

Friday, 21 June 2019

## Weekly Wills Estates and Superannuation Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Wills Estates and Superannuation Law

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### Executive Summary (1 minute read)

**Wight v Wight as legal personal representative of Mark Lynton Wight deceased** (QSC) - wills and estates - succession - family provision - applicant widow of deceased sought provision from deceased's will - approval of settlement granted

**In the estate of Edward Steven Middleton (deceased)** (QSC) - wills and estates - applicant sought declaration that document formed deceased's last Will and grant of probate of document as informal Will - Court concluded deceased had 'died intestate'

**Targett v Von Stieglitz** (TASSC) - wills and estates - succession - executors sought determination whether executors obliged to make interest payments on 'specific monetary bequests' - bequests carried interest from 12 months after testator's death

# Benchmark

## Summaries With Link (Five Minute Read)

### **Wight v Wight as legal personal representative of Mark Lynton Wight deceased [2019]**

**QSC 149**

Supreme Court of Queensland

North J

Wills and estates - succession - family provision - applicant was deceased's widow - applicant, under s41(1) *Succession Act 1981* (Qld), sought provision from deceased's estate - deceased's will made no provision for applicant - deceased left estate to his two surviving children - consideration of 'proposed settlement' - reduction of children's interests - whether deceased failed to make 'adequate provision' for applicant in will - whether settlement fell 'within the bounds of a reasonable exercise of discretion' - whether settlement in infants' best interests - held: Court satisfied that - Court satisfied to approve settlement.

[Wight](#)

[From Benchmark Wednesday, 19 June 2019]

### **In the estate of Edward Steven Middleton (deceased) [2019] QSC 128**

Supreme Court of Queensland

Boddice J

Wills and estates - applicant contended deceased's '2013 Will' had been revoked under 'presumption of destruction' - applicant sought declaration that 'copy of the 1994 Will' (document) formed deceased's last Will and grant of probate of document as informal Will - Public Trustee of Queensland and 'interested beneficiary' under 2013 Will resisted relief applicant sought - held: Court satisfied deceased had destroyed 2013 Will with intention to revoke it, that revocation was successful and was unconditional - Court satisfied deceased intended applicant to receive Estate's benefit - Court found evidence 'insufficient to establish' deceased intended document to form last Will - Court concluded there was 'no valid Will' at date of deceased's death - deceased had 'died intestate' - Court to hear parties on form of orders.

[In the estate of Edward Steven Middleton](#)

[From Benchmark Thursday, 20 June 2019]

### **Targett v Von Stieglitz [2019] TASSC 25**

Supreme Court of Tasmania

Holt AsJ

Wills and estates - succession - interest - executors, under s64 *Administration of Probate Act 1935* (Tas) and r604 *Supreme Court Rules 2000* (Tas), sought determination concerning whether they had obligation to make interest payments on two 'specific monetary bequests' under deceased's will - if executors required to make interest payments, executors sought determination of period of payments - common ground that if interest payable, it was payable at four per cent per annum - held: Court found bequests carried interest from 12 months after testator's death.

[Targett](#)

[From Benchmark Friday, 21 June 2019]



# Benchmark

## **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](https://en.wikipedia.org/wiki/Ralph_Waldo_Emerson)

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