

SUPREME COURT OF
VICTORIA
COMMERCIAL COURT
BULLETIN

No. 19/2011



Matter: Martin and ors; re AED Oil Limited (administrators appointed)

Judge: Gardiner AsJ

Date: 16/9/2011

Citation: [2011] VSC 460

Subject: CORPORATIONS – Application by administrators for extension of time for convening second meeting of creditors required under Section 439A(6) of the *Corporations Act 2001* (Cth).

[Click here for full text of judgment](#)

Matter: ResCom Lawyers Pty Ltd v Dangerfield & Ors

Judge: Ferguson J

Date: 21/9/2011

Citation: [2011] VSC 469

Subject: CORPORATIONS – Incorporated legal practice - Where two directors left practice and completed conveyancing files following their departure – ‘Exit’ proposal previously provided to third director – Applicant director seeking payment for his interest in the business – Proceedings alleging breach of directors’ duties and seeking compensation - Statutory derivative action – Leave required to commence proceedings – Whether Court has jurisdiction to grant leave *nunc pro tunc* – Whether applicant acting in good faith – Whether in best interests of Company that leave be granted – Whether there is a serious question to be tried - *Corporations Act 2001* (Cth) ss 236, 237.

[Click here for full text of judgment](#)

Matter: Re Environinvest Ltd (No. 5)

Judge: Ferguson J

Date: 21/9/2011

Citation: [2011] VSC 474

Subject: CORPORATIONS – Managed Investment Scheme – Winding up by a person appointed under s 601NF(1) of the *Corporations Act* 2001 (Cth) – Approval of variation of mediated agreement as to distribution of funds in the winding up – Approval of a proposal for relinquishment of interest in scheme property for fixed sum - Directions in winding up under s 601NF(2) of the *Corporations Act*.

[Click here for full text of judgment](#)

Matter: Manderson M & F Consulting v Incitec Pivot Ltd (No 3)

Judge: Croft J

Date: 23/9/2011

Citation: [2011] VSC 441

Subject: PRACTICE AND PROCEDURE – Costs – Discretion of the Court – Costs on usual basis or on “solicitor and client” or “indemnity” basis – Costs against a non-party – Directors of plaintiff company – Litigation funder – Supreme Court (General Civil Procedure) Rules 2005, Order 63 – Supreme Court Act 1986, s 24 – Civil Procedure Act 2010, s 63 – Colgate Palmolive Company v Cussons Pty Ltd (1993) 46 FCR 225 – Ugly Tribe Company Pty Ltd v Sikola [2001] VSC 189 – Auswest Timbers Pty Ltd v Secretary to the Department of Sustainability and Environment [2010] VSC 513 – Knight v F P Special Assets Ltd (1992) 174 CLR 178 – FPM Constructions Pty Ltd v Council of the City of the Blue Mountains [2005] NSWCA 340 – May v Christodoulou [2011] NSWCA 75 – Rushton (Qld) Pty Ltd v Rushton (NSW) Pty Ltd [2004] QSC 47 – Gore (trading as Clayton Utz) v Justice Corporation Pty Ltd (2002) 119 FCR 429 – Green (as liquidator of Arimco Mining Pty Ltd) v CGU Insurance Ltd (2008) 67 ACSR 105.

[Click here for full text of judgment](#)

Matter: JBS Southern Aust Pty Ltd & Anor v Westcity Group Holdings Pty Ltd & Ors

Judge: Croft J

Date: 23/9/2011

Citation: [2011] VSC 476

Subject: PRACTICE AND PROCEDURE – Appeal from Associate Justice – Application for summary judgment – Applicable principles – Whether leave to appeal required – Rule 77.06 *Supreme Court (General Civil Procedure) Rules 2005* – Sections 63 and 64 *Civil Procedure Act 2010*.

[Click here for full text of judgment](#)

Victorian Supreme Court of Appeal: Recent Appeals from Commercial Court Judgments

Matter: National Australia Bank Ltd & Anor v Horne & Anor

Judges: BUCHANAN and MANDIE JJA and ALMOND AJA

Date: 21/9/2011

Citation: [2011] VSCA 280

Subject: CORPORATIONS – Voluntary administration – Defect in appointment of administrators by secured creditor – Whether the court has power to validate the appointment under s 447A of the Corporations Act 2001 (Cth) – Whether a proper exercise of discretion – Corporations Act 2001 (Cth) ss 435A, 436A, 436C, and 447A.

[Click here for full text of judgment](#)

Current Cases

To access a list of upcoming trials in the Commercial Court please click the link:
[Commercial Court – Upcoming Trials](#)

To access the list of current cases in the Commercial Court please click on the link:
[Supreme Court of Victoria - Commercial Court Current Cases](#)

Information about the Commercial Court is available on the Supreme Court website at:
<http://www.supremecourt.vic.gov.au>

Further Information

For further information about this publication or to make changes to your mailing address (including removal from the mailing list) – please contact the Supreme Court Library.

Telephone: (03) 9603 6282

Facsimile: (03) 9642 0159

Email: sclib@supremecourt.vic.gov.au