



Friday, 26 July 2024

Weekly Employment Law A Weekly Bulletin listing Decisions of Superior Courts of Australia covering Employment Law

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Executive Summary (One Minute Read)

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Absolute Commissioning Group Pty Ltd (FCA) - interlocutory relief refused to two electricians whose employment had been terminated, even though there were serious questions to be tried, because the balance of convenience did not favour granting relief

HABEAS CANEM

Keeping watch



Summaries With Link (Five Minute Read)

Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia v Absolute Commissioning Group Pty Ltd [2024] FCA 805

Federal Court of Australia

Thawley J

Employment law - Snowy Hydro Ltd owned the Hunter Power Project for the construction of turbines near Kurri Kurri, and engaged UGL Engineering as the principle contractor, who engaged Absolute Commissioning Group Pty Ltd to provide supplementary electrical and instrumentation services - Absolute Commissioning Group and the CEPU were parties to the *Absolute Commissioning Group Pty Ltd & ETU NSW/ACT Construction Union Agreement 2022-2025* - Absolute Commissioning Group terminated the employment of two licensed electricians who were members of the CEPU - the CEPU commenced proceedings, and sought interlocutory orders that Absolute Commissioning Group treat the terminations of the employees as invalid and of no force and effect, and reinstate them to the employment and the positions they formerly held at the project, and that it not terminate their employment during the proceedings - held: there was a serious question to be tried as to whether Absolute Commissioning Group complied with its obligation under the Enterprise Agreement to consult regarding the termination of one of the electrician's employment - there was a serious question to be tried that the terminations constituted unlawful adverse action contrary to s340 and s346 of the *Fair Work Act 2009* (Cth) - the evidence favoured a conclusion that the employees would not encounter significant difficulty obtaining employment as an electrician commensurate with his qualifications - the balance of convenience favoured refusing the interlocutory relief sought - interlocutory application dismissed.

[Communications, Electrical, Electronic, Energy, Information, Postal, Plumbing and Allied Services Union of Australia](#)

[From Benchmark Wednesday, 24 July 2024]

Benchmark

INTERNATIONAL LAW

Executive Summary and (One Minute Read)

George v Cannell (UKSC) - In the economic tort of malicious falsehood, proof of pecuniary loss is no longer a prerequisite in certain circumstances. However, compensation for injury to feelings or mental distress is unavailable unless there was accompanying actual financial injury

Summaries With Link (Five Minute Read)

George v Cannell [2024] UKSC 19

Supreme Court of the United Kingdom

Lord Hodge DP, Lord Hamblen, Lord Leggatt, Lord Burrows, & Lord Richards

Under the common law, proof of actual financial loss was an essential ingredient of a claim for malicious falsehood. However, by statute, the element of special damage was no longer required if the words published were calculated to cause pecuniary damage regarding trade or business. The Supreme Court found that the word 'special damage' means financial loss. The Court stated that, if the words stated were calculated to cause pecuniary damage, this sets up a presumption that financial loss was caused. However, the presumption does not extend to the amount of the loss. If actual business losses are not shown, then only nominal damages may be recovered. By a 3-2 majority, the Supreme Court would not allow injury for mental distress unless actual losses were established. The Court reasoned that injury to feelings must be consequential on economic damages and if no such damages have been shown, damages for injury to feelings are not available. In dissent, Lords Hamblen and Burrows took the position that, inasmuch as economic losses are no longer required for a successful malicious falsehood claim, it is inconsistent to hold that damages for mental distress are contingent on proof of economic loss.

[George](#)



Poem for Friday

Sonnet 50: How heavy Do I Journey On the Way

By William Shakespeare (1564-1616)

How heavy do I journey on the way,
When what I seek, my weary travel's end,
Doth teach that ease and that repose to say,
'Thus far the miles are measured from thy friend!'
The beast that bears me, tired with my woe,
Plods dully on, to bear that weight in me,
As if by some instinct the wretch did know
His rider lov'd not speed being made from thee.
The bloody spur cannot provoke him on,
That sometimes anger thrusts into his hide,
Which heavily he answers with a groan,
More sharp to me than spurring to his side;
For that same groan doth put this in my mind,
My grief lies onward, and my joy behind.

William Shakespeare, born 1564, in Stratford-upon-Avon, was the eldest son of John Shakespeare, glovemaker, and Mary Arden. At the age of 18, Shakespeare married Anne Hathaway, pregnant with their first child, and then aged 26. By 1592 Shakespeare's reputation in London was well established. He was a founding member of the company of actors called The Lord Chamberlain's Men. Shakespeare wrote two plays a year for the company. Those plays included Macbeth, The Winter's Tale, and King Lear. The company was later known as The King's Men, under the patronage of King James I. Shakespeare's work includes 154 sonnets, published in a quarto in 1609, 6 sonnets written within plays, poetry and 38 plays. Shakespeare is believed to have died at the age of 52 on 23 April 1616. He is buried in the local parish church at Stratford-upon-Avon, Holy Trinity.

Read by **Colin McPhillamy**, actor and playwright. Colin was born in London to Australian parents. He trained at the Royal Central School of Speech and Drama in London. In the UK he worked in the West End, at the Royal National Theatre for five seasons, and extensively in British regional theatre. In the USA he has appeared on Broadway, Off-Broadway and at regional centres across the country. Colin has acted in Australia, China, New Zealand, and across Europe. Colin is married to Alan Conolly's cousin Patricia Conolly, the renowned actor and stage actress:

https://en.wikipedia.org/wiki/Patricia_Conolly and



<https://trove.nla.gov.au/newspaper/article/47250992>.

Sonnet 50 read by Patrick Stewart

https://www.youtube.com/watch?v=-x7Y_KgrKjM

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