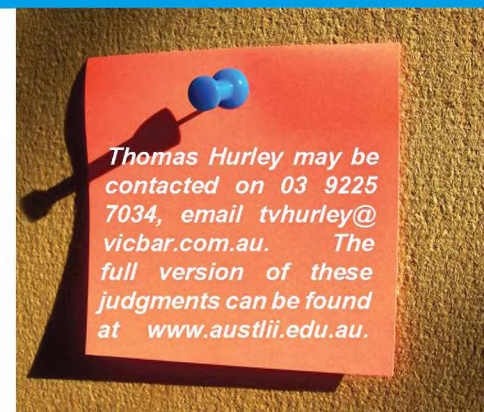


Federal Court

judgments:

October - November 2011



WORKERS COMPENSATION (CTH)

- **Compensation**
- **“Normal weekly hours”**

In *Comcare v Heffernan* [2011] FCAFC 131 (27 October 2011) a Full Court considered how “normal weekly hours” were to be ascertained for the *SRC Act 1988* (Cth).

PATENTS

- **Characterisation of invention**

In *Sigma Pharmaceuticals (Australia) Pty Ltd v Wyeth* [2011] FCAFC 132 (28 October 2011) a Full Court considered how the characterisation of an invention in the priority document affected its assessment under the *Patents Act 1990* (Cth).

ADMIRALTY

- **Seafarer’s wages**

In *Visscher v Teekay Shipping Australia Pty Ltd* [2011] FCAFC 137 (4 November 2011) a Full Court reviewed authority as to the calculation of a seafarer’s wages under ss75, 76, 78 and 83 of the *Navigation Act 1912* (Cth) on termination of employment where the rank of the seafarer was disputed.

FEDERAL COURT

- **Costs**
- **Proceedings heard together**

In *Kazar (liquidator) v Kagarian* [2011] FCAFC 136 (4 November 2011) a Full Court reviewed authority as to the proper exercise of the jurisdiction and discretion as to costs given by s43 of the *Federal Court of Australia Act 1976*(Cth) and challenges to the exercise of that jurisdiction: Greenwood and Rares JJ generally agreeing with Foster J. Consideration of the proper orders where proceedings are heard together and result in a party succeeding in some issues in one proceeding and losing others in the other.

FEDERAL COURT

- **Costs**
- **Whether different effect of new rules**
- **Indemnity costs where offer rejected “unreasonably”**

In *Kooee Communications Pty Ltd v Primus Telecommunications Pty Ltd* [2011] FCAFC] 141(15 November 2011) a Full Court observed that r25.14 of the new *Federal Court Rules* does not operate differently from the former rules in regulating the result where an applicant’s proceeding is dismissed by the Court and the applicant has rejected an offer to settle it.

FEDERAL COURT

- **Procedure**
- **Fast track statement**

In *Tropical Reef Shipyard Pty Ltd v QGBE Insurance (Australia) Ltd* [2011] FCAFC 145 (18 November 2011) a Full Court considered whether a “fast track statement” disclosed a reasonable cause of action.

SOVEREIGN IMMUNITY

In *Walker v Government of the Republic of Vanuatu* [2011] FCAFC 138 (4 November 2011) a Full Court concluded a claim that a foreign government illegally seized a ship in its waters was not justifiable in an Australian court after a claim for immunity under the *Foreign States Immunities Act 1985* (Cth).

INCOME TAX

- **GST**
- **Payment**
- **Time for payment of refund**

In *C of T v Multiflex Pty Ltd* [2011] FCAFC 142 (11 November 2011) a Full Court considered when a taxpayer was entitled to a refund of tax paid under a Business Activity Statement.

VETERANS’ ENTITLEMENTS

In *Gilkinson v Repatriation Commission* [2011] FCAFC 133 (28 October 2011) a Full Court considered when an injury or disease “arose out of or was caused by” war service. ●

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