



Friday, 21 June 2019

Weekly Family Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering family law

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Executive Summary (1 minute read)

Herford & Berke (FamCAFC) - family law - appeal arising from trial judge's declaration as to de facto relationship's 'non-existence' - appropriate for three judges, not a single judge, to hear case - appeal's hearing adjourned

Deodes & Deodes (FamCAFC) - family law - property - Magistrate altered parties property interests under Pt VIII *Family Law Act 1975* (Cth) - appeal dismissed

Ferreday & Layh (FamCAFC) - family law - parenting - property - appeal against 'parenting and property settlement orders' dismissed

Conrad & Conrad and Anor (No.2) (FamCA) - family law - costs - husband sought injunction restraining wife and solicitors from dispersing amount - injunction granted

Independent Children's Lawyer & Grainger and Anor (FamCA) - family law - costs - Court not satisfied costs order justified - Independent Children's Lawyer's application dismissed

Summaries With Link (Five Minute Read)

Herford & Berke [2019] FamCAFC 99

Full Court of the Family Court of Australia

Kent J

Family law - appellant sought to set aside trial judge's declaration as to 'non-existence of a de

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facto relationship' and declaration enlivening Court's jurisdiction to make property orders under 'de facto provisions' of *Family Law Act 1975* (Cth) (Family Law Act) - s94AAA(3) Family Law Act - s10 *Federal Proceedings (Costs) Act 1981* (Cth) - held: Court satisfied case should be heard by three judges, not by single judge - appeal's hearing adjourned.

[Herford](#)

[From Benchmark Friday, 21 June 2019]

Deodes & Deodes [2019] FamCAFC 97

Full Court of the Family Court of Australia
Strickland, Kent & O'Brien JJ

Family law - property - Magistrate altered parties property interests under Pt VIII *Family Law Act 1975* (Cth) - wife had sought declaration that property lived in by parties was 'held by the husband's sister and brother-in-law' 'on trust for the husband' - wife's application dismissed - wife appealed - wife contended that at time of husband's transfer of property to sister and brother-in-law, husband did not intend 'to relinquish his beneficial ownership' - whether Magistrate should have 'implied or imposed' a trust - held: appeal dismissed.

[Deodes](#)

[From Benchmark Friday, 21 June 2019]

Ferreday & Layh [2019] FamCAFC 98

Full Court of the Family Court of Australia
Strickland, Aldridge & Kent JJ

Family law - parenting - property - father appealed against 'parenting and property settlement orders' - father, by Application in an Appeal, sought to adduce further evidence but Application not pressed - mother, by Application in an Appeal, sought appeal's summary dismissal - whether erroneous rejection of 'father's claims of sexual abuse' - whether injunctions should have been made - whether 'superannuation splitting order' should have been made - held: appeal dismissed - both Applications in an Appeal dismissed.

[Ferreday](#)

[From Benchmark Friday, 21 June 2019]

Conrad & Conrad and Anor (No.2) [2019] FamCA 226

Family Court of Australia
Forrest J

Family law - costs - injunction - Court made 'property adjustment Orders' - Court ordered husband to pay wife amount within 45 days - husband and sister sought to restrain 'wife and her solicitors from dispersing any of the money' - whether prima facie case established - balance of convenience - held: injunction granted.

[Conrad](#)

[From Benchmark Friday, 21 June 2019]

Independent Children's Lawyer & Grainger and Anor [2019] FamCA 224



Family Court of Australia

Baumann J

Family law - costs - parenting - Independent Children's Lawyer (ICL) sought that each of child's parents "pay one half of the costs of the Independent Children's Lawyer" - ICL sought that total sum be fixed at \$10,923 - means of parties - litigation's circumstances - whether costs order justified - held: Court not satisfied that costs order justified - ICL's application dismissed.

[Independent Children's Lawyer](#)

[From Benchmark Friday, 21 June 2019]



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The Snow-Storm

By: Ralph Waldo Emerson

Announced by all the trumpets of the sky,
Arrives the snow, and, driving o'er the fields,
Seems nowhere to alight: the whited air
Hides hills and woods, the river, and the heaven,
And veils the farm-house at the garden's end.
The sled and traveller stopped, the courier's feet
Delayed, all friends shut out, the housemates sit
Around the radiant fireplace, enclosed
In a tumultuous privacy of storm.

Come see the north wind's masonry.
Out of an unseen quarry evermore
Furnished with tile, the fierce artificer
Curves his white bastions with projected roof
Round every windward stake, or tree, or door.
Speeding, the myriad-handed, his wild work
So fanciful, so savage, nought cares he
For number or proportion. Mockingly,
On coop or kennel he hangs Parian wreaths;
A swan-like form invests the hidden thorn;
Fills up the farmer's lane from wall to wall,
Maugre the farmer's sighs; and, at the gate,
A tapering turret overtops the work.
And when his hours are numbered, and the world
Is all his own, retiring, as he were not,
Leaves, when the sun appears, astonished Art
To mimic in slow structures, stone by stone,
Built in an age, the mad wind's night-work,
The frolic architecture of the snow.

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

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