

Friday, 14 September 2018

Weekly Family Law Selected from our Daily Bulletins covering Family Law

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Executive Summary (1 minute read)

Trevi & Trevi (FamCAFC) - family law - property - husband appealed against property settlement orders - addback - 'superannuation splitting order' - adequacy of reasons - appeal allowed in part

Pates & Pates (FamCAFC) - family law - property - addback - calculation of monetary adjustment - appeal and cross-appeal dismissed

Sahrawi & Hadrami (FamCAFC) - family law - parenting orders - family violence - procedural fairness - father's appeal against parenting orders allowed

Macy & Macey and Anor (FamCA) - family law - two applications by paternal grandmother for contravention of orders - contravention not established - applications dismissed

Rilak & Tsocas (No. 3) (FamCA) - family law - application by mother for contravention of orders - three allegations failed on prima facie level - remaining contravention not established - application dismissed

Summaries With Link (Five Minute Read)

Trevi & Trevi [2018] FamCAFC 173
Full Court of the Family Court of Australia
Alstergren DCJ, Murphy & Kent JJ

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Family law - property orders - husband appealed against property settlement orders - whether erroneous refusal of primary judge to addback certain sums as against wife - guideline in *Chorn v Hopkins* [2004] FamCA 633 - whether primary judge confused 'two well-established approaches to dealing with the wife's paid legal fees' - adequacy of reasons - whether erroneous assessment of contributions - whether erroneous failure to make 'superannuation splitting order' - whether erroneous failure to grant husband costs of interim hearing - held: primary judge erroneously failed to addback as against wife amount she expended on legal fees - primary judge erred in assessing factors in s75(2) *Family Law Act 1975* (Cth) - primary judge's reasons were inadequate - appeal allowed.

[Trevi](#)

[From Benchmark Friday, 14 September 2018]

Pates & Pates [2018] FamCAFC 171

Full Court of the Family Court of Australia

Ryan, Aldridge & Austin JJ

Family law - property orders - primary judge made property division orders between appellant wife and respondent husband - wife appealed against some orders - husband cross-appealed against one order - wife contended primary judge erroneously determined to not add-back sums of money husband had spent, and also asserted error in respect of reasons for property's proportional division - husband contended primary judge's discretion miscarried in respect of calculation of monetary adjustment payable by him to wife under s75(2) *Family Law Act 1975* (Cth) - held: appeal and cross-appeal dismissed.

[Pates](#)

[From Benchmark Friday, 14 September 2018]

Sahrawi & Hadrami [2018] FamCAFC 170

Full Court of the Family Court of Australia

Ryan, Aldridge & Watts JJ

Family law - parenting orders - family violence - father appealed against parenting orders - father challenged primary judge's treatment of evidence concerning allegations forming basis of application by mother for protection visa - father also challenged primary judge's failure to make certain factual findings - father also challenged dismissal of his application for summary order for return of children to 'Country E' such that courts in Country E's jurisdiction could deal with parenting matters - whether erroneous finding father behaved in 'psychologically coercive manner to secure sex from the mother' - whether denial of procedural fairness - whether erroneous approach to 'family violence and fact-finding' - s67Z(C) *Family Law Act 1975* (Cth) - held: certain grounds of appeal succeeded - appeal allowed.

[Sahrawi](#)

[From Benchmark Friday, 14 September 2018]

Macy & Macey and Anor [2018] FamCA 653

Family Court of Australia



Berman J

Family law - contravention - paternal grandmother made two applications for contravention of orders - first application alleged one breach, second application alleged 19 counts - Div 13A, Pt VII *Family Law Act 1975* (Cth) - 'contravened' - 'reasonable excuse for contravening' - 'less serious' contraventions - standard of proof - held: contravention of orders not established - applications dismissed.

[Macy](#)

[From Benchmark Friday, 14 September 2018]

Rilak & Tsocas (No. 3) [2018] FamCA 658

Family Court of Australia

Gill J

Family law - contravention - mother made application for contravention, contending father had contravened orders - held: three alleged contraventions failed at prima facie level due to mother's failure to adduce evidence to establish relevant agreement - remaining contravention not established - application dismissed.

[Rilak](#)

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The Crocuses

By: Frances Ellen Watkins Harper
They heard the South wind sighing
 A murmur of the rain;
And they knew that Earth was longing
 To see them all again.

While the snow-drops still were sleeping
 Beneath the silent sod;
They felt their new life pulsing
 Within the dark, cold clod.

Not a daffodil nor daisy
 Had dared to raise its head;
Not a fairhaired dandelion
 Peeped timid from its bed;

Though a tremor of the winter
 Did shivering through them run;
Yet they lifted up their foreheads
 To greet the vernal sun.

And the sunbeams gave them welcome,
 As did the morning air—
And scattered o'er their simple robes
 Rich tints of beauty rare.

Soon a host of lovely flowers
 From vales and woodland burst;
But in all that fair procession
 The crocuses were first.

First to weave for Earth a chaplet
 To crown her dear old head;
And to beauty the pathway
 Where winter still did tread.

And their loved and white haired mother
 Smiled sweetly 'neath the touch,
When she knew her faithful children
 Were loving her so much.



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

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