

***Aon Risk Services Australia Limited v Australian National University* [2009] HCA 27 (5 August 2009) – High Court of Australia**

‘Adjournments’ – ‘Amendment’ – ‘Appeal’ – ‘Case management’ – ‘Pleadings’ – ‘Practice and procedure’

Hearing: Appeal against decision to allow amendments to statement of claim.

Facts: ANU applied for an adjournment at trial to make substantial amendments to its statement of claim against Aon. The adjournment was granted and the primary judge allowed the application to amend the statement of claim. Aon appealed against the decision.

Decision and Reasoning: This case did not concern family violence but contained a number of relevant statements regarding adjournments. French CJ referred to the decision in *Sali v SPC Ltd*, which concerned the refusal by the Full Court of the Supreme Court of Victoria to grant an application for an adjournment of an appeal. By majority, the High Court held there ‘that in the exercise of a discretion to refuse or grant an adjournment, the judge of a busy court was entitled to consider ‘the effect of an adjournment on court resources and the competing claims by litigants in other cases awaiting hearing in the court as well as the interests of the parties’ (see [26]). Brennan, Deane and McHugh JJ went on to say:

‘What might be perceived as an injustice to a party when considered only in the context of an action between parties may not be so when considered in a context which includes the claims of other litigants and the public interest in achieving the most efficient use of court resources’.

Toohey and Gaudron JJ dissented in the result but acknowledged that:

‘The contemporary approach to court administration has introduced another element into the equation or, more accurately, has put another consideration onto the scales. The view that the conduct of litigation is not merely a matter for the parties but is also one for the court and the need to avoid disruptions in the court’s lists with consequent inconvenience to the court and prejudice to the interests of other litigants waiting to be heard are pressing concerns to which a court may have regard’.

In the present case, French CJ stated at [27]:

‘The observations made in the two joint judgments in Sali were linked to the particular knowledge that a judge or court, called upon to exercise a discretion to adjourn, would have of the state of that court’s lists. However, the mischief engendered by unwarranted adjournments and consequent delays in the resolution of civil proceedings goes beyond their particular effects on the court in which those delays occur. In that connection, there have been a number of cases after Sali in which it has been accepted, in the context of Judicature Act Rules, that the public interest in the efficient use of court resources is a relevant consideration in the exercise of discretions to amend or adjourn’.

