respondent was married to another person at time she and respondent were married - circumstances in which an overseas marriage will be recognised in Australia - grounds for decree of nullity of marriage - ss23 & 23B *Marriage Act 1961* (Cth) - held: Court satisfied that respondent was 'lawfully married to another' when he married applicant - decree of nullity granted.

[Tao](#)

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Evening Song

By: Sherwood Anderson

MY song will rest while I rest. I struggle along. I'll get back to the corn and the open fields. Don't fret, love, I'll come out all right.

Back of Chicago the open fields. Were you ever there—trains coming toward you out of the West—streaks of light on the long gray plains? Many a song—aching to sing.

I've got a gray and ragged brother in my breast—that's a fact. Back of Chicago the open fields—long trains go west too—in the silence. Don't fret, love. I'll come out all right.

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

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