

# Evidence — orders to preserve made

## *Bullen v Western Australia* [2002] FCA 1107

Gyles J, 6 September 2002

### **Issue**

There were competing submissions before the Federal Court as to nature of the orders to be made in connection with a proposed hearing in 2003 to take evidence to be preserved in advance of the substantive hearing of the matter.

### **Decision**

Without reciting the arguments or specifically dealing with the competing submissions, orders for the preservation of evidence were made, with Justice Gyles noting that:

- the substantial objective of the proposed hearing was to take evidence that may otherwise be lost or rendered less valuable by the passing of time;
- delay in the resolution of such cases makes that objective a high priority if justice to all parties is to be done;
- time already set aside by the court and the parties should be utilised;
- hearings in localities remote from the court require considerable organisation and, once dates are fixed, they should not be departed from lightly;
- the hearing was more likely to be satisfactory if the procedure was kept as simple as possible;
- the proposed hearing, preparation for the case generally and any mediation should all proceed with as little unnecessary duplication as possible—at [2] to [3].

No order was made for statements of evidence to be provided, with it being noted that:

It should be assumed that, absent any contrary ruling in due course, evidence should be lead orally with no cross-examination to be permitted on any statement as to the substance of evidence which is provided pursuant to these Orders. This, and any other relevant issue, can be taken up at the next directions hearing—at [4].